

ACO Marine Standard Conditions of Sale

1. BASIS OF CONTRACT

- 1.1 Any estimate or quotation issued by us is not an offer capable of acceptance but is merely an invitation to treat. No contract will be created for the sale of any goods or supply of any services save only by written acceptance by us of an offer made by the buyer which acceptance shall incorporate the conditions of contract set out hereafter and no others, and all offers shall be and shall be deemed to be made on that basis unless and except insofar as expressly stated in writing by us with specific indication of what conditions are to be added or deleted or varied.
- 1.2 Any conditions put forward by a buyer shall not render our acceptance a counter-offer but shall be deemed to be a mere invitation to treat and no contract shall be concluded save by our acceptance incorporating our conditions (save as varied in accordance with subclause 1.1 above).
- 1.3 Terms of Carriage such as "ex-works", "FOB" and "CIF" shall be construed according to the definition of such terms contained in the Uniform Rules for the Interpretation of Trade Terms ("Incoterms") current at the time a contract is made.

2. DELIVERY

- 2.1 While dates or periods for readiness or despatch or delivery of goods are given in good faith the same are not of the essence of or in any way terms of the contract or representations of fact and no damages shall be payable for late readiness or despatch or delivery however caused or under any circumstances and our buyers shall be bound to accept goods sold when the same are ready for collection or are delivered.

3. DRAWINGS AND DESIGN

- 3.1 Save in the event of express stipulation in writing to the contrary, we are at all times entitled to alter or vary or modify without notice to the buyer the detailed specification of all goods sold by us so long always as the goods delivered are in substantial conformity with the description of goods as ordered.
- 3.2.1 Unless the contrary is expressly stated in writing by us, all illustrations and drawings and the like accompanying our quotation or contained in our catalogue or price list or advertisements whether incorporated in the contract or otherwise must be regarded as approximate indications only and are not binding in detail.
- 3.2.2 All weights, measures, powers, capacities, physical and chemical properties and other particulars of the goods offered by us are stated in good faith being approximately correct but deviation therefrom shall not be a breach of the contract between the parties, entitle rejection of goods or be made the basis of any claim against us.
- 3.2.3 After the formation of a contract we will upon request supply free of charge certified general arrangement drawings but if specially prepared drawings are required these will be charged for.
- 3.2.4 We shall be entitled to correct errors and omissions in our quotation or other documents whether contractual or otherwise before or after the conclusion of the contract.

4. PRICES AND TERMS

- 4.1 Where no other terms have been agreed in writing, prices quoted are net ex-works unpacked and payment shall be due on notification by us that the goods or any part of them are ready for despatch. Where credit terms have been approved by us in writing invoices in respect of goods supplied to an approved account are to be paid in the full amount in euros at Prague not later than 30 days from the date of our invoice. For unapproved accounts payment is to be made in the full invoice amount before dispatch from our factory or by confirmed irrevocable letter of credit against shipping documents in Prague whichever is considered the most appropriate.
- 4.2 All costs including bank charges in relation to any letter of credit shall be for the account of the buyer and all letters of credit shall be:-
 - 4.2.1 in our favour;
 - 4.2.2 consistent with the provisions of these conditions;
 - 4.2.3 in sufficient amounts and for the period necessary to meet with all payment obligations hereunder;
 - 4.2.4 irrevocable, transferable and divisible; and
 - 4.2.5 issued or confirmed by a Bank in Prague acceptable to us within 15 days after the date of the contract.
- 4.3 If the price for goods the subject of this contract or of any other contract between us and the buyer has not been paid in accordance with the terms of payment applicable to those goods we shall be entitled to withhold delivery of goods and to store them at such place or places as seem to us fit or return them to our works and in either event to charge all costs and expenses to the buyer.
- 4.4 If payment has not been made in accordance with the preceding clause or any agreement varying the terms of the preceding clause, then we shall be entitled to charge interest on the unpaid purchase price or any part of it for such period as it remains unpaid at the rate (if any) specified in the contract documents or, if none, at a rate calculated at two per cent above the Prague Inter-Bank Borrowing rate in force from time to time.

