

**General Terms and Conditions for the Purchase of Goods and Services**  
**Evotec Group**

**1 Scope of Application.**

The following General Terms and Conditions (“GTCs”) shall govern all orders placed by Evotec SE and/or its US Affiliates (each of them, individually, the “Purchaser”) for the purchase of Goods and the provision of Services. These GTCs form an integral part of any agreement entered into by the Purchaser and the supplier of Goods or Services (the “Supplier”), except if and to the extent otherwise expressly agreed to in writing by the Purchaser and the Supplier.

**2 Definitions.**

- 2.1 “Affiliate” shall mean any person or entity which, now or hereafter, directly or indirectly, controls, is controlled by, or is under common control with a party; and for such purpose the term “control” shall mean the legal power to direct or cause the direction of the general management or business affairs of such entity whether through the ownership of more than fifty percent (50%) of the voting interest, by contract or otherwise.
- 2.2 “Agreement” means the agreement between Supplier and Purchaser for the purchase of Goods and/or Services, consisting of the Purchase Order, these GTC’s, any documents specified in writing in the Purchase Order, and to the extent applicable, any existing framework supply agreement for such Goods or Services entered into between the parties.
- 2.3 “Deliverable” means the Goods and the Services, including any deliverable or other product or result from Services and any related materials, data, and documentation and includes any Intellectual Property Rights developed by Supplier pursuant to the Agreement, which these GTCs are referring to.
- 2.4 “Delivery Date” means the date of delivery for Goods or the date the Deliverables arising from performance of the Services should be provided, as specified in the Purchase Order or as otherwise agreed in writing by the parties.
- 2.5 “Delivery Location” means the location identified by Purchaser in the Purchase Order to which the Supplier is to deliver Goods and/or any Deliverables arising from the Services, or such other delivery area or point which is specified in writing by Purchaser.
- 2.6 “Goods” means the goods that are required to be delivered by Supplier pursuant to the Agreement, and includes all materials, component parts, packaging and labelling of such goods. Goods include, but it is not limited to, consumables or raw materials or capital equipment or software.
- 2.7 “Harmful Code” means any software intentionally designed to (i) disrupt, disable, harm, or impede operation; or (ii) impair operation based on the lapse of time, including but not limited to viruses, worms, time bombs, time locks, drop-dead devices, access codes, security keys, back doors, or trap door devices.
- 2.8 “Intellectual Property Rights” means any and all tangible and intangible: (i) copyrights and other rights associated with works of authorship throughout the world including, but not limited to, copyrights and moral rights, and all derivative works thereof; (ii) trademark and trade name rights and similar rights; (iii) trade secret rights; (iv) patents, designs, algorithms, utility models, and other industrial property rights, and all improvements thereto; (v) all other intellectual and industrial property rights (of every kind and nature throughout the world and however designated) whether arising by operation of law, contract, license, or otherwise; and (vi) all registrations, applications, renewals, extensions, continuations, divisions, or reissues thereof now or hereafter in force (including any rights in any of the foregoing).
- 2.9 “Purchase Order” shall mean any written order for the purchase of Goods or Services issued by Purchaser to Supplier to which these GTCs are attached or are

incorporated by reference.

- 2.10 “Services” means any services to be provided by Supplier to Purchaser pursuant to the Agreement.
- 2.11 “Specifications” means the requirements, attributes and specifications for the Goods or Services that are set out in the Purchase Order (including any exhibit or appendix hereto). Specifications also include: (a) documentation published by Supplier relating to the Goods or Services; (b) operational and technical features and functionality of the Goods or Services; (c) standards or levels of service performance for Services; and (d) Purchaser business requirements that are expressly set out in the Purchase Order.
- 2.12 “Supplier Proposal” means any acknowledgement, estimate, quote, offer to sell, invoice, or proposal of Supplier relating to the supply of Goods and/or Services to Purchaser, including any delivered in connection with a request for quotations, request for proposal or similar process initiated by Purchaser.
- 2.13 “Warranty Period” means in respect of any Goods or Services, the longer of: (i) the express written warranty period provided by Supplier for the Goods or Services; and (ii) the period commencing on the date of Acceptance of such Goods or Services and ending on the date that is one (1) year from that date.

