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# General Purchase Conditions

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**DEFINITIONS**

<b>Acknowledgment of Receipt</b>	means the duplicate of an <b>Order</b> duly signed by the <b>Supplier</b> .
<b>Affiliated Company(ies)</b>	means any entity controlled (i) by FAURECIA, a limited liability company having its registered office at 2, rue Hennape – 92000 Nanterre - France, registered with the Commercial and Companies Registry of Nanterre under the number 542 005 376, and/or (ii) by a successor of FAURECIA. For purposes of this definition, the term “control” means the possession, directly or indirectly, of at least forty percent (40 %) of the share capital or voting rights.
<b>Agreement</b>	means all the contractual documents listed in Article 3, “Contractual Documents”.
<b>Audit</b>	means the auditing of the performance by the <b>Supplier</b> of its contractual obligation.
<b>Auditor</b>	means, at our <b>Company’s</b> sole option: <ul style="list-style-type: none"> <li>▪ our <b>Company</b> or an <b>Affiliated Company</b>; or</li> <li>▪ a service provider designated by our <b>Company</b>.</li> </ul>
<b>Closed Order(s)</b>	means all document(s), other than an <b>Open Order</b> , by which our <b>Company</b> orders <b>Supplies</b> .
<b>Company</b>	means the <b>Affiliated Company</b> which issues an <b>Order</b> .
<b>Customer</b>	means any of our <b>Company’s</b> customers.
<b>Delivery Call(s)</b>	means all documents by which our <b>Company</b> orders final quantities of <b>Products</b> and sets the dates or deadlines for delivery, in execution of an <b>Open Order</b> .
<b>Force Majeure</b>	means any event constituting a force majeure event according to the applicable statutory and case law, which would impair the ability of the affected <b>Party</b> to perform normally its contractual obligations. Strikes limited to the <b>Supplier’s</b> personnel or strikes of its <b>Sub-Contractors’</b> do not constitute a force majeure event under the <b>Agreement</b> . The loss by our <b>Company</b> , for any reason whatsoever, of the <b>Customer’s</b> order further to which the <b>Agreement</b> has been executed shall be deemed to be a force majeure event under the <b>Agreement</b> .
<b>GPC</b>	means this document.
<b>Open Order(s)</b>	means all document(s) by which our <b>Company</b> orders <b>Supplies</b> and which give their main characteristics without setting forth the duration of the order and the final quantities, such final quantities being ordered by <b>Calls for Delivery</b> .
<b>Order(s)</b>	means any <b>Open Order(s)</b> or <b>Closed Order(s)</b> .
<b>Party or Parties</b>	means our <b>Company</b> and/or the <b>Supplier</b> , as the case may be.
<b>PC</b>	means the particular conditions and, as applicable, their appendices which may be provided in addition to the <b>Order</b> .
<b>Pre-existing Right(s)</b>	means any invention, protectable or not by intellectual property rights, of any nature, on any medium and in any form whatsoever, which has been originated by one of the <b>Parties</b> or by a third party outside the scope of the <b>Agreement</b> .
<b>Price</b>	means the price to be paid according to the terms and conditions set forth in Article 17, “Price, invoicing and payment terms” by our <b>Company</b> to the <b>Supplier</b> in consideration of the performance of the <b>Agreement</b> . The <b>Price</b> is specified in the <b>Agreement</b> .
<b>Product(s)</b>	means all good(s), product(s), equipment or material(s) that are the subject of the <b>Agreement</b> .
<b>Results</b>	means any element, other than a <b>Pre-existing Right</b> , of any nature, on any medium or in any form whatsoever, derived from the performance of the <b>Agreement</b> (including but not limited to prototype studies or designs, models, samples, <b>Products</b> , project-specific tools or equipment, as well as drawings, software and source code(s)), at any time, whether or not protectable by intellectual property rights.
<b>Service(s)</b>	means the services that are the subject of the <b>Agreement</b> .
<b>Subcontractor(s)</b>	shall mean any or all third parties to which the <b>Supplier</b> entrusts the production or performance of all or part of the <b>Supplies</b> .
<b>Supplier</b>	Means the supplier or the service provider.

**Supply(ies)** means the **Product(s)** and/or the **Service(s)**.

## 2 SCOPE

The **GPC** are applicable to all **Order(s)**, once accepted in accordance with the provisions of Article 4, "Orders". The **Supplier** expressly waives its own general conditions of sale notwithstanding anything to the contrary therein.

## 3 CONTRACTUAL DOCUMENTS

3.1 The **Agreement** comprises the following documents, in order of priority: (i) the **Order**; (ii) **PC**; (iii) the **GPC**.

3.2 The **Agreement** constitutes the entire agreement between the **Parties** and prevails over any previous agreement, express or implied, written or oral. Any modification or variation of the **Agreement** shall be binding between the **Parties** only if it is part of a subsequent agreement executed by the duly authorized representatives of the **Parties**.

3.3 Any request to amend the **Agreement** by any of the **Parties** shall not, under any circumstances, constitute authorization of the **Supplier** to delay or stop deliveries.

## 4 ORDERS

4.1 No order placed with a **Supplier** shall be considered as binding except pursuant to an **Order** accepted in accordance with the provisions hereinafter.

4.2 The **Supplier's** acceptance of the **Order** shall be made by sending to our **Company** the **Acknowledgment of Receipt**, by mail or facsimile, within ten (10) calendar days following the date on which the **Order** has been sent to the **Supplier** by our **Company**.

4.3 Any **Order** may be cancelled by our **Company** at any time prior to receipt by our **Company** of the **Acknowledgment of Receipt**, by written notice sent to the **Supplier** effective immediately upon the date of receipt of such notice, without any prior notice or specific procedure. The **Supplier** shall not be entitled to any compensation or damages of any nature whatsoever in the event of a cancellation.

