

STANDARD TERMS FOR SALE

OF SPARE PARTS AND/OR SITE SERVICES IN JAPAN

Version: December 2017

IMPORTANT NOTICE:

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Definitions

Term	Meaning
Contract	the contract formed between Purchaser and Contractor for the supply by Contractor of the Scope of Supply.
Contractor	the respective company or permanent establishment with registered office in Japan issuing Contractor's Offer for the Scope of Supply to be supplied to the Purchaser or entering into the Contract with the Purchaser.
Contractor's Offer	Contractor's quotation or offer for the Scope of Supply.
Contract Price	the contract price set out in the Contractor's Offer or, in case of binding contract, in the Contract.
Costs	all costs and expenses incurred or to be incurred by Contractor, including overhead, insurance, financing costs and similar charges and a reasonable profit; when calculating Costs, the costs of the Contractor's personnel shall be based on Contractor's periodic rates as set forth in Contractor's Offer or, if not contained therein, according to its rates prevailing when the work is performed.
day	a calendar day.
Defect	a defect, including omission, at the time of delivery in the workmanship or materials of the Contractor's equipment or a failure to prepare documentation or provide Site Services according to commercially reasonable skill and care.
Export Control Event	a situation where the Export Control Regulations may require an Export License or may cause additional costs, delay, prohibit Contractor's performance and/or render the Contract not reasonable to perform.
Export Control Regulations	all applicable national and international laws, regulations, orders, embargoes, administrative practices or resolutions that may prohibit or restrict the trade of the Scope of Supply.
Export License	license or an equivalent formal approval by the competent authorities for the supply of the Scope of Supply under this Contract which is required to be obtained by Contractor under the Export Control Regulations.
Force Majeure	acts of war or terrorism, riots, civil commotion, embargoes, export/import permit delays or refusals, epidemics, strikes, fires, delays in transport or customs clearance, any failure by Contractor or its subcontractors to obtain any work permit or visa through no fault of their own, earthquakes, floods, hurricanes, typhoons, storms, other acts of God or government or any other circumstances beyond the control of a party.
including	including without limitation.
Incoterm	the series of pre-defined commercial terms published under the name Incoterm® by the International Chamber of Commerce (Paris) as in force at the date of the Contractor's Offer. Any term or expression which is defined in or given a particular meaning by the provisions of an applicable Incoterm shall have the same meaning in these Terms, but if there is any conflict between the provisions of the Incoterm and these Terms, the latter shall prevail.
Purchaser	Contractor's customer in connection with the Contract.
Purchaser Scope	all works (including civil works, equipment, documentation and services) relevant to the Scope of Supply which are not expressly included in Contractor's Scope of Supply, including any works specified in these Terms or Contractor's Quotation as being the responsibility of Purchaser (including third parties for whom Purchaser is responsible).
Schedule	the time schedule for the Scope of Supply as set out in the Contractor Offer or, in case of binding contract, in the Contract, as such schedule may be modified according to Clause 5.5 of these Terms.
Scope of Supply	the equipment, documentation and services (including Site Services, if any) expressly listed as the Contractor's responsibility in the Contractor's Offer or, in case of binding contract, the Contract.
Site	the place at which the Scope of Supply is to be installed.
Site Services	the services (if any) provided by the Contractor at the Site, including to the extent applicable installation and erection, commissioning and acceptance testing of the Scope of Supply or the supervision thereof, as expressly listed as the Contractor's responsibility in Contractor's Offer or, in case of binding contract, the Contract.
Terms	these Terms of Spare Parts Supply and Site Services.
Warranty Conditions	has the meaning set out in Clause 7.1.4.
Warranty Period	Unless stated otherwise in Contractor's Offer or, as the case may be, in the Contract a fixed and non-extendable period of six (6) months from delivery of the relevant equipment or performance of the relevant service.

General Provisions

These Terms shall apply to and form an integral part of any Contractor's Offer and any Contract.

