

General Terms and Conditions of Purchase

Article 1. Definitions

For purposes of these Terms and Conditions, capitalized terms shall have the meaning set forth below or in the respective sections:

‘Agreement’ means any agreement concluded between Purchaser and Supplier with regard to the sale and supply of Products and/or Services, such as an agreement resulting from Purchaser’s acceptance of a Quotation by issuing a Purchase Order or from Supplier’s acceptance of a Purchase Order by issuing an order confirmation.

“Affiliate” of a Party means an entity which is (i) directly or indirectly controlling such Party; (ii) under the same direct or indirect control as such Party; or (iii) directly or indirectly controlled by such Party. For these purposes, an entity shall be treated as being controlled by another if that other entity has fifty percent (50%) or more of the votes in such entity, is able to direct its affairs and/or to control the composition of its board of directors or equivalent body.

“Applicable Laws” means all local, national and international laws, regulations, rules, and standards applicable to the manufacture and supply of the Products, Deliverables and the Services.

“Change of Control” means with respect to Supplier (a) the sale of all or substantially all of the assets of the Supplier; or (b) a merger, consolidation or other reorganization of Supplier which results in more than 50% of the voting stock of the resulting or surviving entity being owned or held by persons other than those owning or holding the voting stock in Supplier on the effective date of the Agreement; or (c) the sale by one or more stockholders of the Supplier, in a single transaction or series of related transactions, of more than 50% of the voting stock of the Supplier to one or more third parties who are at the time of such sale unaffiliated with any stockholders of the Supplier.

“Confidential Information” means any and all information whether in written, oral, graphic, visual, machine readable, sample or other form, whether or not designated as confidential, belonging to Purchaser or third parties to which Purchaser has an obligation to keep such information. The term “Confidential Information” does not include information which: (a) is now, or hereafter becomes, through no act or failure to act on the part of Supplier, generally known or available; (b) is independently known by Supplier at the time of receiving such information; or (c) is the subject of a written permission to disclose provided by Purchaser.

“Deliverables” means all reports, results, work papers, notes, algorithms, programs, software, code, graphs, charts, and other documentation that are produced or to be produced by Supplier while providing Services.

“Force Majeure Event” means any event that would excuse a Party for non-performance of its obligations under the Agreement and/or these Terms and Conditions in accordance with article 6:75 Dutch Civil Code.

“Intellectual Property” or **“IP”** means any form of protection afforded anywhere in the world by law to inventions, works, databases, designs, software, trade secrets, confidential information, know-how and other proprietary information and data, including without limitation patents (including re-issues, divisions, continuations and extensions thereof), copyrights, database right, registered and not-registered design rights, utility models, mask works, as well as applications for any such rights.

“Parties” means Purchaser and Supplier, and **“Party”** shall mean either one of them, as the context may indicate.

“Purchaser” means the legal entity and/or its Affiliates ordering the Products and/or Services, designated as such in the Agreement.

“Products” means any good and related software to be supplied by Supplier to Purchaser under the Agreement, as the same may be specified in (i) the Quotation, (ii) a Purchase Order or (iii) as otherwise agreed upon by the Parties.

“Purchase Order” means a purchase order for Products or Services placed with Supplier by Purchaser.

“**Quotation**” means Supplier’s written offer for the sale and supply of Products and/or Services.

“**Services**” means any work to be performed by Supplier under these Terms and Conditions, as such work may be specified in (i) the Quotation, (ii) a Purchase Order or (iii) as otherwise agreed upon by the Parties.

“**Supplier**” means the legal entity and/or its Affiliates providing the Products and/or Services, designated as such in the Agreement.

“**Supplier Code of Conduct**” means Purchaser’s code of conduct available at <[Supplier information - BKL](#)>.

“**Supplier Manual**” means the supplier manual available at <[Supplier information - BKL](#)>.

“**Terms and Conditions**” means these General Terms and Conditions of Purchase.

Article 2. Applicability

2.1 Applicability. These Terms and Conditions are applicable to and form an integral part of all Purchase Orders and Agreements. Any reference to general terms and conditions (of purchase or other) of Supplier that may appear on any Quotation or order confirmation, shall remain without effect.

