

## General Terms and Conditions of Purchase From 24.03.2021



### 1. Prevailing Conditions

- 1.1. The legal relations between the supplier and Neapco Germany GmbH - hereinafter referred to as "**Neapco**" are governed exclusively by these General Terms and Conditions of Purchase (hereinafter referred to as "**GTCP**") and by any other agreements made individually. Amendments or modifications must be in writing. General terms and conditions of the supplier are inapplicable even if *Neapco* has not expressly objected to them or if *Neapco* has accepted or paid products or services of the supplier.
- 1.2. These GTCP apply to all purchase orders/call-offs whether issued under a sales contract or otherwise.
- 1.3. These GTCP also apply to all future business with the supplier. The GTCP will be revised by *Neapco* from time to time and shall apply exclusively as revised at the time a purchase order/call-off is issued. The respective applicable GTCP will be sent if required

### 2. Purchase Orders and Modifications of Purchase Orders

- 2.1. Supply contracts (purchase order and acceptance) and call-offs as well as modifications of or additions to them must be in writing. Data telecommunication or fax also meets the written form. The effectiveness of oral understandings of any kind, including subsequent modifications of or additions to the GTCP are subject to written confirmation by *Neapco*.
- 2.2. The supplier must check all product and packaging details and specifications and all product names for accurateness, feasibility and admissibility and when in doubt must inform *Neapco* in writing.
- 2.3. By processing or fulfilling a purchase order or by acknowledging a purchase order without objection, the supplier accepts the purchase order subject to the GTCP, which are thereby incorporated in the contract.
- 2.4. The supplier is obliged to issue written acknowledgements of *Neapco's* purchase orders without undue delay but no later than within a week. If *Neapco* receives the acknowledgment of a purchase order after that one-week period, a binding contract is formed if *Neapco* does not object within 10 working days of receipt of the acknowledgement. Call-offs under a frame agreement will become binding unless the supplier objects within one working day of receiving them.
- 2.5. *Neapco* may request modifications of supplies in terms of design, format, quantity or date of delivery. The consequences of such modifications, particularly as regards extra costs, cost reductions and delivery dates, shall be regulated reasonably and amicably.
- 2.6. The Packaging Requirements and the European Supply Chain Manual of *Neapco*, are incorporated in these GTCP and have to be observed by the supplier.

### 3. Pricing and Passing of Risk

- 3.1. Prices stated are firm. Except as agreed otherwise, prices are delivered at place (DAP according to Incoterms® 2010) and include packaging, shipping and insurance for products in transit. The supplier bears the actual risk until *Neapco* or a *Neapco* agent accepts the delivery of the products at the place where the products are to be delivered under the purchase order/call-off.
- 3.2. Cost estimates are binding and free of charge except as expressly agreed otherwise.
- 3.3. Prices are exclusive of VAT.

### 4. IV. Payment

- 4.1. Invoices are due for payment without discount within 90 days of delivery in conformity with the purchase order/call-off and *Neapco's* receipt of a proper invoice. Invoices must include the purchase order/item number and must be sent to the department designated by *Neapco*. If *Neapco* accepts early supplies, the due date of the invoice shall be based on the agreed date of delivery. The invoice shall be sent to the respective *Neapco* group company. For invoices accompanying the delivery Section 11.3 of *Neapco's* European Supply Chain Manual shall be observed.
- 4.2. If supplies are flawed, *Neapco* has the right to withhold its payment pro rata until performance in due form.
- 4.3. *Neapco* has the right to set off counter-claims even if in other currencies or if arising under other contracts.
- 4.4. The supplier may not without *Neapco's* prior written consent assign any of its claims against *Neapco* or have those claims collected by others. This also applies to any (extended) reservation of title.
- 4.5. Payments are subject to review of the invoice.

### 5. Confidentiality

- 5.1. All business information or technical information disclosed by *Neapco* is to be kept confidential unless such information is demonstrably in the public domain. Such information expressly remains the property of *Neapco*. Except as for supplies to *Neapco*, the supplier may not without *Neapco's* prior written consent reproduce such information or use it in commerce.
- 5.2. If *Neapco* has consented to the supplier engaging sub-contractors for the fulfilment of its contractual duties, the supplier must have those sub-contractors agree to be bound in accordance with this Clause V.
- 5.3. The supplier may not without *Neapco's* prior written consent advertise its business connection with *Neapco*.

