

## **GENERAL TERMS AND CONDITIONS OF PURCHASE (GTCP)**

AQUASYS TECHNIK GmbH, Version February 2025

AG = Customer / AQUASYS

AN = Supplier

### **1. Scope of application**

- 1.1. All orders placed by the AG are subject exclusively to the current version of the GTCP. They shall also apply to future business with the respective AN without the need for a separate agreement in each case.
- 1.2. Recognition of these General Terms and Conditions of Purchase (GTCP) is the general basis for the placement of an order by the AG.
- 1.3. These GTCP shall apply subsidiarily to the provisions of the respective applicable contract and to any agreed provisions of the Technical Terms of Delivery and Purchase (TTDP) and other specifications.
- 1.4. Terms and conditions and declarations of the AN, which would mean deviations from these GTCP, shall only apply if these have been previously recognised by the AG in writing.
- 1.5. The following provisions for the supply of products shall also apply mutatis mutandis to services.

### **2. Conclusion of contract**

- 2.1. AG orders must be in writing to be legally effective.
- 2.2. The AN must confirm the order in writing within 5 working days. Should AN fail to respond to an order from the AG, this shall be deemed as acceptance of the order after 5 working days.
- 2.3. Quotations from AN remain binding for at least 4 weeks from receipt by the AG.
- 2.4. AN shall review the orders sent by the AG, including any documents and information sent, for any ambiguities and to ensure that the subject of the order is suitable for the intended purpose. Any defects and/or concerns must be reported to the AG in writing without delay.
- 2.5. By accepting the order, AN secures and guarantees that it is able to provide the products and services appointed by the AG in a technically flawless manner and that it has all the necessary official and other permits, approvals, rights and licensing that are required to carry out the order.

### **3. Prices and packaging**

- 3.1. All prices are deemed to be fixed and non-changeable. They include all additional services, expenses and transport costs. We only recognise sliding prices if these have been agreed in writing together with the calculation modalities. Resulting price changes are only recognised for the agreed delivery time. In case of doubt, the AN shall disclose price calculations and the corresponding supporting documents.
- 3.2. Fees, taxes or other charges that arise from the fulfilment of orders shall be borne by the AN.
- 3.3. The costs for standard packaging or packaging requested by the AG shall be borne by the AN. The AN is obliged to take back any packaging material originating from it at no cost if the AG requests it.

- 3.4. The AN shall select packaging that ensures the greatest possible environmental compatibility in terms of production, utilisation and disposal or recycling.
- 3.5. Packaging material is returned at the expense and risk of the AN.

#### **4. Delivery and delay in delivery**

- 4.1. Deliveries are to be made in accordance with INCOTERMS 2020.
- 4.2. All dates specified in orders are fixed dates and refer to the arrival of the products at the destination or the provision of the service at the place of fulfilment.
- 4.3. The delivery periods or dates specified in orders commence on the date of the order.
- 4.4. The AN shall inform the AG in writing without delay if it becomes apparent that the delivery date will be exceeded, stating the reasons and the expected duration of the delay in delivery. If it fails to fulfil this obligation, it is in default in any case and the AG is entitled to withdraw from the contract without setting a grace period. Any additional costs resulting from the delay shall be borne by the AN. Receiving such a message does not prevent the AG from asserting its legal claims arising from the delay.
- 4.5. If the AG does not exercise the right of withdrawal reserved under point 4.4., this does not in any way release the AN from its delivery and performance obligations. Furthermore, no claims for damages of any kind are limited or excluded in these cases.
- 4.6. In cases in which it becomes apparent before the delivery date that the AN will not be able to fulfil the orders properly and/or on time, the AG reserves the right to carry out the orders itself or to have them carried out by third parties. The resulting additional costs shall be borne by the AN.
- 4.7. The AN is obliged to inform the AG immediately and without delay about circumstances that may prevent or hinder the proper and timely fulfilment of orders, otherwise the AN is liable to pay damages.
- 4.8. Fulfilling orders before the agreed date requires the prior written consent of the AG. In these cases, payment periods do not start until the original deadline agreed to.
- 4.9. In the event of a delay in delivery, the AG is entitled to demand 0.5% of the contract amount for the outstanding delivery portion as flat-rate default damages for each week or part thereof, but not more than a total of 5% of the total invoice amount. Further legal claims remain unaffected by this regulation; in particular, the AG remains entitled to demand further compensation and to withdraw from the contract.
- 4.10. Agreed penalties or contractual penalties do not preclude the assertion of a claim for damages beyond that. The assertion of such a claim for damages does not require fault and in no way releases the AN from its obligation to properly execute orders.

