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CALIBER.GLOBAL GENERAL TERMS AND CONDITIONS
(for the Purchase of Goods and/or Services)**1. DEFINITIONS**

“Affiliate(s)” means (i) in the case of Caliber, Caliber.global B.V. and (ii) in the case of Caliber and Supplier: any and all other companies, firms and legal entities with respect to which now or hereafter Caliber.global B.V. or Supplier respectively, directly or indirectly holds 50% or more of the nominal value of the issued share capital or 50% or more of the voting power at general meetings or has the power to appoint a majority of directors or otherwise to direct the activities of such company, firm or legal entity;

“Agreement” means the binding contract formed as described in Clause 2.1 herein;

“Good Industry Practice” means the exhibition of behavioral attributes, including but not limited to skill, care, prudence and precaution and the use of technology, techniques and methodologies that a leading professional supplier of similar Goods or Services would use;

“Goods” means both tangible and intangible goods or cargo, including software and related documentation and packaging;

“Intellectual Property Rights” (or “IPR’s”) means patents, utility certificates, utility models, industrial design rights, copyrights, database rights, trade secrets, any protection offered by law to Information, and all registrations, applications, renewals, extensions, combinations, divisions, continuations or reissues of any of the foregoing or which otherwise arises or is enforceable under the laws of any jurisdiction or any bi-lateral or multi-lateral treaty regime;

“Personal Data” means any and all information relating to an identified or identifiable individual, including but not limited to Caliber current or former employees, employee family members, dependents or beneficiaries, customers, consumers, suppliers, business partners or contractors;

“Caliber” means Caliber.global B.V. and/or the purchasing Affiliate of Caliber.global B.V. identified in Caliber’s order and where applicable includes other Affiliates of Caliber;

“Caliber Information” means all information in any form about, or pertaining to, the business or operations of Caliber, its Affiliates, including but not limited to information on products, technology, IT operations, Intellectual Property Rights, know-how, financial information, customer data, Personal Data and data, results, data structures and documentation accessed by Supplier in performing the Agreement or generated by an IT system of Supplier used in the provision of the Services;

“Processing” means any operation or set of operations performed or to be performed upon Personal Data, whether or not by automatic means, such as creation, access,

collection, recording, organization, storage, loading, employing, adaptation or alteration, retrieval, consultation, displaying, use, disclosure, dissemination or otherwise making available, alignment or combination, blocking, erasure or destruction (hereinafter also referred to as a verb “Process”);

“Open Source Software” means (1) any software that requires as a condition of use, modification and/or distribution of such software, that such software: (i) be disclosed or distributed in source code form; (ii) be licensed for the purpose of making derivative works; (iii) may only be redistributed free from enforceable IPR’s; and/or (2) any software that contains, is derived from, or statically or dynamically links to, any software specified under (1);

“Services” means the services of Supplier to be delivered to-and/or performed for Caliber under the Agreement;

“Supplier” means each person or entity (including, where relevant, its Affiliates) that enters into the Agreement;

“Work Product” means all deliverables (including future deliverables) and other data, reports, works, inventions, know-how, software, improvements, designs, devices, apparatus, practices, processes, methods, drafts, prototypes, products, services and other work product or intermediate versions thereof produced or acquired by Supplier, its personnel or its agents for Caliber in the performance of Services under the Agreement.

2. AGREEMENT

2.1 These General Conditions of Purchase, together with the relevant Purchase Order issued by Caliber, set forth the terms under which Caliber offers or requests to purchase Goods and/or Services from Supplier. When Supplier accepts Caliber’s offer or request, either by acknowledgement, delivery of any Goods and/or commencement of performance of any Services, a binding contract shall be formed (“Agreement”). Such Agreement is limited to these General Conditions of Purchase, the relevant Purchase Order and any attachments. Caliber does not agree to any proposed amendment, alteration, or addition by Supplier. The Agreement can be varied only in writing signed by Caliber. Any other statement or writing of Supplier shall not alter, add to, or otherwise affect the Agreement.

2.2 Caliber is not bound by and hereby expressly rejects Supplier’s general conditions of sale or services and any additional or different terms or provisions that may appear on any proposal, quotation, price list, acknowledgment, invoice, packing slip or the like used by Supplier. Course of performance, course of dealing, and usage of trade shall not be applied to modify these General Conditions of Purchase.



