

GENERAL TERMS AND CONDITIONS OF PURCHASE

1. Scope

1.1. These general terms and conditions of purchase (the “**GTP**”) govern the contractual relationships between:

(a) **Environmental Sampling Supply, Inc. (“ESS”)**, duly incorporated and validly existing under the law of the State of Delaware, having its registered office 343 West Main Street, Leola, PA 17540, or any subsidiary of the ESS Group and

(b) its suppliers and/or service providers (individually the “**Supplier**”).

They apply (i) to any and all purchases of goods and/or equipment (the “**Products**”) from the Supplier by ESS and/or (ii) to any and all provision of services (the “**Services**”) by the Supplier to ESS (the Services and the Products, being hereafter collectively defined as the “**Articles**”).

1.2. Contingent on the Supplier being provided by ESS with these GTP, these GTP govern all contractual relationships between ESS and the Supplier as of the date on which the Supplier:

- has executed them; or

1.3. has accepted them by beginning or continuing (i) the provision of the Services and/or (ii) the supply of the Products. The GTP may only be waived, altered, amended or modified:

(a) by specific terms and conditions of purchase of ESS (the “**STP**” – reference is expressly made to the following STP: i.) STP - Search Services (Appendix 1); ii.) STP – Services (Appendix 2)) which will apply as of the date on which the Supplier:

- has executed them; or

- has accepted them by beginning or continuing (i) the provision of the Services and/or (ii) the supply of the Products.

(b) in a written master agreement signed by an authorized representative of ESS and the Supplier, that shall expressly specify that it prevails over these GTP and /or the STP, if any, failing which these GTP and the STP, if any, will remain in full force and will control.

1.4. The GTP, the STP, and the master agreement, if any, shall be an integral part of the whole agreement between the parties (the “**Agreement**”).

2. Priority

2.1. The Supplier and ESS expressly agree that the provisions of these GTP and the STP, if any, take precedence over any Supplier terms and conditions, whenever such Supplier terms and conditions may have been provided to ESS. Therefore, notwithstanding any clause to the contrary in the terms and conditions of sale of the Supplier, or in any other document issued by the Supplier, the Supplier by accepting the GTP and the STP, if any, waives any clause of its terms and conditions which could be regarded as conflicting terms and conditions and/or

contrary or inconsistent with any provisions of the GTP and/or of the STP or in addition thereto, including without limitation provisions related to:

- the formation of the Agreement;
- the termination of the Agreement;
- the price;
- the invoicing;
- the delivery;
- the warranty against nonconformity and/or defects;
- the indemnification and liability; and
- the confidentiality.

3. Information / Conclusion / Modifications

3.1. The Supplier undertakes to provide ESS forthwith with all relevant information to enable ESS to give its free and informed consent to the establishment or amendment of the Agreement between the parties (the “**Relevant Information**”).

The Supplier shall also draw the attention of ESS forthwith to (i) any discrepancy or inconsistency between (a) the GTP and the STP, if any and (b) any provisions of any mandatory law or regulation applicable to the sale of the Products and/or the provision of the Services as well as (ii) any inapplicability, illegality and/or potential unenforceability of any of the provisions of the GTP or the STP, if any (the “**Legal Relevant Information**” and together with the Relevant Information, the “**Information**”).

3.2. The Agreement between ESS and the Supplier will be concluded, or amended, once ESS has expressed its consent in writing to the Agreement or amendment. All Information shall have been provided to ESS by the Supplier on the date of the written consent given by ESS, failing which, ESS will be entitled to claim for damages and/or termination and/or nullity or voidness of the Agreement.

Without prejudice to the provisions of these GTP or the STP, if any, to be valid, any order, agreement, instructions, offer and notice must be executed by an authorized representative of ESS.

3.3. Any consent given by ESS is conditional on the Supplier's agreement that any additional or different terms in the Supplier's order acknowledgement, invoices, order confirmation, quotations and other communications are material alterations and, irrespective of the timing, are objected to and shall not form a part of the Agreement between the parties.

