

## General Terms and Conditions of Purchase – Sept. 2021

### 1. SCOPE AND ACCEPTANCE OF TERMS AND CONDITIONS

Unless particular derogation expressly accepted by Buyer, these General Terms and Conditions of Purchase (hereinafter the "GCP") apply exclusively to any Buyer's order (the "Order") of goods and/or services without regard to whether the Supplier manufactures the goods himself, purchases from other suppliers or manufactures and supplies.

The supplier (hereinafter "Supplier") hereby accepts the application and the conditions of these GCP, which apply to businesses, legal entities under public law and special assets under public law and they also apply for all future business without renewed explicit reference.

Buyer does not recognize contrary or deviating conditions of Supplier (including terms and conditions in any document attached to or incorporated by reference in this Order) unless Buyer approved the validity of the conditions expressly and in writing, with signature of an authorized representative.

Any of the following acts by Supplier will constitute acceptance of this Order and all of its terms and conditions: (a) signing and delivering a copy of this Order to Buyer (delivery may be made by e-mail, facsimile, hand delivery, or regular mail), (b) delivery of any of the Goods ordered; or (c) commencement of performance.

### 2. ORDER

**2.1 Order conditions.** Any purchase by Buyer must be subject to an Order sent by Buyer, an Order number and a date. Order number must be shown on each package, packing slip, invoice, and any correspondence to Buyer.

All Suppliers that have converted to the supplier portal "POOL 4 TOOL" are obliged to handle all inquiries, orders and invoices via the portal. Other processing channels or media (e.g. fax, email, etc.) will not be accepted.

**2.2 Definition of goods and services.** Buyer can define the goods and/or services (hereinafter collectively the "Goods and/or Services") to be provided in technical specifications. Goods and/or Services must fully comply with the Order, the technical specifications and any associated document listed in the Order (drawings, etc.) if applicable. The paper and/or PDF version of the drawings provided by Buyer or mutually agreed between the Parties in writing will prevail against any other document or oral exchange.

Supplier must ensure that the delivered Goods comply with the approved sample and that contractual agreements / specifications such as illustrations, drawings, dimensions, weights, Buyer and/or Supplier product descriptions and other performance data match exactly and are suitable for the intended use, which must always be inquired by the Supplier if it is not clearly recognizable to him from the Order / Order confirmation.

**2.3 Acceptance of the Order.** Any Order must be accepted within maximum forty-eight (48) working hours, from the date of receipt, and upon conditions defined in advance by Buyer. The contractual undertaking of Buyer vis-à-vis the Supplier is under condition of fulfilment of this document. In case of non-receipt of this document, the Buyer may consider the Order as refused. If the Supplier starts the works, the Order will be deemed accepted. Acceptance of this Order by Supplier constitutes a contract between Buyer and Supplier according to the terms and provisions of this Order.

Any amendment, modification, or reservation to the Order must be accepted in writing by both Parties.

With the acceptance of the Order, the Supplier confirms that he received all the information and material necessary to its performance. Supplier is further obliged to inspect drawings, calculations, descriptions and other documents for completeness and correctness and to report to Buyer immediately if statements are incomplete, unclear, erroneous or otherwise to be criticized.

**2.4 Modification of the Order.** Supplier must submit to Buyer, immediately after receipt of an Order, an acknowledgement and/or Order confirmation in writing that conforms to the Order and is identical in content. Any deviations from the Order must be clearly indicated by Supplier in writing.

Buyer may request changes to the delivery item after the execution of the Order, and both Parties must consider the effects of any such change to the contract, in particular with regard to additional or reduced costs, product quality and delivery dates.

No modification of this Order shall be binding on Buyer unless made by a supplemental order signed by an authorized representative of Buyer.

### **3. PERFORMANCE OF THE ORDER**

Supplier must perform all Services described on the face hereof and on any attachment hereto in accordance with the drawings and specifications contained or incorporated herein. Except as otherwise provided on the face hereof, Supplier must provide all labor, services, supplies, equipment, and tools of every kind required for the prompt and efficient execution of the work described in this Order.

The Supplier must ensure that all deliveries comply with the latest state of the art, the legal regulations and ordinances in force in country/state of destination, and the regulations and guidelines of authorities, professional associations and trade associations, in particular the health and food law regulations valid at the time of delivery. Supplier must continuously obtain the necessary knowledge for the fulfilment of these obligations during the delivery period and, if necessary, adjust the Goods and/or Services in accordance with the current provisions.

Supplier must perform said Services during the hours designated by Buyer.

Deliveries must be accompanied by detailed accompanying documents stating the description of the Goods, the Order number, the quantity and the certificate on performed tests and the 100% initial inspection performed by the Supplier, but if required also safety and conformity declarations / certificates, etc.

