

**BERICAP, S.A.U**  
**GENERAL CONDITIONS FOR THE ACQUISITION OF GOODS AND  
SERVICES**

**§ 1**  
**Scope of Application**

- (1) These General Conditions shall be exclusively applicable to our purchase orders for goods and to the procurement of the provision of services. These General Conditions shall also apply in the event that we implicitly accept deliveries from our suppliers of goods and services or we make payments to them even in the knowledge that the supplier's General Conditions may be different or may contradict our own.
- (2) These General Conditions shall only apply where the supplier is a business proprietor (according as this is defined at article 1 of the Spanish Commercial Code), or a body corporate, or a public-law body corporate.
- (3) Any deviations from these General Conditions shall only be valid where they are expressly accepted by Bericap, S.A.U in writing. Any such expressly-accepted deviations shall only apply to each specific case, with no influence over future contracts.
- (4) These General Conditions shall supersede any previously-existing conditions that may have been agreed between the parties. The General Conditions shall also apply to all future contracts executed with Bericap, S.A.U without any need to refer to them in each specific case.

**§2**  
**Orders**

- (1) Only orders in writing shall be binding. The same shall apply to all other legally-significant statements or prior statements or statements made following the conclusion of an agreement.
- (2) Prior to confirming the order, the supplier must point out any evident errors (typing errors, calculation errors, etc.) or any way in which the order is incomplete or where documents for the order are missing, so as to ensure that the

necessary corrections can be made; otherwise the contract might be deemed to be fundamentally flawed.

- (3) Our orders may only be accepted within two weeks of the date of the order by way of written confirmation, or by way of the unconditional dispatch of the goods, or the commencement of the provision of the services.
- (4) We reserve all ownership rights and intellectual-property rights regarding the order documents (drawings, graphs, plans, calculations, product descriptions and other documents). The offer documents may only be used in connection with the performance of the contractual duties and may not be divulged to third parties without the prior express written consent of Bericap, S.A.U.

After the order has been placed, any documents belonging to Bericap, S.A.U. shall be returned unless there is an express written waiver of this requirement on our part.

- (5) The supplier shall not be entitled to sub-contract the order to third parties unless it has first obtained the express written consent of Bericap, S.A.U. Where the said authorization is granted, it shall remain conditional on the existence in the form of official record of a written document in which each sub-contractor undertakes to strictly comply with each and every one of the conditions of the order sub-contracted to it, with an express declaration that under no circumstances does any legal relationship exist with Bericap, S.A.U. deriving from the said sub-contract. The fulfilment of the order, in whole or in part, and likewise the commencement of the performance of the provision of the service procured, shall be deemed to be tacit acceptance of the order or commission on the part of the supplier.
- (6) Bericap, S.A.U. may at any time alter the drawings, designs, graphs, plans, calculations, product descriptions, specifications, and any other similar characteristics, as well as the time and place of delivery or of the provision of the service, and the method of transport for orders. The supplier shall accept any changes as quickly as possible, and where necessary, it shall submit a written estimate to the purchaser as quickly as possible, stating (I) the time required for implementing the change; (II) any justified price adjustments as a result of the said change, and (III) any other impact that the change may have on the order conditions. Once this has been done, Bericap, S.A.U. may decide to cancel the order, in which case it shall bear any losses thereby caused to the supplier (which shall have to provide proof of the said losses), or confirm the order, in which case an express written record of the new characteristics and/or conditions shall be made, and this shall be signed by both parties in witness of their conformity.
- (7) Bericap, S.A.U. may cancel an order, in whole or in part, at any time by way of serving notice on the supplier. Upon receipt of the said notice, the supplier shall

immediately halt all work or part thereof relating to the order that has been cancelled, and shall likewise serve notice on its suppliers (and its sub-contractors, where appropriate) so that they also may halt their deliveries of goods or provision of services. Bericap, S.A.U. shall pay the supplier the direct costs resulting from the full or partial cancellation, but it shall not pay any sum for any work or supply performed after the receipt of notice of the cancellation, or for any costs that could have reasonably been avoided.

- (8) Without prejudice to the foregoing, any breach, whether in whole or in part, of the conditions established in the order shall entitle Bericap, S.A.U. to cancel the said order immediately, without this giving rise to any indemnity or damages in favour of the supplier. Likewise, upon receiving notice of the cancellation, the supplier must immediately halt all work or part thereof relating to the order that has been cancelled, and ensure that its suppliers and sub-contractors do likewise.
- (9) Bericap, S.A.U. shall not be liable as against the seller or the supplier for any kind of indirect or consequential losses, including latent damage and/or loss of profit. The liability of the purchaser in relation to any claim for damages deriving from an order shall under no circumstances exceed the price of the goods or services giving rise to the claim.

