

## **General Terms and Conditions of Purchase of SSE Group Switzerland**

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

These General Terms and Conditions of Purchase ("GTCP") shall apply to all orders and to all contracts relating to the supply of goods and/or services concluded between us, "SSE Group Switzerland" and a third party, hereinafter referred to as the "Supplier". SSE Group Switzerland, ("SSE"), includes all existing and future legal entities in Switzerland, in particular: Société Suisse des Explosifs SA (SSE), Valsynthese SA, Hamberger Swiss Pyrotechnics (HSP), Explosive Services SA (ESSA) and Poudrerie d'Aubonne. These GTCP shall form an integral part of all quotation requests, quotations, orders and contracts between us and the Supplier. The application of the Supplier's general terms and conditions of contract or business is hereby expressly excluded. If the Supplier's business correspondence (including business documents, e-mails, quotations, order forms, delivery papers, confirmations of receipt and/or invoices) contains a reference to such general terms and conditions of contract or business, these shall not have any legal effect on the relationship between us and the Supplier, even if there is no explicit objection from us. Verbal ancillary agreements, deviations from these GTCP and any additions to or the exclusion of these GTCP must be made in writing in order to be valid. If there are differences between these GTCP and their translation into another language (e.g. English), the German text shall take precedence.

### **2. Quotation requests, quotations, orders, amendments and conclusion of contracts**

2.1 Requests are non-binding and are made free of charge, and the details in the Supplier's quotations shall only form part of the contract if expressly stated in the order. As soon as these quotations are included in the order, they shall be considered binding. The validity period of the quotation shall be at least three (3) months from the date of receipt by SSE.

2.2 Orders are only legally binding if we place them in writing. Orders made orally or by telephone require a subsequent written confirmation from us. We may refuse to accept and pay for deliveries that are made on the basis of an order not placed in line with the above provisions. In the event of ambiguities in the order, the Supplier must clarify these with us in writing.

2.3 The Supplier is obliged to comply with our proposed changes with regard to the contractually agreed scope of performance. If, as a result of our proposed change, the Supplier's costs change significantly, the parties may adjust the remuneration due to the Supplier appropriately, provided that the Supplier is not at fault. The Supplier must submit a written request for an adjustment to the remuneration no later than five (5) business days after becoming aware of the proposed change. If the written request is not made within this period, the remuneration cannot be adjusted.

2.4 The supply contract shall be deemed concluded when we have placed the order in writing and the Supplier has confirmed its acceptance in writing within five (5) working days. Failure to provide confirmation within five (5) working days shall be deemed acceptance of the order under the specified conditions. If the Supplier's acceptance or order confirmation deviates from our order, this must be expressly indicated by the Supplier. All amendments and additions shall only be valid if they are confirmed by us in writing.

### **3. Prices, terms of delivery, documents**

3.1 The prices on which our orders are based are binding. Any price increase requires our express written consent, regardless of the reason for the amendment. Unless otherwise agreed, prices are exclusive of statutory value added tax.

3.2 Terms of delivery shall generally be DDP (Delivered Duty Paid) unless otherwise expressly defined in the individual case. The delivery is only deemed to have been fulfilled once we also have the documents requested in the order, such as delivery note, certificate of analysis, etc. in our possession. If the Supplier fails to meet its delivery obligations, including and in particular with regard to documentation, we are entitled to refuse payment until these obligations are met.

### **4. Invoice, payment**

4.1 For each delivery, a separate invoice stating our order number and order item shall be sent to the invoice address stated in our order; provided the invoice address is specified in the order, the Supplier shall be liable for any breach of this clause and its consequences (particularly for delay in payment).

Invoices may not be included with the goods, and must be sent separately.

4.2 Our payments are made on the basis of an acceptance inspection upon receipt of the goods at the destination. As the quantity and quality check of received goods usually takes place at a later date, our payments do not constitute an acknowledgement of quantity and quality. Our right to legal claims in this regard shall therefore remain fully protected even after the goods have been checked and paid for. This shall also apply mutatis mutandis if only part of the goods is paid for. The costs of any necessary samples, tests etc. due to non-conforming or defective delivery shall be borne by the Supplier.

4.3 Payment is generally made within 30 days of acceptance of the delivered material and receipt of the corresponding invoice. In case of advance payment, the Supplier must provide an appropriate bank or insurance guarantee. The fee for this shall be borne by the Supplier.

