

## GENERAL TERMS AND CONDITIONS OF PURCHASE

### 1 DEFINITION, INTERPRETATION AND SCOPE

#### 1.1 Definitions

In these General Conditions of Purchase (hereinafter the "**Conditions**") the following words shall have the following meanings:

"**Affiliate**" means with respect to a particular party or other entity, any corporation or business entity that directly or indirectly, controls, is controlled by, or is under common control with either party. The term "control," "controlled by" or "under common control with" shall mean the possession of the power to direct or cause the direction of management and policies of such corporation or business entity, whether through direct or indirect ownership of more than fifty percent (50%) of voting securities or otherwise;

"**Agreement**" means the applicable binding contract between EUROAPI and SUPPLIER in accordance with these Conditions consisting of the (i) Purchase Order as accepted by SUPPLIER hereunder, (ii) these Conditions and (iii) any documents specified, referenced in and/or attached to the Purchase Order, or any other documents otherwise expressly incorporating these Conditions (including without limitation (if applicable), the Deliverables, the Specifications, and the Mandatory Policies and, in the event of any conflict between the foregoing documents, these Conditions shall take precedence over the provisions of (i) and (iii). In the event the parties enter into a separately negotiated written agreement, the parties agree that such agreement shall take precedence over these Conditions in the event of a conflict;

"**Background IP**" means all Intellectual Property Rights, including Confidential Information, that are owned by a party prior to the date of the Purchase Order, that are developed by a party outside the scope of the Agreement without relying on information received from the other party, or that are assigned or licensed to such party by a third party outside the scope of the Agreement;

"**Confidential Information**" means as defined in Article 14.2;

"**Deliverables**" means any and all deliverables in relation to the Services specified in the Agreement;

"**EUROAPI**" means the relevant entity of the EUROAPI Group which orders the relevant Goods and/or Services in accordance with the relevant Purchase Order;

"**EUROAPI Group**" means the group of companies formed by EUROAPI and all of its Affiliates;

"**Goods**" are the products, materials, liquids, equipment, design, software and all related documentation to be supplied by SUPPLIER as specified in the Agreement;

"**Intellectual Property Rights**" shall mean intellectual property rights of any kind existing in any country, registrable, or unregistrable including those arising out of or relating to patents (including the rights to patentable, or non-patentable inventions, discoveries, know-how, trade secrets and other confidential information), designs, trademarks, domain names, databases, copyright, and any registration or application thereof, along with the renewal and/or extension

of any such rights;

**"Mandatory Policies"** means EUROAPI's business policies, namely EUROAPI's Code Ethics, Supplier Code of Conduct, and Data Privacy shared with Supplier on EUROAPI's website (<https://www.euroapi.com/en/investors/corporate-governance/business-ethics-and-compliance>) and/or EUROAPI's SATI (Digital Procurement Platform), as updated from time to time;

**"Purchase Order"** means EUROAPI's order on its order form for the purchase of Goods and/or Services by the SUPPLIER, and shall include all related documentation, as applicable;

**"Services"** means the services and/or all pertaining Deliverables to be supplied by SUPPLIER as specified in the Agreement;

**"Specifications"** means the written technical or other requirements (if any) for the Goods and/or Services referred to in the Agreement or otherwise notified by EUROAPI to the SUPPLIER; and

**"SUPPLIER"** means each person or entity that enters into an agreement with EUROAPI in order to sell Goods and/or perform Services to EUROAPI.

## **1.2 Interpretation**

A reference to a statute or statutory provision is a reference to such statute or provision as amended or re-enacted. Any phrase introduced by the terms "including", "include", in particular or any similar expression shall be construed as illustrative and shall not limit the meaning of the words preceding those terms. References to the singular include the plural and vice versa as the context admits or requires and a reference to writing or written includes emails.

## **1.3 Scope**

These Conditions, together with the relevant Purchase Order and/or Agreement, set forth the terms and conditions for the supply of Services and/or the delivery of Goods by SUPPLIER to EUROAPI. These Conditions apply to and form an integral part of all requests for proposal, quotations, Purchase Orders to the exclusion of any and other (general) terms and conditions that (i) the SUPPLIER seeks to impose, incorporate, purport to apply or which are endorsed upon any correspondence or documents issued by SUPPLIER (irrespective of their date of communication to EUROAPI), or (ii) which are implied by law, trade, custom, practice or course of dealing. Receipt and/or unconditional acceptance by EUROAPI of (i) order confirmations of SUPPLIER deviating from the Purchase Order and/or Agreement, (ii) deliveries of Goods and/or Services, and/or (iii) making payment to SUPPLIER thereof, does not indicate an acceptance of the general terms and conditions of the SUPPLIER. EUROAPI expressly rejects the applicability of any other general terms and conditions or stipulations of SUPPLIER other than the Conditions specified herein, unless explicitly agreed in writing by EUROAPI.

This shall apply in any case, even if EUROAPI, being aware of the SUPPLIER's general terms and conditions, allows the performance/delivery of the Goods or Services to be carried out without reservation.

## **2 PURCHASE ORDER**

### **2.1 Purchase Order Formalisation and Acceptance**

The Purchase Order constitutes an offer by EUROAPI to purchase the Goods and/or Services from SUPPLIER in accordance with these Conditions and will be binding on parties at SUPPLIER's acceptance. The Purchase Order and these Conditions shall be deemed to be accepted by SUPPLIER on the earlier of: (a) SUPPLIER issuing a written acceptance of the Purchase Order; or (b) any act by the SUPPLIER consistent with fulfilling any part of the Purchase Order and such is communicated to EUROAPI, at which point, and on which date the Agreement shall come into full force and effect.

EUROAPI shall be under no responsibility to accept delivery of, or pay for, Goods or Services for which a Purchase Order has not been properly provided by EUROAPI. Deliveries of supplies other than in accordance with a Purchase Order may (at EUROAPI's option) be returned to the SUPPLIER at the SUPPLIER's expense and risk.

If the Purchase Order has not been accepted by SUPPLIER as set forth above within 3 weeks after having received the Purchase Order, EUROAPI is no longer bound to the respective Purchase Order.