4.4 Any **Order** without the **Acknowledgment of Receipt** which is not cancelled in accordance with the provisions of paragraph 4.3, but which has been performed by the **Supplier**, in whole or in part, without rejection by our **Company**, shall be considered as irrevocably accepted.

## 5 PRODUCTION CAPACITY - FLEXIBILITY

5.1 Quantities that may be indicated in an **Open Order** are given for information purposes only and do not represent a commitment of our **Company**. The actual quantities shall be specified by **Delivery Calls**.

5.2 Should the **Customer** impose an increase in vehicle production for which the **Supplies** are required, the **Supplier** agrees to fulfil, further to the terms of the **Agreement**, any additional requirements of **Supplies** by our **Company**, at the agreed **Price** for the **Order** and without any extra payment.

5.3 Should the **Customer** impose a reduction or stoppage of vehicle production for which the **Supplies** are required, our **Company** shall have the right, without any liability whatsoever:

- With respect to production reduction, to adjust the quantities ordered from the **Supplier** accordingly, without additional cost; and
- With respect to stoppage of production, to terminate the **Agreement** in accordance with the provisions of Article 25.3, "Termination for **Force Majeure**".

5.4 The **Supplier** shall organize its production in such a way as to permit the **Supplier** to respond to the circumstances described in this Article 5. Each of the **Parties** shall bear its own costs resulting from such circumstances.

## 6 AMENDMENTS TO THE TECHNICAL SPECIFICATIONS OF THE SUPPLY

6.1 Our **Company** shall be entitled at any time to submit to the **Supplier** a request to amend or supplement the technical specifications of the **Supply**. In such case the **Supplier** shall immediately send to our **Company** a technical and financial proposal accompanied by appropriate supporting documentation indicating the effect of our **Company's** request in terms of quality, time and costs.

6.2 If the proposal made by the **Supplier** is accepted by our **Company**, the amendments shall be implemented by the **Supplier** in accordance with the agreed terms. In such event, and without limitation, technical specifications and drawings and/or the **Price** and/or the delivery date or deadlines will be revised accordingly prior to implementation of the amendments.

6.3 Should the **Parties** be unable to reach agreement on all relevant revisions before the date set for the implementation of the amendments, our **Company** expressly reserves the right to either:

- have the amendments implemented by another company, in which case the **Supplier** agrees to provide our **Company** with all drawings, technical specifications and any other documents needed in order to implement such amendments; or,
- terminate all or part of the **Agreement** in accordance with the provisions of Article 25, "Termination".

## 7 INFORMATION, ADVICE, WARNINGS

As a specialist in its business the **Supplier** must, regardless of our **Company's** ability and/or know-how, provide our **Company** with all information, advice and warnings necessary or useful for the execution of the **Agreement**. Most particularly, the **Supplier** must:

- Provide our **Company** with any information and advice essential to the proper storage and use of the **Supply**; and,
- verify that the **Supply's** technical specifications are sufficient and pertinent, and inform our **Company** of any non-conformity of such technical specifications to the regulations in force in the countries where the parts incorporating the **Supply** will be sold; and,
- inform our **Company** of any risk of quality shortfall or other deficiency in the **Supply** of which our **Company** should be aware, and immediately warn our **Company** in case of discovery of a defect in the **Supply**, particularly if such defect could endanger the safety of property or persons; and
- suggest to our **Company** any action likely to improve quality and cost of the **Supply**.

## 8 ACCREDITATIONS

8.1 The **Supplier** must be accredited by the authorities or bodies referenced in the **Agreement** and undertakes to take all necessary steps to maintain its accreditation. Accreditation must be awarded by an independent and duly authorized body, and such accreditation must include the **Supply**.

8.2 The **Supplier** shall inform our **Company** as soon as possible of any potential or actual change in its accreditation status and of the steps taken in response.

8.3 In the event of the failure of the **Supplier** to comply with its accreditation obligations as described in paragraphs 8.1 and 8.2, our **Company** reserves the right to suspend performance of or to terminate the **Agreement** in accordance with the provisions of Article 25.2, "Breach".

## 9 QUALITY PROCEDURES

The **Supplier** shall deliver or perform the **Supplies** in accordance with the quality procedures set forth in the **Agreement**. The **Supplier** shall furnish to our **Company** all certificates related to the **Supplies** and their safety, as required by the **Agreement**.

## 10 LAWS AND REGULATIONS

10.1 The **Supplier** undertakes, as an essential condition of the **Parties'** agreement:

- With respect to work to be performed by the **Supplier** at one of the **Company's** sites, to comply with internal regulations and safety, health and environmental regulations in force at such site;
- to comply with all applicable laws and regulations, including but not limited to those related to health, safety, environment and labor;
- to comply with the provisions of the United Nations Treaty of November 20<sup>th</sup>, 1989 regarding children's rights prohibiting child labor; and,
- not to use, in any form whatsoever, forced or compulsory labor as defined in Article 1 of the International Labor Organization treaty of June 25, 1957 on the elimination of forced labor.

In particular, the **Supplier** undertakes to fully comply with the provisions of all ethical, social and environmental commitments that may be requested by **Customers** to the **Company**.

In addition to the extent possible under the applicable laws the **Supplier** undertakes to comply with the terms and conditions of the code of ethics of Faurecia under (i) Section 1 to 5 of chapter 1, and (ii) section 2 of Chapter 2, and (iii) section 1 of Chapter 3 and (iv) in its contractual relationships with its own suppliers, subcontractors and service providers with the provisions of Section 2 of Chapter 4 under any appropriate limits applicable to the **Supplier**.

