

The following general Terms of Purchasing shall apply to any delivery of products, components or other goods and thereto possibly related services (hereinafter referred to as "Products") to Secop or other companies of the Secop group (hereinafter referred to as the "Buyer") from any given supplier (hereinafter referred to as the "Seller").

These general Terms of Purchasing shall be binding upon the Seller and the Buyer unless otherwise explicitly agreed. The Buyer shall neither be bound by conditions made by the Seller deviating from these general Terms of Purchasing unless such conditions have been agreed in writing between the Buyer and the Seller; nor shall the Buyer be bound by conditions made by the Seller even though the Buyer has not objected to such conditions. Acceptance of Products cannot be interpreted as implicit acceptance on the part of the Buyer of deviating terms of delivery made by the Seller.

## **1. Incoterms**

"International rules on uniform interpretation of trade terms 2010" (INCOTERMS 2010) from the International Chamber of Commerce (ICC) shall apply to the terms and conditions used in these general Terms of Purchasing.

## **2. Order confirmation**

Offers from the Seller shall be free of charge and not binding on the Buyer. The Seller shall deliver Products in conformity with the order sent by the Buyer and accepted by the Seller or in conformity with the offer sent by the Seller and accepted by the Buyer. By confirming or executing orders, the Seller accepts the Buyer's general Terms of Purchasing. In case of an auction, the Buyer reserves the right to reject all offers made and the right to choose freely between the offers made without any duty whatsoever to choose the cheapest offer. Auctions held by the Buyer may in the individual case prescribe special rules on the individual auction. These special auction rules shall prevail over the rules laid down in these general Terms of Purchasing to the extent that they deviate from the terms and conditions laid down in these general Terms of Purchasing.

Orders from the Buyer and order confirmations from the Seller shall be in writing. Where there is no order in writing and/or no order confirmation in writing, the Buyer shall have the right to return goods received from the Seller. Return costs shall be paid by the Seller.

## **3. Delivery and passing of the risk**

Delivery shall be effected at the place and time specified in the order or in the order confirmation. Unless otherwise agreed between the parties in the order or order confirmation, delivery shall be effected DDP at the destination specified by the Buyer. In the event that shipping instructions specified by the Buyer are not observed, the Seller shall be liable for any additional costs and/or any resulting loss caused by such non-observance.

All deliveries of Products shall be accompanied by a consignment note stating: the Buyer's code and order numbers, date of order as well as the gross and net weights of the consignment. All invoices and other correspondence shall be duly signed and state the Buyer's code and order numbers, date of order as well as the gross and net weights of the consignment (where relevant depending on the type of delivery). Invoices shall specify the tariff number of the place of delivery. The packing shall clearly state the recipient's address and order reference.

In case of strikes, lockouts, earthquakes or any other event beyond the control of the Buyer causing lack of market potential for the Buyer's products, the Buyer reserves the right to postpone the receipt of the delivery for up to three (3) months or wholly or partially to cancel the agreement made. As a result of such postponement or cancellation, the Buyer shall not be under any obligation to pay the Seller any compensation for any loss apart from irretrievable production costs paid by the Seller in relation to orders (or offers accepted by the Buyer) which have been fulfilled before the notification of the Buyer's postponement or cancellation came to the attention of the Seller.

#### **4. Delay and indication of quantity**

The time of delivery specified by the Buyer must be observed. Delayed delivery shall entitle the Buyer to cancel the order and claim compensation, and in that case the Buyer shall not be under any obligation to pay the Seller for work already done on the order.

If the Seller finds that he cannot deliver on time, or if delay on his part is to be considered probable, the Seller shall without delay notify the Buyer hereof in writing and at the same time state the reason for the delay and the time at which delivery is expected to be effected. If the Seller does not make such a notification, he shall, irrespective of the terms and conditions stated below, compensate the Buyer for the losses and costs incurred by the Buyer.

If the Seller does not deliver the Products on time due to delayed notification, and if the Buyer does not cancel the order, the Buyer shall be entitled to liquidated damages as from the day upon which delivery should have been effected. The liquidated damages amount to 2.0% (in words: two percent) of the total amount of the order (or offer accepted by the Buyer) per week or fraction of a week of the delay. The liquidated damages may not exceed the total amount of 10% (in words: ten percent) of the total amount of the order (or offer accepted by the Buyer). The liquidated damages shall fall due for payment on demand in writing from the Buyer, but not before the Product has been delivered in full or alternatively at the time at which the Buyer cancels the agreement pursuant to the above. Deliveries of portions of the order (or offer accepted by the Buyer) shall not exempt the Seller from liability pursuant to this provision.

