

General Terms and Conditions of Purchase

1. General

- 1.1 Our terms of purchase apply exclusively; general business terms and conditions of the supplier conflicting with or deviating from our General Terms and Conditions of Purchase are only recognized insofar as we expressly agreed to them in writing. Acceptance or payment of goods and services from the supplier (hereinafter referred to as Products) does not constitute agreement even if the acceptance or payment is made with knowledge of conflicting or supplementary terms and conditions of contract of the supplier.
- 1.2 Our terms of purchase apply also to all future supplies and services, which the supplier provides to us until our new terms of purchase come into force.

2. Conclusion and modification of contract

- 2.1 Orders, contracts and order releases as well as modifications and supplements thereto must be placed and made in writing.
- 2.2 Any oral agreements made before or on conclusion of the contract must be confirmed by us in writing to become effective.
- 2.3 Any oral agreements made after conclusion of the contract, in particular subsequent amendments and supplements to terms of purchase, including the present clause specifying the written form as well as any sub-agreements also require the written confirmation of our Purchase Department prior to become effective.
- 2.4 Cost estimates are binding and are not to be compensated unless otherwise expressly agreed.
- 2.5 We are entitled to cancel the order if the supplier does not accept the order within two weeks of receipt thereof. Order releases within the framework of order become binding if the supplier has not formally expressed opposition within five working days from receipt thereof.
- 2.6 The Quality Assurance guideline for suppliers (QSV) as well as the delivery and packaging instructions of KS-AG shall apply.

3 Delivery

- 3.1 Deviations from our contract conclusions and orders are only admissible subject to our prior written approval.
- 3.2 Agreed periods and dates are binding. Punctual compliance with the delivery periods and delivery dates is determined by the date of receipt of the goods by us. Unless delivery "free at factory gate" is agreed (DAP or DDP Incoterms 2010), the supplier shall make the goods available in good time, taking account of the time for loading and shipment to be agreed with the forwarder.
- 3.3 If the supplier is responsible for set-up or installation and not agreed contrary, the supplier shall bear all the necessary expenses such as travel expenses, provision of tools and daily allowances.
- 3.4 The provisions of statute shall apply if agreed dates are not met. If the supplier anticipates difficulties with respect to production, the supply of precursor material, compliance with the delivery period or similar circumstances that could interfere with supplier's ability to deliver punctually or to deliver the agreed quality, the supplier must immediately notify our ordering department.
- 3.5 The unconditional acceptance of a delayed delivery or service does not constitute a waiver of claims to which we are entitled due to the delayed delivery or service; this applies pending full payment of the

- 3.6 amounts owed by us for the delivery or service in question.
- 3.7 Partial deliveries are inadmissible in principle unless we expressly agreed to them or can reasonably be expected to accept them.
- 3.8 The values established by us during the incoming goods inspection shall determine the quantities, weights and measurements subject to the reservation of different values being proved.
- 3.9 Our rights to software and its documentation within the scope of product supplies comprise the utilization to the extent admissible by the law and the utilization with the agreed performance characteristics to the extent required for an application of the product in conformity with the contract. We also have the right to make a reasonable number of backup copies.

4 Acts of God

Acts of God, labour disputes, operational disturbances without fault, unrest, governmental measures and other unavoidable events discharge us from our obligation to withdraw from the contract completely or in parts. This to the extent that such interferences are of a substantial duration and result in a considerable reduction of our requirements.

5 Despatch note and invoice

The details in our orders and order releases shall apply. An invoice showing the invoice number and other allocation references is to be sent in one copy to the respective printed mailing address; the invoice must not be enclosed with the shipments.

6 Pricing and passing of risks

Unless otherwise agreed, the prices are "Delivered at Place" (DDP - Incoterms 2010) including packaging, customs clearance and any duty. Value added tax (VAT) is not included. The supplier bears all risks of loss or of damage to the goods until the goods are received by us or by our representative at the location to which the goods are to be delivered in accordance with the contract.

