

General Terms and Conditions of Purchase for Goods and for Services and Works

1. CONTENT AND AMENDMENTS

- 1.1 These general conditions of purchase (hereinafter the 'Conditions') apply to all orders placed with any party (hereinafter 'Supplier') by Engineered Solutions Group and/or Engineered Solutions Group AG (hereinafter 'Purchaser'). Differing or additional terms and conditions of the Supplier do not apply, even if the Purchaser has not expressly rejected them and notwithstanding whether the Supplier expressly refers to them (e.g., in order confirmations).
- 1.2 The contractual relationship between the Supplier and the Purchaser (hereinafter the 'Contract') and these Conditions are governed by either USA law or German law. The choice of law is determined in accordance with paragraph 29 below. If German law applies under paragraph 29.1, the provisions of the German Civil Code (BGB) cited in these Conditions apply exclusively to the exclusion of the provisions of the Swiss Law of Obligations (OR) and/or Swiss Civil Code (ZGB) which are also cited herein. If Swiss law applies under paragraph 29.2, the provisions of the Swiss Law of Obligations (OR) and/or Swiss Civil Code (ZGB) cited in these Conditions apply exclusively to the exclusion of the provisions of the German Civil Code (BGB) which are also cited herein.
- 1.3 Supply contracts, orders, agreements, delivery call-offs as well as additions and amendments to the Contract must be made in writing. This applies also to any variation to the aforementioned written form requirement. Delivery call-offs can also be made by electronic data communication. As far as there is a reference to INCOTERMS rules in supply contracts, orders, agreements and/or delivery call-offs and/or such rules will be agreed, then always the latest version of the INCOTERMS shall apply.
- 1.4 If the Supplier does not issue an order confirmation accepting the order within two weeks of the placement of the order, the Purchaser is entitled to withdraw the order and the Supplier has no resulting right to compensation or damages.

2. THE SERVICES

- 2.1 The nature and scope of the goods, services or works (hereinafter the 'Services') are determined by reference to the relevant purchase order. The term Services also covers individual services and works or goods, which are not specified expressly in the order but which, by their nature fall or can otherwise be reasonably regarded as falling within the scope of the Services ordered with a view to ensuring that they are complete and perfectly fit for purpose. Documents, reports, ideas, designs, models, samples and anything else created during or in the context of the provision of the Services (including electronic versions of any of them) form part of those Services.
- 2.2 The Supplier shall provide the Services with the utmost care, with due regard for the latest scientific and technological developments and in compliance with applicable laws and regulations, including safety regulations of applicable authorities as well as trade and professional associations, and with particular regard for any DIN or ISO certification provisions that relate to the Supplier's Services. Furthermore, the Supplier shall provide its Services in conformity with the technical specifications, requirements, regulations and guidelines of the Purchaser and its customers, and in accordance with its own knowledge and expertise, whether pre-existing or acquired during the provision of the Services.
- 2.3 Before starting work on services or an order for works, the Supplier is obliged to obtain all information required to provide the Services, including the prevailing conditions at the place of construction/installation. This applies in particular in relation to data systems and programs which are to be used. The Supplier is obliged to report any concerns regarding the provision of the Services immediately in writing and to suggest any changes it considers necessary, particularly with a view to compliance with the agreed specifications or legal requirements.
- 2.4 At the Purchaser's request, the Supplier shall provide all the necessary information about the nature or scope of the Services to the extent required for compliance with the rules of any authority or other legal or regulatory requirements in any jurisdiction.
- 2.5 The Purchaser has the right to use any software which is part of the scope of the Services, including the relevant software documentation, to the extent permitted by law and required for the proper delivery of the Services in accordance with the Contract. The Purchaser may also make copies without the Supplier's express agreement.
- 2.6 The Purchaser's approval of drawings, calculations and other technical documents does not affect the Supplier's warranty and guarantee obligations (whether of statutory or contractual nature). The same applies also to suggestions and recommendations made by the Purchaser and adopted by the Supplier.
- 2.7 The Purchaser is entitled to make free use of the documents and information sent to it by the Supplier, in the same or modified form, for the further processing and onwards sale of the Services and to make them available to third parties, in particular the Purchaser's customers.
- 2.8 The Purchaser reserves the right to accept over- or under deliveries in individual cases.

3. SECRECY

- 3.1 All commercial or technical information (including information that can be inferred from any items, documents or software provided and any other knowledge or experience) provided by the Purchaser (hereinafter 'Information'), insofar as and for as long as it is not evidently in the public domain, is not to be disclosed to third parties and shall be made available only to those persons/employees within the Supplier's organization and to those subcontractors who need to know it for the purposes of performing the Contract and who are subject to equivalent duties of confidentiality. Without the prior written consent of the Purchaser, Information may not be duplicated or otherwise used, except for the performance of the Contract. The Supplier shall not use any Information for the purposes of imitating the Information or for reverse engineering or otherwise use it outside the scope of the Contract, and shall procure

compliance by any third party. All Information (including any copies or records, where applicable) and items supplied by the Purchaser on a temporary basis must be returned to the Purchaser immediately at its request. The Supplier must return any Information to the Purchaser, without prompting, after completion of the Contract. The Purchaser reserves all rights to Information (including ownership, copyrights and the right to register intellectual property rights such as patents, utility models, semiconductors etc.). The aforementioned reservation also applies for the benefit of all third parties, who have made Information available to the Purchaser.

- 3.2 The Supplier must keep the conclusion of the Contract confidential. It may only name the Purchaser to third parties as a reference or use the business relationship for advertising purposes with the Purchaser's prior written consent.
- 3.3 If the parties have entered into confidentiality arrangements in relation to Services before, such arrangements continue to apply to the Contract, supplemented by the provisions of paragraphs 3.1 and 3.2.

