



## 1. Scope

- 1.1. In the following the term “**Buyer**” shall refer to such company, as mentioned below, that is purchasing products and services:

**delfortgroup AG**, A-4050 Traun

**Dr. Franz Feurstein GmbH**, A-4050 Traun

**Papierfabrik Wattens GmbH & Co KG**, A-6112 Wattens

**Dunafin Zrt.**, HU-2400 Dunaújváros

**Tervakoski Oy**, FI - 12400 Tervakoski

**OP Papírna s.r.o.**, CZ-78962 Olsany

- 1.2. These General Terms and Conditions of Purchase (hereinafter referred to as “**General Conditions**”) apply to all purchase orders for products and services placed by any of the Buyers.

## 2. Conclusions of contract | Ordering process

- 2.1. Orders are issued exclusively in writing. For amendments or supplements to an order the written form requirement applies correspondingly.
- 2.2. Written form requirement according to these General Conditions is met if (i) the requirements in § 886 ABGB (Austrian Civil Code) are adhered to, or (ii) the requirements for existing Electronic Data Interchange agreements are adhered to, or (iii) a document with a handwritten signature is scanned and sent by e-mail, or (iv) a document with an electronic signature (signature according to Art. 26 Regulation (EU) No 910/2014 (eIDAS- Regulation)) is sent by e-mail.
- 2.3. An order is accepted by Seller’s order confirmation. The written form requirement according to section 2.2 applies correspondingly with regard to the order confirmation. Upon confirmation of an order, these General Conditions become part of the corresponding contract (“**Contract**”).
- 2.4. The Buyer reserves the right to cancel an order unless it has received a proper order confirmation from the Seller within two weeks after the date of the order. Such cancellation is deemed on time if it is sent to the Seller before the Buyer receives the order confirmation.
- 2.5. If the order confirmation deviates from the order, the Seller shall clearly state any such deviation in the order confirmation. The Buyer shall only be bound by such deviation if it has expressly accepted it in writing. An unconditional acceptance by the Buyer of the products delivered by the Seller shall not be considered as acceptance of any such deviation.
- 2.6. Unless accepted by the Buyer in writing, Seller’s general terms and conditions shall not become binding upon the Buyer. Any reference in the order

to Seller’s quotation documents by the Buyer does not imply acceptance of Seller’s terms and conditions.

- 2.7. The Buyer reserves the right to vary the scope of supply or services after receipt of Seller’s order confirmation. The Seller is entitled to a corresponding adjustment in the contract price.
- 2.8. The Seller may use subcontractors to perform all or part of its obligations under a Contract if it has obtained Buyer’s express prior written approval. Subcontracting shall not exonerate the Seller from any of its contractual duties and obligations towards the Buyer. The Seller shall be responsible and liable for any and all acts of its subcontractors as if they were the acts and defaults of the Seller.

## 3. Time of performance | Consequences of Delay

- 3.1. Unless expressly agreed otherwise in writing, the period of delivery or performance shall commence on the day the order is issued by the Buyer. If no such period has been agreed, the Seller shall deliver products and services without delay. For the timeliness of deliveries, the relevant point in time shall be the date of receipt at the place of destination specified by the Buyer. For the timeliness of deliveries involving erection or installation, the relevant point in time shall be the date of acceptance (section 9.3).
- 3.2. When foreseeable delays in delivery occur, the Buyer shall be notified immediately and its decision obtained. In that event, the period of delivery or performance shall be extended only if the Buyer has explicitly acknowledged such extension in writing. Buyer’s acceptance of a delayed delivery/service shall not constitute a waiver of any rights of the Buyer resulting from the delay, in particular but not limited to damage claims.
- 3.3. In the event of a delay, the Buyer is entitled to withdraw from the Contract after expiry of a reasonable additional grace period granted to the Seller. This applies even if the Buyer used to accept delayed partial deliveries without reservation before. In the case of a time-sensitive contract, the Buyer shall not be obliged to grant an additional time-limit for delivery. All rights and remedies which Buyer may have under applicable law in case of delay with delivery shall remain unaffected and shall not be excluded or otherwise restricted as a result of Buyer’s termination according to section 3.3.
- 3.4. When it can be foreseen that the Seller will fail to properly deliver or perform by the agreed date, the Buyer shall be entitled to take all measures necessary to prevent an imminent delay in delivery / performance at Seller’s cost and risk.

