



HYDAC AG

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GENERAL TERMS AND CONDITIONS OF SALE (hereinafter also “GTCS”)

1. The company Hydac AG, branch located in Mezzovico-Vira, Switzerland, as seller, provides its purchasers with products that are assembled in Mezzovico and/or third-party components. Considering that the final customers of Hydac AG operate on a large scale at international level by means of multinational industrial companies, the contracts between Hydac AG and its purchasers are drawn up only under the following General Terms and Conditions of Sale (hereinafter also “GTCS”), unless agreed otherwise by the parties in written form or by electronic mail.

2. These GTCS apply to all traders, also in case the GTCS were not agreed upon and recalled, as well as to the existing contracts also in case they are not specified in an express way.

3. If the GTCS that are specified in the customer order differ and/or contradict the GTCS that are established by Hydac AG, Hydac AG's GTCS will always be implemented.

4. Hydac AG reserves the right to apply additional specific conditions to the GTCS that are mentioned herein, namely concerning the sale of services and plants. The additional conditions must be in written form. The parties can send the additional conditions in written form or by electronic mail (with confirmation of receipt and acceptance of the new conditions).

I. Chapter: Orders, proposals, confirmations of order, invoices – form

1. Both the orders that are received from the purchaser, as well as the proposals and the confirmations of order that are submitted by Hydac AG, as well as all binding contracts between the parties, must be prepared in written form or electronic mail (with evidence of receipt and confirmation).

2. At the time of the proposal, under penalty of cancellation of the post-sales customer service and the warranty, the customer must specify the intended use of the goods included in the proposal and subject to the following order, detailing the conditions of use and the technical parameters that the individual supply must comply with.

II. Chapter: Proposals

1. Hydac AG usually prepares the proposals and sends them via electronic mail.

The proposals that are agreed upon by phone or orally with Hydac AG personnel will not be considered binding and will have no legal effect.

2. All documents that are put at disposal by Hydac AG for the preparation of the proposal, such as for example drawings, size data and costs, besides being property of Hydac AG, will not be binding for Hydac AG. The documents following the confirmation of order will be binding and will remain property of Hydac AG, as well.

3. The proposal concerning the manufacture of new products to be developed is not binding for Hydac AG. It will be binding for Hydac AG only at the completion of product development, with the approval of the final customer.

4. Unless agreed otherwise with the customer, all Hydac AG's drawings are exclusive property of Hydac AG, the customer cannot disclose them to third parties without Hydac AG's previous written authorisation and must keep them safe in order to prevent them from being unduly acquired by its own personnel or third parties. Likewise, Hydac AG owns the intellectual property of the newly manufactured product, unless agreed otherwise with the customer.

5. The customer will be held liable for the unauthorised disclosure and use of the drawings, with immediate termination of all existing relationships, if any, with Hydac AG. In addition, Hydac AG will be entitled to obtain the payment of a conventional penalty of CHF 50,000.-- in addition to major damages and besides Hydac AG's right to act, also at international level, to interrupt the illegal use of its own drawings and the production of products that were developed by Hydac AG on behalf of the customer.

6. If not expressly stated, the proposal will be valid 3 months. Hydac AG reserves the right to update the established conditions following the above-mentioned period.

7. At the expiry of the 3-month period, the customer who did not confirm the order must destroy all documents attached to the proposal, such as for example drawings, size data and all other data concerning the products, unless it was agreed otherwise with Hydac AG.

III. Chapter: Confirmation of order

1. Unless agreed otherwise in written form, all received orders will be followed by a confirmation of order.

2. Hydac AG is entitled to assess the order of the customer and decide whether to accept it or not. Following the aforesaid assessment, the customer will receive a confirmation of order specifying customer references, such as the order number, the references to the supplied materials, the unit prices and the expected delivery term.

3. The contract will be considered concluded when the purchaser receives Hydac AG's written confirmation of order.

4. Any amendment to the purchase order, as well as any ancillary clauses, must be discussed and approved, in written form, by Hydac AG; if not so, the aforesaid amendments and clauses will not be valid and only these conditions of sale will remain binding and effective.

5. Prices, conditions, delivery terms and quantities that are specified in the purchase order prepared by the customer will not be binding for Hydac AG at all.

