

# GENERAL TERMS AND CONDITIONS OF PURCHASE (GTCP)

Version 1.1

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## HISTORY AND CHANGE LOG

Version	Date	Authors	Page / Section / Description
V1.0	25.03.2018	Elaphe	SDP/GTCP document
V1.1	20.08.2019	Purchasing	Document update
V1.1	27.08.2019	Management	Release

# Classification: PUBLIC

## 1

### 1.1 Scope

These General Terms and Conditions of Purchase (hereinafter referred to as "GTCP") including any annexes shall be incorporated in and form an integral part of each contract between Elaphe Propulsion Technologies Ltd. (hereinafter referred to as "Buyer") and supplier (hereinafter referred to as "Supplier") for purchase and supply of **certain material and products (hereinafter referred to as "Purchase Order")**, in particular production materials, automotive components, spare parts, accessories, toolings and services as well as any software related to the aforementioned parts or components (hereinafter referred to as "Goods"). **Buyer and Supplier shall collectively be referred to as "Parties" and individually as "Party"**.

### 1.2 Document priority

**Particular circumstances shall be additionally governed by Buyer's special terms and conditions (hereinafter referred to as "Special Terms")**, to which reference shall be made in Purchase Order or hereinafter, where appropriate. Special Terms shall be transmitted to Supplier on request in Written Form. In case of conflict, discrepancy or any inconsistency between Purchase Order, Special Terms and GTCP, documents shall prevail over each other in priority order listed under this Clause.

### 1.3 Changes

Changes or amendments to GTCP or to Special Terms can only be made in written or electronic form (hereinafter referred to as "Written Form") clearly presenting content, context and impact on existing documents. Buyer has the right to change any of terms defined in GTCP at any time, if the conditions attached to legal specifications, agreements with customers or banks alter.

**Supplier shall be deemed to have accepted Buyer's proposed changes without any additional costs to Buyer and without extension of Supplier's time for delivery unless Supplier, within fourteen calendar (14) days following receipt of Buyer's notice of change, notifies Buyer of the need for any equitable adjustment in price and/or delivery time for Goods ordered in Written Form.**

No claimed change, modification, recession or waiver shall be binding on Buyer unless in Written Form and signed by a duly authorized representative of Buyer.

### 1.4 Differing Terms of Sale

Any other general term(s) and condition(s) contrary to or different from these GTCP or from Special Terms will not apply and shall not form part of any Purchase Order between the Parties even if they were not rejected explicitly in any individual case unless otherwise specifically agreed in Written Form.

## 2

### 2.1 Requirements and Documentation

Requirements are defined as all information required to ensure that Goods and services in terms are completely described regarding quality characteristics (dimensions, mechanical, electrical, chemical and all other properties) as well as the conditions of installation and operation. Buyer is regulating these requirements with technical, commercial and environmental protection documentation. Buyer's technical documentation includes drawings, bills of materials, testing specifications, technological and control procedures, national, international and Buyer's internal standards, measurement protocols for Supplier's outgoing quality control, PPAP documentation including PPAP samples, examples, and other documents specifying characteristics of Goods and services.

For Goods developed by Supplier itself, Supplier has to submit all technical documentation equivalent to requirements to Buyer. This documentation also has to include all the necessary tests, including tests of installation, reliability and product life-cycle period.

### 2.2 Confidentiality

Both Parties are obligated to use documentation and knowledge acquired from their business relation only for the purpose of the contractually agreed upon business relationship, and therefore shall be treated as confidential. This confidentiality has to remain in force even after a possible termination of a business relationship.

Supplier shall make sure that the same confidentiality principle applies for all of its employees, sub-suppliers and any other third parties with whom they conduct business with. All technical documentation and information which Buyer provides to Supplier, is considered as a business secret and **Buyer's sole property. When using and storing this kind of information Buyer requires strict confidentiality and can at any time demand the return of the already provided documentation.** Production according to such documentation is allowed for Buyer only. Same requirements apply to all and any Supplier's sub-supplier. **Distribution of such documentation to any third party is permitted only by Buyer's approval in Written Form.** Supplier confirms this obligation by signing Buyer's Non-disclosure Agreement (hereinafter referred to as "NDA").