10.2 The **Supplier** shall be fully liable for any and all consequences arising from a breach of the provisions of paragraph 10.1 and shall indemnify and hold our **Company** harmless against and from any claims, costs and damages (including attorneys' fees) resulting from any breach of such provisions.

## 11 EMPLOYEES

The **Supplier** shall be responsible for the supervision, management and remuneration of all employees working under its supervision for the performance of the **Agreement**. The **Supplier** undertakes to employ, for the performance of the **Agreement**, only duly trained and qualified personnel.

## 12 CONTROLS PRIOR TO DELIVERY - AUDITS

### 12.1 Controls prior to delivery

Our **Company** reserves the right to inspect the **Products** or the progress of **Services** before their delivery or receipt, on the site of the **Supplier** during normal working hours upon prior notice to the **Supplier** of such inspection.

## 12.2 Audits

12.2.1 At any time during the term of the **Agreement** upon twenty-four (24) hours' prior notice, our **Company** may perform an **Audit** on-site during the **Supplier's** normal working hours. The **Audit** shall not unnecessarily interfere with the **Supplier's** performance of the **Agreement**.

12.2.2 The **Supplier** agrees to cooperate fully with the **Auditor** in order to facilitate the **Audit**, most particularly by granting the **Auditor** access to any location, installation, documentation or information requested and by answering all questions of the **Auditor**.

12.2.3 As part of the **Audit**, the **Auditor** may take random samples of the **Supplies** manufactured or being manufactured by the **Supplier** in order to confirm compliance with quality standards set forth in the **Agreement**.

12.2.4 The **Supplier** shall undertake all measures agreed by the **Parties** at the end of the **Audit** within the time limits and under the conditions so agreed. Most particularly, the **Supplier** undertakes to make all necessary quality improvements to the **Supplies** in order to achieve the quality standards set forth in the **Agreement**, should the **Audit** establish that such quality standards are not met.

12.2.5 Expenses related to the **Audit** shall be reimbursed by the **Supplier** when the **Audit** is in response to a problem, including but not limited to a quality or logistics problems, requiring urgent resolution in order to prevent or to settle a claim from the **Customer**. Such expenses shall be reimbursed by the **Supplier** (i) up to the costs incurred by the **Auditor** in accordance with its policies with respect to employee work-related expenses, and (ii) upon presentation by our **Company** of supporting documentation. Such reimbursement shall be made by wire transfer, within twenty (20) calendar days following the **Supplier's** receipt of the supporting documentation.

## 12.3 Effect of controls prior to delivery and of Audits

Controls and **Audits** as described in Articles 12.1, "Controls prior to delivery", and 12.2, "Audits", shall not affect the **Supplier's** liability nor the warranties given to our **Company** under the **Agreement**, most particularly as regards the scope of its own internal controls, and shall not be detrimental to the rights and actions of our **Company** under the **Agreement**, including but not limited to the right to claim damages in accordance with Article 19, "Liability", and/or to terminate all or part of the **Agreement** in accordance with the provisions of Article 25, "Termination".

## 13 DELIVERY

### 13.1 Delivery terms

13.1.1 **Products** shall be shipped "delivered duties paid" - DDP (Incoterms, latest edition), at the place and date specified in the **Agreement**.

13.1.2 **Products** shall be delivered as provided in the **Supplier's** logistics handbook referenced in the **Agreement**. Most particularly, but without limitation, shipping documents shall be prepared in strict compliance with such handbook.

### 13.2 Packaging

13.2.1 The **Supplier** is responsible for packaging the **Products**, which must be in a manner appropriate for the **Products** and compatible with the means of transport used to ship the **Products** in order to prevent all potential damage to the **Product** during transportation, handling and storage at the destination site.

13.2.2 Packaging and labeling must be in compliance with all applicable laws and regulations, and the specifications set forth in the **Agreement**.

## 14 DELIVERY AND SERVICE PERFORMANCE DEADLINES

### 14.1 General provisions

14.1.1 Deadlines for delivery or performance of the **Supplies** shall be as set forth in the **Agreement** and are of the essence.

14.1.2 No early delivery or receipt of the **Supplies** shall be made without the prior written consent of our **Company**.

### 14.2 Security procedure

The **Supplier** shall implement and maintain, for all **Open orders**, security procedures acceptable to our **Company**.

## 15 ACCEPTANCE OF SUPPLIES

### 15.1 Acceptance of Products

#### 15.1.1 General Provisions

15.1.1.a Our **Company** shall do its best to inform the **Supplier** of any apparent defects in the **Products** as soon as possible from the time at which such defects should be detectable in the ordinary course of operations.

15.1.1.b Our **Company's** failure to assert a claim or reserve at the time of delivery and/or payment for **Products** shall not be considered as a final acceptance of the **Products** delivered, nor as an acceptance of the amount invoiced, and shall not, under any condition, be deemed as a waiver by our **Company** of its right to assert any claim in the future.

#### 15.1.2 Rejection of Products

15.1.2.a Our **Company** reserves the right to reject delivery of the **Products** in writing, in any form whatsoever, in the event of other than immaterial non-compliance of the **Products** with the **Agreement**. Our **Company** also reserves the right to reject delivery of excess quantities of the **Products** in the same manner.

