
ECSA Maintenance AG: GENERAL CONDITIONS OF SALE AND SUPPLY

1. Field of application of the GTC and the Contract

1.1 These General Terms and Conditions ("**GTC**") govern the terms and conditions of sale and supply of the products marketed by ECSA Maintenance AG (Burgauerstrasse 17 CH-9230 Flawil (Switzerland)) (hereinafter the "**Seller**")

The GTC are an integral part of the sales and supply contract (hereinafter the "**Contract**") concluded between the Seller and the customer (hereinafter the "Buyer ") in relation to the sale of the Seller's products.

The version of the GTC applicable to the Contract is the one in force on the date on which the Buyer places the purchase order.

1.2 These GTC shall apply to all sales made by the Seller: (i) online sales (ie sales made through the ecsa-maintenance.ch e-commerce site owned by the Seller (hereinafter the "**Site**")), (ii) sales in the Seller's stores (i.e. sales in ECSA PRO Shops), (iii) sales by mail and fax, (iv) telephone sales, and (v) sales through the Seller's dealers.

2. Stipulation of the Contract

2.1 The Contract is considered concluded only once the Seller, after receiving an order, has confirmed its acceptance in writing (a) by means of an order confirmation (hereinafter the "**Order Confirmation**"), (b) through the Online Order Confirmation (as defined in Article 3.3 of these GTC), or (c) by issuing an invoice.

2.2 The Seller has the right not to accept the order placed by the Buyer, with no need to inform the Buyer of the reasons for this non-acceptance. The Seller may decide, at its sole discretion, whether to inform the Buyer of the non-acceptance of the order and of the reasons for the same, it being understood that failure to inform the Buyer of non-acceptance of an order cannot, under any circumstances, be considered equivalent to tacit acceptance of the order.

2.3 By placing an order in one of the various possible ways, the Buyer declares and confirms that he/she has read all the information provided during definition of the conditions of the Contract and fully accepts these GTC.

2.4 The Contract replaces any previous offers, correspondence, declaration of intent, or other communications in written or oral form between the Seller and the Buyer.

2.5 Amendments to the Contract stipulated in application of the foregoing require the written consent of the parties.

3. Purchases made on the Site

3.1 Through the Site, the Customer can only purchase the products in the electronic catalogue that can be viewed on the Site, as described in the corresponding information sheets.

The image accompanying the description of a product may not perfectly represent the features of the product, which may differ in colour, size and/or in terms of the accessory products appearing in the illustration. All information provided for assistance making purchases is understood to be simple generic information, not referable to the actual features of a particular product.

3.2 An order placed by the Buyer through the Site, by entering all the data required by the system (the "**Online Order**"), shall be valid as an offer made by the Buyer to the Seller for conclusion of a Contract.

3.3 Confirmation of receipt and acceptance of the Online Order by the Seller (the "**Online Order Confirmation**") will take place by means of an e-mail sent by the Seller to the e-mail address provided by the Buyer to the Seller.

The Online Order Confirmation will contain the date and time of execution of the order and the "Order Number" to be used in any further communications between the Buyer and the Seller regarding the order in question. The Order Confirmation will contain a summary of the information entered by the Buyer in the order. The Buyer undertakes to verify the correctness of the information appearing in the Online Order Confirmation and promptly notify the Seller of any inaccuracies. It is understood that in the event of failure of the Buyer to notify the Seller of any inaccuracies in the Online Order Confirmation within 5 days of receipt of the Online Order Confirmation, the information appearing in the Online Order Confirmation will be considered correct and corresponding to the order placed by the Buyer and accepted by the Seller, and consequently to the terms of the Contract.

3.4 To access certain sections of the Site, the Buyer must register and obtain a username and password. Keeping the username and password confidential is the responsibility of the Buyer, who will be solely responsible for the use of the account. It is the responsibility of each Buyer to immediately inform the Seller of any unauthorized use of the username, password or account, as well as any other breach of security involving access to the Site through the Buyer's account. The responsibility for the use of the account will be borne exclusively by the Buyer, who will be liable for any damages suffered by the Seller due to negligent use of the account. The foregoing also applies in the event of use of the account by parties unrelated to the Buyer who have come into possession of the Buyer's data.

