



# General Terms and Conditions for Sales and Deliveries ('GTC').

These GTC apply to provision of Supplies by Iskraemeco, merjenje in upravljanje energije, d.d., Kranj and/or its Affiliates ('Supplier') to its Customers, whether they are referred to in the Contract or not.



## 1. Definitions

- 1.1 'Affiliate' shall mean any corporation, company, or other entity that directly or indirectly controls, is controlled by, or is under common control with the Supplier. 'Control' shall mean exercising, directly or indirectly, the power to direct or cause the direction of the management and policies of a corporation, company, or other entity, whether (i) through the ownership of more than fifty (50) percent of the voting rights in a company or other legal entity, (ii) by contract, or (iii) otherwise.
- 1.2 'Contract' shall mean the terms and conditions agreed upon between the parties in writing as constituted collectively by present GTC, special terms and conditions agreed between the parties, specifications, drawings, and the terms and conditions contained therein, which shall be deemed to be incorporated in the Contract entered into between the parties.
- 1.3 'Customer' shall mean the natural person or legal entity with whom Supplier has entered into the Contract for the provision of Supplies.
- 1.4 'Date of Delivery' shall mean the date of delivery confirmed by the Supplier.
- 1.5 'Delivery' shall mean delivery by the Supplier according to the terms and conditions of the Contract on or before the Date of Delivery.
- 1.6 'INCOTERMS' shall mean the trade terms of the International Chamber of Commerce.
- 1.7 'Software License Agreement' shall mean the Supplier's special terms and conditions that apply to provision of software, in the version valid at the time of the provision of software to the Customer.
- 1.8 'Supplies' shall mean the products and services supplied by the Supplier being the machinery, plant, equipment, apparatus, materials, software, labour, and service to be provided for the assignment to be performed as specified in the Contract.

## 2. General Provisions

- 2.1 By placing an order with the Supplier for the provision of Supplies, the Customer unreservedly accepts these GTC and expressly renounces its own general terms and conditions of purchase, or any other pre-existing document or communication relating to the order which is not formalised by a written agreement signed by the two parties.
- 2.2 The Supplier reserves the right to change, at any time, the GTC which will apply to any new commercial offer or order confirmation.
- 2.3 The GTC also apply in the case of supplemental or different Customer terms and conditions, even if there is no special reference to the GTC, or if they are not enclosed in a particular transaction. Furthermore, the terms or conditions of the Customer, if they are in conflict with, supplement, or deviate from the present GTC, do not become part of the Contract, unless the Supplier gives written explicit consent to them.
- 2.4 Any waiver of the present Terms and Conditions should also be set forth in writing. Rights beyond the scope of the present Terms and Conditions, to which the Supplier is entitled to under statutory provisions, remain unaffected.
- 2.5 The Supplier may transfer, accede, or assign all its rights and obligations from the Contract with the Customer to a third party, and by concluding this Contract the Customer gives its consent to any such accession or assignment. The Customer shall not be entitled to transfer, accede, or assign any of its rights and obligations in terms hereof without the prior written agreement with the Supplier.



- 2.6 The Supplier retains all rights to designs, drawings, and technical documents. The Customer acknowledges these rights and shall not make such designs, drawings, and documents available to any third party, either in whole or in part, nor use them for any purposes other than the agreed purposes without prior written authorisation by the Supplier.
- 2.7 With respect to provision of software, except if inextricably embedded in the products (firmware), these GTC apply only insofar as they are not in conflict with Software License Agreement.
- 2.8 Services in any form, including but not limited to consulting, trainings, technical support, and maintenance, are not included in the offer if not expressly agreed. All prices for services are 'remote,' in case of onsite provision of services all additional expenses, i.e. accommodation, travel, and other expenses, will be charged as per the real cost.
- 2.9 The Customer has a duty to cooperate and provide timely access to relevant data, systems, premises, etc., as well as all agreed items (e.g., SIM cards, labels, etc.) that the Supplier would need to successfully provide Supplies.
- 2.10 If the Supplier acts as a distributor, the main responsibilities and liabilities remain with the manufacturer, and the manufacturer's warranty applies.

