

# JAPAN (2022/02) Standard Terms and Conditions of Purchase – Procurement



## A. General Terms and Conditions

### 1. General / Scope of Application

- 1.1. These Terms and Conditions of Purchase - Procurement (hereinafter referred to as "**Terms**") shall apply to all purchase orders for goods and services, including proposals, consultations and other ancillary services ("**Deliveries**"), of GEA Group AG or any of its affiliated companies (i.e. a company or other business entity which directly or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with GEA Group AG. For this purpose, a company or other business entity controls another person or company, if that first one has the power to direct or cause the direction of the management of the other, whether directly or indirectly, through one or more intermediaries or otherwise, and whether by direct or indirect ownership of shares or other equity interests, the holding of voting rights or contractual rights, or by being the general partner of a limited partnership or otherwise) (hereinafter referred to as "**Affiliates**") (hereinafter referred to as "**GEA**").
  - 1.2. These Terms shall apply exclusively to all the business transactions with a supplier to which a purchase order is issued (hereinafter "**Supplier**").
  - 1.3. Within the scope of an ongoing business relationship, these Terms shall also apply to any future purchase order, purchase contract, supply agreement, contract for work, contract for services or other contract (collectively "**Contract**") with the Supplier without GEA having to refer to these Terms in each individual case.
  - 1.4. These Terms shall apply exclusively. Any and all conflicting or general terms and conditions or terms and conditions deviating from these Terms or the statutory provisions of the Supplier or third parties shall be excluded and shall only be applicable if and to the extent GEA has expressly agreed to their application in writing. This also applies even if GEA has not expressly objected to the validity of such conflicting or deviating general terms and conditions of Supplier or has accepted or paid for the Deliveries without reservation.
  - 1.5. In case of any conflict or inconsistency, the documents shall prevail in the following order: 1) the corresponding purchase or service agreement, 2) the purchase order, 3) any other document of GEA attached to or referenced in the purchase order, 4) these Terms and 5) any documents of Supplier attached to or referenced in the Contract.
  - 1.6. Commercial terms shall be interpreted in accordance with the Incoterms® which shall be applicable in the current version at the time of conclusion of the Contract.
  - 1.7. Insofar as in these Terms or in other parts of the Contract reference is made to
    - (i) a requirement for the written form, text form (including fax and e-mail) shall be sufficient to comply with the written form, unless explicitly provided otherwise;
    - (ii) "days", "weeks" or "months" are referred to, calendar days, calendar weeks or calendar months, unless expressly provided otherwise.
    - (iii) "Banking Days" refers to all days, other than Saturdays, Sundays and public holidays in Japan.
2. Conclusion of Contract, Formal Requirements
- 2.1. The conclusion of the Contract between GEA and the Supplier requires a written purchase order or a written order confirmation by GEA.
  - 2.2. If GEA's purchase order is not preceded by a binding offer of the Supplier, GEA is entitled to revoke the purchase order if GEA does not receive the Supplier's order confirmation within five (5) Banking Days after receipt of such purchase order. If the order confirmation of the Supplier deviates from GEA's purchase order in terms of content, the Supplier shall specifically emphasize this in the order confirmation; such deviations shall only become part of the Contract if GEA expressly accepts them in writing. A Contract between GEA and the Supplier is also concluded if the Supplier carries out the Deliveries specified in a purchase order without reservation. Subsequent changes to a purchase order require written confirmation by GEA.
  - 2.3. If GEA refers to a certain intended use in a purchase order, already prior to the conclusion of the Contract, the Supplier is obliged to inform GEA in writing if the Deliveries specified in the purchase order are not suitable without restrictions for the intended use stipulated in the purchase order.
  - 2.4. The preparation of cost estimates as well as the preparation of offers, including the preparation of associated plans, samples or models, shall - unless expressly agreed otherwise - not be remunerated by GEA.

- 2.5. Offers of the Supplier are binding declarations of intent, unless otherwise stated therein. GEA may accept an offer of the Supplier to conclude a Contract by placing a written purchase order until the expiry of fourteen (14) days after its submission, unless the Supplier specifies a longer acceptance period. Until the expiration of this period (offer validity), the Supplier is bound to its offer. Silence on the part of GEA does not justify any reliance on the conclusion of a Contract. If GEA's acceptance of an offer is received late by the Supplier, the Supplier shall promptly inform GEA thereof in writing.

### 3. Modification, Change Orders and Waiver:

- 3.1. The Contract may not be modified and no change order shall be effective unless signed in writing by an authorized representative of GEA. GEA shall not be deemed to have waived any provision of the Contract except where having done so expressly in writing.
  - 3.2. GEA may at any time issue to Supplier instructions necessary or appropriate for the execution of the Deliveries, including the remedying of any defects, in accordance with the Contract.
  - 3.3. GEA may change orders at any time either by making an instruction expressly for a change order or by making a request to Supplier to submit a proposal for a change order. If GEA changes orders without Supplier's fault and causes any damages or additional costs on the Supplier, GEA shall compensate such damages and additional costs.
  - 3.4. If an instruction does not expressly require or request a change order or proposal for a change order, but Supplier nonetheless deems it to constitute a change order, Supplier shall immediately notify GEA in writing giving detailed reasons in support of its view. Such notification shall be given latest five days after the date of the instruction. Failure by Supplier to give notice according to the foregoing sentence shall constitute an acceptance by Supplier that the instruction does not constitute a modification of the Contract, and any right of Supplier to maintain the contrary shall be forever waived. If Supplier timely notifies GEA in writing that an instruction should constitute a change order, the instruction shall be deemed a request for a proposed change order and the next paragraph shall apply.
  - 3.5. If GEA requests a proposal for a change order, Supplier shall respond at its own cost in writing as soon as practicable, however, not later than five (5) working days after GEA's request, stating how the change order can be carried out and any adjustments that need to be made to the Contract, including the price and Delivery Date(s). If GEA does not obtain a written proposal from Supplier detailing any adjustments to the Contract within said period, Supplier shall be deemed to have forever waived any entitlement in respect thereof.
  - 3.6. Except where GEA agrees in writing with the adjustments to the Contract proposed by Supplier, GEA shall reasonably determine the adjustments to the Contract, including price and Delivery Date(s), according to this paragraph. Such determination can be made by GEA at the time it issues the instruction to proceed or within a reasonable time after such issuance; in the latter case, Supplier may not refrain from implementing the instruction on the basis that the adjustments to the Contract have not been determined in whole or in part. Unless otherwise agreed in writing, the adjustment in Contract by GEA shall equal the direct, additional reasonable costs of Supplier's equipment, materials and utilities, equipment rental charges and on site Supplier personnel which are required to execute the change order, plus a handling fee of 5% on such material costs. Any adjustments to the Delivery Dates and site personnel costs shall be determined in accordance with the provisions of this clause.
4. Suspension:
- 4.1. GEA may at any time suspend the performance of all or a part of the Deliveries for any reason by giving written notice to Supplier. During the suspension, Supplier shall protect and secure the suspended Deliveries against deterioration, loss and damage and undertake all other actions requested by GEA. Supplier shall, as its sole and exclusive remedy, be entitled to reimbursement of any necessary cost and expenses resulting directly from any such suspension. The Supplier shall however not be entitled to an extension of time or payment of such costs and expenses to the extent GEA's suspension is attributable in whole or in part to circumstances for which the Supplier is responsible including, but not limited to, making good the consequences of any breach of

# JAPAN (2022/02)

## Standard Terms and Conditions of Purchase – Procurement



guarantee or other obligation under the purchase order, e.g. if the Supplier fails to protect, store and secure the Deliveries.

