

## General Terms and Conditions of Purchase

Manaus, 07.03.2012

### § 1 Scope of application

- (1) Notwithstanding any agreement in writing to the contrary, these conditions shall apply to all orders and contracts, in which BrasALPLA is the client, purchaser or ordering customer. The conditions shall also apply to all future business.
- (2) Terms and conditions of the contractual partner are not accepted and shall not apply. No objection is required on the part of BrasALPLA.
- (3) In respect of all goods or services, the contractual partner recognises the exclusive application of these terms and conditions of purchase.

### § 2 Ordering

- (1) An order is binding on BrasALPLA only if it is placed in writing (letter, e-mail, fax).
- (2) The resources attached to enquiries or orders from BrasALPLA, such as plans, drafts, data, samples, forms, models, printing blocks, manuscripts, lithographs or specimens, remain the property of BrasALPLA and may only be used for BrasALPLA's purposes. They are to be returned without request to BrasALPLA at the latest with the invoice or at any time upon request at the expense of the contractual partner. The contractual partner shall bear the risk for accidental loss or accidental damage to the resources until they are returned.
- (3) BrasALPLA shall not be required to make payment for the preparation of quotations and quotation documents (plans, technical specifications, etc.). On acceptance of the order, the contractual partner declares that it has all the necessary information, data, descriptions, plans, technical specifications and sufficient knowledge of local conditions.

### § 3 Delivery/Performance

- (1) The delivery/performance deadline is the date given by BrasALPLA on which the ordered goods are to be delivered to the place of delivery with all transport, customs and accompanying documents or on which the service is to be provided at the place of performance.
- (2) BrasALPLA is entitled to refuse acceptance of an early or late delivery/performance and to return the goods for the account and at the risk of the supplier or to store these goods with third parties.
- (3) If the contractual partner recognises that it will not be possible to deliver/perform all or part of the goods/service on time, it shall give immediate notification of when the delivery/performance will be carried out (new delivery/performance deadline).  
BrasALPLA is entitled to withdraw from the contract after a reasonable period of grace or to accept the new delivery/performance deadline.
- (4) BrasALPLA is entitled to refuse acceptance of partial, short or excess delivery/performance.

- (5) BrasALPLA is furthermore entitled to declare its withdrawal from the entire order in the case of visible performance.
- (6) Delivery/performance is only provided in full if the contractual partner has submitted to BrasALPLA all agreed documents or documents usually required (e.g. invoices, freight documents, certificates of origin, declarations of conformity, letters of guarantee, technical documents, operating instructions). Submission of these documents is a prerequisite for the payment becoming due.

The contractual partner indemnifies and holds BrasALPLA harmless in respect of all claims which third parties, particularly customers of BrasALPLA or authorities enforce against BrasALPLA, because the contractual partner did not provide, or did not provide in full or in time, an agreed or usually required document to BrasALPLA.

- (7) The contractual partner is obligated to provide BrasALPLA immediately upon request with any information, which BrasALPLA or a client of BrasALPLA requires in order to provide evidence of compliance with legal or other regulations. This information includes, in particular, proof of inspections, calculations and analyses carried out, as well as the resulting values.
- (8) In the event that the contractual partner defaults, BrasALPLA shall be entitled at all times to demand an immediate contractual penalty of 1% of the order amount for each week of default begun, up to a maximum of 10%. Losses in excess of this shall be reimbursed.

### § 4 Transport

- (1) The contractual partner shall comply with the forwarding instructions of BrasALPLA and of the forwarder or carrier. The order number and the order date shall be stated on the forwarding papers. Together with the delivery, the contractual partner shall submit to BrasALPLA all declarations of conformity required.
- (2) Transport shall be carried out at the expense and risk of the contractual partner. The contractual partner shall also bear the costs of insurance and packaging.

### § 5 Place of delivery/performance, transfer of risk

- (1) Unless otherwise agreed, the place of delivery/performance is the BrasALPLA plant for which the delivery/performance is intended.
- (2) Unless otherwise agreed, the risk shall be transferred only after the goods are unloaded at the place of delivery and any service rendered at the place of performance.

### § 6 Prices, invoice and payment

- (1) Prices are fixed and include all expenses for the full delivery/performance provided.

- (2) The BrasALPLA order number shall be stated on invoices as a prerequisite for the amount becoming due.
- (3) In the case of inadequate delivery/performance, BrasALPLA is entitled to retain payment until performance is completed in full.
- (4) Provided that delivery/performance is free of defects and orderly rendering of accounts takes place, net payment shall be made, unless otherwise agreed, within 14 days of receipt of invoice with 3% discount or within 90 days net or still within the commercial practices normally used in BrasALPLA plant of the region.
- (5) Default interest is 12 % p.y., or another official rate, that replaces it.

## § 7 Warranty

- (1) The contractual partner guarantees that the delivery/performance complies with the agreement and the characteristics usually required, and the state of the art of technology. Machinery and plant must satisfy, in particular, the functional specifications and productspecific standards for safety and operation.
- (2) The contractual partner is obligated to control the quality and quantity of its delivery/performance. BrasALPLA's duty to examine and notify concerning defects is expressly waived.
- (3) The contractual partner is obligated to remedy defects within an appropriate period or to guarantee BrasALPLA a price reduction, at BrasALPLA's discretion.
- (4) In urgent cases, BrasALPLA is entitled to remedy defects itself or have these remedied by third parties. The contractual partner shall bear the costs in this regard.

