

GENERAL TERMS AND CONDITIONS FOR THE PURCHASE OF SUPPLIES AND SERVICES

Magyar Cukor Zrt.

(Basis 'General Terms and Conditions for the Purchase of Supplies and Services of Agrana Zucker GmbH; Version: September 2012)

Unless otherwise agreed between the parties in writing, the following general terms and conditions for the purchase of deliveries and services shall exclusively apply:

1. Scope of application

- 1.1 The purchaser (hereinafter: Purchaser) and the contractor (hereinafter: Contractor) agree in respect of all – also future – inquiries, purchase orders, purchases and other transactions and services for the procurement of deliveries and services on the following Terms and Conditions for the Purchase of Deliveries and Services (hereinafter: GTC). By signing the present document, the Contractor declares that it has studied the present General Terms and Conditions in detail, has negotiated these in detail with the Purchaser and has accepted all provisions contained therein.
- 1.2 The Contractor acknowledges that the Purchaser hereby contradicts to all objects differing terms and conditions of the Contractor that may be included in order confirmations or other business papers. In particular the acceptance of deliveries or services or the payment thereof shall not constitute an approval of terms and conditions other than the GTC.
- 1.3 Any agreement on terms and conditions in variation of the GTC shall be valid only if confirmed by the Purchaser in writing.
- 1.4 In case of any inconsistency between the individual elements of the Purchase Order (contract) between the Purchaser and Contractor, the following documents shall have priority in the following order: [i] the Purchase Order (hereinafter: P.O.); [ii] the annexes integrated in the P.O. such as a negotiation record; [iii] the entire GTC.
- 1.5 Neither the P.O. nor the GTC shall restrict any other legal claims the Purchaser may have.

2. Contract Award and Proviso for Cancellation of the Contract

- 2.1 The contract between the Purchaser and the Contractor shall not be deemed concluded until after the Purchaser has placed an order in writing. (e.g. SAP Purchase Order).
- 2.2 Contracts awarded and orders placed by Purchaser shall be deemed accepted, unless they are rejected by the Contractor in writing immediately after receipt.
- 2.3 In case of justified indications that difficulties are expected to occur in respect of target dates or supplies or in case of a lack to cover of Purchaser's liability and warranty claims, Purchaser may at any time cancel contracts and orders placed. This applies in particular in the case of any significant deterioration of the Contractor's economic situation or if insolvency, bankruptcy, liquidation, or enforcement proceedings have been introduced or applied for in respect of Contractor's assets.

3. Price

The prices indicated in the P.O. shall be invariable fixed prices pursuant to the stipulated currency of the P.O. for the period of conclusion of the contract until complete performance of the delivery and/or service and will not be subject to any price escalation or price change whatsoever.

4. Letter of representation

Within its scope of supplies and services, the Contractor shall provide all necessary supplies and services needed for the agreed success, even if these supplies and services were not mentioned in Purchaser's inquiry, technical documents, the P.O. or in other documents.

5. Pricing and Transfer of Risk

- 5.1 The Purchaser and the Contractor hereby agree to apply price basis, transfer of risk and customs duties according to the Incoterms 2010. for deliveries and services to the agreed place of destination within the European Union DAP (Delivery At Place), outside the European Union DDP (Delivery Duty Paid).
- 5.2 In case of an assembly of supplies and services owed by the Contractor, the risk will transfer immediately after successful acceptance.

6. Advance payment

The Purchaser provides an advance payment that may have been contractually agreed in the P.O. only against presentation of an advance payment invoice and under the furthermore precondition of a complete repayment security by presentation of an irrevocable, abstract bank guarantee in the amount of the agreed advance payment payable upon first demand, at Contractor's cost and issued by a bank accepted by the Purchaser.

7. Partial payments / Partial Deliveries

- 7.1 The Purchaser will make any partial payment agreed in the P.O. only against proof of the respective delivery or service provided by the Contractor for this partial payment in conformity with the contract (PAYMENT MILESTONE) and acceptance thereof as well as against submission of a verifiable partial invoice.
- 7.2 The Purchaser reserves the right to reject non-agreed partial deliveries as well as to cancel residual amounts.

8. Invoicing and due date for payment

- 8.1 The Contractor shall issue partial and final invoices not later than thirty days after provision of the delivery or service in conformity with the contract and acceptance thereof.
- 8.2 Invoices shall be issued in a form which allows the Purchaser to verify it using reasonable effort; such invoices shall be sent exclusively by post (Magyar Cukor Zrt., 10 – 14. Pécsi street, 7400 Kaposvár/Hungary; VAT-ID: HU11194944). Invoices for supplies and services that have been ordered with a systematically P.O. (SAP) shall refer to the order number of the P.O.; invoices for supplies and services that have been ordered without the ordering system, shall refer to the full name and the 8-digit Order number, or in this absence the 3-digit Magyar Cukor reference ID number. Documents necessary for approval of the supplies and services (quantity calculations, price conversions, drawings, delivery notes, hourly time sheets, performance reports and so on) shall be enclosed in a clearly understandable form. If several invoices are going to be sent in a single envelope, then the attachments shall be stapled together with the respective invoice.