Buyer will not accept responsibility for any self-supply reservation of Supplier in the case of recurring Orders. Supplier bears the procurement risk for his services and the material risk until acceptance of the delivery by Buyer. Buyer will not accept any embargo clause as well as any conditional fulfilment.

If the Supplier changes materials, components or manufacturing processes, he must report this in writing to Buyer prior acceptance of the Order and obtain Buyer's approval in writing. Otherwise, a change is not permitted unless it is based on legal or regulatory requirements.

### **4. ATTACHED DOCUMENTATION**

Complete fulfilment of the contract requires the delivery of Goods, the handing over of a delivery note that contains the Order number and an indication of the quantity of contract Goods, shipping documents, installation instructions, operating instructions, maintenance instructions, design drawings and all required technical documentation, which allow the Buyer to further process / install / assemble the contract Goods. Complete fulfilment also requires the delivery of long-term Supplier declarations, certificates of origin, operating instructions, maintenance instructions and other technical documentation. If a manufacturer's declaration or declaration of conformity is required, the Supplier must create it and make it available upon request at its own expense.

### **5. DELIVERY**

**5.1 Delivery conditions.** Unless otherwise stated in the Order, the delivery is in accordance with Incoterm® (ICC-2020) DDP – final delivery address. The Supplier will attach to the delivery a delivery note specifying the date, references of the Order, code of article. It will detail the number of packages of boxes and the definition of the Goods for each package or box.

In the event of claims arising from the transport insurance, the Supplier assigns Buyer irrevocably the condition of the occurrence of the insured event in the amount of advance payments received.

In case of a delivery within Buyer's premises, the Supplier will send a copy of the dispatch note to Buyer, at the date of dispatch of the Goods from Supplier's premises. In case of Service provision, Buyer and Supplier will sign report of performance of works or an acceptance report.

All shipments of Goods ordered must be made as specified in this Order, in standard commercial containers, or as specified by Buyer, capable of safe delivery to Buyer and at the lowest lawful transportation and insurance rates. Unless otherwise agreed to in writing signed by an authorized representative of Buyer, no additional charges for packaging, packing, or boxing will be allowed by Buyer. Commodity descriptions which produce the lowest lawful freight charges must be shown on bills of lading. Packing slips must be included with all shipments. Excess transportation charges to be incurred in order to deliver Goods or render Services at the time required (original or revised), or failure to meet specified time, will be the responsibility of Supplier.

Shipments in advance of scheduled delivery dates as shown herein are not to be made without Buyer's written approval. Buyer reserves the right to return at Supplier's expense, any early shipments and/or delay payment for such shipments until their scheduled due date. Buyer and Supplier agree that time is of the essence in delivering the Goods ordered herein.

Unless otherwise stated in writing by Buyer, the Goods will be delivered assembled and in working order.

**5.2 Quantity.** The specific quantities ordered must be delivered in full and not to be changed without the written consent of an authorized representative of Buyer. Buyer will inform the Supplier of any excess of quantity within five (5) working days and will leave the Goods at Supplier's disposal at the delivery place during ten (10) working days. After this date, Buyer will invoice storage fees to the Supplier.

Partial deliveries and Services are only permitted if agreed accordingly in writing. Buyer is not obliged to accept partial deliveries or partial Services. In case of partial delivery, Supplier will bear potential transportation costs, unless otherwise agreed in writing by Buyer.

**5.3 Delivery dates.** Delivery dates are fixed in the Order, binding and of the essence. Delivery deadlines are only met if the contractual delivery arrives completely at the contractually agreed place of delivery and is handed over.

The Supplier must inform Buyer immediately in writing if circumstances occur or become apparent to him, from which it emerges that the conditional delivery time cannot be met.

**5.4 Late delivery.** Irrespective of the statutory rights and claims in case of delay in delivery, in case of late delivery or late performance of the Order, the Supplier will inform Buyer, within three (3) working days, of any event which can cause the late delivery and undertakes to take any necessary actions to avoid or reduce the delay. Buyer reserves the right to invoice, without any formal legal request and upon mere information, late delivery penalties amounting one-point-five per cent (1.5%) of the price of the Goods not delivered or Services not performed for each week of delay within a limit of five per cent (5%), any started late week being due. These penalties are not the sole remedy for late delivery. Buyer is entitled to claim these penalties up to the time of final payment. The amount of the penalty may be offset of the payment owed by Buyer to the Supplier, after notification by Buyer of the penalties and in case the Supplier does not answer within seven (7) calendar days of the receipt of the notification.

Additionally, in case of late delivery, the bank guarantee, if applicable, will be extended.

In the case of failure of delivery, and in the conditions defined by applicable law, Buyer reserves the right to purchase elsewhere, and to charge Supplier for any resulting expense, loss, or damage, or to cancel the Order.

