

General Terms and Conditions of Contract

- 1 General
- 1.1 These General Terms and Conditions of Contract ("General Conditions") shall apply to the supply of products ("Supply") by GEOBRUGG Japan K.K. ("GEOBRUGG"). The Supply may include the installation or supervision of installation ("Services") of the products.
- 1.2 The Contract shall become effective upon receipt by the Customer of GEOBRUGG's acknowledgement stating GEOBRUGG's acceptance of the purchase order ("Order Acknowledgement").
- 1.3 The scope of the Supply is exhaustively set forth in the Order Acknowledgement.
- 1.4 Customer's general terms and conditions of contract shall not be valid unless expressly accepted in writing by GEOBRUGG.
- 1.5 All agreements and legally relevant declarations by the Parties shall be in written form.
- 2 Prices and Terms of Payment
- 2.1 The prices and the terms of payment are set forth in the Order Acknowledgement. The terms of payment must be complied with, even if the performance of the Contract is delayed or if minor parts of the Supply are missing.
- 2.2 The place of payment shall be the domicile of GEOBRUGG. The Customer shall not be entitled to withhold payments or to offset payments against counterclaims.
- 2.3 In the event of failure by the Customer to comply with the terms of payment the Customer shall, with-out reminder, pay to GEOBRUGG interest calculated from the due date at a rate of 6% per annum.
- 3 Delivery Period
- 3.1 The period for the delivery of the Supply ("Delivery Period") shall commence on the date the Contract becomes effective, and, in case the Supply includes Services, in GEOBRUGG's opinion all prerequisites for the performance of the Services are fulfilled. The Delivery Period shall be deemed to have been complied with, if, before the expiry thereof, the notice of readiness of the Supply for dispatch has been sent by GEOBRUGG to the Customer, or, in case the Supply includes Services, the Supply is ready for the use as agreed.
- 3.2 The Delivery Period shall be extended for a reasonable term if an event occurs that cannot be averted by GEOBRUGG in spite of exercise of due care, or if any other circumstances whatsoever beyond the reasonable control of GEOBRUGG occur.
- 3.3 In the event the Delivery Period is not complied with, the Customer shall be entitled to claim liquidated damages for delayed delivery, provided that it has been proved that the delay was caused through the fault of GEOBRUGG and, furthermore, that the Customer suffered damage as a consequence of the delay. The amount of liquidated damages shall be 0.2% of the contract price of the delayed part of the Supply for each full week of delay, and the maximum amount of liquidated damages shall in no event exceed 5% of the contract price of such part. If GEOBRUGG fails to deliver the Supply by the date the maximum amount of liquidated damages has been exceeded, the Customer shall grant GEOBRUGG a reasonable extension of time to complete the delivery.
- 3.4 The claims of the Customer arising from
- or in connection with any delays in the performance of the Contract are expressly and exhaustively regulated in this Clause 3, and any further claims of the Customer are excluded. This limitation of liability shall not apply in the event of gross negligence or willful misconduct.
- 4 Transfer of Risk, Bearing of Cost
- The risk of damage to the Supply shall pass to the Customer upon delivery EX-Works of GEOBRUGG (INCOTERMS 2020), and the bearing of cost shall be in accordance with the same Incoterm (i.e. EXW).
- 5 Acceptance
- 5.1 The Customer shall inspect the Supply upon receipt thereof and shall, within 7 days of receipt of the Supply at the latest, notify GEOBRUGG in writing of defects (if any). If the Customer fails to notify defects in accordance with this Clause 5.1, then the Supply shall be deemed to have been accepted by the Customer.
- 5.2 In the event the inspection shows that the Supply is not defective or that it reveals minor defects, the Supply shall be deemed to have been accepted by the Customer upon completion of the inspection.
- 5.3 The rights of the Customer in the event of defects are governed by Clause 6.
- 6 Warranty
- 6.1 GEOBRUGG will give a warranty for defects in the Supply, provided that the defects (i) occur at acceptance or before the expiry of the warranty period AND (ii) are notified by the Customer timely. A Supply is deemed to be defective in terms of this Clause if it does not meet the contractually defined specification and is not apt, or is only partly apt, for the normal use.