#### **5. Product documentation**

- 5.1. AN shall provide the usual user documentation and certificates of conformity and, in addition, the documents required by the AG's orders (such as calculations, certificates of origin, documents and confirmations regarding EU regulations such as CBAM or evidence of carbon footprint, long-term supplier declarations or

product documentation) at the latest at the time of delivery, without being requested to do so and in the appropriate number of copies. If requested, parts of the product documentation, such as safety, storage and transport instructions, but also any necessary verifications (CBAM,...) must be submitted to the AG before delivery of the products. The AN is expressly liable for damages resulting from the failure to observe regulations concerning a product provided by the AN if these regulations were not submitted in a timely manner.

## **6. Shipping**

- 6.1. The AN must ensure that the shipping instructions of the AG are always observed and applied.
- 6.2. Unless the AG expressly requests otherwise, the AN shall choose the most cost-effective method of shipment for the AG.
- 6.3. A single copy of delivery notes, delivery notifications, packing slips and similar documents must be attached to the freight documents. Any required dispatch notes must be provided in writing, separately and as quickly as possible upon the departure of a consignment.
- 6.4. The order number must be clearly visible on all packaging, freight documents, invoices and documents intended for the recipient. In addition, the gross and net weight must be stated.
- 6.5. If a purchase order refers to a contract item number, this number must be quoted on all documents and on all delivery notes.
- 6.6. In the case of cross-border trade, the invoices, a declaration of origin and a movement certificate must be enclosed with the shipping documents in duplicate. The documents mentioned can also be sent separately. In these cases, it must be ensured that all documents bear the note "For customs purposes" and are submitted to the AG in good time.
- 6.7. If the AN fails to comply with shipping and customs regulations, all resulting risks, damages and costs shall be borne by the AN. The payment period shall be postponed in accordance with the proper fulfilment of an order and the submission of all documents requested by the AG.
- 6.8. The AG does not accept cash on delivery shipments.

## **7. Transfer of risk and place of fulfilment**

- 7.1. Risks shall pass to the AG only after proper acceptance at the specified places of destination and fulfilment.
- 7.2. If the destination and place of fulfilment for orders is not specified, the registered office of the AG shall be deemed the destination and place of fulfilment.

## **8. Acceptance of products**

- 8.1. Products are accepted after a positive inspection with regard to identification, quantity and quality at the specified destinations. The AN is obliged to have the relevant inspections carried out at its operating sites by authorised representatives of the AG.
- 8.2. Products that do not have the required properties and products whose defects are only identified after they have been accepted shall be deemed not to have been accepted, even retrospectively.

- 8.3. Products shall only be deemed accepted upon written confirmation by the AG. Products that arrive before the order confirmation is received will be rejected or only accepted with reservations.

## **9. Quality assurance and progress monitoring**

- 9.1. The AN shall ensure that the quality certification levels required for orders are fulfilled by means of appropriate quality assurance systems at the AN itself and at any subcontractors involved.
- 9.2. The AN assures the AG of the right to subject the quality assurance system and quality assurance measures to an audit. This applies in particular to the business locations of the ANs and their subcontractors.
- 9.3. The quality certificates and other documents required for orders are considered an integral part of the order fulfilment and are the basis for the acceptance of products. Failure to provide these documents by the due date, even if the product itself is present, constitutes a delay in delivery.
- 9.4. The AN assures the AG of the right to check the processes prescribed by the AG continuously and unannounced at its operating locations or at the operating locations of its subcontractors and to reject defective products during their production. In individual cases and after prior notification, this may also be done with the involvement of the customers of the AG.

## **10.Retention of title and prohibition of assignment**

- 10.1. Delivered products must be free of retention of title. Any reservations of title are also invalid without the express objection of the AG.
- 10.2. Claims may only be assigned with the written consent of the AG.

## **11.Supplied products**

- 11.1. Products supplied by the AG remain the property of the AG. They are to be labelled as such and stored separately.
- 11.2. The new or reworked products resulting from the processing and finishing of the products provided by the AG shall also be deemed to have been transferred to the AG immediately in their partially finished state.
- 11.3. If products provided by the AG become unusable due to defects in the AN's products, the AN is obliged to indemnify the AG for the resulting damage. This applies in particular to expenses for covering purchases or any rework.

## **12.Invoicing and payment**

- 12.1. Invoices should be sent to the address given in the order, quoting the order date, order number and tax number. The invoice items must match the order items. The AG shall only make advance payments if this has been expressly agreed.
- 12.2. Payments are made on the 15th of the month after invoicing and fulfilment with a 3% discount or 90 days net. The payment is deemed to have been made on the date the amount is debited to the account of the AG.
- 12.3. Payments are not due until the order has been completed in full and without defects in accordance with the requirements of the AG.

- 12.4. The timing and execution of a payment have no influence on the warranty and right of complaint.