2.2 Deviations. Where these Terms and Conditions provide that a specific condition shall apply ‘unless expressly agreed otherwise’, this shall be read and interpreted as that all deviations from this Terms and Conditions must be made and agreed in writing and must identify the provision from which Parties wish to deviate.

Article 3. Quotations

3.1 Quotations. At Purchaser’s request, Supplier shall provide quotations for the manufacture and supply of Products and/or the provision of Services. Unless otherwise agreed, quotations shall be provided within ten (10) business days after receipt of Purchaser’s request for quotation and shall be valid for a minimum of 12 months. Quotations shall contain all information specified in the Supplier Manual.

3.2 No obligation. Purchaser shall have no obligation to accept a Quotation. Purchaser shall only be bound by a Quotation if and to the extent that Purchaser has accepted such Quotation by issuing a Purchase Order to Supplier.

Article 4. Purchase Orders

4.1 Order Procedure. Purchaser may purchase Products and Services by issuing Purchase Orders to Supplier. All Purchase Orders must be confirmed or rejected within (five) 5 business days after the date of the receipt of the Purchase Order. Supplier may only reject a Purchase Order if such Purchase Order does not conform to the Quotation and/or the requirements of these Terms and Conditions.

4.2 Purchase Order Information. A Purchase Order shall specify all information specified in the Supplier Manual.

4.3 Time is of the Essence. Supplier shall execute the Agreement at the time or times agreed upon and agrees that time is of the essence. As soon as Supplier foresees that it may not be able to meet an agreed delivery date, Supplier will promptly notify Purchaser thereof and shall provide Purchaser with a corrective action plan to mitigate the delay. Such plan shall be carried out by Supplier upon Purchaser’s approval of the plan. Supplier shall bear all costs of carrying out the corrective action plan, unless the delay is due to (i) a Force Majeure Event or (ii) Purchaser.

4.4 Late Delivery. Products and/or Deliverables delivered after the agreed delivery date will be considered late. In the event of a late delivery which remains unremedied for a period of five (5) business days after the original agreed delivery date, Purchaser may, in its sole discretion, without prejudice to any other rights accruing under the Agreement, these Terms and Conditions or under Applicable Laws, (a) grant Supplier an additional period of time, to be determined by Purchaser in its sole discretion, to deliver the applicable Products and/or Deliverables; or (b) terminate all or any part of the corresponding Agreement without liability.

- 4.5 Delivery Condition. Unless the Purchase Order provides otherwise, the delivery condition DDP (Delivery Duty Paid) (Nuenen, the Netherlands) according to the most recent Incoterms shall apply.
- 4.6 Partial or Early Deliveries. Supplier shall not make partial deliveries, early deliveries or deliveries of quantities of Products or Deliverables in excess of the amount stated in the Agreement without Purchaser's prior written approval.
- 4.7 Documentation. If requested by Purchaser, Supplier shall provide documentation with regard to the Products and Deliverables in accordance with the agreed Product specifications and/or the Supplier Manual.
- 4.8 Push-outs and Pull-ins. Supplier shall use its best efforts to accommodate any request by Purchaser to push-out, in whole or in part, the original agreed delivery date or the quantities of the Products or Deliverables agreed for a particular delivery time. In addition, Supplier shall use its best efforts to accommodate any request by Purchaser to deliver Products earlier than the agreed delivery date for such Products or Deliverables.
- 4.9 Termination for Convenience. Purchaser may at any time terminate, in whole or in part, a Purchase Order for convenience upon written notice to Supplier without any liability to Supplier. After receipt of a notice of termination, Supplier shall immediately stop incurring any costs or expenses and comply with the instructions by Purchaser in the notice of termination and any subsequent written instructions. Reimbursement of any termination costs shall be negotiated in good faith between Parties; provided that under no circumstance, shall such termination costs be greater than the lesser of (a) actual material and labor costs, excluding any margin, reasonably incurred by Supplier with respect to the cancelled Purchased, up to the point of receiving the notice of termination or (b) the price stated in the applicable Purchase Order. No compensation shall be made for any long lead-time items purchased or committed by Supplier, unless Purchaser has agreed with such purchase or commitment in writing prior to making the purchase or commitment. Purchaser shall have the option to receive the semi-finished products or work in progress, as applicable, upon payment of the reimbursement in accordance with this Section.
- 4.10 Forecasts. Purchaser may provide forecasts of its anticipated supply needs to Supplier. Except as agreed otherwise, any forecasts provided by Purchaser are for planning purposes only and do not constitute a binding commitment to purchase any Products or Services. If Purchaser provides a forecast to Supplier, Supplier will provide written notice to Purchaser within five (5) business days after receiving the forecast, informing Purchaser whether it will meet such forecast. Once Supplier accepts a forecast, then Supplier must accept all corresponding Purchase Orders that are within the volumes forecasted and the required lead times.
- 4.11 Affiliates. When a Purchase Order is issued by an Affiliate of Purchaser, the obligations in the Agreement resulting from Supplier's acceptance thereof run between such Affiliate and Supplier, and not between Purchaser and Supplier. Unless expressly agreed otherwise in writing by Purchaser, all purchases of Products and Services by Purchaser's Affiliates under these Terms and Conditions shall be cumulated and applied for purposes of determining: (i) credits and discounts that apply; (ii) whether forecasts, volume commitments and the like have been met; and (iii) any other requirements or incentives based on the volume of purchases of Products or Services contained in these Terms and Conditions.
- 4.12 Subcontracting. Supplier may only subcontract its obligations upon Purchaser's prior written approval (which shall not be unreasonably withheld). Supplier agrees that, if Purchaser provides its approval, it remains solely responsible for the performance of its obligations under these Terms and Conditions.

