



GENERAL TERMS AND CONDITIONS OF PURCHASE OF AGILOX SERVICES GMBH & AGILOX SYSTEMS GMBH

1. Scope of Application

1.1. These General Terms and Conditions of Purchase apply to transactions with AGILOX Services / AGILOX Systems GmbH (hereinafter referred to as „AGILOX“) as the Client. These Terms and Conditions of Purchase are an essential and integral part of every order from and contract with AGILOX.

1.2. Our Terms and Conditions of Purchase apply exclusively. Any terms and conditions of the supplier that conflict with or deviate from our Terms and Conditions shall not be recognized, even if we do not expressly object to them. Silence on the part of AGILOX shall not be deemed as acceptance. In the event that our order is not confirmed by the supplier within 4 (four) working days, our Terms and Conditions of Purchase shall apply in any case. The AÖSp (General Austrian Forwarders' Terms and Conditions), ADSp (German Forwarder Standard Conditions) and similar conditions shall not be recognized.

1.3. The contractual partner of AGILOX (hereinafter referred to as the „Supplier“) agrees that if it applies its own T&C, the General Terms and Conditions of Purchase of AGILOX shall prevail in the event of conflicting provisions. These Terms and Conditions of Purchase shall also apply as a framework agreement to all further legal transactions between the contractual partners.

1.4. These General Terms and Conditions of Purchase shall enter into force on November 2, 2020, and shall apply to transactions concluded as of this date.

2. Quotation, Order, Contract

2.1. Quotation:

In the quotation, the Supplier must adhere exactly to our inquiry with regard to the quantity and quality of the goods to be delivered and, in the event of deviations, must expressly point this out in writing. If the Supplier fails to make this written reference, it shall not be entitled to any higher remuneration in the event of deviations. The Supplier shall find out about the conditions of use at the place of installation where its product(s) is (are) to be used. Upon request, AGILOX shall provide information in this regard. All quotations must be binding and free of charge. The Supplier shall be bound by its quotation for 6 (six) months from receipt by us.

2.2. Order, Contract:

Only written orders are valid; agreements made verbally or by telephone require written confirmation by the Customer in order to be binding for us. If the order confirmation deviates from the order, the Supplier must clearly indicate this in the order confirmation and describe the respective deviations. AGILOX shall only be bound by a deviation if AGILOX has expressly agreed to it. An unconditional acceptance of goods shall not be deemed to be such consent, however. Samples, drawings, tender documents or other aids provided by AGILOX shall remain the property of AGILOX and may only be used for the execution of the orders. These may be made available to third parties only after written consent from AGILOX. In the absence of any other agreement, they are to be returned free of charge after the execution of the order.

3. Prices

3.1. The agreed prices are net prices, including packaging, delivered and unloaded free to destination, and are fixed prices that cannot be increased for any reason whatsoever.

3.2. The transport shall be for the account of and at the risk of the Supplier. Additional costs incurred due to a delay on the part of the Supplier

and which require an accelerated mode of transport for the purpose of meeting the deadline shall be borne by the Supplier.

4. Delivery Time and Delivery Periods

4.1. The agreed delivery dates shall be deemed fixed dates. Delivery shall be made on the delivery date specified in the purchase contract or in the order. As soon as the Supplier realizes that it will not be able to deliver on time or be able to deliver only partially on time, it shall notify the Client thereof in writing without delay, stating the reasons and the expected duration of the delay. Any direct or indirect damage must be compensated by the Supplier.

4.2. The Supplier may only invoke the absence of necessary documents to be supplied by us if it has sent a written reminder for the documents and has not received them within 7 (seven) calendar days.

4.3. Failure to comply with delivery dates shall be deemed to be non-performance for which the Supplier is responsible and shall oblige the Supplier to compensate us in full for any resulting damage. We reserve the right to assert further legal claims, in particular the right to withdraw from the contract.

