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**General terms and conditions of purchase of Arbonia for deliveries and services to companies of the Arbonia AG****1. General information - applicability**

- 1.1 The present general terms and conditions of purchase ("GTCP") are valid for all purchases made by Arbonia AG or one of its subsidiaries (hereinafter individually referred to as "Purchaser" and collectively as "Arbonia").
- 1.2 These GTCP apply exclusively. General terms and conditions of the Supplier only become part of the contract if they are explicitly accepted by the Purchaser in writing.
- 1.3 These GTCP also apply for all future transactions by the Purchaser with the Supplier. An adaptation of these GTCP is reserved to Arbonia.

**2. Offer, purchase order and order conformation**

- 2.1 Unless the Supplier explicitly sets a different term in their offer, the offer is binding for 60 days after receipt by the Purchaser.
- 2.2 Purchaser orders and agreements are only binding if they are given or confirmed in writing by the Purchaser. Each purchase order must be confirmed in writing by the Supplier. The Purchaser reserves the right to cancel the purchase order at no charge if the Purchaser has not received the order confirmation belonging to the purchase order within 5 business days. The cancellation is in due time if it has been sent off prior to the receipt of the order confirmation.
- 2.3 Subsequent agreements must be confirmed in writing by the Purchaser to be binding.

**3. Prices**

- 3.1 Due to the absence of alternative written agreements, the set prices are fixed prices. They include all agreed services, including packing and freight costs as well as possible extra charges, taxes and fees, except VAT.
- 3.2 In case of prices by weight, the official weight, in its absence our own determination of weight is decisive.

**4. Confidentiality**

The Supplier engages to maintain confidentiality about all not publicly accessible information about the Purchaser, Arbonia or the subject matter of the contract, that he has gained knowledge of within the framework of the business relationship. Furthermore, the Purchaser undertakes to keep confidential all secrets obtained because of the order and to use them only for the purpose of fulfilling the order. The obligation to maintain confidentiality also applies after the termination of the contract.

**5. Payments**

- 5.1 Unless otherwise agreed, payments are made
  - either within 30 days with a 2% discount;
  - or within 60 days without deduction.
- 5.2 The term of payment begins as soon as the delivery or service has been completely accepted by the Purchaser, and the properly issued invoice has been received. Insofar as the Supplier shall provide material tests, test reports, quality documents or other documents, the completeness of the delivery and service also requires the receipt of these documents.
- 5.4 Payments as well as commissioning do not imply the recognition of conformity with the contract of deliveries and services nor a waiver of the rights the Purchaser is entitled to.

**6. Delivery and delayed delivery**

- 6.1 The delivery date confirmed by the Supplier is binding. For the timeliness of deliveries, the receipt of the delivery at the receiving centre specified by the Purchaser is decisive; for the timeliness of deliveries with installation or assembly as well as of services, their acceptance is decisive.
- 6.2 Premature deliveries, deliveries outside the delivery times as well as partial or multiple deliveries require the Purchaser's prior written consent.
- 6.3 As soon as delays in delivery become apparent, the Purchaser shall be informed immediately and in writing. The delivery term is only considered extended if this has been explicitly recognised by the Purchaser in writing.
- 6.4 If the agreed delivery time is not kept for reasons beyond the responsibility of the Purchaser the Purchaser may demand a contractual penalty of 2%, however, altogether 10% at the most, of the order or release order value for each week. The right to claim any further damages remains unaffected.
- 6.5 In case of delayed delivery, the Purchaser is entitled to withdraw from the contract after an appropriate grace period notification. This also applies if the Purchaser has prematurely accepted a partial delivery.

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- 6.6 On all shipping and commercial documents the following information or documentation, respectively, must be indicated or presented unrequested: 1.) customs tariff number of the dispatching country, 2.) country of origin, 3.) note if goods are of preferential origin. If so, a valid proof of origin must be included (e.g. invoice declaration, EUR1, EUR-MED).
- 6.7 All shipments must include a packing slip or delivery note with information about the content and complete purchase order indicator. If this remains undone, the Purchaser does not take responsibility for and delay in processing. Partial or back orders have to be marked as such. Furthermore, dispatch notes must be sent on the day of dispatch to the Purchasing Department as well as to the indicated destination address.

