

General Purchasing Conditions

of Ortlinghaus GmbH (hereinafter referred to as "Ortlinghaus"), Industriestrasse 4, CH-9473 Gams and of Ortlinghaus AG (hereinafter referred to as "Ortlinghaus"), Widen 11, CH-9473 Gams

1 Scope/offers submitted by the supplier

- 1.1 These General Purchasing Conditions shall apply to all orders of goods and/or services to Ortlinghaus, insofar as Ortlinghaus expressly refers to these conditions in the order.
- 1.2 The supplier's General Terms of Sales and Delivery shall only apply if they are expressly acknowledged in writing by Ortlinghaus. Not expressly protesting against their applicability does not mean that Ortlinghaus accepts such conditions, also not tacitly.
- 1.3 Quotes from the supplier (including cost estimates and calculations, etc.) shall be free of charge for Ortlinghaus.

2 Contractual products

- 2.1 The products and services that are ordered under these conditions shall hereinafter be referred to as *contractual products*.
- 2.2 The parties can define the product and (if applicable) process specifications for every contractual product and conclude separate quality agreements. The product and process specifications, as well as the quality agreements, become binding upon signing an appropriate document. The characteristics of the contractual products agreed in such a document are warranted characteristics.
- 2.3 A change to the product and process specifications shall only be possible by mutual agreement. In particular, the supplier must not deviate from the defined specifications without express consent from Ortlinghaus.
- 2.4 The supplier shall not be permitted to transfer orders from Ortlinghaus to third parties and/or involve third parties without the express written consent from Ortlinghaus.

3 Industrial property right

- 3.1 The contractor confirms to Ortlinghaus that the products supplied by the contractor will be delivered to Ortlinghaus free of third party rights.
- 3.2 The contractor will release Ortlinghaus from any claims made by a third party against Ortlinghaus due to an infringement of rights in connection with the products of the contractor.
- 3.3 This indemnity also covers the necessary costs for legal defence that Ortlinghaus may face in the event of litigation; including the necessary costs associated with the defence of unjustified claims.

4 Prices

- 4.1 The prices for the contractual products shall be DDP from the Ortlinghaus Gams plant (INCOTERMS 2010).
- 4.2 Unless otherwise agreed in writing, Ortlinghaus shall undertake to pay the correct invoices from the supplier within 60 days after the date of invoice. When payment is made within 14 days, the supplier shall grant a cash discount of 3%.
- 4.3 The invoices from the supplier must contain the following information:
Order number including order item/date of invoice and invoice number/price/unit and total/ packaging and transport must be listed separately/terms of payment/declaration of origin/VAT must be listed separately (% and amount).

The invoices must be sent to Ortlinghaus separately from the goods. There must be no longer than three working days between receipt of the invoice and the associated delivery at Ortlinghaus.

5 Tools

- 5.1 If special tools have to be procured separately for the manufacture of the contractual products from the supplier, the parties shall then conclude a corresponding agreement in which, in particular, the financing, the life cycle, the ownership and the responsibility for maintenance and replacement are regulated. The following rules shall apply without a corresponding agreement:
- 5.2 The tools shall be the property of Ortlinghaus, provided that Ortlinghaus has contributed to the procurement costs and provided that, before procurement, the supplier has not expressly stated that, due to having completely covered the procurement costs, they hold proprietary rights to the tool. The supplier shall ensure that the proprietary rights to the tools are transferred to Ortlinghaus. Tools that are the property of Ortlinghaus must be identified accordingly by the supplier and must be insured against theft and natural hazards, the cost of which must be borne by the supplier. Ortlinghaus can, at any time, recall the tools without this resulting in the obligation for Ortlinghaus to pay costs and damages.
- 5.3 The supplier shall bear the costs for the usual maintenance of the tools. The same shall apply for repairs resulting from improper use.
- 5.4 Ortlinghaus shall be responsible for the ordinary replacement of the tool after the expected service life has expired provided they are the owner of the tool. If the supplier is the owner of the tool, the supplier shall bear the costs for replacing the tool. In the same way, the relevant owner shall also bear the costs if the tool has to be procured again or repaired following a theft or an act of God or if a major overhaul takes place which may increase the original service life of the tools.

