



Light is Vision.

## General Terms of Sale and Delivery (Status: 11/2009)

### 1. Applicability

All offers of products, services and delivery are made exclusively on the basis of the following provisions, insofar as they have not been expressly excluded or changed. Acceptance of our offers, order confirmations and invoices shall constitute acknowledgement of our terms. Our written consent is required in any case for variances.

### 2. Scope of delivery

The order confirmation shall prevail with respect to the scope and execution of the delivery. Order confirmations are normally not sent for deliveries ex warehouse.

### 3. Pricing

All prices apply in the currency shown, ex factory, unpackaged, insured in each case. All other costs (VAT, freight, customs duty, charges and fees etc.) shall be borne by the customer. Special packaging is charged according to effort expended.

The price lists valid at the time of the order shall apply or the prices stated in an offer that is still valid. The prices offered apply only if the characteristics and quantities stated in an offer are ordered without change or reductions.

The prices are calculated on the basis of the costs that apply on the date of the offer. We therefore reserve the right to adjust the prices to new conditions if the circumstances that guided the pricing have changed significantly, even for deliveries that have not yet been made.

### 4. Blanket orders and/or call-off orders

The customer submits a blanket order in which the quantity is based on a maximum of the requirements for one year. The term of the order runs for a maximum of 12 months as of the start of the first delivery date. If no first delivery date is established when the order is issued, the term of the order shall be 12 months as of the date of the order.

If the agreed blanket total quantity is not purchased by the customer by the end of the agreed term, he is then obligated to accept the call-off amount defined in the blanket order as well as any possibly existing reserve stock that VOLPI AG may have, at the agreed unit price. If fixed call-off dates and call-off quantities are agreed against the call-off order, and if the entire lot size was not called off by a call-off date, the customer is obligated to accept the remaining units until the lot size has been met at the agreed unit price.

We reserve the right to make price adjustments based on currency fluctuations, amended customs rates and allocations.

### 5. Technical documents

Technical documents such as sketches, drawings, descriptions, illustrations and such are to be considered only as approximations; we reserve the right to make any changes we deem necessary.

We shall retain intellectual property ownership with respect to all technical documents. They may not be used for manufacturing or provided to third parties. On the other hand, the customer shall also retain intellectual property ownership with respect to documents provided to us by the customer, and they shall not be made available to third parties.

### 6. Terms of payment

If no other written agreement is reached, the following terms shall apply: 30 days net from date of invoice.

For deliveries below an invoice amount of Fr. 100.-, for first deliveries to new customers or for deliveries to customers who from previous experience do not comply with our terms of payment, we reserve the right to deliver the goods on a COD/advance payment basis. The costs thereby incurred shall be borne by the customer. The payment dates must be complied with even if the transport or delivery is delayed or made impossible for reasons for which we are not responsible. The customer may not reduce or withhold payments on the basis of

complaints, claims or counterclaims that we have not acknowledged. The payments must also be made if non-essential parts are missing and this does not make use of the delivery impossible. If the customer does not comply with the payment dates, he shall pay interest on arrears starting from the due date without the need for a special notice. The interest is based on the interest rate on current accounts customary with major Swiss banks plus 1.5%. Payment of interest on arrears does not rescind the obligation to make other payments under the agreement.

If payments have been agreed for special equipment or systems after acceptance, an invoice will be issued for the agreed remaining amount after the date of acceptance. This amount shall be due in any case no later than after 30 days (see also Art. 19.).

### 7. Packaging, shipment and insurance

In the absence of special agreements, packaging and shipping shall be performed in accordance with our best judgement. Delivery shall take place at the risk of the recipient. The customer shall immediately address complaints of damage or loss of the shipped goods directly to the shipping agency prior to acceptance.

### 8. Period of delivery

If no special delivery date is requested, we deliver ex warehouse if possible. Furthermore, agreed and confirmed delivery dates apply subject to the occurrence of unforeseen obstacles.

The period of delivery starts as of the date of our order confirmation. It ends when the respective shipment is ready for shipment. Compliance with the delivery dates is dependent on the customer placing the order having himself met any obligations such as notification of specifications, advance payments etc. in a timely manner.

We shall always make an effort to meet the delivery dates we have indicated and have carefully calculated even if unforeseen circumstances occur. We cannot, however, grant a legal guarantee of such dates.

