

GENERAL PURCHASE TERMS AND CONDITIONS FOR PRODUCTION GOODS OF LIGHTYEAR LAYER B.V., a limited liability company organized and existing under the laws of the Netherlands, with its registered seat in Eindhoven, the Netherlands, and its address at Automotive Campus 70, 5708 JZ Helmond, the Netherlands, lodged at the trade register of the Chamber of Commerce under number 78271363.

## I. GENERAL CHAPTER: GENERAL PROVISIONS

*Version August 31, 2021.*

### **Article 1. Definitions and Interpretation**

1. For the purposes of these GPTC and all related documents, the capitalized terms as defined below in alphabetical order shall have the following meanings whereby these terms may be used in the singular or the plural form and vice versa, as the context so requires:

**‘Affiliated Company’** with regard to a Party any company, firm, partnership or other legal entity which now or hereafter: (a) controls either directly or indirectly a party; or (b) is controlled directly or indirectly by a party; or (c) is directly or indirectly controlled by a company, firm, partnership or other legal entity which directly or indirectly controls a party. “Control” for the purpose of this definition meaning the ownership of 50% (fifty percent) or more of the nominal value of the issued share capital or 50% (fifty percent) or more of the voting power at the general meeting of shareholders or having the power to appoint a majority of the directors or otherwise direct the activities of such company, firm, partnership or other legal entity, but any such legal entity shall be deemed to be an Affiliated Company only as long as such liaison exists.

**‘Agreement’** any agreement formed by Supplier’s acceptance of a Purchase Order, or any agreement signed by the Parties for the delivery of Goods, including all appendices attached thereto as well as all amendments thereof and/or additions thereto which the Parties may thereafter agree upon in Writing. These GPTC form an integral part of the Agreement.

**‘Article’** any article of these GPTC.

**‘Business Day’** any day, other than a Saturday or Sunday, that is neither a public holiday nor a day on which banking institutions in the Netherlands are closed.

**‘Confidential Information’** the Agreement, its terms and execution, as well as all information and know-how (including but not limited to formulations, designs and other Intellectual Property Rights) furnished by Lightyear Layer to Supplier in any form whatsoever or otherwise coming to Supplier’s knowledge in connection with the performance of the Agreement and all data derived directly or indirectly from such information and all warranty claims, if any, which may arise under the Agreement. **‘Epidemic Failure’** the repeat of a certain type of failure of Goods or part thereof not caused by normal wear and tear but resulting from defects in material, workmanship, manufacturing process and/or design deficiencies attributable to Supplier, including but not limited to use of components with inherent or latent defects, or inconsistent maladjustments during manufacture. Epidemic Failure is limited to failures attributable to the same root cause.

**‘Execution Schedule’** the execution schedule approved by Lightyear Layer stating the sequence of and the time allowed for the delivery of Goods or parts thereof, including any annex, addition or modification thereto.

**‘Force Majeure’** includes, but is not limited to, acts of God; restrictions, prohibitions, priorities or allocations imposed or actions taken by a governmental authority (whether valid or invalid); embargoes; fires; floods, earthquakes, explosions; natural disasters; riots; wars; sabotage; or court injunction or order, in so far as any of these circumstances prevent performance of a Party of its obligations under the Agreement. ‘Goods’ all (production) materials, automotive components and Software specified in the Agreement for use in Lightyear Layer’s (serial) production and as spare parts, including Tooling.

**‘GPTC’** these general purchase terms and conditions for Goods of Lightyear Layer.

**‘Intellectual Property Rights’** registered and unregistered intellectual and industrial property rights and applications, including but not limited to patent rights, trademark rights, database rights, design rights, inventions, processes, formulae, copyrights, business and product names, logos, slogans, trade secrets, industrial models, processes, designs, methodologies, computer programs (including all source codes) and related documentation, technical information (including, without limitation, information relating to inventions, discoveries, concepts, methodologies, models, research, development and testing procedures, the results of experiments, tests and trials, manufacturing processes, techniques and specifications, quality control data, analyses, reports and submissions), manufacturing, engineering and technical drawings, know-how and information, copies and tangible embodiments of all the foregoing, in whatever form or medium and any moral rights and the like associated therewith.

**‘In Writing’** or **‘Written’** also includes in text form, e.g. via e-mail or electronic data interchange, unless written form is explicitly required.

**‘Lightyear Layer’** Lightyear Layer B.V. and any Affiliated Company, which either submits a Purchase Order, in whose name a Purchase Order is placed, or which signs the Agreement.

**‘Party’** or **‘Parties’** Lightyear Layer and Supplier, individually or Lightyear Layer and Supplier, collectively.

**‘Personnel’** any person working on carrying out the Agreement under the supervision and responsibility of Supplier or its subcontractor(s), whether in the employment of Supplier or its subcontractor(s) or otherwise.

**‘Purchase Order’** any order issued by Lightyear Layer to Supplier for the purchase of Goods, by virtue of which Supplier shall deliver the Goods to Lightyear Layer, including any annex, addition or modification thereto.

**‘Recall Campaign’** a systematic effort by Lightyear Layer to locate certain Goods and/or spare parts installed in vehicles and believed by Lightyear Layer possibly to be in breach of Supplier’s warranty, or not to comply with laws, regulations, orders, or other governmental requirements, in order to

replace, correct, or check such Goods.

**‘Release’** an updated version of the Software that repairs mistakes from earlier versions and adds patches and bug fixes.

**‘Software’** the computer programs in object code as described in the Specifications, including the accompanying documentation, new Versions, new Releases, updates, changes and corrections, that is developed and/or acquired by Supplier, and delivered to Lightyear Layer as part of the Products, and/or as a Product, including its related documentation.

**‘Specifications’** the detailed specifications, descriptions, design criteria, quality standards, work instructions and drawings of the Goods agreed upon between the Parties and specified in the Agreement.

**‘Supplier’** the Party to whom the Purchase order is addressed or Supplier signing the Agreement with the company named as such in the Agreement as responsible for carrying out the Agreement.

**‘Tooling’** (production) equipment as specified in the Agreement, including but not limited to forging dies, testing and measuring equipment (e.g. gauges) matrices, samples, tools, devices, drawings and similar items required to the production and examination of Goods.

**‘Version’** an updated version of the Software that adds a substantial new functionality or fundamentally alters the structure of the Software.

2. The headings of these GPTC are for ease of reference only and are not intended to qualify the meaning of any article or section thereof.

3. If the contents of the Agreement deviate from the contents of these GPTC, the contents of the Agreement shall prevail.

