



## CONTRINEX GENERAL TERMS AND CONDITIONS FOR THE PURCHASE OF GOODS AND SERVICES (GTC)

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## 1 Definitions | Interpretation

### 1.1. Definitions

**Affected Party:** The Party which is prevented from or delayed in performing its obligations under the Contract because of a Force Majeure Event.

**Affiliate:** Any entity which directly or indirectly controls, is controlled by, or is under common control with a Party.

**Business Days:** Any day on which the banks are open for business in Corminboeuf, Switzerland and the place of business of the CTX Affiliate issuing the Purchase Order.

**Contract:** The sale and purchase agreement between CTX and the Supplier regarding the sale and supply of Goods and Services which shall incorporate by reference these GTC, and any other documents submitted by CTX to form part thereof, such as, but without limitation to, any specifications (which shall include any Supplier specifications where CTX explicitly agrees to use, or places a Purchase Order relying on, such specification (e.g. technical drawings, specification of material, behaviors, electronic and electric specifications and values, composites, alloys, third party supplier product or component article numbers, tolerances, acceptance levels, instructions, specification of end result, pictures, known industry best practices and standard requirements, international quality and product certification approval requirements)).

**Contract Price:** The Price payable by CTX under the Contract.

**Conventions:** International conventions and generally accepted standards regarding human rights, including without limitation regarding child labour, slavery, and fair and indiscriminatory labor conditions.

**CTX:** Contrinex S.A, a company incorporated under the laws of Switzerland having its registered seat at Route du Pâqui 5, 1720 Corminboeuf, Switzerland and any of its Affiliates.

**CTX Data:** Any data or information, including Personal Data, acquired by the Supplier in preparation of or during the fulfilment of the Contract, irrespective of whether such data or information relates to CTX, any CTX Affiliate or their respective customers, suppliers, or employees.

**Defect(s):** Any non-compliance of the Supplies with any requirements of any applicable law, respectively of any requirements set forth in the Contract.

**Documents:** All documents, including without limitation all drawings, provided by CTX in connection with the Contract.

**Deadline:** Any dates and/or time for Delivery specified in the Contract.

**Delivery:** Delivery of Goods by Supplier in accordance with Clause 6.1.

**Delivery Location:** CTX's nominated warehouse, factory, or other named premises for physical delivery of Goods and/or Services, which may be the premises of one of CTX's Affiliates or third-party freight or logistics provider, or, if no location is specified, CTX's place of business.

**Embedded Software:** Software necessary for the operation of Goods and embedded in and delivered as integral part of Goods.

**Force Majeure Event:** Any event which was not foreseeable by the Affected Party at the time of entering into the Contract, is unavoidable and beyond the reasonable control of the Affected Party or its subcontractors, could not have been prevented by good industry practice and which results in the Affected Party being unable to perform or being delayed in performing in whole or in part its obligations under the Contract; whereby, without limitation, any of the following shall, be it at the Party's premises



or at any point in the supply chain, not qualify as Force Majeure Events: strike, civil commotion, power failure, internet and IT failure in general (including hacker attacks and other third party interference), machinery breakdown, property damage, looting and /or burglary or similar.

**Goods:** All Goods covered by the Contract.

**GTC:** These “Contrinex General Terms and Conditions for the Purchase of Goods and Services”

**Information:** Any documents, know-how, data, or other information provided by one of the Party to the other.

**Intellectual Property Rights:** (a) patents, utility models, copyrights, database rights and rights in trademarks, service marks, trade names, designs, knowhow, trade secrets and invention disclosures (whether registered or unregistered); (b) applications, reissues, confirmations, renewals, extensions, divisions or continuations for any of these rights; and (c) all other intellectual property rights and similar forms of worldwide protection.

**Supplier:** Natural person or legal entity who is the seller and supplier of Goods and/or Services under the Contract.

**Parties:** CTX and the Supplier (and “Party” shall mean either of them).

**Personal Data:** Any data or information relating to an identified or identifiable natural or legal person.

**Purchase Order:** CTX’s order issued to the Supplier for the purchase of Supplies, including any purchase order (including call-off orders or equivalent) issued electronically (by way of an EDI message, email or otherwise) or in paper.

**Relevant Body:** any state, government or an international, intergovernmental or supranational body, including without limitation, the United Nations

**Sanctioned Person:** means, (a) any person listed in any sanctions-related list of designated persons, maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury, the U.S. Department of State, the US Specially Designated Nationals (SDN) and Blocked Persons List, by the United Nations Security Council, the European Union, any European Union member state or Switzerland (b) any person operating, organized or resident in a sanctioned country or (c) any entity owned or controlled by any such person or persons described in the foregoing clauses (a) or (b).

**Services:** All Services covered by the Contract.

**Supplies:** Goods and/or Services as applicable.

**Supplier:** a legal entity, including single person entities, duly incorporated under the laws of the seat of the entity, manufacturing Goods and/or rendering Services and accepting CTX’s purchase orders.

**Variation Order:** Request transmitted electronically or in writing, requesting changes, modification, or additions to the scope of the Supplies.