## **6. SPARE PARTS**

The Supplier is obliged to stockpile spare parts for the period of the normal lifetime of the delivery items and to deliver them within a reasonable period as usual in the business relationship. Furthermore, the Supplier is obligated to immediately inform in writing, if he is ceasing to produce spare parts, when he will discontinue deliveries. He must announce this at least six (6) months prior to the discontinuation, so that Buyer can still reorder spare parts for stocking to the extent necessary.

## **7. ACCEPTANCE**

**7.1 Acceptance.** Final acceptance of the Goods and/or Service will be at the date of integration of the Goods within Buyer's installation or six (6) months after receipt of the Goods after acceptance of final customer, whichever is longer;

or in case of service, at the date of signature of acceptance report or six (6) months after final acceptance of the Service by the final customer, whichever is longer.

Inspection and acceptance of the Goods and/or Services will not release Supplier of its warranties.

**7.2 Non-conforming Goods or Services.** All legal claims arising from liability for defects, non-conforming Goods or Services remain with Supplier's in their entirety. Buyer will not owe any payment to the Supplier for any rejected Good and/or Service.

To the exception of non-obvious defects, for which the conditions defined by applicable law will apply, Buyer will have the right, within thirty (30) days of the receipt of the Goods, to reject any of such Goods which do not conform to the requirements of this Order. All such rejected Goods may be returned, at Buyer's choice, to Supplier at Supplier's expense – including labor for removal, packing/crating, transportation to and from Buyer's designated location –for credit or refund at Buyer's option and will not be replaced by Supplier except upon written instructions from Buyer.

In any case, Buyer is also entitled to request correction or replacement of any such non-conforming Goods and/or Services at its own discretion at no additional cost to Buyer. In this case, all expenses for the removal of defects or replacement delivery will be borne by Supplier including inspection, costs for corrected Goods and/or Services, travel, installation and removal costs, plus any additional costs necessary to deliver corrective Goods or perform corrective Services to Buyer's satisfaction, even if it later turns out that there was a defect in the delivery.

Buyer's liability for damages in case of unjustified removal of defects remains unaffected; however, Buyer is liable only if Buyer recognized, or on account of gross negligence failed to recognize, that there was no defect.

**7.3 Work carried out by Buyer or third party.** If the Supplier does not remedy the defect immediately after being requested by Buyer, in urgent cases, in particular to avert acute dangers or avoid major damage, Buyer can have, after written notification to Supplier, these carried out at the expense of the Supplier or have them carried out by third parties regardless of the law, in the above-mentioned urgent cases at the expense of the Supplier to initiate the replacement action itself.

**7.4 Buyer's rights.** The right to claim damages – in particular the right to claim damages instead of the performance – remains expressly reserved. Buyer's rights under this clause will be in addition to its other rights under this Order and will not be deemed to diminish its rights and claims against Supplier.

If Buyer rejects any Goods and/or Services pursuant to this clause, Buyer will have the right to cancel without liability to Supplier any un-shipped portion of this Order.

For all material and legal defects including wrong and short delivery, improper installation, faulty installation, operating or service instructions and other breaches of duty by the Supplier, the statutory provisions expressly apply, unless otherwise stated below: according to the statutory provisions, the Supplier is liable in particular for ensuring that the Goods have the agreed quality upon transfer of risk to Buyer. Deviating from section 442 para. 1 sentence 2 BGB [German Civil Code], Buyer is also entitled to claims for defects in full if the defect remained unknown to Buyer at the conclusion of the contract due to Supplier's gross negligence.

## **8. AUDITS**

In order to maintain the due quality, Buyer has the right to enter the Supplier's factory and carry out a corresponding quality audit after prior notification and during the normal hours of operation and business hours. Incidentally, this right will always apply to new product launches and also whenever justified doubts exist regarding compliance with the necessary quality assurance measures, in particular in the event of defects/deviations.

The Supplier – if he himself has acquired the defective Goods or parts thereof from a third party – must assign to Buyer, already at this stage, corresponding recourse claims for Buyer's own assertion as a precaution. However, this does not create a duty of recourse for Buyer.

Supplier undertakes to enable the customs authorities to check the proofs of origin and to provide the necessary information as well as to provide the necessary confirmation at its own expense.

## **9. TRANSFER OF TITLE AND RISK**

**9.1 Transfer of title.** Title will be transferred upon delivery of Goods and/or Services, and in case of a complex Good, upon each step of manufacture of Goods.

**9.2 Transfer of risk.** Risks to the Goods and/or Services will be transferred according to agreed incoterm® (ICC 2020). If Buyer returns reusable packaging free of freight costs to the Supplier, Buyer is entitled to a refund equal to the value of the packaging. Buyer is entitled to offset this refund claim with current payment claims.

## **10. PRICING**

**10.1** The prices of Equipment and/or Service set in the Order are firm, fixed and not subject to change and are for all Supplier's costs, outlay, expenses, constraints and/or obligations of any kind. Unless agreed otherwise, payments are made in Euros.

The legal value added tax will be shown separately for obligatory sales tax.