5. VESTING

- 5.1 All goods sold by us whether delivered or installed or not shall remain our sole property until all funds of whatever kind due to us from the buyer have been paid and cleared into our bank account.
- 5.2 Until property in goods sold or supplied passes to the buyer the buyer shall be responsible for any damage suffered to the goods and shall take all steps necessary to keep the goods in good condition and repair and shall keep the same in safe custody and shall not overload or overwork or in any way improperly use the same and shall not do any act or thing which leads or may lead to the goods being seized under distress or any legal process and shall at all times keep the goods comprehensively insured against all risks to their full price and shall take steps to effect that an endorsement be made on the policy recording our interest in the goods and providing that all the money payable to the buyer under the policy shall be paid to us as agents for the buyer and the buyer hereby appoints us as agents for the buyer for the purpose of receiving the said money and grants to us the right to satisfy from such sums any claims outstanding in our favour against him. If for any reason such insurance monies are not paid to us but are paid to the buyer, the buyer shall hold such monies up to the amount due to us as trustee for us.
- Further at all times while goods are in the possession of the buyer but while the property therein remains in us the buyer shall notify us immediately if any defect arises in the condition of the goods and shall at all times allow us access to the goods for the purpose of inspection and/or work to the goods and we shall be entitled to but not obliged to carry out such work as we deem necessary to the goods and only such work and shall be entitled to render to the buyer charges for such work unless such work is in respect of defects which are the subject of an express warranty under these conditions.
- 5.3 Where goods which have not been paid for are not clearly identifiable by way of serial number or otherwise to particular invoices the following rules shall apply to enable attribution to particular invoices:-
 - 5.3.1 Goods sold or supplied by us and held by the buyer shall be attributed to the last unpaid invoice rendering charges in respect of that type of goods;
 - 5.3.2 If the number of goods of a particular type sold or supplied by us and held by the buyer exceeds the number of goods of that type covered by the last unpaid invoice, then the goods unattributed to the last unpaid invoice shall be attributed to the penultimate unpaid invoice rendering charges in respect of that type of goods;
 - 5.3.3 If the number of goods of a particular type sold or supplied by us and held by the buyer exceeds the number of goods of that type covered by the last and penultimate unpaid invoices then the remaining goods shall be attributed to the prepenultimate relevant unpaid invoice and so on until so far as is possible all the goods sold or supplied by us held by the buyer have been attributed to unpaid invoices.
- 5.4 Where goods which have not been paid for have been sold on by the buyer then so much of the proceeds of such onward sale as is equivalent to the sum due to us shall be held on trust by the buyer for us and we shall be entitled to trace the same into the buyer's bank account. Where goods sold or supplied by us have been sold on by the buyer but cannot be attributed by serial number or otherwise to particular invoices of ours then they shall be attributable to the last unpaid invoice in accordance with the rules set out at sub-clause 5.3 above or (where goods have already been attributed to invoices in accordance with sub-clause 5.3 above) to the latest unpaid invoice to which goods have not already been attributed.
- 5.5 Where goods which have not been paid for have been incorporated into or with other goods so as to be no longer identifiable as the goods supplied or sold by us then so much of any proceeds of sale of the article(s) into or with which our goods have been incorporated as is equivalent to the sum due to us shall be held in trust by the buyer for us and we shall be entitled to trace the same into the buyer's bank account(s). Where goods the subject of this sub-clause cannot be attributed by serial number or otherwise to particular invoices of ours then they shall be attributed to the last unpaid invoice in accordance with the rules set out at sub-clause 5.3 above or (where goods have already been attributed to invoices in accordance with sub-clause 5.3 and 5.4 above) to the latest unpaid invoice to which goods of the relevant type have not already been fully attributed.

6. NOTIFICATION OF LOSS OR DAMAGE

- 6.1 The buyer shall examine the goods on arrival at the buyer's premises for any obvious damage or shortage and any claim that the goods are damaged or have been short delivered must be communicated in writing to us within 3 days of the arrival of the goods at the buyer's premises. Non-delivery must be reported to us within 3 days of the expected date of receipt.
- 6.2 If the buyer fails to give notice in accordance with this clause, the buyer shall be bound to pay for, and shall lose any right to make a claim, in respect of such non-delivery, short delivery or loss or damage covered by this clause. If notice is given the buyer shall not be entitled to reject the goods until we have been given a reasonable opportunity to inspect them and, if required, to remedy the problem within a reasonable period.

7. WARRANTY

- 7.1 The extent to which we give a warranty in respect of goods sold or supplied by us depends upon whether they are of our manufacture or not.
 - 7.1.1 In the case of goods manufactured by us, we undertake at our option to replace or repair or to credit a sum to be agreed in lieu thereof and if replaced or repaired to deliver carriage paid to any destination in the United Kingdom any such goods or parts thereof proved to our satisfaction to have been defective in materials or workmanship provided that:-
 - 7.1.1.1 In the case of goods or parts supplied other than for installation on board a ship the claim is notified to us in writing within a period of 12 months from the date of their original despatch from our works and the goods are returned to our works carriage paid within 2 months of such notification;
 - 7.1.1.2 In the case of goods or parts thereof supplied for installation on board a ship that the claim is notified to us in writing within 12 months of the completion of the ship's official trials or within 18 months from the original despatch of the goods from our works whichever date shall be the earlier and the goods are returned to our works carriage paid within 2 months from the date of notification of such claim;
 - 7.1.1.3 The provision of replacement goods or parts shall not cause the period of warranty to be extended beyond that prevailing in respect of the goods first delivered.
 - 7.1.2 In the case of goods not manufactured by us we give a like warranty as in respect of goods manufactured by us so far as defects readily observable upon such examination as it was reasonable for us to make of the goods before supplying the same to the buyer are concerned. Otherwise we offer in respect of such goods only a like warranty to that which we have and are able to enforce against the supplier of the goods to us.
- 7.2 Save as set out at sub-clause 7.1 above we give no guarantee or warranty or other assurance express or implied (under statute, custom of the trade, or otherwise) as to goods sold or supplied or any part thereof or as to the standard of our workmanship or our service or advice (if any) and any terms or conditions other than those expressly provided for in these conditions or elsewhere in our acceptance of order are hereby excluded.
- 7.3 Save as set out at sub-clause 7.1 above we shall not under any circumstances whatsoever be liable for any negligence (other than in respect of damages for personal injury or fatal accidents) or breach of duty (under statute or otherwise) or any other act or omission by us in respect of goods sold, supplied or manufactured by us, work done (or not done) by us, or advice given (or not given) by us.
- 7.4 We shall not under any circumstance whatsoever however arising be responsible for or liable in respect of any representation, oral or otherwise, made before or after the conclusion of this contract unless the same shall have been made an express stipulation of the contract agreed by us in writing in which case the same shall be subject to all the other terms and conditions of this contract.
- 7.5 It is hereby agreed that the protections and immunities granted by these conditions to us shall extend to protect and save harmless our servants agents sub-contractors and suppliers and to protect us and save us harmless against any acts or omissions of our servants agents sub-contractors and suppliers. Further the buyer undertakes not to pursue directly any of our servants agents sub-contractors or suppliers in respect of matters arising out of or in connection with the performance of this contract.
- 7.6 In no circumstances whatsoever whether arising out of breach of contract, breach of duty (under statute or otherwise), negligence or otherwise shall our liability exceed the contract price (net of VAT).
- 7.7 Under no circumstances shall the Seller be liable to the Purchaser whether by way of indemnity or by reason of any breach of contract or negligence or otherwise, for any loss of profit, income, use, production or contracts, or any financial or economic loss, or any direct, special or consequential loss or damage whatsoever.

