

## 1. Exclusive application

1.1 These General Terms and Conditions of Purchasing (TCP) apply to the purchasing management.

1.2 Contrary terms of the supplier or terms of the supplier deviating from these TCP will not be accepted by Arthur Flury AG (AF), unless a written agreement on this matter is available.

1.3 These TCP also shall apply if AF accepts the delivery of the supplier without reservation while knowing of contrary or deviating terms of the supplier.

1.4 The scope of delivery, the specifications, targets, delivery dates as well as the prices will be determined in separate purchase orders. By accepting these purchase orders, individual supply contracts come into effect. These TCP constitute an integral component of those contracts.

## 2. Offer

2.1 By means of the enquiry, the supplier is requested to submit a gratuitous offer as specialist. The supplier has to base this offer on the descriptions and targets of AF and, in case of deviations, it has to expressly point to such deviations; the supplier accepts its duty to inform. If the supplier does not set a period of time in its offer, the offer shall be binding for a period of 90 days.

## 3. Purchase order

3.1 Purchase orders must be made in writing; basically this shall apply also for the acceptance of the purchase order by the supplier. Irrespective of the above, a purchase order shall also be deemed as accepted if the supplier does not contradict within a period of time of 5 days after receipt of the purchase order.

3.2 The scope of delivery includes all items required for the proper functioning of the product in a manner fit for operation regardless of whether such item is or is not mentioned and described in the specification regarding the purchase order.

3.3 Further quality agreements will be determined specifically for each purchase order. Especially the following documents, records and specifications are authoritative for determining the quality: purchase order, drawings, quality agreements and standard specification sheets (information on drawings).

## 4. Prices and terms of delivery

4.1 The prices of the supplier are deemed as fixed prices and are in the currency stated in the purchase order, DDP, delivered, duty paid, Deitingen SO (the valid INCOTERMS). Contrary terms of delivery will be determined by the parties in writing.

4.2 The supplier has to compensate for any transport damage due to insufficient packaging.

4.3 A delivery note with all pieces of information specific to the purchase order has to be attached to each consignment. Partial and outstanding consignments are to be identified as such on all shipping documents and invoices.

4.4 The supplier shall attach a documentation to its deliveries at its costs containing the EU declaration of conformity (so-called CE mark) or EU manufacturer's declaration. The supplier domiciled in a country which has a preferential agreement on customs with Switzerland undertakes to state the declaration of origin on all invoices pursuant to the corresponding free trade agreement.

4.5 AF reserves the right to return invoiced packaging material to the supplier in exchange for issuing a credit note.

## 5. Terms of payment

5.1 The purchase order number, exact product designation as well as the numbers of the drawing or the part are to be stated on any and all correspondence, confirmations, delivery notes, invoices, etc.

5.2 A separate invoice in duplicate is to be issued for each purchase order as well as each delivery.

5.3 The payment by AF takes place pursuant to the terms of payment agreed on our purchase orders.

## 6. Time of delivery and consequences of delay

6.1 The delivery shall become due on the agreed date of delivery at the place of destination. In case of a delayed date of delivery, the supplier shall be in default automatically unless another solution has been agreed by the parties in case of early notification of difficulties.

6.2 Contractual penalty:  
The contractual penalty will be governed by a separate agreement.

6.3 The supplier only may invoke the absence of necessary services to be performed by AF if it has requested such services in good time.

6.4 Partial deliveries and premature deliveries shall be admissible only after agreement.

6.5 If the supplier is in default regarding the delivery and if a reasonable period of grace has expired without success, AF may refuse to accept the delivery, withdraw from the contract or claim damages due to non-performance of the delivery obligation.

6.6 If it turns out to be certain even prior to maturity of the delivery that the supplier will exceed the date of delivery, AF also may withdraw from the contract and renounce the delivery.

6.7 Furthermore, there shall be the possibility to withdraw from the contract if it can definitely be foreseen within the course of the production that the delivery item will not be suitable.

## 7. Warranty, liability

7.1 The supplier warrants the compliance with the characteristics and specifications warranted in the respective supply contracts as well as the fact that the product supplied by it does not have any defects which impair the serviceability, reliability as well as the usual lifespan under the known operating conditions. Irrespective of that, the supplier warrants that the product to be supplied is delivered in checked and controlled manner and complies with the state-of-the-art technology, the regulations of the legislator and the existing regulations and guidelines regarding design, safety at work, fire prevention and environmental protection with regard to safety and security and is of such condition that there is no danger to life and health in case of use as intended and applying due care.

7.2 Within the framework of the obligations of the supplier under 7.1 as well as the quality assurance agreement, AF shall not be subject to the duty to immediately examine and notify in order to maintain its warranty claims. However, this does not apply to obvious defects or such defects the notification of which can reasonably be expected from AF in good faith for other reasons.