### **3. Orders – Conclusion of Contract**

- 3.1 All of the Supplier's offers are non-binding unless it is explicitly stated therein to be binding. All orders are subject to the Supplier's confirmation. All of the Customer's Orders are binding.
- 3.2 Order Confirmation is subject to a clear and clean Customer order, availability, and confirmation of all technical data, documents, commercial conditions, availability of required materials and components, as well as the overall situation on relevant markets.
- 3.3 The Contract is concluded with full application of these GTC in a version valid at the time of confirmation of the order. If the content of the order confirmation differs from the Customer's order, the Customer should object to it within three (3) working days, otherwise the Contract is deemed to be concluded as confirmed, with full Customer's authorisation.
- 3.4 If the Supplier accepts any order from the Customer that may contain any provisions that are inconsistent with or aim to vary or reject any of these GTC, the terms and conditions of these GTC shall prevail, unless and to the extent only that the Supplier expressly agreed in writing to any variation thereof.

### **4. Drawings and Product Specifications**

- 4.1 If the Contract concerns delivery of the items that are subject to technological change, the Supplier shall deliver the Supplies according to the most recent technological sheet, subject to amendment from time to time. If the Customer is interested exclusively in the type ordered and such type may not deviate from it under any circumstances, the Customer should explicitly advise so to the Supplier when presenting the Order at the latest.
- 4.2 Unless expressly stated otherwise, all descriptive and shipping specifications, drawings, dimensions, and weights submitted with the offer are approximate only. In any event, descriptions, illustrations, and data contained in catalogues, price lists, and other advertising material are intended only to present a general idea of the work described therein and none of these shall form part of the Contract.



- 4.3 All drawings, specifications, other oral and written information, samples, and the like provided by the Supplier shall remain the property and are the copyright of the Supplier, and shall be regarded as confidential and shall not be disclosed to any third party except with the prior written consent of the Supplier.
- 4.4 The Customer shall be responsible for and bear the cost of any alteration to the Supplies arising from any discrepancy, error, or omission in any drawings, specification, or other information supplied or approved by the Customer.

## 5. Representations and Warranties

- 5.1 The Supplier warrants that all delivered Supplies shall be new, unused, and shall conform to regulations, standards, and technical specifications that are applicable in Slovenia. The Supplies are intended solely for the specified purpose.
- 5.2 The Customer must examine the Supplies in eight (8) days upon delivery; hidden defects must be reported to the Supplier without undue delay. The Customer is obliged to send the Supplies with full documentation applicable at its own cost to the Supplier for examination of defects. Any failure from the Customer's side to timely examine and report defects shall be deemed as full acceptance of Supplies and waiver of right to claim any defects, including hidden defects.
- 5.3 The warranty shall be twelve (12) months from the date of manufacturing. Any replacement or repair does not affect the warranty period in any way whatsoever.
- 5.4 The warranty includes repair or replacement of defective Supplies or any part/s thereof or issuance of credit note only, provided the defect is caused solely by the Supplier and the Supplies are returned to the Supplier for examination within the warranty period and are upon examination and to the Supplier's satisfaction demonstrated to be defective (confirmed by Return Material Authorisation note). The defective Supplies or defective part/s thereof shall be replaced, repaired, or credited as a sole remedy, at the Supplier's discretion. The removal of the defective part and the installation of any repaired or replacement part shall be performed by the Customer at his own expense. In the case of replacement or issuance of credit note, the defective Supplies or part/s thereof become the ownership of the Supplier, without any compensation to the Customer.
- 5.5 In the case of a malfunctioning component, the Supplier's total warranty and liability is limited to the type of remedy, compensation, and validity provided for in the warranty given by a supplier of such component. Any potential Customer's right to rescind or terminate the Contract is excluded.
- 5.6 The Supplier will not recall the Supplies due to unusually large number of similar defects or malfunctions, disregarding the volume of defected Supplies or similarity of such malfunctions, not even if there is a proven systematic error. Each individual Supply shall be inspected and tested individually. The Supplier will not acknowledge any request to replace all or substantial number of the same products due to 'generic defect,' 'epidemic defect,' etc., without identified such a defect in every single product.
- 5.7 The Supplier makes no warranty or representations in the following cases:
- The Customer fails to report the defect in writing within eight (8) days of the alleged defect occurring or has failed to fulfil any of its obligations in terms of the Contract;
  - The defects were not solely caused by the Supplier,
  - Deviations from specifications are unsubstantial or a defect only insignificantly impairs the use of such Supply;