8. INDEMNITY

- 8.1 In the event of a buyer receiving an allegation of infringement of patent copyright or confidential information by equipment of our design in the form in which we supplied it and based solely upon such design and if the buyer informs us of such claim in writing delivered to our address at our Registered Office within 7 days of his receipt of such claim and gives us full authority to defend or settle such claim we will indemnify the buyer against any expenses incurred in resisting such claim or satisfying any judgement or settlement of such claim providing such expenses were incurred as a direct consequence of our instructions to the buyer to a net amount not exceeding the price of the goods (net of VAT) but save as aforesaid no claim shall be made against us in respect of breaches of patent or confidential information or any analogous claim or claims.
- 8.2 If any goods made by us are made to a design or specification supplied to us by or on behalf of the buyer the buyer will indemnify us and hold us harmless against any claim in respect of alleged infringement of patent, copyright or confidential information arising out of the manufacture of goods to the said design or specification and any damages, loss or expense whatsoever arising therefrom.

9. TOOLING

- 9.1 The buyer agrees that the jigs and fixtures and other similar items which may be referred to or included in any contract or pre-contract documents will unless otherwise stated expressly in our documents remain or become our property. In the event of such equipment being unused for one year we reserve the right to discard and scrap such equipment without reference or credit to the buyer.

10. CANCELLATION AND SUSPENSION

- 10.1 If the buyer for any reason cancels the order after its acceptance by us, then the buyer shall be liable for all costs expenses and losses whatsoever including loss of profit resulting from such cancellation.
- 10.2 If the buyer shall fail to make a payment when due, or if any distress or execution or other legal process shall be levied upon or issued against any of the buyer's assets or if the buyer shall commit any act of bankruptcy, or shall enter into any composition or arrangement with creditors, or being a company shall suffer the appointment of a receiver administrator, administration receiver or manager of all or any of its assets or if a resolution or petition to wind up such company (other than for the purpose of amalgamation or reconstruction) shall be passed or presented we shall have the right forthwith and without prejudice to any other rights or remedies to take all or any of the following steps namely, to cancel the Contract, to suspend deliveries, to stop any materials in transit, to require payment in advance for any further deliveries, to require payment in respect of any delivery already made and to enter upon the buyer's property and to retake possession of any goods which are our property.

11. FORCE MAJEURE

- 11.1 We shall be under no liability for any delay of failure to perform in the event that the manufacture, supply or delivery of the goods is prevented or delayed by any act or circumstances beyond our reasonable control including but not limited to Act of God, legislation, war, fire, drought, failure of power supply, failure or defective functioning of computer hardware or software (whether our own or that of any third party), lock-out, strike or other action taken by employees in contemplation or furtherance of a trade dispute or owing to any inability to procure materials required for the performance of the contract.

12. APPLICABLE LAW

- 12.1 This Contract shall be construed solely in accordance with Czech Law and shall be subject to the non-exclusive jurisdiction of the Courts of the Czech Republic. This Contract shall be deemed to be made within the area of jurisdiction of the Prague Courts.

TERMS AND CONDITIONS OF SALE V. 106

CONTROLLING PROVISIONS: No terms and conditions other than the terms and conditions contained herein shall be binding upon Seller unless accepted by it in a writing signed by the Seller's Branch Manager. All terms and conditions contained in any prior oral or written communication, including, without limitation, Buyer's purchase order, which are different from or in addition to the terms and conditions herein are hereby rejected and shall not be binding on Seller, whether or not they would materially alter this document, and Seller hereby objects thereto. All prior proposals, negotiations and representations, if any, are merged herein. Buyer will be deemed to have assented to all terms and conditions contained herein if any part of the goods and/or services described herein are shipped or an invoice is presented in connection with the said goods and/or services.

TERMS: Buyer agrees to pay for the products according to the Seller's payment terms. In the event Buyer fails to make any payment to Seller when due, Buyer's entire account(s) with Seller shall become immediately due and payable without notice or demand. All past due amounts are subject to service charges at the rate agreed upon by the parties, otherwise at the maximum contract rate permitted by law.

REMEDIES OF SELLER: Upon default by Buyer, Buyer agrees to reimburse Seller all attorney fees and court costs incurred by Seller in connection therewith. Buyer agrees that any of the following shall constitute an event of default which shall enable Seller, at its option, to cancel any unexecuted portion of this order or to exercise any right or remedy which it may have by law: (a) the failure of Buyer to perform any term or condition contained herein; (b) any failure of Buyer to give required notice; (c) the insolvency of Buyer or its failure to pay debts as they mature; (d) if Seller, in good faith, believes that Buyer's prospect of performance under this Agreement is impaired. All rights and remedies of Seller herein are in addition to, and shall not exclude, any rights or remedies that Seller may have by law. In the event it becomes necessary to incur any expense for collection of any overdue account, reasonable collection charges, including reasonable attorneys' fees, will be added to the balance due and Buyer shall pay all such charges.

