GENERAL SALE CONDITIONS – EQUIPMENT

VULKAN

VULKAN DO BRASIL LTDA.
Rodovia Engenheiro Constâncio Cintra Km 91 | 13252-200 Bairro da Ponte | Itatiba - SP | Brasil

1. PRICE

Unless otherwise specified in the Purchase Order and/or Agreement, the PRODUCT price was established taking into account the tax and social charges in force on the date of the order.

1.1. In case any tax, tax-related or social charges are created or changed, or if any tax exemption or benefit is revoked, direct or indirectly affecting the contract price, up to the invoice issuance date, such contract price shall be proportionally changed.

2. DELIVERY, TRANSPORT AND INSURANCE

Unless otherwise specified in the Purchase Order and/or Agreement, the PRODUCT shall be delivered at VULKAN's manufacturing unit, and PURCHASER shall bear all risks and cargo charges, as well as transport, unloading, removal and insurance expenses. PURCHASER shall also inform us the contact person, telephone and e-mail of the carrier authorized to remove the material.

3. PAYMENT

The failure to pay any amount, resulting from this order, on the date it becomes due, shall subject debtor to the following increases, applicable to the principal outstanding amount:

a) Arrears interest based on the TBF (Basic Financial Rate), or rate that may come to replace it, plus 2% per month, calculated over the updated value, and
b) Legally authorized billing expenses.

3.1. It shall not be allowed payment retentions or reductions, at any title, without VULKAN'S prior written approval.

4. TITLE RETENTION

The sale resulting from this order shall be made with Title Retention in favor of VULKAN, performed after delivery of the PRODUCT to PURCHASER, which shall be terminated after full compliance with the contractual obligations, especially regarding the full payment of the price.

4.1. Until the contractual obligations are fully complied with, the supplied PRODUCT shall remain in PURCHASER'S provisional ownership, as faithful trustee, provided that PURCHASER cannot transfer the PRODUCT from the agreed installation place, without VULKAN'S prior approval. The INVOICES and trade notes issued as a result of the sale shall be an integrant part hereof.

4.2. In case of installment payment, if one of the installments is not paid, the other installments shall be considered overdue and payable.

4.3. In case of installment payment, PURCHASER agrees to sign all proper documents, specially the standard Title Retention Agreement, before delivery of the PRODUCT, bearing all expenses incurred for contract legalization.

5. WARRANTY

VULKAN provides PRODUCT WARRANTY against any material and manpower defects, during the WARRANTY PERIOD. During the WARRANTY PERIOD, VULKAN shall replace or repair, at its exclusive criteria, without any burden to PURCHASER, any PRODUCT part or component that is provably defective, except for the exceptions pointed out in item "5.2, however, the products shall be delivered at VULKAN's manufacturing unit in Itatiba/SP." All parts and components replaced under warranty shall be owned by VULKAN.

5.1. WARRANTY PERIOD

This warranty shall be valid for eighteen (18) months as of the Invoice issuance date, or twelve (12) months after beginning of the operation (WHICHEVER COMES FIRST). The repair, modification or replacement of parts or components, during the WARRANTY PERIOD, shall not extend its original validity term.

5.2. WARRANTY DOES NOT COVER

5.2.1. Replacement or repair of consumable parts such as pads, gaskets, etc;

5.2.2. Charges incurred for the transport of parts, components or PRODUCT, as well as travels and accommodation of the people sent by VULKAN to repair the PRODUCT;

5.2.3. Repair of defects or damages of any nature, when arising out of:

a) Improper use of the PRODUCT;
b) Falls, bumps, exposition to hostile environments and force majeure;
c) Improper supply or use of electric power;
d) Improper storage.

5.3. WARRANTY EXTINCTION

Warranty shall be considered extinct, in case of any of the following events:

5.3.1. Failure to observe the installation, use, maintenance and safety rules contained in the manual following up the PRODUCT;

5.3.2. Introduction of changes to the PRODUCT, use of improper accessories and non-original spare parts;

5.3.3. Technical assistance provided by people not authorized by VULKAN;

5.3.4. Total or partial failure to make due payment for the acquisition of the PRODUCT.

5.4. TECHNICAL ASSISTANCE

5.4.1. If necessary technical assistance, PURCHASER shall inform VULKAN, identifying the PRODUCT by its serial number and, to the extent possible, the origin of the presented product;

5.4.2. VULKAN, depending on the nature of the technical assistance service to be provided, shall choose the proper place for its performance.

