

## General Conditions of Sale and Delivery

### 1. General

- 1.1 These General Conditions of Sale and Delivery are valid for all goods and services supplied by Brugg Cables AG (hereinafter called "BRUGG CABLES"), unless otherwise agreed in writing. General conditions issued by the customer are valid only if accepted in writing by BRUGG CABLES.
- 1.2 All agreements and legally binding statements of the parties are valid only if made in writing.
- 1.3 If any provision of these General Conditions of Sale and Delivery is held invalid in whole or in part, or if it cannot be implemented, the parties will replace it with a new one which comes as close as possible to the intention of the invalid provision. All other provisions hereof are not affected thereby.

### 2. Offers and Conclusion of a Contract

- 2.1 Offers that do not stipulate an acceptance period, and all information in price lists, are not binding.
- 2.2 A contract is deemed concluded after BRUGG CABLES has accepted and confirmed an order in writing.

### 3. Scope of delivery

- 3.1 Scope and delivery of goods and services are defined by the confirmation of the order. Goods or services not specified therein will be invoiced separately.
- 3.2 Pictures, drawings, and descriptions in brochures and catalogues, as well as data of dimensions and weights are to be regarded approximate. They are binding only if expressly confirmed in writing.

### 4. Regulations in the Country of Destination

- 4.1 At the latest at the time of ordering, the customer must inform BRUGG CABLES of the statutory, administrative and other regulations and standards relating to the goods and services to be supplied by BRUGG CABLES, to their operation, and to the respective health and safety regulations.
- 4.2 If information from the customer in accordance with article 4.1 is missing, the goods and services to be supplied by BRUGG CABLES are in conformity with the regulations and standards valid at the head office of BRUGG CABLES.

### 5. Prices

- 5.1 The prices for deliveries within Switzerland are net, carriage paid, in Swiss francs, excluding VAT, installation and commissioning.
- 5.2 The prices for export deliveries are net, FCA Brugg (Incoterms 2000 ICC), in Swiss Francs, excluding customs duties, taxes, fees, insurance, installation and commissioning.
- 5.3 If, between the conclusion of the contract and the acceptance of the goods, the costs underlying the calculation increase, BRUGG CABLES has the right to adjust accordingly the prices stated in the confirmation of the order.

### 6. Ordered and Delivered Quantities

- 6.1 The delivery and invoicing of cables ordered in standard manufacturing or storage lengths can differ up to 10% from the quantity ordered and may be delivered in different lots unless such cannot be deemed acceptable by the customer with respect to the intended use thereof.
- 6.2 Cables ordered in defined lengths for a specific project are delivered by BRUGG CABLES at least in the lengths ordered. Extra lengths produced in the manufacturing process will also be supplied. The customer is free to return the same at his own cost to BRUGG CABLES for disposal.
- 6.3 Length marks on the cable sheaths are not calibrated and are intended for information purposes only.

### 7. Returns

Incorrectly ordered goods or goods that are no longer required are taken back by BRUGG CABLES only subject to BRUGG CABLES' express written approval.

### 8. Terms of Payment

- 8.1 Payments are due within 30 days net from the date of the invoice.
- 8.2 In the case of exports, BRUGG CABLES reserves the right to demand an irrevocable letter of credit issued by a reputable Swiss bank.
- 8.3 Customer payments are to be made at the head office of BRUGG CABLES without deduction for discounts, charges, taxes and fees of any kind.
- 8.4 In the event of default of payment, the customer shall owe default interest at the rate of 6% p.a. plus processing charges from the due date onwards without formal notice. Compensation for further damages shall remain reserved. In the event of default of payment, BRUGG CABLES shall be entitled with immediate effect to stop further deliveries and to suspend any remedy of defects.
- 8.5 No payments may be withheld, in particular not in the event of delayed delivery or complaints. The offsetting of any possible counterclaims of the customer against claims of BRUGG CABLES shall be excluded.
- 8.6 In the event of default of payment, BRUGG CABLES reserves the right to rescind the contract, while demanding the return of the goods in accordance with Art. 214 para 3 of the Swiss Code of Obligations.

### 9. Retention of Title

- 9.1 BRUGG CABLES retains title to all goods delivered until such time as they are fully paid for. The customer is required to take all necessary measures to protect the ownership of BRUGG CABLES.
- 9.2 BRUGG CABLES has the right to enter the retention of title in the appropriate public register, and the customer shall be obliged to cooperate with this entry.

### 10. Term of Delivery

- 10.1 In the export business the date of delivery is the date of delivery to the carrier in Brugg (FCA Brugg according to Incoterms 2000 ICC). For deliveries in Switzerland, it is the date of delivery to the Swiss destination.
- 10.2 The term of delivery starts with the acceptance and the written confirmation of the order by BRUGG CABLES, at the latest after clearance of the technical specifications.
- 10.3 The term of delivery will be extended appropriately,
- 10.3.1 if the information necessary for the execution of the order is not given to BRUGG CABLES in time, or if this information subsequently is changed by the customer;
- 10.3.2 if the terms of payment are not met, if letters of credit are opened too late, or if required import licences are not received by BRUGG CABLES in time;
- 10.3.3 if hindrances occur that BRUGG CABLES cannot prevent, despite taking the necessary care, and irrespective of whether these occur at BRUGG CABLES, at the customer or at third parties. These hindrances are acts of God, e.g. epidemics, mobilisation, war, riots, interruption of production, accidents, labour conflicts, late or deficient supply of necessary raw materials, semi-finished or finished products, defects of essential machinery or workpieces, administrative measures or omissions, and natural disasters.

