

## **General Terms & Conditions**

**of the companies of Rhomberg Sersa Rail Group (RSRG) domiciled in Switzerland  
(the respective contracting company of RSRG individually also "Rhomberg Sersa")**

### **1 Object**

These General Terms & Conditions govern the rights and obligations of the contracting parties that shall apply for all individually agreed deliveries and services. The General Terms & Conditions shall be valid except where otherwise agreed in writing between the customer and Rhomberg Sersa.

All deliveries and services of Rhomberg Sersa shall be conclusively listed in the order confirmation including its annexes. The object of such deliveries and services shall in particular be the construction and installation of plant, track construction and machinery-based track construction, deliveries of products, leasing of equipment and machinery, provision of temporary personnel, repair and maintenance of equipment and machinery, and technology, engineering and diagnostics services.

Any of the customer's terms and conditions which deviate from these General Terms & Conditions shall be valid only where and to the extent that they have been expressly accepted in writing by Rhomberg Sersa.

### **2 Construction and installation of plant**

#### **2.1 Obligations of Rhomberg Sersa**

Rhomberg Sersa undertakes to provide its services carefully and properly using qualified staff. The customer shall authorise Rhomberg Sersa to use selected third parties in order to fulfil its contractual obligations. Insofar as these General Terms & Conditions do not provide otherwise, the construction and setting up of installations shall be subject to SIA standard 118 "General Conditions for Construction Work" in its version valid at the time the contract is concluded.

#### **2.2 Obligations of the customer**

The customer is obliged to make all necessary efforts, including carrying out preparatory work at its own cost, in order to ensure that Rhomberg Sersa can begin its work on time and complete it without interruption or hindrance.

The customer must ensure that all work, entry and other permits required for Rhomberg Sersa's staff are ready on time.

Unless agreed otherwise, the customer shall bear all risks associated with the building-ground. Such risks include, in particular, insufficient bearing capacity for the foundations set out in the plans and specifications, rocks,

groundwater, utility lines, subterranean constructions or other obstacles in proximity to the planned earthmoving works, as well as archaeological funds.

The customer must take all necessary accident prevention measures at its own cost. The customer must inform Rhomberg Sersa in good time of any legal, official or other rules and regulations to be observed for the installation work and/or operation of the installations.

The customer shall be responsible to Rhomberg Sersa for the timely removal of all hindrances in the domain of public and private law that impede or prevent completion of the structure as specified in the contractual documents.

The customer shall provide, free of charge, installation areas of appropriate size on ground with sufficient bearing capacity for Rhomberg Sersa's building site equipment. The customer shall provide scaffolding, safety barriers and similar equipment during the construction period at its own expense. Unless agreed otherwise, the costs of any compensation payable for use of public land during the construction period shall be borne by the customer.

The customer shall supply the site with electricity and water at its own expense for Rhomberg Sersa to consume free of charge. If Rhomberg Sersa supplies electricity and/or water, this will be invoiced separately to the customer.

#### **2.3 Plans and technical documentation**

Any plans and technical documentation drawn up by Rhomberg Sersa shall remain the exclusive property of Rhomberg Sersa and may not be copied or shared with third parties without its written consent.

#### **2.4 Remuneration**

Save as otherwise agreed in writing, Rhomberg Sersa's services shall be invoiced at actual cost (working time and materials). If the parties have agreed a fixed price, Rhomberg Sersa shall be entitled to invoice additionally any extra costs for which Rhomberg Sersa does not bear responsibility, e.g. costs of subsequent modifications to the content or scope of the order, waiting time due to preparatory work being carried out late, etc.

Expenditure due to poor weather, for winter-related measures and weather protection are not included in the

offer except where these are listed in detail as separate items in the service specifications.

Unless otherwise agreed, any costs incurred from remediation and monitoring measures required by the authorities under the Ordinance on the Remediation of Polluted Sites (Contaminated Sites Ordinance – *Altlastenverordnung*) in its latest valid version, additional costs in relation to the disposal of project-related construction waste (spoil, construction materials) and costs of asbestos removal are not included in the price of the work. These costs and additional costs comprise the disposal costs themselves as well as other expenses related to the disposal, together with investigation costs including analytical work and expenditure for environmental supervision of construction by specialists.