### **2.2 Order Modification**

Any changes by SUPPLIER to the Conditions and/or the Purchase Order and/or Agreement are binding only, if explicitly accepted by EUROAPI in writing.

## **3 PRICES**

3.1 SUPPLIER shall deliver the Goods and/or perform the Services against the price(s) mentioned in the Agreement. Unless expressly stated and agreed to the contrary in writing by EUROAPI, prices are (i) fixed and firm, (ii) given in the currency specified in the Purchase Order, (iii) exclusive of any Value Added Tax, but (iv) inclusive of all other taxes, duties, levies, fees (including license fees), charges and inclusive of all costs of all packaging, delivery and insurance (if applicable under the relevant Incoterms). Any increase in the price for any reason shall be subject to the express prior written consent of EUROAPI.

If the object of the Services is the completion of work or results covered by Intellectual Property Rights, the price shall also include the transfer of these rights, as stipulated under Article 15.

3.2 After the occurrence of a Purchase Order, price increases and deteriorated sales conditions shall only become effective with EUROAPI's express written consent. For the avoidance of doubt, any price-increasing provisions in any of the SUPPLIER's terms do not apply to business relations between the EUROAPI and the SUPPLIER.

## **4 INVOICING AND PAYMENT TERMS**

### **4.1 Invoicing**

Provided the Goods and Services have been delivered to EUROAPI, payment will be made by EUROAPI to SUPPLIER for Goods and Services which fully comply with the Agreement. Invoices, complying with EUROAPI's required format, shall be issued by SUPPLIER to EUROAPI on or any date after the date that the Goods are delivered, or after the performance of the Service and acceptance by EUROAPI of the Deliverables, unless otherwise required by applicable law or the parties agree otherwise. The EUROAPI reserves the right to refuse any invalid invoice that does not include all statutory or contractual references and to return such invoices to the SUPPLIER.

## **4.2 Methods of payment**

EUROAPI shall pay the SUPPLIER by bank transfer using the account details the SUPPLIER has previously provided, unless otherwise required by applicable law or the parties agree otherwise, within sixty (60) days, as from the invoice's date of issue provided and to the extent that the invoice is correct and not under dispute. Interest shall be payable, calculated on a daily basis, on any overdue payments, at the minimum rate allowed by applicable law until all outstanding amounts are paid in full. In case an invoice is under dispute, SUPPLIER has no right to postpone its obligations.

## **5 DELIVERY, ACCEPTANCE AND PERFORMANCE OF THE AGREEMENT**

### **5.1 Time**

The SUPPLIER shall deliver the Goods, or perform the Services, within the schedule indicated on the Purchase Order and Agreement. Failing this, EUROAPI reserves the right to refuse the Goods and/or Service(s). Time shall be of the essence in relation to the performance of any and all of SUPPLIER's obligations pursuant to the Agreement. SUPPLIER guarantees that it will supply without delay and interruption the Goods and/or Services. SUPPLIER shall immediately notify EUROAPI of any foreseeable delay. In the event that delivery of the Goods or the performance of the Service(s) is delayed (s) with regard to the delivery or performance dates and deadlines set forth in the Agreement, EUROAPI shall be entitled to charge the SUPPLIER the amount of two per cent (2)% per week of delay, calculated on the total amount under the Agreement excluding tax and capped at ten per cent (10)% of such amount under the Agreement. These penalties shall not constitute a final settlement and shall not in any way waive EUROAPI's right to compensation for losses suffered due to such delay. EUROAPI reserves the right, in the event of non-compliance with the delivery date for the Goods or the Services performance deadline drawn up under the Agreement, to automatically terminate or cancel the Agreement. In the event of partial delivery or performance, EUROAPI reserves the right to terminate the Agreement, while keeping the Goods already delivered or that part of the Services already performed against payment for the share of the corresponding price.

### **5.2 Acceptance of Goods and/or Services**

Any delivery of Goods and/or Services shall be subject to provisional and/or definitive acceptance by EUROAPI, in order to verify conformity with the Purchase Order and Agreement.

### **5.3 Performance of the Agreement - Goods**

**5.3.1 Dispatch.** The Goods shall be dispatched with the care required to guarantee their protection, in line with the standards and customs in force. The SUPPLIER shall draw up and attach to the consignment the various documents necessary for, in particular, export clearance operations. Unless explicitly agreed otherwise in the Purchase Order, the Goods shall be delivered according to Incoterm DAP (Delivered at place) at agreed destination for deliveries coming from European Union (Incoterm ICC, 2020).

**5.3.2 Packaging.** SUPPLIER will investigate potential environmental improvements to packaging and will, where practicable, use minimal packaging, recyclable packaging and recycled packaging materials. SUPPLIER shall ensure that packaging complies with all relevant legislative requirements. SUPPLIER shall package and label the Goods in a manner suitable for transit and storage so as to enable the Goods to reach their destination in good condition. Costly and re-usable packaging shall be taken back by SUPPLIER at no extra cost

to EUROAPI.

**5.3.3 Quantity.** The quantity of Goods specified in the Agreement may not be changed without EUROAPI's prior written consent.

**5.3.4 Documents.** SUPPLIER shall timely provide EUROAPI with (copies of) all applicable licenses, documents, information, specifications, and instructions necessary for safe and proper transport, use, treatment, process, and storage of the Goods and, where applicable, Services and with all certificates of analysis/conformity as customarily supplied and in accordance with all applicable (inter)national laws.

**5.3.5 Warranties.** SUPPLIER shall ensure that the Goods shall:

- (i) be properly functioning,
- (ii) be in conformity with the agreed Specifications, description and requirements of the Agreement,
- (iii) be unused, of good materials and workmanship,
- (iv) be of satisfactory quality and free from any and all defects (including defects in design, material and workmanship), liens and encumbrances, pledge or right of retention, and in case the Goods which comprise computer hardware and/or software such software and hardware and any revision(s) thereto will not contain any computer virus or code that could be otherwise hostile, damaging or disabling to EUROAPI's existing information systems;
- (v) be suitable and fit for the intended purpose, and
- (vi) comply with all applicable statutory and regulatory requirements relating to the manufacture, labelling, packaging, storage, handling and delivery of the Goods.