6 Process for deliveries

6.1 Ordering

- 6.1.1 Ortlinghaus shall generally forward a written order to the supplier.
- 6.1.2 The supplier shall generally send Ortlinghaus written confirmation of the order. If this written confirmation differs from the order, the supplier shall explicitly point this out. The changes shall only be binding for Ortlinghaus if they have explicitly accepted these changes following receipt of the order confirmation. Without express written confirmation from Ortlinghaus, the order confirmation shall only be binding insofar as it corresponds to the order. If Ortlinghaus does not receive any written confirmation of the order within three days from the order date, Ortlinghaus shall no longer be bound to the order.

6.2 Delivery methods and transfer of ownership

- 6.2.1 Unless otherwise expressly agreed by the parties, deliveries shall be made DDP from Ortlinghaus Gams (INCOTERMS 2010).
- 6.2.2 Retention of title by the supplier is excluded.
- 6.2.3 For each delivery of contractual products, the supplier shall enclose the following documents:

Delivery note with the following information: Order number and order item/material number of Ortlinghaus/ designation of the goods/delivery quantity/information on whether the delivery is a partial delivery/drawing that was enclosed with the order.

- 6.2.4 During the acceptance of goods, Ortlinghaus shall check the identity and quantity of the goods and shall inform the supplier of any deficiencies in these goods within a maximum of five working days unless the circumstances dictate that a longer term seems appropriate. In other respects, Ortlinghaus is free from carrying out a check on the contractual products after receipt of them. Where Ortlinghaus would usually forfeit their rights arising from defects as a result of their failure to carry out the check and to make a complaint, the supplier shall waive this.

7 Assurance of performance

7.1 Material warranty

- 7.1.1 The supplier shall guarantee that the contractual products comply with the agreed specifications and the quality agreements, that they are suitable for their intended use, that they comply with the latest accepted technological standards and that they are free from defects of any kind, in particular with regard to their design, material and model. For safety components, the supplier shall hand over an EU declaration of conformity in accordance with Art. 8 of the Machinery Directive (89/392/EEC together with all supplements and amendments). Furthermore, the supplier shall guarantee that, through proper use of the contractual products, Ortlinghaus and their customers do not infringe upon any protected interests of third parties.
- 7.1.2 The warranty period shall be 24 months from the date on which the Ortlinghaus products, in which the contractual products are integrated, are accepted by Ortlinghaus' customer, and a maximum of 30 months from the date of delivery of the contractual products to Ortlinghaus.
- 7.1.3 If Ortlinghaus discovers deficiencies in the supplied contractual products, they shall inform the supplier of this within five working days, unless the circumstances dictate that a longer period seems appropriate. Ortlinghaus is then authorised as it deems fit to either (i) demand an improvement to the contractual products or have contractual products without errors/defects supplied free of charge and for all of the costs associated with these measures to be covered (including examination, removal, transport, assembly etc.) and, if this is not done within an acceptable timeframe (ii), to demand a reduction in price or, (iii) if the defects are serious, to refuse to accept the contractual products or return the contractual products without any costs being incurred to and compensation being claimed against Ortlinghaus and to demand the return of any possible amount already paid by the supplier or (iv) at the cost and risk to the supplier to improve or exchange defective contractual products itself or have them improved or exchanged by the supplier or a third party. Contractual products that are repaired by the supplier or by a third party shall only be deemed to be accepted once written confirmation of this has been provided by Ortlinghaus.
- 7.1.4 If more than 2% of the contractual products in a delivery are defective, this represents a series defect. In these cases, Ortlinghaus shall be entitled to the rights set out in 6.1.3. In particular, Ortlinghaus shall be entitled to refuse acceptance of all contractual products from the same delivery and all contractual products that originate from the same production batch or to return all contractual products from the delivery and the same production batch, even if it can be proven that not all of the contractual products are defective. If Ortlinghaus provides the supplier with written permission to sort and reject the defective parts, they can do so if they wish and the supplier shall bear the costs for individually checking the rejected contractual products and for sorting and rejecting the defective parts. Delivery of the checked and defect-free parts shall then only be permitted if Ortlinghaus has expressly agreed on the check procedure in writing and in advance, and the supplier is able to document that all delivered parts have been checked according to this procedure.
- 7.1.5 If Ortlinghaus suffers damage as a result of the delivery of defective parts, the supplier shall undertake to bear the full costs of this.
- 7.1.6 The supplier shall undertake, at their own cost, to take out business liability insurance and retain this throughout the entire term of this contract. This insurance shall cover personal and material damage (and any resultant damage) up to a maximum amount of CHF 2,000,000 for each claim and other damage (losses of a purely financial nature) up to a maximum amount of CHF 2,000,000 for each claim. The supplier shall undertake to provide Ortlinghaus with appropriate evidence of the insurance at any time should Ortlinghaus demand this.

