

## **GENERAL PURCHASING CONDITIONS**

In these General Purchasing Conditions, E.H.P. S.A. (Euro Heat Pipes) shall be referred to as the “Purchaser”.

The term “Vendor” shall refer to any natural person or legal entity assuming responsibility for execution of an order.

Unless stipulated otherwise in the agreed specifications and special conditions, all purchases of the Purchaser and related agreements are subject to these conditions.

Each and every one of these General Purchasing Conditions forms an integral part of the agreement with, or order of, the Purchaser, of which they are essential and determinant elements; unless expressly agreed otherwise beforehand in writing, they exclude any other conditions that the Vendor might intend to apply to their dealings with the Purchaser.

### **1. FORMATION OF THE AGREEMENT**

- 1.1. Price requests from the Purchaser cannot under any circumstances be construed as a commitment or promise to enter into an agreement.
- 1.2. Only written orders, on paper or electronic medium identifying the Purchaser’s establishment shall be accepted as valid. These agreements and orders do not bind the Purchaser unless placed by persons authorized to issue them.
- 1.3. The Vendor will confirm acceptance of the order by means of written declaration within a period of one calendar weeks following receipt of order on the following mail address: [orderconfirmation@ehp.be](mailto:orderconfirmation@ehp.be). The acceptance of orders shall contain all material order data, particularly the order number, description of the ordered Deliveries and Services, the prices, the order date and the Deliveries date. Failure to do so, the order will be deemed accepted by the Purchaser and will give the right to the Purchaser to cancel the Order without incurring any liability. Electronic signatures are treated as being equivalent to handwritten signatures.
- 1.4. Amendments or changes of orders require the written confirmation of the Purchaser. In general, no amendment or changes to the conditions of the order will be considered as accepted by the Purchaser unless it is the subject of a written consent given by the latter. The Purchaser reserves the right to cancel the Order without thereby giving entitlement to compensation.

### **2. PRICES**

- 2.1. The agreed prices stated in the agreement or order are firm fixed prices and exclude subsequent claims or price increases of any kind. ,
- 2.2. The prices cover all costs, taxes, fees, charges and duties such as e.g.transport, insurance, packaging, customs clearance dues in an exporting country..
- 2.3. No charge shall be made for packaging, insurance or delivery unless otherwise agreed and any such charge shall be separately detailed in the invoice The foregoing likewise applies in respect of exceptional transport costs that may be incurred by the Vendor with a view to respecting the agreed delivery times.

### **3. TRANSFER OF OWNERSHIP**

- 3.1. Deliveries are made DAP EHP Nivelles Belgium , INCOTERMS 2020, unless agreed otherwise.
- 3.2. Unless otherwise agreed to in writing, transfer of ownership in the Supplies shall pass to the Purchaser upon delivery at the Purchaser’s premises, or such other designated delivery point detailed in the Order. If advance or progress payments are made, the ownership but not risk shall pass to the Purchaser as soon as items are allocated to the Order. All items so allocated shall be adequately marked and recorded as being the property of the Purchaser.

#### **4. DELIVERY / SUPPLIES**

- 4.1. Unless otherwise agreed in writing, goods are delivered to the location indicated on the order; all deliveries are made direct to the Purchaser's factories in Nivelles Belgium.
- 4.2. The Purchaser reserves the right to refuse goods in case of late or advance delivery, partial or excess delivery, or non-conformity of the order or other documentary requirements in force. The confirmation notification of refusal of the delivery will be sent by mail by the Purchaser.
- 4.3. The Vendor shall deliver the goods in packaging that will guarantee protection against deterioration and damages during goods handling, shipping and storage operations.. The Vendor shall be liable for all damages such as e.g. breakage and missing items, which the Purchaser suffers because the unsuitable or insufficient packaging, shipping.
- 4.4. Each packaging unit must be marked legibly on the outside with the information required under regulations relating to transport and special storage conditions.
- 4.5. A dispatch note shall be included with the Deliveries allowing identification, qualitative and quantitative control of goods ; and stating particularly the order and batch number, description of goods, name and address of forwarding agent, name of Purchaser's contact person, delivered load, weight, customs tariff number.
- 4.6. Belgian legislation applies in respect of return of packaging.
- 4.7. The Purchaser will carry out inspection of the Materials within thirty( 30) days after delivery of the Materials in accordance with the order. The Purchaser shall either accept the goods if there is no visible defect that can be reasonably detected at the time of delivery, or reject the Materials in the event there is quantity missing or -in the event the goods do not comply with the Specifications or in the event of visible defect that can be reasonably detected upon delivery. Notwithstanding the foregoing, Vendor shall remain liable to the Purchaser for any latent defect which was not apparent or could not be reasonably detected upon the incoming inspection, provided the Purchaser notifies the latent defect before the expiration date of the Materials.  
The Purchaser reserves the right to return or demand that the Vendor removes, at the Vendor's cost and risks, any refused goods within 30 (thirty) working days to be calculated from notification of refusal of delivery. The Purchaser reserves the right to demand compensation from the Vendor for all additional costs resulting from the non-performance of its obligation of per-specification delivery such as e.g. warehousing, closure, transport, unpacking, repacking or any other incident causing interruption of flow and/or other problems encountered by the Purchaser such as e.g corrections, management of rejects, breakdowns and failures, production outages and/or for the end client such as breakdowns and failures, replacement orders.

