



**General Terms and Conditions of Purchase ("GTC")  
of SWAROVSKI, effective from 1<sup>st</sup> of January 2013**

**1. Scope of Application of these Terms and Conditions of Purchase**

- 1.1. These GTC shall apply in their respective current version to the business relationship between the ordering company of the SWAROVSKI-Group (hereinafter referred to as "SWAROVSKI") and its suppliers/vendors (each hereinafter referred to as "Supplier"), even if no explicit reference was or is made to these GTC in any individual transaction.
- 1.2. Individual companies within the SWAROVSKI-Group are not jointly or severally liable for debts or other obligations of any of the other companies within the SWAROVSKI-Group.
- 1.3. Other general terms and conditions of business of Supplier, regardless of type, shall not apply to transactions between SWAROVSKI and Supplier. SWAROVSKI hereby expressly declines the application of any such other terms and conditions. Fulfilling actions or silence on the part of SWAROVSKI shall not lead to application of general terms and conditions of business of Supplier. Divergent agreements, collateral agreements, assurances, and amendments of these GTC of SWAROVSKI shall be valid only if agreed upon explicitly and in writing between Supplier and SWAROVSKI on a case-by-case basis.

**2. Offers to SWAROVSKI**

All offers submitted by Supplier to SWAROVSKI shall be binding on Supplier for at least three (3) months from the date of their receipt by SWAROVSKI, and regardless of the actions taken by Supplier in order to prepare and submit an offer, shall not constitute grounds for remuneration or reimbursement.

**3. Order Issuance and Confirmation**

- 3.1. Assignments and/or purchase orders from SWAROVSKI must be issued in writing/systemic to be binding for SWAROVSKI, and must include an individual SWAROVSKI purchase order number.
- 3.2. Supplier warrants that all products/services provided to SWAROVSKI shall conform with any specifications listed, referred to, or stipulated by SWAROVSKI in the assignment/purchase order for such products/services or otherwise. Supplier must always include any safety, storage, handling, operational, and maintenance instructions along with the products/services, without the need for SWAROVSKI to request these explicitly.
- 3.3. Assignments/purchase orders delivered by SWAROVSKI shall be validly binding for Supplier without Supplier's explicit confirmation and if not rejected nor amended by Supplier within five (5) business days of its delivery. In the event of a rejection or an amending response from Supplier, SWAROVSKI shall have the right to revoke the assignment/purchase order in whole or in part within twenty-one (21) calendar days from the delivery date of the rejection or amending response. If a confirmation from Supplier is expressly required by SWAROVSKI, it must be timely returned in textform/writing particularly including details of the price, description of products/services, quantities and delivery/service times.

**4. Prices and Terms of Payment**

- 4.1. The prices agreed by SWAROVSKI and Supplier are fixed prices. Price changes shall be valid only if agreed upon in textform/writing by both parties. Prices include all packaging costs for the delivery of the goods. Prices shall be the net amount payable/receivable under deduction of any potential withholding taxes or similar charges under the tax laws in force at the time of the payment, which are deemed to tax the Supplier in the jurisdiction of the Supplier. Payment terms shall be thirty (30) days net after receipt of a proper invoice by SWAROVSKI.
- 4.2. All invoices must comply with pertinent VAT regulations and must contain (i) the purchase order number, (ii) an itemized description of the delivered products/services, (iii) the purchase order date, and (iv) the price with separately quoted VAT and/or similar charges. These requirements also apply if the parties have agreed upon collective invoicing. Invoices that do not fulfill the requirements specified herein will not be accepted and will be considered as not submitted.
- 4.3. Supplier shall not have the right to offset any obligations to SWAROVSKI, or to withhold performance under any accepted assignment/purchase order, against other claims it may have against SWAROVSKI.
- 4.4. Travel expenses incurred by Supplier shall be reimbursed by SWAROVSKI only with SWAROVSKI's prior written agreement in each case, and shall be subject to the SWAROVSKI travel expenses policy and delivery and acceptance of the applicable products/services.

**5. Delivery Dates for Products and Services**

- 5.1. Stipulated delivery dates for products and services are binding fixed dates and must strictly be observed by Supplier.
- 5.2. Partial deliveries of products/services or early deliveries of products/services shall require the explicit prior consent of SWAROVSKI. SWAROVSKI shall not be obligated to accept the products/services in such cases. In the event of partial or early delivery, SWAROVSKI shall have the right to refuse acceptance of the goods, and to return them or store them with third parties at Supplier's expense. If early and/or incomplete deliveries of products/services are accepted by SWAROVSKI, the payment terms specified herein shall not commence until delivery of the products and/or performance of the services is completed in full, and Supplier has provided to SWAROVSKI a proper invoice.
- 5.3. In the event of delayed or incomplete delivery of any products/services, SWAROVSKI shall be entitled, following a grace period of two (2) weeks from the date that such products/services were required to be delivered, (i) to insist upon delivery of the

products/services and to receive compensation from Supplier for the damage caused by the delay or (ii) to terminate the assignment/purchase order in whole or in part, and to receive compensation from Supplier for the damage caused by the delay and reimbursement from Supplier of the costs for substitute products/services.