7.2 Product liability claim recourse

- 7.2.1 If, based on provisions of a product liability claim, Ortlinghaus is prosecuted by third parties due to a contractual product that was delivered by the supplier; the supplier shall indemnify Ortlinghaus from these claims, irrespective of fault. Ortlinghaus shall undertake to inform the supplier within a reasonable period of time should they become aware of such claims and to enable them to support Ortlinghaus in their defence of such claims. Ortlinghaus can leave it to the supplier to conduct legal proceedings if it has become clear that only contractual products from the supplier can possibly be the cause of the damage.
- 7.2.2 If, according to the view of Ortlinghaus, a product withdrawal is required due to defective contractual products, Ortlinghaus shall inform the supplier immediately unless there is imminent danger. The supplier shall bear the costs of the product recall, provided the recall is required as a result of defects in their contractual products. If there are several reasons behind the recall, the costs shall be borne proportionately.
- 7.2.3 The claims from Ortlinghaus against the supplier in connection with product liability shall be subject to the same statute of limitations as the claims of injured third parties against Ortlinghaus (in other words, in accordance with the rules of the applicable product liability law), unless a longer period of time applies for the claims of Ortlinghaus against the supplier.
- 7.2.4 The supplier shall undertake, at their own cost, to take out product liability insurance and retain this throughout during the entire term of this contract. This insurance shall cover product liability damage up to a maximum amount of CHF 2,000,000 for each claim and costs for product recalls up to a maximum amount of CHF 2,000,000 for each claim. The supplier shall undertake to provide Ortlinghaus with appropriate evidence of the insurance at any time should Ortlinghaus demand this.

7.3 Default

- 7.3.1 The supplier defaults as soon as they do not comply with the agreed delivery date, without requiring a dunning notice from Ortlinghaus. The consequences of the default are determined by the applicable statutory regulations.
- 7.3.2 Ortlinghaus defaults if they do not settle invoices from the supplier within the agreed periods of time and following an additional reminder of non-payment from the supplier. In the event of default, Ortlinghaus shall be charged default in-

terest at the rate of 5% p.a. The other consequences of the default are determined by the applicable statutory regulations.

7.4 Intellectual property, confidentiality and data protection

- 7.4.1 Ortlinghaus shall be entitled to all registered and non-registered intellectual property rights to documentation (such as plans, sketches, technical descriptions, etc.) which Ortlinghaus transfers to the supplier within the framework of the contractual relationship, and the concepts, developments, designs and objects contained therein, as well as all rights to the expertise disclosed in this documentation, and any trademark rights. The supplier shall not be entitled to use this documentation or these trademarks without written approval from Ortlinghaus for purposes other than for manufacture and delivery of the contractual products to Ortlinghaus. In particular, the supplier shall not be entitled to use these for his own purposes or for orders from third parties, to publish them or otherwise make them accessible to third parties, for example. The supplier shall undertake to return such documentation to Ortlinghaus at the end of the contractual relationship without being asked to do so.
- 7.4.2 Unless otherwise agreed between the parties in writing, all intellectual property rights that arise for the supplier during the course of the supplier's fulfilment of the contract shall be automatically transferred to Ortlinghaus upon delivery of the contractual products in accordance with subsection 5.2; the supplier shall undertake to provide Ortlinghaus with all documentation in connection with these intellectual property rights. Where the cooperation of the supplier is required for the transfer of these intellectual property rights to Ortlinghaus, the supplier shall undertake to take all required actions and make statements required for the intellectual property rights to be transferred to Ortlinghaus.
- 7.4.3 Both parties mutually agree to keep secret from third parties all information which is classed as confidential or is not known to the general public and information which becomes known to each other within the framework of the contractual relationship. The right of Ortlinghaus to transfer information to other companies within the Ortlinghaus Group shall remain unaffected by this. The parties shall ensure that their employees and any suppliers or sub-contractors also adhere to this obligation. This obligation of secrecy extends beyond the term of this contract so long as the owner of the information has an interest in maintaining secrecy.
- 7.4.4 The supplier shall authorise Ortlinghaus to transfer their data where necessary to third parties at home and abroad for the processing and fulfilment of the contract. The supplier hereby agrees that Ortlinghaus can use their data for marketing purposes. The supplier may at any time ask that their data no longer be used for marketing purposes.