- Any modifications of the Supplies by the Customer, the Customer's customers or end-users, or if any of the official seals or warranty numbers have been tampered without previous written approval from the Supplier;
  - In the case of any repair or alteration performed by the Customer or any third person, even if only attempted and not finished, and even if successful, unless it was performed with explicit written approval by the Supplier;
  - If the defect is caused by fair wear and tear, accident, or force majeure, improper use, wilful damage, negligent or improper handling, unusual physical or electronic stress, excessive strain, abuse, misuse, neglect, use of unsuitable appurtenance, improper installation or packaging, if the assembly was not performed by the Supplier;
  - If the Supply was not properly handled and used according to its purpose and applicable laws and regulations, or has not been operated and maintained in accordance with instructions issued by Supplier;
- 5.8 The onus of proving that the warranty conditions have been complied with shall rest on the Customer.
- 5.9 The warranty does not cover any cost of testing, removing, shipment from Customer to the Supplier and back, any installation costs or costs of downloading any software. At the Supplier's request, the Customer must send the presumably defective Supplies to the place dedicated by the Supplier, at the Customer's own risks and costs.
- 5.10 Any information about the Supplies distributed by the Supplier, either in brochures, catalogues, data sheets, advertising materials, specifications and descriptions, and other technical supply conditions, certificates, and other documents, constitute no warranty as to the quality, state, and durability of the Supplies. Samples of the goods distributed by the Supplier are test samples only and do not constitute a warranty of the quality and state of the Supplies, without explicit written agreement.
- 5.11 All costs. i.e. of testing, inspecting, and analysis, logistics, and handling the returned Supplies, shall be charged to the Customer, if no defect is found, and proportionally, if only part of the defect is established.
- 5.12 SAVE TO THE EXTENT THAT IT HAS DONE SO EXPRESSLY AND SPECIFICALLY, IN RESPONSE TO AN INDICATION FROM THE CUSTOMER AS TO THE SPECIFIC INTENDED USE OF THE SUPPLIES, THE SUPPLIER DOES NOT MAKE ANY REPRESENTATIONS NOR GIVE ANY WARRANTY OR GUARANTEE OF ANY NATURE WHATSOEVER IN RESPECT OF THE SUPPLIES, INCLUDING ANY WARRANTY THAT THE SUPPLIES ARE FIT FOR A PARTICULAR PURPOSE. THE CUSTOMER WARRANTS THAT IT HAS USED ITS OWN EXPERTISE AND KNOWLEDGE IN SELECTING THE RELEVANT SUPPLIES FOR PURCHASE AND ASSESSING THEIR FITNESS FOR THE CUSTOMER'S REQUIRED PURPOSE, AND THAT TO THE FULL EXTENT PERMITTED BY LAW HAS NOT RELIED ON ANY STATEMENT OR REPRESENTATION MADE BY SUPPLIER OTHER THAN AS SET OUT IN THE CONTRACT.
- 5.13 THE WARRANTIES GIVEN UNDER THIS CLAUSE ARE THE SOLE AND EXCLUSIVE WARRANTIES GIVEN BY SUPPLIER. TO THE FULLEST EXTENT PERMITTED BY LAW, AND EXCEPT AS SET OUT IN THE CONTRACT, ALL WARRANTIES AND CONDITIONS, WHETHER EXPRESS, IMPLIED, OR VERBAL, STATUTORY OR OTHERWISE, WHETHER ARISING UNDER THE CONTRACT OR AT LAW, ARE EXCLUDED INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT, AND FITNESS FOR PURPOSE.



