

**GENERAL PURCHASING CONDITIONS**  
(Procurement of Goods and/or Services – Onshore)

**1. Application of General Purchasing Conditions**

- 1.1 These general purchasing conditions (**GPCs**) apply to POs for the supply of Goods and/or Services issued by the Seaborg Entity named in the PO (**Customer**) to the person identified as supplier in the PO (**Supplier**). If these GPCs are attached to, or incorporated by reference in, a PO issued by Customer for Goods and/or Services that are covered by an existing framework or similar agreement between the Parties or their respective Affiliates or Associated Companies, the terms of such existing agreement shall prevail.
- 1.2 Subject to clause 1.1, an agreement to which these GPCs apply (**Agreement**) is formed when Supplier confirms a PO that states that these GPCs apply to it, or if Supplier begins to supply any Goods and/or Services, or issues an invoice, pursuant to such PO.
- 1.3 If any special terms (including any supplement or amendment to these GPCs) are expressly agreed in writing between the Parties as part of the formation of an Agreement, such special terms will prevail over these GPCs for the purposes of such Agreement. Any general terms and conditions of Supplier deviating from or supplementing these GPCs are not binding on Customer, even if Customer does not object to them explicitly, or if Supplier states that it wishes to deliver only according with its general terms and conditions, or if these are included in Supplier's confirmation of a PO or any other documentation issued by Supplier in connection with an Agreement.
- 1.4 Customer may cancel any PO if Supplier has not confirmed acceptance of the PO in writing within five days of receipt or such other period as the Parties may agree in writing.

**2. Definitions and Interpretation**

**2.1 Definitions**

**Affiliate:** with respect to a person, a person that controls, is controlled by or under common control with that person, and where to "control" means (a) to possess, directly or indirectly, the power to direct the management or policies of a person, whether through ownership of voting securities or otherwise, or (b) to own, directly or indirectly, more than 50 per cent. of the outstanding voting securities or other ownership interest of a person.

**Agreement:** has the meaning given to it in clause 1.

**Associated Company:** with respect to a person, a person that is not an Affiliate of such person, but which is partly owned or managed by such person or an Affiliate of such person.

**Charges:** the charges payable by Customer to Supplier in consideration for supplying the Goods and/or Services as set out in the Agreement, together with any of Supplier's expenses or disbursements payable by Customer.

**Co-Venturer:** any person that is or may from time to time be party to a cooperation, joint venture, shareholders or equivalent agreement with Customer or any of its Affiliates relating to the operations for which the Goods and/or Services are being supplied, and the successors in interest of such Co-Venturer or the assignees of any interest of such Co-Venturer.

**Customer:** has the meaning given to it in clause 1.

**Customer Group:** (a) Customer and its Affiliates and Associated Companies; (b) Customer's Co-Venturers; (c) Customer's other contractors and subcontractors; and (d) the Personnel of the persons included in items (a) to (c) of this definition, but shall not include any member of Supplier Group.

**Delivery Date:** the date set out in the Agreement or otherwise notified to Supplier for delivery of the Goods (in the case of supply of Goods) or for completion of the Services (in the case of supply of Services).

**Delivery Location:** the location set out in the Agreement for delivery of the Goods or performance of the Services, as applicable, or such other location as Customer may subsequently notify in writing.

**Equipment:** any equipment, machinery, tools, items or articles on which or in respect of which Supplier provides the Services, whether owned by Customer or not.

**Goods:** the goods, equipment, machinery, products and materials to be supplied by Supplier to Customer under the Agreement, whether such Goods are sold (**Bought Goods**) or hired (**Rental Goods**).

**Government:** any national, regional or local government including any department, agency or other body thereof, and any enterprise owned, managed or otherwise controlled by a government agency or instrumentality.

**GPCs:** has the meaning given to it in clause 1.

**Group:** the Customer Group or the Supplier Group, as the context requires.

**Insolvency Event:** any event where Supplier enters into voluntary or compulsory liquidation, dissolution, insolvency, suspension of its payments, bankruptcy or any statutory or private composition or agreement with its creditors in order to escape a bankruptcy, or discontinues substantial parts of its established business, or its business is placed in the hands of a receiver, assignee or trustee in bankruptcy, whether voluntary or otherwise.

**IPR:** patents, utility models, rights to inventions, copyright and related rights, moral rights, trade marks and service marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off or unfair competition, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets), image rights, rights of personality and other similar rights, and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

**OEM:** in respect of the Goods, their original manufacturer and, in respect of the Services, the original manufacturer of the Equipment (where applicable).

**Parties:** Customer and Supplier, and **Party:** either one of them.

**Personnel:** directors, officers, employees, agency staff, agents, consultants and other personnel retained by or engaged in business for the benefit of a Party.

**PO:** the written document, in whatever form (e.g. order, purchase order or contract referring to these GPCs), issued by Customer to Supplier for the supply of the Goods and/or Services to which it relates, and to which these GPCs are attached or which incorporate these GPCs by reference.

**Public Official:** any (a) appointed official or any director, officer or other person employed in any capacity (i) at any level of Government, (ii) in a labour union controlled by any Government or political party or (iii) in any public international organisation such as the United Nations or the European Union including any department, agency or other body thereof, (b) any candidate or officer or other person employed by a political party or (c) any person acting in any official capacity for or on behalf of any person or organisation listed in (a) or (b).

