

**1. OBJECT**

- 1.1. The present General Terms and Conditions for Purchase Orders regulate the purchase by *InCom* of Materials (hereinafter referred to as "**Material**" or "**Materials**") offered by Suppliers.

**2. VALIDITY AND PREFERENCE OF DOCUMENTATION**

- 2.1. The present Terms and Conditions (T&C) are at all times included in any Purchase Agreement and they will be applicable to all further purchase contracts without the need for specific notice of such applicability.
- 2.2. No other T&C will be accepted other than the ones specified by the present document, and no modification will be valid except in the cases when it has been explicitly accepted by *InCom* in all or part of its terms.
- 2.3. In the event of contradiction between the Terms and Conditions for a specific purchase, the General Terms and Conditions and the Supply Contract, the Supply Contract, signed by both parts, shall prevail over the others; specific Terms and Conditions for the purchase agreed in written by the parties shall come next; finally, the present Terms and Conditions.
- 2.4. Verbal agreements and purchase conditions by the Supplier will only be applicable if they are ratified or acknowledged by *InCom* in written. Lack of objection will in no case imply tacit acceptance by *InCom*.
- 2.5. The Supplier cannot transfer or negotiate in any way the whole or part of the contract signed with *InCom* without previous written consent by *InCom*.
- 2.6. Delivery of the materials constitutes complete acceptance of the present Terms and Conditions by the Supplier.
- 2.7. In the cases where the Supplier wishes to trust *InCom* to speak on their behalf, or when the Supplier is acting on behalf of *InCom*, a written agreement must be signed for the applicable effects.

**3. ACCEPTANCE OF T&C**

- 3.1. Acceptance of the present T&C implies total compliance with its conditions.
- 3.2. Acceptance of the T&C, duly signed, must be forwarded to *InCom* within five (5) natural days from the date of reception. However, acceptance of the Purchase Order (PO) by the Supplier implies acceptance of the T&C.

**4. CONSULTATION**

Consultation by *InCom* employees will not constitute a contract in any case, and will not result into any obligations related to a purchase agreement. Details and information provided to the Client regarding the suitability and use of the materials are not binding. *InCom* will never take any responsibility over the base of such consultation, according to applicable laws.

**5. PRICE**

- 5.1. The Price stated in the PO is firm, fixed and not subject to revision, except when there is written agreement by the Parties that states otherwise.
- 5.2. The Price will be indicated in the PO in the conditions and place of delivery stated in the same PO and according to the Incoterm agreed by the parties.
- 5.3. No charges will be paid for transportation, packaging or other expenses without previous agreement by the parties.
- 5.4. The Price includes three (3) months of storage for each Material in the Supplier's premises; any liability for damages that the Material may suffer during the period of storage will be the responsibility of the Supplier. The material will be supplied according to the instructions given by *InCom*.

**6. MEANS OF PAYMENT**

- 6.1. Only original bills will be paid, accompanied by the corresponding dispatch note or similar document signed and accepted by *InCom*, where the corresponding PO number is reflected, as well as the quantities, reference, Price and other significant data included in the PO.
- 6.2. Unless special agreement in signed with the Supplier, which shall be specified in the PO, payment will be made on the 20th of the corresponding month after 60 natural days from the reception of the Material, in the conditions and place stated in the PO according to the Incoterm agreed on by the parties, even if the bill or payment request has been previously received.
- 6.3. Bank Transfer is hereby established as the preferred means of payment.
- 6.4. Bills must be delivered to *InCom* before the fifth working day of the following month for them to be attended to within the date. Otherwise, the bill will be attended to on the next month.

- 6.5. Payment of bills corresponding to Materials, Products or Services related to them which have not been directly ordered by *InCom* will not be attended, unless explicitly agreed otherwise.

**7. DELIVERY**

- 7.1. Any Materials must be correctly identified and accompanied by the corresponding dispatch note with a copy, stating the number of PO, quantity, code, reference number, name or description of the Material, as well as any other documents requested by *InCom* (quality certificates, inspection, etc.). A signed copy of the dispatch note will be kept by *InCom* and the other one by the Supplier in order for it to be forwarded together with the bill.
- 7.2. Materials must be accompanied, in a visible place in their packaging and dispatch note, the "*InCom* Group item code" and the confirmation of the PO or confirmation of service associated to the delivery.
- 7.3. Materials must be properly packaged in order to avoid damages. *InCom* will not pay for packaging unless previously agreed otherwise. Packaging will be paid for by the Supplier and will be suitable for the material and the means of transport, providing proper protection during transportation against bumps or erosion.
- 7.4. Whenever wooden boxes, pallets or other handling means are used with the Materials, phytosanitary rules according to FAO regulations must be complied with.
- 7.5. Unless otherwise specified, delivery and reception of materials will be made according to the Incoterm defined in the PO.
- 7.6. *InCom* holds the right to return any unrequested extra Materials, the Supplier being in charge of any shipping costs.
- 7.7. Acceptance by *InCom* of delivered Material is subject to verification by *InCom* of proper compliance with its technical specifications. Any Material which has been rejected by *InCom* Quality Control, after being deemed defective, will be returned to the Supplier, who will be in charge of any costs incurred in from the beginning of the process. Such return may result into a total or partial cancellation of the PO without any kind of compensation to the Supplier. Nevertheless, *InCom* holds the right to repair, according to the Supplier's instructions, defective Materials, being the Supplier in charge of covering any costs generated by such repairs.

