

## General Terms and Conditions of Sale and Delivery

### 1. General

These General Terms and Conditions of Sale and Delivery ("**Conditions**") shall be an integral part of all transactions, agreements and offers between Sytraco FZE (hereinafter "**Sytraco**"), and the customer (hereinafter "**Buyer**"). Conflicting or deviating conditions of purchase or other reservations made by the Buyer shall not be effective unless Sytraco has expressly accepted them in writing for a particular order.

### 2. Offers

(2.1) Sytraco's offers shall not be binding with respect to price, quantity, delivery time and availability. Offers, pro-forma invoices and similar unilateral statements are subject to change by Sytraco.

(2.2) The Buyer's orders shall only become binding on Sytraco upon receipt by the Buyer of Sytraco's written order acknowledgement (or invoice or delivery note).

(2.3) Sytraco reserves the right to carry out appropriate and reasonable changes in its products without previous announcement – also in products which have already been ordered.

### 3. Prices

(3.1) Unless otherwise expressly stated in writing, the prices shall be given without obligation and based on current cost factors. Should there be any changes in these cost factors before the date of delivery, e.g. due to price increases for raw materials or wage increases, Sytraco hereby reserves the right to adjust the prices accordingly. Orders for which no prices have been agreed shall be invoiced at the prices that are valid on the day of delivery.

(3.2) Unless the parties agree explicitly otherwise in writing, all prices shall be understood to mean Ex Works (in general, any international sale trade terms used by the Parties, shall have the meaning as defined under the INCOTERMS 2010 (ICC Publication no. 715 and/or subsequent editions). All prices are net, without packaging, freight, customs duties, taxes, any other costs of transport, levies, charges, fees, or any other expenses whatsoever levied inside or outside the UAE in connection with the executing of these Conditions and any purchase order, no matter on which grounds (collectively the "**Costs**"). Any Costs shall be borne and paid by Buyer in addition to the prices at due date latest, and in case Sytraco by whatever reason paid them, they shall be reimbursed promptly by Buyer to Sytraco.

(3.3) Unless otherwise expressly agreed in writing, the selling prices as well as all quotations and calculations shall be in AED. Where payment has been agreed in a currency other than AED, Sytraco reserves the right to reduce or increase the amount originally agreed so that, when translated into AED, the sum invoiced is equivalent to the AED value resulting from translation of the amount originally agreed at the time the relevant order was accepted by Sytraco.

#### 4. Payment

(4.1) Unless different terms of payment have been agreed in writing, the following shall apply:

100% payment at dispatch of goods.

Payment shall be made within fourteen days of the date of invoice, unless different terms of payment are indicated in price lists for special product ranges or otherwise explicitly agreed in writing. Payment must be rendered irrespective of any notification of defects.

(4.2) Default shall occur (without the need for a prior reminder for payment) if the period allowed for payment or the due date of the purchase price is exceeded.

(4.3) Sytraco shall be entitled to set off all receivables that are due to Sytraco from the Buyer against all receivables demanded from Sytraco by the Buyer.

(4.4) Payment shall not be deemed to have been effected until the amount has been cleared into one of Sytraco's accounts. The handing in of negotiable instruments (e.g. cheques, bills of exchange) shall be subject to Sytraco's prior consent and shall not constitute payment. The maturity of any negotiable instrument shall not exceed 90 days from the invoice date. Any charges or expenses incurred shall be for the Buyer's account.

(4.5) Sytraco reserves the right to use payments for the settlement of the invoices which have been outstanding longest, plus any interest on arrears and costs accrued thereon, in the following order: costs, interest, principal claim.

(4.6) Buyer shall not have the right to withhold payments. Counterclaims may only be offset if they are uncontested or have become *res judicata*.

(4.7) In the event of default of payment, in addition to all other rights provided hereunder or under the law, all current accounts and the sums of all bills shall become due immediately and enforceable. Sytraco is also entitled to charge Buyer a penalty interest of up to 12% per year on the unpaid amount.

