

GENERAL PURCHASING CONDITIONS SUPPLIER OF NON-PRODUCTIVE MATERIALS, SERVICES AND EQUIPMENTS

1. Introduction

This document is effective from 8th November 2021.

This document invalidate and replaces any other agreement stipulated previously between the parties. General Terms and Conditions of Purchase apply to all entities/companies operating as part of ASK group, meaning:

ASK Industries GmbH, Hauptstr. 73, D-94559 Niederwinkling, Germany
ASK Industries S.p.a., Viale Ramazzini 39/F, c/o Parco Innovazione 42124 Reggio Emilia, Italy
ASK Industries S.p.a, Via dell'Industria, 12 I-60037 Monte San Vito (AN), Italy
ASK Ningbo No. 719 Tianstaishan Road Beilun District Ningbo Chiny (315800), China
ASK Chongqing No.23 Tongda Road Yubei District Chongqing, China
ASK Do Brasil LTDA – Rua J. Alves Ferreira 95-B/S.Sebastiao - 35702 - 079 Sete Lagoas, Brasil
ASK Tunisia S.A.R.L. 15 Rue du Bois, Z.I. Du Ksar Said Manouba-Tunis, Tunisia
ASK Poland Sp. Z o.o., ul. Wyzwolenia 74 43-300 Bielsko Biała, Poland
ASK Poland Sp. Z o.o., ul. Dworkowa 4, 43-365 Wilkowice, Poland

1. General

1.1 The parties agree to regulate supplies with these general purchasing conditions. These conditions will be integrated, from time to time, with particular supply conditions in single orders, where the requirements of the goods or services requested, the prices, the terms of payment, of delivery and every other element of an economic or executive nature, that is not regulated by these general conditions, will be specified.

1.2 Purchase orders are always in written form as is the acceptance of them (except for what is indicated in paragraphs 1.4 and 1.5) or their modifications. The parties acknowledge this fact and agree that the sending of orders along with their acceptance and related correspondence can also be done by e-mail, certified e-mail, etc. The Supplier guarantees a continuous or, in any case, daily and periodic connection to the network along with an efficient electronic system, assuming full responsibility and holding ASK Industries harmless from any detrimental effect that may ensue from an unsuccessful or incorrect functioning. As for the above, making an exception to any different legal provision or presumption, the orders and communications sent by ASK Industries (e-mail, certified e-mail, etc) will be considered to have been regularly received by the Supplier, unless they have been preceded by a written communication by the latter giving notice of the temporary impossibility to use the system. The Supplier, moreover, undertakes to implement and maintain the necessary instruments for the interchange of data, guaranteeing continuous and correct functioning in any situation.

Sede Legale

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Codici Identificativi

R.E.A. di Ancona n. 59351
R.I. di Ancona - Codice Fiscale: 00091200428
Partita IVA: IT 00091200428
Capitale Sociale: Euro 13.000.000

1.3 Orders are assigned according to the particular conditions that accompany them and to these general conditions, with complete exclusion of any other conditions of the Supplier. Acceptance of the order means a complete and unconditional acceptance of all the particular and general conditions established hereby. For this purpose it is explicitly stated that the clauses indicated in this document are considered necessary by ASK Industries for concluding the contract and for the relationship, since it is understood that by accepting the order, even tacitly, the Supplier also considers that the contract necessarily includes these clauses that he will commit to sign if he has not already done so on acceptance of the order. Any modification or addition will only be valid if agreed in writing. Drawings and any other supply requisites referred to in the particular conditions or attached to the order are an integral part of the contract.

1.4 The contract relative to each single supply is considered closed when ASK Industries receives a written acceptance from the Supplier (e.g. feedback e-mail, acceptance of certified e-mail), without modifications, dispute, or other conditions inherent to the content of the order and established in these general conditions; a non-conforming communication will be valid as a counter-proposal, its acceptance being at the complete discretion of ASK Industries. Anyway, the order is held to be accepted by the Supplier if manufacturing and supplies requested by ASK have begun in the complete and unconditional observance of all their elements both economic and executive; in any case, ASK Industries should be kept informed so as to be able to verify such circumstances in reality.