**5.3.6** Inspection, testing, acceptance or payment does not release SUPPLIER from its obligations and warranties.

**5.3.7 SUPPLIER's Remedy Obligation.** In the case of Goods:

- (a) not conforming with the Agreement, and/or
- (b) are delivered unreasonably before or after the agreed delivery time, and/or
- (c) are delivered not in the agreed volume and/or quantity, and/ or
- (d) are delivered in inappropriate or damaged packaging and/or
- (e) contain other defect(s),

EUROAPI may, at its discretion, whether or not the Goods title has passed, and without limiting any of EUROAPI's any other statutory and contractual rights or remedies including its right to compensation for the losses and damages suffered as a result of SUPPLIER's non-compliance:

- (i) reject the Goods (in whole or in part) and return them to SUPPLIER at SUPPLIER's own risk and expense; and/or
- (ii) require SUPPLIER promptly to either repair or replace any and all Goods at the site of delivery or SUPPLIER's premises, whichever EUROAPI shall so determine, or to refund to EUROAPI any amounts paid in respect of any Goods which do not correspond with the Agreement (and repaired or replacement Goods shall themselves be subject to the obligations in the Agreement) if the Supplier does not fulfill its obligation of subsequent performance within the reasonable period set by EUROAPI, EUROAPI shall be entitled to remedy the defect itself at the sole cost of Supplier ; and/or
- (iii) in the case of incorrect delivery, require SUPPLIER to promptly reimburse EUROAPI

- in respect of any cost (including but not limited to freight, clearance, duty and storage charges) incurred by EUROAPI in delivering them to the correct point specified in the Agreement or subsequently advised in writing by EUROAPI; and/or
- (iv) purchase Goods elsewhere which, as nearly as practicable, conform to the Agreement (and any extra expense thus incurred shall be paid by SUPPLIER to EUROAPI on demand), provided that before exercising such right to purchase elsewhere EUROAPI shall give SUPPLIER a reasonable opportunity to replace rejected Goods with goods which conform with the Agreement; and/or
  - (v) claim damages for any other costs, losses or expenses incurred by EUROAPI which are in any way attributable to SUPPLIER's failure to carry out its obligations under the Agreement, and/or
  - (vi) immediately terminate the Purchase Order, or the Agreement or any portion thereof.

**5.3.8** EUROAPI's rights specified in Article 5.3.7 above shall be exercisable by EUROAPI within a period of twelve (12) months or if applicable law provides for a longer term, as the case may be, within such longer period, after the date of acceptance or the date of first operational use, whichever date is later. Repaired or replaced Goods or parts will be warranted for another period of twelve (12) months or if applicable law provides for a longer term, as the case may be, for such longer period, from the repair or replacement date. If requested, SUPPLIER shall as far as possible leave these Goods in free use with its user until SUPPLIER has delivered Goods in replacement. The warranty period shall be extended by any period(s) during which the Goods have been out of operation due to the SUPPLIER.

**5.3.9** In the event of a rejection (in whole or in part) in accordance with Article 5.3.7 above, EUROAPI shall notify SUPPLIER in writing, and the payment obligation in relation to any such delivery shall be suspended immediately.

#### **5. 4. Performance of the Agreement - Services**

**5.4.1 Warranties.** SUPPLIER shall ensure the good and satisfactory quality and the results of the Services. SUPPLIER shall perform the Services in accordance with:

- i. good, safe and workmanlike fashion, state of the art,
- ii. the agreed requirements, Deliverables, specifications, description and requirements of the Agreement,
- iii. current industry standards code of practice and the highest standards prevailing in SUPPLIER's industry,
- iv. observing all due skill, speed and care,
- v. using proper and well-maintained materials, and lawfully employing sufficiently qualified and trained personnel.

**5.4.2 SUPPLIER** shall properly and timely instruct EUROAPI of any special use or treatment regarding the Services.

#### **5.4.3 Rules Applicable in the Event of On-site Activities.**

- (a) SUPPLIER's General Obligations. If any portion of the Services described in the Purchase Order or Agreement must be performed by the SUPPLIER's personnel or sub-contractors, on or near a site owned, run, or operated by EUROAPI, its affiliates, or its customers ("**EUROAPI Premises**"), the SUPPLIER hereby represents and warrants that it, and its subcontractors shall:
  - (i) comply with all instructions emanating from EUROAPI including those related to access, hygiene, safety, and environmental measures;

- (ii) not disrupt daily business operations; and
  - (iii) immediately inform EUROAPI of any and all event(s) that may generate a risk for the environment, health and/or safety of EUROAPI's personnel and/or the equipment on the EUROAPI Premises.
- (b) Should SUPPLIER breach any of its obligations pursuant to this Article 5.4.3, EUROAPI may, at its sole discretion, and without prejudice to any other right it may have under these Conditions, or at law (i) request the immediate removal of any of SUPPLIER or its sub-contractor's personnel present on the EUROAPI Premises; (ii) immediately terminate the Purchase Order, or the Agreement or any portion thereof.

**5.4.4** Only EUROAPI's written confirmation of acceptance of the Deliverables and Services shall constitute acceptance of the Services performed.

**5.4.5** EUROAPI shall have the right exercisable during the performance of the Services to suspend any payment obligation in respect of the Services if the performance does not conform in quality with any stipulations in the Agreement or if the performance is delayed. Such right shall be without prejudice to EUROAPI's right to terminate the Agreement and any other rights it may have.