(4.8) If the terms of payment are not observed or in the event of circumstances occurring that are capable of impairing the credit worthiness of the Buyer, in particular (but not limited to) if the Buyer shall become bankrupt or shall go into liquidation whether voluntary or compulsory, then Sytraco shall

- (i) have the right to claim immediately all advance payments, and render immediately payable his entire receivables, regardless of the term of any bill accepted and not yet payable; and
- (ii) be entitled to effect any outstanding shipments only against advance payment or the provision of additional security. If advance payments are not made or security not provided after setting a reasonable period, Sytraco shall be entitled to] terminate immediately any contract which may subsist between the Buyer and Sytraco with the result that Buyer shall have no claims whatsoever in relation to those shipments not yet effected. Also, Sytraco can stop deliveries as well as orders in process.

## 5. Delivery and Receipt of Goods

(5.1) Unless otherwise agreed explicitly in writing, delivery shall occur and all risk of destruction, loss of or damage to the goods shall pass from Sytraco to the Buyer as soon as the goods are handed over to the Buyer or its carrier, at the latest however within [\*] days after notification of the Buyer that the goods are ready for dispatch.

(5.2) Sytraco shall make every effort to effect delivery as early as possible. There shall be no fixed periods for delivery. Should the parties, however, have agreed in writing on a fixed period for delivery, and should Sytraco default with such supply, the Buyer shall grant Sytraco a reasonable respite, normally [4] weeks.

(5.3) Delivery shall be subject to punctual delivery of the appropriate goods by Sytraco's own suppliers.

(5.4) For the avoidance of doubt, Sytraco shall not be responsible for any restrictions by any national or international regulations, particularly export control regulations and embargoes or any other restrictions. Delays caused by export checks, import or licensing procedures shall solely fall into Buyer's responsibility, whereby Sytraco will undertake reasonable efforts to provide the documents needed. If any required licenses or permissions for certain items cannot be obtained, either party shall be entitled to cancel the contract, whereby Sytraco shall have the right to claim damages, and any claims for damages of Buyer shall be excluded.

(5.5) Goods notified as being ready for shipment shall be called off by the Buyer immediately after expiry of delivery time; otherwise Sytraco shall have the right to forward the goods at his option or to store the goods at his discretion on the Buyer's account and the Buyer's risk. The same shall apply if dispatch cannot be effected by Sytraco for reasons beyond Sytraco's control. Upon notification that goods are ready for shipment, the goods shall be deemed to have been supplied and can be invoiced.

(5.6) The mode of forwarding, means of shipment, transport route as well as the nature and scope of necessary protective media, the choice of forwarder or carrier as well as packaging shall be left to Sytraco's preference, unless agreed otherwise. This will be done at Sytraco's discretion and with due care and attention to the exclusion of any liability whatsoever. The goods shall only be insured at the express request of the Buyer and at his expense. Any additional costs resulting from special shipping requests made by Buyer shall be borne by Buyer (in addition to the general costs of transport and prices of goods).

(5.7) Subject to Article 5.4, Force Majeure of any kind, unforeseeable production, traffic or shipping disturbances, fire, floods, unforeseeable shortages of labor, utilities or raw materials and supplies, strikes, lockouts, acts of government, and any other hindrances beyond the control of the party obliged to perform which diminish, delay or prevent production or shipment of the goods, or make it an unreasonable proposition, shall relieve the party from its obligation to supply, as long as and to the extent that the hindrance prevails. Sytraco shall not be liable for any delay, default loss or damage caused beyond Sytraco's control (force majeure). As far as such causes beyond Sytraco's control cause a delay in delivery the Buyer agrees on the extension of the delivery time. If, as a result of the hindrance, supply is delayed by more than four weeks, either party shall have the right to cancel the contract. As far as suppliers of Sytraco cannot fulfil their obligations due to similar causes as stated before, the delivery time for Sytraco will extend as well, and Sytraco shall not be under obligation to purchase from other sources. In such case, Sytraco shall have the right to distribute the available quantities among his customers.

(5.8) Partial deliveries or deliveries in advance are permitted.

## **6. Reservation of Proprietary Rights**

(6.1) The delivered goods remain the property of Sytraco until full payment of the outstanding invoice and any other Costs and due payments related to the delivery of the purchased goods have been received by Sytraco.

(6.2) Before full payment Buyer is not allowed to dispose of delivered goods by sale nor to charge, assign by way of security, encumber, or pledge them in any other way (collectively "**Disposition**"), except (i) where Sytraco explicitly allows him to do so in writing and (ii) only against the written deed of assignment of the purchase price and any other claim arising out of or being connected with the Disposition to Sytraco; and (iii) against proof that the debtor has been duly notified in writing of such assignment. In the event of third parties' acts aimed at obtaining the goods under retention of title, the Buyer shall draw attention to Sytraco's title, inform Sytraco immediately in written form and provide Sytraco with any assistance that is necessary to safeguard Sytraco's rights.

