

GENERAL CONDITIONS OF PURCHASE („GCP“)

(Version: 2021-09-20)



GENERAL

The equipment, materials, or supplies (“Goods”) and/or services (“Services”) furnished by Supplier (together, the “Goods and Services”) and covered by the purchase order (“PO”) placed by Salinen Austria Aktiengesellschaft, FN 112541b, 4802 Ebensee am Traunsee, Steinkogelstraße 30 („SAAG“ or “Purchaser”) and/or other agreement (which, when combined with these Terms and Conditions and any other documents incorporated by reference, will constitute the “Agreement”) are governed by the terms and conditions set forth herein (the “GCP”).

As used herein, the term “Supplier” includes Supplier and its sub-suppliers at any tier. Purchaser and Supplier individually will be referred to as “Party” and collectively as “Parties”. The terms used in the singular also apply to the respective plural. For easier readability, the masculine form of personal nouns has been chosen. However, women and men are addressed equally by the texts.

INQUIRY, OFFER AND ACCEPTANCE

Inquires shall always be without commitment, unless explicitly stated to the contrary in writing. Supplier shall diligently check all data contained in the inquiry or in the PO, including but not limited to the technical requirements and conditions, other descriptions, specifications and data with respect to the technical feasibility and fitness for the intended purpose, and shall inform Purchaser without delay of any circumstances which could frustrate, aggravate or delay the execution of the PO and/or the intended use of the supplied goods and/or services. This shall also apply to any subsequent modification or amendment of any Agreement. Supplier shall be bound to his offer at least 14 days upon receipt thereof. Any costs incurred in connection with the preparation and submittal of the offer (including cost estimates) shall always be borne by Supplier.

These GCP shall constitute the final, complete and exclusive state of the agreement between the Parties and no other terms or conditions will be binding upon the Parties unless accepted by them in writing. Written acceptance or shipment of all or any portion of the Goods, or the performance of all or any portion of the Services, covered by the Agreement, will constitute Supplier’s unqualified acceptance of all of the Agreement’s terms and conditions. The terms of any proposal referred to in the Agreement are included and made a part of the Agreement only to the extent the proposal specifies the Goods and/or Services ordered, the price therefore, and the delivery thereof, and then only to the extent that such terms are consistent with the terms and conditions of the Agreement and these GCP. If a master agreement exists between the Parties to govern the supply of Goods and Services identified in the PO, the terms and conditions of the master agreement shall apply to such Goods and Services. If the PO is construed as an acceptance of an offer by Supplier, this acceptance is expressly conditioned on Supplier’s assent to any additional or different terms contained herein. If the PO is construed as a confirmation of an existing contract, the parties agree that these terms and conditions constitute the final, complete and exclusive terms and conditions of the contract between the parties.

Purchaser may issue Change Orders (i.e. alter, amend, omit, add to or otherwise change the PO or any parts thereof) to Supplier, and Supplier shall carry out such Change Orders. If any Change Order cause an increase or decrease of costs, or the time required for the performance of, any Services or Goods, an equitable adjustment shall be made in the purchase price and/or delivery schedule in writing. Any Supplier claim for adjustment under this clause will be deemed waived unless asserted within seven (7) calendar days from Supplier’s receipt of the Change Order. Change Orders requested by Supplier only become effective after written confirmation by Purchaser.

GOODS AND SERVICES

Unless more specified in the PO, Supplier shall deliver the Goods and Services at the locations and by the delivery dates set forth in the PO. Supplier shall use qualified personnel and equipment and facilities that meet the highest industry standards as customary in the respective industry. Supplier shall comply with all relevant legislation, regulations, labor laws, immigration laws, import-export regulations and

environmental and industry standards in all jurisdictions, where Supplier operates, and the Goods and Services are supplied. Supplier shall maintain records and provide regular reports pursuant to Purchaser’s instructions on the delivery of the Goods and Services, their conformity with the service levels and specifications identified to Supplier. Supplier shall supply in printed form all relevant product safety and health information that pertains to all Goods ordered hereunder. Supplier must ensure that Goods comply with certification standards.

