

**1. Scope, ORDER and ORDER Confirmation, reservation**

- 1.1 Unless otherwise agreed in the ORDER ("ORDER") and/or in special terms and conditions, these GTCP shall apply to all ORDERORDERS (deliveries and services, regardless of whether SUPPLIER ("SUPPLIER") provides same or purchases them from third parties) of Powerlines Group GmbH and Austrian companies affiliated with it in the sense of § 189a (8) of the Austrian Commercial Code ("CUSTOMER"). Moreover these GTCP shall be considered as framework agreement for future ORDERS with the same SUPPLIER without CUSTOMER having to refer to them again in each individual case until CUSTOMER informs SUPPLIER of changes to the GTCP. If SUPPLIER does not reasonably object in writing the amended GTCP within a two week period following notification, the amended GTCP shall be deemed accepted.
- 1.2 The CUSTOMER and the SUPPLIER are independent of each other. Each of them acts in its own interest and is responsible for its own obligations, employees, contractors and SUPPLIERS.
- 1.3 These GTCP shall be part of the contract on acceptance of an ORDER and they apply exclusively. CUSTOMER is in particular only bound to General Terms and Conditions of SUPPLIER to the extent that these agree with the GTCP or if CUSTOMER has expressly agreed to them in writing; this is also the case if they are located on company paper and similar of SUPPLIER and CUSTOMER does not object to them anew. In particular, performance on the part of SUPPLIER shall not be construed as acceptance of contractual terms deviating from these GTCP.

**2. ORDER**

- 2.1 Only the content of the written ORDER of CUSTOMER is binding notwithstanding any offers submitted by SUPPLIER. The CUSTOMER shall be free to place the ORDER to the SUPPLIER electronically or physically. If the ORDER confirmation differs from the ORDER itself, SUPPLIER must point this out clearly in the ORDER confirmation by showing the differences. CUSTOMER is only bound by any difference if he has expressly assented to same in writing. The acceptance of a delivery or service and payment do not represent assent, even if they occur without reservation.
- 2.2 Any total or partial delivery, any invoicing or any commencement of the execution of the ORDER shall be deemed to be an express and unconditional acceptance of the ORDER by the SUPPLIER and of these GTCP.
- 2.3 SUPPLIER can revoke the ORDER without any costs being incurred if SUPPLIER has not accepted it in writing within two weeks of receipt (ORDER confirmation). Such a revocation is sufficiently early if it was sent to SUPPLIER prior to receipt of the ORDER confirmation.
- 2.4 Changes or additions to the ORDER are only effective if they are confirmed by CUSTOMER in writing.
- 2.5 With the ORDER confirmation SUPPLIER declares that it vouches for the provision of the ORDER and the deliveries and services required for it even if problems occur due to no fault of his own. In particular, the SUPPLIER declares that at the time of the ORDER he has all the information required to fulfil his obligations under the ORDER.
- 2.6 Fulfilment of the contract on the part of CUSTOMER is with the reservation that there are no obstacles to fulfilment of it on the basis of national or international (re) export stipulations and no embargoes and/or other sanctions in particular.

**3. Delivery/Service, deadline for delivery of performance ("deadline"), consequences of delay**

- 3.1 The delivery or service provision occurs at the point of receipt stated in the ORDER, or, if no place of receipt is indicated in the ORDER, at the registered office of the CUSTOMER. A delivery note must be attached to all deliveries which must in particular contain the names of SUPPLIER and CUSTOMER, the item number, ORDER number and material number, the precise material description if necessary plus the precise quantity and the complete ORDER reference. The ORDER must be accompanied by all technical documents necessary for its use. Partial deliveries, excess-deliveries and under-deliveries are only permitted with the express written permission of CUSTOMER.
- 3.2 The CUSTOMER shall be entitled to change the place(s), date(s) and conditions of delivery of the ORDER at its own expense by notifying the SUPPLIER within a reasonable time (at least eight (8) calendar days) before the date of shipment. The SUPPLIER shall inform the CUSTOMER within eight (8) calendar days of the request for a change in the terms of delivery whether such change is feasible and, if so, of the additional costs resulting from such change. The ORDER shall include the option to store the ORDER on the SUPPLIER'S premises for a period of three months at the CUSTOMER'S expense, provided the SUPPLIER has the capacity to do so. This option may be exercised by the CUSTOMER by written notice within a reasonable period of time prior to shipment.
- 3.3 The period of time specified by the CUSTOMER in the ORDER is binding and, unless otherwise expressly agreed, shall commence upon receipt of the ORDER by the SUPPLIER. The ORDER shall be deemed to have been received if it is sent during business hours, otherwise at the beginning of the next business day. If no deadline is agreed, delivery must take place or services be performed without delay.
- 3.4 Arrival at the place of receipt is the decisive factor for the punctuality of deliveries or supplementary performance and for services the time of their approval is the decisive factor.
- 3.5 If there is a clear delay to a delivery or service or supplementary service, CUSTOMER must be informed immediately and his decision on whether to adhere to the contract must be sought. In this case the deadline is only extended if this was expressly approved by SUPPLIER in writing. Otherwise, the statutory consequences of default shall apply.

