

# General Conditions of Procurement (Mexico)

Envalior S.A. de C.V. • Ejército Nacional 579 P3, 11520 México City • México

These General Purchase Conditions apply to and form an integral part of all requests for proposal, quotations, and Purchase Orders. Envalior expressly rejects the applicability of any other general terms and conditions or stipulations of Supplier.

## 1 Definitions

1.1 The following definitions apply to this document:

- **Agreement** means: the binding contract formed as described in section 2.
- **Envalior** means the Envalior Legal Entity which issues the Purchase Order or request for proposal.
- **Envalior Legal Entity** is any member of the group of companies organizationally connected with the German company Envalior GmbH.
- **Goods** are the products, materials, liquids, equipment, design, software, rental properties, stored goods, and all related documentation to be supplied as specified in the Purchase Order.
- **Framework Agreement** (if existent) is the dispositive agreement between Envalior and Supplier pursuant to which Envalior may purchase Goods and/or Services from Supplier.
- **Purchase Order** is the order issued by Envalior including all related documentation.
- **Services** are the services and/or all pertaining deliverables to be provided as specified in the Purchase Order.
- **Supplier** means each person or entity that enters into an agreement with Envalior.

## 2 Acceptance

2.1 These General Conditions of Procurement, together with the Framework Agreement and appendices thereto, relevant Purchase Order issued by Envalior and any relevant addendum, set forth the terms and conditions for the supply of Services and/or the delivery of Goods by Supplier to Envalior and will be binding to Parties at Supplier's acceptance (the binding Agreement). Any changes by Supplier are binding only, and only if, accepted by Envalior in writing. Performing of any part of a Purchase Order by Supplier shall constitute Supplier's unconditional acceptance thereof.

## 3 Commercial conditions

- 3.1 Supplier shall deliver the Goods and/or perform the Services against the price(s) mentioned in the relevant Purchase Order. Unless expressly stated to the contrary, prices are a) fixed and firm and b) exclusive of any Value Added Tax, but c) inclusive all other taxes, duties, levies, fees (including license fees), charges and inclusive of all costs.
- 3.2 Envalior may authorize any other Envalior Legal Entity to perform a payment due by Envalior. Such payment shall discharge Envalior from its respective payment obligation towards Supplier. In case an invoice is under dispute, Supplier has no right to postpone its obligations.

Envalior has the right to set off amounts it owes to Supplier or any of its affiliates, against amounts which Supplier or any of its affiliates owes to Envalior.

3.3 If Supplier performs Services on a reimbursable basis, Supplier shall keep records of all costs, expenditures and hours worked and shall provide Envalior access thereto.

## 4 Compliance

4.1 Supplier shall comply with all applicable (inter)national laws, rules and regulations, standards, and orders in connection with the performance of the Agreement, including all applicable laws, rules, and regulations on international trade, such as embargos, import and export control and sanctioned party lists.

4.2 Supplier warrants and represents to Envalior that neither it nor any of its officers, directors, employees, agents or other representatives has performed or will perform any of the following acts in connection with the Agreement, any Services to be provided hereunder, any compensation paid or to be paid hereunder, or any other transactions involving the business interests of Envalior: a) pay, offer or promise to pay, or authorize the payment of, any money, or b) give or promise to give, or authorize the giving of, any services or anything else of value, either directly or through a third party, to any official or employee of any governmental authority or instrumentality, or of a public international organization, or of any agency or subdivision thereof, or to any political party or official thereof or to any candidate for political office for the purpose of i) influencing any act or decision of that person in his official capacity, including a decision to fail to perform his official functions with such governmental agency or instrumentality or such public international organization or such political party, ii) inducing such person to use his influence with such governmental agency or instrumentality or such public international organization or such political party to affect or influence any act or decision thereof, or iii) securing any improper advantage.

4.3 If Supplier breaches any of the covenants set forth in this section 4.2, a) Envalior shall have a right of action against Supplier for the amount of any monetary payment or thing of value made or given by Supplier in breach of any of such covenants, and b) all obligations by Envalior to pay any compensation to Supplier shall cease immediately; and c) Envalior may at its sole discretion, rescind the Agreement and Supplier shall immediately return to Envalior any amounts paid to Supplier arising from any transaction in violation of this section.

4.4 Supplier expressly warrants that it has good and marketable title to the Goods and deliverables of the Services supplied, including right to grant Envalior intellectual property right(s). Supplier holds all licenses, permits, end-user statements and any other documents, which are required in the country of origin, of transit and

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of destination to perform its obligation and will immediately notify Envalior of any legal restrictions.

