

## Allgemeine Einkaufsbedingungen (AEB) der GWF AG - 12/2022

### 1. General section

#### 1.1 Prerequisites

GWF AG (hereinafter referred to as the 'purchaser') aims to reach a good understanding with its suppliers. In order to achieve its objectives, the purchaser depends on flexible, high-quality performances by its suppliers. The purchaser wishes to support its suppliers and to use all opportunities for optimization, in order to obtain the best possible cost-performance ratio. The supplier should make potential cost-cutting proposals and innovations in related business fields. A relationship of mutual trust is a prerequisite for active promotion of this situation.

#### 1.2 Validity

##### 1.2.1 Exclusivity

These general purchase conditions (hereinafter also referred to as GPC) apply exclusively; any agreement deviating from them require the purchaser's written confirmation. They form an integral part of all contracts and supplementary provisions which the purchaser concludes with the supplier.

##### 1.2.2 Invalidity of contrary conditions

The supplier's contrary sales or supply conditions are not applicable, even when not expressly contradicted by the purchaser.

##### 1.2.3 Scope

This agreement regulates the cooperation between supplier and purchaser. It contains regulations for production and supply of products or services ordered by the purchaser in accordance with agreed specifications, and for the preparation of offers on the basis of the purchaser's inquiries. Furthermore, the agreement regulates the general cooperation, purchase procedures, and consignments between the contractual parties.

#### 1.3 Subcontractors

##### 1.3.1 Definition

All the supplier's business partners (merchants, suppliers, producers), involved in the purchaser's purchasing procedures by the supplier and thereby providing a service for the purchaser directly or indirectly, are referred to hereinafter as subcontractors.

##### 1.3.2 Information obligations

In so far as the orders assigned by the purchaser are, for reasons specific to the supplier, contracted out to subcontractors for processing or further treatment, the purchaser can request further information in this regard. In so far as purchaser and supplier agree to this, the supplier shall provide a list showing all subcontractors and partners. If agreed, this list is to be prepared and communicated to the purchaser regularly, as soon as a new subcontractor is appended to this list, or is removed from it.

##### 1.3.3 Extent of confidentiality obligation

Disclosure of the purchaser's documents to the supplier's subcontractors is permitted only in order to fulfill the supplier's agreements with the purchaser, and only on a need-to-know basis.

##### 1.3.4 Scope of application

The supplier undertakes also to extend to eventual subcontractors all obligations under these general purchase conditions

that concern the supplier.

For instance, the supplier's confidentiality obligations in accordance with 2.1 below of these GPC also apply to subcontractors. Notwithstanding this, the supplier is liable to the purchaser for all the subcontractors' obligations; this also applies if the subcontractor is only contractually or legally liable to the supplier.

### 2. Legal regulations

#### 2.1 Confidentiality

##### 2.1.1 Duty of confidentiality

The parties undertake to observe confidentiality concerning all information, records, drawings, sketches, functional specifications and other data media made available by the other party, not to allow third parties access to them, and in particular not to use them for their own competitive purposes unless with the express written permission of the other party. The documents shall be used exclusively for the production and delivery of the goods purchased.

##### 2.1.2 Property rights

All documents, drawings, samples and details derived therefrom shall be made available on loan to the supplier and remain the property of the purchaser. They may neither be copied nor made directly or indirectly available to third parties. The documents and information shall be used exclusively for the production and delivery of the product. The supplier must treat the information obtained in this way confidentially. The supplier acknowledges that all rights to the information remain the property of the purchaser, especially with regard to the acquisition of industrial property rights. Similarly, the supplier shall not make confidential information available to the public, so that it becomes 'state of the art'.

The purchaser retains the intellectual property rights in drawings, specifications, documents, models etc. provided. Copies may be made only in so far as this is essential for the production or performance of the products and services ordered by the purchaser.

##### 2.1.3 Obligation to surrender possession

At any time, on request, or in the case of non-execution of delivery, the supplier is obliged to surrender possession of all documents received, including any copies made of them.

##### 2.1.4 Extension to employees etc.

Furthermore, the supplier undertakes to extend this obligation of confidentiality to its employees, bodies and auxiliary personnel within the framework of legal possibilities, and also during the period following on their leaving the company.