#### **5. DELIVERY TIMES**

- 5.1. Agreed delivery times and locations are binding. Advance deliveries and advance services as well as deliveries after the agreed delivery date are permitted only with the consent of the Purchaser.
- 5.2. In the event of delay, the Purchaser is within their rights to claim from the Vendor, without prior written notice, a lump-sum indemnity of 1% per week overdue, calculated on the total amount of the order, with each started week considered as a full week. It will be deducted automatically from the amounts owed to the Vendor. The Purchaser reserves the right to prove greater damage and to claim additional compensation.
- 5.3. In case of non-respect of delivery times, after service of notice that fails to elicit any useful response within 4 weeks, the Purchaser reserves the option, by simple notification to the Vendor and without requiring recourse to court authorization, to cancel the outstanding orders and refuse the goods still to be delivered by virtue of said orders, and/or to seek goods from another provider, and this to the detriment of the Vendor.

#### **6. CONFORMITY AND GUARANTEES**

- 6.1. The Vendor, being an expert, is bound by a performance obligation and thereby assumes, inter alia, full responsibility for the goods, their design, their manufacturing process, the manufacturing techniques deployed and their being rendered fit for purpose, whereof the Vendor declares perfect knowledge.
- 6.2. The Vendor guarantees the Purchaser against all non-conformity of the goods with regard to the order and/or the documents applicable to the order, whether arising from a fault in design, material or manufacture, and more generally against all defects whether visible or hidden.
- 6.3. The Vendor must plan, implement and control processes in order to prevent the use of counterfeit products or products suspected being counterfeit, and their inclusion in products delivered to the Purchaser.

- 6.4. The Purchaser reserves the option to inspect the goods concerned or to arrange for their inspection by an approved agency at any stage of the order without thereby releasing the Vendor from their obligations and responsibilities
- 6.5. All moulds, tools, machinery and other specific equipment (the "Equipment") owned by the Purchaser, in accordance with the provisions laid down in the specifications and special conditions of the agreement or order, placed on the Vendor's premises, may not be hired out, placed at the disposal of third parties, reproduced or copied. The Equipment must be identifiable as belonging to the Purchaser and, if possible, have affixed a plate or an indelible inscription stating that it is the property of the Purchaser. The Vendor, as a custodian, guarantees the perfect servicing, conservation, inspection and maintenance of the Equipment, so as to avoid, for instance, any lag or interruption of supply.
- 6.6. In the event the supply does not conform to the order, the Purchaser reserves the option to:
- cancel or suspend any outstanding goods orders in progress and require the Vendor to credit the Purchaser with the cost thereof ;
  - Give the Vendor the opportunity, at the Vendor's risk and expense to promptly remedy the defect in the goods or to replace the defective goods. ;
  - effect or to make arrangement for the necessary repair operations to make the goods compliant with the Order at the Vendor's cost and risk;
  - submit a claim with the Vendor for damages, cost and interest resulting from the non-performance of its obligations; and/or
  - claim indemnities in accordance with the conditions laid down in Article 5.2.
- 6.7. The Vendor is obliged to remove promptly any refused or surplus goods at its own cost
- 6.8. The Vendor must establish and use procedures regarding the identification, collection, serialization, classification, storage, maintenance and scrap of quality information. The duration of storage must be compliant to the following: test results, control results, productions results, raw materials test results, analysis reports and recordings must be stored fifteen (15) years minimum after the agreement or the order, unless otherwise specified. Reports related to the design and certification of a product must be stored fifteen (15) years minimum after the agreement or the order. If those reports cannot be stored that long, the Vendor must refer this to the Purchaser's quality department. In case of contract termination or bankruptcy, all applicable quality reports must be returned to the Purchaser.
- 6.9. It is up to the Vendor to ensure that its personnel is perfectly trained, skilled, qualified and capable of satisfying all requirements in the order and to supply its personnel all instructions or to impose all necessary sanctions. Nothing in the order could be interpreted as setting up a hierarchical relationship between the Purchaser and the Vendor's employees.
- 6.10. The Vendor accepts and conforms itself to all requirements listed in Airbus Vendor 's Code of Conduct , available on the Purchaser's website and on request.
- 6.11. The Services and/or Products shall consist of new, not used or reconditioned materials unless otherwise agreed. If mentioned in the PO the Vendor accepts and conforms itself to all requirements listed in Airbus Direct materials DirectMaterials Generic QualityAssurance Requirements for Vendors reference ADS.E.0570 Rev 3/0 available on request.