### **5. Materials supplied by SSE Group Switzerland**

Material provided free of charge by SSE to the Supplier for the execution of the order, including samples, drawings, jigs and tools, remains the property of SSE and shall be designated as such and separated where necessary. A quantity and visual inspection shall be carried out by the Supplier upon receipt. Damage must be reported to SSE in writing within five (5) days. The material provided must then be inventoried and properly stored at no cost to SSE. The Supplier agrees that SSE may at any time register its rights of ownership over the supplied material in the relevant reservation of title register.

### **6. Quantities, delivery deadlines, delayed delivery and penalties**

6.1 The quantities specified in the order must be adhered to. We are only required to accept partial deliveries if we have requested them in writing.

6.2 Delivery dates and deadlines are binding and must be adhered to by the Supplier; these are considered adhered to when the goods arrive at the specified destination by the agreed time. The Supplier must inform us immediately of any delays in delivery, stating the reasons for this. Additional costs incurred for using an accelerated mode of transport due to exceeding the agreed delivery period shall be borne by the Supplier. We have the right to be notified immediately in the event of non-compliance with the prescribed delivery periods/delivery deadlines and any delays in delivery that are apparent to the Supplier, stating the reasons; on the basis of these declarations, SSE may set a grace period in writing, decline any subsequent services or withdraw from the contract. Our right to claim for compensation remains reserved. Any demurrage fees incurred for deliveries shall only be charged to us from the agreed delivery date.

6.3 For each full week of delay, if the Supplier fails to meet the deadline specified in the order, SSE shall be entitled to demand a minimum penalty of 0.5 % (but not more than 10 % in total) of the value of the proportion of the total delivery that cannot be used on time as a result of the delay. Acceptance of late performance shall not constitute a waiver of the contractual penalty. However, payment of the contractual penalty does not release the Supplier from its other contractual obligations. The right to claim higher damages is expressly reserved.

### **7. Guarantee**

7.1 The Supplier guarantees to SSE that the work (product) is free of defects, has the warranted characteristics and properties and meets the required specifications. The Supplier shall also be liable for ensuring that the work (product) complies with the statutory provisions and that the creation and use of the work (product) does not infringe any rights of SSE or third parties, such as patent, trademark or copyrights.

7.2 Once a defect has been remedied, the warranty period for the rectified part shall begin anew.

### **8. Acceptance, defects, damage and warranty**

8.1 The Supplier affirms that the goods or services it supplies meet the highest quality requirements as well as the requirements and specifications of our order, and that our order shall be executed with the expected speed, care and expertise.

8.2 SSE is entitled to terminate an order in whole or in part prematurely if, for example, the execution of the ordered services by the Supplier is defective or insufficient, agreed conditions are not met, or deadlines are not adhered to due to the fault of the Supplier or its subcontractors, and the completion of an order is thereby hindered. In such a case, however, the Supplier will be given a reasonable period of time to improve the situation in advance.

8.3 We shall inspect the goods delivered and raise any complaints regarding deficiencies as soon as possible, but without being bound by any time limit. If a material defect becomes apparent within six months of the transfer of risk, it shall be presumed that the item was already defective at the time of the transfer of risk, unless this presumption is incompatible with the nature of the item or the defect. The limitation period for claims for defects, including claims for recourse, is three (3) years after documented receipt and acceptance of the compliant goods at the factory, unless longer periods of limitation are provided for by law. This does not affect the legal provisions concerning the suspension of the expiry date for recourse claims.

8.4 The Supplier shall be liable for ensuring that the goods are of the agreed quality, are suitable for the intended use according to the order/contract and that they do not have any defects that impair their value or suitability. The goods must comply with the laws and accident prevention regulations of the purchaser's country. We are entitled to make statutory claims for defects with the proviso that we can only exercise the right to replacement or rescission if a reasonable grace period granted to the Supplier for supplementary performance (rectification or replacement delivery) has elapsed. In urgent



cases or in the event of a delay on the part of the Supplier, we are entitled at the Supplier's expense to remedy the defects ourselves or have them rectified. Unless otherwise agreed, our warranty period ends thirty (30) months after receipt of the goods in our factory. Rejected goods or parts shall remain at our disposal until a defect-free replacement is received or until the purchase has been rescinded. Once the replacement has been received, the goods subject to complaint shall be made available to the Supplier.

