

## **PURCHASING TERMS OF FRAPE-BEHR, S.A.**

### **1. COMMERCIAL TERMS**

- a. Frape-Behr, S.A. will be responsible only for those goods ordered to the supplier in writing through an official order.
- b. The orders of Frape-Behr, S.A. are carried out exclusively based on the current Purchasing Terms.
- c. The fact that Frape-Behr, S.A. accepts the goods ordered to the supplier does not mean in any case the acceptance of the sales terms that the supplier may have, even if the supplier had informed by any means Frape-Behr, S.A., unless they had been accepted formally, in writing and by a person with enough power; therefore, we understand that the supplier, when delivering the ordered goods, does it under the purchasing conditions of Frape-Behr, S.A.

### **2. ORDERS**

- a. The orders can be placed with a special form, signed by the responsible person and sent physically to the supplier, or by fax or another information delivery electronic procedure, in such case the manual signature is not required.
- b. The order acceptance shall have to be confirmed by the supplier after reception, within maximum 15 days. If confirmation is not received within this term, Frape-Behr, S.A. reserves the right to cancel the order, informing the supplier.
- c. The supplier shall deliver the ordered goods complying with all points indicated in the order. In the event of non-fulfilment of the agreed delivery term, Frape-Behr, S.A. reserves the right to cancel the order or shift to the supplier the damages that the delay could have caused.
- d. The technical definition of the goods to be supplied shall correspond to that required by Frape-Behr, S.A. in its drawings and specifications.
- e. The supplier will modify the goods as far as Frape-Behr, S.A. modifies their technical definition.
- f. The supplier cannot introduce any variation in the goods without previous agreement with Frape-Behr, S.A.
- g. The supplier cannot sell or put at third parties' disposal the ordered goods, without the previous written approval of Frape-Behr, S.A., unless we are dealing with goods that the supplier was already manufacturing before Frape-Behr, S.A. ordered them and it has not paid totally or partially the cost of the production means.
- h. Frape-Behr, S.A. can cancel the order with justification, in the even of:
  - Deterioration of the supplier's financial or social situation.
  - Verification at any time of the lack of truth of the supplier's information on the fulfilment of the planned duties.
  - The supplier's impossibility of obtaining the required homologations or certificates.
  - Termination of the supplier's juridical personality, total or partial alienation of its business or shares, merger, split or transformation without informing Frape-Behr, S.A. in a reliable way.
  - Whenever the supplier stops its activity, is in bankruptcy procedure, suspension of payments or another of universal execution, seizure or serious solvency decrease.
  - When there is a repeated and unjustified non-fulfilment of the product delivery terms to Frape-Behr, S.A.
  - When the supplier's behaviour questions reasonably the order's fulfilment.
- i. In case of order cancellation, Frape-Behr, S.A. shall pay the supplier for all goods and services affected by the cancellation, which have been finished but not previously paid, at the agreed price and conditions, deducting the amount of any faulty, damaged or destroyed goods. The units of the goods to be paid will not be higher that those that Frape-Behr, S.A. had ordered firm at order's cancellation.
- j. In the event of an order's cancellation, Frape-Behr, S.A. will not be responsible and will not be required to pay the supplier directly or on an account of claims amounts due to claims of the suppliers' suppliers, loss of profits, non-absorption of overheads, interests of claims, costs of product development and engineering, facilities costs, rent costs, non amortized depreciation costs, or general and administrative costs.

### **3. PRICES**

- a. The prices shall be those mutually agreed between Frape-Behr, S.A. and the supplier. No price can be modified without previous agreement of the parties.
- b. The prices, unless agreed otherwise, are final and total prices, except for the value added tax; in no way Frape-Behr, S.A. will be obliged to pay any extra amount for disposing of parts in conditions to be used, with suitable packaging and in the required delivery place.
- c. FRAPE-BEHR, S.A. can modify the amounts and delivery terms according to its needs and even order a temporary suspension of supplies without causing therefore a modification of the agreed prices.
- d. In case of delivery delay for a cause not attributable to force majeure nor to Frape-Behr, S.A., it reserves the right to apply a penalisation of one per thousand of the delivery net amount by working day of delay regarding the required date.

