1. General

1.1. These General Terms and Conditions of purchase (GTCP) shall apply to the procurement of Agathon AG (AAG) for its business relations to its suppliers (SUPPLIER). Unless agreed upon otherwise, these GTCP shall be the foundation of our requests for quotation, orders, and contracts.

1.2. These terms of delivery shall be binding and can only be deviated from upon written agreement between AAG and the SUPPLIER.

1.3. By accepting the order, the SUPPLIER accepts the GTCP. Other terms and conditions made by the SUPPLIER shall only be valid upon explicit and written agreement by AAG.

1.4. All agreements and legally relevant declarations made by the contracting parties shall only be valid in written form. Explanations in written form which are transferred or stored by means of electronic media shall only be equivalent to the written form if specifically agreed upon by the parties.

2. Quotations

2.1. The SUPPLIER shall provide AAG with quotations free of charge.

2.2. The quotation shall be given according to the request for quotation. Any deviations must be clearly highlighted by the supplier.

2.3. Unless otherwise agreed upon, the quotation shall be valid for a duration of 3 months.

3. Conclusion of contract

3.1. The supply contract shall be deemed concluded when, upon written order by AAG, a written order confirmation by the SUPPLIER reaches AAG.

3.2. Any deviations of the order confirmation from the order must be clearly highlighted.

3.3. If the order confirmation by the SUPPLIER does not reach AAG 7 days after the order date at the latest, the contract shall be deemed concluded with the terms set forth in the order.

3.4. Call-off orders under a quantity contract shall be binding upon receipt by the SUPPLIER.

3.5. Unless agreed upon otherwise in writing, the prices listed in the order shall be fixed prices which include any additional costs.

3.6. In case of an order without price or with a suggested price, the order confirmation by the SUPPLIER shall only be valid if agreed upon by AAG.

4. Documents

4.1. Each contracting party reserves all rights regarding plans and technical documents provided to the other party. The contracting party receiving such documents shall accept these rights and shall not make such documents, in whole or in part, available to third parties without prior written permission by the other contracting party and shall not use such documents for purposes other than the purpose for which such documents have been handed over.

4.2. Devices, gauges, tools, models, molds, etc. provided by AAG shall remain property of AAG and shall be labeled accordingly. Such devices, gauges, tools, models, molds, etc. must be stored and kept in working order and insured against any damage and loss. They must not be modified, destroyed or used for third parties without written agreement by AAG. Under no circumstances shall the SUPPLIER be entitled to any lien.

5. Wage labor

5.1. The goods provided by AAG for processing shall remain property of AAG. Processing orders as well as finishing orders shall be carried out exactly according to the drawings and standards provided by AAG. The goods provided must be insured against loss and damage.

5.2. Under no circumstances shall the SUPPLIER be entitled to any lien with regard to goods provided by AAG.

5.3. The SUPPLIER is liable for any improper handling or storage as well as any damage or loss of the goods.

6. Delivery

6.1. Deliveries shall be FCA (free carrier) from the point of departure excluding VAT (in accordance with Incoterms 2010).

6.2. The delivered quantity shall not deviate from the quantity agreed upon. Partial deliveries and advance deliveries shall only be permissible after explicit agreement by AAG.

6.3. The delivery date agreed upon shall be deemed adhered to if the goods reach the point of delivery on the specified delivery date.

6.4. The delivery dates agreed upon shall be binding. Any delay in delivery must be reported to AAG immediately.

6.5. The delivery deadline shall be reasonably extended if AAG or third parties are behind schedule with the work to be carried out by them or behind schedule with fulfillment of their contractual duties.

6.6. AAG shall be entitled to compensation for any delayed deliveries as long as it can be proven that the delivery was delayed through the SUPPLIER's fault.

6.7. If the delivery time is not observed, a contractual penalty shall come into effect after a deadline extension of 1 week. AAG shall be entitled to claim 1.5% of the value of goods, but not more than 5% of the value of goods, as contractual penalty for each commenced week of delivery delay.

7. Shipping, transport, packaging, invoice, and payment

7.1. Each item must be indentified in a clearly recognizable manner.

7.2. A bill of delivery must be included in each delivery. The bill of delivery and the invoice shall, without exceptions, include the following data:

- Complete AAG order number
- Contact person or name of the consignee
- Material number of AAG
- Designation of the goods
- Delivered quantity and price per unit
- Information on partial delivery and delivery of remainder of goods
- Country of origin, customs tariff number, and preference certificate for each ordered material
- Net weight in kg per unit

7.3. Unless agreed upon otherwise, a separate invoice must be issued for each order. Value added tax must be listed separately. The invoice shall indicate whether the delivery is a partial delivery or a delivery of the remainder of goods.

7.4. The payment deadline shall start with the date of receipt of the invoice, but no sooner than the date of delivery of the goods in perfect quality. Unless agreed upon otherwise, the payment deadline shall be 60 days.

7.5. Costs agreed upon by AAG for molds, models, and tools shall only be payable after the parts have been inspected and deemed flawless by AAG.

8. Retention of title

8.1. The passage of risk and title takes place upon receipt of the goods by AAG at the point of delivery agreed upon.

9. Warranty and liability

9.1. The SUPPLIER guarantees that the goods comply with the promised characteristics, do not have any defects which impair their value or their suitability for the intended use, and comply with the details and technical data offered by the SUPPLIER and agreed upon by the contractual parties. The goods must comply with all regulations under public law applicable at the point of destination and, in particular, the relevant EU guidelines. The SUPPLIER shall be fully liable for the services and deliveries of its suppliers.