4. This GPTC consists of several parts: the GENERAL CHAPTER and the chapters of the SPECIAL CHAPTERS. The provisions of the GENERAL CHAPTER always apply to the Agreement. The provisions of one or more of the chapters of the SPECIAL CHAPTERS are applicable depending on the type of Goods. It is clear from the Agreement which chapters of the SPECIAL CHAPTER(S) apply. In the event of an incompatibility between the provisions of the GENERAL CHAPTER(S) and a chapter of the SPECIAL CHAPTER(S), the provisions of a chapter of the SPECIAL CHAPTER(S) shall prevail. In the event of incompatibility between any of the provisions of the SPECIAL CHAPTER(S), the most binding provision for Supplier shall prevail.

5. If the Agreement or these GPTC refers to ‘Incoterms’, this shall mean the most recent version of the Incoterms, published by the International Chamber of Commerce, Paris, France.

6. Any undertaking by a Party not to do an act or thing shall be deemed to include an undertaking not to permit or suffer such act or thing to be done by another person.

7. References to the Parties include their respective successors in title and permitted assigns.

8. Terms and expressions of law and of legal concepts as used in this GPTC have the meaning attributed to them under the laws of the Netherlands and should be read and interpreted accordingly.

## Article 2. Applicability of the GPTC

1. These GPTC apply to all Purchase Orders and Agreements and form an integral part thereof. Upon Supplier’s Written acceptance of a Purchase Order or with the start of its performance of a Purchase Order, Supplier shall be legally bound to these GPTC.

2. No waiver of a right with respect to a Party’s breach of any provisions of these GPTC or any Agreement shall be valid unless explicitly made In Writing by the other Party and no such waiver shall operate or be construed as a waiver of any other breach. No failure or delay by a Party in exercising any right, power or privilege under these GPTC or an Agreement will operate as a waiver of such right, power or privilege, and nor will any single or partial exercise of any of such right, power or privilege preclude any other or further exercise of it or of any other right, power or privilege under these GPTC or an Agreement.

3. No amendment to these GPTC or an Agreement shall be binding upon either Party, unless it is In Writing and duly signed by both Parties.

4. If 1 (one) or more provisions of these GPTC shall be found, by a court with jurisdiction, to be illegal, invalid or unenforceable, it shall not affect the legality, validity or enforceability of any of the remaining provisions of these GPTC. The Parties agree to attempt to substitute for any illegal, invalid or unenforceable provision a legal, valid or enforceable provision that achieves to the greatest extent possible the objectives of the illegal, invalid or unenforceable provision.

5. Any issues that are not arranged for in these GPTC or any related Agreement shall be further discussed and agreed upon between the Parties in good faith, observing the principles of reasonableness and fairness.

## Article 3. Purchase Orders

1. Acceptance of a Purchase Order by Supplier is expressly restricted to the provisions contained in such Purchase Order as well as to these GPTC, and, if applicable, to any existing framework supply agreement.

2. Any additional or deviating terms or supply conditions from Supplier are expressly excluded and shall not form part of any Agreement, unless agreed by the Parties In Writing.

3. Each Purchase Order accepted by Supplier pursuant to **Article 3.4** will constitute a separate Agreement.

4. Within 10 (ten) Business Days of Supplier’s receipt of a Purchase Order, Supplier shall submit acceptance of such Purchase Order In Writing. In any event, any act taken by Supplier for the fulfilment of a Purchase Order will constitute acceptance of such Purchase Order. In the event that Lightyear Layer has not received a Written notice from Supplier within the aforementioned term, Supplier shall be deemed to have accepted the Purchase Order and the Agreement is constituted.

5. Any quantities stated in any inquiries/requests for quotation serve solely as non-binding orientation values, e.g. for the purpose of price calculations, and do not establish any obligation for Lightyear Layer to order such quantities.

## Article 4. Prices

1. Unless otherwise agreed In Writing, all prices are fixed and, if applicable, exclusive of VAT.

## Article 5. Invoicing

1. All invoices are sent and processed electronically via the following e-mail address: invoice@lightyear.one.

2. The invoice must comply with the requirements of the Turnover Tax Act 1968. Where applicable, Supplier must in any event state the following information on the invoice:

- a) the full name and address of the Parties;
- b) the bank account number of Supplier;
- c) the identification number of the Agreement, if any;
- d) Supplier's VAT identification number;
- e) an indication of whether or not the VAT transfer scheme is applicable and, if so, the rate and VAT amount;
- f) the nature and scope of the Goods; and
- g) the date on which the Agreement was executed or completed.

## Article 6. Payment

1. Unless agreed otherwise In Writing, payments shall be made in accordance with the payment schedule as set out in the Agreement, or in the absence thereof, after the last delivery or execution of the Agreement.

2. Unless otherwise agreed, the term of payment is 60 (sixty) days after receipt of the invoice by Lightyear Layer.

3. Lightyear Layer shall only pay:

- a) if the Goods or the part thereof to which an instalment/payment refers has been delivered/carried out by Supplier to the satisfaction of Lightyear Layer; and
- b) upon receipt by Lightyear Layer of an invoice in accordance with **Article 5**; and
- c) if applicable, upon receipt of the documents referred to in **Article 12.1**.

4. Payment by Lightyear Layer for (any part of) the Goods neither indicates nor constitutes acceptance of (any part of) the Goods.

5. Supplier shall use its best efforts to obtain any and all legally permissible discounts, credits and refunds from suppliers and subcontractors in favour of Lightyear Layer.

6. Supplier agrees to be fully liable for payment of all social security charges, contributions and taxes levied at any time in respect of any Personnel deployed by or on behalf of Supplier in connection with the performance of the Agreement.

## Article 7. Suspension, settlement and right of retention

1. If Supplier fails to meet its obligations and/or in the event of a rejection of the Goods, Lightyear Layer will be entitled to suspend its payment obligations towards Supplier until Supplier has met its obligations.

2. Lightyear Layer will at all times be entitled to set off the amounts that it will owe or owes to Supplier at any time, on any account whatsoever, against amounts that Lightyear Layer and/or any of its Affiliated Companies will owe or owes to Supplier at any time.

3. In the event of Supplier's (imminent) insolvency, Lightyear Layer will be entitled to settle any claims of subcontractors relating to the Agreement directly with those subcontractors. In that case, the claim of Supplier shall be decreased by an equal amount.

4. Supplier waives its right of suspension and/or retention and/or right of settlement.

## Article 8. Security, assignment and pledge

1. Lightyear Layer is at all times entitled to request financial security at the expense of Supplier in order to ensure compliance with the obligations under the Agreement, in which case Supplier is obliged to provide security. If Supplier fails to provide security, or provides insufficient security, Lightyear Layer shall be entitled to dissolve the Agreement in whole or in part without judicial intervention or to consider the Agreement dissolved and to entrust the part of the Agreement still to be performed to third parties. In that case, Supplier will be liable for all damage.

