

GENERAL TERMS AND CONDITIONS OF PURCHASE
for
HOERBIGER companies ("Buyer")
for goods and services - excluding direct production materials for the automotive industry

1. Scope, Form

1.1 These General Terms and Conditions of Purchase ("**GTC**") apply to all contractual agreements between the Buyer and business partners and suppliers ("**Seller**"). These GTC apply only if the Seller conducts business.

1.2 The General Terms and Conditions of Purchase apply in particular to contracts for the purchase of movable goods ("**Goods**") – regardless of whether the Seller manufactures the Goods itself or purchases them from suppliers – as well as to contracts for services ("**Services**") (Goods and Services are hereinafter referred to collectively as "**Deliverables**"). Unless otherwise agreed, the General Terms and Conditions of Purchase in the version valid at the time of the order of the Buyer or, in any case, in the version most recently communicated to the Seller in text form shall also apply as a framework agreement for similar future contracts, without the Buyer being required to refer to them again in each individual case. The currently valid version of the General Terms and Conditions of Purchase is available on the service portal of the Buyer's purchasing department ([Downloads - Einkauf - Kontakt - hoerbiger.com](#)).

1.3 These General Terms and Conditions of Purchase apply exclusively. Any deviating, conflicting, or supplementary general terms and conditions of the Seller shall only become part of the contract if and to the extent that the Buyer has expressly consented to their validity in writing. This requirement of consent applies in all cases, for example, even if the Buyer unconditionally accepts the deliveries of the Seller despite the Buyer being aware of the general terms and conditions of the Seller.

1.4 Legally relevant declarations and notifications by the Seller relating to the contract (e.g. setting a deadline, reminder, withdrawal) must be made in writing, i.e., in written or text form (e.g. letter, email), to be legally effective. Statutory formal requirements and other evidence, particularly in cases of doubt about the legitimacy of the person making the declaration, remain unaffected.

1.5 "Working days" within the meaning of these General Terms and Conditions of Purchase are all days excluding Saturdays, Sundays, public holidays and business closures at the location of the Buyer.

2. Conclusion of contract, right to change

2.1 Binding orders from the Buyer must be made in writing.

2.2 The Seller is obliged to confirm the orders of the Buyer in writing within three (3) working days or, in particular, to execute them without reservation by dispatching the goods ("**Acceptance**")

2.3 The Buyer has the right to request changes to the Deliverables, even after the conclusion of the contract, particularly with regard to specifications, drawings, design, construction, time and place of delivery, packaging, quality, quantities, and means of transport. Such requests for changes must take into account the legitimate interests of the Seller, i.e., the changes must be reasonable for the Seller, which is particularly the case if the change is only minor and/or objectively justified. If a change results in an increase or reduction in costs for the Seller or potentially postpones the delivery date, the Seller must notify the Buyer immediately, and the parties will then negotiate an appropriate adjustment to the remuneration of the Seller for which the Buyer will issue a change order if an agreement is reached. The content of a change order shall be deemed agreed if the Seller does not object to the change order in writing within ten (10) working days of receipt.

3. Delivery time and delay in delivery

3.1 The delivery time specified by the Buyer in the order is binding. If the delivery time is not specified in the order and has not been otherwise agreed, it shall be two (2) weeks from the conclusion of the contract.

3.2 If the Seller fails to perform its Deliverables or fails to do so within the agreed delivery period, or if it is in default, the rights of the Buyer – in particular the right to withdrawal and damages – shall be determined according to the statutory provisions. The provisions in Clauses 3.3 and 3.4 remain unaffected

3.3 In the case of series orders, if the Seller is in default with even just one partial delivery of Goods or provision of Services, the Buyer is additionally entitled, after the unsuccessful expiration of a reasonable period set for subsequent performance, to withdraw from the order affected by the delay or, alternatively, also from all future partial deliveries of Goods or provisions of Services still outstanding in accordance with the statutory provisions. However, the Buyer also has the option of providing the Services owed by the Seller under the still outstanding partial deliveries of Goods or provision of Services in order to maintain series production, in whole or in part, or to procure them from third parties, and to withdraw from the affected partial deliveries of Goods or provision of Services to the corresponding extent by reducing both the delivery forecasts and the affected, binding orders accordingly, without being obligated to make any payments to the Seller, regardless of the legal basis. The Buyer also has the right to demand from the Seller the release of all tools, documents, materials, etc. necessary for the provision of the Deliverables and the provision of professional and expert support and work for the duration of the delivery hindrance.

3.4 If the Seller is in default, the Buyer may – in addition to further statutory claims – demand lump-sum compensation for damages caused by the delay in the amount of one (1) percent of the net price per calendar week or part thereof, but not more than five (5) percent of the net price of the delayed Deliverables. The Buyer reserves the right to prove that greater damages have been incurred. The Seller reserves the right to prove that no damages at all or only significantly less damages have been incurred.

3.5 The Seller may only invoke the failure of the Buyer to provide necessary documents, information, materials, and packaging if the Buyer has issued a written demand for these and has not received them within a reasonable period of time.

4. Service, delivery, transfer of risk, default of acceptance

4.1 The Seller is not entitled to have the Deliverables owed by it performed, in whole or in part, by third parties (e.g. subcontractors) without the prior written consent of the Buyer.

