

# General Terms and Conditions of Delivery of ProMinent Fluid Controls (FE) Pte Ltd

## 1 Scope

- 1.1. The terms and conditions set out below ("GTC") apply to the sale of products, materials, systems and services ("Goods") by ProMinent Fluid Controls (FE) Pte Ltd ("Supplier") to the buyer under this GTC ("Customer"). Supplier and Customer shall be referred to individually or collectively as "Party" and "Parties". This GTC shall form an integral part of all agreements concluded by Supplier with Customer regarding all deliveries of Goods or services offered by Supplier. This GTC shall also apply for all future Goods made to the Customer.
- 1.2 Customer acknowledges that there are no representations beyond this GTC which has induced it to contract with Supplier.
- 1.3 No modifications, amendments and/or supplementary information to this GTC by Customer shall be binding on Supplier and shall only take effect if they have been agreed in writing by Supplier. For the avoidance of doubt, with the exception of managing directors or authorised representatives, the employees of Supplier shall not be entitled to reach verbal agreements that deviate from this GTC.
- 1.4 This GTC, together with such order agreements and amendments agreed by Supplier, constitutes the entire agreement of the Parties with respect to the subject matter and supersedes and excludes any other terms appearing in any catalogues of Supplier or elsewhere and all prior discussions whether in the order or in any course of dealing established between both Parties (oral, written or otherwise) except as specially agreed by Supplier in writing in accordance with this clause. Any other terms and conditions of contract ("contract") shall only apply if expressly agreed in writing by Supplier. In the event of inconsistency between this GTC and the provisions of any order form or contract, the provisions of this GTC shall prevail unless otherwise agreed in writing by Supplier.
- 1.5 Neither Party shall be bound by nor liable to the other for any representation, promise or inducement made by that Party or any agent or person in that Party's employ and not embodied in this GTC unless otherwise expressly agreed upon pursuant to this clause.

## 2 Order

- 2.1 Supplier does not intend for any offer for Goods by Customer to be binding as a contract unless expressly accepted and agreed in writing by Supplier ("Order").
- 2.2 Each Order shall be issued in written or electronic form to Supplier. No verbal communications shall be construed to mean a commitment by Supplier to offer any Goods or services to Customer.
- 2.3 Unless stated otherwise, any Order issued to Supplier shall expire if Supplier fails to accept the Order in writing within **seven (7) days** of the date of receipt of Order from Customer, whereupon Parties shall treat such Order as expired and Supplier shall cease to be bound by it without liability to Customer whatsoever in accordance with this GTC.
- 2.4 Customer shall indicate clearly to Supplier the particulars for any Goods, such as the type, quantity, specifications, and scope of the Goods, payment and cost objectives, delivery instructions, delivery dates, packaging specifications and any other reasonable requirements, including but not limiting to a delivery lead time which shall be allowed between the desired delivery date and Supplier's receipt of Customer's Order. If Customer fails to provide the above mentioned particulars for the Goods, Supplier reserves the right to determine such particulars at its sole and absolute discretion.
- 2.5 Customer may not cancel any Order or contract without the prior written consent of Supplier. If (a) Customer rescinds or cancels an Order due to circumstances for which Supplier is not responsible, or (b) Supplier rescinds or cancels an Order as a result of negligence, misconduct, act or omission, including delay by Customer or its employees, agents or sub-contractors due to circumstances for which Customer is responsible, Supplier reserves the right to demand a cancellation fee at a flat rate of 5% of the total value of the relevant Order as reimbursement of any and all costs and expenses incurred under the cancellation and Customer shall also indemnify Supplier against any and all loss, damages, claims or actions arising out of such cancellation. The Supplier shall be entitled to provide evidence of higher damages suffered, to withdraw from the contracted Order, or to demand compensation for non-performance in accordance with this GTC.

