

General Terms and Conditions of Purchase „GTCP“ APM Technica AG, CH-9435 Heerbrugg

1. Formation of a Binding Contract and General Content of Contract

- (1) For all purchases of goods, services and other performances of all kinds (in these General Terms and Conditions of Purchase „Goods“ shall include all of the above), only the written purchase order of APM Technica AG in conjunction with these General Terms of Conditions of Purchase shall be binding. Purchase orders placed orally or by telephone shall only become binding upon the written (also electronic) purchase order of APM Technica AG. APM Technica AG is not bound by deviations in letters or confirmations from the supplier or by the supplier's general terms and conditions or general conditions of sale even if it does not expressly reject them. Upon acceptance of a purchase order, the supplier accepts these General Terms and Conditions of Purchase without any reservations; this means that amendments, alterations or additions to the conditions made by the supplier shall not affect the contract unless APM Technica AG gives its prior written consent.
- (2) The purchase order shall be accepted by the supplier within 2 (two) workdays and shall be confirmed in writing. If such a confirmation of order is not received within these 2 (two) days, an order is considered accepted by the supplier. A confirmation of order whose content deviates from the original purchase order is considered a new offer that needs to be evaluated by APM Technica AG. In order for this deviating confirmation of order to become binding, APM Technica AG has to expressly agree to it in writing and reconfirm it to the supplier. On no account does silence on the part of APM Technica AG mean that a deviating confirmation of order has been accepted.
- (3) Subsequent amendments and additions to a purchase order that was already accepted by the supplier shall require a written confirmation in every case in order to become binding.
- (4) In the event that the supplier does not comply with the delivery date, APM Technica AG is permitted to withdraw from the contract – all other legal rights notwithstanding – and to demand compensation for the negative contractual interest or to adhere to the delivery and to claim compensation for damages caused by the delayed delivery from the supplier (positive contractual interest). A claim of possible compensation is not waived by accepting a delayed delivery.
A delay of delivery occurs if the ordered Goods are delivered to APM Technica AG more than 2 (two) workdays after the agreed delivery date.
Wrong, incomplete or defective deliveries are considered as undelivered and therefore counted as delayed delivery. In the event of a supplier's delay of delivery, APM Technica AG has the right to claim compensation of 1% (one per cent) from the supplier for delayed completion for each workday after the sixth (6) workday of delay but maximum 30% (thirty per cent) of the purchase price of the delayed delivery (contractual penalty). Claims for further compensation shall expressly remain reserved.
- (5) The supplier shall not assign the purchase order or substantial parts thereof to a third party without obtaining the prior written consent of APM Technica AG.

2. Conditions of Delivery, Dispatch and Incoming Goods Inspection and Testing

- (1) Unless expressly agreed otherwise in writing, all Goods shall be “delivered duty paid” (DDP Heerbrugg as defined in the INCOTERMS 2010) for foreign shipments and “delivered at place” (DAP Heerbrugg as defined in the INCOTERMS 2010) for inland deliveries to the destination of delivery or application as outlined in the purchase order.
- (2) The supplier is obliged to state the order number of APM Technica AG on all shipping papers and delivery notes. Suppliers domiciled in countries that have preferential customs tariff arrangements with Switzerland are obliged to note the country of origin on all invoices (or WVB, EUR1). APM Technica AG reserves the right to reject Goods without any certificate of origin or delivery note at the expense of the supplier.
- (3) The supplier is obliged to carry out comprehensive outgoing goods inspections before delivering the Goods; therefore, APM Technica AG is acquitted of the obligation to carry out comprehensive incoming goods inspections. Acceptance of the Goods is subject to examination particularly for faultlessness and completeness. The inspection is carried out based on the delivery note and is limited to detecting obvious defects. APM Technica AG will inspect all Goods as soon as this is customary

within the proper course of business and will immediately notify the supplier in writing of any detected defects. In the case of defects that become apparent only later, the supplier will waive the claim of late notification of defects.

- (4) If claims are asserted against APM Technica AG by a third party because of defective Goods obtained from the supplier, the supplier indemnifies and holds harmless APM Technica AG from and against all such claims. To the extent that the cause of the damage falls within the responsibility of the supplier, the supplier shall bear the burden of proof regarding the absence of damage of his/her Goods.
- (5) Deliveries shall be made on the delivery date as agreed in the purchase order. After the expiry of the delivery date, the supplier enters into default without additional respite. The delivery date is defined as “arriving at the place of delivery”. A waiting period of two (2) days is granted to demand compensation.
- (6) APM Technica AG is entitled to reject deliveries that are not delivered on the delivery date as well as partial or excessive quantities that were not agreed upon, or to have these Goods stored at the expense, benefit and risk of the supplier.
- (7) The supplier shall cover any damages due to his/her failure to properly package the Goods.
- (8) The supplier is obliged to take back empty transport packages at his/her own expense upon request of APM Technica AG.

3. Prices, Payment Conditions

- (1) The agreed price is binding for invoicing.
- (2) Possible taxes are not included in the agreed price.
- (3) APM Technica AG shall pay the legal value added tax (VAT) for Switzerland for deliveries “DDP Heerbrugg” INCOTERMS 2010.
- (4) All invoices must include the order number mentioned in our purchase order. For agreed partial deliveries, the corresponding position number of the purchase order has to be stated. If these references are missing on the invoice, APM Technica AG only gets into payment arrears after the expiry of 60 (sixty) days after the due date of the final invoice.
- (5) In case of non-contractual deliveries, especially defective deliveries, APM Technica AG is entitled to retain payment without losing any rebates, cash discounts or similar payment benefits until the delivery is properly performed.
- (6) The payments shall be made in the currency as stated in the purchase order and within the agreed term of payment, under reserve of invoice verification. The payment of APM Technica AG is considered made on the value date of the debit of the bank account.