## 6. Prices and Terms of Payment

- 6.1 The relevant prices are the prices on the confirmation of the order. All prices are net and therefore include all deductions and are valid ex works (EXW) Incoterms and exclude packaging, freight, insurance, customs, VAT, and other applicable taxes or fees.
- 6.2 Statutory taxes and fees, including VAT shall be added at the then applicable rate. Any additional costs, such as costs of certificates or any authorisation documents, shall be borne by the Customer; the latter shall upon the Supplier's request pay the abovementioned costs to the Supplier in advance.
- 6.3 The Supplier reserves his rights to change prices without notice in the following cases (after Confirmation of the Order or submission to the tender and before actual delivery):
- Subsequent modifications or changes on the Supplies, or place, time, or manner of delivery that are made upon Customer's request;
  - The delivery is extended and the reason is not on the Supplier's side, or at least part of the reason is not on the Supplier's side;
  - The Customer supplied to the Supplier incomplete documents, did not supply agreed items needed for production of goods on time or provided deficient information that was required;
  - If these GTC do not apply exclusively and conditions of the Contract may cause rise in the Supplier's costs.
  - In case of a) fluctuations of applicable foreign exchange rate and / or b) increase of production costs between the time of order and time of delivery.
- 6.4 Additional costs, which may be incurred as a result of variations or delay resulting from acts or omissions of the Customer, his agent, or contractor for whom the Customer is responsible, shall be borne by the Customer.
- 6.5 All bank charges and commission shall be borne by the Customer.
- 6.6 The invoice shall be issued at the moment of dispatch from the Supplier's premises (products), at the moment of completion of services (confirmed in any form) or at the moment of provision of software. All invoices should be paid 30 days from invoice date, unless otherwise agreed upon in writing. If dispatch is delayed by instructions or lack of instructions from the Customer, then the invoice shall be issued when the Supplies will be ready for Delivery.
- 6.7 Payment must be made to the Supplier's bank account, without any delays or deductions whatsoever. Payment shall be considered effectuated at the moment when the Supplier has the full amount at his unlimited disposal.
- 6.8 If the Customer is in delay of payment, the Supplier is expressly allowed by the Customer to suspend the performance of the order until full payment and shall claim, without prejudice to any other remedy or claim, a default interest in the amount of 5% (five percent) over the legal default interests valid in the Republic of Slovenia, but not exceeding maximum permitted by the law. The Supplier may at any moment, until payment of all due amounts, default interests included, rescind the Contract for default and claim full damages.
- 6.9 If any claim of initiation of insolvency procedure or suspension of payment, all claims by the Supplier fall due immediately, including any ancillary claims and damage compensation claims. The Customer is obligated to inform the Supplier of any such deed in advance, and if this is not possible, immediately upon such deed. Any omission of this obligation shall cause liability of the Customer for all damages thus caused.



- 6.10 The Supplier is entitled to count payments from the Customer towards the Customer's oldest debt first. If any costs or interests have already accrued, the payment shall be counted first to the costs, then to the interests and finally to the principal claim.
- 6.11 Counterclaims of the Customer can be offset only if they have been confirmed with the final (unappealable) court decision or are undisputed and offset is expressly agreed by the Supplier. The same applies for claims of the right of retention, which must be based on the same contractual relation.
- 6.12 The Customer shall be liable to and shall reimburse the Supplier for all costs, including attorney and client costs, incurred by the Supplier in the collection of any outstanding payments, and further hereby indemnifies and holds the Supplier harmless of any loss or damage sustained in or by reason of the collection of the said outstanding payments.

## 7. Delivery

- 7.1 Any agreement on delivery terms or period must be made explicitly in writing, otherwise they are not binding. Any delivery term shall start to run with the dispatch of the Confirmation of the Order, but in any case, only after all required documents, drawings, permits, licenses, releases, and agreed items (e.g., SIM cards, labels) are submitted or obtained by the Customer, all open technical and commercial issues are fully clarified, and the agreed advance payment is paid etc., whichever of above conditions is the latest.
- 7.2 The agreed term shall be treated as approximate only and shall be observed if the Customer fulfils all its obligations properly and in a timely manner, and under the condition that all of the Supplier's subcontractors deliver in a timely manner and properly.
- 7.3 The terms of delivery shall be extended at least for the period of delay in the following cases:
- If approvals, permits, documentations, information, advance payment, payment securities, etc. are not received on time and/or if the Customer or his customer (third party) has not fulfilled any of the agreed obligations;
  - If there are any unpaid open claims against the Customer, arising from contractual relation, damage compensation, or other;
  - Delay in supply of material or any supplies by the Supplier's suppliers, as well as delays caused by any industrial actions.
- 7.4 The terms of delivery are met when the Supplier notifies the Customer that he is ready to perform or performance or installation has started, or when the Supplier notifies the Customer that the Supplies are ready for acceptance.
- 7.5 In the case of late delivery that is solely caused by the Supplier (without observation of the other provisions of this article), the Customer shall not charge any penalties or raise damage claims for the first two (2) months. If the Customer claims any damages and Supplies are delivered in sufficient time, all such claims for damages shall cease with immediate and retroactive effect. The Customer is not entitled to terminate the Contract or the Order in case of late delivery. In no event shall the penalty for delivery exceed 0.1% per complete week of delay and exceed 3% of the contract price in aggregate. Such a payment shall be in full satisfaction of any loss suffered by the Customer due to such delay and shall be in lieu (a substitute) of any other right the customer may have against Supplier arising out of or in connection with the delay in delivery.
- 7.6 The Supplier reserves the right to make partial deliveries of Supplies and to separately invoice the same.