## 3 Scope of deliveries and services

- 3.1 Any Goods under any Order and this GTC shall be provided on a non-exclusive basis. Supplier is not obligated to sell or provide any minimum or specific quantity or amount of Goods in connection to any Order.
- 3.2 Specifications from Supplier regarding the Goods (e.g. weight, dimensions, serviceability, load capacity, tolerances and technical data) as well as presentations thereof (e.g. drawings, calculations and images) shall only apply as best estimates for such Order and shall not be deemed to be agreed or guaranteed characteristics/features of the Goods.
- 3.3 Any Goods classified as hazardous shall be handled, transported, stored, processed, labelled or used by Parties in the required form and means according to their hazard classification (e.g. by adopting the Globally Harmonised System of Classification and Labelling of

- Chemicals - GHS) and in accordance with all applicable laws and regulations. Customer shall indemnify Supplier for any and all loss, damages or injury to person or property and all actions, suits, claims, demands, changes or expenses suffered by Supplier for any failure by Customer to comply with this clause.
- 3.4 Deviations considered customary in trade and deviations that are made to comply with any and all applicable laws and regulations or which constitutes technical improvements, as well as the replacement of any individual parts with equivalent parts to the Order and/or Goods shall be permitted as mutually agreed between Parties in writing, and provided they do not affect Customer's use and purpose of the Goods under the relevant Order and this GTC. For the avoidance of doubt, any amendments and deviations to the Goods shall in any case be considered fully approved and accepted if Customer accepts the Goods without reservation.
- 3.5 Any amendments, modifications or changes to an Order after Supplier's acceptance of the Order in writing pursuant to this GTC shall only be binding on Supplier and shall only take effect if they have been agreed in writing by Supplier.
- 3.6 Should the scope of Goods include software, Customer shall be granted a non-exclusive right to use the software. Customer may only duplicate or process the software to the extent permitted by local applicable laws and regulations.
- 3.6. Supplier shall be entitled to make partial deliveries of Goods to Customer in connection to any Order provided prior reasonable notice has been given to Customer in writing.

## 4 Prices and payment

- 4.1 The prices shall apply for the respective Goods listed in the contract. Unless otherwise agreed in writing by Supplier, all prices shall be in Singapore Dollars.
- 4.2 Prices are inclusive of any value added or goods and services tax, levies, cost of documents and any other charges, whether of a general or special nature, which shall be charged to Customer, unless otherwise explicitly indicated in the Order/contract. All costs for delivery and shipment shall be borne by Customer, especially costs related to packaging, transportation, loading and unloading and transportation insurance as well as any applicable customs duties, fees and any other charges for international deliveries.
- 4.3 Should an Order in principle be exempt from value added ("VAT") or goods and services tax ("GST"), Customer shall immediately provide Supplier with all necessary supporting documentation as proof thereof. Otherwise, Supplier shall be entitled to invoice Customer applicable VAT or GST, as the case may be.
- 4.4 Should the delivery of an Order (in whole or in part) only be effected more than four (4) months after the conclusion of contract, Supplier shall be entitled to an equitable and reasonable adjustment to the prices of the Goods based on the price lists of Supplier applicable at the time of delivery or as may be determined at the sole and absolute discretion of Supplier.
- 4.5 Supplier shall issue invoice to Customer at the address specified in the Order by Customer. Any invoice issued to Customer shall be payable within **thirty (30) days** after the date of the invoice free of any discounts, deductions or set-offs whatsoever, unless otherwise agreed in writing by Supplier. If payment of invoice is overdue, Customer shall, without prejudice to any of Supplier's other rights in this GTC or contract, at law or in equity, pay interest at **9%** per annum on the amounts in arrears. Such interest shall accrue immediately after **thirty (30) days** for as long as the amounts in arrear, including all interests accrued to date remain unpaid in full. Under no circumstances shall Customer withhold any amount due to Supplier because of a disputed claim of any nature.
- 4.6 Upon Supplier's acceptance of an Order in writing, Supplier reserves the right to demand a down payment of up to **25%** of the total value of the Order free of any discounts, deductions or set-offs whatsoever unless otherwise agreed in writing by Supplier.
- 4.7 For international deliveries and unless otherwise agreed in writing by Supplier, the delivery of the Goods shall be subject to and on condition of Customer providing an irrevocable letter of credit made in favour of Supplier which shall be certified by Supplier's bank of choice or an international bank of good standing, rating and repute as may be agreed by Supplier in writing.
- 4.8 Supplier shall be entitled to only execute, perform or provide outstanding deliveries of Goods with advance payment or a security deposit as may be determined by Supplier at its sole and absolute discretion if (a) Customer is late to make payment in full including all interests accrued for one of more invoices or amounts in arrears owing to Supplier in relation to any Order or contract, or (b) Supplier obtains any knowledge or information after Supplier's acceptance of an Order in writing of any circumstances whatsoever that may substantially affect or reduce Customer's solvency and/or credit standing.