### **2.5 Risk of damage or loss**

During execution of the work, the customer shall bear the risk of any loss or damage to any work already carried out as well as to any tools, equipment, machinery and materials delivered by Rhomberg Sersa.

### **2.6 Acceptance**

As soon as the customer has been informed that the installations are ready to be accepted, the installations must be checked by the customer in the presence of someone responsible for the construction. The customer shall notify Rhomberg Sersa of any defects within five working days. If no such notification is provided, the system shall be deemed to have been accepted.

## **3 Track construction and machinery-based track construction**

### **3.1 Services of Rhomberg Sersa**

The services and prices stated shall apply provided that the work is completed in line with Rhomberg Sersa's expectations and/or as agreed at the site meeting. Unforeseen events may affect Rhomberg Sersa's costs and services. Short-notice changes to the route or destination station, or to the working direction, may lead to increased costs. Any hindrances not caused by Rhomberg Sersa that occur during the work will be invoiced based on the normal hourly rates.

Unless otherwise agreed, the customer shall provide all materials to be installed, such as sleepers, rails, ballast, etc., and transport these to the construction site. The removal and disposal of any material removed shall be the responsibility of the customer unless otherwise agreed.

Subject to a separate agreement, any work that cannot be performed by machinery shall be performed by the customer's staff (e.g. manual tamping in the event of obstructions).

Data on the position of the tracks must be provided to Rhomberg Sersa no later than a week prior to commencement of the work. Track measurements,

calculations of track geometry and adjustments to track geometry must be expressly agreed.

### **3.2 Length of shift**

The prices are offered based on an eight-hour shift including unloading and loading machinery, set-up and shutdown time, and transportation of vehicles from their parking location to the construction site and back. The shift begins at the location where the vehicles are parked or at the appointed station. If the eight-hour shift is exceeded, the customer will be charged 1/8 of the shift price for each additional hour or part thereof. If the length of the shift is exceeded, Rhomberg Sersa reserves the right, to suspend work and continue it in a separate shift.

### **3.3 Transport and securing the site**

The customer shall provide the necessary safety and escort personnel for transport of machinery to and from the site and for the duration of the work itself. Securing the site and obtaining official permissions for the work shall be the responsibility of the customer. The customer shall provide the necessary holding sidings free of charge before and after use of the machinery.

### **3.4 Cancellation of shifts**

If the customer cancels or postpones the shift less than 24 hours before it is due to begin, the full cost of the shift plus any additional costs that may arise shall be payable.

### **3.5 Liability in the event of breakdown**

Rhomberg Sersa will make every effort to prevent its machinery suffering mechanical faults or breakdowns. However, it does not accept liability for such faults or breakdowns or for any direct or indirect costs that may arise as a result. In the event that a machine breaks down, Rhomberg Sersa shall endeavour to provide the contractual service at the earliest possible date.

## **4 Delivery of products**

### **4.1 Prices**

All prices, unless otherwise agreed in writing, shall be Ex Works (Incoterms 2020) in Swiss Francs (CHF) and excluding VAT at the statutory rate.

All additional costs, e.g. packaging, freight and transportation costs, insurance, export, transit or import permits as well as all necessary authentication or certification costs shall be for the customer's account. If insurance is to be taken out by Rhomberg Sersa, such insurance shall be taken out on behalf and for the account of the customer.

Similarly, the customer must cover all public charges that are collected in connection with the contract or refund them to Rhomberg Sersa upon presentation of corresponding proof if Rhomberg Sersa is obliged to pay them.

### **4.2 Delivery period**

The delivery period shall begin as soon as the contract has been concluded and all official formalities such as

import, export, transit, construction, payment and other necessary permits are available. Furthermore, agreed payments must have reached the account of Rhomberg Sersa, the necessary securities must have been provided and all technical ambiguities must have been cleared up.