4. DRAWINGS, MODELS AND TOOLS SUPPLIED

- 4.1 Drawings and other documents, devices, models, materials, raw materials, tools and other resources supplied to the Supplier for the provision of the Services shall remain the property of the Purchaser.
- 4.2 They may not be used for any purpose outside the scope of the service provision under the Contract other than those agreed in the Contract (and in particular not for the purposes of service delivery to third parties). The Supplier must at its own expense store them adequately and carefully on behalf of the Purchaser.

5. SPARE PARTS

- 5.1 The Supplier shall ensure that the condition and quality of spare parts it supplies comply with applicable service level requirements from time to time until the expiry of the limitation period for claims. Furthermore, the Supplier shall keep such parts available for immediate delivery for the period for which the services are expected to be used, but at least until the expiry of the limitation period for claims.
- 5.2 The Supplier shall ensure that spare parts can be supplied for at least ten years after a production series has been discontinued and shall maintain the resources required to produce these spare parts for such period.

6. DATA PROTECTION

If the Supplier gains access to personal data, for which the Purchaser is controller, upon conclusion of the contract or in connection with the performance of the contractual services, the Supplier shall ensure compliance with the statutory data protection provisions in particular the obligations arising from the General Data Protection Regulation (GDPR). In particular, the following provisions shall apply, in part in addition to the statutory obligations:

- a) Personal data shall be processed exclusively for the purpose of fulfilling the contractual obligations arising from the Contract ("purpose limitation").
- b) The Supplier shall ensure that its employees only have access to personal data to the extent that is necessary for the performance of contractual obligations arising from the Contract. All employees have been obliged in writing to comply with the applicable data protection regulations. This must be proven to the Purchaser upon request.
- c) The Supplier undertakes to take state of the art technical and organizational measures in order to guarantee and permanently ensure a level of protection for personal data appropriate to the risk. At the request of the Purchaser, the Supplier shall prove that the specified technical and organizational measures have been observed.
- d) A transfer of personal data to third countries is only permitted in compliance with the provisions laid down in Art. 44ff. GDPR.
- e) The Supplier shall delete the data immediately as soon as they are no longer required for the performance of the contract and in accordance with statutory retention periods.

7. TRANSPORT INDUSTRY GUIDELINES

7.1 Packaging, shipping, transport of dangerous goods

The Supplier shall observe applicable laws and regulations as well as the Purchaser's requirements with regard to packaging. Packaging is to be minimized to conserve resources and to be designed for multiple use and made from environmentally friendly and recyclable materials. The packaging materials are to be marked with symbols indicating their substance content.

The Supplier is obliged to attach the necessary shipping documents, delivery notes, waybills, adhesive labels and markings clearly and visibly to the shipment. The order number, material number and place of delivery must be quoted. The same applies to shipments sent directly to third parties (shipments that do not pass-through Purchaser's premises).

When transporting dangerous goods, the declaration, labelling and packaging must comply with the latest edition of national and international regulations (e.g., ADR, RID, IMDG code, IATA-DGR, ADN) and the shipment must be accompanied by the prescribed and duly and properly signed dangerous goods declarations. In particular, the Supplier must ensure that any classification and labelling under EU Regulation No 1272/2008 on classification, labelling and packaging of substances and mixtures (CLP Regulation) or the Swiss Chemicals Regulation (ChemV; SR 813.11) are up to date. Differing or additional regulations of receiving or transit countries must also be observed. The Supplier must send the Purchaser the relevant product information – at least safety data sheets

and transport emergency (TREM) cards – and inform it of the type and quantity of each delivery on confirmation of the order at the latest.
 The Supplier must inform the Purchaser of any changes to the safety data sheets and TREM cards without prompting with such changes appropriately identified.

7.2 Customs and export control provisions

- a) If the Supplier at the request of the Purchaser supplies goods from an EU Member State to a country outside the EU or provides them for immediate collection in such a country, the Supplier must complete the necessary customs declarations as the exporter in its own name and at its own expense unless the Purchaser specifies a different procedure.
- b) Proofs of origin for orders by Engineered Solutions Group: Suppliers which have their registered office in the European Union are obliged to provide a long-term supplier's declaration, or – if that is not possible – a single supplier's declaration under the provisions of Article 61 – 63 of the Implementing Regulation to the Union Customs Code (Regulation (EU) 2015/2447) for all deliveries at the latest by the time of delivery. The electronic form provided by the Purchaser is to be used for this. Suppliers which have their registered office outside the European Union are obliged to issue a certificate of preferential origin (EUR.1, EUR-MED, invoice declaration etc.) under the terms of the relevant preferential trading agreement on request. If the goods in question are not subject to preferential treatment, or if the preferential origin differs from the non-preferential origin, the Supplier is obliged to state the non-preferential origin and -upon request- to provide a certificate of origin certified by the appropriate authority. The specific country of origin must be stated. If the goods originate from federations or groups of countries, the individual country of origin must be stated in each case (for example 'Federal Republic of Germany (European Union)'). The provision of proofs of origin to the Purchaser shall not incur any charge.
- c) Proofs of origin for orders of Engineered Solutions Group: The Supplier is obliged to state the country of origin of all goods supplied on the invoice. The Supplier must also provide suitable proof of the preferential origin of goods subject to preferential treatment in Switzerland (EUR.1, EUR-MED, invoice declaration, supplier declaration for suppliers from Switzerland etc.). The Supplier is also obliged to issue upon request a certificate of origin certified by the appropriate authority or (for suppliers from Switzerland) a certified invoice or declaration of origin under the Swiss VUB-WBF (Verordnung des WBf über die Beglaubigung des nichtpräferenziellen Ursprungs von Waren (Regulation of the Federal Department of Economic Affairs, Education and Research on the Certification of the Non- Preferential Origin of Goods)) for the goods supplied to the Purchaser. The provision of proofs of origin to the Purchaser shall not incur any charge unless specifically agreed otherwise.
- d) The Supplier is obliged to state the net weight and the statistical commodity code under the European Union combined nomenclature, or the HS (Harmonized System) code of every product supplied.
- e) The Supplier is obliged to inform the Purchaser in writing, if items (goods, software or technology) supplied or otherwise provided are subject to export restrictions. This applies in particular with regard to dual-use items under Regulation (EC) 428/2009 or the Swiss Goods Control Ordinance, items on a national list of military equipment (particularly Part I Section A of the Export List – Annex AL to the German Foreign Trade and Payments Regulation) or other products, which are subject to an export or re-export embargo under any regulations or the export of which require authorization, for example under the European Union's embargo regulations, the U.S. Export Administration Regulations (EAR) or the International Traffic in Arms Regulations (ITAR).
- f) The Supplier must ensure that production and transshipment facilities at which the goods destined for the Purchaser are produced, stored, processed, loaded, unloaded and transported, are protected from unauthorized access by third parties as part of a secure supply chain and that the personnel employed are diligent and reliable.