Any provision of the Purchaser's purchase order, offer, acceptance or other document or requirement of Purchaser which forms a part of the Contract and is in conflict or inconsistent with these Terms or which imposes on Contractor liabilities that are additional to or different from those set forth in the Terms shall not apply to the Contract and is of no force or effect. Purchaser's terms of purchase and/or service, if any, shall not apply to the Contract and are of no force or effect. These Terms shall prevail over any inconsistent or conflicting provision of the Contract (including Contractor's Offer), except only where (i) the Contractor has by way of its Contractor's Offer or a duly signed document expressly amended a provision of these Terms and has referenced the specific provision of these

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Terms being amended or (ii) these Terms expressly provide for an option to deviate from the respective provision in Contractor's Offer or, as the case may be, in the Contract.

1. Scope of Supply:

1.1 Contractor's works shall be limited to the Scope of Supply. The Purchaser shall be responsible for the Purchaser Scope.

2. Site Services:

2.1 If Site Services are included in the Scope of Supply, Purchaser shall ensure that Contractor has safe and appropriate access to the Site at all times required by Contractor. Any failure by Purchaser to perform this obligation and any failure as regards readiness of the civil works or equipment outside the Scope of Supply at the Site will entitle Contractor to suspend its Site Services upon written notification thereof, stating which civil or other works are delaying, disrupting, hindering or obstructing Purchaser's works.

2.2 Under no circumstances will Contractor be responsible for the acts and/or omissions of any other contractor or person provided or made available by Purchaser or for any works or equipment supplied by them, either by way of a deemed employer or otherwise, or for their payment, welfare, provision of safety equipment or safe means of working, or for their work, productivity or workmanship. Purchaser shall be solely responsible for any failure of such persons or contractors to strictly comply with the instructions and requirements of Contractor. Purchaser shall indemnify, defend and hold Contractor harmless from any resulting claims and liability for loss or damage to any property or for personal injury or death in any way arising out of the acts or omissions of any such persons and contractors, save in each case to the extent directly caused by the negligence of Contractor.

3. Payment:

3.1 Unless otherwise expressly stated in the Contractor's Offer or Contract, payment of the Contract Price by the Purchaser shall be as follows:

In case of Contract Price below 9.000.000,00 Japanese Yen (JPY): 100 % of the Contract Price upon delivery of the Scope of Supply;
in case of Contract Price equal or exceeding 9.000.000,00 Japanese Yen (JPY): 50 % advance payment upon effectiveness of Contract and 50 % upon delivery of the Scope of Supply.

All payments are to be made by electronic transfer, net cash without any deduction, in JPY unless a different currency is stated in the Contractor's Offer and on the 20th day of the following subsequent month from date of receipt of Contractor's applicable invoice.

3.2 Purchaser shall have no right of set-off or right to make any form of withholding or retention against any payment of the Contract Price. The Contractor shall have no obligation to commence any Scope of Supply until the first instalment of the Contract Price has been received by the Contractor.

3.3 If any payment is not received by the applicable date for payment, Contractor shall be entitled to interest thereon at 1% per month and pro rata for any part thereof, without formal demand being made. In addition and upon 7 days' written notice to that effect, Contractor may suspend all or part of its performance under the Contract until the payment and any due interest is received in full. If any payment has still not been received in full by Contractor 21 days after the applicable due date, then, irrespective of whether or not Contractor has commenced any portion of the Scope of Supply and/or suspended its works, Contractor shall be entitled by written notice with immediate effect to terminate the Contract.

4. Taxes:

4.1 The Contract Price and any other amounts to be paid to Contractor are exclusive of, and Purchaser shall be responsible for, all duties, taxes (including value added, sales, use, business, excise or withholding taxes), assessments or charges of any kind, except to the extent any taxes or other charges that are assessed on the profits of Contractor or which under the applicable Incoterm relating to delivery of the Scope of Supply are payable by the Contractor. If any duties, taxes, assessments or charges are imposed on Contractor by authorities in the country where the Scope of Supply will be installed in connection with any Site Services and/or in connection with the Contract itself, Purchaser shall reimburse Contractor all such amounts. Where the Purchaser is obliged by applicable law to make a deduction from any payment due to the Contractor in relation to any such duties, taxes, assessments or charges, the Purchaser shall increase the payment to be made such that the net payment received by the Contractor is without any such deduction.

