



Nencki AG
Anlagen- und Fahrzeugbau
Aarwängstrasse 90
CH-4901 Langenthal

Tel. +41 62 919 93 93
Fax +41 62 919 93 90
info@nencki.ch | www.nencki.ch

General Terms and Conditions Nencki Ltd. – Plant Technology

Stand 02.2017

1. General remarks

1.1. These General Terms and Conditions of Sale and Supply of Nencki Ltd. (hereinafter "Supplier") are applicable to all sales, supplies and services of the Supplier to the Customer, unless they are modified or supplemented amicably and in writing. Any other conditions of the Customer shall only be applicable if expressly accepted in writing by the Supplier.

1.2. The quotations of the Supplier are subject to change without notice. Orders shall contain clear specifications on all design details. The Customer shall be responsible for the clarity and the wording of orders. The contract shall be considered concluded with the written confirmation of the Supplier that they accept the order (order confirmation).

2. Scope of supplies and services

The supplies and services of the Supplier are definitively listed in the order confirmation and any attachments it may contain. Services not included shall be additionally agreed upon. The equipment features, dimensions and weight of the products ordered may be subject to slight change in the course of manufacture. Such departures shall be considered to be in conformity with the contract unless they affect essential performance characteristics of the products.

3. Drawings and technical documentation

3.1. Unless otherwise agreed, sales literature and catalogues shall not be binding in the absence of any agreement to the contrary. Data and information in technical documentation shall only be binding if they have been expressly assured.

3.2. Each contracting party reserves all rights to drawings and technical documentation which they hand over to the other party. The receiving contracting party acknowledge these rights and will not make such documentation accessible either in whole or in part to third parties without prior written permission of the other contracting party nor use it for any purpose other than that for which it has been handed over to them. The drawings and technical documentation of the Supplier shall not be used for inviting bids from competitors.

4. Prices

All prices are in Swiss Francs (CHF) for within Switzerland and in Euros (EUR) for outside Switzerland, net ex works excluding packing, value added tax or any fees and duties. All expenses, taxes, duties, fees, customs and such shall be borne by the Customer.

5. Terms of payment

5.1. Payments shall be due at the domicile of the Supplier without any deduction of discounts, expenses, taxes, duties, fees, customs and such. Unless other special terms of payment have been agreed, the date of invoicing shall be the date of delivery, with a term of payment of 30 days starting from the date of the invoice.

In case of orders worth over CHF 30,000.—, the payment shall be due as follows:

30% payment when the order is placed (order confirmation)

30% payment when ready for delivery or after factory acceptance

30% payment after commissioning or functional notice

10% payment after customer degrease or start-up

Deliveries from outside Switzerland shall be made against cash in advance or a letter of credit (documentary letter of credit or banker's guarantee) confirmed by a Swiss bank. Exceptions shall only be allowed if the Supplier permits this in writing.

5.2. Upon expiry of the term of payment, consequences of default shall be automatically applied without any further notice being given to the Customer to pay. From this date onwards, the Customer shall be charged default interest currently amounting. Nencki AG expressly reserve the right to claim compensation for additional damage and to rescind the contract after a reasonable period of grace.

6. Reservation of title and right of exploitation

The Supplier shall retain the title to the entire supplies until they receive the full payments in accordance with the contract. The Customer entitles the Supplier upon signing of the contract to enter the reservation of title in official registers and to fulfil all the related formalities at the Customer's expense. The Customer shall maintain the objects supplied at their own expense during the period of reservation of title and insure it for the benefit of the Supplier against theft, breakage, fire, water and other risks. In addition, they will take all the necessary measures to ensure that the reservation of title of the Supplier is neither impaired nor cancelled.

7. Delivery date

7.1. The delivery date starts as soon as the contract has been signed, all official formalities have been settled, all the payments due when the order is placed have been made, any required securities have been paid and the essential technical items have been finalised. The delivery date shall be considered to have been observed if the notice for shipping the goods has been dispatched to the Customer before expiry.



Nencki AG

Anlagen- und Fahrzeugbau
Aarwangerstrasse 90
CH-4901 Langenthal

Tel. +41 62 919 93 93
Fax +41 62 919 93 90
info@nencki.ch | www.nencki.ch

7.2. The delivery date shall be extended for a reasonable period of time

- a) if the Supplier does not receive the information in good time, required for fulfilling the contract or if it is subsequently modified by the Customer so that the supplies or services are delayed;
- b) if obstacles occur which the Supplier is unable to avert despite exercising due diligence, regardless of whether they occur at the Supplier's site, at the Customer's site or at a third party's site; such obstacles are for example epidemics, mobilisation, war, social unrest, significant production disruptions, accidents, labour conflicts, delayed or faulty supply of the necessary raw materials or semi-finished or finished products, transformation of important workpieces into rejects, official measures or omissions, natural occurrences and other cases of force majeure;
- c) if the Customer or third parties are in arrears with work that they are to perform or with the fulfilment of their contractual obligations, especially if the Customer fail to observe the terms of payment.

7.3. The non-observance of the delivery dates shall entitle the Customer to claim compensation, but only to rescind the contract after expiry of a reasonable unused period of grace of at least 30 days.

7.4. Delayed supplies or services shall not entitle the Customer to any rights or claims apart from those expressly mentioned in this Clause 7.