### 11. Default of Delivery

- 11.1 The customer has the right to claim damages for default of delivery to the extent that the delay can be proved to having been caused by BRUGG CABLES and that the customer has suffered damage as a result of the default. If the customer was accommodated with a replacement, he no longer has the right to claim damages resulting from late delivery.
- 11.2 Damages resulting from late delivery are payable for each complete week's delay at the rate of 0.5% of the contract price of the delayed part of the delivery; they are limited to a maximum of 5% of the contract price of the delayed part of the delivery. No damages resulting from late delivery may be claimed for the first two weeks of any delay.

- 11.3 The customer has no rights or claims due to late delivery other than those expressly stipulated in articles 11.1 and 11.2. In particular, the customer is not entitled to rescind the contract.
- 12. Delivery, Transport and Insurance**
- 12.1 Deliveries in Switzerland are made carriage paid to the Swiss destination; export deliveries are made FCA Brugg (Incoterms 2000 ICC).
- 12.2 Steel reels (including straps and lining wood) and synthetic reels remain the property of BRUGG CABLES and are loaned to the customer. Immediately after they are empty, but at the latest twelve months after receipt, they must be returned in good condition to BRUGG CABLES.
- 12.3 BRUGG CABLES reserves the right to invoice the customer for reels that are not returned or which are returned in damaged condition.
- 12.3.1 If the customer fails to return the reels within twelve months, or if he fails to report to BRUGG CABLES within this deadline that he no longer requires these items, BRUGG CABLES will be entitled to invoice the customer for these reels at procurement price, while excluding any warranty whatsoever. The reels shall remain the property of BRUGG CABLES up until these have been paid in full. BRUGG CABLES is prepared to accept the return of reels after the aforementioned deadline, although at the most up to the expiry of three years. If such reels are in good condition, then BRUGG CABLES shall remunerate 75% of the procurement price.
- 12.4 Disposable reels shall be invoiced. Such disposable reels shall not be taken back.
- 12.5 KTG reels are the property of Kabeltrommel-Gesellschaft GmbH & Co. KG (KTG) in Cologne (Germany) on the terms and conditions of which they are loaned to the customer.
- 12.6 BRUGG CABLES must be informed in time of any special requirements concerning transport and insurance. The customer must lodge with the last carrier any complaints relating to the transport, e.g. for damage or loss, immediately upon delivery or receipt of the shipping documents.
- 13. Hazardous Goods**
- The customer is required to observe the respective applicable legal requirements and the data sheets issued by BRUGG CABLES relating to the transport, the storage, and the handling of hazardous goods.
- 14. Cable Laying and Installation**
- 14.1 BRUGG CABLES will make available qualified personnel for the supervision or execution of cable laying and installation work against separate charge. These services are rendered in accordance with the General Conditions of Installation of BRUGG CABLES.
- 14.2 In all cases, the warranty covers exclusively the goods supplied by BRUGG CABLES.
- 15. Inspection and Acceptance of Delivery**
- 15.1 BRUGG CABLES inspects the goods and services in accordance with standard practice before dispatch or after performing the services. Any additional tests have to be agreed upon separately.
- 15.2 The customer must inspect the (partial) deliveries and (partial) services supplied within 20 days of delivery and must inform BRUGG CABLES in writing of any defects without delay, failing which the (partial) deliveries and (partial) services are deemed to have been accepted.
- 15.3 BRUGG CABLES must correct the defects notified in accordance with article 15.2 as quickly as possible, and the customer must give BRUGG CABLES the opportunity to do so. After the correction, an acceptance test will be made at the request of the customer or of BRUGG CABLES.
- 15.4 The (partial) deliveries and (partial) services are also deemed to have been accepted if the customer uses or is able to use the goods and services supplied by BRUGG CABLES.
- 15.5 The remedies stated in articles 15 and 16 for defective (partial) deliveries and (partial) services are exclusive and the customer waives all other remedies.
- 16. Warranty, Liability for Defects**
- 16.1 BRUGG CABLES warrants that the products delivered hereunder shall be free from defects in design, material and workmanship.
- 16.2 Express representations are only those expressly mentioned as such in the confirmation of the order. This warranty expires no later than the lapse of the term of warranty.
- 16.3 Any warranty or liability of BRUGG CABLES is excluded for damages that cannot be proved to result from defects in design, material or workmanship. In particular, any liability is excluded e.g. for damages resulting from wear and tear, deficient maintenance, non-compliance with operating instructions, overexertion, undue operation, chemical or electrolytic interference, construction or installation not performed by BRUGG CABLES, as well as for damages resulting from other causes beyond the reasonable control of BRUGG CABLES.
- 16.4 The term of warranty is two years from the date of delivery or from the date of notification that the goods are ready for dispatch. For products not manufactured by BRUGG CABLES, the terms of warranty of the respective manufacturer applies.
- 16.5 If, within the term of warranty, the customer discovers defects within the meaning of articles 16.1 and 16.2 in products supplied by BRUGG CABLES and wishes to make a warranty claim, then he must notify BRUGG CABLES at the latest within seven days of this occurrence.
- 16.6 BRUGG CABLES shall, at its discretion, either repair or replace such products or parts thereof. The replacement of defective products does not constitute an extension or a recommencement of the term of warranty for the entire system.
- 16.7 The term of warranty expires prematurely,
- 16.7.1 if the customer or third parties do not handle the products in accordance with the instructions given by BRUGG CABLES;
- 16.7.2 if the products have been exerted beyond their specifications;
- 16.7.3 if the customer or third parties make improper modifications or repairs;
- 16.7.4 if the customer fails to issue a written complaint about a defect in good time (see article 16.5);
- 16.7.5 If the customer, in the event a defect occurs, does not immediately take all suitable measures to mitigate the damage and to give BRUGG CABLES the opportunity to remedy the defect.
- 16.8 The remedies stated in articles 16.6 for defects in material, design or workmanship and for the lack of express representations are exclusive, and the customer waives all other remedies. Article 19 remains reserved.
- 17. Non-performance, undue Performance and their Consequences**
- 17.1 In all cases of non-performance or undue performance that are not expressly covered by these General Conditions, in particular if BRUGG CABLES undertakes without cause the performance of deliveries and services so late that the timely completion thereof can no longer be expected, or if a breach of contract attributable to a fault of BRUGG CABLES is apparently foreseeable, or if BRUGG CABLES committed a breach of contract, the customer has the right to fix an appropriate time limit for subsequent performance under threat of rescission of the contract. If this time limit expires as a result of the fault of BRUGG CABLES, the customer is entitled to rescind the contract with respect to those deliveries and services, that were performed in breach of contract, or the non-performance or undue performance of which is apparently foreseeable, and he can reclaim the respective portion of the purchase price already remitted therefor.
- 17.2 In this case, the provisions of article 18 apply with respect to any possible claim for damages by the customer and to the exclusion of further liability. Any such claim for damages is limited to 10% of the contract price for the (partial) deliveries and (partial) services which are affected by the rescission.
- 18. Exclusion of Further Liability**
- 18.1 All cases of breach of contract and the legal consequences thereof are conclusively regulated by these General Conditions. Article 19 remains reserved.
- 18.2 With the exception of those expressly stipulated in these General Conditions, the customer expressly waives all claims, regardless of their legal basis, in particular any claims for damages, reduction of purchase price, and cancellation of or rescission of the contract.
- 18.3 Subject to any strict product liability provisions, liability for incidental or consequential damages is expressly excluded.