DELIVERY: Seller will make a good faith effort to complete delivery of the products as indicated by Seller in writing, but Seller assumes no responsibility or liability and will accept no backcharge for loss or damage due to delay or inability to deliver, whether or not such loss or damage was made known to Seller, including, but not limited to, liability for Seller's non-performance caused by acts of God, war, labor difficulties, accidents, inability to obtain materials, delays of carriers, contractors or suppliers or any other causes of any kind whatever beyond the control of Seller. Under no circumstances shall Seller be liable for any special, consequential, incidental, indirect, or liquidated damages, losses, or expense (whether or not based on negligence) arising directly or indirectly from delays or failure to give notice of delay. The date of delivery shall in every case be dependent upon prompt receipt of all necessary information, final instructions or approvals from the Buyer. Alterations by the Buyer in design specifications or quantities required may result in delay in delivery. The Buyer is responsible in all cases for unloading the delivery vehicle and shall be responsible for all loss of or damage to the goods during the course of such unloading.

WARRANTY: THE BUYER'S SOLE AND EXCLUSIVE WARRANTY, IF ANY, IS THAT PROVIDED BY THE PRODUCT'S MANUFACTURER. SELLER MAKES NO EXPRESSED OR IMPLIED WARRANTIES. SELLER HEREBY DISCLAIMS ALL EXPRESSED OR IMPLIED WARRANTIES, WHETHER IMPLIED BY OPERATION OF LAW OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, ALL IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. UNDER NO CIRCUMSTANCES, AND IN NO EVENT, WILL SELLER BE LIABLE FOR PERSONAL INJURY OR PROPERTY DAMAGE OR ANY OTHER LOSS, DAMAGE, COST OF REPAIRS OR INCIDENTAL, PUNITIVE, SPECIAL, CONSEQUENTIAL, OR LIQUIDATED DAMAGES OF ANY KIND, WHETHER BASED UPON WARRANTY, CONTRACT, STRICT LIABILITY, NEGLIGENCE OR ANY OTHER CAUSE OF ACTION ARISING IN CONNECTION WITH THE DESIGN, MANUFACTURE, SALE, TRANSPORTATION, INSTALLATION, USE OR REPAIR OF THE PRODUCTS SOLD BY SELLER. BUYER HEREBY ACKNOWLEDGES AND AGREES THAT UNDER NO CIRCUMSTANCES, AND IN NO EVENT, SHALL SELLER'S LIABILITY, IF ANY, EXCEED THE NET SALES PRICE OF THE DEFECTIVE PRODUCT(S); NO ADDITIONAL ALLOCATION SHALL BE MADE FOR THE LABOR OR EXPENSE OF REPAIRING OR REPLACING DEFECTIVE PRODUCTS OR WORKMANSHIP OR DAMAGE RESULTING FROM THE SAME. EXCEPT AS EXPRESSLY SET FORTH IN THIS PARAGRAPH, ALL PRODUCTS AND/OR SERVICES PROVIDED BY SELLER AND ITS EMPLOYEES AND AGENTS ARE PROVIDED "AS IS," "WHERE IS," AND "WITH ALL FAULTS."

RECOMMENDATIONS BY SELLER: Buyer acknowledges that Seller does not make and specifically negates, renounces and disclaims any representations, warranties and/or guarantees of any kind or character, expressed or implied, with respect to (i) the products sold, their use, design, application or operation, their merchantability, their physical condition or their fitness for a particular purpose, (ii) the maintenance or other expenses to be incurred in connection with the products, (iii) the engineering, design, fabrication work or any other work or service (whether gratuitous or for payment) supplied by Seller and/or its agents, suppliers and employees or (iv) the accuracy or reliability of any information, designs or documents furnished to Buyer. Seller neither assumes, nor authorizes any person to assume for it, any other obligation in connection with the sale of its products and/or rendering of its services. Any recommendations made by Seller concerning the use, design, application or operation of the products shall not be construed as representations or warranties, expressed or implied. Failure by Seller to make recommendations or give advice to Buyer shall not impose any liability upon Seller.

INDEMNIFICATION: The Buyer shall at its own expense apply for and obtain any permits and inspections required for the import, the installation and/or use of the products. Seller makes no promise or representation that the products or services will conform to any federal, state or local laws ordinances, regulations, codes or standards, except as particularly specified and agreed upon in writing by an authorized representative of Seller. Seller shall not be responsible for any losses or damages sustained by the Buyer or any other person as a result of improper installation or misapplication of the products.

INSPECTION AND ACCEPTANCE: Claims for damage, shortage or errors in shipping must be reported within three (3) day following delivery to Buyer. Buyer shall have seven (7) days from the date Buyer receives any products to inspect such products and services for defects and nonconformance which are not due to damage, shortage or errors in shipping and notify Seller, in writing, of any defects, nonconformance or rejection of such products. After such seven (7) day period, Buyer shall be deemed to have irrevocably accepted the products, if not previously accepted. After such acceptance, Buyer shall have no right to reject the products for any reason or to revoke acceptance. Buyer hereby agrees that such seven (7) day period is a reasonable amount of time for such inspection and revocation. Buyer shall have no right to order any change or modification to any product or service previously ordered by Buyer or its representatives or cancel any order without Seller's written consent and payment to Seller of all charges, expenses, commissions and reasonable profits owed to or incurred by Seller. Speciably fabricated or ordered items may not be canceled or returned, and no refund will be made. The sole and exclusive remedy for merchandise alleged to be defective in workmanship or material will be the replacement of the merchandise subject to the manufacturer's inspection and warranty.