### 5 Time

5.1 Supplier guarantees that it will supply without delay and interruption the Goods and/or Services. Supplier shall immediately notify Envalior of any foreseeable delay.

### 6 Delivery, warranty, and acceptance of Goods

6.1 Unless explicitly agreed otherwise, Supplier shall deliver the Goods according to Incoterm DDP site Envalior. Delivery of Goods is not complete until the Goods have been physically received and accepted by Envalior.

6.2 Supplier shall deliver the Goods using adequate packaging. Supplier shall take back costly and re-usable packaging. Supplier shall timely provide Envalior with (copies of) all applicable licenses, documents, information, specifications, and instructions necessary for safe and proper transport, use, treatment, process, and storage of the Goods and with all certificates of analysis/conformity as customarily supplied. If applicable, stored Envalior's Goods will be redelivered in the original quantity, state, and condition.

6.3 Supplier warrants the proper functioning of the Goods and warrants that the Goods will be in conformity with the specifications and requirements, be unused, of good materials and workmanship, free from all defects and from all liens and encumbrances, pledge or right of retention, of merchantable quality, and suitable for the intended purpose. These warranties shall not be deemed to exclude warranties and/or rights that Envalior may have or obtain and shall extend to Envalior and its customers.

6.4 Supplier shall promptly repair or replace all faulty Goods within a period of two years after the date of acceptance or the date of first operational use, whichever date is later. Repaired or replaced Goods or parts will be warranted for another period of two years from the repair or replacement date. If requested, Supplier shall as far as possible, leave these goods in free use with its user until Supplier has delivered Goods in replacement. The warranty period shall be extended by any period(s) during which the Goods have been out of operation.

6.5 Envalior is entitled to reject any Goods, which are delivered a) not at the agreed time, b) not in the agreed volume and/or quantity, c) in inappropriate or damaged packaging or d) with other defect(s), for risk and account of Supplier and without prejudice to Envalior's right to compensation for the losses and damages suffered as a result of Supplier's non-compliance.

6.6 Inspection, testing, acceptance, or payment does not release Supplier from its obligations and warranties.

### 7 Performance and acceptance of Services

7.1 Supplier warrants the quality and the results of the Services. Supplier shall perform the Services in accordance with the requirements and specifications of the Agreement, observing due skill and care, using proper and well-maintained materials, and employing sufficiently qualified staff.

7.2 Supplier shall properly and timely instruct Envalior of any special use or treatment regarding the Services.

7.3 Only written confirmation of acceptance shall constitute acceptance of the Services performed.

### 8 Transfer of title

8.1 The title of the Goods and deliverables of the Services shall pass to Envalior upon delivery at the delivery point as stated in the Agreement.

8.2 The title and risk of Goods under a rental service agreement remain with Supplier.

8.3 The title of Goods that Supplier stores under a warehousing agreement remains with Envalior. The risk of such Goods is transferred to Supplier at acceptance of the Goods and ends after delivery of these Goods to Envalior.

8.4 Supplier shall identifiably store any raw materials and semi-finished goods allocated for the manufacture and or production of the deliverables and the finished deliverable itself. The risk of such goods remains with Supplier until acceptance thereof by Envalior.

### 9 Opportunity to inspect

9.1 Supplier ensures that Envalior or its nominee can inspect the Goods or the manufacturing process of the Goods and/or any place where the Services or part thereof may be carried out.

9.2 Supplier diligently and continuously controls and tests the quality of the Goods and Services as well as the operations during manufacturing, storage, and delivery. Supplier shall ensure that Envalior, or its nominee, can attend tests and/or inspect the Goods at any time.

9.3 Inspection and/or testing does not relieve Supplier of any obligation or liability under the Agreement.

### 10 Controlled changes

10.1 The implementation of all changes of and/or improvements related to the Goods and/or (performance of the) Services including (business) processes, (raw) materials (including supply source) and/or any other changes that might affect the specifications of the Goods and/or the Services require the prior written approval of Envalior. Supplier will provide Envalior with ninety days written notice of such changes so that Envalior may control and test the Goods.

### 11 Control Regulations

11.1 Regarding chemicals supplied under the Purchase Order, Supplier confirms and represents that the Goods or any of its substances, are fully compliant with all federal, state, and local laws and regulations, including but not limited to any permitting or licensing requirements.

