

# SKF General Conditions of Sale/Service

VALID FROM 2016-09 Ver. 1

## 1. Preamble

- 1.1 These General Conditions shall apply to all Contracts entered into by SKF in respect of sales of Products and the provision of Services.
- 1.2 When the General Conditions apply to a specific contract, modifications of, or deviations from them must be agreed in writing by authorized representatives of SKF and the Customer.
- 1.3 Wherever these General Conditions use the term "in writing", this shall mean by document signed by the parties, or by letter, fax, electronic mail and by such other means as is agreed by the parties.

## 2. Definitions

- 2.1 In these General Conditions:
  - 2.1.1 Contract means a legally binding agreement between SKF and the Customer for the provision of the Services and the sale of Products and which shall include any tender quotation or agreement provided by SKF to the Customer and any Order together with these General Conditions.
  - 2.1.2 Customer means the person, company or body to whom SKF provides Services and Products pursuant to a Contract.
  - 2.1.3 Deliverables is that part of the Services that consists of written advice, reports, results, designs, pictures or graphics of any form.
  - 2.1.4 Order means any order accepted by SKF from the Customer for the provision of the Services and the sale of Products.
  - 2.1.5 Products mean the object(s) to be supplied to the Customer pursuant to the Contract.
  - 2.1.6 Services means services of engineering advice and/or design services (with or without input from the Customer) or other professional services in connection therewith supplied under to the Customer pursuant to the Contract.
  - 2.1.7 SKF means SKF Asia Pacific Pte Ltd.

## 3. Customer Acknowledgement

- 3.1 The Customer acknowledges that:
  - 3.1.1 all information and data contained in general Product and/or Services documentation and price lists, whether in electronic or any other form, are binding only to the extent that they are by reference expressly included in the Contract.
  - 3.1.2 all information and data supplied or to be supplied to SKF by or on behalf of the Customer in connection with the Product and Services is or will be accurate and complete and supplied in sufficient time to allow SKF to provide the Product and Services.
  - 3.1.3 SKF shall sell and the Customer shall purchase the Products and Services in accordance with the Contract to the exclusion of any other terms subject to which any such quotation is accepted or purported to be accepted, or any such order is made or purported to be made, by the Customer.
  - 3.1.4 the purpose for which it wishes the Services to be carried out and the Products to be supplied and the use it intends to make of the results of the Services and the Products are specifically as described in the Contract and that SKF shall incur no liability or obligation to the Customer arising out of any other use or application thereof by the Customer.
  - 3.1.5 any materials supplied to SKF by or on behalf of the Customer shall be suitable for the purposes of the Contract and shall be the unencumbered property of SKF.
  - 3.1.6 the Customer shall be responsible for and shall take all necessary precautions to secure the safety of all personnel of SKF, its agents, representatives or subcontractors who have occasion in connection with the provision of the Services and the supply of the Products to visit any premises owned or made available by the Customer.
  - 3.1.7 Customer shall at its own expense retain duplicate copies of all materials supplied to SKF and insure against its accidental loss or damage. SKF shall have no liability for any such loss or damage, howsoever caused.
  - 3.1.8 SKF employees or agents are not authorized to make any representations concerning the Services and Products unless confirmed by SKF in writing. In entering into the Contract the Customer acknowledges that it does not rely on any such representations which are not so confirmed, but nothing in these General Conditions affects the liability of either party for fraudulent misrepresentation.
  - 3.1.9 any advice or recommendation given by SKF or its employees or agents to the Customer or its employees or agents as to the storage, application or use of the Products and the Services which is not confirmed in writing by SKF is followed or acted upon entirely at the Customers own risk, and accordingly SKF shall not be liable for any such advice or recommendation which is not so confirmed.
  - 3.1.10 any typographical, clerical or other error or omission in any sales literature, quotation, price list, acceptance of offer, invoice or other document or information issued by SKF shall be subject to correction without any liability on the part of SKF.

