

# Terms and Conditions of Purchase US - 03/2026

## 1. Applicability:

1.1 These terms and conditions of purchase (these "Terms") are the only terms which govern the purchase of the goods ("Goods") and services (the "Services") by Teufelberger Redaelli USA Inc. ("us" or "we") from the supplier named on the Purchase Order ("Supplier").

Notwithstanding anything herein to the contrary, if a written contract signed by both parties is in existence covering the sale of the Goods and Services covered hereby, the terms and conditions of said contract shall prevail to the extent that they are inconsistent with these Terms.

1.2 The accompanying purchase order (the "Purchase Order") and these Terms (collectively, the "Agreement") comprise the entire agreement between the parties and supersede all prior or contemporaneous understandings, agreements, negotiations, representations and warranties, and communications, both written and oral. Any offer made or the execution of an order from us shall be deemed to constitute express and unqualified acceptance of these Terms by the Supplier. Any differing terms of the Supplier shall be invalid, even if the same have not been expressly contradicted. Deviations from these Terms intended by the Supplier shall only be valid when acknowledged by us in writing. These Terms explicitly apply for any Purchase Orders placed by us, contracts with the Supplier, and all transactions between the Supplier and us entered into in the future, even if these Terms are not referred to separately on a case-by-case basis.

## 2. Purchase Orders:

Purchase Orders only constitute legally binding agreements on us if they were transmitted from our SAP system preferably as email attachments. All subsequent communications regarding Purchase Orders must mention the SAP order number as reference. Any departure from the requirement of an SAP initiated Purchase Order must be agreed with our purchasing department on a case-by-case basis.

## 3. Supplier confirmation:

The Supplier shall return a copy of our Purchase Order, duly signed, as acknowledgement of the Purchase Order. We reserve the right to cancel our order without being charged for the canceled order, should the Supplier fail to dispatch the acknowledgment of order within 5 business days from receipt of the order. Any acknowledgment of order, acceptance, or confirmation containing terms or conditions different from or in addition to those set forth in the Purchase Order or these Terms shall be deemed a counteroffer and is hereby expressly rejected. Supplier's commencement of performance on any Purchase Order shall constitute Supplier's unconditional acceptance of these Terms without modification.

## 4. Deliveries – Time Limits:

4.1 Supplier shall deliver the Goods in the quantities and on the date(s) specified in the Purchase Order or as otherwise agreed in writing by the parties (the "Delivery Date"). If no delivery date is specified, Supplier shall deliver the Goods within 30 days of Supplier's receipt of the Purchase Order. If Supplier fails to deliver the Goods in full on the Delivery Date, we may terminate this Agreement immediately by providing written notice to Supplier, or terminate any specific order pursuant to a Purchase Order, in our sole discretion, and Supplier shall indemnify us against any losses, claims, damages and reasonable costs and expenses directly attributable to Supplier's failure to deliver the Goods on the Delivery Date. We have the right to return any Goods delivered prior to the Delivery Date at Supplier's expense and Supplier shall redeliver such Goods on the Delivery Date. We must be promptly notified of any events that render timely performance impossible.

4.2 If Supplier delivers more or less than the quantity of Goods ordered, we may reject all or any excess Goods. Any such rejected Goods shall be returned to Supplier at Supplier's sole risk and expense. If we do not reject the Goods and instead accept the delivery of Goods at the increased or reduced quantity, the price for the Goods shall

be adjusted on a pro rata basis.

4.3 Goods shall be delivered duty paid („DDP“ Incoterms 2020) and unloaded at the final point agreed at the risk of the Supplier. The Supplier shall obtain and maintain insurance covering all risks and damages during transportation. The property will pass to us upon passage of risk. Truck freight will be accepted on working days from Monday to Friday from 7.00 AM to 12.00 PM and from 01.00 PM to 03.00 PM, local time.

4.4 Supplier acknowledges that time is of the essence with respect to Supplier's obligations hereunder and the timely delivery of Goods and Services, including all performance dates, timetables, project milestones and other requirements in this Agreement.