The delivery period shall be deemed to have been met if, before the delivery period has expired, notice of the readiness to dispatch has been sent to the customer or Rhomberg Sersa has informed the customer of its readiness to provide the service(s). Rhomberg Sersa shall only be deemed to be in default once a reminder has been issued, even in the case of agreed deadlines.

#### **4.3 Plans and technical documentation**

Plans, brochures and catalogues shall not be binding unless otherwise agreed. Information contained in Rhomberg Sersa's technical documents shall be binding only if expressly stated to be so.

#### **4.4 Rules and regulations in the country of destination**

The customer must inform Rhomberg Sersa of any rules, regulations and standards to be adhered to in the country of destination (in particular regarding illness and accident prevention) with regard to the delivery and operation of the product in good time prior to the order. Should the customer fail to provide any information on rules, regulations and standards, the rules, regulations and standards in place at the location of Rhomberg Sersa's headquarters shall apply.

#### **4.5 Transfer of benefit and risk**

Benefit and risk shall transfer to the customer upon conclusion of the contract.

#### **4.6 Acceptance**

The customer must check the deliveries within an appropriate timeframe but no later than five working days following receipt of the goods and must inform Rhomberg Sersa of any defects immediately in writing within five working days. If no faults are reported within this period, the goods shall be deemed to have been accepted.

#### **4.7 Reservation of ownership**

Rhomberg Sersa shall remain the owner of all deliveries until it has received the agreed payment in full. The customer undertakes to cooperate when first asked to do

so in meeting all formal requirements that are essential to obtain and maintain a reservation of ownership.

## **5 Leasing of equipment and machinery**

### **5.1 Obligations of the customer**

The customer undertakes to use the equipment and machinery leased from Rhomberg Sersa with the utmost care and to allow only qualified staff to operate it. Without the written consent of Rhomberg Sersa, the customer is expressly forbidden from carrying out any technical or other modifications to the object under lease.

### **5.2 Maintenance and repairs to rail vehicles under lease**

Rhomberg Sersa shall bear the costs of maintenance and repairs to leased rail vehicles for the duration of the lease. The lessee shall perform the daily servicing tasks (including checking levels, lights, etc.) and report the vehicle's operating hours each month. Damage caused by the lessee, e.g. wheel flats, etc., shall be borne by the lessee. Repairs may only be carried out with the written consent of Rhomberg Sersa.

The timing of maintenance work shall be by mutual agreement. If maintenance and repair work lasts longer than 48 hours, no rent shall be charged for the time the vehicle is out of service. In the event that the vehicle is out of service for an extended period, Rhomberg Sersa shall endeavour to find an equivalent replacement as quickly as possible.

### **5.3 Insurance**

If the equipment and machinery of Rhomberg Sersa is operated by the customer, the customer undertakes, prior to using the respective equipment or machinery, to take out public liability insurance for damage to third parties (including damage to persons and property and financial loss) with the necessary cover.

In addition to the public liability insurance, the customer must take out an all risk insurance before commencing work if the equipment and machinery of the customer is operated by Rhomberg Sersa staff (provision of temporary personnel), and shall ensure that such machinery insurance also covers operator error.

### **5.4 Obligation to inform**

The customer shall immediately inform Rhomberg Sersa if the leased machinery or equipment is officially appropriated (seizure, bankruptcy, retention, arrest, confiscation, etc.).

### **5.5 Report**

A condition report for the object under lease may be drawn up at the beginning and at the end of the lease should either of the contracting parties so request. This

report shall be valid only if signed by both contracting parties.

#### **5.6 Sub-leasing**

The customer is forbidden from sub-leasing, loaning or assigning the lease to third parties.

#### **5.7 Liability**

The lessee shall accept liability for all accidents and damage occurring to the lessee, its staff or a third party as a result of a fault of lessee's staff. Rhomberg Sersa shall not be held liable for lost profits and consequential damages resulting from delayed delivery, incorrect maintenance or breakdown of the vehicle under lease.

### **6 Provision of temporary personnel**

#### **6.1 Special terms and conditions**

The special terms and conditions in each case, such as the starting date, duration, hourly rate, etc. shall be agreed in advance and set out in an agreement for the provision of temporary personnel. These special terms and conditions shall only apply for the duration of the agreed assignment.