**Seaborg Entity:** Seaborg ApS or any of its Affiliates or Associated Companies.

**Services:** the services to be supplied by Supplier under the Agreement, including the results of those services.

**Subcontractor:** a person providing Goods and/or Services on behalf of Supplier or on behalf of another Subcontractor.

**Supplier** has the meaning given to it in clause 1.

**Supplier Group:** Supplier, its Subcontractors, its and their Affiliates, and its and their Personnel, but shall not include any member of Customer Group.

**Taxes:** all present and future corporate income, turnover, sales, use, business, value added, licence, capital gains, franchise, export/import, registration, stamp, documentary, individual and other taxes, levies, duties, imposts, fees, charges and withholdings of whatever nature (including social contributions (labour law taxes)), together with any interest and penalties, and any payments made on them or in respect of them.

**Warranty Period:** the period of 24 months from the time the Goods are taken into use or from the date of completion of the Services, as applicable (or where Goods and Services are delivered together the period of 24 months from the later of the time the Goods are taken into use and the date of completion of the Services, but in any event for no longer than 36 months from delivery of the Goods), provided that following Supplier's remedy of a defect and/or re-delivery in accordance with the Agreement a new Warranty Period of the same length as the original Warranty Correction Period shall apply, provided such new Warranty Period shall not extend 48 months from the commencement of the original Warranty Period.

**Work Product:** all output, whether electronic, documentary, tangible or intangible, created as a result of any Services required to be undertaken by Supplier under the Agreement, including, all inventions, business methods, papers, documents, memos, letters, databases, drawings, source code, object code, data dictionaries, user manuals, data or other deliverables, or other printed, written or computer material created by Supplier and Supplier's Personnel in connection with the provision of such Services.

**2.2 Interpretation.** References to a **person** include a natural person, corporate or unincorporated body (whether or not having separate legal personality), and the word **including** means **including without limitation**.

**3. Supply of Goods**

**3.1** Prior to the Delivery Date, Supplier shall ensure that all licences, clearances, consents, registrations, authorisations and insurance required to supply the Goods are in place, and shall make available copies of the same to Customer.

**3.2** Supplier represents, warrants and undertakes that: (a) it has the right to sell the Goods free of any encumbrance; and (b) it is the OEM or, if it is not the OEM, it is authorised by the relevant OEM(s) to sell, distribute or otherwise deal with the Goods and Spares (where required). Where applicable, Supplier shall maintain the necessary authorisations, certifications or approvals from the OEM(s) and shall provide the same to Customer upon request.

**3.3** Supplier represents, warrants and undertakes that:

- (A) It shall supply the Goods in accordance with the Agreement;
- (B) the Goods shall be new, of good quality and workmanship, free from defects, and free from third-party rights;
- (C) the Goods shall conform to (i) the specifications and/or requirements stipulated by Customer; (ii) the general product specifications and/or samples provided by Supplier; and (iii) relevant industry standards and legal and/or regulatory requirements;
- (D) the Goods shall be fit for their intended purpose where a purpose is defined in the Agreement or, where no such purpose is defined, fit for their intended purpose as reasonably to be inferred from the Agreement;
- (E) the product information provided to Customer in relation to the Goods is accurate and complete, and if such information is updated or otherwise modified or Supplier becomes aware of any inaccuracy or omission therein Supplier shall promptly notify Customer in writing;
- (F) spare parts and associated services for the Goods shall be available for a minimum of 10 years from the delivery of such Goods pursuant to the Agreement; and
- (G) other than in the exercise of its rights under the Agreement or applicable law, Supplier shall not interfere with Customer's quiet enjoyment of any Rental Goods.

**3.4 Delivery of Goods**

(A) Unless otherwise provided in a PO, delivery terms for Goods shall be DDP (Incoterms 2020) at the Delivery Location and on the Delivery Date, with all necessary customs invoices and delivery notes (issued in duplicates in English), advice notes, bills of lading and other documents ordinarily accompanying such Goods.

(B) Upon delivery, Customer may make a reasonable visual examination of the Goods to identify transportation damage and incomplete deliveries. If Customer ascertains a defective product, clause 5.3 shall apply.