- 7.7 Supplies successfully passing the tests, even if showing minor defects, may not be rejected and their acceptance cannot be delayed by the Customer.
- 7.8 Unless explicitly agreed otherwise, the Supplies are supplied EXW INCOTERMS.
- 7.9 Unless explicitly agreed otherwise, Supplies will be packed in accordance with Supplier's standards and always for the cost of the Customer's account.
- 7.10 Software is made available on any suitable medium and/or by electronic means by sending the Customer all needed information for exercising the rights granted to it in terms of the Contract.

## 8. Passing of Risk

- 8.1 The risk for the Supply shall pass over to the Customer with the dispatch of the Supplies from the Supplier's premises (EXW Incoterms). The Supplier will, upon request and in full advance payment of costs, organise the shipment and insure the Supplies for usual risks during the transportation; should no specific instructions be given, the Supplier shall choose the carrier and the itinerary, being liable only for wilful misconduct or gross negligence, and in any event limited to the extent of insurance for usual risks as defined by applied Incoterms.
- 8.2 The delay of passing of the risk for any reason that is not solely on the Supplier's side or any delay in acceptance shall cause automatic passing of the risk on the first day of delay. From the onset of delay, the Supplier will, at the Customer's costs and risks, store the Supplies. The Supplier may organise insurance of the Supplies for the ordinary risks on behalf of the Customer and on his costs, if so requested by the Customer. The Customer will be entitled to Supplies only against full payment of all related costs and expenses.

## 9. General and Product Liability

- 9.1 All claims of the Customer against the Supplier, any of his officers, directors, employees, agents, shareholders, subcontractors, and any other person with whom the Supplier performs his operations, shall be excluded to the maximum permitted by applicable law. This exclusion includes, but is not limited to any direct, indirect, and consequential damages, loss of profit, revenue, interest, or goodwill production, loss or corruption of data, and loss or interruption of the Customer's business, even if the Supplier has been especially advised by the Customer of the possibility of any kind of damage.
- 9.2 The Supplier shall be, notwithstanding other provisions of present GTC, liable only in case of mandatory liability, for instance in case of wilful misconduct or gross negligence, loss of life, bodily injury, damage to health, or general product liability.
- 9.3 In any case, however, total liability of the Supplier for all causes combined, including but not limited to damages, loss, costs, and any potential contractual penalties agreed with the Customer, shall be limited to a compensation of maximum amount of 10% (ten percent) of all turnovers from this Customer in the last twelve (12) months and shall be in any case subject to final decision rendered by competent court.
- 9.4 The Customer may not remove or modify any warnings about the risks resulting from improper use of Supplies and shall – if this interdiction is violated – hold the Supplier harmless from all product liability claims raised by third parties.





- 9.5 The Customer shall inform the Supplier without undue delay of any risk with using the Supplies and potential product defects that could result with the product warning or product recall. If a product defect of the Supplies causes the product recall or issuance of the product warning by the Supplier, the Customer is obliged to assist the Supplier and shall follow all Supplier's orders and instructions, which the Customer can reasonably be expected to perform. The Customer shall cover the costs and damages resulting from such product defect to the extent of Customer's responsibility for such defect and damages.