## 3

### 3.1 Quality System

To ensure faultless and consistent quality of products, Supplier shall set up a quality management system (PPAP process) in accordance with the relevant technical specifications IATF 16949:2016 (including their related amendments, supplements and replacements) and in accordance with any requirements specified in Buyer's Purchase Order or Special Terms relating to the set up of quality management system with emphasis on preventive methods, rather than on methods for detecting non-conformities.

Procedure for permanently disposing of Goods failing to pass quality inspection at Supplier's site shall be separately determined by Buyer and notified to Supplier who shall strictly comply with such procedures. Goods having failed quality inspection must not enter any commercial or non-commercial channels **without Buyer's prior consent in Written Form.**

### 3.2 Release

Any serial supply of Goods shall require a prior release of Goods and release of production process in Written Form. A new release (or re-release of an existing product) shall also be required if any of the following changes occur:

- a) in case of a new product (new part identification number); or
- b) if changes in design, process technology, material or production sites occur; or
- c) after the replacement of a sub-supplier or the source of material supply; or
- d) after long interruptions of production.

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First off tool samples must be produced under the same conditions of mass production with serial Toolings and production assets. After the inspection of first off tool samples and all relevant documentation, Buyer shall decide:

- a) to approve; or
- b) to temporary approve; or
- c) to refuse release

and notify Supplier regarding its decision in Written Form. Buyer shall issue a release only if the requirements of the IATF 16949:2016 as well as of any additionally agreed requirements in Purchase Order and/or in Special Terms of Buyer relating to the release of production process and release of Goods are met. When release of a product is confirmed, Buyer may authorize Supplier for the commencement of regular production of the released product.

### 3.3 Document priority

In case of conflict, discrepancy or any inconsistency between Purchase Order, Special Terms and/or IATF 16949:2016, documents shall prevail over each other in priority order listed under this Clause.

### 3.4 Quality assurance

Supplier and its Goods shall comply with the acknowledged state of the art, safety regulations and agreed technical data and documentation requirements including all national standards required by applicable law. Supplier shall be responsible at all times to control and assure quality of Goods delivered. The Parties shall inform each other of any possibilities to improve quality of Goods. All supplied Goods and services shall comply **with Buyer's specified requirements**. Quality of supplied Goods and services must be equal or better than that of the approved initial samples.

### 3.5 Quality records

Supplier agrees to maintain quality records for all Goods indicating when, how and by whom any checks have been carried out in order to ensure defect-free production of Goods. These records must be kept for fifteen (15) years following the end of supply and be presented by Buyer upon request. Supplier is entitled to reduce holding period for documentation if Supplier is able to exclude the possibility of risk to life and health in use of its products. Supplier is required to impose same obligations on any of its sub-suppliers. Both Parties have to keep records of the PPAP documentation and all samples to serve as an assessment for quality of produced Goods.

### 3.6 Inspection of Production

In the event any authorities responsible for vehicle safety and the like demand inspection of production process and disclosure of test records of **Buyer to scrutinize certain requirements, Supplier shall, upon Buyer's request, concede to such authorities the rights they have against Buyer and provide them with any reasonable support.**

### 3.7 Survival

Clauses 3.5 and 3.6 shall survive any termination of Purchase Order.

## 4

### 4.1 Purchase Order

Purchase Order requires an order issued by Buyer and an order confirmation (**hereinafter referred to as "Order Confirmation"**) issued by Supplier to be effective. Purchase Order (order and its acceptance) and delivery schedule as well as any changes and amendments to Purchase Order and delivery schedule have to be made in Written Form to be effective. Supplier shall forward an acceptance of Purchase Order in Written Form within seven (7) calendar days after Supplier's receipt of said Purchase Order. **Supplier's Order Confirmation shall clearly indicate Buyer's Purchase Order number.**

As an exception, any performance by Supplier in relation to a sent Purchase Order will constitute acceptance of such Purchase Order. In the event that Supplier does not forward an Order Confirmation in Written Form or start performance in relation to a Purchase Order within seven (7) calendar days after Supplier's receipt of Purchase Order, **Buyer shall be entitled but not be obliged to revoke such Purchase Order without incurring any liability to Supplier.**

### 4.2 Acceptance to Terms

**Buyer's Purchase Order** expressly confirms acceptance to terms of Purchase Order, Special Terms and GTCP. Any additional or different terms, even non-material modifications to Purchase Order, Special Terms or GTCP are rejected unless expressly agreed to in Written Form. Any delivery release shall become binding if Supplier does not reject such delivery release within seven (7) calendar days of receipt of Purchase Order.