### 5. Prices, Terms of Payment

- 5.1. The agreed prices shall be binding and shall be FCA (Incoterms®), plus the statutory value added tax at the rate applicable at the time of delivery. The prices shall include everything that the Supplier has to effect in order to fulfill its delivery and/or performance obligation to the agreed destination, in particular, but not limited to, packaging, transport, freight, unloading, insurance, customs duties, taxes, testing, inspection, assembly costs and other ancillary costs, unless otherwise agreed in writing.
- 5.2. GEA reserves the right to acknowledge excess or short Deliveries.
- 5.3. The Supplier's claim for payment shall – without prejudice to further legal requirements – be settled (i) within 60 days after the Delivery Date where the Act against Delay in Payment of Subcontract Proceeds, Etc. to Subcontractors (the "ADPSP") applies to the Contract; or (ii) 90 days by the end of month as of the Delivery Date if the ADPSP is not applicable; and be settled after (i) complete receipt of the Deliveries by GEA or, if Acceptance is required, after Acceptance as well as (ii) receipt of a proper and auditable invoice. If the ADPSP is not applicable, in case of payment within 14 days net GEA is entitled to deduct a discount of 3 %; and if GEA exceptionally accepts partial deliveries, the discount period shall not be initiated thereby.
- 5.4. All invoices of the Supplier must – without prejudice to any legal requirements which must be complied with in any case – contain the following minimum information: (i) GEA's purchase order number, (ii) contact persons in charge at GEA and at Supplier, (iii) good per line item, (iv) quantity, (v) Supplier's tax identification number, (vi) GEA's Tax ID Number (e.g. VAT Number, GST Number, W-9, etc.), and (vii) whether a partial, excess, short, sample or residual delivery is made, if any. If one or more of these details are missing and, as a result, GEA's invoice processing in the normal course of business is delayed, the payment deadlines set forth in Section 5.3 shall be extended by the period of the delay.
- 5.5. If the price should be subject to withholding taxes in the country of GEA as customer per domestic tax law, GEA is allowed to withhold the maximum amount of tax as defined in the double tax treaty between the Supplier's country and the country of residence of GEA. It is Supplier's responsibility that the formal requirements for a tax exemption respectively a tax reduction are met; any required documents (e.g. certificates of residence) relating to such tax exemption/tax reduction shall be provided and/or procured by Supplier.
- 5.6. Unless otherwise agreed in the Contract, the original invoice shall be sent in duplicate copy
  - 5.6.1. either electronically to the communicated central email address shared by GEA (preferred),
  - 5.6.2. or alternatively, in case electronic sending is not possible e.g. due to a Local Country Regulation, via post to the address specified by GEA in the purchase order.
- 5.7. For the timeliness of payment the receipt of a corresponding transfer order at the bank of GEA is sufficient. Bank charges and expenses shall be borne by the Supplier.
- 5.8. Payments by GEA shall neither constitute Acceptance of the Deliveries nor acknowledgement of the settlement of accounts or recognition of the Deliveries as free from defects and/or in time.
- 5.9. Claims of the Supplier arising from the Contract may only be assigned to third parties with the prior written consent of GEA.
- 5.10. GEA shall be entitled to set-off and retention rights without limitation to the extent provided by law. The Supplier shall only be entitled to rights of set-off and retention to the extent that claims against GEA (i) are undisputed or (ii) have been finally determined by a court of law or (iii) originate from the same contractual relationship as GEA's claim and are in reasonable proportion to it.
- 5.11. The Supplier is not entitled to claim interest on arrears. In case of delayed payment GEA owes default interest in the amount of five percentage points above the respective base interest rate of the European Central Bank.
- 5.12. If services are invoiced on an hourly basis, the Supplier must report to GEA's responsible contractor coordinator or his representative before commencing work.
- 5.13. Time sheets shall be issued primarily on forms provided by GEA or otherwise in a format agreed between GEA and the Supplier and submitted to GEA's contractor coordinator or his

representative on a daily basis for countersignature. The time sheets shall list the services performed and the periods of activity. Insofar as GEA provides the Supplier with forms for the time sheets, only these forms shall be used by the Supplier.

### 6. Bank Guarantees:

- 6.1. Upon GEA's request, any advance payment to be made by GEA shall be secured by an advance payment bank guarantee in the amount of the advance payment. In addition Supplier shall provide GEA with an unconditional on demand 10% performance guarantee as security for GEA that the Supplier fulfills its obligations under the Contract. Any bank guarantee to be provided by Supplier shall be irrevocable, unconditional and on demand, received not later than 15 days after date of the Contract and in form and substance acceptable to GEA and issued by a first class bank. The advance payment guarantee shall expire upon GEA's acceptance of all Deliveries. The performance guarantee shall expire upon expiration of the guarantee period, provided that all defects have been remedied.

### 7. Deliveries

- 7.1. Unless otherwise agreed, deliveries shall be made on a FCA basis, including unloading to the place of delivery designated in the Contract ("**Place of Delivery**"). If the Place of Delivery is not specified and unless otherwise agreed, delivery shall be made to GEA's place of business. The Supplier shall enclose documentation owed under the Contract as well as other owed documents free of additional charge with the Deliveries. Unless otherwise agreed, the Supplier is not entitled to partial deliveries or partial services.
- 7.2. The Supplier shall pack the Deliveries in accordance with GEA's packing instructions and requirements. In any case, the Deliveries shall be packed and secured by the Supplier against typical transport damages. The Supplier shall insure the Deliveries for transport. In addition, the packaging must be suitable to protect the Deliveries against deterioration, such as rust or corrosion, for a period of at least six (6) months, unless a longer period has been agreed. The packaging shall be marked in such a way that the contents of the goods, the number of pieces, the container/carton number and the weight (net/gross) can be read from a distance of one (1) meter. All wood packaging materials, including but not limited to pallets, shall conform to ISPM15.
- 7.3. Each Delivery shall be accompanied by a delivery bill in duplicate. All delivery bills and shipping documents shall include (i) GEA's respective purchase order number, (ii) the date of the purchase order, and (iii) if available, the item number specified by GEA, (iv) the place of delivery, and (v) the manufacturer's name and address, (vi) item description, (vii) carton quantity, lot/batch, and information regarding any required pallet exchange at the Supplier's facility on all paperwork. Failure to provide this information shall entitle GEA to refuse acceptance of Deliveries.
- 7.4. To the extent required, the Deliveries shall be CE marked or an EU or JIS Declaration of Conformity or Declaration of Incorporation shall be enclosed.
8. Delivery Dates, Delays
  - 8.1. Agreed delivery dates and deadlines or completion dates and deadlines for Deliveries (hereinafter "**Delivery Dates**") shall be binding. If the Contract does not specify a Delivery Date, the Deliveries shall be made within 14 days.
    - 8.2. Time is of the essence.
    - 8.3. Compliance with the Delivery Dates requires that the Deliveries are handed over to GEA at the Place of Delivery on the respective Delivery Dates.
    - 8.4. A Delivery Date shall not be deemed fulfilled if the Delivery is incomplete or nonconforming, and GEA chooses the remedy provided in clause 15.2(i). In such a case the Delivery Date shall be the date of the new Delivery.
    - 8.5. If the Deliveries require Acceptance, the respective Delivery Date is met, if the Supplier makes the conforming Deliveries available to GEA on the Delivery Date ready for Acceptance. Premature deliveries are not permitted, unless GEA agrees to the early delivery in advance in writing. The mere unconditional acceptance of an early delivery by GEA shall not affect the originally agreed delivery date. Payment and discount periods shall only be applied from the agreed delivery date.
    - 8.6. If the Supplier becomes aware of circumstances which could endanger a duly and timely delivery, the Supplier must inform GEA immediately in writing, stating the reasons and the expected duration of the delay. GEA is entitled to demand