##### 2.1.5 Indemnification

In the case of any infringement of this confidentiality obligation, the supplier shall be liable for damages. The purchaser also reserves the right to bring criminal proceedings.

##### 2.1.6 Expiration of confidentiality obligation

The obligation of confidentiality does not expire with the execution of the delivery or service. It expires only on the expiration of a period of ten (10) years, calculated from the issue of the specific order.

## 2.2 Property rights

### 2.2.1 No infringement of property rights

The supplier guarantees that the delivery and use of the purchased products and services by the purchaser or its clients will not infringe any third-party copyright and industrial property rights (jointly referred to as 'property rights'), and in particular patents, brands and other distinctive signs, name rights or registered designs.

### 2.2.2 Exemption from infringement of property rights

Moreover, the supplier is obliged to exempt the purchaser in this connection from all third-party claims arising from the infringement of third-party property rights, and to indemnify the purchaser for the full extent of the damages arising therefrom.

### 2.2.3 Legal clarifications

At its own discretion, the purchaser will defend itself against infringements of rights asserted by third parties. The supplier shall indemnify the purchaser against all third-party claims that may arise and shall reimburse all expenditure incurred, including legal costs.

## 2.3 Guarantees

### 2.3.1 Choice of materials/production

The supplier guarantees the use of faultless material and a correct choice of materials in accordance with the agreed specifications. It is also liable for appropriate manufacture and for observing the technical data and tolerances prescribed by the purchaser in accordance with the contractually agreed specifications.

### 2.3.2 Supplier's responsibility

The supplier shall promptly rectify or replace at its own cost products that become unusable or defective within the legal guarantee period of 24 months as a result of material, production or construction defects or by reason of deficient delivery or performance. The same shall apply if the products delivered do not exhibit the agreed quality. Furthermore, the purchaser reserves the right to invoke the legal claims to which it is entitled. In the case of concealed defects, the abovementioned time period shall begin to run at the time when the defect is detected.

### 2.3.3 Inspection requirement and defect complaints

In all cases, even if the delivered products have already entered the purchaser's possession or have been transferred to the purchaser's forwarding agent, carrier or other representative, the obligation to inspect them begins only when they have entered the purchaser's works, and the due and proper dispatch note (notification of the type and quantity of the products dispatched) is present. The inspection is to be carried out within 30 days from this point in time. Any defects detected shall be reported to the supplier in writing within another 14 days.

### 2.3.4 Guarantee period

With reference to No. 2.3.6 below, the supplier guarantees for a period of 24 months in respect of its deliveries and services, where applicable after the elimination of defects, or in the case of service contracts after approval or acceptance, that the goods supplied will show no defect that impairs their use or operation, and that they will exhibit the features indicated by the supplier. Deadline stipulations deviating from the foregoing require the supplier's prior written notice and clearance.

### 2.3.5 Recourse Claims

The limitation of the purchaser's guarantee claims against the supplier on account of objective or legal defects in a newly-pro-

duced object sold to a final customer comes into effect on the expiration of a 10-year period in accordance with article 127 of the Swiss Code of Obligations (Art. 127 OR). Claims for damages shall remain unaffected.

### 2.3.6 Repairs at the supplier's cost

In urgent cases, especially to prevent serious danger or to avoid excessive damage or in the case of the supplier's tardiness in correcting defects, the purchaser can correct the defects itself at the supplier's expense. This also applies if the delivery date is exceeded.

### 2.3.7 Acceptable defects

If necessary, on conclusion of the contract the contractual parties shall agree in writing the permissible share of defects in percentage terms in the delivered products that is not to be exceeded, as well as a sample size to ascertain the share of defects.

### 2.3.8 Right of return

If the purchaser confirms, during storage in the warehouse or when goods leave inspection, that the agreed share of defects has been exceeded, it is entitled to allow the entire consignment to be returned without further inspections and at the supplier's cost and risk. The purchaser reserves the right to further claims on its part resulting from the foregoing.