3.5 The Seller shall be entitled to withdraw from the Contract for purchase of products on the Site by completing the request in the appropriate section of the Site within five working days of the sending of the Online Order Confirmation.

3.6 The Seller can only accept Online Orders from Buyers with registered offices in Switzerland.

4. Object of the contract

4.1 Regarding the product (s) which are the subject of the Contract (i.e. the object of the sale and supply), *for all sales* the information appearing in the Order Confirmation, in the Online Order Confirmation or in the invoice sent by the Seller to the Buyer shall be decisive. The services not contained in the Order Confirmation, in the Online Order Confirmation or in the invoice will be counted separately.

4.2 The weight of the product (s) covered by the Contract used for the purpose of determining the cost of the product (s) (including delivery costs) is the weight measured at the Seller's factory.

5. Prescriptions for use

Use of the Seller's products is beyond the Seller's control, and in any case falls exclusively under the Buyer's responsibility.

6. Price - delivery costs - other charges

6.1 The prices included in the Order Confirmation, in the Online Order Confirmation and in the invoice sent to the Buyer are understood to be net and inclusive of packaging costs and all ancillary costs such as port, insurance, import and export authorisations (where applicable), unless otherwise agreed in writing between the parties.

6.2 Delivery costs and taxes, levies and duties (where applicable) remain the responsibility of the Buyer and will be indicated in the Order Confirmation, Online Order Confirmation or invoice.

6.3 Delivery costs and taxes, levies and duties (where applicable) for the purchase of products on the Site shall be charged to the Buyer, and shall be identified at the time of placing the Online Order. Delivery costs for purchases made on the Site will only be calculated for purchases of less than CHF 500.--. Nothing more shall be payable by the Buyer beyond the total indicated in the Order Confirmation, except in the case of calculation errors or omissions in the Seller's management system.

At the Seller's discretion, the Order may be processed in several stages, at no further cost to the Buyer, by notifying the same.

In the case of orders over CHF 500.— the Buyer will not be charged for delivery costs, but only taxes, duties and fees (where applicable).

For each Online Order placed, the Seller will issue and send the Buyer via email an invoice and (if necessary) an accompanying receipt for the material shipped. The information included in the Online Order Confirmation shall be used in issuing the invoice.

7. Order cancellation - Online Order Cancellation - Withdrawal

7.1 If the Buyer makes a request to cancel an order (including an Online Order) which has already been confirmed with an Order Confirmation or an Online Order Confirmation, the Seller will have the right to accept or refuse the cancellation request, absolutely at its own discretion. Should the Seller accept the cancellation request, he will notify the Buyer of the *acceptance* of the request and provide instructions on how to return the product (s) included in the cancelled order. In the case of purchases made on the Site, we do not accept requests for cancellation of Online Orders by telephone or by e-mail, but only requests made through the specific function provided within the Site. In any case, it will be at the sole discretion of the Seller whether or not to accept requests for cancellation of Online Orders.

7.2 The Buyer may withdraw from the Contract within 5 working days of receipt of the order confirmation or of the invoice sent to the Buyer, sending written notice (also by e-mail) to the Seller and returning the unused product(s) to the Seller, in perfect condition and in their original packaging. The Buyer shall bear the cost of returning the product(s) to the Seller.

7.3 If the goods ordered on the Site were to be delivered outside of Switzerland, they may be subject to import duties and/or taxes. Any additional costs determined by delivery outside Switzerland will be borne by the Buyer. The Seller has no control over these costs, and cannot predict the amount thereof. Customs policies vary considerably from country to country, and so the Buyer must contact the local customs office for further information. Whenever a Buyer places an order on the Site requiring delivery of product(s) outside Switzerland, the Buyer shall be considered an exporter, and consequently required to comply with all the laws and regulations of the country in which the goods are to be delivered. The Buyer is aware that cross-border shipments are subject to opening and inspection by customs authorities.

8. Terms of payment

8.1 Unless otherwise established in the Contract, the price shall become payable with the transfer of ownership of the item sold to the Buyer.