## 4. Drawings and Descriptions

- 4.1 All drawings and technical documents relating to the Services and the Products or their manufacture submitted by one party to the other, prior or subsequent to the formation of the Contract, shall remain the property of the submitting party.
- 4.2 Drawings, technical documents or other technical information received by one party shall not, without the consent of the submitting party, be used for any other purpose than that for which they were provided. They may not, without the consent of the submitting party, otherwise be used or copied, reproduced, transmitted or communicated to a third party.
- 4.3 SKF shall, not later than at the date of delivery of the Products, provide free of charge information and drawings which are necessary to permit the Customer to erect, commission, operate and maintain the

Products. Such information and drawings shall be supplied in the number of copies agreed upon or at least one copy of each.

- 4.4 SKF shall not be obliged to provide manufacturing drawings for the Product or for spare parts.
- 4.5 The quantity, quality and description of the Products and the Services and any specification for them shall be as set out in SKF's quotation or the Customer's order if accepted by SKF.
- 4.6 SKF reserves the right to make any changes in the specification of the Products or Services which are required to conform to any applicable statutory or other legal requirements or, where the Products or Services are to be supplied to the Customers specification, which do not materially affect their quality or performance.
- 4.7 No Order may be cancelled by the Customer except with the agreement in writing of SKF and on terms that the Customer shall indemnify SKF in full against all loss, costs (including the cost of all labour and materials used), damages, charges and expenses incurred by SKF as a result of cancellation.

## **5. Delivery. Passing of Risk**

- 5.1 Unless otherwise specified, delivery and passing of risk in the Products and any Deliverables is effected EXW, in accordance with the latest version of "INCOTERMS".

## **6. Time for Delivery & the Consequences of Delay**

- 6.1 If the parties, instead of specifying the date for delivery, have specified a period of time on the expiry of which delivery shall take place, such period shall start to run as soon as all of the following have occurred:
  - 6.1.1 the Contract is entered into;
  - 6.1.2 all official formalities necessary to allow for the Contract to be completed have been completed;
  - 6.1.3 payments due at the formation of the Contract have been made;
  - 6.1.4 any agreed securities have been given; and
  - 6.1.5 any other preconditions stipulated in writing have been fulfilled.
- 6.2 Any dates quoted for delivery of the Products and Services are approximate only and SKF shall not be liable for any delay in delivery of the Products and Services however caused. Time for delivery shall not be of the essence of the Contract unless previously agreed by SKF in writing. The Products and Services may be delivered by SKF in advance of the quoted delivery date on giving reasonable notice to the Customer.
- 6.3 Where the Products are to be delivered in instalments, each delivery shall constitute a separate contract and failure by SKF to deliver any one or more of the instalments in accordance with these General Conditions or any claim by the Customer in respect of any one or more instalments shall not entitle the Customer to treat the Contract as a whole as repudiated.
- 6.4 If SKF fails to deliver the Products and Services (or any instalment) for any reason other than any cause beyond SKF's reasonable control or the Customer's fault, and SKF is accordingly liable to the Customer, SKF's liability shall be limited to the excess (if any) of the cost to the Customer (in the cheapest available market) of similar goods or services to replace those not delivered over the price of the Products or Services.
- 6.5 If the Customer fails to take delivery of the Products or fails to give SKF adequate delivery instructions at the time stated for delivery (otherwise than by reason of any cause beyond the Customer's reasonable control or by reason of SKF's fault) then, without limiting any other right or remedy available to SKF, SKF may:
  - 6.5.1 store the Products until actual delivery and charge the Customer for the reasonable costs (including insurance) of storage; or
  - 6.5.2 sell the Products at the best price readily obtainable and (after deducting all reasonable storage and selling expenses) account to the Customer for the excess over the price under the Contract or charge the Customer for any shortfall below the price under the Contract.