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2.3. All costs incurred by Supplier in preparing and submitting any acceptance of Caliber's offer shall be for the account of Supplier.

3. TIME OF THE ESSENCE

Time is of the essence and all dates referred to in the Agreement shall be firm. In the event that Supplier anticipates any difficulty in complying with any delivery date or any of its other obligations under the Agreement, Supplier shall promptly notify Caliber in writing.

4. DELIVERY OF GOODS

4.1. Unless expressly agreed otherwise in writing, all Goods shall be delivered DDP (named port or place of delivery) (as defined in the Incoterms 2020) with final destination determined by Caliber.

4.2. Delivery shall be completed as per the applicable Incoterm, but this shall not constitute acceptance of the Goods.

4.3. Supplier shall, concurrently with the delivery of the Goods, provide Caliber with copies of all applicable licenses. Each delivery of Goods to Caliber shall include a packing list which contains at least (i) the applicable order number, (ii) the part number, (iii) the quantity shipped, and (iv) the date of shipment.

4.4. Supplier shall make no partial delivery or delivery before the agreed delivery date(s). Caliber reserves the right to refuse delivery of Goods and return same at Supplier's risk and expense if Supplier defaults in the manner and time of delivery or in the rate of shipment. Caliber shall not be liable for any costs incurred by Supplier related to production, installation, assembly or any other work related to the Goods, prior to delivery in accordance with the Agreement.

4.5. Any design, manufacturing, installation or other work to be performed by or on behalf of Supplier under the Agreement shall be executed with good workmanship and using proper materials.

4.6. Supplier shall pack, mark and ship the Goods in accordance with sound commercial practices and Caliber's specifications in such manner as to prevent damage during transport and to facilitate efficient unloading, handling and storage, and all Goods shall be clearly marked as destined for Caliber. Notwithstanding the provisions of the applicable Incoterms, Supplier shall be responsible for any loss or damage due to its failure to properly preserve, package, handle (before delivery as per the applicable Incoterm) or pack the Goods; Caliber shall not be required to assert any claims for such loss or damage against the common carrier involved.

5. CHANGES TO GOODS

Supplier shall not, without prior written consent of Caliber, make any changes affecting Goods, including process or design changes, changes to manufacturing processes (including geographic location) changes affecting electrical

performance, mechanical form or fit, function, environmental compatibility, chemical characteristics, life, reliability or quality of Goods or changes that could have significant impact upon Supplier's quality system.

6. INSPECTION, TESTING, REJECTION OF GOODS

6.1. Inspection, testing of or payment for the Goods by Caliber shall not constitute acceptance. Inspection or acceptance of or payment for the Goods by Caliber shall not release Supplier from any of its obligations, representations or warranties under the Agreement.

6.2. Caliber may, at any time, inspect the Goods or the manufacturing process for the Goods. If any inspection or test by Caliber is made on the premises of Supplier, Supplier shall provide reasonable facilities and assistance for the safety and convenience of Caliber's inspection personnel.

6.3. If Caliber does not accept any of the Goods, Caliber shall promptly notify Supplier of such rejection, and Clause 11 below shall apply. Within two (2) weeks from such notification, Supplier shall collect the Goods from Caliber at its own expense. If Supplier does not collect the Goods within said two (2) week period, Caliber may have the Goods delivered to Supplier at Supplier's cost, or with the Supplier's prior consent destroy the Goods, without prejudice to any other right or remedy Caliber may have under the Agreement or at law. Goods not accepted but already paid by Caliber shall be reimbursed by Supplier to Caliber and Caliber shall have no payment obligation for any Good not accepted by Caliber.

6.4. If, as a result of sampling inspection, any portion of a lot or shipment of like or similar items is found not to conform to the Agreement, Caliber may reject and return the entire shipment or lot without further inspection or, at its option, complete inspection of all items in the shipment or lot, reject and return any or all nonconforming units (or accept them at a reduced price) and charge Supplier the cost of such inspection.

7. PERFORMANCE OF SERVICES

7.1. Supplier shall, according to Good Industry Practices, professionally perform the Services with due skill and care, using the proper materials, under all applicable and required licenses and/or permits and employing sufficiently qualified staff.

7.2. Supplier shall be fully liable for the acts and omissions of any and all third parties with which it has contracted in connection with the Services.

