

SWARCO Technology ApS

(Hereafter referred as SWTech)

General Sales & Delivery Conditions

1. General

All purchasing agreements are accepted and executed on the understanding that the purchaser is bound by these General Sales and Delivery Conditions. Any deviations from these are only valid when these are confirmed by us in writing.

2. Quotations

When nothing else is agreed in writing, a quotation is valid for 30 days from date of issuing. The prices are quoted ex works (according to Incoterms 2000), excl. taxes.

3. Orders

Orders for goods which are fabricated according to customers' specifications or which have been specially purchased to customers cannot under normal circumstances be cancelled.
Orders for goods from our standard range of goods can only be cancelled with our prior written agreement.
We reserve the right to debit a handling fee for smaller orders.
The prices stated in our order confirmation are ex works (according to Incoterms 2000) excl. packing and taxes unless otherwise clearly stated in writing on the order confirmation itself.

4. Delivery Times

When quoting or confirming an order, the delivery times or dates are stated to the best of our judgement. They are approximate only and reckoning from the date on which we have received the purchaser's written order and all relevant and necessary information for the production of the goods until the date when the goods after testing are ready for despatch from our factory.
SWARCO Technology reserves the right to delay or amend the delivery date in the following cases:

- a) When purchaser changes specifications
- b) When deliveries of goods or labour which the purchaser provides himself or has assigned third party to supply, are delayed.
- c) In case of force majeure, according to paragraph 14.

In above mentioned items a and b we further reserve the right to adjust the confirmed price according to the costs which may have been incurred due to the above circumstances.

5. Software, Firmware, Drawings, Descriptions and Documentation

The ownership of all software, firmware, drawings, descriptions, documentation and suggestions included in any quotation, order confirmation or delivery is at all times held by SWTech. Neither may these be copied, reproduced, used outside our products, passed to third party nor in any other way brought to the knowledge of a third party without the prior written consent of SWTech.

6. Payment

Unless otherwise stated in writing, the terms of payment are prepayment before delivery. SWTech has the right to charge interest from the full amount of the invoice at the rate of 1% per month as of the date due for payment. If the purchaser is not able to receive the goods on the agreed delivery date, the delivery is payable when the delivery is reported ready for despatch. At partial deliveries of the goods, each delivery is payable on delivery and in case payment is not received on the date due, we reserve the right to withhold further deliveries without losing the right to require the completion of the contract.
The purchaser does not have the right to withhold payment owing to possible counterclaims or claims against SWTech, which have not been approved in writing by us. SWTech maintains the ownership of the goods until SWTech has received the full payment, including interest, of all the goods supplied in accordance with our order confirmation.

7. Packing

Packing requested by the purchaser or found necessary for the safe arrival of the goods will be charged to the purchaser. No credit will be allowed for returned packing.

8. Shipment

Any agreed trade term shall be construed in accordance with the INCOTERMS.
If no trade term is specifically agreed, the delivery shall be Ex works (EXW). If, in the case of delivery Ex works, SWTech, at the request of the purchaser, undertakes to send the goods to their destination, the risk will pass not later than when the goods are handed over to the first carrier.

9. Claimant's Default

If, after date of delivery, the purchaser fails to take delivery of the goods, SWTech is entitled to arrange storage and insurance of the goods on behalf of the purchaser and all charges for storage, for insurance or for demurrage shall be payable by the purchaser. Should the purchaser fail to collect the goods despite written notice from SWTech, we reserve the right to sell the goods – also goods manufactured specially according to purchaser's specifications - at the best price on behalf of the purchaser and charge all costs connected herewith to the purchaser.

10. Return of Goods

In no circumstances may goods supplied against a firm order be returned without the purchaser having first applied for and obtained the written consent of SWTech. A handling charge may be deducted from any credit allowed.

11. Claims

Any claim on delivered goods shall be submitted in writing not later than 8 days after receipt of the goods.

