

## General Conditions of Supply

### 1. General

- 1.1 Legal relations between Landis+Gyr and the Purchaser in connection with supplies and/or services of Landis+Gyr (hereinafter referred to as "Supply" or "Supplies") shall be solely governed by the present General Conditions of Supply. The Purchaser's general terms and conditions shall apply only if expressly accepted by Landis+Gyr in writing.
- 1.2 Information contained in advertising prospectuses and catalogues as well as illustrations shall be non-binding. Data contained in technical documents shall be binding only if attached to Landis+Gyr's order confirmation and additionally if explicitly stated to be of guaranteed quality. Such a guarantee shall be valid no longer than till the end of the warranty term.
- 1.3 The contract shall be deemed concluded upon receipt of Landis+Gyr's written acknowledgment stating its acceptance of the order ("order confirmation"). Supplies shall be fully itemized in the order confirmation and its annexes.
- 1.4 Landis+Gyr may transfer the rights and duties arising from the contract to a third party.

### 2. Representations and Warranties

- 2.1 Landis+Gyr warrants that at the date of delivery Supplies shall be new and unused and conform to the regulations, standards and technical specifications applicable in Switzerland and that during the warranty period the Supplies shall be free from defects arising from components or faulty or inferior workmanship.
- 2.2 The warranty period is 12 (twelve) months from the date of manufacturing. Repair or replacement does not extend the original warranty period.
- 2.3 Landis+Gyr makes no representations of warranties or remedies whatsoever (a) with respect to any software which may be supplied by Landis+Gyr; (b) with respect to any goods delivered by Landis+Gyr but manufactured by others; (c) with respect to defects not solely caused by Landis+Gyr; (d) if (i) deviations from the specification of the Supplies are unsubstantial or a defect only insignificantly impairs the use of the respective Supply; and/or (ii) the defect is caused by natural wear and tear, accident or damage arising after the transfer of risk, from faulty or negligent handling, unusual physical or electrical stress, excessive strain, abuse, misuse, neglect, use of unsuitable appurtenances, improper installation or packaging or erection not carried out by Landis+Gyr, inappropriate foundation or particular external influences not explicitly assumed to impact Supplies under the contract, repair or alteration by someone other than Landis+Gyr; and/or (iii) any of the Supplies have been modified by the Purchaser, its customer or end-user after the delivery from Landis+Gyr, or where the serial numbers of warranty date decals or, if applicable, have been removed or altered by the Purchaser, its customer or end-user; and/or (iv) the defect or damage is attributable to faulty design of the Supplies or any part thereof, or if the defect or damage arises from work that has been made in full compliance with the Purchaser's instructions and specifications; (e) with respect to defects or damages attributable to tooling or test equipment provided or owned by the Purchaser or manufactured by Landis+Gyr in accordance with the instructions of the Purchaser as well as with respect to prototypes, pre-production units, test units.
- 2.4 Landis+Gyr is obliged to repair or replace the Supply within the warranty, provided that it has solely caused the Supply to be faulty. With respect to any defects arising from any components, Landis+Gyr's total aggregate liability and warranty shall be limited to the compensation and warranty provided by the respective component suppliers. The Purchaser's rights to redhibition, retreat from contract and termination are excluded.
- 2.5 Supplies which do not conform with Landis+Gyr's warranties shall on Landis+Gyr's sole discretion and sole remedy be repaired, replaced, credited or refunded.
- 2.6 In the event of an epidemic defect, the Parties shall cooperate in order to identify the cause of the epidemic defect and to identify the amount of defected Supplies, as well as to agree upon the corrective actions required. For the purpose of the General Conditions of Supply, an epidemic defect shall mean a defect with an identical root cause, whereby such a defect occurs in more than 5% (five percent) of the total volume of the respective Supplies delivered during the last 6 (six) months, provided that the minimum delivered quantity of defected Supplies subject to the same epidemic defect exceeds 300 (three hundred) pieces during the warranty period. The total aggregate liability of Landis+Gyr for epidemic defects shall not exceed the following: In case of epidemic defects, defective Supplies shall, in Landis+Gyr's sole discretion, cost and expense, and sole remedy, be repaired, replaced, credited or refunded. The liability of Landis+Gyr in the event of an epidemic defect shall in all cases be limited to 3% (three percent) of the last 6 (six) months turnover realized by Landis+Gyr for that Supply.
- 2.7 Defective Supplies shall be sent to Landis+Gyr on demand. As Supplies are replaced, on the request of Landis+Gyr, replaced Supplies shall become the property of Landis+Gyr.