7.3. Only written confirmation by Caliber shall constitute acceptance of the Services performed. If Caliber does not accept the Service and/or Work Product(s), Clause 11 below shall apply. Caliber shall promptly notify Supplier of such rejection, and Supplier will, at its own expense, carry out the necessary corrections, additions and modifications reasonably requested by Caliber in writing within thirty (30) days of such notification.

7.4. With respect to the purchase of shipping and transport services by Caliber, the Supplier shall:



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- provide the transportation equipment in a clean and transport-worthy condition, bearing in mind the type of cargo, the intended routing and the modality;
- deliver the cargo and/or Goods in the same condition as received;
- timely pickup and deliver the cargo and/or Goods, according to the order;
- notify the condition of the cargo and/or Goods upon loading, and to record deficiencies (if any) by report and pictures;
- notify the condition of packaging upon loading, and to record deficiencies (if any) by report and pictures;
- immediately notify occurred damage (if any) upon loading, unloading or during the voyage, and to record the same by report and pictures;
- communicate errors and inaccuracies compared to the original purchase or service order, for instance but not limited to quantity and price;
- always be reachable and ensure that direct contact is possible with the actual carrier and/or driver;
- make use of the Caliber smartphone app.

8. PRICES: PAYMENT

- 8.1. Unless provided otherwise in the Purchase Order, title in the Goods shall pass to Caliber at the time risk is transferred to Caliber pursuant to the applicable Incoterm, and by default thereof, according to the applicable law.
- 8.2. All prices quoted in the Agreement shall be fixed prices. Supplier warrants that such prices are not in excess of the lowest prices charged by Supplier to other similarly situated customers for similar quantities of Goods or Services of like kind and quality.
- 8.3. (i) All prices are gross amounts but exclusive of any value added tax (VAT), sales tax, GST, consumption tax or any other similar tax only. (ii) If the transactions as described in the Agreement are subject to any applicable VAT, sales tax, GST, consumption tax or any other similar tax, Supplier may charge VAT, sales tax, GST, consumption tax or any other similar tax to Caliber, which shall be paid by Caliber in addition to the prices quoted. Supplier is responsible for paying any applicable VAT, sales tax, GST, consumption tax or any other similar tax to the appropriate (tax) authorities. At or after the time delivery has been completed as per Clause 4.2 but ultimately within three months from delivery of the Goods or Services, Supplier shall issue an invoice meeting all applicable legal and fiscal requirements and which shall contain: (i) the Caliber purchase order number, and (ii) wording that shall allow Caliber to take advantage of any applicable "input" tax deduction.
- 8.4. Any license fees shall be included in the price.
- 8.5. Subject to the acceptance of the Goods, Services and/or Work Product by Caliber, and unless provided otherwise in the Purchase Order, payment shall be made within sixty (60) days from receipt of the correct invoice in accordance with 8.3 in the proper form.

8.6. If Supplier fails to fulfill any of its obligations under the Agreement, Caliber may suspend payment to Supplier upon notice to Supplier.

8.7. Supplier hereby unconditionally accepts that Caliber and any of its Affiliates shall at all times have the right to set-off any amounts that any Caliber Affiliate owes to Supplier or its Affiliates under this Agreement with any amounts that Supplier or its Affiliates owes to any Affiliate of Caliber under the Agreement or any other agreement.

8.8. Supplier acknowledges and agrees that any amount to be paid by Caliber to Supplier may be paid on Caliber's behalf by another Affiliate of Caliber and/or a third party designated by Caliber. Supplier shall treat such payment as if it were made by Caliber itself and Caliber's obligation to pay to Supplier shall automatically be satisfied and discharged in the amount paid by such entity or third party.

9. WARRANTY

9.1. Supplier represents and warrants to Caliber that all Goods and/or Work Product(s) and/or Services:

- (a) are suitable for the intended purpose and shall be new, merchantable, of good quality and free from all defects in design, materials, construction and workmanship;
- (b) strictly comply with the specifications, approved samples and all other requirements under the Agreement;
- (c) are delivered with all required licenses which shall remain valid and in place, and with the scope to properly cover the intended use. Furthermore, all such licenses shall include the right to transfer and the right to grant sublicenses;
- (d) shall be free from any and all liens and encumbrances;
- (e) have been designed, manufactured and delivered in compliance with all applicable laws (including labor laws), regulations, EC Directive 2001/95 on General Product Safety and in the spirit of the Paris Agreement 2015 and the Glasgow Agreement 2021 on climate change;
- (f) are provided with and accompanied by all information and instructions necessary for proper and safe use, including all its packaging and components. Supplier shall furnish to Caliber any information required to enable Caliber to comply with the applicable laws, rules, and regulations in its use of the Goods and Services; and
- (g) will be accompanied by written and detailed specifications of the composition and characteristics, to enable Caliber to transport, store, process, use and dispose of such Goods and/or Work Product safely and in compliance with law.