#### 4. Packaging | Transportation

- 4.1. All requirements by the Buyer regarding mode of transportation, carrier and shipment rules shall be strictly adhered to. Unless the Buyer has requested a particular mode of transportation, products shall be dispatched at the lowest possible cost. Additional costs arising from the need to meet the delivery date by way of expedited shipment shall be borne by the Seller.
- 4.2. Unless a specific packaging is agreed in writing, the goods shall be packaged so as to withstand the normal rigors of shipping, storage and distribution. Where prices are quoted without packaging, packaging shall be charged at cost and such costs stated separately in the invoices.
- 4.3. When delivering hazardous products, the Seller shall comply with all applicable statutory provisions, in particular those relating to the type and marking of packaging and to the means of transport to be used.
- 4.4. Each delivery shall be accompanied by a delivery note detailing the net weight per item and the complete purchase order number. Should any agreed payment instruments (e.g. letter of credit) and shipping documents, in particular purchase order data and Certificate of Origin, be missing or incomplete, the Buyer shall be entitled to refuse acceptance at Seller's cost and risk.

#### 5. Delivery | Title and Risk of Loss

- 5.1. Unless expressly agreed otherwise in writing, the terms of delivery shall be Delivery Duty Paid (named place of destination) Incoterm 2010®.
- 5.2. If the Seller is obliged to provide material tests, test records or quality control documents or any other documentation, deliveries and services will be regarded as fully performed only upon receipt of such documentation in form and substance satisfactory to the Buyer.
- 5.3. In the case of deliveries involving erection or installation and in the case of services, the risk passes upon acceptance (section 9.3). For deliveries not involving erection or installation the risk passes upon receipt by the Buyer at the place of destination (section 9.1).
- 5.4. Partial delivery as well as over-shipment and under-shipment are only permissible after obtaining Buyer's express written approval.
- 5.5. Retention of title of whatsoever nature by the Seller is invalid.

#### 6. Suspension

- 6.1. The Buyer reserves the right to order the Seller to suspend the performance of the Contract at any time. If the performance of the Contract is suspended for more than three months, the Seller will have to prove to the Buyer in detail that it has incurred costs resulting from such suspension.

- 6.2. The Seller may claim compensation only for proven costs. In no event, the Seller may claim compensation for any costs incurred during the first three months or for loss of profit.

#### 7. Pricing | Invoicing | Set-off

- 7.1. Prices specified in the Order includes overtime, customary packaging, free deliver to the place of destination, pre-materials, components as well as any other items and services being required for the performance of the supplies and services as agreed under the Contract, as well as all taxes and duties owed by the Seller, including import duties but excluding value added tax. If the Buyer is obliged to pay any taxes or duties (except value added tax) in connection with the performance of Contract by the Seller, such amounts shall be deducted from the agreed price.

- 7.2. The Seller undertakes that the prices charged to the Buyer for its products and services are no higher than those the Seller charges to other customers for products and services of a similar specification, nature and functionality. If at any time the Seller supplies or offers to supply products and services which are substantially similar to the products and services supplied under the Contract at a lower price, then the prices charged to Buyer shall be reduced to an amount equal to the lower price and the Buyer shall be entitled to a refund equal to the difference between the two prices in respect of any products and services supplied to the Buyer after the date on which the Seller first supplied or offered to supply the products and services concerned at the lower price.

- 7.3. Unless mandatory laws provide otherwise, invoices shall be submitted in electronic form to the email account as stated in the order immediately after delivery of the products or completion of the services. Each invoice shall show the purchase order number and the purchase order data. If Seller's main office is within the EU the Seller shall provide the VAT number together with the invoice.

- 7.4. The Buyer reserves the right to return invoices which do not to comply with the requirements set forth herein, in particular those regarding purchase order data or VAT rules. In such a case invoices are considered as not submitted.

- 7.5. The Buyer is entitled to set off claims the Buyer or its affiliated companies have against the Seller against Seller's claims towards the Buyer.
- 7.6. The Seller is not entitled to set off claims it may have against the Buyer against claims the Buyer has against the Seller.