**Warranty Period:** The duration of the Supplier warranty in accordance with Clause 9.2 and Clause 9.3.

## 1.2. Interpretation

References to Clauses are references to clauses of these GTC.



## **2 Scope | Order of Precedence**

- 2.1 These GTC govern the entering into and performance of a Contract.
- 2.2 Unless explicitly agreed in writing by CTX, no terms or conditions delivered with, referred to or contained in Supplier's quotations, acknowledgements, acceptances, specifications, or similar documents or when delivering Goods, rendering Services, or issuing invoices, shall be incorporated into the Contract and the Supplier waives any right which it might have to rely on such terms or conditions. These GTC cannot be altered, modified, or amended by subsequent communications received from the Supplier without the express prior written consent of CTX. These GTC are legally binding on both contracting Parties.
- 2.3 With the conclusion of the Contract and/or its performance in full or in part the Supplier consents to the incorporation of these GTC.
- 2.4 In case of inconsistency between the terms of an individual Contract and these GTC, the former shall prevail.
- 2.5 These GTC shall also apply *mutatis mutandis* to any framework agreement entered into by the Parties which incorporates these GTC by reference. In case of inconsistency between the terms of any framework agreement and these GTC, the former shall prevail.

## **3 Conclusion of the Contract**

- 3.1 A Contract is entered into (i) upon receipt by CTX, from the Supplier, of an acceptance of a Purchase Order sent by CTX, or (ii), if no acceptance as per (i) is received, by way of an implicit acceptance 96 hours after the issuance of the Purchase Order to the Supplier. If no acceptance is received from the Supplier CTX may, within 96 hours after the issuance of the Purchase Order to the Supplier, cancel the Purchaser Order without incurring any liability. The Purchase Order, its acceptance, and any cancellation of a Purchase Order as per this Clause 3.1 shall be sent by way of e-mails, paper and/or an EDI system message.
- 3.2 Purchase Order issuance, operational handling of the Contract and day to day contact with Supplier may be handled by a third-party provider, typically, but not limited to a purchasing agent, duly appointed and authorized by CTX, operating in the name and for the account of CTX. It is Supplier's obligation to verify with CTX on a regular basis such appointment and the limits and terms of such authorization.

## **4 Contract Price | Terms of Payment**

- 4.1 In consideration of the Goods delivered and/or Services provided by the Supplier in accordance with the Contract, CTX shall pay to Supplier the Contract Price stated in the Contract.
- 4.2 Unless agreed otherwise in writing, the Contract Price includes all direct discounts, costs of manufacturing, processing, warehousing, and packaging (including returning any returnable packaging), transportation costs, insurance costs, duties, customs or public charges related to the Contract, any additional charges (such as inspections by third parties) and all taxes with the exception of the value added tax or equivalent.
- 4.3 The Supplier agrees to pay or reimburse CTX for any taxes, duties or other public charges levied on CTX in relation with the performance of the Contract. For the sake of clarity, the foregoing shall not affect each Parties' obligations to pay any of their respective income taxes, value added tax, capital taxes, stamp duties (both on the issuance and on the transfer of securities), transfer taxes, business taxes, land and property tax, mandatory social security



contributions and all other taxes to any competent authority in any jurisdiction, as well as any interest, penalties, costs, and expenses reasonably related thereto.

- 4.4 Supplier shall submit invoices in an auditable form, complying with applicable laws, generally acceptable accounting principles and the specific requirements of CTX, containing the following minimum information: Supplier name, address and reference person including contact details, invoice date, invoice number, number of the Purchase Order, address of CTX, quantity, specification of Goods and/or Services, price (total amount invoiced), price per individual item of the Goods delivered, currency, tax or VAT amount, tax or VAT number.
- 4.5 Invoices must be sent to the billing address specified in the Contract.
- 4.6 CTX shall pay the Purchase Price as per the payment terms agreed following the delivery of the Goods, respectively the performance of the Services, in accordance with the Contract and receipt of a compliant invoice. In case no payment term has been agreed, the payment term shall be 90 days net following the delivery of the Goods, respectively the performance of the Services, in accordance with the Contract and receipt of a compliant invoice.
- 4.7 CTX reserves the right to set off payment for Goods and/or Services against any payments due by the Supplier or withhold payment for Goods and/or Services not provided in accordance with the Contract.
- 4.8 If any amount invoiced by Supplier in accordance with the Contract is not paid by CTX by the due date, Supplier may give notice in writing that the amount is overdue. Thirty (30) calendar days after receipt of such notice, unless the payment is disputed in good faith by CTX or set off or withheld in accordance with the Contract, Supplier may charge interest at the rate of 3% per annum on any unpaid amount, starting thirty (30) calendar days after the payment fell due (or such other date as may be agreed in writing among the Parties), until receipt of the amount owed. Such claims for interest must be made by Supplier to CTX within (180) calendar days after the invoice became eligible for interest. Should Supplier not file such claim within this timeframe, Supplier waives his right to claim interest on that specific invoice. Supplier acknowledges and agrees that this Clause 4.8 provides Supplier with a substantial and final remedy in respect of any late payment of sums due under any Contract and that the Supplier may not, in particular but without limitation block acceptance of new Purchase Orders and/or, subject only to Clause 4.9 hereinafter, suspend production or Delivery of any Goods and/or the provision of Services. The foregoing shall be without prejudice of the Supplier's right to terminate the Contract in accordance with Clause 15.3. If Supplier is in breach of the Contract, the right to charge interest pursuant to this Clause 4.8 shall be forfeited (without limitation to any rights and remedies of CTX in accordance with the Contract).
- 4.9 If any amount invoiced by Supplier in accordance with the Contract is not paid by CTX within ninety (90) calendar days after receipt of a notice from Supplier as per Clause 4.8, and unless the payment is disputed in good faith by CTX or set off or withheld in accordance with the Contract, Supplier may suspend the Delivery of Goods and/or the provision of Services under the relevant Purchase Order until receipt of the amount owed.