### 4.3 Modifications and Changes of Purchase Order

Buyer may, at any time demand modifications of any Purchase Order, order or delivery release including but not limited to modifications or specifications, product design, processing, technical documentation and construction, date and place of delivery, packaging, quality, quantity and **means of transportation. If such modifications result in an increase or a reduction of Supplier's costs or in a delay of delivery, Supplier shall inform Buyer immediately. If a Purchase Order has already been confirmed with Supplier's Order Confirmation, the Parties shall agree in Written Form on a reasonable adjustment of confirmed Purchase Order.**

### 4.4 Modifications and Changes of Goods

Any modifications or changes to Goods ordered with Supplier (including, without limitation, modifications to specifications, product design, processing, technical documentation, construction, date and place of delivery or production, packaging, quality and means of transportation) **requires Buyer's prior consent in Written Form.**

### 4.5 Quantities

Volumes specified in quotation requests of any tenders or offers are solely assumptions, e.g. for the purpose of price calculation, and do not establish any obligation of Buyer to order such volumes. Delivery quantities specified in any Purchase Order are not in any way related to any volumes in tenders or offers.

## 5

### 5.1 Purchase Order Monitoring

Delivery date specified on Purchase Order must be properly monitored by Supplier both as to lead time, shipping date, delivery date and quantities.

### 5.2 Delivery Date and Time Limits

For stable and uninterrupted production Buyer requires and expects 100% on-time deliveries for all issued Purchase Orders. Delivery of ordered Goods must be executed within the time specified in Purchase Order or initial Order Confirmation. Agreed and confirmed delivery dates and time limits are binding.

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### 5.3 Quality control

All **Supplier's deliveries** must include **quality-check according to Buyer's specified control plan**. Non-conforming Goods must be excluded from shipment packaging prior to any delivery.

## 6

### 6.1 Marking

All Goods shall be marked by Supplier in such manner as Buyer may specify. Supplier may not deliver or sell any of such marked Goods to any third party.

### 6.2 Packaging

All Goods shall be appropriately packed, marked as instructed and prepared in a manner to obtain the lowest reasonable shipping rates unless additional instructions are received in Written Form from Buyer. All packaging units shall be filled up fully, have to retain their original shape up to the place of use, allow machine handling, include Goods of the same Supplier, Goods of the same identification number and must not pose any risks for safety of workers. Each packaging shall be equipped with a proper label. Data on the label must be in accordance with **Buyer's requirements** and shall also satisfy traceability requirements. Labels should correspond to data specified on delivery note. If not specified otherwise, the labeling standard which shall be followed is ODETTE or VDA. Supplier is also liable for any extra costs or for the loss of material resulting from insufficient labeling, inappropriate packaging or inappropriate transport. **Supplier's packaging must also comply with Buyer's general environmental protection requirements** specified under Clause 17.

### 6.3 Shipment

Supplier is liable for losses suffered by Buyer as a result of packing, marking or shipping Goods in an inappropriate manner or contrary to the **instructions of Buyer**. **Supplier shall bear all risks of loss or damage to Goods defined by Buyer's Purchase Order until delivery of Goods to carrier**, if parity is FCA or until receiving by Buyer if parity is DAP or DDP. For detailed passing of risks and delivery costs, rules and definitions of Incoterms 2010 apply.

### 6.4 Safety Stock

If agreed between Parties, Supplier is obligated to warehouse safety stock of specified Goods at its premises in accordance with Special Terms.

## 7

### 7.1 Delivery Note

Delivered Goods must always be accompanied by delivery note and must include all of the following data:

- **Supplier's name:**

- delivery note number and date of issue;
- Buyers Purchase Order number and date of issue;
- itemization and quantification of delivered goods and/or services rendered with applicable units of measure delivered;
- **Buyer's** product name and item identification number for each item;
- material batch number (where applicable);
- measurement protocols (where applicable);
- number of load (packing) units (collies).

**Unit of measure on delivery note has to be identical to the one on the Buyer's Purchase Order. In cases where this is not possible, the ratio of units has to be defined (e.g. X barrels = Y kg, X set = Y pcs).**

### 7.2 Invoice

A separate invoice shall be issued for each delivery note and must include all of the following data:

- **Supplier's name:**

- invoice number and date of issue;
- **reference to Supplier's delivery note number;**
- payment due date.