- 15.1.2.b Without prejudice to the right of our **Company** to terminate the **Agreement** in accordance with the provisions of Article 25, "Termination", or to claim compensatory damages, rejected **Products** shall be, at our **Company's** sole option, either :
- repaired or replaced immediately by and at the sole expense of the **Supplier**, who shall have no right to raise any objections regarding the production or delivery schedule; or
  - refunded promptly upon demand of our **Company**.
- 15.1.2.c Any rejected **Product** must be recovered by the **Supplier** at its sole expense and risk within eight (8) calendar days following notice of rejection by our **Company**. It is expressly agreed that after such time, our **Company** may, without any liability whatsoever, at the **Supplier's** sole cost, expense and risk, either destroy the rejected **Products**, or return them to the **Supplier**.
- 15.2 Acceptance of Services**
- 15.2.1 **General provisions**
- Services** shall be accepted by our **Company** only upon completion of performance which shall occur either (i) upon the date provided in the **Agreement**, if **Services** are satisfactory without reservation, or (ii) upon the date on which all reservations have been withdrawn by our **Company**. Acceptance of **Services** shall be by our **Company's** execution and delivery of a corresponding completion certificate.
- 15.2.2 **Rejection of Services**
- 15.2.2.a Our **Company** reserves the right to reject the **Services**, in writing, if:
- at the completion date of the **Services** as set forth in the **Agreement**, the **Services** are not satisfactory without reservation, by reason of other than immaterial nonconformity or defect; or
  - our **Company's** reservations have not been withdrawn within the time limits established by the **Parties** by reason of other than immaterial nonconformity or defect; or
  - the **Supplier** has failed to observe the **Service** schedule or completion deadlines.
- 15.2.2.b Without prejudice to the right of our **Company** to terminate the **Agreement** (in accordance with the provisions of Article 25, "Termination"), or to claim compensatory damages, rejected **Services** shall be, at our **Company's** sole option, either :
- performed again immediately by and at the sole expense of the **Supplier**, who shall have no right to raise any objection; or
  - performed by a third party designated by our **Company**, at the sole expense of the **Supplier** who shall have no right to raise any objection; or
  - refunded promptly upon demand of our **Company**.

## **16 LIQUIDATED DAMAGES**

- 16.1 The liquidated damages established under this section of the Agreement reflect the additional costs and obligations as a result of unexcused delays. They do not affect the Company's right to claim damages in accordance with Article 19 "Liability" and/or to terminate all or part of the Agreement in accordance with the provisions of Article 25 "Termination." The Company's acceptance of the Supplier's late performance does not waive the Company's right to liquidated damages under this Section. The Company reserves the right to claim for such liquidated damages.
- 16.2 The Supplier shall pay, for any delay in the delivery or the performance of the Supplier, liquidated damage equal to three-tenths of one percent (0.3%) of the total amount, net of taxes, of the Closed Order or the Delivery Call concerned, per working day of delay, beginning with the due date. The Parties agree that 0.3% is a reasonable liquidated damage rate to compensate for the Company's customer's dissatisfaction and negative effect on the Company's reputation.
- 16.3 The total amount of the applicable penalties for any single **Closed Order** or any single **Delivery Call** shall not exceed ten percent (10%) of the total amount of such **Closed Order** or **Delivery Call**.

## **17 PRICE, INVOICING AND PAYMENT TERMS**

### **17.1 General provisions**

- 17.1.1 The **Price** of the **Products** shall be subject to the Incoterm referenced in Article 13.1, "Delivery terms".
- 17.1.2 The **Price** is a comprehensive lump sum. It compensates the **Supplier** for all its expenses, disbursements, costs, charges and obligations of any kind. The **Price** shall be deemed to take into account all circumstances and particularities of the **Agreement**.
- 17.1.3 The **Price** is firm and final, without provision for indexation or sliding scale. No **Price** increase shall become effective without the prior written consent of our **Company**.
- 17.1.4 The **Supplier** acknowledges having received all information and all other elements required for or relevant to the determination of the **Price**. Therefore, the **Supplier** shall not assert any lack of understanding or failure to arrive at a meeting of the minds as a basis for the total or partial breach of the **Agreement** or to claim a **Price** increase or any other form of compensation.

## 17.2 Duties and taxes

**Prices** are net of applicable taxes and customs duties. Duties and taxes shall be added by the **Supplier** to its invoices in accordance with all applicable laws.

## 17.3 Invoicing

Each invoice shall be issued no earlier than the delivery date of the **Products** or the date of receipt of the **Services** and shall correspond to an **Order**. The invoice shall include all information necessary for identification and verification of the **Supplies** and shall be sent in two (2) copies to the billing address set forth on the **Order**. Any incomplete invoice will be returned unpaid to the **Supplier**. Invoices shall not be included with deliveries.

## 17.4 Payment terms

Payment for **Supplies** is due on the 10th day of the month next following the date that is ninety (90) days after the end of the month in which the invoices are received, unless otherwise stipulated by the applicable law.

## 17.5 Set-off

Our **Company** reserves the right to set off its payment obligations against any amount which might be owed to it by the **Supplier**, on any grounds and of any nature whatsoever, including amounts corresponding to penalties and quality claims.

## 17.6 Late payment

If the **Local Supplier** claims damages for late payment, these damages shall be limited to a maximum amount equivalent to that which would result from application of the minimum legal interest rate provided by the applicable law. The total amount of the late fees shall not exceed ten percent (10%) of the overdue principal amount. This amount shall be calculated on the overdue payments, without capitalisation, per day of interest for delay, by application pro rata of the above-mentioned rate.

## 18 WARRANTY

### 18.1 Product warranty

18.1.1 The **Supplier**, as an expert in its business, warrants to our **Company** that the **Products** delivered shall be:

- merchantable, in accordance with the state of the art and in compliance with all applicable laws and regulations; and,
- under normal conditions of use as specified by the **Supplier**, able to perform the functions and to be used for the purposes for which the **Products** are intended, and to be as safe as can reasonably be expected; and,
- in compliance with the drawings, specifications, validations, and all other documentation defining the **Products** described in the **Agreement**; and,
- regarding specifications not explicitly set forth in the **Agreement**, in conformity with the initial samples approved by our **Company**; and
- free of any apparent or hidden defect, and from any defect in design (to the extent designed by the **Supplier**), materials and workmanship.