# JAPAN (2022/02)

## Standard Terms and Conditions of Purchase – Procurement



- partial delivery from the Supplier without additional transport costs, to the extent that possible delivery delays can be reduced by this, unless such partial delivery is unreasonable for the Supplier. The obligation to comply with Delivery Dates shall remain unaffected.
- 8.7. If the agreed Delivery Dates or other deadlines agreed upon in the Contract are exceeded owing to circumstances for which the Supplier is responsible, GEA is entitled to demand a contractual penalty of 0.5% for each commenced week of delay, but not more than a total of 5.0% of the agreed net price of the Deliveries in default. Further claims for damages shall remain unaffected. Contractual penalties already paid shall, however, be credited against this amount. GEA may also claim the contractual penalty if a reservation is omitted upon acceptance of the delivery, however, after the final payment of the Deliveries, GEA may only claim the contractual penalty if a respective reservation was declared upon final payment.
- 8.8. In case the Supplier fails to make the delivery or makes the delivery late, any rights GEA is entitled to under the applicable law shall remain applicable without restriction.
9. Acceptance, Transfer of Risk
- 9.1. Deliveries shall only be subject to formal acceptance if this has been expressly agreed between GEA and the Supplier or if this results from the statutory provisions (the "Acceptance").
- 9.2. Unless otherwise agreed, GEA may – without prejudice to further legal requirements – declare Acceptance in a reasonable period of time after receipt of the conforming Deliveries. The trial commissioning or use of Deliveries shall not in itself constitute Acceptance. Partial Acceptances are generally excluded. Partial Acceptance shall only take place upon GEA's request if the Deliveries would otherwise be definitively withdrawn from subsequent technical inspection due to the progress of executing the Contract. In all other respects, GEA's rights and obligations in respect of Acceptance shall be governed by the statutory provisions.
- 9.3. In the case of Deliveries without installation and assembly, the risk shall pass to GEA upon handover of the Deliveries at the contractually agreed Place of Delivery. In the case of Deliveries which also include installation and assembly, the risk shall pass to GEA upon Acceptance of the Deliveries or, insofar as GEA does not owe Acceptance, upon handover after installation and assembly.
10. Quality, Inspection, Installation, Testing and Taking Over:
- 10.1. Supplier shall institute and maintain a quality control system to demonstrate compliance with the requirements of the Contract. Supplier shall comply with GEA's quality assurance requirements, as such may be amended.
- 10.2. In case of Deliveries subject to testing and inspection by GEA; the Supplier shall provide all apparatus, assistance, documents and other information, electricity, equipment, fuel, consumables, instruments, labour, materials, and suitably qualified and experienced staff as are necessary to carry out tests efficiently.
- 10.3. Factory Acceptance Testing ("FAT") must take place on the date set out in the project schedule. If no date for FAT is set out in the project schedule, the Supplier shall agree with GEA, the time and place for a FAT. GEA may vary the location or details of specified tests, or instruct the Supplier to carry out additional tests at no additional cost to GEA.
- 10.4. The FAT must be performed under Supplier's management and if requested by GEA, in GEA's presence. The FAT shall be performed in accordance with GEA's requirements, common industry practice and generally recognized standards to ensure that it gives a true and fair view of the requirements under the Contract.
- 10.5. The FAT shall be unconditionally approved by GEA before the Deliveries are allowed to leave the Supplier's place of manufacture and before the Supplier is entitled to a certificate for passing the FAT. GEA's approval of the FAT does not exempt the Supplier from the full responsibility for fulfilment of the requirements of the Contract. Following approved FAT, the Supplier shall prepare a FAT test report to be signed by both parties.
- 10.6. If the FAT shows that the Deliveries are not in conformity with the Contract, including the technical requirements, it has not passed the FAT. Supplier shall immediately remedy any defects. When the defects have been remedied Supplier shall give notice to GEA. GEA may demand that a second FAT is conducted within a time stipulated by GEA. If the second FAT is failed, GEA may request another FAT and/or exercise its remedies for breach.
- 10.7. All costs and losses incidental to the second FAT and any subsequent FAT(s) shall be borne by the Supplier.
- 10.8. Following commissioning of the Deliveries at the Place of Installation the Site Acceptance Test(s) ("SAT") must be completed and passed no later than at the agreed date for Taking-Over. The purpose of the SAT is to show that the Deliveries are in the condition required under the Contract. The SAT must be performed in accordance with the requirements specified in the Contract and must also be performed in accordance with common practice to ensure that it gives a true and fair view of the operating ability and capacity of the Deliveries. If no protocol for SAT is stated in the Contract, GEA will provide the Supplier with one latest 10 days in advance of the tests.
- 10.9. Unless otherwise agreed, Supplier operates the Deliveries under the SAT at its risk and shall at its own expense provide testing and measuring means and sufficient staff.
- 10.10. Taking-Over of the Deliveries is subject to the Deliveries meeting all requirements under the Contract, whereas if the SAT shows that the Deliveries (including all documentation) conforms to the Contract in all respects, the Supplier may request that GEA prepare a Taking-Over certificate to be signed by both parties whereby the risk of the Deliveries passes to GEA. If the result of the SAT is not acceptable GEA may reject the SAT.
- 10.11. The Supplier shall then immediately make any changes that are necessary and invite GEA to a new SAT in accordance with the above procedure.
11. Property Rights, Licenses
- 11.1. Irrespective of whether the Deliveries are subject to Acceptance by GEA, GEA acquires ownership of the Deliveries at the time of the handover of the Deliveries at the contractually agreed Place of Delivery, unless otherwise agreed. If a retention of title in favor of the Supplier is agreed, it has the effect of a simple retention of title. GEA rejects an extended or expanded retention of title. If the Supplier retains ownership of the Deliveries contrary to the Contract, GEA retains the claim to unconditional transfer of ownership even if GEA accepts the Deliveries. Ownership of the Deliveries shall pass from the Supplier to GEA at the latest with the payment of the purchase order price. GEA is entitled to mix, process or combine Deliveries delivered under retention of title in the ordinary course of business with effect for itself and also to resell them.
- 11.2. GEA acquires a non-exclusive and transferable right of use, unlimited in time, territory and content, to all copyrighted contents or contents protected by intellectual or industrial property rights contained in the Delivery. This includes the use in its own or third party operations, either by itself or by third parties, as well as their reproduction, distribution, presentation, exhibition, processing or transformation.
12. Drawings, Plans, Tools
- 12.1. The Supplier shall provide to GEA free of additional charge the drawings and other technical documents prepared for the execution of the Contract. The intellectual property rights to these drawing and documents shall remain unaffected.
- 12.2. GEA's approval of drawings, calculations and other technical documents shall not affect the Supplier's sole responsibility for Deliveries in accordance with the Contract. Unless the Supplier objects in writing, this also applies to proposals and recommendations by GEA as well as to modifications discussed between the Supplier and GEA.
- 12.3. The Supplier shall provide GEA with all drawings, documents and other records in accordance with the Contract. In addition, all documentation required for repair, maintenance and servicing of the Deliveries shall also be supplied. All documentation shall be in the language specified in GEA's Contract and additionally in English. If no language is specified in the purchase order, all documentation and other communications shall be in English. Upon GEA's request, the Supplier shall provide all drawings, documents and other documentation free of additional charge also in electronic form, if available.
- 12.4. The Supplier irrevocably grants GEA the right to use drawings, documents, other records for all purposes related to the completion, operation, modification, maintenance and repair of the Deliveries or any part thereof. This right includes the right to sublicense to GEA's customers and/or to persons designated by GEA or its customers.
- 12.5. All execution documents, drawings, devices, tools, models and other items ("Supplies") which GEA provides to Supplier for the performance of the Contract or which are manufactured for contractual purposes and separately

# JAPAN (2022/02)

## Standard Terms and Conditions of Purchase – Procurement



- invoiced to GEA by Supplier shall remain GEA's property or shall become GEA's property. The Supplier shall mark them as GEA's property, keep them in safe custody, insure them to a reasonable extent against theft, fire, water and burglary damage and use them only for the purposes of the Contract. The costs of their maintenance and repair shall be borne by GEA and the Supplier – in the absence of any other agreement – in equal shares. However, insofar as these costs are attributable to defects in the items manufactured by the Supplier or to improper use or the improper storage on the part of the Supplier, they shall be borne solely by the Supplier. The Supplier shall immediately notify GEA of any damage to such Supplies which is not merely insignificant. They are to be returned to GEA immediately upon GEA's request, at the latest, however, after execution of the Contract. The transfer to third parties is not permitted. The Supplier does not acquire any further rights to the materials provided. GEA reserves all rights to drawings made according to its specifications and to processes developed by it.
- 12.6. The Supplier is only entitled to process, combine and mix the Supplies after having obtained GEA's prior written consent, unless such authorization results from the purpose of the Contract. The processing of the Supplies by the Supplier shall be carried out in the Supplier's capacity as manufacturer for GEA, without obligating GEA. In case of processing or combination of the Supplies with other goods not owned by GEA, GEA always acquires co-ownership of the newly manufactured item in the proportion of the current market value of the Supplies to the current market value of the other goods used. In case GEA's ownership of the Supplies expires due to combination, the Supplier already now assigns to GEA, with immediate effect, any and all ownership rights accruing to the Supplier concerning the new inventory or the new good in the amount of the current market value of the Supplies and will safeguard it for GEA free of additional charge. The (co-)ownership rights arising hereunder shall be deemed to be Supplies within the meaning of these Terms.
13. Quality Assurance, Retention of Documents, Audit
- 13.1. The Supplier shall independently check GEA's specifications, drawings, calculations and other requirements for any ambiguities, contradictions and/or errors within the scope of his expertise and technical knowledge. The Supplier shall immediately notify GEA of any concerns, also regarding the use assumed under the Contract or intended by GEA, so that this point can be resolved by mutual agreement.
- 13.2. The Supplier shall establish and demonstrably maintain a well-functioning quality assurance system which complies with the latest standards of the relevant supplier industry, at least according to DIN EN ISO 9000, 9001. The Supplier shall carry out the quality assurance measures, including the required documentation, on his own responsibility. The Supplier shall keep the documentation in accordance with the legal and contractual requirements, but at least for a period of ten (10) years.
- 13.3. Prior to delivery, the Supplier shall carry out a careful outgoing goods inspection. Deliveries which have not passed these checks may not be delivered by the Supplier. The defective Deliveries shall be clearly and easily recognizable marked on the packaging units as failures and shall be transported by the Supplier to the warehouse. As soon as the Supplier becomes aware of quality problems or other defects of its Deliveries, the Supplier shall immediately inform GEA thereof in writing; in doing so, the Supplier shall in particular also inform GEA of the potential health and safety risks emanating from its Deliveries, the impairment of use as well as any data and information enabling the affected deliveries to be identified.
- 13.4. If GEA has placed several purchase orders with the Supplier for certain Deliveries, the Supplier shall inform GEA without delay of any quality-relevant changes to the Deliveries, in particular concerning the manufacturing process or components, constituents or basic materials, even if these changes are within the scope of the specification, before accepting the next order.
- 13.5. Upon prior timely written request, GEA shall be entitled to inspect the documentation and to gain access to its premises for the purpose of inspection of the quality assurance system and measures by independent auditors during normal business hours. The inspection shall not release the supplier from its liability for defects. GEA has a legitimate interest to review, inspection and test reports of the Supplier concerning a delivery to GEA. The Supplier is obliged to allow such review and inspection.
14. Spare and Wear Parts
- 14.1. The Supplier undertakes to offer GEA any suitable spare and wear parts for its Deliveries for a period of at least ten (10) years as of delivery at standard market conditions. Unless otherwise agreed and reasonable for the Supplier, the same prices shall apply to the spare and wear parts during this period as agreed in the context of the original delivery.
- 14.2. Should the Supplier realize that it cannot deliver suitable spare and wear parts to GEA for more than ten (10) years at the conditions specified in clause 14.1, it shall notify GEA thereof without undue delay in order to give GEA another opportunity to order spare and wear parts in due time.
15. Defects of Material and Defects of Title, Serial Defects
- 15.1. The Supplier warrants that the Deliveries are free from defects in quality at the time of passing of risk. The Deliveries shall in all respects comply with the contractually agreed condition, comply with the relevant laws, directives and standards (among others the EU Regulation (EC) 1935/2004 on materials and articles intended to come into contact with foodstuffs is expressly referred to), in particular with the relevant safety regulations, occupational health and safety regulations as well as environmental and fire protection regulations and ordinances, as well as with the state of the art in science and technology, be of high quality in type and grade and be suitable for the use assumed under the Contract. – but at least for the common use. If the Supplier has provided a preliminary sample which has been approved by GEA, the Deliveries must additionally comply with the properties of the preliminary sample.
- 15.2. If the Deliveries are defective in material, GEA shall be entitled without limitation to the full scope of statutory warranty claims and rights. In particular, GEA shall be entitled, at GEA's option, to (i) request from the Supplier either the remedy of defects or the delivery of a new Delivery free of defects within a reasonable period of time or (ii) reject the Deliveries and require the refund of all amounts paid to the Supplier based on the relevant purchase order. The Supplier shall bear all costs incurred in connection with the repair or replacement of defective Deliveries (including transport, handling, sorting, installation / removal, material and labor costs). In all other respects, GEA shall be entitled to the statutory warranty claims and rights without restriction. If the Deliveries are already intergraded in the production process at GEA or at GEA's customers, the requirement of a deadline for subsequent performance shall be deemed dispensable.
- 15.3. The costs incurred by the Supplier for the purpose of inspection and rectification shall be borne by the Supplier even if it turns out that there was actually no defect. GEA's liability for damages in the event of an unjustified request for rectification of defects shall remain unaffected; in this respect, however, GEA shall only be liable if it recognized or negligently failed to recognize that there was no defect in the first place.
- 15.4. A release of a product sample, drawings or other technical documents declared by GEA shall not affect any warranty rights of GEA. Payment, inspection or reception of all or part of the Deliveries shall not constitute acceptance of the Deliveries by GEA and shall not imply any waiver of GEA's rights under these Terms.
- 15.5. GEA has no obligation to inspect the Deliveries for defects upon delivery. If GEA at its sole discretion decides to do so, GEA's legal obligation to inspect the Deliveries after delivery in the case of a mutual commercial purchase (purchase contracts and contracts for work and materials) is limited to the inspection of externally visible transport damage and deviations in identity and quantity as well as other obvious defects. The notice of defects is in any case timely if it is sent within five (5) Banking Days from the receipt of the Deliveries by GEA and is subsequently received by the Supplier. In the case of hidden defects, this period shall run from the time of their discovery. GEA shall have no obligations to inspect and give notice of defects beyond those set forth in this Section 15.5.
- 15.6. GEA is entitled to remedy defects itself at the expense of the Supplier and without prejudice to the Supplier's liability for defects, if (i) the Supplier does not remedy the defects in due time or (ii) there is imminent danger or special urgency. In such a case GEA will inform the Supplier in advance – to the extent possible and reasonable – about the respective defects and the reasons for the self-remedy.