Payment shall come into effect upon delivery of Goods and upon receipt of a due and proper invoice, verifiable by a signed delivery note by Buyer. Invoices which fail to meet requirements under Clause 7.1 and 7.2 may be rejected by Buyer. In such event term allowed for payment shall begin on the day of receipt of new, due and proper invoice, which meets requirements under this Clause.

### 7.3 Payment terms

Buyer is obligated to settle all obligations towards Supplier in the agreed time and manner – successively for each individual invoice. Supplier is obliged, unless otherwise agreed, to issue invoices for delivered supplies or completed services together with supply of Goods or completion of the service. Payment period starts with the date of shipping Goods to **Buyer's** premises or the date of finalization of performed services.

Unless otherwise agreed, payment terms shall be within sixty (60) days net at the end of month.

Buyer shall not be responsible for delays in payment if the aforesaid requirements under Clause 7.1 and 7.2 are not met.

### 7.4 Payment retention

In case of a non-conforming delivery, Buyer is not obligated to settle outstanding invoices partially or in full and shall be entitled to withhold payment equivalent to the missing or exceeding value until the non-conforming Goods have been replaced or Supplier has fulfilled its obligations in full.

Payment of invoice shall not constitute acceptance of ordered Goods and shall be subject to appropriate adjustment for failure of Supplier to meet agreed requirements of Purchase Order if non-conformity should arise after the settling of payment.

### 7.5 Receivables

Supplier shall not be entitled to assign its receivables to third parties or to have such receivables collected by third parties without **Buyer's prior** consent in Written Form.

### 7.6 Set-off

Buyer shall be entitled to rights of set-off against Supplier unless prohibited by applicable law.

### 7.7 Ownership

Ownership of Goods shall pass to Buyer to the extent delivered Goods have been paid.

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### 8

#### 8.1 Irregularities

Early, late, partial and/or excess deliveries (hereinafter referred to as "Irregular Deliveries") are subject to Buyer's prior consent in Written Form. Where no such consent has been given, consequences of Irregular Deliveries shall be determined under Clause 8.2. Irrespective thereof Buyer may refuse and reject an acceptance of and return any Irregular Deliveries differing from time limits and quantities specified in Purchase Order at **Supplier's expense** or charge Supplier for additional warehousing costs in case of an excessive delivery.

#### 8.2 Delay, Partial or Excess Delivery

If any irregularity of delivery, such as early, late, partial or excess delivery is caused by Supplier, Supplier shall be liable to compensate Buyer for any loss or damage incurred. Any premium freight or other costs required to meet confirmed delivery date shall be at the expense of Supplier. Buyer may require from Supplier to ship any of the Goods ordered by any means of transport as may be designated by Buyer if Supplier fails to meet the specified delivery schedule at the expense of Supplier.

#### 8.3 Information

Supplier shall notify Buyer immediately of any actual or potential incident which may or will lead to delay in the fulfilment of Purchase Order, or **which may or will lead to Supplier's being unable to fulfill** quantitative requirements under Purchase Order or delivery date. Supplier shall provide Buyer with all relevant information and advise Buyer in Written Form of any corrective action Supplier is taking to mitigate the impact of any such incident.

### 9

#### 9.1 Customs

In case of deliveries of Goods requiring customs treatment (e.g. customs clearance, transit procedures, special duty regimes), **Supplier's delivery note or invoice shall specify the cost of Goods not included in price (e.g. commissions, brokerage, cost of licenses, cost of means of production, Buyer's contributions) and the cost of Goods included in the price (e.g. assembly and freight costs) and the value of repairs carried out, itemized by cost of materials and/or hourly rates.**

**Depending on the customs valuation rules in the country of Buyer's production facility and the respective trade terms, delivery note or invoice shall also specify all costs to be included in customs value (e.g. freight and insurance costs). All costs not directly related to Goods shall be itemized separately on delivery note or invoice (e.g. costs for construction and training in case of suppliers of machine tools).**

In case of deliveries which are not a part of a sale of Goods transaction (e.g. deliveries made free of charge or lease of goods), a pro-forma invoice declaring commercial value of the goods (meaning the value that would have been paid by Buyer in case of a sales transaction) is still required. In addition, pro-forma invoice shall state the reason why the delivery is made free of charge (e.g. sample delivery or returning goods).

