

Proceq Middle East General Terms and Conditions of Sale

ARTICLE 1 - DEFINITIONS

Force Majeure Event - includes, without limitation, acts of God, war (whether declared or not), terrorism, revolution, invasion, decisions of government, insurrection, riots, mob, tribal or ethnic violence or unrest, sabotage or other civil disorders, strikes or other labour disputes, fire, earthquake, storm, hurricane, typhoon, tsunami, flood or other natural disaster, interruption or failure of utility service of any kind, failure of transportation of any machinery, equipment, material or personnel, delay attributable to any contractor or subcontractor, acts or omissions to act, laws, regulations or rules of any government or governmental agency, limitations imposed by exchange control regulations or foreign investment regulations or similar regulations or any other circumstances beyond the control of PROCEQ.

Intellectual Property Rights - means patents, know-how, registered and unregistered trademarks and service marks (including any trade, brand or business names and any distinctive words, symbols or sounds used to differentiate the goods and services of the Company), domain names, registered designs, design rights, utility models, copyright (including all such rights in computer software, business information and any databases), moral rights and topography rights (in each case for the full period thereof and all extensions and renewals thereof), applications for any of the foregoing and the right to apply for any of the foregoing in any part of the world and any similar rights situated in any country; and the benefit (subject to the burden) of any and all agreements, arrangements and licences in connection with any of the foregoing;

ARTICLE 2 - AREA OF APPLICABILITY

The following General Terms and Conditions of Sale ("General Terms") effective as of 01.01.2009 shall apply to all deliveries by Proceq SA, Schwerzenbach, Switzerland (hereinafter "PROCEQ") of goods and related services to its customers in the United Arab Emirates, and constitute an integral part of each sales contract that is entered into between a customer as buyer (hereafter "Customer") and PROCEQ as seller. PROCEQ has the right to amend and change these General Terms at its own discretion. The Customer has the right, at any time, to request from PROCEQ a copy of the currently applicable Terms and Conditions of Sale.

ARTICLE 3 - CUSTOMER ORDERS

- 3.1 Any quotation made by PROCEQ even if made following a request of a Customer is always deemed to be only a request to the Customer to make a quotation to PROCEQ. In such a case again the sales contract is only entered into upon under the circumstances set out in Article 2.1 above.
- 3.2 Customer orders can be made in writing or orally however, a sales contract is entered into only upon written acceptance of the Customer order by Proceq.

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ARTICLE 4 - COUNTRY-SPECIFIC REGULATIONS

- 4.1 The Customer must advise Proceq no later than at the time of the order of any country-specific regulations and standards. This shall apply in particular to regulations and standards that require adjustments or changes to the goods to be delivered by Proceq.
- 4.2 Furthermore, the customer hereby agrees and warrants that:
- (a) it will comply, and will ensure that its relevant personnel comply, with all applicable laws and regulations, including without limitations any law, regulation, statute, prohibition, or wider measure applicable to the goods, services and/or to either party relating to the adoption, application, implementation and enforcement of economic sanctions, export controls, trade embargoes or any other restrictive measures (collectively "LAWS AND REGULATIONS") to ensure at all times that goods are sold, supplied, imported, exported, re-exported, transferred, used, disclosed and/or transported only in accordance with all applicable LAWS AND REGULATIONS;
 - (b) it will immediately notify Proceq if it becomes aware that it or any of its personnel or to the extent it is a re-seller of the goods, any of its clients may have breached any applicable LAWS AND REGULATIONS;
 - (c) it will not supply any goods of Proceq, in any form, directly or indirectly, to any person or entity that is not compliant with applicable Laws and Regulations;
 - (d) it will indemnify and hold Proceq harmless from and against any claim, loss, liability or direct or indirect damage suffered or incurred by Proceq resulting from or related to customers, its personnel or to the extent it is a re-seller of the goods, any of its clients' breach of this art. 4.2.
- 4.3 Unless otherwise agreed, the goods delivered by Proceq shall be deemed to conform to the contract if they satisfy Swiss regulations.

