

General Purchase Conditions

GENERAL PURCHASE CONDITIONS

(Goods)

DEFINITIONS:

"AVK" means any company within the AVK Group.

"Code" means AVK's Code of Conduct for Suppliers.

"Supplier" means the person or company to whom AVK's PO is addressed.

"GPC" means the terms and conditions set forth herein.

"Purchase Agreement" means any agreement between the Supplier and AVK for the supply of Goods.

"PO" means a purchase order issued by AVK under a Purchase Agreement or otherwise.

"Specification" includes any specification, design, plan, model, pattern, prototype, drawing, software, data or other information relating to the Goods.

"Goods" shall mean all supplies, including but not limited to components, raw material or semi-finished goods, that AVK orders and the Supplier supplies to AVK.

OPERATIVE CLAUSES:

1. Interpretation and Application

1.1 The term "**written**" or "**in writing**" includes communication by electronic means.

1.2 Examples do not limit general wording.

1.3 If any provision of the GPC is held to be invalid or unenforceable in whole or in part the validity of the other provisions of the GPC and the remainder of the provision in question shall not be affected thereby.

1.4 Every supply of Goods to AVK is governed by the GPC, unless otherwise agreed in writing. The Code forms part of the GPC. The applicability of any general and special terms and conditions of the Supplier is hereby excluded.

1.5 The GPC shall apply to repeated orders and all subsequent orders, even if not specifically mentioned in verbal or in writing.

1.6 The PO constitutes an offer by AVK to purchase the Goods from the Supplier. If no period for acceptance has been fixed in the PO, the Supplier's acceptance must reach AVK within a period of three (3) Working Days. In this article, Working Day means a calendar day other than a Saturday, Sunday or a Public Holiday at the Supplier's principal place of business. In case of the Supplier's late acceptance, AVK may deem its offer lapsed. No verbal order, request or enquiry for Goods is binding on AVK unless confirmed in writing.

1.7 No variation to a PO or the GPC is binding on AVK unless agreed in writing between the authorised representative of AVK and the Supplier. Execution by the Supplier of a PO in whole or in part constitutes acceptance thereof.

1.8 The Supplier has read and understands the GPC and agrees that the Supplier's written acceptance of or its performance in relation to a PO shall constitute the Supplier's acceptance of the GPC.

2. Ordering and Order Confirmation

2.1 Only written POs are legally binding for AVK. A Purchase Agreement is deemed concluded only when AVK has issued a PO to the Supplier and the Supplier has accepted such PO. The Supplier shall be deemed to have accepted the PO at the earlier of (1) the Supplier notifying AVK of its acceptance or (2) the Supplier beginning performance pursuant to the PO. The GPC form part of any PO.

3. Prices

3.1 Prices exceeding those listed in the PO shall not apply unless explicitly approved by AVK in writing. Unless otherwise agreed in writing, the price stated for the Goods shall be a fixed price, inclusive of all duties, levies, fees and taxes in the country of origin of the Goods.

3.2 The Supplier shall provide AVK with Goods that are competitive in terms of price, quality, delivery and technical function. If AVK considers that the Supplier's delivery of Goods is no longer competitive in relation to price, quality, delivery and/or technical function even though the delivered Goods are in accordance with the terms of the PO, AVK shall supply the Supplier with supporting information. The Supplier and AVK shall in good faith discuss how to make the Goods competitive. If the parties are unable to arrive at a mutually acceptable solution within thirty (30) days after AVK's notification, then AVK shall have the right to terminate the PO and/or the Purchase Agreement (whichever is relevant), insofar as it concerns the non-competitive Goods by giving the Supplier thirty (30) days' notice and AVK shall be entitled to source any or all Goods from a more competitive source.

3.3 All invoices shall be correctly addressed, without being marked for the attention of any individual, and include all other information that is required by AVK. Remittance of payment shall not imply any acceptance of the delivery or of the invoiced amount.

3.4 The Supplier and AVK will jointly pursue cost reduction opportunities and will reflect the achievements of such opportunities in price reductions to AVK. Without prejudice to AVK's other rights and remedies under the GPC or otherwise, AVK may deduct from any payments due to the Supplier the amount of any bona fide contra accounts or other claims which AVK may have against the Supplier irrespective of whether such amounts originate from different POs and/or is based on other legal circumstances or agreements.