4.2 The Seller is obligated to undertake any deviation from the current status of the drawings, initial samples, materials, or process changes, including any relocations or transfers of production equipment, only with the prior written consent of the Buyer. In the

forementioned cases, a thorough review of the effects on, among other things, continuous delivery, specifications, suitability, prices, costs, customs and foreign trade requirements and treatment, and a justification of the necessity by the Seller, is required. Any deviation requires the prior written consent of the Buyer. The Seller is therefore aware that a change may affect the function and/or safety of the respective application for both the Buyer and the customer of the Buyer. The Seller shall bear all expenses and costs incurred in connection with the change process and its implementation.

4.3 Unless otherwise agreed with the Seller, the transfer of risk for the Deliverables from the Seller to the Buyer shall be in accordance with "DDP (named place)" Incoterms 2021. Unless otherwise agreed with the Seller with respect to the place of performance, the Deliverables shall be performed at the place of business of the Buyer. If acceptance occurs (required by law or by agreement between the parties), this shall be decisive for the transfer of risk. The further provisions in Clause 4.4 remain unaffected.

4.4 If the Services provided by the Seller to the Buyer are work services (e.g. design services, prototypes, equipment, repairs, programming services), the Buyer shall conduct an acceptance process for these services and prepare a written report on the results of the acceptance process. As part of the acceptance process, the Seller shall inform the Buyer in a timely manner in writing of all Deliverables components that it considers acceptable, demonstrating suitable testing methods for the Buyer. Payment against an invoice or reasonable trial use shall not be deemed acceptance of the relevant service by the Buyer. The Buyer is entitled to terminate the ordered work at any time until acceptance by the Seller.

4.5 Unless specifically stipulated in the logistics and packaging requirements of the Buyer, the Seller shall package the Goods in a commercially customary, appropriate, and recyclable manner. The Seller shall notify the Buyer in writing in advance of any potential risks associated with the logistics and packaging requirements of the Buyer. Packaging materials shall be taken back by the Seller at the request of the Buyer and at the Seller's expense.

4.6 In the event of earlier delivery than the originally agreed delivery date, the Buyer reserves the right to reject the Goods and return them at the Seller's expense and risk, or to temporarily store them until the originally agreed delivery date. In the event of interim storage, the Seller agrees that the originally agreed delivery date shall be deemed the delivery date of the Goods; therefore, interim storage shall be at the risk of the Seller.

5. Force majeure

5.1 A delay or failure in the fulfillment of contractual obligations shall be excusable and may lead to a corresponding extension of the performance period, to the extent and as long as the cause lies in an event or incident over which the non-performing or improperly performing party has no control, is not in default, and is not at fault. This includes, in particular: official measures and orders, pandemics and epidemics, floods, storms, explosions, riots, natural disasters, war, sabotage – hereinafter referred to as "**Force Majeure**". Industrial disputes (including lockouts and strikes), machine breakdowns, availability of raw materials and intermediate products, unless directly caused by Force Majeure, are expressly excluded.

5.2 The affected party may only invoke Force Majeure if it has promptly notified the other party in writing of the expected duration and the circumstances that may lead to a case of force majeure after these circumstances became apparent to it. The affected party will consult with the other party on appropriate remedial measures and implement these at its own expense to overcome or mitigate the event. Notwithstanding this, the Buyer shall be entitled to perform the Deliverables affected by force majeure itself or to procure it from third parties, and to reduce both the forecasts of potentially affected delivery requirements and the binding orders affected by force majeure, without being obligated to make any payments to the Seller, regardless of the legal basis. The Buyer shall also have the right to demand from the Seller the free surrender of all tools, documents, materials, information, etc. necessary for the performance of the Deliverables, as well as professional and expert support/work performance for the duration of the delivery hindrance.

5.3 If a case of force majeure lasts for more than thirty (30) calendar days without interruption or sixty (60) calendar days within one hundred and eighty (180) consecutive calendar days, the Buyer may – without prejudice to its other rights – terminate the contract in its entirety with a notice of one month to the end of the month. In this case, neither party shall be entitled to claim damages or compensation from the other party. Obligations relating to Deliverables already delivered remain unaffected.

6. Prices and payment terms

6.1 The price stated in the order is binding. All prices include statutory VAT unless otherwise stated.

6.2 Unless otherwise agreed in individual cases, the price includes all Deliverables and ancillary services provided by the Seller (e.g. assembly, installation) as well as all ancillary costs (e.g. proper packaging, transport costs including any transport and liability insurance as well as installation insurance).

6.3 Should the Seller, during the term of a contract for the delivery of goods, supply the contractual goods or similargoods in comparable quantities to a third party under more favourable conditions, in particular with regard to price, discounts, technology, quality, payment terms, delivery periods, or other conditions (hereinafter "the Conditions"), the Seller shall notify the Buyer immediately and automatically grant the Buyer these more favourable conditions. The new conditions shall apply retroactively from the date on which the Seller granted these favourable conditions to the third party.

6.4 The agreed price is due for payment by the Buyer within sixty (60) calendar days from complete delivery and performance (including any agreed acceptance) in accordance with the terms of the order and receipt of a proper invoice in accordance with Clause 6.5. In the event that the Seller delivers prematurely in accordance with Clause 4.6, the due date for the Buyer's payment originally calculated in accordance with Clause 6.4, Sentence 1, shall remain. If the Buyer makes payment within fourteen (14) calendar days, the Seller shall grant the Buyer a three (3) percent discount on the net invoice amount.