**10.2** Buyer will not pay invoices at prices higher than pricing indicated on this Order. Supplier represents that the prices charged for Good and/or Services covered by this Order are not, and will not be, in excess of the maximum prices therefore established by law and are the lowest prices charged by Supplier to Buyer of a class similar to Buyer under conditions similar to those specified in this Order.

**10.3** In the case of continuing obligations, Buyer expressly refuses price increase claims by Supplier, also if there is a period of time longer than four (4) months between contract conclusion and delivery.

## **11. INVOICES AND PAYMENT**

**11.1 Invoices.** Supplier must provide invoices with copy of freight bill(s) (if applicable) attached and must send them to Buyer Accounts Department at the address specified in the Order.

Buyer can only process invoices if they – in accordance with the specifications in the Order – state the Order number and material number. Supplier is responsible for all consequences arising from non-compliance with this obligation.

**11.2 Payment.** Unless otherwise stated in the Order, Buyer will pay the Supplier through wire transfer.

Unless otherwise agreed in text form, Buyer will pay the entire purchase price within 14 days with a deduction of 3% discount or within 30 days with deduction of 2% discount or within 60 days without deduction, but not before complete delivery and after receipt of the invoice. The discount period begins with Buyer's receipt of the invoice.

If a down payment is agreed in the Order, and unless otherwise stated, this payment will be "excluding VAT", against provision of a bank guarantee payable on first demand.

**11.3 Late payment.** In the event of late payment, Buyer will pay to Supplier penalties for late payment calculated at a rate equal to 9 (nine) percentage points above the basic rate of interest in force in Germany and a lump sum for collection fees equal to forty euros (40€) for year 2020 or any other updated amount for subsequent years in accordance with the provisions of Section 288 of the German Civil Code.

Delays in processing and payment resulting from incomplete information are not charged to Buyer and defer the due date of the payment claim.

**11.4 Acceptance of Services/Chargebacks.** In the event of non-compliance with the requirements of the Order, including wrong delivery or reduced performance, Buyer will be entitled to pay the invoices solely for the accepted Goods and/or Services or refuse the invoice. In this case, Supplier will issue a new invoice. Payment time begins as from the issue date of the invoice, which must not be earlier than the date of delivery in accordance with the specifications of the Order.

**11.5 Payment contingency - Offset.** Buyer has the right to reduce and set off against amounts payable hereunder any indebtedness or any other claim which Buyer may have against Supplier, however, and whenever arising, including chargebacks for faulty work and any debts or monies due for damages by Supplier to Buyer.

Failure of Supplier to provide technical data/drawings, applicable to the Goods and/or Services and as requested on this Order, will delay performance of payment until such information is provided to Buyer's satisfaction. The Supplier is only entitled to a right of retention due to legally established or undisputed counterclaims from the same legal relationship.

**11.6 Payment Does Not Constitute Acceptance.** Payment for any item covered by this Order will not constitute approval or acceptance of such material or service by Buyer, and Buyer's right of inspection will survive payment.

## **12. EQUIPMENT OR TOOLS PROVIDED BY BUYER**

**12.1 Title to such equipment.** Title to any material, tooling, and equipment furnished to Supplier will remain with Buyer. Specific tools provided by Buyer to Supplier for the performance of the Order will be identified by Supplier as Buyer's property. Supplier will preserve Buyer's title to Buyer owned property free of all encumbrances. Buyer retains the right to enter Supplier's premises and remove Buyer-owned property with or without a court order.

**12.2 Inspection of such equipment.** The Supplier must control them in terms of quantity and quality before performance. In the event of any conflict, the Supplier must send a claim within five (5) working days after receipt of the parts or equipment. After this date, no claim will be accepted by Buyer.

**12.3 Risk to such equipment and maintenance.** The risk of loss or damage to such material, tooling, and equipment from the time of delivery to Supplier to the time of redelivery to Buyer will be borne by Supplier. All equipment provided by Buyer must be insured against new risks at their original value. The sum insured is subject to the claim assigned to Buyer and Buyer accepts the assignment.

Supplier is in charge of tools maintenance according to Buyer's recommendations at his own expense in good time. He must report any incidents immediately to Buyer in writing. If he fails to do so culpably, claims for damages remain unaffected. Supplier will not use Buyer-owned property in the performance of any other work other than as required by this Order without prior written approval of Buyer.

Supplier undertakes to send back the specific tools and documents to Buyer as soon as requested. The Supplier must immediately hand over the tool to Buyer without any right of retention at Buyer's first request.

The Supplier must immediately inform Buyer in writing of access by third parties, in particular of foreclosure measures and other impairments of the property of Buyer in the means of production / tools. The same applies with regard to the filing of an insolvency petition for the Supplier's assets by the Supplier or third parties, even in the event of insolvency filing. The Supplier will take all steps to safeguard the rights of Buyer.