#### **6.2 Status of temporary personnel**

The personnel provided to the customer has concluded a contract of employment with Rhomberg Sersa. They therefore do not have any contractual relationship with the customer.

#### **6.3 Notice periods**

The contractual relationship in relation to temporary workers shall end automatically on completion of the period for which the relevant worker has been hired. If the contract is open-ended, either party may terminate the contractual relationship regarding a specific temporary worker as follows:

- with a notice period of two working days in the first 13 weeks of uninterrupted employment,
- with a notice period of seven working days in the case of workers hired for 14 to 26 weeks uninterrupted,
- with a notice period of one month in the case of workers hired for 7 to 12 months uninterrupted,
- with a notice period of two months in the case of workers hired for 1 to 9 years, extending to three months in the case of workers hired for more than 10 years.

The customer undertakes to inform Rhomberg Sersa at the earliest possible date once termination regarding a specific worker is foreseeable. If the worker to be provided to the customer is unavailable due to illness, accident or another unforeseen reason, Rhomberg Sersa reserves the right to replace them with an alternative staff member with the same level of qualification. If no suitable alternative can be found, the contractual relationship shall end in respect of this worker.

#### **6.4 Obligations of the customer**

The customer undertakes to provide the equipment, materials and machinery required for the work and to ensure that these are used correctly by the temporary personnel. Rhomberg Sersa is also able to provide equipment, materials and machinery if this is desired and contractually agreed. The customer further undertakes to implement all necessary measures to protect the life and health of the temporary personnel and to comply with any specific legal regulations concerning the activities performed. The customer shall also ensure that the temporary personnel are familiar and comply with the general and specific safety regulations of the industry.

The customer shall be responsible for compliance with the applicable employee protection regulations. In the event that shifts exceed the designated length, the customer shall provide overnight accommodation for the temporary workers.

The customer is responsible for informing Rhomberg Sersa of any applicable generally binding collective agreements.

#### **6.5 Invoicing and wages**

At the end of each week, or on a daily basis if desired, the temporary worker shall present a work report, which the customer shall acknowledge by entering a name and signature. Only those hours actually worked and, if applicable, travelling time plus any allowances agreed in advance, shall be invoiced.

Rhomberg Sersa will issue the customer with a monthly invoice. The amounts stated on the invoice will primarily comprise wages already disbursed to the temporary workers and must therefore be paid net and without any discount. Temporary personnel are not authorised to accept direct payments.

Rhomberg Sersa shall bear the cost of all social security contributions such as AHV /EO, family allowances, compensation for holidays and public holidays, accident insurance, loss of wages in the event of illness, and pension funds. Rhomberg Sersa shall insure the leased personnel with SUVA.

#### **6.6 Liability**

Rhomberg Sersa is not liable to the customer in any way for the results of the work performed by the temporary personnel. Rhomberg Sersa does not accept any liability for damages caused by temporary personnel. Rhomberg Sersa shall be liable only for selecting the temporary personnel in a proper manner.

### **7 Maintenance and repair**

#### **7.1 Rights and obligations of the customer**

The customer must state fully and precisely any irregularities, damage or defects it has identified, as well as the scope of the servicing work to be performed by Rhomberg Sersa. The customer shall obtain the necessary technical documentation and provide it to Rhomberg Sersa free of charge.

## **7.2 Rights and obligations of Rhomberg Sersa**

Rhomberg Sersa undertakes to perform the servicing work using qualified staff or to appoint third parties to do so.

Rhomberg Sersa is entitled to refuse or cancel the servicing work if the safety of staff is not guaranteed or the customer does not fulfil its obligations.

If the servicing work is cancelled, the proportionate cost of the work already carried out shall be payable.

## **7.3 Warnings**

The inspection findings as well as any verbal or written statements by Rhomberg Sersa to the customer or its representative concerning the condition, deployment, safety and usability of the item being serviced, as well as any reservations expressed in respect of the customer's orders, instructions or actions, or in respect of other factual circumstances, shall constitute a notice of warning and shall exempt Rhomberg Sersa from any liability.