18.1.2 The term of the **Supplier's** warranty shall be thirty-six (36) months commencing with the delivery date of the **Products** to our **Company**. In the event of an extension of the contractual warranty given by our **Company** to the **Customer**, our **Company** may, at any time, require a corresponding extension by the **Supplier**.

18.1.3 Notwithstanding the foregoing, the **Products** shall be subject to all warranties, express or implied, provided by applicable law.

### 18.2 Warranty of Services

18.2.1 The **Supplier**, as an expert in its business, warrants to our **Company** that the **Services** provided shall be:

- rendered in accordance with industry standards and all applicable laws and regulations; and,
- performed in a professional and workmanlike manner; and,
- in compliance with the **Agreement** and otherwise consistent with all standards and specifications agreed to with our **Company**; and
- free of any apparent or hidden defect.

18.2.2 The warranty shall be for a term of thirty-six (36) months commencing with the date of acceptance of the **Services** by our **Company** further to Article 15.2, "Acceptance of Services".

18.2.3 Notwithstanding the foregoing, the **Services** shall be subject to all warranties, express or implied, provided by applicable law.

### 18.3 Non-conformity of the Supplies to the warranty

18.3.1 In the event the **Supplies** do not conform to the foregoing warranty, the **Supplier** shall, at the request and sole option of our **Company**, repair or replace the **Product** or correct or again perform the **Services**, as soon as possible, without prejudice to our **Company's** right to terminate the **Agreement** in accordance with Article 25, "Termination" or to any potential claim for damages.

18.3.2 Approval by our **Company** of any design, drawing, material, process or specifications will not relieve the **Supplier** of the foregoing warranties.

## 19 LIABILITY

- 19.1 The **Supplier** shall be liable for any damage to our **Company**, direct or indirect, physical, material or immaterial, consequential or not, caused by itself and/or any of its **Sub-Contractors** as well as for any third-party losses (including losses incurred by the **Customer**) with respect to the **Supplies** and/or the performance of the **Agreement**. The **Supplier** agrees to indemnify our **Company** in full for any and all consequences arising out of such damage or loss, including but not limited to all additional costs invoiced by the **Customer** to our **Company**.
- 19.2 The **Supplier**, as an expert in its business, shall have full responsibility for its technical decisions, regardless of the level of assistance provided by our **Company** in the performance of the **Agreement**.
- 19.3 The acceptance by our **Company** of the initial samples does not release the **Supplier** from liability for defect, damage or loss, and does not imply acceptance of the **Products** delivered and/or to be delivered. Receipt by our **Company** of the **Supplies** does not release the **Supplier** from liability for any hidden or concealed defect regardless of when discovered and this notwithstanding the transfer of ownership and risks.
- 19.4 Upon the request of our **Company**, the **Supplier** shall participate, at its own expense, in any audit or testing procedure related to the **Supplies** initiated by our **Company** or by the **Customer**.
- 19.5 Save in the event where the invoices are unpaid by our **Company** and the **Supplier** can provide sufficient and acceptable documentary evidence that such invoices remains due and unpaid by our **Company**, our **Company's** entire liability to the **Supplier** for any loss, liability or damage, including attorney's fees, for any claim arising out of, or related to the **Products** or the **Services** provided to our **Company** and/or the performance of the **Agreement**, regardless the form of action, will be limited to the **Supplier's** actual direct out of pocket expenses which are reasonably incurred by the **Supplier** and only to the extent that sufficient and acceptable documentary evidence of such damages is presented to our **Company**. The entire liability of our **Company** will not in any event exceed an amount equal to the total amount of purchases of **Products** or **Services** made by our **Company** during the three (3) months prior to the date on which the claim is made by the **Supplier**. In no event will our **Company**, be liable to the **Supplier** or any third party for lost of profits, consequential damages, special, incidental or punitive damages, howsoever arising out of or related to the performance of the **Agreement**, regardless the basis of such a claim. Moreover no claim may be brought by the **Supplier** more than one (1) year after the date on which the cause of action arose, unless the applicable law to the **Agreement** or to the claim prohibit any contractual limitation or waiver to the applicable statute of limitation, and therefore the statute of limitation applicable to such a claim shall be the one provided by the applicable law.

## 20 INSURANCE

- 20.1 The **Supplier** agrees to purchase and maintain at its own costs and expense, a commercial general liability insurance, including coverage for operations, completed operations, products liability (including design, manufacture and distribution of the **Products**), with coverage for bodily injury, property damage, consequential loss and pure financial loss of at least Twenty Million Euros (20,000,000 EUR) each occurrence, to cover its liability toward our **Company**, our **Customer** or any third party, , from a financially sound and reputable insurance company.
- 20.2 The foregoing minimum coverage amounts do not in any way limit or affect the **Supplier's** liability or obligations.
- 20.3 The above coverage shall contain an "Immaterial Non Consecutive Damages" (INCD) clause as well as a clause relating to recall campaign costs and expenses incurred by our **Company**, by the **Customer** or by a third party.
- 20.4 The **Supplier** will furnish, to our **Company**, promptly at its request, a certificate showing compliance with this Article 20 or certified copies of insurance policies as well as of the payment of the premiums.
- 20.5 The **Supplier** shall inform our **Company** immediately in the event of termination or amendment of the insurance policy for any reason whatsoever. If such termination or amendment is likely to affect the **Supplier's** ability to pay compensatory damages as required by Article 19, "Liability", our **Company** shall be entitled to terminate all or part of the **Agreement** in accordance with the provisions of Article 25, "Termination for breach".