### 2.3.9 Hidden defects

Inspection of the products in accordance with point 2.3.3 shall not relieve the supplier from its guarantee obligation in accordance with points 2.3.4 and 2.3.5 above. This applies especially with regard to defects or errors discovered at a later date.

## 2.4 Liability

### 2.4.1 Claims arising from product liability and exemption

Claims arising from product liability and from other legal provisions are expressly reserved. In the case of a claim raised by a customer or another third party on account of a product defect - irrespective of the relevant legal basis -, the supplier undertakes to exempt the purchaser from such claims in so far as the supplier incurs responsibility for the cause of the defect. In this connection, the supplier shall be responsible for all costs and outgoings - such as e.g. transport, fitting and removal costs - including all legal prosecution costs.

### 2.4.2 Product recalls

Product recalls for which the supplier or the subcontractors that it has called in are held responsible, shall be carried out by the supplier and at the supplier's cost.

### 2.4.3 Insurance

In order to provide liability cover, the supplier undertakes, at its own cost, to conclude an adequate, internationally valid liability insurance including a product indemnity insurance (inclusive of the USA and Canada), which provides for cover of at least 5 million euros per instance of damage. At the purchaser's request, the supplier shall provide relevant proof in this respect vis-a-vis the purchaser.

## 2.5 Auditing

### 2.5.1 Cooperation

The supplier conducts a management system in accordance with ISO 9001, or declares that if necessary it is prepared to allow an audit to be carried out by the purchaser or by a firm designated by the purchaser (supplier audit). Observance of standards ISO14001 and OHSAS 18001 must also be ensured in

the context of ongoing improvement.

### 2.5.2 Confidentiality

The purchaser undertakes vis-a-vis the supplier to treat the information obtained during the audit confidentially. The same also applies if an audit is carried out with regard to a subcontractor.

### 2.6 Reservation of title

In the case of advance payment or part payment of the purchase price before delivery of the products, already during manufacture the purchaser shall accede to ownership of the products undergoing production, including semi-finished goods and purchased parts, step by step up to the equivalent of the advance or part payments that it has made.

The purchaser is entitled to resell the products. This does not infringe the supplier's claims to ownership.

### 2.7 Accident prevention regulations

In the case of the delivery of construction and mechanical plant and equipment, machinery, appliances etc., the supplier shall be obliged to observe and comply with the relevant accident prevention regulations.

### 2.8 Liability for legal conformity

The supplier guarantees that, at the time of delivery and for at least two (2) years thereafter, its products correspond to all public-law stipulations, especially the safety standards in laws and regulations that apply in EU member States and in Switzerland. The supplier shall inform the purchaser of planned legal changes that could influence the use of the products.

### 2.9 Child labor/working conditions

The supplier guarantees that the delivered or manufactured products were not produced by child labor, by exploitative labor injurious to health, or by forced labor or prison labor that is exploitative or otherwise offends against human dignity.

In the case of non-observance of the agreement, the purchaser reserves the right to withdraw from its contract with immediate effect, without this leading to a recourse claim for the supplier.

### 2.10 Packaging

The supplier is obliged to accord with the applicable packaging regulations and exempts the purchaser entirely from any claims for damages that are brought by third parties against the purchaser in this connection. Should it prove necessary, the purchaser agrees specific packaging stipulations and product labels with the supplier, to be made available free of charge by the supplier.

## 3. Orders

### 3.1 Offer

In the offer, with regard to quantity and quality the supplier shall follow the purchaser's non-binding inquiry precisely, and in the case of any deviations shall refer to these expressly. The offer shall be free of charge to the purchaser.

### 3.2 Prices

The supplier and the purchaser endeavor to reduce material and manufacturing costs by means of continual improvements in processes, and to negotiate prices on this basis. Price negotiations usually take place in the 4th quarter in order to estab-

lish prices for the following year. The negotiated prices always apply as fixed prices one year in advance.

Should the parties prove unable to agree an appropriate price, an arbitrator appointed by the responsible international chamber of commerce shall make a binding decision for and against the parties.