### 6. Delivery

- 6.1. Deviations from sales contracts or purchase orders are only admissible with *Neapco's* prior written consent.
- 6.2. Agreed dates and deadlines are binding. The decisive date for compliance with a delivery date or deadline is the date on which *Neapco* receives the products. If the parties have not agreed on delivered at place (DAP in accordance with Incoterms® 2010), the supplier must provide the products timely, taking into account the time needed for loading and shipment.
- 6.3. If the supplier anticipates difficulties concerning manufacture, procurement of primary material, compliance with the date of delivery or similar circumstances that might prevent the supplier from delivering the products timely and in the agreed quality, the supplier must inform *Neapco's* ordering department without undue delay.
- 6.4. If the supplier exceeds a deadline, *Neapco* may withdraw from the contract without allowing a period of grace and notifying its intention to refuse acceptance of delivery and may claim damages in place of performance, without prejudice to *Neapco's* claims for compensation of its default damage or payment of liquidated damages. The supplier must pay any extra expense that *Neapco* incurs by having to carry out



covering purchases due to delay in delivery.

- 6.5. If *Neapco* accepts a late supply or service without reservation, this does not include a waiver of its claims for compensation for the late supply or service pending the full payment of the price *Neapco* owes for the supply or service in question.
- 6.6. Part supplies and excessive supplies are disallowed as a rule unless *Neapco* has expressly agreed to them.
- 6.7. *Neapco* has the right to refuse acceptance of early supplies. If *Neapco* does accept an early supply, it reserves the right to require the supplier to pay the handling and storage costs.
- 6.8. If the supplier has agreed to set up or assemble the products and except as agreed otherwise, the supplier shall pay all necessary incidentals such as travel expenses and provision of tools.
- 6.9. As regards the number of items, weights and dimensions, the values *Neapco* determines when checking the products received are decisive unless the supplier proves other values.

**7. Execution of Work**

- 7.1. Individuals executing work at *Neapco's* factory premises in performing the contract must observe *Neapco's* works regulations as revised from time to time. Liability for accidents that such individuals may incur at *Neapco's* factory premises and liability for property damage of such individuals is excluded unless caused by intentional or grossly negligent breach of duty by *Neapco's* statutory representatives or its agents or servants.

**8. Liquidated Damages**

- 8.1. The supplier guarantees that the items or services ordered will be delivered on schedule and free from defects. For each defective performance and any performance rectified or delivered beyond the schedule, *Neapco* may require the supplier to pay liquidated damages in an amount equal to 1% of the order value for each full week of the delay but no more than 5% of the order value unless the delay is beyond the supplier's control, for instance in the event of force majeure. The supplier has the burden of proof. *Neapco* will reserve its right to claim liquidated damages when paying the invoice at the latest. *Neapco* expressly reserves the right to assert further damages. Liquidated damages will be charged against such further damages.

**9. Force Majeure**

- 9.1. Unforeseeable, inevitable or serious events of force majeure (such as war, terror attacks, civil commotions, natural disasters, fire or explosions) relieve the parties from their duties to perform during the hold-up and within the scope of the impact.
- 9.2. Labour disputes, strikes, lockouts, non-availability of staff, raw material or work material or means of transportation are no events of force majeure and do not relieve the parties from their duties to perform.
- 9.3. The supplier will inform *Neapco* without undue delay about the occurrence of an event of force majeure and the planned date for resuming supplies.
- 9.4. During the time of non-delivery due to force majeure,

*Neapco* has the right to procure the ordered products or services from another party.

**10. Sub-contractors/ Transfer of the Contract**

- 10.1. As a rule, performance is to be rendered by the supplier or persons having a fixed employment relationship with the supplier. Performance by sub-contractors is subject to *Neapco's* prior written consent. Such consent may be subject to compliance with additional conditions by the sub-contractor.
- 10.2. *Neapco* has the right to transfer all of its contractual rights and duties to affiliated or related companies including parent companies or subsidiaries. If *Neapco* transfers its contractual rights and duties, it guarantees the transferee's full performance of all contractual duties under the contract.