5. Delivery / Risk of Loss / Delays:

5.1 Contractor shall deliver the Scope of Supply according to the applicable Incoterms by the date specified in the Schedule. If no Incoterm is stipulated, delivery shall be Ex Works manufacturer plant as specified by Contractor. If no manufacturer plant is specified, then delivery shall be Ex Works Contractor's premises. In case the respective stipulated Incoterm obliges Contractor to perform any import formalities for the import into the country of delivery, Purchaser at its cost is obliged to support Contractor in any way reasonably required by Contractor. Any delay (other than a delay by Contractor) in completion of import formalities shall be an event entitling the Contractor to an extension of time and compensation of Costs.

5.2 Transfer of risk of loss and damage to the Scope of Supply shall be in accordance with the stipulated Incoterm applicable at the date of Contractor's Offer. The inclusion of any Site Services within the Contractor's Scope of Supply shall not alter this transfer of risk of loss and damage and shall not create any assumption by Contractor of any form of care, custody and control over any Purchaser Scope and/or the Site.

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- 5.3 Statements of packing, measurements and gross weight are an approximate guide and not binding on Contractor.
- 5.4 Upon delivery or the provision of any Scope of Supply, Purchaser will inspect the relevant Scope of Supply and promptly (but in no event more than 7 days) inform Contractor in writing of any Defect under Clause 7.1.1. Contractor will thereupon remedy any such Defect.
- 5.5 In case of (i) any suspension; (ii) exceptionally adverse climatic conditions; (iii) unforeseeable shortages in the availability of personnel or goods attributable in whole or in part to Force Majeure; (iv) any delay, disruption, impediment or prevention of Contractor or any breach of contract caused by or attributable in whole or in part to Purchaser (including third parties for whom it is responsible), or (v) any other event or circumstance for which these Terms or the Contract gives Contractor an entitlement under this Clause, Contractor shall be entitled to payment by Purchaser of its additional Costs and to an extension of time for any delay incurred. Contractor shall give written notice to Purchaser of any event giving it an entitlement under this Clause within a reasonable time after becoming aware of the event.
- 5.6 If Contractor is more than 2 weeks late in delivering the Scope of Supply according to the applicable Incoterms for reasons attributable to the fault of Contractor (and not for any reasons attributable in whole or in part to Purchaser), Purchaser shall be entitled to liquidated damages (and not a penalty) in an amount equal to 0.25 % of the portion of the Contract Price attributable to the value of the delayed portion of the Scope of Supply for each full week of delay up to an overall aggregate maximum delay liquidated damages of 5% of the Contract Price, provided Purchaser has given at least one week advance written notice of its intention to claim such liquidated damages. Such liquidated damages shall not be due where Contractor has failed to deliver only minor portions of the Scope of Supply or where Purchaser has not incurred any resulting loss or damage. Payment of the liquidated damages shall constitute full and complete satisfaction of any claim of Purchaser, and Purchaser's sole and exclusive remedy, against Contractor arising from or in connection with any delay of the Contractor. Any and all other claims for delay or late performance, including any delay in meeting any intermediate or other dates or milestones, shall be excluded.
- 5.7 Each party shall be released from the performance of its obligations under the Contract to the extent such performance is delayed, disrupted, hindered or obstructed by Force Majeure. A party shall give written notice of the occurrence of any Force Majeure within 14 days of becoming aware of its occurrence.
- 6. Ownership:**
- 6.1 Title in the Scope of Supply will transfer to Purchaser when Contractor has received payment of the Contract Price in full.
- 7. Warranties:**
- 7.1 Warranties regarding Scope of Supply**
- 7.1.1 Subject to the provisions of this Clause 7.1 and Clause 7.2, the Contractor warrants that the Scope of Supply shall be free of Defects. This warranty shall expire on the last day of the Warranty Period.
- 7.1.2 Contractor shall be responsible for remedying any Defect under Clause 7.1.1 provided that Purchaser promptly gives detailed written notice to Contractor of the Defect and in any event before the end of the Warranty Period. To the maximum extent permitted by applicable law, the Contractor shall have no liability for any form of Defect under Clause 7.1.1, latent or otherwise, for which it received written notification after the Warranty Period.