3.4. ESS failure to object to specific conflicting, contrary or additional terms and conditions shall not be deemed as an acceptance by ESS of any such terms and conditions or a waiver of the provisions hereof.

4. Duration

- Agreements which provide for performance successively or in instalments during a fixed term period (the “**Successive Performance Agreements**”)

will be automatically renewed at the end of the initial period for further successive periods of one (1) year each until terminated in accordance with these GTP.

5. Price / Invoicing / Payment

5.1. Prices

- 5.1.1. Prices are fixed prices excluding taxes.
- 5.1.2. No cost can be charged to ESS for quotations, samples, trial shipments or specimen materials.
- 5.1.3. Prices shall include all costs in relation to the Articles, as well as all applicable taxes and/or duties and cover payment for all deliveries and services assigned to the Supplier (including without limitation the costs of preparing and packaging for shipment and the shipment costs).
- 5.1.4. Any additional costs of whatsoever nature require the prior written consent of ESS.
- 5.1.5. No advance payment will be made by ESS.
- 5.1.6. Where the total price of the Articles depends on time spent by the Supplier, the Supplier will offer its services under the form of either a non-revisable all-inclusive price or a maximum number of hours or units at a non-revisable hourly rate or unit rate.
- 5.1.7. Without prejudice to the previous provisions, ESS shall immediately benefit from any price reduction implemented by the Supplier prior to the date of delivery of the Article.
- 5.1.8. If at any time during the Agreement, it comes to ESS's attention that a lower price was or is being charged by the Supplier, its affiliates or by any company related to/associated with the Supplier worldwide, to any company related to or associated with ESS, for a similar or identical Article under similar or identical circumstances, such price will henceforth also apply to ESS.
- 5.1.9. Without prejudice to other provisions of the GTP or the Agreement, increases of price, fees or rates as well as any change in the terms of payment (the "**Change**") shall only apply to Successive Performance Agreements as of the first of January of each year (the "**Effective Date**") provided that:
 - the Supplier had informed ESS of the proposed Change by means of registered letter with acknowledgement of receipt that has been received by ESS at least three (3) months prior to the Effective Date; and
 - ESS agreed to the Change in writing prior to the Effective Date.
 - Supplier agrees that the prices charged to ESS for Articles will always be as good as or better than the prices charged to any of Supplier's other customers for a similar or identical Article under similar or identical circumstances. In the event Supplier agrees to give lower prices to another customer, it shall promptly notify ESS and give such lower prices to ESS.

5.2. Invoices

- 5.2.1. All invoices must be sent to ESS at the address specified in the Agreement, except as otherwise indicated in writing by ESS.

- 5.2.2. Each invoice will, at a minimum, mention an invoice number, invoice date, Supplier's remittance address, offer/order number, description of the Products/Services, quantity, unit price, total price, ESS's ID number and the Fed ID number of the Supplier, if any.
- 5.2.3. The Supplier shall issue invoices only after the delivery of the Products or the performance of the Services, except as otherwise agreed in writing between ESS and the Supplier.

5.3. Payment

- 5.3.1. Payment shall be made seventy-five (75) days after the end of the month in which ESS received an acceptable invoice from Supplier, within the meaning of Clause 5.2.
- 5.3.2. ESS records will constitute sufficient proof of payment, unless the Supplier is able to provide evidence to the contrary.
- 5.3.3. The Supplier hereby accepts that ESS may offset any sums due from the Supplier against any sums ESS owes to the Supplier.

6. Packaging - Delivery – Delay – Shipment - Insurance

6.1. Packaging

- 6.1.1. The Articles shall be correctly and sufficiently packed, in an appropriate packaging and the Supplier will be responsible for any loss or damages, as well as for any missing Articles arising from an inappropriate or improper packaging, labelling or marking.
- 6.1.2. The Supplier shall, at its expense, obtain all necessary custom clearance, export licenses, approvals and authorizations required to ship and/or import or export the Articles.

