

## **GENERAL TERMS AND CONDITIONS OF SALE OF SEMPERFLEX A.H. s.r.o.**

### **A. General**

1. These General Terms and Conditions ("GTC") will apply to the entire business relationship between the Customer and Semperflex A.H. s.r.o. („Semperflex A.H."), in particular to the present supply agreements and any supply agreements to be concluded in the future. Deviating provisions shall be ineffective, even if they are not expressly in contradiction thereto. Deviations from these GTC proposed by the Customer shall only be effective if Semperflex A.H. accepts the same in writing.
2. Offers shall be valid for a maximum period of four weeks as of their date of issue.
3. Mailing of the Semperflex A.H. price list shall not be considered an offer. Semperflex A.H. shall be under no supply obligation regarding orders received on the basis of general offers, circulars or price lists.
4. Agreements concluded orally or over the telephone as well as written and oral agreements with agents of Semperflex A.H. will only be binding on Semperflex A.H. if Semperflex A.H. has acknowledged them in writing.
5. Moulds, production aids and facilities shall be the property of Semperflex A.H. even if the Customer has paid a mould cost contribution and has provided the proposals and designs for the items to be produced.
6. Instructions provided by Semperflex A.H. in brochures, instructions for use or other product information shall be strictly complied with in order to prevent damage. Semperflex A.H. expressly warns the Customer against any use or treatment of the products beyond the defined areas of application. The Customer shall ensure that any further customer or user will be instructed sufficiently.

### **B. Terms of delivery**

1. Deliveries will be made and invoiced at the prices and on the terms and conditions applicable on the date of delivery. Unless the Semperflex A.H. price lists applicable from time to time provide for a different regulations, the following minimum purchase order values (i.e. minimum final net values invoiced) shall apply:

for goods on stock/domestic deliveries:	EURO 1,000
for manufacturing orders and deliveries abroad	EURO 5,000.

2. The Incoterms 2010, as amended, shall apply to all trade clauses. Unless otherwise agreed Semperflex A.H. will deliver "Ex works" (EXW). The goods designated for processing, refining or repair shall be delivered to the Semperflex A.H. production plant delivered duty paid (DDP) and will be returned EXW. If delivery is delayed due to the Customer's fault, the risk shall pass to the Customer on the day the goods are ready for shipment. If Semperflex A.H. delivers goods free of charge to the address of the Customer once or several times, no legal claim to be granted that benefit permanently will arise therefrom.
3. The measurements provided for by the relevant standards and the statutory provisions shall be complied with.
4. Partial shipments shall be permitted.

5. The difference between the volume of goods determined in the agreement and volume of goods delivered in fact by Semperflex A.H. may not exceed 15% in case of hydraulic hoses and 10% in case of industrial hoses and boards. For this reason the Customer shall not be entitled to assert any claims for the goods defects. The Customer shall pay the purchase price for the factually delivered goods.

### **C. Packaging**

Semperflex A.H. will charge:

1. total production cost – no pallets, boxes, boards, loading boards, crates or bars will be taken back unless return of the same has been agreed. Lattice box pallets will be returned in any case;
2. total production cost – tins and bottles will not be taken back;
3. total production cost – 2/3 refund in case of wooden drums and mobile pallets for conveyor belts;
4. total production cost – special boxes will not be taken back.
5. The refund rates stated above will only be granted if the items are returned in a perfect condition freight paid to the plant of dispatch.

### **D. Delivery periods**

Semperflex A.H. undertakes to observe agreed delivery periods provided only that there is an undisturbed course of production and delivery.

Consequences of force majeure or similar unforeseeable events occurring at Semperflex A.H. or third parties with whom Semperflex A.H. maintains business relations, e.g. interruptions of operations or traffic; fire; floods; lack of workforce, energy or raw materials; strike; lock-out; official measures or the like will release Semperflex A.H. from its obligation of timely delivery and grant Semperflex A.H., in addition, the right to discontinue further deliveries without having to pay damages and without being obliged to make subsequent deliveries.

### **E. Retention of title**

Semperflex A.H. will retain title to all goods supplied by it until full payment of the amounts invoiced. This shall also apply if the purchase price has been paid for certain shipments of goods defined by the Customer, because retention of title serves the purpose of securing the total accounts receivable by Semperflex A.H.. If goods which are the property of Semperflex A.H. are mixed, blended or combined with other items, the Customer already at this point assigns his ownership rights or co-ownership rights to the new item to Semperflex A.H. and shall hold the item in safe custody for Semperflex A.H. with the care of a prudent businessman. The Customer may only sell the goods which are the property of Semperflex A.H. in the ordinary course of business provided that he is not in default of payment. The Customer already at this point assigns his purchase price claims from resale vis-à-vis his customers to Semperflex A.H. and shall make the note which is required for this assignment clause to become effective in his books or on his invoices. In the case of assignment Semperflex A.H. shall also be entitled to notify the customers of the Customer. The consent to resale, process or combine the goods shall automatically expire if insolvency proceedings are opened over the assets of the Customer.

## **F. Terms of payment**

1. Unless otherwise agreed the selling prices of Semperflex A.H. as well as all offers and calculations shall be considered net amounts in Euros.
2. If the value of a payment which has been agreed in a currency other than Euro changes by more than 5% (e.g. due to a change of currency parity), Semperflex A.H. will be entitled to adjust the price accordingly.
3. In the case of unforeseeable increases in the cost of raw materials, energy or production Semperflex A.H. will be entitled to adjust the selling prices accordingly as of the date of delivery.
4. Unless otherwise agreed the amounts invoiced shall be payable in advance without any deductions; the postage and charges shall be paid by the Customer.