- 3.6 If the deadline is gone beyond due to reasons for which SUPPLIER is responsible and CUSTOMER decided to further adhere to the contract, CUSTOMER is entitled to pass to account a contractual penalty of 0.3 % for each started working day of delay up to a maximum of 5 % of the gross contract amount. If the corresponding reservation is omitted on acceptance of the deliveries, services or supplementary services, the contractual penalty can nevertheless be claimed right up to the final payment. The contractual penalty is due to CUSTOMER regardless of the fault of SUPPLIER and it is not necessary to provide evidence of corresponding loss. Any additional claims for damages on the part of CUSTOMER remain unaffected and this is also the case for slight negligence on the part of SUPPLIER. In the case of a delay CUSTOMER is entitled to withdraw from the contract following a period of grace of two weeks. This is also the case if a late partial delivery or partial service was previously accepted by CUSTOMER without reservation. If a fixed date was agreed, it is not necessary to provide a period of grace.
- 3.7 If it already becomes clear within the time period allowed that SUPPLIER cannot properly provide his deliveries or services within the contractually agreed time, CUSTOMER is thus permitted to take any measures to prevent the threat of late delivery at the expense and risk of SUPPLIER. See also section 13 with reference to this.
- 3.8 In the case of delivery ahead of schedule CUSTOMER reserves the right to charge SUPPLIER additional costs resulting from this such as storage and insurance costs and to make the payment in line with the agreed delivery date. Up until the delivery date CUSTOMER only bears the liability of a custodian.

**4. Place of performance, transfer of risk, dispatch, packing, disposal**

- 4.1 Place of performance for deliveries or services is the place of receipt in line with section 2.1. For payments the place of performance is CUSTOMER'S registered offices.
- 4.2 For deliveries with set-up or assembly and for services, the risk passes over to the point of receipt on approval and for deliveries without set-up or assembly the risk passes over on acceptance by CUSTOMER where unloading occurs at the cost and risk of SUPPLIER for delivery to building sites or directly to third parties. The dispatch must also be announced to CUSTOMER without delay with the information required on
- 4.3 The SUPPLIER shall ensure that the deliveries made and services rendered comply with all applicable laws, regulations, standards and the state of the art, in particular those applicable in the country of final delivery and/or performance.
- 4.4 SUPPLIER is obliged to secure the import, export or transit or other official licenses which may be required for delivery or service and licences or permits of third parties (including the documents required for this) in the export, import or transit country at his own costs and to hand them out to the CUSTOMER and has to comply with any requirements linked to the applicable national and international export, customs and foreign trade legislation, especially the Dual Use Items Regulation ("AWR"). SUPPLIER bears all costs and losses which may occur for CUSTOMER as a result of absence of the aforementioned data or defects within them. If applicable, the SUPPLIER shall inform CUSTOMER of the existence of an embargo or an export/import restriction for the ORDER.
- 4.5 In the event that according to AWR it is not SUPPLIER, but CUSTOMER or a third party attributable to the CUSTOMER or related to the CUSTOMER is obliged to apply for the export licenses, SUPPLIER, shall provide CUSTOMER as promptly as possible and no later than before the delivery deadline with all information and data in writing which CUSTOMER may require to adhere to the particular applicable requirements under AWR in the case of export and import and in the case of the onward sale in the case of the re-export of the deliveries or services. SUPPLIER bears all costs and losses which may occur for CUSTOMER as a result of absence of the aforementioned data or defects within them.
- 4.6 SUPPLIER shall in particular, but not conclusively, ensure that it complies with the requirements of the European Directive REACH (EC No. 1907/2006) as amended and shall prove by all available means that it does not sell any goods containing chemicals that are harmful to health or the environment. In case of delivery of electrical and electronic equipment to CUSTOMER, SUPPLIER shall assume the obligation to finance the collection and treatment of waste electrical and electronic equipment in accordance with the applicable national and international legal provisions in this respect or shall undertake to transfer this obligation to its predecessor if SUPPLIER is not the manufacturer.
- 4.7 Furthermore, SUPPLIER shall ensure that the deliveries or services sold or transferred to CUSTOMER do not contain any substances that deplete the ozone layer or any chemical or hazardous substances whose use is restricted or prohibited in the country of destination, in accordance with the applicable national and international legal provisions.
- 4.8 Unless specifically agreed to the contrary, the dispatch and packaging costs are at the expense of SUPPLIER. For pricing ex works or sales depot of SUPPLIER, dispatch must be at the lowest costs unless CUSTOMER has prescribed a specific mode of transport. Additional costs due to a dispatch instruction not being adhered shall be borne by SUPPLIER. For pricing with freight prepaid, CUSTOMER can also specify the mode of transport. Additional costs for any necessary accelerated transport in ORDER to adhere to a delivery date must be borne by SUPPLIER. In the case of missing or incomplete agreed payment instruments (e.g. letter of credit), inadequate dispatch papers, especially if ORDER data to be reported back are missing, CUSTOMER retains the right to refuse the goods at the cost and risk of SUPPLIER or to store the ORDER at the cost and risk of SUPPLIER. If the price is understood to be "exclusive of packaging", this must be calculated at cost price and accounted for separately.
- 4.9 SUPPLIER is obliged to use environmentally friendly packaging which permits re-use or disposal at low cost and which also meets the applicable national and international legal regulations in this regard. The packaging must provide protection against damage, contamination and damp during transport and storage so that