## 21 TRANSFER OF TITLE AND RISK

### 21.1 Transfer of title

- 21.1.1 Transfer of title to the **Supplies** occurs upon and at the date of the acceptance of the **Order** by the **Supplier**.
- 21.1.2 The **Supplier** agrees to mark and to segregate, in the name and on behalf of our **Company**, the **Supply** as it is manufactured. The **Supply** shall not be commingled with the **Supplier's** own inventory or other supplies to be delivered to other customers.

### 21.2 Transfer of risk



- 21.2.1 The **Supplier** shall bear all risk of loss and of damage to the **Supply** until risk of loss is transferred to our **Company** in accordance with the Incoterm referenced in Article 13.1, "Delivery Conditions ", or in accordance with any other terms in the **Agreement** to such effect.
- 21.2.2 Transfer of risk of loss related to the **Services** shall be upon their final acceptance by our **Company** further to the procedures set forth in Article 15.2, "Acceptance of Services".
- 21.2.3 No reservation of title clause proposed by the **Supplier** shall be effective against our **Company**, except if expressly accepted in writing by our **Company**. The **Supplier** shall assure that no reservation of title clause shall be asserted by its **Sub-Contractors** for any element delivered by them and which is part of the **Supplies**.

## 22 INTELLECTUAL PROPERTY RIGHTS

### 22.1 Pre-existing rights

- 22.1.1 Each **Party** shall be the sole owner of its **Pre-existing rights**, however acquired or held and whether originated by or licensed to such **Party**, and shall have exclusive right to their use. Subject to the provisions of Article 22.1.2 hereinafter, the **Parties** shall refrain from using the **Pre-existing rights** of the other **Party** without its prior written consent.
- 22.1.2 In the event all or any part of the **Results** embodies **Pre-existing rights** belonging to the **Supplier** or to a third party, or would constitute a modification and/or an improvement of any such **Pre-existing rights**, the **Supplier** grants, or as the case may be, undertakes to obtain from the third party holding the **Pre-existing rights**, for the benefit of our **Company**, a non-exclusive, fully paid-up and irrevocable license of such **Pre-existing rights**, for the territory where they are protected and for their duration, with the right to grant sub-licenses and/or to transfer or assign such license. This license shall include, without limitation, rights of representation, transmission and reproduction (in whatever form, in any manner, and on any medium whatsoever, present or future), operation, marketing, translation, amendment, adaptation, incorporation, combination and use of the **Pre-existing rights** within the limits required for the use of the **Results** by our **Company**.
- 22.1.3 The **Price** of the **Supply** includes the remuneration of the **Supplier** or the third party owning the **Pre-existing rights** for the grant of such license.

### 22.2 Results

- 22.2.1 Subject to the provisions of Article 22.1, "Pre-existing rights", **Results** are the exclusive property of our **Company**.
- 22.2.2 The **Supplier** shall transfer exclusively to our **Company** all proprietary rights related to the **Results** including, but not limited to, rights of representation, transmission and reproduction (in whatever form, in any manner and on any medium whatsoever, present or future), operation, marketing, translation, amendment, adaptation, incorporation, combination and use of such **Results**, irrevocably and for their duration, in the entire world, without scope or purpose limitations. Such transfer shall occur progressively, as the **Results** are being obtained.
- 22.2.3 The **Price** includes the **Supplier's** remuneration for such transfer.

### 22.3 Infringement

- 22.3.1 The **Supplier** undertakes not to use, for the performance of the **Agreement**, intellectual property rights belonging to a third party (including a **Sub-Contractor**) without the express prior written consent of such third party. All royalties or fees in connection with the use of such third-party intellectual property rights shall be at the sole cost of the **Supplier**.
- 22.3.2 The **Supplier** shall indemnify and hold our **Company** harmless against and from any claim, challenge or action brought by a third party against our **Company**, in any place whatsoever, based on infringement, unfair competition or similar claim related to the use by the **Supplier** of the claimant's intellectual property rights for the performance of the **Agreement** or for the use of the **Results** by our **Company**. Our **Company** shall inform the **Supplier** as soon as possible of any such claims, challenge or actions.
- 22.3.3 In the event described in Article 22.3.2, the **Supplier** undertakes, at its own expenses and at the sole option of our **Company**, either:
- To cooperate with and actively assist our **Company** in the defense of the claim, challenge or action; or
  - Promptly to assume the defense or resolution of such claim, challenge or action.
- No settlement by the **Supplier** of any such claim, challenge or action shall be concluded without the prior consent in writing of our **Company**. In no event shall any such settlement limit the right of use by our **Company** of the **Results** without the prior written consent of our **Company**. All damages awarded by any court or arbitrator or the amount of any settlement made shall be borne solely by the **Supplier**.
- 22.3.4 Without prejudice to our **Company's** right to terminate the **Agreement** and to compensatory damages we may claim, should our **Company** be required to cease the use of all or part of the **Supply**, the **Supplier** undertakes to immediately implement one of the following remedies, at its sole expense:
- Obtain for our **Company** the right to the use of the **Supply** as our **Company** shall require and at no additional expense; or,
  - replace or modify the **Supply** within a reasonable time so that it will no longer be subject to any claim or challenge of the nature described in Article 22.3.2. Any replacements and/or modifications of the **Supply** shall be in full compliance with the requirements of the **Agreement**.
- Promptly upon our **Company's** request, the **Supplier** agrees to recover any of the **Supply** stored on any of our sites that our **Company** is no longer able to use.

22.3.5 The **Supplier** shall indemnify and hold our **Company** harmless against and from any adverse consequences or result of the **Supplier's** breach of the terms of this Article 22.3, and most particularly shall reimburse our **Company** promptly upon demand in writing for all expenses and/or costs that our **Company** may incur for any reason whatsoever.