6.5 To ensure prompt and efficient processing of invoices, invoices must be sent exclusively in PDF format to the email address listed in the order. A proper invoice must contain the following information:

- (a) All applicable VAT regulations; indication of the HOERBIGER purchase order number for order-related invoices;
- (b) Indication of the contact person at the Buyer and – if provided – the cost center;
- (c) A separate invoice must be issued for each HOERBIGER purchase order number;

- (d) The invoice must correspond to the corresponding purchase order, in particular, the same material numbers and order units must be used, as well as order texts, if possible;
- (e) The respective ordering purchaser company must be clearly identified as the service recipient on the invoice.

6.6 The Buyer shall not owe any interest on the due date. The statutory provisions shall apply to late payment.

6.7 The Buyer is entitled to rights of set-off and retention, as well as to any defences permitted under applicable law, to the extent permitted by law. In particular, the Buyer is entitled to withhold due payments as long as it still has claims against the Seller for incomplete or defective performance.

6.8 The Seller shall only have a right of set-off or retention in the case of legally established or undisputed counterclaims.

7. Defective performance, complaints, complaint handling

7.1 The Buyer's rights in the event of material and legal defects in the Goods (including incorrect and incomplete delivery as well as improper assembly, defective assembly, operating or user instructions) and in the event of other breaches of duty by the Seller shall be governed by the statutory provisions, unless otherwise specified below.

7.2 The performance of the Seller is free from defects if the Goods delivered by the Seller, the Services provided by the Seller or the product processed with the Services of the Seller are in good condition at the time of transfer of risk

- (a) conforms one hundred percent to the agreed quality, the approved initial sample, and other contractual requirements or legal requirements worldwide,
- (b) is of good quality in material and workmanship, and is free of defects, suitable for the usual use by the Buyer known to the Seller or recognizably intended,
- (c) does not infringe any third-party rights, in particular intellectual property rights (as defined in Clause 11), worldwide, and is not otherwise restricted in its use, manufacture, modification, and/or sale, including import and export,
- (d) when used in accordance with the contract and the manufacturing process and technology used for this purpose does not infringe any property rights or intellectual property rights of third parties, and
- (e) arrives at the delivery location of the Buyer in the ordered quantity and packaged in accordance with the contract on the delivery date.

7.3 If the Deliverables consist in the production of a work (Clause 4.4), then the performance of the Seller is also defective in particular if

- (a) an agreed installation is faulty or improperly carried out, or
- (b) suitable operating and user manuals in the national language of the Buyer and/or the language required by the Buyer are missing in whole or in part.

7.4 The Seller shall indemnify the Buyer against all claims asserted by third parties against the Buyer because the Deliverables to be provided or their use infringe or allegedly infringe intellectual property rights (see Clause 7.2). To this end, the Seller shall reimburse the Buyer for all necessary expenses incurred in connection with any claims asserted by third parties. This shall not apply if the Seller is neither responsible for the infringement of intellectual property rights nor, if the Seller should have been aware of the infringement of intellectual property rights when exercising due commercial diligence at the time of delivery.

7.5 The parties shall inform each other immediately of all risks of infringement and alleged infringements of third-party rights (in particular intellectual property rights as defined in Clause 11) of which they become aware.

7.6 In any case, the agreement on quality shall be deemed to include those performance descriptions such as drawings, specifications, initial samples, manufacturing processes, and materials used that are the subject of the respective contract – in particular by designation or reference in the order – or that have been incorporated into the contract in the same way as these General Terms and Conditions of Purchase. It makes no difference whether the performance description originates from the Buyer, the Seller, or the manufacturer within the meaning of the Product Liability Act.

7.7 The Seller is obliged to inform the Buyer immediately if it becomes aware of circumstances indicating that the service or a product created with the Deliverables of the Seller is not suitable or could not be suitable for the usual use known by the Buyer or recognizably intended by the Seller. The above obligation to inform also applies in the event that the Buyer has specified the intended use of the Deliverables or the product created with the Seller's Deliverables to the Seller.

7.8 The Buyer is not obligated to inspect the Deliverables or to make specific inquiries about any defects upon conclusion of the contract. The Buyer is therefore entitled to claims for defects without restriction, even if the Buyer was unaware of the defect at the time of conclusion of the contract due to gross negligence.

7.9 The statutory provisions apply to the obligation of the Buyer to inspect and give notice of defects, subject to the following provisions: the obligation of the Buyer to inspect is limited to defects that are clearly evident during an incoming goods inspection under external examination, including the delivery documents (e.g., transport damage, incorrect or incomplete deliveries) or that are identifiable during the Buyer's quality control through random sampling. If acceptance has been agreed, there is no obligation to inspect and give notice of defects. Furthermore, the extent to which an inspection is feasible, taking into account the circumstances of the individual case, shall be decisive in the ordinary course of business. The obligation of the Buyer to give notice of defects discovered subsequently remains unaffected. Notwithstanding the obligation to inspect and give notice of defects, a notice of defect (notification of defects) by the Buyer shall be deemed to be prompt and timely if it is sent within ten (10) working days of detection or, in the case of obvious defects, of delivery.