## **5. Packaging:**

5.1 The Supplier shall package the Goods, free of charge, as necessary for shipment. We shall have the right to return the packaging material to the Supplier at the cost of the Supplier or to charge the costs of disposing of such material.

5.2 The Supplier shall provide valid certificates of origin. Goods subject to special product standards such as the dangerous goods regulations must be properly classified, packaged and labeled; the required safety data sheets must be enclosed in the required national language(s)

5.3 The order number must appear on all shipping documents, shipping labels, invoices, correspondence and any other documents pertaining to the Purchase Order.

## **6. Quality and Documentation:**

6.1 On request the Supplier shall provide process capability studies as evidence of stability, safety and uniformity of performance. On request the Supplier shall disclose the inspection and control parameters for production monitoring and criteria, methods and frequency of internal and external audits to us.

6.2 The Supplier shall inform us about planned changes in the production and inspection processes at least 2 months in advance. The Supplier gives us the opportunity to assure ourselves that the quality control measures are applied to the extent necessary and the documentation responsibilities are fulfilled.

6.3 The delivered goods must meet all applicable safety regulations and the recognized rules of technology as well as the provisions of US federal and applicable state law (directives, regulations, standards etc.). We are entitled to request a confirmation of conformity without additional costs at any time. We shall further have the right, upon reasonable prior written notice of no less than five (5) business days, to audit Supplier's facilities, books, and records directly related to Supplier's performance under any Purchase Order or these Terms, including for quality control, compliance, and regulatory purposes. Supplier shall cooperate with and provide reasonable access to our authorized representatives (or our designated third-party auditors) during normal business hours in connection with any such audit.

## **7. Warranty:**

7.1 Supplier warrants to us that for two (2) years from the Delivery Date, all Goods will: Be free from any defects in workmanship, material and design; conform to applicable specifications, samples and other requirements usually expected and the characteristics described in user manuals, leaflets, marketing mailings and other information media that are publicly available or accessible to us; be fit for their intended purpose and operate as intended; be merchantable; be free and clear of all liens, security interests or other encumbrances imposed by or relating to Supplier; and not infringe or misappropriate any third party's patent or other intellectual property rights. These warranties survive any delivery, inspection, acceptance or payment by us for the Goods.

7.2 We shall notify the Supplier, orally or in writing, of any defects that have not been notified already on acceptance, at the earliest when noticed and at the latest within the agreed warranty period.

7.3 The warranties set forth in this Section 7 are cumulative and in addition to any other warranty provided by law or equity. Any applicable statute of limitations runs from the date of our discovery of the noncompliance of the Goods with the foregoing warranties.

7.4 In the event of defects of whatever nature we may, at our discretion, request a price reduction or rescind or terminate the applicable Purchase Order (as permitted under UCC §§

2-711 through 2-714) or request replacement or improvement of the defective goods in a minimum of time at the site where the delivered Goods are used. If the Supplier fails to meet the deadline set by us for remedying the defects, we may, at our discretion, nullify the sale or reduce the price. In cases of emergency or if the Supplier fails to remedy the defects in time, we shall have the right to remedy the defects ourselves or engage third parties to remedy the defects at the cost of the Supplier (substitute performance) without setting a new deadline.

7.5 The time between notice of defect being given to the Supplier and the successful replacement or improvement/repair of the defective Goods does not count towards the warranty period. The warranty period shall be tolled during any period in which a written notice of defect is pending and unresolved, and shall recommence upon Supplier's completion of a conforming repair or replacement.

7.6 The transport of Goods for which notice of defect was given shall be at the cost and risk of the Supplier.

7.7 The Supplier shall be liable for third-party goods and services provided by the Supplier as for its own Goods and Services.

## **8. Tools & Models, Copyright and Related Rights:**

8.1 Unless the parties agree otherwise, tool and model ownership will pass to us. Tools and models must be stored safely and kept insured by the Supplier. By accepting the Purchase Order the Supplier agrees to hand over tools and models free of charge.

8.2 We shall retain ownership in and the exclusive usage rights to the drawings, documents, information and know-how provided to the Supplier by us. The Supplier recognizes that the protection of such materials and know-how by intellectual property rights is exclusive to us.