8. DUE DATES AND DEADLINES

- 8.1 Agreed due dates and deadlines are binding. If the Supplier realizes that a due date or deadline cannot be met, it must immediately inform the Purchaser of this in writing, specifying reasonable remedial measures. This does not affect the Supplier's obligation to meet the agreed due date or deadline. Early delivery or provision of services and part-delivery or provision of services require the Purchaser's prior agreement.
- 8.2 The Purchaser has the right to withdraw from the Contract before the date on which the Services are due to be provided, if it is clear that the Supplier shall not deliver or complete them on time, even if the Purchaser grants it a suitable grace period.
- 8.3 The legal consequences of the Supplier 's failure to meet the agreed deadlines are governed by the applicable statutory provisions.
 If, in the event of termination or cancellation (or for the provision of the Services by a third party) documents or items in the Supplier 's possession is needed, the Supplier must immediately provide them to the Purchaser. If any rights of protection prevent performance by a third party, the Supplier is obliged to procure an immediate release from such rights.
- 8.4 If the Supplier fails to meet the deadline for delivery, the Purchaser is entitled, at its absolute discretion and without giving any grace periods, either to demand performance in accordance with the Contract or damages for non-performance or defective performance of the delivery or to withdraw from the contract. In the event of a delay in performance, a contractual penalty equivalent to 0.5% of the Contract value for each week of delay or part thereof, capped at a maximum of 5% of the Contract value, is agreed. If Swiss law is applicable to the Contract under paragraph 29.2, the maximum contractual penalty will be 10% of the Contract value. The contractual penalty for delayed Services will always be collected in addition to performance of the contract. The contractual penalty will be deducted from any claim for damages brought against the Supplier. The Purchaser retains a claim to a contractual penalty even if it withdraws from the Contract or arranges for a third party to provide the Services due after the claim has arisen. The provisions of this

paragraphs are without prejudice to any other rights or remedies the Purchaser may have as a result of the late delivery of the Services.

- 8.5 The unconditional acceptance of delayed Services does not constitute a waiver of the Purchaser's rights and remedies in relation to such delay; this applies until full payment of the final invoice.

9. PAYMENT, OVER OR UNDER DELIVERY

The agreed prices are fixed prices. The prices are free to the point of use, including packaging and freight costs.
 The pricing terms do not affect the agreement regarding the place of performance. The Purchaser is responsible for costs of insurance which shall be payable by the Supplier only if previously agreed in writing.

The prices and payments referred to are exclusive of statutory turnover tax or similar taxes (for example sales taxes, business taxes or stamp duties). If a reverse charge mechanism or a comparable simplification method (by which the recipient of the goods or services is obliged to provide a self-assessment or to deduct the turnover tax or similar taxes) is applicable, invoices shall be issued exclusive of turnover tax or similar taxes with a reference to the reverse charge mechanism or the comparable simplification method.

10. PAYMENT

- 10.1 Payments are made after 30 days unless different payment terms are set out in the Purchaser's purchase orders. The payment period starts to run from receipt of the invoice, however – except in the case of advance payments – not before the Services have been provided in full and without defects (or have been accepted as fit for purpose, whether by express agreement or on the basis of statute) and, where documentation and test certificates are part of the scope of the Services, not before these have been handed over to the Purchaser in accordance with the Contract. If a payment cannot be made on time because of missing or incomplete delivery documents or for lack of complete invoicing and accounts details, the payment period will only start to run once this is remedied.
- 10.2 The Purchaser shall pay agreed advances for Services invoiced in accordance with the provisions of applicable turnover tax laws. Even if advances are paid, the Supplier must list and invoice all of the Services in a final invoice.
- 10.3 Payment of invoices shall not imply any acceptance of Supplier's demands for payment which have not yet been checked.