**3 General.**

- 3.1 Supplier has read and understood these GTCs and hereby agrees that upon Supplier’s written acceptance of a Purchase Order or with the start of its performance on a Purchase Order, Supplier shall be legally bound to these GTCs. These GTCs shall also apply to all future business and contracts with the Supplier.
- 3.2 The Supplier also acknowledges our [Code of Conduct for Suppliers](#) as binding.

**4 Purchase Orders.**

- 4.1 The Agreement consists only of: (a) these GTCs; (b) the applicable Purchase Order; (c) any Specifications or other documents expressly referenced in the Purchase Order; and, if applicable, (d) any existing framework supply agreement for such Goods or Services. Any reference in the Purchase Order to any Supplier Proposal is solely for the purpose of incorporating the descriptions and Specifications of the Goods and/or Services contained in the Supplier Proposal, and only to the extent that the terms of the Supplier Proposal do not conflict with the descriptions and Specifications set out in the Purchase Order. Purchaser’s acceptance of, or payment for, Goods and/or Services will not constitute Purchaser’s acceptance of any additional or different terms in any Supplier Proposal, unless otherwise accepted in writing by Purchaser. If there is any conflict or inconsistency between the documents constituting the Agreement, then unless otherwise expressly provided, the documents will rank in the order of precedence in accordance with the order in which they are listed in this Section 4.1.
- 4.2 All correspondence must quote the Purchaser’s Purchase Order number.
- 4.3 Within one (1) week of Supplier’s receipt of a Purchase Order, Supplier shall submit acceptance of such Purchase Order in writing. In any event, any act taken by Supplier for the fulfillment of a Purchase Order will constitute acceptance of such Purchase Order. In the event that Supplier does not submit acceptance in writing or does not start performance on the Purchase Order within one (1) week following Supplier’s receipt of the Purchase Order, the Purchaser shall be entitled but not obliged, to revoke such Purchase Order without giving rise to any claims against the Purchaser by Supplier.

4.4 If the Supplier accepts a Purchaser's Purchase Order by e-mail, acceptance shall be deemed to take place and a valid contract formed when Supplier's e-mail is received by the Purchaser's e-mail system. For the avoidance of doubt, the absence of signatures on behalf of the Supplier and the Purchaser on the Purchase Order issued by the Purchaser shall not affect the validity of the Agreement formed by e-mail in accordance with the sentence above.