## **5 Responsibilities and Obligations of the Supplier**

- 5.1 Supplier shall perform the Contract and deliver the Goods and provide the Services (i) in accordance with all applicable laws and regulations, (ii) in accordance with the Contract (including by providing any necessary documentation) and all CTX instructions, (iii) in accordance with industry standards and best practice, (iv) free from defects and from any rights of third parties, and (v) fit for any particular purpose specified in the Contract or, in absence thereof, fit for the purposes for which such Goods and/or Services would ordinarily be used.
- 5.2 The Supplier shall only be allowed to subcontract the performance of any of its contractual obligations under the Contract with the prior written consent of CTX. In any case, the Supplier

shall remain fully liable towards CTX for any work or service performed by one of the Supplier's subcontractor.

- 5.3 Supplier shall ensure that the Goods are packed and transported according to CTX specifications and instruction (and if there are no specific instructions according to industry standards) and any applicable laws and regulations, in a manner adequate to preserve and protect the Goods, and sufficient to enable safe unloading and inspection at the relevant Delivery Location. All packaging shall be labelled in accordance with CTX requirements. The label shall in particular, but without limitation, contain the following information:
- CTX item/part number;
  - Barcode labelling in accordance with the information given by CTX;
  - Quantities per packaging;
  - Number of the Contract; and
  - Production batch number.

For dangerous or hazardous Goods, the packaging must contain clear indications in accordance with applicable laws and regulations.

- 5.4 Should CTX identify quality related issues on the part of Supplier and notify Supplier thereof, CTX may, notwithstanding any other remedies available to CTX under the Contract, instruct Supplier to undertake at Supplier's risk and expense an analysis into the root cause(s) of the quality related issues; such analysis being undertaken and reported to CTX within ten (10) calendar days of the notification of the quality related issue(s). CTX reserves the right to undertake an audit (carried out by CTX's nominated personnel, which may include third party experts or CTX Affiliate staff) of Supplier based on the results of the root cause analysis or where Supplier fails to comply with this Clause. Supplier shall also pro-actively advise CTX if it becomes aware of any quality related issues that may affect the Goods and/or Services, and the provisions of this Clause 5.4 shall otherwise apply as if the issue had been notified by CTX.
- 5.5 Subject to Clause 4.9 only, Supplier must not suspend the Delivery of any Goods or the provision of any Services.
- 5.6 Supplier shall be responsible for obtaining any work permits required by its personnel. Supplier shall only use suitably qualified and experienced personnel.
- 5.7 Supplier assumes full and exclusive responsibility for any occupational accident that occurs, or disease that affects its employees and its subcontractors in relation to the provision of the Goods and/or Services.
- 5.8 Supplier is solely and exclusively responsible for any claims and/or lawsuits filed by its employees and/or subcontractors, or anybody else too – eg third parties, competitors, and shall, without any limitations, defend, indemnify and hold CTX (and any relevant CTX Affiliate) harmless from and against any claim, proceeding, action, fine, loss, cost, damages and expenses arising out of or relating to any such claims and/or lawsuits, and any noncompliance with legislation, regulations, codes of practice, guidance and other requirements of any relevant government or governmental agency applicable to Supplier, its employees or subcontractors. Supplier undertakes to appear in court at its own cost if requested by CTX, acknowledging its status as sole and exclusive employer, and to provide CTX (and/or any relevant CTX Affiliate) with all requested documentation and information necessary to ensure proper legal defense of CTX and/or CTX Affiliates in court.
- 5.9 Any material, including but not limited to tools and test equipment supplied by CTX (if any), shall be maintained and stored as specified by CTX or, in absence thereof, in accordance with industry standards and any applicable laws and regulations at the Supplier's premises. Such materials are the property of CTX and shall be used solely for the purposes of any Contract. The materials must be clearly labelled/marked/identified as being the property of CTX and cannot be used/stored by third parties without the prior written consent of CTX. Supplier shall

maintain in force, and upon request provide evidence of, adequate insurance cover to cover any damage to such materials for the entire duration between their supply to the Supplier and their redelivery to CTX. The materials must be available in case of an inspection or audit by CTX and shall be returned to CTX in good working order and at the cost of the Supplier upon first demand of CTX.