ARTICLE 5 - SALES DOCUMENTATION AND QUOTATIONS BY PROCEQ

- 5.1 The sales documentation and technical descriptions provided by Proceq are not binding, unless otherwise warranted by Proceq in writing.
- 5.2 Quotations made by Proceq remain subject to change, i.e., they can be freely revoked or amended, at any time prior to being replied to by the Customer. In the absence of specific provisions, any such quotations shall be effective for only thirty (30) days from the date they are issued and shall expire at once if not replied to within this time period by the Customer.
- 5.3 As to availability of the goods, any quotations are not binding even if the Customer replies within the validity period of the quotation as stipulated under Article 4.2.

ARTICLE 6 - PRICES

- 6.1 Prices in price lists, quotations, etc., shall be understood in each case to be Free Carrier Schwerzenbach, Switzerland, (Incoterms 2000) not including taxes / charges and without packing and transport costs. The applicable prices shall be those in effect on the date of the acceptance of the order as stipulated under Article 2 of these General Terms.
- 6.2 All freight, insurance, approval and certification costs shall be borne by the Customer. Additionally, the Customer shall pay all taxes, fees, customs duties and other charges that arise in connection with the performance of the contract. To the extent that such charges are levied from PROCEQ, the Customer shall reimburse them upon first demand.

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- 6.3 For order volumes of less than USD 150.--, PROCEQ shall impose a surcharge for small-volume purchases of USD 50.--.

ARTICLE 7 - PAYMENT TERMS

- 7.1 Unless otherwise agreed in writing, all Customer payments shall be made in USD to the Swiss headquarters of PROCEQ and payment terms for Products and Services are advance telegraphic transfer (as the Company may in its sole discretion elect) or cash on delivery.
- 7.2 All PROCEQ invoices for deliveries to Customers or third parties specified by such Customers shall be due and payable by the buyer without deduction as stated in 7.1 above. The extent that the Customer fails to fulfill its payment obligation by such time, PROCEQ shall have the right, without any formalities, to demand default interest on the outstanding balances in the amount of the current Lombard loan interest rate, but no less than five percent per annum.
- 7.3 To the extent that the Customer has defaulted on its payment obligations, PROCEQ shall have the right to suspend delivery of any goods until the outstanding balances have been paid in full and without deductions.
- 7.4 PROCEQ shall have the right to set off any claims that the Customer asserts against PROCEQ against any amounts due by the Customer to PROCEQ. The Customer shall have the right to set off its payment obligations against PROCEQ only against such of the Customer's claims that have been recognized by PROCEQ in writing or that have been awarded in a final enforceable judgment.
- 7.5 In the event of a payment default and justified doubts as to the solvency of the Customer, PROCEQ shall have the right immediately to accelerate maturity of all claims under the business relationship and to make delivery of any unpaid goods contingent upon sufficient advance payments.

ARTICLE 8 - DELIVERY TERMS

Deliveries to the Customer or third parties designated by him are Free Carrier.

ARTICLE 9 - DELIVERY TIMES

- 9.1 The contractually agreed delivery date shall be deemed to have been satisfied if the goods are made available for delivery by such time to a third-party carrier designated by the Customer or at any other place agreed to in writing by the Parties.
- 9.2 If the delivery date cannot be met due to one of the following reasons, the delivery period shall be extended by such reasonable time as determined by PROCEQ in its own discretion:
- In respect of goods being repaired under warranties set out under Articles 13 and 14, if the Customer fails to comply with its contractual obligations as set out under those Articles as well as Article 12,
 - If the failure to meet the delivery time is due to a Force Majeure Event,
 - If the Customer requests subsequent changes or additions to their original specifications.
- 9.3 Partial deliveries by PROCEQ are permissible.
- 9.4 As to availability of the goods, any quotations are not binding even if the Customer replies within the validity period of the quotation as stipulated under Article 4.2.