11. RIGHTS TO THE SERVICES PRODUCED

- 11.1 The Purchaser and all companies in which Engineered Solutions Group has a direct or indirect participating interest of at least 50%, have an exclusive, unrestricted and irrevocable right of use and exploitation of the Services (whether in whole or in part), which is transferrable or sub-licensable and for which no additional consideration shall be due to the Supplier.
- 11.2 The following conditions are agreed with regards to intellectual property rights included in or resulting from the Services:
 - a) The Purchaser has a preferential right to acquire and register intellectual property rights in relation to all inventions made by the Supplier or its employees alone or together with employees of the Purchaser in the context of the Services. The Supplier shall ensure that the Purchaser is able to exercise its preferential right, by offering it the opportunity to acquire, free of charge, all inventions of which the Supplier becomes aware in connection with the Services, in writing, within two months of the Supplier becoming aware of the invention in question. If the Purchaser is not interested in applying for sole intellectual property rights in its own name, the Parties shall either agree to apply jointly or the Purchaser shall agree in writing to an application for sole intellectual property rights by the Supplier.
 - b) If the Supplier applies for sole intellectual property rights itself, or uses intellectual property rights which it held or acquired independently of the Services before the award of the order for the Services, the Supplier hereby grants the Purchaser and all companies in which Engineered Solutions Group has a direct or indirect participating interest of at least 50%, a non-exclusive, irrevocable, transferrable, sub-licensable right, unlimited as to time, place and content, to use the Services and the intellectual property included in them for any purpose it wishes, free of charge, and in particular the right to reproduce, distribute, share, amend and process them.
 - c) The Supplier is solely responsible for the payment of its employees in accordance with the Employee Inventions (Payment) Act or similar laws.
 - d) If the Services are subcontracted, the Supplier shall ensure that the Purchaser and all companies in which Engineered Solutions Group has a direct or indirect participating interest of at least 50%, shall continue to benefit from the rights set out in this paragraph 11.2 in relation to any subcontractor.

12. ASSIGNMENT OF CLAIMS

Claims of the Supplier against the Purchaser may only be assigned to or exercised by third parties with the Purchaser's prior written consent, such consent not to be unreasonably withheld.

13. RETENTION OF TITLE AND TRANSFER OF RISK

- 13.1 The Purchaser rejects all retention of title provisions that extend beyond simple retention of title. Any such retention of title must be agreed in advance in writing in each particular case. Purchaser has a claim against the Supplier for all damages, expenses or losses incurred as a result of any claims for ownership or co-ownership rights or liens made, or enforcement measures taken against it by any subcontractors.



13.2 In contracts for the purchase of goods, the risk of accidental loss or deterioration of the goods passes to the Purchaser in accordance with the agreed INCOTERMS, and if no INCOTERMS are agreed, on orderly and complete delivery at the specified place of performance; in contracts for works, the risk passes to the Purchaser on acceptance.

14. GROUP SET-OFF CLAUSE

The Purchaser is entitled to set off any claims (which Purchaser or a company owns in which Engineered Solutions Group has a direct or indirect participating interest of at least 50%), whether or not due for payment, against the Supplier, and against any claims of the Supplier against the Purchaser or any of the aforementioned companies. The Supplier agrees that all securities provided by the Supplier for the benefit of the Purchaser shall also be deemed to secure any claims of the aforementioned companies against the Supplier. Conversely, all securities provided by the Supplier for the benefit of these companies will also be used to secure the claims of the Purchaser against the Supplier – irrespective of the legal grounds for the claims.

15. QUALITY AND DOCUMENTATION

15.1 Changes to the nature and scope of the Services require the prior written consent of the Purchaser.

15.2 The Supplier must test the quality of the Services continuously and keep written records of such tests. If the Supplier and the Purchaser have not agreed the type and extent of the tests and the equipment and methods to be used, the Purchaser is prepared, at the Supplier's request and within the scope of the Purchaser's knowledge, experience and capabilities, to discuss the tests with the Supplier in order to determine the appropriate technological level required to perform the tests. The Purchaser can also inform the Supplier about the relevant safety regulations if requested to do so.

15.3 The Supplier must keep the test documentation for ten years after delivery and send it to the Purchaser immediately upon request. The Supplier must impose the same obligations on sub-contractors insofar as is legally possible.

15.4 If authorities which are responsible for the safety of installations or ships, for emissions regulations and for the certification of pressure vessels etc., ask to see the Purchaser's production process and test documentation in order to check compliance with certain requirements, the Supplier shall, at the Purchaser's request, grant such authorities the same rights of information and inspection as accrue to the Purchaser in relation to the Supplier's production and to give them all the assistance that can reasonably be required.

15.5 The Supplier must establish and maintain a documented quality, environmental and occupational safety management system of a suitable type and size, which is based on the latest technology. The Supplier must comply with the latest state of the art, applicable safety regulations and agreed technical specifications for the Services.

15.6 The Supplier hereby gives its permission for the Purchaser, or a party commissioned by it, to carry out quality audits to assess the effectiveness of the Supplier's quality assurance system; these audits may involve the Purchaser's customers where appropriate.

15.7 The Supplier is obliged to enter into a quality assurance agreement with the Purchaser at the latter's request.

15.8 The Supplier shall notify the Purchaser immediately of defects identified or incidents involving any of its products that belong to the scope of the Services.

16. WORK IN THE PLANT / PREMISES AND ON THE PURCHASER'S CONSTRUCTION AND INSTALLATION SITES / OTHER SERVICES AND WORKS

16.1 Preparatory services

Before starting construction or installation work, the Supplier must inspect the foundations, connections, marking out and other relevant conditions of the installation site to ensure that its Services can be provided without defects.

16.2 Responsibility, qualifications, replacement of staff

The presence of the Purchaser's installation manager at the installation site does not release the Supplier from its responsibility for the work to be performed by it. The Supplier must appoint an experienced, expert installation manager for the installation site and provide him with the necessary powers and authority. The Purchaser must be informed immediately of any plans to replace the installation manager. The Supplier shall ensure that the staff employed for the work on the Purchaser's premises are suitably qualified. The Purchaser is entitled to require the Supplier to replace staff, particularly if it has legitimate doubts about whether they have the required experience or qualifications, or if they do not comply with work or environmental regulations. The Supplier undertakes to replace such staff immediately with qualified personnel.