- 8.3 The invoices must comply with the relevant regulations in force in Hungary, in particular with the provisions of **Law CXXVII/2007** on the General Value Added Tax and **Law C/2000** on Invoicing. If even one of the documents necessary for verification is missing, the Purchaser may return an invoice.

- 8.4 If an invoice is insufficient (acc. to § 169 of the Value Added Tax Act [Law] or Article 8 of the entire GTC), it shall be returned to the Contractor for rectification within 30 days and re-submitted by the Contractor within 30 days. The respite will re-commence upon submission of the corrected invoice.

- 8.5 If partial payments have been agreed as well as a bank guarantee to be provided together with the first partial invoice, this bank guarantee shall also be sent together with the invoice for the advance payment to the address mentioned under 8.2 above. The complete delivery or service shall be settled with the final invoice, taking into account any Liquidated Damages / penalties, premiums and the like. The Contractor shall not be entitled to offset Contractor's claims against Purchaser's claims. Once the Contractor has issued his final invoice, the Contractor declares to have invoiced all deliveries and services related to the execution of the contract and all other claims, and the Contractor expressly waives to assert any additional claims arising from the contract or any other legal relationship whatsoever.

- 8.6 The final invoice shall be identified as such if partial invoices were issued beforehand. Partial payments already made shall be indicated in the final invoice.

- 8.7 The terms of payment for partial and final invoices indicated in the P.O. will be calculated by the Purchaser after acceptance of the delivery or service in conformity with the contract and after receipt of a verifiable invoice. The payment of invoices shall be effected only in respect to the conditions of the P. O. or an existing frame agreement. The Purchaser will accept invoicing for packing costs only if explicitly agreed. The terms for payment shall commence once the delivery or service has been made available in a contractually-acceptable condition and by the date of receipt of the invoice.

9. Liability for engineering

The Contractor guarantees the correctness and completeness of engineering services, consulting services and any documentation.

10. Liability for documentation

The Contractor is aware of the particular importance of compliance with his obligations in connection with the documentation and shall be liable for late or insufficient documentation.

11. Purchaser's liability towards Contractor

- 11.1 The Purchaser shall not be liable for losses or damage caused by Contractor to any third party.
- 11.2 Purchaser shall not be subject to any liability or joint liability for his participation in any supply or service, including but not limited to accompanying control, and in connection with the delivery of regulations and documentation to the contractor and the like; Contractor waives any right to assert contributory negligence in this context.

12. Assertion of claims by the Contractor

- 12.1 The Contractor shall keep records of deliveries and services that are not covered by the agreed scope of supplies and services and shall deliver those records within seven days of commencement of that delivery or service to the Purchaser for written confirmation and acknowledgment of the type and scope of those supplies and services.
- 12.2 Other claims the Contractor may have against the Purchaser on any legal ground whatsoever shall be reported by the Contractor to the Purchaser by written notice, including detailed proof and precise amount of the claim, within 14 days after occurrence of the event which entitles the Contractor in its opinion to assert such claims; otherwise, the Contractor shall not be entitled to assert such claims.

13. Third party claims

The Contractor shall fully hold harmless and indemnify the Purchaser for all claims of third parties caused by defects in, or improper execution of, the Contractor's supplies and services.

14. Assignment / Pledging

Any assignment, pledging or other transfer of rights and duties by the Contractor is permissible only upon the Purchaser's written consent.

15. Liens / Rights of Retention

- 15.1 The Contractor shall not create - nor do anything which would result in the creation of - any lien, encumbrance, right of retention or any other kind of security on the free issue parts provided by the Purchaser or on the supplies and services or any part thereof.
- 15.2 The Contractor shall ensure that a similar provision is included in each of its sub-contracts.

16. Insurance

- 16.1 The Contractor himself shall conclude insurances as may be necessary for the scope of its supplies and services. On Purchaser's written demand the Contractor shall deliver to the Purchaser all documents necessary for verifying valid insurance coverage and authorizes the Purchaser to obtain information about the insurance policies from the relevant insurance undertaking.
- 16.2 The Contractor is obliged to pay its premiums in time and to provide the Purchaser with a confirmation issued by its insurer about the payment due date and the effected payment.
- 16.3 However, this or any other insurance does not limit the duties and liabilities of the Contractor in any way, even if the Purchaser raises no objection against the insurance policies the Contractor shall submit at the Purchaser's request.