6.2. Delivery

- 6.2.1. All Articles shall be delivered in accordance with the terms and place of delivery agreed or specified in writing by ESS.
- 6.2.2. All Articles shall be provided with and accompanied by all information and instructions necessary for proper and safe use, including all information, documents and instructions required under any applicable law or regulation, as the case may be.
- 6.2.3. In the case of delivery of hazardous materials, product information, including without limitation current material safety data sheets in English, shall be sent to ESS in due time prior to delivery. The same applies to information on marketing restrictions required by law. All requirements of applicable laws and regulations on the carriage of hazardous goods shall be complied with.
- 6.2.4. Use of materials that are carcinogenic, toxic to reproduction or mutagenic shall be avoided. If deviations therefrom are necessary, ESS shall be informed in writing prior to delivery/use of such materials. Protective measures resulting from this shall be jointly agreed upon.
- 6.2.5. Where the Articles incorporate or contain chemicals or dangerous hazardous goods or substances, they shall be accompanied by written and detailed specifications of the

composition and characteristics of such goods or substances and the requirements of all laws, regulations and other requirements relating to such goods or substances in order to enable ESS to transport, store, process, use and dispose of such Products properly and in a safe manner.

In the event instruments, equipment and/or processes involve the use of chemicals in the form of raw materials and/or consumables, the Supplier also will provide ESS with “material data safety”-sheets at the time of delivery.

- 6.2.6. All Articles shall be delivered strictly in accordance with ESS’s delivery schedule specified in the Agreement.

The Supplier shall immediately notify ESS, in writing, of any circumstances known or suspected that may cause a delay in delivery, including the estimated period of delay.

- 6.2.7. If the Supplier fails to meet the delivery schedule, ESS, without limiting its other remedies, may demand the use of express delivery courier services, and the difference between the express delivery courier services and the original transportation costs shall be paid by the Supplier.

The failure to meet the delivery schedule is an Event of Default (as defined hereinafter) justifying a termination of the Agreement by ESS.

- 6.2.8. The Supplier shall not make material commitments or production arrangements in excess of the amount, or in advance of the time necessary, to meet the delivery schedule and, unless otherwise specified in the Agreement, no deliveries shall be made in advance of the delivery schedule.

At ESS’s sole discretion, early shipments may be returned at the Supplier’s risk and expenses. ESS reserves the right to keep the Articles shipped ahead of schedule and make payment as if the delivery was made per the delivery schedule.

6.3. Shipment

- 6.3.1. Shipment will be performed by the means and company agreed in the Agreement.
- 6.3.2. Unless otherwise agreed in the Agreement, the shipment costs must be included in the price.
- 6.3.3. In the event it is agreed in writing that the shipment costs are borne by ESS, such shipment costs will be reimbursed to the Supplier only on the basis of a receipt invoice from the carrier evidencing payment of such costs.
- 6.3.4. The shipment of the Articles is at the Supplier’s sole risk.

6.4. Insurance

- 6.4.1. The Supplier shall obtain at its own expense all necessary insurance in order to cover the liability it incurs in relation to the performance of the Agreement regarding physical injuries, material and consequential damages.
- 6.4.2. The Supplier agrees to provide ESS upon demand with documents evidencing the aforementioned insurance.

- 6.4.3. In any event, the Supplier shall provide ESS upon demand with any document evidencing insurance covering the Articles until their delivery to the agreed place of delivery.

7. Transfer of title and transfer of risks

- 7.1. Unless otherwise provided in the Agreement, title to the Articles shall pass to ESS only upon receipt by ESS of the Products and/or at the completion of the performance of the Services at the agreed place of delivery (the "**Transfer of Title**").
- 7.2. All Products shall be free from any and all liens and encumbrances.
- 7.3. The risks of loss are transferred to ESS at the same time as the Transfer of Title.

