

# **Sefco Technology AG, Switzerland**

## **General Terms and Conditions**

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

1.1. These General Terms and Conditions (GTC) govern the conclusion, content and execution of contracts concerning services in connection with cryogenic equipment and pumps by Sefco Technology AG for a Customer, especially

- consulting
- studies
- calculation
- construction
- simulation
- prototype construction and development
- prototype test (potentially at customer site)
- technical advice

1.2. For the services of a contractual nature governed by these GTC, special provisions are contained in Section 13.

### **2. Offers**

2.1. Offers made by Sefco Technology AG based on the Customer's specifications are binding during the period of time stated in the offer. In the absence of a specification of a period of time stated in the offer, a period of two weeks from the date of the offer shall apply.

### **3. Conclusion of the contract**

3.1 An offer by Sefco Technology AG shall be deemed accepted, and the associated contract concluded, when the Customer confirms it in writing.

### **4. Specifics of construction and development orders**

4.1. If in the course of the fulfillment of a construction order or a prototype construction and development order it turns out that the specifications defined by the Customer cannot be implemented with the means available, Sefco Technology AG shall be entitled to withdraw from the contract by notifying the client accordingly.

4.2. In such case, the Customer shall be obliged to reimburse Sefco Technology AG for the expenses incurred up to the withdrawal from the contract.

## 5. **Changes and modifications**

5.1. Sefco Technology AG reserves the right to make any and all changes, modifications or amendments it deems necessary to execute the order.

5.2. In case the Customer provides documents or manufacturing papers, the Customer shall timely notify Sefco Technology AG of any changes.

5.3. The Customer shall recompense Sefco Technology AG for extra costs Sefco Technology AG incurs due to changes, instructions or specifications made, set or requested by the Customer. This shall particularly apply to changes to the product specifications in case of a construction order or a prototype construction and development orders.

## 6. **Prices**

6.1. Due to the lack of a different agreement, all prices shall be quoted net (excluding VAT), ex works, without packaging and without any deduction whatsoever.

6.2. Customer shall pay all extra costs incurred for freight, insurance, export, transit, import and other permits for certifications. Customer shall also pay all taxes, dues, fees, duties and such incurred under the contract or it shall hold Sefco Technology AG harmless against such costs if Sefco Technology AG can show to have incurred.

6.3. Sefco Technology AG shall also be entitled to adjust the fixed prices of construction and development orders, if executing such a specific order was handicapped by circumstances unforeseeably by Sefco Technology AG.

## 7. **Terms of payment**

7.1. Unless otherwise agreed, Sefco Technology AG's invoices shall be payable immediately without any discount or deduction whatsoever and no later than 30 days after invoice date.

7.2. Customer shall not be allowed to retain, balance or reduce payments disputed by Sefco Technology AG due to complaints, claims, or counterclaims not acknowledged by Sefco Technology AG.

7.3. In case the Customer is in default of payment or if complete or on-time payment is seriously jeopardized, Sefco Technology AG is entitled to

(1) Withhold its own services and to deliver goods to the Customer only against payment *pari passu* as well as to deposit goods at the expense of the Customer; payment of the agreed price for the deposited goods shall be due immediately.

(2) Stipulate an extension of 10 days for the presentation of a security (unconditional bank guarantee by a recognized bank) covering the value of the contracts or parts of the contracts not yet performed. In case the security is not provided within the set period of time, Sefco Technology AG, with regard to the contracts or part of the contracts not performed, shall be entitled: (i) to continue the contract and to decide, if Sefco Technology AG will still perform or if Sefco Technology AG will waive actual performance and demand damages (positive interest in the performance), or (ii) to cancel the contract and demand damages (negative interest in the performance).

7.4. If the Customer fails to meet the agreed dates of payment, it shall for the 30<sup>th</sup> day after the date of invoice and without a sperate reminder, have to pay a default interest of 5%.