If statutory provisions for the protection of consumers, employees or the environment provide for the marking, the preparation and issuance of declarations of conformity, of declarations of compliance, of operating and mounting instructions, et cetera, Supplier shall prepare and issue the said accordingly.

Supplier shall keep available spare parts for a period of at least 10 years after the delivery. The spare parts shall be supplied at serial price.

DELIVERY

The delivery term set forth in the respective purchase order shall be construed in accordance with the respective applicable Incoterms. Partial deliveries shall require our previous approval. The packaging shall be in accordance with environmental and transport requirements; the packaging and filling material has to be homogeneous and recyclable.

Supplier shall provide Purchaser with a detailed dispatch note separately on the day of shipment. The consignment shall be accompanied by a delivery note containing all order data as well as data on gross and net weight. The Goods will be stored at Supplier’s cost and risk case that shipping documents are missing. Taking over the Goods at the place of delivery shall not be deemed an acceptance thereof. Unless otherwise agreed, the proper disposal of packing materials is the responsibility of Supplier.

In case of deliveries originating in a country outside of the EU, the shipping bill shall be provided free of charge with a customs invoice (in duplicate) as well as a certificate of origin (declaration of origin, movement certificate, et cetera) for favored import customs clearance. Supplier shall also issue a “Supplier’s Declarations” for products in accordance with the relevant Council Regulations (EC). In case of use of long-term supplier declarations, Supplier shall notify Purchaser unsolicited in case of any changes of the originating status.

Supplier shall issue storage and standards for the operation of the Goods together with the shipment, otherwise, Supplier shall indemnify Purchaser from any damage incurred due to the lack of knowledge of said documents.

In case that the purchased Goods are intended for further processing, incorporation in or mixing with other goods, and such intended use is prevented by unforeseeable circumstances, Purchaser shall have the right to cancel any Agreement in whole or in part for convenience. Purchaser will notify Supplier of such circumstance without undue delay. Supplier shall refund any payments received for the Goods (exclusive of transportation costs) against re-shipment of the Goods. No further compensation will be due to Supplier.

Upon arrival of the Goods, Purchaser shall carry out an inspection only in order to evaluate the identity, quantity and obvious damages in transit. Purchaser shall not be required to carry out any further inspection until the Goods are ready for processing, incorporation in or mixing with other goods as intended. In any case, Purchaser will examine the Goods only and to the extent that this is, within Purchaser’s reasonable judgement, practicable.

DELIVERY TIME

Time is of the essence. Dates of delivery must be strictly observed. It is in Purchaser’s sole discretion to accept deliveries prior to the delivery date specified in the purchase order or not. In case of late performance by Supplier of any of its obligations under the respective Agreement (excluding delays solely attributable to Purchaser and Force Majeure as defined herein), Supplier shall pay to Purchaser a contractual penalty (the “Penalty”) amounting to one per cent (1%) of

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the Contract Price for each day of the delay, however not exceeding ten per cent (5%) of the order value. Purchaser shall be entitled to set off and to deduct the Penalty from any amounts payable to Supplier. The Penalty shall accrue irrespective of the existence and extent of actual damages.

If Supplier becomes aware of a possible impediment of the performance of its contractual obligations, Supplier shall notify Purchaser without undue delay. If Supplier fails to do so, it will be conclusively presumed that Supplier is responsible for such delay and Purchaser will be, without limiting its other rights and remedies he may have hereunder or at law, entitled to cancel the Agreement with immediate effect.

In consideration of the Covid-19 pandemics, Supplier understands and confirms that the agreed upon delivery dates are realistic and feasible.

PRICES

Except as expressly otherwise agreed, the prices shall be considered inclusive of all duties, customs and incidental expenses; incidental expenses shall include (but not be limited to) the costs for packaging, loading, transport and the procurement of export and import permits. Unless otherwise agreed, the prices shall also include the redemption and correct recycling and disposal in keeping with the manufacturer's obligation of redemption and disposal, in particular of old electrical and electronic devices.

