

GENERAL TERMS AND CONDITIONS OF SALE

1 GENERAL

1.1 These general terms and conditions of sale ("**GTC**") applies to all sales and deliveries made by DEFA AS, registration no. 945 692 758 or any of its affiliates in Norway, Sweden, Finland, United Kingdom, Germany, Canada or the Peoples Republic of China ("**DEFA**") of its products (the "**Products**") to a reseller/dealer/business end-customer (the "**Customer**") when referred to in a frame agreement between DEFA and the Customer or in a quotation or order confirmation ("**Order Confirmation**") from DEFA. A frame agreement or an Order Confirmation together with these GTC and other referred to appendices are hereinafter all together defined as the "**Agreement**". In the event the Customer refers to its own conditions of purchase and such conditions are in conflict with any provisions in these GTC's, these GTC's shall supersede the Customer's own conditions regardless of whether DEFA previously has objected to the Customer's conditions or not.

1.2 DEFA may from time to time make general updates of these GTC's. The Customer undertakes to familiar itself with the latest version of these GTC's available and published on DEFA's website or otherwise made available to the Customer as per DEFA's routines from time to time.

2 DOCUMENTATION

2.1 If a party provides the other party with documentation, drawings or technical information related to the Products, delivery, site or similar prior to or following the conclusion of the Agreement, such information shall remain the property of the submitting party or its licensors/sub-suppliers.

2.2 Documentation, drawings or technical information received by one party may not, without the written consent of the submitting party, be used for any other purpose than for which it was provided or otherwise be used, copied, reproduced or communicated to a third party.

2.3 Documentation, drawings and technical information regarding the Products or the delivery is provided to the Customer "as is" meaning that DEFA shall have no obligation to provide other documentation than such documentation obtained from the relevant sub-suppliers of DEFA and DEFA cannot be held liable for any claims, loss or damages as a result of or related to such documentation.

3 DELIVERY AND DELAY

3.1 DEFA shall deliver the Products in accordance with the delivery dates/periods and/or time schedules stipulated by the Agreement.

3.2 DEFA shall use its best efforts to ensure timely deliveries, however delivery times are to be understood as approximate and never binding. DEFA shall notify the Customer in writing of any anticipated delay in meeting the estimated delivery dates/periods, stating the reasons for the delay and its best estimate of when the delivery can be made. In the event delivery has not taken place within [10] weeks from estimated delivery dates/periods, the Supplier shall be entitled to terminate the delayed order.

3.3 No specific remedies (including damages or remuneration for incurred cost/losses) are available to the Customer in the event an estimated delivery date/period is not met. DEFA will notify the Customer in writing when the ordered Products are ready and available for delivery/pick-up at DEFA's delivery address.

3.4 Customer may not return delivered non-defective Products without DEFA's prior written approval.

3.5 Unless otherwise explicitly agreed in the Agreement, delivery of Products shall be made EXW at the delivery address notified by DEFA (Incoterms 2020). If the Customer for any reason shall return any Products to DEFA such Products shall be delivered DDP to the above stated address (Incoterms 2020).

3.6 All deliveries shall be properly packed by DEFA at the Customer's cost.

3.7 If DEFA has accepted a Purchase Order (hereinafter defined) for special or customized Products such a delivery/purchase could be subject to complementing terms and conditions.

4 PURCHASE ORDERS AND ORDER OF PRIORITY

4.1 The Customer shall purchase the Products by placing separate written purchase orders specifying the Products ordered ("**Purchase Order**"). No contract of sale shall arise, except by DEFA's written acceptance/approval of each purchase order (Order Confirmation). Notwithstanding the provisions in the Purchase Order, each contract of sale shall be subject to the terms contained in this Agreement.

4.2 In the event of conflicting information in the different contractual documents, the documents shall have the following order or priority: 1) Frame Agreement (if any) 2) Order Confirmation, 2) these GTC's, and 3) other appendices (e.g. Product specifications/data sheets).

5 RESELL OF PRODUCTS AND LEGAL STATUS

5.1 A Customer, when a reseller/dealer, shall buy the Products as an independent contractor and shall sell the Products in its own name, for its own account and on its own risk.

5.2 Nothing in this Agreement will constitute or be deemed to constitute a partnership, an employment relationship or an agency.