## **7. TERMINATION**

- i) For Default  
Without prejudice to Purchaser right to cancel the order under Article 1.4, in the event of a breach of any of the provisions of the order, the Purchaser may terminate the related order in case written notice from the Purchaser has remained without effect for a period of ten( 10) calendar days. Any claims for damages shall remain unaffected by such termination.
- ii) For Insolvency  
If the Vendor becomes insolvent or has a receiver or administrator appointed of its business or is compulsorily or voluntarily wound up or if the Purchaser reasonably believes that any such events may occur then the Purchaser shall have the right without prejudice to any other remedy to suspend the performance of or terminate the Order without incurring liability.
- iii) For Convenience  
The Order may be terminated by the Purchaser at any time in whole or part by delivery to the Vendor of a notice of termination. In the event of such notice being given, the Vendor shall stop work forthwith and comply with any directions with regard to the Supplies that may be given by the Purchaser. The Vendor shall submit an account to the Purchaser at the address given in the Order within one (1) month from the effective date of termination in the form prescribed by the Purchaser. The Purchaser undertakes to pay a fair and reasonable price for all authorized work done and unique materials purchased up to the time of termination. Such payments made, taken together with any

sums paid or due or becoming due to the Vendor under the Order shall not exceed the total price of the Supplies under the Order.

## **8. INVOICING - PAYMENT**

- 8.1. Save as otherwise provided in writing, the Vendor shall send an invoice by order form to the electronic mail address facturation@ehp.be. . The invoicing of Supplies may in no case precede delivery thereof.
- 8.2. In case of early delivery, the payment period shall not commence until the scheduled delivery date.
- 8.3. Save as otherwise provided in writing, invoices are to be settled by bank transfer 60 (sixty) days end of month from the invoicing date. The Purchaser has the option of offsetting sums owed to him by the Vendor for whatever reason. The invoice must state all details included in the order, allowing identification and control of goods and establishment of documents required by the regulations in force including date, number, order reference, unit price, VAT, quantity, Intrastat code, and other specification included in the order..).
- 8.4. In the event that the Vendor claims penalties for late payment, these penalties shall be limited to an amount equivalent to that which would result from application of the legal interest rate in accordance with Belgian law (i.e. as per the law of 2 August 2002 on combating late payment in commercial transactions).

## **9. INDUSTRIAL / INTELLECTUAL PROPERTY**

- 9.1. Models, tooling, plans or other technical documents provided by the Purchaser to the Vendor or financed by the Purchaser, prior to the order or execution thereof, remain the full property of the Purchaser.
- 9.2. The Vendor shall refrain from reproducing or copying them and from disclosing them to third parties without express written prior permission from the Purchaser. They shall refrain from using them for any purpose other than the execution of the order and shall return them to the Purchaser immediately when requested to do so.
- 9.3. The Vendor guarantees that its products are free to be put up for sale and do not contravene any industrial or intellectual property rights of third parties. The Vendor undertakes to take the place of the Purchaser, should the latter so request, in any legal proceedings initiated in the matter and to reimburse any sums paid to that effect (fees, damages, interests, legal costs, license, etc.).
- 9.4. All Intellectual Property generated from or arising as a result of the work undertaken by the Vendor for the purpose of the Order shall vest in and be the absolute property of the Purchaser who reserves the right to protect the same by securing appropriate Intellectual Property Rights therein which Intellectual Property Rights shall vest in and be the absolute property of the Purchaser.

