

## 1. General

- a. Avesco places orders with the supplier on the basis of these purchasing conditions. These conditions are considered as agreed even if the supplier confirms and executes the order with reference to his conditions of delivery. The general conditions of contract or delivery sent to us by the supplier or referenced by him are therefore invalid unless acknowledged by us in writing. This shall also apply in the event that Avesco subsequently accepts deliveries and makes payments. Silence does not by any means imply agreement.

## 2. Contractual content, conclusion of contract

- a. Only orders placed in writing are valid. Orders and agreements communicated by other means must be confirmed by us in writing to be valid.
- b. If special conditions differing from these general purchasing conditions are agreed for a specific order, the latter shall apply as subordinate and supplementary to the special conditions.
- c. The supplier is obliged to confirm orders placed by Avesco immediately in writing (including email) unless the ordered products are delivered immediately. Avesco shall not be bound to the underlying order if notice of confirmation stating a binding delivery date is not received within one week.
- d. The Avesco order number and the name of the ordering party must be stated on all documents. The order or invoice will otherwise be returned.
- e. Any additional costs arising from a failure to comply with Avesco's regulations shall be borne by the supplier.
- f. Quotes provided by the supplier shall be without obligation and free of charge.

## 3. Prices

- a. Quoted prices do not include sales tax.
- b. Unless agreed otherwise in writing, prices quoted to Avesco shall include packaging and shipping costs, duties, taxes, fees and (where applicable) additional official charges in addition to the value of the goods or service. All ancillary costs shall be listed separately for the purpose of trade statistics.

## 4. Delivery and transfer of ownership

- a. Orders are subject to Incoterms 2020. FCA Supplier applies.
- b. The type, scope and time of delivery are defined in the order. Deviations require the written consent of Avesco.
- c. Product ownership and risk shall be transferred to Avesco as soon as it is in possession of the goods.
- d. The risk of accidental perishing and incidental deterioration lie with the supplier until the goods are handed over at the intended destination; this rule also applies to free deliveries and freight prepaid deliveries.
- e. Compliance with the recipient/delivery addresses and any opening hours applicable at the receiving address is mandatory. Avesco retains the right to refuse delivery and to send the delivery vehicle or courier away.
- f. Avesco retains the right to reject deliveries with inadequate packaging, labelling or documentation as well as partial or advance deliveries not agreed in writing or to accept such deliveries and to store them at the supplier's expense and risk until the contract is properly fulfilled.
- g. Packaging must be recyclable to enable environmentally friendly disposal. Otherwise, the cost of disposal and any other additional costs will be charged to the supplier.
- h. Each party shall bear its own costs in the event of a contractual or regulatory acceptance inspection or incoming goods inspection. A report detailing implemented acceptance inspections or incoming goods inspections shall be drawn up and signed by both parties.
- i. In the event an inspection is not passed the costs directly associated with a repeat inspection shall be borne by the supplier unless he demonstrates that he is not responsible for the cause of failure.
- j. Intermediate acceptance does not trigger the start of a warranty period; see article 8.

## 5. Declaration of originating status

- a. The following shall apply in the event the supplier provides or is required to provide a declaration of originating status relating to the goods sold:
  1. The supplier undertakes to enable the verification of the originating status by customs authorities and to provide the necessary information as well as the required confirmation on all records and documents.
  2. The supplier is obliged to compensate any damage caused by the refusal of the authorities to acknowledge the declared origin due to inadequate certification or an inability to verify the declared origin. However, this liability shall only apply in the event of culpable behaviour on the part of the supplier or deficiency of a warranted characteristic.

## 6. Default

- a. Agreed delivery dates and deadlines are binding. The supplier is obliged to counteract imminent or recognisable delays immediately and to inform Avesco accordingly in writing.
- b. Compliance with the delivery date or deadline is determined by the receipt of goods at the location determined by us or by the timeliness of acceptance.
- c. If the supplier is in default after expiry of a defined period of grace Avesco shall be entitled to demand fulfilment in addition to payment of a contractual penalty and damages; Avesco shall also be entitled to waive subsequent fulfilment and to either demand compensation for the damage resulting from non-fulfilment or to withdraw from the contract.
- d. If accelerated transportation (freight or express service, etc.) becomes necessary for prompt delivery due to a delay for which the Supplier is responsible, the Supplier shall pay the additional freight costs.
- e. If the supplier is in default he shall owe a contractual penalty of 1% of the order value per commenced week of default, at the most 10% of the order value in question. Payment of the contractual penalty does not discharge the supplier from his contractual obligations; it will, however, be offset against the compensation to be paid.

## 7. Invoice and payment

- a. Unless agreed otherwise, Avesco shall pay invoices net within 60 days. The supplier's payment terms shall apply if they are more favourable.

