

Terms and conditions of purchase of OTIS (hereinafter: "purchaser")

Definitions

- The Order Form, Purchase Order, and Order refer to the contractual document drawn up by the purchaser that specifies the work/services entrusted to the SUPPLIER, and its annexes.

- The Contract refers to the signed Order Form, Purchase Order, or Order, its annexes, and the present Terms of Sale, as a whole.

Art. 1 – General terms

The present general terms apply to contracts signed between the purchaser and the SUPPLIER. Unless the purchaser provides express written consent, the special terms and general terms of the SUPPLIER are not applicable. Any modification to the present general terms requires the express and written agreement of the purchaser.

Art. 2 – Conclusion of the contract

The contract is concluded:

- when the purchaser receives the order confirmation from the SUPPLIER without changes, reservations, or possibly
- the absence of reservations expressed by the SUPPLIER within 3 days of receipt of the order.

Art. 3 – Shipment period and changes to orders

The contractual shipment period is set in the special terms of the order. It expires on the date of receipt, without reservations from the purchaser regarding all of the material or service provision ordered. The purchaser reserves the option of changing the quantities and delivery dates initially agreed upon, unless the SUPPLIER formally expresses disagreement in writing within 3 days of the date that the purchaser informs the SUPPLIER of this. Any shipment arriving earlier than the date set in the specific conditions will only be considered as accepted by the purchaser if the latter provides its prior express written consent.

Art. 4 – Receipt and inspection

In the event that there is delivery of equipment or service provision that does not comply with the contractual specifications, or that exhibits malfunctioning or defects, of any nature or magnitude whatsoever, when they are inspected or commissioned, the purchaser shall have the right to refuse receipt, and according to the preference of and on the expense of the SUPPLIER, to return and cancel the order, to demand a replacement or a compliance upgrade.

The SUPPLIER is responsible for the compliance of the packaging. If need be, the SUPPLIER must specify how to properly remove the auxiliary material or other parts of the packaging.

Art. 5 – Subcontracting – Transferability

The SUPPLIER acts as an independent subcontractor. The SUPPLIER may not transfer or subcontract its rights and obligations stipulated in the contract without the prior written consent of the purchaser. Any recourse to subcontracting that the purchaser authorises or requires, for any reason whatsoever, does not exempt the SUPPLIER in any way from its responsibilities toward the purchaser.

The SUPPLIER commits to requiring its subcontractor to comply with the obligations imposed by the contract.

Art. 6 – Delivery

Unless otherwise indicated by the specific terms, the material shall be delivered to the purchaser, shipping and packing paid.

All deliveries addressed to the purchaser shall be covered by a delivery note specifying the:

- name of the recipient
- package number
- customer order number
- equipment reference
- quantity delivered
- compliance certificate
- SUPPLIER code

This information must also appear on all invoices, packaging, etc. that are sent to the purchaser. Any specific comments regarding the transport method and itinerary must be indicated beforehand. If transport needs to be provided, this measure shall be agreed on beforehand.

Art. 7 – Pricing – Billing – Payment

Unless otherwise indicated, the prices that appear on the order are firm and definitive. These prices include appropriate packaging for the transport, and all the environmentally friendly packaging that is required to keep the material or structures in good condition during storage.

When the SUPPLIER is responsible for assembly, the related costs are included in the delivery fee, unless there is an agreement to the contrary.

The bills are drawn up by the SUPPLIER after delivery. Each bill will mention the indications specified above. Each order line must appear on a billing line. However, billing may not be performed before delivery of the said order line is completed. The purchaser may return any invoices that are incomplete or that do not have an order in due form. Unless specified otherwise, invoices are paid 30 days after the end of the month of receipt at the latest, and from delivery acceptance at the earliest. This time period is calculated from the effective delivery date.

Art. 8 – Warranty

As a specialist, the SUPPLIER guarantees that the delivered good is free of defects, that it fulfils the performance requirements and the specifications that have been indicated and that the purchaser can reasonably expect.

The delivered good must also fulfil the public law prescriptions in force in the place of destination.

The warranty covers 12 months from the receipt or the commissioning of the good, or from the time its utilisation is satisfactory. If longer warranties are applicable as per the Code of Obligations, they apply.

If, during the warranty, all or part of the delivery does not fulfil the above guarantees, the SUPPLIER must immediately eliminate the defects on-site.

When the renovation cannot be fully completed within an acceptable time period for the purchaser, the SUPPLIER must replace the delivery and proceed with the assembly. If the SUPPLIER is not able to eliminate the defects immediately, the purchaser is entitled to remedy this itself, or via a third party, at the expense of the SUPPLIER, or to have the faulty good replaced, at the expense of the SUPPLIER.