## **10. OPENING OF THE SITE**

- 10.1. When the Purchaser considers that the opening of its own site is necessary for the performance of an order, access to the site is not granted to the Vendor until they have satisfied all the administrative formalities involved in these site openings.
- 10.2. In the event that the Vendor wishes to enlist the services of a subcontractor to perform tasks included in such order, such can only be done with the express written consent of the Purchaser and the Vendor undertakes to enter into an agreement with such subcontractor setting out safety clauses similar or identical to those included in the order.

## **11. CONFIDENTIALITY**

- .All information communicated to the Vendor by the Purchaser (the "Information"), including but not limited to information of a technical, industrial, commercial or financial nature, regardless of the method of communication (including, more particularly, the relevant drawings, plans, descriptions, specifications, reports, diskettes, software packages and documentation, etc.) is confidential. The Vendor shall restrict disclosure of such Information to such employees, agents or sub-contractors who have the need to know the same for the purpose of discharging the Vendor's obligations to the Purchaser and shall ensure that such employees, agents or sub-contractors are subject to like obligations of confidentiality as bind the Vendor.

## **12. FORCE MAJEURE**

The term "force majeure" means any event which is unforeseeable, irresistible, unavoidable, beyond the control of a Party and not occasioned by the fault or negligence of that Party, and including war, acts of terrorism, riots, explosions, fire, floods, typhoon, earthquake, epidemics, quarantine restrictions, national strikes and freight embargoes, provided that this event (i) could not have been avoided by that Party through the exercise of reasonable foresight or reasonable precautions, and (ii) cannot be circumvented by that Party's best efforts to establish acceptable work-around plans. For the avoidance of doubt the following events shall not be Force Majeure Events: failure to obtain, refusal, or delay in receipt, of any permits, licences or any other approvals, permissions or consents necessary to carry out the Work or to perform obligations under this Contract, whether from a government or any other authority, agency or body; strike other than a national strike; or any event which occurred after a contractual deadline in respect of the Work;

Neither Party shall be liable nor be deemed to be in default for any failure to perform, nor for any delay in performance hereunder to the extent that such default is caused directly and solely by a Force Majeure Event duly notified as follows.

If a Force Majeure Event occurs, the affected Party shall:

- a) notify the other Party in writing of the Force Majeure Event within five (5) Business Days of the occurrence of the Force Majeure Event.
- b) within five (5) Business Days after the end of the Force Majeure Event, notify the other Party in writing that the Force Majeure Event has ended and promptly resume performance of its obligations under this Contract.

The affected obligations of that Party shall be suspended for the duration of the Force Majeure Event.

Notwithstanding the occurrence of such Force Majeure Event, the affected Party shall use its best endeavours to mitigate the effects of the Force Majeure Event. In addition, the Vendor shall use its best endeavours to make available to the Purchaser substitute Work, at no additional charge to the Purchaser and minimise the potential delay.

Where a Force Majeure Event affects the ability of the Vendor to Deliver the Deliverable by the Delivery Dates or if the effect is, or is foreseen by the Parties to delay such Delivery by more than thirty (30) calendar days or permanently prevent the Vendor from Delivering the Work, the Purchaser may, without incurring any liability whatsoever, terminate in whole or in part this Contract by Notice of Termination to take effect immediately from the date of notification.

## **13. INDEMNITY AND INSURANCE**

The Vendor agrees to indemnify the Purchaser against any and all claims, costs, damages, liabilities and expenses caused by or resulting from the negligent acts or omissions of the Vendor, his sub-contractors, agents or Vendors in the performance of the order, and/or from defective workmanship quality or materials and any and all claims arising out of an infringement or alleged infringement of any intellectual property rights.