#### **4. INVOICING**

- a. The invoices will be issued in duplicate, original and copy (not photocopy) to the headquarters of Frape-Behr, S.A., to be received from the 1st to the 5th of every month.
- b. In the invoices there should be the following information:
  - Separate invoice for materials incorporated in our production or not
  - Your supplier number
  - Our order's number
  - The internal reference of Frape-Behr, S.A., if applicable.
  - Number and date of your delivery note.
  - Your name or trade name, fiscal identification number and complete address.
  - Our trade name, fiscal identification number and complete address.
  - Place of issuance. Invoice date and number.
  - VAT taxable base, type of VAT applied and shifted VAT.
  - Goods description, supplied quantity, unitary price, total amount, etc.
  - All invoices received outside the term can have a payment delay.
  - In case of lack of data, the invoices will be returned and will be considered not received.

#### **5. PAYMENTS**

- a. The payment terms will be those agreed mutually between Frape-Behr, S.A. and the supplier. If there is no agreement, the payment term will be 90 days counting from the last day of the month in which the goods are delivered, the next 5th day.
- b. In case the supplier delivered the goods totally or partially before the required date, Frape-Behr, S.A. can return goods or consider the payment term from the day it had ordered it.
- c. Advanced payments will be accepted only in case of investment goods for which it had been previously agreed this way, previous presentation of bank warranty, whose nominal value should cover the advanced payment and due date 30 days after delivery of the acquired element. The cost of such bank warranty will be paid by the supplier and will be presented to Frape-Behr, S.A. for its acceptance.

#### **6. DELIVERY OF GOODS**

- a. Deliveries will be made in the delivery address indicated in the order; unless otherwise agreed, the supplier will make deliveries under DDU conditions according to Incoterms 2000.
- b. Goods will be accompanied by a delivery note in duplicate, indicating the order number and all necessary data for identification, according to the internal designation and reference of Frape-Behr, S.A.
- c. The reception of goods does not mean acceptance or conformity with their good state or the quantity indicated by the supplier, which can be checked later.
- d. The supplier is responsible for the supplies delivery in the date and quantities required, committing himself in case of open orders of materials to be supplied under a programme, to a safety stock of at least 4 production days, which allows him to cover possible own eventualities. Any incidence that may exist shall have to be communicated immediately to Frape-Behr, S.A.

#### **7. QUALITY**

- a. The supplier guarantees that the quality of his personnel's work and of his products as well as the work and products of his suppliers if there were any, are exempt of material and construction defects, will respond in full to the conditions and characteristics stated in the specifications and drawings that define the goods to be supplied, without being able to introduce any variation unless there is a written agreement.
- b. The supplier, through the process reliability analysis, will prove to Frape-Behr, S.A. that his quality performance is stable, continuous and constant. On Frape-Behr, S.A.'s demand, he will present the control parameters as well as the criteria, systems, methods and frequency of the integrated and external controls made on the goods to be supplied.
- c. As the base for the assessment and determination of the necessary measures of quality assurance, will be considered the assessment standards and criteria applied by Frape-Behr, S.A.
- d. The supplier is responsible for the supply of all that is ordered and under the required quality conditions; therefore he accepts that Frape-Behr, S.A. has no obligation to check that the supplies are correct, being able to dispose freely for its use of the received goods, without any previous checking.
- e. In case of incident, produced at Frape-Behr, S.A. or at its customer, due to lack of quality of goods, the supplier shall have to solve it immediately as soon as he is informed, be it with the replacement by correct goods, selection of those found faulty or any other method approved by Frape-Behr, S.A.
- f. Lacking a suitable intervention, Frape-Behr, S.A. can execute the actions that it reckons necessary and shift to the supplier all costs derived from them. Frape-Behr, S.A. will previously inform the supplier of this.
- g. The supplier shall have to guarantee the solution for the lack of quality, origin of the incident, in the next deliveries and in the term that Frape-Behr, S.A. requires, informing of the measures taken.