- b. Payment and discount periods shall apply as of the date of receipt of invoice; however, they shall not apply before goods are received or, in the event services are provided, before due acceptance, nor shall they apply before documents or other paperwork pertaining to the scope of supply and services have been handed over to us in compliance with the contract.
- c. In the event of deficient performance Avesco shall be entitled to retain a part of payment until proper fulfilment is complete.
- d. Down payments to suppliers shall only be made in conjunction with the provision of an irrevocable bank guarantee at no cost to Avesco.

## 8. Warranty and guarantee

- a. Unless the supplier has specified longer periods, the guarantee and warranty period is 24 months from the date of commissioning or use (client final), or 36 months from the date of delivery of the product.
- b. Claims for concealed defects can be made after the expiry of the warranty period if raised immediately upon discovery, but no later than five years after acceptance.
- c. The guarantee also covers design and manufacturing defects as well as deficient installation and commissioning.
- d. The orderer's obligation to immediately examine the goods and provide notice of non-conformity pursuant to article 201 of the Swiss Code of Obligations is explicitly excluded. Avesco is entitled to provide notice of non-conformity at any time during the warranty period.
- e. In the event of a claim under warranty Avesco shall be entitled to demand rectification of defects or a replacement delivery from the supplier as well as compensation for any costs incurred.
- f. The warranty period for replaced or repaired components shall start over again upon delivery. The warranty also includes actual defects or defects of title relating to the product as well as the absence of warranted or presumed characteristics.

## 9. Liability

- a. The supplier shall provide goods and services free from material defects and defects of title. In particular, he shall ensure that they reflect the generally acknowledged standards of technology and the contractually agreed warranted characteristics, as well as complying with relevant standards, health and safety regulations, accident prevention guidelines and other regulations.
- b. The Supplier shall assist Avesco with defence against third-party claims on account of defects of quality or title, and shall indemnify Avesco in respect of any such claims and for the costs of any required recall action or similar actions, including adequate compensation for lawyers' fees and court costs.
- c. The supplier shall hold harmless and indemnify Avesco from all third party claims raised in connection with the goods or services provided on the grounds of product liability, environmental protection and the protection of intellectual property. Avesco is obliged to inform the supplier immediately of substantiated claims raised against Avesco.

## 10. Spare parts

- a. The supplier is obliged to supply spare parts under reasonable conditions for the duration of expected use, but at least for 10 years after delivery.
- b. If the supplier or his supplier intends to discontinue the production of spare parts he shall be obliged to inform Avesco in good time and to enable Avesco to place a final order for an adequate quantity.
- c. Otherwise Avesco shall be entitled to procure the spare parts elsewhere at the supplier's expense unless the supplier offers Avesco an alternative that corresponds with the characteristics, specifications and price of the previous product and replaces it in full.

## 11. Copyright and confidentiality

- a. Tools, models, drawings and other documents provided by or produced for us may only be used to execute our orders. It is prohibited to make them accessible to third parties without our consent; after final use they must be duly retained until further notice, at the longest for a period of two years, and then returned to us.
- b. Tools, models, drawings and other documents produced or processed by the supplier on our behalf as the manufacturer shall pass into our ownership.

## 12. Information and data protection

- a. The supplier shall compile the necessary product information and certification records and forward them to Avesco. All documents and (where applicable) test or inspection certificates shall be provided together with the goods or services.
- b. The supplier undertakes to treat commercial and technical details that are not in the public domain and that become known to him through the business relationship confidentially and not to make them accessible to third parties.
- c. The term "non-overt details" denotes all goods, processes and systems (including information systems), data (including customer data), employees and sites that are used temporarily or processed in order to perform this contract and are neither freely accessible nor known to the public.
- d. The supplier may only use his business relationship with Avesco for advertising purposes with the latter's prior written consent.

## 13. Place of jurisdiction and applicable law

- a. **The contractual relationship between Avesco and the supplier is subject to Swiss law. The place of jurisdiction is Aarwangen in Switzerland.**
- b. However, Avesco is also entitled to prosecute the supplier at his place of registration.

## 14. Code of Conduct for Suppliers

The Supplier is obligated to comply with the laws of the applicable legal system(s), in particular those of the country of manufacture and the destination country. The Supplier shall not participate in any form of bribery, violation of the basic rights of its employees or child labour, either actively or passively, directly or indirectly. The Supplier shall moreover assume responsibility for the health and safety of its employees at the workplace in the country of manufacture and

the destination country, shall comply with environmental protection legislation and shall, to the best of its ability, encourage and require its suppliers to comply with this Code of Conduct. If the Supplier is in culpable breach of these obligations, Avesco is entitled to withdraw from the contract or to terminate the contract, without prejudice to any further claims. Insofar as it is possible to rectify the breach of an obligation, this right may be exercised only after an appropriate period for the rectification of such breach of obligation has elapsed with no fruitful outcome.

## **15. Partial invalidity**

- a. If some of these conditions of purchase should be invalid the contract shall nonetheless remain valid. The invalid stipulation shall be replaced by a valid stipulation that comes as close as possible to the meaning and purpose of the invalid stipulation.

Langenthal, 28 April 2020