

General Terms and Conditions of Purchase

Dok.-Typ	Prozess-eigner	Version
RL	32	02
Dokumentennummer KT303230.08		

1. General

These General Terms and Conditions shall be applicable, irrespective of whether the order or the supply placed by Cellpack AG relates to goods or services. CELLPACK LTD shall be referred to hereafter as "CELLPACK".

2. Scope and validity

Orders placed by CELLPACK shall only be valid if they have been accepted in writing (including by electronic transmission) and bear a legally valid signature. Orders, changes and supplements intimated orally or over the telephone shall only become binding upon confirmation in writing. Mistakes and evident clerical or calculation errors in the order may be rectified unilaterally by CELLPACK.

3. Applicable terms and conditions and conclusion of contracts

In the event that the order placed by CELLPACK, including the General Terms and Conditions of Purchase, differs from the offer made by the Supplier, silence on the part of the Supplier shall be construed as approval of the order of CELLPACK. The receipt by the Supplier of orders from Cellpack shall entail the exclusion of any terms and conditions of business of the Supplier with contrary effect, even if these have not been objected to by CELLPACK.

4. Supplier objections

The SUPPLIER shall ensure that it fulfils the current specifications indicated in the order and that the goods supplied to CELLPACK comply in full with these specifications. Any reservations that the Supplier may have in relation to the specifications contained in the order of CELLPACK must be notified in writing promptly to CELLPACK prior to implementation of the order.

5. Order confirmation

The Supplier shall issue a full written confirmation of the order received from CELLPACK within a maximum of 2 (two) working days. The order confirmation must contain a precise delivery date, indicating the day on which the goods ordered will be received on the premises of CELLPACK. If the SUPPLIER is unable to send an order confirmation to CELLPACK within the above-mentioned period, the SUPPLIER shall give written confirmation of receipt of the order to CELLPACK.

6. Prices

The prices accepted by CELLPACK shall be binding. Unless agreed otherwise, all ancillary procurement costs shall be included in the price. Prices may not be subsequently increased without the express written consent of CELLPACK. Additional costs arising as a result of changes to the order may only be passed on to Cellpack in the event that written notice thereof, supported by reasons, is given within 30 days of the order change and CELLPACK has granted its express written approval. In the event that the price agreed to for the supply is that payable from a foreign factory, all levies, export duties and taxes in the country of delivery and the countries of transit shall be borne by the Supplier, unless agreed otherwise in any specific individual case.

7. Delivery deadlines

The delivery deadlines indicated in the order (arrival of goods at destination) shall be binding. In the event that such delivery deadlines cannot be complied with, CELLPACK shall be informed promptly in writing. The Supplier shall be fully liable to compensate CELLPACK for any losses arising in relation to delayed delivery. In the event that the agreed delivery deadlines are not complied with, CELLPACK shall in addition be entitled to set a grace period for the Supplier that complies with the requirements of CELLPACK and upon expiry thereof to insist upon compliance or cancel the order in full. Partial deliveries or the early supply of the goods shall only be permitted by agreement.

8. Necessary documents

A delivery docket containing the following information must be enclosed with each shipment: CELLPACK order and item number, a precise description of the contents and, if required, test certificates. If the shipment is to be imported into Switzerland a delivery docket must also be included within the packaging.

The Supplier shall automatically include the measurement report along with the supply of initial samples. Upon request by CELLPACK, the Supplier shall provide additional documents such as test and measurement reports, assembly, operating and maintenance instructions and declarations of conformity (issued in accordance with the relevant EU directives, including in particular the EMC directives)

9. Packaging, transportation and customs clearance

The Supplier shall bear liability for any damage during transportation that is caused by inadequate packaging. The INCOTERMS 2010, as agreed to in the order, shall govern the regulation and allocation of duties between CELLPACK and the Supplier. Unless agreed otherwise, DDP (Delivery Duty Paid) shall apply.

10. Transfer of risk

Unless agreed otherwise in writing (e.g. INCOTERMS), the Supplier shall bear the risk of the loss of or damage to the goods through to the place of destination.

11. Examination of the goods

CELLPACK shall examine the goods upon receipt in order to ascertain their identity, quantity and any external defects that are immediately apparent, and shall give written notice to the Supplier of any defects within a reasonable period. CELLPACK shall report any defects that are ascertained during commissioning, processing or the intended usage of the goods to the Supplier within a reasonable period after the defect was identified. In this regard, the Supplier waives any entitlement to object to the late invocation of the defect. Notwithstanding the above, CELLPACK shall be entitled to charge the Supplier for additional costs arising in relation to defects in the supply. This shall apply in particular for supplies with missing or inadequate paperwork, such as e.g. certificates, test reports and the like.