Prices shall always be considered fixed prices. Escalator clauses and the like are not acceptable, neither will price changes due to Covid-19 pandemic be accepted.

QUALITY ASSURANCE

Supplier shall ensure and demonstrate on demand that it has all appropriate corporate social responsibility policies and has satisfied all applicable legal requirements, regarding (i) health and safety; (ii) conservation of the environment, rectification of environmental damage and shall have an environmental sustainability policy satisfactory to Purchaser; (iii) treatment of workforce including non-discrimination and equal opportunities; (iv) practice of fair trade; and (v) quality assurance systems for Goods and Services as customary in Supplier's industry.

To the extent required, Supplier warrants that it, and all sub-suppliers of substances used in relation to the Goods, complies with the REACH Regulation (EU Regulation on Registration, Evaluation, Authorization and Restriction of Chemicals (EC 1907/2006), CLP Regulation (EU CLP Regulation (EC 1272/2008) and any other chemical compliance rules and regulations relevant for the Goods. Supplier undertakes that all those substances incorporated in the Goods which are subject to registration under the REACH Regulation, have been registered by the Supplier (and, where applicable, by all relevant sub-suppliers) covering the uses of Purchaser, in each case in accordance with the requirements of the REACH Regulation. Supplier warrants that at the date of entering into the Agreement all those substances incorporated in the Goods which are dangerous and exempted from registration under the REACH Regulation, are notified to the European Chemical Agency ("ECHA") in accordance with the obligations laid down in Articles 39 and 40 of the CLP Regulation. Supplier shall ensure at all times that Purchaser is provided promptly with relevant and up-to-date Safety Data Sheet(s) in accordance with the requirements of the REACH Regulation and the CLP Regulation. Upon Purchaser's request Supplier shall forthwith provide Buyer with all information relating to substances in the Goods that is reasonably necessary to enable Purchaser to fulfill its own obligations in relation to the REACH Regulation and the CLP Regulation.

Purchaser reserves the right to carry out a system, process or product audit at Suppliers production plant without prior notification during normal business hours. Purchaser may demand that not-primary materials, the Goods or any part thereof, which are procured from sub-suppliers, are included in the quality assurance system of Supplier. In this case, Supplier shall ensure that the audits mentioned hereinbefore can be carried out at the sub-supplier's production plants as well.

WARRANTIES

Supplier expressly warrants that: (i) Goods delivered hereunder will be free from defects in material and workmanship and of the quality, size and dimensions ordered and will remain free of defects for a period of at least 30 months after acceptance (ii) Services performed hereunder will conform to the description in the relevant PO, statement of work and any other written specifications agreed between the Parties, as well as any other instructions and requirements indicated by Purchaser in writing.

Supplier further represents and warrants that: (i) it is duly organized or incorporated in the relevant jurisdictions and has full capacity to enter into the relevant Agreement and perform its obligations thereunder; (ii) no hardware or software or other material used in the supply of the Goods and Services nor the use thereof infringes any intellectual property rights or liens of any third party; (iii) Supplier holds all right, title and interest in the Goods and Services; and (iv) that it operates in compliance with all laws and regulations; and (v) the Agreement does not violate any other agreement binding on Supplier.

Any Goods or Services that do not comply with this warranty shall, at Purchaser's option either be replaced or repaired by Supplier or returned by Purchaser for refund by Supplier. Supplier agrees to defend, indemnify and hold harmless, at its own cost, Purchaser and its affiliates against any claim, demand, loss, damage, liability or expense that result from Supplier's non-conformance with the specifications or warranties, and shall include Supplier's obligation to compensate Purchaser for any costs incurred in connection with the disassembly and assembly, transport, travelling, work and material as well as any other reasonable costs for determination and rectifying the defective Goods.

Quantities and weights of the Goods delivered hereunder will be determined by Purchaser at the place of delivery. In case of excess deliveries, Purchaser reserves the right to return such excess at Supplier's cost and risk.

These warranties are in addition to all other warranties specified in the Agreement or implied by law, and will survive termination of the Agreement, and inspection, delivery and/or acceptance of, and payment by Purchaser for, the Goods and Services.