**12.4 Late delivery of such equipment.** Buyer will have no liability to Supplier by reason of any delay in delivery of or failure to delivery such materials, tooling, and equipment provided, however, that in such event Buyer in its sole discretion may either authorize Supplier to supply such materials, tooling, and equipment at such price as the parties will agree or, by notice in writing and without being under any liability to Supplier, cancel the portion or portions of this Order so affected.

**12.5 Modifications of such equipment.** When Buyer furnishes any material, in whole or in part, for the manufacture of Goods and/or Services, Supplier will not substitute material from any source, nor will Supplier alter its physical or chemical properties except in accordance with applicable Buyer's specifications or except with Buyer's written approval. Processing or transformation by Supplier is made for Buyer.

If applicable, if Buyer's reserved equipment is processed with other objects that do not belong to Buyer, Buyer acquires (co-)ownership of the new object in proportion to the value of its equipment (purchase price plus VAT) to the other processed objects at the time of processing. If the processing takes place in such a way that the Supplier's item is to be regarded as the main item, it will be deemed to have been agreed that the Supplier assigns proportional co-ownership to Buyer. The Supplier keeps the sole ownership or co-ownership for Buyer and guarantees all-risks insurance cover.

**12.6 Defects or damages to the equipment.** In case of defects or damages due to Supplier, the Supplier must repair the equipment, with a results obligation. In case the Supplier could not repair or is not willing to repair the equipment within a specified period, Buyer can, unilaterally, take any measure to protect its interests and any costs will be under Supplier's responsibility.

### **13. TOOLS MANUFACTURED FOR BUYER**

The manufacture of the tool by the Supplier or on his behalf, for the performance of the Order, is always carried out for Buyer. The Supplier therefore transfers to Buyer ownership, co-ownership, expectancy rights and any other rights to the tools. The rights which are justified at a later date are acquired by Buyer upon creation. All legal transfers made above occur without the need for another transmission act. Rather than transfer of ownership, the Supplier keeps the tool carefully and free of charge for Buyer.

In cases where the Supplier manufactures tools according to Buyer's technical specifications on the basis of Buyer's own, not generally known, expertise and produces and supplies parts for Buyer, the Supplier undertakes expressly to refrain from any competition in this respect, from manufacturing or having manufactured products with equal and/or similar benefit to Buyer's competitors, or to cooperate in making such parts. For each case of a corresponding breach of duty, a contractual penalty will be forfeited, the amount of which will be at Buyer's discretion and which the Supplier may have the competent court at Buyer's headquarters inspect in case of dispute.

### **14. WARRANTIES**

**14.1 General.** In addition to all other expressed or implied warranties, Supplier warrants that it has good title, free of all liens and encumbrances, to the Goods and parts delivered pursuant to this Order, that they will conform to the specifications and descriptions appearing on the face of this Order, and will be free from defects in design, material, and workmanship and will be suitable for the purposes intended, whether expressed or reasonable implied.

Supplier further warrants the workmanship of all Services and agrees to pay for and replace at its sole cost and expense any and all workmanship adjudged defective or improperly installed and any and all Goods damaged or requiring replacement, removal, or reinstallation, as a result of such Services.

Supplier warrants the Goods and/or Services conform to EC regulations, if applicable, at the date of sale of the Equipment and/or Service, REACH and ROHS directives, if applicable, such as any applicable security and conformity recommendations and directives within the destination country. All electrical parts will conform to EMC norms. Supplier will provide to Buyer any certificates of these conformities, at the latest upon delivery date. In case of a defect in relation with the above stated references, detected by a control organization and which would require modification or adaption of the Goods and/or Services, the Supplier will implement the modification immediately at its own costs.

**14.2 Duration.** Such warranties will survive delivery or provision and will not be deemed waived by reason of Buyer's inspection or acceptance of said Goods and/or Services or payment for them. Any deviations from their Order or specifications furnished hereunder, or any other exceptions or alterations, must be approved in writing by an authorized representative of Buyer.

The Supplier must provide, in addition to the contractual warranty hereafter, applicable legal warranty to Buyer. The Equipment and/or Service is warranted against any design or manufacturing defect and any material or functioning defect, hidden or not.

Unless otherwise stated in the Order, the Goods and/or Services are warranted for thirty-six (36) months, calculated from the transfer of risk / commissioning / acceptance of the Goods and/or Services.

The aforementioned warranties shall apply again to any repaired or replaced Good and/or Service for a twelve (12) month period or the remaining part of original warranty period, whichever is longer.

**14.3 Content of the warranty.** The legal and contractual warranty consists, among others, at Buyer's discretion in the replacement or free repair of the supplies (parts and labour). This warranty includes parts, possible examination costs, labor costs, traveling costs, transport costs, removal and reassembly costs to allow access to and replacement of the warranted parts or Goods, such as consequential damages arising out of defect of the Goods and/or Services.