## 5 Delivery and delivery time

- 5.1 Delivery dates and such terms for delivery of any Goods are not binding, unless explicitly declared as binding by Supplier in writing.

- 5.2 Supplier's declaration in writing pursuant to clause 5.1 above shall be subject to the timely receipt of all information and documents necessary from Customer as well as the provision of all required licenses, permits, approvals, plans as well as Customer's written acceptance of the agreed terms of payment and all other obligations of Customer under this GTC and/or contract. Delivery dates and terms may be extended at the sole and absolute discretion of Supplier if Customer does not meet these obligations under this GTC and/or contract to the satisfaction of Supplier. Where possible, Supplier shall inform Customer of the new delivery dates and terms.
- 5.3 Supplier will only be liable for non-delivery or late delivery if such non-delivery or late delivery is caused directly by the willful act or gross negligence or omission of Supplier.
- 5.4 Where Supplier undertakes to deliver the Goods, delivery shall take place and delivery terms shall be deemed complied with by Supplier when they are consigned to the forwarding agent, freight carrier or another third party instructed with the delivery. Where Customer undertakes to collect the Goods, delivery shall take place when such Goods are loaded on Customer's or a third party's vehicle or any other transport at Supplier's address or the address of any storage or warehouse facility used by Supplier.
- 5.5 Delays in delivery of any Order shall not entitle Customer to: (a) refuse to take delivery of the Order; or (b) claims damages; or (c) terminate the Order, or this GTC or contract, subject always to clause 20. Supplier shall have no liability for any failure or delay in delivering an Order to the extent that such failure or delay is caused by Customer's failure to comply with its obligations under this GTC and contract.
- 5.6 Should Customer fall behind schedule with the accepting delivery of the Goods, Supplier may demand compensation for any losses, damages, costs and expenses incurred. Clause 8.3 shall also apply accordingly.
- 5.7 Customer shall be obligated to immediately accept the delivery and to immediately unload the Goods upon arrival. Should, for reasons for which Customer is responsible, the unloading be delayed by more than **two (2) hours**, or for international deliveries without customs clearance for more than **twenty-four (24) hours**, or for international deliveries with customs clearance for more than **forty-eight (48) hours**, Customer shall refund Supplier any and all losses, damages, costs and expenses incurred due to the delay, including the downtime for the transportation vehicle and the transportation employee (as applicable).
- 5.8 For international deliveries, deliveries and services of Supplier shall be subject to the condition that the fulfilment thereof is not prevented through obstacles such as conflicting national or international regulations, in particular, export regulations as well as embargoes or other limitations. Customer shall be obligated to provide Supplier with all information and documents required for the export/shipment/import of the Goods. Delivery dates and terms shall be accordingly extended in the event of delays due to export checks or authorisation procedures. If the required authorisation is not granted, the Order and contract shall not be deemed concluded. Any claims for damages made by Customer shall in this respect be excluded. All Goods that are subject to an export restriction shall only be delivered by Supplier for the use agreed with Customer and shall remain in the delivery country agreed with said Customer. Should Customer intend to re-export any or all of the Goods, it shall be obligated to comply with the relevant export laws and regulations of the applicable countries. Customer shall be prohibited to re-export any or all Goods, in whole or in part, whether individually or integrated in a system, which are in breach of such laws and regulations.

## 6 Planning facilities and systems

- 6.1 As regards the planning of facilities and systems, the number of revisions carried out by Supplier shall be limited to **one (1)**. Further revisions shall only be carried out with a charge upon approval of a supplementary offer that is to be compiled by Supplier. Any additional revisions offered shall only be carried out after Customer has accepted such offer in writing.
- 6.2 Revisions shall be carried out by Supplier and forwarded to Customer within **two (2) weeks** of receipt of Customer's written acceptance.
- 6.3 Customer shall verify, confirm and return revisions to Supplier within **two (2) weeks** of receipt of Supplier's revisions.
- 6.4 If delays arise due to Customer's non-compliance with this clause 6 or through Customer's request for more than one revision, the agreed delivery time shall be deemed extended proportionately by the time/duration of the delay caused by Customer at Customer's sole expense.