7.10 Subsequent fulfillment shall also include the removal of the defective goods and their reinstallation, provided that the goods have been installed in or attached to another item in accordance with their type and intended use; the statutory claim of the Buyer for reimbursement of corresponding expenses remains unaffected.

7.11 As part of its quality assurance for its Deliverables, the Seller must investigate Buyer complaints as quickly as possible in accordance with DIN ISO 10002 and provide the Buyer with a properly completed 8D report within a reasonable period specified by the Buyer. The Seller will provide the Buyer with the analysis details and test results and take appropriate remedial measures, taking into account the provisions of these General Terms and Conditions of Purchase. If the Buyer does not receive a properly prepared, comprehensible 8D report and/or analysis details and test results from the Seller, and if the parties fail to reach another mutual

agreement on remedial measures, it shall be presumed that the Deliverables complained about was actually already defective at the time of transfer of risk. In this case, the Seller shall be responsible for providing evidence to the contrary. The costs incurred by the Seller for the purpose of inspection and subsequent performance shall be borne by the Seller if, after the investigation, a defect exists or a defect is irrefutably presumed in accordance with the aforementioned provisions. Otherwise, the liability of the Buyer in the event of unjustified notifications of defects remains unaffected. In this respect, however, the Buyer is only liable if it has recognized or was grossly negligent in failing to recognize that there was no defect.

8. Supplier recourse

8.1 The Buyer is entitled to the statutory recourse claims within a supply chain (supplier recourse) without restriction, in addition to claims for defects. In particular, the Buyer is entitled to demand from the Seller exactly the type of subsequent performance (repair or replacement delivery) that the Buyer owes to its customer in the specific case. This does not restrict the statutory right of the Buyer to choose within the scope of the subsequent performance.

8.2 Before the Buyer may acknowledge or fulfill a defect claim asserted by its customer, including reimbursement of expenses, the Buyer shall notify the Seller and request a written statement, briefly outlining the facts of the case. If a substantiated statement is not provided within a reasonable period of time and no amicable solution is reached, the defect claim actually granted by the Buyer shall be deemed to be owed to the customer of the Buyer. In this case, the Seller shall be responsible for providing evidence to the contrary.

8.3 The claims of the Buyer for recourse against the supplier shall also apply if the defective Goods have been further processed by the Buyer or another business person, e.g. by incorporation into another product.

9. Product liability

9.1 If the Seller is responsible for a product defect, either because it provides faulty Deliverables or inadequate Deliverables in connection with the creation of a product, it must pay the Buyer compensation upon first request or indemnify the Buyer against third-party claims, provided the cause of the product defect lies within the sphere of control and organization of the Seller and provided that the Seller itself is liable in external relations.

9.2 In the event of the indemnification obligation of the Seller in accordance with Clause 9.1, the Seller must also reimburse the Buyer for all expenses arising from or in connection with any claims brought by third parties, including field actions such as recalls or service campaigns conducted by the Buyer. When deciding whether to conduct a field action, the Buyer must dutifully exercise its discretion and appropriately consider the interests of the Seller. The Buyer will inform the Seller of the content and scope of a field action – as far as is possible and reasonable – and give the Seller the opportunity to comment. Further and/or other legal claims of the Buyer, in particular for compensation for damages and expenses, as well as for filing claims for performance and claiming interim legal protection, remain unaffected.

10. Ownership rights to information and items of the Buyer, no retention of title

10.1 All information and items provided by the Buyer to the Seller during the term of the contract are and remain the sole property of the Buyer and must be suitably, permanently and clearly marked by the Seller. They may only be used for the service ordered by the Buyer. After fulfillment of the agreed Deliverables, upon termination, in the event of Force Majeure, and upon the legitimate need of the Buyer, they must be returned to the Buyer in a serviced condition and packaged for transportation. The Seller is obligated to provide the Buyer, upon request, with suitable proof (e.g., confirmation, photographs) of the fulfillment of its obligations at any time.

10.2 The Seller is also obligated to store the information and items securely, in compliance with all applicable legal regulations, protected from third-party access, loss, damage, and deterioration, and separate from other items. The Seller shall insure the information and items provided to the Seller against theft, damage, and loss at the cost of (re)production and include them in an all-risk insurance policy at the cost of (re)production.

10.3 The information and items of the Buyer provided to the Seller may not be disposed of, relocated, transferred, scrapped or assigned as security without the prior written consent of the Buyer.

10.4 Any processing, mixing, or combining (“**further processing**”) of information and items by the Seller with each other and/or with the items of the Seller is carried out for the Buyer, so that ownership of the new item created through further processing belongs exclusively to the Buyer and is effectively transferred to the Buyer. The creation of joint ownership in favor of the Seller is excluded. The same applies to any further processing of the goods delivered by the Seller with other items by the Buyer, so that the Buyer is deemed to be the manufacturer of the newly created item and acquires sole ownership of both the goods of the Seller and the newly created item at the latest upon further processing. The Seller expressly agrees that the Buyer shall own and retain title to the delivered goods and the newly created item – notwithstanding any earlier transfer of ownership – at the latest upon further processing.

