

GENERAL TERMS AND CONDITIONS
of SWARCO FUTURIT Verkehrssignalsysteme Ges.m.b.H. ("SWARCO")
Date:08/2020

I. Scope

1. All legal relations (deliveries and services) between buyers and us (SWARCO) are exclusively subject to the following terms and conditions, unless otherwise agreed in writing in the offer. They shall also apply to all future deliveries, services or offers, even if they are not separately agreed upon again.

2. These terms and conditions are basically designed for legal transactions between entrepreneurs. If our contractual partner is a consumer within the meaning of the Consumer Protection Act, these terms and conditions shall only apply to the extent that they do not contradict the mandatory provisions of the Consumer Protection Act.

II. Order

1. Our offers are subject to change. Orders as well as verbal agreements are only binding for us if we confirm them in writing or in a form or correspond to you by sending the goods and invoice. Our order confirmation is decisive for the content of the contract. Subsequent changes and additions to the order shall only become valid by sending a new order confirmation. Ongoing projects or orders in production are suspended until they have been checked and recalculated, whereby changes and additions may result in new delivery dates and price changes.

2. Deviations from our terms of sale, in particular conditions of the buyer, are only valid if they are confirmed by us in writing. Nor do they become part of the contract through silence or delivery.

III. Prices and payments

1. Unless otherwise agreed in writing, the prices are in Euro, plus the statutory value added tax and any fees and other charges.

2. Unless otherwise agreed, payment is due 14 days after receipt of invoice. The day of receipt of payment by us is decisive. Payments will first be used to cover the costs, then the interest and with the surplus to balance the oldest debt items. A payment by bill of exchange is generally excluded. Credit notes by cheques as payment fulfilment are made with value date on the day on which the amount is credited to our account.

3. In the case of default of payment as well as reasonable doubts about the solvency or creditworthiness of the buyer, we are entitled, without prejudice to our other rights, to demand advance payments for outstanding services and to make all claims arising from the business relationship due immediately. In case of default of payment as well as reasonable doubts about the solvency or creditworthiness of the buyer, we are entitled, without prejudice to our other rights, to demand advance payments for outstanding services and to make all claims arising from the business relationship immediately due as well as to temporarily stop the delivery and/or services until payment is made. If the payment deadline is exceeded, we are also entitled to charge interest on arrears of up to 9% p.a. above the current prime rate of the invoice amount.

4. If circumstances become known which give rise to doubts as to the solvency of the buyer/client, we are entitled to make the deliveries and/or services dependent on the provision of security due to a bank guarantee or to a corresponding payment on account or, if this is refused, to declare withdrawal from the contract, invoicing the services

already provided. Completion or delivery dates are thereby postponed by the same amount of time.

5. Offsetting against counterclaims of the buyer against us is only permissible in the case of undisputed or judicially established counterclaims. In the case that the buyer withdraws from the contract, we are entitled, without prejudice to any other rights, to invoice services or partial services already provided in accordance with the contract and the buyer is obliged to pay for them. This also applies if the delivery or service has not yet been taken over by the buyer as well as for preparatory actions performed by us or other expenses/costs incurred by us in this respect.

IV. Calculation

1. All offers are made on the basis of the technical documents provided to us by the buyer. If no specific price has been agreed upon, the respective SWARCO price list shall apply and all services shall be charged separately on the basis of the respective SWARCO price list.

2. Unless otherwise stated, our prices are generally ex works, without packaging/loading. If delivery has been agreed upon, the prices do not include unloading and handling. Customs duties, taxes and other charges are to be borne by the buyer.

3. Additional costs due to assembly delays caused by interruption or assembly difficulties caused by the buyer, as well as necessary work due to deviations from the technical descriptions on which our offer is based, will be invoiced separately according to time and effort and duration.

4. The prices are based on the costs at the time of the first price offer. If the prices of an individual cost element (for example one or more preliminary products) have changed before delivery, the price of our final product will also change, but only to the extent that the price change that occurred for the respective preliminary product has had a proportional effect on the price of the final product. If the price subsequently increases compared to the time of the conclusion of the contract, the Buyer shall be entitled to withdraw from the order within 14 days after notification of the price increase. The right of withdrawal does not apply to price increases which are based on an increase in value added tax. If the exercise of the right of withdrawal is demonstrably unreasonable for the buyer, he may object to the price increase and demand delivery, charging the originally agreed price.

5. In the case of repair orders, the services recognized by the Seller as appropriate shall be provided and invoiced on the basis of the expenses incurred. This also applies to necessary services and additional services whose expediency only becomes apparent during the execution of the order, whereby no separate notification to the Buyer is required for this.