### **13. Guarantee and warranty**

- 13.1. The AN guarantees that the products and services it supplies correspond to the contractually owed services and all information regarding properties, characteristics and intended use, that they have CE certification and are of first-class quality and free from rights or claims of third parties. This also applies to products that the AN does not manufacture itself but supplies.
- 13.2. In the event of liability, the AG reserves the right, without prejudice to other legal options, to claim free replacement deliveries, free rectification of defects or an appropriate price reduction, at its own discretion, even if the defects are insignificant or can be remedied. Furthermore, the AG reserves the right to have identified defects remedied by third parties at the expense and risk of the causing AN.
- 13.3. The warranty period is 24 months from the date of acceptance of the products or services by the AG.
- 13.4. In the event of a hidden defect, the warranty period shall only commence when the defect can be objectively identified. Hidden defects are in particular also defects that only become recognisable when products that are usually left packaged until use are removed from their packaging.
- 13.5. In the event of spare parts deliveries and repairs, the warranty period for the entire delivery or service shall begin anew.
- 13.6. The application of §§ 377 and 378 of the Austrian Commercial Code (UGB) is expressly excluded. The AG is therefore not obliged to inspect the goods immediately upon receipt and to report any recognisable defects.
- 13.7. If the AG notifies a defect within the warranty period, its existence at the time of delivery is presumed.
- 13.8. Until the defect has been completely remedied, the AG shall be entitled to withhold the entire outstanding remuneration.
- 13.9. The AG may take legal action for any guarantee and/or warranty claims up to 6 months after the end of the guarantee period.

### **14. Liability**

- 14.1. The AN is liable for all disadvantages incurred by the AG due to non-delivery, improper, incomplete, defective or delayed delivery. In particular, the AN is liable for consequential damages and is liable to pay compensation for claims by the AG's customers to the AG.
- 14.2. The AN is responsible for its suppliers. In particular, it is liable for the fault of suppliers and manufacturers of the parts it purchases as well as for its own fault

### **15. Rights of retention and rights to refuse performance**

- 15.1. Rights of AN to withhold or refuse performance are excluded to the extent permitted by law.

### **16. Spare parts**

- 16.1. The AN shall ensure the availability of spare, wear and replacement parts for the delivery item for at least 10 years and, in the case of specific utilisations, e.g. in

the railway industry, for at least 30 years after the elapsing of the guarantee or warranty period.

## **17. Export control**

- 17.1. The AN must comply with all relevant national and international laws and regulations in connection with the delivery, transport, export and re-export of delivery items and services, including any economic sanctions and trade embargoes (the "Export control regulations").
- 17.2. The AN guarantees that it will not sell, deliver or make available to outside threads any delivery items that could originate directly or indirectly from countries or from institutions or persons that are subject to export control regulations.
- 17.3. At the request of the AG, the AN shall, at its own expense and without undue delay, provide all documents, including import certificates or end-user declarations, that are necessary to support an application by the AG for import or export licences.
- 17.4. The AN shall fully indemnify and hold the AG harmless with regard to all disadvantages arising from and in connection with a violation of the applicable export control regulations and the provisions of this paragraph. In this regard, the AN is responsible for all acts or omissions in the fulfilment of its obligations under this paragraph, whether through its proprietary acts or omissions or through its representatives, employees, affiliated companies, suppliers or subcontractors or other persons attributable to it.
- 17.5. A breach of the obligations set out in this section shall be deemed a material breach of contract, entitling the AG to terminate with immediate effect all orders or contracts not yet fulfilled and to claim all damages and losses arising from such breach.

## **18. Withdrawal**

- 18.1. The AG is entitled to withdraw from the order if the AN is unable to provide the products or services covered by the order in the required quality and quantity within the required time.
- 18.2. The AG is also entitled to withdraw from the order if the AN becomes insolvent, goes bankrupt or makes agreements to achieve an unreasonably high price. The same applies to cases in which the AN loses the right to supply affected products to the AG for political, legal or other reasons.
- 18.3. Delivered products that have been determined to be usable, as well as partially provided services, will be taken into account on a pro-rata basis in the event of the AG withdrawing.

## **19. Cancellation**

- 19.1. The AG is entitled to cancel the order at any time and without the AN being at fault. If the AN is unable to otherwise utilise the products or services in this context, it shall be entitled to reimbursement of its detailed and proven costs.
- 19.2. The AN shall bear the burden of proof for the existence of such costs.
- 19.3. Any further claims by the AN are excluded to the extent permitted by law.