assembly at the premises of CUSTOMER or a company commissioned by CUSTOMER can occur without additional costs for CUSTOMER. Adequate protection must be guaranteed by suitable packaging material or bracing in ORDER to rule out any danger of deformation of contractual objects through collisions, acceleration or delays during transport. Sealing surfaces must be protected particularly carefully.

- 4.10 All important notifications for the contents, appropriate storage and transport must be clearly attached. All damage and losses due to inappropriate packaging are to be paid for by SUPPLIER. When delivering hazardous substances, the applicable national and international legal regulations related to this must be adhered to, especially the requirements concerning realisation and marking of the packaging and the means of transport. If the delivery contains goods which must be classified as hazardous goods in accordance with the aforementioned regulations, SUPPLIER will inform CUSTOMER of this at the time of ORDER confirmation at the latest.
- 4.11 SUPPLIER must take back packaging materials at his own cost at the request of CUSTOMER. SUPPLIER will receive returnable packaging sent back to his own address at his own cost. Unless otherwise agreed the value of the reusable packaging returned by CUSTOMER is to be reimbursed by SUPPLIER. If SUPPLIER refuses to take receipt or if this is not possible, CUSTOMER may undertake disposal at the expense of SUPPLIER. Any waste which occurs on delivery or during performance of the work must be disposed of properly by SUPPLIER at his own cost and risk unless CUSTOMER renounces this.
- 4.12 SUPPLIER expressly declares that it will adhere to the applicable national and international legal regulations regarding transport, packaging and disposal (e.g. participation in approved collection or recycling systems by himself or the provider of preliminary work) and will indemnify CUSTOMER against damage or accusation in this regard if the above is not the case.

## 5. Prices, changes to Service, invoice

- 5.1 All prices are guaranteed fixed prices and they include all services and supplementary work of SUPPLIER (e.g. assembly, installation) and all supplementary costs (e.g. proper packaging, transport costs including any transport and liability insurance) and fees. Price adjustment clauses are not accepted by CUSTOMER unless they are individually agreed in writing with CUSTOMER.
- 5.2 SUPPLIER must accept objectively justified and appropriate changes to the ORDER and he can only charge additional costs if he proves that the changes resulted in an increase of more than 3 % to the gross ORDER amount. SUPPLIER is obliged to adapt the contract with CUSTOMER appropriately if SUPPLIER grants a third party better conditions for comparable services or deliveries.
- 5.3 The invoice must be sent to CUSTOMER stating all ORDER data immediately after delivery or completion of work. The layout of the invoice must make a straightforward comparison with the ORDER possible along with a simple invoice check. ORDER number and ORDER data must be included in the invoice. Invoices concerning work performed or assembly must include time sheets confirmed by CUSTOMER. In the case of deliveries requiring an export licence, the invoice must contain all the necessary references for this purpose. If SUPPLIER'S registered offices are located within the EU, SUPPLIER must provide his VAT number (or equivalent) at the latest when invoicing. If this information is missing, invoices are deemed not to have been issued and cannot be paid until the matters have been rectified.
- 5.4 Notwithstanding the application of the Incoterm DAP location, if any, designated by CUSTOMER and unless the ORDER contains an explicit provision on the applicable Incoterms, SUPPLIER shall include in its price the cost of import customs formalities, value added tax and all import duties, taxes and fees, and similar costs, which are paid either directly by CUSTOMER as importer to the competent authorities or by SUPPLIER in the name and on behalf of CUSTOMER as importer (which is indicated in the customs documents as the actual consignee of the imported goods). In case of payment of such amount by SUPPLIER in the name and on behalf of CUSTOMER, CUSTOMER shall reimburse such amount to SUPPLIER after having submitted to CUSTOMER a proof of payment due to the competent authorities. Should such costs due on importation be paid directly by CUSTOMER and should such amount paid be higher than the amount corresponding to the taxes, duties and charges included in the price, SUPPLIER shall immediately refund to CUSTOMER the amount paid which exceeds the amount included in the price.

