

1. General Provisions

These General Terms and Conditions (GTCs) shall apply to all machine contracts of Avesco AG (Avesco). Amendments to these GTCs or deviations therefrom must be agreed in the main contract. The general terms and conditions of the Customer shall only be valid if accepted in writing by Avesco.

2. Offer

Offers prepared by Avesco shall be binding for 30 days after dispatch. Offers and offer components may not be disclosed to third parties.

3. Documents and Conclusion of Contract

Brochures and catalogues are not binding. Information in plans, drawings, technical documents and data in software shall only be binding where they form an integral part of the contract.

All documents shall remain the property of Avesco or the manufacturer. In particular, they may not be copied or reproduced or disclosed to third parties without Avesco's written consent or used for in-house production of the contract products in question.

Contracts between the parties must be made in writing.

4. Prices

Prices are quoted exclusive of VAT, ex works Langenthal based on "EXW (INCOTERMS 2010)", without packaging, in freely disposable Swiss Francs. All ancillary costs, such as for transportation, packaging, insurance, customs duties, permits and notarised deeds, taxes and levies, shall be borne by the Customer. The prices may be adjusted by Avesco if the wage rates, customs duties, foreign exchange rates or commodity prices change between the date of conclusion of the contract and the delivery of the contractual objects.

5. Delivery period, Delay and Transfer of Risk

The delivery period shall commence in principle upon conclusion of the contract, but no earlier than upon receipt of all information and documents to be provided by the Customer and any advance payments to be made. The delivery period shall be deemed complied with upon notification to the Customer that the item is ready for collection. If the contractual products are not collected within the stipulated timeframe upon notification of readiness for collection without any fault of Avesco, they shall be stored at Avesco's premises or with a third party for the account and at risk of the Customer. Should the delivery deadline not be met, Avesco may assist the Customer by means of a replacement delivery, without any entitlement to compensation for delay.

If no replacement delivery is possible, the delay is shown to be the fault of Avesco and the Customer can provide evidence of loss or damage due to the delay, then compensation for delay of no more than 0.5% for each full week of delay shall be payable, but not more than 5% in total, calculated on the basis of the contractual price for the delayed part of the delivery. No entitlement to compensation for delay shall arise during the first two weeks of the delay. The Customer's claims arising from or in connection with delays in the performance of the contract are expressly and conclusively set out in this clause 6. Any claims for any other and more extensive remedies are excluded.

The transfer of risk shall take place in accordance with INCOTERMS 2010, EXW.

6. Inspection and Acceptance

The Customer must check the contractual objects within 8 days and immediately notify Avesco in writing of any defects. If the Customer fails to do so or uses the contractual objects, the contractual objects shall be deemed to have been accepted.

7. Payment Terms and Default of Payment by the Customer

The following payment terms apply:

- For spare parts deliveries and repairs: 10 days net after invoicing, free of any deductions.
- For purchase contracts concerning machines: 50% upon conclusion of the contract, free of any deductions; 50% within 10 days net after invoicing, free of any deductions.

If the Customer fails to settle due claims in accordance with the parties' contract, it shall immediately be deemed in default. In this case, Avesco shall charge the Customer default interest of 5% from the due date, without prior warning. Avesco expressly reserves the right to withdraw from the contract in the event of late payment and to demand the return of the contractual products from the Customer. If Avesco rescinds the contract, the Customer shall be obliged – in addition to immediately returning the contractual objects – to pay 5% of the agreed price as rental for each month from collection until return of the contractual objects, as well as any wear and tear and damage to the contractual objects, as well as transportation costs for returning the contractual objects. If the losses suffered by Avesco exceed the consideration set out above, the Customer shall compensate Avesco for the additional amount. The foregoing provisions shall apply *mutatis mutandis* to other cases of non-performance of the contract by the Customer.

8. Retention of Title

The contractual objects – even if already collected – shall remain the property of Avesco until the agreed price is paid, together with all additional costs and interest. They may not be pledged, sold or rented prior to that point without Avesco's prior consent. However, liability shall remain with the Customer. Avesco is authorised to register its retention of title on the retention of title register at the Customer's domicile.

9. Insurance

With effect from the date of the transfer of risk, the Customer shall be obliged to take out all necessary insurance for products for which it has not yet paid or not yet fully paid, which shall include, for example, insurance for theft, fire, explosion, damage caused by natural forces, transport, machine and/or comprehensive machinery and assembly insurance. In the event of liability, the Customer hereby assigns its claims to the insurance proceeds to Avesco.

10. Warranty

Avesco warrants to the Customer that the product it is selling shall be free of material, processing and construction defects during the warranty period and shall comply with all Swiss laws and regulations in force at the time the contract was concluded.