## 7 Place of fulfilment, shipping, packaging, passing of risk, acceptance

- 7.1 The place of fulfilment for all obligations arising from the contractual relationship shall be Singapore, unless otherwise specified in writing. Should an Order include installation and assembly, the place of fulfilment shall be the place at which this is to be effected.
- 7.2 Should the Order include packaging and/or shipment, the type of dispatch and packaging to be used shall be

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subject to the reasonable discretion of Supplier. In general, the delivery shall be effected with Supplier's standard packaging. Should, at the reasonable discretion of Supplier or upon reasonable request of Customer, different packaging be used, Customer shall bear the corresponding additional costs. Unless otherwise agreed in writing by both Parties, Customer shall dispose of all packaging at its own cost and in accordance with any applicable laws and regulations. In so far as packaging is re-used by Customer, any and all indication on the packaging as to the Goods to Supplier's name must be entirely removed. Special conditions as notified shall apply to returnable packaging owned by Supplier.

## 8 Title

- 8.1 Risk in Goods shall pass to Customer on delivery pursuant to clause 5 above or as may be mutually agreed between the Parties in writing. With regard to Order including installation or assembly, the risk shall pass to Customer on the day of handing over at Customer's address or, if agreed, after faultless trial operation and if acceptance is to take place, then upon Customer's acceptance in writing. This shall also apply if partial deliveries are effected or if Supplier has also taken on other services (e.g. shipping or installation).
- 8.2 Should shipment, handing over or acceptance be delayed as a result of negligence, misconduct, act or omission by Customer or its employees, agents or sub-contractors Customer, the risk shall pass to Customer on the day on which the Goods are ready for shipment and/or collection and/ or acceptance, and on which Supplier has notified Customer in writing thereof.
- 8.3 Customer shall bear any and all costs for storage after passing the risk or during the delay caused by Customer. If storage is provided by Supplier, the storage costs shall be at a weekly rate of 0.5% of the total value of the invoice amount of the Order that are to be stored per full week or part thereof. Supplier reserves the right to assert and prove any additional storage costs which amounts shall be indemnified and reimbursed by Customer to Supplier.

## 9 Installation, assembly and commissioning

- 9.1 The installation, assembly and commissioning of Supplier's Goods, devices and systems may only be carried out by qualified persons in compliance with Supplier's guidelines and technical standards.
- 9.2 Unless otherwise agreed in writing, this clause 9 shall apply if Supplier is required to carry out the installation and/or assembly for an Order.
- 9.3 Prior to acceptance and up until completion of work by Supplier, Customer shall do the following in a timely manner and at Customer's sole expense:
- ensure easy access to the systems and the parts of the system on which Goods are to be installed or services are to be performed;
  - carry out all environmental, health and safety and any other measures required by all applicable laws and regulations to provide safe working conditions and protect all individuals (including Supplier, its employees, agents and sub-contractors) and objects at the system and to provide necessary work and protective equipment, in at least the equivalent standards in which Customer would protect itself;
  - provide the necessary auxiliary work force (skilled, unskilled or otherwise); the auxiliary work force shall follow the instructions of Supplier. Supplier shall not assume and shall not be responsible for any liability (e.g. wages, transportation, accommodation and catering) for the assistance and the auxiliary work force;
  - carry out all preliminary work and legwork, in particular excavation, construction and other work that is unrelated to Supplier's business sector or agreed work scope under the Order or contract;
  - provide any and all working equipment (in good condition and fit for use) as required for the assembly and commissioning and materials such as scaffolding, lifting gear and other apparatuses, fuels and lubricants;
  - provide electricity, water, light, heat, fuel, including the required supply connections;
  - provide sufficiently large, suitable, dry and lockable rooms at the place of assembly to store machine components, apparatuses, materials, tools, etc. and suitable work and staff rooms for the assembly personnel including suitable sanitary facilities given the circumstances; and
  - level out and clear delivery roads and the place of installation or assembly.
- 9.4 On request of Supplier and prior to commencement of the assembly work, Customer shall provide all required information on the location of underground power cables, gas and water pipes or similar installations as well as required information on status.
- 9.5 Should Customer fail to perform or provide (incorrectly or otherwise) for whatsoever reason in a timely manner its obligations under this clause 9, Customer shall indemnify Supplier for any and all any and all losses, damages, costs and expenses incurred as a result of Customer's non-compliance of this clause 9.
- 9.6 Customer shall immediately certify, in writing, the scope of Supplier's services (daily, in the event that services are provided on multiple days) as well as the

completion of the installation, assembly and commissioning in situ.