## **5 Delivery and Delay.**

- 5.1 Supplier agrees to supply and deliver the Goods to Purchaser and to perform the Services, as applicable, on the terms of the Agreement.
- 5.2 Supplier shall, at its own expense, pack, load, ship, and deliver Goods to the Delivery Location in accordance with the invoicing, delivery terms, shipping, packing, and other instructions printed on the face of the Purchase Order or such additional instructions provided to Supplier by Purchaser in writing. No charges will be allowed for freight, transportation, insurance, shipping, storage, handling, demurrage, cartage, packaging or similar charges unless provided for in the Purchase Order or otherwise agreed to in writing by Purchaser.
- 5.3 Deliveries of Goods must be pre-announced two (2) days in advance by e-mail to local logistics team if at a size equal of a palette load or above. Palletes or truck loads may be refused if no such delivery notification has been made in time.
- 5.4 International deliveries shall be subject to DDP under INCOTERMS, latest version. International deliveries are all of those where the Goods come from outside the country of origin of the order, unless Supplier has no presence in delivered country or subcontractor, subject to clause 13, to act instead, in which case Deliveries shall be subject to DAP.
- 5.5 Time is of the essence with respect to delivery of the Goods and performance of Services. Goods shall be delivered and Services performed by the applicable Delivery Date. If Supplier fails to deliver the Goods in full on the Delivery Date, Purchaser may terminate this Agreement immediately by providing written notice to Supplier and Supplier shall indemnify Purchaser against any losses, claims, damages, and reasonable costs and expenses directly attributable to Supplier's failure to deliver the Goods on the Delivery Date.
- 5.6 Title and risk of loss or damage shall pass to Purchaser upon receipt of Goods at the Delivery Location, unless otherwise agreed to by the Purchaser in writing, provided that the risk in any Goods rejected by the Purchaser under Clause 7 shall revert to the Supplier immediately upon notice being given by the Purchaser of such rejection. Purchaser has no obligation to obtain insurance while Goods are in transit from Supplier to the Delivery Location.
- 5.7 The Supplier shall ensure that each delivery is accompanied by a delivery note which is prominently displayed and which shows the Purchase Order number, date of order, number of packages and contents and in the case of part delivery the outstanding balance remaining to be delivered. In the case of Services, the Supplier shall ensure that a statement of work has been reviewed and signed by the Purchaser to confirm the progress and/or completion of the pre-agreed Deliverables within the Purchase Order.
- 5.8 For multi package consignments, a Packing List is mandatory evidencing package marks, measurements, weights and detailed content of each packing unit.
- 5.9 Any packings must be in accordance to its transportation by truck, courier service or airfreight to its final destination. Clear shipping marks and labeling as per applicable dangerous goods regulations, current versions must be secured.
- 5.10 Supplier shall follow all instructions of Purchaser and cooperate with Purchaser's customs broker as directed by Purchaser (including by providing requested shipping documentation) with respect to all Goods that originate

from sources or Suppliers based outside the country of origin of the order.

- 5.11 On request, Supplier must provide proof of delivery to Purchaser.

## **6 Hazardous Materials/Legal Compliance/Workplace Safety.**

- 6.1 Supplier agrees to provide, upon and as requested by Purchaser, to satisfy any applicable laws governing the use, handling, storage and shipping of any substances either of the following: (a) all reasonably necessary documentation to verify the material composition, on a substance by substance basis, including quantity used of each substance, of any Goods, and/or of any process used to make, assemble, use, maintain or repair any Goods; or (b) all reasonably necessary documentation to verify that any Goods and/or any process used to make, assemble, use, maintain or repair any Goods, do not contain, and the Services do not require the use of, any particular hazardous substances specified by Purchaser.
- 6.2 Supplier shall take measures to ascertain whether their Goods contain conflict minerals (tin, tantalum, tungsten or gold) that originated in the Democratic Republic of the Congo or an adjoining country, and upon an affirmative finding, shall provide immediate notice to Purchaser.
- 6.3 In carrying out its obligations under the Agreement, including the performance of Services, Supplier shall comply with all applicable laws, regulations, standards, best industry practices and codes. Without limiting the foregoing, Supplier's personnel shall comply with all safety, security and environmental regulations in effect from time to time at the Delivery Point or as applicable at Purchaser's facilities. When Supplier personnel provide Services on Purchaser's property, Supplier will ensure that its personnel will comply with Purchaser's security procedures, rules, regulations, and policies, including all rules, regulations, and procedures that have been provided to Supplier regarding access to Purchaser's facilities and all laws, rules, and regulations related to safety in the workplace as well as Purchaser's health and safety programs, policies, and procedures. Supplier shall obtain all applicable permits, licenses, exemptions, consents and approvals required for the Supplier to manufacture and deliver the Goods and perform the Services.