INVOICING

Supplier shall submit invoices either in hard-copy to Purchaser's registered office or via email to rechnung@salinen.com. All invoices must be itemized and must reference the Agreement or PO number and shall contain all order and delivery data, the value-added tax registration number (VAT Reg. No.) as well as the ARA license number, if and when applicable. Purchaser will not pay cartage, packaging or boxing expenses, unless specified in the Agreement. If the parties agreed upon a settlement on a time and material basis, Supplier shall attach the respective time sheets to the invoice. Invoices which infringe public-law provisions (in particular those rendered in the Austrian customs and tax acts) shall be considered not submitted.

Payment terms, including cash discount periods, shall not start to run before receipt of the respective invoice. The payment shall not indicate the acknowledgement of the correctness of Goods and Services, and thus it does not operate as a waiver of any of Purchaser's rights and remedies, it may have hereunder or at law. Purchaser shall have the right to offset and deduct any amounts resulting from counterclaims towards the supplier or any of its affiliated companies from the payment of any due amounts. The assignment of payment claims shall be permitted only with Purchaser's previous written consent.

TRANSFER OF TITLE AND OWNERSHIP

The risk as to price and performance as well as the title in the Goods shall pass to Purchaser in accordance with the applicable Incoterm. However, if the Agreement provides for a formal acceptance, the aforementioned risks shall not pass prior to such acceptance. Unless otherwise agreed, the place of risk-transfer shall also determine the place of performance.

If the PO provides for Supplier to perform any design, engineering, analytical or similar work or provides for the delivery of any software,

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firmware, copyrightable materials or derivative works thereof specifically made for Purchaser, all such work and deliverables shall constitute “works made for hire”, and all right, title and interest that Supplier has in and to any patentable invention, know-how and trade secrets, copyrightable materials and derivative works thereof that Supplier shall conceive, originate or reduce to practice, either individually or jointly with others, in connection with its performance of a PO are hereby assigned to Purchaser and shall be Purchaser's sole and exclusive property.

INSURANCE AND LIABILITY

Supplier shall maintain Comprehensive General Liability with an insurer acceptable to Purchaser, in an amount (in the currency set forth in the PO) of no less than five million Euros (€ 5,000,000) per occurrence, for damage to or destruction of property (including loss of use), including products and completed operations coverage and contractual liability, or a combined single limit of five million Euros (€ 5,000,000) for bodily injury including death. Supplier shall name Purchaser as an additional insured and provide a certificate of insurance. Any deductible or self-insurance shall be of a level acceptable to Purchaser.

In case that the Agreement provides for an Incoterm that imposes on Supplier the transportation risk and/or obligation to carry out appropriate insurance, Supplier shall provide such insurance coverage and issue to Purchaser a certificate of insurance.

Except as otherwise provided herein, Supplier's liability shall be subject to the applicable law. Supplier shall neither disclaim nor limit his legal liability towards Purchaser. Supplier shall be liable for the fault of its sub-contractors or his suppliers as if it was its own fault. Supplier shall be liable for defective products regardless of fault or negligence, if and to the extent that such a (strict) liability is provided by the applicable law.

APPLICABLE LAW, JURISDICTION

These GCP, any PO, and all acts or omissions of the parties related to these GCP or any PO shall be governed exclusively by the substantive laws of Austria, without regard to its or any other jurisdiction's conflicts of laws principles that may cause the law of another jurisdiction to govern. Any dispute arising from these GTC, any PO, or any act or omission of either Party related to these GTC or any PO (the “Litigation”) may only be brought in the ordinary courts of Wels, Austria, and each Party hereby irrevocably consents and submits to the exclusive jurisdiction of these courts. Independent thereof, Purchaser shall be permitted to bring action against the supplier at the competent court of law at his place of business.