If the Purchaser is held responsible by a third party because of the defectiveness of a product and if the defectiveness is due entirely or in part to a defect of the Vendor's Products or Services, the Purchaser may instead of compensation of all losses also demand indemnification vis-à-vis the third party. The Vendor's obligation to pay damages shall also include the costs of a precautionary recall measure in order to prevent damage, if this is appropriate.

The Vendor shall conclude and maintain with insurers of recognized reputation and security adequate insurance policies to cover its liabilities under the purchase orders issued by the Purchaser. At a minimum, Vendor shall maintain a general third-party liability insurance for an amount of no less than 5.000.000 (five million) EUR per occurrence and in the yearly aggregate. The Vendor shall also conclude and maintain product liability insurance. The limit of coverage of such insurance shall be not less than 5.000.000 (five million) EUR per occurrence and 10.000.000 (ten million) EUR in the yearly aggregate. The Vendor shall provide certificates of such insurances on request of the Purchaser at any time.

#### **14. QUALITY PROCEDURES AND ACCESS**

- i) The Supplies shall be subject to quality assurance conditions identified on the Order.
- ii) All Supplies must be identified with the appropriate part and issue number and any necessary process treatments must be carried out unless stated otherwise in the Order.
- iii) The Purchaser's representatives and the representatives of any other organisation on the authority of the Purchaser shall be allowed to visit the Vendor's premises and those of its permitted sub-contractors and shall be afforded all necessary facilities at any reasonable time to
  - (a) check the progress and quality of the Supplies.
  - (b) witness manufacture, work in progress, or any test or investigation being carried out,
  - (c) audit all quality control systems and documents, pertinent to the Order
  - (d) ensure its compliance with all applicable laws in particular anti-corruption laws and regulations and
  - (d) any other activity in pursuance of the terms of the Order.

In the event of an audit or inspection under this Condition 14.iii), the Vendor undertakes to assist and fully cooperate with the internal and external auditors of the Purchaser.

- iv) Each Party shall bear its own internal and external costs in relation to any audit, except if the results of the audit identify any breach by the Vendor of its obligations under the Order, in which case the Purchaser reserves the right to charge the Vendor with administrative, handling or other costs incurred and time spent by the Purchaser in carrying out any such audit or inspection.

Notwithstanding any inspection or testing, the Vendor shall remain fully responsible for the Supplies and any such inspection or testing shall not diminish or otherwise affect the Vendor's obligations under the Order
- v) If any of the Supplies fail to comply with the provisions set out in Condition 6 the Purchaser shall be entitled to avail itself of any one or more remedies listed in Condition 16.

#### **15. CHANGES**

The Purchaser may amend the Order by notice in writing and the Vendor shall introduce such amendment without delay. Within 14 days after receipt of notification of any change, the Vendor shall submit a statement to the Purchaser in such detail as the Purchaser may reasonably require of the effect of such change. The Purchaser and the Vendor shall agree upon any adjustment to the Order.

#### **16. PURCHASER FURNISHED ITEMS**

All Data, tools, patterns, materials and other equipment loaned by the Purchaser to the Vendor for use in connection with the Order shall be and will remain at all times the property of the Purchaser and be surrendered to the Purchaser upon demand in good and serviceable condition (fair wear and tear excepted) and are to be used by the Vendor solely for the purpose of completing the Order. Such supplies shall be at the risk of the Vendor and insured by the Vendor at the Vendor's own expense. The Purchaser does not warrant the adequacy of any tooling, Data, patterns, materials and other equipment it has furnished.

- ii) The Purchaser shall accept no liability for any parts or materials received by the Vendor from the Purchaser in a damaged state under or in connection with the Order unless such damage is notified in writing to the Purchaser within five days of the receipt by the Vendor of such parts or materials.
- iii) All scrap arising from material issued by the Purchaser shall remain the property of the Purchaser and must be disposed of by the Vendor in accordance with the instructions of the Purchaser and any relevant statutory regulations and all proceeds of sales of such scrap must be credited by the Vendor to the Purchaser, such instructions shall not however replace any statutory duty otherwise imposed on the Vendor.