6. The expenditure for the preparation of repair offers or for appraisals will be charged to the buyer.

V. Delivery and acceptance

1. Agreed delivery dates refer to the shipping date of the goods. Dates and delivery periods stated by the buyer are only binding if we have confirmed them in writing. Unless otherwise agreed, delivery periods shall commence upon receipt of SWARCO's order confirmation by the contractual partner. This also applies to call-off dates. The observance of such dates and deadlines is subject to the timely fulfilment of the Buyer's obligations to cooperate, otherwise

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such dates and deadlines will be extended appropriately. Official approvals and any approvals of third parties required for the execution of deliveries or services must be obtained by the buyer. If such approvals are not obtained in time, the delivery period shall be extended accordingly.

2. Compliance with dates and deadlines is subject to correct and timely delivery to us. If the delivery period is exceeded, the buyer may withdraw from the contract after expiry of a reasonable grace period (at least 8 weeks) to be set by him in writing. We are entitled to make partial deliveries under the same conditions, without the facts of the breach of duty taking effect. Furthermore, the buyer can withdraw from the contract if the execution of a partial delivery becomes impossible for an order and the buyer has a justified interest in rejecting the partial delivery that is still possible.

3. As far as an acceptance is agreed upon or provided by law, the acceptance date is decisive, alternatively the notification of readiness for acceptance, if the buyer refuses the acceptance without justification. At the time of acceptance, a takeover record shall be drawn up and signed by all contracting parties. Recognizable defects are to be noted by the buyer in the takeover record protocol, otherwise warranty is excluded. If the Buyer unjustifiably fails to accept the deliveries and/or services in due time and in the proper manner, the deliveries and/or services shall be deemed to have been accepted on the originally scheduled acceptance date. If dispatch or acceptance is delayed for reasons for which the Buyer is responsible, the Buyer shall be charged the costs incurred by the delays beginning one month after notification of readiness for dispatch and acceptance.

4. Production shall be based on EN 12966 or EN 12368 in the respective valid version.

VI. Force majeure

1. If the failure to comply with the delivery time is due to force majeure, i.e. events beyond our control and for which we are not responsible, the delivery time shall be extended appropriately. We will inform the buyer of the beginning and end of such circumstances immediately and in writing. If delivery and/or performance becomes impossible before the transfer of risk, we and the buyer may withdraw from the contract without notice.

2. A party is obliged to fulfil its obligations under the contract even if events have made fulfilment more difficult than it could reasonably have been expected at the time of conclusion of the contract. Notwithstanding this clause, the parties are obliged to fulfil their obligations under the contract in the incident if one party proves that a) the further performance of their contractual obligations has become excessively onerous due to a case beyond their reasonable control which could not reasonably have been expected at the time of conclusion of the contract; and that b) the incident or its consequences could not reasonably have been avoided or overcome; within a reasonable time after invoking this clause, alternative contractual terms and conditions that reasonably allow the consequences of the case to be overcome. If this paragraph of this clause applies but the parties cannot agree on alternative contract terms, the party invoking this clause is entitled to terminate the contract without breach of contract.

VII. Installations

1. If installations are carried out by the buyer or by a third party commissioned by him, all warranty claims against us are void if the currently valid treatment and installation guidelines have not been observed.

2. The buyer must provide the telecommunication and power lines required for the installation as well as climbing aids in functional condition at his own expense. This also applies to safety measures and, if necessary, to necessary road closures. Before commencing services for the installation of the system, the buyer must inform us of the location of concealed power, gas, water or similar lines or systems.

3. Any liability on our part for damages due to omitted information or cooperation obligations is excluded. The buyer has the obligation to inform us about possible dangers caused by hazardous substances and materials (e.g.: asbestos in ceilings/walls/floors) and to inform us about local safety regulations.

VIII. Transfer of risk

1. Unless otherwise agreed, the delivery of the goods shall be deemed to be sold EXW according to INCOTERMS® 2020.

2. In the case of sale EXW, the risk shall pass to the buyer when the goods are made available. SWARCO will inform the Buyer in due time when the Buyer can dispose of the goods.

3. In the stationary area (construction of plants) the risk is transferred to the construction or assembly site with the insertion of the respective individual parts. The Buyer shall ensure that the delivered components are safely stored on the construction or assembly site and are adequately guarded outside working hours. The INCOTERMS® in the version valid at the time of conclusion of the contract shall apply.

IX. Warranty

1. Warranty claims of the buyer against us presuppose that the buyer has properly fulfilled his obligations as defined in § 377 UGB (Austrian Commercial Code), which are specified below. All warranty claims shall become statute-barred within 12 months after provision of the deliveries and/or services. The buyer shall check, if necessary by means of a test processing, whether the delivered goods correspond to the contractually agreed quality and are suitable for the intended purpose. If this inspection is omitted, not carried out to the required extent or if we are not notified of visible defects without delay, but at the latest within 14 days of receipt of the goods, the goods shall be deemed to have been approved with regard to such defects. Non-visible defects shall be deemed approved if they are not reported to us immediately after their discovery, but no later than 6 months after delivery of the goods. Complaints must be made in writing, stating the order data, delivery note number or serial number of the goods complained about.