9.2. These warranties are not exhaustive and shall not be deemed to exclude any warranties set by law, Supplier's standard warranties or other rights or warranties which



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Caliber may be entitled to. These warranties shall survive any delivery, inspection, acceptance, payment or resale of the Goods, and shall extend to Caliber and its customers.

- 9.3. Without prejudice to any other rights accruing under the Agreement or law, the warranties set forth in Article 9.1 will subsist for a period of thirty-six (36) months from the date of delivery as per Clause 4.2, or such other period as agreed in the Agreement (the "Warranty Term"). Goods repaired or replaced within the Warranty Term are warranted for the remainder of the original Warranty Term of said Goods, or twelve (12) months following the delivery date of such repaired or replaced Goods, whichever is longer.

10. OPEN SOURCE SOFTWARE WARRANTY

Unless the inclusion of Open Source Software is specifically authorized in writing by duly authorized officers of Caliber and unless otherwise stated in the Agreement, Supplier represents and warrants that the Goods and/or Services do not include any portion of any Open Source Software.

11. NON-CONFORMITY

- 11.1. If any Goods, Services or Work Products are defective, latent or otherwise do not conform to the requirements of the Agreement, Caliber shall notify Supplier and may, without prejudice to any other right or remedy available to it under the Agreement or at law, at its sole discretion:

- (a) require performance by Supplier;
- (b) require delivery of substitute Goods or Work Products;
- (c) require Supplier to remedy the lack of conformity by repair;
- (d) declare the contract rescinded; or
- (e) reduce the price in the same proportion as the value of the Goods or Services actually delivered, even if that results in a full refund of the price paid to Supplier.

- 11.2. Supplier shall bear all cost of repair, replacement and transportation of the nonconforming Goods, and shall reimburse Caliber in respect of all costs and expenses (including, without limitation, inspection, handling and storage costs) reasonably incurred by Caliber in connection therewith.

- 11.3. Risk in relation to the nonconforming Goods shall pass to Supplier upon the date of notification thereof.

12. OWNERSHIP AND INTELLECTUAL PROPERTY

- 12.1. All machinery, tools, drawings, specifications, raw materials and any other property or materials furnished to Supplier by or for Caliber, or paid for by Caliber, within the scope of the Agreement, shall be and remain the sole exclusive property of Caliber and shall not be furnished to any third party without Caliber's prior written consent, and all information with respect thereto shall be confidential and proprietary information of Caliber. In addition, any and all of the foregoing shall be used solely for the purpose of fulfilling orders from Caliber. Except as otherwise expressly agreed in writing, Supplier agrees to furnish at its own expense all machinery, tools, and raw materials necessary to perform its obligations under the Agreement.

- 12.2. Supplier represents and warrants to Caliber that the Goods and Services do not and shall not, alone or in any combination, infringe or violate any third party (including Supplier's employees and subcontractors) IPR's.

- 12.3. The purchase of the Goods and/or Services shall confer on Caliber and its Affiliates an irrevocable, world-wide, royalty-free and fully paid up, nonexclusive and perpetual license under all IPR's owned or controlled, directly or indirectly, by Supplier to use, make, have made, build-in, have built-in, market, sell, lease, license, distribute and/or otherwise dispose of the Goods and/or Services, including but not limited to machinery, tools, drawings, designs, software, demos, moulds, specifications or pieces.

- 12.4. Caliber shall retain all rights in any samples, data, works, materials and intellectual and other property provided by Caliber to Supplier. All rights in and titles to the Work Product shall become Caliber's property. Supplier shall execute and deliver any documents and do such things as may be necessary or desirable in order to carry into effect the provisions of this Clause 12.4.

- 12.5. Supplier shall not have or obtain any right, title or interest in or to any of Caliber's samples, data, works, materials, trademarks, IPR's and/or other property, nor shall the supply of Goods and/or Services alone or in any combination, or the supply of packaging containing Caliber's trademarks or trade names give Supplier any right or title to these or similar trademarks or trade names. Supplier shall not use any trademark, trade name or other indication in relation to the Goods or Services alone or in any combination without Caliber's prior written approval and any use of any trademark, trade name or other indication as authorized by Caliber shall be strictly in accordance with the instructions of and for the purposes specified by Caliber.