16.3 Third party agreements

Direct agreements and agreements between the Supplier, the Purchaser's customer and third parties on matters related to the Contract have no binding effect on the Purchaser unless it has given its consent.

16.4 Coordination of the Services

Where required for the proper performance of the Services or if requested by the Purchaser, the Supplier is obliged to coordinate the provision of its Services with the Purchaser and its other suppliers at the place of performance. The parties shall act in good faith and care shall be taken to preserve the interests of all of the parties. The Purchaser is entitled to demand the right for itself or third parties to use the Supplier's scaffolding, equipment etc. in return for reasonable compensation/payment.

16.5 Occupational safety, environmental protection, fire safety

a) The work to be carried out on the Purchaser's plant/construction site must be agreed in good time with the Purchaser's responsible technical staff. The Supplier must also in good time come to an agreement with the person designated by the Purchaser about the existing and potential risks associated with the work and the measures required to deal with them. Before starting work, the Supplier must carry out a risk

assessment, which must be sent to the person designated by the Purchaser in good time. The Supplier shall ensure that its staff note and comply precisely with the occupational safety and environmental protection regulations and local provisions (for example plant regulations) in force at the place where the Services are to be provided. The Supplier shall release and indemnify the Purchaser from all claims resulting from failure to comply with such regulations and provisions. The Supplier must appoint a safety officer for the duration of the work.

b) Accidents (industrial accidents, environmental accidents, fires and explosions) must be reported immediately to the Purchaser's safety personnel. Immediate damage limitation measures must also be taken in agreement with the Purchaser's safety personnel.

c) In good time before starting work, the Supplier must notify the person designated by the Purchaser of any materials, substances or mixtures of the same it intends to bring onto the Purchaser's site for the work. The latest safety data sheet or information sheet required for each material, substance or mixture of the same must be presented. This information must be incorporated into the risk assessment report. Materials, substances or mixtures may be left on the Purchaser's site on completion of the work only with the Purchaser's consent.

d) The Supplier is obliged to minimize waste production and to properly dispose of any waste resulting from the materials it brings onto the site. The Supplier shall procure compliance by its subcontractors with the aforementioned obligation. The Purchaser's waste remains on its site and will be disposed of by it unless the parties have agreed otherwise.

e) The Supplier is obliged to comply with all fire protection provisions which apply at the place of performance. It must report to the Purchaser's safety staff (for example the occupational safety department or plant/site fire service) and coordinate with them the fire protection measures required. If work on or near installations at risk from fire and/or explosion (such as oil containers, gas supply equipment, cabling etc.) which entails that a fire hazard cannot be avoided, such work shall not be undertaken without the approval of the Purchaser's safety staff. This also applies to all hot works, such as welding, cutting, grinding etc.

16.6 Supplier's staff

The Supplier must submit a list of all of the people (hereinafter referred to as 'Staff') it intends to deploy on the plant/construction site to the Purchaser. The Staff list must be kept up to date. The Supplier must demonstrate to the Purchaser, at its request, that all Staff have prescribed statutory social insurance cover and are paid the statutory minimum wage; see also paragraph 24. The Supplier is obliged to observe and comply with all of the statutory regulations in force at the time of provision of its Services at the place of construction, particularly when employing foreign workers. It must instruct Staff accordingly. It releases and indemnifies the Purchaser from any damages or losses incurred as a result of failure to comply with this paragraph 16.6. The Supplier requires the Purchaser's prior written consent for any subcontractors it wishes to use for work on the plant/construction site, such consent not to be unreasonably withheld. The Purchaser has the right to deny the Supplier or its subcontractor's access to the plant/construction site if there is a risk to operational safety or on other reasonable grounds.

16.7 Conduct at the place of performance, objects brought on site

The Supplier must ensure that its employees and subcontractors follow the Purchaser's instructions for the preservation of order and safety and submit to the usual checks at the place of performance.

All items brought onto the Purchaser's plant/construction site are subject to control and checks by the Purchaser. The Supplier must label objects it wishes to bring onto the plant/construction site clearly with its name and company logo. Before delivery and removal, the Purchaser's installation manager must be given a list of these objects such list to be signed and kept by him.

The Purchaser is not liable for theft and damage to objects brought onto the plant/construction site by the Supplier. The Supplier must not put up any signs on the construction site.

16.8 Acceptance of works

16.8.1 The following applies to the acceptance of the Supplier's Services:

A formal acceptance procedure must be carried out. The parties must prepare a report of this formal acceptance which records any complaints made by the Purchaser, in particular work not yet completed and claimed defects.

The above provision is without prejudice to the application of § 640 sub-section 2 sentence 1 of the German Civil Code when German law applies to the Contract.

16.8.2 The parties agree that any Services of the Supplier have a more than an 'insignificant defect' ('unwesentlicher Mangel') within the meaning of § 640 sub-section 2 sentence 2 of the German Civil Code (BGB) or 'insignificant' ('unerheblich') material defect within the meaning of Article 197 of the Law of Obligations (OR), until the following original documents, in particular, have been handed over to the Purchaser:

- all test and acceptance certificates required for the use and commissioning of the Supplier's Services,
- inventory documentation to be produced by the Supplier under the terms of the Contract,
- the list of all subcontractors used by the Supplier and their subcontractors, where agreed,
- user manuals and operating and maintenance instructions, where required for the use of the Services provided by the Supplier, and
- all official approval and acceptance documentation to be obtained and provided by the Supplier.

16.8.3 Unless a diverging deadline is agreed in the acceptance protocol, the Supplier must carry out all the work outstanding at the time of acceptance of the Services and remove all remaining defects immediately after acceptance.