**7. Quality and environmental standards, safety and accident prevention regulations**

- 7.1 The Supplier incl. their subcontractors shall comply with recognised environmental and quality management systems, especially EN ISO 9001 and EN ISO 14001.
- 7.2 The deliveries and services must be in accordance with Swiss and EU safety and accident prevention regulations as well as with the specifications, drawings and other information given in the purchase order. If permits are required according to Swiss and/or EU law, they have to be obtained by the Supplier and presented at the point in time of the delivery.
- 7.3 The CE mark must be clearly visible attached. Declarations of conformity or incorporation incl. the required technical accompanying documentation must be included. The Supplier is obliged to comply with both the EU machinery directive and the respective Swiss provisions.
- 7.4 Modifications of the a.m. provisions due to amendments must be independently taken into consideration by the Supplier up to point in time of the transfer of risk.

**8. Compliance with statutory provisions in chemicals legislation**

- 8.1 The Supplier ensures that the substances contained in their products and deliveries comply with all regulatory requirements set forth by the EU and Switzerland in chemicals legislation, i.e. also the European Regulation EC No. 1907/2006 on the Registration, Evaluation, Authorisation and Restriction of Chemical substances (REACH) and the EU Regulation on persistent organic pollutants (so-called POPs, EC No. 850/2004, EU No. 519/2012) as well as with the Swiss Chemicals Ordinance.
- 8.2 The Supplier ensures that the substances contained in their products and deliveries, as far as they belong to the application area of the Swiss Chemicals Ordinance, have been properly registered with the Federal Office of Public Health (FOPH).
- 8.3 With each deliver, the Supplier provides the Purchaser unrequested and free of charge with the current electronic safety data sheet.
- 8.4 If the Supplier violates any of the a.m. obligations or warranties, the Purchaser is entitled to cancel the respective purchase order immediately and at any time, and to decline acceptance of the respective delivery without incurring any costs.
- The Supplier is liable towards the Purchaser for all direct and indirect damages that arise for the Purchaser due to the non-fulfilment of the contract.

**9. Packaging**

Hazardous materials must be packed and marked according to the applicable laws, and the respective safety data sheets must be included. Likewise, hazardous material must be packed and marked in accordance with the applicable laws, and the hazardous material classification, or, if applicable, the note "no hazardous material" must be indicated on the delivery note. Packaging must be CFC-free, chlorine-free, chemically inactive, neutral to ground water and nontoxic when being burned. The packaging must be marked with recognised recycling symbols such as e.g. RESY or substance symbols such as e.g. PE. The Supplier is obliged to dispose their waste, packaging etc. on their own responsibility and at no charge for the Recipient or the Purchaser, respectively. If the Supplier does not meet this obligation, the disposal is arranged without any further grace period and at the Supplier's expense.

**10. Spare parts**

The Supplier undertakes to keep available spare parts for the goods delivered by him for the duration of 15 years.

**11. Transfer of risk**

- 11.1 Unless otherwise agreed in writing, the delivery is done DDP (Incoterms 2010).
- 11.2 For deliveries with installation or assembly, the risk is transferred at the point in time of acceptance; for deliveries without installation and assembly at the point in time of the receipt at the receiving centre specified by the Purchaser.

**12. Warranty**

- 12.1 The Supplier warrants that the delivered goods are free of physical or legal defects that would destroy or significantly minimise the value or the efficiency for the intended use of the product; that the delivered goods possess the promised characteristics, comply with the statutory performances and specifications at the place of destination and fulfil all quality requirements and specifications acc. to the purchase order.

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- 12.2 The warranty period is 24 months, starting with the transfer of risk, unless otherwise agreed in the purchase order. If defects are detected after the warranty period has expired, the Supplier is liable as long as the Purchaser is liable towards their own customers.
- 12.3 During the warranty period, the Purchaser is entitled to file a notice of defects at any time. The Supplier explicitly waives the right of objection regarding a delayed notice of defects or an approval, respectively.
- 12.3 The Purchaser's warranty rights lapse 24 months after a notice of defects has been filed.
- 12.4 The Purchaser is entitled to set the Supplier a time limit for the remedy at a location indicated by the Purchaser free of charge, or to request the delivery of defect-free replacement goods at no charge. In case of non-compliance with the time limit, the Purchaser is entitled without further requests, to either remedy the defects themselves at the Supplier's costs and risk, or to initiate the execution by substitution by a third party, or to request rescission or reduction. Furthermore, the Purchaser is entitled to charge the Supplier for any direct or indirect damage they suffer resulting from defective delivery or service.  
With the repair or the replacement of defective parts, the warranty obligations for these parts start anew.
- 12.5 If the Purchaser assumes that according to their evaluation also other parts delivered by the Supplier are defective, the Purchaser is entitled to effect a call back or replacement campaign for the part that has been detected to be defective at the expense of the Supplier. The Supplier shall repair or replace all parts that have been delivered already at his own expense upon request by the Purchaser. This also applies if the warranty period has already expired. Moreover, the Supplier shall indemnify the Purchaser for any damage that arises due to such a replacement campaign.
- 12.6 Defective deliveries or services entitle the Purchaser and each member of Arbonia to withdraw from any contractual relationships with the Supplier that includes the regular delivery of goods or the regular provision of services or work performances, if there are justified fears that the defects or faults of a delivery or service will also have lasting effects on other deliveries or services. This does not apply if the Supplier is able to show credibly that faults of this kind do not have to be the matter of concern in the future.

