

**1. Exclusive validity**

**1.1** These General Terms and Conditions of Purchase (GTCP) shall apply to all contracts for the procurement of goods and services between Swan Analytische Instrumente AG and Swan Systeme AG ("Purchaser" or "SWAN") and the Supplier.

**1.2** Provisions deviating from these GPC shall only apply if they have been agreed in writing.

**1.3** The application of the Supplier's General Terms and Conditions of Sale and Delivery is expressly excluded.

**2. Offer**

**2.1** Through the inquiry, the Supplier is requested to submit a free offer as a specialist. In the quotation, the supplier must comply with the descriptions and objectives of the customer and, in the event of deviations, expressly point this out; the supplier acknowledges an obligation to provide information. If the supplier does not specify a deadline in its offer, this shall be binding for 60 days.

**3. Order / conclusion of contract**

**3.1** The contract shall be concluded by written order by SWAN and corresponding order confirmation by the Supplier.

**3.2** Written orders as call-off orders for goods under an existing framework agreement also require an order confirmation from the supplier.

**4. Prices**

**4.1** Unless otherwise agreed, the specified prices are fixed prices DDP SWAN (Incoterms 2020). They include all ancillary costs, such as packaging, transportation costs, etc.

**5. Delivery dates and consequences of delay**

**5.1** Delivery is due on the agreed delivery date at the place of destination. In the case of fixed dates, default shall occur automatically in the event of delay, unless the parties agree on a different solution in writing in the event of early notification of difficulties.

**5.2** If a contractual penalty has been agreed in the event of delayed delivery, this shall amount to 0.5 percent per day of delay since the occurrence of the delay, but not more than 20 percent of the price of the delayed delivery in total. If the supplier is in default with a partial delivery, the contractual penalty shall be calculated on the basis of the price of the entire service to be provided by the supplier, the use of which is impaired by the delay in the partial delivery.

**5.3** The legal presumption of waiver of delivery in the event of default does not apply. Instead, the customer has all options in the event of default in accordance with Art. 107 OR.

**5.4** In any case of delay on the part of the Supplier and irrespective of the Supplier's fault, the Customer shall be entitled to full compensation for any direct and indirect damage in excess of any contractual penalty.

**5.5** The Supplier may only invoke the absence of necessary services or preparatory actions to be provided by the Customer if these services are specified in the offer and the Supplier has sent a reminder in good time.

**5.6** Partial deliveries and pre-mature deliveries are only permitted by written agreement.

**6. Transportation, transfer of risk, insurance and packaging**

**6.1** Unless otherwise agreed in writing, deliveries shall be made DDP SWAN (Incoterms 2020); this shall also apply mutatis mutandis to domestic transactions.

**6.2** The transfer of risk takes place after delivery at the place of destination.

**6.3** The supplier shall bear full responsibility for proper packaging. The supplier shall draw attention to the need to take special care when removing auxiliary constructions and the like.

**6.4** The Supplier shall obtain all necessary approvals and authorizations and inform SWAN about specific import and export regulations.

**7. Quality assurance, incoming goods inspection and notification of defects**

**7.1** The Supplier shall take all reasonable quality assurance measures agreed with SWAN with regard to the goods and services to be delivered. Quality requirements or specifications of the Customer shall be strictly adhered to. If the Supplier recognizes the impossibility, incorrectness or hazardous nature of certain specifications of SWAN, it must inform SWAN of this immediately in writing. In addition, any quality assurance agreement between SWAN and the Supplier shall apply.

**7.2** The Supplier shall carry out a detailed quality inspection prior to delivery to SWAN. SWAN is therefore exempt from the qualitative incoming goods inspection. The incoming goods inspection at SWAN is limited to identity, quantity and externally recognizable transport damage. For quantities, weights and dimensions, the values determined by SWAN during the incoming goods inspection shall be decisive, subject to proof to the contrary.

**7.3** Defects shall be notified by SWAN in writing within 14 days of their discovery at the latest. Warranty claims shall be deemed to have been met if the notice of defects is submitted by the end of the warranty period. In this respect, the Supplier waives the defense of late notification of defects.