8. Relationship of the parties

The relationship of Supplier to ESS shall be that of an independent contractor, and nothing herein contained shall be construed as creating any employer/employee relationship, partnership, joint venture, agency, or other relationship of any kind. The Supplier's employees, agents and representatives (hereinafter collectively "**Employees**") performing services under this Agreement shall at all times be under the Supplier's direction and control, and shall not be considered employees of ESS for any purpose whatsoever. Supplier shall pay all wages, salaries, and other amounts due to its Employees in connection with performance under this Agreement, and shall be responsible for all reports and obligations for its Employees, including, but not limited to, social security and income tax withholdings, unemployment compensation, worker's compensation, and equal employment opportunity reporting.

9. Conformity

- 9.1. The Supplier warrants to ESS (the "**Warranty of Conformity**") that all Articles, including the packaging and the labelling:
- conform to the Supplier's specifications, designs, drawings, samples, symbols or other description;
 - conform to the specifications, drawings, samples, symbols or other description specified by ESS in the Agreement, if any;
 - conform to all applicable laws and/or regulations; in particular, the Supplier warrants that all materials with CE and/or UL approval requirements or other relevant requirements will comply with such requirements, in evidence of which the materials will bear the CE and/or UL approval mark;
 - are of merchantable quality and are fit and suitable for the purpose intended; and - are free from any defects.
- 9.2. In the event of nonconforming Articles, ESS shall notify such nonconformity to the Supplier within three (3) months from the receipt of the Articles by ESS by any means of communication.
- 9.3. Within ten (10) calendar days from the receipt of the nonconformity notice, the Supplier shall replace at no cost to ESS all nonconforming Articles.
- 9.4. All risk and transportation charges for return and redelivery shall be borne by Supplier.

- 9.5. Upon receipt of nonconforming Articles, ESS is also entitled, at its sole discretion, to terminate the Agreement and claim a refund for the nonconforming Articles.
- 9.6. The Supplier will indemnify and hold harmless ESS from and against all claims, losses, costs, expenses and damages arising out of or related to any breach of the Warranty of Conformity.
- 9.7. The Warranty of Conformity is in addition to all other warranties specified herein, and in particular the Additional Warranty (as defined hereinafter), or in the Agreement or implied by law and shall survive acceptance and payment.
- 9.8. If the Supplier fails to accept return of nonconforming Articles or fails to replace the nonconforming Articles promptly, ESS, without limiting its other rights, may, at Supplier's expense, replace, correct or repair the nonconforming Articles.

10. Additional Warranties

- 10.1. The Supplier grants an additional warranty on the Articles (the “**Additional Warranty**”) for a period of at least two (2) years starting on the delivery date (the “**Additional Warranty Period**”).

During the Additional Warranty Period, the Supplier shall repair or exchange the Articles in the event of malfunction, mistake, latent or apparent defect, or failure of proper operation.

In the event that any Article becomes inoperable during the Additional Warranty Period for forty-eight (48) hours or more, such warranty period shall be extended for the duration of the inoperability of the Articles.

- 10.2. The Supplier will be liable for, and will bear all direct and indirect financial consequences of, all damages of whatsoever nature to persons and/or properties, and will take all appropriate actions required by any public authority or on a voluntary basis and regardless of the motivation, i.e. latent defect, nonconformity to a legal provision or regulation, safety defect, etc., caused by a breach of the Additional Warranty.
- 10.3. The Supplier also warrants the continued availability to ESS of materials, components and spare parts at normal market prices or an equivalent or better product (at the same price as the Product initially ordered) for a period of ten (10) years from the delivery of the Articles.
- 10.4. If ESS has grounds for considering an employee of the Supplier or a third party retained by the Supplier to be unsuitable, the Supplier undertakes to replace such person as soon as possible.

The costs relating to the replacement's training, up to a maximum of 15 working days, will be borne by the Supplier.

11. Compliance with applicable laws and regulations

The Products and Services must comply with all applicable laws and regulations, including without limitation (such list being not exhaustive) those regarding:

- the quality, composition, labelling and presentation of the Products;
- applicable labor law; including laws regarding child labor;
- environmental laws and regulations.