5.3 Neither party shall have any authority to act on behalf of the other party in any matter whatsoever, or to bind the other party in any other way without the other party's prior written consent.

5.4 Neither party shall be liable or responsible for any acts or defaults of the other party or its employees or agents.

6 DEFECTS IN PRODUCTS

6.1 A delivered Product is only considered defective if it is not in compliance with a Product specification/data sheet provided for by DEFA. If a Product is defective, DEFA shall remedy and correct (or if decided by DEFA, replace the Products) such non-conformity or fault at its own cost and expense.

6.2 When a Product is delivered, the Customer shall immediately check quality and quantity and check that any packing is undamaged and any seals unbroken. If a defect can be assumed to have occurred during transport of the Product both DEFA and the forwarder shall immediately be informed to this effect.

6.3 In order for DEFA to be liable for a defect, the Customer shall notify DEFA in writing of any defects in the Products no later than [10] days from the date when the Customer discovers or should have reasonably discovered a defect in the Products. Complaints made by the Customer, shall comply with such instructions, requirements and processes stipulated by DEFA from time to time. The notice shall contain a thorough description of the alleged defect in the Product and shall, upon DEFA's request, be accompanied with a sample of such allegedly defective Product. If the Customer does not notify DEFA in accordance with this clause 6.3, DEFA shall have no liability whatsoever for any defect in the Products.

6.4 If not otherwise specified for a Product in the Product specification/data sheet, DEFA is liable for defective Products notified by the Customer within two (2) years from the delivery date.

6.5 In the event DEFA does not remedy a confirmed defective Product within a reasonable period of time from written notice by Customer, the Customer is entitled to terminate the purchase as regards the defective delivery. If terminated, the Customer is entitled to compensation for its direct cost, losses and damages. In no event shall the compensation amount to more than twenty (20) percent of the agreed price for the defective Product subject to the termination.

6.6 If no defect in the Products is found for which DEFA is liable, DEFA shall be entitled to compensation for all costs and expenses (including reasonable attorney and other professional fees) it has incurred due to the Customer's faulty notification.

6.7 The remedies stipulated by this clause 6 are the exclusive remedies available to the Customer in event of defective Products.

7 PRICES AND PAYMENT

7.1 The Customer shall pay the prices specified in the Agreement. Payment shall be made no later than [30] days from the invoice date. In case of late payment, DEFA may charge interest in accordance with applicable law in country of sales.

7.2 All prices under the Agreement shall be excluding VAT or other similar local taxes.

8 SUBCONTRACTORS

DEFA is entitled to appoint and use sub-contractors or other intermediaries for fulfilment of, or work related to, this Agreement without Customer's prior written consent. An appointment of a sub-contractor or other intermediaries shall have no implication to DEFA's obligations under the Agreement and DEFA shall be responsible towards Customer for all sub-contractors as well as for any other intermediaries appointed by DEFA.

9 COMPLIANCE WITH LAWS AND CODE OF CONDUCT

9.1 The Customer, when a reseller/dealer, shall at all times comply with laws and regulations applicable to the Customers business when reselling /distributing /marketing the Products to its customers.

9.2 The Customer undertakes to comply with any code of conduct issued or provided by DEFA from time to time and shall when reselling/distributing/marketing the Products at all times, treat its customers, and in general to perform its business in a manner and with the objective to maintain and increase the good-will, interest and reputation of the Products, DEFA and DEFA's trademarks.

10 RETENTION OF TITLE

The Products shall remain the property of DEFA until fully paid for and DEFA reserves the right to recover the Product in case of non-payment. Until the transfer of ownership, Customer is not entitled to transfer, use, dispose of the Products or otherwise use the Product as collateral.

11 INTELLECTUAL PROPERTY RIGHTS AND OWNERSHIP

11.1 All right, title and interest in any intellectual property rights in or to the Products, shall belong to DEFA or its sub-suppliers and the Customer acquires no rights whatever nature under this Agreement to any intellectual property rights in the Products.

11.2 Each party shall without undue delay inform the other party if it has reason to believe that the Products infringe third-party intellectual property rights or that an Infringement of DEFA's or its sub-suppliers intellectual property rights may take or has taken place.