- 7.1.3 Where Contractor is responsible for a Defect under Clause 7.1.1, Contractor shall investigate and rectify the same as soon as reasonably practicable (taking into consideration the nature of the Defect, lead-time for replacement parts, etc.). Rectification of a Defect under Clause 7.1.1 relating to equipment and materials included in the Scope of Supply shall be by way of repair or replacement, at the Contractor's option, of the relevant part of the equipment or materials that is defective. Rectification of a Defect under Clause 7.1.1 relating to Site Services and documentation included in the Scope of Supply shall be by way of re-performance by Contractor of the relevant part of the Site Service or documentation that is defective. Purchaser shall in each case give Contractor all necessary and safe access to and possession of the Site. Any replacement parts shall be delivered according to the same delivery (Incoterms) terms as specified in the Contract. Purchaser shall be responsible for all labour, equipment, costs used or incurred in the disassembly, removal, transport, installation and commissioning of repaired or replaced defective parts. Contractor shall not be deemed to have breached any of its warranty obligations where it has rectified a Defect according to the foregoing.
- 7.1.4 Contractor's responsibility for any Defect under Clause 7.1.1 is subject to the condition that it is not caused by one or more of the following: (a) normal wear and tear of parts; (b) use of non-original spare parts; (c) use of feed, consumables or utilities not in strict conformity with the specifications stated in the Contract or in Contractor's written manuals; (d) any failure of upstream and/or downstream equipment; (e) modifications without Contractor's express prior written consent; (f) use of corrosive or abrasive substances; (g) the storage and handling or any Contractor equipment and / or the maintenance or operation of the Scope of Supply by or for Purchaser which is not in strict conformity with good engineering practice, the Contract or any written requirements of the Contractor, including any failure to comply with Contractor's written manuals or instructions and Purchaser's own quality assurance requirements; (h) information, services, personnel, equipment or other items supplied by or for Purchaser; (i) failure to permit Contractor to perform supervision of installation and/or installation; and/or (j) other conditions or circumstances not due to the fault of Contractor (collectively, "Warranty Conditions").
- 7.2 Disclaimer and Limitations**
- To the fullest extent permitted by applicable law, (i) Contractor hereby excludes and disclaims all conditions, warranties, guarantees and representations that are not expressly set out in Clauses 7.1 above or which are implied, statutory, customary or otherwise and which, but for this exclusion and disclaimer, would or might subsist in favour of Purchaser, including any warranties as to fitness for purpose or merchantability; (ii) Purchaser's remedies as set forth in Clause 7.1.3 above shall be the Purchaser's sole and exclusive remedies in respect of any defect in the Scope

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of Supply, including any Defect covered by Clause 7.1; and (iii) Contractor shall not be liable for any loss or damage, including any loss or damages described in Clause 9.2 below, caused by or resulting from any breach of warranty or any defect, including any Defect covered by Clause 7.1.

8. Confidentiality and IP:

8.1 Purchaser shall treat all information, drawings and data of any kind made available or provided by Contractor under the Contract whether orally, electronically, in writing, visually (such as through site visits, tests or audits) or otherwise and regardless of whether marked "confidential" ("Confidential Information") as private and confidential. Purchaser shall not publish or disclose Confidential Information or any particulars thereof (except as may be necessary for the purposes of the Contract, including disclosure to its and its affiliates' officers, directors and employees, and/or as required by a recognized stock exchange or by applicable law), without the previous written consent of Contractor. Nothing in this Clause 8 shall prevent the publication or disclosure of any Confidential Information which either has come within the public domain otherwise than by breach of this provision or was already in the possession of Purchaser with a right to disclose and use such information.

