

## General Conditions of Purchase of Companies of the PROPHETE Group (Prophete GmbH & Co. KG, Cycle Union GmbH)

\*\*\*Very important: the original German text is binding\*\*\*

### 1) Determining Conditions

a) The following General Conditions of Purchase shall apply exclusively to all purchases of the companies of the PROPHETE Group (hereafter "PROPHETE"). They shall apply in the same degree to the purchase of production material (for the purpose of PROPHETE's own series production, including in particular raw materials, materials, components, parts) as to the purchase of spare parts, tools or machinery as well as other products of any kind (collectively referred to as the "Products"), in so far as the applicability of one of the following provisions of these Conditions of Purchase is not restricted exclusively to individual or specified types of purchased items. By delivering its Products to PROPHETE the supplier accepts the present General Conditions of Purchase.

b) The General Terms and Conditions of Business or other different conditions of the supplier shall not apply unless they have been expressly approved by PROPHETE in writing. These General Conditions of Purchase shall also apply in all cases wherein PROPHETE accepts deliveries from the supplier without objecting to conditions of the supplier that deviate from these General Conditions of Purchase (whether PROPHETE is aware of such conditions or not). All references or indications by the supplier to the validity of its General Terms and Conditions of Business are hereby expressly rejected.

c) These General Conditions of Purchase shall also apply to all future transactions with the supplier.

d) The provisions of these General Conditions of Purchase shall apply in addition to all other possible agreements that the parties conclude in addition, e.g. framework supply contract, quality agreement.

### 2. Offer, Offer Documents

a) Inquiries from PROPHETE to the supplier concerning the supplier's Products and delivery conditions, or requests from PROPHETE to make an offer shall in no way be binding upon PROPHETE.

b) Orders from PROPHETE shall only be valid and binding if placed in writing. It shall not be necessary for PROPHETE to sign orders. The written form shall be deemed to have been observed if orders are sent by fax, e-mail or another electronic data transmission system.

c) Unless otherwise expressly agreed, cost estimates submitted by the supplier shall be binding and non-remunerable.

d) A valid and binding contract shall be brought about between PROPHETE and the supplier, inclusive of the General Conditions of Purchase, when

(i) a written order is transmitted from PROPHETE to the supplier, and

(ii) the supplier expressly accepts the order (order confirmation) in writing, the said confirmation being received by PROPHETE within seven days from the date of the order, or

(iii) the supplier commences delivery of the ordered Products.

Any order confirmation from the supplier that differs from the order placed by PROPHETE represents a new offer and must be accepted by PROPHETE in writing.

e) Even after the order has been confirmed by the supplier, PROPHETE shall be entitled to require at any time that the supplier shall make changes to the Products (in particular in terms of the Products' design and performance). In this case, the supplier shall inform PROPHETE immediately of the impact of this change requirement, in particular with regard to additional or lower costs as well as the delivery date, and the parties shall agree a reasonable adaptation of the contract if required.

f) If the contract or order stipulates that the Products are determined by call-off, then these call-offs shall be binding two days after the instruction is given to the supplier, unless the supplier has expressed an objection by then in writing.

### 3. Prices, Most-Favoured Treatment, Conditions of Payment

a) The price shown in an order shall be binding. In the absence of a differing agreement, the price shall include packaging and shall be "DDP" (Delivered Duty Paid) in accordance with Incoterms 2010.

b) If terms of delivery are agreed in accordance with Incoterms 2000, whereby PROPHETE pays for the transportation, the goods shall be transported by a forwarding agent approved by PROPHETE. Unless otherwise agreed, however, the supplier shall assume responsibility for notification of the consignment with the forwarding agent. The supplier shall inform PROPHETE immediately if the forwarding agent does not collect the goods as confirmed in the notification.

c) In the event that, during the term of a contract concerning the delivery of Products, the supplier supplies Products that are the subject of the contract or similar in comparable quantities to a third party under more favourable conditions, in particular with regard to price, discounts, technology, quality, terms of payment, delivery periods or other conditions (hereafter the "Conditions"), then the supplier shall inform PROPHETE of this fact immediately and automatically grant PROPHETE these more favourable Conditions. The new Conditions shall apply retrospectively from the time at which the supplier has granted these favourable Conditions to the third party.