2. Without Lightyear Layer's prior written consent, Supplier may not assign the claims arising from the Agreement to any third party or parties (as referred to in Section 3:83(2) of the Dutch Civil Code), pledge them (as referred to in Section 3:83(2) in conjunction with Section 3:98 of the Dutch Civil Code) or transfer them (or cause them to be transferred) under any title whatsoever, or establish any restricted right (or cause them to be established) thereon. This **Article 8.2** is a clause within the meaning of Section 6:83(2) of the Dutch Civil Code and shall have a property-law effect.

## Article 9. Assignment and subcontracting

1. Supplier may not assign or transfer or purport to assign or transfer any of its rights and/or obligations under the Agreement or enter into any agreement with subcontractors with respect thereto without the prior Written consent of Lightyear Layer.

2. Supplier shall be responsible for the acts and omissions of its subcontractors, agents and Personnel as fully as if they were acts or omissions of Supplier itself. Supplier shall not be released from any obligation and/or liability under the Agreement with regard to any part of carrying out the Agreement by its subcontractors, agents and/or Personnel. As far as Lightyear Layer is concerned, each part of carrying out the Agreement executed by Supplier's subcontractors, Supplier's agents and/or Personnel shall be deemed to have been executed by Supplier.

3. Lightyear Layer may assign all or part of its rights and obligations under the Agreement to an Affiliated Company or third party after having sent prior Written notice thereof to Supplier.

## Article 10. Integrity, sustainability, safety and environment

1. While carrying out the Agreement, Supplier shall comply with all applicable and relevant statutory provisions and any other regulations, instructions and conditions in the field of health, safety and the environment which have been issued in connection with the Goods.

2. Supplier shall comply with all applicable national, European and international rules relating to ethical and responsible standards of behaviour, including, without limitation, those dealing with human rights, environmental protection, sustainable development, bribery and corruption. These rules include without limitation, the principles, provisions and undertakings contained in the Universal Declaration of Human Rights, International Labor Organization standards and OECD guidelines (particularly in the area of sustainable development). This is summarized in the Lightyear Layer Supplier Code of Conduct.

3. Supplier represents and warrants that all Goods and/ or Work Product(s) will be accompanied by written and detailed specifications of the composition and characteristics, to enable Lightyear Layer to transport, store, process, use and dispose of such Goods and/or Work Product safely and in compliance with law.

4. Supplier agrees that, upon request of Lightyear Layer, it shall register and use Electronic Data Interchange systems, to make substance compliance declarations including ROHS, REACH and other applicable regulatory requirements.

5. For the avoidance of doubt it is explicitly stipulated that with regard to supplies into the European Union, Lightyear Layer will not act as importer in the sense of the REACH legislation and that by consequence any Supplier to Lightyear Layer will undertake the obligations originating from being an importer in the sense of the REACH legislation.

6. It shall be Supplier's responsibility to cause all and any of its subcontractors their Personnel and any third parties engaged by Supplier to act in accordance with the regulations of this **Article 10**.

## **Article 11. Certifications, quality and inspection**

1. Supplier shall have and be compliant with the required certification(s) as set out in the Agreement.

2. Supplier ensures that the Goods will be in accordance with the agreed Specifications. At Lightyear Layer's request, Supplier will provide the evidence supporting this.

3. Without prejudice to Supplier's obligation to carry out the necessary inspections and tests itself, Lightyear Layer or its designated or external bodies appointed for such purpose by Lightyear Layer, shall at all times, but at reasonable prior notice, be entitled to subject the Supplier and the Goods to an audit and to take the necessary measures for such audit, including without limitation, the inspection of the locations where the performance of the Agreement or parts thereof are carried out. The facilities and information necessary for such audit shall be provided by Supplier at its own expense to Lightyear Layer.

4. Supplier acknowledges that any audits conducted by Lightyear Layer pursuant to this **Article 11** shall not release Supplier from its responsibilities under the Agreement. Lightyear Layer is not obliged to perform any such audit.

5. Unless agreed otherwise In Writing or set out otherwise in this **Article 11**, each Party shall bear its own costs for inspections and tests. However, the costs of the involvement of third parties in inspections and tests shall be borne by

Supplier if the Goods are not in conformity with the Agreement.

6. If Lightyear Layer rejects (a part of) the Goods during an inspection or test, the provisions with respect to rejection as set out in the applicable SPECIAL CHAPTER shall apply.

7. Inspection or approval does not release Supplier from any guarantee or liability under the Agreement or the law.

## **Article 12. Certificates, warranty certificates etc.**

1. Where applicable, Supplier must provide Lightyear Layer with certificates, declarations, attestations, material statements, warranty certificates, instruction books, revision books, maintenance documents, and or other verifications, immediately upon delivery of the Goods, but no later than upon submission of the last instalment invoice, failing which Lightyear Layer shall be entitled to suspend its payment obligation in accordance with **Article 6.3.c**).

## **Article 13. Force Majeure**

1. Parties or any Affiliated Company shall not be liable for any failure to fulfil any terms of the Agreement to the extent that fulfilment has been delayed, hindered, interfered with or prevented by any circumstance whatsoever not within the reasonable control of such Party or any such Affiliated Company and without its fault or negligence, and which amounts to an act of Force Majeure. The change in cost or availability of materials or components based on market conditions, supplier actions, or contract disputes or any labor strike or other labor disruption applicable to Supplier or any of its subcontractors or sub-suppliers, will not excuse Supplier's performance (under theories of Force Majeure, commercial impracticability or otherwise), and Supplier assumes these risks.

2. The Party invoking Force Majeure shall promptly, but in no event more than 1 (one) Business Day thereafter, inform the other Party of an instance of Force Majeure In Writing and submit reasonable evidence. Furthermore, the affected Party will notify the other Party In Writing of the anticipated duration of the delay and the time that the delay will be cured.

3. During the period of Force Majeure, Lightyear Layer may at its sole option:

- a) purchase (a part of) the Goods from other sources and reduce its schedules to Supplier by such quantities, without liability to Supplier; and/or
- b) require Supplier to deliver to Lightyear Layer at Lightyear Layer's expense all finished parts of the Goods and materials produced or acquired for work under the Agreement;

4. If upon request of Lightyear Layer, Supplier fails to provide within 7 (seven) days (or such shorter period as Lightyear Layer requires) adequate assurance that any delay will not exceed 30 (thirty) days, or if any delay lasts longer than 30 (thirty) days, Lightyear Layer may terminate the Agreement without liability and Supplier shall reimburse Lightyear Layer for costs associated with the termination.