- 9.7 Commissioning of a system may only be effected by technicians approved by Supplier according to Supplier's instructions and standards. Supplier and/or technicians shall be entitled to refuse commissioning of a system if and as long as the operating conditions to be provided by Customer pursuant to this GTC and contract do not permit safe operation of the system. Customer shall bear any and all costs of any delay in commissioning incurred by Supplier in such case.
- 10 User Recommendations, Warranty, defects**
- 10.1 Recommendations of Supplier on the use of the Goods are of a general nature only. Under no circumstances whatsoever does Supplier warrant to Customer that the Goods are fit for any or all of Customer's particular use, application or processing conditions.
- 10.2 Supplier warrants that the Goods are manufactured with all reasonable care and skill and, where applicable, comply with the standard specifications set out in Supplier's published literature in relation to the Goods as at the date of Customer order.
- 10.3 The warranty period shall be **one (1) year** from the date of delivery, or date of Customer's acceptance in writing of the Goods, or deemed acceptance pursuant to clause 10.5 (whichever the case may be). The warranty period and related dates shall be determined by Supplier at its sole and absolute discretion and advised to Customer in writing.
- 10.4 Unless otherwise prohibited by local applicable laws or regulations, the limitation periods shall not apply (a) in the event of intent or fraudulent concealment of a defect by Customer; or (b) to claims for damages in the event of default or negligence or any breach by Customer in law or under this GTC or contract.
- 10.5 Customer shall carefully inspect the Goods following delivery. Unless notice of any loss, defect or damage in transit, deviations in quantity or incorrect deliveries is given by Customer and received by Supplier within **seven (7) days** after delivery, Customer shall be deemed to have accepted the Goods and Supplier shall be relieved and discharged from all and any liability in respect thereof.
- 10.6 Any defect must be notified by Customer in writing to Supplier and the warranty shall apply to the defect PROVIDED such complaint (a) is justified in the sole opinion of Supplier; (b) Customer has used, kept, maintained or dealt with the Goods properly; and (c) Customer and/or any third party have not performed any modifications whatsoever or repair work (proper, improper or otherwise) without giving prior reasonable notice to and obtaining prior approval from Supplier in writing.
- 10.7 In the event of a justified complaint, Supplier shall:
- at its option, either rectify or replace the defective part of the Good (which shall become the property of Supplier if replaced) at the place of delivery and in the condition originally specified; and/or
  - refund the Customer costs of the economically most favourable method of shipment for the return of such defective Goods to Supplier save that the refund shall not apply if there is an increase in cost because the defective Goods were returned from a different location than the location for the intended use; and/or
  - credit Customer with a corresponding proportion of the original invoice price but shall not be under any other liability in respect of either the original or any replacement Goods.
- 10.8 In instances where Supplier does not remove the defective Goods, Customer shall properly and safely dispose of the defective Goods in accordance with any applicable laws and regulations at its own cost. Supplier shall be under no liability in respect of alleged defective Goods unless Customer gives written notice and details of the defect to Supplier within the period mentioned above, and Customer at Supplier's request, returns a defective Good for inspection at Customer's sole cost or gives Supplier's representative adequate opportunity to examine the Goods and remove samples for analysis or testing (whichever the case may be).
- 10.9 The resale, integration or installation as well as any other use and application of any defective Goods by Customer for which notice of defect has been given to Supplier, shall be considered approval and acceptance of the defective Goods by Customer according to this GTC or the contract, in which case, Supplier shall be relieved and discharged from all and any liability in respect thereof.
- 10.10 For the avoidance of doubt, any claims by Customer for defects do not exist in the case of insignificant deviations from the agreed or assumed quality, insignificant impairment of usability, natural wear and tear or damages incurred (after risk of Goods has passed to Customer) from incorrect or negligible handling, excessive use, unsuitable operating material, faulty construction work, unsuitable subsoil or because of special external influences which are beyond Supplier's reasonable control or not identified or established in the contract, as well as in cases of non-reproducible software errors. Any costs and expenses incurred by Supplier due to an unjustified notice of defects shall be refunded by Customer.
- 10.11 For each return consignment of Goods, Customer shall enclose the original invoice or original delivery

note and shall specify the reason for return and the item number. A return delivery note as well as the Declaration of Decontamination according to item 13.1 shall be enclosed with each return consignment.