2. Complained goods may only be returned with our express consent. At our request, the rejected goods must in any case be returned within a reasonable period of time, at the latest within 14 days of the request, otherwise all claims under the title of warranty and/or compensation for damages will be lost.

3. Notification of defects must be made both to us and to the forwarding agent (carrier, post office) so that any transport damage and defects can be determined. In the case of

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takeover/acceptance of construction or assembly services, defects must also be entered in the takeover record, otherwise they will be excluded.

4. In case of duly raised and justified warranty claims, we shall, at our discretion, either repair or deliver defect-free goods. If we make a subsequent delivery of defect-free goods prior to the return of the goods complained about by the buyer to us, this shall not constitute recognition of the defect claimed by the buyer, provided that we have not expressly objected to the return of the goods complained about. The buyer is only entitled to the right of rescission or price reduction if we have not fulfilled our obligation to remedy the defects by repair or replacement despite having set a reasonable period of grace in writing, but at least 6 weeks. The warranty period shall not be extended by repair or replacement. Several rectifications of defects or new deliveries are permitted, provided this is reasonable. Replaced goods become our property.

5. The buyer is obliged to operate the delivered goods according to the operating instructions, in accordance with the technical data sheet. Deviations from the contractual or required mode of operation (such as non-compliance with the installation requirements, conditions of use and maintenance intervals; overloading of parts beyond the limits specified by performance indicated by the seller; negligent or incorrect handling) lead to the loss of the warranty claim. The same applies to the use of unsuitable materials and tools, the attachment of additives not approved by us as well as the independent execution of repairs or modifications by the buyer or unauthorized third parties. Furthermore, the warranty does not apply to the replacement of parts that are subject to natural wear and tear.

6. No warranty is given for incorrect and improper processing of our delivered materials by the buyer or third parties. The correct and successful use of our products is not subject to our control.

7. We do not assume any liability for advice and information about processing and application possibilities of products supplied by us, which are given to the buyer as a courtesy outside the scope of the contract; this applies accordingly to free of charge assistance.

8. From information in catalogues, brochures, advertising material and written or oral statements that have not been included in the contract, no warranty claims can be derived.

X. Liability

1. We must be notified in writing of any damages which could give rise to a liability on our part, without any delay from the moment the damages are noticed, failing to do so the claim will be lost.

2. We are only liable for damages outside the scope of application of the Product Liability Act if intent or gross negligence can be proven against us, within the scope of the statutory provisions. Our total liability in cases of gross negligence is limited to the net order value or to EUR 500,000, - whichever is lower. Our liability per case of damage is limited to 25% of the net order value or EUR 100,000, - whichever value is lower. With the exception of personal injury, liability for slight negligence is excluded. Further excluded is any compensation for consequential damages, pure financial losses, indirect damages, loss of production, loss of profit and damages resulting from claims of third parties against us.

3. Unless otherwise agreed, any damage compensation is excluded in the case of non-compliance with any conditions for assembly, commissioning and use, including expert maintenance (as contained in operating instructions) or official approval conditions. Furthermore, the buyer shall bear the burden of proof for compliance with the aforementioned conditions in the event of any other exclusion of liability.

4. If contractual penalties have been agreed upon, any further claims of the buyer from the respective title are excluded.

5. The provisions of this point apply conclusively to all claims of the buyer against us, regardless of the legal grounds and legal title, and are also effective for all our employees, subcontractors and sub-suppliers.

6. The aforementioned limitations and exclusions of liability do not apply if they are opposed by mandatory legal regulations.

XI. Retention of title

1. The delivery of our goods is subject to retention of title until the buyer has fulfilled all payment obligations arising from the current delivery.

2. The buyer is obliged, as long as the ownership has not yet been transferred to him, to treat the goods with care and to store them with the diligence of a prudent businessman.

3. Our ownership also extends to the new object created by processing the reserved goods. The buyer manufactures the new object for us, excluding his own acquisition of ownership, and stores it for us. This does not give rise to any claims against us. If our reserved goods are processed with goods from other suppliers whose ownership rights also continue in the new item, we shall acquire co-ownership of the new item together with these other suppliers to the exclusion of a co-ownership share of the buyer at its full value as follows:

a) The co-ownership share corresponds to the ratio of the invoice value of the reserved goods to the total invoice value of all processed reserved goods.

b) If a residual share not initially covered by the retention of title remains because other suppliers have not extended the retention of title to the value added by the Buyer, our co-ownership share shall increase by this residual share. If other suppliers have also extended their retention of title to this residual share, we shall only be entitled to a share in which it is determined by the ratio of the goods subject to retention of title to the invoice values of the co-processed goods of these other suppliers.