#### 9.2 Import/Export License

Unless otherwise agreed in Purchase Order or Special Terms, Supplier will advise Buyer if the import or export of Goods requires an import or export license. Supplier will assist Buyer in obtaining any such license. Should further official documents be required for the intended use of the Goods supplied, **Supplier shall provide such documents to Buyer without delay and make them available to Buyer at Supplier's cost.**

#### 9.3 Preferential duty treatment

Supplier shall provide Buyer with all reasonable support as may be necessary to enable Buyer to reduce or minimize its liability for payment of customs duties. If Supplier supplies Goods from a country which benefits from a preferential duty treatment with the country **where Buyer's production facility is located, Supplier shall transfer that benefit to Buyer. The right to and benefits of any duty drawback, including rights developed by substitution and rights which may be acquired from Supplier's suppliers and export credits, to the extent transferable to Buyer, shall be property of Buyer.**

#### 9.4 Customs Clearance

Unless otherwise agreed in Purchase Order or in Special Terms, **customs clearance in the country where Buyer's production facility is located and for which Goods are destined shall be Buyer's responsibility. If Supplier assumes responsibility for customs clearance, Supplier shall bear any cost of such clearance and be liable for any disadvantageous customs treatment Buyer could incur (e.g. loss of drawback or customs processing regimes).**

#### 9.5 Origin of Goods

In accordance with the existing Regulation regarding the criteria for identifying and proving the origin of Goods for the purposes of preferential trade, Supplier is obligated to issue a proof of the origin of Goods in Written Form.

### 10

#### 10.1 Inspection of Goods

**Inspection of delivered Goods at Buyer's premises is restricted to comparison of delivery note data with delivered Goods labels, checking delivered quantity of load units and checking for external transportation damage which is clearly visible on the packaging. There are no more far-reaching examination obligations for Buyer.**

#### 10.2 Acceptance of Goods

Any payments as to the purchase price or acceptance of Goods affected prior to the discovery of any defects shall not be deemed an acknowledgement of Goods being free of defects and shall not release Supplier from its warranty obligation. **Buyer's count will be accepted as final on all shipments not accompanied by Suppliers delivery note.**

#### 10.3 Claims

In the event of any discrepancy or inconsistency in relation to issued Purchase Order shall be found, Buyer will file a claim (hereinafter referred to as "Claim") in Written Form. Supplier shall respond to any such Claim immediately and not later than within three (3) working days in Written Form. In this time Supplier shall:

- pick-out and replace any and all Defective Products;
- notify Buyer in Written Form about all possible measures to ensure an undisturbed production at Buyer's premises;**
- notify Buyer in Written Form about the root causes of these non-conformities and corrective actions and preventive measures introduced to avoid similar noncompliance in the future.

Supplier shall send to Buyer in Written form a plan for permanent elimination of any and all non-conformities (8D report) within thirty (30) calendar days of date Claim was filed.

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### 11

#### 11.1 Warranty and Defects

Supplier warrants that delivered Goods are free from any defects in design, material and workmanship according to the agreed specifications, technical models and drawings, description or samples, all technical standards applicable to Goods, the state of the art and the suitability for the purposes contemplated by Purchase Order (**hereinafter referred to as "Defects"**). **Supplier warrants that Goods shall comply with all applicable national, federal, state and local laws and regulations in relevant sales markets related to Goods.**

#### 11.2 Liability for Defects

No Goods inspections, tests, approval, or acceptance of Goods shall relieve Supplier from liability for Defects or other failure to meet the requirements of Purchase Order, latent defects or failure by Supplier to meet warranty obligations hereunder.

#### 11.3 Warranty Period

Warranty Period for Goods shall come into effect on the date of delivery of Goods to Buyer and end either:

- a) 12 months after the date of delivery of Goods; or
- b) on the expiry of any warranty issued by Buyer to end-customers of Goods, or of any products into which Goods have been incorporated, whichever of the above dates or events occurs earlier. Any longer warranty periods prescribed by the national laws of any sales market into which any Goods, or products into which Goods have been incorporated, are delivered, shall supersede the provision under this Clause. Notwithstanding the above, Supplier waives its right to reject any warranty Claim of Buyer due to a plea of statute limitations during a fifteen (15) months period after the end of the calendar year in which Defect was rectified.

#### 11.4 Defective Goods

If Goods have any Defects (**hereinafter referred to as "Defective Goods"**) Supplier shall be liable during the Warranty Period unless the Defects have been caused by any of the following:

- a) improper handling, use or changes in structure by owner or user of Goods;
- b) defects in materials provided by Buyer to Supplier for the production of Goods provided that Supplier has timely fulfilled its obligations, in particular that Supplier has notified Buyer of these defects as soon as Supplier has known or ought to have known these;
- c) defects in design and specifications provided by Buyer to Supplier for production of Goods.