RETURNS: Buyer may return any product which Seller stocks with no restocking charge if: (i) it is in new condition, suitable for resale in its undamaged original packaging and with all its original parts and (ii) it has not been used, installed, modified, rebuilt, reconditioned, repaired, altered or damaged. Buyer's surplus job returns, and those not meeting (i) and (ii), above, will be evaluated on an individual basis after Buyer has contacted Seller's authorized representative for prior written permission. Special orders or non-stock items may be returned if the manufacturer will accept the return. Except for items Seller stocks which meet (i) and (ii), above, credit memoranda issued for authorized returns shall be subject to the following deductions: (a) cost of putting items in salable condition; (b) transportation charges, if not prepaid; and (c) handling and restocking charges.

SHIPPING: All products are shipped F.O.B., point of shipment. Risk of loss shall transfer to the Buyer upon tender of goods to Buyer, Buyer's representative, or common carrier. The cost of any special packing or special handling caused by Buyer's requirements or requests shall be added to the amount of the order. Unless otherwise expressly agreed any packaging supplied by the Seller is intended to be only sufficient to protect the goods for all normal conditions of transit and for the normal period of transit only. If Buyer causes or requests a shipment delay, or if Seller ships or delivers the products erroneously as a result of inaccurate, incomplete or misleading information supplied by Buyer or its agents or employees, storage and all other additional costs and risks shall be borne solely by Buyer. Claims for products damaged or lost in transit should be made by Buyer to the carrier, as Seller's responsibility ceases upon tender of goods to Buyer, Buyer's representative or common carrier.

TAXES: The amount of any sales, excise or other taxes, if any, applicable to the products shall be added to the purchase price and shall be paid by Buyer unless Buyer provides Seller with an exemption certificate acceptable to the taxing authorities. Any taxes which Seller may be required to pay or collect under any existing or future law, upon or with respect to the sale, purchase, delivery, storage, processing, use or consumption of any of the products, including taxes upon or measured by the receipts from the sale thereof, shall be for the account of the Buyer, who shall promptly pay the amount thereof to Seller upon demand.

SEVERABILITY: These terms and conditions of sale shall not be construed against the party preparing them, but shall be construed as if all parties jointly prepared these terms and conditions of sale and any uncertainty or ambiguity shall not be interpreted against any one party. If any provision hereof is held to be illegal, invalid or unenforceable under any present or future laws, such provision shall be fully severable and the terms and conditions herein shall be construed and enforced as if such illegal, invalid or unenforceable provision had never been made a part hereof. The remaining provisions herein shall remain in full force and effect and shall not be affected by such illegal, invalid or unenforceable provisions or by their severance herefrom.

SET-OFF: Buyer shall not be entitled to set-off any amounts due Buyer against any amount due Seller in connection with this transaction.

NON-WAIVER: Seller's failure to insist upon the strict performance of any term or condition herein shall not be deemed a waiver of any of Seller's rights or remedies hereunder, nor of its right to insist upon the strict performance of the same or any other term herein in the future. No waiver of any term or condition hereunder shall be valid unless in writing and signed by Seller's Representative.

ENTIRE AGREEMENT: This document constitutes the entire, complete, and exclusive agreement between the parties with respect to the subject matter hereof and contains all the agreements and conditions of sale; no course of dealing or usage of the trade shall be applicable unless expressly incorporated herein. The terms and conditions contained herein may not be added to, modified, superseded or otherwise altered except by a written modification signed by the Seller's Representative. All transactions shall be governed solely by the terms and conditions contained herein.

LEGAL: Commercial terms such as CIF and FOB shall have the meanings assigned to them by the current "Incoterms" Conditions published by the International Chamber of Commerce Paris. The contract shall be governed and interpreted exclusively according to the Law of Czech republic and shall be subject to the jurisdiction of the Czech Courts only. The Schedules to the Uniform Law on International Sales ACT 1967 shall not in any circumstances apply to the contract, neither shall the limits imposed by the Unfair Connect terms. Act 1977 on the extent to which liability can be excluded.

Current terms of sales available on www.acoindustries.com/tcsalesen.pdf

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EINLEITUNGSBESTIMMUNGEN: Für den Verkäufer sind nur die in diesem Vertrag enthaltenen Bedingungen verbindlich, sofern diese von ihm in schriftlicher Form und mit Unterschrift des Niederlassungsleiters nicht akzeptiert werden. Alle in beliebiger vorheriger mündlicher oder schriftlicher Kommunikation enthaltene Bedingungen, vor allem einschließlich der Bestellungen des Käufers, die sich von diesen Bedingungen unterscheiden oder diese Bedingungen erweitern, werden hiermit abgelehnt und sind für den Verkäufer nicht verbindlich, ohne Rücksicht darauf, ob sie dieses Dokument grundsätzlich ändern würden oder nicht und der Verkäufer lehnt sie hiermit ab. In diesen Bedingungen sind alle eventuell eingehenden Entwürfe, Verhandlungen oder Zusicherungen enthalten. Es wird angemessen, dass der Käufer allen hier enthaltenen Bedingungen zugestimmt hat, sofern jedweder der hier beschriebenen Teile der Ware und/oder Dienstleistungen gefiebert wird oder sofern eine Rechnung in Zusammenhang mit der angeführten Ware und/oder Dienstleistungen vorgelegt wird.

ZAHLUNGSBEDINGUNGEN: Der Käufer verpflichtet sich, die Produkte gem. den Zahlungsbedingungen des Verkäufers zu bezahlen. Falls der Käufer dem Verkäufer eine Zahlung nicht innerhalb der Fälligkeitsfrist leistet, wird die ganze Rechnung des Käufers beim Verkäufer sofort schuldig und ohne Anmahnung oder Aufforderung fällig. Alle nach Fälligkeitsfrist schuldigen Beträge unterliegen den Servicegebühren in der durch die Vertragsparteien vereinbarten Höhe, ansonsten in der gesetzlich freigegebenen maximalen vertraglichen Höhe.