**6. SWAROVSKI Materials**

All services, items, drawings, specifications, and other materials and information made available by SWAROVSKI (collectively the "SWAROVSKI Materials") for the performance of any assignment/purchase order by Supplier shall remain the property of SWAROVSKI, may not be made available by Supplier to any third party, and may not be used by Supplier for advertising purposes or any purposes other than the performance of the assignment/purchase order from SWAROVSKI. The SWAROVSKI Materials must be returned by Supplier to SWAROVSKI without undue delay and in perfect condition following performance of the assignment/purchase order, or earlier upon request by SWAROVSKI.

**7. Delivery of Machinery and Technical Equipment**

- 7.1. Unless otherwise agreed in textform/writing by the parties, all machinery and technical equipment delivered by Supplier must be equipped with protective devices as required at the delivery location, and must be in compliance with safety regulations and environmental protection regulations applicable at the delivery location. When setting up technical systems and/or delivering technical products, Supplier shall review the information desired by SWAROVSKI regarding dimensions, quality, and design, and shall correct this information in consultation with SWAROVSKI if necessary, based upon Supplier's greater expertise with these systems and/or products, provided that specifications provided by SWAROVSKI may only be changed with SWAROVSKI's prior written consent. Supplier warrants that all systems, products and/or services shall conform with the agreed specifications as well as all technical safety regulations.
- 7.2. Required safety devices and safety instructions must be included in all deliveries by Supplier, without the need for SWAROVSKI to request these explicitly.

**8. Performance of Services**

Supplier warrants that it shall provide its services in a good and workmanlike manner, to the best of its knowledge and care, and in accordance with industry standards and the technical state of the art.

**9. Shipping Instructions, Point of Destination**

- 9.1. In the event of product deliveries, Supplier must observe the product delivery regulations or procedures applicable at the SWAROVSKI facility where delivery is made. Products must be packaged properly and in a manner appropriate for their transport. Supplier shall be liable for all losses incurred by Supplier or SWAROVSKI as a result of improper packaging of products.
- 9.2. Unless otherwise specified in an assignment/purchase order, the delivery terms DDP "SWAROVSKI site" pursuant to INCOTERMS 2010 shall apply for the delivery of goods and for the corresponding determination of the costs associated with such delivery. Title to goods shall transfer to SWAROVSKI upon delivery, and Supplier shall not be permitted to retain title to delivered goods. For shipments requiring customs clearance, shipping papers must include all necessary documents and forms, such as (i) two invoices for customs processing, (ii) movement certificates and/or certificates of origin (Form A) for customs processing, (iii) one packing list each, and (iv) other necessary documents. In addition, all documents must contain the customs tariff number(s), the net weight, and the associated SWAROVSKI purchase order number.

**10. Acceptance**

Upon receipt of products/services, SWAROVSKI shall be obligated only to verify the identity of the products/services and their completeness, and to check for visible external damage. SWAROVSKI explicitly reserves the right to reject products/services as defective or otherwise noncompliant with the terms of this Agreement or the applicable assignment/purchase order at any time within the warranty period specified herein. Supplier waives the right to object to delayed reporting of defects by SWAROVSKI so long as such report is made during the warranty period.

**11. Liability for Defects**

- 11.1. Supplier shall be liable for providing products/services free of defects and in conformance with the agreement, the applicable assignment/purchase order, and the applicable specifications. Without limiting the foregoing, Supplier shall provide all products/services based upon the technical state of the art, the use of defect-free, appropriate materials, professional implementation, appropriate and safe design, and defect-free assembly/installation.
- 11.2. In the event defective products/services, regardless of the type and scope of the defect, are supplied to SWAROVSKI by Supplier, SWAROVSKI shall have the right, at its discretion and within a period established by SWAROVSKI, to demand from Supplier either an exchange or repair of the affected products, re-performance of the affected services, or a price reduction with respect to the affected products/services. In the event that any defects cannot be corrected, or if the remedy of any defects cannot otherwise be reasonably expected by SWAROVSKI, or if an established grace period has expired without correction of any defects, then SWAROVSKI also shall have the right, at its discretion, to terminate the applicable assignment/purchase order in whole or in part, and to refuse the performance of the applicable service, or to undertake remedy of the defects itself or through third parties. Supplier shall bear all costs incurred by SWAROVSKI in connection with any such circumstance.
- 11.3. Supplier shall bear all costs related to the occurrence of a defect, the assertion of the aforementioned rights arising from defects or remedy of defects, and other costs incurred by SWAROVSKI, including costs for additional inspections of the goods, identification of defects, sorting, retooling, and similar costs.