## **7. Charges and Payment**

- 7.1 The Customer shall pay SKF's standard charges and any additional sums which are agreed between SKF and the Customer for the provision of the Services which are required as a result of the Customer's instructions or lack of instructions, the inaccuracy of any information provided by the Customer or any other cause attributable to the Customer.
- 7.2 The price for the Products shall be SKF's quoted price or, where no price has been quoted (or a quoted price is no longer valid), the price listed in SKF's published price list current at the date of acceptance of the order.
- 7.3 All prices quoted in quotations or tenders are valid for 30 days only, after which time they may be altered by SKF without giving notice to the Customer.
- 7.4 In addition, SKF reserves the right to vary its standard charges and prices:
  - 7.4.1 in relation to Products, by giving written notice to the Customer at any time before delivery, to increase the price of the Products to reflect any increase in the cost to SKF which is due to any factor beyond the control of SKF (such as, without limitation, any foreign exchange fluctuation, currency regulation, alteration of duties, significant increase in the costs of labour, materials or other costs of manufacture), any change in delivery dates, quantities or specifications for the Products which is requested by the Customer, or any delay caused by any instructions of the Customer or failure of the Customer to give SKF adequate information or instructions.
  - 7.4.2 in relation to Services, by giving not less than one month's written notice to the Customer.
- 7.5 All charges and prices quoted to the Customer for the provision of the Services and the supply of Products are exclusive of any Goods and Services Tax, for which the Customer shall be additionally liable at the applicable rate from time to time.
- 7.6 The Customer shall, unless SKF has expressly agreed to credit terms, pay cash in full with each Order. Unless otherwise agreed, any credit given to the Customer is given on the following conditions set out in clause 7.6.1.
  - 7.6.1 If SKF allows the Customer credit it shall be on the basis that the Customer shall pay all invoices (without any deduction) on or before the 25th day of the month following the month in which the invoice is issued and SKF shall be entitled to recover the price, notwithstanding that delivery may not have taken place and

- the property in the Products or Deliverables has not passed to the Customer. The time of payment of the price shall be of the essence of the Contract. Receipts for payment will be issued only upon request.
- 7.7 Whatever the means of payment used, payment shall not be deemed to have been effected before SKF's account has been fully and irrevocably credited.
  - 7.8 If the Customer fails to make any payment on the due date then, without limiting any other right or remedy available to SKF, SKF may:
    - 7.8.1 cancel the Contract or suspend any further deliveries to the Customer;
    - 7.8.2 appropriate any payment made by the Customer to such of the Products and Services (or the Products/Services supplied under any other Contract between SKF and the Customer) as SKF may think fit (notwithstanding any purported appropriation by the Customer).
  - 7.9 If the Customer has not paid the amount due within three months SKF shall be entitled to terminate the Contract by notice in writing to the Customer and to claim compensation for the loss it has incurred.
  - 7.10 The cost of pallets and returnable containers will be charged to the Customer in addition to the price of the Products and Services but appropriate credit will be given to the Customer provided they are returned undamaged to SKF before the due payment date.

## **8. Retention of Title**

- 8.1 All Products and Deliverables shall remain the property of SKF until paid for in full.
- 8.2 The Customer shall at the request of SKF assist in taking any measures necessary to protect SKF's title to the Product and Deliverables.
- 8.3 The retention of title shall not affect the passing of risk under Clause 5.
- 8.4 Until such time as the property in the Products and Deliverables passes to the Customer, the Customer shall hold the Products and Deliverables as SKF's fiduciary agent and bailee, and shall keep the Products and Deliverables separate from those of the Customer and third parties and properly stored, protected and insured and identified as SKF's property, but the Customer may resell or use the Products and Services in the ordinary course of its business.
- 8.5 Until such time as the property in the Products and Deliverables passes to the Customer (and provided the Products and Deliverables are still in existence and have not in the case of Products been resold, SKF may at any time require the Customer to deliver the Products and Deliverables to SKF and, if the Customer fails to do so forthwith, enter on any premises of the Customer or any third party where the Products and Deliverables are stored and repossess the Products and Deliverables.
- 8.6 The Customer shall not be entitled to pledge or in any way charge by way of security for any indebtedness any of the Products or Deliverables which remain the property of SKF, but if the Customer does so all monies owing by the Customer to SKF shall (without limiting any other right or remedy of SKF) forthwith become due and payable.