## **7 Inspection; Acceptance and Rejection.**

- 7.1 The Purchaser shall have the right to inspect the progress and the Goods at the Supplier or Supplier subcontractor's premises at normal business hours. The Purchaser shall provide no less than five business days' notice in writing of such visit.
- 7.2 The Purchaser shall have the right to request all defects and deficiencies to be made good and alterations made where Supplier or Supplier's subcontractors have failed in the reasonable opinion of the Purchaser to comply with the terms of the Agreement.
- 7.3 Any inspection, checking, or approval by or on behalf of the Purchaser under this clause shall not relieve the Supplier of any of its obligations under the Agreement.
- 7.4 All shipments of Goods and performance of Services shall be subject to Purchaser's right of inspection. Purchaser shall have thirty (30) days (the "Inspection Period") following the delivery of the Goods at the Delivery Location or performance of the Services to undertake such inspection, and upon such inspection Purchaser shall either accept the Goods or Services ("Acceptance") or reject them. Purchaser shall have the right to reject any Goods that are delivered in excess of the quantity ordered, are damaged or defective, or are delayed against agreed delivery timelines where time is of the essence other than for cases of Force Majeure (Section 22 below). In addition, Purchaser shall have the right to reject any Goods or Services that are not in conformance with the Specifications or any term of the Purchase Order. Transfer of title to Purchaser of Goods shall not constitute

Purchaser's Acceptance of those Goods. Purchaser shall provide Supplier within the Inspection Period notice of any Goods or Services that are rejected, together with the reasons for such rejection. If Purchaser does not provide Supplier with any notice of rejection within the Inspection Period, then Purchaser will be deemed to have provided Acceptance of such Goods or Services. Purchaser's inspection, testing, or Acceptance or use of the Goods or Services hereunder shall not limit or otherwise affect Supplier's warranty obligations hereunder with respect to the Goods or Services, and such warranties shall survive inspection, test, acceptance and use of the Goods or Services.

- 7.5 Purchaser shall be entitled to return rejected Goods to Supplier at Supplier's expense and risk of loss for, at Purchaser's option, either: (i) full credit or refund of all amounts paid by Purchaser to Supplier for the rejected Goods; or (ii) replacement Goods to be received within the time period specified by Purchaser. Title to rejected Goods that are returned to Supplier shall transfer to Supplier upon such delivery and such Goods shall not be replaced by Supplier except upon written instructions from Purchaser. Supplier shall not deliver Goods that were previously rejected on grounds of non-compliance with the Agreement, unless delivery of such Goods is approved in advance by Purchaser, and is accompanied by a written disclosure of Purchaser's prior rejection.

## **8 Price, Invoicing and Payment.**

- 8.1 The price payable for the Goods shall be that stated in the Purchase Order. Price increases or charges not expressly set out in the Purchase Order shall not be effective unless agreed to in advance in writing by Purchaser.
- 8.2 Supplier will issue all invoices on a timely basis after delivery or performance have been completed. All invoices delivered by Supplier must meet Purchaser's requirements and shall reference the Purchase Order.
- 8.3 Unless otherwise agreed herein, Purchaser will pay the undisputed portion of properly rendered invoices within sixty (60) days following date of issue of an applicable invoice. Purchaser shall have the right to withhold payment of any invoiced amounts that are disputed in good faith until the parties reach an agreement with respect to such disputed amounts and such withholding of disputed amounts shall not be deemed a breach of the Agreement nor shall any interest be charged on such amounts. Notwithstanding the foregoing, Purchaser agrees to pay the balance of the undisputed amounts on any invoice that is the subject of any dispute within the time periods specified herein.

## **9 Customs, Conformity, Origin and Supply Chain Security; Taxes.**

- 9.1 For customs purposes Supplier shall attach an English-language commercial invoice in duplicate to the shipping documents. Any deviation from that procedure is only permitted subject to Purchaser's prior written consent. a) For deliveries incurring customs duties, the invoice shall additionally specify as separate items: - costs not included in the price (such as commissions, broker fees, license costs, Tooling costs); - costs included in the price (such as cost of assembly and freight cost); - value of repairs carried out according to costs of materials and wages; and - value of components contributed by the Purchaser. b) Even if deliveries are made free of charge, a reasonable value is still required with a note "For Customs Purposes Only", which should reflect usual market price. Commercial invoice must include the reason that the delivery is made free of charge (e.g. free of charge sample deliveries). c) Should further official documents be required for the intended use of the Goods as per Purchaser's Specifications (particularly, the project Specifications) in the case of imports or exports, for the type approval or for the proof of product conformity, Supplier shall at its own cost procure such documents for Purchaser without delay and make them available to Purchaser via the

transmissions system prescribed by Purchaser (e.g. post, email, exchange server, IT system).