- 5.10 Supplier shall grant, and ensure that its subcontractors grant, CTX and/or its inspectors (CTX's nominated personnel, which may include third party experts or CTX Affiliate staff) access to the premises where Goods are being manufactured, respectively where Services are being performed, in whole or in part. Reasonable measures shall be taken to limit any interference of such inspections with the production processes of the Supplier or of its subcontractors. CTX is responsible for its employees and inspectors within the Supplier's, respectively the Supplier's subcontractor's, premises and for any of their acts and work done not in accordance with applicable laws and security standards. The details of every visit of CTX and / or its inspectors (such as the date, duration, number of inspectors and agenda) shall be agreed with the Supplier in advance. In exceptional cases CTX will have the right to provide notice only 24 h in advance. CTX's inspectors must be accompanied by a Supplier employee in the Supplier's, respectively the Supplier's subcontractor's, premises.
- 5.11 Without CTX's prior written consent, the Supplier shall refrain from referring to or otherwise drawing attention to its relationship with CTX in advertising or otherwise.

## **6 Delivery | Delay**

- 6.1 Goods shall be delivered in accordance with the INCOTERMS 2020 rule specified in the Contract. In the absence of any specific agreement in the Contract the Goods shall be delivered in accordance with INCOTERMS 2020 DDP to the Delivery Location.
- 6.2 Suppliers shall ensure that it complies with all applicable regulations, including without limitation all export and customs regulations, as well as regulation applicable to the shipment of hazardous materials. The Supplier shall, at no additional cost for CTX, provide CTX with all necessary documentation needed to evidence compliance with all applicable regulations, including without limitation all export and customs regulations, as well as regulation applicable to the shipment of hazardous materials. In particular, but without limitation, all deliveries must, as a minimum and without detriment to the generality of the foregoing, include a delivery note stating the order number and any other information required in the Contract as well as detailed information on the origin of the Goods and the custom tariff number applicable to the Goods on the invoice as well as on the delivery note. The Supplier shall fully indemnify and hold CTX harmless from any claims, costs and damages (including reasonable attorney's fees) related to any violation of such regulations.
- 6.3 Title to and ownership of the Goods shall pass to CTX upon Delivery of the Goods at the Delivery Location.
- 6.4 Any failure to meet a Deadline will automatically put the Supplier in default. Hence, CTX is entitled to proceed with all or any remedies under Art 6.7.
- 6.5 Partial deliveries and deliveries in advance of a Deadline, respectively partial performance and advance performance, are permissible only if approved in advance and in writing by CTX.
- 6.6 Upon becoming aware of any facts potentially causing a delay, Supplier shall (i) immediately inform CTX in writing of the reasons for such delay and the anticipated delay and (ii) implement, at no additional cost to CTX, all measures, including without limitation the payment of taxes, fees, open invoices to sub suppliers and other expenditures, the implementation of overtime work, the purchasing of materials or procurement of services at higher prices, hiring of additional staff etc., to avoid such delay. CTX may at its own discretion financially participate in the Suppliers' effort.



- 6.7 If the Delivery of Goods and or the performance of Services is not performed in full by the respective Deadline
- (i) Supplier shall immediately inform CTX in writing of the reason for such delay and the expected date of performance or Delivery, and
  - (ii) CTX shall be entitled to claim from the Supplier a contractual penalty amounting to 5% of the Contract Price of the delayed Goods and or Services per commenced week of delay; and
  - (iii) CTX may recover from Supplier any expenses reasonably incurred by CTX (and/or any affected CTX Affiliate) in obtaining the Goods and/or Services in substitution from another Supplier; and
  - (iv) Claim damages for any cost, loss, expenses and liquidated damages incurred by CTX (and/or any affected Affiliate) which are attributable to Supplier's delay

whereby it is acknowledged and agreed that CTX may apply any of the above remedies cumulatively and in particular, but without limitation, recovering any amounts under paragraphs (ii) and/or (iii) of this Clause 6.7 shall not exclude CTX from recovering any other costs or damages under this Clause 6.7. Moreover, all other rights and remedies of CTX set forth in the Contract, including, in particular, the right of termination set forth in Clause 15 remain expressly reserved. Notwithstanding the payment of any contractual penalty under this clause, the Supplier shall remain bound by its contractual obligations.

## **7 Acceptance**

- 7.1 Supplier shall inform CTX (and any relevant CTX Affiliate) in writing within a reasonable time period in advance when the Goods and/or Services are ready for Delivery.
- 7.2 Delivery of Goods or provision of Services shall not be deemed an acceptance of such Goods or Services by CTX. CTX (or any CTX Affiliate at the Delivery Location) shall have reasonable time, in any event not less than thirty (30) calendar days following the Delivery, to inspect or test the Goods and/or Services and to report any defects to Supplier.
- 7.3 The Parties may agree on a special acceptance procedure in the Contract, in which case acceptance will be subject to CTX's written acceptance statement (or that of CTX's Affiliate at the Delivery Location).
- 7.4 CTX shall be allowed to refuse acceptance of Goods or Services not in compliance with the requirements set forth in the Contract. CTX may enforce at its discretion any remedy defined in the Contract for any rejected Goods or Services, including, in particular, the remedies set forth in Clause 6.7 and 9.5.
- 7.5 Payment of the Contract Price shall not be deemed an acceptance of the Goods or Services and any acceptance of Goods or Services is made without prejudice to any other right CTX may have under the Contract, including but without limitation its rights under the Warranty.