5. Billing and Payment

5.1. All bills must comply with the Austrian Value Added Tax Act, must be sent to us after dispatch and may not be enclosed with the delivery. They must contain the complete order number and the order date and be sent by email to the following email address: procurement@agilox.net

5.2. In the absence of separate agreements, the following terms of payment shall apply: - 14 days with 3% discount or - 90 days net in each case after receipt of an invoice complying with the above provisions. In the absence of other written agreements, all prices shall be understood to include ancillary expenses, in particular costs for packaging, shipping and transport.

5.3. Payments, if any, do not imply an acknowledgment of the correctness of the delivery and do not constitute a waiver of the claims arising for us from defect of performance, the warranty and/or damages. The Supplier is prohibited from assigning claims against us to third parties.

5.4. No cancellation fees or other fees of any kind whatsoever may be claimed in the event of order cancellations.

5.5. The Supplier undertakes to state the country of origin in order confirmations and invoices for the goods it delivers and declares that all goods it delivers have been manufactured in the country that it states as the country of origin and that it is aware of the legal provisions concerning the issue of a certificate of origin and has complied with these. In the case of goods requiring an export license, the invoice must state all the necessary designations for this.

6. Shipment, Acceptance, Warranty and Notices of Defects

6.1. All goods purchased by AGILOX shall be considered as a debt to be discharged at the creditor's domicile; the delivery shall be made DDP (according to Incoterms 2020) including transport, shipping, packaging and unloading. The Supplier therefore bears the costs and the risk - including for accidental loss - of the transport to the place of performance (destination). The goods shall be handed over unloaded.

6.2. The Supplier shall comply with the applicable requirements of national and international export, customs and foreign trade law for all goods to be delivered and services to be provided and shall procure the necessary export licenses, unless according to the applicable foreign trade law it is not the Supplier but AGILOX or a third party who is obliged to apply for the export licenses.

6.3. The Supplier shall provide AGILOX as early as possible, but no later than before the delivery date, with all information and data in writing (item by item on the order confirmation, delivery bill and invoice) which AGILOX requires to comply with the applicable foreign trade law for exporting and importing and, in the case of resale, for the re-export of the goods and services, in particular the following „Export Control and Foreign Trade Data“ for each individual good/service:

(I) the „Export Control Classification Number“ (ECCN) according to the „U.S. Commerce Control List“ and, if the product is subject to the „U.S. Export Administration Regulations“, all applicable export list numbers;

(II) the commodity code number according to the current commodity classification of foreign trade statistics and the HS Code;

(III) the country of origin (non-preferential origin); and

(IV) if requested by AGILOX: the Supplier declarations on preferential origin (for European suppliers) or certificates on preferences (for non-European suppliers). In the event of changes in the origin or characteristics of the goods or services or in the applicable foreign trade law, the Supplier shall update the export control and foreign trade data as soon as possible, but no later than before the delivery date, and notify AGILOX of this in writing.

The Supplier shall bear all expenses and damages incurred by AGILOX due to the absence or incorrectness of export control and foreign trade data.

6.4. Retentions of title by the Supplier, of whatever kind, shall not be valid.

6.5. The risk of loss or damage to the goods shall only pass to AGILOX upon handover.

6.6. In all cases, even if the delivered goods have already become our property or have been handed over to our forwarding agent, carrier or other representative, the obligations to inspect the goods and to give notice of defects do not start until the goods have arrived at the agreed destination and a proper notice of dispatch has been given.

6.7. The notification of obvious defects shall in any case be deemed to be timely if it has been sent by us in writing to the last known address of the Supplier within 6 (six) months from the above-mentioned date. In the case of non-apparent or concealed defects, the 6-month notification period shall not commence until the point in time at which the respective defect becomes apparent. The conflicting provisions of Sections 377, 378 UGB (Austrian Commercial Code) are expressly waived. The Supplier expressly waives the defense of late notification of defect.

6.8. The Supplier assumes the obligation to deliver only goods with properties that comply with the latest state of science and technology and the relevant legal regulations and technical standards, in particular Austrian standards, or, if such standards do not exist, DIN standards. Furthermore, the Supplier guarantees that the deliveries or services shall be free of defects and comply with the defined requirements of AGILOX.

6.9. The Supplier shall draw our attention to all risks that can be expected when using the product. We shall be entitled to the statutory warranty claims and statutory warranty periods without restriction.