# JAPAN (2022/02)

## Standard Terms and Conditions of Purchase – Procurement



- 15.7. The following shall apply in addition to defects of title:
- 15.7.1. The Supplier warrants that the Deliveries are free from defects in title at the time of transfer of ownership. In particular, the Supplier shall ensure that third parties cannot assert any rights in relation to the Deliveries, in particular any rights in rem and intellectual property rights such as patent rights, trademark rights, utility models, design rights and copyrights (hereinafter referred to as "IPR") or any other restrictions under public law, or that IPR of third parties are infringed within Japan or, if the Supplier has been informed thereof, within the country of destination of the Deliveries. To the extent necessary, the Supplier shall ensure that it has obtained and granted to GEA all rights, licenses and authorizations of the holders of the IPR required for the use of the Deliveries by GEA and GEA's customers.
- 15.7.2. If a third party asserts a claim against GEA for infringement of an IPR with respect to the Deliveries, the Supplier shall – without prejudice to GEA's further rights – at its own expense and at GEA's option either (i) obtain a right of use for the Deliveries, (ii) modify the Deliveries in such a way that the IPR is not infringed or (iii) replace the Deliveries with new Deliveries which do not infringe the IPR.
- 15.7.3. The Supplier undertakes to indemnify and hold harmless GEA against all claims of third parties in this context – including the associated costs of legal defense. This obligation includes all existing and future claims of third parties asserted against GEA or GEA's customers.
- 15.8. The following provisions shall apply in addition to the warranty for defects if the Deliveries (including materials, components or (sub-) systems) show a frequency of similar defects which is significantly outside the values usually expected or stated by the Supplier (hereinafter "**Serial Defects**"). Unless otherwise agreed in the Contract, a Serial Defect shall be deemed to exist if the number of defective Deliveries due to the similar defect exceeds 20% of the respective delivered Delivery.
- 15.9. In the event of a Serial Defect
- (i) the Supplier shall submit and implement at its own expense a plan for the elimination of the defect, which includes measures to compensate for the behavior of other components of this delivery which is to be expected due to the similarity of the damage that has occurred;
- (ii) GEA may require the replacement of all Deliveries of the affected batch unless Supplier can demonstrate that the Serial Defect is excluded for the remainder of the batch;
- (iii) the Supplier shall bear all costs and expenses incurred by GEA due to the replacement of the Deliveries to the extent the Supplier is responsible for the Serial Defect.
- 15.10. The claims according to clause 15.9 expire at the same time as the other warranty claims according to clause 166 of these Terms. Apart from that, GEA shall be entitled to the full extent of the statutory claims in the event of a serial defect for all Deliveries affected by a serial defect.
16. Limitation Period
- 16.1. The limitation period for claims for defects shall be 12 months from the statutory commencement of the limitation period., unless a longer limitation period is provided for by law.
- 16.2. In the event of subsequent performance by means of new delivery or new manufacture or rectification of defects, the limitation period shall recommence upon delivery of the new Delivery or manufacture or completion of the rectification work, unless GEA had to assume, based on the conduct of the Supplier, that the Supplier did not consider itself obligated to take the measure but was only acting as a gesture of goodwill. This does not apply insofar as Acceptance is required for the new Delivery or manufacture or rectification. In this case, the limitation period shall recommence once with the Acceptance.
17. GEA's Remedies:
- 17.1. If Supplier breaches or is reasonably anticipated to breach any of its obligations under the Contract, including failing to meet any agreed (partial or final) Delivery Date(s), breaching any representation or guarantee or failing to effect any remedy, GEA may, to the maximum extent permitted by applicable law, do any one or more of the following: (1) revoke acceptance of delivery; (2) demand an immediate cure by Supplier; (3) step in and remedy, for Supplier's account, any such breach, including effecting cover by purchasing same or similar Deliveries supplied by another vendor and recovering any increase in price and its resulting damages, costs and expenses (4) recover from Supplier all its damages, losses, costs and expenses resulting from Supplier's breach, including any that are incurred or will be likely incurred by GEA in effecting a remedy or imposed on GEA by GEA's Customer; (5) offset against any payments owed to Supplier any damages, losses, costs and expenses incurred or to be incurred by GEA; or (6) withhold any payments that may otherwise be due until the breach is fully remedied.
- 17.2. In the event Supplier fails to perform any material obligation under the Contract and has not cured the failure within 30 days of receipt of written notice of such failure thereafter GEA shall in addition to the foregoing remedies be entitled to reject the Deliveries and to terminate the Contract in whole or part. The above remedies shall be cumulative with, and not exclusive of, the remedies stipulated in these Terms or otherwise available to GEA under applicable law. Payment, inspection or acceptance of all or any part of the Deliveries shall not constitute any acceptance by GEA of the price, proper quality or quantity of the supplied delivery and shall not imply a waiver of any right pursuant to the Contract or this Terms and shall not release Supplier from any liability in this respect.
18. Indemnification and Insurance
- 18.1. Without prejudice to any other claims, the Supplier shall indemnify and hold harmless GEA and its Affiliates, agents, directors, officers and employees against all claims, costs and expenses (including attorneys' fees and court costs) based in whole or in part from any breach of the Contract and in particular from those claims based on defective Deliveries of the Supplier, negligence, wilful misconduct, breach or violation of any applicable law, claims based on product and producer liability, or based on the infringement of IPR in connection with Deliveries of the Supplier, to the extent that the Supplier is responsible for the defect of the Deliveries or the infringement of IPR. In this respect, the Supplier is also obliged to reimburse GEA for all costs and expenses incurred as a result of GEA being obliged to recall a product, carry out a field action, issue a warning or otherwise inform GEA's the content and scope of any recall measures. In all other respects the Supplier is liable in accordance with the statutory provisions.
- 18.2. Without prejudice to any other claims of GEA, the Supplier is obliged to maintain an extended product liability insurance with an appropriate coverage amount, however, at least in the amount of EUR 5 million per damage event or in the amount of the net purchase order value of the affected Delivery, if the net purchase order value is higher.
19. Rights to Documents and Records, Confidentiality
- 19.1. Insofar as GEA provides the Supplier with illustrations, molds, templates, samples, designs or design proposals, drawings, know-how, business or technical documents, software, calculations or other documents and records (hereinafter referred to as "**Documents**"), GEA reserves all property and industrial property rights thereto, such as patent, trademark, utility model and design rights as well as copyrights. The Supplier may use the Documents without GEA's prior consent only to the extent that this is absolutely necessary for the respective contractually intended purpose. Ownership, including copyright, of the Documents shall remain with GEA.
- 19.2. The Supplier is obliged to keep confidential from third parties all technical, operational and business information received from GEA or an Affiliate within the scope of or in connection with a Contract for Deliveries which a prudent businessman would consider confidential, in particular know-how and trade secrets, (hereinafter "**Confidential Information**"), unless the Confidential Information, (i) is generally known or becomes generally known without the Supplier having breached such confidentiality obligations, (ii) was demonstrably already lawfully known to the Supplier prior to receipt and without any obligation to maintain confidentiality, (iii) is lawfully disclosed to the Supplier by third parties without any obligation to maintain confidentiality, or (iv) to the extent GEA has previously consented in writing to the disclosure of the Confidential Information. The confidentiality obligation shall apply regardless of how the respective Confidential Information was made available, whether orally, in writing or in any other manner. The confidentiality obligation shall also apply to designs, drawings, descriptions, specifications, electronic media, software and corresponding documentation, samples and prototypes.
- 19.3. Confidential Information may only be used, reproduced and exploited by the Supplier in connection with and for the purposes of the Contract entered into with GEA and may only