**8. DELIVERY TIME**

- 8.1. The delivery plan established by the PO will be firm, and it must be carried out according to quantities, dates and places specified in that or other documents agreed on by the parties.
- 8.2. Partial or total failure to comply with the delivery dates will result into a penalty corresponding to 0.5% of the total amount in the bill if the delay is one to seven natural days. As of the eighth day from the agreed delivery date, the penalty will correspond to 1% of the total amount for each natural week it is delayed. Delay penalties will never exceed 10% of the amount in the PO. Should the delay exceed such a duration which entitles *InCom* to the maximum described penalty and the Materials have not still been delivered, *InCom* will be entitled to the cancel the PO.
- 8.3. *InCom* will be entitled, additionally, to request from the Supplier reimbursements for any expenses incurred into as a direct consequence of the delay.
- 8.4. *InCom* holds the right to reject any Materials delivered after the date specified in the PO, being the Supplier in charge of any return costs.
- 8.5. *InCom* holds the right to modify any delivery dates and specifications.
- 8.6. Any amount resulting from applying the penalty clauses hereinbefore explained may be deducted from the total amount of the bill for the materials supplied.

**9. MODELS, DRAWINGS AND TOOLS.**

- 9.1. Any models, drawings or tools made on behalf of *InCom* or paid for by *InCom* will be exclusive property of *InCom*, unless otherwise stated in written, and may therefore never be used in the manufacturing of products not related to *InCom*; they may not, either, be reproduced or transferred to third parties under any other form or name, according to the NDA agreement on section 13 of the present T&C or another agreement that may have been signed by the parties.
- 9.2. As the holder, the suppliers will be responsible for their value and hereby commits to handle them carefully and return them whenever *InCom* deems necessary.
- 9.3. *InCom* holds the right to modify technical plans and specifications.

**10. QUALITY CONTROL**

- 10.1. The Supplier will grant Access to *InCom*, its representatives and Clients who request so, to their premises for checking, inspection, certification or quality control of the materials as agreed.
- 10.2. Quality control will not, in any case, imply definitive acceptance of the Materials or of the specifications in the PO.
- 10.3. *InCom* holds the right to inspect the manufacturing and control of the materials in the premises of the Supplier and other Suppliers hired by the latter. This right to Quality Control is hereby extended to *InCom* Clients who request it.

**11. GUARANTEE**

- 11.1. The supplier guarantees that the Material:
  - Belongs fully to them, is free of charges and obligations to third parties and that they hold any patents, licences and other industrial and intellectual property rights necessary for the fulfilment of everything included in the PO.
  - Is free of manufacturing and material defects or tendencies, visible or hidden. Guarantee also covers for any defects that might be detected during the mechanization process, in which case the cost of the mechanization will be added to the cost of the defective material, and the Supplier will be responsible for both.
  - Is suitable for its use, first quality, new and meets all technical specification and safety and quality requirements specified by *InCom*.
- 11.2. Guarantee will include any repairs and replacement of faulty materials, in the same conditions and timeline stated in the following section, being said timeline interrupted during the time needed for said repairs or replacements. Additionally, the Supplier will be in charge of any costs and extra expenses (cranes, transportation and labour) needed to carry out said actions, with a limit of 15% of the value of the Material to be repaired or replaced.
- 11.3. The guarantee period will be the longest of the following: thirty-six (36) months as of the delivery date or twenty-four (24) months as of the manufacturing date. In any case, the guarantee period shall cover for the period which *InCom* agrees with its Clients, being the Supplier liable for any responsibility that may arise from defective materials.
- 11.4. The Supplier hereby agrees to send all quality certificates requested before the shipment is made or to attach them to the dispatch notice.

**12. INSURANCE**

- 12.1. The Supplier will subscribe to and keep active, at their own cost, at all time during the PO, and with companies of reputed financial solvency, the following insurances:
  - a) Obligatory Public Liability insurance for any damage that vehicles used by the Supplier may cause to third parties.
  - b) Public Liability insurance, with a compensation limit of over 1.000.000 and a sub-limit per victim over 150.000 Euros to cover for material and/or personal damage and losses to third parties, included but not limited to Management Liability, Post-Labour/Products, Public Liability derived from Transportation and Accidental Pollution.
  - c) Insurance for the Transportation (by sea and/or land and/or air) that covers any loss or damage suffered by the Materials, during transportation and/or handling from the workshops or storage units on its origin, until their delivery, including their loading and unloading.
  - d) Subscription to said insurance policies shall not vary any obligations to compensate *InCom* according to what is established by the PO.
- 12.2. Upon request by *InCom*, the Supplier shall provide a copy of the invoice statement of the instalments and a copy of any subscribed policies or, in lack thereof, insurance certificates, which shall not be modified or cancelled prior to the fulfilment of the PO, unless explicit and written authorisation by *InCom*.