### 12 Safety, health, and environment

12.1 Supplier shall comply with and act in accordance with all applicable safety, health, and environmental instructions to avoid pollution of the soil and the groundwater, limit air and noise pollution on Envalior's site, comply with site and site access regulations as well as Envalior security regulations.

12.2 Supplier must arrange for proper and safe transport and equipment, as well as skilled and qualified staff, able to speak the local language and/or English, to work in a safe, healthy, and environmentally responsible manner. Envalior may audit these aspects of the Agreement.

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- 12.3 Supplier shall report any irregularity with respect to safety, health and environment and security. In case of an incident Supplier shall, under supervision of Envalior, immediately take all measures to clean up, isolate or prevent pollution resulting from such incident.
- 12.4 Supplier shall also comply with Buyer's Supplier Code of Conduct as published at [www.envalior.com/coc](http://www.envalior.com/coc).
- 12.5 Should Supplier breach its obligations under this section 12 and should Supplier be unable to remediate a reported breach within a reasonable time, Buyer shall be entitled to terminate the Agreement for cause.

### 13 Indemnification, Liability

- 13.1 Supplier shall be liable and hold Envalior and its directors and employees ("**Indemnified Parties**"), harmless from and indemnify them against any and all actual or contingent damage, loss, injury/death, costs and claims suffered by or brought against Indemnified Parties, resulting from or connected with the Agreement (expressly including any breach thereof by Supplier), the use and/or sale of Supplier's Goods by Indemnified Parties or any third party, the performance of the Services and the deployment of Supplier's Services by Indemnified Parties or any third party, except to the extent that this is caused by Envalior's willful misconduct or gross negligence.
- 13.2 Supplier is fully liable for the correct and timely payment of all taxes and levies indebted in connection to the performance of the Agreement and will indemnify Indemnified Parties against all claims and damages relating to its obligations concerning taxes, contributions, and any claims of third parties, including the Government.
- 13.3 In no event shall Envalior be liable for any direct and indirect damages (including but not limited to lost revenue, lost profits or other consequential or incidental damages) based upon the Agreement.

### 14 Force Majeure

- 14.1 Neither party shall be liable towards the other party for any non-fulfillment of the Agreement to the extent fulfillment thereof has been delayed, interfered with, or prevented by an event entirely beyond the control of the party concerned, was not for its risk and not reasonably foreseeable ("**Force Majeure**"), provided that the party invoking Force Majeure shall use its best efforts to fulfill its obligations by any means possible. The mere fact of late supply of materials, labor or utilities shall not be deemed Force Majeure. In case a situation of Force Majeure continues for more than 30 days, Envalior shall be entitled to (partly) terminate or cancel the Agreement by written notice. Envalior may purchase similar goods and/or services from third parties during any period Supplier is unable to fulfill its obligations. The quantities affected shall be excluded from the calculation from any (minimum) volumes.

### 15 Confidentiality

- 15.1 All information provided by or on behalf of Envalior, whether tangible or intangible, and irrespective of whether it is marked 'confidential' or 'proprietary', shall be treated as confidential and shall only be used by

Supplier for the purpose of the Agreement. Disclosing information is only allowed to any of its employees or a third party on a strict need-to-know basis, except in case Supplier is required to disclose the information by virtue of a court order or statutory duty, provided that the Supplier shall immediately inform Envalior and reasonably cooperate with Envalior should it seek to obtain a protective order.

- 15.2 Envalior makes no representation or warranty as to the accuracy, non-infringement, merchantability, fitness for a particular purpose or completeness of its confidential information disclosed. Supplier shall upon demand promptly return to Envalior all such information. Supplier shall not retain a copy thereof. Supplier shall treat the existence of the Agreement as confidential.
- 15.3 Supplier or its employees will sign a confidentiality agreement in such form and content as Envalior may require upon request. Supplier shall assume responsibility for any breach of this confidentiality provision by any of its representatives. The confidentiality obligations shall remain in effect for ten years after the termination of the Agreement.