## **8 Variations**

- 8.1 CTX may issue Variation Orders to Supplier. Upon receipt of such Variation Order, the Supplier shall provide CTX with a written quotation for the requested Variation, specifying the effects of the requested Variation on the Contract including any necessary adjustment of the Contract Price, agreed deadlines, scope of the supplies and any other affected provisions of the





Contract. If CTX wishes to proceed with a requested Variation on the basis of a Supplier's Variation quotation, CTX shall notify the Supplier thereof in writing within 10 calendar days of receipt of such Variation quotation. The Supplier is not obliged to give effect to the Variation until it has been agreed in writing by the Parties.

- 8.2 Variation Orders requested by Supplier only become effective after written confirmation by CTX.
- 8.3 The Supplier shall inform CTX immediately if any amendment or addition to any applicable laws, rules and regulations, engineering standards and codes of practice, and decisions or guidance issued by courts or public authorities render a Variation necessary. In such a case, the Supplier shall provide CTX with a Variation quotation specifying the effects of the requested Variation on the Contract including only the necessary adjustment of the Contract Price caused by a substantial increase of the costs to be borne by the Supplier as a consequence of the Variation, agreed deadlines, scope of the Supplies and any other affected provisions of the Contract. The Supplier is not obliged to give effect to the Variation until it has been agreed in writing by the Parties. Supplier shall not without reasonable grounds decline a Variation Order.

## **9 Warranty | Remedies**

- 9.1 The Supplier represents and warrants that the Goods and/or Services
- (i) comply with the Contract, including but without limitation to Supplier's responsibilities as defined in Clause 5.1.
  - (ii) are free from Defects, new and unused at the date of Delivery; and
  - (iii) remain free from Defects during the Warranty Period.
- 9.2 The Warranty Period is twenty-four (24) months from Delivery, or as otherwise set forth in the Contract.
- 9.3 For Goods and/or Services replaced or repaired by the Supplier in accordance with Clause 9.4, a new Warranty Period of the same duration as the initial Warranty Period shall commence from the date the defective Goods and/or Services have been replaced or remedied.
- 9.4 Upon any Defect becoming apparent during the Warranty Period, CTX shall deliver to the Supplier a notice in writing describing and substantiating the underlying facts of a claim for Defects in reasonable detail to the extent then known. This notice shall be given within sixty (60) calendar days from CTX having obtained full and actual knowledge of the existence of Defect. Failure to give the notice within such notice period for Defects shall, if the notice is given within the initial or renewed Warranty Period, not exclude the Supplier's liability under the Contract in connection with the relevant matter. The Supplier's liability shall, however, be reduced if and to the extent the Supplier demonstrates that a Defect has been caused or aggravated by virtue of CTX's failure to give timely notice in accordance with this paragraph. This paragraph shall be in lieu of and not in addition to any applicable statutory duty of CTX to immediately inspect the Supply and notify the Seller. It is acknowledged and agreed that if such notice is delivered to the Supplier on or before the end of the initial or any renewed Warranty Period, related claims shall not become time barred at the end of the applicable Warranty Period and may be resolved after the end of such Warranty Period.
- 9.5 In case of a Defect CTX shall be entitled to request that the Supplier remedy, at the Supplier's own risks and costs, the Defect. If the Supplier is unable to remedy the Defect or replace the defective Goods and/or Services within ten (10) calendar days from the receipt, by the Supplier, of the notice as per Clause 9.4, CTX shall be entitled, by sending Supplier a written notice, to enforce, in its sole and absolute discretion, any or all of the following remedies:



- (i) accept the replacement of Goods and/or Services with a lead-time as confirmed by the Supplier;
- (ii) return or destroy the defective Goods and/or Services at the expense of the Supplier;
- (iii) request a reduction of the Contract Price corresponding to the reduction in value of the Supply caused by the Defect;
- (iv) to carry out (or to instruct a third party to carry out) any additional work necessary to make the Goods and/or Services comply with the Contract, at the risk and costs of the Supplier;
- (v) to require Supplier to indemnify and hold harmless CTX (and any relevant CTX Affiliate) for such damages as may have been sustained by CTX (and/or any CTX Affiliate) as a result of Supplier's breach of the Contract;
- (vi) To terminate the Contract, with immediate effect, or to refuse any further Goods and/or Services, whereby
  - a. CTX shall have no obligation to compensate Supplier;
  - b. Supplier shall refund to CTX any remuneration received from CTX for the Goods and/or Services and take back the Goods at Supplier's own cost and risk;
  - c. CTX may source equivalent replacement goods and/or services from an alternative supplier (with any incremental costs incurred in doing so being for Supplier's account); and
  - d. Supplier shall indemnify and hold harmless CTX (and any relevant CTX Affiliate) for such damages as may have been sustained by CTX (and/or any CTX Affiliate) as a result of Supplier's breach of the Contract.