17. DEFECT-RELATED RIGHTS AND REMEDIES UNDER PURCHASE CONTRACTS AND CONTRACTS FOR WORKS

17.1 Scope of the defect-related rights

The Supplier is obliged to provide the Services free of defects. In particular, they must have the agreed characteristics and the features and qualities guaranteed by the Supplier and must be fit for purpose, based on the latest technology, compliant with the relevant laws and provisions of authorities and trade and professional associations and must be free of defects. Where the Supplier knows the destination country of the Services, it must comply with that country's laws and regulations.

17.2 Individual claims for defects

a) Claims for defects under a purchase contract

The Purchaser has the right to require subsequent performance by repair or replacement as it so chooses and to compensation for damages and losses in accordance with the statutory provisions. The Supplier must also bear the cost of subsequent performance, including the cost of installation and removal, testing and transport to the appropriate location for subsequent performance. If the subsequent performance does not take place within a reasonable time limit set by the Purchaser, if the subsequent performance fails or if a time limit is unnecessary, the Purchaser may cancel the Contract or reduce the payment. In addition, the Purchaser shall be entitled to compensation for damages or losses and the repayment of unnecessary expenses under applicable statute. This does not affect any guarantee claims the Purchaser may have over and above its statutory rights. If the Purchaser's assistance is requested to correct the defects and if the Purchaser agrees to provide such assistance, the Supplier shall pay the Purchaser for any costs and expenses incurred, including internal costs at its normal hourly rates. The Supplier retains sole responsibility for correcting the defects notwithstanding the Purchaser's involvement in remedial works.

b) Claims for defects under a contract for works

The Purchaser has the statutory claims for correction of defects. Paragraph 17.2 a) sentence 6 applies accordingly.

17.3 Remedial work by the Purchaser

a) Remedial work by the Purchaser under a contract for works

If the Supplier has not complied with the request for subsequent performance within a reasonable period of time, or the subsequent performance has failed, the Purchaser can take any measures required to correct the defect itself, at the Supplier's expense, unless the Supplier is legally justified in refusing subsequent performance. All costs and expenses arising as a result of this, for example for installation and removal, tests and transport to the location shall be borne by the Supplier. The Purchaser is entitled to an advance payment from the Supplier for the necessary cost of correcting the defect. In case of urgently required remedial work (and provided that the Supplier is responsible for such remedial work), particularly where there is a risk of more significant loss or damage, the Purchaser can also correct the defect itself, without setting a time limit for the Supplier's remediation, if it the urgency at hand means that even a short time limit for subsequent performance is not tenable.

b) Self-remedy under a purchase contract

The statutory provisions for self-remedy under a contract for works under a) apply accordingly to self-remedy under a purchase contract.

17.4 Duty to inspect and give notice of defects

Where there is a statutory obligation to inspect and give notice of defects, the following applies:

a) On delivery:

The Purchaser shall carry out the following checks on receipt of the goods:

- identification on the basis of the packaging units,
- external check for visible transport damage,
- estimation of the amount delivered,
- spot checks,
- checking delivery of agreed test certificates, and
- spot checks against the values and data set out in the test certificates.

The Purchaser shall notify the Supplier in writing of defects identified by these checks within two weeks of receiving the goods.

If the Purchaser and Supplier have a quality assurance agreement, the on-receipt check is limited to checking the delivery note and checking for transport damage.

b) Hidden defects:

The Purchaser shall notify the Supplier in writing of any hidden defects discovered during the normal course of business within two weeks of their discovery.

17.5 Limitation period for claims for defects

The limitation period for claims for defects is 36 months, unless a longer limitation period is provided by law. The limitation period begins on completion of the service provision or, if formal acceptance is agreed or prescribed by law, on such acceptance. Should subsequent performance or remedial work be required, the limitation period will begin again at completion and acceptance of any such subsequent performance or remedial work by the Supplier.

17.6 Limitation period for suspended operation

If components cannot be used as contractually agreed because of a suspension of operation caused by defects, the limitation period for the defective parts will be extended by the duration of any such suspension.

18. LIABILITY

18.1 General liability

The Supplier's liability is governed by the applicable law.

18.2 Product liability

The Supplier indemnifies the Purchaser and holds it harmless from and against all non-contractual product liability claims which are attributable to a defect in the Services. The Supplier shall be similarly liable for any loss or damage to the Purchaser incurred as a result of precautionary reasonable (both in nature and extent) measures taken to prevent or minimise claims for non-contractual product liability (for example public warnings or product recalls). This does not affect the Purchaser's rights and remedies to make its own claim for damages against the Supplier.

18.3 Liability for environmental damage

The Supplier is liable for all loss or damage to the Purchaser or third parties as a result of breaches of environmental protection laws and regulations by the Supplier or its agents. It indemnifies the Purchaser and holds it harmless from and against all claims of third parties against the Purchaser in the event of such a breach.

18.4 Insurance

a) The Supplier undertakes to insure itself adequately against all of its risk exposures relating to the Contract. It shall disclose to the Purchaser its insurance cover on request.

b) The Supplier is obliged, to take out public/third party liability insurance (including cover for processing damage and damage to goods in its care, extended product liability and recall cost liability insurance) with a sum insured of at least €5 million per incident for personal/material and financial loss or damage. It shall maintain such insurance continuously for the duration of the contractual relationship and shall provide the Purchaser evidence of such insurance if requested to do so.

c) The Supplier shall take out transport insurance for its Services in accordance with the assumption of risk under the agreed INCOTERMS, if shipping is required.

d) If the Suppliers' Services include construction/installation works, it shall take out erection all risks Insurance and construction works insurance to cover these; this must be maintained in full until the acceptance of the Services and include an extension of cover for Extended Maintenance and Visit Maintenance damage for the agreed limitation period for claims for defects.

e) In the event of a claim, the Purchaser and the Supplier are obliged to inform each other of all the circumstances and events connected with the claim.

f) If the Supplier changes its insurer, it must provide the Purchaser with evidence of the new insurance immediately and without prompting.

g) All insurance policies taken out by the Supplier take precedence over comparable insurance policies of the Purchaser.