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ARTICLE 10 - TRANSFER OF OWNERSHIP, USE AND RISK

- 10.1 Title to the goods passes to the Customer upon full and contractual payment only.
- 10.2 The Customer concurs that as long as all outstanding claims have not been paid, PROCEQ shall have the right to assert a right of retention in the appropriate registries, accounts or the like at the expense of the Customer in accordance with applicable law. The Customer hereby commits to refraining from taking any action that would be contrary to the objectives pursued by the right of retention.
- 10.3 The Customer shall bear all risks of loss of and damage to the goods from the time the goods are made available for delivery.

ARTICLE 11 - DELAYED PICKUP BY THE CUSTOMER

If the Customer fails to take delivery of the goods in accordance with the terms of the contract, the goods shall be warehoused at the expense and risk of the Customer. PROCEQ shall have the right and authority to have goods that are not picked up be stored on third-party premises in the name and at the expense of the Customer.

ARTICLE 12 - TRANSPORT

- 12.1 If Proceq arranges for transport, it shall do so exclusively on behalf, in the name and for the account of the Customer. In such case, the carrier will either be ordered by Proceq to collect freight costs and all related charges (such as import VAT) from the Customer or, if applicable, to invoice the freight costs solely to Proceq which, in such case, shall invoice the freight costs and disbursements to the Customer. Any such initiation of transport by Proceq shall not lead to a change of the delivery terms pursuant to Article 7.
- 12.2 The procurement of transport insurance shall be the exclusive responsibility of the Customer.

ARTICLE 13 - INSPECTION

- 13.1 The Customer shall inspect the goods immediately, either upon delivery or, if this should not be possible, immediately after the receipt of the goods at the Customer's plant or at the designated address, and shall do everything to minimize losses.
- 13.2 Complaints must be notified in writing and in detail immediately, but no later than within ten (10) calendar days, upon initial inspection. The deadline shall run from the earlier of the date of the inspection upon delivery or the date of receipt by the Customer or its nominee at the designated address. The Customer is responsible for any and all losses sustained during transport.