- 6.2 GEOBRUGG shall not be liable for defects which are caused by the Customer or which occur in particular as a consequence of normal wear, incorrect installation, the use of material of the Customer or of third parties, installation or maintenance by third parties, overload, natural disasters, environmental damage or as a consequence of other causes for which GEOBRUGG is not accountable.
- 6.3 Terrorism and criminal attacks, burglary and jailbreak, vandalism, sabotage, incidents and industrial or infrastructure accidents, overload, natural disasters, environmental damage as well as similar threats and dangers are sporadic and unpredictable in time, location and intensity. Causes and attacking methods may be very different, often unpredictable and may even be a combination of several methods and causes. Due to the multiplicity of factors affecting such events, there is no exact science which could ensure the protection of individuals, property, infrastructure, etc. However, by applying sound engineering principles using predictable parameters and by the corresponding arrangement of correctly designed protection measures in identified risk areas, the Customer can enhance the securing of the protection. Therefore, GEOBRUGG shall in particular not be liable for the non-conforming Supply which is a consequence of the above mentioned events and/or circumstances. Amongst other factors, the monitoring, inspection and maintenance of the Supplies by the Customer are an absolute requirement to ensure the protection. This protection may - besides from the events listed
- above (terrorism, criminal attacks, etc.) - also be impaired by inadequate dimensioning parameters or failure to use the prescribed standard components, systems and original parts and/or corrosion (caused by corrosion processes, pollution of the environment or other man-made factors as well as other external influences). Therefore, GEOBRUGG shall in particular not be liable for the non-conforming Supply which is a consequence of the above mentioned events and/or circumstances.
- 6.4 In the event the Supply is shown to be defective, the Customer's rights are restricted to demanding that GEOBRUGG, to the extent it is responsible for the defects, remedy the defects within a reasonable time, provided that the defects occur at acceptance or before the expiry of the warranty period.
- 6.5 GEOBRUGG shall have no obligation to remedy defects unless the Customer did notify GEOBRUGG in writing of the defects forthwith after having detected the defects.
- 6.6 GEOBRUGG shall bear its own costs incurred in performing remedial work in its facility. Other costs shall be borne by the Customer.
- 6.7 The warranty period shall be 12 months. The warranty period shall commence upon the acceptance of the Supply in accordance with Clause 5 or upon completion of, if applicable, the Services of installation, and shall expire in any event at the latest 14 months starting from the scheduled time of dispatch of the Supply as set forth in the Contract.
- 6.8 The claims of the Customer arising from or in connection with GEOBRUGG's warranty for defects of the Supply are expressly and exhaustively regulated in this Clause 6, and any further warranty rights of the Customer are excluded (in particular, but without limitation, the rights of rescission and abatement).
- 7 Retention of Title
- The Supply shall remain the property of GEOBRUGG until the Customer has properly fulfilled its payment obligations and GEOBRUGG has received full payments as set forth in the Contract. GEOBRUGG is entitled at any time to register the retention of title in the competent retention of title register at the domicile of the Customer, and the Customer undertakes to perform without any delay any activities of cooperation required in this respect.
- 8 Limitation of Liability
- 8.1 All claims by the Customer for damages not affecting the Supply itself, such as, but not be limited to, loss of use, loss of orders, loss of profits, claims by third parties or claims for indirect or consequential damages, irrespective of the legal basis for such claims, shall be excluded. The total liability of GEOBRUGG arising from or in connection with the Contract or the breach thereof shall be limited in the aggregate to 50% (including also liquidated damages for delay (if any) pursuant to Clause 3.3) of the price agreed upon for the Supply performed.
- 8.2 The claims of the Customer arising from or in connection with the Contract or the breach thereof are expressly and exhaustively regulated in these General Conditions. Any and all other and further claims shall be excluded to the extent permitted by applicable law. This limitation of liability shall not apply in the event of gross negligence or

