Factoria Industrial, S.A. de C.V.

General Purchasing Terms and Conditions

Version: 2020.1 · Effective: 02.JAN.2020. These terms form part of every purchase order that refers to them. This is a translation of the Spanish version. In case of doubt or conflict, the Spanish version prevails.

1. Parties

Factoria Industrial, S.A. de C.V. ("Factoria") purchases goods and services under these terms and conditions. The supplier of such goods and services is the "Supplier".

2. General Conditions

A) All of Factoria's purchases are governed by these General Terms and Conditions and by any other written agreement the parties sign separately. Supplier's conditions of sale that differ from these terms do not form part of the contract, even if Supplier accepts the purchase order, unless Factoria expressly accepts them in a separate document signed by Factoria. Unless otherwise agreed, the contract is formed when Supplier accepts Factoria's purchase order in writing or begins to perform or deliver.

B) Factoria retains the property rights and copyrights in prototypes, drawings and other information, physical or not, including all electronic forms, that it provides to Supplier to process the order. Supplier shall not make them available to third parties or use them for any other purpose. Clause 22 also applies.

3. Processing of orders

Supplier understands and agrees that: (a) orders shall not be filled at prices higher than those in Factoria's purchase order or, if there is no purchase order, higher than those last quoted or invoiced, except with prior written notice to, and written approval from, Factoria; (b) no charge is allowed for boxing, packing, crating, carting or loading unless the purchase order expressly provides for it; and (c) prices are stated in the currency indicated in the purchase order and exclude value added tax (VAT), which shall be itemized on the invoice.

4. Packing list

Every delivery shall include a packing list indicating the contents of each package and of the delivery.

5. Delivery schedule

A) Supplier shall deliver on the dates stated in the purchase order; timely performance is essential.

B) If Supplier expects a delay, it shall notify Factoria immediately and in writing.

C) If the delay is attributable to Supplier, Supplier shall pay, at no cost to Factoria, the expedited freight (air, express or other faster means) needed to recover the delivery schedule.

D) If the delay continues after Factoria's written notice and a reasonable period, Factoria may cancel the purchase order, in whole or in part, without liability.

6. Receipt

Factoria shall be deemed to have received goods when they are delivered to Factoria's plant, located at Retorno Mario Vargas Llosa 101, inside the Chihuahua Industrial Complex, in Chihuahua, Chihuahua, Mexico, and authorized Factoria personnel have signed the bills of lading (cartas porte) and any other shipping and customs documents that require signature, unless the purchase order states otherwise. Risk of loss of or damage to the goods remains with Supplier until they are deemed received. Any discrepancy between quantities ordered and quantities received is Supplier's responsibility. Factoria may reject and return, at Supplier's expense, any goods received in excess of the quantity ordered.

7. Acceptance

Factoria shall be deemed to have accepted goods after inspecting them and verifying conformity, or ten (10) business days after receipt, whichever occurs first. Acceptance, express or implied, does not limit the warranty in clause 10 or Factoria's rights for hidden defects or breach.

8. Invoices

A) Supplier shall issue electronic invoices (CFDI, in XML and PDF files, when supplier is located in Mexico), with the supplements required by law, and send them to Factoria's Accounting department at the e-mail address Factoria indicates.

B) Supplier shall issue a separate invoice for each purchase order or shipment and shall show the purchase order number on all invoices, packages, bills of lading and related communications, as well as any cash discount terms for prompt payment.

C) Payment terms: 45 calendar days from receipt of an invoice that meets the tax requirements and these terms, or from receipt of the goods, whichever is later. Payments shall be made in the currency of the purchase order.

9. Discount terms

If a discount is allowed for payment within a certain time, that time will not begin to run until the date of receipt of the invoice or the date of delivery of the goods, whichever is later. If an invoice is returned for correction, the time will not begin to run until the date of receipt of the corrected invoice.

10. Warranty, rejection and cancellation for nonconformity

A) Supplier warrants that all goods and services sold to Factoria meet Factoria's specifications and requirements, are free from defects in materials and workmanship, and are fit for their intended use.

B) The warranty lasts for the period stated in the purchase order. If the order states no period, it lasts 12 months from receipt of the goods or performance of the service.

C) If goods or services do not meet the warranty, Supplier shall repair, replace or refund them, at Factoria's option and at no cost to Factoria, and shall pay the costs of sorting, rework, transportation and production stoppages that directly result from the defect.

D) Goods rejected for nonconformity with Factoria's specifications and requirements are rejected at Supplier's expense and shall be returned at Supplier's risk and expense.