- (C) Unless set out differently in a PO, all Goods delivered shall be packed in non-wooden packaging, presented with a "Non-wooden Packaging Declaration" or alternatively approved wooden packaging, i.e. bark-free and heat or fume-treated carrying an official certificate from the exporting Government approving the above treatment. If the above requirements are not complied with, Customer has the right to reject the delivery or re-package the Goods at Supplier's expense. All Goods shall be delivered in a secure and appropriate packing suitable for domestic or overseas transport (as applicable) with due consideration to the nature and composition of the Goods. Each PO must be packed separately to ensure proper registration and receipt. Supplier is allowed to pack several POs on the same pallet, as long as each PO is packed in its own package. Pallets containing packages for several POs shall be labelled with an A4 sized sign "Mixed Pallet" or "Split Pallet". Supplier must pack multiple packages for a single PO on the same pallet. Supplier may not split a PO with multiple packages over several pallets unless the PO is so large that it fills one pallet and needs to be packed on a second pallet. Supplier shall otherwise follow any reasonable handling and packing instructions.
- (D) Each delivery shall be clearly marked with Customer's name and address, Customer's PO number, place of delivery, consignee and relevant identifying description on the exterior of the package(s) and be included in the documentation. Restricted articles must be marked and packed according to the IMO/IATA/ADR/RID rules and regulations in force at the time of delivery. Likewise all documents/certificates prescribed in IMO/IATA/ADR/RID must accompany the goods but should not be enclosed in the package(s). If there are any quality, performance and/or safety related reports, notices or other communications issued by Supplier or any Governmental, regulatory or other body in relation to the Goods, Supplier shall promptly provide Customer with copies thereof.
- (E) Supplier shall ensure that accurate information is provided to Customer as to the country of origin of the Goods and shall be liable to Customer for any additional Taxes that may be levied if the country of origin proves to be different from that specified in the PO and/or product specifications,
- (F) If Supplier delivers hazardous Goods, Supplier shall deliver a Safety Data Sheet (SDS) written in English to Customer together with such Goods. Supplier shall also send a .pdf copy of such SDS to such email address as may be notified by Customer prior to each first-time delivery and subsequently after each revision or update. Supplier shall pay for all costs in connection with preparation of the SDS. The SDS shall comply with all applicable laws. Supplier shall update the SDS continuously and at least once a year to confirm applicability and validity, and shall procure that any Subcontractor from which it receives an SDS does the same.
- (G) All hazardous Goods delivered shall be accompanied by easily understandable instructions (SDS and Product Data Sheet) in English and such other documentation (e.g. a dangerous goods declaration or marine pollutants declaration) as may be required by applicable law or necessary to ensure safety in handling, transport, storage or use.
- 3.5 Title to Bought Goods shall pass to Customer on payment of the invoice or on delivery of such Bought Goods, whichever first occurs. Risk in Bought Goods shall pass to Customer upon, and Supplier shall remain fully responsible for all such Bought Goods until, they have been safely delivered to Customer. If Customer rejects any Goods pursuant to the Agreement, the property and risk therein shall remain with or thereupon revert to Supplier. Supplier shall retain title and risk in all Rental Goods.
- 4. Supply of Services**
- 4.1 Prior to commencement of the Services, Supplier shall ensure that all licences, consents, registrations, authorisations and insurance required to supply the Services are in place, and shall make available copies of the same to Customer.
- 4.2 Supplier represents, warrants and undertakes that:
- (A) it shall perform the Services (i) with all due skill, care, diligence, prudence and foresight to be expected of a reputable contractor experienced in work of the type to be carried out under the Agreement; (ii) in compliance with all other provisions of the Agreement (and where not expressly provided for in the Agreement, in accordance with internationally recognised good practices and standards applicable to the same); and (iii) in a timely manner, with an adequate number of competent Personnel;
- (B) it shall complete the performance of the Services by the Delivery Date;
- (C) any Work Product arising from the Services shall be the Goods shall (i) be accurate and complete and accurate; (ii) conform to relevant industry standards and legal and/or regulatory requirements; and (iii) be fit for their intended purpose where a purpose is defined in the Agreement or, where no such purpose is defined, fit for their intended purpose as reasonably to be inferred from the Agreement;
- (D) Supplier's Personnel have and shall maintain, at Supplier's expense, the relevant licences, certifications and/or permits to perform the Services in the relevant territory, and shall comply at all times with the safety instructions given by Customer staff when at Customer's premises; and
- (E) the Services and their supply to Customer do not infringe the rights of any third party.
- 5. Defects**
- 5.1 A defect shall be deemed to exist in relation to the Goods and/or Services (including any Work Product) if: (a) they are defective under the general principles of applicable law; (b) they fail to meet the requirements set out in the Agreement; or (c) they breach any of Supplier's warranties set out in clauses 3 or 4.
- 5.2 Supplier shall immediately inform Customer if it identifies or is made aware of any defect in the Goods and/or Services (including in any previously rectified Goods and/or Services) prior to expiry of the Warranty Period.
- 5.3 If Customer becomes aware of any defect in the Goods and/or Services (including in any previously rectified Goods and/or Services) prior to expiry of the Warranty Period, Customer may, without prejudice to any other rights or remedies which it may have, notify Supplier and (a) require it to rectify the defect, including by repairing or replacing (at Customer's election) the defective