Excess quantities or partial delivery may be rejected by the Buyer and shall give the Buyer the same rights as does delay. In case the quantities delivered by the Seller are less than ordered by the Buyer, the whole delivery shall be considered delayed. Decisive in this respect is solely the Buyer's quantity control.

#### **5. Delivery sampling**

Where delivery sampling has been agreed, the sampling shall be made where the Products are produced unless otherwise agreed between the Parties. If technical requirements to the sampling have not been specified in the agreement, the sampling shall be made in conformity with good practice in the industry in question in the country where the Products are produced.

The Seller shall give the Buyer such advance notice of a delivery sampling that the Buyer can be present at the sampling. Delivery sampling can be made even though the Buyer is not represented provided the Buyer has received proper advance notice. The Seller shall keep records of the delivery sampling. The sampling records shall be sent to the Buyer. The sampling records shall be considered to give a correct description of the delivery sampling and its result unless the Buyer proves otherwise. If the Products in the delivery sampling turn out not to be in accordance with the underlying agreement, the Seller shall without delay see to it that the Products are brought into conformity with the agreement. Upon the Buyer's request, a new delivery sampling shall thereafter be made.

The Seller shall pay all costs of delivery samplings. The Buyer shall, however, pay all costs of its representatives, including travelling and accommodation expenses, in connection with delivery samplings.

#### **6. Terms of payment**

The Buyer shall pay the invoice within ninety (90) days after issuing the invoice and delivery of the goods by the Seller. The credit granted by the Seller shall appear on the invoice sent.

#### **7. Conditional sale**

The Buyer will not accept any conditional sale on the part of the Seller.

#### **8. Group set-off**

Any company of the Secop Group shall be entitled to set off own claims against the Seller with claims of the Seller against any of the said companies. The Buyer shall be entitled to set off with own claims due.

## **9. Drawings, descriptions, tools, etc.**

Drawings, rough designs, technical information, prototypes, models and other information always to be considered confidential and which the Buyer has handed over to the Seller shall remain the property of the Buyer and shall be treated confidentially. The Seller shall mark all such information with the Secop name. Unless otherwise agreed in writing, all special tools and special moulds produced for deliveries to the Buyer (no matter who has paid for the tools or moulds) shall be maintained and insured by the Seller to the full replacement value (without expenses to be charged to the Buyer), and such tools and moulds shall only be used for deliveries to the Buyer. If the Buyer shall wholly or partially pay costs for the production of tools, moulds or models, such costs shall not be paid until the Buyer has approved type samples. Tools, moulds or models wholly or partly paid by Buyer shall be and remain the property of the Buyer. The Seller shall mark any such equipment with the Secop name.

The above information, tools, moulds and models must not, without the prior written consent of the Buyer, be used for other purposes than those of or accepted by the Buyer unless otherwise expressly agreed, and must not, without the prior written consent of the Buyer, be copied, reproduced or transferred to third parties or be used for deliveries to others than the Buyer. Upon request of the Buyer, the Seller shall return all material of any kind handed over by or produced for the Buyer.

In case the Seller makes use of sub-suppliers, the above information can, with the prior written consent of the Buyer, be handed over to such sub-suppliers. In such cases, the Seller shall ensure that sub-suppliers observe this point 9 in full.

If the Products wholly or partially consist of software developed to the Buyer, the Buyer shall acquire all rights to such software and to the accompanying source and object code. If the Products contain software not specifically developed for the Buyer, the Buyer shall acquire a non-exclusive, royalty-free, transferable unrestricted and (with regard to time and geography) unlimited licence to use this software in products sold by the Secop Group. The Seller shall be under the obligation to transfer to the Buyer all necessary information and source code material, etc. which are necessary for Secop's use of the intellectual property rights in question. The Seller shall be under the obligation for at least five (5) years from the delivery of Products to the Buyer to be able to service and maintain all material related to the intellectual property rights in question.

## **10. The Product's violation of third-party rights**

Upon the Buyer's demand, the Seller shall on his own account defend the Buyer against any claim made against the Buyer by third parties as a result of the Products' alleged violation of such third parties' patents, copyrights or other intellectual property rights. The Seller shall indemnify the Buyer for any loss and all costs incurred by the Buyer as a result of the violation or alleged violation.

The Seller shall for the Buyer and/or the Seller acquire the right to continuous use of the Products, replacement or modification of the Products so that the Products no longer violate the rights of third parties. If this is not possible, the Seller shall credit the Buyer with the Products delivered and accept all returned Products.

## **11. Alterations**

The Seller may not without reasonable advance notice and prior written consent of the Buyer make alterations in his Products for delivery to the Buyer even though such alterations are made without altering agreed technical specifications.