## **9. Rights to the Goods**

9.1 The Supplier undertakes to ensure that the use of its Goods and Services shall in no way be affected by any assertion of third-party rights (brands, models, patents and territorial protection) or violate any existing boycott clauses, bla-

cklists etc.

If any violation of third-party rights or boycotts and blacklists should emerge later on, the Supplier shall promptly notify us. The Supplier undertakes to indemnify and hold us and/or the end user harmless in the event that such infringements or violations of law are claimed

## **10. Retention of Title:**

Any raw materials, components, tooling, dies, molds, or other items provided by us to Supplier for use in performing a Purchase Order ("Buyer-Furnished Materials") shall at all times remain our exclusive property and shall be held by Supplier as bailee solely for the purpose of performing the applicable Purchase Order. Supplier shall not encumber, pledge, or otherwise use Buyer-Furnished Materials for any purpose other than performance of our Purchase Orders. Upon completion or cancellation of any Purchase Order, or upon our written request, Supplier shall promptly return all Buyer-Furnished Materials. To the extent any security interest could arise in Buyer-Furnished Materials under UCC Article 9 (Tex. Bus. & Com. Code Ch. 9), Supplier hereby grants us a first-priority purchase money security interest therein and authorizes us to file UCC-1 financing statements to perfect such interest.

## **11. Cancellation of a Contract**

11.1 Upon our becoming aware of a breach of an agreement being based on these Terms, we shall provide prompt notice to Supplier. If Supplier fails to remedy such breach within thirty (30) days of its receipt of notice of such breach, we shall have the right to cancel and terminate any Purchase Order or any agreement being based on these Terms, in whole or in part

11.2 Breaches include, but are not limited to: failure to meet provisional and final deadlines; unapproved subcontracting; defects jeopardizing performance of contract to our contracting partners by us; if Supplier becomes insolvent, files a petition for bankruptcy or commences or has commenced against it proceedings relating to bankruptcy, receivership, reorganization or assignment for the benefit of creditors; and any assignment of claims contrary to the non-assignment clause herein or upon a change of control of Supplier or its parent entity (whether by merger, stock transfer, consolidation, reorganization or otherwise).

11.3 We have the right to terminate any Purchase Order or any agreement being based on these Terms, in whole or in part, for convenience on sixty (60) days' prior written notice. In such a case we are obligated to pay the Supplier the contract price proportional to the Goods and Services already delivered and moreover reimburse the Supplier for any proven direct costs of deliveries and services in progress. Following receipt of notice of our termination, Supplier shall be obligated to use best efforts to mitigate the direct costs of deliveries and services in progress

**12. Terms of Payment:**

Unless specifically otherwise agreed in writing, invoices must be paid in U.S. Dollars within 30 days of receipt, but not before all Goods have arrived. An early payment discount of 3% is available if payment is received within 10 days of the invoice date (terms: 3/10 net 30). All additional costs that may arise (e.g., currency risk, expenses, money transfer charges) shall be borne by the Supplier. Should any tax or fee that was included in the price be reduced in the time between placing an order and fulfilling it, we shall have the right to request a proportionate price reduction. In the case of delivery complaints, we shall have the right to withhold due payments. The Supplier may only assign accounts receivable from us with our prior written approval.

**13. Invoices and Delivery Notes:**

Please send system-generated invoices in PDF format to the email address indicated in the Purchase Order. Paper originals are not needed. A delivery note containing a precise description of Goods must be enclosed in the shipment. We shall have the right to withhold payments until receipt of a proper and complete invoice and delivery note. Invoices and delivery papers must reference the order number and the order date.