10.5 The transfer of ownership of the goods to the Buyer must be unconditional and without regard to the payment of the price.

11. Industrial property rights

11.1 Industrial property rights within the meaning of these General Terms and Conditions of Purchase are (i) filed, granted, or registered patents, trademarks, utility models, designs, and semiconductor products, (ii) know-how (knowledge acquired through experience and testing that is secret, essential, and described), and (iii) copyrights and related industrial property rights.

11.2 Industrial property rights in or to the information and/or items of the Buyer (as defined in Clause 10) belong exclusively to the Buyer. To the extent that the Seller uses the information or items of the Buyer to provide the agreed Deliverables, the Buyer grants the Seller a simple, non-transferable, and non-sub licensable right to use the information and items during the term of the contract and exclusively for the purposes of this contract.

11.3 The industrial property rights created by the Seller or its employees and third parties commissioned by it during the Buyer-specific manufacture of the goods or the provision of the Deliverables (“**New Intellectual Property Rights**”) belong exclusively to the Buyer and are transferred in full by the Seller to the Buyer – except in the case of Section 11.4. In the case of non-Buyer-specific

manufacture, the Buyer receives a non-exclusive right of use to the Intellectual Property Rights, unlimited in time, content, and location.

11.4 To the extent that the new industrial property rights consist of copyrighted works, the Seller hereby transfers to the Buyer the exclusive, transferable, and sublicensable right of use without any restriction of territory, time or content (excluding moral rights). This right of use includes, in particular, the reproduction, distribution, public reproduction, and making of the new industrial property rights publicly available in all known or future forms of use, including the right to process and further develop the new industrial property rights and to use the subsequent results to the extent stated above. In the case of non-buyer-specific production, the provisions of Clause 11.3 sentence 2 apply.

11.5 The Seller is obligated to ensure that the rights in accordance with Clauses 11.3 and 11.4 can be granted to the Buyer in full and that the authors working for the Seller irrevocably waive the right to be named under copyright law.

11.6 If the Seller already holds intellectual property rights in connection with the Goods or the provision of the Deliverables under these General Terms and Conditions of Purchase ("**Existing Industrial Property Rights**") (as ownership or license) and uses them for the aforementioned production, the Seller must notify the Buyer of this in writing upon conclusion of the contract.

11.7 If the Buyer or third parties authorized by the Buyer absolutely require the existing industrial property rights of the Seller for the use of the Goods or for the Service to be provided by the Seller, the Seller grants them a non-exclusive, geographically unlimited, irrevocable right of use to these existing industrial property rights, including the right to modify, reproduce, and distribute them, as well as to transfer them in whole or in part, to the extent stated above. If the use that is apparent to the Seller is intended to be permanent, the right of use is not limited in time.

11.8 If the scope of Deliverables includes software and unless otherwise expressly agreed, the provisions of Clauses 11.1 to 11.7 shall also apply to the software, including its documentation. If the software comprises software and software components individually programmed by the Seller for the Buyer, the Seller shall immediately hand over the source code to the Buyer if this is required for functionality, interoperability, and any adaptations required by the Buyer. The rights of use and exploitation extend to the object code, the documentation, and, if handed over, also to the source code. In all other respects, the provisions of Clauses 10.2 to 10.4 shall apply accordingly.

12. Spare parts

12.1 The Seller is obligated to keep spare parts for the Goods delivered to the Buyer in stock for a period of at least fifteen (15) years after delivery.

12.2 If the Seller intends to discontinue production of spare parts for the products delivered to the Buyer, it will notify the Buyer immediately after the decision to discontinue production. This decision must – subject to Clause 12.1 – be made at least twelve (12) months before the discontinuation of production.

13. Conformity

13.1 The Seller shall comply with all applicable worldwide regulations, guidelines, standards, laws, and relevant specifications of the customer of the Buyer, which reflect both the state of the art in science and technology and safety and environmental requirements.

13.2 The Deliverables of the Seller shall not contain any carcinogenic, reproductively toxic, mutagenic or suspected mutagenic substances, nor shall it release any such substances.

13.3 In the event of overlaps or conflicting provisions between the aforementioned requirements, the more stringent requirement (e.g., prohibition prior to declaration) is always applicable.

13.4 If a manufacturer's declaration or a declaration of conformity (CE) within the meaning of Directive (EC) 2006/42/EC ("EC Machinery Directive") is required for the Deliverables, the Seller must prepare it and make it available immediately upon request at its own expense. If a safety data sheet or a chemical safety report is required for the Deliverables, the Seller must also make the relevant documents available to the Buyer at its own expense.

13.5 For materials (substances, preparations) and items (e.g., products, services, parts, technical equipment, uncleaned empty containers) which, due to their nature, properties, or condition, may pose a risk to the life and health of people, the environment, or property, and which therefore require special treatment with regard to packaging, transport, storage, handling, or waste disposal due to regulations, the Seller will provide the Buyer with a fully completed safety data sheet along with the offer. In the event of changes to the materials, items, or the legal situation, the Seller will immediately provide updated data sheets.

13.6 At the first request of the Buyer, the Seller is obliged at all times to provide the Buyer with the information and documents required in connection with Clause 13 in a timely manner and to enable an inspection.