- 12.6. Supplier shall not, without Caliber's prior written consent, publicly make any reference to Caliber, whether in press releases, advertisements, sales literature or otherwise.

13. INTELLECTUAL PROPERTY INDEMNIFICATION

- 13.1. Supplier shall indemnify and hold harmless Caliber, its Affiliates, agents and employees and any person selling or using any of Caliber's products in respect of any and all claims, damages, costs and expenses (including but not limited to loss of profit and reasonable attorneys' fees) in connection with any third party claim that any of the Goods or Services alone or in any combination or their use infringes any third party IPR's, or, if so directed by Caliber, shall defend any such claim at Supplier's own expense.

- 13.2. Caliber shall give Supplier prompt written notice of any such claim, provided, however, any delay in notice shall not relieve Supplier of its obligations hereunder except to the extent it is prejudiced by such delay. Supplier shall provide all assistance in connection with any such claim as Caliber may reasonably require.

- 13.3. If any Goods or Services alone or in any combination, supplied under the Agreement are held to constitute an infringement



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or if their use is enjoined, Supplier shall, as directed by Caliber, but at its own expense: either

- (a) procure for Caliber or customers the right to continue using the Goods or Services alone or in any combination; or
- (b) replace or modify the Goods or Services alone or in any combination with a functional, non-infringing equivalent.

- 13.4. If Supplier is unable either to procure for Caliber the right to continue to use the Goods or Services alone or in any combination or to replace or modify the Goods or Services alone or in any combination in accordance with the above, Caliber may terminate the Agreement and upon such termination, Supplier shall reimburse to Caliber the price paid, without prejudice to Supplier's obligation to indemnify Caliber as set forth herein.

14. INDEMNIFICATION

Supplier shall indemnify and hold harmless Caliber, its Affiliates, agents and employees and anyone selling or using any of Caliber's products, from and against all suits, actions, legal or administrative proceedings, claims, demands, damages, loss, judgments, liabilities, interest, attorneys' fees, costs and expenses of whatsoever kind or nature (including but not limited to special, indirect, incidental, consequential damages), whether arising before or after completion of the delivery of the Goods or performance of the Services covered by the Agreement, in any manner caused or claimed to be caused by the acts, omissions, faults, breach of express or implied warranty, breach of any of the provisions of this Agreement, or negligence of Supplier, or of anyone acting under its direction or control or on its behalf, in connection with Goods, Services or information furnished by Supplier to Caliber under the Agreement.

15. COMPLIANCE WITH LAWS

Supplier shall at all times comply with all laws, rules, regulations, and ordinances applicable to the Agreement, including, but not limited to, all fair labor, equal opportunity, and environmental compliance laws, rules, regulations, and ordinances. Supplier shall furnish to Caliber any information required to enable Caliber to comply with any applicable laws, rules, and regulations in its use of the Goods and Services. If Supplier is a person or legal entity doing business in the United States, and the Goods and/or Services are sold to Caliber under federal contract or subcontract, all applicable procurement regulations required by federal statute or regulation to be inserted in contracts or subcontracts are hereby incorporated by reference. Additionally, if Supplier is a person or legal entity doing business in the United States, the Equal Employment Opportunity Clauses set forth in 41 Code of Federal Regulations, Chapters 60-1.4, 60-250.5, and 60-741.5, are hereby incorporated by reference.

16. PERSONAL DATA

For the purpose of or in connection with this Agreement, Supplier may come to process information in any form relating to an identified or identifiable individual ("Personal Data"), including sensitive data, of individuals whom personal data is provided to Supplier via the Products by (or at the direction of) Caliber such as/i.e., consumers and employees. This Clause 16

sets out the terms and respective rights and duties of the Parties in respect of such Processing of Personal Data.

The duration of the Processing is intended as the Term plus the period from the expiry of the Term until deletion or return of Personal Data by Supplier in accordance with this Agreement.