**13. CONFIDENTIALITY**

- 13.1. The Supplier shall keep confidentiality over any technical, economical or commercial information related to *InCom*, its Clients or Materials or related to processes, derived from drawings, plans, tool specifications or any other information provided by *InCom*, and shall not, directly or indirectly, provide such information to third parties (hereinafter, "Confidential Information") for any purposes other than those stated in the present T&C. Confidential Information provided by *InCom* to the Supplier will at all times remain property of *InCom*, so the Supplier will refrain from using such Confidential Information for their own profit or that of third parties.

- 13.2. Transfer of Confidential Information by the Supplier to their staff shall only happen in the extent to which it shall be necessary in order to fulfil the PO; the Supplier shall guarantee, at all times, fulfilment by said staff of the obligation of confidentiality.
- 13.3. Should it be necessary to reveal Confidential Information by request of the law, or in compliance to an order from a Court, Tribunal or competent administrative authority, such revelation or notification shall be limited to what is strictly necessary as requested by law or by the order of the competent authorities, and must immediately be informed to *InCom*.
- 13.4. *InCom* may request the Supplier to return any document and other material containing Confidential Information in any support, which the Supplier shall immediately return, committing to the destruction of any copies of said information.
- 13.5. Obligation to confidentiality will be valid for the duration of the PO and indefinitely once the PO is terminated.
- 13.6. Failure to comply with the obligation to confidentiality will automatically result into the obligation to compensate *InCom* for any damages and losses that may derived from said failure.

**14. CESSION AND/OR SUBCONTRACTING**

- 14.1. The Supplier shall not cede or subcontract, totally or partially, the PO without previous written authorisation by *InCom*.
- 14.2. Authorisation to the Supplier to subcontract all or part of the PO does not exempt them from their responsibilities to *InCom*.
- 14.3. *InCom* may cede the rights of a PO to any company belonging to *Grupo InCom*.
- 14.4. The Suppliers shall not cede credit rights derived from their billing to *InCom* without written consent from the latter.

**15. LEGAL REGULATIONS**

The Supplier will be responsible for ensuring the fulfilment of any applicable laws related to the use of any product purchased by *InCom*.

**16. NOTIFICATION AND COMMUNICATION**

The parties hereby agree that for any notification or communication, including notices, summons or requests, the following addresses will be considered valid:

- For the Client: the one stated on the Purchase Order.
- For *InCom*: as stated on the footnote of the present document.

Any changes in the address of any of the parties during the duration of the present contract must be notified in written within seven days from the date in which the address is changed.

**17. PARTIAL NULLITY**

Should any of the sections in the present Purchase conditions be invalid or inapplicable, it will not affect the validity of the rest of the document. Invalid or inapplicable dispositions will be replaced by others which are valid and applicable and which will legally and economically satisfy the original sections as far as possible.

**18. CANCELLATION**

- 18.1. The PO may be cancelled upon request of any of the parties in the following cases:
  - a) Common agreement between the Parties.
  - b) Serious and reiterated failure to fulfil any of the clauses included in the present T&C by any of the parties, among others, in no particular order:
    - To *InCom*, in the case when the Supplier is delayed within a year by more than two (2) weeks in at least 5% of the Material included in the PO or when the maximum penalties are reached according to the present T&C.
    - To the Supplier, in the case of continued non-payment of bills by *InCom*.
  - c) In the case when one Party learns about judicial, administrative or tax repossessions against the other party, whenever that reduces their ability to fulfil the PO.
  - d) Whenever force majeure makes it unable for any of the Parties to fulfil the obligations in the present T&C.
  - e) Due to unauthorised cession by the Supplier of its role in the PO according to the present T&C.
  - f) Due to the failure by the Supplier to abide by the confidentiality obligation required by the present T&C.

- 18.2. Any cause of cancellation hereinbefore described, except for letters a) and d), will automatically entitle the other party, not responsible for it, to annul the PO should the parties not solve the situation within sixty (60) working days from the reception of written notification which specifies the failure; the party which did not incur in failure will also be entitled to any penalties that may be granted by the present T&C, as well as compensation for damages and loss.
- 18.3. Under no circumstances shall the Party failing to comply request the cancellation.

**19. APPLICABLE LEGISLATION AND REGIONAL CODE OF LAWS**

- 19.1. Unless otherwise agreed in written, contract resolutions will abide by the most recent applicable version of the Incoterms (issued by the Chamber of International Commerce in Paris in 1953).
- 19.2. The present T&C are essentially commercial in nature and they will abide by their own conditions; regarding anything not included in the present document, the Spanish law will apply. The rules in the United Nations Convention about international purchase contracts will not apply.
- 19.3. To solve controversies that may arise as a consequence of the interpretation, efficacy or annulment of the present T&C, the Parties are hereby subject, expressly waving other regional code of laws that may correspond, to the Legal Arbitration Rules of the Chamber of International Commerce by three arbitrators nominated according to said rules and whose decision will be final and binding to all Parties. Arbitration will be held in Alicante (Spain). However, we hold the right to sue the Client at their own Courts of Justice, at our discretion.