The SUPPLIER pays for the potential transport and travel costs related to warranty work.

The buyer may notify the SUPPLIER at any time of any defects, even after the expiration of the warranty period, and is released from the obligation to report immediately as long as his rights to notice of defects are not time-barred.

This right to notice defects at any time also applies to defects that must be repaired immediately to avoid further damage. In the absence of immediate notification of such defect by the buyer, he is obliged to assume the damage that could have been avoided in the event of immediate notice. The buyer's rights due to defects is limited to 5 years from beginning of warranty as defined above.

The SUPPLIER guarantees the services of its subcontractors, as well as its own services.

The SUPPLIER also provides a 12-month warranty that covers exchanges and repair work.

Art. 9 – Liability

For work performed at the headquarters of the purchaser (main headquarters and branches), the SUPPLIER must observe the safety measures prescribed there.

The SUPPLIER is responsible for all its acts, mistakes, omissions, failures, or negligence of any nature whatsoever, as well as for its subcontractors, suppliers, representatives, auxiliaries, employees, and attendants. The SUPPLIER is solely responsible for the material, tools, and equipment to install that the purchaser will have entrusted it with, from the date that the work starts, until their definitive acceptance. As such, the SUPPLIER bears the cost of all replacements and repairs.

The SUPPLIER bears the financial consequences of damage and accidents which may be of any nature, bodily, material or immaterial, direct or indirect, which may affect the purchaser, any member of its staff, its goods, or any third party, including clients or users, due to the performance or non-performance of its services, regardless of the time and place of these damages or accidents. Hence the SUPPLIER guarantees the purchaser against any recourse or action against the purchaser, for as long as the responsibility of the purchaser can be sought.

Art. 10 – Insurance

The SUPPLIER guarantees that it has taken out insurance policies from reputable companies that are adequate for covering the risks it is responsible for, and commits to providing the purchaser with proof of insurance upon its first request. In the event that the insurance policy does not cover a damage, this does not exempt the SUPPLIER from any responsibility whatsoever. Moreover, the SUPPLIER commits to immediately informing the purchaser in writing of any incident, whether it is attributable to it or not, and however serious it may be.

Art. 11 – Confidentiality – Secrecy

Whether it is during the course of the contract or order, or after their expiration, for any reason whatsoever, the SUPPLIER strictly abstains from disclosing technical or commercial information that it may have on the purchaser, the products distributed by it or other purchasers, and its clients. The SUPPLIER ensures the protection of the information contained in the documents that the purchaser has entrusted to it, concerning its business. However, the SUPPLIER may not be held responsible for disclosing this information if it is in the public domain or if the SUPPLIER already was aware of it, or if it obtained the information from other sources in a proper fashion.

The SUPPLIER undertakes to use neither the technology nor expertise of the purchaser to design, manufacture, or build products, material, or components for third parties.

Art. 12 – Late penalty

In the event of a delay in the delivery or performance of the service contractually agreed upon, the purchaser may claim a penalty of 1% of the contract price before tax, per delayed day. The penalty shall be capped at 10% of the contract amount before tax. The penalty is due without prior formal notice, and without prejudice to the additional damages and compensation that the purchaser may claim. The payment of the penalty does not release the SUPPLIER from performing its service.

Art. 13 – Industrial and Intellectual Property

The SUPPLIER commits to not providing information to third parties on the orders that it handles, the drawings, the calculation information, written documents, and generally speaking, any documents and information that are given to it to enable it to perform its services. The SUPPLIER also commits to not using this information for other business. More generally, the SUPPLIER commits to complying with the industrial and intellectual property for the processes whose implementation is entrusted to it.

During the course of the contract, and after its end or cancellation for any reason whatsoever, the SUPPLIER commits to allowing the immediate use of specific processes that may or may not be patented which it owns and which are required for completing the contract.

The SUPPLIER guarantees the purchaser against any recourse in the event that it uses a process that a third party has patented. The SUPPLIER personally ensures that any compensation of the patent holder neither delays nor interrupts the services, and that the liability of the purchaser is not sought.

Art. 14 – Ethics and Compliance

The SUPPLIER commits to complying with the ethics and compliance rules of the OTIS Code of Conduct for suppliers. A copy of these rules is in the annex of the present document (Annex 1). The Code of Conduct is always available on: [otis-supplier-code-of-conduct_english](#)

In particular, the SUPPLIER commits to:

- ensuring full compliance with all the laws and regulations applicable to the operation of its company and to its relationship with the purchaser.
- conducting its business in strict compliance with all the laws and regulations applicable to (a) the export, re-export, and re-transfer of goods, technical data, software, and services; (b) the import of goods; (c) economic sanctions and embargoes; (d) the anti-boycott requirements of the United States.
- to never offer, promise, authorize, or provide, directly or indirectly, anything of value (including business gifts or courtesies) with the intent or effect of inducing anyone (including a customer, employee, or higher tier or sub-tier supplier of the purchaser) to forego their duties and provide unfair business advantage to the purchaser, itself, or other legal entities. This includes facilitating payments (e.g., payments to expedite or secure performance of a routine governmental action like obtaining a visa or customs clearance).
- maintaining account books and records that accurately and completely reflect all transactions related to the business and submissions with the purchaser.