Supplier undertakes and warrants that it and its personnel involved with the performance of this Agreement shall:

- (i) Process all Personal Data in accordance with all laws and regulations applicable to the Processing, protection, confidentiality or security of Personal Data and all further instructions provided by Caliber with regard to the Processing;
- (ii) Process the Personal Data appropriately and accurately and only insofar as necessary to provide the Products;
- (iii) not Process the Personal Data for purposes not so authorized or so instructed by Caliber;
- (iv) ensure that only those Supplier personnel involved with the performance of this Agreement shall have access to the Personal Data and shall require such Supplier personnel to protect and maintain the confidentiality and the security of the Personal Data;
- (v) Caliber acknowledges and agrees that Supplier may engage Sub-Processors to Process Personal Data. Supplier shall ensure that Sub-Processors are contractually bound to the same data protection obligations with respect to the Processing of Personal Data as those to which Supplier is bound under this Agreement. Supplier remains fully liable to Caliber for the Sub-Processor's performance of the contract, as well as for any acts or omissions of the Sub-Processor in regard to its Processing;
- (vi) implement appropriate technical and organizational security measures to ensure an appropriate level of security and protect Personal Data;
- (vii) cooperate with Caliber where this is necessary for the performance of Caliber's data protection impact assessments;
- (viii) not disclose the Personal Data to any third party without the prior written approval of Caliber. In case of a request for disclosure to a competent governmental or semi-governmental authority or court, if permitted by law, Supplier shall inform Caliber of the exact nature of the request and the legal obligation to comply with such request;
- (ix) inform Caliber without undue delay after Supplier or any Supplier personnel has become aware of a Personal Data Breach. Supplier shall promptly take all necessary and appropriate corrective actions to remedy any deficiencies in its security measures, and take any action pertaining to such security incident required by applicable law and by Caliber;
- (x) not hold Personal Data any longer than necessary for the purpose of performing, or having performed any obligation under this Agreement. Subject to Supplier's legal and regulatory obligations with regard to the Personal Data, Supplier shall ensure that Supplier and Supplier personnel that Processes the Personal Data on its behalf (a) promptly returns all Personal Data in its possession or control and all copies thereof to Caliber



- and/or to a third party of choice of the Caliber upon Caliber' first request; and (b) upon termination of the Agreement, for whatever reason, ceases to use the Personal Data and at Caliber' sole option arranges for either the prompt and safe return to Caliber and/or to a third party of choice of Caliber or the secure deletion and destruction of all the Personal Data together with all copies in its possession or control;
- (xi) ensure that transfers of Personal Data to Supplier's affiliates or Sub-Processors will occur on the basis of a legally recognized transfer mechanism if Personal Data would be transferred outside the European Economic Area as necessary to provide the Products;
 - (xii) inform Caliber without undue delay of any complaints, requests or enquiries received from Individuals, including but not limited to requests to access, rectify or delete Personal Data. Supplier shall not respond to the Individual directly except where specifically instructed by Caliber. Supplier shall in any event cooperate with Caliber to address and resolve any complaints, requests or enquiries from Individuals;
 - (xiii) make available to Caliber all information necessary to demonstrate compliance with the obligations applicable to the Processing and laid down in this Agreement.
- 17. INFORMATION SECURITY**
- 17.1 Ownership of the Caliber Information, shall remain with Caliber and its Affiliates. Supplier may use the Caliber Information only for the performance of the Agreement and in accordance with Caliber's instructions. Supplier shall clearly mark the Caliber Information as property of Caliber.
- 17.2 Supplier shall establish an information security management framework to initiate and control the implementation of security policies, standards and procedures within Supplier's organization in order to protect Caliber Information and assets relevant to the Agreement (including any systems). Such framework shall be operated in accordance with Good Industry Practices and shall at a minimum include protection against loss, deterioration, corruption, unauthorized alteration and unauthorized access. Supplier shall protect Caliber Information and assets based on the principles of confidentiality, integrity and availability.
- 18. EXPORT CONTROLS COMPLIANCE**
- 18.1 Supplier agrees and warrants that it will comply with all applicable international and national export control laws and regulations and it will not export or re-export, directly or indirectly, any information, goods, software and/or technology to any country for which the European Union or the United States of America or any other country, at the time of export or re-export, requires an export license or other governmental approval, without first obtaining such license or approval.
- 18.2 Supplier agrees to inform Caliber in writing whether or not the supplied information, goods, software and/or technology is US controlled and/or controlled under the export control laws of its own country, and if so, Supplier will inform Caliber about the extent of the restrictions (including but not limited to export control legal jurisdiction, export control classification numbers, export control licenses and/or CCATS as applicable).
- 18.3 Supplier shall obtain all international and national export licenses or similar permits required under all applicable export control laws and regulations and shall provide Caliber with all information required to enable Caliber and its customers to comply with such laws and regulations.
- 18.4 Supplier agrees to indemnify and hold Caliber harmless from any claims, liabilities, penalties, forfeitures, and associated costs and expenses (including attorney's fees), which Caliber may incur due to Supplier's non-compliance with applicable laws, rules and regulations. Supplier agrees to notify Caliber promptly of Supplier's receipt of any such notice of a violation of any export control related law, rule or regulation, which may affect Caliber.
- 19. CUSTOMS COMPLIANCE**
- 19.1 On an annual basis, or upon earlier request of Caliber, Supplier shall provide Caliber with a supplier declaration of origin in relation to the Goods sufficient to satisfy the requirements of (i) the customs authorities of the country of receipt, and (ii) any applicable export licensing regulations, including those of the United States. In particular, the declaration should explicitly mention whether the Goods, or part thereof, have been produced in the United States or originate in the United States. Dual-use Goods, or otherwise classified Goods supplied by Supplier should be clearly identified by their classification code.
- 19.2 For all Goods that qualify for application of Regional or Free Trade Agreements, General Systems of Preference or other preferential arrangements, it is the responsibility of the Supplier to deliver products with the appropriate documentary evidence (e.g. Supplier's declaration, preferential origin certificate/invoice declaration) to confirm the preferential origin status.
- 19.3 Supplier shall mark every Good (or the Good's container if there is no room on the Good itself) with the country of origin. Supplier shall, in marking the Goods, comply with the requirements of the customs authorities of the country of receipt. If any Goods are imported, Supplier shall when possible allow Caliber to be the importer of record. If Caliber is not the importer of record and Supplier obtains duty drawback rights to the Goods, Supplier shall, upon Caliber request, provide Caliber with documents required by the customs authorities of the country of receipt to prove importation and to transfer duty drawback rights to Caliber.
- 20. LIMITATION OF LIABILITY**
- 20.1. Neither Party excludes or limits its liability for death or personal injury arising from its own negligence, fraud, or for any liability that cannot by law be excluded or limited.