14. Labelling of the goods

Neither the Seller nor the Buyer may use any copyrighted names, logos, trade names, trademarks, or service marks of the other party without the prior written consent of the party that owns or controls such copyrighted rights.

15. Confidentiality, Advertising, Data Security and Cybersecurity

15.1 The Seller is obligated to keep the contractual relationship with the Buyer, all terms and conditions of a Buyer's order, as well as all information and items (as defined in Clause 10) made available to the Seller for this purpose, as well as other information, strictly confidential, not to publish it (either through marketing measures (e.g. display of the goods) or in any other way), to protect it from access by unauthorised third parties, and to use it only for the execution of the respective order. The Seller will return them to the Buyer immediately upon request after dealing with inquiries or after processing orders, provided that this does not conflict with any statutory retention periods.

15.2 The confidentiality obligations under Clause 15 shall not apply if and to the extent that information

- (a) is or becomes publicly known without breach of these obligations,
- (b) was lawfully obtained from a third party,
- (c) was already known to the Seller,
- (d) must be disclosed due to mandatory judicial, regulatory, or statutory regulations or orders, or

(e) was independently developed by the Seller without use of or reference to the Buyer's information
The burden of proof for this, that one or more of the above-mentioned exceptions apply, lies with the Seller.

15.3 The Seller shall, to the extent permitted by law, make all reasonable efforts to promptly notify the Buyer of any such reason for disclosure, to the extent permitted by law, to give the Buyer an opportunity to resist or restrict such disclosure and to offer the Buyer reasonable cooperation in its attempts to prevent or restrict such disclosure.

15.4 The Seller shall oblige the subcontractors approved by the Buyer in accordance with Clause 4.1 in accordance with Clause 15.

15.5 The confidentiality obligations of the Seller under Clause 15 shall continue to apply beyond the termination of the last order for a further period of five (5) years.

15.6 In the case of electronic information, the Seller shall ensure the confidentiality, availability and integrity of information by using appropriate protection mechanisms for information processing and storage systems.

15.7 If the Buyer and Seller have concluded an individual confidentiality agreement, this takes priority.

15.8 The Seller guarantees compliance with the principles of "Security by Design" and "Security by Default" and undertakes to take all appropriate technical and organizational measures to protect against cyberattacks and security incidents that prevent the loss, disclosure, or misuse of the data provided by the Buyer and are necessary to maintain the supply chain. If the products, software, or systems of the Seller contain AI components, the Seller further undertakes to make them secure, transparent, and traceable in accordance with the requirements of the EU AI Act. In the event of a cybersecurity incident and/or the suspicion of one that directly or indirectly affects the Seller and could compromise the systems of the Buyer, data, or business processes, the Seller is obligated to inform the Buyer comprehensively and without delay, no later than twelve (12) hours of becoming aware of the incident. In addition, the Seller will, at its own expense, take all measures and provide information requested by the Buyer to remedy the incident and comply with the requirements of applicable data protection and security regulations (including, but not limited to, GDPR, Cyber Resilience Act, Data Act, EU AI Act and NIS2).

15.9 The Seller shall indemnify the Buyer against all third-party claims arising in connection with a security incident, in particular, but not limited to, claims based on data protection breaches or non-compliance with legal obligations in connection with the security of information systems. This applies regardless of the culpability of the Seller, unless the incident was demonstrably caused by grossly negligent or intentional conduct on the part of the Buyer. The indemnity also includes all reasonable costs for incident response, forensics, defense against claims of any kind, regulatory proceedings, and damage limitation and reputational measures.

15.10 The Seller undertakes to fully support the Buyer in the event of a security incident or other regulatory audit, at its own expense. Furthermore, the Seller undertakes to promptly disclose all security-relevant findings and vulnerabilities in connection with delivered products, software, or components and to implement any necessary corrective measures without delay.

15.11 The Buyer is entitled to conduct or commission audits, security checks, or penetration tests at the Seller and its contractual partners, provided this is necessary to ensure compliance with security requirements and legal regulations. The Seller undertakes to cooperate fully in this process, to grant access to relevant documentation, and to promptly remedy any identified deficiencies at its own expense.

15.12 The Seller undertakes to delegate the obligations set out in Clauses 15.8 – 15.11 to subcontractors and contractual partners. Before engaging third parties, the Seller must conduct a due diligence review with respect to security, data protection, and compliance requirements (third-party risk assessment) and submit the results upon request of the Buyer.

15.13 Upon termination or expiration of the contract, the Seller is obligated, upon request, to securely and verifiably delete all data, backup copies, and metadata of the Buyer or, if requested by the Buyer, to return them in an agreed format. Deletion must be documented in accordance with ISO/IEC 27040 and confirmed in writing. Further processing, storage, or use of this data after termination of the contract is expressly prohibited.

15.14 The Seller shall ensure that the Buyer has, as a user under Regulation (EU) 2023/2854 (the "EU Data Act"), has access to all data generated by the purchased Deliverables. Such data shall be made available in a structured, commonly used and machine-readable format, free of charge, promptly upon the Buyer's request. The Seller shall not obstruct, limit or delay such access.

16. Customs duties, origin, international supply chain, export control

16.1 The Seller shall inform itself about the requirements of customs clearance and provide the Buyer with all documents and information necessary for customs clearance in a timely manner. The Seller shall attach a commercial invoice in English and in duplicate to the accompanying documents for customs purposes. Any deviation from this is only permitted with the prior written consent of the Buyer.