**8. Warranty**

**8.1** As a specialist, the supplier warrants that the delivery item is free from defects, that it is suitable for the intended use and that it has the warranted characteristics and complies with the prescribed specifications and performance as well as the latest state of the art. The supplier further warrants that the delivery item complies with the statutory and official regulations at the place of manufacture and at the place of destination (exemplary but not exhaustive list: SEV, SVDB, SUVA ...).

**8.2** The warranty period shall last 24 months from successful commissioning, use, etc., but no longer than 36 months from delivery.

**8.3** If it becomes apparent during the warranty period that the delivery or parts thereof do not fulfill the warranted characteristics in accordance with Section 8.1, the Supplier shall be obliged, at the Purchaser's discretion, to remedy the defects immediately on site at the Purchaser's expense or to have them remedied or to deliver and install a replacement free of charge. If a complete repair cannot be expected within a reasonable period of time for the customer, the customer shall be entitled to remedy the defects himself or have them remedied or to procure a replacement at the expense and risk of the supplier.

Transportation, replacement and assembly costs and any travel expenses for warranty work shall be borne by the supplier.

**8.4** The same warranty conditions apply to replacement deliveries and repairs, whereby the warranty period begins with the new delivery.

**8.5** Warranty claims, including claims for damages, expire one

year after the end of the warranty period.

**9. Liability**

**9.1** In the event of a warranty claim, the Supplier shall be liable to the Customer for all direct and indirect damages, irrespective of fault.

**9.2** The Supplier shall be liable for subcontractors as for its own performance or omission.

**9.3** Further legal claims of the customer remain reserved.

**10. Resignation**

**10.1** If the Supplier is in default with regard to the delivery or the warranty work in accordance with Clause 8.3 and if, in the case of non-fixed transactions, a reasonable grace period has also expired without success, the Customer may withdraw from the contract and waive the delivery.

**10.2** If it becomes clear before the delivery is due that the supplier will exceed the delivery date, the customer may also withdraw from the contract and waive the delivery.

**10.3** There is also the possibility of withdrawal if it can be foreseen during the course of production that the delivery item will not meet the specifications or will not be fit for purpose.

**10.4** SWAN reserves the right to claim damages.

**11. Right of inspection**

**11.1** SWAN is entitled to regularly inspect the progress of the work and compliance with the specifications and the quality assurance agreement. The Supplier shall grant SWAN access to the production facilities and inspection of the quality assurance documentation upon timely notice.

**12. Insurance**

**12.1** From the time of the first conclusion of the contract with SWAN, the Supplier undertakes to maintain business liability insurance with a minimum coverage of CHF 5,000,000.00 per personal injury/property damage and CHF 1,000,000.00 for financial losses - lump sum - for a period of up to 36 months after the last delivery and/or service to SWAN; if SWAN is entitled to further claims for damages, these shall remain unaffected. The Supplier shall provide SWAN with proof of the aforementioned insurance and the premium payment for this upon first request. If proof of insurance and premium payment is not provided to SWAN within 7 calendar days of SWAN's request, SWAN shall be entitled to withdraw from unfulfilled contracts in whole or in part (with regard to the unfulfilled part).

**13. Assembly**

**13.1** If the supplier is also obliged to carry out assembly work, this shall be included in the delivery price, unless special remuneration has been agreed. The conditions stated here shall also apply mutatis mutandis to the assembly services.

**14. Work at the customer's premises**

**14.1** In addition to these General Terms and Conditions of Purchase, the Buyer's safety instructions must be followed when working on the Buyer's premises.

**15. Drawings and operating instructions**

**15.1** Prior to the start of production, the Purchaser shall be provided with execution drawings and, if agreed, initial samples for approval upon request. Unless expressly agreed, approval by the Buyer shall not be deemed to be consent to deviations from the specifications and shall not release the Supplier from its responsibility for the functional suitability, feasibility and freedom from defects. The

definitive execution plans, maintenance and operating instructions as well as spare parts lists for proper maintenance of the delivery shall be handed over to the Purchaser free of charge upon delivery.