- 10.12 A defect shall only be deemed acknowledged if this is expressly confirmed by Supplier in writing. Any negotiations regarding complaints or assistance in finding the fault or the cause of the fault shall not be deemed as any admission by Supplier and shall not prevent Supplier from objecting to the notice/complaint of defects for either not being submitted in a timely manner or for being unjustified under this GTC or contract.

## 11 Intellectual Property Rights

- 11.1 Supplier warrants that the manufacture, use, sale or disposal of the Goods will not infringe on the proprietary rights of any third party and will not infringe any applicable laws and regulations. If use of any such Goods is found to be an infringement of intellectual property rights, Supplier shall at its own expense (a) procure for Customer the right to continue to use the Goods; or (b) remove the Goods and replace them with non-infringing Goods; or (c) remove the Goods and refund the purchase price and transportation and installation costs thereof; or (d) with Customer's written approval modify the Goods to eliminate the infringement.
- 11.2 Customer must not use any trademarks, patents or copyrights with respect to the Goods manufactured or supplied by Supplier, or the performance of its obligations under this GTC or contract unless and except to the extent Customer has obtained prior explicit written approval from the owner of the trademark, patent or copyright. Customer shall acquire no right, title or interest in or to the Goods as a result of this GTC or contract.
- 11.3 Customer shall be obligated to immediately inform Supplier in writing of any claims asserted by third parties on infringement of intellectual property rights, and to promptly assume and vigorously undertake the defence of any claim or action. Customer may not, without Supplier's prior written consent, make any decisions, declarations, enter into any judgement or settlement or conduct proceedings that may constitute acknowledgement or admission to any third party.
- 11.4 Any claims of Customer under this clause 11 shall be absolutely excluded if the infringement or alleged infringement of an intellectual property right is a result of Customer (a) modifying the Goods (in whole or in part); and/or (b) not using the Goods for the intended purpose; and/or (c) using it in combination with other products that are not supplied by Supplier; and/or (d) ordering the Goods to be manufactured according to designs, specifications or instructions of Customer. In these cases, Customer shall indemnify and hold harmless Supplier from any and all actions, suits, administrative proceedings, claims, demands, losses, damages and costs and expenses of whatever nature including, without limitation, all attorney's fees, or any loss of or damage to property asserted by third parties due to infringement of intellectual property rights.
- 11.5 Supplier shall reserve all title, rights and interests to all offers and quotations made by it as well as to drawings, images, calculations, prospectuses, catalogues, samples, models, tools and other documents and media made available to Customer. Customer shall not, without the express consent of Supplier, make these items available to any third parties, in their current state or the contents thereof, disclose them, use them or duplicate them for any reason or person whatsoever. On request of Supplier, Customer shall return any of these items in full and/or shall destroy any copies made if they are no longer required by Customer for the purposes of this GTC or contract. Customer shall undertake not to remove, change or alter any manufacturer's data, especially copyright marks without the prior written approval of Supplier.
- 12 Limitation of Liability and Indemnity**
- 12.1 This GTC sets out the entire liability of Supplier in respect of the Goods, and the liability of Supplier under this GTC shall be in lieu of, and to the exclusion of all other warranties, conditions, terms and liabilities express or implied, statutory or otherwise in respect of the quality or the fitness of the Goods for any particular purpose (notwithstanding any advice or representation to Customer, all liability in respect of which, howsoever arising, is expressly excluded). Supplier shall not be liable, whether in contract, tort or otherwise, in respect of any defects in the Goods or the failure to correspond with any specifications or samples of the Goods, or for any injury, damage or loss resulting from such defect or from any processing or work done in connection with the Goods.
- 12.2 Supplier shall not be liable to Customer for indirect, incidental or consequential damages (including without limitation, damages resulting from loss of use, loss of profits, interruption or loss of business, lost goodwill, lost revenue and lost opportunity) arising out of any of the terms or conditions of this GTC or contract with respect to its performance hereunder. Notwithstanding the foregoing, nothing herein shall limit or exclude any damages or claims to the extent: (i) arising out of a breach of the non-disclosure and non-use obligations under this GTC or contract, (ii)

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arising out of Customer's obligations hereunder to indemnify and hold harmless Supplier, its employees, officers, agents and sub-contractors for third party claims, (iii) made for bodily injury or death or damage to real or personal property, or (iv) resulting from Customer's gross negligence or wilful misconduct.