16.2 Unless other or further conditions are required by law, the Seller shall, without request, send the Buyer a long-term supplier's declaration for products with preferential origin (e.g., for the EU: form in accordance with Regulation (EU) No. 2015/2447) prior to the first delivery with the corresponding period of validity and then before the expiration of the validity period. The Buyer must be notified immediately in writing of any changes in the origin of the goods.

16.3 The Seller shall inform the Buyer immediately of any goods within the meaning of foreign trade law, including all components
(a) export restrictions and export licenses granted that exist in the country of manufacture and/or the country of dispatch of the service,

(b) about licensing requirements under US export and re-export law, including so-called EAR99 goods,

(c) about licensing requirements for dual-use goods, military equipment and other goods listed as "restricted" that exist under European Union law or national foreign trade law provisions.

If the Seller supplies goods, services and/or technologies that are subject to export controls, the Seller will forward the following information and relevant documents to the Buyer without being asked to do so:

(a) the dual-use list number (goods list annexes to the Dual-Use Regulation ((EC) 428/2009) in the currently applicable version),

(b) for US trade goods, services and/or technologies,

(i) whether these are subject to US re-export regulations (Export Administration Regulations EAR or International Traffic in Arms Regulations ITAR),

- (ii) the ECCN number (Export Control Classification Number) according to US Export Administration Regulations (EAR, USML (U.S. Munitions List) according to ITAR),
- (iii) an "Export License", and
- (iv) the US origin quantity and, where applicable, the amount of shares subject to authorization;
- (c) Information on transportation through the USA and/or manufacture and/or storage in the USA and/or manufacture using US technology or parts,
- (d) other technical information material for the application of official approvals,
- (e) a contact person of the Seller to clarify any queries.

16.4 This obligation to provide information shall continue to apply to the Seller even after the end of the business relationship and as long as the Seller and/or the Buyer are subject to these obligations to provide information to the relevant government authorities.

16.5 The Seller undertakes to produce, store, process, and load services produced, stored, transported, delivered, or accepted by the Buyer at secure operating facilities and transshipment points, as well as to protect them from unauthorized access during production, storage, processing, loading, and transport. The Seller ensures that it and its business partners comply with the relevant laws and regulations, in particular those concerning foreign trade law (including import and export regulations) and anti-terrorism lists (e.g., Regulations (EC) 881/2002 and (EC) 2580/2001), and is already taking all measures to ensure full compliance with the obligations of the Supply Chain Due Diligence Act (LkSG), which enters into force on 1 January 2023. Upon request, a security declaration must be submitted or the AEO (Authorized Economic Operator) / C-TPAT certificate number must be communicated.

16.6 If the Seller fails to comply with its obligations under Clause 16, the Buyer shall not be liable for any resulting delays in the processing and payment of orders (i.e. any delay by the Buyer is expressly excluded for the duration of the delay) and the Seller shall indemnify the Buyer against any damages and claims by third parties and any other consequences thereof.

17. Insurance

17.1 The Seller shall take out and maintain product liability insurance with a reputable and solvent insurance company at a reasonable and customary level for a lump sum coverage of at least five (5) million euros per personal injury/property damage claim, covering the liability of the Seller to the Buyer and third parties to the required extent. The Seller shall, upon request, provide the Buyer with evidence of the existence and scope of such insurance at any time and without delay.

17.2 The existence of an insurance contract does not limit the obligations of the Seller arising from these General Terms and Conditions.

17.3 Unless otherwise stipulated in the Incoterms applicable to the order, the Seller shall require each carrier employed by it to insure its transport liability.

18. Protection of personal data

The Buyer processes personal data of its customers and business partners. Further information on the handling of personal data can be found on our website at: <https://www.hoerbiger.com>.

19. Statute of limitation

19.1 The mutual claims of the Buyer and the Seller shall come under the statute of limitations in accordance with the statutory provisions, unless otherwise specified below.

19.2 The general limitation period for claims for defects is three (3) years from delivery, and in the case of work performance (within the meaning of Clause 4.4) five (5) years from acceptance. If acceptance has been agreed, the statute of limitation always begins upon acceptance. The three-year limitation period shall also apply accordingly to claims for defects of title, whereby the statutory limitation period for claims for restitution of property by third parties remains unaffected. Furthermore, claims for defects of title shall not come under the statute of limitations under any circumstances as long as the third party still asserts the right against the Buyer – in particular due to lack of limitation.

20. Termination of framework agreements and framework orders, phase-out period

20.1 Without prejudice to any other rights of the Buyer, the Buyer may terminate a framework agreement concluded with the Seller at any time, in whole or in part.

20.2 The right to extraordinary termination of a framework agreement, including a framework order with the Seller, without notice for good cause remains unaffected.

20.3 If the Seller terminates a framework agreement concluded with the Buyer, including a framework order, without good cause, the Buyer shall have an option for a termination period of up to twelve months from the effective date of termination if and as long as the service and spare parts cannot be secured with another supplier under conditions comparable to those in the framework agreement or framework order; the Seller shall provide evidence of this. During the termination period, the Seller is obligated to supply the service and spare parts to the Buyer under the terms of this framework agreement, including the framework order, delivery schedules, and purchase orders. The Seller may inquire at the Buyer about the expected duration of the termination period.