**5.4.6 SUPPLIER's Remedy Obligation.** If the Services do not conform with the Agreement, EUROAPI shall have the right to, at its discretion, whether or not the Services have been accepted, and without limiting any of EUROAPI's any other rights or remedies including its right to compensation for the losses and damages suffered as a result of SUPPLIER's non-compliance:

- i. refuse to accept any subsequent performance of the Services which the SUPPLIER attempts to make, and/or
- ii. have any sums previously paid by EUROAPI to the SUPPLIER in respect of the affected Services refunded by the SUPPLIER, and/or
- iii. purchase Services from elsewhere which, nearly as practicable, conform to the Agreement and any extra expense incurred in doing so shall be paid by SUPPLIER to EUROAPI, provided that before exercising any such right to purchase the Services from an alternative supplier EUROAPI shall give SUPPLIER an opportunity to replace such Services with Services which conform with the Agreement, and/or
- iv. claim damages for any other costs, losses or expenses incurred by EUROAPI which are in any way attributable to SUPPLIER's failure to carry out its obligations under the Agreement, and/or
- v. immediately terminate the Purchase Order, or the Agreement or any portion thereof.

**5.5** The warranties and remedies specified in Articles 5.3, 5.4 and 15.3 are in addition to and not substitution for those warranties or conditions which are implied by, or available under, any law, whether statutory or otherwise and shall extend to EUROAPI's customers.

**5.6** EUROAPI's claims from SUPPLIER recourse shall also apply if the defective Goods have been combined with another product or further processed in any other way by EUROAPIs, EUROAPI's customer or a third party, e.g. by incorporation, mounting or installation.

## **6 TRANSFER OF OWNERSHIP AND RISKS**

The title of the Goods shall pass to EUROAPI upon delivery at the delivery point as stated in the Agreement. However, if EUROAPI pays for any Goods prior to delivery, title shall pass to EUROAPI upon payment. Risk to in the Goods shall pass to EUROAPI in accordance with

the agreed Incoterms. The title of the Deliverables of the Services shall pass to EUROAPI upon the creation of the Deliverables. Neither payment by EUROAPI nor passing of title or risk in the Goods or the Services to EUROAPI shall be deemed to constitute acceptance of the Goods or the Services.

SUPPLIER expressly warrants that it has good and marketable title to the Goods and Deliverables of the Services supplied, including the right to grant EUROAPI Intellectual Property Right(s) under Article 15.

## **7 COMPLIANCE**

**7.1** SUPPLIER complies and will comply during the term of the Agreement with:

- i. all applicable (inter)national laws, rules and regulations, standards and orders in connection with the performance of the Agreement, including all applicable laws, rules and regulations on international trade, labor, such as embargos, import and export control and sanctioned party lists,
- ii. all laws and regulations applicable to health, safety and environment.
- iii. Mandatory Policies,
- iv. all regulations relating to environmental protection, and
- v. the REACH regulation (regulation no.1907/2006 of 18 December 2006 and CLP Regulation (regulation no.1272/2008 of 16 December 2008) together with any subsequent modifications) with regard to chemical substances contained in the Goods supplied/delivered/used/ under the Purchase Order and Agreement and shall provide EUROAPI with evidence of such compliance.

**7.2** SUPPLIER holds any and all licenses, permits, end-user statements and any other documents, which are required by applicable law in the country of origin, of transit and of destination to perform its obligation(s) hereunder and will immediately notify EUROAPI of any legal restrictions it becomes aware.

## **8 LIABILITY AND INDEMNITY**

**8.1 Indemnification.** SUPPLIER shall be liable for and hold EUROAPI and EUROAPI Group companies and their directors and employees (“**Indemnified Parties**”), harmless from and indemnify them against any and all costs and actual or contingent damage (including those incurred from condemnation, notably including lawyers' and consultants' fees, compensation, all ancillary costs), loss, injury/death, costs and claims suffered by or brought against the Indemnified Parties or any third party, resulting from or connected with (i) the Agreement, (ii) the use and/or sale of SUPPLIER's Goods by Indemnified Parties or any third party, (iii) the performance of the Services, (iv) the deployment of SUPPLIER's Services by Indemnified Parties or any third party, (v) any breach by SUPPLIER of its obligations hereinunder and/or the Agreement and/or of any statutory duty and/or (vi) any act or omission or negligence of SUPPLIER's employees, agents, contractors or sub-contractors, and/or (vii) any infringement or alleged infringement of Intellectual Property Rights for or relating to the Goods or the Services; except to the extent that such is caused by EUROAPI's willful misconduct or gross negligence.

**8.2** SUPPLIER is fully liable for the correct and timely payment of all taxes and levies indebted in connection to the performance of the Agreement and will indemnify Indemnified Parties against all claims and damages relating to its obligations concerning taxes, contributions and any claims of third parties.

**8.3 Limitation of Liability.** IN NO EVENT SHALL EUROAPI BE LIABLE FOR ANY



INDIRECT DAMAGES (INCLUDING LOST REVENUE, LOST PROFITS OR OTHER CONSEQUENTIAL, SPECIAL, PUNITIVE, EXEMPLARY OR INCIDENTAL DAMAGES) ARISING OUT OF OR IN CONNECTION WITH THE AGREEMENT WHETHER OR NOT EUROAPI WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGE.

## **9 INSURANCE**

9.1 The SUPPLIER declares that it has taken out the insurance policies necessary to cover the financial consequences of the liabilities that it incurs while performing the Agreement, due to any physical injury, material and immaterial damage and losses, direct and/or indirect, which may occur because of or during the performance of the Agreement. The insurance coverage or the failure to maintain insurance shall not waive nor limit in any way the SUPPLIER'S responsibility and liability for its Goods delivered and Services performed to EUROAPI.

9.2 The SUPPLIER also undertakes to provide, upon EUROAPI's simple request, the certificates for the insurance policies that it has taken out in accordance with this Article and shall notify EUROAPI of any modification that might be made to the articles they contain, or the event of the suspension or termination of guarantees. This insurance must be maintained for the full term of the performance of the Agreement.

## **10 FORCE MAJEURE**

**10.1 Force Majeure Event.** EUROAPI and the SUPPLIER shall not be liable for breaches or delays in the performance of their obligations potentially due to an event beyond such Party's control, without its negligence and that by its nature could not have been foreseen or, if it could have been foreseen, was unavoidable (which events may include pandemics, epidemics, natural disasters, embargoes, explosions, riots, wars or acts of terrorism) ("**Force Majeure**"). The mere fact of late supply of materials, labor or utilities or internal strike or action or cyber-attacks shall not be deemed a Force Majeure event.