7.3 In deviation from the statutory provisions, the warranty period shall amount to 24 months starting with the handover to AF. Defects notified during the warranty period, which also include the failure to submit warranted data and the absence of warranted characteristics, have to be removed by the supplier immediately and free of charge (including all additional costs) upon request. In all other respects, AF shall be entitled to the statutory warranty claims completely. However, AF may request substitute delivery of an item free of defects or subsequent improvement at its choice. When exercising this option, it is to be taken into account reasonably whether the supplier is able to perform subsequent improvement according to the nature of its business operation. In any case, the supplier has to bear all expenses required for the purpose of subsequent improvement or substitute delivery.

7.4 The warranty period for substitute deliveries and subsequent improvements amounts to 24 months.

7.5 AF only shall be entitled to the right of rescission [*Wandelung*] or reduction [*Minderung*] after a failure of the subsequent improvement/substitute delivery. The subsequent improvement/substitute delivery shall especially be deemed as failed if the supplier delays such subsequent improvement/substitute delivery beyond the reasonable periods of grace set by AF or refuses to perform it.

7.6 If a subsequent improvement by the supplier is unreasonable for AF due to special urgency or for other urgent operational reasons, AF shall be entitled to have the subsequent improvement carried out by a third party at the expense of the supplier without setting a period of grace. However, in this case, AF shall be obliged to notify the defect to the supplier immediately.

7.7 Within the framework of the characteristics warranted by it in the individual contracts, the supplier shall be liable for any damage - including consequential damage - caused by the product supplied by it.

7.8 If persons are injured or property is damaged due to acts or omissions of the supplier and if claims are asserted against AF for this reason, AF shall be entitled to a right of recourse to the supplier.

7.9 The supplier shall be liable for sub-suppliers as for its own performance.

## 8. Product liability, indemnity, insurance coverage

8.1 To the extent that the supplier is responsible for any product damage it shall be obliged to indemnify AF from claims for damages of third parties upon first request insofar as the cause of damage was set within the sphere of control and organisation of the supplier.

8.2 The supplier also has to reimburse all expenses to AF within the framework of this obligation which result in connection with a recall activity carried out by AF. To the reasonable extent, AF will inform the supplier about recall measures to be carried out.

8.3 In order to cover the above-mentioned claims as well as any other claims arising in connection with the product, the supplier undertakes to take out a general business and product liability insurance with an appropriate coverage amount per damaging event and to maintain this insurance coverage to the full extent at least until the expiry of 5 years after expiry of the corresponding supply contracts.

## 9. Industrial property rights of third parties

9.1 The supplier shall be liable that no industrial property rights of third parties (patents, designs, models, etc.) are infringed by the delivery and use of the items offered. If need be, it shall indemnify AF.

## 10. Technical documents and operating instructions

10.1 AF shall make available to the supplier, to the extent necessary, all technical documents which the latter requires for performing the tasks assigned.

10.2 Prior to start of production, as-built drawings are to be made available to AF for approval. The approval by AF shall not release the supplier from its responsibility for the functional suitability and feasibility.

10.3 Upon request, the documents developed by the supplier based on specifications / the requirement specifications of AF will be made available to AF as a set of drawings which can be copied and microfilmed and/or by means of CAD data.

10.4 Upon request, the definite final plans, maintenance and operating instructions as well as spare parts lists necessary for a proper maintenance of the delivery are to be handed over to AF free of charge in electronic form (PDF) in German or English language.

10.5 The documentation of the supplier may be copied and published without consultation with the supplier.

## 11. Right to inspect

AF shall be entitled to control the process of work; by doing so, the duty of the supplier to perform in accordance with the contract can neither be changed nor restricted.

## 12. Assembly

12.1 If the supplier is also obliged to assemble the goods, this assembly shall be compensated for with the delivery price, unless a special remuneration is agreed.

## 13. Secrecy and product-related exclusivity agreement

13.1 The supplier must not use the trade and production secrets disclosed by AF as well as AF customer data and AF drawings of which it learned in connection with the handling of supply contracts for purposes not stated in the supply contracts or make them accessible to third parties. The supplier is especially prohibited from producing comparable products or have such comparable products produced for other purchasers making use of the production-related know-how in any form provided by AF. The supplier has to ensure by suitable contractual agreements that this obligation to maintain secrecy is also imposed on its employees and sub-suppliers.

13.2 This provision shall apply without limitation in terms of time. However, it shall cease to apply if and to the extent that the production know-how made available by AF in pictures, drawings, calculations and other documents has become generally known.

## 14. Applicable law, place of performance

14.1 Applicable law: the individual contract, the present TCP and the relevant Swiss laws.

14.2 Subject to other written agreements, the production site of AF AG in Deitingen SO, Switzerland, shall be the place of performance for all claims under the supply contracts.

## 15. General provisions

15.1 Changes of and supplements to the TCP, all of them based on concluded supply contracts and the corresponding annexes, must be made in writing. This shall also apply to agreements by which this written form clause is annulled completely or in parts. Oral arrangements or additional agreements have not been made.

15.2 The rights and duties under these TCP as well as the supply contracts concluded based on them and the corresponding annexes shall not be transferable without mutual written consent of the parties.

15.3 If individual provisions of these TCP are invalid, the effectiveness of the remaining provisions shall not be affected. For such case, the parties undertake to agree a corresponding substitute regulation which is as close as possible to the invalid provision and which is legally admissible.