6. On the contrary, the conditions that are specified by Hydac AG in its own confirmation of order will be binding.

7. Possible pieces of information or data about the features and/or the specifications of the products which are included in brochures, pricelists, catalogues or similar documents will be binding only to the extent in which such data are expressly recalled in the proposal and in the confirmation of order or rather in the individual contract.

8. Hydac AG reserves the right to modify the products without altering the relevant fundamental features in case it becomes necessary or appropriate.

9. Packaging costs, certificates/certifications, shipments and any other necessary approval are not included in the net price of the product. Unless agreed otherwise, packaging costs usually amount to 3% of the value of the goods and will be invoiced apart from the value of the same goods. Hydac AG will not bear any cost for the disposal or the return of any packaging material by the customer.

10. In case of items that are not included in the official pricelist, the customer must ask the relevant price before issuing the order.

Hydac AG will be entitled to terminate the contract in case the conditions specified in the proposal are not complied with. In such a case, the customer will not be entitled to claim for damages and/or indemnities, for any reason whatsoever, against Hydac AG.

11. In case of increases in raw material costs, labour costs or other costs that have an impact on the final price of the products ordered by customer, Hydac AG, 2 months after the above-mentioned increase and following a written notice to the customer, will be entitled to increase the agreed price to a maximum extent of 5%. The customer will have to pay it without being entitled to raise any exception.

12. The confirmation of order is usually sent by Hydac AG to the customer within 10 days following the receipt of the customer order. The term to send the confirmation of order is not mandatory. If the term is not complied with, the customer cannot withdraw from the contract and cannot, for any reason whatsoever, claim for damages and/or indemnities against Hydac AG.

13. Unless specified otherwise, the prices do not include the value added tax that is established by the Swiss Law or the domestic law of the purchaser at the time of order preparation.

14. After Hydac AG has confirmed the order, no order cancellations will be accepted.

15. In case of order cancellation, the customer will fully bear (and without being entitled to raise exceptions) all costs that were borne and documented by Hydac AG from the time of the confirmation of order to the notification about the cancellation of the order.

The payment must be executed within and not later than 5 days from the request. By means of the payment, any products that have already been manufactured or available at Hydac AG's premises will become property of the customer. The latter must communicate in written form, within and not later than 5 days from the payment of the above-mentioned costs, if it wants to collect the already manufactured products or ask Hydac AG to scrap them. In the latter case, the customer will not be entitled to submit any claim against Hydac AG.

The above-mentioned goods must be collected by and at the expense of the customer, and within 15 days from Hydac AG's receipt of the customer notification stating its intention to collect the goods. For every day of delay, the customer must pay to Hydac AG a daily delay indemnity for the occupation of the spaces equalling CHF 2.-- per day per each pallet area (cm 120x80).

60 days after the receipt of the above-mentioned notification, Hydac AG will be entitled to scrap the goods. The customer will have to bear the scrapping costs, which will be added to the above-mentioned storage indemnity.

IV. Chapter: Invoice

1. Hydac AG invoices the goods in written form or by electronic mail; such invoice details the references that were provided by the customer, such as the delivery address of the supplied goods, the number and the date of the order, the position, the code and the description, the net price of all supplied materials and any other piece of information which is necessary to record/process the aforesaid invoice by the customer. The aforesaid references will also be mentioned in all other transport documents, such as delivery notes, consignment notes, packing-list, labels, etc.

V. Chapter: Delivery, obligations to the customer

1. As far as the delivery is concerned, please refer to the delivery date that is specified in Hydac AG's confirmation of order.

The delivery term is estimated and not binding for Hydac AG. Exceptions will be possible only if they are previously agreed upon by the parties in written form.

2. The delivery term will be complied with if the material being delivered has departed from the factory at the deadline that is specified in the order or if the customer is informed that the goods are ready for pick-up.

3. Hydac AG is authorised to perform partial deliveries.

4. In case of delay and/or impossibility to fully and/or partially deliver the supply, for causes not attributable to Hydac AG, the latter will be entitled to terminate the contract in case no new agreement is reached with the customer.

5. In case of delays and/or impossibility to fully and/or partially deliver the supply, the customer will not be entitled to terminate the contract that was drawn up with Hydac AG or to claim any damages, for any reason whatsoever, against Hydac AG.