**13. Product liability, product safety, indemnity, general liability insurance**

- 13.1 If the products delivered by the Supplier directly or indirectly damage the Purchaser or another member of Arbonia, its institutions or employees in any kind of way, the Supplier must indemnify them to the full extent.
- 13.2 In case of the Purchaser or another member of Arbonia claiming the guarantee in connection with a delivery, particularly based on a law on product liability, the Purchaser may disclose the name of the Supplier offhand to the claimant. Furthermore, the member of Arbonia is entitled to any compensation and recourse claims for all expenses and fees resulting from such claims towards the Supplier.
- 13.3 The Supplier undertakes to comply with the provisions on product safety applicable to the contract territory. The Supplier is liable towards the Purchaser for any damages the Purchaser suffers due to the failure to comply with the product safety provisions, in particular for the costs incurred by a warning, a sales ban, a withdrawal from the market and a call back as well for costs imposed on the Purchaser by regulatory authorities.
- 13.4 Upon request by the Purchaser, the Supplier immediately provides the Purchaser with the name of the respective manufacturer, importer or sub-supplier. Additionally, the Supplier provides the Purchaser with all useful proof of evidence for the defence of claims of third parties or of regulatory proceedings.
- 13.5 The Supplier undertakes to take out product liability insurance with an insured sum of CHF 5 million or the equivalent in another currency, per personnel/material damage (lump-sum), and to provide proof of insurance upon request by the Purchaser. Any other compensation claims we are entitled to remain unaffected.

**14. Property rights**

- 14.1 The Purchaser keeps all property and copyright rights for all illustrations, drawings, calculations, drafts, samples and other documents that are provided by the Purchaser to the Supplier. They have to be kept strictly confidential and must not be made accessible to third parties without an explicit written consent. They may exclusively be used for the manufacture based on the purchase order. They must be returned unrequested after the business relationship has been terminated. The obligation to maintain confidentiality continues to apply also after the termination of the contract.
- 14.2 The Supplier guarantees that in connection with their delivery, no intangible property rights of third parties are violated. The Supplier is liable towards the Purchaser or Arbonia for all consequences resulting from an actual or asserted violation of property rights (incl. possible legal and lawyer's fees).

**15. Reservation of proprietary rights - provision**

- 15.1 Provided that the Purchaser orders parts from the Supplier, the Supplier reserves the property rights thereof. Processing or alternation by the Supplier is carried out for the Purchaser.
- 15.2 If an item provided by the Purchaser is inseparably mixed with items not belonging to the Purchaser, the Purchaser acquires co-ownership of the new item in the ratio of the value of the goods subject to the retention of the title (purchase price plus VAT) to the other mixed items at the time they are mixed, independent of the fact if the Supplier's item is to be regarded as the main item. The Supplier preserves the sole or co-ownership for the Purchaser.

**16. Force Majeure**

The Parties are not liable for the non-fulfilment or faulty performance of the contract due to events of force majeure. The terms set forth in this contract are extended by the duration of the disruption plus an appropriate lead period. Force majeure only includes war or natural catastrophes. The Party that invokes the force majeure shall inform the other Party immediately of the incident and the anticipated duration, unless they can invoke the force majeure.

**17. Additional provision, final provision**

In case any provision of this GTCP should be ineffective, the validity of the remaining provision remains unaffected. The invalid provision shall be replaced by a valid one, which corresponds with the intended economic purpose of the omitted provision.

**18. Place of fulfilment and jurisdiction**

- 18.1 Unless otherwise indicated in the purchase order, Arbon is the place of fulfilment.
- 18.2 **Place of jurisdiction** for all disputes arising from the business relationship between Supplier and Purchaser is the Purchaser's **place of business** (Switzerland). However, the Purchaser is also entitled to prosecute the Supplier at the competent court at his place of business or at any other competent court.

**19. Applicable law**

All legal relations are governed by **Swiss law**. The application of the United Nations Convention on Contracts for the International Sale of Goods (Vienna Convention) is excluded in any case.