11.4. SWAROVSKI shall have the right to report defects and demand the remedies provided herein, and all other remedies that may be available under applicable law, for twenty-four (24) months after acceptance of the respective products/services by SWAROVSKI. Such twenty-four (24) month period shall re-commence after any defect has been corrected with respect to the corrected portion of the products/services.

**12. Liability for Losses**

12.1. Supplier shall be responsible for employing the care of a person skilled in the art and using its existing know-how and know-how acquired during the term of this business relationship to conscientiously fulfill its contractual obligations in accordance with the technical state of the art with regard to all services assigned to it by SWAROVSKI. Supplier shall be liable to SWAROVSKI for performance pursuant to these GTC and each assignment/purchase order. Supplier's liability shall not be restricted or in any manner limited unless SWAROVSKI has agreed to such restriction or limitation explicitly in writing.

12.2. Supplier shall remain primarily liable to SWAROVSKI for performance of all services and delivery of all products, even if services are performed or products are provided by a subcontractor. Supplier's use of subcontractors shall only be permissible in the event that the use of such subcontractor is in accordance with the agreed upon assignment/purchase order. Supplier shall be liable to SWAROVSKI for all losses for which Supplier, its employees or other representatives, or any subcontractor is responsible in whole or in part, and shall indemnify SWAROVSKI from and against all such losses.

12.3. Supplier must report to SWAROVSKI any defects or product characteristics that are relevant to product liability, or which appear to make a recall of any products/services supplied by Supplier from the market necessary for other reasons, as soon as they are discovered. Supplier must cooperate with SWAROVSKI in preparing warning notices and/or performing recalls that involve products supplied by Supplier. Supplier shall bear all costs incurred by SWAROVSKI as a result of actions taken to remove products from the market, including any costs related to a recall performed by SWAROVSKI as a precautionary measure or otherwise.

12.4. Supplier shall indemnify and hold harmless SWAROVSKI from and against all product liability and/or other losses incurred by SWAROVSKI as a result of or relating to products and/or services provided by Supplier, including without limitation reimbursement of attorney's fees and other associated costs, except to the extent that the applicable damage was caused solely by SWAROVSKI.

12.5. If requested by SWAROVSKI, Supplier shall obtain and maintain liability insurance in types and amounts sufficient to protect against possible risk arising out of products/services provided to SWAROVSKI hereunder, including product liability insurance (for personal injury, property damage, and pure economic loss) and including coverage for contractually assumed liability. At SWAROVSKI's request, Supplier shall submit appropriate evidence of insurance to SWAROVSKI. SWAROVSKI shall have the right to specify the minimum coverage requirements.

**13. Force Majeure**

13.1. If Supplier is unable to fulfill an assignment/purchase order due to force majeure, it must notify SWAROVSKI of this circumstance without undue delay, and must furnish evidence of the existence of the force majeure circumstance that is causing the inability to perform. Force majeure circumstances are circumstances that are not predictable, cannot be insured against, and are outside of a party's control.

13.2. As long as Supplier notifies SWAROVSKI in accordance herewith, Supplier's obligations that are affected by an event of force majeure shall be suspended until the force majeure ceases. Supplier shall take reasonable efforts to remove the cause of any event of force majeure as soon as possible after its occurrence. If it appears that Supplier will be unable to perform for a period of more than thirty (30) days as a result of force majeure, then SWAROVSKI shall have the right to terminate the applicable assignment/purchase order upon written notice to Supplier, without Supplier being entitled to claims for damages of any kind as a result.

13.3. Should SWAROVSKI be unable to accept delivery of any products/ services as a result of force majeure, then SWAROVSKI shall have the right to terminate the applicable assignment/purchase order upon written notice to Supplier, without Supplier being entitled to claims for damages of any kind as a result.

**14. Intellectual Property Rights**

14.1. All rights to and associated with SWAROVSKI Materials and other information transmitted to Supplier by or on behalf of SWAROVSKI, including copyrights, trademarks, patents, designs, utility models, and all other proprietary rights, as well as the right to register any of the foregoing, and all rights to and associated with all results of work performed within the scope of an assignment/purchase order from SWAROVSKI, shall be and remain the exclusive property of SWAROVSKI.

14.2. Supplier shall be liable for providing all products/services free of defects in title. Supplier warrants that all products/ services, and SWAROVSKI's use thereof, do not and will not infringe or misappropriate any third party rights. Supplier further warrants that no third-party rights to any provided products/services exist, unless otherwise contractually agreed in advance between SWAROVSKI and Supplier.