**14. Liability:**

SUPPLIER SHALL DEFEND, INDEMNIFY AND HOLD US HARMLESS, ALONG WITH OUR SUBSIDIARIES, AFFILIATES, SUCCESSORS, ASSIGNS AND OUR AND THEIR RESPECTIVE DIRECTORS, OFFICERS, SHAREHOLDERS AND EMPLOYEES (COLLECTIVELY, "INDEMNITEES") AGAINST ANY AND ALL LOSS, INJURY, DEATH, DAMAGE, LIABILITY, CLAIM, DEFICIENCY, ACTION, JUDGEMENT, INTEREST, AWARD, PENALTY, FINE, COSTS OR EXPENSE,

INCLUDING REASONABLE ATTORNEY AND PROFESSIONAL FEES AND COSTS, AND THE COST OF ENFORCING ANY RIGHT TO INDEMNIFICATION HEREUNDER AND THE COST OF PURSUING ANY INSURANCE PROVIDERS, WHETHER DIRECT OR INDIRECT, IN LAW OR EQUITY, AND WHETHER OR NOT FORESEEABLE, INCLUDING, FOR THE AVOIDANCE OF DOUBT, DAMAGES CAUSED BY DEFECTIVE PRODUCTS, LOSS OF INTEREST, LOST PROFITS, AND LOSS OF INFORMATION AND DATA (COLLECTIVELY, "LOSSES") ARISING OUT OF OR OCCURRING IN CONNECTION WITH THE GOODS AND SERVICES PURCHASED FROM SUPPLIER OR SUPPLIER'S (OR ITS EMPLOYEES, AGENTS OR REPRESENTATIVE'S) NEGLIGENCE, WILLFUL MISCONDUCT OR BREACH OF THESE TERMS. SUPPLIER SHALL NOT ENTER INTO ANY SETTLEMENT WITH RESPECT TO LOSSES WITHOUT OUR PRIOR WRITTEN CONSENT (NOT TO BE UNREASONABLY WITHHELD, CONDITIONED OR DELAYED).

SUPPLIER'S LIABILITY FOR LOSSES IS UNLIMITED IN AMOUNT. THE SUPPLIER'S LIABILITY REMAINS UNAFFECTED BY ANY SUBSEQUENT FURTHER PROCESSING BY US OR THIRD-PARTY REWORKING. THE SUPPLIER IS ALSO LIABLE FOR LOSSES FROM ANY CONSEQUENCES AND LOSSES ARISING FROM DELIVERIES BREACHING LEGAL PROVISIONS, INFRINGING PATENTS AND COPYRIGHTS, UTILITY MODELS OR OTHER RIGHTS OR CONTAINING NOXIOUS SUBSTANCES. SUPPLIER SHALL ALSO INDEMNIFY, DEFEND AND HOLD US AND THE INDEMNITEES HARMLESS IF WE OR THEY SHOULD BE HELD LIABLE FOR LOSSES (E.G., UNDER APPLICABLE PRODUCT LIABILITY LAW) RESULTING FROM DEFECTIVE GOODS AND/OR SERVICES OR GOODS AND/OR SERVICES PROVIDED BY THE SUPPLIER'S SUBCONTRACTORS.

**15. Obligation to Obtain Insurance:**

The Supplier must maintain, at its own expense, throughout the term of any Purchase Order and for a period of not less than three (3) years thereafter: (i) commercial general liability insurance, including products and completed operations coverage, in an amount not less than \$5,000,000 per occurrence and \$10,000,000 in the annual aggregate; (ii) umbrella or excess liability insurance in an amount not less than \$5,000,000 per

occurrence; (iii) workers' compensation insurance as required by applicable law; and (iv) employer's liability insurance in an amount not less than \$1,000,000 per occurrence. All such policies shall name Teufelberger Redalli USA Inc. and its affiliates as additional insureds on a primary, non-contributory basis, and shall require at least thirty (30) days' prior written notice to us of any cancellation, material modification, or non-renewal. On request, Supplier shall provide certificates of insurance and applicable endorsements evidencing compliance with this Section. Potential risks involved in the use of the Supplier's products must be expressly pointed out in writing in the user's manual or in any other suitable form.

## **16. Compliance**

16.1 The Supplier undertakes to comply with the Teufelberger Supplier Code of Conduct in its most current version, the current one being available at [teufelberger.at](http://teufelberger.at). Supplier shall further comply with all applicable anti-corruption and anti-bribery laws, including without limitation the U.S. Foreign Corrupt Practices Act of 1977, as amended (the „FCPA“), and, where applicable, the UK Bribery Act 2010. Neither Supplier nor any person acting on its behalf shall make, offer, promise, or accept any improper payments, gifts, or other items of value, directly or indirectly, to or from any third party, including any government official or political party, in connection with any Purchase Order or agreement subject to these Terms.