8. Passing of benefits and risk

8.1. The benefits and risks shall pass to the Customer no later than at the point of time of dispatch of the supplies ex works.

8.2. If the delivery is delayed at the request of the Customer or for other reasons for which the Supplier is not responsible, the risk shall pass to the Customer at the date originally agreed for delivery ex works. From this date onwards, the supplies shall be stored and insured at the Customer's expense and risk.

9. Inspection and acceptance of the supplies and services

9.1. The Supplier shall check the supplies and services before dispatch to the usual extent. Any further checks requested by the Customer shall be agreed upon separately and be paid for by the Customer.

9.2. The Customer shall inspect the supplies and services within 10 days and immediately notify the Supplier of any defects in writing. In the absence of such notification, the supplies and services shall be considered approved.

9.3. The Supplier shall as soon as possible correct any defects reported to them in accordance with Clause 9.2, and the Customer shall give him the possibility of doing so.

9.4. The performance of an acceptance test and the definition of the applicable conditions require an express agreement.

9.5. The Customer does not have any rights and claims in respect of any defects whatsoever in relation to supplies or services apart from those expressly mentioned in this Clause 9 and in Clause 10 (Warranty, Liability for Defects).

9.6. The order shall be defined in writing by the Customer in detail and in an unambiguous manner. No general clause of completeness shall be accepted by the Supplier.

10. Warranty, liability for defects

10.1. The warranty period is 24 months, and in case of multi-shift operation 6 months. It starts with the dispatch of the supplies ex works. If shipping is delayed for reasons for which the Supplier is not responsible, the warranty period shall end no later than 12 months after notification of readiness for shipping. The warranty shall expire at an earlier date if the Customer or third parties make improper modifications or repairs to the goods or if the Customer fails to immediately take all the appropriate action to minimise the damage in the event of a defect and to offer the Supplier the possibility to correct the defect.

10.2. Upon the Customer's written demand, the Supplier shall at his own discretion as soon as possible either repair or replace all parts of the supplies of the Supplier which demonstrably become defective or useless owing to poor material quality, faulty design or defective of the purchase price related to those parts. Replaced parts will become the property of the Supplier.

10.3. Assured performance characteristics shall only be those designated as such in the specifications. The assurance shall last no longer than up to the expiry of the warranty obligation according to Clause 10.1. If the assured performance characteristics are not or only partially fulfilled, the Customer shall be entitled to claim remedy from the Supplier. For this purpose, the Customer shall allow the Supplier the required time and opportunity. If this remedy fails or is only partly successful, the Customer shall be entitled to a reasonable reduction of the purchase price. If the defect is so serious that it cannot be remedied within a reasonable period of time, and if the supplies or services cannot be used for the announced purpose or only to a significantly reduced extent, the Customer shall be entitled to refuse acceptance of the defective part or, if partial acceptance is commercially unacceptable to them, to rescind the contract. The Supplier shall only be liable for refunding the amounts that were paid to him for the parts affected by the cancellation.

10.4. The warranty and liability of the Supplier does not cover any damage which is not demonstrably the result of poor material quality, faulty design or defective workmanship, e.g. natural wear and tear, inadequate maintenance, non-observance of operating instructions, excessive stressing, unsuitable operating supplies, mechanical wear, chemical and/or biological and/or electrolytic action of the medium on the goods delivered, building construction or plant erection work not performed by the Supplier or any other reasons for which the Supplier is not responsible.



Nencki AG
Anlagen- und Fahrzeugbau
Aarwängstrasse 90
CH-4901 Langenthal

Tel. +41 62 919 93 93
Fax +41 62 919 93 90
info@nencki.ch | www.nencki.ch

10.5. The Customer shall not have any rights and claims arising from defective material quality, design or workmanship or the absence of assured performance characteristics apart from those expressly mentioned in Clauses 10.1 to 10.4.

11. Exclusion of additional liabilities of the Supplier

All cases of contract infringement and their legal consequences as well as all claims of the Customer, regardless of their legal reasons, are definitively defined in those provisions. In particular, all not expressly mentioned claims for compensation, reduction of price, cancellation of the contract or rescinding of the contract shall be excluded. Under no circumstances shall the Customer be entitled to any claims for compensation of damage that have not occurred on the object of the supply itself, specifically product losses, loss of use, loss of orders, loss of profits and other direct or indirect damage. This exclusion of liability does not apply to unlawful intention or gross negligence of the Supplier, but shall also be applicable to unlawful intention or gross negligence of ancillary persons. Furthermore, this exclusion of liability shall not be applicable if it is opposed by mandatory provisions of law.

12. Erection

If the Supplier is also responsible for erection or erection supervision, the General Terms and Conditions of Erection of the Association of Swiss Machine Industrialists (VSM) shall be applicable.

13. Place of jurisdiction and applicable law

13.1. The sole place of jurisdiction for all litigation between the parties shall be the domicile of the Supplier or the domicile of the Customer if this has been agreed in writing, as determined by the Supplier.

13.2. The contracts between the Supplier and the Customer shall be exclusively governed by Swiss law with the exclusion of the United Nations Convention on Contracts for the International Sale of Goods (CISG) of 11th April 1980.

NENCKI Ltd. Langenthal / Switzerland