8.2 The intellectual property rights in any equipment, document or other information given or made available (by visual inspection or otherwise) to Purchaser under the Contract or applied to and embodied in the Scope of Supply and the Site Services shall remain the exclusive property of Contractor (or its subcontractors).

9. Remedies and Limitations of Liability:

9.1 Exclusive Remedies:

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, PURCHASER'S RIGHTS AND REMEDIES AS EXPRESSLY STATED IN THE CONTRACT (WHETHER BY WAY OF DAMAGES, PAYMENT OR REIMBURSEMENT OF COSTS, LIQUIDATED DAMAGES, PRICE REDUCTION, MAKE GOOD OR REMEDIATION, TERMINATION OR OTHERWISE) SHALL BE ITS SOLE AND EXCLUSIVE RIGHTS AND REMEDIES REGARDLESS OF THE EVENTS, CIRCUMSTANCES OR THEORY ON WHICH A CLAIM MAY BE BASED (INCLUDING TERMINATION, BREACH OF CONTRACT OR STATUTORY DUTY, NEGLIGENCE OR OTHER TORT, STRICT LIABILITY, INDEMNITY, RESCISSION / WITHDRAWAL OR OTHERWISE).

9.2 Exclusion of Certain Damages:

NOTWITHSTANDING ANY OTHER PROVISION TO THE CONTRARY, EXCEPT ONLY:

(A) TO THE EXTENT OF ANY LIQUIDATED DAMAGES PROVIDED FOR IN THE CONTRACT; AND

(B) TO THE EXTENT THE EXCLUSION OF CONTRACTOR'S LIABILITY IS PROHIBITED BY APPLICABLE LAW (IN WHICH CIRCUMSTANCES CONTRACTOR'S LIABILITY SHALL BE LIMITED TO THE EXTENT PERMITTED BY APPLICABLE LAW),

CONTRACTOR SHALL IN NO CASE WHATSOEVER BE LIABLE FOR ANY LOSS OF REVENUES OR PROFITS; LOSS OF OPPORTUNITY, PRODUCTION OR CONTRACTS; LOSS OF USE; STANDBY COSTS; LOSS OF OR DAMAGE TO FEED, RAW MATERIALS, UTILITIES OR PRODUCT; PLANT DOWNTIME OR DELAYS; LOSS OF GOODWILL; LIQUIDATED DAMAGES OR PENALTIES IMPOSED ON PURCHASER BY ITS CUSTOMERS OR THIRD PARTIES; PURCHASER'S CONTRACTUAL LIABILITY TOWARDS ANY THIRD PARTY; RECALL COSTS; ANY DAMAGES FINES OR PENALTIES PAYABLE BY PURCHASER; OR OTHERWISE FOR ANY FINANCIAL OR ECONOMIC LOSSES OR DAMAGES, AND IN EACH CASE IRRESPECTIVE WHETHER THE LOSSES OR DAMAGES IN QUESTION ARE DEEMED TO BE DIRECT, CONSEQUENTIAL, INDIRECT OR OTHERWISE, OR FOR ANY CONSEQUENTIAL, INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE OR EXEMPLARY, LOSSES OR DAMAGES HOWSOEVER CAUSED OR ARISING.