11.3 The ownership of the purchased Products shall pass to Customer upon full payment.

12 INFRINGEMENTS

12.1 If an infringement suit is brought by a third party against the Customer, DEFA is to reimburse the Customer for its reasonable and verified direct costs thus incurred and

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indemnify the Customer against all third party claims based on the allegation that DEFA's or its sub-suppliers intellectual property rights, including trademarks, infringe on the rights of said third party, provided that: (i) DEFA had been responsible for such an infringement had it marketed and sold the Products itself; (ii) and DEFA was notified by the Customer in accordance with clause 11.2 above; and (iii) that DEFA has been entitled to participate in the defence as set out in clause 12.2.

- 12.2 DEFA shall be entitled to participate in all negotiations or judicial proceedings in respect of such infringement, and the Customer shall, at its own cost, render such assistance to DEFA, as may reasonably be required. The Customer shall not settle any claims or proceedings without the prior written consent of DEFA.

13 TRADEMARKS AND MARKETING

- 13.1 Any logotypes and trademarks of DEFA, its affiliates or its sub-suppliers shall be the sole property of DEFA and/or its affiliates/sub-suppliers (as the case may be) and may only be used by the Customer, when a reseller/dealer, when marketing, selling and distributing the Products to its customers. The Customer's use of DEFA's logotypes and trademarks shall always be in strict compliance with the explicit instructions and requirements of DEFA as communicated from time to time.

- 13.2 The Customer, when a reseller/dealer, shall independently, at its own cost, market and promote the sales of the Products. Such Customer shall in its marketing of the Products comply with DEFA's guidelines and instructions. All marketing materials are subject to DEFA's prior written approval, which shall not be unreasonably withheld.

14 DATA PROTECTION

The parties shall at all times comply with applicable data protection laws and regulations and shall, if applicable, enter into a data processing agreement provided by DEFA.

15 LIMITATION OF LIABILITY

- 15.1 Neither party shall be liable for any indirect and/or consequential loss or damage, including loss of profit or loss of goodwill or loss of business opportunity.
- 15.2 DEFA's maximum aggregate liability for any and all claims under or relating to this Agreement shall be limited to the total amount actually paid by the Customer under the relevant Agreement based on which the liability arose.
- 15.3 The limitations of liability set out above in this clause shall not apply with respect to damages caused by gross negligence or wilful misconduct

16 PRODUCT LIABILITY

- 16.1 DEFA shall indemnify and hold the Customer harmless from and against reasonable and verified direct claims and liabilities, costs, and expenses (including the reasonable fees of attorneys and other professionals) incurred by, or threatened against, arising out of a *defective* Product having caused personal injury or property damages unless such damage has been caused due to the Customer's (or its end customer's) use or misuse, services, installations, instructions, modifications, adaptations or the like (product liability).
- 16.2 The Customer shall indemnify and hold DEFA harmless to the extent that DEFA incurs liability towards any third party in respect of loss or damage relating to or due to the use of a non-defective Product.
- 16.3 DEFA is only responsible for the Product meeting the specification and quality described in the Product specification/data sheet provided for by DEFA and makes no representations as to the suitability of the Product for certain purposes or applications.
- 16.4 DEFA shall not be liable to the Customer in respect of loss that a non-defective Product cause the Customer or third parties. DEFA shall thus not be liable for damage caused by such Product:
- 1) to real or movable property while the Product are in the Customer's or a third party's possession, or,
 - 2) to products produced by the Customer or to products in which the Customer's products are included, or for damage to real or movable property caused by these products because of the Product.

17 PREMATURE TERMINATION

- 17.1 If a party breach any of its obligations under the Agreement, the other party may by written notice to the breaching party terminate the Agreement partly or in its entirety with immediate effect, provided (i) that the breaching party has failed to cure the breach within 14 days after written notice of the breach, or (ii) if the breach is of material and essential importance to the affected party. A party's right to terminate with immediate effect shall also apply if the other party should enter into liquidation, become insolvent or similar.
- 17.2 All documents and materials related to the Products, as well as any document or information provided or owned by DEFA, shall be returned to DEFA upon request.