The Supplier undertakes to replace or repair without undue delay, but latest within seven (7) calendar days as from the defect being reported. If Supplier breaches its obligations in this regard, Buyer reserves the right to carry out or have a third party carry out its obligations at the Supplier's expense and risks.

### **15. CONFIDENTIALITY**

During performance of the Order and for a period of ten (10) years after its end or termination, the Supplier will not communicate to any person other than those necessary for the performance of the Order, the parts, documents, specifications, plans, samples, and other information of Buyer, whether written or oral, of any kind, provided by Buyer during the performance of the Order, without Buyer's prior written approval. Supplier will not use or disclose any data, designs, or other information belonging to or supplied by or on behalf of Buyer, except in the performance of this or other Orders for Buyer.

Supplier undertakes to take any necessary actions with its employees and third parties he is in relation with, to strictly respect this obligation. Where Buyer's data designs or other information are furnished to Supplier's suppliers for procurement of supplies by Supplier for use in the performance of Buyer's Orders, Supplier must insert the substance of this clause in its orders.

All documents belonging to Buyer (tools, material, drawings, samples, prototypes, etc.) are to be returned to Buyer immediately upon request without any right to withhold; electronic data must be deleted at the end of the Order without request.

Publications may not refer to business relationships unless Buyer has given its prior written consent.

#### **16. INTELLECTUAL PROPERTY**

Buyer is the sole owner of the plans, samples, photos, etc. provided to the Supplier for the performance of the Order. These documents will be sent back, and the Supplier will not use them for any other purpose than the performance of the Order.

Buyer reserves the exclusive property rights and copyrights or the sole rights of use as well as all registration rights of special rights to illustrations, drawings, calculations, instructions for use, product descriptions and other documents for the preparation of the contract products submitted by Buyer, jointly or by the Supplier for Buyer alone. They are subject to the secrecy obligation according to these GCP.

In all development services for Buyer, Buyer acquires a worldwide exclusive right of use excluding third parties. This includes the right to protect special rights for Buyer (patents, etc.).

#### **17. ASSIGNMENT AND SUB-CONTRACTING**

**17.1 Assignment.** The GCP and related Orders are governed by *intuitu personae*. Supplier undertakes not to assign, directly or indirectly to a third party the rights and obligations under the Order without Buyer's prior written consent. Supplier will notify Buyer in writing immediately of any transfer of contract and/or change of the company occurring by law.

**17.2 Subcontracting.** Supplier undertakes not to subcontract all or part of the substantive obligations under the Order without Buyer's prior written consent.

#### **18. TERMINATION OF THE ORDER**

**18.1 Termination for convenience.** Buyer may terminate this Order in whole or in part for its convenience at any time by written notice to Supplier (e-mail notice will constitute written notice of cancellation). If this Order is terminated for convenience, any claim of Supplier will be settled on the basis of reasonable costs it has incurred in the performance of this Order.

**18.2 Termination in case of material breach.** In case of breach of material obligation (including late delivery or late performance) by Supplier, Buyer may unilaterally terminate the Order, without prejudice of any claim related to damages Buyer may have suffered. Termination will be effective if the breach has not been cured fifteen (15) calendar days after sending of a written notice. Termination may be full or partial and all payments made to Supplier for part of supply which have not been made by or technical milestones not achieved before the termination date of the Order, must be repaid to Buyer within seven (7) calendar days from the termination date, such as applicable damages.

**18.3 Termination for good cause.** Buyer is entitled to terminate all or part of the Order with Supplier for good cause without notice or to withdraw from all contracts concluded with Supplier for important reasons, in particular if after



conclusion of the contract there is a significant deterioration in Supplier's economic situation, especially if sustained seizures or other foreclosure measures take place against him, through which Buyer claims are endangered. The same applies in particular to the case in which Supplier requests the opening of insolvency proceedings or a similar legal procedure or such a procedure is opened or its opening is rejected for lack of assets or if the ownership of the Supplier's company changes such that a new owner acquires the majority (change of control). In the latter case of change of control, notice of termination is effective immediately from knowledge of the change and up to eight (8) weeks thereafter.

## **19. LIABILITY - INDEMNIFICATION**

**19.1 General.** Supplier will be liable for any damage (including but not limited to bodily injury, damage to property, consequential damage) caused to Buyer on its account or third parties, on account of its officials or employees, its subcontractors, suppliers and service providers.

Supplier agrees to indemnify and hold harmless Buyer against any and all liabilities whatsoever for damages, losses, claims, suits, fines, judgments, costs, expenses and/or injuries (including costs of suit, investigation, and attorneys' fees) which may be incurred by Buyer by virtue of or as a result of (a) defective materials or workmanship in the Goods or materials supplied hereunder or Supplier's alleged or actual acts or omissions in connection with Goods and/or Services provided hereunder, (b) claims and liens for labor performed and/or materials used or furnished in connection with this Order (including, but not limited to, claims and liens of Supplier's subcontractors), or (c) any breach of the representations or warranties of Supplier contained herein.