9.3 Maximum Aggregate Liability:

NOTWITHSTANDING ANY OTHER PROVISION TO THE CONTRARY, EXCEPT ONLY TO THE EXTENT THE EXCLUSION OR LIMITATION OF CONTRACTOR'S LIABILITY IS PROHIBITED BY APPLICABLE LAW (IN WHICH CIRCUMSTANCES CONTRACTOR'S LIABILITY SHALL BE LIMITED TO THE EXTENT PERMITTED BY APPLICABLE LAW), CONTRACTOR'S MAXIMUM AGGREGATE LIABILITY TO PURCHASER UNDER OR IN CONNECTION WITH THE CONTRACT SHALL IN NO CASE EXCEED IN THE AGGREGATE 100 % OF THE CONTRACT PRICE AS RECEIVED BY THE CONTRACTOR, IRRESPECTIVE WHETHER SUCH LIABILITY ARISES BY WAY OF BREACH OF CONTRACT (INCLUDING TERMINATION) OR OF STATUTORY DUTY, NEGLIGENCE OR OTHER TORT, STRICT LIABILITY, INDEMNITY, CONTRACT PRICE REDUCTION OR REPAYMENT, TERMINATION, RESCISSION/WITHDRAWAL, MAKE GOOD OR REMEDIATION OR OTHERWISE.

9.4 The expiry of the Warranty Period shall, to the maximum extent permitted by applicable law and save only as set out in the last sentence below, constitute conclusive evidence for all purposes and in all proceedings whatsoever between the parties that Contractor has completed its obligations under or arising out of the Contract and performed the Scope of Supply and made good all Defects therein in accordance with its obligations under the Contract. After the expiry of the Warranty Period, all claims of any nature whatsoever the Purchaser may have against Contractor, whether known or not, under or arising out of the Contract and the use of the Scope of Supply, and any right, cause of action and or remedy shall be deemed to be barred and extinguished. Provided always that this provision shall not apply in case of fraud or to the extent any proceedings were commenced and served in writing on the Contractor within the Warranty Period.