- Goods and/or re-performing the defective Services; and/or (b) claim a reduction in the Charges payable in respect of the defective Goods and/or Services.
- 5.4 If Customer requires rectification pursuant to clause 5.3, Supplier shall, at its own cost, promptly carry out all necessary corrective measures.
- 5.5 If Customer claims a reduction in Charges pursuant to clause 5.2, Supplier shall reimburse to Customer (or deduct a corresponding amount from the Charges that Customer remains liable to pay in respect of the defective Goods and/or Services) an amount to be agreed by the Parties that is proportionate to the reduction in the value and benefit to Customer of such Goods and/or Services.
- 5.6 If Customer decides that the timing or impact of the corrective measures performed by Supplier will be prejudicial to its interests or if Supplier fails to comply with its obligations under clause 5.4, Customer may, without prejudice to any other rights or remedies which it may have, carry out Supplier's obligations under such clause itself or have such obligations carried out by a third party, and all documented costs reasonably incurred by Customer as a direct result thereof shall be recoverable by Customer from Supplier, provided that before taking such action Customer shall notify Supplier in writing and allow Supplier 24 hours to propose an alternative solution acceptable to Customer. Supplier shall not be relieved of any of its obligations or liabilities under the Agreement as a result of Customer or any third party performing any of Supplier's obligations pursuant to this clause 5.6.
- 6. Compliance**
- 6.1 **General compliance.** Supplier shall comply with and shall ensure that all Subcontractors comply with all national or international laws, rules, regulations, orders, conventions, directives or ordinances in force from time to time which are applicable to the delivery or performance of the Goods and/or Services and/or relate to the provision, licensing, approval or certification of the Goods and/or Services, including but not limited to those relating to anti-corruption, occupational health and safety, environmental matters, wages, working hours and conditions of employment, International Bill of Human Rights, Subcontractor selection, discrimination, data protection and privacy.
- 6.2 **Export control regulation.** Supplier shall comply with and ensure that all Subcontractors comply with all laws, regulations and rules applicable to supply of the Goods and/or Services including United States (US) and European Union (EU) regulations and controls involving export and re-export of goods, software and technology as well as in regards to any countries embargoed under US laws or regulations or any decision, directive or regulation issued by the Commission or Council of the EU plus all other relevant trade regulations including those of the US and EU, if applicable (**Export Controls**). To the extent any Goods or parts thereof (including software and technology) to be supplied by Supplier to Customer are subject to any such Export Controls, Supplier shall immediately notify Customer thereof, and Supplier shall upon Customer's placement of a request for quotation or a PO (whichever is the earlier), or in case of defective Goods at the time of re-delivery, without delay provide in a form satisfactory to Customer the following export control data of the Goods: (a) the specific US and/or EU export classification including the Export Control Classification Number (**ECCN**) and/or any similar forms of classification identification; (b) country of manufacture; (c) percentage of US content integrated to each of the Goods; (d) confirmation as to whether or not the Goods are direct products of US technology and software; and (e) Harmonised System Code (**HS Code**). This information shall be stated on quotations / order confirmations / commercial invoices / packing lists, when relevant.
- 6.3 **Anti-Corruption.** Supplier shall (a) comply with all applicable anti-corruption laws and regulations, including the US Foreign Corrupt Practices Act and the UK Bribery Act of 2010; and (b) undertakes and warrants to Customer that it and its officers, directors, shareholders, employees, agents and other intermediaries, and any other person acting directly or indirectly on its behalf, shall not, directly or through third parties, give, promise or attempt to give, or approve or authorise the giving of, anything of value (including facilitation payments) to any person or any entity where such action would be prohibited by applicable law, for the purpose of (i) securing any improper advantage for Supplier or Customer, (ii) inducing or influencing a Public Official improperly to take action or refrain from taking action in order for either Party to obtain or retain business, or to secure the direction of business to either; or (iii) inducing or influencing a Public Official to use his/her influence with any Government or public international organisation for such purpose.
- 6.4 **Costs and audits.** All costs incurred in complying with this clause 6 shall be for the sole account of Supplier and Supplier shall indemnify and hold Customer harmless from all fines, penalties and all associated expenses arising out of or resulting from the violation by Supplier of any of its obligations in this clause 6. Customer shall keep full and accurate records pertaining to the supply of the Goods and/or Services. Upon reasonable notice, Customer shall have the right to audit and verify (or at its own cost have a designated representative audit and verify) Supplier's compliance with this clause 6, including by inspecting such records and Supplier's premises at reasonable times. Customer may exercise such audit right once in any 12-month period unless more frequent audits are required by applicable law or Customer has reasonable suspicion that Supplier has breached this clause 6.
- 7. Data Protection**
- 7.1 **Definitions.** Capitalised terms used in this clause 7 shall have the meaning given in Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, as amended from time to time (**GDPR**).
- 7.2 **Supplier's obligation to comply with data protection legislation.** Supplier shall make, obtain and maintain throughout the term of the Agreement all necessary registrations or filings and notifications which Supplier is obliged to make, obtain and maintain pursuant to all applicable data protection legislation.
- 7.3 **Supplier's obligations regarding data protection.** To the extent Supplier Processes any personal Data pursuant to the Agreement, Supplier shall:
- (A) process the personal Data only in accordance with instructions from Customer (which may be specific instructions or instructions of a general nature as set out in a PO);
- (B) process the personal Data only to the extent, and in such manner, as is necessary for the provision of the Goods and/or Services in question;

- (C) implement the appropriate technical and organisational measures to protect the personal Data against unauthorised or unlawful processing and against accidental loss, destruction, damage, alteration or disclosure;
- (D) take reasonable steps to ensure the reliability of any Personnel who have access to the personal Data;
- (E) obtain prior written consent from Customer in order to transfer the personal Data to any approved Subcontractors for the provision of the Goods and/or Services;
- (F) ensure that all resources required to access the personal Data are informed of the confidential nature of the personal Data and comply with the obligations set out in this clause 7; and
- (G) provide a written description of the technical and organisational methods employed by Supplier for Processing personal Data (within the timescales required by Customer).