willful misconduct.

9 Return of Parts of the Supply

The return (if any) of parts of the Supply in particular cases shall require the express written consent of GEOBRUGG.

10 Concluding Provisions

- 101 Any amendments to the Contract shall be in written form.
- 102 Should any provision of these General Conditions prove to be invalid, wholly or in part, the Parties shall replace such provision with a new one that comes as close as possible to the economic effect of the original provision.

11 Jurisdiction and Applicable Law

- 11.1 Exclusive place of jurisdiction shall be Chiba. GEOBRUGG may, however, also bring an action before the courts at the Customer's domicile.**
- 11.2 The Contract shall be governed by the substantive laws of Japan.

12 Appendix

In case the Supply includes Services, the Conditions of Installation of GEOBRUGG shall, to the extent not in contradiction with these General Conditions, apply to the performance thereof.

Conditions of Installation

- 1 General
- 1.1 These Conditions of Installation ("Conditions") shall apply to the performance of the installation and supervision of installation by GEOBRUGG ("Services") of products ("Supply") delivered by GEOBRUGG in accordance with GEOBRUGG's General Conditions of Contract ("General Conditions"). The scope of the Services is exhaustively set forth in the Order Acknowledgement as well as in the working reports prepared by GEOBRUGG's personnel.
- 1.2 These Conditions are made an integral part of the General Conditions and shall apply to the performance of the Services to the extent not in contradiction with the General Conditions.
- 2 Provision of Services
- 2.1 GEOBRUGG shall perform the Services in a professional manner and through qualified personnel. GEOBRUGG shall at any time be entitled to subcontract the performance of the Services or any parts thereof to third parties.
- 2.2 If the event the scope of the Services is limited to support of installation, such Services shall be provided exclusively as specified in the system manuals of GEOBRUGG.
- 2.3 In the event, for any reasons beyond the reasonable control of GEOBRUGG, GEOBRUGG's personnel are significantly prevented from performing the Services or are prevented from performing the Services during a period of a total of 0.5 days, GEOBRUGG shall be entitled to arrange the return of the personnel.
- 3 Working Time
- 3.1 Except as otherwise provided for in mandatory regulations applicable at the installation site, the working time shall be as set forth in GEOBRUGG's Order Acknowledgement and in the working reports prepared by GEOBRUGG's personnel.
- 3.2 The normal weekly working time shall consist of five working days. The normal daily working time shall be between 9 a.m. and 6 p.m. Changes in the normal daily working time, in particular due to the season, shall remain expressly reserved.
- 3.3 Working hours performed in excess of the normal weekly or the normal daily working time shall be considered as overtime. The performance of overtime work shall require a prior mutual agreement in writing. Overtime work shall be regulated by GEOBRUGG's Rules of Employment.
- 3.4 Travelling time, as well as an appropriate order-related time for preparation of the performance of the Services and processing time after the trip, shall be considered as working time.
- 3.5 In the event, for any reasons beyond the reasonable control of GEOBRUGG, GEOBRUGG's personnel are prevented from performing the Services or for any reason detained after completion of the Services, GEOBRUGG shall, without prejudice to Clause 2.3 hereof, be entitled to invoice the waiting time as working time and to invoice the travelling costs. All other associated costs shall be borne by the Customer. The same shall apply to other downtimes beyond the reasonable control of GEOBRUGG.
- 4 Prices
- 4.1 The Services shall be invoiced according to time and material calculated on the basis of GEOBRUGG's daily rates or hourly rates applicable at the time the Services are performed. The preparation of technical documents and any other accompanying services shall be invoiced according to time and material as well.
- 4.2 Taxes (e.g. withholding taxes, value-added taxes), customs duties, levies, fees, social security charges and the like to be paid by GEOBRUGG or its personnel in connection with the Contract or the performance thereof, as well as the administrative costs associated therewith shall be borne by the Customer.
- 4.3 In addition, in particular personnel costs (time sheets), travelling costs (transportation, costs for visa, import and export permits etc.), accommodation expenses, costs for tools and equipment and additional services shall be invoiced according to time and material as well.
- 5 Obligations of the Customer
- 5.1 The Customer shall ensure that the permits required in connection with the performance of the Services (e.g. entry and exit permits and working permits for GEOBRUGG's personnel), as well as the permits for import and export in particular of tools, will be granted in a timely manner and will remain valid during the performance of the Contract.
- 5.2 The Customer shall properly perform the preparatory work required for the performance of the Services and shall in particular ensure that the transport routes and the free access to the installation site will be in a condition allowing the Services to be performed, and will be maintained in this status during the performance of the Contract.
- 5.3 The Customer shall be responsible for the security of the installation site and the safety of GEOBRUGG's personnel during the performance of the Contract.
- 5.4 The Customer shall store material and spare parts efficiently and in such a manner that material and spare parts are protected from harmful influences and acts by third parties.
- 5.5 The Customer shall, during the performance of the Contract, ensure in accordance with GEOBRUGG's requests as follows: Water and wastewater supply, electrical energy supply, lighting, necessary storage facilities and workstations at the installation site, access routes and waste disposal, as well as a list specifying local administrative offices and emergency services.
- 5.6 The Customer shall, within 30 days after use, return in perfect condition installation aids (e.g. drill gauges, helicopter suspension tackle) that have been made available to it. The repair of defective installation aids and the replacement of installation aids not returned to GEOBRUGG shall be invoiced to the Customer. The risk associated with the return of the installation aids shall be borne by the Customer.
- 5.7 The Customer shall fulfil its obligations under this Clause 5 in a timely and proper manner and at no cost to GEOBRUGG. In the event the Customer fails to fulfil its obligations in such a manner, GEOBRUGG shall be entitled without further notice to perform the respective services at Customer's risk and cost, or to engage a third party to perform such services at Customer's risk and cost. The Customer shall fully indemnify GEOBRUGG against any claims by third parties.