8 Compliance with regulations

- 8.1 The supplier shall undertake to comply with all relevant regulations that exist in his country and that are applicable to him.
- 8.2 He shall undertake to comply in particular with the applicable regulations of his country that affect his staff. He shall undertake (even if there are no corresponding regulations) not to discriminate against members of staff, to treat men and women equally, not to employ children of school age or under the age of 14 or forced labourers, not to charge anyone under the age of 18 years to perform hazardous activities or work through the night, to pay any prescribed minimum wage or, if not prescribed, to pay appropriate wages and to assure conditions of employment (working times, time off, holidays etc.), to adhere to the health and safety at work regulations and to protect the health of its employees.
- 8.3 He shall further undertake to comply with the applicable environmental protection regulations and also act as environmentally friendly as possible. He shall take account of the fact that Ortlinghaus itself is ISO 14'001 certified, be welcoming of as many of its suppliers as possible wanting to have themselves certified accordingly and to give preference to certified suppliers with other similar tenders.
- 8.4 The supplier shall give Ortlinghaus the right at any time to gain an impression of the working and environmental conditions on-site or commission a third party to conduct an audit.

9 Miscellaneous

- 9.1 "Ortlinghaus Group" in terms of these General Purchasing Conditions comprises Gebr. Ortlinghaus Verwaltungs-GmbH, Wermelskirchen, as well as all companies that are temporarily or permanently, directly or indirectly, fully or partially, controlled by Gebr. Ortlinghaus Verwaltungs-GmbH, Wermelskirchen.
- 9.2 Should one or several clauses of these General Purchasing Conditions be or become ineffective, then the validity of the remaining provisions shall remain unaffected by this. The parties undertake to replace the ineffective clause with a new provision that comes as close as possible to the economic intent of the original.
- 9.3 Ortlinghaus has the right at any time to transfer all or part of the rights and/or duties arising from this contract to a third party. The transfer of individual or all rights and duties in this contract by the customer to a third party is excluded without prior written approval from Ortlinghaus.
- 9.4 Ortlinghaus can offset a supplier's receivables against receivables due to it by the supplier at any time. Offsetting by the supplier shall be excluded.
- 9.5 All declarations and disclosures which a party must make after this contract require the written form. Supplementary agreements, changes and supplements to the contract, in particular the General Terms & Conditions of Sale, require the written form in order to be valid.
- 9.6 Ortlinghaus is entitled to rescind the contract without any liability for costs and compensation if a change is made to the ownership structure, the control or the management of the supplier which, in Ortlinghaus' reasonable opinion, would have a fundamental influence on the interests of Ortlinghaus or another company in the Ortlinghaus Group.

10 Choice of law and place of jurisdiction/place of fulfilment

- 10.1 This contract is subject to the laws of Switzerland in consideration of the Vienna Sales Convention.
- 10.2 **For disputes arising from or in connection with this contract, both parties recognise the sole responsibility of the courts of law at the place of the head office of Ortlinghaus.** The right of Ortlinghaus to bring the customer before another court shall also remain unaffected thereby.
- 10.3 The place of fulfilment is Gams unless otherwise agreed.