16.2 Supplier shall comply with all product safety regulations promulgated by any governmental or regulatory authority regarding hazardous classification, appropriate labeling requirements including, but not limited to, OSHA (United States Occupational Safety Health Administration); DOT (United States Department of Transportation); EPA (United States Environmental Protection Agency); FDA (United States Food and Drug Administration); Prop - 65 (California proposition regarding notification to individuals about hazardous substances in products); WHMIS (Workplace Hazardous Material Information System) in any country in which Goods may be distributed by us and requisite Material Safety Data Sheets in appropriate languages are provided.

16.3 Supplier shall comply with all export and import laws of all countries involved in the sale of the Goods under this Agreement or any resale

of the Goods by Supplier. Supplier assumes all responsibility for shipment of Goods requiring any government import clearance.

16.4 We may terminate any agreement being based on these Terms or any Purchase Order if any governmental authority imposes antidumping, countervailing duties, or other penalties on Goods.

16.5 Notwithstanding anything herein to the contrary, any case of violation of the Teufelberger Code of Conduct and applicable law entitles us to immediately terminate all existing contracts with the Supplier for good cause and with immediate effect.

16.6 If we, or any regulatory authority requires: (a) the recall, destruction or withholding from market of any commercial product containing a Good (“Recall”) or (b) institution of a field correction of any commercial product containing a Good (“Field Correction”), then, to the extent that such Recall or Field Correction is attributable to Supplier's (i) supply of non-conforming Goods, (ii) Supplier's breach of the Agreement, or (iii) any negligent or reckless acts or omissions or willful or wanton conduct by Supplier, Supplier shall be responsible for Losses, suffered or incurred by us or our affiliates as a result of such Recall or Field Correction, including, but not limited to: the purchase price paid by us for the Goods subject to the Recall or Field Correction; the costs of inspection, testing, removal from the market and destruction of the Goods subject to the Recall or Field Correction; customer fines/fees, labor and shipping related to the Recall or Field Correction; and any re-inspection fees assessed by an regulatory authority as a result of the Recall or Field Correction. Without limiting the foregoing, as between the parties, we shall be solely responsible for deciding whether to initiate and conduct a Recall or Field Correction with respect to our commercial products. Supplier will cooperate as requested by us; such cooperation may include prompt review and investigation of potentially relevant facts related to Supplier. We shall control all contacts with the relevant regulatory authority and shall be responsible for coordinating all of the necessary activities in connection with any Recall or Field Correction. We shall have ultimate discretion over the contents of any public announcement or disclosure related to the Recall or Field

Correction. Such release or public statement may contain Supplier's name.

## **17. Sanctions, Embargoes**

17.1 The parties are aware that sanctions and/or embargoes or the like („Measures“) may apply to territories, countries, legal entities and/or natural persons under various jurisdictions (e.g. US law, EU law, national law). Both parties undertake to (i) conduct sufficient due diligence and closely monitor their own business partners at all times, (ii) ensure that they do not source products from entities and/or territories subject to such Measures, and (iii) not otherwise violate any applicable Measures that would expose either party and/or its affiliates to export or sanctions penalties.

17.2 The Supplier confirms that it has established an effective compliance system to ensure adherence to the measures in its company.

17.3 We shall not be obliged to fulfill any contract based on these Terms if obstacles arise due to national or international foreign trade, customs or other measures. The Supplier shall provide all necessary declarations and documents that are relevant for the issuance of the required export and/or import licenses. If an export and/or import license cannot be issued, replacement delivery items shall be mutually agreed, whereby any additional costs for this shall be borne by the Supplier. Claims against us due to delayed or revoked export and/or import licenses are excluded.

17.4 Any breach of the clauses 17.1., 17.2 and/or 17.3 shall constitute a material breach of a material term of the agreement and we shall be entitled to seek appropriate remedies, including but not limited to termination with immediate effect of all individual agreements that are based on these Terms.