- 9.2 Commercial invoice must evidence following information for each position: country of origin, HS code, detailed content description, indication of substance of animal origin (if applicable), declaration of genetic modified organisms (if applicable), quantities, currency and value per unit. Additionally refer to Clause 10 Export Controls if applicable.
- 9.3 For preferential goods' declaration, a certified country of origin declaration must be provided on request of Purchaser.
- 9.4 Supplier shall ensure supply chain security and observe legal requirements. Supplier shall, upon Purchaser's request, provide reasonable evidence such as certificates or declarations (for example in the AEO security statement, explanations in the scope of C-TPAT or similar programs), to support Purchaser in official audits and ensure a comparable standard of care towards Supplier's business partners.
- 9.5 Unless otherwise stated in the Purchase Order, all prices or other payments are exclusive of any taxes. Supplier shall separately itemize all applicable taxes each on each invoice and indicate on each invoice its applicable tax registration number(s). Purchaser will pay all applicable taxes to Supplier when the applicable invoice is due. Supplier will remit all applicable taxes to the applicable government authority as required by applicable laws. Notwithstanding any other provision of the Agreement, Purchaser may withhold from all amounts payable to Supplier all applicable withholding taxes and to remit those taxes to the applicable governmental authorities as required by applicable laws.

## **10 Export Controls.**

The Supplier must inform Purchaser in his commercial invoice or Purchase Order any export restrictions that apply to the Goods or Services, including but not limited to restrictions imposed by U.S. or E.U. law or regulation, whether related to a percentage or a component of the Goods or Services or a dual use restriction (e.g. Regulation (EC) No. 428/2009); and any classification reference (e.g. AL number, Export Control Classification Number, etc.), exemption, or license shall be noted.

## **11 Warranties.**

- 11.1 Supplier warrants to Purchaser that during the Warranty Period all Goods provided hereunder shall be: (i) of merchantable quality; (ii) fit for the purposes intended; (iii) unless otherwise agreed to by Purchaser, new; (iv) free from defects in design, material and workmanship and, in the case of software, free from Harmful Code; (v) in strict compliance with the Specifications; (vi) free from any liens or encumbrances on title whatsoever; (vii) in conformance with any samples provided to Purchaser; and (viii) compliant with all applicable laws, regulations, standards, and codes.
- 11.2 Supplier shall perform all Services: (i) exercising that degree of professionalism, skill, diligence, care, prudence, judgment, and integrity which would reasonably be expected from a skilled and experienced service provider providing services under the same or similar circumstances as the Services under the Purchase Order; (ii) in accordance with all Specifications and all Purchaser policies, guidelines, by-laws and codes of conduct applicable to Supplier; and (iii) using only personnel with the skills, training, expertise, and qualifications necessary to carry out the Services. Purchaser may object to any of the Supplier's personnel engaged in the performance of Services who, in the reasonable opinion of Purchaser, are lacking in appropriate skills or qualifications, engage in misconduct, constitute a safety risk or hazard or are incompetent or negligent, and the Supplier shall promptly remove such personnel from the performance of any Services upon receipt of such notice, and shall not re-employ the removed person in connection with the

Services without the prior written consent of Purchaser.

- 11.3 Supplier further warrants to Purchaser that all Goods and or Services (including any Deliverables) will not be in violation of or infringe any Intellectual Property Rights of any person or entity.

## **12 Warranty Remedies.**

- 12.1 In the event of Supplier's breach of any of the warranties in Section 11 during the Warranty Period, and without prejudice to any other right or remedy available to Purchaser (including Purchaser's indemnification rights hereunder), Supplier will, at Purchaser's option and Supplier's sole expense, refund the purchase price for, or correct or replace the affected Goods, or re-perform the affected Services, within thirty (30) days after notice by Purchaser to Supplier of warranty breach. All associated costs, including costs of re-performance and/or validation, costs to inspect the Goods and/or Services, transport the Goods from Purchaser to Supplier, and return shipment to Purchaser, and costs resulting from supply chain interruptions, will be borne by Supplier. Supplier will also provide Purchaser with complete documentation of the types of repairs done and replacement provided. If Goods are corrected or replaced, the warranties in Section 11 will continue as to the corrected or replaced Goods for a further Warranty Period commencing on the date of Acceptance of the corrected or replaced Goods by Purchaser. If Supplier fails to repair or replace the product within the time periods required above, Purchaser may repair or replace the Goods at Supplier's expense.