## Article 14. Intellectual Property Rights

1. Unless otherwise agreed In Writing, Supplier warrants that the Goods, the manner in which the Agreement is carried out and the use of the Goods, in the widest sense, will not infringe any Intellectual Property Rights. Supplier shall, at its own expense, indemnify and hold Lightyear Layer and its Affiliated Companies harmless from and against any third party claims or suits alleging any such infringement and from any costs, including litigation costs, expenses and damages incurred in connection with such claims.

2. In the event that (any part of) the Goods are held to constitute an infringement and the use thereof is enjoined, Supplier shall, at its option and expense:

- a) either procure for Lightyear Layer and its Affiliated Companies the right to continue to use such (part of the) Goods; or
- b) replace said (part of the) Goods by non-infringing Goods;
- c) or introduce a non-infringing modification in said Goods in a manner such that performance of the Agreement is not degraded, unless otherwise agreed upon In Writing.

3. Unless otherwise agreed In Writing, the Intellectual Property Rights in all drawings, calculations, Specifications, documents and other data carriers (including Software) produced in connection with the Agreement shall vest in Lightyear Layer. Said documentation and other data carriers shall be handed over to Lightyear Layer on demand. Lightyear Layer shall have the exclusive right to file patent applications, in its own name or in the name of a third party designated by Lightyear Layer, for inventions made as part of carrying out of the Agreement and Supplier shall give its full co-operation with respect to such patent applications.

## Article 15. Data and privacy

1. The Parties shall at all times comply with any obligations under Dutch laws regarding data protection and any other relevant (national, European and international) data protection regulations that are applicable to the execution of the Agreement. Both Parties shall (i) take appropriate security measures to protect the confidentiality of the (personal) data provided by the other Party, (ii) inform the other Party, on such Party's request, about the security measures taken in respect to the foregoing, and (iii) notify the other Party of any breach of personal data in accordance with and within the timeframe stipulated in the aforementioned privacy laws. If applicable, the Parties shall enter into a data processing agreement.

2. Supplier shall ensure that its subcontractors are contractually bound to Supplier to comply with the provisions of this **Article 15**.

## Article 16. Confidentiality

1. Supplier shall:

- a) not disclose Confidential Information to third parties other than those involved by it in the performance of the Agreement without Lightyear Layer's prior written consent and shall use the Confidential Information solely for the purpose of performing the Agreement; and

- b) protect the Confidential Information against disclosure in the same manner and with the same degree of care, but not less than a reasonable degree of care, with which it protects confidential information of its own; and

- c) bind all third parties and/or subcontractors, engaged by it in the performance of the Agreement to similar confidentiality obligations as set out in this **Article 16** In writing or cause them to sign the undertakings of confidentiality supplied by Lightyear Layer and ensure they will comply with such obligations. The employees of a Party are not considered third parties in the meaning of this **Article 16.1. c)** as long as they are bound by confidentiality obligations equivalent to this **Article 16** (e.g. due to their employment contract).

2. The confidentiality obligations as set out in this **Article 16** do not apply if and to the extent that information:

- a) is or becomes publicly known without breach of these obligations, or
- b) was legally acquired by a third party, or was already known by the receiving Party, or
- c) must be disclosed based upon a mandatory judicial, regulatory, or statutory regulation, provided that the disclosure shall be made as limited as possible and the receiving Party shall inform the other Party In Writing prior of the intended disclosure unless such is not reasonable, or
- d) was independently developed by the receiving Party without use of or reference to the information of the other Party.

Whichever Party claims 1 (one) or more of the abovementioned exceptions must prove the underlying factual basis.

3. The Confidential Information shall at all times remain subject to Lightyear Layer's Intellectual Property Rights and shall not be copied or used for any purpose other than satisfying the requirements of the Agreement.

4. Upon acceptance by Lightyear Layer of the Goods or upon termination or dissolution of the Agreement, whichever is earlier, Supplier shall, on demand and as soon as is reasonably possible return all Confidential Information to Lightyear Layer.

5. Unless otherwise agreed In Writing between the Parties, the confidentiality obligations of the Parties under this **Article 16** continue to apply for a period of 3 (three) years following the end of the Agreement (or each last Agreement, in case of a framework supply agreement).

## Article 17. Publicity

1. Supplier shall not, without the prior Written consent of Lightyear Layer, in any manner publish the fact that Supplier has furnished or contracted to furnish Lightyear Layer with or has been carrying out the Agreement, or use the name or trademarks of Lightyear Layer or its products in Supplier's advertising or other publication.

2. If publication of the (possible) cooperation between the Parties is required by mandatory law, Supplier shall timely inform Lightyear Layer prior to the statement concerned.

## Article 18. Non-employment

1. Without prior Written permission, Supplier will refrain entirely from recruiting staff from Lightyear Layer.

## Article 19. Changes

1. Lightyear Layer shall have the right to request changes with respect to the Goods, including but not limited to Specifications as well as changes regarding date/time, Execution Schedule, place of delivery, quality and quantity. Such change requests shall consider Supplier's reasonable interests.
2. Supplier is obliged to suggest changes to Lightyear Layer, which Supplier considers necessary or appropriate in view of revised statutory or other mandatory provisions or for other reasons.
3. If a change results in an increase or a reduction of Supplier's costs or in a potential delay of delivery, Supplier shall immediately inform Lightyear Layer and the Parties shall agree on a reasonable adjustment of Supplier's remuneration for which Lightyear Layer places a change order.
4. The content of a change order shall be deemed to be agreed if Supplier does not contradict the change order in Writing within 14 (fourteen) days after its receipt.
5. Supplier shall not be entitled to carry out changes with respect to the Goods (including, but not limited to: Specifications, additional and functionalities not agreed upon, production process, date/time and place of delivery, quality and quantity) without Lightyear Layer's prior Written consent.

## Article 20. Liability, damage compensation and indemnification

1. Unless otherwise agreed In Writing between the Parties, the Supplier shall be liable and will defend and indemnify and hold Lightyear Layer, its Affiliated Companies, officers, representatives, assignees, and their Personnel, harmless from and against:
  - a) any (alleged) claim, suit, loss, damage, or expense (including attorney's fees) which may result from the Supplier's breach of express or implied warranties and other terms of the Agreement;
  - b) any and all damages as a result of any act or omission on the part of the Supplier or its Personnel (including unlawful acts) or subcontractors that the Supplier engages;
  - c) any claims of injury to persons (including death) or damage to property which may result in any way from (i) any act or omission of the Supplier, its agents, employees, Personnel or subcontractors, or (ii) a defect in the Goods, spare parts, options or accessories (including a defect in Goods warnings, labelling, operator's or service manuals or other documents), or (iii) the design, manufacture, sale, operation, handling of Goods, spare parts, options or accessories by the Supplier or the use thereof. The foregoing includes claims as a result of third parties using the Goods in their intended manner, or any other type of loss or damage such as consequential losses and Recall Campaigns;
  - d) all fines, losses, damages, costs and expenses arising from any actual or alleged utilization of any patent, patent

application or other Intellectual Property Rights as a result of the use, processing, sale, storage or lease of the Goods except to the extent that the same is the result of adaptations made by the Supplier to comply with Lightyear Layer's specific design requirements;