20.4 After termination of a framework agreement, including a framework order, these General Terms and Conditions of Purchase and the service-specific provisions for spare parts and post-series delivery shall continue to apply unless otherwise agreed in writing. Furthermore, any termination of a framework agreement shall not affect the provisions regarding confidentiality agreements, warranty, liability, industrial property rights, post-series and spare parts delivery, run-down times, customs and export regulations, and ownership and usage rights.

20.5 Any changes to the corporate law and company structure of the Seller must be communicated to the Buyer in advance in writing and in a timely manner, fully stating the effects on the performance of the Seller.

21. Transfer, assignment

The Seller is not entitled to assign this agreement and any rights and obligations hereunder to any third party without the prior written consent of the Buyer. Any assignment by the Buyer does not require the consent of the Seller.

22. Code of Conduct, Minimum Wage

22.1 It is of particular importance to the Buyer that the following principles are observed in its business relationships with intermediaries, trading agencies, authorised dealers, and sub-suppliers. The Code of Conduct is available for download at www.hoerbiger.com. The Seller confirms that it will observe the following principles and practices within its supply chain:

- (a) Compliance with laws and regulations, in particular the Supply Chain Due Diligence Act, which comes into force on 1 January 2023;
- (b) Respect for human dignity, personal freedoms, equal treatment (prohibition of discrimination); prohibition of child, forced, and illegal work; freedom of association and collective bargaining; compliance with minimum wage and working hour regulations; provision of safe working conditions;
- (c) Prohibition of bribery, corruption and extortion; prohibition of taking direct or indirect advantages for oneself or third parties; prohibition of offering or providing direct or indirect advantages;
- (d) Compliance with foreign trade law and anti-money laundering regulations;
- (e) Refrain from anti-competitive practices;
- (f) Compliance with social and environmental laws and regulations; compliance with conflict material regulations (i.e., sourcing of goods and materials from legal and ethical sources);
- (g) accurate and complete recording of all transactions in the company accounts and records; and
- (h) Compliance with laws and regulations on information security and data protection.
- (i) Observance of and compliance with the requirements of the Carbon Border Adjustment Mechanism ("CBAM") and the unrestricted provision to the Buyer of all information the Buyer needs to comply with its own CBAM obligations (further information at: <https://www.hoerbiger.com/en/contact/purchasing/downloads.html>). The Seller will recommit its suppliers accordingly and require them, in turn, to further recommit their suppliers in their supply chain.

22.2 If the Seller becomes aware that an employee, director, or shareholder of the Seller, the Buyer, or a third party involved in the business relationship with the Buyer (presumably) violates the Code of Conduct, the Seller shall immediately notify the Buyer in writing of the (alleged) violation. The notification must be sent to the following email address: compliance@hoerbiger.com.

22.3 The Seller shall take all necessary measures to protect itself and the Buyer from damaging consequences, including but not limited to fines, contractual penalties, termination of business with its customers and damage to its reputation.

22.4 The Seller shall implement compliance provisions in accordance with Clause 22 and shall monitor compliance with them by itself and its suppliers to an appropriate extent.

22.5 The Buyer may verify compliance with the Code of Conduct. The Seller will cooperate with the Buyer and support this verification, including the provision documents and declarations.

22.6 The Seller shall indemnify the Buyer against any claims by third parties for breaching obligations under this Clause 22. In the case of subcontracting services, this indemnification obligation shall also extend to subcontractors or other third parties appointed by the Seller and their employees.

23. General Provisions

23.1 Should a provision or part of a provision of these General Terms and Conditions of Purchase be or become invalid or unenforceable, it shall be disregarded and the validity of these General Terms and Conditions of Purchase shall remain unaffected. If necessary, Buyer and Seller are obliged to replace the invalid or unenforceable provision with a valid and enforceable provision that is economically equivalent to the invalid or unenforceable provision, provided that this does not result in a material change to the content of these General Terms and Conditions of Purchase.

23.2 Unless otherwise agreed in writing, the contractual relationship between the parties shall be governed exclusively by the law of the Buyer's place of business. With the exception of the rules of private international law, all reference norms of these laws and the provisions of the United Nations Convention on Contracts for the International Sale of Goods are excluded.

23.3 If the Seller has its registered office in a member state of the European Union, the exclusive – including international – place of jurisdiction for all disputes arising from the respective contractual relationship shall be the registered office of the Buyer. However, the Buyer is also entitled in all cases to take legal action at the place of performance of the delivery obligation in accordance with these General Terms and Conditions of Purchase or at the general place of jurisdiction of the Seller. Priority statutory provisions, in particular those relating to exclusive jurisdiction, remain unaffected. If the Seller has its registered office outside a member state of the European Union, all disputes arising from or in connection with these General Terms and Conditions of Purchase, their contractual relationship, or their validity shall be finally settled under the arbitration rules of the International Chamber of Commerce (ICC) by arbitrators appointed in accordance with these rules, without recourse to established courts of law. The arbitral tribunal shall consist of three (3) arbitrators. The place of arbitration shall be Munich, Germany. The applicable law shall be the law set out in Clause 23.2.

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