## 6. Terms of payment, set-off, retention of title

- 6.1 Payments are due within 14 calendar days with a 3 % discount or within 60 calendar days net by bank transfer. The punctuality of payments is determined by the time of payment receipt. Bank charges from the recipient bank are to be borne by SUPPLIER. If settlement should occur in partial amounts in line with agreement, CUSTOMER will not lose his early payment discount if other partial payments are not made within the discount or due period. In the case of any delay to payment and following late notice by SUPPLIER, CUSTOMER will owe delay interest to the amount of 4 % above the base rate of interest of the Austrian national bank pa.
- 6.2 The payment or discount period starts as soon as delivery or service has been fully accepted by CUSTOMER and the appropriately produced invoice has been received by CUSTOMER. If SUPPLIER has to make material tests, test reports, quality documents or other documents available, the receipt of these documents by CUSTOMER is also required for completeness of the delivery or service. Early payment discount is also permitted if CUSTOMER offsets or withholds payments due to defects; the payment period for the amount withheld due to defects starts following complete rectification of the defects.
- 6.3 Payments by CUSTOMER do not mean any acknowledgement of the correctness of the delivery or service or a waiver of the rights due to CUSTOMER, in particular due to warranty payments, contractual penalties or compensation.
- 6.4 Unless otherwise agreed CUSTOMER is entitled to retain retention money in the amount of 5 % for warranty claims which is not interest bearing (calculated from the gross settlement sum) for the duration of the warranty period.
- 6.5 CUSTOMER is entitled to redeem payment obligations to SUPPLIER with his own demands and with assigned demands to CUSTOMER which are due to SUPPLIER in group terms with the companies affiliated to CUSTOMER in the sense of § 189a (8) of the Austrian Commercial Code by way of compensation. SUP-

PLIER hereby agrees to such an assignment. SUPPLIER is not entitled to offsetting towards CUSTOMER. Title retentions or withholding rights of SUPPLIER and comparable legal or contractual securing means of SUPPLIER of whatever type are not valid. SUPPLIER shall not assign any service or interest or claim due or to become due under the ORDER without the prior written consent of CUSTOMER.

## 7. Quality assurance

- 7.1 SUPPLIER acknowledges that the documents provided by CUSTOMER are sufficient and complete and do not contain any errors, inaccuracies, inconsistencies or omissions. SUPPLIER is obliged to point out to CUSTOMER any errors, omissions or inaccuracies in the aforementioned documents within eight (8) calendar days of the CUSTOMER'S transmission of the aforementioned documents. Should SUPPLIER fail to do so within such period, SUPPLIER shall not be entitled to later rely on the existence of any such error, omission or inaccuracy to dispute CUSTOMER'S failure to perform its obligations under the ORDER or to claim additional payment. In addition, SUPPLIER shall assist the CUSTOMER to the best of its ability in correcting any errors, omissions or inaccuracies.
- 7.2 Installations erected by SUPPLIER or products supplied by it must be equipped with the prescribed safety devices and meet the valid national and international safety regulations. The current status and the codes of practice must be observed in any case.
- 7.3 In addition SUPPLIER must, when delivering installations and appliances which are to be assembled by third parties or by CUSTOMER also supply all documents required and necessary for CUSTOMER to the customary extent such as assembly plans, data sheets, installation instructions, processing instructions, storage, operation and maintenance instructions, lists of spare and wearing parts etc.
- 7.4 CUSTOMER retains the right to demand verification of SUPPLIER'S quality assurance system and the documentation concerning quality testing and also to carry out an audit himself or through a third party commissioned by him with regard to quality assurance and the ORDER itself in SUPPLIER'S company at any time. SUPPLIER will make available all test installations, test appliances and workers present which are required by CUSTOMER or his SUPPLIERS to carry out tests at his own (SUPPLIER'S) expense.
- 7.5 SUPPLIER must agree the same quality assurance measures with his subcontractors and grant CUSTOMER corresponding rights. SUPPLIER will on request provide CUSTOMER with verification concerning this.
- 7.6 SUPPLIER undertakes to make available to CUSTOMER all parts, components and other elements required for the use of the ORDER on reasonable terms (in particular price conditions and delivery periods) for a period of at least five (5) years from the end of manufacture or the date on which SUPPLIER ceases to sell the ORDER. SUPPLIER shall regularly inform CUSTOMER of any impending obsolescence.