BESSERUNGSMITTEL DES VERKÄUFERS: Bei Nichterfüllung des Käufers verpflichtet sich der Käufer, dem Verkäufer alle für eine Rechtsvertretung entstandenen Kosten und Gerichtskosten, die dem Verkäufer in diesem Zusammenhang entstehen, zu erstatten. Der Käufer ist einverstanden, dass jedwede der nachstehend genannten Ereignisse ein Ereignis der Nichterfüllung darstellen wird, die dem Verkäufer seiner Erwagung nach ermöglicht, jedwede unerledigte Teile dieser Bestellung zu stornieren oder ein beliebiges Recht oder Besserungsmittel geltend zu machen, die ihm das Gesetz zur Verfügung stellt: (a) Nichterfüllung einer hier enthaltenen Bedingung seitens des Käufers; (b) Tatsache, dass der Käufer die geforderte Anzeige nicht erstattet; (c) Zahlungsunfähigkeit des Käufers oder seine Nichttilgung der Schulden innerhalb der Fälligkeitsfrist; (d) falls der Verkäufer guten Glaubens davon überzeugt ist, dass es zur Verletzung der in Aussicht gestellte Leistung des Käufers gem. dieses Vertrages kam. Alle Rechte und Besserungsmittel des Verkäufers, die hier enthalten sind, ergänzen und schließen jedwede Rechte oder Besserungsmittel nicht aus, die dem Verkäufer gegen Gesetz zustehen. Wenn es nötig ist, dass beliebige Kosten gegen Inkasso einer nicht bezahlten Rechnung nach Fälligkeit eingefordert werden müssen, werden die angemessenen Inkassokosten, einschl. der angemessenen Gebühren für die Rechtsvertretung zum Debetsaldo hinzugerechnet und der Käufer muss solche Gebühren bezahlen.

LIEFERUNG: Der Verkäufer unternimmt in gutem Glauben alle Anstrengungen, die zur Durchführung der Produktlieferung notwendig sind, wie vom Verkäufer schriftlich angeführt, jedoch der Verkäufer übernimmt weder Verantwortung oder Haftung, noch Kosten des Rücktransports in Bezug auf die durch den Verzug oder die Unmöglichkeit der Lieferung verursachten Verluste und Schäden, ohne Rücksicht darauf, ob solche Verluste dem Verkäufer bekannt gegeben wurden, einschl. vor allem Haftung für die Nichterfüllung des Verkäufers infolge von Elementarerreignissen, Krieg, Arbeitsprobleme, Unfälle, Unmöglichkeit der Rohstoffgewinnung, Verzögerung der Spediteure, Auftragnehmer oder Lieferanten oder beliebiger anderer Ursachen beliebiger Art, die außerhalb der Kontrolle des Verkäufers liegen. Unter keinen Umständen haftet der Lieferant für Sonder-, Folge-, Zufalls-, indirekte oder Kompressionsbeschädigungen oder Kosten (ohne Rücksicht darauf, ob diese fahrlässig oder nichtfahrlässig zustande kamen), die direkt oder indirekt aus Verzug oder Nichtannahme des Verzuges entstehen. Das Lieferdatum ist auf jeden Fall vom schnellen Erhalt aller erforderlichen Informationen, Finalinstruktionen oder der Freigabe des Käufers abhängig. Die Änderungen der vorgeschlagenen Spezifikationen oder der vom Käufer gewünschten Menge können zum Lieferverzug führen. Der Käufer ist in allen Fällen für die Entladung des Lieferwagens verantwortlich und haftet für alle an der Ware entstandenen Verluste oder Schäden, die während einer derartigen Entladung passieren.

GARANTIE: DIE EVENTUELLE EINIGE UND AUSSCHLIESSLICHE GARANTIE DES KÄUFERS IST DAS DURCH DEN PRODUKTHERsteller GEWÄHRLEISTETE GARANTIE. DER VERKÄUFER LEISTET KEINE EXPLIZITEN ODER IMPLIZITEN GARANTIE. DER VERKÄUFER LEHNT HIERMIT ALLE EXPLIZITEN ODER IMPLIZITEN GARANTIE AB, WENN DIESE AUS DEM WIRKUNGSBEREICH DES GESETZES ODER ANDERNFALLS AUFTRUEN SOLLTEN, EINSchl. VOR ALLEM SÄMLICHER IMPLIZITEN GARANTIE DER VERKAUFÜLICHKEIT UND EIGNUNG ODER BEFÄHIGUNG DES EINSETZENS ZUM KONKREten ZWECK. DER VERKÄUFER KOMMT UNTER KEINEN UMSTÄNDEN UND KEINESFALLS FÜR GESENDHUTSSCHÄDEN AN PERSONEN ODER SCHÄDEN AM VERMÖGEN AUF, NOCH HAFTET ER FÜR BELIEBIGE ANDERE VERLUSTE, SCHÄDEN, REPARATURKOSTEN ODER ZUFÄLIGE KOSTEN, SANKTIONSSCHÄDEN, SPEZIELLE-, FOLGE- ODER KOMPENSATIONSSCHÄDEN JEDER BELIEBigen ART, SEIEN DIESE AUS DER GARANTIE, DEM VERTRAG, EINER STRIKTEN HAFTUNG, FAHRÄLLIGKEIT ODER EINER BELIEBigen ANDEREN HANDLUNGSURSACHE IN ZUAMMENHANG MIT EINEM PROJEKT, DER PRODUKTION, DEM VERTRIEB, DEM TRANSPORT, DER INSTALLATION, DER VERWENDUNG ODER REPARATUR DER DURCH DEN VERKÄUFER ZU VERKAUFENDEN PRODUKTE BEGRIFFEN WERDEN SOLLTEN. DER KÄUFER BESTÄTIGT HIERMIT UND IST VERSTÄNDEN, DASS EINE EVENTUELLE HAFTUNG DES VERKAUFERS UNTER KEINEN UMSTÄNDEN UND KEINESFALLS DEN NETTO VERKAUFWERT DES MANGELHAFTEN PRODUKTES ÜBERSTEIGEN WIRD; ES WERDEN KEINE NACHTRÄGLICHEN BONUSSE FÜR DIE ARBEIT ODER DIE MIT DER REPARATUR ODER DEM AUSTAUSCH DER MANGELHAFTEN PRODUKTE ODER AUSFÜHRUNGEN VERBUNDENEN KOSTEN, ODER FÜR DIE VON DIENSEN PRODUKTEN ENTSTANDENEN SCHÄDEN DURCHGEFÜHRT, MIT AUSNAHME DER FÄLLE, IN DENEN IN DIESEM ABSATZ AUSDRÜCKLICH ETWAS ANDERES ANGEFÜHRT IST, WERDEN ALLE DURCH DEN VERKÄUFER ODER SEINE MITARBEITER UND VERTRETER GELEIERTE PRODUKTE UND/ODER GELEISTETE DIENSTLEISTUNGEN „SO WIE SIE SIND“, „DORT WO SIE SIND“, UND „AUF RISIKO DES VERKÄUFERS“ GEWÄRTIGT.