**10.2 Notification.** A party suffering a Force Majeure shall notify the other party in writing as soon as reasonably practicable, specifying the cause of the event, the scope of commitments under the Purchase Order and Agreement affected by the event, and a good faith estimate of the time required to restore full performance.

**10.3 Mitigation.** Any party claiming a Force Majeure shall use reasonable diligence to remove the condition that prevents performance and shall not be entitled to suspend performance of its obligations in any greater scope or for any longer duration than is required by the Force Majeure. Each party shall use its best efforts to mitigate the effects of such Force Majeure, remedy its inability to perform, and resume full performance of its obligations hereunder. EUROAPI may purchase similar goods and/or services from third parties or take any action to preserve its interest during any period SUPPLIER is unable to fulfill its obligations. The quantities affected shall be excluded from the calculation from any agreed (minimum) volumes specified under the Agreement.

**10.4 Subsisting Duties.** Except for those commitments identified in the notice of Force Majeure, the affected party shall not be relieved of its responsibility to fully perform all other commitments under the Purchase Order and these Conditions. The affected party shall use its best efforts to mitigate the effects of the Force Majeure, and the parties shall immediately resume performance of their obligations as soon as the Force Majeure ceases.

**10.5 Termination Rights.** If the Force Majeure continues for a period of more than sixty (60) days from the date of the notice of Force Majeure, the non-affected party shall be entitled, at its sole discretion, to terminate the Purchase Order and the Agreement, in whole, or in part. For further clarity, each party shall bear its own costs and expenses incurred in connection with the Force Majeure.

## **11 CONTROLLED CHANGES**

The implementation of any changes of and/or improvements related to the Goods and/or performance of the Services including manufacturing processes, (raw) materials (including supply source) and/or any other changes that may impact the Specifications of the Goods and/or the Services requires the prior written approval of EUROAPI. SUPPLIER will inform EUROAPI well in advance of such changes and will enable EUROAPI to control and test the Goods with respect to such change. EUROAPI reserves its right at its sole discretion to immediately terminate the Purchase Order and the Agreement if such change prevents EUROAPI to use such Goods and/or Services due to regulatory requirements under applicable law.

## **12 TRANSFER - ASSIGNMENT - SUB-CONTRACTING - CHANGE OF CONTROL OF THE SUPPLIER**

**12.1 Assignment.** SUPPLIER shall not assign or transfer, in whole or in part, its rights, interests or obligations hereunder without EUROAPI's prior written consent. If such assignment and transfer occur, SUPPLIER shall remain jointly and severally liable with transferee/assignee for all obligations arising from or related to the Purchase Order, Agreement or these Conditions. EUROAPI may freely assign or transfer any of its rights, interests or obligations under a Purchase Order and Agreement.

**12.2 Subcontracting.** SUPPLIER is not permitted to sub-contract, in whole or in part, its duty of performance hereunder without EUROAPI's prior written consent. If such sub-contracting occurs, the SUPPLIER shall remain jointly and severally liable with the sub-contractor for all obligations arising from or related to the Purchase Order and the Agreement and these Conditions. For further clarity, SUPPLIER shall ensure that all relevant obligations are included in its agreements with its sub-contractors, at terms no less stringent than those the SUPPLIER has committed to.

## **13 TERMINATION**

### **Right to Terminate.**

**13.1** If the SUPPLIER is in breach of the Agreement and does not remedy the breach (capable of being remedied) within fifteen (15) days of receiving the notice for such breach from EUROAPI, EUROAPI may terminate the Agreement immediately by giving a written notice to SUPPLIER.

**13.2** The Agreement can be terminated as a matter of course, in whole or in part, immediately and without prior notice, by simple registered or certified letter or email with acknowledgment of receipt, by EUROAPI without prejudice to any claim for damages and without any compensation or indemnification to the SUPPLIER, in the following cases:

- i. repeated tardiness of SUPPLIER,
- ii. under Articles 5.1, 5.3.7(vi), 5.4.3(b)(ii), 5.4.6 or 10.5,
- iii. transfer or full or partial sub-contracting of the Agreement, or change of control of SUPPLIER, which EUROAPI has not provided prior written consent,
- iv. SUPPLIER commits a material breach of the Agreement which has not been remedied

- by the SUPPLIER in accordance with Article 13.1,
- v. SUPPLIER's non-compliance with Article 7,
  - vi. as specified with respect to controlled changes under Article 11, or
  - vii. if allowed by applicable law, in case SUPPLIER has been declared bankrupt, is in a state of liquidation, has ceased or suspended whole or substantial part of its business, is subject of a court order or preventative legal scheme of settlement.

### **13.3 Consequences of Termination.**

- i. With effect from the date of termination, the SUPPLIER shall not make use for any purpose whatsoever of any Intellectual Property Rights which is the property of EUROAPI.
- ii. Within 7 days, or as otherwise agreed between the parties, of the termination of the Agreement for any reason, the SUPPLIER shall, as instructed by EUROAPI in writing, deliver or otherwise dispose of all of EUROAPI's proprietary and confidential information, and materials in its possession or under its control.
- iii. After such termination, EUROAPI may return received Goods in whole or partly against repayment and retransfer of ownership therein to SUPPLIER.

**13.4 No Relief from Obligations.** Termination or expiry of this Agreement shall not relieve either party from any liability or action that has accrued prior to such termination or expiry. A fair and reasonable price shall be paid for all Services in progress that have been delivered to EUROAPI and comply with the requirements of this Agreement.

**13.5 Survived rights and obligations.** Expiry, termination or cancellation of the Agreement shall not affect any right or obligation, which expressly or by its nature survives such expiry, termination or cancellation, including representations, warranties, confidentiality obligations, intellectual property rights and accrued rights.