7 Payment terms

Unless otherwise agreed, the invoice shall be paid either within 14 days subject to deduction of a 3 % discount or within 60 days without any deduction, with effect from the due date of payment and receipt of both the invoice and the goods or performance of the service. Payment is subject to invoice verification

8 Claims based on defects and notification of last

- 8.1 The goods are accepted subject to inspection for lack of defects, in particular also for correctness, completeness and suitability. We are entitled to examine the subject matter of the contract to the extent and as soon as this is feasible according to the ordinary course of business. We will give notice of any defects found without undue delay after their discovery. To this extent, the supplier waives the objection to delayed notification of defects.
- 8.2 The provisions of statute relating to defects as to quality and defects of title apply except insofar as otherwise provided herein below.
- 8.3 We have the right to select the type of supplementary performance.

- 8.4 In the event that the supplier does not commence rectifying the defect immediately after our request to remedy it, in urgent cases, especially to ward off acute danger or to prevent greater damage, we are entitled to undertake such rectification ourselves or to have it undertaken by a third party at the expense of the supplier. The limitation period for claims based on defects is 3 years – except in cases of fraudulent misrepresentation – unless the thing has been used in a building construction in accordance with its customary use and caused the defectiveness thereof. The limitation period commences when the product is delivered (passing of risk).
- 8.5 In case of legal deficiencies, the supplier shall additionally keep us harmless from possibly existing claims of third party. A statute of limitations period of 10 years shall apply to legal deficiencies.
- 8.6 If the supplier performs its obligation to effect supplementary performance by supplying a substitute product, the statute of limitations of the goods delivered in substitution shall start to run anew after delivery thereof unless, when effecting the supplementary performance, the supplier explicitly and appropriately made the reservation that the substitute delivery was effected purely as good will, to avoid disputes or in the interests of continuation of the delivery relationship.
- 8.7 Should we incur expenses as a result of the defective delivery of the Product, in particular transport, carriage, labour costs, assembly and disassembly costs, costs of material or costs of incoming goods control exceeding the normal scope of the control, such costs shall be borne by the supplier.
- 8.8 Should we take back products made and/or sold by us due to deficiencies of the subject-matter of the contract or if our sales price was reduced on account of such occurrences or if any other claims are lodged against us in such a context, we reserve the right to have recourse on the supplier, whereby an otherwise required fixing of a time limit is not needed for our notification of defects.
- 8.9 We should be entitled to demand compensation from the supplier for the expenses incurred as in relation to our customer, because he has a claim against us for compensation for the expenses required for the purpose of supplementary performance, in particular transport, travel, labor, insurance and material costs.
- 8.10 Notwithstanding the provision in paragraph 8.4, the limitation period in the cases of paragraphs 8.8 and 8.9 shall come into effect at the earliest 2 months after the date on which we have fulfilled our claims against, but no later than 5 years after delivery by the supplier.
- 8.11 If a substantial material defect becomes evident within 6 months after the transfer of the risk, it is assumed that the defect already existed at the time of the transfer of the risk, unless this presumption is incompatible with the nature of the subject or the defect.

9 Product liability and recall

In the event a product liability claim is asserted against us, the supplier is obliged to hold us harmless from such claims if and to the extent the damage was caused by a defect in the Product supplied by the supplier. In cases of liability based on fault, this only applies, however, if the supplier is at fault. Insofar as the cause of the damage falls within the area of

responsibility of the supplier, the supplier must prove that it is not at fault.

The supplier assumes all costs and expenses, including the costs of any legal action. In all other respects, the provisions of statute shall apply.

10 Conducting work

Persons who carry out work on our factory premises in fulfilment of the contract must observe the respective plant regulations. Our legal representatives or persons employed in the performance of our obligations exclude the liability for accidents suffered by these persons on our factory premises except to the extent caused by wilful or gross negligent breach of duty.

11 Provision of materials/goods

Materials, parts, containers and special packaging provided by us against payment or free of charge remain our property ("Provisions"). These may only be used as designated. The Provisions are processed and assembled for us. It is agreed that we are co-owner of the products manufactured with our materials and parts in proportion to the value of the Provisions in relation to the value of the whole product; the supplier shall keep such products safe for us to this extent.

12 Export Control and Customs

- 12.1 The supplier shall be obliged to inform us about any applicable (re-)export licence requirements or restrictions for the Products under Swiss, European or US export control law and customs regulations as well as the export control law and customs regulations of the country of origin of the Products in its business documents and to send the following information on Products subject to licence requirements to Abteilung.EK@ks-ag.ch in good time prior to the first delivery:

- KS-AG material number
- Product description
- All applicable export list numbers including the Export Control Classification Number pursuant to the U.S. Commerce Control List (ECCN)
- Country of origin of the Products under commercial policy
- HS Code of the Products
- A contact person in its organisation to resolve any inquiries.