19. WITHDRAWAL / TERMINATION

19.1 In addition to its other legal withdrawal and termination rights and entitlements, the Purchaser can withdraw from / terminate all or part of the Contract if

- the Supplier's financial situation deteriorates substantially,
- and/or the Supplier suspends payment,
- and/or the performance of the Contract is disrupted after the Supplier has submitted an application for insolvency proceedings,
- and/or the performance of the Contract is disrupted after insolvency proceedings are instituted against the Supplier's assets or are not instituted due to a lack of assets,
- and in any other cases which provides good cause.

In these cases, the Purchaser has the right to demand that the Supplier releases all of the Purchaser's assets and documents. The Purchaser also has the right to demand that the Supplier provides or releases some or all of the Services, whether or not completed, in respect of which termination/withdrawal has not been declared, in return for a pro rata payment; the Supplier is obliged to release these to the Purchaser immediately and to validly transfer any ownership rights to the Purchaser. The Supplier has no claims for damages nor any additional claims for payment against the Purchaser in such circumstances.

19.2 If the Purchaser uses its right to terminate or withdraw, the relevant installations or parts thereof shall remain at the disposal of the Purchaser (or its end customer), free of charge, until an adequate replacement has been provided. The cost of dismantling and removing parts of the installation shall be borne by the Supplier.

20. INTELLECTUAL PROPERTY RIGHTS OF THIRD PARTIES

20.1 The Supplier shall ensure that the contractual use of the Services by the Purchaser does not infringe copyrights, patents or other intellectual property rights of third parties.

20.2 The Supplier indemnifies the Purchaser and holds it harmless from and against claims made against it for infringement of a domestic intellectual property right. This applies to claims for damages only insofar as they are due to default by the Supplier.

20.3 The Supplier indemnifies the Purchaser and holds it harmless from and against claims made against it for infringement of a foreign intellectual property right, if it was aware of the relevant use in the country in question. This applies to claims for damages only insofar as they are due to default by the Supplier.

20.4 License fees, expenses or costs incurred by the Purchaser as described in paragraph 20 incurred in order to avoid or remedy intellectual property right infringements, must be borne by the Supplier, if they are caused by its failure to ensure that the Purchaser has the rights required for its contractual use of the Services. However, in the event of a claim, the Purchaser shall not make any agreements with the proprietor of the intellectual property rights at the Supplier's expense, without involving the Supplier.

21. SUBCONTRACTING

The Supplier may only subcontract the provision of Services or substantial parts thereof to third parties with the Purchaser's prior written consent, such consent not to be unreasonably withheld.

22. ACCESS TO PRODUCTION SITES

The Purchaser has the right to access the Supplier's production sites in relation to orders executed individually according to the Purchaser's specifications, after agreeing an appointment with the Supplier, and to be assigned a suitable contact person for queries related specifically to the order in question. The Supplier undertakes to obtain the consent of its suppliers, so as to enable the Purchaser to also exercise this right on such suppliers' premises.

23. COMPLIANCE AND CODE OF CONDUCT FOR SUPPLIERS AND BUSINESS PARTNERS'

23.1 The Supplier undertakes to act in accordance with all relevant laws at all times and, in particular, to comply with all the rules of fair competition. The Supplier undertakes expressly, and gives its assurance, that neither it, its staff nor others contracted by it will commit prohibited acts or incite third parties to commit such acts or assist them in doing so. These prohibited acts include, in particular, offering, granting, demanding or accepting unlawful or illegitimate payments, gifts or other benefits for itself or for a third party.

23.2 The Supplier confirms that it has been given a copy of the 'ESG Code of Conduct for Suppliers and Business Partners' and/or acknowledges that it can consult it at https://www.esg-systems.com/docs/default-source/compliance/code-of-conduct-for-suppliers-and-business-partners.pdf?sfvrsn=83402c3f_24.

The Supplier undertakes to respect and comply with the principles laid down in the 'ESG Code of Conduct for Suppliers and Business Partners' when performing its work. If it uses third parties for the performance of its work, it undertakes to provide them with a copy of the 'ESG Code of Conduct for Suppliers and Business Partners' and to ensure their compliance with it.

23.3 If the Supplier breaches its obligations under paragraphs 23.1 and 23.2, the Purchaser shall have the right of extraordinary termination ('außerordentliches Kündigungsrecht') of the Contract.

23.4 If the contractual relationship with the Supplier or a business relationship connected with the Supplier's work becomes the subject of an official investigation or inquiry, the Supplier shall be obliged, at the Purchaser's request, to provide a person bound by professional duties of confidentiality and nominated by the Purchaser with all of the information relevant to the proceedings or the investigation, and to grant that person access to all of the documents and records that are relevant to it. The person nominated by the Purchaser is entitled to disclose to it any information, documents and records in connection with the official investigation or inquiry which may be relevant to enable an assessment of the Supplier's continued reliability for the purposes of the contractual relationship. The Purchaser and the person nominated by it shall comply with the relevant data protection regulations.