## **12. Guarantee**

For twenty-four (24) months from delivery of the Products, the Seller shall guarantee that the Products delivered live up to agreed demands and are not defective or faulty due to production, construction or material defects deteriorating the Products' suitability for normal or agreed use. Upon demand from the Buyer and upon the Buyer's choice, the Seller shall credit, repair or deliver goods in replacement of defective Products without any expenses to the Buyer. Products found defective by the Buyer and decided by the Buyer not to be repaired shall be returned to the Seller upon the Seller's wish and at the Seller's expense. If the Buyer does not request replacement delivery of the defective Products, the Seller shall reimburse the Buyer for equivalent amounts. The Buyer shall issue a respective invoice the Seller. Such invoice shall at the same time contain the expenses for demounting and possibly remounting, freight, customs duties (to the extent that these are not refunded by the customs authorities), possible taxes, insurance and clearance and all other losses suffered by the Buyer as a result of the defective Products.

Decisive for the Buyer's right of complaint is whether the defect has arisen within the guarantee period of twenty-four (24) months following delivery of the Products and not the time of the Buyer's becoming aware of the defect – nor the time of the Buyer's complaint. Moreover, the Seller hereby waives any right to protest due to delayed complaint.

The Seller shall be responsible that the Products delivered by the Seller live up to the quality and security requirements and other rules applicable not only in the country of production but also in the country to which the Products are delivered or expected to be used if the place of use has been specified by the Buyer. In case of disagreements between such standards, the standards used at the place of delivery shall apply.

## **13. Product liability**

The Seller shall guarantee that the Products delivered are not defective or faulty or have properties that may cause product liability damages. The Seller shall indemnify the Buyer for any product liability and loss which can wholly or partially be ascribed to damage or obvious risk of such as a result of defective or faulty Products delivered or properties in same. The Seller shall be under the obligation to be summoned by the court or the court of arbitration hearing claims for compensation raised against the Buyer due to damage claimed to have been caused by the Products.

The Seller shall be under the obligation to take out and maintain adequate product liability insurance with a cover taking the Seller's business and turnover into account. Upon the Buyer's demand, the Seller shall prove such product liability cover.

## **14. The Seller's liability during stays at the Buyer's property**

If, as part of an agreement with the Buyer, the Seller's employees are present at the Buyer's property, the Seller and its employees shall make themselves familiar with and observe the rules and procedures on the environment and safety laid down by the Buyer. The Seller shall indemnify the Buyer for any damage to the Buyer's property and staff arising as a result of the Seller's employees' negligent or wilful behaviour.

## **15. Global Compact**

The Buyer has joined the United Nation's Global Compact initiative, which means that the Buyer has entered into the obligation to live up to ten (10) principles on human rights, employees' rights, the environment and corruption. These principles are listed in the "Secop Code of Conduct for Suppliers" to be seen on [www.secop.com](http://www.secop.com). The Seller is under the obligation to ensure that the Products delivered are not produced under conditions in contradiction with these principles. For further information on the United Nation's Global Compact initiative please refer to: [www.unglobalcompact.org](http://www.unglobalcompact.org).

## **16. Partial invalidity**

If one or more of the terms and conditions in these General Terms of Purchasing are held to be invalid, illegal, unenforceable or inoperable, none of the further terms and conditions' validity, legality, enforceability or operability shall thereby be affected or deteriorated. The invalid, illegal, unenforceable or inoperable term or condition shall be replaced by a valid term or condition the economic effect of which comes as close as possible to that of the invalid, illegal, unenforceable or inoperable provisions. The same shall apply mutatis mutandis to any gap in these General Terms of Purchasing.

## **17. Governing Law**

These General Terms of Purchasing shall be governed by the United Nations Convention on Contracts for the International Sale of Goods (CISG).

## **18. Disputes**

Disputes arising out of or in connection with these General Terms of Purchasing and the underlying agreement shall be settled pursuant to the United Nations Convention on Contracts for the International Sale of Goods (CISG) before the courts of the Buyer's country. The exclusive venue for all disputes shall be - as far as legally permissible - the Buyer's venue.

If the Buyer so requests, disputes shall be finally settled by arbitration. In that case, the procedure shall be pursuant to the rules and regulations of arbitration laid down by the International Chamber of Commerce (ICC). The arbitration shall be held at a place specified by the Buyer and the language of proceedings shall be English unless otherwise agreed between the parties. The arbitration panel shall consist of three arbitrators appointed in accordance with the said rules. All arbitrators shall be chosen within sixty (60) days of the dispute being submitted to arbitration. After selection of the arbitrators, the parties have forty-five (45) days to complete discovery. Arbitration shall commence within ten (10) days after the aforementioned discovery period unless otherwise agreed between the parties. A final and binding award of the arbitration panel shall - if possible - be given thirty (30) days after the commencement of the proceedings.