# JAPAN (2022/02)

## Standard Terms and Conditions of Purchase – Procurement



- be made accessible to such persons in the Supplier's business operations who must necessarily need to know for the purpose of the Deliveries to GEA and who, prior to disclosure of the Confidential Information, are bound to these provisions on confidentiality in a comparable manner. The Supplier undertakes to take all necessary measures to ensure that Confidential Information is not made available to third parties without the express prior written consent of GEA. Upon GEA's request, all Confidential Information originating from GEA shall be immediately returned to GEA in full or destroyed, to the extent technically feasible.
- 19.4. The Supplier may disclose Confidential Information to the extent it is obliged to do so due to an official or judicial order or mandatory legal provisions or to the extent this is necessary to enforce its rights under the contract concluded with GEA. However, if the Supplier is obliged to disclose Confidential Information, the Supplier shall notify GEA promptly so that GEA is in a position to take appropriate steps, if necessary together with the Supplier, to protect the confidentiality of the Confidential Information to be disclosed. In any event, Supplier shall use reasonable efforts to obtain assurance of the confidential treatment of the Confidential Information. Confidential Information disclosed in this manner shall be marked as "Confidential" or, if applicable, with another appropriate marking such as "Personal & Confidential" or similar.
- 19.5. The confidentiality obligation under this clause 19 of these Terms shall apply for a period of five (5) years after termination of the contractual relationship, irrespective of the reason for termination.
20. Force majeure  
Events of force majeure entitle GEA to postpone the performance of its obligations for the duration of the hindrance caused by the force majeure and an additional reasonable start-up period. Events of force majeure shall be deemed to include all events for which GEA is not responsible and which cannot be averted, in particular monetary or trade policy or other sovereign measures, strikes, lockouts, significant operational disruptions (e.g. fire, machine breakdown, shortage of raw materials or energy) as well as obstruction of traffic routes – in each case of more than short-term duration – which make the performance of GEA's obligations significantly more difficult or impossible. If events of force majeure or equivalent events last for at least two (2) months, both GEA and the Supplier have the right to withdraw from the Contract. GEA shall inform the Supplier as soon as possible of the occurrence and end of such events.
21. Export Control  
21.1. The parties are aware that the Deliveries may be subject to export and import restrictions. In particular, authorization requirements may exist and/or the use of the Deliveries may be subject to restrictions abroad. Supplier shall comply with all applicable export and import control regulations, customs and foreign trade regulations and correspondingly applicable laws, ordinances and requirements (hereinafter "**Foreign Trade Regulations**") and shall ensure that all import and export licenses or permits required for the fulfilment of its obligations are obtained.
- 21.2. Supplier shall promptly provide to GEA in writing all information and data required by GEA or GEA's customer to comply with all Foreign Trade Regulations. For each shipment, Supplier must provide GEA with at least the following export control information and foreign trade data:  
- Eight-digit customs tariff number of the goods to be shipped;  
- the country of origin (non-preferential origin);  
- if requested by GEA:  
o Supplier declaration of preferential origin;  
o other proof of preference;  
- if the delivered goods are subject to restrictions according to any applicable Foreign Trade Regulation (e.g. EU Dual-Use List of Goods / US Commerce Control List), further detailed information including the relevant list of goods number.
- 21.3. The Supplier shall provide GEA with the necessary export control information and foreign trade data as early as possible, in case of goods or services subject to export licensing at the latest with the written order confirmation. In all other cases, the required export control information and foreign trade data shall be provided to GEA no later than three (3) Banking Days prior to shipment of the Deliveries. If the information and data cannot be provided in time, the Delivery/ respectively the Contract shall be deemed not to have been fulfilled. Should a Delivery be subject to export restrictions in whole or in part due to national or international regulations, the Supplier shall inform GEA thereof without delay.
- 21.4. The fulfilment of the Contract by GEA is subject to the proviso that there are no obstacles to the fulfilment due to Foreign Trade Regulations or embargos and/or other comparable sanctions or legal regulations hindering the fulfilment.
22. Origin of goods  
22.1. The Supplier shall state the origin of the goods (Country of Origin) in the commercial documents (in particular on the delivery bill and invoice) and, at GEA's request, provide a certificate of origin or a testimony of origin on the origin of the Deliveries respectively a (long-term) Supplier's declaration free of charge.
- 22.2. The Deliveries shall comply with the conditions of origin of the bi- or multilateral preferential agreements or the unilateral conditions of origin of the Generalized System of Preferences for Beneficiary Countries (GSP), provided that the Deliveries are within the scope of such goods traffic.
23. REACH  
23.1. The Deliveries shall be packed in accordance with the packaging specifications and instructions provided by GEA. Protective measures shall be taken to prevent damage from moisture, rain, shock, etc. according to the characteristics and requirements of the Deliveries so as to ensure their safe arrival at the site without damage or deterioration. All wooden packaging materials including but not limited to pallets shall comply with ISPM15.
- 23.2. Hazardous products shall be packaged, labeled and shipped in accordance with the relevant national and international regulations. In particular, Supplier shall comply with the obligations concerning Supplier under EC Regulation 1907/2006 ("**REACH**") and provide a safety data sheet in accordance with REACH in the language of the country of destination.
- 23.3. The Supplier shall ensure that all ingredients of the Deliveries are effectively pre-registered, registered or exempted from registration and, if relevant, also authorized in accordance with the relevant requirements of REACH for the uses notified to it by GEA. GEA is not obliged to obtain an authorization under REACH for a delivery made by Supplier.
- 23.4. The Supplier further warrants that it will not deliver any Deliveries containing substances pursuant to  
(i) Annexes 1 to 9 of REACH as amended from time to time;  
(ii) the Council Decision 2006/507/EC (Stockholm Convention on Persistent Organic Pollutants) as amended from time to time;  
(iii) the EC Regulation 1005/2009 on Ozone Depleting Substances, as amended from time to time;  
(iv) (RoHS (2002/95/EC) for products according to their scope of application.  
EU Regulation 765/2008 CE standards shall be complied with.
- 23.5. If the Deliveries contain substances listed on the so-called "Candidate List of Substances of very High Concern" (SVHC list) according to REACH, the Supplier shall notify this immediately. This also applies if substances not previously listed are added to this list in the case of current Deliveries. The current list can be viewed at <https://echa.europa.eu/candidate-list-table>.
- 23.6. Furthermore, the Deliveries shall not contain any asbestos, biocides or radioactive material. Should these substances be contained in the Deliveries, GEA shall be notified thereof in writing prior to delivery, stating the substance and the identification number (e.g. CAS) and a current safety data sheet of the Deliveries. The delivery of these Deliveries requires a separate release by GEA.
- 23.7. The Supplier is obliged to indemnify and hold harmless GEA from any liability in connection with the Supplier's non-compliance with the above-mentioned regulations or to compensate GEA for any damage incurred by GEA due to or in connection with the Supplier's non-compliance with the regulations.
24. Subcontractors Assignment  
24.1. The Supplier is not entitled to have the Deliveries performed by subcontractors without GEA's prior written consent. Transport persons are not considered subcontractors.
- 24.2. The Supplier shall be responsible for the careful selection and supervision, for the performance fulfilment of its obligations under the Contract as well as for the actions and

