

## General contractual conditions

**TechnoAlpin SpA**, with head office in Italy - 39100 Bolzano  
(hereinafter: TechnoAlpin)

### Preamble

These general contractual conditions are applied when no other individual written contract is stipulated between the parties. Written individual contracts between the parties shall prevail over these general contractual conditions. Otherwise the following conditions shall apply:

#### 1) General provisions

Contractual execution performed by TechnoAlpin is governed exclusively by the relative offer and by these conditions. Under no circumstances shall contractual conditions indicated by the customer be accepted even if they are expressly and/or specifically expressed. Even the forwarding of a mandate confirmation without express refusal of the contractual conditions on the part of the customer shall not represent recognition of the customer's conditions, which shall be recognised solely by express acceptance in writing on the part of TechnoAlpin. In all other cases, the stipulation of the contract shall imply acceptance of these conditions. Uses and customs in conflict with these general conditions shall not be binding.

#### 2) Stipulation of the contract

A contract shall be considered concluded when a TechnoAlpin offer, in every part of the same, has been fully accepted in writing and when TechnoAlpin has received knowledge of such acceptance. Acceptance not conforming to the offer represents a counter proposal. The forwarding of pricelists or advertising material of any kind does not represent an offer. Drawings, images, indications of models and technical data shall become binding only after the conclusion of the contract and shall in any case remain the property of TechnoAlpin and cannot be used in any way without this latter's written authorisation. Orders transmitted by sales agents must not be considered as accepted until expressly confirmed in writing by TechnoAlpin. Unless otherwise agreed in writing, TechnoAlpin offers shall remain valid for a maximum of 10 (ten) days.

#### 3) Contract subject matter

The contract concerns only the products and/or services included in the TechnoAlpin offer. In particular and unless otherwise agreed in writing, the following works are excluded: excavation and earth moving works, constructions in cement and dividing walls, grills, doors and windows, ventilation systems, lighting and heating of premises, delimitation, fencing, access roads, water connections, transformer cabins, electrical lines to the switch board, assembly works of any kind whatsoever, installation, drains and discharge ducts, authorisation procedures, planning of any type whatsoever, static calculations, reservoir planning, purchase costs for digital maps, taxes, transit and parking costs, architectural planning, construction works with the obligation of daily or weekly presence, obligations of supervision of companies directly charged by the customer to carry out works on building sites, geological and limnology surveys, environmental impact assessment, and any applicable taxes or dues. Unless otherwise agreed by written contract, the availability of a safety coordinator pursuant to law is not included in the services due. TechnoAlpin shall not answer for damages caused to third parties deriving from the above-indicated works.

#### 4) Prices

The prices indicated are always net (excluding VAT), without reductions or discounts, and expressed in Euro (€). The prices are indicated in the offer; otherwise those on the pricelists in effect on the date of delivery shall be applied. For assembly and other services, the general assembly conditions and the TechnoAlpin hourly labour fees in effect at the moment of execution shall be applied. Unless otherwise agreed in writing, merchandise packaging and delivery are not included in the purchase price.

#### 5) Payments, guarantees, reasons for rescission of the contract

The place of fulfilment for all payment obligations is the TechnoAlpin head office of I-39100 Bolzano. Unless otherwise agreed in writing, payment must be made within 14 days from the invoice issue date, by bank transfer to the current account of TechnoAlpin of Bolzano, without transfer charges or expenses. Bills of exchange shall not be accepted. Interest on arrears shall be applied from the date on which payment falls due (from the 15<sup>th</sup> day from invoice issue), without the need for an explicit declaration of arrears, and injunction expenses and all other expenses connected to the recovery of credit of any kind whatsoever shall be due, the right to compensation for any greater damages incurred always holding firm. The sums due for collection, interests, documentation costs, transport costs, expenses sustained for travel and board and lodging, as well as final testing expenses relative to persons and materials, shall fall due immediately without the need for any declaration of arrears. In the case of failure to provide for payment within the indicated terms or the occurrence of circumstances which can compromise the customer's solvency, all credit shall immediately fall due (lapse of term) and TechnoAlpin shall be authorised, at its own unquestionable discretion, to provide

for the pre-established deliveries only on payment in advance, to withdraw from the contract, or to declare the rescission of the entire contract or of single parts of the same. In the case of late payment, the customer must provide adequate guarantees for all sums still due by the transfer of the credit or by the constitution of lien or guarantee in favour of TechnoAlpin. Failure to pay within the term or to fulfil the above-indicated conditions or the opening of an arrangement with creditor/bankruptcy proceedings against the customer shall be a legitimate reason for the rescission or cancellation of the contract with immediate effect (express rescission clause).