## **14 CONFIDENTIALITY**

**14.1 Term of Confidentiality.** The parties shall take all steps reasonably necessary to hold the other party's Confidential Information in strict confidence and shall not use such Confidential Information for any purpose other than that expressly stated in these Conditions, nor shall either party disclose the Confidential Information belonging to the other party to any third party without the prior written consent of the disclosing party for the term of the Agreement and ten (10) years thereafter, unless such Confidential Information is considered as a trade secret under applicable law, the obligation of confidentiality shall remain in place indefinitely as long as the Confidential Information remains a trade secret. Upon written request of the Disclosing Party, the Receiving Party shall destroy or return all Confidential Information belonging to the Disclosing Party no later than sixty (60) days after such request, except that each party may retain one copy of the Confidential Information of the other party for legal or administrative purposes only.

**14.2. "Confidential Information"** shall refer to any non-public information provided to or on behalf of one party (the "**Disclosing Party**") to the other (the "**Receiving Party**") pursuant or relating to these Conditions that is identified by the Disclosing Party as confidential or proprietary or that is reasonably identifiable under the circumstances of disclosure by the Receiving Party as confidential, other than any information which (i) has been published or comes into the public domain other than by breach of these Conditions by the Receiving Party; (ii) is known to the Receiving Party prior to the date of disclosure as evidenced by Receiving Party's contemporaneous written records; (iii) is disclosed to the Receiving Party by a third

party having the legal right to make such disclosure; or (iv) is developed by the Receiving Party, independently of the Agreement as evidenced by Receiving Party's contemporaneous written records. The Receiving Party may disclose Confidential Information belonging to the Disclosing Party solely to the extent required by any applicable law or competent authority ("Legal Compliance"), to which the Receiving Party is subject, provided the Receiving Party gives the Disclosing Party a reasonable opportunity to oppose, limit or seek confidential treatment with regard to such required disclosure. Information disclosed for Legal Compliance shall nonetheless be considered Confidential Information subject to the protections of this provision.

**14.3 Irreparable Harm.** Each party understands and agrees that any use or disclosure of Confidential Information in violation of these Conditions will cause the disclosing party irreparable harm for which the obligation to pay damages may not be an adequate legal remedy in itself and shall therefore entitle Disclosing Party to seek injunctive relief (including temporary injunction or specific performance) from any court having jurisdiction.

**14.4 Separate Confidentiality Agreement.** In the event, the parties have concluded or hereafter conclude a separate confidentiality agreement with respect to the subject matter of the Agreement, the provisions of the confidentiality agreement shall take precedence over the confidentiality provisions contained above to the extent that the provisions of said confidentiality agreement are no less restrictive to the present Conditions.

## **15 INTELLECTUAL PROPERTY**

**15.1 Background IP.** Each party shall remain the owner of its Background IP, and hereby grants to the other a license to use such Background IP as required to execute its obligations under the Purchase Order and the Agreement or for exploiting the rights in the Goods or Services provided thereunder, or Deliverables resulting therefrom.

**15.2 Foreground IP.** The SUPPLIER hereby agrees and acknowledges that all Intellectual Property Rights in Deliverables resulting from the Goods and the performance of Services under the Purchase Order and the Agreement, including all improvements or modifications thereto ("**Foreground IP**"), shall belong to EUROAPI, regardless of their form, nature or state of completion. Consequently, SUPPLIER hereby assigns, and agrees to assign all right, title and interest into any such Foreground IP to EUROAPI, and agrees to complete all necessary documentation to perfect such assignment. In the event that SUPPLIER does not own all rights in and to the Foreground IP, or if third party rights are required to use or exploit the Foreground IP, the SUPPLIER shall procure, at SUPPLIER's sole cost and expense, the right and license for EUROAPI to use all such rights. This transfer or license, which applies for all countries, shall take effect for the full term of protection of the aforementioned rights in accordance with the statutory provisions in force. For the avoidance of doubt, the price as specified in the Agreement includes all costs of transferring to EUROAPI all Intellectual Property Rights referred to in this Article 15.

**15.3 Intellectual Property Warranty.** SUPPLIER warrants that the Goods sold hereunder, the Services performed hereunder, and the Deliverables resulting from such Services and every element thereof do not and will not infringe upon any third party Intellectual Property Rights. In case of any third party claim, the SUPPLIER shall obtain the right for EUROAPI to continue to use such Intellectual Property Rights or shall replace or modify the potentially infringing items as soon as possible.

**15.4 Reverse Engineering.** SUPPLIER warrants that it will use any product, material, samples provided by EUROAPI, as well as any derivative thereof and/or any EUROAPI's Confidential Information (the "Material") solely for the purposes of the Services. In particular, the SUPPLIER warrants that it will not, analyze, adapt, determine, decompile, disassemble, or otherwise reverse engineer the composition, chemical properties or method of production of any Material except when explicitly contemplated under the Agreement. For the avoidance of doubt, SUPPLIER shall not transfer any Material to any third party, except where authorized in writing by EUROAPI. As such SUPPLIER shall maintain records concerning the handling, storage and physical movement of the Material if applicable, and provide such records to EUROAPI. SUPPLIER shall return the Material transferred or generated under the terms of this Agreement or will destroy those Material, as directed by EUROAPI, when SUPPLIER completes the performance of the Services as provided for by this Agreement.

**15.5 Intellectual Property Claims.** SUPPLIER shall, at its expense, defend any and all claims or legal proceedings arising from infringements or alleged infringements of its Intellectual Property Rights in connection with the Goods or Services. EUROAPI reserves its right to participate and be represented in any such suit, action or proceeding and every element thereof, by its own counsel, at its own expense and may provide SUPPLIER all reasonable assistance and the sole authority to defend or settle any legal proceedings at SUPPLIER's expense.

**15.6 Publicity.** The SUPPLIER shall never, without EUROAPI's written approval, publicly disclose, issue any press release or make any other public statement, use the name, trademark or logo of EUROAPI or the EUROAPI Group of the latter in its reference lists, or publish technical memos, photos and images relating to the Goods and Services that the Agreement concerns, nor shall it disclose the existence of the Purchase Order, Agreement or the fact that a business relationship exists between the parties.