**19. Liability of the Customer for Aviation Industry Utilisation**

- 19.1 Irrespective of any other provisions of these conditions, all possible utilisation of goods and services in the aviation industry – including but not restricted to the fitting, use and storage – by the customer or any third party shall be at the sole risk of the customer. BRUGG CABLES rejects any possible liability for any possible damages arising out of any such utilisation. This shall also apply to negligence on the part of BRUGG CABLES or its employees, insofar as this liability exclusion is permitted by law.
- 19.2 Should the customer be prosecuted by any third party in conjunction with the use of the goods and services in the aviation industry, irrespective of the legal grounds for any such claim, then any right of recourse of the customer vis-à-vis BRUGG CABLES shall be excluded.
- 19.3 The customer shall also be liable vis-à-vis BRUGG CABLES, even in the absence of any fault, for any possible damages, including consequential damages, which BRUGG CABLES suffers in conjunction with the use of the goods and services in the aviation industry. The customer must indemnify BRUGG CABLES in particular against all third-party claims resulting from injury to persons or damage to property in conjunction with the use of the goods and services, including the incurred legal and court costs. This shall also apply in the event of negligence on the part of BRUGG CABLES or its employees, insofar as this liability exclusion is permitted by law.
- 19.4 The customer undertakes to impose upon all its customers the obligation to take on the liability in accordance with article 19, including the obligation to pass on this liability in accordance with the present article 19.4.

**20. Safety Measures in Foreign Countries**

- 20.1 If the presence of BRUGG CABLES personnel is necessary outside of Switzerland for the execution of contractual obligations, the customer is responsible to take all necessary measures for their safety.

**21. Applicable Law and Jurisdiction**

- 21.1 All the sales or work contracts concluded in accordance with these General Conditions of Sale and Delivery are governed by the laws of Switzerland, to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods.
- 21.2 The place of jurisdiction is Brugg (Switzerland). However, BRUGG CABLES reserves the right to take legal action before the courts at the domicile of the customer or before any other competent court.