Article 5. Prices and payment conditions

5.1 Prices. Prices for the Products and Services shall be as agreed from time to time and set forth in Agreement. Prices shall remain fixed or decline for the term specified in the Agreement, unless Purchaser and Supplier have agreed otherwise in writing. All Prices are based on the delivery terms set forth in Section 4.4. Prices shall be in Euro and shall exclude taxes and other applicable surcharges

5.2 Payment Term. Unless specified otherwise in the Agreement, the payment term shall be 60 days after receipt and approval of the invoice. Payment shall be net and without prejudice to any of Purchaser's rights.

5.3 Invoice Information. Supplier shall issue invoices in a digital format acceptable to Purchaser by e-mail. Each delivery note and all invoices shall include all information specified for such documents in the Supplier Manual.

Article 6. Quality Assurance

6.1 Outgoing Inspection. Supplier shall inspect and test all Products prior to delivery to Purchaser ("**Outgoing Inspection**"). Supplier will provide Purchaser with written certification that the Product has passed such requirements and that it meets the agreed specifications. Purchaser may participate in the Outgoing Inspections as it deems necessary.

6.2 Incoming Inspection. Purchaser shall be entitled to inspect the Products upon their arrival at the ultimate place of destination and upon completion of any installation, assembling, commissioning or other work to be carried out pursuant to the Agreement within a reasonable period after receipt of Supplier's notice of their completion in order to ascertain whether the agreed requirements are complied with.

6.3 Quality Controls. Supplier acknowledges that it will institute and maintain appropriate quality controls at its facilities to prevent any defective Products from shipping to Purchaser. A complete record of inspections and tests performed on each Product shall be maintained by Supplier for a period of ten (10) years from the date of delivery of such Product and copies thereof shall be made available to Purchaser upon request. Purchaser may have its representatives participate or be present at quality control reviews, as it deems necessary.

6.4 Rejection. Inspections carried out by Purchaser shall not affect Purchaser's right to invoke any of the warranties set forth in Section 8. In case of rejection upon inspection, Supplier shall take all necessary actions to avoid any disturbance or production stop at Purchaser. Defective or non-conforming Products shall be promptly replaced or corrected by Supplier. Supplier shall inform Purchaser of all actions to be taken by Supplier to comply with this section.

Article 7. Changes

7.1 Changes. Supplier will not change any Product, nor make any changes to or that may affect the agreed specifications, or any other changes that may have a material impact upon Supplier's quality system, without Purchaser's prior written consent. Notwithstanding the foregoing, Supplier shall notify Purchaser as soon as it becomes aware of any change of any part of the Product that it sources from a sub-tier supplier.