4. Warranty

- (1) For all delivered Goods, warranties will subsist for a period of 24 (twenty-four) months from the date of delivery.
- (2) For hidden and/or systematic defaults, warranties will subsist for 5 (five) years.

5. Product Liability

- (1) Upon request, the supplier undertakes to indemnify and hold harmless APM Technica AG from and against all damages caused by defective products insofar as the supplier is responsible for them and liable to the aggrieved party.
- (2) The supplier undertakes to take out an appropriate product liability insurance and to prove his/her ability to cover any such liability upon APM Technica AG's request.

6. Intellectual Property

- (1) If the Goods or parts of it are developed by order of and at the expense of APM Technica AG, the whole development result, including all processes, documents, hard- and software etc., shall be and remain the sole exclusive property of APM Technica AG and shall only be used in connection with

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deliveries to APM Technica AG. The supplier shall grant APM Technica AG the worldwide and irrevocable right of use to the development result insofar as the supplier himself/herself holds ownership rights.

7. Property Rights

- (1) The supplier shall indemnify and hold harmless APM Technica AG from and against all claims filed against it in respect of deliveries that infringe any third party rights upon first demand. The indemnity obligation includes all expenses of APM Technica AG inevitably incurred in connection with a third party claim (incl. lawyer's and legal expenses).

8. Data, Paperwork and Tools

- (1) Tools provided to the supplier shall remain the property of APM Technica AG. The supplier undertakes to use such tools solely for the production of the Goods ordered by APM Technica AG and to insure tools belonging to APM Technica AG at his/her own expense against fire, water damage and theft. Furthermore, the supplier is obliged to carry out any required maintenance and inspection work in a timely manner at his/her own expense. The tools must be labelled with "Property of APM Technica AG, CH-9435 Heerbrugg".
- (2) APM Technica AG reserves and retains all property rights and copyrights to samples, images, drawings, calculations and other documents provided by APM Technica AG. Data and information are confidential and shall not be made accessible to third parties without the explicit written consent of APM Technica AG. They shall be used solely for the purpose of fulfilling orders from APM Technica AG. Once the order has been completed, all data shall be returned to APM Technica AG without being requested to do so.

9. QA documents and Safety Data Sheets

- (1) Documents of all kinds, which APM Technica AG ordered from the supplier and which are related to the purchase order, have to be included in the delivery.
- (2) If the ordered Goods contain substances that require a safety data sheet to be drawn up, the supplier shall provide APM Technica AG with such a safety data sheet based on the REACH Regulation either before or together with the delivery. As a matter of principle, we basically assume that products that are delivered to us are compliant with the REACH Regulation and the RoHS Directive. If this is not the case, the supplier is obliged to inform us in writing.

10. Discontinuation and Last Time Buy

- (1) The supplier shall inform APM Technica AG in writing at least 12 (twelve) months in advance in case earlier ordered Goods can no longer be produced and/or delivered. In that event, APM Technica AG shall have the right to place a last purchase order (Last Time Buy).
- (2) In case that a supplier does not meet this deadline of preannouncement, APM Technica AG can impose the obligation on him/her to bear the consequential costs incurred because of this disregard in order to develop a replacement product.

11. Invoicing

- (1) APM Technica AG is entitled to offset the supplier's receivables against APM Technica AG against APM Technica AG's receivables against the supplier.

12. Confidentiality, Reference Lists

- (1) The supplier shall treat all information, data and documents of which he/she obtains knowledge in the course of the working relationship with APM Technica AG as strictly confidential and use them solely for the purpose of the purchase order unless such information is already in the public domain, has been lawfully obtained from a third party or has been independently developed by a third party. Furthermore, the supplier undertakes

to disclose this information, data and documents to third parties only upon receipt of the written consent of APM Technica AG. The confidential information includes in particular all technical data, purchased quantities, prices and other conditions, in particular all data and information communicated orally or in writing or obtained in any other way. In the event of an infringement of this provision the supplier shall be liable for any direct or indirect damages associated with said infringement.

- (2) The supplier shall impose a corresponding obligation on his/her subcontractors.
- (3) APM Technica AG must not be listed in reference lists with its purchase orders or be named for advertising purposes without its prior written consent.

13. Order of Priority

- (1) These General Terms and Conditions of Purchase form an integral part of all quote requests and purchase orders.
- (2) The order of priority is as follows: a) contract b) purchase order
- (3) In case of any Dispute, the German version of this "General Terms and Conditions of Purchase, GTCP" shall prevail.

14. Place of Performance, Governing Law, Jurisdiction

- (1) Place of performance is the place of delivery or place of performance of a service as indicated in the purchase order.
- (2) Swiss substantive law shall apply exclusively to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods. Additionally, the currently valid version of the INCOTERMS 2010 of the International Chamber of Commerce (ICC) shall apply.
- (3) The exclusive place of jurisdiction is Balgach. However, APM Technica AG shall also be entitled to assert its claims at the place of general jurisdiction of the supplier.