## 8. Acceptance, notice of defects, warranty, liability for defects

- 8.1 SUPPLIER guarantees that the contractual delivery or service will be provided completely free of defects, that it has the agreed quality and the intended use is guaranteed without restriction. SUPPLIER warrants in particular that the supplies and services are free from defects in design, workmanship, raw materials and operation. The current state of technology is agreed as a minimum standard. Upstream SUPPLIERS are deemed to be vicarious agents of SUPPLIER. SUPPLIER declares expressly that it has all the necessary commercial or other licences for carrying out the agreed delivery or service and will provide the corresponding documentation to CUSTOMER on request. If special official licences, permits or approvals are required in ORDER to provide the contractual delivery or service, these must be obtained by SUPPLIER in good time without separate payment.
- 8.2 SUPPLIER warrants that the goods are free from any lien and any other encumbrance.
- 8.3 The approval of the delivery or service and the testing for completeness and any visible defects occur within an appropriate time following handover with a random sample test being sufficient. If parts of the delivery scope do not meet the customary quality in a random sample test, then the complete delivery can be rejected. CUSTOMER will inform SUPPLIER of any defects noticed as soon as possible. The failure to notify of defects within the framework of approval does not however lead to the lapse of claims by CUSTOMER resulting from these defects. SUPPLIER expressly renounces the objection of non-punctual notice of defects in accordance with § 377 UGB.
- 8.4 The mere acceptance of the delivery or service, its temporary use or payments made do not represent an approval or a renunciation of claims to which CUSTOMER is entitled.
- 8.5 The warranty period for deliveries and services of SUPPLIER is two years. For deliveries or services which are permanently connected to buildings and/or property, the warranty period is three years. The warranty period starts anew for exchanged goods or services following rectification of defects. The warranty obligation starts on approval for deliveries with set up or assembly and services. For deliveries without set up or assembly it starts with acceptance by CUSTOMER at the place of receipt in accordance with Section 2.1.
- 8.6 The warranty period for hidden defects only starts once they are noticed. If it is necessary to consult an expert in ORDER to determine a defect or the extent of it, the warranty period only starts once the relevant report is presented. If a defect is determined, the costs for establishing the defect are in any case borne by SUPPLIER regardless of fault. Extra judicial notification of defects leads to the period for judicial assertion of the warranty claims being extended by half a year.
- 8.6 The notification of defects by CUSTOMER is deemed to be immediate and punctual in all cases if it is received by SUPPLIER within two weeks of the defect being determined by CUSTOMER. Otherwise it depends whether the notification of defect occurred within an appropriate period when taking into consideration the circumstances of the individual case according to proper course of business.
- 8.7 SUPPLIER must either rectify any defects which occur within the warranty periods stated above at his own cost or carry out a new delivery or new service depending on the choice of CUSTOMER. CUSTOMER is in any case also entitled to demand from SUPPLIER all costs associated with the rectification such as removal and installation costs. Investigation costs must in any case be paid to CUSTOMER if

the investigation has shown defects. If supplementary work by SUPPLIER has been unsuccessful or there are particular circumstances which do on consideration of mutual interests justify the immediate withdrawal of CUSTOMER, no period of notice is required; SUPPLIER must be informed without delay and in advance where possible. Otherwise CUSTOMER is entitled to a reduction in the purchase price or withdrawal from the contract in the case of a material defect or defect in title in line with legal regulations.

- 8.8 If there is any imminent danger, to avoid delay on his own part or tardiness on the part of SUPPLIER in the rectification of defects within a period set by CUSTOMER or if there are significant defects which affect use, CUSTOMER reserves the right to have a substitute service carried out immediately by a third party at the expense of SUPPLIER without prior notification and without prejudice to his rights from SUPPLIER beforehand. The costs for such a substitute service are in this case to be reimbursed to CUSTOMER in full if these are greater than the costs of rectification by SUPPLIER would be.
- 8.9 SUPPLIER carries the burden of proof including all associated costs and expenditure for the lack of presence of a defect or for his sheer insignificance.
- 8.10 CUSTOMER has claims to recourse against SUPPLIER in the sense of § 933b ABGB even if the end CUSTOMER is a business enterprise rather than a consumer.