(6.3) If the Buyer is in breach of contract, particularly in the case of delay of payment, Sytraco has the right to assert its retention of title and to demand the immediate return of the goods to which Sytraco retains title and the Buyer is obliged to return the good to his expenses or, if necessary, to demand assignment of the Buyer's claims for the return of the goods from third parties. Asserting the retention of title shall not constitute cancellation of the contract, unless Sytraco has expressly declared this in writing. If Sytraco cancels the contract, it shall have the right to demand appropriate compensation for having permitted the Buyer to use the good for a certain period.

(6.4) The Buyer shall be entitled to process the goods under retention of title in the orderly course of business. If the good is processed or modified by the customer, the processing or modification is carried out on behalf of Sytraco. The retention of title shall continue to apply if the object of delivery will be fixed to the ground or firmly attached to or connected with another object or in the event of any processing or modification by the Buyer with goods not belonging to Sytraco. In case of a new product resulting herefrom, Sytraco shall have the right of co-title to the new product in the ratio of the value of goods supplied by Sytraco (invoiced value) with the result that this new product is then subject to retention of title within the meaning of these Conditions.

(6.5) If the Buyer has not fulfilled his contractual obligations, this new product is considered as a good under reserve according to the above, however, the value of the good under reserve is based on the invoiced value by Sytraco plus a security charge of 20% of the invoiced amount.

(6.6) The Buyer shall be under obligations to provide adequate storage to the goods to which Sytraco retains title, to service and repair these goods at his expense and to insure the same at his expense against loss and damage up to an extent which may reasonably be expected from a prudent businessman. Any claims for damages against the insurers shall hereby be assigned to Sytraco in the amount of the value of goods under retention of title.

## **7. Properties of goods, liability for technical advice and support**

(7.1) The properties of the goods shall, as a general rule, only include the properties as stated in the specific product descriptions, specifications and labelling by Sytraco. Public statements, claims or advertising shall not be classified as information on the properties of the goods. Technical drawings, designs and technical data, which are to be found in catalogues and brochures or other written document must be verified by the customer before application. The same applies for software at disposal and for verbal proposals, verbal

advices and other services to the customer. Technical advice and support given by Sytraco is given in good faith of cooperation but without any warranty. Sytraco's technical advice shall not release the Buyer to test the goods as to their suitability for the intended purpose. The application, installation, use, processing and operation of the goods are beyond Sytraco's control and therefore entirely the Buyer's responsibility.

(7.2) The Buyer cannot derive any claim or other rights from the abovementioned documents, technical advice and support towards Sytraco or towards employees of Sytraco / or executive managers, except in cases of fraud or gross negligence. The terms under clause 9 are not affected hereunder.

## **8. Notification of defects, warranty**

(8.1) The Buyer shall examine the goods immediately upon receipt. He shall notify Sytraco that there is a difference or a defect, within fifteen days of the date on which the item sold is effectively delivered to him (together with supporting evidence, packing slips, stating invoice number and date and the marking on the packaging), and he must file the action in warranty within sixty days of such delivery date. However, if the defect is hidden and cannot be detected with the routine examination, the Buyer must immediately notify Sytraco when he discovers it, and lodge the action in warranty of the defect within six months from the date of actual delivery. The burden of proving that a defect is hidden shall rest with the Buyer. In case the Buyer does not notify Sytraco or if he does not file the action within the respective period, his action shall not be heard.

Goods being subject of a complaint shall not be returned to Sytraco except with Sytraco's express consent.

(8.2) Sytraco only warrants that the goods sold hereunder are new and free from substantive defects in workmanship and materials. In particular, Sytraco cannot be held responsible for the compliance of the delivered goods with the local legal rules, regulations, laws and/or standards of the recipient country or any other country other than the Federal Republic of Germany.

(8.3) To the extent that there is a defect, Sytraco's liability under the foregoing warranty is limited to substitute performance (cost-free repairs or replacement of the parts which prove defective), to be determined by Sytraco at its sole discretion under the consideration of the type of damage and of the legitimate interests of the customer. A substitute performance shall only be considered as failed after the second attempt. [If the substitute performance failed, Buyer may reduce the purchase price or opt to cancel the contract.]