**11. Quality and Documentation**

- 11.1. The supplier's supplies shall be subject to compliance with all statutory provisions, generally accepted rules of engineering, safety regulations and agreed technical specifications. When delivered, the products and packaging must be free from dirt, rust, mildew and moisture.
- 11.2. It is the supplier's responsibility that the chosen primary and secondary packaging is suitable for ensuring safe and undamaged transit of the supplied parts to the *Neapco* place of delivery. Notwithstanding the foregoing obligation, all pack-aging must be approved by *Neapco* prior to its use.
- 11.3. The supplier guarantees compliance with the following quality assurance standards and documentation duties: ISO/TS/IATF 16949, CQI-9, QS 9000, VDA, ISO/IEC 17025 and ISO 9001.
- 11.4. The supplier obliged to respect and observe the specific requirements from the customer of *Neapco*. Customer Specific Requirements are available under below link: <https://www.iatfglobaloversight.org/oem-requirements/customer-specific-requirements/>.
- 11.5. The Suppliers shall pass down all applicable statutory and regulatory requirements and special product and process characteristics to their suppliers and require the suppliers to cascade all applicable requirements down the supply chain to the point of manufacture

**12. Social Responsibility and Environmental Protection**

- 12.1. The supplier undertakes to comply with the respective laws in dealing with its workforce, environmental protection and work safety and to work towards reducing adverse affects of its operations on humans and the environment. For this purpose, the supplier will establish and develop a management system in accordance with ISO 14001 and ISO 50001 to the best of its abilities.
- 12.2. The supplier is obliged to fulfil REACH – regulation (EG) No 1907/2006. The supplier assures, all to *Neapco* supplied products contain no listed substances requiring authorization (SVHC latest version) in a concentration of > 0.1 % by mass.
- 12.3. Regardless, the supplier has to be in close contact with their own suppliers and pursue their compliance with the REACH regulation. Further the supplier will, as well as their sub- supplier, observe and check the latest ECHA “candidate list” regularly.

**Record of revision**

Date	Description of change (include last change in first line)
31-01-2018	Paragraph 11.5 added
24-03.2021	Paragraph 11.4 changed



12.4. In accordance with article 33, the supplier informs Neapco, if ingredients of supplied products with more than 0.1 % by mass will be classified as a content of very high concern by the European Chemical Agency.

### 13. Liability for Defects

13.1. *Neapco* accepts delivery subject to inspecting the products for freedom from defects, including an inspection for accurateness and completeness, insofar and as soon as reasonable in the course of ordinary business. *Neapco* will notify the supplier of defects in the products supplied once detected. In this regard, the supplier waives the defence of delay in notifying a defect.

13.2. The statutory provisions concerning defects of quality and title apply unless otherwise provided below.

13.3. If the products delivered are not in conformity with the contract, *Neapco* may demand the rectification of the defect or delivery of a new item or reduce the purchase price or withdraw from the contract. *Neapco* has the right to choose the type of subsequent performance. *Neapco's* right to assert damages remains unaffected.

13.4. If the supplier does not rectify a defect within the reasonable period allowed in *Neapco's* request for rectification, then *Neapco* may either have the defect rectified at the supplier's costs and risk or exercise the foregoing rights. Any further claims of *Neapco* for compensation of consequential loss or for payment of liquidated damages remain unaffected.

13.5. Except for cases of malice, claims based on defects become time barred after 3 years unless the item has been used for a construction in accordance with its normal use and has caused the defect in the construction. The period of limitation begins on delivery of the product (passing of risk).

13.6. If the supplier meets his rectification duties by replacement delivery, the period of limitation concerning the replacement products begins afresh upon delivery of those products unless the supplier, in doing the rectification, has expressly and appropriately reserved the right to execute the replacement delivery merely as a gesture of goodwill or to avoid controversies or to safeguard his interest in continued relations with the supplier.

13.7. The supplier shall pay all costs that *Neapco* may incur as a result of a defective supply under the contract, including the costs of shipping, transport, work or material and the costs of inspecting the products received beyond an ordinary scope.

13.8. If *Neapco*, as a result of the defect of the products delivered by the supplier under the contract, takes back any product it has manufactured or sold or if the purchase price payable to *Neapco* has been reduced on that basis or if other claims are asserted against *Neapco* on that basis, *Neapco* reserves the right to take recourse against the supplier. The assertion of those rights concerning defects is not subject to setting a deadline.

13.9. *Neapco* may require the supplier to reimburse it for the expenses it incurred as against its customers on the ground of the customers having claims against *Neapco* for reimbursement of expenses required for rectification, including the costs of shipping, transport,

work and material.

13.10. Notwithstanding the provision in paragraph 5 above, in the cases described in paragraphs 8 and 9 above, claims fall under the statute of limitation no earlier than 2 months of the date on which *Neapco* has discharged the customer's claims against *Neapco*, but no later than 5 years of delivery by the supplier.