## **10 Liability**

- 10.1 Without prejudice to applicable mandatory law, Supplier shall, without any limitations, indemnify and hold harmless CTX, and any affected CTX Affiliate, for all liabilities, damages, cost, losses or expenses incurred by CTX (or any CTX Affiliate) as a result of Supplier's breach of the Contract. Supplier shall, without any limitations, indemnify and hold harmless CTX and each relevant CTX Affiliate for any claim made by a third party against CTX (or any CTX Affiliate) in connection with the Goods and/or Services, including but without limitation to claims that such Goods and/or Services infringe a third party's Intellectual Property Rights. Upon CTX's request Supplier shall defend CTX (or any CTX Affiliate) against any third party claims.
- 10.2 Supplier is responsible for the control and management of all of its employees, suppliers and/or subcontractors, and it is responsible for their acts or omissions as if they were the acts or omissions of Supplier.
- 10.3 Supplier shall maintain in force, and upon request provide evidence of, adequate liability insurance and statutory worker's compensation as well as employer's liability insurance with reputable and financially sound insurers and an insurance cover amounting to at least the higher of (i) CHF 5 Million or (ii) three times the amount of the average annual turnover of the Supplier with CTX, per insurance case and year, which however will not relieve Supplier from any liability towards CTX (or any CTX Affiliate). The insured amount shall not be considered as limitation of liability.
- 10.4 CTX reserves the right to set off any claims under a Contract against any amounts owed to Supplier.



## **11 Intellectual Property Rights**

- 11.1 Suppliers shall ensure that none of the Goods and/or Services infringe any third party's registered or non-registered foreign or domestic Intellectual Property Rights.
- 11.2 Supplier hereby grants, or undertakes to procure that the third party owner grants, CTX and any CTX Affiliates a worldwide, irrevocable, transferable, sub-licensable, non-exclusive, royalty-free license to use any non CTX Intellectual Property Rights in the Goods, including Embedded Software (if any), including the right, for CTX and any CTX Affiliates, to improve, develop, market, distribute, sublicense or otherwise use such non CTX Intellectual Property Rights.
- 11.2 If any claim is made against CTX (or any CTX Affiliate) that the Goods and/or Services infringe a third party's Intellectual Property Rights, Supplier shall at its cost, but at CTX's discretion: (i) procure for CTX, CTX's Affiliates and CTX's clients, as the case may be, the right to continue using the Goods and/or Services, (ii) modify the Goods and/or Services so they cease to be infringing (while still being fully compliant with the Contract), or (iii) replace the Goods and/or Services with non-infringing equivalents. In addition, Supplier shall fully indemnify and hold harmless CTX, and any affected CTX Affiliate, in accordance with Clause 10. Otherwise, CTX is entitled to terminate the Contract and to re-claim all sums which it, or any CTX Affiliate, has paid to Supplier thereunder and require Supplier to indemnify and hold harmless CTX (and any relevant CTX Affiliate) for such damages as may have been sustained by CTX (and/or any CTX Affiliate) as a result of Supplier's breach of the Contract.
- 11.3 All rights, title and interest to any Intellectual Property Rights of CTX (and/or any CTX Affiliate) and related to the Goods and/or Services shall remain the sole and exclusive property of CTX (and/or any CTX Affiliate), notwithstanding disclosure thereof to Supplier for the purposes of and in connection with the Contract. The Supplier may only use the Intellectual Property Rights unmodified and to the extent necessary for the performance by its own personnel of its obligations under the Contract, unless explicitly otherwise agreed in writing by CTX. Nothing contained in the Contract shall be construed to confer upon the Supplier any right, by license or otherwise, to make, or permit others to make any use of the Intellectual Property Rights of CTX other than as expressly set forth in the Contract.
- 11.4 All Intellectual Property Rights created under or in connection with the Contract, irrespective of their form and whether legally protected or not and irrespective whether registerable or not, shall be the sole property of CTX. Supplier undertakes (i) to execute and deliver any document or other instrument and to take any further action required and/or reasonably requested by CTX to perfect the assignment and transfer of ownership and (ii) to refrain from applying for the registration of any such Intellectual Property Rights in its own name. To the extent mandatory law of any jurisdiction does not allow for the assignment and transfer of an intellectual property right, Supplier hereby grants to CTX a worldwide, exclusive, irrevocable, royalty free, transferrable and sub-licensable right to such intellectual property right, for no additional consideration.

## **12 Confidentiality**

- 12.1 Supplier shall keep in strict confidence all CTX Data and any other information concerning CTX's or CTX Affiliates' business, their products and/or their technologies which Supplier obtains in connection with the Goods and/or Services to be provided (whether before or after acceptance of the Contract). Supplier shall restrict disclosure of such confidential material to such of its employees, agents or subcontractors or other third parties as need to know the same for the purpose of the provision of the Goods and/or Services to CTX (and/or any CTX Affiliate). Supplier shall ensure that such employees, agents, subcontractors or other third parties are



subject to and comply with the same obligations of confidentiality as applicable to Supplier and will be liable for any unauthorized disclosures.

