

## General Terms and Conditions of Purchase

Vlissingen, 20.09.2013

### § 1 Scope of application

- (1) Notwithstanding any agreement in writing to the contrary, these terms and conditions shall apply to all orders and agreements, in which ALPLA is the client, purchaser or ordering customer. These terms and conditions shall also apply to all future agreements between ALPLA and the supplier.
- (2) Any terms and conditions of the supplier are rejected by ALPLA and shall not apply. In respect of all goods or services, the supplier acknowledges the exclusive applicability of these terms and conditions of purchase.

### § 2 Ordering

- (1) An order is binding on ALPLA only if it is placed in writing (letter, e-mail, fax).
- (2) The documents, information and/or data provided by ALPLA to supplier, including but not limited to plans, drafts, data, samples, forms, models, printing blocks, manuscripts, lithographs or specimens (together "resources"), remain the property of ALPLA and may only be used by supplier for ALPLA's purposes. The supplier will return the resources (at its own risk and expense) at the latest at the time of sending the invoice or at any time upon first request of ALPLA. The supplier shall bear the risk for loss or damage to the resources until they are returned.
- (3) ALPLA 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 supplier declares that it has all information, data, descriptions, plans, and technical specifications required for the execution of the order as well as sufficient knowledge of local conditions that supplier needs in order to fulfil its obligations under the agreement.

### § 3 Delivery/Performance

- (1) Supplier will deliver the products and/or perform the services on the date indicated by ALPLA on the order form. ALPLA will also indicate on the order form the place of delivery for the products and/or the place of performance of the services. The delivery will include all transport, customs and accompanying documents.
- (2) ALPLA is entitled to refuse acceptance of an early or late delivery/performance and in that event either to return the products or to store the products with a third party for the account and risk of the supplier.
- (3) If the supplier, for whatever reason, cannot deliver/perform all or part of the products/services on time, it shall immediately notify ALPLA of the new deadline for delivery/performance. ALPLA may either accept (in whole or in part) the new delivery/performance deadline or request that supplier deliver/perform at a reasonable date set by

ALPLA. If supplier does not meet the date set by ALPLA, ALPLA may terminate the agreement/cancel the order without ALPLA being liable for any damages resulting from such termination.

- (4) ALPLA is entitled to refuse acceptance of partial, short or excess delivery/performance.
- (5) ALPLA is furthermore entitled to declare its withdrawal from the entire order in the case of divisible performance.
- (6) Delivery/performance is only provided in full if the supplier has submitted to ALPLA 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).
- (7) Unless otherwise agreed, the place of delivery/performance is the ALPLA plant for which the delivery/performance is intended.
- (8) Unless otherwise agreed, the risk shall be transferred to ALPLA only after the products are unloaded at the place of delivery and/or the service is rendered at the place of performance.
- (9) The supplier will provide ALPLA immediately upon request with any information, which ALPLA or a customer of ALPLA requires in order to provide evidence of compliance with legal or other regulations, in particular EC Directive EC-1935/2004 and EC-1907/2006 (REACH). This information includes, but is not limited to, proof of inspections, calculations and analyses carried out, as well as the resulting values.
- (10) If the supplier is in default, ALPLA may in any case demand an immediately due and payable penalty equal to 1% of the purchase order sum for each commenced week of default, which penalty shall not exceed up to 10%. This does not preclude ALPLA's right to claim additional damages, which supplier shall compensate.

### § 4 Transport

- (1) The supplier shall comply with the forwarding instructions of ALPLA 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 supplier shall submit to ALPLA all declarations of conformity required, in particular those relating to Directive EC-1935/2004.
- (2) Transport shall be carried out at the expense and risk of the supplier. The supplier shall also bear the costs of insurance and packaging.

### § 5 Prices, invoice and payment

- (1) Prices are fixed and include all expenses of delivery/performance.
- (2) Payment is due upon receipt of the invoice by ALPLA, provided that the invoice states the

ALPLA order number and the documents referred to in articles 3(1) and 3(6) have been included in the delivery to ALPLA.

- (3) If delivery/performance by supplier is incomplete or faulty, ALPLA is entitled to retain payment until delivery/performance has been completed or corrected.
- (4) Provided that supplies/services are free of defects and properly invoiced, payment will be made within 14 days after receipt of the invoice with 3% cash discount or within 90 days without deduction, unless otherwise agreed.
- (5) If ALPLA fails to make due and outstanding payments within the 90 days set out in § 5 (5), supplier may charge an interest of 4% per year.
- (6) Supplier shall bear all taxes, customs duties and other charges due in relation to the products or services and payable upon receipt of the delivery, unless ALPLA has undertaken in writing to assume these charges.

## § 6 Warranty and liability

- (1) The supplier indemnifies and holds ALPLA harmless for any claims of third parties, particularly customers of ALPLA or authorities, against ALPLA relating to the failure of the supplier to fully and/or timely provide an agreed or usually required document to ALPLA.
- (2) The supplier guarantees that the delivery/performance complies with the order/agreement and the specifications, in particular all applicable regulations (e.g. regulations EC-1935/2004 und EC 1907/2006) and the state of the art of technology. Machinery and plant must satisfy, in particular, the functional specifications and product-specific standards for safety and operation.
- (3) The supplier will control the quality and quantity of its delivery/performance. ALPLA's duty to examine and notify concerning defects is expressly waived.
- (4) If the products/services delivered are defective or do in any way not meet the agreed specifications and standards, ALPLA may choose to either have supplier remedy the defects within a reasonable period (to be set by ALPLA) or to grant ALPLA a price reduction. If urgency prevents ALPLA to await a remedy of the supplier, ALPLA is entitled to remedy the defects itself or have these remedied by a third party. The supplier shall bear the costs incurred by ALPLA in this regard.