## 9. Liability, freedom from third party rights

- 9.1 SUPPLIER shall be liable vis-à-vis CUSTOMER for any damage caused by SUPPLIER or his vicarious agents in the context of the delivery or service under the contract as per the statutory provisions notwithstanding any penalty payments. SUPPLIER. In any case and notwithstanding the involvement of a third party in the performance of SUPPLIER'S obligations under the Contract, the SUPPLIER shall always remain the sole person responsible for the performance of its obligations under the Contract.
- 9.2 Any exclusions of liability or any limitations of liability of SUPPLIER, especially out of warranty or damages, shall not be binding on CUSTOMER unless explicitly negotiated in detail with CUSTOMER and set forth in writing
- 9.3 SUPPLIER guarantees that no industrial property rights including copyright as well as intellectual property rights oppose the contractually agreed use of the delivery or service to be provided by SUPPLIER and that no third party rights, in particular intellectual property rights, are violated with regard to the delivery or service. If CUSTOMER is subject to claim regarding third party rights or there is a threat of him being subject thereto, SUPPLIER shall indemnify and hold harmless CUSTOMER from these claims at the first written request. The am. obligation refers to all costs incurred by CUSTOMER in connection with the claim by a third party.
- 9.4 SUPPLIER shall take out the appropriate third party liability or other insurance (e.g. product liability insurance) in sufficient value to cover the aforementioned risks in section 8.1 and 8.3. SUPPLIER shall provide CUSTOMER with proof on request of the insurance policy for inspection. The insurance shall be maintained during the period, in which particular claims can be asserted vis-à-vis CUSTOMER or SUPPLIER. SUPPLIER shall inform CUSTOMER in writing and in advance of the end and the time thereof. Should SUPPLIER fail to provide this evidence, CUSTOMER shall be entitled to suspend payment of SUPPLIER'S invoices. SUPPLIER shall submit to CUSTOMER at least one certificate of these insurance policies stating that the amount of compensation - unless otherwise agreed - is at least € 2,500,000 per damage and year.

## 10. Product liability

- 10.1 If there is a claim against CUSTOMER due to defects in his products by his CUSTOMERS or by third parties on the basis of domestic or foreign product liability provisions or there is a threat of such a claim, SUPPLIER shall indemnify and hold harmless CUSTOMER from any claims and costs, if these are due to defects in the product delivered by SUPPLIER.
- 10.2 On top of this, CUSTOMER is entitled to demand compensation from SUPPLIER for all cost, incurred by CUSTOMER, by his having to take security measures, e.g. warning of or precautionary recall of a faulty product, unless SUPPLIER proves the lack of causation. SUPPLIER shall immediately make available to CUSTOMER all relevant materials to defend product liability claims raised by any third party, such as in particular manufacturing documentation and documentation showing production and delivery lots and/or production and delivery time.
- 10.3 Costs of determining risks (in particular professional fees) and internal administrative and handling expenses of CUSTOMER shall be borne by SUPPLIER, unless the latter proves the lack of causation.
- 10.4 SUPPLIER shall take out appropriate insurance cover for product liability and shall provide CUSTOMER with the insurance policy for inspection on request. The insurance shall be maintained during the period, in which particular claims can be asserted vis-à-vis CUSTOMER or SUPPLIER. SUPPLIER shall inform CUSTOMER in writing and in advance of the end and the time thereof.

## 11. Intellectual property rights, rights of use

- 11.1 Any required drawings, technical calculations and other auxiliary means shall be provided by SUPPLIER free of charge. Any tools, forms, samples, models, profiles, drawings, norm sheets, printing proofs, measuring devices etc., supplied by SUPPLIER for the execution of the ORDER shall remain the property of SUPPLIER and, as well as the products manufactured in accordance therewith, may neither be passed on by CUSTOMER to third parties without the written consent of SUPPLIER nor may they be duplicated or used for any purpose other than for the performance of the contract. Tools, forms etc., which have been manufactured at the expense of SUPPLIER shall become SUPPLIER'S property upon payment.
- 11.2 All such devices and auxiliary materials in the widest sense shall be appropriately marked by SUPPLIER as CUSTOMER'S property, secured against unauthorised inspection or use and, if necessary, maintained or repaired. They shall be returned by SUPPLIER to CUSTOMER either upon execution or cancellation of the ORDER. Notwithstanding any other rights, CUSTOMER may furthermore request the return of such devices if SUPPLIER fails to comply with these obligations or experiences production difficulties. Any right of retention by SUPPLIER is excluded.
- 11.3 In the event of the delivery of standard software (software that was developed for the needs of several CUSTOMERS in the market and not specifically by SUPPLIER for CUSTOMER and is available as a standard solution in the market),

SUPPLIER grants CUSTOMER a non-exclusive, transferrable, worldwide, unlimited right of use,

- a) to use and have used, reproduce, execute, operate, sell, modify and adapt software and the associated documentation ("Software"),
- b) to give end CUSTOMERS, affiliated companies under § 189a (8) of the Austrian Commercial Code and other distributors the right as per letter a, and
- c) to copy the Software for the installation in hardware or have it copied by end CUSTOMERS, affiliated companies under § 189a (8) of the Austrian Commercial Code or other distributors.

SUPPLIER, affiliated companies under § 189a (8) of the Austrian Commercial Code and other distributors are also authorised to allow end CUSTOMERS to further transfer software licences to third parties.

