

GENERAL TERMS AND CONDITIONS

of SIBA System Integration GmbH, Gewerbepark 7, A-4762 St. Willibald, hereinafter referred to as "SIBA", for supply to end customers and / or general contractors.

Acceptance of the scope of supply

On acceptance of the scope of supplies and services in accordance with the order agreement concluded between SIBA and the customer, the order agreement will be fulfilled by SIBA.

SIBA's readiness for acceptance will be notified to the customer. Acceptance is to be carried out within the set period and at the agreed date (the time periods and time plan on which this offer is based). If this time period and date is exceeded for reasons for which SIBA is not responsible, the scope of supplies and services by SIBA will be considered as accepted fault free. This will also apply in the event of any use of the system, including by third parties.

Acceptance may only be refused if a major fault is present.

Acceptance procedure

Acceptance of SIBA's scope of supplies and services will be carried out jointly by the customer and the end customer.

The customer is to ensure that all measures are taken by the end customer in good time and all preconditions are fulfilled to enable the acceptance to be carried out on time.

The following checks and tests are to be carried out within the framework of acceptance:

- **Safety test**

During the safety test the system will be tested as regards the safety devices required by the competent authorities. The parts of the system and components offered by SIBA correspond to the requirements of UVV.

- **Function test**

During the function test a test will be carried out within the framework of an inspection of the system as to whether all the agreed functions are present.

- **Performance test**

The performance capacity (transport units / h) of the SIBA scope of supplies and services will be measured on individual elements (e .g. converters, elevators, etc.).

The performance valid for this offer and guaranteed by SIBA is described in the offer. This information is based on the precondition that the response times of the overriding computer and manual interventions and activities of the operating personnel do not have the effect of reducing performance.

- **Availability test**

The precondition for the availability test is that individual components of the whole system

(mechanics, E-control, computing) can work together in the way intended.

Downtimes for which SIBA is responsible will only be considered as times which are caused by :

- A failure of the components supplied by SIBA. Downtimes which are due to malfunctions of the overriding computer system, incorrect operation or unsuitable transport material are not downtimes for which SIBA is responsible.

The assessment of downtimes and the calculation of availability will be carried out in accordance with the guidelines of VDI 3581.

Before final acceptance any major faults detected in the tests and checks are to be corrected or binding time periods set for them to be corrected are to be agreed. If there are no major faults, the results of the checks and tests will be summarised in an acceptance report. This report will also contain any minor faults found and the time period for their correction.

Acceptance by TÜV [Technical Control Board] and public authorities

No costs for TÜV [Technical Control Board] and public authority acceptance procedures are included in our offer.

Instructions and servicing

The customer will receive servicing and maintenance instructions for the mechanics of the system supplied by us, together with the documentation. Instruction to the operating personnel by the customer and operator of the system is included in our offer. We assume that instruction will be carried out and also completed during mechanical and electrical assembly or during commissioning. The customer will nominate the persons intended for this in good time.

Liability

We will be liable solely within the framework of our liability insurance policy, as follows :

For damage to property, persons and resultant pecuniary damage up to **€ 5,000,000.00** maximum once per year.

Consequential damage due to faults, such as, in particular, loss of profit or pecuniary damage due to interruptions to production and operating hindrances etc., are expressly excluded.

SIBA will only be liable for damage caused by SIBA due to gross negligence, whereby the customer will bear the burden of proof that there has been gross negligence by SIBA. SIBA's liability towards the customer will be limited overall to **€ 5,000,000.00**.

SIBA will only be liable for a breach of confidentiality if SIBA or one of SIBA' employees has acted intentionally or by gross negligence. Claims against SIBA's employees are excluded in so far as legally permissible.

If claims for damages are excluded and limited according to the above paragraphs, this exclusion and / or limitation will also include claims from inadmissible actions, and claims against SIBA's employees and agents.

We will be liable, excluding all other claims, for correct assembly, such that we are to change or repeat the assembly of incorrectly assembly items at our discretion. Complaints must be notified at the latest at the end of assembly, as otherwise the assembly will be considered to have been carried out correctly.

Works which exceed our order may only be carried out by assembly personnel with our consent.

We will not be liable for work by our assembly personnel and other agents and servants in so far as these works are not connected with the assembly or if faults are attributable to interventions by the customer.

The customer will be under an obligation to assure safety at the place of assembly. He will be liable for damage to persons and property which arise from a breach of this obligation.

Copyright

All documents contain know how, ideas and development services belonging to SIBA.

No documents or information may be copied, evaluated, reproduced or made accessible to third parties in any other way, either as a whole or in part, without the consent of SIBA. Details from these are also subject to the legal protection provisions.

The source code will be filed as customary with a Notary with an irrevocable handover instruction. In the event of bankruptcy of the control system supplier the source would be accessible to the customer.

Services by the customer

The following equipment and services will be made available by the customer free of charge, and he is to ensure that these are available in good time.

A project manager authorised to make decisions must be available as a contact partner for our project manager for rapid processing and integration of the project.

Creating the preconditions for prompt clarification of interfaces to adjacent works which are not included in SIBA's scope of supply

Creating the appropriate assembly conditions (heating, lighting, sanitation facilities for our assembly personnel etc.), including during the commissioning phase.