## **16 PROTECTION OF PERSONAL DATA**

**16.1 GDPR.** To the extent that SUPPLIER, in providing any Services under the Agreement, "processes" (where "processes" is as defined in the General Data Protection Regulation ("GDPR") and includes, without limitation, obtaining, organizing, storing, accessing, using, disclosing or adapting, and "processed" and "processing" shall be construed accordingly) any EUROAPI information that constitutes "personal data" within the meaning of the GDPR, SUPPLIER shall ensure that all such personal data is kept secure, and in accordance with all relevant legislation, and shall:

- i. ensure, before processing any such personal data, that adequate technical and organizational controls are in place to:
  - a. prevent unauthorized or unlawful processing of any such personal data it may hold; and
  - b. protect any such personal data from accidental loss, damage or destruction; and
- ii. act only on the instructions of EUROAPI when processing such personal data, including ensuring that such personal data is used only as authorized by EUROAPI, or by the Agreement.

Such processing must comply notably with the principles set by the article 5 of GDPR.

**16.2 Process and transfer.** SUPPLIER shall not process or transfer any personal data outside the European Economic Area, or transfer any personal data to any third party, without the prior written consent of EUROAPI, which consent may be subject to SUPPLIER (or the

relevant third party) entering into a data transfer agreement with EUROAPI, where EUROAPI so requires, in a form substantially similar to the Standard Contractual Clauses issued from time to time by the European Commission, and entering into such other arrangements as EUROAPI may reasonably require to satisfy its requirements as a data controller under the GDPR.

**16.3 GDPR Indemnity.** Supplier shall indemnify EUROAPI and EUROAPI GROUP, and keep them indemnified, on demand from and against all losses incurred or suffered as a result of or in connection with SUPPLIER's breach of this Article 16.

## **17 THE UNITED NATIONS GLOBAL COMPACT (PREVENTION OF CONFLICTS OF INTEREST - TRANSPARENCY)**

**17.1** EUROAPI Group is a member of the Global Compact established by the United Nations (<https://www.unglobalcompact.org>) and has undertaken to support and apply certain fundamental principles in the fields of human rights, working conditions, the environment and corruption control. Relations with EUROAPI at the time of any Purchase Order are contingent upon the SUPPLIER's respect for these same principles as well any specific code of conduct implementing such principles by EUROAPI. The SUPPLIER undertakes to respect these principles and /or codes of conduct during the performance of the Agreement and set up sufficient internal procedures, tools and measurement indicators necessary to guarantee compliance with these principles. It authorizes EUROAPI to assess the effectiveness of these, itself or through a third part approved by the two parties.

**17.2 Conflict of interests.** The SUPPLIER declares that on the proof of receipt date of the Purchase Order, no conflict of interests (hereinafter the "**Conflict of Interests**") exists to affect or that is likely to affect the performance of the Service(s) or the supplying of the Goods due to these interests conflicting with its proper realization to the detriment of EUROAPI's interests. In addition, the SUPPLIER undertakes to declare any Conflict of Interest arising during performance of the Agreement. In the event of a conflict of interests, EUROAPI shall have the right to exercise its right of termination under these Conditions.

**17.3 Transparency.** In accordance with the statutory and regulatory provisions in effect with regard to transparency of personal connections, and to the extent that these apply to the SUPPLIER, EUROAPI may make the existence of this Agreement known together with any amounts of costs paid within the framework of the Agreement.

**17.4 Sanctions.** SUPPLIER shall comply with any and all applicable trade regulations (including but not limited to those on embargo, embargoed countries and trade, economic or financial sanctions) and shall take all the necessary measures not to work with entities or individuals who are on any (national or international) sanctions and similar restrictions lists.

**17.5 Anti-Corruption.** SUPPLIER undertakes to comply with all applicable national and international laws and regulations regarding the prevention of and fight against corruption and influence peddling. This commitment must be extended by SUPPLIER to all the third parties to whom SUPPLIER may subcontract all or part of the Purchase Order or Agreement. SUPPLIER undertakes to never propose, directly or indirectly, to EUROAPI employees any sum of money, gifts, loans, rebates or valuable objects likely to constitute an act or attempt of corruption for the purpose of or in consideration of the awarding/execution of the purchase and/or any other advantage.

**17.6 Conflict Minerals.** SUPPLIER shall not use, and shall not allow to be used, any (a) cassiterite, columbite-tantalite, gold, wolframite, or the derivatives tantalum, tin or tungsten (“**Initial Conflict Minerals**”) that originated in the Democratic Republic of Congo or an adjoining country, or (b) any other mineral or its derivatives determined by the Secretary of State to be financing conflict pursuant to Section 13p of the Securities and Exchange Act of 1934 (“**Additional Conflict Minerals**”, and together with the Initial Conflict Minerals, “**Conflict Minerals**”), in the manufacturing of any product that is implied in the performance of the Agreement. Notwithstanding the foregoing, if SUPPLIER uses, or determines that it has used, a Conflict Mineral in the manufacturing of any such product(s), SUPPLIER shall immediately notify EUROAPI, which notice shall contain a written description of the use of the Conflict Mineral, including, without limitation, whether the Conflict Mineral appears in any amount in the product(s) (including trace amounts) and a valid and verifiable certificate of origin of the Conflict Mineral used. SUPPLIER must be able to demonstrate that it undertook a reasonable country of origin inquiry and due diligence process in connection with its preparation and delivery of the certificate of origin.

## **18 PERCENTAGE OF THE SUPPLIER’S ANNUAL TURNOVER REPRESENTED BY THE AGREEMENT**

The SUPPLIER undertakes to inform EUROAPI as soon as the share of its annual turnover, by subsidiary and/or on a consolidated basis, corresponding to the Purchase Orders placed by all EUROAPI GROUP companies, exceeds the threshold of twenty-five per cent (25%) of this turnover.

## **19 AUDIT**

**19.1 Records.** SUPPLIER shall maintain complete and accurate records relating to the provision of Goods and/or Services under the Purchase Order.

**19.2 Performance of Audit.** During the performance of a Purchase Order and for a period of three (3) years thereafter, EUROAPI shall have the right, upon ten (10) days prior written notice to SUPPLIER, to examine and audit the facilities, books and records of SUPPLIER and its subcontractors in order to verify (i) the accuracy of any payments required to be made under such Purchase Order and Agreement, and (ii) compliance with the provisions of the Purchase Order and Agreement, including, without limitation, compliance with information security and privacy practices. SUPPLIER shall allow EUROAPI to inspect and make copies of such books and records, at any reasonable time. SUPPLIER shall ensure that all requirements of this Article 19 are incorporated and reflected in applicable agreements with subcontractors.

