

## General Terms and Conditions of Purchase

Marinha Grande, 17.07.2012

### § 1 Scope of application

- (1) Notwithstanding any agreement in writing to the contrary, these terms and conditions of commercial purchase shall apply to all orders and contracts, in which ALPLA is the client, purchaser or ordering customer.
- (2) Other terms and/or conditions of the contractual partner are not accepted and shall not apply.
- (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 ALPLA only if it is placed in writing (letter, e-mail or fax).
- (2) The resources attached to enquiries or orders from ALPLA, such as plans, drafts, data, samples, forms, models, printing blocks, manuscripts, lithographs or specimens, remain the property of ALPLA and may only be used for ALPLA's purposes. For this reason, they are to be returned to ALPLA, without any request being necessary, 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 above-mentioned 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 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 ALPLA on which the ordered goods are to be delivered to the planned place delivery with all transport, customs and accompanying documents or on the date which the service is to be provided at the place of performance.
- (2) ALPLA is entitled to refuse acceptance of an early and/or late delivery/performance and to return the goods at the expense and at the risk of the supplier and/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).

ALPLA is entitled to withdraw from the contract after a reasonable period of grace or to accept the new delivery/performance deadline.

- (4) ALPLA is entitled to refuse acceptance of delivery/performance which is only partial, short or in excess.
- (5) ALPLA is furthermore entitled to declare its withdrawal from the entire order in the case of divisible performance.
- (6) Delivery/performance will only be considered fully complied with if the contractual partner 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). Submission of these documents is a prerequisite to enable payment of the amount due to be made.

The contractual partner indemnifies and exonerates ALPLA in respect of all claims which third parties, particularly customers of ALPLA or authorities may enforce against ALPLA as a consequence of the fact that the contractual partner did not provide, or did not provide in full or in time, an agreed or usually required document to ALPLA.

- (7) The contractual partner is obligated to provide ALPLA, whenever requested to do so, with any information which ALPLA or a client of ALPLA requires in order to provide evidence of compliance with legal or other regulations, in particular EC Directives EC-1935/2004 and EC-1907/2006 (REACH). This information includes, in particular, proof of inspections, calculations and analyses carried out, as well as the resulting values.
- (8) In the event of non-compliance by the contractual partner, said contractual partner will be subject to a financial penalty corresponding to 1% of the order amount for each week of default, up to a maximum of 10% of the amount of that order. Losses in excess of this shall be reimbursed by the contractual partner.

### § 4 Transport

- (1) The contractual partner 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 contractual partner 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 contractual partner. The contractual partner shall also bear all costs relating to insurance and packaging.

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

- (1) Unless otherwise agreed in writing, the place of delivery/performance is the ALPLA plant for which the delivery/performance is intended.

- (2) Unless otherwise agreed in writing, 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 ALPLA order number shall be stated on invoices as a prerequisite for the amount due.
- (3) In the case of inadequate delivery/performance, ALPLA is entitled to retain payment until performance is fully and suitably completed.
- (4) Provided that delivery/performance is free of defects and orderly rendering of accounts takes place, payment shall be made within the following periods:
  - after receipt of invoice with 3% discount, payment will be made within 14 days
  - in all other cases: net payment will be made within 90 days
- (5) Default interest is set at 4% p.a.

## § 7 Warranty

- (1) The contractual partner guarantees that the delivery/performance complies with the agreement and the characteristics usually required, 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.
- (2) The contractual partner is obligated to control the quality and quantity of its delivery/performance. ALPLA's duty to examine and notify concerning defects is expressly waived.
- (3) The contractual partner is obligated to remedy defects within an appropriate period and/or to guarantee ALPLA a price reduction, which will be set at ALPLA's discretion.
- (4) In urgent cases, ALPLA is entitled to remedy defects itself or have these remedied by third parties. The contractual partner shall bear all costs relating to the repair of said defects 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 exonerate ALPLA from all claims due to any violation of such rights.

## § 9 Non-disclosure

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

## § 10 Tools and other parts

- (1) Tools provided in full or in part at ALPLA's expense shall remain the property of ALPLA or are to be transferred to ALPLA upon request. They may be used only for goods which are produced for ALPLA or which are or come to be delivered to ALPLA. The contractual partner is hereby obligated to insure the tools at replacement value at its own expense. Furthermore, through this contract, the contractual partner hereby assigns to ALPLA all rights to compensation, to which it may be entitled under the terms of this insurance.
- (2) The contractual partner shall check, maintain and repair the tools at its own expense. ALPLA shall be notified immediately of any loss or damage.
- (3) At ALPLA's first request, the contractual partner shall return the tools immediately 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 to ALPLA.
- (4) 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.

The contractual partner 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 contractual partner shall also order these parts in due time and keep them available so that it can comply with its delivery obligations towards ALPLA in full and on time.

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

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

## § 11 Compensation

- (1) The contractual partner shall be liable to ALPLA for all losses it may suffer due to a breach of the contract, in particular for losses arising from delayed or inadequate delivery/performance. This liability also applies to the delivery/performance of subcontractors and sub-suppliers. The obligation to compensate also includes product recall costs. Furthermore, ALPLA is entitled to claim all product entitlements, also if the delivery/performance is used predominantly within its company.
- (2) At the request of ALPLA, 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 period of five years from the time of delivery/performance. The contractual partner shall provide evidence to ALPLA of this insurance whenever requested to do so.

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

- (1) The contractual partner shall inform ALPLA in good time and in writing of modifications to materials, production processes, formulations, suppliers and supplied parts. Modifications to materials, production processes, formulations, suppliers and supplied parts may only be carried out after prior approval by ALPLA in writing. In the case of modifications to materials or formulations, it shall submit a new declaration of conformity to ALPLA.
- (2) The contractual partner shall inform ALPLA in writing at least six months in advance before concluding the production of parts relevant to ALPLA or the cessation of operations in order to give ALPLA the opportunity to ensure adequate stock-taking.

## § 13 Final provisions

- (1) All legal relations between ALPLA and the contractual partner are subject to the national substantive law applicable for the ALPLA 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 contractual partner before another 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 provision of the contract or of these terms and conditions be or become invalid or unenforceable, this shall not affect the remainder of the contract or the remaining terms and conditions. Invalid or unenforceable conditions shall be deemed to have been replaced by provisions which the parties would have agreed to in their place to achieve the intended economic purpose.
- (5) The contractual partner may use any reference to ALPLA and/or its delivery/performance for ALPLA for advertising purposes or as a reference only with the prior approval of ALPLA in writing.
- (6) The contractual partner agrees that ALPLA may record and process its data using EDP (automatically).