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20.2 Subject to Clause 20.1, in no event shall Caliber be liable under any theory of liability, for indirect, incidental, special, consequential or punitive damages, which includes without limitation damages for lost profits or revenues, lost business opportunities, loss of image or lost data, even if Caliber has been advised of the possibility of such damages and in no event shall Caliber be liable to Supplier, its successors or assigns for damages in excess of the amount due to Supplier for complete performance under the Agreement, less any amounts already paid to Supplier by Caliber.

21. FORCE MAJEURE

In the event that Supplier is prevented from performing any of its obligations under the Agreement for reason of force majeure (being an event unforeseeable and beyond the control of Supplier), the performance of the obligation concerned shall be suspended for the duration of the force majeure. Caliber shall be entitled to terminate the Agreement with immediate effect by written notice to Supplier, immediately if the context of the non-performance justifies immediate termination, and in any event if the circumstance constituting force majeure endures for more than thirty (30) days and, upon such notice, Supplier shall not be entitled to any form of compensation in relation to the termination. Force majeure on the part of Supplier shall in any event not include shortage of personnel or production materials or resources, strikes, not officially declared epidemic or pandemic, governmental COVID-19 restrictions, breach of contract by or force majeure of third parties contracted by Supplier, financial problems of Supplier, nor the inability of Supplier to secure the necessary licenses, permits or authorizations in relation to the Goods or Services to be supplied.

22. SUSPENSION AND RESCISSION

22.1. Without prejudice to any other right or remedy available to Caliber under the Agreement or at law, Caliber shall be entitled at its discretion to suspend the performance of its obligations under the Agreement in whole or in part or to declare the Agreement rescinded and/or terminated in whole or in part by means of written notice to Supplier in the event that:

- (a) Supplier files a voluntary petition in bankruptcy or any voluntary proceeding relating to insolvency, receivership, liquidation, assignment for the benefit or creditors or similar proceeding;
- (b) Supplier becomes the subject of a petition in bankruptcy or any proceeding relating to insolvency, receivership, liquidation, assignment for the benefit of creditors or similar proceeding;
- (c) Supplier ceases or threatens to cease to carry on business in the ordinary course;
- (d) Supplier breaches any of its obligations under the Agreement or Caliber, in its reasonable discretion, determines that Supplier cannot or shall not deliver the Goods or perform the Services as required; or
- (e) Supplier fails to provide adequate assurance of performance following request by Caliber.