### 3. Liability

- 3.1 Except where explicitly stated in cipher 2 above, all rights and remedies of the Purchaser – for whatever legal reasons – against Landis+Gyr, any of its officers, directors, stockholders, owners, employees, affiliates, agents or any persons with whom it performs its obligations, its subcontractors, suppliers and designees, shall be excluded to the maximum extent permitted by applicable law, especially, but not limited to, claims based on loss or damage of data and/or data media, costs for recovery of lost or damaged data, loss of production, loss of use, loss of orders or profit and other direct, indirect or consequential damages, even if Landis+Gyr has been explicitly advised of the possibility of such damages.
- 3.2 The aforesaid limitations of liability shall not apply if liability is mandatory, for example in accordance with product liability, in cases of intent, gross negligence, loss of life, bodily injury or damage to health or in case of a general product liability.
- 3.3 Enforceable Purchaser claims shall be limited to 5% (five percent) of the Purchaser's payments to Landis+Gyr during the last 6 (six) months for the specific Supply under the respective individual contract. Parties are free to give evidence of lower damage.
- 3.4 Amicable arrangements of a Party with third parties are binding for the other Party only when subject to prior written approval.
- 3.5 If the Purchaser has a claim for damages it shall be time-barred upon an expiration of 12 (twelve) months from accrual. The same shall apply to the Purchaser's claims in connection with actions undertaken to avoid any damages (for example, a callback).

### 4. Third Party Claims

The Parties shall inform each other forthwith if either of them become aware of any claim, suit, action or demand asserted against either or both of them. The Parties hereby agree to reasonably assist the other Party in its defence against such claims, suits, actions or demands. In the case of a third party directly claiming against Landis+Gyr, the Purchaser shall hold harmless and indemnify Landis+Gyr in so far as the claim exceeds agreed warranty obligations and/or maximum limits of liabilities.

### 5. Prices, Contract Adjustment, Terms of Payment

- 5.1 Prices are ex works and exclude packaging; value added tax shall be added at the then applicable rate. All additional costs which are not explicitly included in the purchase price (such as customs duties, charges arising in connection with export, transit, import and other authorization documents as well as certifications) shall be borne by the Purchaser; on Landis+Gyr's demand the Purchaser shall make a freely clearable advance payment for the corresponding amount.
- 5.2 All prices are based on the assumption that the present General Conditions of Supply shall apply exclusively. Otherwise Landis+Gyr shall be entitled to adapt the prices.
- 5.3 Landis+Gyr reserves its right to change prices even without notice and will charge the prices valid on delivery and/or performance respectively. Landis+Gyr shall be entitled to adjust prices and conditions of supply to reflect changed circumstances, especially, but not limited to, in the case of: (a) the Purchaser subsequently demanding modifications or amendments; (b) (i) the time for delivery or performance is extended due to one or more of the reasons mentioned in [Section 2.2](#) or (ii) if the documents and information supplied by the Purchaser are incomplete or (iii) do not conform with the prevailing circumstances; (c) the conditions upon which the price calculations are based (in particular currency parities, government taxes, charges, fees, customs duties, etc., as well as labour or material costs) vary between the submission of the tender and the contractually agreed date for delivery or performance.
- 5.4 If incidents as described in [Section 2.2](#) change the economic importance or the content of the Supply or adversely affect the operation of Landis+Gyr, Landis+Gyr is entitled, according to its own choice, to either withdraw from the contract or demand compensation instead of adapting the prices according to [Section 5.3](#). If Landis+Gyr wants to make use of its right to withdraw from the contract this has to be reported immediately to the Purchaser.
- 5.5 Invoices from Landis+Gyr are immediately payable. Payments shall be made free to the bank account notified by Landis+Gyr without deduction of cash discounts, expenses, government taxes, charges, fees, customs duties and suchlike. Payments are considered made when the amount is at Landis+Gyr's free disposal.

- 5.6 Should the customer be in delay of payment, with the reservation of further claims, Landis+Gyr shall be entitled to: (a) calculate without demand note from due date on interest at the rate of 8 (eight) percentage points over the Swiss national bank discount rate, but not exceeding the maximum permitted by law; (b) retreat from the contract and claim damages.
- 5.7 In case of a suspension of payments or a claim of initiating insolvency proceedings, all claims by Landis+Gyr against the Purchaser deriving from the business relationship – including ancillary claims and damage compensation claims – fall due immediately. Furthermore, Landis+Gyr is entitled to terminate the business relationship according to its own choice in whole or in part without notice and to claim damages.
- 5.8 The Purchaser may only set off, debit, assert alien or claim a right of retention based on counterclaims which are undisputed or are subject to an unappealable legal title judgement.
- 5.9 Landis+Gyr shall be entitled to charge all expenses relating to the tracing of defects or deficiencies to the Purchaser's account if defects or deficiencies notified by the Purchaser are not found and/or cannot be reproduced.