# JAPAN (2022/02)

## Standard Terms and Conditions of Purchase – Procurement



- omissions of the subcontractors. Irrespective of this, the Supplier shall ensure that, in the event of permissible subcontracting, at least the obligations existing under the Contract and these Terms are also imposed on its subcontractors.
- 24.3. If personnel is working on GEA's premises on behalf of the Supplier, the Supplier shall encourage this personnel to observe the applicable regulations, in particular accident prevention, safety, fire protection, environmental protection and hygiene regulations.
- 24.4. The Supplier is not entitled to assign claims arising from the contractual relationship with GEA to third parties without GEA's prior written consent. .
25. Supplier's Claims:
- 25.1. Except where a different notice period is specified in these Terms, Supplier must give prompt notice of any claim against GEA though latest 7 calendar days after the event or events giving rise to the claim, absent which such claim shall be forever waived.
- Supplier's claim must be in writing and give full particulars as to the amount of Supplier's claim and the factual and contractual basis and must be fully supported by relevant documentation. If full documentation is not available at the time of claim, the supporting documentation will be submitted promptly by Supplier upon becoming available or being created, though latest 21 days after the date of the initial claim.
- Subject to such further conditions and requirements as are set forth in this clause:
- a claim for an increase of the purchase order price, damages or other monetary compensation shall be limited to i) where Supplier can prove by documentary evidence that GEA is the sole and direct cause of the event or events giving rise to the claim and that Supplier's acts or omissions did not contribute in any way to such event or events; and ii) recovery of Supplier's reasonable and documented direct costs only and Supplier waives any right to claim overheads; lost profits; loss of contract or business; loss of goodwill; any incidental, special, indirect or consequential damages or losses of any kind. The amount of any Supplier claims based on or relating to Supplier personnel costs shall be determined by calculating the relevant amounts paid directly to the relevant affected Supplier personnel without any overhead or mark-up of any kind; and
  - a claim for an extension of time shall be limited to the extent only to which where Supplier can prove by contemporaneous documentation that: (i) Supplier has suffered delay in respect of its critical path activities; and (ii) the event giving rise to the delay is a) an express change order signed by Customer granting an express extension to the Delivery Date(s), b) a Force Majeure event, or c) a material breach by Customer of an express obligation under the purchase order and such failure is the sole cause of Supplier's delay; provided, however, that no claims for an extension of time are allowed where (i) there is concurrent delay involving Supplier, GEA's customer or other contractors at the Place of Installation; (ii) the delay results from preced-ing events for which timely notice has not been separately submitted to GEA in due time beforehand.
- Any claim by Supplier based on it having been delayed, disrupted, hindered or otherwise obstructed in performing the Deliveries must be given in writing by Supplier within five days after the initial occurrence of delay, disruption, hindrance or obstruction, absent which the claim shall be forever waived.
26. Minimum Wage
- 26.1. The Supplier is obliged to pay its employees and shall ensure that its subcontractors also pays their respective employees, at least the minimum wage according to the relevant legislation. The Supplier shall indemnify and hold harmless GEA against all claims asserted against GEA in the event of a violation of this obligation by the Supplier or its subcontractors.
- 26.2. Notwithstanding any other rights of termination, GEA is entitled to withdraw from the Contract or to terminate the Contract extraordinarily if the Supplier and/or its subcontractors culpably violate the minimum applicable wage regulations. The Supplier shall compensate GEA for any damage incurred as a result of the withdrawal or termination. In all other respects the statutory provisions shall apply.
- 26.3. GEA is entitled at any time to request from the Supplier a written confirmation of the payment of the minimum wage as well as to request from the Supplier suitable evidence for the verification of compliance with this clause 25, such as in particular minimum wage declarations of the Supplier's employees, confirmations of the Supplier's tax advisor or auditor.
27. Corporate Responsibility, Compliance, Data Protection
- 27.1. Supplier undertakes to comply with GEA's Code of Conduct, which is incorporated by reference as part of the Contract and is available on GEA's website ([www.gea.com/en/company/suppliers/code-of-conduct/index.jsp](http://www.gea.com/en/company/suppliers/code-of-conduct/index.jsp)), as well as GEA's registered supplier requirements, and shall ensure that its directors, officers, employees, suppliers and subcontractors are legally bound by a similar compliance obligation. Any breach of this obligation shall entitle GEA to full indemnification and immediate termination of the contractual relationship at any time, without incurring any liability to the Supplier.
- 27.2. The Supplier undertakes to comply with the applicable data protection requirements, in particular the European Data Protection Regulation (VO (EU) 2016/679) as well as the Japanese Data Protection Act as amended from time to time, when initiating and executing the Contract. If the Supplier subcontracts parts of its contractual obligations, the Supplier shall ensure through appropriate design of the subcontracts that the subcontractors also comply with the aforementioned obligations.
- 27.3. The Supplier shall act in accordance with all applicable laws, including, but not limited to, data protection laws and all laws, regulations and guidelines relating to information security, cyber security and IT security. Supplier shall maintain appropriate technical and organizational security measures in its business area to ensure information security at all times. These shall include, among other things, appropriate management systems and compliance with customary industry standards. Both parties undertake to take all necessary technical and organizational measures for data security when processing personal data.
28. Applicable Law, Place of Jurisdiction
- 28.1. The Contract, these Terms and the legal relationship between GEA and the Supplier arising out of and in connection with the contractual relationship shall be governed by the laws of Japan, excluding the United Nations Convention on Contracts for the International Sale of Goods of 11 April 1980 (UN Sales Convention).
- 28.2. The exclusive place of jurisdiction for all disputes arising out of and in connection with the contractual relationship between GEA and the Supplier shall be Tokyo District Court of Japan , provided the Supplier is a merchant. GEA is also entitled to sue the Supplier at the Supplier's general place of jurisdiction or at any other competent court.
- 28.3. The Supplier shall continue to fully and unconditionally perform all its contractual obligations notwithstanding the pendency of any litigation or related proceedings.
29. Miscellaneous
- 29.1. Supplier shall perform the Deliveries and services as an independent contractor on arm's length terms. The relationship of the parties shall in no case be construed as that of principal/agent, employer/employee, partnership or similar relationship. the Supplier shall not represent itself as being GEA or acting on its behalf.
- 29.2. Should one or more provisions of these Terms or parts thereof be or become invalid, this shall not affect the remaining provisions or parts thereof.  
The place of performance for Deliveries without installation and assembly shall be the delivery address specified by GEA. The place of performance for subsequent performance shall be the location of the respective Deliveries, in case of doubt the delivery address specified by GEA.
30. Termination
- 30.1. GEA may at any time terminate for convenience the Contract by giving written notice to Supplier. Supplier shall immediately implement GEA's instructions. In the event of such cancellation, Supplier shall, as its sole and exclusive remedy, be entitled to the portion of the purchase order price corresponding to the part of Deliveries ordered by GEA less any amounts paid or otherwise due by GEA.

# JAPAN (2022/02)

## Standard Terms and Conditions of Purchase – Procurement



- 30.2. The Supplier has to take into account savings as well as other possibilities of acquisition. The agreed remuneration shall be reduced by the aforementioned items in accordance with the statutory provisions. Further, GEA shall be entitled to terminate the Contract without any liability to Supplier by giving notice to Supplier at any time if: (a) Supplier makes any voluntary arrangement with its creditors or becomes bankrupt, insolvent or otherwise unable to pay its debts when due, (b) there is a change in control of Supplier (where control means the ability to direct the affairs of another) or (c) GEA determines in good faith there is a material change in the financial position of Supplier which will likely adversely affect Supplier's ability to perform its obligations.
- 30.3. The right of the parties to extraordinary termination for good cause remains unaffected. If GEA terminates the Contract for good cause, the Supplier may demand the agreed remuneration for the work already performed, unless the part of the work already completed is not usable for GEA or GEA cannot reasonably be expected to use it, if the cause of termination is attributable to the Supplier. GEA may take immediate possession of all Deliveries so performed upon written notice of termination to Supplier and, upon Customer's request, Supplier shall transfer to GEA Supplier's rights in respect of the Deliveries in any subcontracts.

### **B. Special conditions for the provision of work services**

31. General  
The following special conditions for the performance of work services shall apply in addition to the Terms under letter A to all Contracts between GEA and the Supplier concerning work services.
32. Performance of work services
- 32.1. The work services to be performed under the Contract shall include all measures necessary to produce the work owed under the Contract. The work services, including any associated Deliveries, shall be performed in accordance with the current state of the art as well as the relevant provisions of the authorities and trade associations, ordinances and laws. This includes in particular
- (i) Occupational health and safety and accident prevention regulations,
  - (ii) DIN, EN, ISO
  - (iii) VDMA,
  - (iv) VDE,
  - (v) manufacturer's regulations and
  - (vi) GEA's internal regulations (if any).
- If deviations from the above-mentioned regulations are necessary in individual cases, the Supplier must obtain GEA's written consent. The warranty and liability of the Supplier shall not be affected by such consent. If technical modifications are ordered in connection with services, machine elements and parts must be designed and arranged in such a way that they can be easily and quickly inspected, maintained and repaired. Wear parts must be designed for high load times.
- 32.2. Insofar as the Supplier provides the work services through its own employees, it shall be responsible for ensuring that the services are only provided by such employees who have the necessary skills, experience and qualifications.
- 32.3. The information provided by GEA in the purchase order and any accompanying documents must be checked by the Supplier on its own responsibility. The Supplier shall immediately point out to GEA any ambiguities and contradictions in the documents relating to the performance of the services (e.g. with regard to the standards to be complied with, the materials to be used or contradictions between textual descriptions drawings etc.). The Supplier shall coordinate the performance of the services with the responsible technical contact person of GEA prior to commencement of the work; the overall responsibility of the Supplier shall remain unaffected. The Supplier shall inspect the condition of the construction site at the beginning of the performance of the work services in order to determine whether the services can be performed without risk and subsequently occurring defects. Objections shall be raised in writing to GEA prior to the commencement of the performance of the work services, provided that the causes of the objections are identifiable prior to the commencement of the performance of such services. The performance of work services by the Supplier shall in any case be carried out

independently and on its own responsibility. The organization of the work (in particular with regard to the deployment of personnel and the time sequence) shall be the sole responsibility of the Supplier. All equipment, tools as well as professional clothing including the necessary protective equipment required for the execution of the purchase order shall be provided by the Supplier.