Within the scope of its liability for claims, Supplier must also reimburse Buyer any expenses arising out of or in connection with a recall carried out by Buyer. Buyer will inform supplier – as far as possible and reasonable – about the content and scope of the recall measures that Buyer deems necessary at its discretion and give Supplier the opportunity to comment. This does not affect any other statutory claims.

Buyer expressly refutes any limitation of claims for damages regardless of whether the Supplier is responsible for the breach of duty or not. This disclaimer extends to any indemnity/limitation of liability of the Supplier for all possible breaches of duty. Buyer refutes any liability exemption or limitation of liability e.g. in the form of an embargo clause in the case of obstacles to fulfilment.

A waiver of Supplier's default in any one or more instances will not be construed as a waiver of any subsequent default. If a dispute arises between Buyer and Supplier under this Order or the transactions contemplated hereby, and Buyer is the prevailing party, then within ten (10) days following written notice from Buyer to Supplier, Supplier will reimburse Buyer for all reasonable attorney's fees and related costs incurred by Buyer in connections with such dispute. Buyer will have the right to assert claims for incidental, special, or consequential damages lost profits; lost goodwill; loss of the use of funds, equipment, personnel, data, or facilities; and attorney's fees and court costs incurred in obtaining satisfactory remedial action or compensation.

The rights and remedies reserved herein to Buyer will be cumulative and additional to any other or further rights and remedies provided in law or equity.

**19.2 Indemnification regarding violation of Intellectual Property rights.** The Supplier ensures that no third-party rights, worldwide, are violated in connection with his deliveries and services. Except as to goods manufactured in compliance with specifications which are original with Buyer and furnished to Supplier by Buyer, Supplier must indemnify and hold Buyer fully harmless against any claim brought against Buyer in any place whatsoever by a third party or third parties related to the infringement of intellectual property rights generated by the Goods and/or Services covered by the Order and/or their use.

Upon the commencement of any suit or action, or the making of any claim, arising out of any sale, resale or use of the Goods and/or Services sold hereunder, Buyer will notify Supplier and Supplier will promptly assume and diligently conduct the entire defense thereof, including settlement and appeals, at its own sole cost and expense, and will pay and discharge any and all settlement amounts, judgements, or decrees which may be rendered. Without releasing any obligation, liability, or undertaking of Supplier, Buyer, insofar as its interests are affected, may at its sole election supersede Supplier in any such defense and thereafter assume and conduct the same according to its sole discretion in which event Supplier will cooperate with Buyer in such defense in such manner as Buyer will require.

In relation to the above claims, any amounts/expenses that Buyer has to bear in any respect whatsoever, in particular, for costs, fees, damages will be fully and promptly reimbursed by Supplier to Buyer at its first request. The indemnification obligation of the Supplier refers to all expenses that necessarily accrue to Buyer from or in connection with the claim by a third party.

If Buyer has to discontinue using all or part of the Goods and/or Services, without prejudice to Buyer's right to terminate the Order, Supplier undertakes to immediately either obtain the right for Buyer to freely use the Goods and/or Services or replace it or alter it so that user rights may no longer be contested.

## **20. INSURANCES**

Without in any way limiting its liability hereunder, Supplier will take out and/or maintain insurance policies with appropriate covers and capital, having regard to the risks incurred and for the total duration of said risks, with creditworthy insurers, including any damages to the equipment provided by Buyer. It must cover damages sustained by its assets, its personnel, as well as damage caused to Buyer and to third parties, etc. that it is responsible for hereunder (public liability prior to delivery for a minimum amount of one million euro (1M€), public liability after delivery for a minimum amount of one million euro (1M€), professional third-party liability, defective product liability etc.).

Supplier must produce, upon request, all insurance certificates drawn up and signed by its insurers for all insurance policies signed and attesting to the existence, validity and the match between covers and risks incurred. Missing proof substantiates a right of retention of compensation claims up to the amount of the coverage. Buyer is entitled to refuse acceptance of the delivery, unless Supplier, upon timely request, discloses the relevant proof of insurance.

Supplier must include the following on the policy: *"All Projects performed on behalf of Buyer is named as primary, non-contributory additional insured, included products and completed operations, excluding workers compensation and employer's liability coverage. Waiver of subrogation applies, where allowed by state law."*

## **21. FORCE MAJEURE**

Supplier will inform Buyer in writing, with supporting evidence, of any force majeure event that makes it impossible to fulfil the Order within five (5) working days as from the occurrence of the force majeure event and specify the foreseeable duration thereof.

"Force Majeure events" mean any event which is unforeseeable, irresistible and external and which refrain the good or timely performance of the contractual commitments. In particular, industrial conflicts (apart from general strikes), increases in the prices of raw materials shall not be deemed to constitute force majeure events.