12. Intellectual property rights

12.1. The Supplier guarantees that all required licenses in relation to the Articles are and shall remain valid and in full force and that the scope of such licenses shall properly cover the intended use of the Articles.

Such licenses shall include the right for ESS to transfer and to grant sublicenses.

12.2. The Supplier guarantees that the manufacture, delivery, sale and use of the Articles will not infringe any intellectual property rights (patents, trademarks, copyrights, designs or other similar rights) of any third party. The Supplier further guarantees that ESS has the right to use and/or reproduce pictures of the Articles on any medium, including its internet website.

The Supplier undertakes that it will, upon ESS request, at the Supplier's expense, defend or assist in the defense of any suit or action that may be brought against ESS for any infringement of intellectual property rights or claim thereof predicated upon the manufacture, delivery, use or resale of the Articles.

The Supplier further undertakes to hold ESS harmless from all loss, damages or liability which may be incurred by ESS on account of any infringement or alleged infringement of intellectual property rights of any third party arising out of the manufacture, use or sale of the Articles.

13. Limitation of Liability / Indemnification

13.1. Unless otherwise provided in the Agreement, ESS, its directors, officers, agents and employees and its partners, shall only be liable:

- if the Supplier can demonstrate a direct and immediate loss or damage caused by ESS's gross negligence, willful misconduct or intentional act within the framework of the Agreement; and
- if ESS has received written notice thereof no later than six (6) months after the Supplier's knowledge of the relevant claim.

13.2. In no event will ESS be responsible to the Supplier or third-parties for any business loss (including loss of profits, revenue, contracts, anticipated savings, data, goodwill or wasted expenditure), or any indirect, incidental, exemplary, punitive or consequential losses or damage.

13.3. In all events, (whether arising under contract, tort, negligence, strict liability, through indemnification or otherwise), ESS's liability per claim, and the Supplier's exclusive remedy, with respect to this Agreement shall be limited to the lesser of:

- the direct and immediate loss or damage caused by ESS's gross negligence, willful misconduct or intentional act; and
- \$60,000

13.4. The Supplier shall hold harmless and unconditionally indemnify ESS, its directors, officers, agents and employees and its partners to the full extent of any liability, loss, cost, claim, damage or expense including, but not limited to, reasonable attorneys' fees for the defense of all liabilities, costs, claims, damages and expenses by reason of any alleged or actual property damage or personal injury arising out of, as a result of, or in connection with the Services

performed and/or the Products supplied under the Agreement and due to any act or omission of the Supplier or its employees, agents or subcontractors.

14. Force majeure

- 14.1. Neither party shall be responsible for delays in delivery or performance because of intervention of a Force Majeure event.
- 14.2. In no event shall lack of finances be considered as a cause beyond the control of a party.
- 14.3. The party affected by the Force Majeure event shall give prompt notice thereof and, upon cessation of the Force Majeure event, take all reasonable actions to resume compliance with its obligations. If a delay in delivery or performance extends beyond sixty (60) calendar days, then either party may terminate the Agreement.

15. Confidentiality

- 15.1. In this clause, Confidential Information means all information (observed or heard) of a confidential business nature including, without limitation, information regarding ESS's business and IP rights (including, without limitation, information relating to ESS's technology, clients, business plans, promotional and marketing activities, finances and other business affairs, trademarks, patents, drawings, etc.), the existence and content of the Agreement (including the GTP, the STP, if any, and the Agreement), and any information which is designated by ESS as confidential.
- 15.2. The Supplier shall not, during the performance of the Agreement and for a period of 10 years subsequent to its termination, without ESS's express, prior written permission, use or disclose Confidential Information to any third party or to any of the Supplier's employees, agents or subcontractors except where strictly required for the sole purpose of the performance of Supplier's duties under the Agreement or in the event the Supplier is obliged to disclose Confidential Information pursuant to the provisions of applicable law, a court order or a legitimate request from relevant government authorities.
- 15.3. The Supplier shall not, without the prior written consent of ESS, in any manner advertise or publish or issue any news release or make any public announcement or deny or confirm the fact that Supplier has sold or contracted to sell the Articles to ESS.
- 15.4. The Supplier will be liable for any direct and indirect loss or damages arising out of any unauthorized disclosure or use of any Confidential Information by its employees, agents or subcontractors.