Employees and agents of Semperflex A.H. will only be authorised to accept payments if they hold collection authority. Advance payments and payments on account shall yield no interest.

5. In principle, the Customer shall transfer payments into the account advised by Semperflex A.H. at his risk and cost. The place of performance for the Customer shall be Odry.
6. Any retention or set-off by the Customer or any claims whatsoever against claims of Semperflex A.H. shall be excluded. Application of § 1982, chapter 89/2012 col., new civil code, in a current wording ("NCC") shall be excluded.
7. Acceptance of bills of exchange in lieu of payment shall require the written consent of Semperflex A.H..
8. If the Customer is in default of payment, Semperflex A.H. shall be entitled to charge default interest at a rate of 12% p.a. If Semperflex A.H. is entitled to a higher rate of interest due to statutory provisions or if higher interest has to be paid by Semperflex A.H. due to higher borrowing costs, Semperflex A.H. shall be entitled to charge such interest. In addition, the defaulting Customer shall bear any and all dunning charges, collection charges, investigation and information charges incurred in connection with collection of the accounts receivable outstanding.

## **G. Warranty**

1. Semperflex A.H. will remedy any defects in production or material that occur in products of Semperflex A.H. or deviations from the relevant standards at its option by means of repair or substitute delivery. Notices of defects due to patent defects and quantity variances can only be taken into account if they are recorded immediately upon receipt of the goods on the shipping document directly at the carrier and claimed vis-à-vis Semperflex A.H. by no later than three working days of such receipt.
2. In the case of deliveries of class 2 goods or low-quality goods the right to complain on grounds of optical defects and other impairments of quality shall always be expressly excluded.
3. If the items are to be in conformity with earlier deliveries, deviations will be avoided to the extent technically possible. In the case of substantial deviations Semperflex A.H. shall at its option either provide substitute delivery or rescind the contract.

4. Before rejected goods are returned, Semperflex A.H.'s consent shall be obtained. The items shall be returned free of any charge to Semperflex A.H..
5. Special warranty conditions shall apply to the following items:
  - a) rubber lining for funicular railway reels
  - b) conveyor belts.

To the extent the special warranty conditions deviate from the general warranty conditions they shall replace the same; for the rest they shall supplement the general warranty conditions.

## **H. Liability**

1. Semperflex A.H. will be liable for damage caused intentionally. However in the sense of § 2898 of NCC Semperflex A.H. will not be liable for other damage caused otherwise than intentionally. In particular Semperflex A.H. will not be liable for lost profit due to delayed or defective delivery, for disadvantages due to business interruptions caused thereby, for transportation costs incurred in connection with replacing the defective goods with non-defective goods, for costs of dismantling or installation, if any, for damage to items that are in the custody of Semperflex A.H., for processing resulting from a violation of custody or occurring during processing, or for claims asserted vis-à-vis the Customer by customers of his. Semperflex A.H. will take out an insurance against those kinds of disadvantages at the Customer's request and at his cost.
2. Semperflex A.H. will be liable for personal injury according to § 2939 and NCC., as amended, on Liability for Damage Caused by Products' Defects in case of Damage Caused to a Consumer.
3. If items are produced or distributed on the basis of drawings, specimens or other documents or instructions of the Customer and rights of third parties are infringed thereby (in particular industrial property rights of third parties), the Customer shall indemnify and hold Semperflex A.H. harmless.

## **I. Miscellaneous**

1. Warranty claims shall be asserted in Semperflex A.H. within six months after delivery. Claims which are asserted thereafter or exceed the scope determined in these GTC shall be excluded.
2. Semperit Holding AG and all of its affiliated companies will be entitled to assign and subsequently offset claims against accounts receivable, whether already due or not, including future accounts receivable to which Semperflex A.H. is entitled vis-à-vis the Customer or to which the Customer is entitled vis-à-vis Semperflex A.H. (if necessary, the Customer will be informed about the status of such shareholdings upon request).
3. If any provision of these GTC or any contractual agreement between Semperflex A.H. and the Customer is held by any court or other competent authority to be void, illegal or unenforceable in whole or part, the other provisions of these GTC or the affected Agreement as well as the remainder of the affected provisions shall continue to be valid, in force and binding. The void, illegal or unenforceable provision shall be automatically deemed replaced by such valid, legal and enforceable provision that comes closest to the business purpose of the replaced provision.

4. If after conclusion of the contract Semperflex A.H. learns that the financial situation of the Customer has developed unfavourably or that insolvency proceedings have been initiated or have not been initiated for lack of assets or that proper fulfilment of the contract is not secured, Semperflex A.H. may demand advance payment or collateral security equal to the value of the delivery. If the Customer fails to fulfil this request, Semperflex A.H. shall be entitled to rescind the contract with immediate effect.
5. All legal disputes arising out of or in connection with the business relationship between Semperflex A.H. and Customer (in particular in connection with supply agreements) shall be solved by the Czech courts. Semperflex A.H. shall, however, at its option be entitled to sue the Customer also before the court having jurisdiction over (i) the place of the Customer's registered office or (ii) the location of any goods which may be the subject of dispute.
6. The entire business relationship between Semperflex A.H. and the Customer shall be subject to Czech law. Applicability of UN Sales Law (United Nations Convention on Contracts for the International Sale of Goods) and similar international agreements is hereby excluded.

Odry, September 1, 2014