14.3. Supplier shall indemnify and hold harmless SWAROVSKI in the event that any third party asserts a claim against SWAROVSKI that any product/service provided by Supplier infringes or misappropriates such third party's copyright, trademark, patent, design, utility model, or other proprietary rights, or otherwise conflicts with the rights of such third party.

**15. Confidentiality and Reference to SWAROVSKI**

15.1. Supplier agrees that it may use all SWAROVSKI Materials and all commercial, technical and other confidential or proprietary information of which it becomes aware in the course

of its relationship with SWAROVSKI exclusively for fulfillment of the products/services ordered by SWAROVSKI, that it will handle such information in the same manner as it handles its own confidential information and trade secrets, and in no event less than a reasonable standard of care; and that it will not grant access to this information to any third party. Upon the completion of each assignment/purchase order, or earlier upon request by SWAROVSKI, Supplier shall, at SWAROVSKI's option, promptly return or destroy and certify that it has destroyed all written materials and any documentation containing confidential information of SWAROVSKI, including copies of such materials in the possession of Supplier, regardless of whether these materials were prepared by Supplier, SWAROVSKI, or a third party.

15.2. Supplier and its subcontractors shall be prohibited from making reference to SWAROVSKI and/or using trademarks and brands of SWAROVSKI in advertising, external communication, or other publications without the prior written consent of SWAROVSKI.

**16. Compliance**

16.1. Supplier must maintain strict compliance with the "SWAROVSKI – Code of Conduct for Suppliers" during the entire term of its relationship with SWAROVSKI.

16.2. Supplier warrants that all products/services provided to SWAROVSKI shall be manufactured/provided in compliance with all regulations, directives, and laws applicable thereto and/or applicable at the place of delivery. Supplier shall be obligated to adhere to this obligation at its own expense, and to indemnify and reimburse SWAROVSKI for any damages resulting from any non-compliance with the foregoing warranty.

16.3. When providing services in the offices and/or property of SWAROVSKI, Supplier shall be obligated (i) to plan and comply with its own precautionary measures in accordance with its industrial standard and applicable accident prevention regulations, and (ii) to follow the site rules, safety regulations, and other instructions and local requirements of SWAROVSKI.

**17. Data Protection**

Supplier shall be explicitly obligated to comply with all applicable data protection laws with respect to data related to SWAROVSKI and/or its employees. SWAROVSKI shall be entitled to grant access to personal data it obtains from Supplier in the normal course of business to other companies of the SWAROVSKI Group on an international basis.

**18. Transfer of Rights and Obligations**

18.1. Supplier shall not be entitled to transfer any of its rights or obligations under these GTC or under any assignment/purchase order to any third party without SWAROVSKI's prior written consent thereto.

18.2. SWAROVSKI shall be entitled to transfer any or all of its rights or obligations under these GTC or under any assignment/purchase order at any time to an affiliated company or to a third party without obtaining Supplier's consent or permission thereto.

**19. Applicable Law and Venue**

19.1. The business relationship between Supplier and SWAROVSKI, these GTC, and each assignment/purchase order shall be governed exclusively by the material law applicable to the place of business of the SWAROVSKI company placing orders with Supplier. The UN Convention on Contracts for the International Sale of Goods (CISG) and the conflict-of-laws provisions of international law shall not apply to transactions between the parties, these GTC, or any assignment/purchase order.

19.2. The venue for adjudication of any disputes relating to the business relationship between Supplier and SWAROVSKI, these GTC, and each assignment/purchase order shall solely be the court in the jurisdiction of the place of business of the SWAROVSKI company placing orders with Supplier. However, SWAROVSKI shall be entitled to file actions at the court having jurisdiction at Supplier's place of business. Each party consents to jurisdiction in such courts and waives any claims of inconvenient forum or otherwise.

**20. Notices**

All notices required or permitted to be given hereunder shall be in textform/writing, and shall, if not separately agreed upon differently, be delivered personally, sent by facsimile transmission or eMail, sent by nationally recognized overnight courier or placed in the Post Mail to the address listed for the recipient in the most recent assignment/purchase order issued hereunder.

**21. Miscellaneous**

The failure or delay of either party to exercise any right hereunder shall not be deemed to be a waiver of such right in that or any future circumstance. No waiver shall be effective unless in writing and signed by both parties. If any one or more of the provisions contained in these GTC shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof and these GTC shall be construed as if such invalid, illegal or unenforceable provision were not contained herein. The parties are independent contractors, and are not intended and shall not be deemed to be partners or joint venturers, or to have an employment or agency relationship. These GTC, together with each contract, assignment/purchase order accepted hereunder, constitute the entire agreement of the parties and supersede any prior GTC.

SWAROVSKI, 1<sup>st</sup> of January 2013