24. MINIMUM WAGE

a) Insofar as the regulations of the USA and German Minimum Wage Act (MiLoG) apply, the Supplier undertakes to provide the following warranties and indemnities or reimbursement for the benefit of the Purchaser, in connection with, and for the duration of, the business relationship (it being agreed that the burden of proof that the MiLoG does not apply remains with the Supplier).

b) The Supplier warrants that it complies with all of its obligations under the provisions of the MiLoG. These obligations include payment of the minimum wage to its employees on the due date for payment and the keeping of records of hours worked etc. The Supplier also warrants that it uses only subcontractors and temporary work agencies (and only to the extent such use is not prohibited under the conditions of the order) who have given a written undertaking to comply with the provisions of the MiLoG and any associated obligations.

c) The Supplier undertakes to indemnify the Purchaser and hold it harmless from and against all claims and demands of third parties at the first written demand. This applies to those claims and demands that are the result of an alleged infringement by the Supplier or one of its subcontractors of obligations under the MiLoG. This includes claims and demands (i) of the Supplier's own employees and/or (ii) of employees of the Supplier's subcontractors and (iii) of employees of any temporary work agencies. The Purchaser's indemnity and reimbursement claim in respect of the Supplier also covers claims by any authorities, such as fines and costs incurred as a result of penalties issued by such authorities and the costs of the associated legal proceedings.

25. REACH

25.1 The REACH Regulation (Regulation (EC) No 1907/2006) concerning the Registration, Evaluation, Authorization and Restriction of Chemicals, lays down registration, reporting and information obligations and contains substance restrictions and prohibitions. The Supplier is obliged to be familiar with the latest version of this regulation and, where applicable, to comply with it promptly when fulfilling its obligations under the Contract.

a) If the Supplier has its registered office within the EEA, the relevant obligations of the REACH regulation apply in their entirety. The Purchaser refers the Supplier in particular to the obligations regarding information about SVHC substances in products (Article 33, Candidate List and Annex XIV REACH), a prohibition on substances subject to authorization in the Purchaser's products and compliance with substance restrictions (Article 55 – 66, Annexes XIV and XVII REACH).

b) If the Supplier has its registered office outside the EEA, the obligations regarding information about SVHC substances in products (Article 33, Candidate List and Annex XIV REACH), a prohibition on substances subject to authorization in the Purchaser's products and compliance with substance restrictions (Article 55 – 66, Annexes XIV and XVII REACH) nevertheless apply. If a substance or mixture that falls within the scope of REACH is imported, the Supplier shall be responsible for compliance with all obligations and all costs connected with such import.

25.2 Safety Data Sheets conforming to REACH Annex II must be provided for substances and mixtures under Article 31 of REACH; these must be provided first on confirmation of the order and then, immediately and without prompting, each time a Safety Data Sheet is amended, stating the Purchaser's order number and item code and the account allocation information (where available) in an official language of the recipient country. For substances and mixtures that do not require a Safety Data Sheet under Article 32 of REACH, an information sheet in an official language of the recipient country must be included with the delivery; the information sheet must be based on the template Safety Data Sheet in Annex II of REACH.

25.3 If the provisions of the REACH Regulation require changes to products, the Supplier must inform the Purchaser immediately so that any substance substitutions which are required can be produced promptly. The relevant information must be sent to the mailbox: info@esg-systems.com. The REACH forms which can be found at <https://www.esg-systems.com/documentation> are to be used for communication.

26. SUSTAINABILITY REPORTING

The Supplier must provide the Purchaser, at its request, with data and information for sustainability calculations (for example lifecycle analyses, carbon footprint, environmental profiles) for its Services and transport routes in a format which can be specified by the Purchaser.

27. INVALIDITY

If a provision of these Terms and Conditions or any other agreements made should be held or declared to be illegal, invalid or unenforceable, this shall not affect the validity of the remaining provisions. The parties agree to replace any invalid provision by one or more valid and enforceable provisions, which are as close as possible to the economic intent of the original provision.

28. PLACE OF PERFORMANCE

The place of performance for Services is the place of use specified in the order; for payments it is the Purchaser's registered office.

29. JURISDICTION / APPLICABLE LAW

29.1 If the Purchaser is Engineered Solutions Group and the Supplier has its registered office in the Federal Republic of Germany, the following shall apply regarding choice of law and jurisdiction:

The place of jurisdiction is Mülheim an der Ruhr, Germany. However, the Purchaser may at its absolute discretion choose to bring a legal action against the Supplier at its place of general jurisdiction.

The applicable law is the law of the Federal Republic of Germany. The rules on conflict-of-law (private international law) and the United Nations Convention on Contracts for the International Sale of Goods of 11 April 1980 (UN Sales Convention, CISG) do not apply.

29.2 If the Purchaser is ESG engineered Solutions Group or the Supplier has its registered office outside the Federal Republic of Germany, the following shall apply regarding choice of law and jurisdiction:

All disputes arising from, or in connection with, the Contract shall be exclusively decided finally by an arbitration tribunal in accordance with the arbitration rules of the International Chamber of Commerce (ICC). The place of arbitration is Colorado, USA. The tribunal shall consist of three arbitrators. The language of the arbitration proceedings is English. The Emergency Arbitrator Provisions and Expedited Procedure Provisions do not apply. The parties shall treat the arbitration procedure as confidential. The same applies to information and documents that are made available to them for the purposes of such a procedure or are otherwise connected with it.

The law of United States applies. The rules on conflict-of-law (private international law) and the United Nations Convention on Contracts for the International Sale of Goods of 11 April 1980 (UN Sales Convention, CISG) are not applicable.

30. ORDER OF PRECEDENCE OF THE DOCUMENTS

These Terms and Conditions contain the provisions generally applicable to every contract that falls within their scope. In the event of conflicts, they shall apply in the following order:

- the individual contract,
- the Terms and Conditions,
- the provisions of the (other) annexes to the individual contract.