## 8. Terms of payment

- 8.1. Unless otherwise agreed, invoices shall be paid in EUR (should the price be agreed in a foreign currency, the exchange rate shall be the Austrian National Bank exchange rate valid on the day of issuance of the invoice).
- 8.2. All invoices shall be issued after receipt (section 9.1) or Buyer's acceptance of delivered products or services (section 9.3). The Buyer is entitled to withhold payment until identified defects are remedied to Buyer's full satisfaction. For the duration of the guarantee period, the Buyer may withhold up to 10% of the overall contract value as an interest-free guarantee deposit.

## 9. Acceptance | Notice of Defects

- 9.1. Deliveries not involving erection or installation are taken over (received) by the Buyer at the place of destination and at the agreed point in time as well as checked as to their completeness and any visible defects within a reasonable time after their receipt. If random checks show that parts of a delivery do not comply with agreed requirements or do not conform to the generally expected quality and specifications, the Buyer may reject the delivery as a whole and, if the Buyer so elect, refuse to accept any subsequent delivery of products which the Seller attempts to make.
- 9.2. The Buyer shall notify the Seller of any defects detected as soon as possible. However, the Buyer is not obliged examine the products and to notify defects pursuant to Sect. 377 and 378 of the Austrian Business Code (*Unternehmensgesetzbuch*).
- 9.3. For deliveries involving erection, installation or provision of services acceptance occurs upon completion of all tests and trials and accomplishment of all performance and quality parameters as agreed between the Buyer and Seller, or in case of absence of any specific agreement, of any tests and trials which are customarily performed for testing in accordance with highest industry standards.
- 9.4. The mere receipt or temporary use of deliveries and services or payments made thereof do not constitute an acceptance or waiver of any rights on part of the Buyer. Acknowledgement of receipt neither qualifies as acknowledgement that the products are of any defects nor constitutes a final acceptance by the Buyer of the products delivered.

## 10. Guarantees | Remedies for defective supplies

- 10.1. The Seller guarantees that during the entire guarantee period the products and services are (i) free from defects in design, materials and workmanship (except for normal wear and tear), (ii) of first-class quality and fit for the purpose for which they are intended to be used, (iii) conform to the agreed specifications and performance parameters, or in case of absence of any specific agreement in relation to specifications and performance parameters, conform to the generally expected quality and specifications applying for such assessment highest industry standards.
- 10.2. The Seller further guarantees that at the time of delivery (section 9.1) or acceptance (section 9.3) the products and service are (i) state of the art and comply with all applicable laws, regulations as well as standards as referred to in these General Conditions and (ii) do not infringe any intellectual property rights of any third party.
- 10.3. Unless explicitly otherwise agreed in writing, the guarantee period shall be 36 months for supplies and services and 60 months for supplies and services relating to construction works.
- 10.4. The guarantee period for deliveries involving erection or installation of the delivered products and for services begins with their acceptance (section 9.3), for deliveries not involving erection or installation with Buyer's receipt at the place of destination (9.1). The applicable time-limits are deemed to be observed if the Buyer has asserted claims under guarantee against the Seller within the aforesaid periods in writing.
- 10.5. If engineering, advisory, or IT (including software) services are provided by the Seller, the Seller guarantees the correctness and completeness of its information and instructions for a period of 24 months after their provision.
- 10.6. The Buyer may require the Seller either to immediately remedy defects identified within the above specified guarantee periods at Seller's cost and expense (including transportation, installation and removal costs) at the place of destination or to provide defect-free products or services within the set deadline. Such right of Buyer to request Seller to remedy a defect does also apply in case of minor defects. After rectification of defects notified by the Buyer, the guarantee period for the replaced product begins to run anew. Without prejudice to Buyer's claims for damages under the Contract or applicable law in relation to the Contract, the Buyer is entitled to claim all costs and expenses incurred in connection with the identification and localization of



defects (e.g. inspection costs incurred by the Buyer).