Art. 15 – Certificates

The SUPPLIER certifies that it has fulfilled its tax and social obligations, especially concerning the fight against illegal work. The SUPPLIER must be able to provide proof of this upon the first request of the purchaser.

Article 16 – Force Majeure

If either party is unable to perform all or part of its obligations due to an act of God, it is agreed that the performance of the said portion of its obligations shall be suspended until the Force Majeure event is over. The party that cites the inability to perform must:

- right from the time of the Force Majeure event, inform the other party by any means, of the nature, starting point, and estimated duration of the event, as well as the scope of the domain affected by this event;
- take any appropriate measures to remedy this situation as soon as possible, and in any case, limit the effects. Failing which the other party may claim compensation for the harm caused and/or request compensation.

If the delay caused by a Force Majeure event exceeds two consecutive months, the parties shall meet to examine the modalities for continuing the contract performance, or, depending on the situation, for the cessation of their contractual relationship.

Art. 17 – Termination

The purchaser may terminate the contract at any time, as long as it gives 30 days of advance notice, sent to the SUPPLIER by registered letter. In this event, the purchaser shall pay the SUPPLIER for the performed services that comply with the contract, until the contract termination date.

The purchaser reserves the right to fully or partially terminate the contract in the event that the SUPPLIER does not comply with any of its obligations whatsoever, after a formal notice has gone unheeded for 8 days; or, in the event that the time limit is not set, when the additional time for performing the obligation which has been agreed on beforehand is not observed.

The purchaser may also terminate the contract and refuse the delivery, before the delivery date, if the delay of the SUPPLIER is such that it will not be able to observe the performance date.

The contract may also be terminated if, during the execution, it is possible to forecast that the ordered good will be unusable.

The purchaser may terminate the contract, with immediate effect, on justifiable grounds. Justifiable grounds may be situations where, for example:

- the SUPPLIER violates an obligation it is responsible for in virtue of the contract.
- the SUPPLIER does not comply with its commitments in terms of Health and Safety, and in terms of Ethics and Compliance.
- bankruptcy proceedings are launched against the SUPPLIER, or the SUPPLIER is insolvent.

In the event of immediate termination, the purchaser is released of all contractual obligations toward the SUPPLIER, particularly its obligation to pay, and shall have the right to request compensation for potential damage caused due to the early cancellation of the contract.

The purchaser also reserves the right to terminate the contract, with immediate effect, in the event that the contract does not, or no longer, complies with the laws and regulations that are applicable to the purchaser, particularly regarding the rules of international trade aiming to prohibit the trade of goods or services with certain natural persons or legal entities subject to international economic and/or financial sanctions. No compensation of any kind shall be due in this respect.

Art. 18 – Applicable law and exclusive jurisdiction

All the orders that the purchaser places are subject to Swiss law. The application of the United Nations Convention on Contracts for the International Sale of Goods, dated 11 April 1980 (CISG), is excluded.

For all disputes concerning the contract or the present document, the exclusive jurisdiction is the main headquarters of the purchaser.

Art. 19 – Language

The French version of these terms of sale is the authentic version. In the event that the French version is not clear enough, the German version of these general terms should be used to interpret them.

Art. 20 – Safety

- a) In light of the work/services stipulated in the contract, the SUPPLIER is responsible for applying the legal and regulatory hygiene and safety standards for all of its staff.
- b) The SUPPLIER is also responsible for drawing up and complying with the accident prevention plan for the safety of its salaried staff.
- c) The SUPPLIER thus commits to complying with the legal rules and professional practices in terms of health and safety, in particular:
 - complying with the safety measures of the other companies on the construction site/site;
 - providing its staff with the material and equipment required to comply with these rules;
 - complying with the specific directives of the purchaser, especially regarding discipline on the construction site/site, health and safety conditions, and coordination with the other companies that intervene;
 - generally speaking, using all means required to this end.

The SUPPLIER does not intervene on the installations by manipulating them; if the SUPPLIER needs to manipulate the installation, it must first contact the PURCHASER.

The SUPPLIER guarantees that it has insurance from a reputable provider that provides sufficient coverage of the risks of its civil liability for all damages it could be answerable for.