**7.4 Transfer of personal Data out of the European Economic Area (EEA).** To the extent Supplier Processes any personal Data pursuant to the Agreement, Supplier shall neither be entitled to transfer personal Data to any sub-processor nor transfer it out of the EEA without the prior written approval of Customer. If such approval is granted, Supplier shall comply with any requirements established by any data protection or other Government authorities necessary for the granting of approval by such authorities for the transfer of personal Data outside of the EEA. If applicable, Supplier shall sign, file and obtain any necessary Government approvals with relevant Government authorities and adhere to the standard contractual clauses for the transfer of personal Data from Data Controllers to Processors established in third countries, under the GDPR.

## 8. Responsible Procurement

**8.1** In addition to the obligations of clause 6, Supplier shall respect and commit to implement the Seasalt group's Supplier Code (**Code**) as amended from time to time and found at <https://www.seaborg.com/suppliers> or such other code of conduct as Customer may specify, or alternatively an internationally recognised standard within the areas of human rights, anti-corruption, environment and labour, such as the United Nations Global Compact. Supplier shall provide necessary documentation promptly upon request and accommodate any audit by Customer in order to verify the same. Supplier shall require its Subcontractors to implement similar rules. If Supplier is unable to meet the requirements of the Code, it will develop and execute an improvement plan satisfactory to Customer.

## 9. Charges and Terms of Payment

**9.1 Price.** In consideration for Supplier fulfilling its obligations under the Agreement, Customer shall pay to Supplier the amounts set forth in the relevant PO and otherwise on the terms of the Agreement. Supplier's rates and charges set out in the PO shall not be increased without Customer's prior written consent.

**9.2 No further charges.** Apart from Taxes (as set out below), the Charges shall include all costs and expenses, whether internal or external or direct or indirect, incurred by Supplier in complying with the Agreement or required by law. In particular, all costs incurred in the storage, transportation, boxing, crating and/or other packaging of the Goods shall be borne solely by Supplier.

**9.3 Taxes.** Unless otherwise stated in the PO, any Charges or other amounts payable by Customer pursuant to the Agreement are exclusive of value added tax (or any equivalent Tax) but are inclusive of all other Taxes. Customer may withhold (or cause to be withheld, as the case may be) from any amounts otherwise due or payable under or pursuant to the Agreement such Taxes as may be required to be withheld pursuant to any applicable law or regulation, determined by Customer in its sole discretion exercised in good faith. Supplier acknowledges that it may have obligations in respect of Tax outside its state of residence or incorporation or the state from where it operates, including specific tax reporting of filing obligations.

**9.4 Invoicing.** Invoices shall be in English, addressed to Customer and include all necessary references to the specific Goods and/or Services provided and Customer's references including Customer's name, contact person and department, PO number, place of delivery, quantity and description of the Goods and/or Services (in the same sequence as in the PO). With regards to Taxes each invoice shall show (a) the governing VAT rate applicable to the charges being invoiced; (b) the VAT registration number of Supplier; and (c) the VAT registration number of Customer.

**9.5 Due payment and non-payment.** Payment shall be due and payable current within 45 days from Customer's receipt of a complete and correct invoice at the address stated in the PO, if not disputed by Customer in writing prior thereto. If Customer has not received an invoice, in whole or in part, for the Goods and/or Services under a PO at the address stated in the PO 90 days after delivery (in the case of Bought Goods), the end of the rental period (in the case of Rental Goods) and/or completion of the Services, such Goods or Services shall not qualify for invoicing and any such invoice presented shall not be payable.

**9.6 Right to set off payment.** Customer reserves the right to set off payments against any amount validly in dispute with Supplier or owed to it by Supplier.

**9.7 Overcharging under a PO.** Supplier shall, at Customer's request, assist Customer and/or any third-party auditor appointed by Customer in any review of charges for the Goods and/or Services supplied. If Supplier has overcharged Customer, Supplier shall refund any overcharged amount plus interest from the relevant date(s) on which the relevant excess payment(s) were made (either directly or through a deduction from any amount due or becoming due). If such overcharge comprises more than 3% of the Goods and/or Services under the applicable PO, Supplier shall also be liable for the reasonable costs of the third-party auditor.

## 10. Liability and Insurance

**10.1** Subject to clause 10.2, neither Party shall be liable to the other Party under or pursuant to the Agreement or in tort (including negligence and/or breach of statutory duty) or otherwise at law for any loss of profits, loss of use, loss of production or loss of contracts or for any indirect or consequential loss or damage suffered by the other Party or any third party.

**10.2** Nothing in the Agreement shall exclude or limit liability for (a) any matter for which it would be illegal to exclude (or attempt to exclude) liability; (b) any actual or implied terms of transfer of title to the Goods and/or Services; and (c) breach

of clauses 6, 7, 13 and/or 14.

