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**Applicability and Definitions**

1. These Special Conditions of Purchase, together with Nolato's General Purchasing Conditions and the relevant agreement and/or purchase order issued by Purchaser, set forth the terms under which the Purchaser offers to purchase Goods, and where applicable including installation, from Seller.
2. In addition to defined terms in Nolato's General Purchasing Conditions the term 'Goods' refers to such machines and/or production equipment as has been the subject of a purchasing contract, or has been stated in a purchase order submitted by the Purchaser.
3. The term 'Unique Production Equipment' refers to custom made Goods for the Purchaser.
4. The term 'Standard Production Equipment' refers to Goods in Seller's ordinary range of products.
5. The term 'Factory Acceptance Test' (FAT) refers to the test performed by Seller at the place of production. In order to get the FAT approval the capacity, availability, quality and function of the Goods shall meet the requirements of the Purchaser. The FAT shall be documented in a protocol.
6. The term 'Site Acceptance Test' (SAT) refers to the test performed by Purchaser at the place of installation. In order to get the SAT approval the capacity, availability, quality and function of the Goods shall meet the requirements of the Purchaser. The SAT shall be documented in a protocol.
7. The term 'Overall Equipment Effectiveness' (OEE) refers to the product of the factors: availability, performance and quality.
8. The term 'User Requirement Specification' (URS) refers to the specifications in the relevant agreement and/or purchase order issued by Purchaser.

**Payment**

9. Payment for Unique Production Equipment shall be made in three (3) instalments where the invoices shall be issued as follows:
  - a) 10% on order placement,
  - b) 30% after successfully performed FAT including documentation delivered to and approved by Purchaser.

c) 60 % on successful performed SAT including drawings and documentations delivered to and approved by Purchaser.

10. Payment term for Standard Production Equipment is 100% on successful performed SAT, including drawings and documentation delivered to and approved by Purchaser.
11. The above payments shall be made in arrears against invoice issued by the Supplier, which shall be paid within ninety (90) days after the receipt of invoice.

**Ownership**

12. At the date of the first payment all title to the Goods is transferred to the Purchaser. Paper and electronic copies of all drawings, notated as owned by Purchaser will be issued to the Purchaser at this date or on completion, whichever is the sooner.
13. The plates of the Goods will be marked and all other components tagged as the property of Purchaser such as documents, tools and dies and other items supplied by Purchaser.

**Deadline**

14. Deadlines should be presented by Seller and agreed by Purchaser prior to the issuance of a Purchase Order.
15. If Purchase Order is issued on a later date, the deadlines shall be adjusted accordingly, within one (1) week after the Purchase Order is issued, maintaining the same terms as previously.
16. If the deadlines are adjusted at any time without relevant explanation and not agreed in writing between Purchaser and Seller, the Purchaser may cancel the Purchase Order up till 4 weeks after adjusted dead-line is presented, until the Goods have been received by Purchaser.

**Delivery**

17. Notification of shipment must be sent to Purchaser 14 days before shipment.
  18. If Seller foresees that it is likely that it is not able to meet a stipulated milestone or final deadline for any reason, Seller must immediately inform Purchaser in writing, indicating the exact reasons for the delay and the estimated length of the delay.
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19. In such cases, Seller shall take all necessary measures (including, if necessary, adding extra shifts, working overtime and/or on week-ends and holidays, express delivery), to meet the stipulated interim and final delivery and performance deadlines. Seller shall bear the costs of such measures and are to inform Purchaser in writing, the details of the measures adopted to minimize delays.

#### **Documents**

20. If Purchaser provides Seller with patterns, templates, drawings or other documents (hereinafter designated "Documents"), these Documents remain the property of Purchaser. The Documents must be returned to Purchaser when they are no longer required for the execution of the order.

21. Seller shall verify the Documents made available by Purchaser before manufacturing begins to insure that they are complete, correct and up to date. Seller shall in particular check the international dimensional relationships indicated therein.