The Supplier shall be liable for replacement deliveries and rectification work to the same extent as for the original delivery; for replacement deliveries during the warranty period, the full warranty period begins anew with the receipt of the replacement. This provision also applies to the delivery of individual spare parts.

The Supplier shall be liable for damage arising from the contractual relationship caused by it or by a third party it has engaged, unless it proves that neither it nor the third party it has engaged is at fault.

## 9. Packaging, transport, documents and insurance

Transport and packaging costs must be indicated separately in each case. Hazardous materials must be packaged and labelled in accordance with applicable legislation, and the corresponding safety data sheets must also be supplied. Hazardous goods must also be packaged and labelled in accordance with applicable legislation, and the hazardous goods classification or, if applicable, the notation "non-hazardous goods" must be specified on the delivery note.

## 10. Shipping instructions

Each consignment must be accompanied by a delivery note stating our order number, product description, net and gross weights and exact quantities. Upon our request, the Supplier shall send us further documents in advance in accordance with the order form via e-mail.

In the absence of such information, acceptance may be refused. Partial and residual consignments shall be designated as such. Deliveries are only accepted during the **delivery times: 7.00 a.m.–11.00 a.m./1.00 p.m.–3.00 p.m.** If a lorry arrives late, we undertake to unload it on the following day.

## 11. Returns

The costs of returning rejected items or items requiring correction, as well as any replacement deliveries, shall be borne in full by the Supplier.

## 12. Safety instructions

If the Supplier provides its services at our premises and/or plants, it must comply with SSE's instructions and safety provisions as well as its house rules.

## 13. Engagement of subcontractors: permissibility and liability

13.1 The Supplier undertakes to execute the work itself.

13.2 The engagement of a subcontractor is only permitted with the prior written consent of SSE. SSE may at any time require that specific subcontractors be involved in the performance of the contract. However, regardless of whether it may/must engage subcontractors, the Supplier remains technically and commercially responsible to SSE to the same, agreed extent.

## 14. Discontinuation of production

The Supplier shall notify us in writing of the discontinuation of production of goods delivered to us **at least six (6) calendar months** in advance, to give us the opportunity to place a final order for the corresponding deliverables.

## 15. Intellectual property rights

The Supplier guarantees that the goods delivered by it do not infringe any commercial property rights or other legal provisions and that no claims can be made against us due to the use of the goods and the sale of them to third parties. In the event of third-party claims, the Supplier shall indemnify us against all claims and support or represent us in negotiations and legal disputes.

## 16. Documents, manufacturing equipment, models and drawings

All information, drawings, plans, manufacturing equipment, models, tools, samples and similar that are provided to the Supplier by us for the purposes of manufacturing the goods shall remain our property and may not be used for other purposes, duplicated or made accessible to third parties. All documents must be returned to us free of charge without request as soon as they are no longer required to execute the order. If delivery is not made, the Supplier must also hand over the documents to us without request.

## 17. Secrecy and observance of confidentiality/copyrights

17.1 The Supplier must treat the order and the associated work or deliveries as confidential.

17.2 The copyright of all documents, such as drawings, sketches, calculations, etc. that are provided to the Supplier remains with SSE (HSP). The Supplier shall use such documents and all other information exclusively for the purpose of executing the order from SSE (HSP). Without the prior written consent of SSE (HSP), it is not entitled to produce products for third parties on the basis of such information, or to copy, reproduce or in any way bring such documents and information to the attention of third parties who are not directly engaged by it for the purposes of executing the order.

17.3 If the Supplier wishes to use this contractual relationship to advertise or publish information about it, the written consent of SSE (HSP) is required.

## 18. Severability clause

Should any part of these General Terms and Conditions of Purchase be or become void, this shall not affect the validity of the remaining provisions or the contractual agreements made. The ineffective provisions shall be replaced by a permissible regulation or statutory provision that comes as close as possible to the original economic intent.

## 19. Place of jurisdiction and applicable law

The place of jurisdiction for all disputes arising from this contract and these GTCP shall be CH-3900 Brig. If the purchaser acts as the plaintiff, it may also appeal to any other competent court. This contract is subject to the substantive **law of Switzerland**, to the exclusion of international treaties, in particular the Vienna Convention on Contracts for the International Sale of Goods (CISG).