## **8. INSPECTIONS**

- a. The supplier shall allow the personnel of Frape-Behr, S.A., previous notice and in a reasonable term, to visit the production facilities during the normal working time, giving them the necessary help to carry out the convenient inspections on the processes, the measures to assure quality, the facilities, and with the elements in assignment of use related with the goods that he supplies.
- b. The inspection will not free the supplier from his guarantees and responsibilities of supplying the required goods, in strict agreement with the specifications that Frape-Behr, S.A. indicates.
- c. The supplier will provide Frape-Behr, S.A. if required with all technical and organisational data of the manufacturing processes used.
- d. If the supplier subcontracted totally or partially, he will have to guarantee the extension of that exposed here regarding his supplier.

## **9. PRODUCTION MEANS**

- a. All necessary means for the parts production, machinery, facilities, personnel, permits, etc. will be in the supplier's charge, being if agreed so the only responsibility of Frape-Behr, S.A. the disposition of the production means specific for the goods manufacturing.
- b. If Frape-Behr, S.A. reckoned it convenient, it can deliver to the supplier the raw materials for the goods manufacturing, otherwise it will be disposed by the supplier, being included its cost in the goods price.
- c. In all production means owned by Frape-Behr, S.A., it will have to be clearly and visibly indicated the references and drawing numbers of the parts of Frape-Behr, S.A. that manufacture.
- d. The production means specific of the goods owned by Frape-Behr, S.A. cannot be used by the supplier in any way in his own interest, and he cannot authorise on his own account and risk third parties to obtain profit or use from them, without the written consent by Frape-Behr, S.A.
- e. The supplier commits himself at his charge of the correct maintenance, preservation and custody of the production means, also being at his charge any cost derived from the incorrect proceeding in the indicated mission, as well as the costs consequently caused to Frape-Behr, S.A. in its productive process, being responsible for the damages that may cause.
- f. In case of need, Frape-Behr, S.A. can recuperate at any time totally or partially the production means of its property, with a previous written request to the supplier, who will have to return them within three working days from the request reception. If any specific production means had been paid by the supplier, he has to have received the money in its totality. The orders would remain in effect for the goods that can be manufactured with the remaining production means in the supplier's power.
- g. The supplier commits himself to formulate the relevant protest that the production means supplied or paid by Frape-Behr, S.A., deposited in his company, belong totally or partially in property to Frape-Behr, S.A., in those cases of seizure or inclusion into the supplier's assets in the supposition of having incurred in the legal situation of "Tender of Creditors", Suspension of payments" or "Bankruptcy", adopting any necessary measures without prejudice of the actions that Frape-Behr, S.A. can undertake in defence of its rights.
- h. In any of those cases, the supplier will inform Frape-Behr, S.A. immediately of such situation so that it can carry out the convenient defence of its rights, being at the supplier's charge the costs incurred and derived from the referred situations, as well as the responsibility for damages that might cause the omission of such information.
- i. For that not provided for in the current purchasing conditions, it will be ruled based on the mercantile and civil dispositions that rule the deposit contract, particularly regarding the custody obligation of the deposited material.
- j. If the supplier has any subcontractors, they will be under the same conditions.