### **§3**

#### **Prices / Payment conditions**

- (1) Unless otherwise agreed, the prices stated in the order shall be deemed to be subject to the Incoterms 2020 DDP (Delivered Duty Paid) conditions, with delivery to Bericap, S.A.U. This is compulsory and the prices shall be deemed to be net of the corresponding VAT.
- (2) Any additional costs to the order (e.g. packaging, transport costs, including transport and civil-liability insurance), customs excise duty, and any other taxes (except VAT) shall be payable by the supplier. At the request of Bericap, S.A.U., the supplier shall be required to dispose of the packaging material at its cost.
- (3) The monthly invoices shall be received up to the third business day (Monday to Friday) of the month following the month in which the delivery was made.
- (4) Unless otherwise agreed, our payments shall be made within 60 days of the delivery of the goods or the completion of the provision of the service, provided that Bericap, S.A.U. has received the required invoice. No admission as to the quality of the goods received may be inferred from the payment of any invoice, and payment shall not result in any curtailment of our rights with regard to the condition of the said goods.

- (5) No default interest shall apply following the maturity date. Any claims by the supplier with regard to the application of default interest shall be deemed not to have been made. In the event payment is not made on the maturity date, only statutory interest shall accrue.

The legal rights to set off sums due and to withhold goods shall apply in the event of any breach.

- (6) The supplier may not impose additional charges without the prior written authorization of Bericap, S.A.U., and this shall include, merely for the purpose of example and not limitation, delivery charges, transport, packaging, labelling, storage, insurance, boxes or containers, customs duties, fees, or taxes.

#### **§4**

#### **Delivery times**

- (1) The delivery dates or time periods stated in the order shall be binding. Where a delivery time period is established in the order, this period shall start running as from the moment the order is received. Where no delivery time period is established in the order, it shall be deemed that the delivery time period is four (4) weeks as from receipt of the order. Delivery date shall be deemed to be the day on which the goods reach the address indicated on our order in each case.
- (2) Where it is apparent that the delivery date cannot be met – for whatever reason – the supplier must report this immediately.
- (3) Where the supplier should not comply with its contractual duty, or where the supplier should be late in making a delivery, we reserve the right to exercise our legal remedies, and in particular the right to terminate the contract and seek damages for the losses that the breach of contract has caused us. No limitation on liability shall be accepted. Acceptance of the late delivery of an order shall not under any circumstances be deemed to be a waiver of our legal rights, or of the right to seek damages for the losses incurred.
- (4) Unless otherwise agreed, deliveries shall be made on business days (Monday to Friday) during normal office hours. Signing the delivery note or actual acceptance of the goods delivered shall not be deemed to be an acknowledgment that the goods delivered correspond to what was effectively ordered.
- (5) Where it should not be possible to take delivery of orders on the agreed date for reasons of *force majeure* (including strikes, lock-outs, or interruptions to transport or to the business not attributable to us), we shall be released from our duty to accept the delivery. Any claims by suppliers for the purchase price or for damages shall be excluded in the said exceptional circumstances.

## **§5**

### **Transfer of risk. Reservation of title**

- (1) Unless otherwise agreed, delivery shall be made under Incoterms 2020 DDP conditions to Bericap, S.A.U.
- (2) Transfer of ownership title over the goods supplied may not be made conditional on payment of the purchase price. In particular with regard to any kind of reservation of title.

## **§6**

### **Duty of information**

- (1) The supplier shall be required to quote our order number along with any other additional information in relation to the order (date, quantity, delivery conditions, etc.) on the confirmation of the order, the shipping documents, delivery notes, and invoices. Likewise, the supplier shall be under a duty to comply with the invoicing particulars and delivery address stated on the order. We shall not be responsible for any processing delays in the event the supplier has failed to comply with any of the above duties.

## **§7**

### **Quality and necessary documents. Environmental provisions**

- (1) Deliveries must comply with all applicable statutory and regulatory requirements and provisions, the state of the art, and in particular, with the pertinent environmental regulations, and they must likewise comply with the agreed specifications.
- (2) The supplier must establish and maintain a sufficient and properly-documented quality-assurance system in accordance with the best available technology. The supplier, for example, warrants that it is in possession of ISO 9001 certification, and that this is regularly renewed. The supplier must carry out checks, in particular with regard to quality controls, and at our request it shall be required to provide proof of these quality standards where appropriate, and provide us with a copy thereof.
- (3) Within the framework of the operation of its business, the supplier shall be required to comply with wide-ranging environmental provisions.