17. Place of performance

The place of performance shall be the final destination mentioned in the P.O. The above shall apply to the Contractor particularly in connection with any supply, service and payment, whether or not an individual agreement may have been reached on the place of deliveries, services or payment or the Purchaser bears the transport costs.

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18. Shipping

- 18.1 The Contractor is liable for compliance with all shipping regulations of the Purchaser that are included in the P.O.
- 18.2 The Contractor shall continuously observe the goods to be supplied and delivered and inform the Purchaser immediately in detail about possible defects and errors, in particular design and manufacturing errors. The same applies to changes in the state-of-the-art in science and technology. In the event that delivered goods prove to be defective or faulty on the basis of such changes, the Contractor shall immediately notify the Purchaser and shall retrieve such deficient or defective products at his own expense.
- 18.3 Deliveries are to be made exclusively at the delivery location mentioned by the Purchaser at the risk of the Contractor. Unless otherwise agreed, all deliveries shall be free on ramp respectively free on stock. If it is not possible to deliver at the agreed destination for reasons attributable to the Purchaser, the Contractor has to contact the Purchaser immediately.

19. Transfer of Title

The title shall transfer to the Purchaser upon the earlier of payment or acceptance of the (partial) delivery or (partial) service provided by the Contractor, whatever event occurs first. A reservation of proprietary rights of the Contractor shall be excluded.

20. Warranty / guarantee / notice of defects / damages

- 20.1 The Contractor warrants / guarantees for a complete and defect-free delivery and service in conformity with the P.O. and particularly for the usually expected and possibly promised qualities, as well mentioned in public statements in accordance with samples, and for compliance with all relevant statutory and regulatory regulations applicable to the deliveries and services at the place of destination or the sales markets indicated by the Purchaser. The Contractor is liable that no defect occurs during the warranty/guarantee period, whether or not the defect existed already upon delivery.
- 20.2 The Contractor shall demonstrably notify the Purchaser of any risks that can usually be expected in connection with deliveries and services. The Contractor is equally liable for the deliveries and services provided by it as well as for the components of deliveries and services of its sub-contractors.
- 20.3 Only the weights or items determined upon acceptance of the delivery or service or other quantities indicated in the P.O. shall be relevant without taking into account any preceding weighing or counting. Any deviation (loss) of weight, items or quantities shall be deemed as defect.
- 20.4 The Purchaser is not required to examine the delivery or service and to give notice of any defects.
- 20.5 The Purchaser may assert obvious defects that are visible without testing or examining the delivery or service within 14 calendar days after acceptance of the delivery or service.
- 20.6 The Purchaser may assert defects which are discovered not until after the proposed use or consumption of the delivery or service within 30 calendar days after complete discovery.
- 20.7 In the case that promised and usually expected qualities of the supplies and services are not achieved, the Purchaser at his own discretion shall have the following rights:
- to terminate the contract without granting a grace period,
 - to reduce the P. O. price; or
 - to grant a grace period for a defect-free delivery.

The Contractor is also obliged that defective deliveries which have been rejected by the Purchaser are collected at the Contractor's cost and expense within 7 calendar days after notice of rejection was given, otherwise, the Purchaser will return the defective deliveries at the Contractor's cost and expense.

- 20.8 The contractual warranty and/or guarantee periods shall be 24 months after acceptance of the delivery or service. This shall not restrict any time limits within which claims for damages may be asserted.

21. Retention (security for future liability)

- 21.1 The Purchaser may retain a security for future liability up to a contractually agreed amount of not more than 10 % of the total order value as non-interest bearing collateral for warranty and guarantee claims for a period of 30 days beyond the contractually agreed warranty or guarantee period. This agreement applies also if the Contractor becomes insolvent.
- 21.2 However, the Contractor is granted the contractual opportunity to replace the security for retention by submission of an irrevocable and abstract bank guarantee, issued by a bank accepted by the Purchaser, at Contractor's own cost, payable upon first demand that matures 30 days upon expiration of the warranty and/or guarantee period.

22. Date of Completion (Taking Over Certificate)

Deliveries and services shall be provided at the date defined in the P.O. Delivery periods shall commence by the date of the P.O. Compliance with a delivery date or delivery period shall be based on the receipt of the delivery by the recipient or at the application site designated by the Purchaser or the timeliness of successful acceptance. Deliveries and services provided with delay shall always be accepted subject to reservation of all claims.