### 9. Force majeure

For this contractual relationship, force majeure is also considered to be serious circumstances, occurring for no fault of our own, such as total or partial closure of supply factories, mobilisation, outbreak of war, rioting, fire, earthquake, import or export prohibitions or a substantial increase in import duties.

### 10. Retention of title

We retain ownership of the delivery until we have received complete payment. The customer is obligated to assist us in steps taken to protect our property.

### 11. Copyright protection, patent and trademark rights

We retain ownership of trademarks, drawings and projects. Without our express permission, it is not permitted to reproduce them, to use them or pass them on to third parties.

### 12. Transfer of use and risk

Use and risk is transferred to the customer no later than upon dispatch of the delivery from our offices, including when the delivery is postage paid or when the shipping is organised and controlled by us. If the shipment is delayed or made impossible for reasons for which we are not responsible, the delivery will be placed in storage on the customer's account and risk.

### 13. Warranty

All warranty claims will only exist to the extent defined below. All claims over and above this, and in particular compensation claims for damage caused directly or indirectly by the goods or by use of them, will be expressly excluded.

The Seller will only grant the following guarantee for the goods he has delivered if the Purchaser has complied with all the operating and installation instructions and has met all his payment obligations in full.

The Seller will give a warranty for all defects which occur during the guarantee period, if these can be proved to have been caused by poor material or faulty manufacture. The guarantee period will be twelve months, starting on the day when the goods are delivered to the Purchaser.

The Purchaser must inspect the delivery item within 14 days (Switzerland) or 30 days (Export) following receipt and immediately provide written notification of any defects found, giving reasons for his claim. **If he fails to do so, the delivery shall be considered to have been accepted.** The claims of the Purchaser will lapse in any event if they are not enforced within the guarantee period of three months following delivery of the goods. The opening of conciliation proceedings will satisfy requirements in terms of meeting this deadline.

The liability of the Seller will be limited to reparation or replacement of the defective delivery item or to reimbursement of the invoiced value of an item not replaced, at his own option. Under no circumstances will the Seller be liable for disassembly or re-assembly, for any associated travel or transport expenses or for any kinds of damage caused directly or indirectly by the delivery item itself or by use of it. Modifications or repair work performed without the written permission of the Seller or any failure to observe the operating instructions of the Seller will rescind the warranty, unless these are measures which the Purchaser is obliged to undertake as part of his duty to avert, minimize or mitigate loss.

Recommendations in respect of application know-how given to the Purchaser in all conscience will be without obligation and will not constitute grounds for any contractual obligation. They will not discharge the Purchaser from inspecting the goods to ascertain their suitability for the purpose for which they are intended on his own responsibility.

#### **14. Liability**

We must provide delivery in accordance with the agreement and meet our warranty obligation. Any further liability towards the customer or third parties for any damage is excluded.

#### **15. Place of performance and legal venue**

The place of performance for deliveries and payment as well as legal venue for both parties is the registered office of VOLPI AG, Schlieren.

#### **16. Applicable law**

The legal relationship is subject to Swiss law.

**The following alternate or additional provisions apply to special fibre-optic components and optoelectronic products and systems:**

#### **17. Tool costs**

The customer acquires no rights to tools by sharing the cost of tools. We shall retain ownership of the tools.

#### **18. Delivery date**

The delivery date shall be extended at our discretion if we have not been provided with important details needed for executing the order in a timely manner, if they are subsequently changed by the customer or if the contractual obligations or the terms of payment are not met.

In the event of delays in delivery, the customer is not entitled to claim restitution of any kind for consequences of default that could be based on the delay of delivery. Any failure to meet the delivery date also does not give the customer the right to withdraw from the transaction or to annul the order.

#### **19. Acceptance**

For large systems or under a special agreement, we are prepared to conduct acceptance either at our site or at the customer's site. The costs we incur thereby shall be charged according to effort expended. The result of acceptance shall be recorded in writing. Any payments still outstanding shall be due no later than 30 days after acceptance or arranged acceptance (see also under Art.6.).

#### **20. Specially fabricated products**

We reserve the right to deliver up to 10% more or less than the ordered number of fibre-optic components for technical fabrication reasons. For orders that are not based on list or special offer prices, the customer expressly acknowledges the prices based on results.

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