7.2 Mandatory Changes. If changes to a Product are required by Applicable Laws or are mandated by appropriate governmental or legal authorities, Supplier will promptly notify Purchaser in writing of such requirement. Provided that such Product met Applicable Laws at the time of manufacture, Purchaser and Supplier will allocate the costs of any subsequent change required in an equitable manner based on good faith discussions between the parties. If such Product did not comply with such requirements at the time of manufacture, Supplier shall bear the costs of any change required to bring such Product in compliance with such requirements.

Article 8. Warranty

8.1 Warranty for Products. For a period of twenty four(24) months from the date of delivery of the Products, Supplier warrants that (i) the Products are in conformity with the agreed Product specifications and approved samples; (ii) are fit for their purpose (provided that such purpose was reasonably known to Supplier); (iii) are of sound workmanship, of good quality and free from faults in construction, manufacture and material; and (iv) meet Applicable Laws. If no particular specifications for a Product have been agreed, the Product shall be of good quality and at least satisfy the customary standards common in the relevant industry with respect to of soundness, safety, suitability, workmanship and environmental compliance.

8.2 Notification. Should any Product fail to conform to the warranties set out above, Purchaser shall notify Supplier of such failure. Supplier shall deal with all Product failures notified by Purchaser in accordance with the Supplier Manual.

8.3 Warranty Remedies. Notwithstanding any other remedy available to Purchaser under the Agreement, these Terms and Conditions or Applicable Law, in case the Products fail to meet the warranties set forth in Section 8.1, Supplier shall, as instructed by Purchaser, either (i) provide Purchaser free of charge with replacement parts for the Product, or (ii) repair the non-conforming Product at its own expense; or (iii) reimburse the non-conforming Product at the price paid for such Product by Purchaser. In the event Purchaser invokes (i) or (ii), Supplier shall deliver a replacement part or return the repaired Product within three (3) business days, or within any other time period specified by Purchaser, after receipt of the returned Product (part). Supplier shall reasonably cooperate with any Purchaser request to perform repairs on-site at Purchaser or at Purchaser's customers. In case of such request, Parties shall negotiate any additional cost of repairing on-site compared to the cost of repair at Supplier's premises (including transport cost) in good faith.

8.4 Warranty for Services. If Supplier provides Services, Supplier warrants that such Services will be performed by reliable, adequately trained, experienced and skilled employees, applying the degree of care and skill ordinarily exercised by employees of the same profession in similar circumstances, and applying the state of the art of science and technology. In addition, Supplier warrants that the Deliverables shall meet Purchaser's requirements. Notwithstanding any other remedy available under the Agreement, these Terms and Conditions or Applicable Law, if the Services fail to meet to meet the warranties set forth in this Section, Supplier shall re-perform the Services at its costs until they meet these warranties.

8.5 Warranty Exclusions. The warranties in this Section shall not apply to the extent Supplier proves that the applicable failure was caused solely by:

- improper handling or storage by Purchaser or its customer;
- accident, abuse or misuse by Purchaser or its customer; or
- unauthorized repair or modifications by Purchaser or its customer.

8.6 Failure to Remedy. If the remedies set forth in this Section 8 are not pursued vigorously by Supplier, Purchaser may, at its option, but without prejudice to Purchaser's other remedies under the Agreement, these Terms and Conditions or under Applicable Law, (i) execute the remedies on its own or retain a third party to execute the remedies, in both cases at the cost and expense of Supplier; or (ii) receive a refund of the purchase price and related costs as referred to in this Section.

Article 9. IP Indemnity

9.1 Indemnification. Supplier shall defend, indemnify and hold Purchaser harmless against any and all fines, losses, damages, costs and expenses incurred by or assessed against Purchaser which arise out of a claim made by a third party alleging that any Product or Deliverable directly or indirectly infringes any IP of such party.