If Supplier is unable to deliver / perform due to force majeure and, therefore, exceeds the contractually agreed delivery / commissioning / acceptance date or the delivery date set after a reminder, Buyer is entitled in such cases of performance prevention to withdraw from the Order, in whole or in part, free of charge for Buyer and without compensation, if and to the extent that for timetabling reasons a replacement procurement is absolutely necessary for Buyer or the exceeding of the deadline leads to a complete or partial omission of the procurement requirement. Additional costs of a substitute procurement initiated for such reasons will be borne by Supplier.

## **22. WASTE ELECTRICAL AND ELECTRONIC EQUIPMENT**

Concerning equipment within electrical and electronic equipment scope according to Directive 2012/19/EU of the European Parliament and of the Council of 4 July 2012, unless otherwise stated, management of these waste will be managed by Supplier (or manufacturer or importer).

## **23. INDEPENDENT CONTRACTOR**

Supplier acknowledges that it is an independent contractor and as such, Supplier will be solely responsible for the payment of taxes or contributions for unemployment insurance or pensions or annuities or social security, medicare or other employment taxes which are measured by the payments paid to the Supplier pursuant to this Order. Supplier agrees to reimburse and indemnify Buyer for such taxes or contributions or penalties which Buyer may be compelled to pay. Supplier will maintain its own worker's compensation insurance coverage and agrees to provide its own insurance

for injury or sickness or retirement or otherwise. Supplier will secure all permits that may be required to perform the services hereunder.

#### **24. COMPLIANCE WITH LABOR LAW**

The Supplier certifies on its honour that it has not committed the offence of hiring undocumented labour, illegal subcontracting (marchandage), illegal lending of labour, employing a non-national without a work permit, slavery or traffic in foreign labour.

The Supplier must attend to the management, training, administration and remuneration of all the personnel that it is liable to hire under its responsibility to fulfil the Order. However, the Supplier's personnel, when it works in Buyer premises, must comply with the internal regulations (apart from the provisions applicable to the nature and scale of penalties), with the safety and control rules applicable within the relevant Supplier's premises.

The Supplier undertakes, in particular, to provide its own employees with a safe and healthy working environment, in accordance, in particular, with the legal and regulatory standards applicable to health, safety and non-discrimination.

The Supplier undertakes to impose the same obligations as those above on its own Suppliers and subcontractors.

The Supplier will be fully responsible for all consequences of its violation of said provisions and will bear all compensatory expenses and other expenses that Buyer has to assume in this regard, where applicable.

#### **25. SAFETY AND HEALTH LAWS**

Supplier warrants and certifies that at delivery to Buyer, all products, equipment, supplies, materials, and services comply with the provisions of the relevant safety and health laws and all subsequent revisions. Supplier further agrees to indemnify and hold harmless Buyer, its successors and assigns, from all damages assessed against it as the result of Supplier's failure or if the items furnished under this Order fail to comply with such rules and regulations and the standards issued thereunder.

Supplier agrees that if any abatement is ordered for items or services, Supplier will, at its cost and expenses, do all acts necessary to comply with such abatement order. If Supplier fails or refuses to do so, then Buyer may perform such acts as are necessary to comply with said abatement order and Supplier will pay Buyer all expenses in connection with said abatement order and all losses resulting from delay, lost productions, work stoppage caused by said abatement order.

#### **26. SEVERABILITY**

Should a provision in these terms and conditions be or become ineffective, this will not affect the validity of the remaining provisions. In such a case, the Parties undertake instead to agree on an effective clause that comes as close as possible to the economic purpose of the ineffective clause.

#### **27. WAIVERS**

Failure of Buyer to insist on performance of any of the terms, conditions or requirements of this order cannot be construed as a waiver of such terms, conditions or requirements and will not affect the right thereafter to enforce each and every such term, condition, or requirement hereof.

#### **28. ENTIRE AGREEMENT**

These terms and conditions, any other special conditions contained on the face hereof, and any specification or other documents referenced hereby constitute and represent the complete and entire agreement between Buyer and Supplier and supersede all previous communications, either written or verbal, concerning the subject matter of this Order.

#### **29. GOVERNING LAW**

This Order will be interpreted in accordance with the plain English meaning in its words. The Order is governed by law of Buyer's head office. The application of the UN Sales Convention (United Nations Convention on Contracts for the International Sale of Goods of 11/04/1980, BGBl 1989 II, p. 588, 1990, 1699) is excluded.

#### **30. JURISDICTION**

Disputes, controversy or claims arising at the time of or in connection with the Order, which the Parties could not solve by mutual agreement within sixty (60) days after written notice from the defaulting Party, will be referred to Buyer's head office's competent court.

*Supplier expressly acknowledges that he has read these GCP, applicable between the Parties under this Agreement, and represents that he agrees to them forming an integral part of the Parties' understanding.*

*Signature*

*Date:*