4. Risk and Property

4.1 The agreed delivery term shall be construed in accordance with INCOTERMS 2010. The Supplier shall pack the Goods in accordance with instructions issued by AVK. Packaging shall protect the Goods from shipping damage.

4.2 Unless otherwise set out in the PO, and without prejudice to any right or remedy of AVK under the GPC or otherwise, (i) title to the Goods will pass to AVK upon delivery to the delivery location designated in the PO by AVK and (ii) passing of risk shall be deemed not to have occurred until the Goods have been sufficiently inspected by AVK to ascertain that they have been supplied in accordance with the details stated in the PO.



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5. Delivery Schedule

5.1 The Goods shall be delivered to the address for delivery specified in the PO on the date or within the period stated therein. The Supplier shall ensure that each delivery is accompanied by a prominently displayed delivery note which shows, inter alia, the order number, date of order, number of packages and contents and, in the case of delivery by installments, the outstanding balance remaining to be delivered. If the Goods are delivered to AVK in excess of the quantities ordered AVK shall not be bound to pay for the excess and any excess will be and will remain at the Supplier's risk and will be returnable at the Supplier's expense.

5.2 If the Supplier requires AVK to return any packaging material to the Supplier that fact must be clearly stated on any delivery note delivered to AVK and any such packaging material will only be returned to the Supplier at the cost of the Supplier.

5.3 If no time for delivery of the Goods has been fixed in the PO, performance shall be made on AVK's demand. If a period of time has been fixed for delivery, the Supplier may, upon reasonable notice to AVK, within that period choose a date of delivery unless circumstances indicate that the period was fixed for the benefit of AVK. All Goods delivered shall be manufactured in accordance with the Specifications and in any case not below general industry standards for good workmanship.

5.4 The Supplier acknowledges and agrees that time is of the essence in the fulfillment of any PO. Every PO may be cancelled by AVK provided that the relevant Goods are not shipped at the time of AVK's cancellation. AVK reserves the right to refuse deliveries made in advance of the delivery schedule. Goods shipped after the time specified may be returned at the Supplier's expense for full credit. Retention of all or any part of Goods shall not be considered acceptance of same. Acceptance of such Goods shall not be deemed a waiver of AVK's right to hold the Supplier liable for any loss or damage resulting therefrom, nor shall it act as a modification of the Supplier's obligation to make future deliveries in accordance with the delivery schedule. AVK shall be reimbursed in full for all Goods returned. In addition thereto, in case shipment is not made on time AVK shall have the right to (1) make a replacement purchase in the open market, in which case the Supplier shall hold harmless AVK from any costs and losses arising as a result of the replacement purchase or (2) receive liquidated damages for delay equal to zero point five (0,5%) percent of the price of the invoiced value of the delayed Goods per commenced week of delay up to a maximum of seven point five (7,5%) percent of the invoiced value of the delayed Goods. The rights of AVK set out in this article 5 are without prejudice to any other rights or remedies that AVK may have by reason of the GPC or otherwise.

6. Confidentiality

6.1 The parties have agreed that any confidential information concerning the parties and/or activities of the parties, which has come into the other party's possession, whether received directly, in writing, orally or via receipt of product samples or parts thereof, or acquired during visits, etc., shall be handled with strict confidentiality by both parties.

6.2 Confidential information of AVK includes: (1) any specification, design, plan, model, pattern, prototype, drawing, software, data or other information for goods and processing of goods provided by AVK; (2) the Specifications and (3) any other information provided by AVK, including without limitation, all oral or written information relating to the Goods, or information relating to AVK's customers, suppliers, business practices, products, designs, inventions, or research and development.

7. Intellectual Property and Production Rights

7.1 AVK remains the owner of any specification, design, plan, model, pattern, prototype, drawing, software, tool, die, jig, data, specification of delivery, material or other document or information (collectively "**Intellectual Property & Production Rights**") that AVK provides to the Supplier. Without AVK's written consent, such Intellectual Property & Production Rights may not be used for the Supplier's own purposes or for any other purpose or made available to third parties and may be used only for the purpose of the delivery of Goods to AVK. Upon the request of AVK the Supplier shall return such Intellectual Property & Production Rights to AVK. The Supplier shall not produce or manufacture larger quantities than those specified in each PO. The Supplier shall not, without first obtaining the written consent of AVK, in any manner publish AVK's name or otherwise indicate that the Supplier has furnished or contracted Goods to AVK.