## **10. GUARANTEE**

- a. The duration of the guarantee that requires the customer of Frape-Behr, S.A. will be assumed by the supplier, unless the applicable law indicated a different period of time; in such case it will be taken the longest period.
- b. The guarantee will cover the manufacturing defects and the design defects if the supplier participated in it.
- c. The supplier accepts, referred to the supplied goods, the responsibility that Frape-Behr, S.A. has to assume of its customers for such goods.
- d. The supplier will have to sign an insurance policy for enough value to cover the possible costs derived from any claim due to technical deficiencies in his supplies.
- e. In case Frape-Behr, S.A. has to guarantee a spare part supply to its customers, the supplier will guarantee such supply.
- f. In case of machines or facilities, the supplier will guarantee the supply of the necessary spare parts to ensure the correct maintenance of their useful life during a reasonable term.

### **11.DANGEROUS MATERIALS**

- a. The supplier, on Frape-Behr, S.A.'s demand, will inform promptly in the form and detail indicated, of the nature and amount of the components of the goods supplied as well as of any variation in them.
- b. The supplier will inform Frape-Behr, S.A. of any precautions and care to be taken to better prevent body damages or to material assets, in the handling, transport, process, use and elimination of goods, containers or packages sent to Frape-Behr, S.A.
- c. The supplier will send the goods that may suppose a danger for people or goods, in suitable packaging and duly signalised.

### **12.CONFIDENTIALITY**

- a. Frape-Behr, S.A. and the supplier as well as any of his collaborators or advisors will consider confidential and commit themselves to keep reserved and not to disclose, provide or use for third parties without previous written consent from the other party, the commercial and technical documentation, drawings, information, procedures, patents and licenses and in general any information any of them has access to and is related to the supplies supported by the orders.
- b. The supplier cannot make reference totally or partially, describe or use with publicity purposes the supplied materials or reproductions of them, without previous authorization of Frape-Behr, S.A.

### **13.INDUSTRIAL PROPERTY RIGHTS**

- a. If the supplier brings any technical improvement on the supplied products, it cannot execute any right of intellectual property on it.
- b. The supplier cannot execute rights of intellectual and industrial property of the production means owned by Frape-Behr, S.A., nor of the items manufactured with them.
- c. As long as for the supplies to Frape-Behr, S.A. the supplier uses his own or third parties' industrial property rights, he commits himself to communicate it to Frape-Behr, S.A. To that purpose, the supplier will carry out the convenient investigations on rights of industrial property.
- d. Both parties will notify mutually and immediately if they had knowledge of the alleged non-fulfilment of the rights mentioned in the previous point or if a demand is presented against one of them. The parties will cooperate mutually in the defence of any type of claim from third parties.
- e. If the supplier used rights of intellectual property of third parties without communicating it to Frape-Behr, S.A., he will be the unique responsible of the repercussions that could derive from this fact.
- f. The supplier agrees not to make any claim (except for claims due to patent infringement), regarding any technical information revealed by the supplier or that can be revealed to Frape-Behr, S.A. from now onwards, in relation to the supplied goods or rendered services.
- g. The supplier agrees to defend, sustain the innocence and indemnify Frape-Behr, S.A. and/or its customer, against any infraction claim (including patents, registered trademarks, *copyright*, rights of industrial design, utility models or other property rights), and resulting damages and expenses, incurred in any way, in relation totally or partially with the contracted goods or services. The supplier will eliminate expressly any claim against Frape-Behr, S.A., in the sense that such infraction has been according to the specifications of Frape-Behr, S.A.

### **14.APPLICABLE LAW AND CONFLICT RESOLUTION**

- a. In case of conflicts, in relation or connection with the supplied goods, the signing parties undergo the jurisdiction and competence of the Courts of Barcelona, with express renouncement of any other jurisdiction that could correspond to them.
- b. It is at the charge of the one that does not fulfil the agreed, all judicial or extra-judicial expenses caused.
- c. The order execution and fulfilment cannot be interrupted during the conflict procedure.
- d. If any provision of the current purchasing conditions were invalid or non executable, under any statute, regulation, ordinance, executive order or any other rule of law that affected it, it will have to be changed or cancelled as far as necessary to avoid this, the remaining conditions not losing any of their effects.