#### 6) Ownership rights, transfer of credit

All goods delivered shall remain the exclusive property of TechnoAlpin until complete payment of credit, due on any grounds whatsoever, even if subject to term or conditions, including payment of the balance and even if payments are made according to specific indications (e.g. hire purchase). TechnoAlpin also reserves the additional, unquestionable right of applying, on the merchandise delivered, for the duration of reserved ownership, a specially drawn up declaration of reserved ownership. For any action/omission on the part of the customer in legal breach of reserved ownership, the said customer, depending on the circumstances, shall be sued. The customer may not sell merchandise subject to reserved ownership, without the express written authorisation of TechnoAlpin. If the customer sells merchandise subject to reserved ownership, the credit deriving from the sale shall automatically be transferred to TechnoAlpin (transfer of credit). Until full payment has been made of the merchandise bought, the customer shall remain only the custodian of the same.

#### 7) Rescission/cancellation of contract, obligation of early payment, withdrawal rights

Once rescission/cancellation of the contract has been communicated, the customer is immediately forbidden to make use of the merchandise held and/or bought. In the case of the rescission/cancellation of the contract, the customer must return to TechnoAlpin, to their head office, within one week (seven days), all the merchandise together with relative licences and documents. Expenses for the return of the merchandise shall be borne by the customer. Only after the return of the merchandise and only if due, any payments which the customer may have already made to TechnoAlpin shall be entered in the accounts and returned. The customer shall remain debtor to TechnoAlpin for the counter value of all advantages gained from the merchandise or part of the same. The customer may not offset any sums due by equivalent quantities, unless TechnoAlpin has expressly recognised the counter-credit or unless such counter-credit has been recognised by a final court ruling. If the merchandise is not returned within one week, TechnoAlpin shall be authorised to recover the same at the customer's expense from the place where it is installed or stored. For this purpose, it is understood that on stipulation contract the customer expressly grants TechnoAlpin access to the places where the merchandise is located for collection of the same, simultaneously renouncing every form of protection of possession.

#### 8) Delivery terms

Delivery terms shall be established by TechnoAlpin and shall not be binding unless expressly confirmed in writing by TechnoAlpin. The delivery term shall start only after full clarification of all execution means. Declaration of arrears for late delivery of the merchandise or late assembly shall be possible only if a peremptory term has been expressly agreed in writing. Merchandise shall be understood as delivered when notice of availability for shipment is served. The merchandise indicated on the notice of availability for shipment and which is not promptly collected may be stored by TechnoAlpin at the customer's risk and expense, and shall be entered in the accounts as merchandise delivered ex the TechnoAlpin factory or warehouse. In the case of force majeure, i.e. circumstances beyond anyone's control, regarding TechnoAlpin or its suppliers, TechnoAlpin shall be authorised to defer delivery for the duration of the impediment plus a reasonable term for adaptation, or to withdraw from the part of the contract not yet fulfilled. Circumstances which make delivery of the merchandise significantly more difficult or impossible shall be considered as force majeure.

#### 9) Supply, transfer of risk

Unless otherwise agreed in writing, the sale is EX WORKS TechnoAlpin Italy (EXW), Incoterms 2000. The merchandise, pursuant to art. 8), shall be delivered to the customer at the TechnoAlpin office with simultaneous transfer of the risk to the customer. The licences and documents shall be delivered to the forwarding agent together with the merchandise, or to the customer after payment. Shipment shall take place always at the exclusive risk and hazard of the customer. The customer shall be responsible for obtaining and executing, at its own risk and hazard and expense, all necessary customs documents and procedures for export, import and transit of the merchandise through countries. If transport means have not been expressly agreed with the customer, they shall be determined by TechnoAlpin without the assumption on the latter's part of any responsibility whatsoever. The same condition holds firm for deliveries carried out to the destination by TechnoAlpin by its own transport means or those of a third party. Delivery prices