- 32.4. The Supplier shall be obliged to submit weekly progress reports. Reporting shall continue until Supplier has completed all work to complete the work to be erected in accordance with the Contract and GEA has accepted the erected work.
- 32.5. Both parties shall at all times ensure the segregation of duties and personnel. They shall ensure that the work services are performed exclusively by employees of the Supplier (and, to the extent permitted, employees of subcontractors). Neither party shall undertake, even for a short period of time, to use employees of the other party for its own tasks and purposes. Direct cooperation in the sense of joint performance of services for other tasks shall be excluded as a matter of principle.
- 32.6. The Supplier and its employees (and as far as permissible employees of subcontractors) are not entitled to give instructions of any kind to employees of GEA. Neither are GEA and its employees authorized to give instructions to employees of the Supplier (and to the extent permitted employees of subcontractors).
33. Acceptance  
33.1. The work erected shall be subject to Acceptance.
34. Warranty
- 34.1. Contrary to clause 15.2, the option of subsequent performance in the form of remedy of defects or production of a new work shall lie with the Supplier. Otherwise, the rights and obligations of the Supplier shall be governed by the statutory provisions.
- 34.2. Clause 15.5 shall not apply to contracts for work and services.
- 34.3. In deviation from clause 15.6, GEA shall be entitled, after the fruitless expiry of a reasonable period to remedy the defect set for the Supplier, to remedy the defect itself at the Supplier's expense and without prejudice to the Supplier's liability for defects. A reasonable time period is dispensable insofar as the Supplier seriously and finally refuses subsequent performance. In all other respects, GEA's rights and obligations shall be governed by the statutory provisions.
35. Insurance  
The Supplier warrants that it has sufficient insurance coverage for liability cases potentially arising in connection with the execution of this Agreement and the performance of the Services. In particular, the Supplier undertakes to take out insurance cover at its own expense as follows and to maintain such cover until completion of the performance of the Services:
- (i) professional or business liability insurance providing insurance cover at least to the extent of EUR 5 million per damage event or in the amount of the net purchase order value of the affected delivery if the net purchase order value is higher.
  - (ii) Assembly insurance, which provides insurance cover at least to the extent of EUR 5 million per damage event or in the amount of the net purchase order value of the affected delivery if the net purchase order value is higher.
  - (iii) Product liability insurance which provides insurance cover at least to the extent of EUR 5 million per damage event or in the amount of the net purchase order value of the affected delivery if the net purchase order value is higher.

### **C. Special conditions for the provision of installation services**

36. General  
36.1. The following special conditions for the performance of installation services shall apply in addition to the Terms under letter A to all Contracts between GEA and the Supplier concerning installation services.
37. Definitions  
37.1. Installation Services means the inspection, pre-assembly, assembly, installation, testing and/or commissioning services, and/ or any supervisory services thereof, to be provided by Supplier under the Contract, as well as all necessary, ancillary and/or incidental services and goods, whether of permanent or temporary nature, relating thereto, including the provision of any scaffolding, consumables, lifting devices, welding materials, tools, documentation, etc.



# JAPAN (2022/02)

## Standard Terms and Conditions of Purchase – Procurement



- 37.2. Main Contract means the agreement entered into by GEA and the Owner covering the supply, installation, testing and commissioning of the Deliveries.
- 37.3. Owner means the person or entity with whom GEA has entered into the Main Contract, including its successors and assigns.
- 37.4. Place of Installation means, collectively, the site facilities and other locations where the Deliveries are performed.
- 37.5. Project HSE Plan means GEA's plan for the Deliveries regarding health, safety and the environment. Supplier acknowledges receipt of the Project HSE Plan for the Deliveries.
- 37.6. Site Acceptance Test (SAT) means tests during or following Commissioning to demonstrate that the Deliveries fulfil all requirements of the Contract and/or the Main Contract.
- 37.7. Taking-Over means when all of the following have been fulfilled: the Deliveries have been fully performed and delivered according to the requirements of the Contract, the Deliveries have passed the SAT and Owner has signed a taking-over certificate in respect of the Deliveries.
38. Installation Services
- 38.1. Supplier shall timely execute and complete the Deliveries, including the Installation Services, project management and interface activities and notifications specified herein, in strict compliance with all of the relevant requirements of the Contract, the Project HSE Plan, Owner's Global Business Conduct Policy and applicable laws. Supplier acknowledges that its failure to do so may jeopardize the success of the project that is the subject of the Main Contract and may lead GEA and Owner to incur substantial damages and losses.
39. Delivery
- 39.1. Unless otherwise provided for in the Contract or instructed by GEA, Deliveries will be delivered to the Place of Installation. Supplier shall then arrange at Supplier's risk and cost for prompt inspection of the Deliveries (to determine among other things the occurrence of any transportation damages), the unloading, transportation and placement of such Deliveries in its designated area for assembly and/or installation at the Place of Installation and the correct positioning of all parts of the Deliveries, and shall rectify any error in the positions, levels, dimensions or alignment of the Deliveries. Supplier shall immediately notify GEA in writing of any damage to or defects in the Deliveries discovered during any such inspection or work.
- 39.2. Supplier shall be responsible for obtaining from Customer all necessary unloading, transportation, lifting and placement instructions in order to ensure that such takes place as agreed.
40. Supplier's obligations
- 40.1. Unless otherwise provided for in the Contract, the Deliveries shall be stored at the risk and cost of Supplier in accordance with the instructions of GEA. Protective measures shall be taken to prevent damage from moisture, rain, shock, etc., according to the characteristics and requirements of the Deliveries.
- 40.2. Supplier be deemed to have obtained all necessary information relating to and satisfied itself as to the sufficiency of, and shall bear the risks of, all conditions, contingencies, circumstances or events that may influence or affect the Deliveries, including physical conditions (including surface, above-surface and sub-surface) at the Place of Installation; the design, materials, layout or other features of the Deliveries; weather conditions; applicable laws; the works of other contractors at the Place of Installation; the requirements of GEA and Owner regarding the Works, and working regulations covering hours of work.
- 40.3. Prior to beginning the Installation Services, Supplier shall check the foundations (including comparison to hole and foundation drawings) and the supply points for suitability as well as all other circumstances relevant for a proper assembly and must inform GEA immediately of any deviations from the Contract.
- 40.4. Supplier shall take all steps required to protect the environment both on and off the Place of Installation and to limit any damage and nuisance to people and property resulting from pollution, noise and other results of its services. Supplier's Installation Services shall conform to all noise regulations in effect at the Place of Installation, including those of GEA, Owner, any installation permits and applicable laws.
- 40.5. Supplier shall ensure that emissions, surface discharges and effluent from Supplier's activities shall not exceed the values indicated in the Contract or required by regulations in effect at the Place of Installation, including those of GEA, Owner, any installation permits and applicable laws.
- 40.6. Unless otherwise provided for in the Contract, water and electricity will be provided by Owner or other third parties. If additional supply lines and/or supply points are required, Supplier shall arrange and maintain them at its own expense and risk and has to remove them again upon completion of the Installation Services.
41. Guarantees
- 41.1. Guarantee Period: Guarantee Responsibilities: Unless otherwise stated in the Contract, Supplier Guarantees shall be valid from the provision of the Services up to and including the date that is sixty (60) months after Taking Over, provided that for any portion of the Services that is repaired, replaced, modified or re-performed after Taking Over within said period (or any extended period) the Supplier Guarantees shall be valid sixty (60) months from the date of completion of the repair, replacement, modification or re-performance (such periods being the "Guarantee Period"). Supplier shall remedy all nonconformities and defects due to Supplier's intentional misconduct or gross negligence regardless of whether they occur within the Guarantee Period.
- 41.2. GEA shall, no later than thirty (30) days after expiration of the Guarantee Period, notify Supplier of any breach of Supplier Guarantees. Upon receipt of notification, Supplier shall at its own cost and expense immediately remedy such breach, including re-performing, replacing or repairing any defective or non-conforming Services, and any resulting damage, whether direct, indirect or otherwise. Further, Supplier shall immediately notify GEA of any nonconformity including defect of which it becomes aware regardless of whether it receives any notice from GEA.
- 41.3. Unless otherwise provided for in the Contract, Supplier shall be responsible for any costs relating to the dismantling, replacement and reassembly of any Services to the extent necessary to remedy any nonconformity or defects during the Guarantee Period, as well as any related transportation and insurance costs, taxes, duties and other levies. Where the Services are integrated with other supplies comprising a total project being supplied by GEA, Supplier shall be responsible for any costs of remedying other portion of the total project adversely impacted by any defect or nonconformity of the Services.
- 41.4. If instructed by GEA, Supplier will search, at its own cost, for the cause of any breach of a Supplier Guarantee.
42. Supplier's tools and materials
- 42.1. All tools, equipment and materials of Supplier must meet all applicable requirements and certifications according to applicable law and industry standards.
43. Interfaces
- 43.1. Supplier shall ensure that the Installation Services are executed and completed in coordination with other works being performed at the Place of Installation, regardless of whether such other services are being performed by GEA, Owner or third parties. Supplier shall, as instructed by GEA, allow appropriate opportunities for carrying out work at the Place of Installation to the employees, contractors and representatives of GEA, Owner and any public authority.
- 43.2. Unless otherwise provided for in the Contract or instructed in writing by GEA, Supplier shall issue an interface specification. Such specification shall describe in detail and specify the interfaces relating to the performance of the Deliveries and/or the Installation Service, buildings and utilities and other services, plant, equipment, materials and documentation being provided by others (including GEA and Owner) at the Place of Installation.