22. If Seller determines that Documents are missing, incorrect or incomplete or do not reflect the current state of the art, Seller must immediately so inform Purchaser in writing.

23. The Documents may only be modified with permission from Purchaser.

24. Seller agrees to transfer to Purchaser title to the documents delivered, not limited in terms of time, territory or purpose, to use and reproduce the documentation without any restrictions.

#### **Modifications**

25. Seller is not entitled to modify the Goods without the explicit permission from Purchaser.

26. Seller shall immediately carry out any modifications requested by Purchaser, including related modifications to the documentation made necessary by the modifications to the Goods.

27. If Seller is of the opinion that a requested modification is not feasible or affects the function of the Goods, Seller shall immediately inform Purchaser thereof in writing.

28. Immediately after the receipt of a change request, but in no case later than ten (10) business days from the receipt thereof, Seller shall send its written proposal to Purchaser concerning any cost or time implications resulting from such change order request.

29. The parties shall come to an agreement on these modifications, although the lack of agreement shall not entitle Seller to delay in executing the modifications.

#### **Insurance**

30. Seller is obliged to maintain fire and liability insurance on all Goods until the risk for the Goods has passed to Purchaser.

#### **Warranty of the Goods**

31. Seller warrants machines and/or production equipment for two (2) years, based on 24-hour/7 days/52 weeks production. Parts and labour for any repairs or maintenance to make good are the responsibility of the Seller.

32. The machine and or production equipment will be manufactured to fulfil defined specifications.

33. If the final OEE value is lower than in URS defined OEE value, by between 1% and 10%, a discount will apply.

34. At 1% lower OEE value the discount will be 2% raising by a further 2% for each further 1% increase in OEE value up to a maximum of 20% discount at 10% lower OEE value.

35. Where OEE value is lower than that defined by 10% or more then Purchaser has the right to reject the machine and/or production equipment and the Seller will refund all payments made to this date, if the Seller does not with urgency and in best manners improve the machine and/or production equipment to fulfil defined expectations.

36. The refunded payment is to be done as a debit note received by the Purchaser within 2 weeks after rejection.

#### **Liquidated Damages**

37. For every week the Goods approval is delayed by one week a liquidated damages of 2% each week (five working days/week) is deductible from the total Goods price, up to a maximum of fifteen weeks.



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38. For the avoidance of any doubt it is stipulated here that Seller shall be in default and thus the contractual liquidated damages shall be imposed if – in particular, without limitation – the Goods is not fully functional, not ready for operation or has not been delivered or completed on acceptance date, and Seller cannot prove that it is not responsible for the delay.
  39. Purchaser is entitled to withhold payment or to deduct any contractual penalties imposed from any amounts owed to Seller.
  40. Purchaser is also entitled to apply the contractual penalty through the final payment, even without any express reservation at the time of the acceptance.
  41. Collection of the contractual penalty is also without prejudice to any other claims to which Purchaser may be entitled under law or contract.

**Termination**

42. Purchaser is entitled to cancel the purchase order for convenience with immediate effect or if required for urgent technical or operational reasons.
  43. Upon such termination, Seller shall, immediately after receipt of the notice of cancellation, stop all work and have its subcontractors also stop all work. After deduction of the expenses not incurred and after submitting written proof of its costs, Seller is entitled to compensation for the work that was performed up to the time of cancellation or the performance of which could no longer be avoided. Under no circumstance may the amount of the refund to Seller exceed the price of the cancelled purchase order.
  44. Purchaser is entitled to terminate the purchase order in whole or in part if insolvency bankruptcy proceedings are initiated, or court-supervised or out-of-court composition proceedings are requested against Seller.
  45. If there are significant changes in the legal status, ownership structure or ownership of Seller, or changes in the management of Seller such that Purchaser can no longer be reasonably expected to abide to valid purchase order the Purchaser is entitled to terminate it.
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