for carriage to destination presuppose good viability on the respective transport networks. Shipments with negative outcome shall be entirely at the customer's expense. The vehicles used for delivery must have suitable and free access to the merchandise unloading place, which is charged to the customer and must take place without delay. If the customer does not respect such obligations, it must answer for all damages deriving from the same, including any damages to the vehicles of third parties. TechnoAlpin shall not answer for delays due to traffic blocks, adverse weather conditions or any other hindering circumstance. The merchandise is ensured against damages/loss during transport only at the customer's written request and at the expense and on the behalf of the same. TechnoAlpin shall not collect packaging materials, unless the parties have agreed in writing (to be specified on the invoice) that pallets, cases, boards, loading planks, partitions, bars and rods are made available to the customer on payment of a deposit which shall be credited at the moment of the return of the same. This provision shall also hold valid if TechnoAlpin has undertaken in writing to execute assembly and to render other services. Return transports costs are always borne by the Buyer.

#### **10) Assembly and maintenance works, staff training**

Unless otherwise agreed in writing, plant assembly shall be governed by TechnoAlpin's general assembly conditions and shall not be included in the sale price. In particular, assembly and/or services of a large entity always require a separate written transaction. The plant is delivered to the customer on conclusion of assembly (on final testing of the works). Plant maintenance is not include in the sale price. Maintenance shall be carried out by TechnoAlpin personnel and the relative prices shall be established, according to the size of the plant, on each occasion or defined in a specific maintenance contract. Supervision of plant assembly by TechnoAlpin does not imply any assumption on this latter's part of assembly costs. TechnoAlpin shall accept no responsibility whatsoever for damages caused by incorrect assembly or instalment on the part of the customer, third parties or external technicians (see point no. 12). In order to avoid damages, all TechnoAlpin's instructions contained in the instruction manual, the information on the product and in the information booklets must be strictly respected, and the products must not be used or treated in any way other than according to the instructions issued. The customer is responsible for giving sufficient information to any third party buyer or user. Instruction or training courses for customers' employees on the correct use of the plant are not included in the price; they are, however, available, and must be arranged on each occasion pursuant to specific written agreement. Invoicing shall be based on the hourly labour fees for TechnoAlpin personnel. Also the instructions, indications or telephone consultancy relative to the use of the appliances or plant supplied must be strictly respected and shall be debited to the customer by the application of the same fees referred to in the preceding clause.

#### **11) Acceptance of merchandise, responsibility for inspections, defects**

The customer must examine the merchandise within one week of delivery, after which the same shall be considered as accepted. Unless otherwise specified by the general assembly conditions of TechnoAlpin, plants assembled by TechnoAlpin must be examined before acceptance of the same (final testing of the works). Acceptance of the plant shall release TechnoAlpin from all liability for any non-conformity or defects of the same unless purposely concealed by TechnoAlpin. If no written report of any defect has been received within two weeks of the supply of the plant, the plant shall be considered as irrevocably accepted.

#### **12) Guarantee**

TechnoAlpin undertakes, directly or through third party mandated by the same, to eliminate defects which conflict with the contractual terms which compromise the usability of the merchandise, providing they are due to a defect in construction, material or execution. This commitment is binding for defects found within the term of one year from the moment of the transfer of risk (see point 9) and of which the customer was not aware at the moment of the stipulation of the contract. Known defects are also those of which the customer should have become aware pursuant to normal diligence. Guarantee substitution expenses are borne by the customer. Any defects must be reported in writing to TechnoAlpin within the peremptory term of 8 (eight) days from the discovery or from the moment of possibility of recognition of the same (defect report term), with strictly necessary indication of serial number of the goods, of the type and nature of the contractual breach discovered. Defect materials have to be returned with duly completed return delivery note (serial number indication of the goods is mandatory), within 6 months from the moment of defect discovery or from the moment of possibility of recognition of the same. Transport costs for the restitution of the goods are borne by the customer. Once the goods are returned, the claim under guarantee is verified. In case of negative result, the repair/substitution and the transport costs will be invoiced to the customer. Omissions or delays in reporting defects, the omitted serial number indication of the goods, as well as the omitted restitution of the goods within the term of 6 months from the moment of defect discovery or from the moment of possibility of recognition of the same cannot be remedied and

involve lapse of the guarantee right. Sales agents are not authorised to receive reports of defects and cannot commit TechnoAlpin with regard to defects found. The guarantee shall not cover damages caused by:

- unsuitable or incorrect storage, use or working, the use of incorrect or unsuitable materials, incorrect assembly or starting up by the customer or by third parties;
- incorrect or negligent treatment of the objects supplied, especially failure to respect the usage instructions, the manufacturer's recommendations, provisions on accident prevention and other similar provisions;
- excessive stress and/or the use of incorrect equipment or replacement materials;
- the use of the merchandise other than normal use which has not been communicated to TechnoAlpin before stipulation of the contract;
- products and spare parts not produced by TechnoAlpin;
- defects known to the customer or which this latter could not ignore;
- provisions of public law of the State of destination and use, which do not correspond to general standards and of which TechnoAlpin was not informed in writing before the stipulation of the contract;
- defects which appear after the term of 12 (twelve) months after transfer of risk (see point 9).