16. Termination of the Agreement

16.1. Termination without cause

- 16.1.1. Except as otherwise provided herein, the Agreement may be terminated by each of the parties at any time and without cause, by sending to the other party a written notice of termination by registered letter whose acknowledgement of receipt should be of at least three (3) months prior to termination date.
- 16.1.2. By way of exception, the parties may terminate Successive Performance Agreements with a

fixed term period by a written notice of termination by registered letter with acknowledgement of receipt that shall be received by the other party at least three (3) months prior to the end of the term.

16.1.3. Upon receipt of such written notice from ESS, the Supplier agrees to stop all or part of the work relating to the Agreement to the extent specified in the notice.

16.1.4. In the event the Agreement is terminated by ESS, the Supplier is entitled to receive payment for the Products delivered and/or of the Services performed at the price agreed in the Agreement (the “**Last Payment**”) until the end of the notice period.

If the Last Payment is not determinable, ESS and the Supplier will agree upon an equitable adjustment of the price, provided that:

- such adjustment shall not exceed the total price agreed under the Agreement; and
- no amount will be allowed for anticipated profit for performance not rendered.

16.1.5. The Supplier will not be entitled to claim for any damages against ESS in the event of termination of the Agreement.

16.2. Termination with immediate effect

16.2.1. Immediate termination

Without prejudice to the above provisions as well as United States law, each of the parties may terminate the Agreement with immediate effect and without incurring any liability in the event of the occurrence of an Event of Default (as defined hereinafter).

16.2.2. Event of Default

The following events constitute events of default:

- breach of any provision of the Agreement arising out of a serious or willful misconduct by one of the parties;
- breach by one of the parties of a material provision of the Agreement (including, without limitation, the failure of the Supplier to deliver the Products or perform the Services within the time specified in the Agreement, breach of the confidentiality clause, IP rights clause, breach of the conformity and warranty clauses, etc.);
- the Supplier is in breach of any other provision of the Agreement and, having been given written notice by ESS to remedy the default or failure, the default or failure is not or cannot be cured within thirty (30) calendar days;
- the Supplier suspends or threatens to suspend, or ceases or threatens to cease to carry on, all or a substantial part of its business;
- one of the parties ceases to conduct its operations in the normal course of business, including the inability to meet its obligations as they mature, or if any proceeding under any applicable bankruptcy or insolvency laws is brought by or against the Supplier, or a receiver/trustee for the Supplier is appointed or applied for, or an assignment for the benefit of creditors is made by the Supplier;
- (each of these events being individually an “**Event of Default**”).

17. Amendments and modifications

Any amendments or modifications to the GTP and/or to the Agreement must be in writing and are subject to the written approval of the parties.

18. Assignment

The Supplier shall not assign the Agreement or any of its rights under the Agreement without the prior written consent of ESS.

19. Remedies and waivers

No failure by ESS to exercise, nor any delay by ESS, in exercising, any right or remedy hereunder, shall operate as a waiver thereof or of any right or remedy hereunder, nor shall any single or partial exercise of any right or remedy prevent any further or other exercise thereof or the exercise of any other right or remedy. The rights and remedies herein provided are cumulative and not exclusive of any rights or remedies provided by law.

20. Partial invalidity, illegality or unenforceability

The invalidity, illegality or unenforceability of any provision of the GTP, the STP, if any, and/or of the master agreement shall not affect the continuation in force of the remainder of the GTP, the STP, if any, and the master agreement.

21. Notices

21.1. Unless otherwise specified in the Agreement, each demand, notice or other communication to be made hereunder shall:

- be made in writing in the English language; and
- be made to the following address:

- **ESS:** Environmental Sampling Supply, Inc.
343 West Main Street
Leola, PA 17540

Attention: US Purchasing Manager

- **Supplier:** Supplier's address is as appears in the Agreement.