E) Factoria may cancel the purchase order for nonconformity.

11. Assignment and subcontracting

No obligation under this contract, including monies due and owing, may be assigned to a third party without the prior written consent of both parties. Supplier shall also not subcontract all or a substantial part of the supply without Factoria's prior written consent, and remains responsible for its subcontractors.

12. Title to goods

Supplier warrants that it has good title to the goods it supplies to Factoria and that they are free from liens, attachments and third-party claims.

13. Indemnification

A) To the extent that goods are not manufactured or supplied in accordance with Factoria's specifications, Supplier shall defend, indemnify and hold harmless Factoria, its assignees and other users of the goods from and against any claim of infringement of any patent, trade name, trademark, copyright or trade secret by reason of the sale or use of any articles purchased under this contract. Factoria shall promptly notify Supplier of any such claim.

B) To the fullest extent allowed by law, Supplier shall indemnify and hold harmless Factoria, its agents and employees from and against all claims or losses, including reasonable attorneys' fees, arising out of or resulting from the negligence or omissions of Supplier, its partners, directors, officers, employees, licensees, subcontractors or agents in the provision of products and services under this contract.

14. Hazardous goods

Supplier or its agents shall transport the goods in accordance with all federal, state and local laws on the handling and transportation of hazardous materials and waste, including applicable Mexican official standards (NOMs).

15. Safety data sheets

Before shipment, Supplier shall provide Factoria with the safety data sheets (SDS) for each hazardous chemical substance or mixture, in accordance with NOM-018-STPS-2015 and the Globally Harmonized System of classification and labelling.

16. Cancellation for convenience

Factoria may cancel this contract or a purchase order for convenience by written notice to Supplier. In that case Factoria shall pay for goods already delivered and accepted, and for work in progress and special materials that it previously authorized in writing.

17. Use of name or intellectual property

Supplier shall not use Factoria's name or intellectual property, including Factoria's trademarks, in any manner, including commercial advertising or as a business reference, without Factoria's prior, express written consent.

18. Governing law and jurisdiction

A) Tenders, purchase orders and any attached delivery schedules are governed by and construed according to the laws of the State of Chihuahua. The civil and commercial laws of the United Mexican States control the interpretation, compliance and enforcement of this agreement.

B) The parties submit to the jurisdiction of the competent courts of Chihuahua, Chihuahua, Mexico, for any dispute arising from the contractual relationship, including disputes about payment, and expressly waive any other venue that may apply to them because of their present or future domiciles.

19. General provisions

If any provision of these terms is or becomes invalid, the other provisions remain valid. These terms, the purchase order and any written agreements signed by the parties are the entire agreement between them. Factoria's failure to exercise a right is not a waiver of it.

20. Notices

All notices, demands and requests shall be in writing and are deemed properly given if delivered personally, by registered or certified mail with return receipt, or by e-mail with confirmation of receipt, addressed to the domicile or e-mail address each party has designated for that purpose. For all legal effects, each party designates as its domicile:

Factoria Industrial, S.A. de C.V.
Ret. Mario Vargas Llosa 101
Complejo Industrial Chihuahua
Chihuahua, Chihuahua 31136, Mexico
Telephone: +52 (614) 158-4700
E-mail: compras@factoria.com

Supplier: Supplier's details are given in the purchase order or in its supplier registration.

21. Compliance and Code of Ethics

Supplier shall comply with applicable laws, including anti-corruption, labor, safety and environmental laws; shall not offer or accept improper payments or benefits; and shall act in accordance with Factoria's Code of Ethics, available at www.factoria.com. Factoria may cancel the purchase order, without liability, if Supplier breaches this clause.

22. Confidentiality and audit

A) Supplier shall keep Factoria's technical and commercial information confidential, use it only to fulfil the purchase order, and allow third parties access to it only with Factoria's written approval.

This obligation lasts for the term of the contract and five (5) years afterwards. At Factoria's request, Supplier shall return or destroy the materials and information Factoria has given it.

B) With reasonable notice, Factoria or its customer may audit, during business hours, Supplier's facilities and records related to the quality of the goods and services under this contract.

23. Insurance

Supplier shall maintain in force liability insurance with a sum insured appropriate to the risk of the supply and shall provide proof of it to Factoria on request.

24. Force majeure

Neither party is liable for delay or failure caused by an act of God or force majeure beyond its reasonable control. The affected party shall notify the other in writing within five (5) business days and shall make reasonable efforts to reduce its effects. If the event lasts more than thirty (30) days, Factoria may cancel the affected purchase order without liability.