## 13 Reservation of title

13.1 Title to the Goods shall not pass to Customer until Supplier has received payment in full (in cash or cleared funds) for such Goods and all other sums which are due from Customer to Supplier. So long as the title in the Goods remains in Supplier and Customer is in default of any of the obligations under this GTC or the contract or is insolvent, Supplier shall have the right, with or without prior notice to Customer, to demand the return of the Goods or retake possession of the Goods (and for such purpose, to enter into any premises occupied by Customer). Where Customer re-sells the Goods before title of the Goods has vested in Customer, Supplier shall be entitled to the proceeds of sale (including any right to, or to claim, such proceeds) and Customer shall hold such proceeds of sale on trust for Supplier.

13.2 Customer shall be prohibited from pledging or assigning the Goods as security so long as the title in the Goods remains in Supplier.

13.3 This clause 13 shall correspondingly apply for spare parts in connection to any Goods as follows:

(a) if any replacement parts or similar parts for built-in repairs do not become integral components of the delivered Goods or the system, the title to these built-in parts shall be reserved by Supplier until the settlement of all costs and claims under the repair contract.

(b) if Customer delays in payment or does not meet its obligations under this clause 13, Supplier shall be entitled to request Customer to return any and all spare parts. All costs for the return and the removal of such parts shall be borne entirely by the Customer. In the event such repairs with spare parts are performed at Customer's premises, Customer shall give Supplier reasonable opportunity and time to perform the removal of such parts at Customer's premises. Labour and travel costs incurred from the removal shall be borne entirely by Customer.

(c) Any Goods of parts thereof which are initially sent in by Customer for the purpose of receiving a cost estimate from Supplier for a repair shall be at the sole expense of Customer in the event Supplier provides a cost estimate and following a second reminder, no order or action for any required repair(s) are made or taken by Customer

## 14 Declaration of decontamination and terms of repair

Customer shall agree through a legally binding declaration (Declaration of Decontamination) to thoroughly and appropriately clean the Goods or parts thereof which are meant for repair or maintenance in order to remove and exclude any hazard for the Supplier through recontamination. The Goods or part thereof must be sent to Supplier free of any flammable, toxic, caustic, noxious, irritant or other substances detrimental to health or other preparations classified as dangerous and in dangerous quantities in accordance with all applicable laws and regulations. The Declaration of Decontamination must, without fail, be affixed to the outside of the packaging used to return the devices including corresponding safety data sheets of the mediums used in the process. If no Declaration of Decontamination is affixed to the delivery or in the event it has been completed in other languages than English, Supplier has the right to refuse processing of the Goods. Any costs incurred by Supplier in this context, in particular the costs of return delivery shall be borne entirely by Customer. The Declaration of Decontamination can be found on Supplier's website ([www.prominent.de](http://www.prominent.de)) and is available for download. Customer shall only use the English language to complete the Declaration of Decontamination.

## 15 Offsetting

15.1 Supplier shall be entitled to offset its own receivables or receivables of companies affiliated with Supplier against receivables of Customer.

## 16 Assignment

17 Customer shall not assign any benefits or rights under any contract or this GTC without Supplier's prior written approval. Any assignment in breach of any contract or this GTC shall be void and Supplier shall be entitled to forthwith terminate the contract without prejudice to any other claims, entitlements or rights of Supplier. Provided always however that Supplier may, upon written notice to Customer, assign or transfer rights and obligations hereunder to Supplier's related corporations or a third party, who acquires the business to which the contract relates without the Customer's consent.

## 18 Confidentiality

18.1 Except as required by law or with Supplier's written consent, Customer shall maintain in strict confidence, and shall not disclose to any third party, any and all

confidential information disclosed to it by Supplier pursuant to a contract. If Customer is required by any law to disclose any or all of Supplier's confidential information, Customer must immediately notify Supplier of such disclosure requirements.