## **9. Warranty and Liability**

- 9.1 SKF undertakes to use reasonable skill and care in the provision of the Services in accordance with the Contract.
- 9.2 9.2. SKF shall remedy any defect or nonconformity resulting from faulty design, materials or workmanship (hereinafter termed "Defect(s)" in respect of the Products.)
- 9.3 9.3. In the event that the Customer proves to the reasonable satisfaction of SKF that SKF has failed to use reasonable skill and care in the provision of the Services SKF shall, if requested to do so by the Customer, perform the Services to the required standard.
- 9.4 SKF shall have no liability for:
  - 9.4.1 Defects in any part of a Product for more than one year from the beginning of the period given in Clause 9.5;
  - 9.4.2 any loss, damage, costs, expenses or other claims for compensation arising from any material or instruction supplied by the Customer which is incomplete, incorrect, inaccurate, illegible, out of sequence or in the wrong form, or arising from its late arrival or non-arrival, or any other fault of the Customer;
  - 9.4.3 unless (in the case of Services) full details of the alleged breach or Defect have been provided to SKF not later than 12 months after the supply of the relevant Services the Customer acknowledges that it will (prior to making any claim against SKF for breach of the Contract in respect of Services) notify SKF in writing of the alleged breach and provide SKF with a reasonable opportunity to rectify the breach);
  - 9.4.4 Defects arising out of materials provided, or a design stipulated or specified by the Customer.
  - 9.4.5 Defects in the Products arising from any drawing, design or specification supplied by the Customer;
  - 9.4.6 Defects arising from fair wear and tear, wilful damage, negligence, abnormal working conditions, failure to follow SKF's instructions, misuse or alteration or repair of the Products without SKF's approval;
  - 9.4.7 the Products and Services if the total price has not been paid by the due date for payment; and
  - 9.4.8 parts, materials or equipment not manufactured by SKF, in respect of which the Customer shall only be entitled to the benefit of any such warranty or guarantee as is given by the manufacturer to SKF.
- 9.5 SKF's liability in respect of defects is limited to Defects which appear within a period of one year from delivery of the Products. If the daily use of the Product exceeds that which is agreed in the Contract or for which the Product is designed, this period shall be reduced proportionately.
- 9.6 When a Defect in a part of the Product has been remedied, SKF shall be liable for Defects in the repaired or replaced part under the same terms and conditions as those applicable to the original Product for a period of one year. For the remaining parts of the Product the period mentioned in Clause 9.5 shall be extended only by a period equal to the period during which the Product has been out of operation as a result of the Defect.
- 9.7 In respect of all Defects discovered by the Customer:
  - 9.7.1 the Customer shall without undue delay notify SKF in writing of any Defect which appears. Such notice shall contain a description of the Defect and shall under no circumstance be given later than two weeks after the expiry of the period given in Clause 9.5.
  - 9.7.2 if the Customer fails to notify SKF in writing of a Defect within the time limits set out in Clause 9.7.1, it loses its right to have the Defect remedied.

- 9.7.3 where the Defect is such that it may cause damage, the Customer shall immediately inform SKF in writing and the Customer shall bear the risk of damage resulting from its failure to so notify.
- 9.8 On receipt of the notice under Clause 9.7:
- 9.8.1 SKF shall remedy the Defect without undue delay and at its own cost as stipulated in this Clause 9.
- 9.8.2 repair shall be carried out at the place where the Product is located unless SKF deems it appropriate that the defective part or the Product is returned to it for repair or replacement.
- 9.8.3 SKF is obliged to carry out dismantling and re-installation of the part if this requires special knowledge but if such special knowledge is not required, SKF has fulfilled its obligations in respect of the Defect when it delivers to the Customer a duly repaired or replaced part.
- 9.9 If the Customer has given such notice as mentioned in Clause 9.7 and no Defect is found for which SKF is liable, SKF shall be entitled to compensation for the costs it has incurred as result of the notice.
- 9.10 The Customer shall at his own expense arrange for any dismantling and reassembly of equipment other than the Product, to the extent that this is necessary to remedy the Defect.
- 9.11 Unless otherwise agreed, necessary transport of the Product and/or parts thereof to and from SKF in connection with the remedying of Defects for which SKF is liable shall be at the risk and expense SKF and the Customer shall follow SKF's instructions regarding such transport.
- 9.12 Unless otherwise agreed, the Customer shall bear any additional costs which SKF incurs for repair, dismantling, installation and transport as a result of the Product being located in a place other than the destination stated in the Contract or, if no destination is stated, the place of delivery.
- 9.13 Defective parts which have been replaced shall be made available to SKF and shall remain its property.
- 9.14 If, within a reasonable time, SKF does not fulfil its obligations under Clause 9.8:
- 9.14.1 the Customer may by notice in writing fix a final time for completion of SKF's obligations.
- 9.14.2 if SKF fails to fulfil its obligations within such final time, the Customer may himself undertake or employ a third party to undertake necessary remedial works at the risk and expense of SKF.
- 9.14.3 where successful remedial works have been undertaken by the Customer or a third party, reimbursement by SKF of the reasonable costs incurred by the Customer shall be in full settlement of SKF's liabilities for the said Defect.
- 9.15 Subject as expressly provided in these General Conditions, all warranties, conditions or other terms implied by statute or common law are excluded to the fullest extent permitted by the law.
- 9.16 **Except in respect of death or personal injury caused by SKF's negligence, SKF shall not be liable to the Customer by reason of any representation (unless fraudulent), or any implied warranty, condition or other term, or any duty at common law, or under any express terms of the Contract, for loss of profit or for any indirect, special or consequential loss or damage, costs, expenses or other claims for compensation whatsoever (whether caused by the negligence of SKF, its employees or agents or otherwise) which arise out of or in connection with the supply of the Products or the provision of the Services or their use or resale by the Customer and the entire liability of SKF under or in connection with the Contract shall not exceed the price payable to SKF pursuant to the Contract.**