## 23 CONFIDENTIALITY

23.1 The **Parties** acknowledge that, as part of the performance of the **Agreement**, they will have access to confidential information of the other and therefore agree to comply with the terms of the confidentiality agreement attached as Exhibit 1, whether or not executed.

23.2 If a confidentiality agreement has already been entered into between the **Parties** with respect to the purpose of the **Agreement**, the **Parties** agree to apply such agreement to information exchanged as part of the **Agreement**.

## 24 SAMPLES, PROTOTYPES, TOOLS

24.1 The **Supplier** acknowledges that our **Company** is the owner of all samples, models, prototypes, gauges and tools produced by the **Supplier** for the performance of the **Agreement**. Transfer of their ownership and risk of loss shall be in accordance with the terms of Article 21, "Transfer of title and risk".

24.2 Should our **Company** furnish to the **Supplier**, for the performance of the **Agreement**, tools or equipment belonging to or held by our **Company** or belonging to the **Customer**, the **Supplier** agrees to comply with the provisions of the agreement governing the furnishing of the tools which shall be entered into between the **Parties** before delivery of such tools and/or equipment to the **Supplier**.

## 25 TERMINATION

### 25.1 Termination for convenience

25.1.1 Our **Company** shall have the right to terminate the **Agreement** in whole or in part at any time, for any or for no reason, upon no less than three (3) months' prior notice in writing to the **Supplier** and without:

- any particular proceeding including but not limited to legal proceeding; or,
- any liability to the **Supplier**; or,
- any compensation for such a termination to be paid to the **Supplier**.

Such written notice may take any form with proof of receipt. Such termination shall be effective at the end of the notice period.

25.1.2 The **Supplier** shall have the right at any time to terminate for convenience any **Open Order** upon no less than six (6) months' prior notice in writing to our **Company**. Such written notice may take any form with proof of receipt. Such termination shall be effective at the end of the notice period.

### 25.2 Termination for breach

Without prejudice to any compensation that our **Company** may claim, our **Company** shall have the right to terminate all or any part of the **Agreement**, by written notice of termination addressed to the **Supplier** which notice may be in any form with proof of receipt, in the event of total or partial failure of the **Supplier** to perform any of its obligations under the **Agreement**, which has not been remedied by the **Supplier** prior to the expiry of a 15 (fifteen) days period starting from the receipt by the **Supplier** of a written notice in any form with proof of receipt requesting the **Supplier** to remedy to such total or partial failure. Such a termination shall be effective at the date mentioned in the notice of termination and at the earlier upon the expiry of the 15 (fifteen) days period.

### 25.3 Termination for Force Majeure

If the performance of the **Agreement** is suspended by reason of an event of **Force Majeure** and such suspension continues for more than two (2) months, the **Party** unaffected by the event of **Force Majeure** may terminate the **Agreement**, without liability to the affected **Party** or payment of any compensation, upon written notice to the other **Party** with proof of receipt. Such termination shall take effect immediately upon receipt of the notice of termination.

### 25.4 Termination by reason of change of control

Our **Company** reserves the right to terminate the **Agreement** immediately at any time and without any liability to the **Supplier** in the event of a change of control of the **Supplier** or the sale by the **Supplier** of a material part of its assets used to perform the **Agreement**. Any such termination shall be effective upon receipt of notice by the **Supplier**.

## 26 EFFECTS OF TERMINATION OR EXPIRATION OF THE AGREEMENT

26.1 After termination or expiration of the **Agreement** for any reason, those terms of the **Agreement** which by their nature are to survive termination shall remain in full force and effect.

26.2 Upon termination of the **Agreement** for any reason, the **Supplier** shall immediately upon demand by our **Company** deliver to our **Company** all inventories of raw materials and parts, work-in-process and/or finished **Products** and/or any related safety equipment used in the performance of the **Agreement** and which are in its possession at the effective date of termination. In no event will our **Company** have any liability to the

**Supplier's** sub-contractors for lost profits, engineering or equipment costs, unabsorbed overhead or any other damages.

## **27 TRANSITION OF SUPPLY**

27.1 Upon termination or expiration of all or any part of the **Agreement** for any reason whatsoever, the **Supplier** agrees to do all things and to take all measures reasonably necessary or useful to assure that our **Company** or any third party designated by our **Company**, can continue, after termination of the **Agreement**, to deliver the **Supply** or perform the **Services** without disruption.

27.2 The **Supplier** shall, throughout the term of the **Agreement**, take all necessary steps to assure our **Company's** ability to effect a transition in source of supply in accordance with the terms of paragraph 27.1 above.

## **28 SPARE PARTS**

28.1 The **Supplier** agrees to manufacture spare parts for the **Products** according to the terms of the **Agreement** and according to the after-sale needs conveyed to the **Supplier** by our **Company**. Without limiting the foregoing, the **Supplier** shall supply our **Company** with spare parts, at any time, on simple request of our **Company** and throughout the term of the **Agreement** and for the additional period during which the **Customer** is likely to order spare parts from our **Company**.

28.2 The **Supplier** agrees to maintain in good condition all tools and equipment necessary to produce spare parts, and all corresponding drawings, designs and manufacturing processes until the end of the period of time mentioned in article 28.1.

28.3 The price of spare parts shall be the same as the **Price** in effect during the manufacturing program, to which may be added specific conditioning and transportation costs as agreed by our **Company**.

## **29 FORCE MAJEURE**

29.1 The **Party** experiencing **Force Majeure** shall promptly so inform the other **Party** and shall furnish to the other **Party** proof of the specific event or occurrence beyond its control that interferes with its performance under the **Agreement**. The unaffected **Party** reserves the right to verify the existence of such event of **Force Majeure**.