TechnoAlpin reserves the right to provide guarantees through used, reconditioned materials, with roughly the same age as the replaced parts.

#### **13) Responsibilities**

No request whatsoever may be made for compensation except as pursuant to art. 12, especially for direct/indirect damages, loss of data, loss of earnings or consequential damages. Modifications made by the customer or third parties without the prior written authorisation of TechnoAlpin within the defect report term shall annul any obligation of guarantee or responsibility of TechnoAlpin. TechnoAlpin shall accept no charges for travel and board and lodging expenses sustained by the technicians appointed to carry out repairs, to eliminate defects, to remove and/or refit defective pieces. Such costs shall be debited to the customer with payment falling due immediately.

#### **14) Right of remedial action**

Even if it is effectively ascertained that TechnoAlpin has committed a contractual breach, the same shall always have the right to take determining remedial action within a suitable term. Only if such action has a negative outcome may the customer, pursuant to these general conditions, proceed against TechnoAlpin.

#### **15) Industrial property rights**

All names, titles, trademarks, sketches, drawings, software programs and other documents originating from TechnoAlpin shall remain the exclusive property of the same and may be used and exploited only with the prior explicit written consent of TechnoAlpin. The drawings and documents attached to the offer must be immediately returned at TechnoAlpin's simple request. The software programs shall be subject to the general software usage conditions of TechnoAlpin and the respective licence conditions; unless otherwise agreed in writing, the licence and usage rights bought by the seller regard only a single work station and are not transferable. It is specifically forbidden to carry out debugging, decompiling, disassembly or to attempt in any other way to obtain the software source code, to modify any configuration file, to obtain access to the database in any way, to transfer it to third parties or to decrypt any communication protocol. The preparation of copies is admitted only for security reasons or for archiving purposes. On termination of the usage right, all programs granted, including the documents and any copies, must be immediately returned to TechnoAlpin. If TechnoAlpin supplies objects produced and designed on the basis of the customer's drawings, models, diagrams or other documents, the said customer shall bear the costs of guarantee and responsibility relative to the possible violation or prejudice to the rights of third parties. If the rights of third parties are violated or in the case of any illicit act of any nature, the customer undertakes to relieve and indemnify TechnoAlpin of any request or claim on the part of third parties. All relative costs shall be charged to the customer, and legal expenses must be advanced by the customer.

#### **16) Place of fulfilment, applicable law, arbitration clause**

The place of fulfilment for all obligations and performances agreed to between the parties is the registered head office of TechnoAlpin in Bolzano. Any controversy that may arise between the parties regarding the interpretation, application and/or execution of this contract shall be brought, pursuant to the arbitration regulations of the Arbitration Court of the Chamber of Commerce, Industry, Craft and Agriculture of Bolzano, before the said Arbitration Court. The Arbitration Board shall be composed of three arbitrators, as foreseen by the regulations of the aforesaid Arbitration Court, and its decision shall be final and binding. For the award of the Arbitration Board, the parties shall expressly refer to articles 26 and following of the afore-mentioned arbitration regulations. All agreements between the parties and their successors shall be subject to Italian law.

Regarding any dispute that may arise in the interpretation, application and/or execution of this contract, TechnoAlpin may, having an uncontestable choice, resort to legal proceedings for which the Court of Bolzano shall have exclusive jurisdiction.

**17) Applicability**

Unless otherwise agreed, these general contractual conditions shall be applied, as far as applicable, to all contracts stipulated by TechnoAlpin.

**18) Prevalent version**

The Italian version of these general contractual conditions shall have prevalence.

**19) Final provisions**

If one or more of the above conditions should be ineffective, the remaining provisions shall always hold firm, and the parties shall be held to substitute the ineffective provision with another which is as close as possible to the economic purpose of the ineffective clause.

Bolzano, 10.02.2009