**10.3 Insurance.** Supplier shall have and maintain, and procure that Supplier Group has and maintains, insurance coverage in accordance with good international industry practices and applicable law, including workmen's compensation/employer's liability insurance and travel insurance for Personnel; all risks cover for Supplier Group's property; commercial general liability insurance including products and completed operations, pollution and contractual liability; all risks transport/cargo insurance cover for all Goods provided by Supplier; and, where applicable, comprehensive automobile liability insurance, as well as such other insurance as Supplier deems appropriate in connection with fulfilling the duties under the Agreement, e.g. professional liability, for the specified period, at its expense with a reputable insurance company, properly safeguarding Supplier against its liability hereunder.

## 11. Delay and suspension

**11.1 Complete Delivery.** Unless otherwise provided in the PO, delivery shall not be deemed to have taken place until the Goods and/or Services have been received in full (as documented by a delivery note or statement of completion signed by an authorised employee or agent of Customer) and in conformance with the timeline and milestones set out in the PO, and with all certificates of approval, test certificates and other certification or necessary documentation required according to the Agreement or at law.

**11.2 Liquidated Damages.** Timely supply of the Goods and/or Services is of the essence of the Agreement. Without prejudice to Customer's other rights under the Agreement, if Supplier fails to supply the Goods and/or Services by the Delivery Date, Customer may demand that Supplier: (a) pays Customer a sum by way of liquidated damages of 5% of the total Charges per day of delay, provided that such liquidated damages shall not exceed a total of 50% of the total Charges (the Parties acknowledging such sum(s) are not a penalty but liquidated damages that are in proportion to the interest of Customer in the performance of the Agreement and, accordingly, are not extravagant or unconscionable), and/or (b) immediately delivers via the fastest means of transportation available at the cost of Supplier (airfreight included). If liquidated damages payable under (a) above exceed the maximum amount of liquidated damages set out in the Agreement, Customer shall be entitled to claim direct damages for either (i) all relevant losses; or (ii) the balance of any losses not paid for by means of the liquidated damages, and such delay shall be considered a breach entitling Customer to terminate the Agreement.

## 12. Term and Termination

**12.1 Term.** The Agreement shall commence on the date of formation pursuant to clause 1, or such other date as the Parties may specify in the PO, and shall remain in force until confirmed completion of the PO (whereupon the Agreement will automatically expire) or until terminated in accordance with the Agreement.

**12.2 Termination for Convenience.** Customer may, by written notice to Supplier, terminate any Agreement or cancel any PO, in part or in whole, with immediate effect without incurring any cancellation fees or similar charges. Upon receipt of such notice Supplier shall cease to incur any additional costs in respect of such Agreement or PO (as applicable). Customer shall pay for (a) Bought Goods delivered prior to such termination or cancellation; (b) proportionate rental payments for Rental Goods and/or charges for Services supplied to Customer prior thereto; and/or (c) any unavoidable costs incurred by Supplier towards Subcontractors in terminating the applicable subcontracts. In the case of Goods manufactured bespoke to Customer's specifications, Customer shall also pay (i) for any such Goods that have been manufactured but remain undelivered at the time of termination or cancellation; and (ii) a proportionate amount in respect of any such Goods where manufacturing has commenced but not been completed at such time, and Supplier shall deliver such Goods to Customer or as Customer directs. In no event shall Customer be required to pay an amount pursuant to this clause 12.2 that is greater than the outstanding Charges pursuant to the Agreement or PO that it would have paid had the Agreement or PO not been terminated or cancelled.

**12.3 Termination for Breach.** Customer may, by written notice to Supplier, terminate the Agreement if:

- (A) Supplier commits a material or persistent breach of any of its obligations under the Agreement, provided that in the event of a breach capable of remedy Supplier has failed to remedy such breach within 5 (five) working days after receiving written notice requiring it to do so;
- (B) Supplier is (or Customer has reasonable cause to suspect that Supplier is likely to be) subject to an Insolvency Event; or
- (C) Supplier's ability to carry out its obligations under the Agreement is prevented or substantially interfered with by any applicable law or Supplier is refused or has revoked any licence or permission necessary for the performance of its obligations hereunder.

Material breaches of the Agreement shall include breaches of clauses 5.4, 6, 7, 8 and/or 14. Customer's right to terminate the Agreement for breach shall be in addition and without prejudice to, and shall not constitute a waiver of, any other right or remedy Customer may have under the Agreement or otherwise.

## 12.4 Consequences of Termination

- (A) Following termination of the Agreement for any reason, Supplier shall immediately deliver to Customer all copies of the Work Product that Supplier has developed up to the termination date and destroy any residual copies on its systems.
- (B) Following termination of the Agreement pursuant to clause 12.3, (i) Customer shall be entitled to return any or all Work Product and/or Goods where such Work Product and/or Goods have not been accepted in accordance with the Agreement prior to the date of termination, and Supplier shall give a full refund of all monies paid by Customer to Supplier in connection with the same; (ii) Supplier shall give a full refund for any Services paid for by Customer but not provided by Supplier prior to the date of termination; and (iii) Supplier shall provide at Supplier's expense such assistance as is reasonably necessary to Customer for an orderly assumption of the Services by Customer or a third party.
- (C) Termination or expiry of the Agreement does not affect any rights or obligations of the Parties accrued up to the date of termination or expiry.