13.11. If a material defect shows within 6 months of the passing of risk, it is presumed that the defect existed on the passing of risk unless that presumption is incommensurate with the nature of the material or defect.

### 14. Product Liability

14.1. If a claim is made against *Neapco* based on product liability, the supplier is obliged to hold *Neapco* free and harmless against the claim if and insofar as the damage has been caused by a defect of the product delivered by the supplier under the contract. In events of liability based on fault, the supplier is only obliged to hold *Neapco* free and harmless if fault can be attributed to the supplier. If the cause of the damage is within the supplier's sphere of responsibility, the supplier has the burden of proof in this respect.

14.2. In events under Clause XIV paragraph 1, the supplier must pay all costs and expenses including the costs of any legal enforcement or recall campaign.

14.3. In addition, the statutory provisions apply.

14.4. Before starting a recall campaign that wholly or partly results from a defect of the products delivered by the supplier under the contract, *Neapco* will notify the supplier and allow him to be involved and to exchange views on the efficient implementation of the campaign, unless such notification or involvement of the supplier is impossible on the grounds of particular urgency. Insofar as a recall campaign results from a defect of the products delivered by the supplier under the contract, the supplier must pay the recall costs.

14.5. The supplier must ensure that it carries sufficient insurance to cover its liability risks. Such insurance must include product liability insurance with a sum insured of € 2,500,000.00 for each case of personal damage or material damage. On *Neapco's* request, the supplier must present the corresponding insurance policies.

### 15. Proprietary Rights

15.1. The supplier is liable for claims based on infringements of proprietary rights and filings (proprietary rights) that arise from the use in conformity with the contract of the products supplied. The supplier shall hold *Neapco* and its customers free and harmless against any claims that are based on the use of proprietary rights.

15.2. This does not apply if the supplier has produced the supplied products based on drawings or models provided by *Neapco* and does not know or, in connection with the products developed by it, does not need to know that the production of the supplied products infringes proprietary rights. Insofar as the supplier's liability is excluded under this paragraph 2, *Neapco* shall hold the supplier free and harmless against any third party claims.

### Record of revision

Date	Description of change (include last change in first line)
31-01-2018	Paragraph 11.5 added
24-03.2021	Paragraph 11.4 changed

## General Terms and Conditions of Purchase from 24.03.2021



- 15.3. The parties undertake that without undue delay they will notify each other of any infringement risks and alleged infringements they may hear about and that they will allow each other to work against the corresponding claims on an amicable basis.
- 15.4. The supplier will notify the use of proprietary rights and filings concerning the products supplied, whether published or unpublished, owned or licensed. The supplier grants *Neapco* free of charge the rights of use, reproduction, distribution and derivation concerning proprietary rights owned by the supplier, without any limitation as to territory, substance or time. With regard to licensed proprietary rights of others, the supplier will ensure that the related rights of use, reproduction, distribution and derivation will also be granted to *Neapco* without any limitation as to territory, substance or time. The supplier will pay any royalties that may be charged by others.
- 15.5. With regard to software included in the purchased product package including its documentation, *Neapco* has the right of use within the scope permitted by the applicable law. With regard to such software including its documentation, *Neapco* further has the right of use subject to the agreed specifications and within the scope necessary for the use of the product in conformity with the contract. *Neapco* may create a backup copy with or without express agreement.

### 16. Place of Performance, Governing Law, Place of Jurisdiction

- 16.1. The place of performance is the place where the products are to be delivered according to the purchase order/call-off or where the services are to be rendered.
- 16.2. The laws of the country of the registered seat of the acting *Neapco* entity shall apply exclusively with the exclusion of its conflict of law provisions. The application of the UN Convention of April 11, 1980 on Contracts for the International Sale of Goods is excluded.
- 16.3. The place of jurisdiction for any legal disputes directly or indirectly arising from contractual relations that are based on these GTCP is the domicile of the *Neapco* company concerned. *Neapco* is further entitled to sue the supplier, as *Neapco* may opt, either before the court at the supplier's domicile or establishment or before the court at the place of performance.

### 17. General Provisions

- 17.1. In the event that any provision in these GTCP or in the other agreements made by the parties should be or become ineffective, the validity of the contract remains unaffected in other respects. The parties are obliged to replace the ineffective provision with a provision that equals it as much as possible as regards the economic results.
- 17.2. These GTCP supersede all former GTCP of *Neapco*.

#### Record of revision

Date	Description of change (include last change in first line)
31-01-2018	Paragraph 11.5 added
24-03.2021	Paragraph 11.4 changed