#### 11.5 Rectification

In any case of Defective Goods and without any prejudice to any other rights Buyer may be entitled to under Purchase Order and/or applicable law, Buyer shall have the right to reasonably elect and demand any of the following rectifications according to specific circumstances:

- a) repair, rework or replacement of Defective Goods; or
- b) reduction in purchase price in proportion of reduced value and return by Supplier to Buyer of any purchase price already paid in excess of the reduced value; or
- c) return of Defective Goods to Supplier against return of any amount of money already paid to Supplier as consideration for these Goods; or
- d) execution by Buyer itself or any third party of the rectifications in (a) above and reimbursement of any related costs incurred by Buyer.

#### 11.6 Compensation

**In addition to Buyer's rights under Clause 11.5 and notwithstanding any other rights Buyer may be entitled to under Purchase Order and/or applicable law, Supplier shall indemnify, hold Buyer harmless for, and compensate any damage, losses, costs, expenses and third-party Claims caused by Defective Goods, in particular:**

- a) loss of production, such as cessation or delay of production operations, defective production operations, line stoppages due to the use of Defective Goods, additional final processing;
- b) costs for repair or rework of **sub-part products in Buyer's warehouses;**
- c) costs for inspections, such as re-inspections of Goods and vehicles in order to identify Defective Goods;
- d) costs for re-measurement in cases such as misindication of quantity, product identification code or lot number on packaging and accompanying documents.

#### 11.7 Inspection

**Buyer shall have the right to inspect Goods at Supplier's premises for Defects and their conformity with the contractually agreed quality.**

### 12

#### 12.1 Tooling

In respect of tooling, e.g. equipment, including, but not limited to forging dies, measuring and testing equipment, matrices, model, samples, tools, devices, drawings and similar Goods required for production and examination of Goods (**hereinafter referred to as "Tooling"**), Supplier shall be obligated to comply with the following provisions and with the requirements of Buyer's relevant special terms pertaining to Tooling.

#### 12.2 Ownership

If and to the extent the agreed total cost for an item of Tooling has been paid by Buyer in full, ownership title to such Tooling, equipment and any and all IPR created in course of the development of such Tooling for Buyer will immediately be transferred to Buyer. Supplier is entitled to keep the Tooling only as a temporary possession with the intent of use until Purchase Order has been performed. Supplier must hand over Tooling to Buyer following fulfilment of Purchase Order if requested by Buyer.

#### 12.3 Cancellation or Termination

If a Purchase Order for Tooling is cancelled or terminated, on whatever legal grounds, and at the date of cancellation or termination the ownership title to the relevant Tooling is not vested in Buyer, Buyer may – in its sole discretion – obtain ownership title to the Tooling by paying to Supplier:

- a) in respect of finished Tooling, the outstanding portion of the agreed total cost, or
- b) in respect of unfinished Tooling, the proportion of the outstanding cost which correspond to the cost actually incurred by Supplier in supplying Tooling through to the date of cancellation or termination.

#### 12.4 Use for Production and Maintenance

Under no circumstances can Supplier use Toolings ordered by Buyer for production of other Goods for other customers, unless agreed beforehand with Buyer's approval in Written Form. The same goes for all Buyer's **special or standard production tools and** measurement equipment which Buyers is lending to Supplier for faster execution of Purchase Orders. Under no circumstances can Supplier change or modify Toolings supplied for Buyer's production, unless otherwise agreed beforehand with Buyer's approval in Written Form.



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Supplier shall take good care of Buyer's **Tooling** and protect them against any kind of damage and loss with due diligence. Maintenance procedures and services that are necessary to ensure **Tooling's** flawlessness, guarantee a fault-free Tooling operation and ensure the preservation and possible prolongation of the **Tooling's life span** shall be carried out at Supplier's expense.

### 13

#### 13.1 Insurance

Supplier shall take out and maintain at its sole expense insurance policies with reputable, financially sound insurance companies. Such insurance policies shall adequately cover Supplier's liabilities towards Buyer and third parties and in particular but without limitation include product liability insurance coverage. Buyer is entitled to require certain insurance coverage and amounts to be taken out by Supplier. Coverage and amount of such insurance shall be decided jointly by both Parties. Buyer may require Supplier to provide evidence of the foregoing insurance and renewals thereof or any other information regarding such insurance.