### 13. Intellectual Property

- 13.1 Any right, title or interest in IPR acquired, developed or produced by or on behalf of either Party (or the Parties collectively) in the course of providing any Services under the Agreement shall vest in and be owned absolutely by Customer upon creation. Supplier shall disclose and transfer to Customer all IPR arising out of or in connection with the supply of Services under the Agreement. Supplier irrevocably assigns to Customer by way of present and future assignment (as applicable) its whole right, title and interest in such IPR free from all liens, charges and encumbrances at no cost to Customer and without imposing further conditions with the intent that the same shall vest in Customer immediately or, in the case of any Work Product not yet in existence, that the IPR shall so vest immediately upon coming into existence. Accordingly, any information derived from such Work Product or IPR therefrom or otherwise communicated to Supplier in connection therewith shall be regarded by Supplier as Customer's Confidential Information.
- 13.2 Notwithstanding anything mentioned above, Supplier grants to Customer and its Group a worldwide, royalty-free, perpetual, irrevocable, transferable and non-exclusive licence to use any and all Goods, Services and IPR, including those described in the paragraph above, to the extent necessary for Customer and/or its Group to enjoy the full benefit of the Goods and/or Services for such purpose as intended under the Agreement.
- 13.3 Supplier warrants, represents and undertakes that (a) it owns or has the right to use under valid and enforceable agreements, all IPR reasonably necessary for and related to the performance of the Services; and (b) the Goods and/or the Services supplied under the PO do not and will not infringe any third-party IPR. Supplier shall indemnify, defend and hold the Customer Group harmless from all claims, costs (including legal costs), damages, debts, demands, expenses, fines, interest and awards (including legal expenses), liabilities, liens, losses, obligations, penalties, remedies and causes of action of any kind, arising out of in connection with any infringement of third-party IPR as a result of the supply of Goods and/or Services under the Agreement.
- 13.4 If the use of any such Goods and/or Services as intended by Supplier is prohibited, Supplier shall at its own expense either obtain for Customer Group the right to continue using such Goods and/or Services; replace any such Goods and/or Services with non-infringing Goods; modify such Goods and/or Services so they become non-infringing; or remove such Goods and/or Services and refund the price paid and all transportation and/or installation costs.

### 14. Confidential Information

- 14.1 For the purposes of this clause 14, **Confidential Information** means any data or information in any form that is directly or indirectly supplied or made available by Customer or any member of its Group to Supplier or any member of its Group in connection with the Agreement, whether before, on or after the date thereof, and regardless of whether such data or information is identified as confidential, and any data or information containing, reflecting or derived from such data or information, including all confidential or proprietary information relating to (a) the business, affairs, customers, clients, suppliers, plans, intentions or market opportunities of Customer or any member of its Group; (b) the operations, processes, product information, know-how, technical information, designs, trade secrets or software of Customer or any member of its Group; and (c) the terms of the Agreement. Information is not Confidential Information if it: (i) is generally available to the public prior to the time of supply; (ii) subsequently becomes generally available to the public other than as a direct or indirect result of any breach of the Agreement; (iii) is in the lawful possession of Supplier or any member of its Group prior to the time of supply; (iv) subsequently comes lawfully into the possession of Supplier or any member of its Group from a third party who does not owe Customer or any member of its Group an obligation of confidence in relation to it; or (v) is developed by or for Supplier or any member of its Group without any use of any part of Customer's Confidential Information.
- 14.2 The Confidential Information shall remain the property of Customer and shall not be used by Supplier except for the purposes of the Agreement. Supplier shall and shall ensure that its Personnel keep the Confidential Information confidential and shall not without Customer's prior written consent directly or indirectly disclose or make available any of it to any person other than in accordance with the Agreement. Promptly upon request, Supplier shall destroy or return all of Customer's Confidential Information. Supplier will be responsible for any action (or failure to take action) by any person to whom it discloses any Confidential Information which would constitute a breach of this Agreement if such person were a Party.
- 14.3 Notwithstanding the foregoing, Supplier may disclose Confidential Information obtained directly or indirectly from Customer or any member of its Group: (a) to any member of the Supplier Group that requires access to the same in connection with the performance of the Agreement; (b) if such disclosure is required by law, regulation or any competent Government, judicial, arbitral or regulatory authority (including a stock exchange of competent jurisdiction); or (c) if such disclosure is made for due diligence purposes under strict and customary confidentiality obligations in relation to a divestment of business activities or assets, subject to such persons having an equivalent duty of confidentiality to that of Supplier.
- 14.4 Supplier shall not, without the prior written consent of Customer, use Customer's name, logo or trademark, or any commercial relation with Customer Group, for the purpose of marketing or any public announcement.

### 15. Force majeure

Neither Party shall be responsible for any failure to fulfil any provision of the Agreement caused by an unforeseen, extraordinary and serious event (not including economic hardship; adverse weather conditions; strikes or industrial disputes by labour employed by the affected Party, its subcontractors or its suppliers; or changes to any law or the judicial interpretation thereof, or the introduction of any new law) not within its control and not caused by its default or error and which it could not reasonably have provided against by exercising due diligence and/or applying reasonable additional resources. If such event continues for 30 consecutive days, the Party not affected may terminate the Agreement by giving written notice to the affected Party, and neither Party shall have any further claim against the other, except to the extent that actual delivery has been made under the Agreement, where Customer shall pay Supplier a fair

value of the supplied Goods and/or Services in accordance with the Agreement and as agreed between the Parties. The Party invoking force majeure shall, as soon as possible, notify the other Party thereof in writing.