22.2. Caliber shall not be liable to Supplier by virtue of exercising any of the rights under Clause 22.1.

23. CONFIDENTIALITY

23.1. Supplier shall treat all information provided by or on behalf of Caliber or generated by Supplier for Caliber under the Agreement as confidential. All such information shall be used by Supplier only for the purposes of the Agreement. Supplier shall protect Caliber's information using not less than the same degree of care with which it treats its own confidential information, but at all times shall use at least reasonable care. All such information shall remain the property of Caliber and Supplier shall, upon Caliber's demand, promptly return to Caliber all such information and shall not retain any copy thereof.

23.2. The existence and the contents of the Agreement shall be treated as confidential by Supplier.

24. MISCELLANEOUS

24.1. Supplier will take out and/or maintain appropriate, comprehensive and/or commercial general liability insurance (including products liability, property damage, carrier liability, logistics and warehousing liability, personal injury liability, and any other liability as may be requested by Caliber) with, unless otherwise agreed by Caliber, a minimum limit of five million Euro (EUR 5,000,000) for claims of bodily injury, including death, and any other damages that may arise from use of the Goods or related to the Services or acts or omissions of Supplier under the Agreement. Such insurance policies will be written with appropriately licensed and financially responsible insurers. Supplier shall inform Caliber of any cancellation or reduction in coverage with a minimum of 30 days prior written notice. Certificates of insurance evidencing the required coverage and limits and insurance policies shall be furnished to Caliber upon Caliber's reasonable request.

24.2. Supplier shall provide Goods and render Services hereunder as an independent contractor and not as an agent of Caliber and nothing contained in the Agreement is intended to create a partnership, joint venture or employment relationship between the parties irrespective of the extent of economic dependency of Supplier on Caliber.

24.3. Supplier shall not subcontract, transfer, pledge or assign any of its rights or obligations under the Agreement without the prior written consent of Caliber. Any such pre-approved subcontracting, transfer, pledge or assignment shall be null and void and have no effect vis-à-vis such third party.

24.5. The rights and remedies reserved to Caliber are cumulative and are in addition to any other or future rights and remedies available under the Agreement, at law or in equity.



Caliber

- 24.6. Neither the failure nor the delay of Caliber to enforce any provision of the Agreement shall constitute a waiver of such provision or of the right of Caliber to enforce each and every provision of the Agreement. No course or prior dealings between the parties and no usage of the trade shall be relevant to determine the meaning of the Agreement. No waiver, consent, modification or amendment of the terms of the Agreement shall be binding unless made in a writing specifically referring to the Agreement signed by Caliber and Supplier.
- 24.7. In the event that any provision(s) of these General Conditions of Purchase and of the Agreement shall be held invalid, unlawful or unenforceable by a court of competent jurisdiction or by any future legislative or administrative action, such holding or action shall not negate the validity or enforceability of any other provisions of the Agreement. Any such provision held invalid, unlawful or unenforceable, shall be substituted by a provision of similar import reflecting the original intent of the clause to the extent permissible under applicable law.
- 24.8. Any standard terms and conditions of Supplier (whether direct, indirect or by reference) are invalid and herewith rejected. These general terms and conditions of purchase of Caliber shall take precedence over any terms and conditions of Supplier (if yet considered valid) and are always considered referred to and/or declared applicable first.
- 24.9. All terms and conditions of the Agreement which are destined, whether express or implied, to survive the termination or the expiration of the Agreement, including but not limited to Warranty, Intellectual Property, Confidentiality and Personal Data, shall survive.
- 24.10. The Agreement shall be governed by and construed in accordance with the laws of the country and state where the contracting entity of Caliber is located. The courts/arbitrators having jurisdiction over any disputes under this Agreement are: for Caliber US/Canada contracting entities, the competent court of Columbus OH (US), for Caliber Asia contracting entities, arbitration in Hong Kong (PRC) according to the HKIAC rules, and for Caliber European contracting entities, the civil court of Amsterdam (The Netherlands).
- 24.11. The United Nations Convention on International Sale of Goods shall not apply to the Agreement.
- 24.12. These General Conditions of Purchase have been filed with the clerk of the District Court of Arnhem (Gelderland) under number ../2022.