## 10 Indemnity

- 10.1 The Customer acknowledges and shall indemnify and hold SKF harmless against:
  - 10.1.1 any losses, claims, costs and expenses arising from a third party as a result of the use or disposal of Products by the Customer; and
  - 10.1.2 any liabilities, losses, damages, claims, costs and expenses that SKF incurs as a result of any loss of or damage to any property (including that of SKF) or injury to or death of any person (including any employee of SKF) that arises out of any act or omission (whether negligent or not) of the Customer, its employees, agents or sub-contractors in connection with the provision of the Services and supply of the Products; and
  - 10.1.3 any liabilities, losses, damages, claims, costs and expenses that SKF may incur as a result of any use or application of or reliance placed upon the Services and/or the results or findings thereof and/or the Deliverables or in respect of the use of any equipment plant building construction or structure supplied developed or built in connection therewith or as a result of the Services or the Deliverables by any third party; and
  - 10.1.4 any liabilities, losses, damages, claims, costs and expenses that SKF may incur as a result from the use of a drawing, design or specification supplied by the Customer which infringes the patent, copyright, design, trademark or other industrial or intellectual property rights of any other person; and
  - 10.1.5 if the Products are to be manufactured or any process is to be applied to the Products by SKF in accordance with a specification submitted by the Customer all losses, damages, costs and expenses awarded against or incurred by SKF in connection with, or paid or agreed to be paid by SKF in settlement of any claim for infringement of any patent, copyright, design, trade mark or other industrial or intellectual property rights of any other person which results from SKF's use of the Customer's specification.

## 11 Intellectual Property

- 13.1 Subject only to the provisions of Clause 11.2 SKF shall retain control and ownership of all inventions, designs and copyright, or other intellectual property owned, controlled or possessed by SKF prior to the Contract and shall retain ownership of all inventions, designs and copyright, or other intellectual property arising from the supply of the Products or the provision of the Services and shall be entitled to apply for and obtain in SKF's own name, patent, design rights or any other protection relating thereto without reference to the Customer.
- 13.2 Upon payment of all sums due to SKF, SKF will grant a non-exclusive royalty free worldwide licence to use the Deliverables for the purpose as set out in the Order. The Customer shall be entitled to make copies of the Deliverables for the Customer's own internal use for such purposes provided that the copyright of SKF in the Deliverables is acknowledged on such copies.
- 13.3 The Customer warrants that use by SKF of all information and data supplied by or on behalf of the Customer shall not cause SKF to infringe any patent, registered design, trademark, copyright, design right or similar right protected by law.

- 13.4 If a claim is made against the Customer that the Products infringe or that their use or resale infringes the patent, copyright, design, trademark or other industrial or intellectual property rights of any other person, then unless the claim arises from the use of a drawing, design or specification supplied by the Customer, SKF shall indemnify the Customer against all loss, damages, costs and expenses awarded against or incurred by the Customer in connection with the claim, or paid or agreed to be paid by the Customer in settlement of the claim.