CONFIDENTIALITY

In addition to (and not in lieu of) any Non-Disclosure-Agreement, the Parties may have signed before the PO-date, each Party agrees to keep confidential and to prevent the unauthorized disclosure of information disclosed by the other Party, which is confidential by its nature including without limitation technical, commercial, financial, marketing, operational or strategic information related to the business of a Party, on any verbal, visual or written medium, whether it is marked confidential or restricted or not (“Confidential Information”). The Party receiving Confidential Information from the other Party shall protect it from unauthorized disclosure to third parties by using the same degree of care that it uses for its own confidential information, but no less than commercially reasonable efforts.

Neither Party shall use the other Party's Confidential Information for any other purposes than for the execution of the Agreement, nor reproduce the Confidential Information in whole or in part in any form except as may be required by the Agreement.

COMPLIANCE AND BUSINESS ETHICS

Prerequisite for any business cooperation shall be the unreserved compliance with the BME Compliance Guidelines (published by Association for Supply Chain Management, Procurement and Logistics

at <https://www.bme.de/initiativen/compliance/bme-compliance-initiative/>) as amended from time to time as well as compliance with all relevant laws, regulations, directives, and similar rules with regards to these BME Compliance Guidelines. Supplier shall also cause its employees, affiliates, subcontractors, representatives and agents (“Delegates”) to comply with such codes and policies. Purchaser may inspect Supplier's systems for evidence of such compliance. If Supplier and/or its Delegates are not in compliance, Purchaser may terminate any Agreement with immediate effect and withhold any payments that may otherwise be due to Supplier at the time of termination. To the extent permitted by law, Supplier shall indemnify and hold Purchaser harmless from any and all losses and costs related to and/or caused by such failure to comply.

FORCE MAJEURE

If Supplier is unable to produce, sell or deliver any Goods or Services covered by the PO, or Purchaser is unable to accept delivery of any Goods or Services covered by the PO, as a result of an event or occurrence beyond the reasonable control of the affected party and without such party's fault or negligence, then any delay or failure to perform under the respective Agreement that results from such event or occurrence will be excused for so long as such event or occurrence continues; provided, however, that the affected party gives written notice of each such delay (including the anticipated duration of the delay) to the other party as soon as possible after the event or occurrence (but in no event more than a week thereafter). Such events and occurrences may include, by way of example and not limitation, natural disasters, fires, floods, windstorms, severe weather, explosions, riots, wars, sabotage, labor problems (including lockouts, strikes and slowdowns) and power failures. If any such delay lasts more than thirty (30) days, the non-affected party may terminate the Agreement without any liability to the affected party.

MISCELLANEOUS

This version is not a translation of the German version of Purchaser's GCP and some Sections might deviate from the German version significantly.

Except as otherwise provided herein, any and all remedies herein expressly conferred upon a Party will be deemed cumulative with and not exclusive of any other remedy conferred hereby, or by law upon such Party, and the exercise by a party of any one remedy will not preclude the exercise of any other remedy.

Any clause which by its nature should survive termination will do so, including without limitation the Confidentiality, Liability, Indemnification and Warranty clauses. The non-exercise by a Party of a right hereunder does not constitute a waiver of such right.

Nothing herein shall be interpreted to create an exclusivity in favor of Supplier unless otherwise expressly set out in the PO.

The Agreement shall not be assigned in whole or in part by Supplier nor shall Supplier subcontract any part of the Agreement without Purchaser's prior written consent.

If any provision herein is held to be invalid or unenforceable, such provision shall be narrowly construed, if possible, or otherwise deemed ineffective and the remaining provisions shall not be affected. If any clause is unenforceable it shall be severed and the other clauses will remain in full force.

Except as otherwise defined herein, references to a communication in writing shall include e-mail and electronic messages accessible and printable by commonly used software applications. The burden of proof regarding the actual reception of an electronic message lies on the sender of such message. Messages which reach Purchaser on Saturdays, Sundays or one of Purchaser's legal public holidays shall become effective only on the next working day.

Supplier shall not use Purchaser's name for the purposes of advertising, press releases, promotion or solicitation without Purchaser's prior written consent.

These GCP may be updated by Purchaser from time to time and Supplier commits to review them regularly and be bound by the GCP.

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