- 10.7. In the case of imminent danger, e.g. in order to avoid its own default, or if the Seller fails to rectify defects within a reasonable remedy period, the Buyer shall be entitled to acquire – without prior notification of the Seller – defect-free products from third parties or to repair or have defective products repaired at Seller's costs. Without prejudice to Buyer's claims for damages under the Contract or applicable law in relation to the Contract, the Buyer is entitled to claim all costs and expenses incurred in connection with the identification and repair (e.g. transport, removal, installation) even if it exceeds the cost of replacement and repair by the Seller.
- 10.8. The guarantees as stated within this section 10 shall have the meaning of guarantees pursuant to sec 880a second half sentence of the Austrian Civil Code (ABGB) analogously and shall apply in addition to the statutory rights relating to warranty.
- 10.9. The Buyer may assert claims against the Seller pursuant to Sect. 933b ABGB (Austrian Civil Code), irrespective of whether the final customer is a consumer or an entrepreneur. The Seller waives the objection of Buyer's failure to assert warranty claims in a timely manner pursuant to Sect. 933b, para. 2 ABGB by the Buyer.
- 10.10. The Seller's upstream suppliers are regarded as its vicarious agents (*Erfüllungsgehilfe*).

### 11. Product Liability

- 11.1. The Seller shall indemnify and hold harmless (*Schad- und Klagloshaltung*) the Buyer and Buyer's personnel, against and from all liabilities, damages, losses and expenses (including legal fees and expenses and costs for product recall) in respect of any suits, claims, demands and proceedings initiated, brought or asserted by any third party resulting from defects in the products delivered by the Seller.
- 11.2. For a period of 10 years after the last delivery, the Seller shall provide the Buyer upon the latter's request with the names of the respective manufacturers, importers, upstream suppliers without undue delay, but not later than two weeks after being requested to do so. Furthermore, the Seller shall provide the Buyer immediately with appropriate evidence, such as production records and documents specifying production and delivery batches and/or the date of production and delivery to enable the Buyer to oppose product liability claims.

### 12. Authorizations | Health and Safety

- 12.1. The Seller confirms that it is in possession of all industrial authorizations and permits as well as any other authorizations required for the performance of

the supplies and services as agreed under the Contract and that it will, upon Buyer's request, make available to the Buyer documentation properly evidencing such status. Insofar as for the performance of the supplies and services special regulatory approvals, authorizations or inspections are required, such approvals, permissions and inspections shall be obtained by the Seller without entitlement to special remuneration in a timely manner.

- 12.2. When performing its contractual obligations on site of the Buyer, the Seller shall strictly comply with applicable safety laws and regulations, ensure the safety of its personnel working on site of the Buyer and secure the designated working area against any risk and danger to Buyer's personnel and property.

### 13. Product Safety | CE-Marking

- 13.1. Installations or products delivered by the Seller shall provide for state of the art safety features and – at the minimum – comply with the product safety standards as applicable at the place of destination, including relevant EU Directives and Regulations ("**Local Standards**"). In the event that (i) the Austrian Electrical Engineering Act (*Elektrotechnikgesetz*), (ii) regulations and guidelines published by the ÖVE (Austria Electrotechnical Association/ *Österreichischer Verband für Elektrotechnik*) or VDE (*German Electrotechnical, Electronic and IT Technology Association/ Verband der Elektrotechnik, Elektronik und Informationstechnologie*) or (iii) technical standards published by the Austrian Standards Institute (ÖNORMEN) or German Standard Institute (DIN-Norm), provide for higher safety standards than Local Standards such higher standards shall apply to the installations and products delivered by the Seller.
- 13.2. Installations and products delivered by the Seller shall bear the CE markings required under the relevant EC directives and legislation applicable at the place of destination. Upon delivery, the Seller shall provide the Buyer with EC declarations of integration with short technical descriptions as well as installation instructions and installation requirements.
- 13.3. When delivering equipment designated to be assembled by the Buyer or a third party, the Seller shall provide the Buyer with all documentation required by the Buyer, including assembly schedules, data sheets, installation instructions, technical and manufacturing drawing, processing instructions, storage, operation and maintenance instructions, lists of spare and non-consumable parts etc.
- 13.4. Delivered products have to be marked in English and – upon Buyer's request – in other languages as specified by the Buyer. The operating requirements

and instructions shall be drawn up in duplicate in English and - upon Buyer's request - also in the local language of the place of destination.

