

**1. Field of application**

These Terms and Conditions of Sale and Delivery apply to all sales of spare parts of Tornos SA, (hereinafter "**Tornos**"), to all of its customers, (hereinafter the "**Customer**"), subject to written changes in its offers, order confirmations or in a separate agreement. Any diverging conditions of purchase of the *Customer* will be effective only if *Tornos* duly accepts them in writing upon the *Customer's* request. Otherwise, the *Customer* will be deemed to have waived its own conditions of purchase.

**2. Conclusion of the agreement - written form**

The agreement is concluded between the *Customer* and *Tornos*, (hereinafter the "**Parties**"), once *Tornos*, upon receipt of the *Customer's* order, (hereinafter the "**Order**"), for spare parts, (hereinafter "**Parts**"), has confirmed the *Order* to the *Customer* in writing, (hereinafter the **Confirmation**).

Any action or statement by the *Parties* intended to have legal force will be valid only if it is in writing.

**3. Technical documentation**

Unless otherwise stipulated in writing by *Tornos*, the technical specifications contained in the brochures, catalogues, data sheets, etc., and in the documents sent to the *Customer* or its representatives, are provided for information purposes only, whether they concern the *Parts* or other products; they are and remain at all times the sole and entire property of *Tornos*.

The diagrams, drawings, sketches, plans, descriptions, specifications, etc., of each Party remain the sole and entire property of the Party who produced them and cannot be used for other purposes or disclosed to third parties without the prior written consent of the Party who prepared them. That does not include drawings, etc., which *Tornos* needs to send to its subcontractors, confidentially and solely on loan, so that they can perform the tasks entrusted to them.

**4. Scope and performance of delivery**

The *Confirmation* lays down the scope of delivery and its performance. Services that are not included will be invoiced separately.

**5. Prices**

Prices are net; in accordance with the **EXW** Incoterms 2010, *Parts* available at *Tornos'* dispatch premises, transportation, insurance and packing are not included in the costs specified on the *Confirmation*, excluding VAT and without deductions; They are valid for the *Order* as defined in the *Confirmation* and may be modified by *Tornos* if the *Customer* amends its *Order* (specifications, lead times, quantities of *Parts*, etc.) or in the event of a delay which is attributable to the *Customer*.

Associated costs such as the costs of bank guarantees, exportation, importation, custom duties, taxes, levies, etc., are not included in the price.

**6. Delivery period**

The agreed lead time is specified on the *Confirmation* from *Tornos* or, if the *Customer* amends the *Order*, that of the *Confirmation* issued for the most recent *Order*.

Delivery takes place once *Tornos* has made the Product available to the first carrier.

Delivery delays preclude any claims for damages, be they direct, indirect or consequential, loss of production, unrealised profits, etc., and the reduction or cancellation of the *Order* or any other *Order* as confirmed. That exclusion will be ineffective in the case of gross negligence by *Tornos*.

**7. Acceptance of the delivered product**

The *Customer* will check the condition and quality of the *Parts* as soon as it receives them. In the event of transportation damage, the *Customer* will collate all the necessary evidence and send it to *Tornos*, the carrier, the insurer and any third parties involved; it will inform *Tornos*, the last carrier and the transportation insurance company of any transportation damage it finds immediately on receipt of the *Parts*.

Any other defects will be reported to *Tornos* in writing without delay, but no later than one week after receipt of the *Parts*. In the absence of a written objection within the above time frame, the *Parts* will be deemed accepted by the *Customer*.

**8. Reservation of title**

Ownership of the delivered *Parts* will transfer to the *Customer* once it has paid in full. The *Customer* must participate in all measures necessary to protect *Tornos'* title.

The *Customer* will keep the *Parts* in the condition in which they were delivered and adequately insure them for the period of *Tornos'* reservation of title; in particular, the *Customer* undertakes, in the event of a risk of seizure or claim by a third party, to inform the latter without delay of *Tornos'* ownership of the *Parts* which are at risk.

**9. Transfer of profits and risk**

Profits and risk will pass to the *Customer* once *Tornos* has made the *Parts* available to the carrier at *Tornos'* premises.

Upon receipt of the *Parts*, the *Customer* is solely responsible for unpacking them and ensuring that they are stored appropriately at the destination.

**10. Transport, insurance and packing**

The *Customer* will bear all risks and costs of transport, including insurance and packing costs; packing is not returnable.

Unless otherwise specified by the *Customer*, *Tornos* will choose the carrier, mode of transport and packing, and it will insure the *Parts* against the usual risks of transportation with an insurance company of its choice, all at the *Customer's* expense.

**11. Payment**

The prices, including the associated costs mentioned in Art. 5, are payable at no cost to *Tornos*, in full and without deduction of any kind, on time and in the currency and to the addresses specified on the *Confirmation* or, where applicable, the invoice.

In the event of late payment, *Tornos* will be entitled to charge interest and fees in accordance with the market conditions. Subsequent deliveries may be withheld until payment and *Tornos* may impose alternative payment terms.