## 6. Delivery Time; Delay

- 6.1 The agreed delivery time shall start only on receipt of a written order by Landis+Gyr, the technical and commercial aspects of which shall have been clarified, all essential technical points must have been settled and provided that all administrative formalities have been completed, especially, but not limited to, those regarding import, export, transit and payment permits. Landis+Gyr shall be entitled to provide partial Supplies.
- 6.2 If a delay is not solely caused by Landis+Gyr, the terms shall be extended appropriately, but at least for the period of delay. This applies particularly, but not limited to: (a) if the information, approval or permit required by Landis+Gyr for performance of the contract is not received on time; (b) if the Purchaser or any third party charged by him are behind schedule with work to be done by them or in default with respect to contractual obligations, particularly if the Purchaser fails to observe the terms of payment; (c) if Landis+Gyr itself has not supplied in time or the delivery has not been carried out properly.
- 6.3 The delivery time or time of performance respectively shall be deemed to have been met if, before expiry of the time limit, (a) Landis+Gyr has notified the Purchaser that it is ready to perform or (b) performance has started or (c) set up/installation of the Supply has started.
- 6.4 If it is legally secured that the Purchaser suffered a loss within the limits of *Section 3* because delivery time or time of performance respectively was not observed by Landis+Gyr and Landis+Gyr is solely accountable for the delay, the Purchaser may require the following provisions for compensation: for the first two (2) weeks of delay there is no claim for damages; if the Purchaser receives a replacement delivery in sufficient time, any claim for damages will cease.

## 7. Passing of Risk

- 7.1 The risk for the Supply shall pass to the Purchaser with the dispatch of the Supply from the plant. On the request and expense of the Purchaser, Landis+Gyr shall ensure that the shipment is according to the Purchaser's instruction against the usual risks of transportation.
- 7.2 If passing of the risk is delayed for reasons not only on the part of Landis+Gyr or if the Purchaser delays acceptance, the risk passes to the Purchaser as per the initially intended scheduled dispatch of Supply. From the onset of the delay of dispatch the Supply will be stored for the account and risk of the Purchaser. Landis+Gyr is entitled, but not obliged, to insure Supply in storage at the expense of the Purchaser. The Purchaser shall only be entitled to the Supply if it has recompensed all costs, fees and charges related to the storage and possible insurance to Landis+Gyr, and has paid Landis+Gyr reasonable compensation for the related expenses.

## 8. Inspection

The Purchaser shall inspect the Supplies within a reasonable period of time commencing on receipt of delivery and shall immediately notify Landis+Gyr in writing of deficiencies, if any. If the Purchaser fails to do this, the Supplies shall be deemed to have been accepted as free from defects, subject to hidden defects, if any.

## 9. Industrial property and copyrights, defects

All intellectual property rights of Landis+Gyr and/or third parties are reserved. Any documents shall be immediately returned to Landis+Gyr upon request including all copies made thereof – regardless of whichever media.

## 10. Force Majeur

The Force-Majeur-Clause of the ICC (International Chamber of Commerce), Paris, in the version applicable at the date of the acceptance of an Order by the Supplier is an integral part of the Parties' agreement.

## 11. Legal compliance, Ethics

The Purchaser shall comply in all locations where it conducts business with all applicable laws and regulations pursuant to language and meaning. In addition to complying with all applicable legal and regulatory requirements, the Purchaser is expected to act in accordance with standards of business conduct and ethical behaviour as expressed in Landis+Gyr's Code of Conduct and to implement the principles of Landis+Gyr's Code of Conduct across its whole business. For Landis+Gyr's Code of Conduct please follow for the version in

- German [http://www.landisgyr.com/files/pdf1/CoC\\_German.pdf](http://www.landisgyr.com/files/pdf1/CoC_German.pdf)
- English [http://www.landisgyr.com/files/pdf1/CoC\\_English.pdf](http://www.landisgyr.com/files/pdf1/CoC_English.pdf)
- Finnish [http://www.landisgyr.com/files/pdf1/CoC\\_Finland.pdf](http://www.landisgyr.com/files/pdf1/CoC_Finland.pdf)
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- Greek [http://www.landisgyr.com/files/pdf1/CoC\\_Greek.pdf](http://www.landisgyr.com/files/pdf1/CoC_Greek.pdf)

## 12. Modification and Amendment

No modification to this Agreement or any other legally relevant declarations from the Parties shall be binding unless in writing and signed by a duly authorised representative of the Party to be bound thereby. This procedure may only be waived by written instrument.

## 13. Severability

If any provision contained in this General Conditions of Supply proves to finally be invalid or impracticable for legal reasons, all other provisions of these General Conditions of Supply shall remain in full force and effect. Parties shall substitute such invalid provision by a valid provision having an economic effect as similar as possible to the original provision and further agree to be bound by the mutually agreed substitute provision.

## 14. INCOTERMS

If not explicitly specified otherwise by the Parties, any trade terms used in the implementation of agreements shall be interpreted according to the International Terms defined by the ICC (International Chamber of Commerce, Paris) INCOTERMS, in the version applicable at the date of the acceptance of the Order by Supplier.

## 15. Applicable Law

All agreements between the Parties shall be governed by Swiss Law without any reference to the conflict of law rules. The application of the United Nations Convention on Contracts for the International Sale of Goods shall be excluded.

## 16. Jurisdiction

The venue for both Parties shall be Zug, Switzerland. However, Landis+Gyr may also bring an action to the Purchaser's place of business.