1.5 No modification to the supply terms and methods contained in the order can be added by the Supplier on his own initiative. As soon as the Supplier realizes that he is unable to accept the order according to the agreed terms, he must immediately inform ASK Industries in a written form, explaining the reason and the new terms requested. Purchase order will be considered totally accepted, if ASK Industries does not receive any modification proposals within three working days from when the order is sent to the Supplier.

1.6 It is preferable that communications between parties is in written form, even by telecommunication means; this written form, with the possibility of recording its origins and reception by the receiver, is however necessary for communications of particular importance that can influence the contractual relationship.

1.7 These general purchasing conditions become irrevocable and therefore binding for ASK Industries on acceptance by the Supplier; that is when a copy of this document is duly signed by the Supplier and returned (unless signed by both parties at the same moment).

2. Quality agreement

2.1 For all issues about: a) Supply Approval, Initial Samples and Testing, b) Quality, Certification and Controls, c) Acceptance and Warranty – not conformity management, problem solving d) Verification and Continual Improvement System of Supply Quality, e) supplies performance measurement system. f) Action to do in case of suppliers performance not in target, the Supplier must comply with the specifications provided by ASK Industries (eg. Drawings, Standards, Tender Specifications etc.)

2.2 Sustainability

2.2.1 For all issues about: a) Creation and application environmental management systems, b) Social standards. Supplier shall follow the specific annex: Sustainability Agreement.

3. Supply Modifications

3.1 No modification of the supply terms and methods contained in the order can be made by the Supplier on his own initiative. The parties can agree to modify, update or define together some characteristics of the product/service. In case of any modification which has impact on process/product/relocation, the supplier shall provide notification to ASK at least 6 months in advance. The request of modification will be evaluated by an ASK Team for the modification management that will define and agree with the supplier the time schedule and management.

In justified exceptional cases, deviating regulations will be agreed with ASK Team. Modification is not permitted in start-up phase.

The parties declare complete availability of their technical departments for collaborating in the study and realization of models able to satisfy the production and commercial requirements defined by ASK Industries.

4. Prices and their Variations

4.1 The prices indicated in the order are fixed and are considered to include packaging and transport, Delivery Duty Paid, (“DDP” – INCOTERMS 2000), ASK Industries plant. Therefore, variations on the basis of subsequent cost increases are excluded.

4.2 Any variations will be agreed between the parties in writing in to the purchase order or in other dedicated annex.

4.3 Any changes in price, justified by costs increases or decreases due to significant modifications to the supply as explained in par. 3.2, must be submitted by the Supplier before the agreement on modifications. Within 5 working days at the latest, the Supplier may specify and document the valorization of the modification compared to what was submitted when the modifications were agreed. When this happens, ASK can agree to any price adjustment, re-discuss the modification or ultimately cancel the order.

4.4 Every supply activity, without exception, is subject to the continual improvement of the products and/or processes and/or services so as to bring about periodic reductions in the sales price made by the Supplier to ASK Industries , by means of an increased production efficiency. The amount and frequency of such reductions, agreed between ASK and the Supplier in advance on an annual basis, will be evaluated in the light of contingent market circumstances each time.

4.5 ASK Industries can check the congruency of order price with the market trend with any times that retain necessary without information to the supplier.

5. Delivery and Invoicing

5.1 The supply products are delivered to ASK Industries , or to whom it is indicated, in accordance to what is foreseen in the specifications and, each time, better specified in the orders or delivery schedules.

5.2 For open orders, that is repeated deliveries over a period of time, ASK Industries communicates the delivery schedule to the Supplier with periodic frequency, distinguishing the “confirmed” from the subsequent “provisional” deliveries. This are only to be considered as forecast not valid as a purchase order.