10. Permits / Safety:

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- 10.1 Purchaser shall be responsible for (i) all permissions, consents and permits in connection with the Site, and with owning, erecting, testing, commissioning, operating and maintaining the Scope of Supply and any related equipment, plant, facilities or utilities, and for the performance of the Site Services (if applicable); (ii) maintaining the Site in a safe working condition and as a safe place of work for all personnel at the Site at any time, providing safe means of access to the Scope of Supply at all times, conducting all activities on the Site in a safe manner and as prescribed by applicable directives, laws, rules, regulations, codes and standards and as set forth in the operating and maintenance manuals and instruction sheets furnished by Contractor; (iii) not removing or modifying any safety device, guard or warning sign provided as part of the Scope of Supply. If the Purchaser fails to strictly observe any of the obligations in this Clause, Purchaser shall indemnify, defend and hold Contractor harmless from any resulting claims and liability arising out of loss or damage to any property or out of personal injury or death, save to the extent directly caused by the negligence of Contractor.
- 11. Export Control:**
- 11.1 Purchaser acknowledges that the Scope of Supply to be provided by Contractor are or may be controlled by Export Control Regulations which may result in an Export Control Event. In case of an Export Control Event Contractor shall be entitled to all additional costs and expenses which may be needed for Contractor to fulfil its obligations under the Contractor's Offer or, in case of binding contract, the Contract, including costs and expenses needed to obtain an Export License. Purchaser agrees to provide to Contractor without undue delay all necessary information that may be requested to obtain an Export License, such as end-user certificates. Contractor will inform Purchaser about material delay to obtain an Export License, a revoked license or any prohibition to execute the contract with undue delay.
- 11.2 If an Export License is denied or revoked or if an embargo prohibits the execution of the contract or if any other Export Control Event will hinder Contractor to fulfil one or more of its contractual obligations Contractor shall be excused from the performance of its obligations under the Contractor's Offer or, in case of binding contract, the Contract, with immediate effect. This shall, without limitation, also apply in case that Contractor may be hindered to fulfil its contractual obligations due to the fact that any of Contractor's suppliers or subcontractors are hindered by an Export Control Event to supply the Scope of Supply entirely or in part. In any case Contractor shall not be liable or accountable to Purchaser for any claims for delay, loss or damage in connection with an Export Control Event.
- 11.3 Subject to Clause 11.2, if Contractor gives notice to Purchaser that its performance of the Contractor's Offer or, in case of binding contract, the Contract will be hindered by Export Control Regulations and/or Export License or embargos, each party shall be entitled to terminate the Contractor's Offer or, in case of binding contract, the Contract, by giving one week prior written notice.
- 11.4 Purchaser shall implement and follow all necessary procedures to comply with Export Control Regulations related to the Scope of Supply to be provided by Contractor, and guarantees not to engage in any activity which it or Contractor reasonably believes could be subject to civil, criminal or administrative liability, including but not limited to the sale, lease, transfer, or sublicensing of any Scope of Supply without appropriate authorization. Purchaser shall indemnify and hold harmless Contractor from and against any claim, proceeding action, fine, cost, loss and damage arising from or related to the breach of this warranty.
- 12. Data Processing:**
- 12.1 Purchaser agrees that Contractor will collect, process and use personal data and other data disclosed by Purchaser in the course of the business relation with Contractor for the purpose of (1) managing and performing the Contract with Purchaser (which includes the creation and processing of invoices), (2) advertising and/or offering further goods and services to the Purchaser and/or (3) managing the business relationship with Purchaser through e.g. a customer relationship management system. Such data may include the following data categories of persons being employed or retained by Purchaser *inter alia* name, title, company, function within the company, business contact details (phone- and fax-number, email-address, mail address), history of orders, history of issues (e.g. warranty claims or disputes). Within the limitation of the above described purpose, Contractor can collect, process and use the above described data (i) by itself and/or through the use of affiliates or other external subcontractors and (ii) from countries within and/or outside the European Union or European Economic Area. Purchaser will ensure (e.g., if necessary, through consent declaration of the data subjects or other appropriate means available under the law) that Contractor can use the above described data for the above described purposes.
- 13. Miscellaneous:**
- 13.1 If any provision of the Contract is determined to be invalid or unenforceable, this shall not affect the validity or enforceability of the remaining provisions and the parties will substitute the invalid or unenforceable provision by a valid provision that achieves as closely as possible the same economic effect.
- 13.2 Any Clause or paragraph headings or other headings appearing in the Terms are for reference only and shall not affect the construction of those Clauses or paragraphs. Words importing the singular shall include the plural and vice versa where the context requires. The Contract shall not be construed or interpreted against or to the disadvantage of either Purchaser or Contractor whether on the grounds that the Contract represents Purchaser's or Contractor's standard or customary terms and conditions of business and /or that the Contract and or any particular recital, article, clause and or annex or appendix thereof may have originated from Purchaser or Contractor or other similar grounds.
- 13.3 The Contract sets forth the entire agreement between Contractor and Purchaser with respect to the subject matter thereof and supersedes any previous agreement or arrangement between the parties. Except to the extent expressly and specifically set forth in the Contract, all oral representations, warranties, undertakings and other statements of any kind and all documents given or exchanged on or prior to the date of Contract (including any brochures or sales material of Contractor) are expressly excluded and disclaimed by Contractor. Purchaser acknowledges that it has not relied on and is not relying on any such representations, warranties, undertakings, statements or documents when entering into the Contract.

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- 13.4 The Contract may not be assigned in any manner by either party without the other party's prior written consent, but this shall not require Contractor to obtain any consent, or otherwise limit its entitlement, to subcontract any part or parts of its obligations under the Contract as it may see fit.
14. **Disputes/Applicable law:**
- 14.1 Any dispute arising out of or in connection with this Contract, including any question regarding its existence, validity or termination, shall exclusively be referred to and finally resolved by the competent courts in Tokyo, Japan provided that Contractor shall be entitled to commence proceedings against Purchaser in any other court of competent jurisdiction. The governing law of the Contract shall be the substantive laws of Japan; however, the United Nations Convention on Contracts for the International Sale of Goods shall not apply.

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