#### 14. Regulatory Compliance

- 14.1. If the Seller delivers products that are subject to regulatory or other legal requirements with regard to their placement on the market and further processing, respectively, marketing in the European Economic Area, United States of America and the People's Republic of China, or comparable requirements in other countries of use specified by the Buyer, the Seller shall ensure that the products are in compliance with these legal requirements at time of delivery (section 9.1) or acceptance (9.3). The Seller shall provide to Buyer all documents and information necessary for proof of conformity of the products with the applicable requirements upon Buyer's request.
- 14.2. The Seller shall ensure that all deliveries are in compliance with the EC Directive on the restriction of the use of certain hazardous substances in electrical and electronic equipment (RoHS Regulations) and the US Toxic Substance Control Act (TSC).
- 14.3. Should the Seller deliver products which are subject to statutorily imposed substance restrictions and/ or information requirements, including REACH Regulation, TSC, California Proposition 65, Seller shall properly comply with its obligations resulting from the applicable legislation, in particular provide Buyer with a safety data sheet or such information as required under the respective regulation.
- 14.4. Irrespective of any legal information duties, the Seller shall provide the Buyer with all necessary and useful information relating to the handling and processing of the product (e.g. information on proper storage).

#### 15. Quality Management

- 15.1. The Seller shall have in place a state of the art quality management system in accordance with best practice standards (ISO 9001, 14001 and OHSAS 18001, each in its current version). The Seller shall ensure in an appropriate manner that such quality management systems are also in place at the level of its vicarious agents/ subcontractors.
- 15.2. The Seller is required to carry out an adequate incoming inspection in accordance with best practice standards (ISO 9001, 14001 and OHSAS 18001, each in its current version) of raw materials, components and equipment it sources from upstream suppliers, producers and other third parties.
- 15.3. Any changes to products, materials and manufacturing procedures require Buyer's prior approval.

#### 16. Life Cycle Costs | Spare Parts

- 16.1. The Seller shall ensure that (i) the products and services meet highest industry standards with respect to efficiency, expediency and maintenance-friendliness in order to enable the Buyer to use the relevant products and services economically and continuously and (ii) the recurring expenditure for repair and maintenance are within such scope as can be reasonably expected according to best practice standards.
- 16.2. To the extent that the use of supplied installations and products in continuous industrial operation requires availability of spare and wearing parts, the Seller shall submit upon Buyer's request an offer for sufficient spare parts/ wearing parts for the duration of the applicable guarantee period at competitive prices. Such offer for spare parts/ wearing parts shall include relevant information about delivery periods for the parts concerned and the OEM specifications (exact name of the OEM, including address, type/ name of part, standards, specifications of material, measurements, layout drawings, detailed drawings, etc.) in a format that can be edited electronically to allow the Buyer to order the relevant spare parts/ wearing parts directly from the OEM.

#### 17. Product Development | Infringement of third party intellectual property

- 17.1. In the event that the Seller has been engaged by the Buyer to design, develop and manufacture a specific product or equipment all ownership rights to the work products in relation to such product and equipment shall vest in the Buyer. For that purpose the Seller shall assign and shall procure the assignment of any of its and its personnel's rights to the work products to the Buyer.
- 17.2. The Seller shall grant the Buyer an exclusive, irrevocable, royalty free, world-wide and perpetual license to use, sub-license, assign, modify, develop, enhance and otherwise exploit in any in manner any work products to which by operation of law ownership such cannot be assigned to the Buyer.
- 17.3. The Seller shall indemnify and hold harmless (*Schad- und Klagloshaltung*) the Buyer and Buyer's personnel, against and from all liabilities, damages, losses and expenses (including legal fees and expenses) in respect of any suits, claims, demands and proceedings initiated, brought or asserted by any third party in relation to the products and services supplied by the Seller alleging an infringement of intellectual property rights.

#### 18. Software

- 18.1. Unless otherwise set forth in the order, hardware and software always constitute a single product. If the Seller is to deliver software that has not been



developed individually for the Buyer, the Seller will grant the Buyer a transferable and non-exclusive right to use such software. This right of use shall be perpetual in cases where the payment of a lump sum has been agreed for the use of such software. For software products which have been individually developed for the Buyer, the Seller shall grant the Buyer an exclusive and transferable exploitation right that is unlimited in time and also excludes the Seller itself from using the software for any purpose. Unless otherwise agreed, the software shall be delivered together with the source code in its latest version.