- e) claims by Personnel of Supplier or its subcontractors; and
- f) all costs reasonably incurred in connection with the claims as referred to in **Article 20.1.a)** up to and including **Article 20.2.d)**.
2. Lightyear Layer's records will serve as full evidence of Lightyear Layer's damage suffered, unless Supplier provides evidence to the contrary.
3. In the event of a claim by a third party against Lightyear Layer, which may be the subject of the indemnification provided for in **Article 20.1**, Lightyear Layer shall provide Written notification thereof to Supplier. Supplier shall provide Lightyear Layer with such reasonable assistance in the defence and prosecution of claims as Lightyear Layer may request.
4. In the event of Supplier's bankruptcy, Lightyear Layer shall be entitled to charge Supplier or its legal successor 10 (ten) percent of the price of the Agreement and to set it off against Supplier's claims, as compensation for the fact that Lightyear Layer will be unable to exercise its contractual and/or legal (guarantee) rights in connection with (hidden) defects regarding the Goods, as a result of Supplier's bankruptcy. In addition, Lightyear Layer shall be entitled to charge the actual damage and to set it off against the claims of Supplier.
5. Supplier shall not be liable according to this **Article 20** insofar as the liabilities, costs, damages, losses, claims and expenses mentioned are caused by wilfulness, gross fault or gross negligence by Lightyear Layer or 1 (one) of its Affiliated Companies.

## Article 21. Insurance

1. Supplier is obliged to take out adequate insurance(s) to cover its liability at its own expense. The insurance(s) must be in line with industry norms and with a reputable and financially solvent insurance company. Unless the Parties agreed a specific minimum insurance coverage In Writing, such insurance shall cover Supplier's liability towards Lightyear Layer and third parties to the necessary extent.
2. Supplier's liability insurance does not affect Supplier's liability under the Agreement and the law.
3. Supplier shall issue proof of insurance, as well as proof that the payable insurance premium has been paid upon Lightyear Layer's first request.

## Article 22. Termination of the Agreement

1. Lightyear Layer shall at all times be entitled to terminate the Agreement or part thereof with immediate effect without giving reasons unless explicitly otherwise agreed upon In Writing between the Parties. In such event Supplier's sole remedy shall be payment of the part of the delivery of the Goods that has been executed in accordance with the Agreement up until the date of termination of the Agreement.
2. Lightyear Layer may terminate the Agreement (including

any Purchase Orders) with immediate effect if:

- a) Supplier repeatedly fails to deliver (part of) the Goods in compliance with the terms and conditions of the Agreement;
- b) Supplier violates applicable law, provided that a continuing collaboration is unreasonable for Lightyear Layer because of such violation, considering all circumstances and weighing the mutual interest of both Parties;
- c) Supplier repeatedly fails to meet the Execution Schedule; or
- d) Supplier or its owner(s), directors or officers becomes listed in any sanctions or export control laws imposed by the UN, the EU or its member states, the US or any other relevant authority, or if Supplier breaches any applicable sanctions or export control laws, or if Supplier's ability to fulfil its obligations under the Agreement is materially affected by the imposition of sanctions or export control laws; or
- e) there is a change of control of Supplier.

3. Either Party may terminate the Agreement with immediate effect if:

- a) the other Party commits a breach which is not capable of remedy; or
- b) the other Party commits a material breach of a material obligation under the Agreement which is capable of remedy, but is not remedied within 30 (thirty) days a Party notifying the other Party of said breach; or
- c) the other Party passes a resolution for winding up or a court makes an order to that effect; or
- d) the other Party ceases to carry on its business substantially or the whole of its business; or
- e) the other Party becomes or is declared insolvent under any applicable law or makes or proposes to make any arrangement or composition with its creditors; or
- f) a liquidator, trustee or administrator or any similar officer is appointed over the assets of the other Party.

4. Termination of any Agreement and/or a relating framework supply agreement under this **Article 22** shall be without prejudice to the accrued rights and duties of the Parties and shall not affect the applicability or further applicability of any provision which expressly or implicitly should apply following a termination.

## **Article 23. Changes in legal form, material changes**

1. Supplier shall promptly inform Lightyear Layer In Writing of any changes in legal form, as well as of changes which are material for the business relationship between the Parties and which pertain to Supplier's participation, shareholder, or ownership structure. A material change for the business relationship exists upon transfer of all or essentially all assets of Supplier, a merger or split of Supplier with or to another legal entity, the conclusion of a control or profit transfer agreement by Supplier as the controlled company, as well as the acquisition of at least 30% (thirty percent) of the voting rights to Supplier's company by one or more purchasers acting jointly in 1 (one) or more transactions.

## **Article 24. Applicable law and disputes**

1. These GPTC and the Agreement are exclusively governed by

Dutch law, with the exclusion of the Vienna Sales Convention.

- 2. All disputes - including those which are only considered as such by 1 (one) of the Parties - which may arise between the Parties in connection with or as a result of the Agreement or agreements which are a result thereof and which cannot be resolved by mutual consultation, shall be settled by a court in the district in which Lightyear Layer has its registered office.
- 3. Unless the court has decided otherwise in a particular case, Supplier is obliged to continue his obligations under the Agreement, pending the conclusion of a decision in the dispute.

## **II. SPECIAL CHAPTER: SUPPLEMENTARY PROVISIONS GOVERNING THE PURCHASE OF GOODS**

*In addition to the provisions of I. GENERAL CHAPTER: "GENERAL PROVISIONS", the provisions contained in this II. SPECIAL CHAPTER: "SUPPLEMENTARY PROVISIONS GOVERNING THE PURCHASE OF GOODS" apply if the purchase of Goods (also) takes place.*

### **Article 25. Overall design**

1. Unless agreed upon otherwise In Writing, Supplier shall be and shall remain responsible for the overall design of the Goods (not only as regards the Goods meeting the Specifications, but also as to their achieving the quality normally expected of Goods in the industry and of Supplier's own products).

### **Article 26. Shipping, packaging and labelling**

1. Supplier will comply, in all respects, with Lightyear Layer's shipping and packaging requirements as amended or updated from time to time and as incorporated in the Agreement by reference.

2. Unless otherwise agreed In Writing, any charges or costs relating to handling, packaging, storage or transportation of Goods are borne by Supplier and have been included in the piece price of the Goods as set forth in the Agreement.