- be deemed duly served if sent by registered mail with acknowledgement of receipt, facsimile transmission, e-mail or other means of communication in permanent written form to the address mentioned above to be served, or if served by post on the third day (not being a business day) following the day of mailing.

22. Applicable law / jurisdiction

22.1. Unless otherwise provided in the STP or otherwise agreed in writing between the parties, the Agreement is governed by, and shall be construed in accordance with, the laws of the State of Delaware, U.S.A., excluding its conflict of laws rules. The application of the United Nations Convention on Contracts for the International Sale of Goods is expressly excluded.

22.2. The Supplier agrees that, unless otherwise provided in the Agreement, the state and federal courts in the Commonwealth of Pennsylvania, U.S.A. shall have exclusive jurisdiction to

resolve any dispute, which may arise out of, or in connection with, the GTP and/or the Agreement and that accordingly any proceeding, suit or legal action arising out of, or in connection with, the GTP and/or the Agreement shall be brought in such courts. Each party consents to the personal jurisdiction of the state and federal courts in the Commonwealth of Pennsylvania, U.S.A., and waives any right it may have to a trial by jury in any such proceeding, suit or legal action.

22.3. If the parties agree to arbitration, such arbitration shall be administered by the American Arbitration Association in accordance with its International Arbitration Rules. The arbitration shall be conducted in the City of Philadelphia, Pennsylvania, U.S.A., and the language of the arbitration shall be English.

23. Miscellaneous

The Articles sold by the Supplier to ESS shall have the lowest environmental (during their entire life cycle) and the most positive social (no child labor, occupational health and safety, regulatory compliance) impact.

**Executed by Environmental Sampling
Supply, Inc.**

**Executed by the Supplier
For Acceptance and
Acknowledgement**

Name:
Title:

Name:
Title:

Appendix 1: Specific Terms and conditions of Purchase (STP) - Search Services

1. Scope of terms and conditions

These STP apply to all services supplied by a personnel / executive search, HR consulting, recruitment or headhunting firm (hereinafter referred to as the “**Search Firm**”).

2. Fee structure

2.1 A fixed fee cap (the “**Fee Cap**”) (i.e. independent of the salary and benefits finally agreed with the person recruited as a result of the search) for each position has to be agreed before a search can start. In no case shall the Search Firm bill ESS more than this fee cap for any given search mandate. If the search contract specifies that the fee for the search firm shall be a set % of the selected candidate's salary then only the lower of the Fee Cap and the amount resulting from applying the % salary shall be charged to ESS. A separate cap for expenses (see 2.6) has also to be agreed before a search can start.

2.2 Installments, plus applicable taxes, will be invoiced to ESS on each search as follows:

- 1st installment (25%) at the start of the respective search;
- 2nd installment (25%) after ESS makes an offer to a candidate presented by the search firm;
- 3rd installment (50%) after the successful hiring of a candidate (i.e. the candidate effectively starting in his/her new position at ESS).

2.3 If the search is stopped by ESS or by the Search Firm before a candidate is hired, only installments paid until that point will be due. ESS shall not incur any additional charges.

2.4 If, during the 12 months following the recruitment, the candidate recommended by the Search Firm voluntarily resigns or leaves at the request of ESS (i.e. ESS terminate his/her employment), the Search Firm will undertake a new search and selection process without ESS incurring any further costs or fees from the Search Firm, except those for direct expenses and applicable taxes.

2.5 Fees for any follow-on hire resulting from candidates presented as part of an existing search will be charged to ESS at 50% of the fee cap for the underlying search or at 50% of the % of salary agreed as a fee for the search, whichever is lower, plus direct expenses and applicable taxes. For hires resulting from candidates presented outside the scope of an underlying search, the fees due by ESS shall never exceed 15% of the annual salary or 25,000 Euros, whichever is lower.