## 8. **Period and term of delivery**

8.1. The period of delivery shall begin on such date that the contract has been signed, all official formalities like import, export, transit and payment permits obtained, down payments made, any securities provided, and the technical key issues clarified. The delivery deadline shall be considered met when the notification of readiness for dispatch has been sent to the Customer by the end of the period of delivery.

8.2. Any specific delivery date agreed instead of a period of delivery shall be equivalent to the last day of a period of delivery.

8.3. The obligation to deliver within the agreed period of delivery assumes the Customer has complied with all its contractual obligations.

8.4. The period of delivery shall be reasonable extended: (1) if the data needed for performing the contract is not sent to Sefco Technology AG on time, or if the Customer makes subsequent changes to the information, thus causing

deliveries or performance to be delayed; (2) if Sefco Technology AG, despite its due diligence procedures, fails to prevent any obstacles from occurring at its own or the Customer's site or for any other reason (e.g. epidemics, mobilization, war, major operational interruptions, accidents, late or faulty delivery of the required materials or semi-finished or finished products, rejection of important components, administrative measures, natural events); (3) if the Customer or a third party are behind with their work to be performed or in default of performing their contractual obligation, especially if the Customer does not comply with the terms of payment; (4) if the Customer wishes to make changes that will impact the work in progress such that Sefco Technology AG will suspend the work in progress in order to account for the changes in requirements and to avoid additional costs.

- 8.5. A delay in delivery shall be no reason for the Customer to claim for damages or cancel the contract.

## 9. **Packaging**

- 9.1. Unless otherwise stated in the offer, packaging shall be invoiced separately and shall not be taken back.

## 10. **Transfer of usufruct and risks**

- 10.1. Usufruct and risks shall be transferred to the Customer when the delivery is dispatched ex works at the latest. This shall also apply to delivery prepaid, sent subject to cif, fob or similar clauses, if a delivery is agreed to include assembly, or if the transport is organized and managed by Sefco Technology AG. The transfer of usufruct and risks shall be irrespective of the time of transfer of ownership.

- 10.2. It shall be the Customer's duty to take out insurance cover for any damages after transfer of usufruct and risks.

## 11. **Inspection and acceptance of deliveries and services**

- 11.1. The Customer shall check the deliveries within 10 days after receipt. Deliveries shall be deemed accepted if this clause is not complied with by the Customer.
- 11.2. Acceptance inspection procedures and the associated conditions shall be agreed separately.

11.3. Acceptance shall also be deemed completed: (1) if, for reasons not attributable to Sefco Technology AG, an agreed acceptance inspection cannot be carried out on the scheduled date, (2) if the Customer fails or refuses to carry out the acceptance without being entitled to do so; (3) when the Customer starts using Sefco Technology AG's deliveries.

## 12. **Warranty and obligation to report defects**

12.1. The warranty period shall be 12 months. The warranty period shall begin when deliveries are dispatched ex works or upon a mutually agreed acceptance procedure. In any case, the warranty period shall end no later than 12 months after the readiness to deliver has first been made known.

12.2. During the warranty period of 12 months, the Customer shall, in deviation from the warranty claims of the Swiss Code of Obligations, have the exclusive right to demand free rectification of defects of deliveries within a maximum of one month, provided the Customer notifies such defect in writing and documented correctly within 10 days of their discovery. Other or further warranty claims are expressly excluded. In connection with the rectification of defects, the Customer is required to grant Sefco Technology AG access to the necessary premises and to cooperate free charge within the bounds of reasonableness.

12.3. Replaced or repaired deliverables are subject to a 6 month's warranty period starting on the date of replacement, completion of repairs or acceptance procedure or, if earlier, at the end of the warranty period of 12 months.

12.4. Guaranteed properties of a deliverable shall be considered guaranteed properties only if Sefco Technology AG expressly mark them as guaranteed properties in written.