- 18.2. The Seller undertakes to make available to the Buyer all software updates free of charge within the guarantee period.

### 19. Confidentiality | IT Security and Data Protection

- 19.1. The Seller undertakes to keep confidential all information pertinent to the Buyer and its business and operations which it has obtained in connection the Contract and all information resulting from the performance of the Contract and not to use such information for any other purposes other than the performance of its contractual obligations, unless this information has become generally known or known to the Seller in another lawful manner. In the event that the Seller makes use of a third party for the performance of its contractual obligations, it shall make sure that such third party contractually commits itself to at least the same degree of confidentiality.
- 19.2. The Seller shall take appropriate measures for storage of data and for protection of its IT systems against software damaging functions and unauthorized access by third parties, in order to reasonably protect information received from Buyer and product development work generated for Buyer, against loss, modification, forwarding or access by unauthorized third parties. If there are any indications that a third party has attempted to access or has actually accessed, Seller's IT systems without authorization, the Seller shall promptly inform the Buyer and, to a reasonable extent, assist the Buyer with measures necessary for protection of its data.
- 19.3. Insofar as the Seller is granted access to personal data in the course of the performance of the Contract relating to the Buyer and Buyer's employees, the Seller shall comply with any and all statutory provisions relating to protection of personal data and data privacy and shall enable the Buyer and Buyer's employees to keep each of them informed that such provisions are complied with.
- 19.4. The Seller agrees and shall procure to obtain consent from its employees that Seller's data and data

concerning Seller's representatives which become known to the Buyer in connection with the respective business transaction (e.g. commercial register data, address, telephone and facsimile number as well as other information required for correspondence following from modern communication tools, locations, contact persons, ordered products, and supply volumes) will be automatically processed for the execution of the Contract, in particular, for administration and billing purposes. For operational and technical reasons, it may be necessary to store such data on servers operated by third parties or make the data otherwise available for further processing by third party service providers. **This consent may be revoked at any time by written request to the Buyer.**

### 20. Waste Disposal

- 20.1. The Seller shall raise Buyer's attention to the possibility of hazardous waste or waste oils arising from the products delivered and services provided by the Seller and shall advise on their proper disposal. Upon Buyer's request, the Seller shall take back, free of charge, any waste resulting from the installation or the ordinary use of the delivered products. Should the Seller refuse or should the Seller not be able to accept such waste, the Buyer shall be entitled to dispose of it at Seller's expense.
- 20.2. Any transport, sales and service packaging of supplies to the Buyer shall be disposed of by the Seller through such means and systems as required by the laws applicable at the place of destination (e.g. in case of deliveries to Austria through Altstoff Recycling Austria AG). The Seller shall indemnify and hold harmless (*Schad- und Klagloshaltung*) the Buyer and Buyer's personnel, against and from all liabilities, damages, losses and expenses (including legal fees and expenses) in respect of any suits, claims, demands and proceedings initiated, brought or asserted by any third party resulting from improper waste disposal.

### 21. Anti-corruption | Code of Conduct

- 21.1. The Seller shall not engage, actively or passively, directly or indirectly, in any form of corruption, bribery, violation of employee's right or child labor.
- 21.2. The Seller shall take responsibility for the health and safety of its employees and act in accordance with the applicable environmental laws and the standards as set forth in Delfort's code of conduct (code of conduct available on our website: [www.delfortgroup.com](http://www.delfortgroup.com)).

### 22. Audit Rights

- 22.1. The Buyer (or its auditor or authorised representatives) shall be entitled at any time to inspect and/or



audit the Seller's data, records, systems and production equipment relating to the performance of the Contract. Such inspection and/or audit shall take place during normal business hours and, subject to section 22.2, shall be at Buyer's cost.