6. The customer must receive the goods and pay the relevant price; the customer will not be entitled to raise any exception for the delay of the delivery.

7. If, in case of a delayed delivery of the goods, the customer decides to terminate the contract, Hydac AG will be entitled to send a claim to the customer for the damages that were caused by the termination of the contract, in particular all costs that were borne for the purchase of the materials that were necessary to manufacture the supply and the relevant procurement costs, labour costs, etc.

8. On the contrary, if the customer asks to amend contract terms and conditions and/or the purchase order, Hydac AG will reserve the right to ask the customer to reimburse (net of VAT) the costs that were borne to purchase the materials that were necessary for production, besides possible administrative costs, which are quantified on a lump-sum basis as equalling CHF 200.--.

9. In case of a delayed pick-up of the goods by the customer, the latter will have to pay a delay indemnity to Hydac AG and, from the second month, storage costs equalling CHF 2.00 per day per each pallet area (cm 120x80).

At any rate, Hydac AG will reserve the right to claim for the refund of any additional costs.

10. The customer cannot claim that Hydac AG refunds possible direct and/or indirect damages that were suffered by the customer due to delays that are not attributable to Hydac AG.

11. Without prejudice to specific agreements, the applied shipment conditions will be EXW (Incoterms 2010) Mezzovico, Switzerland.

12. In case of a delayed delivery of the products, also for causes that are attributable to Hydac AG, Hydac AG will not accept to pay any reimbursement for additional transports or deliveries to the final user.

VI. Chapter: Payment

1. The invoices that are issued by Hydac AG to the customer must be paid within the terms that are specified in the invoice.

2. In case of possible deliveries before the agreed deadlines, the specified payment terms will start to be effective on the agreed delivery date (date of the invoice).

3. The payment terms of the invoices are mandatory and imperative. In case of a delayed payment, 5% interest on arrears will be charged, without prejudice to Hydac AG's right to claim for the additional damages that were caused by the delay.

4. Without prejudice to different written agreements, there will be no offsetting with possible other receivables of the customer from Hydac AG.

VII. Chapter: Warranty / Liability for defective goods

Without prejudice to the provisions established in chapter "X EXCLUSION OF LIABILITY," Hydac AG's liability for defective products will be regulated in the following provisions. The same provisions will be valid only if the customer communicated the precise intended use of the goods being considered in the proposal and the following order, as it is provided for in Chapter I, no. 2

1. The customer must immediately inspect the goods at the time of delivery and inform Hydac AG in written form about the presence of defects within and not later than 5 days.

If the delivered goods are defective, Hydac AG, at its own discretion, can remedy the defect or replace the defective item.

The replaced parts will become Hydac AG's property and will be delivered to Hydac AG.

2. The customer must allow Hydac AG to remedy the defect, that is, allow Hydac AG to access the supplied item.

3. The customer cannot remedy the defects itself or by third parties without Hydac AG's previous written consent. The customer will be entitled to remedy it if Hydac AG does not act within contract times to remove the defect or in case the customer is forced to remedy the defect to prevent an imminent and irreparable hazard. In this case, the defect can be repaired only by suitably qualified and trained personnel using original spare parts.

4. The customer will not be entitled to claim for alleged defects in case it infringed the terms or the conditions that are described in this chapter, sect. 1, 2 and 3.

5. Hydac AG will accept no claim for alleged defects in case of incorrect installation, start-up, use, handling, storage, maintenance or customer-support, repairing, reconditioning or modification of the supplied items, which were performed by the customer or third parties. No claims will be accepted for damages that are caused by normal wear, use of unsuitable operational supports or other circumstances that are attributable to the customer or third parties.

6. Hydac AG is not liable for uses other than the intended use for which the items were manufactured, by the customer or third parties, including the integration into systems or interfaces that do not comply with the intended use of the items.

7. Hydac AG will be liable for the results of prototypes only following their production start.

8. The removal of defects or the replacement of the defective item will be free of charge; on the contrary, assembly and disassembly costs (hours/man), transport costs and travelling costs for Hydac AG's customer-service engineers will be charged to the customer.

VIII. Chapter: Duration of the warranty and time-limit for complaints

1. The warranty has a duration of one year from the delivery of the goods. The complaints that are received after the aforesaid period will not be valid.