- 12.2 In the event that any Goods provided by Supplier to Purchaser are subject to a claim or allegation of infringement of Intellectual Property Rights of a third party, Supplier shall, at its own option and expense, without prejudice to any other right or remedy of Purchaser (including Purchaser's indemnification rights hereunder), promptly provide Purchaser with a commercially reasonable alternative, including the procurement for Purchaser of the right to continue using the Goods in question, the replacement of such Goods with a non-infringing alternative satisfactory to Purchaser, or the modification of such Goods (without affecting functionality) to render them non-infringing.

## **13 Subcontracting.**

- 13.1 The Supplier may not subcontract all or part of the performance of the Services without the prior written consent of the Purchaser. The Supplier shall, at the request of the Purchaser, provide a list of approved suppliers and its subcontractors as well as the origin of the materials. The Supplier which subcontracts all or part of the Purchase Order remains fully liable for it. No subcontractor of the Supplier shall be paid directly by the Purchaser. The Supplier shall provide each of its subcontractors with a joint and several bank guarantee in an amount equal to the total amount due to each of them.
- 13.2 Where the Purchase Order requires the Supplier to use a supplier or subcontractor for certain components or services, the Supplier's liability for the part of the services to be subcontracted remains unaffected for the entire performance of the Agreement.
- 13.3 The Supplier shall inform its suppliers and subcontractors of all provisions of the Agreement that apply to their obligations.

## **14 Intellectual Property Rights.**

- 14.1 All Intellectual Property Rights in and to each Deliverable shall vest in Purchaser free and clear of all liens and encumbrances on receipt of payment by Supplier for each Deliverable. To the extent that any Deliverables contain any intellectual property of Supplier, Supplier hereby grants to Purchaser a worldwide, royalty-free, non-exclusive, perpetual license to use, copy, modify and distribute such intellectual property as part of the

Deliverables. Supplier agrees to provide to Purchaser all assistance reasonably requested by Purchaser to perfect the rights described herein, including obtaining all assignments and waivers of moral rights necessary or appropriate to vest the entire right, title and interest in such materials in Purchaser and its successors and assigns.

- 14.2 Intellectual Property Rights arising during or out of the provision of Services provided by the Supplier shall be owned by the Purchaser.

## **15 Confidentiality.**

- 15.1 Supplier shall not use or made public any details of the Purchase Order or the name Purchasers for advertisement of publicity purposes without the prior written consent of the Purchaser.

- 15.2 Supplier and Purchaser shall handle confidentially all information which, in the scope of their business relationship, is disclosed directly or indirectly from the respective other party or from a party's Affiliate. In particular, the parties will not give such information to third parties nor otherwise make such information accessible in any other way, and to take all reasonable precautions in order to prevent access by third parties. Supplier and Purchaser shall each ensure that their Affiliate which receives information in the scope of this project, likewise comply with this provision. The employees of a party are not considered third parties in the meaning of this provision as long as they are bound by confidentiality obligations equivalent to this Clause 15 (e.g. due to their employment contract).

- 15.3 If and to the extent that it becomes necessary in the scope of their business relationship Supplier and Purchaser may forward information to a) their Affiliates and b) third parties which in each case are contractually bound to such party, in connection with the Supply Agreement, if such is not excluded in the individual case for certain information, provided the recipient is not a competitor of the other party and to the extent permitted by law. Each party shall ensure that prior to the forwarding of information the recipient is bound by obligations equivalent to this Clause 15 and will comply with such.