### 16 Ownership and intellectual property

- 16.1 All information, property or materials disclosed to Supplier remains the property of Envalior. Supplier is not entitled to make use of or refer to any trademark, trade name, domain name, patent, design, copyright, or other intellectual property right of Envalior or any of its affiliates, unless prior obtained written consent of Envalior. Any authorized use of Envalior's trademark, trade name, domain name, patent, design, copyright, or other intellectual property right shall be strictly in accordance with the instructions of Envalior and for the purposes specified (including the instructions published at [www.envalior.com/brandcenter](http://www.envalior.com/brandcenter)).
- 16.2 Supplier warrants that the Goods and/or Services, alone or in combination, will not result in or give rise to any infringement or misappropriation of any intellectual property right of a third party.
- 16.3 Supplier hereby assigns by way of present and future assignment all intellectual property rights, know-how, copyrights, and other rights developed by or on behalf of Supplier explicitly for or on instructions of Envalior.
- 16.4 All intellectual property rights to software, including source code, sub-software, and documentation, developed explicitly for Envalior or on Envalior's instructions shall rest with or be transferred to Envalior. Intellectual property rights to other software shall remain with Supplier and Supplier shall grant Envalior a non-exclusive, non-transferable, irrevocable, perpetual, and royalty-free license not limited to specific equipment or location. Envalior is allowed to provide sub-licenses to any other Envalior Legal Entity.
- 16.5 All data and information generated or derived by Supplier as the result of Services performed by Supplier under the Agreement shall be and remain the exclusive property of Envalior. Any inventions that may evolve from the data and information described above shall belong to Envalior; and Supplier agrees to assign its rights in all such inventions and/or related patents to Envalior.

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16.6 Copies of specifications, drawings, instructions, and other information provided by Supplier to Envalior related to any Goods supplied hereunder shall become and remain the property of Envalior.

### **17 Insurance**

17.1 The Supplier shall maintain insurance policies in amounts adequate to cover the risks resulting from or connected with the Agreement. At the request of Envalior, Supplier will provide the insurance certificates evidencing Supplier's coverage and keep Envalior informed of any changes.

### **18 Termination and suspension**

18.1 Envalior is entitled to suspend the performance of its obligations in whole or in part or terminate the Agreement with immediate effect, without prejudice to its right to claim damages and without any compensation to or indemnification of Supplier in the following: a) in case Supplier has been declared bankrupt, is in a state of liquidation, has ceased or suspended whole or substantial part of its business, is subject of a court order or preventative legal scheme of settlement; b) in case of non-compliance with import, export or chemical control regulations or the provisions of safety, health, environment and security; c) in case of not approved changes in accordance with section 10; d) Supplier's breach of the Agreement that goes uncured within thirty days of receiving notice of said breach. After such termination Envalior may return received Goods and/or Services in whole or partly against repayment and re-transfer of ownership therein to Supplier.

### **19 Governing Law**

19.1 This Agreement shall be governed by the Federal laws of México.

19.2 The UN Convention on Contracts for the International Sale of Goods shall not apply.

19.3 Any litigation between the parties shall be brought and maintained exclusively in a court located in México City and the parties hereby waive any right they may have to any other jurisdiction, by reason of their present or future domiciles or otherwise.

19.4 Neither party shall be entitled to take legal action against any of the other party's parent companies.

### **20 Miscellaneous**

20.1 If any provision(s) of these General Conditions of Procurement should be or become ineffective or invalid the other provisions will not be affected thereby. The Parties agree to replace the ineffective or invalid provision(s) by a provision of similar import, which reflects as closely as possible the intent of the original clause.

20.2 Failure by either party to require strict performance by the other party of any obligation hereunder shall in no way affect its right thereafter to enforce any obligation, nor shall a waiver by either party of any breach be held to be a waiver of any previous or later breach. No waiver will have any effect unless specific, irrevocable and in writing. Acceptance of any Goods or of any Services or payment therefore shall not constitute waiver of any of Envalior's rights in connection with any breach.

20.3 Envalior shall have the right to withhold any money payable by it hereunder and to apply the same by way of offset to any obligation of Supplier to Envalior hereunder or otherwise.

20.4 Supplier shall not assign the Agreement in whole or in part without Envalior's written consent. Such consent shall not relieve Supplier from, and shall be subject to compliance with, any of the obligations under the Agreement. Envalior is entitled to assign the Agreement or any part thereof to any Envalior Legal Entity company upon notice to Supplier.

20.5 Nothing in the Agreement shall be deemed to constitute either party as the agent of the other or create a partnership, joint venture, or employment relation between the Parties.

20.6 Expiry, termination, or cancellation of the Agreement shall not affect any right or obligation, which expressly or by its nature survives such expiry, termination, or cancellation, including but not limited to representations, warranties, confidentiality obligations, intellectual property rights and accrued rights.