2. Warranty interventions do not change the warranty period, which will remain one year long from the delivery of the goods.

IX. Chapter: Right to refuse the supply of services

1. Hydac AG can refuse to supply the customer-service for the products and/or to perform services if they prove to be hazardous for its employees and/or the people in charge, for example in case they have to be carried out in a country that is considered at risk by the Federal Department of Foreign Affairs (FDFA). Please see FDFA's official Internet site: <https://www.eda.admin.ch/eda/en/dfa.html#>.

No liability can be ascribed to Hydac AG for the non-performance of services and/or the lack of customer service, and no damages can be claimed by the customer.

X. Chapter: Exclusion of liability

1. This exclusion of liability is not applicable to the cases of wilful misconduct or gross negligence. In addition, it will not be applicable to defects that are fraudulently hidden or whose absence was guaranteed.

2. In case contract obligations are infringed by Hydac AG, there will be no repayment of consequential damages, such as for example, the loss of business profits or the loss of production.

3. There will be no repayment of damages on a Lump Sum. The customer must provide evidence and document the damages.

XI. Chapter: Property of the goods and secrecy

1. All sensitive data/documents, such as for example: drawings, diagrams, calculations, samples, templates, data carriers, recordings and IT programmes, which are put at disposal of the customer by Hydac AG will remain exclusive property of the latter. The above-mentioned sensitive data and documents must be processed with the greatest confidentiality and cannot be made accessible to third parties without the explicit written consent of Hydac AG.
2. All sensitive data and documents that are delivered to the customer must be returned to Hydac AG in case the business relationship between the parties is interrupted or, at any rate, on first demand of Hydac AG. The above-mentioned data and documents can be used only for business transactions with Hydac AG.
3. The customer is expressly forbidden to use, for any reason whatsoever or in any form, Hydac AG's corporate name and brands in general. All pieces of information that the customer receives during contract negotiations and/or the execution of the order/supply, in particular - but not only - research and development works, and the details concerning Hydac AG's business activities, must be kept absolutely confidential, both during and after the execution of the order/contract.
4. The infringement of confidentiality obligations established in sect. 2, 3 and 4 of this chapter will lead to a conventional sanction of CHF 50,000.-- to be paid by the customer, without prejudice to the claim of further damages.

XII. Chapter: Miscellaneous, applicable law, Court of competent jurisdiction

1. The place of performance is Hydac AG's branch office located in Mezzovico-Vira, Canton of Ticino, Switzerland.
2. Any and all legal relationships (contracts) between the customer and Hydac AG are regulated only by Swiss laws and these GTCS. The application of the Convention of the United Nations on contracts for the international sale of goods (CISG, RS 0.221.211.1) dated 11th April 1980 will not be applied. Likewise, the regulations to solve conflicts between standards (namely the federal Law dated 18th December 1987 on private international laws [IPRG; RS 291]) which recall foreign laws will not be applied.
3. In case of interpretation discrepancy between the Italian version of the contract and the general terms and conditions, and the translated version, the first will always prevail.
4. Without limiting or excluding the provisions established in the previous point, the purchaser will be entitled to ask for the translation of the general terms and conditions into the language that the purchaser considers the most suitable to be understood.
5. All disputes that derive from this contract or, at any rate, connected to it, including disputes about the validity, the nullity, the infringement or the end of the contract, will be definitively solved by arbitration pursuant to the Swiss Rules about international arbitration of the Swiss Chambers' Arbitration Institution (SCAI) in force as at the date in which the arbitration request is submitted pursuant to the above-mentioned Regulation.
The number of arbitrators is one;
The location for the arbitration is Lugano, Canton of Ticino, Switzerland.
The arbitration proceedings are carried out in Italian language.
The arbitration will be carried out pursuant to the provisions of the accelerated procedure.
Despite the foregoing, the parties can agree at any time to submit the dispute to arbitration in compliance with the Swiss Rules on commercial mediation of the Swiss Chambers' Arbitration Institution (SCAI).
6. The customers accept that Lugano, Canton of Ticino (Swiss Confederation) is the competent Court of jurisdiction (sect. 50 paragraph 2 LEF).
7. The invalidity or the nullity of one or several clauses above will not compromise the validity of the remaining provisions.

GTCS Hydac AG – Version 11.11.2019 Hydac SA