23. Liquidated Damages (LDs) / Penalty

- 23.1 If LDs/penalties, e.g.: LDs for late delivery of supplies (incl. documentation), LDs for non-compliance with contractually agreed performance data (availability, plant performance, etc.), etc. are agreed (e.g.: negotiation record, purchase order, etc.), the Purchaser, when demonstrably entitled to assert a claim, may assert that claim pending payment of the (final) invoice on the non-conforming supplies or services without having to reserve this right when accepting the scope of supplies and services.

- 23.2 Unless otherwise provided in the negotiation record and/or the purchase order, the following basic regulation shall be applicable:

- If the Contractor fails to comply with his contractual obligation - also as per these GTC - the Purchaser is entitled to claim LDs/penalties in the amount up to 10% of the contract price of the respective supplies and services.
- However, the enforcement of a damage exceeding this amount shall not be excluded hereby. If the Contractor fails to achieve agreed respectively defined LD-/penalty-events he shall be obliged to pay the respective contractually defined LDs/penalties.
- If, from the binding placement of an order until the end of the contract's validity, the Purchaser and the Contractor agree in writing on amendments of the contractually defined LD events, the newly defined LD events shall also be deemed penalized.
- The Contractor shall be required to pay LDs upon occurrence of the contractually defined event.
- The payment of LDs shall not release the Contractor from its performance obligations and any resulting liabilities. The Purchaser and the Contractor agree that LDs of any nature whatsoever may not be reduced by court order.

24. Termination (Breach of contract)

- 24.1 If the Contractor (including its sub-contractors) is - even without fault - in default with its deliveries or services, the Purchaser shall have the unrestricted right to terminate the contract in whole or in part after having granted a single, written and reasonable grace period (in the Purchaser's discretion). The Contractor shall be liable for any damage that may arise due to performance contrary to the terms of contract (e.g. late delivery, incl. documentation, non-achievement of guaranteed qualities or performance, etc.) and for any direct extra cost of whatever nature.

- 24.2 The Contractor shall not have any claims whatsoever against the Purchaser from such a withdrawal.

25. Written form

- 25.1 Any amendment of and/or modification to the contract shall exclusively be made in writing.
- 25.2 This written form requirement shall also apply to any consensual waiver of the written form requirement.

26. Safety clause for erection works and/or services

If any erection works and/or services were ordered within the scope of the P.O., such erection works and/or services shall be provided according to the applicable laws (including CE-Conformity and standards) at the contractually agreed final destination in compliance with the relevant safety provisions (industrial safety regulations) and provisions for the prevention of accidents. By virtue of this obligation, the Contractor assumes responsibility for the safety of his staff (including any third-party staff that may have been assigned by the Contractor) during his erection activities. Any (assembled or erected) machinery and equipment delivered to the Purchaser must comply with any applicable labour protection and accident prevention legislation (health and safety regulations).

27. Severability Clause (partial invalidity)

Should any term of these GTC be invalid in whole or in part, this shall not affect the validity of the remaining terms. In such a case, the Contractor and the Purchaser shall replace the invalid term by a valid term that closest reflects the economic purpose of the invalid term.

28. Legislation and place of jurisdiction

- 28.1 The contract shall be governed by and construed in accordance with substantive Hungarian law, without giving effect to the UN Sales Convention (CISG) and the conflict of law rules of international private law.

- 28.2 Provided that the Contractor has its corporate seat within the European Community or in a country with which a convention on the enforcement of civil judgments has been concluded, the Parties agree that the place of jurisdiction for all legal disputes arising from or in connection with the contract shall exclusively be the court having subject-matter jurisdiction for the Purchaser's corporate seat.

- 28.3 If the Contractor has its corporate seat outside the European Community or in a country with which no convention on the enforcement of civil judgments has been concluded, the Parties agree that the place of jurisdiction for all disputes arising out of this contract or related to its violation, termination or nullity shall be finally decided under the Rules of Conciliation and Arbitration of the International Arbitral Centre of the Austrian Federal Economic Chamber in Vienna (Vienna Rules) by three arbitrators appointed in accordance with the pertinent Rules. The place of arbitration shall be Vienna; the arbitral proceedings will be conducted in the German language.

29. Staff

The Contractor has responsibility to ensure that all legal requirements are met in terms of personnel employment, in particular the application for social security, compliance with the applicable employee protection regulations and the laws regulating the employment of (foreign) persons applicable in the country where the supplies and services shall be executed. This applies in particular also to any subcontractors employed staff and agency staff as the case may be.

30. Code of Conduct

The Purchaser observes internationally recognized environmental, labor and social standards. Those the Purchaser has described and regulated in the AGRANA - Code of Conduct and the AGRANA statement regarding Social Responsibility:

<http://www.agrana.com/en/agrana-group/social-responsibility/>

The Purchaser expects the Contractor to recognize and consider that Code of Conduct.