The warranty period is 12 months beginning with the acceptance of the contractual object, but shall end no later than 18 months after Avesco's notice of readiness for

dispatch. If ownership to the contractual objects is transferred before the expiry of the time limit, the warranty shall end at the time of the transfer of ownership. The Customer must notify Avesco in writing of the defect within 7 days of the discovery. If a defect occurs, the Customer shall initially be entitled only to rectification by Avesco. The Customer shall provide Avesco with sufficient opportunity to do so. If the rectification is not successful or is only partially successful, the Customer shall have the right to a sale price reduction.

If the Customer carry out repairs or has third parties perform repairs to the contractual object, the Customer shall do so at its own expense and risk. In this case, Avesco's warranty ends immediately.

Avesco shall not be liable in particular for products which have been altered or modified without its consent or for damage of any kind which is due to normal wear and tear (in particular to chassis parts, tyres, V-belts and tooth belts, brake pads, filters, seals, wiper blades, fuses, upholstery, belts and varnishes), use of non-original spare parts, damage (especially mirrors, glass, lamps, bulbs, hydraulic hoses and lines), incorrect or violent handling, excessive use, improper operation and maintenance, defective checks or failure to perform checks, freezing, use of unsuitable operating materials or lubricants not specified by the manufacturer (including additives and oils), accidents or *force majeure* and the like.

For accessories (e.g. digging tools, quick couplers, power tilts, tilt rotators, scissors, plates, milling, drillers, hammers, teeth, forks, rippers, signs, but also special constructions, such as modified booms, sub-cars, electrical power trains including batteries, but also machine control systems, radio remote controls, cameras and lighting which were not configured and installed in the manufacturer's plant), Avesco shall only be liable to the extent of the warranty obligations of the manufacturer in question, but such warranty shall apply for a minimum of 12 months.

The warranty for accessories is independent of the warranty for the construction machine. Any extension of the warranty period for the construction machine shall thus have no effect on the warranty period for accessories. Any extension of the latter must be agreed separately.

The Customer's warranty claims are expressly and conclusively set out in this clause 10. The parties hereby expressly exclude any other or more extensive claims (in particular any claims for damages).

11. Failure to Duly Perform Contract

In all cases of failure to duly perform contract not expressly governed by these GTCs, the Customer shall first set Avesco a reasonable grace period.

12. Liability

Avesco shall only be liable for damages which are directly caused through its own fault. Liability for purely pecuniary losses, direct and indirect loss or damage as well as for consequential loss or damages, including loss of revenue or profits, downtime, capital costs or costs for the acquisition or lease of substitute products or services is hereby excluded to the extent permitted by law. Avesco shall not be liable for any claims arising from the impairment (e.g. altering, deleting or rendering unusable) of software or other data processed by computers. Neither party shall be liable to the other for non-performance or delayed performance of its obligations in the event of *force majeure*. If an interruption is caused by *force majeure*, the contractual term and corresponding contractual deadlines shall be extended by the period corresponding to the period of the interruption.

Avesco's maximum overall liability shall be limited to the contract value.

The Customer's claims are expressly and conclusively governed by what is set out in the main contract and these GTCs. Any claims for any other and more extensive remedies are excluded.

13. Data Protection

In compliance with the applicable statutory provisions, Avesco AG is entitled to process the customer's personal and company data in the course of the business relationship and, where necessary to fulfil the contract, to disclose this data to third parties. We will assume that you also consent to the sharing of data with authorities or companies if and insofar as this is for credit referencing purposes or to assert claims. The customer may use personal and company data obtained from Avesco only for and in respect of the fulfilment of the contract; the customer is not permitted to otherwise process this data.

14. Machine Data

Machine data are data automatically generated by a machine regarding its condition, location, function processes, operation and all other machine internal processes that are electronically recorded and digitally processed, stored and transmitted.

The product is equipped with a data transmitter as standard. It continuously sends machine data to a data server. Avesco is the owner of all rights to the machine data. In particular, Avesco has the right, unlimited in time and place, to store, process and commercialise the machine data.

Where machine data is personal data (e.g. login data), the data protection clause applies exclusively to such data.

15. Right of Recourse

Avesco shall have a right of recourse against the Customer if persons or auxiliary persons are injured or if third party property is damaged and claims based on such facts are asserted against Avesco.

16. Applicable Law and Place of Jurisdiction

All disputes arising in connection with or arising out of the contract shall be governed by Swiss substantive law. The parties hereby exclude any application of conflict of law provisions and the provisions of the United Nations Convention on Contracts for the International Sale of Goods. Sole jurisdiction shall be vested in the courts located at Avesco's main registered office.