9.2 **Remedies.** If Purchaser or any of its customers is prevented, or in Purchaser's opinion, is likely to be prevented from using a Product or Deliverable by reason of any claim of infringement of such third party's IP, then Supplier will, at its sole expense, (i) obtain all rights required to permit the use of such Product or Deliverable by Purchaser and its customers; or (ii) modify or replace the Product and/or Deliverable, without additional charge, to make it non-infringing, provided that the replacements of such Product or Deliverable is reasonably satisfactory to Purchaser. If Supplier is unable to comply with (i) or (ii) above within thirty (30) days (or such other timeframe as reasonably agreed upon by the Parties) after issuance of an injunction, then Purchaser may immediately terminate the Agreements affected by the infringement and, upon termination, Supplier will promptly refund to Purchaser the price originally paid by Purchaser and all related costs of all affected Products or Deliverables that are returned or destroyed.

9.3 **Exclusions.** Supplier's obligations under Section 9.1 and Section 9.2 will not apply to the extent that Products or Deliverables have been manufactured in accordance with a design provided by Purchaser or are used in combination with other equipment not manufactured, supplied, required or recommended by Supplier, provided that such infringement would not have occurred but for the use of such design or such combination.

Article 10. Continuity of supply and business continuity

10.1 **Continuity of Supply.** Pursuant to Purchase Orders placed by Purchaser from time-to-time, Supplier shall supply to Purchaser each Product or type of Product for as long as Purchaser requires such Product or type of Product, until seven (7) years after the last delivery to Purchaser of such Product or type of Product.

10.2 **Notification and Last Time Buy.** In addition to the obligations set forth in Section 10.1, with respect to any particular type of Product, Supplier shall inform Purchaser in writing as soon as possible but in no event with less than six (6) months advance notice if Supplier anticipates that it cannot meet its obligations pursuant to Section 10.1. During such period, Supplier shall provide Purchaser with the opportunity to make a last-time purchase of the applicable Products in the amount Purchaser deems necessary. If the circumstance relates to a component of a Product supplied by a third party, Supplier shall make a last-time purchase of such component in the quantity as prescribed by Purchaser. In addition to the last-time purchase, Supplier shall redesign a form, fit and function compatible alternative at no charge to Purchaser, unless the applicable Product was exclusively a built-to-print product or part. In the exclusive built-to-print case, Supplier shall cooperate with Purchaser in redesigning a form, fit and function compatible alternative for the applicable built-to-print Product so that another supplier can provide the Products for Purchaser or Supplier will manufacture the redesigned Product for Purchaser.

10.3 **Business Continuity.** Supplier acknowledges its obligation to manufacture, supply and support all of the Products and Services provided under the Agreement without interruption. Supplier will maintain a written business continuity plan reasonably acceptable to Purchaser. The business continuity plan must demonstrate Supplier's ability to ensure continuity of supply of the Products and provision of the Services as required under the Agreement. Upon Purchaser's request at any time during the term of this Agreement, Supplier will provide Purchaser with a written certification that the business continuity plan is effective and fully operational.

Article 11. Indemnification and Insurance

11.1 **Indemnification.** Supplier will defend, indemnify and hold Purchaser and its customer(s) harmless from and against any all costs, expenses, losses, damage, claims, liabilities, fines, amounts paid in settlement, and reasonable legal fees and expenses, arising out of or related to any of the following: (i) Supplier's breach of these Terms and Conditions or any Agreement; and (ii) bodily injury, death or damage to personal property arising out of or relating to Supplier's performance under these Terms and Conditions or any Agreement.

11.2 **Exclusion.** Neither Party shall be liable to the other for any indirect, punitive, incidental or consequential damages arising out of the Agreement or these Terms and Conditions (including lost profits or loss of business) even if such Party has been advised of the possibility of such damages. The exclusions set forth in this Section do not apply in case of (i) any damages caused by willful misconduct, unlawful intent or gross negligence; (ii) damages as a result of death or bodily injury; (iii) infringement of intellectual property (including without limitation, for the avoidance of doubt, Supplier's indemnity under Section 9.1, (iv) breach of Applicable Laws; (v) breach of confidentiality, or (vi) any cases in which a limitation of liability is excluded by operation of a provision of mandatory law.

11.3 **Insurance.** Supplier shall maintain at its sole cost and expense adequate insurance covering the risks resulting from the Agreement and these Terms and Conditions,. At Purchaser's request, Supplier shall provide Purchaser with proof of such insurance.

