

## General Terms and Conditions of Purchase

Lima, 2012-03-07

### § 1 Scope of application

- (1) Notwithstanding any agreement in writing to the contrary, these conditions shall apply to all orders and contracts, in which ALPLA is the client, purchaser or ordering customer. The conditions shall also apply to all future business.
- (2) Terms and conditions of the Seller are not accepted and shall not apply. No objection is required on the part of ALPLA. Should the terms and conditions contained in the Purchase Conditions deviate in any manner from the terms and conditions contained in order or sales related documents submitted by the seller to ALPLA, the transaction shall be governed solely and exclusively by the Purchase Conditions, ALPLA expressly objects to the inclusion of any such additional or different terms and conditions in the contractual relationship between the parties, and ALPLA's agreement to purchase products from seller is expressly conditioned on the seller's agreement to be bound by the Purchase Conditions
- (3) In respect of all goods or services, the Seller recognizes 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, 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. They are to be returned without request to ALPLA at the latest with the invoice or at any time upon request at the expense of the Seller. The Seller shall bear the risk for accidental loss or accidental 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 Seller 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 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) ALPLA 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 Seller 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 either terminate the contract if the seller fails to timely deliver the products or to accept the new delivery/performance deadline.

- (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 Seller 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 for the payment becoming due.

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

- (7) The Seller is obligated to provide ALPLA immediately upon request with any information, which ALPLA or a client of ALPLA 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 Seller defaults, ALPLA shall be entitled at all times to demand an immediate charge, constituting liquidated damages, 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. These enumerated remedies are in addition and not in lieu of any other remedies that may be available to ALPLA under the Sales Code.

### § 4 Transport

- (1) The Seller 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 Seller shall submit to ALPLA all declarations of conformity required.
- (2) Transport shall be carried out at the expense and risk of the Seller. The Seller 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 ALPLA 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 ALPLA order number shall be stated on invoices as a prerequisite for the amount becoming due.
- (3) In the case of inadequate delivery/performance, ALPLA 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.
- (5) Default interest is 4% p.a.

#### § 7 Warranty

- (1) The Seller 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 Seller 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 Seller is obligated to remedy defects within an appropriate period or to guarantee ALPLA a price reduction, at ALPLA's discretion.
- (4) ALPLA is entitled to remedy defects itself or have these remedied by third parties. The Seller shall bear the costs in this regard. The Sales Code sets forth the damages that ALPLA may recover in the event of a "cover" situation.
- (5) THE SELLER WILL BE LIABLE FOR ALL SPECIAL AND CONSEQUENTIAL DAMAGES, INCLUDING LOST PROFITS, INCURRED BY ALPLA AS A RESULT OF THE SELLER'S BREACH.
- (6) THE SELLER GUARANTEES THAT THE GOODS ARE MERCHANTABLE AND FIT FOR THEIR INTENDED PURPOSE AND COMPLY WITH ALL APPLICABLE SPECIFICATIONS.

#### § 8 Intellectual property rights

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

#### § 9 Non-disclosure

- (1) The Seller is obligated to observe secrecy 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 delivered to ALPLA. The Seller is obligated to insure the tools at replacement value at its own expense. It hereby assigns to ALPLA all rights to compensation, to which it is entitled under this insurance.
- (2) The Seller shall check, maintain and repair the tools at its own expense. ALPLA shall be notified immediately of any loss or damage.
- (3) The Seller shall return the tools immediately at the request of ALPLA at its own expense. The Seller shall bear the risk for any accidental loss or accidental damage to the tools until they are returned.
- (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 Seller 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 Seller 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 Seller 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 production of the object of the contract cannot be fulfilled or only partially fulfilled, the Seller shall reimburse ALPLA for the other parts provided by ALPLA, which it used for the failed production.

#### § 11 Compensation

- (1) The Seller shall be liable to ALPLA 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, ALPLA is entitled to claim product liability rights, also if it uses the delivery/performance predominantly within its company.
- (2) At the request of ALPLA, the Seller is obligated to take out liability insurance for a sum insured of at least USD 5 million and to maintain this for a minimum of five years from the time of delivery/performance. It shall provide evidence to ALPLA of this insurance upon request.

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

- (1) The Seller shall inform ALPLA 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 ALPLA in writing. In the case of modifications to materials or formulations, it shall submit a new declaration of conformity to ALPLA without request.
- (2) The Seller 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.

**§ 13 Final provisions**

- (1) This Agreement shall be deemed performed in its entirety in the State of Georgia and shall be interpreted exclusively in accordance with the laws

thereof. The parties agree to the exclusive jurisdiction of the courts sitting in Georgia, USA.

- (2) 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.
- (3) The Seller may use ALPLA and/or its delivery/performance for ALPLA for advertising purposes or as a reference only with the prior approval of ALPLA in writing.
- (4) The Seller agrees that ALPLA may record and process its data using EDP (automatically).