## **§8**

### **Notice of defects / Liability for defects / Liability**

- (1) The purchaser may inspect and may at any time accept or reject the goods delivered with regard to any possible defects that may affect the said goods. In the event of material defects or defects in title, the statutory and regulatory provisions shall apply subject to the following amendments:
  - a) Claims for defects shall be statute-barred after two (2) years as from the delivery date, unless a longer period should be established by law. In the event of the complete ineligibility of the goods, the statutory limitation period established at article 1964 of the Civil Code shall apply. In the event the goods are accepted either in law or by way of an agreement between the parties, the limitation period shall start to run as from the date of acceptance.
  - b) In the event of defects, we are entitled to request that the defects be fixed, or that a new (replacement) delivery of the products ordered be made, free from defects. In the event the supplier should not comply with this duty within a reasonable time to be established by Bericap, S.A.U., we shall be entitled to eliminate the defect and/or claim for any losses that the said defects may have caused, which shall be chargeable to the supplier, and payment in advance may be requested. In the event that the correction of the defects or the delivery of the replacement should be performed, or in the event the first delivery was already completely unacceptable in our opinion (e.g. because of special urgency), it shall not be necessary to allow a period of time within which the defect is to be fixed.
- (2) The supplier shall be liable for each defect or fault. We do not accept any kind of limit on the liability of the supplier.
- (3) In the event of a claim filed against us by a third party as a result of the defective condition of our products, and provided that this deficiency is attributable to the supplier, the said supplier undertakes to remedy the defects detected immediately upon being requested by us to do so, to the satisfaction of the third-party client, and where this should not be possible, to compensate us for any damages that we may have had to pay out to the said third party.

## **§9**

### **Manufacturer's liability**

- (1) In the event the supplier is responsible for a defect in the product, it shall be required to indemnify us – upon first request – for any claims made against us by

third parties for losses they have incurred, where the said losses are directly or indirectly attributable to the supplier, and the supplier shall be required to be directly liable in this case against the injured third parties.

- (2) Within the framework of its duty to indemnify, the supplier shall be responsible for reimbursing any damages and any costs resulting from or in relation to the following: claims for damages by third parties, including the withdrawal of products produced by Bericap, S.A.U. The supplier shall be informed at all times of the content and withdrawal of the product – in so far as this is possible and reasonable in each specific case – and likewise it shall be given the opportunity to make allegations. No other legal rights shall be affected.
- (3) The supplier shall be required to maintain such adequate policies of insurance as may be necessary in accordance with the volumes handled and standard industry practice, and these must be sufficient to protect itself against the civil-liability risks associated with the products supplied, and it shall be required to provide us with proof that it holds and maintains in force such policies immediately upon request by us at any time. No other legal rights shall be affected.

## **§10**

### **Trade marks**

- (1) The supplier warrants that the products delivered are free from third-party industrial property rights existing within the European Union.
- (2) In the event that a third party should at some future time formulate any claim for damages, or for the infringement of its industrial property rights, the supplier shall – upon first request – indemnify us as against any such claims for damages, and bear in full all costs that may arise in relation to the claim filed against Bericap, S.A.U. Said indemnity shall also apply in the event the claim is formulated by one of our clients. The duty to indemnify shall not apply in the event that the supplier has manufactured the goods in accordance with our drawings, models, or the respective descriptions. Where in any particular order the supplier should suspect that there may be an infringement of industrial property rights, it must notify us of this immediately in order to prevent any legal or contractual infringement from being committed.

## **§11**

### **Performance location**

The location where performance is to take place for all deliveries and services shall be the destination (the delivery address indicated by Bericap, S.A.U. on the

corresponding order), and in the event the delivery address should not be expressly stated, the performance location shall be the premises of Bericap, S.A.U.

## **§12**

### **Assignment of rights**

The supplier shall not be entitled to assign the rights deriving from the contractual relationship with our company to third parties. Said right shall not apply in the event there are any outstanding debts.

## **§13**

### **Jurisdiction and Applicable Law / Professional secrecy / Final Provision**

- (1) Spanish Law and Spanish regulations shall be applicable on a supplementary basis to these General Conditions, provided that the said laws or regulations are not applicable by way of legal imperative.
- (2) In express waiver of the protection of any other jurisdiction they may be entitled to, both parties agree to be bound by the jurisdiction and powers of the Spanish Courts and Appeal Courts. This provision shall also apply even where the supplier is domiciled for residence purposes in a place where the said Spanish Courts and Appeal Courts do not have jurisdiction.
- (3) The supplier undertakes to maintain all graphs, drawings, calculations, and any other documents confidential. Said data may only be assigned to third parties with our prior written consent. Said duty of confidentiality shall remain in force after the performance of the contract and shall only expire once the information is in the public domain.

Where any provision of these General Purchase Conditions should be found to be void, either in whole or in part, this shall not affect the validity of the rest of the provisions contained herein. Where the General Purchase Conditions should contain any omission, it shall be deemed that in order to fill the gap the provisions in force agreed by both parties and which reflect the commercial objectives of the contract and the purpose being pursued by these General Purchase Conditions shall be followed.