8.2 The payment obligation is fulfilled to the extent that the amount indicated in the Order Confirmation, in the Online Order Confirmation or in the invoice is made available on the Seller's account, without any deductions. Banking fees shall be charged to the Buyer.

8.3 The payment deadlines specified in the Order Confirmation or in the invoice must be met, even in the event of disputes pursuant to the provisions of Article 12 of these GTC. The Buyer shall by no means be entitled to set off the obligation to pay the price of the product(s) against claims made against the Seller.

8.4 In the event of non-compliance with the payment terms specified in the Order Confirmation or in the invoice, the price shall become interest-bearing, with no need for any further reminder. Interest on arrears at an annual rate of 5% higher than the discount rate of the Swiss National Bank shall be applied, and in no case shall it be lower than 3% annually.

8.5 If the object of the Contract is to be delivered upon payment of the price, and the Buyer has defaulted on payment, the Seller may withdraw from the Contract by giving written notice to the Buyer.

8.6 In the event of defaulting by the Buyer pursuant to the provisions of Article 8.5 of these GTC, the Seller shall be authorized to withhold further supplies and to make further obligations relating to the same order or other orders dependent on the provision of guarantees deemed appropriate, including prepayment. Furthermore, all the Seller's rights under any contracts in place with the same Buyer shall become immediately payable. All rights of the Seller in relation to any further damage caused by non-fulfilment on the part of the Buyer remain expressly reserved.

8.7 Payment of the amount indicated in the Order Confirmation or in the invoice must be made without any withholding or deduction. In the event of non-compliance with this condition, the Buyer will be invoiced CHF 100.-- to cover administrative costs, in addition to the amount withheld arbitrarily.

8.8 In the event of payment after the deadline indicated in the Order Confirmation or in the invoice, without prejudice to the right of withdrawal granted to the Seller, in addition to interest on arrears pursuant to the provisions of Article 8.4, a lump sum of CHF 40 will be charged to cover administrative expenses

8.9 The invoice will be issued in digital format and sent by e-mail to the contact indicated by the Buyer in the Contract. If an invoice is requested in printed format, sent by ordinary mail, a cost of 2.-- CHF will be charged in addition to the sale price.

8.10 With reference to the payment conditions for purchases made on the Site, the Buyer has the right to choose between the different payment options available. Payment methods other than those indicated on the Site are not permitted. Some payment methods may be subject to additional costs which will be borne by the Buyer.

9. Retention of title

9.1 The product (s) covered by the Contract remain the property of the Seller until full payment of the agreed price.

9.2 The Seller is authorized to proceed, at its own expense, with the registration of the retention of title in the appropriate public register.

9.3 The Buyer shall be required to notify the Seller of any change in its registered offices immediately, in compliance with the rules necessary for the protection of the Seller's property.

10. Delivery - Methods and Terms

10.1 Products destined for Buyers located outside the borders of Switzerland shall be delivered DDP (INCOTERMS 2020). Special terms and conditions of delivery must be agreed on in advance between the parties and accepted in writing by the Seller.

10.2 The product (s) purchased by the Buyer on the Site is understood to be delivered at street level, unless otherwise agreed in writing with the Seller.

10.3 The Buyer may decide to collect product(s) purchased on the Site at the ECSA PRO shops identified on the Site. In the event of failure to collect the material present at the ECSA PRO shops chosen by the Buyer within 5 working days, the order will be returned to the Seller's warehouses, and the resulting transport costs will be charged to the Buyer.

10.4 The delivery deadline indicated in the Order Confirmation or in the invoice shall be calculated from the moment at which the Seller has the goods in its warehouses and all official formalities have been completed, such as obtaining import authorisations, payment, etc.

10.5 In the event that the Seller is unable to comply with the delivery deadline set out in the Order Confirmation or in the invoice, the Buyer shall be entitled only to request cancellation of the order, in writing, considering that such cancellation will only be valid if it reaches the Seller after the expiry of the delivery term and before the product (s) identified in the Contract have been sent, excluding any claims for damages deriving from delayed delivery or non-delivery.