5.4.3. Depending on the place where technical assistance is provided, VULKAN shall choose the most proper way to transfer its people, the PRODUCT, components and parts;

5.4.4. When technical assistance is provided at PURCHASER'S establishment, it shall:

a) Arrange for VULKAN'S technical people to have free access to the PRODUCT, so that the technical assistance works are immediately initiated.
b) Make available to VULKAN'S personnel, whenever necessary and free from any charges, auxiliary resources, such as: machines, tools informed in the installation, operation and maintenance manual, konecranes, hoits, lubricants, detergents, client's responsible technician, etc.

5.4.5. PURCHASER shall authorize the services before the start of the work, pointing out the options at their convenience and signing the corresponding field of the Technical Assistance Report. Upon conclusion of the services, PURCHASER must sign the Technical Assistance Report, verifying all performed services, worked hours, replaced parts, etc., recording such verification. Refusal by PURCHASER to sign the Technical Assistance Report does not constitute allegation of non-compliance with the Technical Assistance;

5.4.6. VULKAN's warranty is limited to the repair or replacement of defective parts or components, as stipulated in the previous items.

6. INSTALLATION AND DELIVERY

It is not included in the PRODUCT price, the installation services, technical delivery or technical supervision during installation and, if in the Client's interest, it shall contract VULKAN by means of the telephone (11) 4894-7300.

7. RENEGOTIATION OF THE ORDER

Thirty days after the contracted delivery date, if PURCHASER does not present conditions to receive or remove the PRODUCT, VULKAN reserves the right to renegotiate the price, term and other sale conditions.

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8. CANCELLATION OF THE ORDER

8.1. The failure to comply with the obligations contained in clause 3 – Payment, shall cause cancellation of the purchase order;

8.2. Upon termination described above, or if VULKAN accepts cancellation of the purchase order, required by PURCHASER, it shall loose in favor of VULKAN, the amount paid as down payment.

8.3. If there is no order advancement, purchaser shall indemnify VULKAN for the expenses and already-performed services inherent to manufacturing up to the cancellation date, as well those already contracted and that cannot be canceled, in addition to administrative costs and income margins, proportionally.

9. RESTRICTION ON LIABILITY AND FINES

Any claims for damages, by PURCHASER, related to the manufacture, sale, delivery, resale, repair, replacement or use of equipment, parts or components, is limited to the direct material damages and cannot, in any event, exceed the price assigned to the equipment, components or parts that have caused the claim. VULKAN shall not be liable towards PURCHASER and/or the End User for any lost profits, losses and indirect damages such as, but not limited to, losses of use, production, contracts or products, waste or contamination, increase of installation operating costs, labor costs, damage to image, among others, or for any special or incidental costs, financial or economic loss, whether direct, indirect or consequential, arising from the use of its manufacturing equipment. Notwithstanding any other contrary stipulation in the Purchase Order and/or Agreement, the sum of all contractual fines (whether for arrears or compensation), whether applied jointly and/or individually, payable by VULKAN is limited to ten per cent (10%) of the total supply value, without any taxes.

10. TOLERANCE

Failure to exercise any rights or powers attributed to VULKAN hereunder or acceptance of delays in the compliance of PURCHASER'S obligations or PURCHASER'S default, shall not be understood as novation, nor affect VULKAN'S rights and powers, which may be exercised at any time. Any and all change of technical data previously agreed shall not justify suspension of the services, up to conclusion of the negotiations regarding all commercial implications.

11. JURISDICTION

In order to settle any disputes between PURCHASER and VULKAN resulting from the supply of PRODUCTS, the parties hereby elect the District Courts of the city of Itatiba, in the State of São Paulo, excluding any other, however privileged it may be.