Works site access routes with sufficient load bearing capacity.

Provision of a fork lift truck for bringing in the system components.

At least one lit, lockable room of appropriate size – for storing material and equipment.

Installation of a telephone in this room.

Costs and installation of water, air and electrical power for use on the construction site.

Safety railings, protective screens, etc. for making safe the assembly site and the system area, as required on the basis of the regulations issued by the local safety authorities or company internal safety officers.

Cost free use of waste containers in the immediate vicinity of the construction site.

Storage of all transport units (containers, palettes, etc.)

Any compressed air connections required at the points indicated by SIBA (min. 5 bar pressure).

Supply and assembly of sprinkler systems, fire doors, fire alarm systems and interfaces to these works, unless included in SIBA's offer, and fire protection measures in general.

All **pile driving protection equipment**, unless included in SIBA's offer.

Changes to existing buildings and all foundation and masonry works.

I-point, cabins and their equipment and peripherals.

Public authority fees.

Work benches and transport wagons.

Warehouse management computer.

All parts and services which are required for fulfilling the order and which are not expressly contained in SIBA's offer.

Preconditions for assembly and commissioning

We assume that there will be no obstacles to delivery, installation, assembly and commissioning of the system. If delays occur which are not attributable to SIBA, the costs thus arising will be payable by the customer. This will also apply to local hindrances due to other companies working on the construction site.

For assemblies which are carried out outside normal working hours on request by the customer or which have to be carried out in a shorter time, overtime hours, Sunday and holidays will be invoiced additionally.

Delivery

If the delivery is delayed due to circumstances attributable to the customer, the agreed payments are to be made at the time at which they would have been settled if the delivery had been on time.

We will be entitled to charge warehousing costs incurred by us due to such delays.

The shipment route and the mode of transport will be left to our discretion, unless the buyer issues specific instructions when making the purchase.

If the goods are to be collected, the collection time is to be agreed with us promptly. We will not be liable for waiting times when making the collection. The provision of packaging and loading material and the necessary conversions of transport equipment will always be payable by the buyer.

Reservation of title

All parts supplied by us and also the finished work will remain our property until redemption in full of all the customer's financial liabilities towards us.

This title will also remain with us if our supply is permanently combined or installed with the property of the customer, as long as no essential damage is caused by the removal of our property to the customer's property which has no economic relationship to the order value of our supply.

As long as the reservation of title exists, sale, pledging, transfer by way of security and leasing or other forms of making over for use of the supplies made by us are not permitted without our written consent. If pledging or another such claim by third parties to the works supplied by us, or parts thereof, does occur, the customer will be under an obligation to assert our right of title and to inform us of this forthwith.

If the object subject to our retention of title is sold, the customer's claim thus arising will replace it, without the need expressly to assign this claim to us.

Transfer of risk

Transfer of risk will take place on acceptance of the system. If acceptance is delayed, and if there is any type of use of the system supplied or parts thereof by the customer or by third parties, the risk will pass over to the customer at this time.

Place of jurisdiction and applicable law

Austrian law will apply to all cases and the place of jurisdiction will be Ried im Innkreis.

Force majeure

If the implementation of the order is hindered or rendered impossible due to cases of force majeure, we may postpone the delivery date or withdraw from the contract as a whole or in part.

Force majeure means all unforeseeable events or events which, even if they were foreseeable, are beyond the control of the customer or supplier and whose effects on the fulfilment of the order cannot be prevented by reasonable endeavours. These include war, natural disasters, labour disputes, shortages of raw materials etc.

Binding specifications

If an order is placed, performance specifications are to be drawn up with the customer for the full scope of supplies and services.

The full content of the supplies and services and the construction and function of all items contained in the offer are to be described in detail in these performance specifications.

These specifications will form the basis for execution of the order and will be **binding for both parties**.

If fundamental changes or extensions or reductions in the scope of supplies and services arise in the specifications phase, these will be offered in the framework of increased and reduced prices.

The time frame for drawing up the detailed specifications will be laid down in the context of detailed time planning. Regular project meetings will take place during the detailed specifications phase.

The precondition for a correct time sequence for the project is the intensive cooperation of the customer, in particular through qualified personnel from the individual specialist departments.

Delayed completion of the specifications phase will cause delays in the further project sequence, as only the specifications form a binding basis for production in our company.

Documentation

SIBA will make the documents necessary for operation and maintenance of the SIBA scope of supplies and services available to the customer in duplicate.

The documentation will include, in particular:

- ⇒ Operating instructions and maintenance instructions
- ⇒ Layout for conveying and storage equipment
- ⇒ Circuit diagrams
- ⇒ Spare parts lists
- ⇒ Spare parts offer
- ⇒ Software manuals
- ⇒ Computing specification

If documents are only available in provisional form at the date of acceptance, the documents will be supplied in final form within 6 weeks from acceptance.

Duty to notify

The customer is to inform the SIBA project manager immediately in writing, indicating the reasons, if there are any concerns relating to the method of execution, preparatory works by his subcontractors or inaccuracies discovered during the review of drawings.

The customer is to reach agreement with the SIBA project manager as soon as possible.