### 3.3 Acceptance of order

Every order by the purchaser shall be confirmed by the supplier in writing within 3 working days with an indication of the delivery date determined by calendar date. If the confirmation is not received by the purchaser within five (5) working days after the order, then the purchaser is no longer bound to observe the order. Changes to, deviations from and additions to the order by the supplier require the purchaser's previous written approval. Otherwise it is invalid.

### 3.4 Delivery conditions

#### 3.4.1 Incoterms

The costs of transport, importation and customs clearances and of transfer of risk shall accord with the specific agreed Incoterm clause in accordance with the internationally valid Incoterms 2020 of the International Chamber of Commerce.

#### 3.4.2 Part deliveries

Part deliveries are permitted only with the purchaser's previous written agreement and shall be designated as such unambiguously.

#### 3.4.3 Delivery period and dates

Delivery periods and dates are always binding and must be strictly observed. The delivery period begins with the order date. In the case of non-observance of the agreed delivery date/agreed delivery period the supplier shall immediately be in default.

#### 3.4.4 Contractual penalty

In the case of default (No. 3.4.3 above), the supplier shall incur a conventional penalty to the extent of 2% of the particular net contractual volume per week of delay, but at most 10% of the particular net contractual volume. Every calendar week after the agreed delivery date shall count as a week of delay. Payment of the conventional penalty does not free the supplier from its contractual obligations. The purchaser reserves the right to claim for damages.

In the case of force majeure, the conventional penalty is ineffective.

#### 3.4.5 Information obligation

As soon as the supplier is in a position to assume that it will not be able to make the delivery on time either in part or as a whole, it must indicate this promptly to the purchaser in writing, giving the reasons and the foreseeable extent of the delay.

#### 3.4.6 Special right of withdrawal

The purchaser reserves the right to withdraw from the concluded contract from a delay of over four weeks, calculated from the agreed delivery date. This withdrawal does not free the supplier from its liability for damages suffered by the purchaser on account of the delayed delivery. Should the late delivery have occurred by reason of force majeure in the supplier's area, the purchaser is also entitled to withdraw from the contract in accordance with the provision.

In both cases the supplier is not entitled to make any claims for damages on account of the purchaser's exercise of its right of withdrawal.

### 3.5 Force majeure

#### 3.5.1 Principles

Each party is entitled to adjust the fulfilment of its contractual obligations to the extent that this fulfilment is rendered impossible or disproportionately difficult by circumstances of force majeure.

Force majeure is taken as being an extraordinary event that takes effect externally as a result of natural forces or the actions of third persons, that human insight and experience cannot foresee, and that cannot be prevented or mitigated with economically viable means even with the greatest care that might reasonably be expected in the circumstances, and that the injured party cannot accept because of its frequency.

#### 3.5.2 Requisite measures

As soon as it is known, the supplier claiming an instance of force majeure must inform the purchaser by telephone, and within two working days in writing, of the occurrence and the probable end of any such circumstance.

### 3.6 Invoices/payments

#### 3.6.1 Formal invoice requirements

An invoice in printed form must be sent by post to the invoice address indicated in the order for every delivery or service. Alternatively, the invoice may also be sent by e-mail ([buchhaltung@gwf.ch](mailto:buchhaltung@gwf.ch)). Electronic invoices (e-billing) are not acceptable. The wording of invoices must agree with the order references. In all the supplier's written documents, especially in delivery notes and invoices, the following data are to be given in typed/printed form for the articles ordered:

- a. Name and address of the purchaser
- b. The exact designation of the division issuing the order
- c. The date of the order
- d. The order number
- e. Name and address of the supplier
- f. The supplier's VAT number

Additional requirements for invoices (and delivery notes) can be requested separately.

#### 3.6.2 Incorrect invoices

Invoices that do not contain all these details do not become due and payable and can always be returned by the purchaser. In this last-mentioned case, due receipt and pay ability begin only with the reception of the correctly prepared invoice. Missing delivery papers, arrival at a place other than that indicated, incomplete information or errors will delay the course of the payment period by as many days as are needed to correct the defects caused by the supplier. The time needed to put right the deficiencies must be taken into account in the supplier's accounts receivable procedure. Rejected invoices are taken from the supplier's accounts receivable. Invoices shall be released for payment only if the quality requirements are fulfilled for all items on the relevant invoice.