2.6 Out of pocket expenses incurred on ESS's behalf by search consultants and more usually by candidates will be invoiced monthly as incurred along with applicable taxes. In any case, unless there is a prior written approval by ESS, these shall not exceed the agreed fee cap (see 2.1). Larger / exceptional items such as international travel (flights: economic rates; hotel maximum 150 € / night; car: max. 0,50 € / km) / non included candidates assessments, etc.) will be subject to prior written approval by ESS.

3. ESS Protection

In the interest of a long-term collaboration between the Search Firm and ESS, the Search Firm undertakes not to contact any employee of a ESS legal entity or subsidiary of the ESS Group as part of a third-party search, while the Search Firm is active for ESS and during a period of 12 months after the end of the latest search (i.e. recruitment for ESS of a candidate by the Search Firm or termination of a search contract).

Appendix 2: Specific Terms and conditions of Purchase (STP) - Services

1. Scope of terms and conditions

These STP apply to all Suppliers of services.

2. Offer acceptance

2.1 The offer or quotation from the Supplier must specify the services to be supplied and the corresponding costs in detail.

2.2 Payment will not be made by ESS without previous explicit agreement to commission the services. This acceptance must be written and signed by an authorized representative of ESS. The acceptance can take the form of:

- a purchase order signed by ESS
- a quotation accepted in writing by ESS
- a contract signed by an authorized representative of ESS

3. Payments

3.1 The Supplier will customize their services in accordance with the demands of ESS, either in the form of a non-revisable fixed price or in the form of a maximum number of hours or units at a non-revisable hourly or unit rate.

3.2 ESS will not be liable for any additional payment for variations of work to be done without a written request from ESS. Before an additional payment can be made, a complementary quotation or variation approved in writing by an authorized representative of ESS must be obtained.

3.3 ESS will not pay for deficient or inappropriate services or for delayed services if a deadline for the provision of services had been agreed.

4. Supplementary Work

4.1 Any supplementary work that is not planned in the original agreement must be approved in advance and will be included in an additional agreement. The additional agreement will be subject to the same terms as the original acceptance and must be approved in writing by an authorized representative of ESS. It is the responsibility of the Supplier to inform ESS as soon as the possibility of additional work not covered by the original agreement arises. Without an additional agreement duly signed by ESS, any additional or supplementary work carried out by the Supplier will be considered to be part of the contract and will be covered by the amounts specified in the agreement already signed. In these circumstances ESS will not be liable for any additional payment. Supplementary work that has been necessary because of poor quality of service, mistakes or omissions from the Supplier will be undertaken by the Supplier even if the defects or omissions are noted after completion of any work or service.

4.2 Where a tender is requested from Suppliers, in certain cases, a Supplier will be selected upon an estimated budget for various work spread out over a certain period. ESS will sign a master agreement with the Supplier for the work to be carried out. These master agreements shall comply with the GTP. The Supplier will be obliged to provide quotation for each service included in the global budget and to obtain the signed approval from ESS before starting work. A detailed quotation must be supplied to ESS for each service indicating the non-revisable contract prices applicable for each item of the budget.

- 4.3 Each quotation will have to be approved by an authorized representative of ESS and will constitute an addendum to the master agreement. In so far as the main Supplier who is the beneficiary of the master agreement subcontracts work (printing work for example) to another Supplier, ESS reserves the right to request tenders for this work and to select the most appropriate subcontractor. ESS will not be obliged to obtain the approval of the main Supplier for either the selection of the subcontractors to be contacted, or on the chosen subcontractor to do the work.
- 4.4 Any subcontracted work without approval of a specific quotation by ESS will be the financial responsibility of the Supplier. It is specifically agreed that the approval by ESS of a master budget will not imply the approval of the cost of each item of the budget which will be required to have detailed estimates that allow competition between Suppliers. Quotations from Suppliers must reach ESS no later than 15 days before the date of the approval of the quotation by ESS to assure the completion of the services required within the timeframe required.