## § 8 Intellectual property rights

- (1) The contractual partner shall guarantee that no third party rights shall be violated by its delivery/performance and shall indemnify and hold BrasALPLA harmless from all claims due to a violation of such rights.

## § 9 Non-disclosure

- (1) The contractual partner is obligated to observe secrecy regarding the business relationship with BrasALPLA and to keep confidential all information received from BrasALPLA even after fulfilment of the contract.

## § 10 Tools and other parts

- (1) Tools provided in full or in part at BrasALPLA's expense shall remain the property of BrasALPLA or are to be transferred to BrasALPLA upon request. They may be used only for goods which are produced for BrasALPLA or which are delivered to BrasALPLA. The contractual partner is obligated to insure the tools at replacement value at its own expense. It hereby assigns to BrasALPLA all rights to compensation, to which it is entitled under this insurance.

- (2) The contractual partner shall check, maintain and repair the tools at its own expense. BrasALPLA shall be notified immediately of any loss or damage.
- (3) The contractual partner shall return the tools immediately at the request of BrasALPLA at its own expense. The contractual partner shall bear the risk for any accidental loss or accidental damage to the tools until they are returned.
- (4) Other parts also provided by BrasALPLA remain the property of BrasALPLA. In the event that these parts are combined or processed, BrasALPLA shall acquire co-ownership of the new object in proportion to the ratio of the value of its parts (purchase costs) to the other combined or processed objects.

The contractual partner shall store and administer these parts free of charge and separately, as instructed by BrasALPLA, and shall clearly designate them as the property of BrasALPLA. The contractual partner shall also order these parts in due time and keep them available so that it can comply with its delivery obligations towards BrasALPLA in full and on time.

Other parts provided may only be used for goods or services produced for or delivered to BrasALPLA. The contractual partner is obligated to insure these parts for their replacement value. It hereby transfers to BrasALPLA all claims for compensation due to it under this insurance.

If production of the object of the contract cannot be fulfilled or only partially fulfilled, the contractual partner shall reimburse BrasALPLA for the other parts provided by BrasALPLA, which it used for the failed production.

## § 11 Compensation

- (1) The contractual partner shall be liable to BrasALPLA for all losses due to a breach of the contract, in particular for loss arising from delayed or inadequate delivery/performance. The liability also applies to delivery/performance of subcontractors and sub-suppliers. The obligation to indemnify also includes product recall costs. Furthermore, BrasALPLA is entitled to claim product liability rights, also if it uses the delivery/performance predominantly within BrasALPLA.
- (2) At the request of BrasALPLA, the contractual partner is obligated to take out liability insurance for a sum insured of at least EUR 5 million and to maintain this for a minimum of five years from the time of delivery/performance. It shall provide evidence to BrasALPLA of this insurance upon request.

## § 12 Change in materials, etc., production stop:

- (1) The contractual partner shall inform BrasALPLA without request in good time and in writing of modifications to materials, production processes, formulations, suppliers and supplied parts. It may only change materials, production processes, formulations, suppliers and supplied parts after prior approval by BrasALPLA in writing. In the case of modifications to materials or formulations, it shall submit a new declaration of conformity to BrasALPLA without request.
- (2) The contractual partner shall inform BrasALPLA in writing at least six months before terminating the production of parts relevant to BrasALPLA or the

cessation of operations in order to give BrasALPLA the opportunity to ensure adequate stocktaking.

## § 13 Final provisions

- (1) All legal relations between BrasALPLA and the contractual partner are subject to the national substantive law applicable for the BrasALPLA plant for which the delivery/performance is intended. The UN Convention on Contracts for the International Sale of Goods shall not apply.
- (2) The exclusive place of jurisdiction for disputes is the court with jurisdiction over the BrasALPLA plant for which the delivery/performance is intended.

It is agreed that the international court of arbitration of the Chamber of Commerce of Austria in Vienna shall be responsible for all cases outside the scope of this jurisdiction. The place of arbitration shall be Vienna, Austria. The language of arbitration shall be German. If the contract is drawn up in a language other than German, English shall be the language of arbitration.

In both cases, however, BrasALPLA shall be entitled to bring the contractual partner before another local competent court.

- (3) If the contract is also drawn up in English, the English text shall prevail for the interpretation of the contract and these terms and conditions.
- (4) Should any provisions of the contract or of these terms and conditions be or become invalid or unenforceable, this shall not affect the rest of the contract and the remaining terms and conditions. Invalid or unenforceable conditions shall be deemed to have been replaced by provisions which reasonable parties would have agreed in their place to achieve the intended economic purpose.
- (5) The contractual partner may use BrasALPLA and/or its delivery/performance for BrasALPLA for advertising purposes or as a reference only with the prior approval of BrasALPLA in writing.
- (6) The contractual partner agrees that BrasALPLA may record and process its data using EDP (automatically).