- 12.2 Supplier shall apply appropriate safeguards, adequate to the type of CTX Data to be protected, against the unauthorized access or disclosure of CTX Data and protect such CTX Data in accordance with the generally accepted standards of protection in the relevant industry, or in the same manner and to the same degree that it protects its own confidential and proprietary information – whichever standard is higher.
- 12.3 Supplier may disclose confidential information to Supplier's authorized representatives, including auditors, legal counsel, consultants and advisors, provided always that: (i) such information is disclosed on a strict need-to-know basis; and (ii) such authorized representatives sign with Supplier a confidentiality agreement with terms substantially similar hereto or, where applicable, are required to comply with codes of professional conduct ensuring confidentiality of such information. Supplier shall comply with, and ensure that the authorized representatives comply with, any security procedure, policy or standard provided to Supplier by CTX or any CTX Affiliate from time to time, or as otherwise set out in the Contract.
- 12.4 Supplier must not: (i) use CTX Data for any other purposes than for providing the Goods and/or Services; or (ii) reproduce or reverse engineer the CTX Data in whole or in part in any form except as may be required by the Contract; or (iii) disclose CTX Data to any third party, except to authorized representatives as per Clause 11.3 or with the prior written consent of CTX.
- 12.5 Supplier shall install and update at its own cost adequate virus protection software and operating system security patches for all computers and software utilized in connection with providing the Goods and/or Services.
- 12.6 Supplier shall inform CTX (and any affected CTX Affiliate) without delay about any suspicion of breaches of data security or other serious incidents or irregularities regarding any CTX Data.
- 12.7 Supplier agrees that CTX (and any affected CTX Affiliate) may provide any information received from Supplier to other CTX Affiliates and to third parties.
- 12.8 This confidentiality obligation shall survive the expiration or termination of the Contract for five (5) years.

### **13 Data Protection**

- 13.1 If CTX discloses Personal Data to Supplier, Supplier shall comply with all applicable data protection laws and regulations.
- 13.2 Supplier shall apply appropriate physical, technical and organizational measures to ensure a level of security of Personal Data appropriate to the respective risk and the ability to ensure the ongoing confidentiality, integrity, availability and resilience of processing systems and services.

### **14. Compliance**

- 14.1 Supplier represents and warrants that it is and will remain, and will procure that any of its subcontractors are and remain, fully compliant with all applicable trade and customs laws, regulations, instructions, policies and Conventions, including, but not limited to, satisfying all necessary clearance requirements, proofs of origin, export and import licenses and exemptions from, and making all proper filings with appropriate governmental bodies and/or disclosures relating to the provision of services, the release or transfer of goods, hardware, software and technology.



- 14.2 Supplier represents and warrants that no goods, materials, equipment, components, parts, technology, or services that are included in, incorporated into, or provided in connection with the Goods and/or Services originate in any country or region that is subject to a comprehensive sanction maintained by a Relevant Body, that CTX deems, in its sole discretion, may impose penalties or other measures against CTX. If any of the Goods and/or Services are or will be subject to export restrictions, it is Supplier's responsibility to promptly inform CTX (and any relevant CTX Affiliate) in writing of the particulars of such restrictions.
- 14.3 Supplier represents and warrants that it is not, and its subcontractors are not a Sanctioned Persons. Supplier acknowledges that Sanctioned Persons may include persons who are not explicitly included on any sanctions list maintained by a Relevant Body, but also persons who are directly or indirectly owned 50 percent or more in the aggregate by one or more Sanctioned Persons. Supplier further represents and warrants that no Sanctioned Person has any property interest, financial interest, or other interest in the Goods and/or Services and that the provision of the Goods and/or Services shall not involve the transferring, paying, exporting, or withdrawing of any property or interests in property of any Sanctioned Person.
- 14.4 Supplier warrants that it will not, and shall procure that its subcontractors shall not, directly or indirectly, and that it has no knowledge that other persons will, directly or indirectly, make any payment, gift or other commitment to its customers, to government officials or to agents, directors and employees, or any other party, in a manner contrary to any applicable laws, and shall comply with all relevant laws, regulations, ordinances and rules regarding bribery and corruption. Nothing in the Contract will render CTX or any CTX Affiliates liable to reimburse Supplier for any such consideration given or promised.
- 14.5 Any violation of an obligation contained in this Clause 14 is a material breach of the Contract and entitles CTX to terminate the Contract with immediate effect and without prejudice to any further rights or remedies available thereunder or at law. Notwithstanding anything to the contrary in the Contract, Supplier shall, without any limitations, indemnify and hold harmless CTX (and any affected CTX Affiliate) for all liabilities, damages, cost or expenses incurred as a result of any such violation and/or termination of the Contract, or arising from export restrictions concealed by Supplier.

## **15 Termination**

- 15.1 CTX may terminate the Contract for convenience in whole or in part by giving Supplier sixty (60) calendar days written notice. In such event CTX shall pay to Supplier the value of the delivered but unpaid Goods and/or Services (provided that such Goods and/or Services otherwise comply with the Contract) and proven direct costs reasonably incurred by Supplier for undelivered Goods and/or Services, however in no event more than the price for the Goods and/or Services agreed under the Contract. No further compensation will be due to Supplier.
- 15.2 In the event of Supplier's breach of the Contract, CTX is entitled to terminate with immediate effect the Contract by sending Supplier a written notice; whereby the consequences of such a termination shall be those set forth in set forth in Clause 9.5 (vi).
- 15.3 Supplier may terminate the Contract with immediate effect, if an amount invoiced by Supplier in accordance with such Contract is not paid by CTX within one hundred and eighty (180) calendar days after such payment becoming due, unless the payment is disputed in good faith by CTX or set off or withheld in accordance with such Contract. The consequences of such a termination shall be those set forth in set forth in Clause 9.5(vi)a. and Clause 9.5(vi)b. For the avoidance of doubt, the Supplier shall not be entitled to terminate any other Contract than the one under which the invoiced amount has not been paid by CTX.