18 INSURANCE

- 18.1 The Customer, when a reseller/dealer, shall at all times carry and maintain liability insurance coverage to satisfactorily cover its obligations under the Agreement and as a reseller/dealer.
- 18.2 The Customer shall upon request from DEFA verify its insurance coverage by submitting an insurance certificate and/or produce written confirmation to DEFA that such insurances are procured and maintained.

19 FORCE MAJEURE

- 19.1 A party shall be discharged from liability for a failure to perform an obligation under the Agreement due to a circumstance beyond the party's control. Circumstances giving rise to such discharge are war or warlike acts, restrictions by public authorities, fire, strike, blockade, prohibition, global pandemics or other similar events, provided that the affected party immediately gives written notice to the other party of such event ("**Force Majeure Event**").
- 19.2 If performance of significant parts of the Agreement is prevented for more than 3 months due to a Force Majeure Event, the other party shall be entitled to terminate the Agreement with immediate effect. Neither party shall have any liability to the other party as a consequence of termination of the Agreement due to a Force Majeure Event.

20 CONFIDENTIALITY

- 20.1 A receiving party shall keep all information, e.g., information relating to a party's business operations and know-how, disclosed by the other party, with regard to the disclosing party's business, in confidence ("**Confidential Information**") during the term of the Agreement and for 5 years afterwards and the receiving party shall use such Confidential Information only for the purposes set out in the Agreement and shall not disclose such Confidential Information to third parties except to those of the receiving party's consultants, employees and subcontractors who are required to have access thereto for the purposes set out in the Agreement, and then only if such consultants, employees or subcontractors are obligated to observe the confidentiality of such information.
- 20.2 The restrictions in clause 20.1 does not apply to the extent a party is required to disclose Confidential Information by law or regulation or pursuant to any order of court or other competent authority or tribunal, if the information was public knowledge at the time of its disclosure or has become public knowledge thereafter through no fault of the receiving party or if the information was already known to the receiving party prior to disclosure by the other party.
- 20.3 Regardless of what is set forth in this clause 20, DEFA is entitled to disclose Confidential Information with its affiliates, partners and consultants.
- 20.4 The Customer may not make public the business relationship between the parties through advertising or in any other way without prior written consent of DEFA.

21 MISCELLANEOUS

- 21.1 The Agreement constitutes the entire agreement between the parties regarding all the issues set forth in the Agreement. Any and all written or verbal undertakings or agreements prior to the Agreement are substituted by the Agreement.
- 21.2 Any amendments to the Agreement shall, in order to be binding, be made in writing and duly executed by both parties hereto.
- 21.3 Neither party may, without the prior written consent of the other party, assign any of its rights and obligations under the Agreement to a third party.

22 DISPUTES AND GOVERNING LAW

- 22.1 The Agreement shall be governed by the law applicable in the country in which the delivering DEFA unit/company has its place of business, without regard to its conflict of law provisions. The United Nations Convention on Contracts for the International Sale of Goods is expressly excluded.
- 22.2 Any dispute, controversy or claim arising out of or in connection with these GTC or the Agreement, or the breach, termination or invalidity thereof, shall be finally settled by arbitration.
- 22.3 Disputes involving DEFA units/companies in Sweden, Norway and Finland shall be settled in accordance with the Arbitration Rules of the SCC Arbitration Institute (the "**SCC Institute**"). The seat of arbitration shall be Malmoe, Sweden and the language to be used in the arbitral proceedings shall be English if not otherwise agreed between the parties. The Rules for Expedited Arbitrations shall apply, unless the SCC Institute, taking into account the complexity of the case, the amount in dispute and other circumstances, determines, in its discretion, that the Arbitration Rules shall apply. In the latter case, the SCC Institute shall also decide whether the arbitral tribunal shall be composed of one or three arbitrators.
- 22.4 Disputes involving DEFA units/companies outside Sweden, Norway and Finland shall be settled under the Rules of Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with the said Rules. The seat of arbitration shall be the capital of the country in which the delivering DEFA unit/company has its place of business, and the language to be used in the arbitral proceedings shall be English if not otherwise agreed between the parties.
- 22.5 The parties undertake, indefinitely, not to disclose the existence or contents of any judgment or decision related to or in connection with the Agreement or any information regarding negotiations, arbitral proceedings or mediation in connection therewith.