## 10. Retention of Title

- 10.1. Title to the Supplies shall remain vested in the Supplier until all claims the Supplier has against the Customer that arise from business relationship, are fully settled. However, even in such case, risk passes to the Customer as per section 8. The Customer is obliged to handle the Supplies that are under retention of title with due care, sufficiently insured against all possible risks for their full replacement value and with claims of such insurance assigned to the Supplier. The Supplier hereby accepts any such assignment, and if assignment is not permissible, the Customer is obliged to instruct the insurer to make all payments directly to the Supplier. The Supplier's right for other claims shall remain unaffected. Upon the Supplier's request, the Customer shall provide the evidence of the conclusion of insurance policy.
- 10.2 The Customer may not, during the retention-of-title, pledge the Supplies, assign them as security or collateral, or make any other disposition which could jeopardise the Supplier's rights, apart from selling the Supplies to the Customer's customers in the regular course of business. The Customer is obliged to protect on his costs the Supplies with retention-of-title and inform the Supplier of any threat against the retention.
- 10.3 If the Customer sells the Supplies, which are subject to the retention-of-title, he assigns to the Supplier all claims against Customer's customers, including all ancillary rights, and the Supplier already now accepts such assignment. If the assignment is not permissible, the Customer is obliged to instruct the customer to make all payments directly to the Supplier. The Customer is hereby authorised to collect all due payments regarding the Supply with retention-of-title on behalf of the Supplier, such authorisation being subject to recall at any time.
- 10.4 In the case of delay in payments or initiation of any insolvency procedures against the Customer, the Supplier may revoke all authorisations and shall notify Customer's customers of the assignment. The Customer is obliged to disclose all information necessary for collection of debts and to inform the debtors of the assignment. The Supplier is also entitled to rescind the Contract, whereupon the Customer is obliged to surrender all Supplies still in Customer's possession.
- 10.5 If the Supplies under retention of title are processed, combined, or mixed with other goods that are not owned by the Supplier, then the Supplier acquires co-ownership of the new item in proportion of the value of the Supply to the value of other goods at the time of processing.
- 10.6 The retention of title does not authorise the Customer to rescind the Contract or return the goods instead of settling the Supplier's claims.
- 10.7 The Supplier reserves the right to demand an irrevocable and unconditional letter of credit acceptable by European Union bank as payment before Delivery is made, or may at any time request the Customer to deliver a security of payment acceptable to the Supplier in the amount of 25% (twenty-five percent) over the value of Supplies, until all Supplier's claims are fully settled.



## 11. Intellectual property

- 11.1 Customer acknowledges and agrees that the Supplies are protected by national and international intellectual property laws and treaties, as well as trade secret laws. The Customer commits to undertake every reasonable precaution to protect the Supplies from any unsolicited use and promptly inform the Supplier of any such use.
- 11.2 All of the Supplier's intellectual property rights are reserved, and the Supplier and its licensors own and shall remain to own all rights, titles, and interest in and to their intellectual property rights.
- 11.3 All copyright and other proprietary notices placed on the Supplies by the Supplier shall be maintained by the Customer. Unless otherwise provided for in the Contract, the Customer is not permitted to affix its distinctive signs in any way whatsoever on, and/or in, the Supplies.
- 11.4 The present GTC grant no rights or license to use the software – even if the software constitutes part of the Supplies – and other intellectual property or know-how in any manner and for any purpose, apart from the rights granted in writing in License Agreement. Exception is the non-transferable, non-exclusive right to use the software inextricably linked to products exclusively within these products and for the purpose the products are intended, subject to strict adherence to these GTC and conditions of commercial offer or order confirmation.
- 11.5 The Customer commits that it will not itself, nor permit any person or entity to: decompile, "unlock," reverse-engineer, disassemble, modify, or otherwise use or sublicense the software and/or software documentation, including translating the object code versions of the Software Programs to human-perceivable form, as well as create derivative works, except as permitted by applicable law which cannot be waived.
- 11.6 The Supplier's designs and drawings shall not be reproduced or disclosed without the Supplier's written consent. The Customer shall not copy or allow others to copy the Supplies or drawings, or any part thereof supplied by the Supplier. All copies shall be returned or destroyed upon request without undue delay, disregarding the media they are on.
- 11.7 The Supplies are based on industry-recognised standards (some of which are in the process of being developed and finalised) and certain third parties claim to own intellectual property rights necessary to implement such standards. The Customer acknowledges and agrees that the Supplier does not convey a license to any such third-party patents or copyrights, and that the Customer is solely responsible for any royalties charged by, or intellectual property claims from, such third parties that relate to the Customer's use and distribution of the Supplies, as far as third party's intellectual property relates to standards.
- 11.8 The Supplier shall have the whole and exclusive right, in its discretion, to bring any claim, suit, threat, or demand against any third party, as well as sole control of the defence and settlement infringement claims with regard to its proprietary right to and in the Supplies.
- 11.9 The Customer shall, upon the Supplier's request, use reasonable effort to provide the Supplier with information and assistance that the Supplier may reasonably require for the purpose of investigating and defending such infringement claims.
- 11.10 The Supplier will not be obligated to defend or be liable for costs and damages to the extent that infringement, or a claim thereof, arises out of or is related to a modification made to the Supplies by the Customer or a third party made in violation of the Contract.
- 11.11 In the event of any claim or claims in respect of an infringement of any intellectual property rights, relating to any part of the Supplies supplied by the Supplier (other than a part based on a design specified by the Customer), the Supplier will in its complete discretion and at its expense either replace or modify such part with a non-infringing part or procure for the Customer the right to