- 15.4 The confidentiality obligations of this Clause 15 do not apply if and to the extent that information a) is or becomes publicly known without breach of these obligations, or b) was legally acquired by a third party, or c) was already known by the receiving party, or d) must be disclosed based upon a mandatory judicial, regulatory, or statutory regulation, provided that the disclosure shall be made as limited as possible. The disclosing party shall inform the other party in writing prior of the intended disclosure unless such is not reasonable, or e) was independently developed by the receiving party without use of or reference to the information of the other party. Whichever party claims one or more of the abovementioned exceptions must prove the underlying factual basis.

- 15.5 Provided otherwise is not agreed, the confidentiality obligations of the parties under this Clause 15 continue to apply for a period of five years following the end of each Purchase Order, provided, however, that with respect to Confidential Information that constitutes a trade secret, the obligations of confidentiality and non-use hereunder shall survive termination of the Purchase Order for as long as such Confidential Information remains a trade secret under the applicable law.

## **16 Insurance.**

Supplier represents and warrants to Purchaser that it has in place with reputable insurers such insurance policies in coverage amounts that would be maintained by a prudent Supplier of goods and services similar to the Goods and Services provided hereunder, including, as applicable, professional errors and omissions liability insurance and comprehensive commercial general liability insurance (including product liability coverage, all-risk contractors' equipment insurance, and automobile liability insurance). In addition, Supplier will take out and maintain, at its

own cost, such insurance policies and coverages as may be reasonably required by Purchaser from time to time. Supplier will promptly deliver to Purchaser, as and when requested, written proof of such insurance. If requested, Purchaser will be named as an additional insured under any such policies. If requested by Purchaser, such insurance will provide that it cannot be cancelled, or materially changed so as to affect the coverage provided under the Purchase Order, without the insurer providing at least thirty (30) days prior written notice to Purchaser.

#### **17 Indemnification.**

Supplier shall indemnify, defend and hold harmless Purchaser, its Affiliates, and their respective officers, directors, employees, consultants, and agents (the "Purchaser Indemnified Parties") from and against any claims, fines, losses, actions, damages, expenses, legal fees and all other liabilities brought against or incurred by the Purchaser Indemnified Parties or any of them arising out of: (a) death, bodily injury, or loss or damage to real or tangible personal property resulting from the use of or any actual or alleged defect in the Goods or Services, or from the failure of the Goods or Services to comply with the warranties hereunder; (b) any claim that the Goods or Services infringe or violate the Intellectual Property Rights or other rights of any person; (c) any intentional, wrongful or negligent act or omission of Supplier or any of its Affiliates or subcontractors; (d) Supplier's breach of any of its obligations under the Purchase Order; or (e) any liens or encumbrances relating to any Goods or Services.

#### **18 Limitation of Liability.**

Except for Supplier's obligations under section 17, and except for damages that are the result of the gross negligence or willful misconduct of a party, in no event will either party be liable to the other party or any other person for any indirect, incidental, consequential, or punitive damages, including any lost profits, data, goodwill, or business opportunity for any matter relating to the Purchase Order.

#### **19 Termination.**

In addition to any remedies that may be provided under the Agreement, Purchaser may terminate the Agreement with immediate effect upon written notice to the Supplier, either before or after the acceptance of the Goods or the delivery of the Services, if Supplier has not performed or complied with any terms of the Agreement, in whole or in part. If the Supplier becomes insolvent, files a petition for bankruptcy or commences or has commenced against it proceedings relating to bankruptcy, receivership, reorganization or assignment for the benefit of creditors, then the Purchaser may terminate this Agreement upon written notice to Supplier. If Purchaser terminates the Agreement for any reason, Supplier's sole and exclusive remedy is payment for the Goods received and accepted and Services accepted by Purchaser prior to the termination.

#### **20 Assignment.**

The Purchase Order will inure to the benefit of and be binding upon the parties and their respective successors and permitted assigns. No party may assign, or transfer any rights or obligations under this Agreement without the other party's prior written consent, except that no such consent shall be required for a party to assign its rights or transfer its obligations to its Affiliate or in connection with the sale or transfer of the majority of its stock or all or substantially all of its assets to which the Agreement relates, whether as part of a merger, acquisition, asset sale or any other change of control (regardless of the form) of such party provided that the assigning party shall remain jointly and severally liable with any such assignee for the performance of its assigned obligations hereunder. Any assignment in violation of the Agreement will be null and void.