- 22.2. If the inspection or audit shows that Seller's accounting as to the calculation of the payments due under the Contract and/or any other matter in relation to the Contract is incorrect, the Seller shall rectify promptly the defect in the amount accounted for and reimburse the Buyer for such overpayment plus interest in accordance with applicable laws. If the relevant payment is incorrect by a margin of more than 2% of the overall contract value, and the error is in the favor of the Buyer, or the audit otherwise shows the Seller to be in breach of any of its obligations under the Contract then the Seller shall pay Buyer's reasonable costs incurred in carrying out that inspection or audit.

### 23. Termination

- 23.1. The Buyer reserves the right to withdraw from the Contract, in whole or in part, at its convenience. In such a case, the Seller is only entitled to charge the Buyer for products actually delivered to the Buyer and services actually performed by the Seller prior to or on the date of withdrawal, minus all possible gains and savings arising out of or relating to the withdrawal.
- 23.2. The Buyer, without prejudice to its other rights or remedies, may withdraw from the Contract, or rescind the Contract and restore both Parties to their pre-contractual position, with immediate effect by notice to the Seller if (i) the delivered goods and services failed to pass the acceptance test pursuant to clause 9.3 at the second attempt, (ii) defects that are covered by the guarantee pursuant to clause 10 cannot be remedied either through repair or replacement (other than minor defects that do not adversely affect the use of the goods and services for the intended purpose), and (iii) Seller commits a material breach of any of its obligations under the Contract (other than referred to under items (i) and (ii) above) which are not remedied within 10 days of notice requiring the breach to be remedied (no grace period required in case breach is incapable of remedy).
- 23.3. Unless mandatory provisions of insolvency and administrative laws having jurisdiction over the Seller and its assets or being imposed on the Contract determine otherwise, the Buyer is entitled to rescind the Contract as a whole or in part, without prejudice to procedural consequences, in case of Seller's inability to pay its debts or if insolvency or analogues proceedings are commenced against the Seller and its assets or if Seller's ownership structure changes.

The Seller is obliged to immediately inform the Buyer about any such circumstances.

### 24. Place of Performance | Applicable Law | Place of Jurisdiction

- 24.1. The place of performance for deliveries or services shall be the place of destination. For payments, the place of performance shall be Buyer's seat.
- 24.2. Austrian law shall apply with the exception of such legal provisions that make reference to the law of other countries. The provisions of the United Nations Convention on Contracts for the International Sale of Goods are excluded.
- 24.3. The Buyer's rights and remedies pursuant to these General Conditions are cumulative and in addition to, not exclusive or in substitution for, any rights or remedies otherwise available to the Buyer under applicable law in relation to the Contract.
- 24.4. Disputes, in particular those relating to the formation of Contract or any claims arising thereunder, shall be exclusively decided by the Vienna Commercial Court. However, the Buyer shall also be entitled to bring proceedings against the Seller before any other competent court, e.g. before the Seller's court of general jurisdiction.
- 24.5. The Seller shall compensate Buyer for any costs necessary for bringing appropriate legal action, in particular for attorneys' fees, and for any pre-trial expenses incurred by the Buyer.

### 25. Non-Waiver | Statute of limitation

- 25.1. No present or future claim, right and remedy arising under these General Conditions shall be deemed waived, unless such waiver or consent is in writing.
- 25.2. Claims for damages shall be asserted by Seller within six months after Seller becoming aware of the damage, but not later than three years after transfer of risk in relation to the products and services supplied by the Seller to Buyer.

### 26. Severability | Legal Succession

- 26.1. If any regulations of these General Conditions are or become void or ineffective in whole or in part, the effectiveness of the remaining regulations shall, in principle, not be affected thereby. In that case, the void or ineffective regulation shall automatically be replaced by a valid, effective, lawful and enforceable regulation which comes as close as possible in a legally admissible content to the business purpose of the regulation to be replaced. The Buyer and the Seller undertake to agree, without unreasonable delay and instead of the void or ineffective regulation on a valid and effective regulation which comes as close as possible to the business purpose reflected in such valid and effective regulation they

would reasonably have agreed on if they had known of the illegality or ineffectiveness of the relevant regulation at the time they agreed on these General Terms.

- 26.2. The Buyer may assign its rights and obligations arising from the Contract with the Seller to another company within the Delfort-Group.

Seller:

Date:

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Signature