**12. Warranty**

Tornos guarantees that the *Parts* will comply with its *Confirmation*, be free from any design, construction, assembly or material defects and be operable under normal conditions, provided that Tornos' instructions are followed.

The warranty period is 6 months from delivery of the *Parts*. The warranty period for *Parts* replaced under Tornos' after-sales service is 12 months from installation. That does not include wear *Parts* which, unless otherwise specified in the *Confirmation*, are not covered by a warranty.

At Tornos' discretion, the warranty covers free repair or free replacement of the *Parts*. Defects must be identifiable and strictly must be accepted by Tornos; to that end, the Customer will bear the risk and costs of returning the defective *Parts* to the local Tornos organisation which will perform the exchange.

Any other claims, in particular for damages, whether direct, indirect or consequential, production losses, unrealised profits, etc., and the possibility for the *Customer* to reduce or cancel the *Order* or any other *Order* as confirmed, are expressly excluded. That exclusion will be ineffective in the case of gross negligence by Tornos.

The warranty does not cover damage resulting from normal wear and tear, improper handling or storage, lack of maintenance, excessive use or failure to comply with operating instructions.

Any direct intervention, repair, modification or transformation to the *Parts* by the *Customer* or a third party after those *Parts* have left Tornos' premises and without the prior written consent of Tornos will invalidate the Tornos warranty on the corresponding *Parts*.

**13. Customer return of the Parts it has in stock**

The *Customer* may suggest that Tornos take back new standard *Parts* which are in perfect condition, are not obsolete and were delivered by Tornos a maximum of thirty (30) days prior; however, Tornos is not obliged to do so. If Tornos does accept them, all risks and costs of return will be borne by the *Customer*.

Tornos will credit the *Customer* with the net price (after deducting the costs of packing, transportation, insurance, customs clearance, etc.) which the *Customer* paid originally, less a reduction of twenty-five percent (25%), but at least two hundred Swiss francs (200 CHF), for the administrative costs.

Non-standard *Parts* are not returnable.

**14. Standard exchanges**

Standard exchange means the replacement of a *Part*, *sub-assembly* or *module* with an equivalent component which is not new but duly checked by Tornos and which is covered by the same warranty and specifications as the equivalent new component, but for a lower price.

Tornos does not guarantee that it will have the components in stock permanently and will be able to deliver them.

The defective component subject to a standard exchange must be in a repairable condition and reach Tornos with postage, packing, and insurance paid for by the *Customer*; Tornos will bear the costs of customs duties, importation fees or other charges within thirty (30) days of delivery of the standard exchange part. Otherwise Tornos will not credit the *Customer* with the difference between the invoice price upon delivery and the price at which the defective component is returned.

**15. Cancellation/reduction of the Order - Suspension of performance of the Order**

If the *Customer* reduces or cancels the *Order* as *Confirmed* for a reason not attributable to Tornos, Tornos will invoice the *Customer* (invoices payable in accordance with the valid Terms of Payment):

**A.- Fixed costs:**

- Reduction of the *Order*: a fixed amount of one hundred Swiss francs (100 CHF) to cover the administrative costs,
- Cancellation of the *Order*: a fixed amount of two hundred Swiss francs (200 CHF) to cover the administrative costs.

**B.- Additional costs:**

- If the reduction or cancellation of the *Order* affects the quantity prices or any volume discounts, Tornos will invoice the difference.
- If the *Parts* which were reduced in quantity or cancelled are not in stock at Tornos (large quantities or non-current *Parts* or custom *Parts*) and the reduction or cancellation is received by Tornos after it has started manufacturing the *Parts* internally or with a subcontractor, Tornos will charge half (50%) of the *Order* price or part of the cancelled order or the price of the reduced quantity of *Parts*.

**16. Notice to the Customer: Commitments not met by the Customer; Deterioration of its financial situation**

If the *Customer* does not meet one or more of its commitments to Tornos or Tornos serves the *Customer* notice and the *Customer* does not resolve its problems within the time frame set by Tornos or if, in the process of completing the *Order*, Tornos realises that the *Customer's* situation is at risk of deteriorating or has already done so, Tornos may ask the *Customer* to provide guarantees or advance payments and, prior to receiving them, Tornos may, at its own discretion, reduce, suspend or cancel the *Order*, without this entitling the *Customer* to any compensation whatsoever. Any costs incurred by Tornos as a result will be charged to the *Customer*.

**17. Force majeure**

If it becomes impossible to ship the *Parts* owing to force majeure, the *Parties* shall consult one other with a view to finding a balanced solution.

**18. Invalidation of a clause**

If one or more clauses of these terms and conditions should become partially or completely invalidated, the remainder of these terms and conditions shall retain their full validity. As regards the invalidated clause(s), the *Parties* will consult on the invalidated clause(s) and seek a replacement solution, the legal and economic scope of which will be as near as possible to that of the clause(s) invalidated.

**19. Place of performance, place of jurisdiction and applicable law**

The exclusive place of jurisdiction is Moutier, Switzerland and the Agreement shall be governed exclusively by the substantive laws of Switzerland; excluding in particular the United Nations Convention on Contracts for the International Sale of Goods (Vienna Convention of 1980).