7.2 For the avoidance of doubt, this article 7 does not preclude the Supplier from producing, manufacturing or designing goods for anyone other than AVK (collectively "**Third Party Manufacture**") provided that (1) no reliance is made on AVK's Intellectual Property & Production Rights and (2) tooling used for the Third-Party Manufacture is owned by the Supplier or a third party.

8. Product Warranty

8.1 a) The Supplier warrants that the Goods will (1) conform to drawings, patterns, descriptions and Specifications designated by AVK and with all samples approved by AVK; (2) be of merchantable quality and fit and sufficient for the particular purposes intended, new, best available technology, safe, of first-class workmanship and free from defects, contamination and rust; (3) be packaged and marked correctly; and (4) be free from all liens and encumbrances.
b) If Goods are designed by the Supplier he furthermore warrants that the Goods (1) will be free from defects in design; (2) comply with all laws and regulations, industry standards etc.; and (3) will not infringe any patents, copyrights or other proprietary rights of third parties (articles 8.1 a) and 8.1. b) collectively "**Supplier's Warranty**".

8.2 To the fullest extent permitted by law, the Supplier agrees to hold harmless and indemnify AVK in case of breach of the Supplier's Warranty.

8.3 Supplier's Warranty shall remain in effect for a period of thirty (30) months calculated from the date of delivery to AVK, however, not more than twenty-four (24) months from the moment the final products of which the Goods form part have been put into operation. Neither approval by AVK of the Supplier's design nor acceptance of the Goods shall release or discharge the Supplier from liability for damages resulting from a breach of Supplier's Warranty.

9. Quality and Testing of Goods

9.1 The Supplier shall, prior to commencement of serial production of new or changed Goods, manufacture and perform quality control of samples in accordance with AVK's applicable requirements relating to testing from time to time.

9.2 Once a sample has been approved, alteration of the function, appearance, characteristics, material, production method, place of manufacture, tooling or other equipment which may affect the Goods, may be done only after written approval on each occasion from the AVK Group purchase department. Delivery may thereafter be made only after renewed approval of a sample. If AVK rejects a sample, the Supplier shall make rectification so that the requirements are fulfilled and reimburse AVK's costs for verification testing of the Goods after such



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rectification. AVK's approval of samples shall not affect the Supplier's liability and obligations in accordance with the PO or Purchase Agreement.

9.3 AVK expects all Goods delivered to comply with a zero-defect principle. The Supplier is obliged to deliver the Goods in accordance with AVK's specifications and quality requirements. The Supplier is obliged to conduct 100% Final Quality Control ("FQC") of delivered Goods (only 100% passed Goods shall be delivered to AVK) and the Supplier shall maintain records of such FQC to be made available to AVK on request. The records of FQC shall contain at minimum the following:

1. Date of inspection
2. Acceptable Quality Level (AQL)
3. Order number
4. Batch quantity
5. Inspected sample quantity.

AVK shall have the right, upon prior written notice, to inspect the Supplier's premises and processes and the Quality Assurance procedures of the Supplier.

10. Defects - Non-conformity

10.1 In the event that AVK determines that the Goods are defective, damaged or otherwise not in conformity (collectively "Defective Goods"), AVK may reject the Defective Goods and in such case, AVK shall not pay the purchase price and may cancel the PO and/or the Purchase Agreement (whichever is relevant) without any obligation or liability. Furthermore, in case of Defective Goods AVK may, at AVK's option, either: (1) retain such Defective Goods and an equitable adjustment will be made in the PO price for such Defective Goods; (2) require the Supplier to repair or replace such Defective Goods, at the Supplier's sole expense, including all shipping, transportation, and installation costs; or (3) require the Supplier to correct or replace such Defective Goods with similar Goods and recover the total cost thereof from the Supplier. The Supplier shall pay for incidental and verifiable costs incurred, including AVK's cost of repackaging, manufacturing, transporting, shipping and installation the Defective Goods and/or replacement Goods to and from AVK's or AVK's customer's facility. The aforesaid remedies shall survive acceptance and payment and shall run to AVK, its customers and their successors in title and shall be in addition to AVK's other rights and remedies under the terms of the GPC or otherwise.