use such a part provided that Supplier is given the full opportunity to conduct all negotiations in respect of such claim and such claim shall not be accepted by the Customer without prior written consent of the Supplier. Should none of these measures be reasonably feasible, the Supplier could unilaterally decide to cancel the license granted for one or more potentially infringing software and reimburse the Customer the price, excluding taxes paid by the Customer for the license concerned, during the six (6) months preceding the Customer's notification of such a claim.

- 11.12 The Customer shall act in accordance with the reasonable instructions of the Supplier, offer all reasonable assistance with negotiations or litigation and take such steps as the Supplier may reasonably require to mitigate or reduce any loss, damages, costs, or expenses. The Customer warrants that any design or instructions furnished or given by him shall not cause the Supplier to infringe any intellectual property rights.
- 11.13 The Customer shall have no claim of whatsoever nature against the Supplier arising out of or flowing from any damages suffered by the Customer or its customers:
- If such a claim would be a result of any intellectual property right relating to any of the Supplies sold, being infringed, cancelled, voided, breached, or otherwise set aside or declared invalid;
  - If the Customer has been informed by Supplier that alternations or modifications are required to avoid such claim and the customer has not undertaken any such activity in due time;
  - If any alteration or modifications was made to the Supplies without the Supplier's approval;
  - If the Customer used the Supplies in combination with any equipment, products, processes, or materials if the infringement in question would have been avoided without such use;
  - If the use of the Supplies differed from the use directed or approved by the Supplier in writing or otherwise, or was conducted in any manner not contemplated by the Contract;
  - If the Customer breached any of the terms of the Contract or any negligence, wilful misconduct, or fraudulent act, or omission was made by the Customer; or
  - If Supplier used or his actions were compliant with, any designs, specifications materials, information, or instructions provided by the Customer or any third party.
- 11.14 In the event of a claim arising as a result of any of the actions or omissions listed in previous clause, the Customer must indemnify the Supplier against all costs, claims, losses, damages, demands, and expenses (including all legal costs, fees and expenses) arising directly or indirectly out of any claims referred to in this section.
- 11.15 To the fullest extent allowed by law, the provisions of clause 11.11 are the Customer's sole and exclusive remedy for any infringement, or claim of any infringement, referred to in this section.

## 12. Confidentiality and Data Protection

- 12.1 During the term of this agreement and for the period of five years thereafter, the Party receiving Confidential Information as defined hereinafter (Receiving Party) shall maintain all the Confidential Information in confidence, and shall not disclose, divulge, or otherwise communicate such Confidential Information to others, or use it for any purpose, except pursuant to, and in order to carry out, the terms and objectives of this agreement. The Confidential Information shall mean any information provided to Receiving Party by the Disclosing Party. The Receiving Party hereby shall exercise every reasonable precaution to prevent and restrain the unauthorised disclosure of such Confidential Information by any of its directors, officers, employees, consultants, subcontractors, or agents. Upon termination of this agreement, each party shall return to the



other, upon demand, all Confidential Information in its possession or, upon demand, to destroy such Confidential Information and provide a certificate to the other of such destruction.

- 12.2 The provisions of previous paragraph shall not apply to any Confidential Information disclosed hereunder that:
- a. is lawfully disclosed to the Receiving Party by an independent, unaffiliated person rightfully in possession of the Confidential Information and under no confidentiality or fiduciary obligation not to make disclosure;
  - b. becomes published or generally known to the public through no fault or omission on the part of the Receiving Party;
  - c. is developed independently by the Receiving Party without access to the Confidential Information of the party disclosing the Confidential Information (Disclosing Party);
  - d. the Receiving Party is legally compelled to disclose.
- 12.3 The Customer shall comply with all applicable requirements of the General Data Protection Regulation (Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 'GDPR') and of applicable legislation. Insofar as the Customer will be processing personal data received on the basis of the Contract, the Customer shall do so only to the extent needed to fulfil the Customer's rights and obligations under the Contract.