## **16 Force Majeure**

- 16.1 If a Force Majeure Event occurs, the Affected Party will be deemed not to be in breach of its obligations under the Contract for so long as and to the extent necessary to overcome the effects of the Force Majeure Event.
- 16.2 The Affected Party shall notify the other Party as soon as reasonably practicable of the Force Majeure Event and of its affected obligations.
- 16.3 If one or more Force Majeure Events and their effect last for a period of 20 calendar days in aggregate either Party may, without liability, terminate the Contract by giving written notice of termination to the other Party with regard to the part of the Goods not yet delivered, respectively the Services not yet performed.

## **17 Miscellaneous**

- 17.1 The relationship among the Parties is that of independent parties dealing at arm's length and nothing in the Contract may be construed to constitute Supplier or Supplier's employees as an agent or employee of CTX (or of any CTX Affiliate) or as to have any kind of partnership with CTX or any CTX Affiliate. Neither Party has the right to represent the other Party, enter into any commitment on behalf of the other Party, or give any undertaking for the other Party, without such other Party's prior written consent. Neither Party is authorized to act as an agent for the other Party or hold itself out as having the authority or right to assume, create or undertake any obligations of any kind whatsoever, express or implied, on behalf of or in the name of the Parties collectively or in the name of the other Party without express prior written consent of both Parties.
- 17.2 If any deadline set forth in the Contract ends on a day which is not a Business Day, the deadline shall automatically be extended until the following Business Day.
- 17.3 The invalidity or unenforceability of any term of the Contract will not adversely affect the validity or enforceability of the remaining terms. The Contract will be given effect as if the invalid or unenforceable term had been replaced by a term with a similar economic effect.
- 17.4 Provisions of the Contract which either are expressed to survive its termination or from their nature or context it is contemplated that they are to survive such termination will remain in full force and effect notwithstanding such termination. In particular, but without limitation, the obligations set forth in Clauses 9 (Warranty and Remedies), 10 (Liability), 11 (Intellectual Property Rights), 12 (Confidentiality) and 13 (Data Protection) exist for an indefinite period of time and survive expiration or termination of the Contract for any reason.
- 17.5 A failure to exercise or a delay in exercising, any right, power or remedy under the Agreement shall not operate as a waiver, nor shall any single or partial exercise of any right or remedy prevent any further or other exercise of the right or remedy or the exercise of any other right or remedy. Any waiver under this Agreement shall be effective only if made in writing and a waiver of a breach of the Agreement shall not be deemed to be a waiver of any subsequent breach.
- 17.6 Supplier may neither assign, nor transfer in any other way, or encumber the Contract without the prior written approval of CTX. CTX may assign the Contract to any of its Affiliates without the prior approval of the Supplier.
- 17.7 Any amendments, changes or additions to the Contract must be made in writing in the form of a written agreement signed by authorized representatives of both Parties.
- 17.8 The Contract, these GTC and an applicable framework agreement entered into by the Parties constitutes the entire agreement between the Parties and supersedes and extinguishes all

previous agreements, promises, assurances and understandings between them, whether written or oral, relating to its subject matter. Each Party acknowledges that in entering into the Contract it does not rely on, and shall have no remedies in respect of, any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Contract, these GTC or an applicable framework agreement entered into by the Parties.

- 17.9 The Contract is drawn up in the English language. If the Contract is translated into another language, the English language text shall in any event prevail.

## **18 Dispute Resolution | Governing Law**

- 18.1 Any dispute, controversy or claim arising out of, or in relation to, the Contract, including the validity, invalidity, breach, or termination thereof, shall be resolved by arbitration in accordance with the Rules of Arbitration of the International Chamber of Commerce in force on the date on which the notice of arbitration is submitted in accordance with these rules.
- 18.2 The number of arbitrators shall be one, if the amount in dispute is CHF 1'000'000 (one million Swiss Franc) or less, or three if the amount in dispute is more than CHF 1'000'000 (one million Swiss Franc).
- 18.3 The seat of the arbitration shall be:
- (i) Singapore, if the Supplier is domiciled in Asia;
  - (ii) Dallas, if the Supplier is domiciled in the USA; and
  - (iii) Zurich, if the Supplier is domiciled in Europe or any other part of the world which is not Asia or the USA.
- 18.4 The language of the arbitration shall be English.
- 18.5 The Contract and any dispute or claim arising out of, or in connection with, it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the substantive laws of Switzerland excluding the choice of law rules. The UN Convention on Contracts for the International Sale of Goods shall not apply.

**CONTRINEX SA**