10.2 All complaints (in the form of NCR reports – "Non-Conformity Reports") must be communicated to the Supplier in writing as soon as possible after Defective Goods have been detected by AVK.

11. Customs documents and Certificate of Origin

11.1 The Supplier accepts all responsibility for the information on the Certificate of Origin, letter or affidavits and any similar document. By accepting the PO, the Supplier accepts full responsibility for the completeness and accuracy of the corresponding Certificate of Origin and all other customs documentation provided to AVK. The Supplier accepts any liabilities resulting from inaccurate data on the documents or failure to comply with Certificate of Origin requirements.

12. Product Liability and IPR Indemnification

12.1 To the fullest extent permitted by law, and notwithstanding anything to the contrary in the GPC, the Supplier agrees to indemnify, hold harmless and defend AVK, their distributors, customers and end-users from and against any claim, loss, expenses and all other obligations and proceedings whatsoever, including all judgments rendered against, and all fines and penalties imposed upon AVK and any reasonable attorney's fees and any other cost of litigation (collectively "Liabilities") arising out of:

12.2 Injuries to persons, including death, or damage to property, caused by the Supplier, its employees, agents, subcontractors, or in any way attributable to the performance and prosecution of the work herein contracted for, including without limitation breach of warranty or product liability; except that the Supplier's obligation herein to indemnify AVK shall not apply to any Liabilities arising from AVK's sole negligence.

12.3 Infringement and alleged infringement, direct or indirect, of any third party proprietary rights, including but not limited to patent right, related to the Goods; except that the Supplier's obligation herein to indemnify AVK shall not apply to any Liabilities arising from AVK's sole negligence.

13. Insurance

13.1 The Supplier shall procure and maintain at its sole expense insurances with reputable and financially responsible insurance companies, which adequately cover Supplier's liability against AVK and third parties.

13.2 AVK is entitled to require certain insurance coverages and amounts to be taken out by Supplier. Supplier shall provide to AVK certificates or memoranda of such insurances and renewals thereof signed by the issuing company or agent or other information respecting such insurance at any time promptly upon AVK's request.

13.3 AVK's examination of, or failure to request or demand any evidence of insurance hereunder, shall not constitute a waiver of any requirement of this provision and the existence of any insurance shall not limit Supplier's obligation under any provision hereof.

14. Language

14.1 Should the GPC be translated into another language than English, the English version shall prevail in case of inconsistency.

15. Standards and Regulations

15.1 The Supplier undertakes to meet all applicable environmental standards and regulations regarding chemical substances in both the country of manufacturing and in the country of destination, regardless of whether these substances are supplied to be used on their own, in preparations, or in Goods. This undertaking includes (1) (regarding deliveries with final destination within The European Union) the European REACH regulation in force at any time and (2) the United Nations Globally Harmonized System of Classification and Labelling of Chemicals (GHS) and the legislation implementing the GHS in the different jurisdictions.



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15.2 The Supplier shall indemnify and hold harmless AVK against all damages and losses imposed on AVK as a result of the supplied Goods' (including in their packaging) non-compliance with the applicable environmental standard or regulation regarding chemical substances including the REACH regulation, the GHS and the legislation implementing the GHS in the different jurisdictions.

16. Governing Law and Venue

16.1 The GPC shall be construed and governed by the laws of the country in which the relevant AVK purchasing entity has its principal place of business, with exclusion of any choice of law rules. The applicability of the United Nations Convention on Contracts for the International Sale of Goods ("CISG") (the authentic English language text) is explicitly included for international sales.

16.2 Any dispute or claim arising out of or in connection with the GPC shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with the said Rules. The Emergency Arbitrator Provisions shall not apply. The place of arbitration shall be in the capital in the state of the relevant AVK purchasing entity. English shall be the language used during any such proceedings unless otherwise agreed between the parties.

16.3 Notwithstanding article 16.2, AVK may at its sole discretion choose to initiate legal proceedings against the Supplier at the courts having jurisdiction over the Supplier's principal place of business. In that case, any matter not governed by CISG shall be construed and governed by the laws of the country where the Supplier's principal place of business is located, with exclusion of any choice of law rules.

16.4 In addition to the aforesaid, either party is entitled to seek injunctive relief by a competent court as may be necessary to restrain any breach or threatened breach of the GPC by the other party