5.3 In the event of a non-conforming or faulty delivery, ASK Industries can consider the order relative to the delay cancelled immediately, charging the Supplier of cost sustained for incurred damages, including stop of production and special transportation to the customer. ASK Industries may cancel the whole programming in progress for delays of more than the time agreed or that possibly conceded by ASK Industries.

5.4 Any differences in cost due to ditches carried out in a way different to that indicated in the order are totally at the Supplier’s expense unless otherwise agreed with ASK Industries in writing beforehand.

5.5 The supply that is conforming to the order at the time of the check performed at the ASK Industries plant, or in different delivery locations indicated by the same, is considered valid. Any differences regarding the order content will be communicated to the Supplier to define the management modalities.

5.6 The Supplier undertakes to issue a regular invoice and undertakes to indemnify ASK Industries for any damages caused by any violation to the relative provisions of law.

6. Packaging and Instructions

6.1 The Supplier is obliged to deliver the products as provided in the respective packing specifications issued by ASK Industries If the packing specifications are not available, the Supplier must deliver the products in packing adequately robust to hold and transport them, in accordance with the relative regulation on safety at work.

7. Payments and Currency

7.1 Apart from different agreements for single orders, payments will be made as specified in the purchase order.

7.2 ASK Industries can suspend payments in the event of a serious or repeated non-fulfilment by the Supplier in executing supplies (even if the payments refer to different ones) and in instances explicitly indicated in these general conditions.

8. Moulds, Equipment and Instruments

8.1 All that is necessary and specific for realizing the products/services to meet an order from ASK Industries may not be used by the Supplier for a production different from that of this contract or its modifications without prior written agreement from ASK Industries. All the equipment, as indeed any drawings, technical-informative documents, models, prototypes, etc. realized by the parties or exchanged between them in fulfilling this contract, shall remain the complete and exclusive property of ASK Industries, excluding any rights the Supplier may claim to them. The Supplier is responsible for their loss, destruction or damage.

He undertakes to:

- record and mark them as property of ASK Industries ;
- store and use them with utmost care, paying for all relative ordinary maintenance; urgently inform ASK Industries in the event of any extraordinary maintenance requirements or replacement, specifying the reasons and interventions considered necessary; verify the compliance with machinery safety regulations and observe the rules of maintenance and use;
- Any extraordinary maintenance in case of damage caused by a not properly use done by the supplier will be charged to the supplier. In any case this extraordinary maintenance must be authorized from ASK Industries , All eventual re qualification cost will be charged to the supplier.
- ensure use in accordance with regulations in force, in particular with the rules connected with work safety and risks prevention;
- not remove them from his premises if not within the limits authorized in advance each time by ASK Industries ;
- allow the staff of ASK Industries to control, during normal business hours, their preservation, utilization and state of use;
- not use them or permit that they are used for anything but realizing the orders of ASK Industries;
- not produce/assign to third parties for whatever reason, even indirectly, components designed or produced by or on the basis of such equipment, drawings, technical-informative documents, models, prototypes and specifications;
- arrange for the drawing up of an insurance policy with a major company, that guarantees the property and production plants, where the goods of ASK are located, against any damages resulting from fire, theft and accessory risks, whoever may be responsible for such events, without asking for compensation from ASK Industries.

9. Improvements

9.1 The Supplier undertakes to inform ASK Industries of any technical-manufacturing improvement requirements of the supply products, equipment and anything else necessary to the realization of the products/services.

9.2 The Supplier undertakes to develop and a promote the policies relating to the environment, following the instructions indicated in the Standard — ISO 14001 — inside his company and to the sub-contractors approved by ASK Industries.

10. Technical Information, Industrial Property and Competition

10.1 The Supplier is obliged to the requirements specified in the confidentiality agreement QSM000018 signed by him.

11. Assignment and Sub-contract Prohibition

11.1 Unless authorized in writing by ASK Industries in advance, the Supplier may not in any way assign to others the rights and obligations deriving from supply relationships nor sub-contract the activities even partially. The Supplier shall in any case be held responsible for every non-execution of the contract clauses agreed as a whole (general and particular conditions) by any sub-contractors that are not effective in their activities, even if they have been approved by ASK Industries.