- 11.4 For software products which have been individually developed for SUPPLIER on the basis of a CUSTOMER specification, SUPPLIER grants CUSTOMER an exclusive right of use and transferrable and unlimited license to use the work for all types of use. In particular, CUSTOMER also has the right to amend and further develop individual software. Unless otherwise agreed, the source code of the software shall also be delivered to CUSTOMER in the latest version. SUPPLIER shall look after the installation of the software. Following implementation, SUPPLIER shall provide CUSTOMER with a data carrier which can be read on CUSTOMER'S systems with both the source and object code and the related documentation (in particular contents and structure of the data carrier, programme and data flowcharts, test procedures, test programmes, error correction etc.). Alongside this documentation, SUPPLIER shall provide CUSTOMER prior to acceptance with comprehensive written user documentation in the language required by CUSTOMER and in sufficient quantity.
- 11.5 SUPPLIER shall provide CUSTOMER free of charge within the warranty period – both for standard and individual software – all subsequent programme versions, containing fault corrections ("Updates"). Furthermore he shall offer CUSTOMER maintenance of the delivered software for at least five years from the date of acceptance at market prices.

## 12. Materials provided

- 12.1 Materials provided remain the property of CUSTOMER and shall be separately stored, identified and administered free of charge by SUPPLIER. Upon request by CUSTOMER, the receipt thereof shall be confirmed. Such materials shall only be used for ORDERS of CUSTOMER. SUPPLIER shall provide compensation for any depreciation or loss of the materials. This also applies to any transfer of contract-related material already charged. Any claims for damages by SUPPLIER due to a delay in the delivery of such materials as well as SUPPLIER'S right of retention shall be excluded.
- 12.2 Any processing or alteration of the material is done for CUSTOMER. The latter shall immediately become the owner of the new or altered item. Should this be impossible for legal reasons, CUSTOMER and SUPPLIER hereby agree that CUSTOMER shall be the owner of the new product at all times during the processing or alteration. SUPPLIER shall hold the new item free of charge for CUSTOMER with the diligence of a prudent businessman.

## 13. Confidentiality, data protection

- 13.1 SUPPLIER shall keep confidential all information, documents, notifications, technical drawings, models, calculations and other data ("confidential information"), he acquires during the business relationship with CUSTOMER - in whatever form (written, verbal or via electronic data transfer) – if it is not generally known or SUPPLIER has otherwise lawfully obtained it or SUPPLIER has been released in writing by CUSTOMER from his obligation. Furthermore SUPPLIER shall treat all confidential information as comprehensively as possible and use this exclusively for the performance of the delivery or service and keep the results or partial results obtained by him through the execution of the order and shall use them exclusively for the performance of the ORDER. The confidential information shall not be used either directly or indirectly for purposes other than the purposes of the contract.
- 13.2 In the event that the contract is terminated, SUPPLIER shall return all confidential information to CUSTOMER or destroy it and delete all electronically stored data. SUPPLIER shall confirm to CUSTOMER, on the latter's request and in writing within a week that he has fulfilled this obligation
- 13.3 SUPPLIER agrees and guarantees that the obligation of confidentiality shall be adhered to the same extent by his employees, any further employees taken on by him, company organs and consultants (like e.g. auditors, lawyers, business or financial consultants), or other third parties that SUPPLIER uses to fulfil his contractual obligations or who have access to the information
- 13.4 The same applies to personal data relating to CUSTOMER or third parties, of which SUPPLIER becomes aware in connection with the business relationship with CUSTOMER. SUPPLIER shall protect all this information and results in particular from access by unauthorised third parties and comply with all other statutory national and international data protection provisions, especially the GDPR. Section 13.3 applies mutatis mutandis.
- 13.5 The obligations of SUPPLIER under Section 13 shall remain in effect even after full fulfilment of the delivery or service by SUPPLIER and after termination of the business relationship with CUSTOMER.
- 13.6 In the event of violation by SUPPLIER of any of the obligations under Section 13, CUSTOMER shall be entitled to demand for each violation a penalty of 5 % of the gross contract amount. CUSTOMER is due the contractual penalty regardless of the fault of SUPPLIER and proof of corresponding damage is not required. Claims for damages by CUSTOMER above and beyond this are not affected even in the case of minor negligence on the part of SUPPLIER.

## 14. Contract period

- 14.1 Unless otherwise agreed, all contractual relationships can be terminated in writing by CUSTOMER and by SUPPLIER without any reasons and subject to a period of one month's notice to the last day of any calendar month. CUSTOMER is entitled to partially terminate the contractual relationship. SUPPLIER is only entitled to such a partial termination if this has been explicitly agreed.