**16. Confidentiality / IP rights**

**16.1** All information, drawings, material, tools, etc. which the Customer provides to the Supplier for the manufacture of the delivery item or which the Supplier creates for SWAN specifically for the customer-specific manufacture of the delivery item are and shall remain the property of the Customer, shall be kept secret and may not be used for other purposes, reproduced or made accessible to third parties. The Customer shall be entitled to all intellectual property rights, in particular copyrights. Upon request, all documents or data, including all copies or reproductions or duplicates, must be returned to the customer without delay. If no delivery is made, the Supplier shall hand over the documents or data to the Purchaser without being requested to do so.

**16.2** The Supplier shall treat the order and the associated work or deliveries and the corresponding information as confidential.

**16.3** Technical documents of the Supplier or its subcontractors which demonstrably existed shall be treated confidentially by the Customer. They shall remain the intellectual property of the Supplier or its subcontractors.

**16.4** Any confidentiality agreement concluded between SWAN and the Supplier shall also apply.

**17. Terms of payment**

**17.1** Unless otherwise agreed and subject to complete and correct fulfillment by the supplier, payment shall be made within 60 days of receipt of the invoice and the delivery item. The right to offset against counterclaims remains reserved.

**17.2** Payments shall in no case be deemed as approval of the delivery.

**18. Advance payments**

**18.1** In the case of advance payments, the supplier must provide appropriate security (e.g. bank guarantee) and interest on request.

**19. SWAN Supplier Code of Conduct / Material Compliance / Quality Control Systems**

**19.1** The Supplier undertakes to comply with the provisions and principles set out in the SWAN Supplier Code of Conduct. The SWAN Supplier Code of Conduct can be viewed at <https://swaninstruments.ch/purchasing> in German and other languages. The Supplier shall report any violations of the Supplier Code of Conduct to SWAN without delay.

**19.2** The Supplier shall maintain a quality management system in accordance with DIN EN ISO 9001 and an environmental management system in accordance with DIN EN ISO 14001. The Supplier's products must be manufactured and tested in accordance with the provisions of this quality management system. SWAN shall have the right to inspect the Supplier's compliance with the quality management system at the Supplier's production facilities upon prior notice and during normal business hours.

**19.3** The Supplier's deliveries and services must be provided in compliance with Directive 2011/65/EC ("RoHS") on the restriction of the use of certain hazardous substances in electrical and electronic equipment and in compliance with Regulation 1907/2006/EC ("REACH"). Furthermore, the supplier undertakes to only supply products that do not contain any tin, tantalum, tungsten or gold from

the Congo or the neighboring states of the so-called DRC region.

**19.4** If the relevant laws, regulations or the state of the art in science or technology change between conclusion of the contract and performance and if this has an impact on the nature and/or scope of the Supplier's contractual performance, the Supplier shall inform SWAN immediately in writing or in text form of the change and the associated consequences in terms of deadlines and costs. SWAN shall decide on the changes within a reasonable period of time. In the event of approval, the parties shall reach an amicable cost arrangement based on the order and adjust the contract. If SWAN does not accept the change, both parties are entitled to withdraw from the unfulfilled part of the contract or, in the case of continuing obligations, to terminate the contract

**20. Miscellaneous provisions**

**20.1** All binding declarations between the Customer and the Supplier, including any amendments to the contract and amendments to these GPC, must be made in writing.

**20.2** If a provision of these GPC proves to be invalid or impossible, it shall be replaced by a valid provision that comes as close as possible to the purpose of the invalid provision and the remaining provisions of these GPC shall continue to apply.

**20.3** All rights of retention of the Supplier are excluded.

**21. Applicable law and place of jurisdiction**

**21.1** These GPC and the individual purchase contracts or orders and deliveries are subject to substantive Swiss law to the exclusion of the UN Convention on Contracts for the International Sale of Goods (CISG).

**21.2** The place of performance and jurisdiction is the domicile of the customer in Switzerland. However, the customer is entitled to bring legal action against the supplier at the supplier's domicile.

Swan Analytical Instruments AG and Swan Systems AG

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