

General Terms and Conditions of Sale for Spare Parts

1. General

These General Terms and Conditions of Sale shall apply in as much as and so far as the parties have made no other written agreements in individual cases. The contract shall be effective only upon Polymetrix AG's written confirmation of order. Any modifications have to be implemented by annex to be lawfully signed by both parties.

Buyer's general terms and conditions of business do not become part of the contract even if Polymetrix AG accepts payments by Buyer and makes deliveries.

2. Prices

All prices shall be deemed to be net, ex works, in freely available Euros, without any deduction whatsoever.

Any and all additional charges, such as but not limited to, freight charges, insurance premiums, fees for export, transit, import and other permits, as well as for certifications, shall be borne by Buyer.

Likewise, Buyer shall bear all value-added taxes, sales taxes, profit taxes, income taxes, social contributions, registration fees, as well as all other kinds of taxes, fees, levies, custom duties and the like which are levied against Polymetrix AG, its related companies, its factories or its personnel in connection with the contract.

3. Terms of payment

The terms of payment are according to the confirmation of order. The agreed dates of payment shall also be observed by Buyer even if transport, delivery, installation, commissioning or taking over is delayed or prevented due to reasons beyond the control of Polymetrix AG, or if minor parts are missing or if post delivery work, which does not prevent the spare parts from being used, is necessary. The retention of payments or the setting-off against any counter-claims shall be excluded.

If Buyer is overdue with an agreed payment, Polymetrix AG, without prejudice to its legal rights, shall be entitled to suspend the further execution of the contract, to stop the fabrication or to retain the deliveries which are ready for dispatch.

With effect from the agreed due date, Buyer shall pay interest on the outstanding amount at a rate of 4% over the 12-months-LIBOR for the contractual reference currency valid at the due date. If Buyer is overdue with a payment or the establishment of an agreed security for more than two weeks, the entire balance of payment shall be due immediately.

4. Retention of title

Polymetrix AG remains the owner of the delivered spare parts until the complete receipt of the agreed payments. Buyer authorises Polymetrix AG to enter the retention of title in public registers or records and shall be obliged to give any signatures requested.

5. Delivery time

In deviation to the Incoterms agreed upon, the delivery is regarded as completed after handing over of the delivery to the first freight forwarder at the place of dispatch of Polymetrix AG (issuance date of shipping documents). The delivery time shall start as soon as the contract is entered into, the necessary technical documents of Buyer have arrived completely at Polymetrix AG, the agreed payments and securities are given, and the required official permits are granted. The delivery time shall be deemed to be completed when the delivery is ready for dispatch at the factory within such time. Partial deliveries are allowed.

Polymetrix AG is not liable for adherence to delivery times by sub-suppliers selected by Buyer.

The delivery time shall be reasonably extended if events of Force Majeure such as epidemics, acts of God (e.g. earthquake, flooding), mobilisation, war, acts of piracy, revolution, labour conflicts, boycotts, accidents, serious breakdown in the works or official actions prevent the compliance with the delivery date.

The delivery time shall be extended if Buyer changes the original order or is overdue with its contractual obligations, especially if Buyer has delayed the delivery of the necessary documents, has delayed the agreed payments and securities or is overdue with the work to be carried out by Buyer.

6. Packing

Packing shall not be returnable.

7. Risk of loss and insurance

The transfer of risk is made with notification of readiness for dispatch at works. If dispatch is delayed for reasons beyond the control of Polymetrix AG, spare parts are stored and insured at the expense and the risk of Buyer. Transport shall be executed at the expense and risk of Buyer. Buyer shall be responsible for taking insurance of the delivery against risks of any kind. Buyer shall contact its insurer and freight forwarder immediately in case of damages or losses.

8. Drawings technical documentation and Software

Brochures and catalogues are not binding. Data contained in drawings and technical documents are only binding if they are explicitly stipulated as such. Polymetrix AG reserves all rights to the drawings and technical documents delivered by Polymetrix AG. They shall not be made available to third parties. If no order is placed, all drawings and technical documents are to be returned immediately to Polymetrix AG. Polymetrix AG is not obliged to provide Buyer with manufacturing drawings of spare parts.

9. Software

As far as software is included in supply, all rights to that software remain the property of Polymetrix AG respectively its sub-suppliers. The software may only be reproduced or made available to third parties with the prior written consent of Polymetrix AG.

Polymetrix AG grants to Buyer a non-exclusive right to use the delivered software including the relative documentation.

The right is limited to the contractually agreed use. It is forbidden to concede sub-licenses.

Buyer may only reproduce, re-elaborate, translate the software or convert the object code to source code for uses permitted by the law. Buyer must not remove the manufacturer's indications, in particular the copyright references, and must not modify them without explicit prior consent from Polymetrix AG.

10. Installation

Buyer is solely responsible for installation and commissioning of spare parts.

11. Taking-over

Spare parts shall be considered as having been taken over if no substantiated written complaint is made by Buyer within five days from the date of delivery at the place of performance.

12. Warranty and liability for defects

Before expiry of warranty period, Polymetrix AG is responsible to repair or replace, DAP Buyer's plant site (Incoterms 2010), any parts which, before the expiry of the warranty period, are proven to be unusable due to bad materials, faulty design or poor workmanship. The right to cancel the contract or reduce the price is excluded. If a part is still defective, despite a replacement or repair, Polymetrix AG is entitled to take back the defective part against reimbursement of the received payments.

The warranty period is:

- 3 months for electronic components and
- 12 months for mechanical components
- 6 months for unopened consumable materials (such as catalyst and drying material, etc)

after delivery is completed (according to clause 5).

The compliance of Polymetrix AG with its warranty obligations presupposes fulfilment of payment obligations by Buyer in due time.

The granting of a proper replacement or repair under the warranty period does not extend the original warranty period.

Excluded from Polymetrix AG's warranty and liability are all deficiencies beyond the control of Polymetrix AG, especially if resulting from improper storage, normal wear and tear, false information from Buyer, improper maintenance, failure to observe the operating instructions, excessive loading, use of any unsuitable material, influence of chemical or electrolytic action, combination with non-original parts, installation, changes or repairs by Buyer or third parties, events of Force Majeure, etc.

13. Place of performance

Unless otherwise agreed, place of performance for all contractual obligations is Oberbüren/Switzerland.

14. Right of withdrawal

In case of non- or under-performance of contractual obligations by Polymetrix AG, Buyer is entitled to claim supplementary delivery or a price reduction. Buyer does not have the right to withdraw from the contract.

15. Consequential damages

The warranty and liability claims of Buyer are exhaustively covered by these conditions. Polymetrix AG is only liable to compensate Buyer for the costs of remedying defects in the delivered spare part itself.

As long as there are no specific mandatory laws to the contrary, in no case whatsoever shall Buyer be entitled to contractual or tort claims for damages resulting from, but not limited to, loss of production, loss of use, loss of orders, loss of profit and other direct or indirect or consequential damages.

16. Use of Personal Data

In reference to the European General Data Protection Regulation, the Buyer agrees that the Polymetrix AG is entitled to process the Buyer's personal data within the scope of the business relationship between the Parties or to transfer the processing of data to a third party in Switzerland and/or abroad.

Furthermore, the Buyer consents in particular to the Polymetrix AG transmitting the Buyer's personal data to a third party in Switzerland and/or abroad for the purpose of performing and maintaining the business relationship between the Parties.

17. Jurisdiction/applicable law

Any disputes arising out of or in connection with the contract shall be exclusively settled by the Commercial Court of the Canton St. Gallen/Switzerland. Swiss Law shall exclusively apply.