## 19 Force Majeure

19.1 Supplier will not be liable for any breach of contract in the event of force majeure such as Acts of God, explosions, fire other than by arson, flood, earthquake, war, riots, strike, boycott, acts of persons engaged in subversive activity, epidemic, quarantine, labour disputes, acts of government or state or political subdivisions or regulatory agencies thereof or court having jurisdiction over Supplier as well as any other events which are beyond the control of Supplier. Pursuant to this clause, Supplier reserves the right to either: (a) suspend performance and extend the time for performance for the duration of the force majeure event; or (b) cancel all or any part of the unperformed part of the contract and/or any Order(s) without any liability to Customer.

## 20 Termination

20.1 Supplier shall be entitled to terminate a contract and any Order(s) by giving written notice to Customer if:

(a) Customer fails to pay all amounts due under a contract or Order on the applicable due date for payment and remains in default within a period of **fourteen (14) days** after receipt of notice in writing requiring Customer to make such payment; or

(b) Customer defaults or breaches any of its obligations under this GTC or contract, and where such default or breach is remediable, fails to remedy that default or breach within a period of **thirty (30) days** after receipt of notice in writing requiring Customer to do so; or

(c) any distress or execution shall be levied upon the Customer; or

(d) Customer enters into any negotiations for arrangement or composition with its creditors; or

(e) Customer commits any act of bankruptcy or if any petition in bankruptcy is presented against Customer; or

(f) any resolution is proposed or petition presented to wind up Customer; or

(g) if a receiver of Customer's assets or undertaking or any part thereof is appointed; or

(h) any force majeure event pursuant to clause 19 prevents Customer from performing its obligations under this GTC or contract.

20.2 Termination of a contract or any Order(s) shall not prejudice Supplier's rights and remedies which have accrued as at termination.

## 21 Anti-Corruption

21.1 The Parties hereby agree and shall cause its directors, officers, employees, agents or subcontractors (a) to comply with any and all applicable anti-money laundering and countering the financing of terrorism laws and regulations; (b) not to take any action in furtherance of any offer, payment, promise to pay, or authorise or approve of any payment or giving of money, property, gifts or anything else of value, directly or indirectly, to any "government official" (including any officer or employee of a government or government-owned or controlled entity or of a public international organisation, or any person acting in an official capacity for or on behalf of any of the foregoing, or any political party or party official or candidate for political office) to influence official action or secure an improper advantage, and (c) to comply with any and all applicable anti-corruption laws and regulations.

## 22 Non-Waiver

22.1 Failure by Supplier to insist upon strict performance of any of the terms and conditions of a contract or this GTC, or delay in exercising any of its remedies, shall not constitute a waiver of such terms and conditions or a waiver of any breach, or of any remedy thereof.

## 23 Place of jurisdiction, applicable law, dispute settlement

23.1 Parties agree to comply at all times with the Data Protection Legislation and shall not perform its obligations under this GTC or a contract in such a way as to cause the other Party to breach any of its applicable obligations under the Data Protection Legislation. For the avoidance of doubt, "Data Protection Legislation" shall mean the Singapore Personal Data Protection Act 2012 and all applicable laws relating to the collection, use, disclosure, security, protection and/or processing of Personal Data and/or privacy, including where applicable the guidance and codes of practice issued by the Personal Data Protection Commission of Singapore.

23.2 All Orders and this GTC shall be governed by and construed in accordance with the laws of Singapore excluding any conflict of laws principle that would refer to the laws of another jurisdiction. The UN Convention on the International Sale of Goods (CISG) shall also be excluded and shall not apply to this Contract.

23.3 All disputes arising out of or in connection with this GTC or a contract, including any questions regarding its existence, validity or termination shall be settled promptly through friendly consultation. If a settlement

or conclusion cannot be reached within **thirty (30) days** following the date on which a written request for consultation has been given by any Party, then the Parties agree to irrevocably submit to the non-exclusive jurisdiction of the Singapore courts.

23.4 A person who is not a party to any agreement or Order governed by this GTC has no right under the Contracts (Rights of Third Parties) Act (Cap. 53B) to enforce any terms and conditions of this GTC.

If any provision of this GTC or any contract is or becomes invalid or unenforceable, the validity of this GTC or the contract shall remain unaffected as a whole and shall remain in full force. In such event, the Parties shall in good faith replace the affected provision of this GTC or contract and that comes as close as possible to expressing the economic intention of the original provision.