3. Supplier will:

- a) properly pack, mark and ship Goods in accordance with the requirements of Lightyear Layer, the involved carriers, and laws and regulations of the country of manufacture, the country of destination and any country in which the Goods will be transported, including, without limitation, laws and regulations governing the handling and transportation of dangerous Goods or hazardous materials;
- b) route shipments in accordance with Lightyear Layer's instructions and the terms and conditions stated in the Agreement;
- c) provide with each shipment packing slips with Lightyear Layer's Agreement and/or release number and date of shipment marked thereon;
- d) promptly forward the original bill of lading or other shipping documents for each shipment in accordance with Lightyear Layer's instructions; and
- e) include on bills of lading or other shipping documents the

correct classification of the Goods.

## Article 27. Delivery

1. It is understood that time is of the essence for deliveries under the Agreement. Deliveries shall take place on the delivery date as specified in the Agreement and/or the Execution Schedule. Early execution of the Agreement as well as partial deliveries shall not be permitted unless approved In Writing by Lightyear Layer.

2. Supplier shall be bound to comply with any Execution Schedule or any modification thereto, unless Supplier notifies Lightyear Layer of his reasonable objection thereto In Writing.

3. Where specified in the Agreement and/or Execution Schedules, Supplier shall deliver Goods "just-in-time", that is, at an appointed time of delivery without delay immediately prior to the serial production, or "just-in-sequence", that is, in the correct sequence of delivery, such sequence to be set out in the Execution Schedule.

4. Supplier shall immediately notify Lightyear Layer of any (foreseen) delay in the execution of the Agreement, and state the events causing the delay. Supplier shall take all necessary and appropriate corrective measures regarding the delay.

5. Lightyear Layer reserves the right to suspend the carrying out of the Agreement or any acceptance of Goods for a maximum period of 3 (three) months without any charge and to the extent and for such period as considered necessary by Lightyear Layer.

6. Supplier shall transfer to Lightyear Layer the ownership of all items such as models, dies, moulds, jigs, gauges, Tools and drawings specifically acquired or manufactured by Supplier in the course of the execution of the Agreement immediately upon such items having been supplied to Supplier or when the manufacture of such items has been completed by Supplier.

7. Either of the Parties may suspend performance of the Agreement and/or any framework supply agreement for the duration of a non-compliance which results from Force Majeure.

8. If the Parties agreed that Supplier should maintain a buffer stock, then Supplier shall notify Lightyear Layer of the current inventory level at monthly intervals (or at any other reasonable interval as requested by Lightyear Layer).

## Article 28. Customs, origin

1. Credits or benefits resulting or arising from the Agreement, including trade credits, export credits or the refund of duties, taxes or fees, will belong to Lightyear Layer. Supplier will timely and accurately provide all information necessary (including Written documentation and electronic transaction records) to permit Lightyear Layer to receive such benefits or credits, as well as to fulfil its import and, where required by the Agreement, export customs related obligations, origin marking or labelling requirements and local content origin requirements, if any. Supplier will undertake such arrangements as necessary for the Goods to be covered by any duty deferral or free trade zone program(s). Supplier will ensure compliance with the recommendations or requirements of all applicable Authorized Economic Operator (AEO), governmental security/anti- terrorism and enhanced

border release programs. At the request of Lightyear Layer or the appropriate Customs Authority, Supplier will certify In Writing its compliance with the foregoing.

## Article 29. Transfer of risk

1. Unless otherwise agreed In Writing, the risk of damage or loss to the Goods shall transfer to Lightyear Layer in accordance with the Incoterm agreed in the Agreement. If nothing has been agreed between the Parties, the Goods shall be deemed to be sold free of additional charges "DDP" (Delivered Duty Paid), Incoterms, at Lightyear Layer's production site or any other location as designated in the Agreement. Supplier warrants that Lightyear Layer will acquire the full and unencumbered ownership of the Goods.

2. Supplier's delivery obligations shall not be fulfilled until the Goods and the documentation as required by the Agreement, including any document as referred to in **Article 12.1** have been provided to Lightyear Layer.

## Article 30. Warranty

1. Supplier warrants and guarantees that the Goods will conform to all Specifications and will be merchantable, of good material and workmanship and free from defect. In addition, Supplier acknowledges that Supplier knows of Lightyear Layer's intended use of the Goods and warrants and guarantees that such Goods have been selected, designed, manufactured or assembled by Supplier based upon Lightyear Layer's stated use and will be fit and sufficient for the particular purposes intended by Lightyear Layer. Unless otherwise set forth in the Agreement, the duration of the warranty provided by Supplier to Lightyear Layer for the Goods will begin on the date of receipt of the Goods by Lightyear Layer and end on the later of:

- a) the date of expiration of any warranty period provided under applicable law for the Goods;
- b) expiration of any warranty applicable to the Goods provided by Lightyear Layer to Lightyear Layer's end customer for the vehicle into which the Goods are incorporated; or
- c) the expiration of any specific warranty period or performance standard provided in any document incorporated by reference into the Agreement, including in Lightyear Layer's specifications or quality standards.

## Article 31. Acceptance, rejection, notice of defects, remedies

1. Unless otherwise provided in the Agreement (for instance if an acceptance test procedure is agreed), acceptance shall be deemed to have taken place when Lightyear Layer has accepted the Goods In Writing.

2. Lightyear Layer shall conduct an inspection of incoming Goods only with respect to externally visible transport damages, the quantity according to the loading list as well as regarding identity deviations of the delivered Goods from the Goods specified in the shipping documents, and notify Supplier of any such defects without undue delay. Moreover, Lightyear Layer shall conduct an inspection of incoming Goods in



compliance with the technical specifications IATF 16949 „Quality management system requirements for automotive production and relevant spare parts organisations“ (IATF 16949:2016) and notify of any defects of the delivery once such has been discovered by Lightyear Layer in the ordinary course of its business. In any case where the Goods not comply with the warranties as referred to in **Article 30**, Lightyear Layer has the right to reject such Goods. In such event, Lightyear Layer shall give written notice of such rejection within 60 (sixty) days after the delivery of Goods to Supplier specifying the reasons.

**3.** If a defect is discovered before the defective Goods has left Lightyear Layer's production site or that of an undertaking commissioned by Lightyear Layer, Supplier shall be given the opportunity to remedy the defect or to replace the defective Goods before production commences, provided that any such remedy does not cause any delay in Lightyear Layer's production.