12. Withdrawal and Cancellation

12.1 Excluding the events of force majeure and other cases of termination referred to in these General Conditions, the contractual relationship arising from the order may be terminated, even partially, at any time by ASK Industries with written notice which must be communicated to the Supplier with 5 (five) days notice unless otherwise agreed between the Parties.

12.2 The causes described below and all those expressly mentioned in the context of the specific provisions of these General Conditions constitute reason for termination of the order and of any contractual relationship between the Parties based on these General Conditions, compatibly with the laws applicable:

- Acceptance by the competent judicial authority of the request for suspension of payments to the Supplier or starting of a liquidation procedure, declaration of insolvency by the judicial authority; actual insolvency; public and private transfer of assets to creditors or division of assets at the request of creditors, regardless of whether it results in unavailability; foreclosure, seizure or other constraints on such assets.
- Total or partial breaches by the Supplier.
- Delay in the provision of the Services and / or Goods with respect to the agreed delivery times, if the Supplier is responsible for such delay.
- Lack of quality of the Services and / or Goods.
- Change of the Supplier's company name; change in the shareholding structure or control, transformation, merger, demerger or sale of the business unit.
- Modification of prices or other specific conditions relating to the Services and / or Goods.
- Violation of the Ethical Code of Ethics adopted by ASK Industries.

12.3 In all the above cases, early termination is effective from the date of receipt of the communication – to be sent by registered letter with return receipt - with which ASK Industries communicates that it intends to make use of this clause.

13. Force Majeure

13.1 The supplier is not held responsible for any delays in supplies really and solely caused by unforeseeable circumstances and completely beyond any possible control (natural disaster, uprisings, sudden strikes, etc.). If the force majeure should continue for a period above the allowance of 3 (three) working days (unless otherwise agreed between the Parties) of the supply delivery term, ASK Industries may withdraw from the orders involved, without any obligation of compensation.

13.2 The Supplier must in any case immediately inform ASK Industries of the cause of the arisen force majeure and adopt the most suitable measures to limit the effects.

14. Miscellaneous

14.1 Any allowances made by ASK Industries , even repeated, of breaches of contractual obligations by the Supplier may not constitute precedents nor undermine the validity of the general or particular clauses not applied.

14.2 The Supplier, if so requested by ASK Industries , is obliged to not divulge his commercial relations with the same.

14.3 Although not explicitly foreseen during contractual negotiations, the relationship is governed by the relevant applicable legal regulations and by business practices in force in the sector.

14.4 The agreement of these general conditions is considered effective for all the orders forwarded and exchanged between the parties that sign it and automatically takes effect from the signing of the most updated version.

15. Controversies and Place of Jurisdiction

15.1 For any controversy concerning supplies, as well as interpretation and execution of these general conditions and of those particular ones contained in single orders and anyway concerning the relationship established between the parties shall be resolved in the Law Court of competence (Reggio Emilia) which has exclusive competence, unless there is an imperative statutory provision.

15.2 The parties shall undertake to follow all the procedures mandatory under law, it being understood the commitment to reach an amicable settlement and to observe the above paragraph if the dispute has to be judged by judicial authority.

....., on

The Supplier Signature

Having specifically read and explicitly accepted the clauses of these general conditions: n.1 (General), 2 Quality agreement, 3 (Supply Modifications), 4 (Prices and their Variations), , 5 (Delivery and Invoicing), 6 (Packaging and instructions), 7 (Payments and Currency), 8 (Moulds, Equipment and Instruments),9 (improvements), 10 (Technical Information, Industrial Property and Competition), 11 (Assignment and Sub-contract Prohibition), 12 (Withdrawal and Cancellation, 13 (Force Majeure), 14 (Miscellaneous) and 15 (Controversies and Place of Jurisdiction).

The Supplier Signatur