# JAPAN (2022/02)

## Standard Terms and Conditions of Purchase – Procurement



- 43.3. Supplier shall ensure, at its own cost and risk, that the Installation Services are fully and constantly coordinated in an orderly and timely manner with preceding, concurrent and succeeding work performed or to be performed by Supplier and others (including GEA and Owner) at the Place of Installation and will establish written interface agreements with third parties involved at the Place of Installation. Upon request, Supplier shall document such interface agreements. The interface agreements between Supplier and others shall include time schedules and a clear description of their respective roles and responsibilities. GEA's review and/or approval of such interface agreement does not exempt or excuse Supplier from full responsibility for fulfilment of the requirements of the Contract nor shall it create any responsibility or liability on the part of GEA. An interface agreement shall address to the extent relevant mechanical, automation, electrical, civil works (including buildings and utilities), installation and process interfaces.
44. Health and Safety
- 44.1. Supplier shall at all times ensure that its Deliveries and Installation Services conform to applicable health and safety requirements of GEA, Owner and applicable laws, including the Project HSE Plan.
- 44.2. An initial hazard identification and risk assessment must be completed by Supplier for the Deliveries prior to its commencement. The risk assessment shall include measures that effectively control the risk. Supplier is required to provide evidence that it has assessed the hazards and risks involved with the Works and has given due consideration to how those risks will be controlled (method statement).
- 44.3. Supplier shall at all times take all reasonable precautions to maintain the health and safety of Supplier Personnel. In collaboration with local health authorities, Supplier shall ensure that medical staff, first aid facilities, sick bay and ambulance service are available at all times at the Place of Installation and at any accommodation for Supplier's and GEA's personnel, and that suitable arrangements are made for all necessary welfare and hygiene requirements and for the prevention of epidemics.
- 44.4. Supplier shall appoint an accident prevention officer at the Place of Installation. The officer shall be responsible for maintaining safety and protection against accidents. This person shall be qualified for this responsibility and shall have the authority to issue instructions and take protective measures to prevent accidents. Throughout the execution of the Installation Services, Supplier shall provide whatever is required by this person to exercise this responsibility and authority.
- 44.5. Supplier shall send, to GEA, details of any accident immediately after occurrence. Supplier shall maintain records and make reports concerning health, safety and welfare of persons, and damage to property, as GEA may reasonably require.
- 46.2. Software shall as far as possible be delivered with open interfaces, including a detailed functional description and a description of communication interfaces between the software and other software and hardware interoperating with it. The purpose is to enable GEA and/or GEA's customer, either by its own efforts or with third-party assistance, to correct any errors and to maintain, operate, change and/or further develop the Deliveries and the software delivered by the Supplier, including in connection with outsourcing, directly and without the Supplier's assistance. The purpose is also to ensure that the Supplier's software and the other parts of the Deliveries are compatible with products delivered by a third party to GEA and/or GEA's customers. Thus, the Supplier shall ensure that all Software delivered is accompanied by a source code which is of a quality that meets standards of good IT practice and which allows persons with the necessary skills to perform the activities above directly.
- 46.3. In addition to the above, the Supplier shall provide such technical advice, data and documentation to enable GEA, GEA's customers and/or any third party to maintain or further develop the Software if they wish. The documentation must be so detailed and designed that it is possible for persons who have the required knowledge to maintain and further develop the software with the source code.
- 46.4. The Supplier shall also deliver the complete documentation that is necessary or appropriate for the use of the Software. For Software components, the documentation must consist of a user documentation, a brief description and a technical documentation. The user documentation for installation and administration must describe all necessary processes in such a way that it is comprehensible to trained persons. In addition, the documentation must also describe typical and foreseeable error situations and how to rectify them. The documentation must comply with the standards customary at the time of the software installations. The documentation shall be provided to GEA free of additional charge in machine-readable form and in the language specified in the purchase order as well as in English.
- 46.5. GEA shall be entitled to copy and use the documentation for the purposes of the Contract, in particular also for resale to GEA's customers and for training purposes, as required.
47. Open Source Software
- 47.1. The use of open source software is not permitted without prior written agreement to the contrary. In this respect, open source software is any software distributed under terms of use and license for open source software, the obligations of which include, as a condition to the processing and/or distribution of such software and/or any other software associated therewith, derived therefrom or distributed together therewith, the distribution or disclosure of the source code of the software ("**Open Source Software**"). If the Supplier intends to use Open Source Software, it shall inform GEA in advance of the associated license terms and hand them over to GEA in advance. The handover of the license terms for Open Source Software is an essential contractual obligation of the Supplier if Open Source Software is used. The Supplier warrants that the use of Open Source Software does not impair the contractual or intended use of the Deliveries.
- 47.2. The Supplier warrants that the Software does not contain any Open Source Software in the Deliveries, unless the Supplier has provided GEA with the specific license terms for the Open Source Software in the language specified in the purchase order and in English prior to the conclusion of the Contract and GEA has given its written consent to the use and delivery of the Open Source Software after having become aware of the license conditions and prior to the use of the Open Source Software. In this case, Supplier warrants to GEA that the Open Source Software accepted by GEA is the only Software included in the Deliveries that falls within the definition of Open Source Software set forth above. Supplier further represents and warrants to GEA that all license obligations that exist with respect to the Open Source Software accepted by GEA have been fully satisfied by Supplier. Finally, Supplier warrants to GEA that Supplier has provided GEA with all relevant license texts and all necessary source codes as well as build scripts for each version of the Open Source Software delivered to GEA to enable GEA, its Affiliates and distributors as well as GEA's customers to create an executable version of such Open Source Software.
- 47.3. In the event of a breach of this clause, Supplier shall, notwithstanding any limitation of liability clause in this Contract, indemnify GEA against and assume the defense of all claims, damages, losses and costs incurred by GEA
- D. Special conditions - Software**
45. General
- 45.1. In case the Deliveries include any software, the following special conditions for software ("**Software**") shall apply in addition to the Terms under letter A to all Contracts between GEA and the Supplier.
46. Delivery of Software
- 46.1. Software shall be state of the art and be delivered free of additional charge in a common and readable format corresponding to the current state of the art, unless a specific format has been agreed in the Contract. Prior to the delivery of Software or data carriers, the Supplier shall check them with a state-of-the-art virus scan program and ensure that the Software and/or data carriers do not contain any malware (software with malicious functions), computer viruses, Trojan horses, worms or similar. Prior to delivery, the Supplier shall ensure by means of state-of-the-art software security tests and prove to GEA that the Software does not contain any critical weak points that could damage the integrity and confidentiality of the systems and data of GEA, its customers or those of connected third parties.

## JAPAN (2022/02) Standard Terms and Conditions of Purchase – Procurement

arising out of the breach of this clause. This indemnity obligation shall also apply to all of GEA's Affiliates, distributors and GEA's customers in respect of claims made against them and damages, losses and costs incurred by them.

#### 48. Right of Use. License

- 48.1. Supplier permits GEA to market and resell the Software and any accompanying hardware either alone or as part of a package to its customers.
- 48.2. Unless otherwise agreed, the Supplier grants GEA, its Affiliates and GEA's customers a non-exclusive, transferable, sub-licensable and irrevocable right of use, unlimited in terms of time, space and content, to use the Software in any hardware and, if applicable, with other software or, if applicable, to have it used by third parties for GEA its Affiliates and GEA's customers (e.g. as outsourcing or hosting) upon delivery or provision of the Software. In the latter case, GEA shall inform the Supplier thereof in writing in advance and, at the Supplier's request, provide the Supplier with the third party's declaration that the Software will be kept secret and used exclusively for the purposes of GEA, its Affiliates or GEA's customers. This shall also apply in each case to patches, updates, upgrades and new versions of the Software provided by the Supplier as well as the associated documentation.
- 48.3. The Supplier grants GEA in particular the non-exclusive, transferable, sub-licensable, irrevocable, temporally and geographically unrestricted right: (i) to use the Software itself and to have it used, in particular to reproduce the Software for the purpose of connecting it to any other software and/or hardware, to make backup copies and for the purpose of installing, loading, displaying and running it on any hardware; and (ii) to distribute and make accessible the Software itself or through third parties stand-alone or in connection with other software and/or hardware by means of any medium, including online, and to sub-license the rights set forth in 48.2 and 48.3 to GEA's Affiliates and distributors as well as to GEA's customers with the right to further sublicense.