ARTICLE 14 - LIMITED WARRANTY

- 14.1 PROCEQ warrants that the goods are free of material or manufacturing defects. The warranty periods are as follows:
- Electronic indicating units: 24 months,
 - Mechanical and electromechanical parts and accessories: 6 months,
 - Parts subject to ordinary wear and tear: 30 days,
 - Repairs: 3 months on the repaired parts,
 - Parts and sub-assemblies acquired by the Customer for its own repair purposes and not in respect of any warranty cases: 6 months.
- 14.2 FOR CALIBRATION/ADJUSTMENT NO WARRANTY IS GRANTED. PROCEQ WARRANTS DURING THE ABOVE MENTIONED WARRANTY PERIODS THAT THE GOODS MANUFACTURED BY PROCEQ IF CORRECTLY USED ARE ABLE TO BE ADJUSTED TO MEET ALL POSSIBLY PRINTED SPECIFICATIONS OF PROCEQ IN RESPECT OF ACCURACY AND PERFORMANCE FOR THE RESPECTIVE MODEL OR TYP.
- 14.3 FOR THIRD PARTY PRODUCTS NO WARRANTY IS GRANTED. FOR SUCH PRODUCTS SHALL APPLY EXCLUSIVELY THE RESPECTIVE WARRANTY OF THE MANUFACTURER.
- 14.4 WARRANTY CLAIMS, TOGETHER WITH THE COMPLAINED-OF GOODS SHALL BE ADDRESSED TO PROCEQ DIRECTLY.
- 14.5 THE WARRANTY EXCLUDES LOSSES DUE TO TRANSPORT, ORDINARY WEAR AND TEAR, DEFECTIVE MAINTENANCE, FAILURE TO OBSERVE OPERATING OR ASSEMBLY INSTRUCTIONS, OVER-USE, UNSUITABLE FUELS, CHEMICAL OR ELECTROLYTIC EFFECTS, DEFECTIVE CONSTRUCTION AND ASSEMBLY WORK NOT CARRIED OUT BY PROCEQ, AND ANY OTHER GROUNDS THAT ARE NOT PROCEQ'S RESPONSIBILITY.
- 14.6 DURING THE WARRANTY PERIOD PROCEQ WILL PROVIDE SPARE PARTS AND MAN POWER IN ORDER TO REMEDY THE DEFECT. THE CUSTOMER SHALL DELIVER THE GOODS, AT THE CUSTOMER'S EXPENSE, TO PROCEQ'S PREMISES FOR SUCH REPAIR. HOWEVER, IF THE CUSTOMER REQUIRES THE REPAIR WORKS TO BE PERFORMED IN ITS OWN FACTORY, PROCEQ WILL PROVIDE THE SPARE PARTS FOR SUCH REPAIR OF THE DEFECT. IN THAT CASE, ALL DISPLACEMENT AND TRAVEL COSTS AT THE APPLICABLE RATES FOR AFTER-SALE SERVICE SHALL BE AT CUSTOMER'S SOLE CHARGE. EXCLUDED FROM THE WARRANTY FOR NEW PRODUCTS ARE ALL PARTS SUBJECT TO ORDINARY WEAR AND TEAR, INCLUDING BUT NOT LIMITED TO IMPACT BODIES, INDENTERS, IMPACT PLUNGERS, TEST BLOCKS, CONNECTING CABLES ETC. THESE PRODUCTS ARE SUBJECT TO ORDINARY WEAR AND TEAR DURING USE.
- 14.7 PROCEQ SHALL ONLY BE OBLIGED TO CORRECT DEFECTS IF THE CUSTOMER HAS COMPLIED WITH ALL DUTIES IMPOSED ON THE CUSTOMER BY CONTRACT AND BY LAW. IN PARTICULAR, THE CUSTOMER SHALL NOT HAVE THE RIGHT TO WITHHOLD THE AGREED PAYMENTS ON THE GROUNDS OF A PENDING WARRANTY CLAIM.

ARTICLE 15 - EXTENDED WARRANTY

- 15.1 The Customer has the option to extend the warranty period for the electronic indicating unit of the product by up to 36 months.
- 15.2 The warranty term for the electronic indicating units of the purchased product may be extended by PROCEQ for a subsequent additional period of 12, 24 or 36 months upon buyer's request to PROCEQ.
- 15.3 Following payment of the warranty extension at the time of product purchase or within 90 days thereafter, the extension becomes effective upon written confirmation by PROCEQ.
- 15.4 Extended warranties run between PROCEQ and the Customer without any third party involvement, and are not transferable. Warranty work cannot be performed by parties other than PROCEQ.
- 15.5 The extended warranty is valid only if the buyer retains the Extended Warranty Certificate and documentary proof of purchase from PROCEQ.

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ARTICLE 16 - LIABILITY, PRODUCT SAFETY

- 16.1 Proceq shall be liable exclusively for delivery of the goods in a condition consistent with the contract and for the performance of its warranty obligation.
- 16.2 Liability in any event is limited to the net invoice value of the complained-of goods. PROCEQ shall not be liable for indirect or consequential losses of any kind, such as standstills of machinery or construction sites, liquidated damages or penalties to the detriment of the buyer, currency losses, lost profits, etc.
- 16.3 The products may not be used for purposes other than those recommended by PROCEQ and not in combination with products that are not suitable for the purpose. PROCEQ disclaims any liability for damage or loss due to noncompliance with this provision.

ARTICLE 17 - REPAIRS

Repair cost estimates will be produced at a cost of USD 100. -- per item. If the repair proceeds through completion, this charge will be deleted.