## 13. Force Majeure

- 13.1 If the event of force majeure prevents the Supplier from performing his contractual duty, including the delivery of Supplies, the Supplier is released from his duty to perform for the duration of impediment without being liable for damages. The same applies if the Supplier cannot perform due to unforeseeable events on which the Supplier has no influence, such as industrial actions, official acts, energy shortage, and significant disruption in suppliers' chain or of operations.
- 13.2 If the impediments continue for more than six (6) months, the Supplier is entitled to rescind the Contract. After such period and upon request of the Customer, the Supplier shall declare whether it will rescind the Contract or not.

## 14. Final provisions

- 14.1 The Supplier may use personnel and resources in locations worldwide, including third party contractors to support the provision of the Supplies.
- 14.2 A Contract may be terminated, varied, or suspended only by notice in writing and only if the Supplier accepts such notice in writing. In the event of such cancellation, variation or suspension the Customer shall compensate the Supplier for any costs or loss incurred including but not limited to the loss of profit. The Supplier may terminate the Contract or and order at any time by giving 1 (one) month prior written notice to the Customer.
- 14.3 Notwithstanding anything herein contained, should the Customer breach any of the terms and conditions of the Contract (whether material or not) and fail to remedy such breach within 10 days of dispatch of written notice requiring it to do so, or should a provisional order of sequestration or liquidation, or should default judgment be obtained against the Customer, the Supplier shall have the right, notwithstanding any previous waiver, to claim payment of the full balance then owing by the Customer or to cancel the Contract, retain all monies paid, take possession of all Supplies delivered without prejudice to any claim for damages.



- 14.4 If the Customer dies or commits an act of bankruptcy; or takes or shall have taken against it any action for the winding up of the company or the placing of the company under official management or receivership other than for purposes of reconstruction or if a receiver, manager, controller, liquidator, administrator, mortgagee in possession or similar officer is appointed over part or all of the Customer's assets:
- 14.5 Then the Supplier, at its option and without prejudice to any other rights it may have under the Contract or in law, shall give notice in writing to the Customer and after fourteen (14) days from such notice may, unless otherwise provided by law,
- terminate the Contract or suspend manufacture or Delivery of any Supplies then outstanding;
  - retain any security given or moneys paid by the Customer and apply this against the assessed loss and damages incurred by the Supplier in the performance of the Contract.
- 14.6 The Customer warrants that at all times it will fulfil its obligations set out in the Contract in strict compliance with all applicable laws and regulations, including for environment, health, and safety, as well as export control.
- 14.7 The Customer hereby agrees to adhere to Supplier's Code of Business Ethics available at [link](#) and principles of the UN Global Compact, in versions valid at the time of the confirmation of the order, and undertakes to comply, as well as to ensure, when applicable, that each entity of the group it belongs to complies, with such provisions. The Customer warrants that it has not directly or indirectly paid any commission, fees, 'kickbacks' or granted any rebates to the Customer's customers, the Supplier's officers or employees or any other third party, or made any gifts, entertainment or any other non-monetary favours or other arrangements.
- 14.8 In case of any breach of this clause 14, the Contract shall be deemed null and void. The Customer shall in such case indemnify and hold harmless Supplier from and against all claims, loss, or damage arising in connection with the Customer's breach of its obligations under previous clause.
- 14.9 If not explicitly provided differently by the parties in writing or if not defined in present GTC, INCOTERMS shall apply directly, in version valid at the time of the confirmation of the order.
- 14.10 If any of the provisions of the present GTC prove to be unenforceable or null and void or if it becomes invalid, this does not affect the validity of the agreement between the parties or the present GTC. Any such provision shall be deemed replaced with other provision that is as close to the purpose of the invalid provision as possible.
- 14.11 All agreements between the parties shall be governed by laws of the Republic of Slovenia or when the Contract is concluded with the Affiliate, the national laws under which the Affiliates are incorporated, excluding the United Nations Convention on the Contracts for the International Sale of Goods (CISG).
- 14.12 The place of jurisdiction for all disputes arising from the business relationship between the Supplier and Customer shall be Ljubljana, Slovenia, or when the Contract is concluded with the Affiliate, the statutory seat of the Affiliate. The Supplier is additionally entitled to bring an action at the statutory seat of the Customer, as well as at any other permissible place of jurisdiction.
- 14.13 This GTC are valid from 1 June 2022.



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