6.10. During the entire warranty period, the Supplier shall bear the burden of proof that the defect was not present at the time of handover.

6.11. In case of delivery of spare parts, the Supplier shall also be liable under the warranty for defects and damage caused by the spare part to other parts or objects.

6.12. In the case of warranty, we reserve the right to demand the elimination of the defect by means of replacement, improvement, price reduction or cancellation of the contract. In the event of replacement or improvement, the Supplier shall be obliged to bear all expenses (in particular material, transport and labor costs) required for the purpose of rectifying the defect or supplying a replacement. All costs associated with the execution of the right to rescission of sale shall be borne by the Supplier. In particular, the Supplier shall also be obliged to compensate for any direct or indirect damage.

6.13. After rectification of the defects complained of, the warranty peri-

od for the replaced delivery item or service shall start anew.

6.14. If there is any imminent danger or if the Supplier is late in remedying defects, we shall be entitled to remedy the defects ourselves or have them remedied at the Supplier's expense.

6.15. In the event of defects of any kind whatsoever, we shall be entitled in any event to retain the entire outstanding purchase price or compensation for work until the defects have been fully remedied. After the defect has been remedied, the outstanding price shall be paid taking into account the terms of payment.

6.16. In deviation from the statutory provisions, the Supplier shall assume the obligation of full compensation for any degree of fault. It shall be liable for product defects or in any case of damage for which it is responsible, also for financial losses of third parties. The Supplier shall give a full indemnity against claims and actions.

6.17. The costs for transport insurance are included in the agreed prices in each case. In all other respects, all ancillary costs associated with the execution of the order, which are not expressly regulated in the contract, shall be borne by the Supplier. The Supplier is obliged to insure itself adequately against any damage and risks and to provide AGILOX with proof of this insurance cover without delay in the event of an incident and upon request, and to name the insurance company together with the policy and disclose the registered office of the insurance company.

7. Product Liability

7.1. The Supplier shall enclose instructions for use and warning notices in German or English with its deliveries.

7.2. If, after acceptance of the delivery by us, the delivered goods prove to be defective within the meaning of Section 5 of the Product Liability Act (PHG) or it is recognized that the properties of the product no longer correspond to the state of the art in science and technology within the meaning of Section 8 PHG, the Supplier undertakes to take back such goods and immediately refund the purchase price.

7.3. If claims are asserted against us under the Product Liability Act on account of goods delivered by the Supplier, the Supplier undertakes to immediately hand over any evidence requested by us, such as in particular quality and inspection records, certificates and the like, at its own expense. Furthermore, the Supplier undertakes to compensate us in full for all damages arising from our liability, as well as for any related legal costs and lawyers' fees. The Supplier undertakes to take out an appropriate insurance policy within the meaning of Section 16 PHG, whereby we reserve the right to demand proof of appropriate coverage from the Supplier. If the Supplier does not comply with such a request within 14 days, we shall be entitled to withdraw from the contract and may claim damages including loss of profit.

8. Place of Performance, Choice of Law and Jurisdiction

8.1. For all rights and obligations arising from the legal transactions concluded with us, the place of performance for both parties shall be the registered office of our company in Neukirchen bei Lambach/Austria. For the Supplier, this shall apply in particular to delivery and payment, irrespective of any individual agreement on the place of delivery and/or payment and/or the assumption of any transport costs by us.

8.2. The place of jurisdiction for all legal disputes arising from the present contractual relationship shall be the court having subject-matter jurisdiction for Neukirchen bei Lambach/Austria; however, we shall also be entitled, at our choice, to bring actions before other courts if another place of jurisdiction is specified.

8.3. Within the scope of our contractual relations, the execution or termination thereof or any disputes arising therefrom, the exclusive application of Austrian law shall be deemed agreed between the Supplier and us, excluding the conflict of laws rules of private international law and the UN Convention on Contracts for the International Sale of Goods.

8.4. If individual provisions are invalid, this shall not affect the validity of the remaining provisions of these Terms and Conditions of Purchase. A provision which comes closest to the desired economic purpose shall then be deemed agreed.