### 16. General

- 16.1 **Entire agreement.** The Agreement (together with the documents referred to in it) constitute the entire agreement between the Parties relating to its subject matter, and supercedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter. Each Party acknowledges that in entering into the Agreement it does not rely on any statement, representation, assurance or warranty that is not set out in the agreement. Nothing in this clause shall limit or exclude liability for fraud.
- 16.2 **Governing law.** The Agreement and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of Denmark to the exclusion of any rules on choice of law which would refer the matter to another jurisdiction.
- 16.3 **Disputes and jurisdiction.** Any dispute arising out of or in connection with this contract, including any disputes regarding its existence, validity or termination, shall be finally settled by arbitration administered by the Danish Institute of Arbitration in accordance with the Rules of Arbitration adopted by the Board of the Danish Institute of Arbitration. The venue for arbitration shall be Copenhagen. The language to be used in the arbitration shall be English. The number of arbitrators shall be one. Notwithstanding any dispute, Supplier shall continue to perform its obligations under the Agreement.
- 16.4 **No exclusivity or minimum commitment.** Nothing in the Agreement shall be construed to grant Supplier exclusive status as the sole provider of the Goods or Services to Customer or impose an obligation on Customer to purchase from Supplier a minimum volume or quantity of the Goods or Services.
- 16.5 **Severability.** If any provision or part-provision of the Agreement is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of the Agreement. If any provision or part-provision of the Agreement is deemed deleted under the previous sentence, the Parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.
- 16.6 **No adverse construction.** The Agreement is not to be construed to the disadvantage of a Party because that Party was responsible for its preparation.
- 16.7 **Assignment.** Customer is entitled to assign, subcontract or otherwise transfer its rights and obligations under the Agreement in whole or in part to any member of Customer Group. Within a reasonable period of time after such assignment, Customer shall notify Supplier in writing thereof. Subject to clause 16.8, Supplier shall not be entitled to assign, subcontract or otherwise transfer any rights or obligations under the Agreement without the prior written consent of Customer. Any such attempted assignment shall be void.
- 16.8 **Subcontracting.** Supplier shall, subject to the prior written consent of Customer, be entitled to use Subcontractors in the supply of the Goods and/or Services. However, Supplier shall be liable for all acts and omissions of its Subcontractors (of any tier) to the same extent as Supplier is itself liable to Customer, and Supplier shall be responsible for all fees and expenses payable to any Subcontractor.
- 16.9 **Variation.** No variation of the Agreement shall be effective unless it is agreed to in writing by the Parties or their authorised representatives. The acceptance of deliveries of Goods and/or Services and the making of payments do not constitute such agreement.
- 16.10 **Waiver.** A failure or delay to exercise, or the single or partial exercise of, any right or remedy shall waive that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy.
- 16.11 **Third-party Rights.** No person which is not a Party may enforce any term of the Agreement, except that any person expressed to be the beneficiary of any indemnity under the Agreement, or of any exclusion, restriction or limitation on its liability, may enforce the same in its own right. Furthermore, if Customer sells or transfers the Goods and/or Services to any third party or member of Customer Group in any bona fide transaction, Customer shall be entitled to assign the rights and benefits of existing warranties and other representations and covenants hereunder in favour of any such third-party buyer, transferee, or member of Customer Group. Except as provided in the foregoing, no term of the Agreement is intended to confer a benefit on or to be enforceable by any person who is not a Party. The rights of the Parties to rescind or vary the Agreement are not subject to the consent of any other person.
- 16.12 **Relationship of the Parties.** Supplier confirms that it is an independent contractor and is acting on its own behalf and not for the benefit of any other person. The relationship between Customer and Supplier shall not be construed as an employment relationship. Nothing in the Agreement is intended to or shall be deemed to (i) establish any partnership between the Parties; (ii) create an employment relationship between Customer and Supplier's Personnel; (iii) constitute one Party (or its Personnel) the agent of the other Party; or (iv) authorise one Party (or its Personnel) to make or enter into any commitment for or on behalf of the other Party.
- 16.13 **Notices.** Any notice given to a Party in connection with the Agreement shall be in English in writing and shall be (a) delivered by hand or by internationally recognised courier company at its registered office (if a company) or its principal place of business (in any other case); or (b) sent by email to any address notified expressly by it for such purpose, provided that such notice is also sent in hard copy in accordance with sub-clause (a). Any notice shall be deemed to have been received at the time it is left at the proper address in accordance with sub-clause (a). Day-to-day communications which do not require formal notice may be made by email without such communications also being sent in hard copy.
- 16.14 **Survival.** Any provision of the Agreement that expressly or by implication is intended to come into or continue in force on or after termination or expiry of the Agreement (including clause 5) shall remain in full force and effect notwithstanding such termination or expiry.