10.6 The indicative and non-binding delivery term for products purchased on the Site is 10 working days from the sending of the Online Order Confirmation. An Online Order must be considered valid and can be processed without time limits, unless cancellation is requested. The Seller will be entitled to fulfil Online Orders only with items that are available, and to cancel the part of the Online Order referring to products which are no longer available or out of production. No responsibility can be attributed to the Seller in the event of delay in the fulfilment of an Online Order or in delivery of the Order. The Site does not indicate stock availability, and so the Buyer cannot assume that the items appearing on the site are in stock and ready for delivery. In urgent cases, the Buyer must contact the Seller by email (maintenance@ecsa.ch) or by calling the switchboard number +41582119300 to check the actual availability of the products for which an Online Order will be placed.

11. Profits and risks

11.1 Profits and risks pass to the Buyer upon delivery of the product (s) to the Buyer at the address indicated by the Buyer in the order (in the Online Order).

11.2 If shipment is delayed or made impossible for reasons attributable to the Buyer, then the supply will be stored at the expense, risk and cost of the latter.

12. Disputes

12.1 The Buyer is required to check whether the goods delivered are in perfect condition and suitable for their intended use.

In particular, the Buyer is required to check:

- that the number of packages delivered corresponds to the number indicated in the Order Confirmation, in the invoice, or in the Online Order Confirmation;
- that the packaging is intact, not wet, not crushed, and not altered even at the closing tapes;
- that there are no noises suggesting that the product (s) may have suffered damage.

12.2 Complaints regarding the quality and / or quantity of the product (s) must be submitted to the Seller in writing immediately, and at the latest within 5 working days from delivery of the product (s).

12.3 If the Buyer fails to examine the condition of the product(s) received or to give immediate notice to the Seller of any defects, the product(s) shall be considered accepted also with respect to such defects, and the Seller may not be held liable.

12.4 In the event of a well-founded and duly notified dispute, the Seller may, at its own discretion, decide to replace the product(s) that have been found defective or remedy the defect as soon as possible. The replaced goods become the property of the Seller.

12.5 The only remedy granted to the Buyer in the event of defective or missing products is the right to obtain delivery of missing products or replacement of defective products at the Seller's expense. To prevent any misunderstandings, the Buyer shall not, therefore, be entitled to claim compensation for damages directly or indirectly connected with defective or missing product(s).

13. Force majeure

The Seller shall not be held liable for non-fulfilment of contractual obligations attributable to force majeure. Force majeure means all impediments beyond the Seller's control, regardless of whether they arise from the Seller, from the Buyer, or from a third party. These hindrances include, by way of example but not limited to, epidemics, mobilisations, wars, riots, accidents, trade union conflicts, delayed or incorrect supply of the necessary goods, scarcity of raw materials, provisions of the authorities, natural events.

14. Data protection

The Buyer acknowledges and accepts that the data provided to the Seller for the purpose of entering into and managing a Contract may be exchanged by the Seller with public authorities or other subjects (by way of example, but not limited to, transport or collection companies) to fulfil its obligations under the Contract.

Contact details may be used to send technical documentation and information or promotional material in compliance with personal data protection regulations, as per the conditions set forth on the Site in the Privacy & Cookie Policy section.

15. Partial nullity

If individual clauses of these GTC are found to be totally or partially null, this shall not affect the effectiveness of the remaining clauses, the remaining parts of these clauses, or the validity of the Contract. The rule found to be null shall be considered replaced by the valid rule as close as possible to the economic purposes and meaning of the rule that is null.

16. Applicable law - Jurisdiction

16.1 Swiss law applies to the Agreement and therefore to these GTCs, with the exception of the provisions on conflicts of law and the provisions of the UN Convention on Contracts for the International Sale of Goods (1980).

16.2 Without prejudice to the right granted to the Seller in the second paragraph of this article 16.2, the District Court of Mendrisio Sud shall in the first instance have jurisdiction over settlement of any disputes arising from the Contract or connected to it in any way, including those concerning the validity, nullity, violation or termination of the Contract.

However, the Seller has the right to summon the Buyer at the competent court at its registered office or at any other competent court, at the Seller's discretion.

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