## **20. Product liability**

- 20.1. If the delivered goods are faulty as defined by § 5 of the Austrian Product Liability Act (PHG) or no longer meet the latest standards of science and engineering as defined by § 8 (2) of the PHG, the AN is obliged to provide relief for the goods concerned and to refund the entire purchase price.
- 20.2. The AN shall indemnify the AG against all claims asserted against it by third parties on the basis of domestic or foreign product liability provisions, and shall hold it harmless to the extent that the faulty nature of the products delivered by it is attributable to it. This also includes the costs of any recall action.
- 20.3. The AN is obliged to take out and maintain product liability insurance at the usual market rates and to provide the AG with evidence of this on request. If the AN does not comply with such a request from the AG within 10 working days, the AG is entitled to withdraw from the order and to claim damages.
- 20.4. The exclusion of recourse claims in accordance with § 12 of the Austrian Product Liability Act (PHG) is invalid.

## **21. Procurement documents**

- 21.1. All documents, samples and models that supplement enquiries, orders and orders from the AG remain the property of the AG and may not be used for other purposes without the written permission of the AG. These documents, samples and models must be returned with the quotations or at the latest after an order has been successfully executed, without the need for a request.
- 21.2. Enquiries, orders and assignments from the AG are to be treated in strict confidence, unless otherwise agreed in writing. All information, documents, samples, models and products are considered business secrets.
- 21.3. The use of information, documents, samples, models and products of the AG, as well as all knowledge gained from the fulfilment of orders of the AG, is only permitted for the fulfilment of orders of the AG. Under no circumstances is it permitted to use or pass on such information to third parties not involved in fulfilling an order from the AG.
- 21.4. The use of information, documents, samples, models and products of the AG for advertising purposes is expressly prohibited to the AG.
- 21.5. No remuneration is paid for the preparation of quotation documents.
- 21.6. Delivery of the quotation documents shall be deemed as consent by the AN to make its information and documents accessible to the respective partners of the AG.
- 21.7. Quotation documents will not be returned.

## **22. Property rights and patents**

- 22.1. The AN guarantees that the products delivered as a result of an order from the AG are not subject to any rights of third parties and, in particular, that no industrial property rights of third parties are violated. Insofar as a non-disclosure agreement has not been concluded for individual documents or information, the AN shall assure that the AG and all partners of the AG involved in connection with the use of the products/lines (customers, etc.) have an unrestricted right to use the products/services transferred to the AG, as well as the documents.
- 22.2. In any case, the AN is obliged to fully indemnify the AG and to reimburse it for any resulting damages should the rights of third parties nevertheless be asserted.

- 22.3. If new products/industrial property rights are developed or created during the execution of orders, all associated claims of the AN are covered by the agreed fee. The AG therefore has the exclusive right to register and use any property rights.

## **23.Compliance**

- 23.1. The AN undertakes to strictly comply with the code of conduct for suppliers of the AG in the currently valid version (available at [www.aquasys.at/en/compliance-2/](http://www.aquasys.at/en/compliance-2/)) and, in addition, to comply with all relevant statutory provisions in this context. If the AN breaches its obligations under this paragraph, this shall constitute a material breach of contract entitling the AG to withdraw from all outstanding orders and to claim damages.

## **24.Miscellaneous**

- 24.1. In the event of force majeure, operational disruptions, industrial disputes, unforeseen and unavoidable production changes, and other circumstances beyond the control of the AG that result in a decline in the AG's demand, the AG shall be released from the obligation to accept delivery for the duration of the disruption. The costs demonstrably incurred by the AN up to the occurrence of such an event shall be reimbursed by the AG.
- 24.2. Before accepting an order, the AN shall take out and maintain adequate business liability insurance with extended product coverage without being asked to do so by the AG.
- 24.3. Should the delivery dates agreed in the order change for reasons beyond the control of the AN, the AN agrees to provide proper storage for up to 6 months at its own expense and risk. In the event of storage, total or partial deliveries are only permitted with the written approval of the AG.
- 24.4. Should a period of grace be required due to legal provisions, a period of 10 working days shall be deemed appropriate.
- 24.5. These Terms and Conditions of Purchase are written in German and English. In case of differences between the two versions, the German version shall take precedence over the English version. The English version is provided for information purposes only.

## **25.Applicable law and place of jurisdiction**

- 25.1. Austrian substantive law shall apply exclusively, excluding the UN Sales Convention.
- 25.2. The place of jurisdiction for all disputes arising directly or indirectly from orders shall be the Austrian court having local and material jurisdiction for the AG. However, the AG is also free to call a court at the registered office of the AN.
- 25.3. The costs of any expert opinions required for the settlement of disputes shall be borne by the AN.

## **26.Final provisions**

- 26.1. Should individual provisions of these GTCP be or become invalid in whole or in part, the validity of the remaining provisions shall not be affected. The parties shall replace the invalid provision with a valid one that most closely reflects the content and purpose of the invalid provision. This also applies in the event that the GTCP at hand prove to be incomplete.

All rights granted in these GTCP shall exist equally alongside and in addition to other rights granted by law.