9.2. The goods to be delivered shall be inspected by the SUPPLIER prior to shipment. The statutory obligation of AAG to examine the goods and give notice of defects shall not apply here. Excluded hereof shall only be obvious transport damages of which notice must be given to the SUPPLIER within ten days.

9.3. The warranty period shall be twenty-four months without shift limitation as of the delivery of the goods in perfect condition. Wherever longer warranty periods should apply due to laws or industry-specific standards, such longer warranty periods shall apply.

9.4. For compensation deliveries or subsequent improvement, the warranty period shall be twelve months; however, such warranty period shall not expire before expiration of the original warranty period for the entire delivery.

9.5. The acceptance and payment of the goods does not exclude any notice of defects by AAG on a later date.

9.6. The SUPPLIER guarantees the supply of supply spare parts for at least ten years starting from the date of the last delivery of goods.

9.7. AAG shall be entitled to carry out audits at the SUPPLIER's premises or the premises of the SUPPLIER's subcontractors. Bad deliveries shall entitle AAG during the entire warranty period to demand, at its own discretion, either compensation deliveries or rework at the expense of the SUPPLIER. In urgent cases, or when the SUPPLIER is unable to immediately remove the reported defects, AAG shall be entitled to have such defects removed or remove such defects itself on the expense of the SUPPLIER. If the SUPPLIER does not provide rework within the deadline set forth by AAG or if such rework is not successful, AAG shall be entitled to cancel the entire order. The SUPPLIER shall be liable for its suppliers in the same way as it is liable for its own performance.

10. Property rights

10.1. The SUPPLIER shall be liable for and ensure that no property rights as well as business or company secrets of any third parties are infringed due to the delivery or use of the items offered. Otherwise, the SUPPLIER shall indemnify AAG.

11. Product liability

11.1. As long as the SUPPLIER is responsible for a product defect, it shall indemnify AAG upon first request from any damage claims brought forth by any third party.

11.2. The SUPPLIER shall notify AAG about any possible flaws and potential or actual hazards posed by its products which have also been purchased by AAG. If AAG has to warn its customers or recall its own products due to flaws of the goods delivered by the SUPPLIER, the SUPPLIER shall compensate AAG for the costs incurred by AAG.

11.3. The SUPPLIER shall take out and maintain a globally valid product liability insurance with an appropriate coverage amount for the technology in question in regard to personal injury / property damage as well as for installation and removal costs.

12. Export control

12.1. The orderer shall acknowledge that the deliveries may be subject to the Swiss and/or foreign statutory provisions and regulations on export control and not be sold, rented out, or transferred in any other manner or used for any purpose other than that agreed upon without authorization for export or re-export provided by the responsible authority. The orderer shall observe such provisions and regulations. The orderer acknowledges that such provisions and regulations may change and that the wording of such provisions and regulations currently valid at any given time shall apply to the contract.

13. CE conformity

13.1. The goods to be delivered shall comply with the accepted technical standards in regard to safety. Goods which fall into the range of application of one or multiple EU guidelines shall comply with the provisions of such guidelines. This applies in particular for the Machinery Directive 2006/42/EC, the Low-voltage Directive 2014/35/EU, and the Electromagnetic Compatibility Directive 2014/30/EU as well as any future changes thereof. The SUPPLIER shall be responsible to check which of the guidelines must be observed. The SUPPLIER shall provide any documents required for the assessment of conformity upon request. If the SUPPLIER does not comply with such a request, the contract shall be deemed not properly fulfilled and AAG shall be entitled to compensation.

14. Assembly

14.1. If the supplier also carries out assembly or provides supervision of assembly, the General Terms and Conditions of Assembly by Swissmem shall apply.

15. Non-disclosure

15.1. The SUPPLIER shall treat any information which is related to the business relation and which is neither publically nor generally available as confidential and shall not use such information for its own purposes or any purpose beyond the scope of the contract. The confidentiality shall be observed even prior to conclusion of the contract and shall remain intact after termination of the contract.

15.2. If the SUPPLIER wishes to advertise itself with this contractual relationship or publish any information related to this contractual relation ship, the SUPPLIER shall not do so without prior written agreement by AAG.

16. Ethical standards

16.1. The SUPPLIER shall ensure, for its own activities and fulfillment actions as well as the activities and fulfillment actions of its suppliers and other contractual partners, that the fundamental ethical standards, such as the observance of human rights in accordance with the local legislation and the general declarations of human rights by the UN, renunciation of forced labor, renunciation of child labor, renunciation of discrimination of employees, observance of applicable environmental regulations and standards as well as renunciation of any form of corruption are observed.

17. Changes to the contract

17.1. Changes and amendments to the contract between the SUPPLIER and AAG must be agreed upon in writing. If a provision of these GTCP is or becomes invalid, the remaining provisions of these GTCP shall apply mutatis mutandis.

18. Force majeure

18.1. In cases of force majeure, the contractual partners shall not be liable for non-fulfillment of the contract.

19. Applicable law and place of jurisdiction

19.1. The orders and deliveries shall be subject to Swiss law with the exclusion of the United Nations Convention on Contracts for the International Sale of Goods dated April 11th 1980 (Vienna Convention). Place of fulfillment and place of jurisdiction is the company headquarters of AAG.