- 14.2 Notwithstanding other good reasons, CUSTOMER is entitled, in particular in the following cases to unilaterally terminate the contract in part or in full and with immediate effect:
- a) If bankruptcy proceedings are applied for or instigated in relation to the assets of SUPPLIER, or if a petition to open insolvency proceedings is denied for lack of assets, or if circumstances exist which would justify the institution of such proceedings or the rejection of such an application, with SUPPLIER being obliged to inform CUSTOMER immediately of a planned insolvency application and/or petition by creditors, sent to SUPPLIER; or
  - b) If SUPPLIER infringes material contractual provisions and continues to do so despite written request within two weeks; or
  - c) if circumstances exist that obviously render the timely performance of the ORDER impossible or
  - d) In the cases mentioned in section 2.5, 7.7, 15.2 or 16.3.
- If it is SUPPLIER's fault that there are reasons for dissolution, he shall compensate CUSTOMER not only for any further claims but also those additional costs incurred by any commissioning of a third party.

- 14.3 The performance or termination of the ORDER does not cancel the obligations that remain in particular by their nature, including warranty, compliance, intellectual property and confidentiality.

#### **15. Transfer of ORDER, assignment of claim**

- 15.1 CUSTOMER is entitled to transfer rights and duties from the contractual relationship with SUPPLIER to an affiliated company under § 189a (8) of the Austrian Commercial Code. No right of termination accrues to SUPPLIER as a result of such transfer.
- 15.2 The full or partial transfer of contracts to third parties by SUPPLIER is not permitted without CUSTOMER's prior written consent and shall entitle the latter to withdraw in full or in part from the contract with immediate effect and demand compensation. The same shall apply if more than 50% of the shares in the SUPPLIER are acquired ("Change of Control"). Assignment of a claim by SUPPLIER is only permitted with CUSTOMER's prior written consent.

#### **16. Compliance, corporate governance**

- 16.1 SUPPLIER shall immediately inform CUSTOMER in writing and at the latest on acceptance of the quote if SUPPLIER or members of his management have been legally convicted within the last five years before ORDER confirmation by a national court of bribing officials and immediately inform in writing if SUPPLIER or members of his management have been accused at any time between ORDER confirmation and acceptance of deliveries/services of SUPPLIER in a national court of bribing of officials. This information is used to meet the requirements of the OECD recommendation for the prevention of bribery in connection with government export guarantees.
- 16.2 SUPPLIER shall comply with the laws of the particular applicable legal system. In particular, he shall neither actively nor passively, directly nor indirectly be involved in any form of corruption, violation of his employees' basic rights or in child labour. He shall be responsible for the health and safety of his employees in the workplace, observe environment protection laws and encourage and require his SUPPLIERS to observe this code of conduct. In particular, SUPPLIER shall also comply with CUSTOMER's compliance standards and confirms that it has established its own compliance system.
- 16.3 If SUPPLIER breaches these obligations, then CUSTOMER is entitled, notwithstanding further claims, to terminate the contract in full or in part with immediate effect. If the breach of contract is capable of remedy, the right to terminate is subject to the proviso that such breach has not been remedied within a reasonable period.

#### **17. Severability clause, jurisdiction, applicable law, miscellaneous**

- 17.1 If any provision of these GTCP or part thereof is found to be invalid or otherwise unenforceable, this shall not affect the validity of the remaining provisions. The invalid provision shall be replaced by a valid provision which comes as close as possible to the intended objective and purpose. The same applies to any loopholes.
- 17.2 Any disputes arising out of or in connection with the existence, the validity, the interpretation, the execution and/or the termination of this GTCP and the legal relationship between SUPPLIER and CUSTOMER shall be subject to the exclusive jurisdiction of the City of Vienna Law Court. CUSTOMER may at his own discretion take action against SUPPLIER before the court having jurisdiction at the place of performance of the obligation of delivery or service.
- 17.3 These GTCP and the legal relationship between SUPPLIER and CUSTOMER shall be governed by Austrian law excluding the application of the United Nations Convention on Contracts for the International Sale of Goods (UN-Sales Convention) and to the exclusion of any conflict of law provisions (IPRG).
- 17.4 All contractual agreements, changes and supplements thereto plus any other agreements or legally-relevant declarations must be in writing to be effective and require signature by CUSTOMER and SUPPLIER, if bilateral. The waiver of the agreement on the written form must also meet these requirements. The form requirement of signature is also satisfied by an e-mail, to which the signed document is attached as a PDF, or in another way, by which the identity of the informant is guaranteed (e.g. electronic signature), or by transfer by fax.
- 17.5 Electronic contractual declarations, other legally-relevant electronic declarations and electronic confirmations of receipt shall be deemed received, when they can be collected by SUPPLIER under normal circumstances. Under this provision, declarations shall be deemed to have met deadlines and be effective on the day that they have been received.
- 17.6 SUPPLIER shall immediately inform CUSTOMER of any changes to his name or his address in writing or electronically (e-mail). If there is no notification of any change, documents are deemed received by SUPPLIER if they have been sent to the last known address for him.