Article 12. Confidentiality

12.1 **Non-disclosure agreement.** If Purchaser and Supplier have entered into a non-disclosure agreement with respect to the supply of the Products and Services that is still in force, all Confidential Information disclosed by Purchaser shall be subject to the terms of such agreement. In the absence of such agreement, Supplier agrees that the obligations of confidentiality and nonuse set forth in this Section 12 shall apply to all disclosures of information by Purchaser to Supplier.

12.2 **Confidentiality Obligations.** Supplier agrees, in its capacity of receiving Party:

- (a) not to disclose Confidential Information, directly or indirectly, under any circumstances or by any means, to any third party without Purchaser's written consent;
- (b) not to use Confidential Information for any purpose except as necessary for the performance of these Terms and Conditions and the Agreement;
- (c) to give access to Confidential Information only to its employees who have a need to know for such information for the performance of the Agreement and are bound by confidentiality obligations no less restrictive than those contained in these Terms and Conditions;
- (d) to protect the Confidential Information by using the same degree of care Supplier uses to protect its own confidential information, but no less than a reasonable degree of care.

12.3 **Disclosure under Subpoena.** Notwithstanding anything to the contrary herein, in the event that Supplier is required to disclose any Confidential Information under the terms of a valid and effective subpoena, court order, governmental rule or regulation or other judicial requirement, Supplier agrees to promptly notify Purchaser of the existence, terms and circumstances surrounding such a request or requirement so that Purchaser may seek an appropriate protective order or waive compliance by Supplier with the appropriate provisions of these Terms and Conditions. If Supplier is compelled to disclose any of the Confidential Information, Supplier will disclose only those portions thereof which it is compelled to disclose.

12.4 **Injunctive Relief.** Supplier agrees that disclosure or use of the Confidential Information in violation of these Terms and Conditions may cause immediate and irreparable harm to Purchaser for which monetary damages may be difficult to ascertain or an inadequate remedy. Supplier therefore agrees that Purchaser will be entitled, in addition to its other rights and remedies, to seek injunctive relief for any violation of this Section.

12.5 **Return of Information.** Upon Purchaser's request, Supplier shall, at Purchaser's option, promptly return to Purchaser all Confidential Information provided to Supplier, together with any copies of the same, which Supplier has in its possession or control, or provide Purchaser with written certification that all such Confidential information has been destroyed.

12.6 **Protection Period.** The obligations under this Section shall be effective during the term of these Terms and Conditions and a period of five (5) years thereafter. However, with respect to Confidential Information that must be considered as a trade secret under applicable law, the obligations under this Section shall remain effective until such Confidential Information may no longer be considered as a trade secret.

Article 13. Security

13.1 Security Requirements. Supplier will establish, maintain, and implement an information security management system, in accordance with ISO 27001, that is designed to (a) ensure the security and confidentiality of the information and data received from Purchaser, (b) protect against any reasonably anticipated threats or hazards to the security or integrity of such information and data and (c) protect against unauthorized access to or use of such information and data. Supplier shall notify Purchaser within 24 hours of any breach or unauthorized disclosures of the information and data received from Purchaser and shall at its own expense use best efforts to immediately contain and remedy any security breach or unauthorized disclosure and prevent any further security breach or unauthorized disclosure.

13.2 Verification. Within five (5) business days of Purchaser's written request, Supplier shall, at Purchaser's election: (a) provide Purchaser with Supplier's written policies and procedures that relate to the safeguarding of information and data received from Purchaser or any modifications to, or revisions of, such policies or procedures; or (b) make its facilities available to the Purchaser's employees, or the employees of a third party selected by Purchaser, to audit the safeguards that Supplier has implemented for information and data received from Purchaser. Alternatively, where Supplier (i) has instructed third party licensed auditors to perform periodical audits; and (ii) where such audits results in reports reasonably acceptable to Purchaser, Supplier may, instead of allowing Purchaser to conduct an audit, provide such report to Purchaser.