#### 13.2 Waiver

**Buyer's failure to request any evidence of insurance hereunder will not relieve Supplier of its liability and shall not constitute a waiver of any requirement under Clause 13. The existence of any insurance shall not limit Supplier's obligation under any provision hereof.**

### 14

#### 14.1 Intellectual Property Rights

Supplier shall ensure that Goods and production processes provided by Supplier **do not infringe any third party's** Intellectual Property Rights (hereinafter referred to as "IPR") patents, trademarks or service marks, copyrights, utility models, designs, confidential information and know-how as well as any other similar rights of any type under the laws of governmental authority, domestic or foreign, whether or not they are eligible to be registered.

#### 14.2 Infringement

Supplier shall be liable for any Claim which results from the infringement of any IPR by the use of Goods according to the terms of the Purchase Order and shall hold Buyer and Buyer's customers free and harmless of all liabilities resulting from the use of any such IPR according to the terms of Purchase Order. Supplier agrees to defend all suits, actions and proceedings which may be brought against Buyer or Buyer's customers for alleged infringement of any proprietary interest resulting from the use or sale of Goods provided hereunder and to pay all expenses and fees of counsel which may be incurred in defending, and all costs, damages or other recoveries in every such suit. Supplier's liability shall be excluded to the extent Supplier has produced Goods in compliance with Buyer's instructions, provided Supplier could not possibly know about the infringement despite reasonable precautions.

#### 14.3 Informing

Both parties commit themselves to inform each other of all risks of violation or alleged violations of any IPR and to give each other the opportunity to jointly oppose such claims.

Supplier shall inform Buyer about the use of any published or unpublished IPR owned by or licensed to Supplier, which relate to Goods provided by Supplier.

#### 14.4 Transferrable Rights

Buyer shall obtain an unlimited, non-exclusive, sub-licensable and transferrable right for all types of use over all results (including but not limited to know-how, testing and development reports, suggestions, drafts, designs, drawings, recommendations, samples, models, software including source code, CAD data records including histories, etc.), produced by Supplier in the framework of the activities specified in this GTCP hereinafter referred to as "Work Results", without any limitation with respect to time and content. All Work Results shall be made available without any copyright or other designations of Supplier. To the extent Work Results are protected by copyrights, Supplier hereby expressly grants Buyer the right to utilize, alter, reproduce, disclose or translate protected Work Results and to disseminate the altered or original results, to record said results on machine-readable data carriers, and to utilize said results for operation of data processing equipment/installations.

### 15

#### Indemnification

Buyer and Supplier shall indemnify and hold each other from and against all liabilities arising out of the indemnifying party's negligence or failure to perform or comply with any of the terms and conditions defined in GTCP, including product liability involving Goods delivered by Supplier or liability for personal injury. In the event a claim is brought against Buyer, Buyer shall defend itself against such claim or lawsuit and Supplier shall bear the costs incurred thereby, except where Supplier is able to prove that the relevant costs incurred arose from the design by Buyer or Buyer's production instructions. Each party agrees to cooperate fully with the other to prevent, defend or draw up counter-measures against such claims.

### 16

#### 16.1 Breach

If Supplier breaches any of its contractual obligations it shall compensate Buyer for the damage or loss incurred. Breach of contract constitutes situation where Supplier does not or cannot fulfill his contractual obligations in required and agreed timeframe, quantity and/or quality or materially breaches any of the terms and conditions defined in GTCP. If Supplier fails to rectify such a breach within thirty (30) days after receiving written notification of such breach from Buyer or fails to offer a plan of reasonable corrective actions acceptable to Buyer, Buyer may immediately exercise his right to withdraw from contract and/or terminate Purchase Order. Buyer shall notify Supplier regarding the termination in Written Form within forty-five (45) calendar days after sending notification of such breach from Supplier. Buyer's costs incurred in such case (Force Majeure excluded) are charged to Supplier.

#### 16.2 Withdrawal and Termination

Buyer has the right to unilaterally withdraw from the contract without any notice period, additional explanation and further obligations to Supplier. Buyer has to report such intention to Supplier in Written Form. In such cases, Buyer is obliged to accept already produced Goods or service rendered which do not exceed quantity and the amount specified in the contract.