#### 3.6.3 Part invoices

Part invoices are admissible only if corresponding part deliveries have been expressly accepted by the purchaser.

#### 3.6.4 Defective deliveries

In the case of a defective delivery, the purchaser is entitled to withhold payment until due and proper fulfilment, without loss of rebates, early payment discounts and similar payment benefits.

#### 3.6.5 Payment period

The period of time for payment of the invoice shall begin with the day following the postal or electronic reception of a due and proper, verifiable invoice, or the acceptance of the products or services, depending on which date is later.

With early reception of deliveries, the payment period starts to run only from the delivery deadline in accordance with the order or from the reception of the invoice, depending on which date is later.

#### 3.6.6 Payment conditions

Payment is made as the purchaser chooses – in accordance with No. 3.6.5 above, calculated from the reception of the invoice or products – after 14 days reduced by 2% early payment discount, 45 days reduced by 2% early payment discount or 60 days' net.

The date of payment does not affect the supplier's guarantee and the right of complaint in accordance with No. 2.3.3 above.

### 4. Dispatch

#### 4.1 Letters/invoices

Letters, dispatch notes, invoices etc. must always give details of the division, letter reference, number and date of the order letter. Each individual order is to be treated separately throughout the entire correspondence (letters, dispatch notes, invoices etc.). Invoices are to be sent to: [buchhaltung@gwf.ch](mailto:buchhaltung@gwf.ch)

#### 4.2 Indication of origin

The origin of the products must be communicated to the purchaser on the confirmation of order and on the invoice. On delivery of the products, the origin must be confirmed by a supplier's declaration in accordance with Regulation (EC) No. 1207/2001. At least the customs tariff number and the country of origin must be shown here too. The preferential origin must be given as far as possible.

The purchaser is entitled to request or require further details on the invoice in accordance with the use and consignment of the products abroad.

#### 4.3 Consignment notes and dispatch addresses

The verso of the consignment note must indicate the division, letter reference, number and date of the order letter. All details of the consignment note address given by the purchaser must be taken into account.

#### 4.4 General cargo/postal dispatch

In the case of general cargo, express dispatch and postal dispatch as well as collective consignments, each piece submitted for dispatch must be provided with an adhesive cargo label or a cargo tag indicating the division, letter reference, number and date of the order.

#### 4.5 Delivery

##### 4.5.1 Labelling

Every consignment must be accompanied by the relevant shipping note without price details. It must indicate how many shipping units make up the entire consignment. The package with the shipping note must be clearly labelled.

Further details are to be found in the logistics agreement.

##### 4.5.2 Liability for delivery costs

The supplier is liable to the purchaser for damages that accrue

to the purchaser because the supplier has not proceeded in accordance with the abovementioned stipulations and delivery requirements.

All consignments that cannot be accepted for the foregoing reasons shall be stored with the purchaser at the supplier's cost and risk, until the submission of due and proper papers and correction of all defects affecting the delivery make it possible to complete the business procedure smoothly.

The obligation to inspect the products delivered arises only when their auditability has been entirely achieved.

## **5. Final provisions**

### **5.1 Changes in the GPC and contractual agreements**

The purchaser can change these general purchase conditions by a unilateral written declaration. It shall inform the supplier of the change in the GPC. By submitting a confirmation of order once the change has been made, the supplier accepts the changed GPC. Changes in contractual agreements already reached must be documented clearly and openly and must be made in writing. This also applies to changes to this article.

### **5.2 Invalidity of individual stipulations**

Should any stipulation of these general purchase conditions or of a contractual agreement between the purchaser and the supplier be or become ineffective, that shall not affect the validity of the other provisions. The purchaser undertakes to replace the ineffective stipulation of the general purchase conditions with a legally valid provision as close as possible to the ineffective provision.

### **5.3 Applicable law**

Swiss law excluding UN sales law (the United Nations Convention on Contracts for the International Sales of Goods) shall apply exclusively to the contractual relations between the parties to the contract.

### **5.4 Jurisdiction**

The sole place of jurisdiction is Lucerne, Switzerland.