12.5. The warranty does not apply to defects of deliveries that are attributable to

- improper operation or subsequent modification of the deliveries and operating conditions without Sefco Technology AG's consent;
- other reasons for which the Customer is responsible in particular the modification of deliveries or individual parts thereof, by the Customer itself or third parties not commissioned by Sefco Technology AG;
- external causes beyond Sefco Technology AG's control such as natural wear, insufficient maintenance, disregard of operational regulations, operating

errors, excessive use, inappropriate means of operation, chemical or electrolytic influences.

12.6. The Customer is not entitled to other rights or claims than the ones stipulated in this Section 12.

### 13. **Supplementary provisions for services of a contractual nature**

13.1. Certain services to be provided by Sefco Technology AG especially consulting, studies, calculation, simulation and technical advice, are of a contractual nature (Swiss Code of Obligations Para 394ff.).

13.2. Sefco Technology undertakes to fulfill the contract carefully and competently, and guarantees that such services are in accordance with the state of art at the time of the conclusion of the contract. According to the rules of contract law, there is no strict liability and the warranty claims according to Section 12 do not apply.

13.3. If the individual contract exclusively concerns services of Sefco Technology AG, which are of a contractual nature, each party has the right to terminate the contract in writing at any time with immediate effect. However, a termination may not be made at an inopportune moment which is why, in case of a termination by the Customer, the current status of services already provided and arranged must be taken into account. The services rendered by Sefco Technology AG up to the time of termination of the contract shall be compensated by the Customer proportionally or according to contractually agreed hourly rates.

### 14. **Liability**

14.1. Sefco Technology AG shall only be liable to the Customer for damages resulting for the present contractual relationship – regardless of the legal basis – in case of intentional and grossly negligent causation. In any case, liability is limited to compensation for direct damage. On no account shall the Customer be entitled to claim for damages not found on the actual deliverable including nor be entitled to any claim of other consequential and/or reflex damages such as loss of profit, loss of earnings, loss of production or utilization.

14.2. Sefco Technology AG excludes liability for employees and auxiliary persons called in accordance with Art. 101 Para 2 of the Swiss Code of Obligations.

15. **Right of recourse**

15.1. Sefco Technology AG shall have the right of recourse to the Customer in all cases of personal injury or physical damage to third-party property attributable to the actions or omissions of the Customer or its auxiliary persons that Sefco Technology AG is made liable for.

16. **Intellectual property and rights of use**

16.1. Upon full payment of the agreed remuneration, the Customer shall receive a

- non-transferable
- indefinite
- non-exclusive
- geographically unrestricted right of use

on any deliverable or results created by Sefco Technology AG under the contract.

16.2. In all other respects, all rights (including intellectual property rights, rights of ownership and/or commercial protective rights) to any deliverable or results (including but not limited to know-how, inventions, designs, plans, drawings or calculations) created within the framework of a contract performance by Sefco Technology AG remain with Sefco Technology AG. In any case, Sefco Technology AG shall remain entitled to further develop, change and improve all created services, deliverable or results and to use them accordingly for the same or similar services for third parties.

17. **Contract amendments, contradictions and partial invalidity**

17.1. Amendments and supplements to the individual contract must be made in writing.

17.2. In the event of contradiction between the individual contract and the GTC, the provisions of the individual contract take precedence over those in the GTC.

17.3. If individual provisions of the GTC or the individual contract prove to be invalid, the validity of the GTC or the contract shall not be affected. In such a case, the provision in question will be replaced by an analogous, economically provision.

18. **Assignment**

18.1. The Customer may not assign or transfer claims against Sefco Technology AG.

19. **Place of jurisdiction an applicable law.**

19.1. Exclusive place of jurisdiction is Arlesheim, Basel-Landschaft.

19.2. Swiss substance law is exclusively applicable. The Vienna-law (United Nations, Convention on Contracts for the international Sale of Goods, CISG) shall not apply.

Sefco Technology AG, May 25, 2022