## **7.4 Performance timeframe**

All statements regarding the performance timeframe are based on assumptions or estimates.

## **7.5 Prices**

Save as otherwise agreed, the servicing work shall be charged in accordance with the actual work performed, based on the rates of Rhomberg Sersa or third parties.

## **7.6 Transfer of risk, insurance**

The customer shall bear the risk of damage to or loss of the items being serviced for the duration of the work, as well as during any necessary transport or storage.

The customer shall be responsible for insuring vehicles and equipment it entrusts to Rhomberg Sersa against damages of any kind.

## **7.7 Warranties**

For replacement parts, Rhomberg Sersa only issues warranties equivalent to those of the manufacturer or distributor. Any more extensive warranties must be agreed in writing in each case.

# **8 Technology, engineering and diagnostic services**

## **8.1 Scope of services**

Rhomberg Sersa's services include the following: studies, concepts, design work, calculations, software projects, measurement technology, consulting services. The order confirmation and/or Rhomberg Sersa's offer define the precise scope and performance of the individual services. If development work is intended to fulfil a specific purpose or a specific outcome is to be achieved, this must be explicitly stated in the offer or order confirmation. Rhomberg Sersa undertakes to inform the customer at regular intervals on the status of

work, knowledge obtained and the next steps. Warranted characteristics shall only be those explicitly described as such in the order confirmation or in Rhomberg Sersa's offer. Rhomberg Sersa shall be entitled to use third parties for individual services.

## **8.2 Prices**

Save as otherwise agreed in writing, Rhomberg Sersa's services shall be invoiced at actual cost (working time and materials). Prices are quoted in Swiss francs (CHF) excluding statutory VAT. Travelling time is treated as working time. After consultation with the customer, Rhomberg Sersa shall be entitled to adjust its rates once a year to changes in cost items such as wages, materials, public charges, etc.

## **8.3 Cooperation of the customer**

The customer undertakes to supply the information required for completion of the requested work and to support Rhomberg Sersa to the best of its ability free of charge. The customer shall make Rhomberg Sersa aware of all documents and information that may be relevant in understanding the project and performing the work, even if not specifically requested to do so.

## **8.4 Specific limitations of liability**

Should a customer request developments that go beyond established engineering practice, Rhomberg Sersa shall not be held liable for any damages arising from the use of engineering practices which are not yet generally approved at the time of the performance of the contract. Any liability is excluded in the event that the customer makes changes to Rhomberg Sersa's work results without approval, or uses these work results for purposes other than those agreed. The customer undertakes to hold Rhomberg Sersa harmless in the event of any claims for compensation attributable to such changes or unintended use of the work results by the customer. The customer shall also hold Rhomberg Sersa harmless in the event of claims for compensation arising from product liability in the event that the claim is not based exclusively on gross negligence or intent by Rhomberg Sersa. Rhomberg Sersa does not accept liability for products purchased by it that later prove to be defective.

## **8.5 Intellectual property rights**

The rights to the results of work performed by Rhomberg Sersa under the contract shall pass to the customer upon full payment of the agreed fee, subject to the following conditions. However, Rhomberg Sersa shall remain free to use the expertise acquired in the course of the development work, provided that it continues to protect the customers' business secrets.

If the results of the work produced by Rhomberg Sersa constitute a patentable invention, the customer shall have the right to this patent. Registering patents is not included in Rhomberg Sersa's services.

Rhomberg Sersa shall retain the copyrights to any software developed for the customer. The customer shall acquire a non-exclusive user licence with the previously

agreed scope, provided it pays the agreed compensation. The customer's user licence shall also include the right to make copies of the software and to supply the software to third parties, provided this is necessary for the purpose that was intended by the customer and recognised by Rhomberg Sersa at the time of ordering. The customer may not provide the software to third parties as a product in its own right unless this has been expressly agreed in the order confirmation or in the contract with Rhomberg Sersa.