(8.4) Sytraco shall be entitled to reject complaints if the Buyer fails to submit the defective part to Sytraco within [\*] days of being requested to do so; this shall not apply if submission is prevented by the nature of the part or by the manner in which it is installed etc.

(8.5) Claims by Buyer to recover expenses incurred in context with the substitute performance, especially transport, travel, labour and material costs, are excluded to the extent that the expenses are increased due to a transfer of delivered goods subsequent to delivery by Sytraco from the Buyer's business establishment to another place, unless the transferral is compliant with the use as intended under the contract.

(8.6) The warranties and guarantees expressly mentioned in this Agreement and Conditions are exclusive and any other warranties implied by law (including without limitation implied warranties of merchantability, satisfactory quality, or fitness for a particular purpose) are hereby expressly disclaimed and waived.

## **9. Limitation of Liability**

In the case of contractual liability concerning compensation of damages the customer agrees to the following:

(9.1) Sytraco will only be responsible for damages of lives, bodies, health and property damages which are caused by gross negligence and/or wilfull breach of duty, as well as for damages which are enclosed according to the consumer protection law.

(9.2) Any kind of compensation is limited to the foreseeable, typical arising damages and must be in conjunction with the purchase order and/or contract.

(9.3) Sytraco shall also be exempted from any liability vis-à-vis the Buyer for consequential losses (including all forms of pure economic loss, e.g., loss of revenues, profits, contracts, production, recall costs, etc.) or other indirect damages.

(9.4) To the extent that liability of Sytraco is limited and exempted respectively, this applies *mutatis mutandis* for Sytraco's employees, representatives and any other persons which Sytraco engages in performing his obligations under this Agreement.

(9.5) The aggregate liability of Sytraco shall not exceed the amount equal to 100% of the value of the relevant contract price.

(9.6) To the extent permitted under the mandatory law, further responsibilities and liabilities are hereby excluded without consideration of the legal circumstances of the claim.

(Sytraco has the right to avert the execution of the lien by the customer against presentation of a bail. (e.g. bank guarantee).

## **10. Governing Law/Arbitration**

(10.1) Place of performance for delivery shall be Sytraco's dispatch department. Place of performance of payment shall be at Sytraco's registered premises in Dubai.

(10.2) This Agreement and Conditions shall be governed by and construed in accordance with the laws applicable in Dubai, United Arab Emirates.

(10.3) Any dispute arising out of the formation, performance, interpretation, nullification, termination or invalidation of the contract between Sytraco and the Buyer, including these Conditions, or arising therefrom or related thereto in any manner whatsoever, shall be settled by arbitration in accordance with the provisions set forth under the DIAC Arbitration Rules ("the Rules"), by one or more arbitrators appointed in compliance with the Rules. The venue of arbitration shall be Dubai, the language of arbitration shall be English.

## **11. Others**

(11.1) Should any clause in these Conditions of Sale and Delivery be or become invalid in full or in part, this shall not affect the validity of the remaining provisions of this document or remaining parts of the clause concerned. The parties shall replace any invalid arrangements by an effective one wich conforms as far as possible to the economic purpose of the invalid clause.

(11.2) Sytraco may sell, assign, transfer, convey or otherwise dispose of all or any of its rights and obligations under the purchase contract to any person without the prior consent of Buyer. As far as required under the law, the Buyer hereby declares irrevocably his consent to such assignment. Buyer shall not directly or indirectly sell, assign, transfer, convey or otherwise dispose of any of its rights and obligations under any purchase contract with Sytraco to any person without obtaining the prior written consent of Sytraco. Sytraco shall have the unlimited right to subcontract his obligations under the purchase contract (in whole or in parts), without any consent of Buyer required.

(11.3) Except where provided otherwise hereunder, the failure of either party to insist upon strict enforcement of any provision of these Conditions or to exercise any right under these Conditions or the respective purchase contract shall not be construed as a waiver and shall not stop the party from later insisting upon strict enforcement of any such provision or exercising any such right.

(11.4) All notices and other communications required or permitted under these Conditions or the purchase contract shall be given in writing and shall be personally delivered or sent by prepaid registered mail or commercial courier service.

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