- 12.2 The supplier shall be obliged to inform us without undue delay of any changes to the licence requirements applying to the Products it supplied to us, because of technical changes, changes to the law or governmental determinations.

13 Documentation and Confidentiality

13.1 The supplier shall keep confidential with respect to third parties all business and technical information made available by us (including features which may be derived from objects, documents or software provided and any other knowledge or experience) as long and to the extent that it is not proven public knowledge, and it may only be made available to those persons in the supplier's business facility who necessarily need to be involved in the use thereof for the purpose of delivery to us and who are also committed to confidentiality; the information remains our exclusive property. Without our prior written consent, such information must not be duplicated or exploited commercially – except for deliveries to us. At our request, all information originating from us (if appropriate also including any copies or records made) and loaned items must be, without undue delay, returned to us in full or destroyed.

We reserve all rights to such information (including copyright and the right to file for industrial property rights such as patents, utility models, semiconductor protection, etc.). In the event third parties provide this to us, the reservation of rights also applies for the benefit of such third parties.

13.2 Products manufactured on the basis of documentation drafted by us such as drawings, models and the like, or based on our confidential information, or manufactured with our tools or with tools modelled on our tools, may neither be used by the supplier itself nor offered or supplied to third parties. This also applies analogously to our print orders.

14 Place of performance

The place of performance is the place to which the goods are to be delivered in accordance with the contract or where the service is to be rendered.

15 Compliance

15.1 The supplier undertakes, within the framework of its business relationship with us, not to offer or grant, promote or accept any advantages, neither in its business dealings nor when dealing with governmental officials, which are in breach of applicable anti-corruption regulations.

15.2 The supplier undertakes, within the framework of its business relationship with us, not to make any agreements with other companies or to agree on concerted practices with other companies aiming to or bringing about a prevention, restriction or distortion of competition under applicable antitrust regulations.

15.3 The supplier guarantees that it will comply with the applicable laws governing the general minimum wage and commit sub-suppliers engaged by it to the same extent. On request, the supplier shall evidence compliance with the foregoing guarantee. In the event of a breach of the foregoing guarantee, the supplier shall hold us harmless from all third party claims and is obliged to reimburse any fines imposed on us in this connection.

15.4 The supplier shall comply with the respective statutory provisions governing the treatment of employees, environmental protection and health and safety at work and to work on reducing the adverse effects of its activities on human beings and the environment. In this respect, the supplier shall set up

and further develop a management system in accordance with ISO 14001 within the realms of its possibilities. Further, the supplier shall comply with the principles of the UN Global Compact Initiative relating to the protection of international human rights, the abolition of forced labor and child labor, the elimination of discrimination when personnel is engaged and employed and the responsibility for the environment (www.unglobalcompact.org).

15.5 In the event of a suspected violation of the obligations under paragraphs 15.1 to 15.4, the supplier must investigate any possible violations without undue delay and inform us of the investigation measures taken. If the suspicion proves to be justified, the supplier must inform us within a reasonable period of the measures that it has taken internally within its organization in order to prevent violations in future. If the supplier fails to comply with these obligations within a reasonable period, we reserve the right to withdraw from contracts with the supplier or to terminate them with immediate effect.

15.6 In the event of severe violations of the law by the supplier and in the event of violations of the provisions of paragraphs 15.1 to 15.4, we reserve the right to withdraw from the existing contracts or to terminate them without notice.

16 Miscellaneous

16.1 If one of the provisions of these Terms and Conditions and of additional agreements reached, should be or become ineffective, this shall not affect the validity of the Terms and Conditions in other respects. The parties hereto are obliged to agree upon a provision to replace the ineffective provision that approximates as closely as possible the economic intent of the ineffective provision.

16.2 The venue for all legal disputes arising either directly or indirectly out of contractual relationships based on these Terms and Conditions of Purchase shall be **Glarus (CH)**. We further have the right to take legal action against the supplier at a court with jurisdiction over the registered office or branch office of the supplier or at the court with jurisdiction over the place of performance at our discretion.

16.3 Exclusively Swiss law shall govern the contractual relationships.

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