

# General Terms and Conditions of Purchase

# TORNOS

## General

1. The validity of orders is conditioned on the order being in a written form. Orders, agreements, supplements and alterations which have been made verbally or by telephone are only binding if confirmed in writing.
2. General commercial terms (delivery, erection conditions etc.) of the contractor are only valid to the extent that they have been expressly in writing accepted by the purchaser.
3. An order confirmation shall be sent to the purchaser within 5 days after receipt of the order. In the event of an order confirmation not being sent, the order shall be construed as having been accepted under the terms and conditions contained therein. The order confirmation shall be accompanied by the required technical documentation.
4. Subcontracting orders to others without the written consent of the purchaser is prohibited.

## Delivery

5. The delivery shall be made in an expert and appropriate manner and with the use of the best-suited materials. It shall comply in particular with the governing official regulations and the pertaining technical standards, codes and specifications.
6. All additional expenses which are incurred due to the non-observance of instructions or non-conforming deliveries shall be borne by the contractor.
7. The delivery quantity must exactly correspond to the quantity ordered. The express agreement of TORNOS must be obtained for partial and advance deliveries. Any and all goods delivered which were not ordered shall be returned or stored at the Supplier's expense.

## Delivery date

8. The delivery dates stated by the purchaser are binding insofar as they are not objected to within 5 days.
9. The delivery date shall be construed as having been adhered to if the delivery is made or the work performed in the correct manner by the scheduled date.
10. Non-adherence to the scheduled dates entitles the purchaser to forego the delivery or work and either to demand compensation for the damage resulting from the non-fulfillment, or to withdraw from the contract.

## Shipping

11. Shipping shall be at the risk of the contractor. Costs for losses or damages incurred during transport shall be borne by the contractor.
12. The arrival clause DDP of INCOTERMS 2020 shall apply.
13. Each consignment shall be accompanied by a delivery note, a copy of which is to be submitted to the purchaser. Each consignment item must be furnished with a label or readily visible marking of another type.
14. All mechanical parts shall be adequately protected against mechanical damage and corrosion, and insulating parts additionally against moisture.
15. Transfer of the right of use of and risk for the goods shall take place after arrival of the goods at the place of performance.

## Acceptance, warranty period, warranties

16. The inspection of the goods by the purchaser is not bound to a specified time limit. However, this inspection is to be carried out as quickly as possible after receipt. If the inspection of the goods reveals no substantial deficiencies, the consignment shall be regarded as having been accepted by the purchaser.
17. The warranty period is 2 years from the day of acceptance or commissioning, but at the most 3 years after receipt of the consignment.
18. In the event of repair work or replacement deliveries having to be made, the warranty period for the repaired or supplied replacement parts begins from the time of acceptance of these parts.
19. During the warranty period the contractor will as quickly as possible and at his own cost and free of charge repair or replace with new parts, if necessary with parts of a different, more suitable design, all parts and equipment which due to defects in design, material, workmanship or assembly of the goods supplied by him, or which in any other way do not fulfill the contractual stipulations.
20. Indirect advantages which ensue for the purchaser as a result of rectification of deficiencies shall not be charged to the account of the purchaser.
21. Raw materials and semi-finished products which in fabrication prove to be deficient shall be replaced free of charge, irrespective of the time that has passed between the time of delivery and the detection of the deficiency.

22. The Supplier shall guarantee TORNOS a supply of spare parts for a period of at least ten years.

## Legal consequences for non-adherence to warranties, liability for damage

23. In the event of the consignment having such substantial deficiencies or if it does not conform to the contract to the extent that it is unusable for the purchaser or that the acceptance cannot be reasonably expected of him, the purchaser may refuse to accept the goods, withdraw from the contract and demand compensation for damage.
24. Should the deficiencies or non-conformances from the contract be less substantial, the purchaser shall allow the contractor a reasonable period of time in which to carry out the required improvements as warranty work. If within this time period the deficiencies are not rectified or the rectification thereof is unsuccessful, the purchaser is entitled to have the warranty work performed himself or by a third part at the cost of the contractor. If instead the purchaser forgoes rectification of the deficiencies, or if it is only possible to rectify a part of the deficiencies, the purchaser is entitled to deduct an amount from the price corresponding to the reduction in value.
25. With the exclusion of consequential damages such as power failure or loss of profits, the contractor is liable for all damages which are caused to the purchaser or to third parties by the goods, by the contractor or by his personnel.

## Period of Limitation

26. The right of the purchaser to submit warranty claims or any other claims due to non-fulfillment or inappropriate fulfillment is limited to one year following the elapse of the warranty period.

## Invoicing and payment

27. The invoices are to be sent immediately following shipping of the goods. Each order is to be invoiced separately and in detail.
28. The agreed payment period shall commence on the date of receipt of the invoice or the date of delivery, whichever is later. Unless otherwise agreed, payment shall be made within 60 days of acceptance of the goods.

## Proprietary right and patent infringements

29. The contractor is liable to the purchaser for all proprietary right and patent infringements from the goods and undertakes to conduct any legal proceedings for the purchaser at his own cost and to save the purchaser harmless against any and all damages.

## Documents, resources and aids

30. Documents (drawings; manufacturing, testing and delivery specifications, etc.) and any other resources and aids provided by TORNOS shall remain the property of TORNOS and are to be marked as such.
31. Unless TORNOS has given its express written consent, the aforementioned documents may not be copied or duplicated or disclosed or provided to third parties, and may be used solely for the fulfilment of the order and not for any other purposes.
32. The Supplier shall retain the documents, resources and aids until these are cancelled or returned. The Supplier undertakes to store and handle the above in a due and proper manner.
33. The Supplier shall be liable for any and all damage to documents, resources or aids which are caused as a result of incorrect storage or use, and for the loss of said documents, resources or aids.

## Disputes, place of jurisdiction

34. **All legal relations shall be governed exclusively by Swiss substantive Law, excluding in particular the United Nations Convention on Contracts for the International Sale of Goods (Vienna Convention of 1980). The place of performance and exclusive jurisdiction shall lie in Moutier, Switzerland.**
35. To the extent that the parties do not agree on an arbitration court, disputes that arise between the purchaser and the contractor shall be handled by the regular courts; the right of appeal to the federal court is reserved.
36. Differences of opinion do not entitle the contractor to interrupt the work and to refuse to perform any work or deliveries pursuant to the contract, nor is the purchaser entitled to withhold payments which have become due.

## Place of performance

37. The place of performance for the goods is the intended destination site.
38. The place of performance for payments is Moutier, Switzerland