9. Property Rights

9.1. The Supplier warrants that it is in possession of all necessary authorizations to prevent any infringement of copyrights, industrial property rights and patents. The Supplier shall fully indemnify and hold AGILOX harmless in respect of this. The costs incurred as a result of the defense against claims by third parties shall be fully reimbursed by the Supplier.

9.2. All industrial property rights, suggestions for improvement, works of a scientific nature and other rights which are made or developed within the framework of the cooperation with the Supplier, regardless of when and by whom, belong exclusively to AGILOX. The Supplier shall not assert any rights, in particular any rights of prior use, against AGILOX with regard to applications for industrial property rights.

10. Force Majeure

10.1. In cases of force majeure, such as strikes, lockouts, war and natural disasters and the like, we shall be entitled to withdraw from the contract in whole or in part (see Point 11 below) or to demand delivery or execution of a placed order at a later date, without this giving rise to any claims on the part of the Supplier.

11. Withdrawal from Contract

11.1. We shall be entitled to withdraw from the contract at any time in the event of delay in delivery, bankruptcy of the Supplier or rejection of bankruptcy for lack of assets, initiation of reorganization proceedings against the assets of the Supplier, suspension of payments, cases of force majeure (see Point 10 above) or if the Supplier persistently acts or has acted in a manner contrary to the provisions of these General Terms and Conditions of Purchase. The Supplier shall not be entitled to any claims whatsoever against us as a result of such a withdrawal.

12. Confidentiality

12.1. All information, drawings and other technical documents provided to the Supplier by AGILOX in the context of the quotation or order, as well as drawings, information and other technical documents produced by the Supplier according to our special specifications, may not be used by the Supplier for purposes other than production on the basis of our order, nor may they be reproduced or made available to third parties. The aforementioned documents shall remain our sole property and must be returned to us immediately upon request together with copies and duplicates. If, for whatever reason, the order/delivery does not take place, the Supplier shall immediately return all documents to us without being requested to do so. The orders as well as the work relating thereto are to be regarded as business secrets and accordingly treated confidentially. The Supplier shall be liable for all damages incurred by us as a result of a breach of any of the above obligations.

12.2. The Supplier is only permitted to mention or refer to the business relationship existing with us in advertising material and publications of any kind with our express written consent.

12.3. The above obligations shall also apply for a period of 5 (five) years after delivery or performance of services.

13. Audit

13.1. AGILOX as well as customer representatives together with AGILOX – shall be entitled during the processing of an order or the term of a contract to conduct a system, process or product audit with respect to the order or the subject matter of the contract at any time and without prior notice at the Supplier's business premises and/or that of its subcontractors. The Supplier shall grant AGILOX unimpeded access to the company premises or to the production facilities for this purpose and the Supplier shall be obliged to provide the relevant information. The Supplier shall not be entitled to claim reimbursement of costs for such audits.

14. Other Provisions

14.1. The Supplier expressly undertakes to comply with all standards, in particular those relating to labor law, employee protection law, foreign labor law, environmental protection law, industrial law and building law, when making deliveries or providing services. It shall fully indemnify and hold AGILOX harmless from and against any claims by third parties in

this respect.

14.2. If standards are specified, delivery must be made in accordance with the latest version. The Supplier undertakes to comply with all obligations and requirements standardized in the AGILOX Code of Conduct for Suppliers (current version available at [Link](#)) in the sense of minimum standards when supplying goods or services and to address them accordingly along its own supply chains.

14.3. All agreements, subsequent amendments, supplements, collateral agreements, etc. must be made in writing, including with original signature or secure electronic signature, in order to be valid. Insofar as these Terms and Conditions of Purchase refer elsewhere to written form, email correspondence is also deemed to comply with such written form requirement.

14.4. Should any provision of these Terms and Conditions of Purchase be invalid, this shall not affect the validity of the remaining provisions of these Terms and Conditions of Purchase. In this case, AGILOX and the Supplier undertake to replace any invalid provision with a valid provision in writing which is in the interest of both parties and which comes as close as possible to the economic purpose of the invalid provision.