#### **17. EXPORT LICENSES**

- i) The Supplies or part of the Supplies may be subject to export laws and regulations (hereafter referred to as "Export Regulations"), and the parties acknowledge that diversion contrary to such Export Regulations is prohibited. The Purchaser will provide the Vendor with all information necessary to examine such requirement of approval
- ii) The Vendor shall identify any part of the Supplies that is subject to Export Regulations at the time of receipt of the Order if not already provided and shall notify the Purchaser of such along with the relevant export control classification numbers. Amendments to such information shall be provided by the Vendor in the event of a change in Export Regulations or re-classification of the Supplies, and shall provide the Purchaser with all information concerning such applicable Export Regulations. The Vendor shall also provide reasonable assistance requested by the Purchaser to comply with the applicable Export Regulations.

- iii) (for Supplies that are being exported by the Vendor to the Purchaser): Whenever all or part of the Supplies is subject to Export Regulations, and without prejudice to its obligations under this Condition 17, the Vendor shall:
- (a) be responsible for obtaining in time, at no cost to the Purchaser, all relevant official approvals, licenses and authorisations required for the export of the Supplies to, delivery of the Supplies to, and use of the Supplies by the Purchaser and the Purchaser's customer or end-user in accordance with the Order worldwide or as provided by the end-use-statement and
  - (b) where all or part of the Supplies is subject to export licensing procedures, the Vendor shall ensure that an export license or similar documentation is issued by the relevant authorities in time to allow delivery and operation of the Supplies by the Purchaser and the Purchaser's customer or end-user in accordance with the Order and the provided end-use-statement; and
  - (c) clearly indicate on all delivery notices and invoices the export control classification number and the number of the applicable export license;
  - (d) provide the Purchaser with a copy of the export license certificate, including a copy of all provisos that relate to the compliance obligations of the Purchaser, including, but not limited to, any restrictions on sublicensing, any restrictions on retransfer, any requirements for non-disclosure agreements, any limitations on employees, and any other restrictions or conditions that result in authorisation being more restrictive or not as broad as contemplated in the authorisation or license request and/or the Order documentation. Provisos that are classified or that do not relate to the compliance obligations of the Purchaser may be redacted from the copy supplied to the Purchaser, if so required by the relevant export authority.
  - iv) If one or more Technical Assistance Agreements ("TAAs") are required for the fulfilment of the Order, the TAAs shall be agreed with the Purchaser before being submitted to the export authorities, and a copy of the issued authorization including a copy of all provisos that relate to the compliance obligations of the Purchaser shall be provided to the Purchaser.
  - v) Notwithstanding anything to the contrary in the Order, the Purchaser's ability to deliver and support products fitted with the Supplies worldwide or as provided by the end-use-statement and the Purchaser's customer's or end-user's ability to use, operate and maintain the products worldwide or as provided by the end-use-statement are of the essence of this Order. In the event that any Export Regulation would prevent the Vendor from complying with this obligation, the Vendor shall, at its own costs, and within a timeframe compatible with the Purchaser's business needs either (i) obtain from the relevant administration any authorisation, with respect to the Supplies, necessary for the Purchaser to sell and support products and/or the provided end-use-statement for the relevant Customer or enduser to continue using, operating and maintaining the product, or (ii) replace or modify the restricted technology so that the Supplies ceases to infringe the Export Regulations, while fulfilling all requirements defined by the Order; without prejudice to the Purchaser's rights to claim for compensation for all costs, damages and losses suffered as a consequence of the said breach and/or to terminate this Order for Vendor's default.
  - vi) Notwithstanding any other provision of this Order, the Vendor shall be liable for all damages, losses and liabilities

#### **14. COMPETENCE**

The Parties undertake to seek the amicable, out-of-court settlement of any dispute or any claim concerning orders or these General Purchasing Conditions. If no settlement is reached within a reasonable period of time, all proceedings that might arise from agreements concluded between the Parties will be referred to the courts of the jurisdiction of Nivelles, which are solely competent, even in case of the introduction of third parties or plurality of defenders.

The applicable law is Belgian law, excluding all international conventions in particular the Vienna Convention of 11 April 1980 relating to the international sale of goods.

All notices, correspondence, communication and documentation to be issued, exchanged or delivered to either Party in connection with the performance of the Order shall be in English or in French.

#### **15. NON-ASSERTION OF A RIGHT**

Non-assertion of a right on the part of the Purchaser by virtue of these General Purchasing Conditions cannot in any case be taken to mean that the Purchaser has surrendered that right. The Purchaser may assert that right at any subsequent point in time.