ARTICLE 18 - RETURN OF GOODS

- 18.1 Goods delivered by PROCEQ that conform to the contract will be accepted for return only by prior written agreement.
- 18.2 PROCEQ will accept only complete packaging units that are in their original packaging and that correspond to the current product line.
- 18.3 The material will be inspected by PROCEQ quality control and must be in a flawless, like-new and saleable condition. Failing such condition a return is excluded.
- 18.4 Special order or customized products will not be accepted for return in any event.
- 18.5 For order volumes of less than USD 150.--, no returns will be accepted.
- 18.6 If the returned goods meet the above-described criteria, the Customer will receive a credit, reduced by the following amount (in respect of the invoiced net amount):
- Return within 10 days of delivery: No deduction / good will;
 - Return within 30 days of delivery: 10% of value of goods returned, minimum USD 100. -- processing fee per order;
- 18.7 In case of return after 30 days of delivery: No return shall be possible.

ARTICLE 19 - DATA PROCESSING

PROCEQ shall have the right to process and store such data within the meaning of the Data Protection Act that it has received in the context of the business relationship with the Customer, irrespective of the origin of such data.

ARTICLE 20 - ENTIRE AGREEMENT

These General Terms constitute the entire understanding of the Parties relating to the subject matter of this Agreement and supersedes cancels and replaces all prior agreements between the Parties and no amendments to it shall be effective unless in accordance with Article 20 of these General Terms

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ARTICLE 21 - VARIATIONS

Deviations from these General Terms are effective only if made in written form and signed by the duly authorised representatives of the respective Parties. Any contrary general terms and conditions of a Customer shall not apply, irrespective of whether PROCEQ expressly objects in a particular case or not.

ARTICLE 22 – SEVERABILITY

If individual provisions of these General Terms should be invalid in whole or in part, the validity of the remaining provisions or the valid parts of such provisions shall not be affected.

ARTICLE 23 – INTELLECTUAL PROPERTY RIGHTS OF PROCEQ

Recognises that the Intellectual Property Rights in the goods mentioned hereunder belong to PROCEQ and shall not copy such Intellectual Property Rights in any form whatsoever by itself and/or with others in an individual or partnership or corporate form, or use the Intellectual Property

Rights and return any documents pertaining to the Intellectual Property Rights without retaining any copies.

ARTICLE 24 - APPLICABLE LAW

- 24.1 The Parties shall seek to resolve any and all disputes between them arising out of or related to these General Terms including any question regarding its existence, validity or termination. Failing settlement between the Parties, the dispute shall be referred to an Arbitration Board consisting of three (3) members as provided hereinafter.
- 24.2 The Parties shall each appoint one (1) member of the Arbitration Board within (15) days of receiving written notice from the other Party stating that the dispute must be referred to arbitration. The third member shall be such person agreed by the two members so appointed, who will act as Chairman of the Board of Arbitration. If either Party fails to appoint its member within the said period of fifteen (15) days or the two members do not agree on the appointment of the third member within a further 15 days, such members shall be appointed by the Dubai International Financial Centre London Court of International Arbitration (“DIFC LCIA”) Arbitration Centre upon the request of either Party.
- 24.3 Arbitration shall be held informally and save as otherwise provided herein, in accordance with the DIFC LCIA Arbitration Centre Rules, which Rules are deemed to be incorporated by reference into this clause. The arbitration shall to the extent reasonably possible be held and concluded within 90 (Ninety) days after it has been demanded. The arbitration shall be held in Dubai, UAE. An award rendered by the Arbitration Board shall be final and binding on the parties to this Agreement who shall forthwith give effect to the same.
- 24.4 These General Terms and all rights and obligations of the Parties shall be governed and construed in accordance with the laws of the United Arab Emirates and the Parties hereto hereby submit to the jurisdiction of the Courts of the United Arab Emirates.

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