12. Warranty

For all units or parts fabricated by SWTech, SWTech provides the following warranty for 12 calendar months after the date of delivery.
If a fault is detected in the construction, material or workmanship of any part fabricated and designed by SWTech, the material shall be returned free of charge to SWTech. As soon as possible after receipt, SWTech will within normal working hours repair or renew the parts as required. If the repair takes place on site, we reserve the right to debit the customer for travel costs and accommodation. The warranty given in this clause is subject to the provisos that the purchaser has followed the instructions issued by SWTech in relation to the goods and that it has been applied according to the way of function agreed in writing.
Our responsibilities and warranty cover only faults and defects occurred during correct use.
Our warranty does not cover faults and defects occurred due to lack of maintenance, incorrect mounting carried out by the purchaser or third party, alterations made without our written consent, faults in any sort of repair carried out by the purchaser or third party or normal wear or tear. In case the purchaser has asserted claim on SWTech according to aforementioned and there proves to be no fault or defects for which SWTech can be held responsible, SWTech reserves the right to debit the purchaser with any costs and manhours that the claim has caused SWTech. Replacement or repaired parts will be forwarded for SWTech's account. Replaced parts shall be put at our disposal and remain our property. The afore mentioned is not valid for external, supplied parts, for example plugs and cables, contained in our delivery. For such parts only the warranty issued by the subsupplier is recognized.

13. Product Liability

SWTech delivers Traffic Controllers with an advanced safety system that has to be put into operation only by instructed personnel and all points in the document "ITC Controller start up" has to be executed.
SWTech shall be liable for personal injury or any other injury only if it is proved, that such injury was caused after all points in the document "ITC Controller start up" has been followed. SWTech shall be liable for personal injury only if it is proved, that such injury was caused by fault or negligence on the part of SWTech or others for whom SWTech is responsible.
Indemnity for personal injury can never exceed the level of damages prevailing at the time in question in Danish law.
SWTech is on similar conditions as for personal injury, liable for damage to real property and personal property, however the amount of indemnity can never exceed 1 mill. Euro incl. interest and costs.
Any claim lodged by a third party against SWTech or the purchaser must be notified to the other party without delay.
SWTech and the purchaser shall be mutually obliged to let themselves be summoned to the court for examination of claims for damages lodged against either of them on the grounds of damage allegedly caused by the goods supplied. Irrespective of the afore mentioned and irrespective that it has been proved, that SWTech has acted negligently, SWTech accepts no liability for production losses, loss of profit, other indirect losses or consequential loss of any kind, no matter if the claim is supported by common liability rules or any other conditions.

14. Force Majeure

SWTech shall be under no liability for any loss or injury suffered by the purchaser and for late or lack of supply when this is caused by force majeure such as (but not limited to) war, fire, drought, failure of plant or power supply, lock-out, strike or other actions taken by employees, civil troubles, legislation or public interference, import and/or export prohibitions, the lack of or incomplete delivery from subsupplier, insufficient labour force, or any other cause beyond our control which may delay or interfere with the fabrication and delivery of the sold goods. If complete or punctual delivery is temporarily obstructed by one or more of the afore mentioned circumstances, the delivery is suspended for a period equal to the duration of the obstruction with the addition of a period reasonable for the normalisation of the situation. Delivery on the date thus postponed is in any respect considered in time. In the event of force majeure we may choose between terminating the contract or part hereof or alternatively deliver the goods agreed on according to the before mentioned conditions and delays.

15. Other Conditions

Where the above clauses are not applicable, SWTech refers to NL92, "General Conditions for the Supply of Machinery and other Mechanical and Electrical Equipment" between Denmark, Finland, Norway and Sweden and for supply within these countries.

16. Venue

Any dispute arising from this contract shall be finally settled by The Maritime and Commercial Court in Copenhagen. The dispute shall be settled in accordance with Danish law. The language of the Court shall be Danish.