### **8.6 Confidentiality obligations**

The customer and Rhomberg Sersa undertake to protect the secrecy of any confidential information of the other party that they receive during the offer period or during the term of the contract and shall neither sell nor disclose such information to third parties.

## **9 Common provisions**

### **9.1 Terms and conditions of payment**

The customer must make the payment within 30 days of the invoice date, net without deduction of cash discount, charges, taxes, levies, fees, and customs duties or similar. Unauthorised cash discounts shall be charged for additionally.

Payment by instalments shall require a separate written agreement.

Payment deadlines must be met even if the transport, delivery, installation, commissioning or acceptance of the deliveries or services is delayed or prevented for reasons that are not attributable to Rhomberg Sersa, or if insignificant parts are missing or smaller reworks are necessary that do not prevent the contractual use of the delivery or service.

If the customer does not adhere to the agreed payment deadlines, it shall incur interest of 6% p.a. without a reminder and irrespective of whether it is at fault.

The customer shall not be entitled to withhold payments due to complaints, claims or counterclaims not accepted by Rhomberg Sersa.

### **9.2 Extension of delivery and performance timeframes**

The delivery or performance timeframe shall be extended appropriately:

- If Rhomberg Sersa does not receive the information required for the performance of the contract in good time or if the customer subsequently modifies that information and therefore causes delays to the deliveries or services.
- If planning errors which are not the fault of Rhomberg Sersa mean that the service description must be amended.
- If obstacles exist which Rhomberg Sersa cannot avoid despite taking the necessary care, irrespective of whether they originate from

Rhomberg Sersa, the customer or third parties. Such obstacles include, for example, epidemics, mobilisations, acts of war, terrorism, major disruption to operations, accidents, labour disputes, delayed or incorrect deliveries of the necessary raw materials, semi-finished or finished products, official acts or omissions, and natural disasters.

- If the customer or third party defaults on its contractual obligations, and particularly if the customer does not meet its payments.

### **9.3 Warranty**

The warranty shall last for 24 months from receipt of the goods or acceptance of the plant. Once the warranty period has expired, all claims by the customer with regard to the warranty shall be deemed to have lapsed.

Upon written request by the customer, Rhomberg Sersa undertakes to rectify any defect that prevents the use of the delivered product or service as specified in the contract (remedy of defects). The customer shall not be entitled to other claims with regard to the warranty such as, in particular, a price reduction or the cancellation of the contract.

Rhomberg Sersa shall provide warranty for deliveries and services provided by sub-suppliers, which were prescribed by the customer, only within the scope of the warranty obligation of the sub-supplier concerned.

Any necessary investigation costs and expenditure required to establish and detect the fault (expertise, etc.) shall be for the account of the originator.

### **9.4 Liability**

All claims by the customer with regard to breaches of the contract by Rhomberg Sersa shall be conclusively governed by these General Terms & Conditions.

All rights to claims by the customer with regard to compensation, price reduction, cancellation of or withdrawal from the contract shall be excluded where legally permitted. This shall also apply with regard to Rhomberg Sersa's liability for its auxiliary persons.

Where legally permitted, Rhomberg Sersa's liability shall exclude any damages that occurred to something other than the delivered goods or the installed systems, including but not limited to damages from business interruption, loss of production, loss of effectivity, loss of orders, loss of profit as well as other indirect and direct damages and loss.

### **9.5 Waiver of right to offset**

The customer shall agree not to settle its obligations to Rhomberg Sersa by offsetting any claims owed to it by Rhomberg Sersa.

### **9.6 Contract amendments**

All agreements between the parties, in particular additions and amendments to these General Terms &

Conditions, shall only be valid if made in writing. This also applies to the requirement for written form.

#### **9.7 Jurisdiction and applicable law**

Any disputes arising out of or in connection with the contractual relationship with the customer, including any regarding the contract's effective conclusion, legal effectiveness, modification or termination, shall be settled by the ordinary courts of Zurich. Rhomberg Sersa

shall, however, also be entitled to call upon any ordinary court responsible for the jurisdiction of the customer.

The legal relationship between the contracting parties shall be exclusively governed by Swiss law to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods (CISG).

Version dated October 2024