29.2 **Force Majeure** will excuse the affected **Party** from the performance of its contractual obligations only to the extent it is prevented from carrying them out. The affected **Party** shall use its best efforts to limit the impact of the **Force Majeure**. Unless terminated further to Article 25.3, performance of the **Agreement** shall be resumed as soon as the **Force Majeure** has come to an end.

29.3 During any delay or failure of the **Supplier** to perform due to **Force Majeure**, our **Company** shall have the right to take all necessary measures to assure continued receipt of the **Supplies**, including but not limited to, manufacturing or performing such **Supplies** itself or purchasing the **Supplies** from another source.

29.4 Each **Party** shall bear its own expenses resulting from the **Force Majeure** event.

## **30 JURISDICTION – APPLICABLE LAW**

30.1 This Agreement shall be subject to and interpreted in accordance with the law of Thailand. The Intellectual Property and International Trade Court (IPITC) of Thailand shall have the exclusive jurisdiction over all proceedings and controversies arising in connection with the Agreement, even in the event of joinder or multiple defendant(s), but save for emergency or summary proceedings or for any ex parte motions. If the case cannot be brought before the IPITC, then the court of competent jurisdiction of Thailand shall have the exclusive jurisdiction.

30.2 The **Parties** expressly waive the application of the United Nations Convention on international contracts for the sale of goods concluded in Vienna on April 11, 1980.

## **31 MISCELLANEOUS**

### **31.1 Subcontracting, assignment**

31.1.1 The **Supplier** shall not subcontract all or any part of its obligations under the **Agreement** without the prior written consent of our **Company**. Notwithstanding any consent given to a subcontract, the **Supplier** shall be solely liable for the complete performance of the **Agreement** in accordance with its terms, including warranties and claims, and shall cause its **Subcontractors** to comply with the **Agreement**.

31.1.2 The **Supplier** shall not assign the **Agreement** for any reason whatsoever without our **Company's** prior written consent.

31.1.3 Our **Company** may transfer or assign in whole or in part its rights and obligations arising under the **Agreement** to any of its **Affiliated Companies** or to a third party acquiring all or part of our **Company's** business (further to a merger, split-off, asset transfer or by any other means).

### **31.2 Independence of the Parties**

The **Parties** are independent contracting parties, and nothing in the **Agreement** shall be construed as:

- creating between the **Parties** a de facto company, joint venture, agency or any other association of any nature whatsoever, each **Party** being individually liable for its obligations as defined in the **Agreement**;
- or,
- creating joint and several liability between our **Company** and its **Affiliated Companies** or among **Affiliated Companies** themselves; or,
- allowing any of the **Parties** to act or declare it has power to act, toward third parties, as an agent or representative of the other **Party**, or by any other means bind the other **Party** to any obligation; or
- constituting an exclusive commitment for the benefit of the **Supplier** for the delivery of the **Supplies**.

**31.3 Severability**

Should any term of the **Agreement** be, for any reason whatsoever, invalid or unenforceable, the remaining provisions shall not be affected by such invalid or unenforceable provision. The **Parties** undertake to renegotiate such invalid or unenforceable term in order to restate a provision as nearly as possible to the original intention of the **Parties** and in accordance with applicable law.

**31.4 Non-waiver**

The fact that one of the **Parties** does not apply, at any time, any of the provisions of the **Agreement** or does not request the application thereof by the other **Party** shall not be considered as constituting a waiver of any such provision or of any other provision, or affecting the validity of the **Agreement**, or the right of each **Party** to subsequently claim the application of such provision or of the **Agreement** itself.

**32 SPECIFIC PROVISIONS IN THE UNITED KINGDOM**

In the event of contradiction, these specific conditions shall prevail over the here before provisions of the **GPC**.

**32.1 Rejection of Products**

Our **Company** reserves the right to reject the **Products** in writing in the event of material non-compliance of the **Products** within [6 months] of delivery of the **Products** to our **Company** by the **Supplier**. Our **Company** reserves the right to reject delivery of excess quantities of the **Products** on notice in writing to the **Supplier** at any time.

**32.2 Penalties**

Both **Parties** acknowledge and agree that the penalty payable by the **Supplier** in accordance with clause 16 of the **GPC** are a genuine pre-estimate of loss that would be suffered by our **Company** in the event of late delivery.

**32.3 Warranty**

For the purposes of UK law, the **Supplier** as an expert in its business, warrants to our **Company** that the **Products** delivered shall be of the best available design of the best quality, material and workmanship, without fault and conform in all respects with the **Agreement** and our **Company's** rights under this **Agreement** are in addition to those implied in favour of our **Company** under the Sale of Goods Act 1979.

**32.4 Termination for insolvency**

Our **Company** may give notice in writing to the **Supplier** terminating this **Agreement** with immediate effect if an order is made or a resolution is passed for the winding up of the **Supplier** or an order is made for the appointment of an administrator to manage the affairs, business and property of the **Supplier**, or such an administrator is appointed, or documents are filed with the Court for the appointment of an administrator, or notice of intention to appoint an administrator is given by the **Supplier** or its directors or by a qualifying charge holder (as defined in paragraph 14 of Schedule B1 to the Insolvency Act 1986), or a receiver is appointed of any of the **Supplier's** assets or undertaking, or circumstances arise which entitle the Court or a creditor to appoint a receiver or manager or which entitle the Court to make a winding-up order, or the **Supplier** takes or suffers any similar or analogous action in consequence of debt, or an arrangement or composition is made by the **Supplier** with its creditors or an application to a court for protection from its creditors is made by the **Supplier**.

For **Supplier** : ..... (Name of company)

..... (address of head office),

represented by .....

acting as .....

Signature:

Signature \_\_\_\_\_ Witness  
( )

**EXHIBIT 1 – CONFIDENTIALITY AGREEMENT**