17.5 UNLESS OTHERWISE REQUIRED BY APPLICABLE MANDATORY LAW, THE SUPPLIER UNDERTAKES TO FULLY INDEMNIFY AND HOLD US (AND OUR AFFILIATES (INCLUDING THEIR OFFICERS, DIRECTORS, SHAREHOLDERS, PARTNERS, INDEPENDENT CONTRACTORS AND SUBCONTRACTORS)) HARMLESS FROM AND AGAINST ALL CLAIMS, DEMANDS, DAMAGES AND EXPENSES, INCLUDING REASONABLE ATTORNEYS' FEES, ARISING OUT OF OR IN CONNECTION WITH

ANY BREACH OF THIS SECTION 17 BY THE SUPPLIER. IN THE EVENT OF LEGAL ACTION, THE SUPPLIER SHALL BE OBLIGED TO PAY OUR REASONABLE LEGAL FEES AND COSTS IN ADVANCE.

## **18. Governing Law and Place of Jurisdiction:**

18.1 These Terms (and any agreement based on these Terms) shall be exclusively governed by and construed under the laws of the State of Texas, USA, without regard to any conflict of law provisions. The United Nations Convention on Contracts for the International Sale of Goods of 11 April 1980 (CISG), and any statute implementing such convention, are expressly excluded and shall not apply.

18.2 Any dispute arising out of or in connection with these Terms and/or in connection with any contractual relationship between us and the Supplier subject to these Terms, including related to its creation, validity, nullity, interpretation, performance and termination as well as its pre- and post-contractual effects („Dispute“), shall be settled exclusively by the state or federal courts of competent jurisdiction located in Harris County, Texas. Each party hereby irrevocably submits to the personal jurisdiction of such courts and waives any objection to venue in such courts.

## **19. Data Protection**

19.1 The personal data of our suppliers is stored and processed if it was provided to us for a purpose known to the Supplier, e.g. to enter into a business transaction with us. We make sure the data we handle is protected against manipulation, loss, destruction, unauthorized access and unauthorized disclosure by continuously implementing additional protection measures to enhance data security in line with technology developments.

19.2 The data of our suppliers is stored, used and processed in accordance with the legal regulations and only as long as necessary for business, legal, and regulatory purposes (and in any event in compliance with applicable U.S. federal and state records retention requirements) after the business relationship ends. Our suppliers have the right to revoke their consent to the use of their data, to be informed what information is held about them and how it is used, and to exercise

such other rights as are provided under applicable U.S. federal and state privacy laws, including the right to rectification, the right to restrict processing, and the right to erasure of personal data, in each case to the extent permitted by law. Where EU or UK data subjects are involved, additional rights under the GDPR and UK GDPR may apply. For further details please visit our data privacy statement on our website.

19.3 Supplier's collection, use, storage, transfer and disclosure of any personally identifiable information ("Information Practices"), and use by third parties having authorized access to Supplier's records, conforms, and at all times must conform to all applicable laws, including all applicable Data Laws and all applicable standards set forth in any final regulations and orders promulgated under the foregoing. For purposes of this Agreement, "Data Laws" means any law governing breach, notification, any penalties and compliance with any order, including, without limitation, (i) the Children's Online Privacy Protection Act, (ii) the Telephone Consumer Protection Act, (iii) the California Online Privacy Protection Act, (iv) the California Consumer Privacy Act, (v) the Video Privacy Protection Act, (vi) the Communications Decency Act, (vii) the CAN-SPAM Act and Canada's Anti-Spam Legislation, (viii) HIPAA, (ix) the UK Data Protection Act 2018, (x) Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016, (xi) EU Directive 2002/58/EC and any Law or regulation implementing either or both of the GDPR and EU Directive 2002/58/EC (each as amended from time to time), (xii) all similar foreign, state or local laws, rules or regulations, (xiii) applicable industry standards, including the Payment Card Industry Standard, (xiv) regulatory and self-regulatory guidelines and codes, (xv) all consumer protection or privacy laws relating to the receipt, collection, compilation, use, storage, processing, sharing, safeguarding, security, disposal, destruction, disclosure, or transfer of Personal Information (including employee data), and (xvi) published interpretations by governmental authorities of any of the foregoing (in each case as amended from time to time).