## § 7 Intellectual property rights

- (1) The supplier guarantees that the products/services it provides to ALPLA do not infringe any rights of any third parties. The supplier indemnifies ALPLA and holds it harmless in respect of any claims of a third party that the products or any service or action of supplier infringes that third party's rights, and shall compensate ALPLA for all costs and damages incurred in this regard. In the event of such a third party claim, ALPLA may terminate the agreement (and thus all deliveries) with immediate effect, without ALPLA being liable for any costs or damages the supplier may incur as a result thereof.

## § 8 Tools and other parts

- (1) Tools provided in full or in part at ALPLA's expense shall remain the property of ALPLA or ownership in said tools shall be transferred to ALPLA upon request. They may be used only for products which are produced for ALPLA or which are delivered to ALPLA. The supplier is obligated to insure the tools at replacement value at its own expense, and hereby assigns to ALPLA all rights to compensation, to which it is entitled under this insurance. If said assignment is not permissible, the supplier hereby warrants that it will forward to ALPLA any payments it may receive under such insurance.
- (2) The supplier shall check, maintain and repair the tools at its own expense. The supplier shall, at its own expense, return the tools immediately at the request of ALPLA. The supplier shall bear the risk for any accidental loss or accidental damage to the tools until they are returned. ALPLA shall be notified immediately of any loss or damage to the tools. The supplier shall compensate any loss or damage to ALPLA.
- (3) Other parts also provided by ALPLA remain the property of ALPLA. In the event that these parts are combined or processed, ALPLA 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
- (4) The supplier shall store and administer these parts free of charge and separately, as instructed by ALPLA, and shall clearly designate them as the property of ALPLA. The supplier shall also order these parts at ALPLA in due time and keep them available so that it can comply with its delivery obligations towards ALPLA fully and timely.
- (5) Other parts provided may only be used for products or services produced for or delivered to ALPLA. The supplier is obligated to insure these parts for their replacement value. It hereby transfers to ALPLA all claims for compensation due to it under this insurance. If said assignment is not permissible, the supplier hereby warrants that it will forward to ALPLA any payments it may receive under such insurance.
- (6) If production of the object of the contract cannot be fulfilled or only partially fulfilled, the supplier shall reimburse ALPLA for the other parts provided by ALPLA, which it used for the failed production.

## § 9 Compensation

- (1) The supplier shall indemnify ALPLA for all damage or losses incurred by ALPLA due to a breach of the agreement, including but not limited to losses arising from delayed or inadequate delivery/performance and product recall costs. The indemnification also applies to delivery/performance of subcontractors/third parties used by the supplier for performance under the agreement. Furthermore, ALPLA is entitled to claim compensation for product liability, regardless of whether such liability relates to products resold or used within ALPLA's company.
- (2) At the request of ALPLA, the supplier will take out liability insurance with a coverage of at least EUR 5 million and will maintain this insurance for a minimum of five years from the date of delivery/performance. It shall provide evidence to ALPLA of this insurance upon first request.

## § 10 Change in materials, etc., production stop

- (1) The supplier shall inform ALPLA without request as soon as reasonably possible and in writing of modifications to materials, production processes, formulations, suppliers and supplied parts. Supplier may only change materials, production processes, formulations, suppliers and supplied parts after prior approval by ALPLA in writing. In the case of modifications to materials or formulations, supplier shall submit a new declaration of conformity to ALPLA without request.
- (2) The supplier shall inform ALPLA in writing at least six months before terminating the production of parts relevant to ALPLA or the cessation of operations in order to give ALPLA the opportunity to ensure adequate stocktaking.

## § 11 Final provisions

- (1) The supplier may not assign any of its rights and/or obligations under the agreement to a third party without the prior written consent of ALPLA.
- (2) All documents or information concerning ALPLA, its products, sales partners or customers, which are made available to the supplier or from which the supplier gains other knowledge, are confidential and will be treated as such by the supplier. The supplier may not make those public in any way. ALPLA retains all rights to such information and documents. This article survives the termination of any agreement or order.
- (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 agreement or of these terms and conditions be or become invalid or unenforceable, this shall not affect the rest of the agreement 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 supplier may use ALPLA and/or its delivery/performance for ALPLA for advertising purposes or as a reference, both upon ALPLA's prior written approval.
- (6) The contractual partner agrees that ALPLA may record and process its data using EDP (automatically).

## § 12 Place of jurisdiction and applicable law

- (1) All agreements between ALPLA and the supplier, and all agreements resulting there from, are subject to the national substantive law of the country of ALPLA's 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 within the scope of the Lugano Convention or of the European Jurisdiction and Enforcement Regulation is the court with jurisdiction over the ALPLA 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, ALPLA shall be entitled to bring the supplier before another competent court.