4. The Buyer hereby assigns to us by way of security his claims arising from the sale of goods subject to retention of title from our present and future deliveries of goods, including all ancillary rights, to the extent of the share of ownership. In the case of processing within the scope of a contract for work and services, the claim for compensation for work and services is hereby assigned to us in the amount of the proportionate amount for the jointly processed goods subject to retention of title. As long as the buyer duly meets his obligations arising from the business relationship, he may dispose of the goods in our ownership in the ordinary course of business and collect the assigned claims himself.

5. We undertake to release the securities to which we are entitled at the request of the buyer if their value exceeds the claims to be secured by more than 20%.

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6. In case of default of payment or justified doubts about the solvency of the buyer, we are entitled to collect the assigned claims and to take back the reserved goods by mutual agreement. The amicable repossession of the purchased goods does not constitute a withdrawal from the contract.

XII. Industrial property rights/copyright

1. If a product is manufactured by us on the basis of design information, drawings, models or other specifications of the buyer, the buyer shall indemnify and hold us harmless in case of any infringement of industrial property rights.
2. Execution documents such as plans, sketches and other technical documents, as well as samples, catalogues, brochures, illustrations and the like shall always remain our intellectual property and are subject to the relevant legal provisions regarding reproduction, imitation, competition etc.

XIII. Obligation of secrecy

1. The Buyer undertakes to keep confidential all business and trade secrets or other information provided by us, such as drawings, documents, recipes, knowledge, samples, production equipment, models, data carriers, etc., which we have made accessible or made available to him or which have otherwise become known to him in connection with a business relationship or contact with us. (hereinafter jointly referred to as "Information"), to maintain secrecy, not to make it accessible in any way whatsoever without our written consent and not to use it for purposes other than those determined by us.
2. This obligation does not apply to information which was already known to him in a legitimate manner without an obligation to secrecy at the time of receipt, or which becomes known afterwards in a legitimate manner without an obligation to secrecy, which - without a breach of contract by one of the parties - is or will become generally known, or for which he has been given written permission for other use.

XIV. Shipping and insurance

1. In the absence of any other agreement, our goods are always shipped at the expense and risk of the buyer. If no special agreements are made with regard to the mode of dispatch / dispatch route, we shall determine these at our commercial discretion.
2. As a rule, the ordered goods will be delivered in one shipment, we are entitled to make partial deliveries. Transport insurances of all kinds, which go beyond the general insurance protection of the means of transport, will only be taken out by us at the express request of the buyer and the amounts paid by us will be charged.

XV. Data protection

1. The data processing is based on the legal provisions of § 96 para. 3 TKG and Art 6 para. 1 lit a (consent) and/or lit b (necessary for the performance of the contract) of the DSGVO. You are basically entitled to the rights of information, correction, deletion, restriction, data transferability, revocation and objection.
2. If you believe that the processing of your data violates data protection law or your data protection rights have otherwise been violated in any way, you can complain to the supervisory authority. In Austria this is the data protection authority. For further information, please refer to the privacy

policy on our website: <https://www.swarco.com/de/privacy-policy>

3. SWARCO shall be entitled to process and use the Buyer's inventory data to the extent necessary for order processing, for advising the Buyer and for tailoring the Buyer's performance to his needs. SWARCO shall also be entitled to transfer such data to companies that have been legitimately entrusted with the execution of this contract or parts thereof, whereby SWARCO shall oblige such entrusted companies to treat the data confidentially in accordance with the Data Protection Act. In this context, SWARCO is also entitled to transmit the data in any case to emergency call centers, credit institutions, collection agencies, data processing centers, letter stores and credit protection associations as well as to group companies in Switzerland and abroad.

4. SWARCO shall, upon request, provide the Buyer at any time with complete information free of charge about the data stored by it, as far as it concerns the Buyer. The Buyer and products delivered to the Buyer may be named for reference purposes. SWARCO shall also have rights to any pictures of installations, provided this is compatible with copyright law. The Buyer has the right to object the use of his data for advertising purposes.

XVI. Severability clause

If individual provisions of the contract or these terms and conditions should be invalid, the validity of the remaining provisions shall not be affected. The invalid provision shall be replaced by a valid provision which comes as close as possible to the intended purpose.

XVII. Applicable law

These General Terms and Conditions of Business and all contracts concluded under their validity shall be governed exclusively by Austrian law, excluding the UN Convention on Contracts for the International Sale of Goods.

XVIII. Place of performance and jurisdiction

The place of performance for all rights and obligations arising from these General Terms and Conditions of Business and all contracts concluded under their validity is the registered office of our company (Neutal). For contracts with merchants, persons acting in the exercise of their commercial or independent professional activity when concluding the contract (entrepreneurs); as well as with legal entities under public law, Vienna is agreed as the exclusive place of jurisdiction.