**19.3 Authorized Auditors.** The audit(s) may be executed by EUROAPI or a third party appointed by EUROAPI (the “Auditor”). SUPPLIER shall cooperate in good faith with EUROAPI as regards, the execution of the audit(s) and permit the Auditor to access records, documents, relevant systems and personnel, as required by the Auditor.

**19.4 Cost of Audit.** EUROAPI shall bear the costs and expenses of all audits performed in relation to the Purchase Order and the Agreement. However, if, following an audit, it is determined that SUPPLIER is in breach of its obligations under the Purchase Order and the Agreement or these Conditions, all costs and expenses related to such audit shall be borne by SUPPLIER.

**19.5 Confidentiality of Audit Result.** All audit results shall constitute Confidential

Information of both parties.

**19.6 Discovered Breaches.** SUPPLIER undertakes to promptly remediate all breaches and take all appropriate measures to implement any corrective or preventive actions, or any EUROAPI recommendations resulting from an audit. SUPPLIER's failure to implement corrective or preventive actions, or any EUROAPI recommendations shall constitute a breach under these Conditions, and may give rise to termination in accordance with Article 13.1.

**19.7 Notice from Regulatory Bodies.** SUPPLIER shall notify EUROAPI, as soon as practicable upon receipt of a notice from a regulatory body as regards any request for audit, inspection, or investigation by such regulatory body that relates to the Purchase Order and Agreement or that may affect the performance of the Purchase Order and the Agreement.

19.8 Audit and/or testing do not relieve SUPPLIER of any obligation or liability under the Agreement.

## **20 INTERNATIONAL AGREEMENT ON THE SALE OF GOODS**

The United Nations convention on contracts for the international sale of goods, signed in Vienna on 11 April 1980, does not apply to this Agreement.

## **21 APPLICABLE LAW AND COMPETENT JURISDICTION**

These Conditions and the Agreement shall be interpreted and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with its formation or its subject matter, shall be governed by, and construed in accordance with laws of England and Wales. Any dispute between EUROAPI and the SUPPLIER that cannot be resolved in an amicable way, the parties irrevocably agree that the courts of London shall have exclusive jurisdiction to settle any such dispute or claim (including non-contractual disputes or claims) that arises out of or in connection with these Conditions and the Agreement, its formation or subject matter. Pending a dispute neither party shall be excused from performing any of its obligations under these Conditions and the Agreement, except for obligations directly affected by the dispute.

## **22 MISCELLANEOUS**

**22.1 Relationship.** The SUPPLIER shall perform the Services in the capacity of independent contractor and neither it nor its staff shall be considered EUROAPI's employees. In addition, this contractual relationship shall not be interpreted as establishing a partnership or a joint venture between the parties.

**22.2 Release Against Liens or Claims.** SUPPLIER shall promptly pay all claims of persons or entities furnishing labor, equipment or materials used in connection with the Goods and/or the Services pursuant to the Purchase Order and the Agreement. EUROAPI may require SUPPLIER to submit satisfactory evidence of payment of all such claims. If there is any evidence of any such unpaid claim, EUROAPI may withhold any payment until SUPPLIER has furnished such evidence of payment and release, and SUPPLIER shall indemnify and defend EUROAPI against any liability or loss arising from any such claim.

**22.3 Severability.** If any provision of these Conditions or the Purchase Order or the Agreement shall be found to be void or unenforceable, such findings shall not be construed to render any other provision of these Conditions or of the Purchase Order or of the Agreement either void or unenforceable, and all other provisions shall remain in full force



and effect unless the provisions which are invalid or unenforceable shall substantially affect the rights or obligations granted to or undertaken by either EUROAPI or SUPPLIER. Parties agree to replace the ineffective or invalid provision(s) by a provision of similar import, which reflects as closely as possible the intent of the original provision.

**22.3 No Waiver.** Failure by either party to require strict performance by the other party of any obligation hereunder shall in no way affect its right thereafter to enforce any obligation, nor shall a waiver by either party of any breach be held to be a waiver of any previous or later breach. No waiver will have any effect unless specific, irrevocable and in writing.

**22.4 Entire Agreement.** The Agreement contains the whole agreement between the parties in respect of the subject matter of the Agreement and supersedes all prior written or oral agreements, arrangements and understandings between them relating to that subject matter. The terms of these Conditions and the Purchase Order and the Agreement may not be amended or modified other than in a writing signed by both parties.

**22.5 Notice.** Any notice required hereunder shall be in writing and shall be personally delivered, transmitted by email, or sent by first class mail, postage prepaid, and shall be deemed to have been received on the date on which it was delivered personally or transmitted by email, or, if mailed, on the fifth day next following the mailing thereof. Notice shall be addressed to EUROAPI at 15, rue Traversière, 75012 Paris, France attention: Legal Affairs Department, and to SUPPLIER at the address indicated on the Purchase Order.

**22.6 Data Integrity.** Any documentation or data relevant to activities performed by SUPPLIER, including without limitation any Good Manufacturing Practice documentation, must be attributable, original, accurate, legible, complete, controlled, retrievable, and safe from intentional or unintentional manipulation or loss. These requirements apply throughout the retention period of such data or documentation.

**22.7 Non-Exclusivity.** The parties understand and agree that neither these Conditions nor the Purchase Order or the Agreement shall create rights or obligations of exclusivity inuring to the benefit of SUPPLIER. Nothing in these Conditions or in the Purchase Order or in the Agreement shall limit EUROAPI's right to, at all times, purchase goods and/or services from other vendors.

**22.8 Headings.** The headings of the provisions of these Conditions are inserted for convenience only and shall not constitute a part hereof.

**22.9 Language.** Only the English version of these Conditions shall be authentic and shall prevail, in case of inconsistency, over any translation of these Conditions in another language.