

## **SDT – Sales and delivery terms (November 2016)**

### **1. Scope of application**

These General Business, Sales and Delivery Terms shall apply if the Parties expressly or tacitly acknowledge them. Changes shall only be valid if Vogt-CTE GmbH has confirmed them in writing.

### **2. Prices**

The prices shall be in the agreed currency plus transport, packaging, approvals, notarised certification, installation, commissioning, training and application support plus the respective statutory VAT. If not otherwise agreed, the prices shall be valid EXW (Incoterms 2010) from the warehouse in Switzerland (Swiss customers) respectively the warehouse in Europe (customers from outside of Switzerland) unless expressly agreed otherwise in the confirmation of order. VOGT-CTE GmbH reserves the right to change prices and to change the technical design of the goods at any time.

### **3. Delivery deadlines**

Delivery deadlines shall be complied with to the best of judgement in the normal course of manufacturing and commitments to deadlines of the suppliers.

Delivery deadlines shall be extended accordingly if Vogt-CTE GmbH does not receive the data it needs for performance in time or if the customer subsequently changes said data or if it defaults on the fulfilment of its contractual duties particularly if it does not comply with the payment terms. Vogt-CTE GmbH may make partial deliveries.

Delays to deliveries and performance due to a force majeure or other unforeseeable events, which significantly hamper or render impossible delivery by Vogt-CTE GmbH and which are not attributed to it (this includes in particular war, warlike events, natural disasters, official ordinances, failure to issue export, import or passage approvals, national intervention restricting the flow of trade or other disruptions to operations of any kind including strikes, traffic disruptions, etc.) regardless whether the events occur at Vogt-CTE GmbH, the suppliers or their sub-suppliers, entitle Vogt-CTE GmbH to postpone delivery or performance by the duration of the impairment in addition to reasonable lead time or to withdraw, in full or in part, from the agreement – to the extent it has not been fulfilled.

### **4. Transfer of risk**

The use and risk shall be transferred to the customer with the handover of the parts to be delivered to the freight carrier.

If shipping is delayed for reasons for which Vogt-CTE GmbH is not responsible or because the customer desires later delivery, the risk for the delivery at the originally designated point in time will be transferred to the customer. From this time on, the deliveries will be stored for the account and at the risk of the customer.

### **5. Returns**

Goods that are returned can only be accepted in brand new condition and following prior consent of VOGT-CTE GmbH. Maintenance costs and freight costs for the 'to and from' shipment of incorrectly ordered goods, quantities etc. as well as repair and conversions shall be incurred at the expense of the Buyer. To cover the handling costs incurred by returns, 20% of the invoiced amount will be deducted from the amounts credited.

### **6. Payment**

The deadline for payment amounts to 10 days net from the date of invoicing without any subtraction of discounts, bank and other charges, taxes, contributions, fees, duties etc. to the extent not otherwise expressly agreed in the confirmation of order. If the agreed payment deadlines are not complied with, default interest in the amount of 8% must be paid to Vogt-CTE GmbH without a reminder from the date of the agreed deadline on.

### **7. Retention of title**

All delivered goods shall remain the property of Vogt-CTE GmbH until all claims have been paid in full.

### **8. Warranty**

The warranty period for goods and services of Vogt-CTE GmbH amounts to 12 months unless otherwise expressly agreed in the confirmation of order. The warranty period shall be valid from the date on which the risk was transferred.

Vogt-CTE GmbH shall only be liable for defects occurring under the contractually designated operating conditions and proper use of the goods. Vogt-CTE GmbH undertakes, at its discretion and as quickly as possible, to either improve or replace all parts that are shown to be damaged or unusable as the result of poor material, flawed design or deficient workmanship during the warranty period.

Once the warranty period has expired, all rights to improvement, conversion and reduction as well as all applicable claims for compensation vis-à-vis Vogt-CTE GmbH are ruled out.

The ordering party must immediately notify Vogt-CTE GmbH in writing of any recognisable defects, however, no later than within five work days following the receipt of the delivery item. The replacement of parts, modules or entire devices shall not renew the warranty period. The Buyer shall carry the risk of damage to the goods, which results out of failure to provide notice of defects.

Damages occurring for reasons not attributed to Vogt-CTE GmbH such as natural wear, failure to comply with operating guidelines, deficient maintenance, improper upkeep, excessive stress, unsuitable equipment, improper positioning, a force majeure, culpability on the part of the buyer or a third party etc. shall be excluded from the warranty and liability. Vogt-CTE GmbH shall only be liable for damages to the products, but not for further damages such as e.g. for costs of a breakdown and a resulting lack of usability and readiness for use of the goods or financial losses and other losses.

### **9. Documents and technical information**

All rights to drawings and technical documents as well as electronic data (software, programmes, source code) shall remain with the party that handed them over to the other party. Said party will only make the documents received available to third parties in full or in part or use them for another purpose for which they have been handed over to it if the other party has previously agreed to this in writing.

### **10. Legal venue, choice of law**

The legal venue shall be Thun in the canton of Bern. However, Vogt-CTE GmbH is, at its discretion, also entitled to assert its claims vis-à-vis the Buyer at the headquarters of the Buyer.

Swiss material law shall apply. The applicability of the United Nations Convention on Contracts for the International Sale of Goods shall be excluded.