## 20. Confidential Information

All of our non-public, confidential or proprietary information, including but not limited to, specifications, samples, patterns, designs, plans, drawings,

documents, data, business operations, customer lists, pricing, discounts or rebates, disclosed by us to Supplier, whether disclosed orally or disclosed or accessed in written, electronic or other form or media, and whether or not marked, designated or otherwise identified as „confidential“ in connection with these Terms and any agreement being based on these Terms is confidential, solely for the purpose of performing Purchase Orders under these Terms and may not be disclosed or copied unless authorized in advance by us in writing. Upon our request, Supplier shall promptly return all documents and other materials received from us. We shall be entitled to injunctive relief for any violation of this Section.

## 21. Miscellaneous:

21.1 Invalidity of any provisions of these Terms shall not affect the validity of the other provisions herein. We have the right to correct at any time obvious errors such as mistakes in writing and calculation in Purchase Orders, acceptance of offers, and similar documents.

21.2 No waiver by us of any of the provisions of these Terms is effective unless explicitly set forth in writing and signed by us. No failure to exercise, or delay in exercising, any right, remedy, power or privilege arising from these Terms operates, or may be construed, as a waiver thereof. No single or partial exercise of any right, remedy, power or privilege hereunder precludes any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

21.3 The relationship between the parties is that of independent contractors. Nothing contained in these Terms or any Purchase Order shall be construed as creating any agency, partnership, joint venture or other form of joint enterprise, employment or fiduciary relationship between the parties, and neither party shall have authority to contract for or bind the other party in any manner whatsoever.

21.4 These Terms are for the sole benefit of the parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer on any other person or entity any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of these Terms.

21.5 Agreements between the contracting parties must be in writing to be effective. The same applies to alterations of the Terms and departure from the written form requirement. Oral agreements are not legally binding. The Supplier acknowledges that our employees or third parties engaged by us are not competent to make commitments differing from the contractual conditions (such as supply agreements, commitments relating to quality and quantity). We have the right to modify the Terms. We shall inform the Supplier about modifications in the Terms and the date of modification no later than one month before the date of modification.

any Purchase Order, the prevailing party shall be entitled to recover its reasonable attorneys' fees, court costs, and litigation expenses from the non-prevailing party.

## **22. Force Majeure**

Neither party shall be liable for any delay or failure to perform its obligations under these Terms or any Purchase Order to the extent such delay or failure is caused directly by circumstances beyond such party's reasonable control, including but not limited to acts of God, fire, flood, earthquake, storm, epidemic, pandemic, war, terrorism, riot, civil unrest, governmental action, regulation or embargo, or supply chain disruptions beyond such party's reasonable control (each, a „Force Majeure Event“). The party affected by a Force Majeure Event shall: (i) provide prompt written notice to the other party describing the event and its expected duration; (ii) use commercially reasonable efforts to mitigate the effects of and overcome the Force Majeure Event; and (iii) resume performance as soon as reasonably practicable. If a Force Majeure Event affecting Supplier's performance continues for more than thirty (30) consecutive days, we may terminate the affected Purchase Order without liability upon written notice to Supplier. A Force Majeure Event shall not excuse or delay any payment obligation.

## **23. JURY TRIAL WAIVER; ATTORNEYS' FEES**

EACH PARTY HEREBY KNOWINGLY, VOLUNTARILY, AND IRREVOCABLY WAIVES ANY RIGHT TO A TRIAL BY JURY IN ANY ACTION, PROCEEDING, OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THESE TERMS OR ANY PURCHASE ORDER, REGARDLESS OF THE THEORY OF LIABILITY. EITHER PARTY MAY FILE A COPY OF THIS PROVISION IN ANY PROCEEDING AS CONCLUSIVE EVIDENCE OF THIS WAIVER.

In any legal proceeding to enforce these Terms or