Article 14. Compliance

14.1 General. Supplier represents and warrants that it, and all Products, Services and Deliverables provided under these Terms and Conditions, shall comply with all Applicable Laws. All costs and expenses related to such compliance shall be borne solely by Supplier. Supplier shall require that all its subcontractors also comply with all Applicable Laws. Upon request, Supplier will certify that it and its subcontractors comply with all Applicable Laws. In addition, Supplier shall provide all the information necessary for Purchaser to comply with Applicable Laws in its use of the Products and Services. Supplier will promptly notify Purchaser if Supplier (i) becomes aware that it violates any Applicable Law and/or (ii) receives any notice, demand, summons or complaint from any governmental or regulatory authority, agency or other body relating to the subject matter of any Agreement, and will take all steps, to resolve any issues as promptly as practicable or any request or demand in violation of Applicable Laws.

14.2 Supplier Code of Conduct. Supplier further represents and warrants that it will comply with the Supplier Code of Conduct, or a code of business conduct and ethics that is substantially similar to the Supplier Code of Conduct, and shall require that all its subcontractors will comply with the Supplier Code of Conduct or a code that is substantially similar to the Supplier Code of Conduct. If Supplier chooses to comply with a code that is substantially similar to the Supplier Code of Conduct, Supplier will furnish to Purchaser a copy of such code upon request and Purchaser shall have the right to accept or reject such code in its sole discretion.

14.3 Country of Origin. Upon Purchaser's request, Supplier shall provide Purchaser with an acceptable and auditable certification stating the country of origin of the Products and Deliverables, sufficient to satisfy the requirements of (i) customs authorities of the country of receipt; and (ii) applicable export licensing regulations. Supplier will mark each Product and Deliverable (or its container if there is no room on the Product or Deliverable) with the country of origin. Supplier will, in marking the Products and Deliverables, comply with the requirements of the customs authorities of the country of receipt.

14.4 Counterfeit. Supplier represents that it shall not furnish to Purchaser any Products, Deliverables or separately-identifiable items or components of Product or Deliverables that (i) are an unauthorized copy or substitute of an original equipment manufacturer or original component manufacturer (collectively, "OEM") item; (ii) are not traceable to an OEM sufficient to ensure authenticity in OEM design and manufacture; (iii) do not contain proper external or internal materials or components required by the OEM or are not constructed in accordance with OEM design; (iv) have been re-worked, re-marked, re-labeled, repaired, refurbished, or otherwise modified from OEM design but are represented as OEM authentic or as new; (v) have not passed successfully all OEM required testing, verification, screening, and quality control processes; or (iv) are otherwise counterfeit or suspected counterfeit. Such counterfeit or suspected counterfeit Product or Deliverable shall be deemed non-conforming, and Supplier shall disclose the source of the counterfeit or suspect counterfeit Product or Deliverable to Purchaser and cooperate with Purchaser with respect to any investigations or remedial actions undertaken by Purchaser.

14.5 Export Control. In the event that the Products, Deliverables or any Documentation provided by Supplier are subject to export control restrictions, Supplier shall inform Purchaser in writing about the extent of the restrictions (including but not limited to export control legal jurisdiction, export control classification numbers (ECCN), ML classification (when applicable), export control licenses and/or CCATS, as applicable) prior to delivery of the Products and Deliverables to Purchaser. Supplier shall obtain all appropriate licenses or permits necessary to export or import the Products, Deliverables and Documentation purchased by Purchaser during the term of the applicable Agreement. Upon Purchaser's request, Supplier shall provide Purchaser, or its designee, with all information and cooperation necessary for Purchaser to timely obtain all required export and import licenses. Supplier will immediately notify Purchaser in writing if it becomes aware that any of the Products purchased under these Terms and Conditions are subject to ITAR, the Wassenaar Munitions Lists, the U.S. Export Administration Regulations (EAR), the EU Council Regulation (EC) No 428/2009 or any other applicable export laws. Supplier warrants that it shall comply with all applicable international and national export control laws and regulations, including, but not limited to UN, EU and U.S. export control laws and regulations.

Article 15. Termination

15.1 Insolvency. Purchaser shall have the right to suspend the performance of its obligations under any and all Agreements or terminate such Agreements, without any liability, in whole or in part, in the event that: (i) Supplier files a voluntary petition of bankruptcy or any voluntary proceeding relating to insolvency, receivership, liquidation, assignment for the benefit of creditors or similar proceeding; (ii) Supplier becomes the subject of a petition of bankruptcy or any proceeding relating to insolvency, receivership, liquidation, assignment for the benefit of creditors or similar proceeding and such petition or proceeding is not dismissed within thirty (30) days from filing of such petition or proceeding; or (iii) Supplier ceases to or threatens to cease to carry on business in the ordinary course.