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12. Invoicing, payment terms and collateral

Unless agreed otherwise, payment shall be made within 30 (thirty) days of receipt of the invoice, and subject to a verification as to the suitability of the goods delivered and/or services rendered. The Supplier shall state the CELLPACK order number on each invoice along with an indication of the country of origin and customs tariff numbers. If payment is made in advance, the Supplier shall provide reasonable collateral (e.g. bank guarantee) upon request.

13. Guarantee

The Supplier shall guarantee in full the proper functioning and quality of all supplies for a period of two years after delivery. The Supplier shall in addition guarantee that the materials supplied comply with all relevant standards and all applicable statutory provisions in the area of occupational and operational safety along with the relevant EU directives, including but not limited to the RoHS conformity, REACH and SEC, the Conflict Minerals Regulation and the provisions applicable to EMC. In the event that a supply is deficient, CELLPACK shall be entitled for the full duration of the guarantee to request at its choosing either a replacement or rectification. If it is apparent to CELLPACK that a similar defect may be present in all products supplied, CELLPACK may implement a replacement initiative, even if the guarantee period has already expired. A new guarantee period shall start to run for all supplies made or work carried out under guarantee.

The Supplier shall ensure that full support is provided to CELLPACK in identifying defective parts at its own cost, separating such parts and ascertaining and informing CELLPACK of the causes of the defect within a reasonable time. In urgent cases or if the Supplier is unable to rectify the defect objected to immediately, CELLPACK shall be entitled to arrange for the defect to be rectified, or to rectify the defect itself, at the cost of the Supplier. If a replacement is not provided or remedial work is not carried out within a reasonable period, CELLPACK shall be entitled to cancel the entire order immediately. The Supplier shall be obliged to pay full compensation to CELLPACK (including all consequential losses) under all circumstances without any requirement to demonstrate fault.

14. Product liability

If the liability of CELLPACK is engaged by an injured party in accordance with the law on product liability and it is highly likely that the cause of the defect falls under the responsibility of the Supplier, the Supplier shall be obliged without limitation, and without any requirement to demonstrate that it was at fault, to hold CELLPACK harmless in respect of such liability towards the injured party. The Supplier shall inform CELLPACK regarding all possible defects and potential or actual risks from its supply chain that have arisen for other producers/buyers or regarding which it has otherwise received information. In the event that CELLPACK is required to issue a warning to customers or recall its products as a result of defects in the supply chain, the Supplier shall secure product liability insurance without any requirement to demonstrate fault in order to cover all necessarily related product liability and any product liability of its own and upon request by CELLPACK present a confirmation from the insurer or provide a copy of the policy for consultation.

15. Quality assurance and right of inspection

The Supplier shall take all necessary steps in order to ensure the quality of the goods or parts thereof to be delivered. It shall ensure that only goods that have been examined are supplied to CELLPACK. Particular quality requirements (e.g. standards, diagrams, specifications or product requirements) must be complied with by the Supplier. If it is apparent to the Supplier that certain requirements are inaccurate or potentially hazardous, it shall inform CELLPACK promptly in writing of this fact. CELLPACK shall be entitled to carry out regular examinations of compliance with requirements and the implementation of the necessary or agreed quality assurance measures, including on the premises of the Supplier. To this end, the Supplier shall grant CELLPACK the necessary access to production facilities and allow it to consult its quality assurance measures, such as measurement reports, test results, samples, etc. in accordance with statutory requirements.

16. Management of changes

The Supplier shall be obliged to obtain the written approval of CELLPACK prior to any changes to products that fall under its responsibility for specifications and to furnish the quality certifications required in this regard. The Supplier shall be obliged with regard to goods falling under the responsibility for specifications of CELLPACK (technical specifications such as e.g. diagram by CELLPACK) to compare the revision status of its own product documentation with those of the current CELLPACK order. Any discrepancies shall be clarified with CELLPACK under all circumstances prior to the start of production or shipment.

17. Copyrights and patents

The Supplier is responsible for ensuring that the supply does not infringe any third party copyright, patents, trade marks, registered designs or applicable legislation. It shall bear all consequences of any such breach.

18. Duty of non-disclosure

The Supplier undertakes to refrain from disclosing either directly or indirectly to a third party and to refrain from using for its own or for other purposes any knowledge or information obtained within the ambit of cooperation with CELLPACK or that otherwise comes to its attention.

19. Contractual amendments

Any amendments or supplements to the contract concluded between CELLPACK and the Supplier must be stated in writing. Oral agreements shall be invalid. Should any clause contained in these General Terms and Conditions of Purchase be invalid, the remainder of the General Terms and Conditions of Purchase shall nonetheless remain valid *mutatis mutandis*.

20. Applicable law and jurisdiction

The ordinary courts at the registered office of CELLPACK shall have exclusive jurisdiction over any disputes arising between the Supplier and CELLPACK. CELLPACK shall however also be entitled to take action against the Supplier before the courts at the registered office of the latter.