EMPFEHLUNG DES VERKÄUFERS: Der Käufer bestätigt, dass der Verkäufer keine Haftungen, Zusicherungen und/oder Garantien beliebiger Art oder Beschaffenheit, explizite- oder implizite Garantien leistet, und fehlt ausdrücklich beliebige solche Zusicherungen, Haftungen und/oder Garantien an, lehnt diesen ab und verzichtet darauf, die sich (i) auf die verkauften Produkten, deren Anwendung, deren Entwurf, deren Applikation oder Betrieb, deren Verträglichkeit, deren physischen Zustand und deren Eignung zu einem konkreten Zweck beziehen, (ii) auf die Wertungskosten oder andere Kosten, die in Zusammenhang mit den Produkten entstehen, (iii) auf die (kostenlosen oder bezahlten) Ingenieur-, Projekt-, Fertigungs- oder anderen Arbeiten oder Dienstleistungen, die durch den Verkäufer und/oder seine Vertreter, Lieferanten und Mitarbeiter geleistet werden oder (iv) auf die Genuigheit oder Zuverlässigkeit beliebiger durch den Käufer bereit gestellter Informationen, Entwürfe oder Dokumente beziehen. Der Verkäufer übernimmt weder, noch befiehlt er einer Person zur Übernahme jeder weiteren Verpflichtungen in Zusammenhang mit dem Verkauf seiner Produkte und/oder der Erbringung seiner Dienstleistungen. Beliebige Empfehlungen, die durch den Verkäufer hinsichtlich Anwendung, Entwurf, Applikation oder Betrieb der Produkte abgegeben werden, dürfen nicht als explizite oder implizite Zusicherungen oder Haftungen ausgelegt werden. Sofern der Verkäufer keine Empfehlung oder Rat gibt, hat dies die nicht die Entstehung einer Haftung des Verkäufers zur Folge.

SCHADENSHAFTUNG: Der Käufer muss auf eigene Kosten sämtliche Genehmigungen und Kontrollen, die zur Lieferung, Installation und/oder Anwendung der Produkte erforderlich sind, sicherstellen und dieselben anfordern. Der Verkäufer gibt keine Zusage oder Zusicherung darüber ab, dass die Produkte oder Dienstleistungen jedwede föderale, staatliche oder lokal gültigen gesetzlichen Normen, Verordnungen, Vorschriften oder Standards erfüllen, mit Ausnahme der Fälle, wenn dies besonders spezifiziert und in schriftlicher Form mit dem berechtigten Vertreter des Verkäufers vereinbart worden ist. Der Verkäufer haftet für keine Verluste oder Schäden, die dem Käufer oder einer beliebigen Person infolge der fehlerhaften Installation oder falschen Anwendung der Produkte entstehen.

KONTROLLE UND ÖBERNAHME: Die Beanstandungen von Schäden, fehlenden Positionen oder Versandfehlern müssen innerhalb von drei (3) Tagen nach der Lieferung dem Käufer gemeldet werden. Der Käufer hat sieben (7) Tage ab dem Datum, zu welchem der Käufer die Produkte erhält Zeit, um Kontrollen bei diesen Produkten und Dienstleistungen durchzuführen, die auf Mängel und Fehler ausgerichtet sind, die nicht durch Beschädigung, fehlende Positionen oder Versandfehler verursacht wurden, und informiert den Verkäufer über jedwede Fehler oder die Ablehnung solcher Produkte unverzüglich schriftlich. Nach dem Zeitraum von sieben (7) Tagen wird angemessen, dass der Käufer die gefüllten Produkte unverzüglich übernommen hat, falls diese nicht vorher übernommen waren. Nach einer derartigen Übernahme hat der Käufer kein Recht auf Ablehnung der Produkte aus beliebigem Grund oder auf Rückruf der Übernahme. Der Käufer stimmt hiermit dem zu, dass eine derartige Frist von sieben (7) Tagen ausreichend für eine derartige Kontrolle und Ablehnung ist. Der Käufer hat kein Recht, eine Änderung oder Anpassung beim Produkt oder Dienstleistung anzurufen, die zuvor durch den Käufer oder seine Vertreter bestellt wurden, oder jede beliebige Bestellung zu stornieren, ohne schriftliche Zustimmung des Verkäufers und Bezahlung aller Gebühren, Kosten, Provisionen und angemessenen Gewinne, die dem Verkäufer zustehen, zu Gunsten des Verkäufers. Speziell hergestellte oder bestellte Positionen können nicht storniert oder retourniert werden und es werden keine Rückerstattungen durchgeführt. Das einzige und ausschließliche Besserungsmittel hinsichtlich der Ware, die angeblich Verarbeitungs- oder Materialfehler hat, ist der Austausch der Ware aufgrund der Prüfung des Herstellers und gemäß der durch den Hersteller geleisteten Garantie.