## **12 Termination**

- 12.1 Either party may (without limiting any other remedy) at any time terminate the Contract without any liability to the other party by giving written notice to the other if the other party commits any breach of the Contract and (if capable of remedy) fails to remedy the breach within 30 days after being required by written notice to do so.
- 12.2 SKF may (without limiting any other remedy) at any time terminate the Contract or suspend any further deliveries under the Contract without any liability to the Customer by giving written notice to the Customer if:
- 12.2.1 the Customer makes a voluntary arrangement with its creditors or (being an individual or firm) becomes bankrupt or (being a company) becomes subject to an administration order or goes into liquidation (otherwise than for the purposes of amalgamation or reconstruction);
- 12.2.2 a receiver is appointed, of any of the property or assets of the Customer;
- 12.2.3 the Customer ceases, or threatens to cease, to carry on business; or
- 12.2.4 SKF reasonably apprehends that any of the events mentioned above is about to occur in relation to the Customer and notifies the Customer accordingly.
- 12.3 If the Contract is terminated, suspended or cancelled then if the Products have been delivered or Services provided but not paid for, the price/charge shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary.
- 12.4 Any termination of the Contract shall not affect any rights either party may have in respect of any pre-existing breach of contract.

## **13 Force Majeure**

- 13.1 Either party shall be entitled to suspend performance of its obligations under the Contract to the extent that such performance is impeded or made unreasonably onerous by any of the following circumstances: industrial disputes and any other circumstance beyond the control of the parties such as fire, war, act of God, riot, rebellion, sabotage, disorder, explosion, abnormal weather conditions, flood, tempest, government action, office strikes, lockouts, acts, restrictions, regulations, prohibitions or byelaws of any kind, extensive military mobilization, insurrection, requisition, seizure, embargo, restrictions in the use of power, shortage of raw materials or fuel, shortage of labour, breakdown or partial failure of plant, machinery or apparatus including computer equipment or software and defects or delays in deliveries by sub-contractors caused by any such circumstance referred to in this Clause 13 (being circumstances of "Force Majeure").
- 13.2 A circumstance referred to in this Clause whether occurring prior to or after the formation of the Contract shall give a right to suspension only if its effect on the performance of the Contract could not be foreseen at the time of the formation of the Contract. Further, the time for the carrying out of the Services shall be extended for a reasonable period having regard to the effect of the delaying cause thereon.
- 13.3 The party claiming to be affected by Force Majeure shall notify the other party in writing without delay on the intervention and on the cessation of such circumstance.
- 13.4 If Force Majeure prevents the Customer from fulfilling his obligations, he shall compensate SKF for expenses incurred in securing and protecting the Product.
- 13.5 Regardless of what might otherwise follow from these General Conditions, either party shall be entitled to terminate the Contract by notice in writing to the other party if performance of the Contract is suspended under this Clause for more than three months.

## **14 General**

- 14.1 SKF is a member of the SKF Group of companies and accordingly SKF may perform any of its obligations or exercise any of its rights under the Contract by itself or through any other member of the group, provided that any act or omission of any such other member shall be deemed to be the act or omission of SKF.
- 14.2 A notice required or permitted to be given by either party to the other under these General Conditions shall be in writing addressed to that other party at its registered office or principal place of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice.
- 14.3 The rights of the Customer or SKF shall not be prejudiced or restricted by any indulgence or forbearance extended by either party to the other and no waiver by either party in respect of any breach shall operate as a waiver in respect of any subsequent breach.
- 14.4 SKF may at its discretion sub-contract the performance of any part of the Services.
- 14.5 For the avoidance of doubt, nothing contained in the Contract restricts in any way the provision of any services or products (whether similar to the Services/Products or otherwise) by SKF to any third party.
- 14.6 In the event that, for any reason, any provision or provisions in the Contract or any part thereof is or is held to be void, unenforceable or otherwise invalid, all other provisions herein, including the remainder of any provision where the effect of some part thereof is avoided, shall remain fully effective.
- 14.7 The headings in these General Conditions are for convenience only and shall not affect their interpretation.

## **15.1 Disputes and Applicable Law**

- 15.1 The Contract shall be governed by and construed in accordance with the substantive laws of Singapore.
- 15.2 Any dispute arising out of or in connection with the Contract shall be finally resolved by arbitration in Singapore in accordance with the Arbitration Rules of the Singapore International Arbitration Centre for the

time being in force. The language of such arbitration shall be English which rules are deemed to be incorporated by reference into this clause.