#### **21 Entire Agreement.**

The Agreement constitutes the entire agreement and understanding between the parties with respect to the subject matter hereof and supersedes any and all prior or

contemporaneous (oral or written) understandings and agreements, express or implied, between the parties with respect to the subject matter hereof. No amendment, modification, or waiver of any term of the Agreement will be valid unless set forth in a written instrument signed by both parties.

#### **22 Force Majeure.**

22.1 A party shall be excused from performing its obligations under the Agreement if its performance is delayed or prevented by any event beyond such party's reasonable control including, without limitation, acts of God, fire, explosion, weather, disease, pandemic, war, insurrection, civil strife, riots, government action, earthquake, terrorism, or power failure (each, a "Force Majeure Event"); provided that such performance shall be excused only to the extent of and during such disability and the affected party shall use commercially reasonable efforts to resume performance as soon as reasonably practicable and provided that such event was not caused by such party's negligence or willful misconduct.

22.2 The affected party shall give notice within ten (10) days of the Force Majeure Event to the other party, stating the period of time the occurrence is expected to continue. If the Force Majeure Event continues for a period greater than ninety (90) days following written notice given by the affected party under this Section 22, the other party may thereafter terminate this Agreement upon written notice and any relevant payments made by the Purchaser to the Supplier shall be promptly refunded.

#### **23 Governing Law/Jurisdiction.**

The United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Agreement. This Agreement shall be interpreted, construed, and enforced in all respects in accordance with the laws of the State of Delaware. In case of dispute, the parties agree to submit to the exclusive jurisdiction of the courts of the State of Delaware.

#### **24 Independent Contractors.**

Supplier will perform its obligations under the Agreement as an independent contractor and in no way will Supplier or its employees be considered employees, agents, partners, fiduciaries, or joint ventures of Purchaser. Supplier and its employees will have no authority to represent Purchaser or its Affiliates or bind Purchaser or its Affiliates in any way, and neither Supplier nor its employees will hold themselves out as having authority to act for Purchaser or its Affiliates.

#### **25 Interpretation.**

The headings used in these GTCs and its division into articles, sections, schedules, exhibits, appendices, and other subdivisions do not affect its interpretation. Unless the context requires otherwise, words importing the singular number include the plural and vice versa; words importing gender include all genders. References in these GTCs to articles, sections, schedules, exhibits, appendices, and other subdivisions are to those parts of these GTCs. Where these GTCs uses the word "including," it means "including without limitation," and where it uses the word "includes," it means "includes without limitation".

#### **26 Nonwaiver.**

No waiver of any breach of the Agreement, by either party, of any provision of the Agreement or warranty or representation set forth herein, whether by conduct or otherwise, shall be construed as a waiver of any subsequent breach of the same or another provision. The failure to exercise, or delay in exercising any right hereunder shall not operate as a waiver of such right. Any remedies which the parties hereto may have pursuant to the Agreement or by law shall be cumulative.

**27 Severability.**

The invalidity or unenforceability of any provision of the Agreement will not affect the other provisions hereof, and the Agreement will be construed in all respects as if such invalid or unenforceable provision were replaced with a valid and enforceable provision as similar as possible to the one replaced.

**28 Survival.**

Any provision of the Agreement which expressly or by implication from its nature is intended to survive the termination or completion of the Agreement will continue in full force and effect after any termination, expiry or completion of the Agreement.

**29 Data Protection.**

To the extent applicable, the parties will comply with the General Data Protection Regulation (GDPR), the Legislative Decree 196/03 and other applicable data protection laws when processing personal data. To the extent that one party processes ("Processing" as defined in Art. 4 No. 2 GDPR) personal data on behalf of the other party, the parties shall enter into a data processing agreement according to Art. 28 GDPR.