RÜCKSENDUNG DER WARE: Der Käufer kann ein beliebiges Produkt, dass der Verkäufer vorrätig hat, ohne Verrechnung der Lagerkosten retournieren, falls: (i) es im neuen Zustand, geeignet zum Weiterverkauf, in seiner unbeschädigten ursprünglichen Verpackung und mit allen ursprünglichen Komponenten ist und (ii) nicht benutzt, installiert, angepasst, rekonstruiert, überholt, repariert, abgeändert oder beschädigt wurde. Die vom Käufer retournierten Reste und Positionen, die die oben genannten Punkte (i) und (ii) nicht erfüllen, werden individuell im Anschluss daran ausgewertet, dass der Käufer den beauftragten Vertreter der Verkäufers hinsichtlich der vorherigen schriftlichen Genehmigung kontaktieren wird. Spezialbestellungen oder Positionen, die nicht auf Lager sind, können dann retourniert werden, wenn der Hersteller eine derartige Retourierung akzeptiert. Mit Ausnahme der Positionen, die der Käufer bestellt haben und die die oben genannten Punkte (i) und (ii) erfüllen, werden die für die genehmigte Retourierung erstellten Gutschriften folgenden Abrechnungen unterliegen: (a) Kosten für die Einführung in den verkauftähigen Zustand; (b) Transportkosten, falls diese nicht im Voraus bezahlt wurden; und (c) Manipulations- und Lagerkosten.

WAREVERSAND: Alle Produkte werden F.O.B. an den Versandort geliefert. Das Verlustrisiko geht bei der Warenübergabe vom Verkäufer auf den Käufer, Vertreter des Käufers oder einen üblichen Spediteur über. Die Kosten auf beliebige Sonderverpackungen oder spezielle Manipulation, die durch Anforderungen oder Ansprüche des Käufers verursacht werden, müssen vom Käufer mit dem Bestellwert bis zur tatsächlichen Verpackungsumhöhe aufgebracht werden. Die Kosten auf die Verpackung und die Verarbeitung der Produkte, die durch die Käufer oder seinen Vertreter bestellt wurden, werden vom Käufer auf den Käufer bezahlt, falls der Käufer dem Verkäufer keinen, für die Finanzämter akzeptablen Befreiungsschein zur Verfügung stellt. Jedwede Steuer, ihre Bezahlung oder Erhebung, die vom Käufer gemäß einer bestehenden oder Zukünftigen Rechtsvorschrift hinsichtlich zum Verkauf, Einkauf, zur Lieferung, Verarbeitung, Benutzung oder zum Verbrauch jedweder gelieferten Produkte einschließlich der gemäß der Verkaufserlöse bemessenen Steuern gefordert werden können, gehen auf Konto des Käufers, der den jeweiligen Betrag auf Anforderung dem Verkäufer bezahlt.

TRENNBARKEIT: Diese Verkaufsbedingungen dürfen nicht gegen die Partei ausgelegt werden, die sie ausgearbeitet hat, sondern sie müssen so ausgelegt werden, als ob diese Verkaufsbedingungen von allen Parteien gemeinsam erarbeitet wurden und keine Unklarheit oder Mehrdeutigkeit darf gegen eine der Parteien interpretiert werden. Falls eine der Bestimmungen dieser Bedingungen rechtswidrig, ungültig oder gemäß der gegenwärtigen oder zukünftigen Rechtsvorschriften nicht erzwingbar angesehen wird, so ist eine solche Bestimmung völlig trennbar und die hier aufgeführten Bedingungen werden so ausgelegt und erzwungen, als ob solche rechtswidrige, ungültige oder nicht erzwingbare Bestimmung nie Bestandteil derselben war. Die restlichen Bestimmungen dieser Bedingungen bleiben voll wirksam und in Kraft und werden durch solche rechtswidrige, ungültige oder nicht erzwingbare Bestimmungen oder von deren Ausgliederung nach den hier enthaltenen Bedingungen.

RECHTSZUSTÄNDIGKEIT: Die Handelsbedingungen wie z.B. CIF und FOB haben die Bedeutungen, die ihnen durch die aktuell gültigen "Incoterms" Bedingungen, die von der Internationalen Handelskammer in Paris verlaubt wurden, zugeordnet werden. Der Vertrag richtet sich nach den Gesetzen der Tschechischen Republik und wird ausschließlich nach denselben ausgelegt und unterliegt nur der Gerichtskompetenz der tschechischen Gerichte. Auf den Vertrag beziehen sich unter keinen Umständen die Anlagen des Abkommens für Verträge über Internationalen Verkauf aus dem Jahre 1967, noch die durch das Gesetz über unlautere Vertragsbedingungen aus dem Jahre 1977 in dem Umfang festgelegten Einschränkungen, in dem die Haftung ausgeschlossen werden kann.

Handelsbedingungen befinden sich auf www.acoindustries.com/tcsalesne.pdf