15.2 Change of Control. Purchaser may terminate any and all Agreements immediately without any liability to Supplier, by written notice to Supplier, in the event of a Change of Control of Supplier.

Article 16. Books and Audit

16.1 Books and Records. Supplier shall maintain books, records, documents and other evidence pertaining to costs, charges, fees and other expenses for which reimbursement is claimed under the provisions of the Agreement and/or these Terms and Conditions.

16.2 Audit Right. Purchaser shall have the right to audit Supplier's and its subcontractors' compliance, including but not limited to supplier and subcontractors' locations and processes, with its obligations under the Agreement and these Terms and Conditions. In the event that the audit shows that Supplier is not meeting its obligations, Supplier shall provide Purchaser with a corrective action plan within three (3) months. Upon Purchaser's acceptance thereof, such plan shall be executed at Supplier's cost.

Final closure will be done with Supplier objective evidences and approval of Purchaser. Supplier shall provide to Purchaser's personnel, auditors and inspectors such assistance, access and co-operation as they may need and reasonably require.

Article 17. Applicable law and Disputes

17.1 Applicable law. The laws of the Netherlands, without any reference to its conflict of law provisions, exclusively apply to the Agreement, these Terms and Conditions and to all further agreements which might result from them. The United Nations Convention on the International Sale of Goods shall not apply.

17.2 Disputes. All disputes which might arise between the Parties in connection with any Agreements or these Terms and Conditions, including disputes about its existence and validity, will – unless any mandatory statutory provision dictates otherwise – exclusively be judged by the competent court in the district of East Brabant, the Netherlands. In the event Supplier has its statutory seat in a country in which a decision of a Dutch court is not directly enforceable, the dispute will be exclusively settled by means of arbitration in accordance with the Arbitration Rules of the Netherlands Arbitration Institute (NAI). The place of arbitration in that event shall be Eindhoven, the Netherlands.

Article 18. Miscellaneous

18.1 Order of precedence. In the event of any inconsistency between these Terms and Conditions and an Agreement, the following order of precedence shall apply:

- (i) the applicable Agreement; and
- (ii) these Terms and Conditions.

18.2 Force Majeure. Neither Party shall be liable for failure to perform solely caused by a Force Majeure Event and in the event that either Party is prevented from performing or is unable to perform any of its obligations under the Agreement and/or these Terms and Conditions due to a Force Majeure Event, its performance shall be excused, and the time for performance shall be extended for the period of delay or inability to perform due to such Force Majeure Event, provided that such Party shall give prompt written notice thereof to the other Party describing (i) the Force Majeure Event, (ii) the obligations which it is unable to perform due to such Force Majeure Event, and (iii) giving a projection of the expected period of delay or inability to perform due to such Force Majeure Event, and such Party shall have used reasonable commercial efforts to mitigate its effects use and to cure any non-performance. Regardless of the excuse of a Force Majeure, if a Party is not or is not expected to be able to perform any material obligation under the Agreement and/or these Terms and Conditions due to a Force Majeure Event for a period of three (3) months or more, the other Party may terminate such Agreement without any kind of liability toward the other Party.

18.3 Severability. In the event that any one or more of the provisions of the Agreement or the provisions contained herein is held invalid, illegal or unenforceable in any respect, such provision or provisions shall be ineffective only to the extent of such invalidity, illegality or unenforceability, without invalidating the remainder of such provision or provisions or the remaining provisions of the Agreement or, as applicable, these Terms and Conditions. The Parties agree to attempt to substitute for any invalid or unenforceable provision a valid or enforceable provision, which achieves to the greatest extent possible the economic, legal and commercial objectives of the invalid or unenforceable provision.

18.4 Advertising and publicity. Supplier shall not use Purchaser's name, logo, trademark, or any reference to Purchaser either direct or indirect in any publication nor disclose the existence or the terms and conditions of the Agreement, without the prior written consent of Purchaser.