Without any further obligation to Supplier, Buyer can also withdraw from the contract if it is obvious that Supplier will not be able to fulfill orders in the agreed time period (e.g. Supplier's declaration of bankruptcy, insolvency, misappropriation of funds for operations...).

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**16.3 Force Majeure**

Neither Buyer nor Supplier shall be liable for any failure to perform in accordance with the terms and conditions defined in GTCP due to act of war, sabotage, strikes, fires, freight embargoes, floods, explosions, epidemics or similar unforeseeable and unavoidable causes or events beyond reasonable control and without the fault of negligence of both Parties. In the event that Supplier is unable to perform partially or fully due to the any foregoing events, Supplier must immediately and not longer than two (2) calendar days from this condition inform Buyer about this in written form. Buyer shall be entitled, in addition to its right to, terminate pursuant to Clause 16.2, to

- a) obtain Goods covered by contract from such other sources as Buyer may determine for the duration of Supplier's **inability to perform and**
- b) reduce to a certain extent and without any obligation to Supplier, the quantity of the Goods specified in Purchase Order

The Parties shall endeavor to actively adapt to Purchase Order in their best efforts to minimise consequences and finding alternative ways and means of fulfilling their obligations to the new situation for the duration of Force Majeure. In case the Parties do not agree upon such adaptation within a period of ninety (90) calendar days from Force Majeure coming into effect, Purchase Order may be terminated in Written Form without the need for any further legal or judicial action.

**17****17.1 Environmental Protecting Requirements**

To meet the requirements regarding environmental protection, Buyer recommends to Supplier certification according to ISO 14001. An uncertified Supplier however must work according to his own program of activities to preserve the environment and every three years send a completed Environmental Questionnaire to Buyer. Products which Supplier is producing and selling to Buyer must be produced in accordance with the European Directive 2000/53/EC and its related Annex II of the European Commission Decision of 30. 9. 2005.

**18****18.1 Penal Liability**

Within the framework of its commercial dealings with Buyer, Supplier is obliged to desist from all practices which may lead to penal liability due to fraud or embezzlement, insolvency crimes, crimes in violation of competition, guaranteeing advantages, bribery, acceptance of bribes of other corruption crimes on the part of persons employed by Supplier or other third parties. In the event of violation of the above, Buyer has the right to immediately withdraw from or terminate all legal transactions existing with Supplier and the right to cancel all negotiations. The above notwithstanding, Supplier is obliged to adhere to all laws and regulations applicable to both itself and the commercial relationship with Buyer.

**18.2 Obligations**

By making an offer, signing a contract or issuing an Order Confirmation, Supplier is confirming that he is fully aware of all obligations defined in these GTCP and is accepting them in full. For business relations, which are not covered by GTCP or any other written agreement, provisions of the **Obligation Code's Trade Act and other applicable regulations including Incoterms 2010 shall apply.**

**18.3 Partial Invalidity**

Should any provision of these GTCP or any additional stipulations agreed upon be or become illegal or otherwise unenforceable by any court or other judicial or administrative body, such provisions shall be limited to the extent necessary so that it will not render these GTCP unlawful or otherwise unenforceable. Both parties are committed to replace illegal invalid provision by another legal provision with an equivalent commercial effect to the possible extent. Remaining provisions of these GTCP shall remain in full force and effect.

**18.4 Governing Law**

If both parties have not agreed otherwise, terms of any Purchase Order or these GTCP shall be governed by and constructed in accordance with the laws of Slovenia. Application of the Convention of the United Nations from April 11, 1980 on Contracts for the International Sale of Goods (CSIG) is hereby included.

**18.5 Place of Venue and Jurisdiction**

Buyer and Supplier will make an effort to resolve all disputes between them arising out of or in any relation to any Purchase Order or these GTCP amicably. Otherwise Parties agree that exclusive venue of jurisdiction for any action or proceedings commenced under any Purchase Order shall be **Buyer's registered office in Ljubljana, Slovenia.**

Parties shall continue to exercise their remaining respective rights, and fulfill their remaining respective obligations under Purchase Order and these GTCP, except insofar as the same may relate directly to the matters in dispute.

**18.6 Language**

These GTCP are written in English language and, if required by mandatory applicable law, in the language spoken at Buyer's principal place of business, in such case both versions being equally binding.

The latest valid version of GTCP is available at [www.in-wheel.com/](http://www.in-wheel.com/).

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