**4.** If Lightyear Layer cannot reasonably be expected to allow Supplier to remedy the defect or to replace the defective Goods due to operational reasons or if Supplier is not able to remedy or replace the defective Goods, then Lightyear Layer shall have the right either to:

- a) remedy the defect itself at Supplier's expense;
- b) have it remedied by a third party at Supplier's cost;
- c) return or scrap the defective Goods at Supplier's cost in accordance with the following. Supplier shall communicate whether Lightyear Layer should return the affected Goods to Supplier or scrap them. If Supplier does not communicate its decision to Lightyear Layer within ultimately 10 (ten) Business Days, then Lightyear Layer will scrap them at Supplier's cost. In this event Supplier shall have no further claims. In each case described under this Article 31.5, Supplier shall indemnify Lightyear Layer against all damages and losses incurred by Lightyear Layer resulting from the delivery of defective Goods.

**5.** If a defect is discovered after the defective Good has left Lightyear Layer's production site or that of an undertaking commissioned by Lightyear Layer, Supplier shall indemnify Lightyear Layer against all damages and losses incurred by Lightyear Layer resulting from the delivery of defective Goods. Upon Supplier's request, defective Goods will be made available to Supplier at Supplier's cost, if possible.

**6.** The remedies stipulated above in Article 31.5 shall be in addition to any other rights and remedies available under law.

## Article 32. Spare parts

**1.** Whether or not an Agreement/ or a framework supply agreement remains in effect, Supplier will at the request of Lightyear Layer provide Supplier or its designated third parties with sufficient quantities of Goods for use as spare parts for a period of 15 (fifteen) years following the end of Supplier's supply of the Goods for Lightyear Layer's serial production (End of Production, EOP) or for such shorter period of time as Lightyear Layer shall determine In Writing. Supplier shall ensure that its subcontractors comply with this **Article 32.1**.

**2.** Ultimately 1 (one) year before the expiration of the time

period as set out above in **Article 32.1**, Supplier shall submit proposals In Writing to Lightyear Layer for an economically reasonable supply of spare parts for the time period after expiration of the time period as set out above in **Article 32.1**. Supplier's proposals shall be based on Lightyear Layer's estimated future demands, which will be provided by Lightyear Layer to Supplier upon Written notice.

Supplier shall inform Lightyear Layer In Writing in good time before the intended scrapping of Supplier-owned Tooling require for the time period after expiration of the time period as set out above in **Article 32.1**.

**3.** At any time Supplier will maintain the availability of drawings, designs and data to enable spare parts to be specified and manufactured. Upon Lightyear Layer's request(s) copies of these drawings, designs and data of such spare parts will be made available to Lightyear Layer at no cost if no spare parts or equivalents can be supplied, to enable Lightyear Layer to manufacture or have manufactured such spare parts.

**4.** During the term of an Agreement/framework supply agreement for Lightyear Layer's serial production, the price of the Goods used as spare parts shall be equal to the serial price agreed in the Agreement. After expiration of the time period as set out above in **Article 32.1**, the price shall be separately negotiated by the Parties.

**5.** Repair or replacements will not affect form, fit, function, interchange ability or certification of the spare parts and the Goods.

**6.** Lightyear Layer and its Affiliated Companies shall be entitled to purchase Goods used as spare parts directly from Supplier's subcontractors or from any other third party.

## Article 33. Epidemic Failures

**1.** In the event of an Epidemic Failure, or that any Recall Campaign is required, Supplier shall dedicate sufficient resources on a continuing basis, at its sole expense, to identify and eliminate the cause(s) of the Epidemic Failure and shall also, at Lightyear Layers' Written request, replace or update all Goods delivered to Lightyear Layer with the potential for such Epidemic Failure and reimburse Lightyear Layer for its commercially reasonable expenses relating to any recalls or related actions taken by Lightyear Layer.

**2.** If replacement Goods are not provided and/or an acceptable plan to resolve an Epidemic Failure is not provided to Lightyear Layer within 30 (thirty) days after it is reported, or such additional period as may be permitted by Lightyear Layer depending on the nature of the Epidemic Failure, Lightyear Layer may terminate the Agreement and a relating framework supply agreement without any liability to Supplier for such termination. In the event of an Epidemic Failure, Lightyear Layer is entitled to request a refund or credit for the affected Goods (and Supplier shall provide such refund or credit on Lightyear Layer's request) and Lightyear Layer may also cancel any specific Purchase Order or Agreement or a relating framework supply agreement pertaining to the affected Goods.

## Article 34. Recall campaign

1. In the event that Lightyear Layer determines that a Recall Campaign is necessary to remedy a breach of Supplier's warranty or to comply with law, regulations, orders or other government requirements, the full costs and expense of such campaign shall

be borne by Supplier, unless Supplier proves that there was no defect or deficiency in the Goods.

2. Supplier shall hold Lightyear Layer and its Affiliated Companies harmless against liabilities, costs, damages, losses, claims and expenses (including in- and out- of court costs, and legal fees and expenses) occasioned by or arising out of or attributable to a Recall Campaign. While making a decision for such action to recall, Lightyear Layer will exercise reasonable discretion and duly consider Supplier's interests.

## Article 35. Insurance

1. To further define the provisions of **Article 21**, the provisions of this **Article 35** apply.

2. Supplier is obliged, at its own expense, to at least obtain and maintain the following insurances:

- a) business liability insurance; and
- b) product liability insurance;

3. Lightyear Layer shall be exclusively entitled to receive the insurance money for the total amount of the damage suffered by her. If Lightyear Layer considers such to be necessary, Supplier shall conduct any additional act necessary to assign its right to the insurance money to Lightyear Layer.

## Article 36. Specific provisions with regard to Tooling

1. Any Tooling owned by Lightyear Layer which is in Supplier's possession or in the possession of any subcontractor engaged by Supplier for carrying out the Agreement, shall remain the property of Lightyear Layer. Supplier shall mark such Tooling as the property of Lightyear Layer and Supplier may not relocate it without the prior express Written consent of Lightyear Layer. Such Tooling shall not be sold, assigned as security, pledged, mortgaged, charged or otherwise encumbered or disposed of without the express prior Written consent of Lightyear Layer.

2. If a Tooling is provided by or completely financed by Lightyear Layer, such Tooling may not, without explicit prior written consent of Lightyear Layer, be used for the production of Goods for any party other than Lightyear Layer or its Affiliated Companies.

3. Supplier shall treat all Tooling, regardless of ownership, with due care and diligence, constantly keeping it operational and in compliance with the latest design status. Supplier shall be responsible in particular for the correct and accurate dimensions of the Tooling.

4. Unless otherwise agreed In Writing, the cost for the continuing repair, maintenance and readiness of the Tooling in unobjectionable condition shall be borne by Supplier in all respects.

5. Lightyear Layer is entitled to demand surrender of Tooling which it owns. However, Lightyear Layer will enable Supplier to retain Tooling to the extent to which Supplier requires the same for executing an Agreement for Lightyear Layer. In all

other cases Supplier shall be obliged forthwith upon the request of Lightyear Layer to surrender the Tooling owned by Lightyear Layer.

6. Regardless of ownership, Supplier shall maintain Tooling used to manufacture Goods in good working condition for the continued supply of Goods for a period of 15 (fifteen) years

following the end of Supplier's supply of the Goods for Lightyear Layer's serial production. Irrespective of such, each Tooling owned by Lightyear Layer may only be scrapped with prior written consent of Lightyear Layer. Supplier shall ensure that all subcontractors are contractually bound to adhere to the requirements under this **Article 36.6**.

## III. SPECIAL CHAPTER: SUPPLEMENTARY PROVISIONS GOVERNING THE PURCHASE OF SOFTWARE

*In addition to the provisions of I. GENERAL CHAPTER: "GENERAL PROVISIONS", the provisions contained in this Chapter III. SPECIAL CHAPTER: "SUPPLEMENTARY PROVISIONS GOVERNING THE PURCHASE OF SOFTWARE" apply to the extent the Goods include or consist of any Software.*

## Article 37. Rights of use (license)

1. To the extent the Products include or consist of any Software, Supplier hereby grants Lightyear Layer the following non-exclusive, transferable, worldwide, perpetual and irrevocable rights:

- a) to use the Software, to integrate them into other products and to distribute them worldwide;
- b) to use Software in connection with the installation, launch, testing and operation of the Software;
- c) to localize and adapt any Software to interoperate with Lightyear Layer's product, and to reproduce, customize, make, have made and use copies of any Software and to install or otherwise incorporate Software(s) and/or any copy thereof, into any Lightyear Layer product(s) and to use them in or in connection with any Lightyear Layer product(s);
- d) to market, sell, distribute by any means and otherwise make Software available directly or indirectly through third parties and a license to grant perpetual and irrevocable sublicenses and rights to end customers to use Software. Lightyear Layer shall sublicense the Software to end customers pursuant to the same terms and conditions which Lightyear Layer accepts for its own software;
- e) to use any Software for pre-sales, marketing, customer trial, demonstration, evaluation, customer training and customer care purposes and for internal research, testing and training purposes;
- f) to use or have used any Software, and to grant customers the right to use or have used such Software, for the purpose of providing over the network and through remote access the features and functionality of the Software as a virtualized, managed and/or hosted service

(including but not limited to software as a service) to customers, Affiliated Companies, customers own end-user customers or subscribers or other third parties through various service or delivery models, including but not limited to single-tenancy or multi-tenancy cloud computing, provided that all such use shall be subject to the terms of these GPTC; and

**g)** to use, reprint, translate, redesign or otherwise modify and/or have used, reprinted, translated, redesigned and/or otherwise modified the documentation related to Software.

**2.** Any rights granted under these GPTC shall include Lightyear Layer's Affiliated Companies, customers, subcontractors, contract manufacturers and distributors.

**3.** In addition to the rights granted in **Article 37.1** above, Lightyear Layer and other distributors are authorized to allow end customers to transfer Software licenses.

**4.** Supplier is obliged to inform Lightyear Layer - whether the Products to be delivered contain 'Open Source Software' 'Open Source Software' means (i) software provided under a free and/or open source license including, but not limited to, one approved by the Open Source Initiative (OSI <http://www.opensource.org/>), or (ii) proprietary software provided royalty-free, in binary code form, under an end user license agreement, which may be accepted without a signature, or (iii) shareware provided free of initial charge, such as on a trial basis, but where a fee may become due once the user decides to use the software beyond the trial period, or (iv) public domain software.

**5.** Should the Products delivered by Supplier contain any Open Source Software, Supplier must deliver to Lightyear Layer:

- a)** the source code and build scripts of the relevant Open Source Software, insofar as the applicable open source conditions require the disclosure of this source code; and
- b)** a schedule of all open source files used, indicating the relevant license and including a copy of the complete text of such license.

## Article 38. Documentation

**1.** Supplier provides Lightyear Layer with documentation that is correct, complete and understandable for the end user, written in the Dutch language, about the properties and possibilities of the Software.

**2.** Supplier ensures that the documentation remains up-to-date. Supplier adapts the documentation as soon as possible at its expense if it is incomplete, unclear, out-of-date or incorrect. Supplier provides this adapted documentation to Lightyear Layer.

## Article 39. Installation

**1.** If Supplier installs the Software, the installation also includes migration and if necessary, conversion of existing data files.

**2.** If Supplier knew or should have known that adaptations to equipment or other software are necessary, Supplier will take care of them as part of the Agreement.

## Article 40. Maintenance and support

**1.** This **Article 40** shall apply if maintenance regarding the Software is agreed.

**2.** Supplier ensures a consistent version policy and shares it with Lightyear Layer. New Versions and Releases are made available in time and contain at least the same functionality as previous versions and releases. Lightyear Layer is not obliged to use a new Version or Release.

**3.** Supplier ensures that the Software is and remains compatible with the releases (also including security fixes) of the operating system on which the Software is installed and that are described as upward compatible by Supplier of the platform.

Supplier also ensures that the Software is compatible with the operating system of a new platform that replaces the original platform. A new Version or Release may not negatively influence the functionality of the Software of the platform and its correct and reliable functioning.

**4.** Maintenance and support may not decrease the availability of the Software. If it cannot reasonably be prevented that Lightyear Layer can temporarily not use the Software because of maintenance and support, Supplier asks Lightyear Layer for permission beforehand and the consequences thereof for the business activities of Lightyear Layer will be limited as much as possible.

**5.** As far as the Software is intended for compliance with legislation and regulations, the Software will be modified or updated in time if changes take place, so that it continues to function.

## Article 41. Escrow

**1.** At the request of Lightyear Layer, Supplier will deposit the source code of the Software with an independent custodian under conditions that are customary in the branch.

**2.** The custodian as referred to in **Article 41.1** will directly release the source code, without additional conditions and free of charge, to Lightyear Layer if Supplier:

- a)** asks for a suspension of payment or goes bankrupt,
- b)** ceases its activities without transferring its obligations under the Agreement to a third party; or
- c)** fails to such a degree in the performance of its obligations under the Agreement that the use of the Software as intended by Lightyear Layer is at risk as a consequence thereof.

**3.** Supplier ensures that the deposited version of the Software is and remains identical to the version of the Software that is used by Lightyear Layer. The release also concerns the information that is necessary to give a reasonably experienced and qualified software developer complete insight into the structure of the Software. Supplier informs Lightyear Layer of each deposit.

**4.** After release, Lightyear Layer may use, improve and maintain the Software without any restrictions and develop products derived from it (for the benefit of the Lightyear Layer of its Affiliated Companies) without any restrictions. Lightyear Layer may also have these activities carried out for it by its service providers.