d) The invoice shall be sent in triplicate by separate post to the postal address of PROPHETE as soon as the goods have been delivered. The invoice must contain the date, order number and supplier number. If these Conditions are not fulfilled, then PROPHETE shall not be responsible for any ensuing delays in processing and settling the invoice.

e) If nothing is individually agreed, the invoice shall be paid with 3 % cash discount within 90 days after delivery and receipt of the invoice, but at the latest net within 120 days after delivery and receipt of the invoice.

f) Payment shall be effected by PROPHETE by means of a bank transfer. Any other method of payment as well as credit/offsetting procedures shall only apply if agreed separately between the parties.

g) PROPHETE is entitled to offset any claims to meet its obligations. It can only be offset against all claims, but not third-party claims. Only money claims may be offset against each other.

h) Notwithstanding § 354a HGB [German Commercial Code], the supplier shall not be entitled without written consent from PROPHETE to assign claims accruing to him from the delivery relations with PROPHETE or to have such claims collected by third parties.

i) The acceptance of the supplied goods and/or their payment by PROPHETE shall not constitute the waiving of any later assertion of claims based on defects, damages or any other claims against the supplier.

#### **4. Delivery Dates, Delay in Delivery**

a) The delivery dates agreed with the supplier shall be binding. Depending on the agreed terms of delivery, compliance with the delivery period shall be determined by the date of receipt of the Products at the destination specified by PROPHETE or the prompt availability of the Products for collection from the supplier's works.

b) If the supplier is in delay in making a delivery, then the supplier shall incur a contractual penalty of 1% of the purchase price of the delayed Products for each commenced week of the delay in delivery, extending to a maximum, however, of 10% of the said purchase price. This shall not affect the right to assert claims for compensation. The supplier must also reimburse inter alia the following costs: special travel costs (both from suppliers to PROPHETE and from PROPHETE to its customers), additional preproduction costs, additional costs caused by special shifts, loss of production costs, replacement/conversion costs, additional test costs and lost profit. Any contractual penalty due shall, however, be credited against any asserted claim for compensation.

c) PROPHETE shall only accept premature deliveries after they have been agreed in writing. If the supplier delivers the Products earlier than the agreed delivery date, PROPHETE reserves the right to return the Products at the supplier's cost and risk. If PROPHETE does not return goods that are delivered early, then the Products shall be stored until the agreed delivery date at the supplier's cost and risk. In the case of a premature delivery, PROPHETE shall be entitled to use the agreed delivery date as the basis for calculating the date of payment.

d) Notwithstanding lit. a) – b), if the supplier realizes that it is not possible to comply with a delivery date or quantity agreed with PROPHETE, it must inform PROPHETE immediately, stating the reasons, the anticipated duration of the delay and the effects it will have, together with suitable measures for averting them.

e) All special journeys the supplier decides to make must be recorded, specifying the order de-tails/information, the reason for the special journey and measures for correcting these reasons and sent to PROPHETE's Logistics Department at the beginning of a calendar month for the preceding month. The supplier shall initiate the corrective measures immediately.

f) For each case of negligent

(i) deviation from delivery and packaging specifications,

(ii) premature delivery or

(iii) overdelivery

PROPHETE shall be entitled to assert a claim for its additional expenses for logistics in the form of lump sum compensation amounting to EUR 100 (notwithstanding the right to demonstrate greater damages in individual cases). The supplier shall in each case be entitled to demonstrate that PROPHETE has incurred no damages or fewer damages than this lump sum.

#### **5. Force majeure**

a) Interruptions to delivery caused by events that are unforeseeable and unavoidable and outside the supplier's sphere of influence and for which the supplier is not responsible such as force majeure, war or natural catastrophes shall release the supplier from its obligations for the duration of this interruption and to the extent of its impact.

b) Agreed periods of time shall be extended by the duration of such an interruption; PROPHETE must be informed of the occurrence of such an interruption immediately and in an appropriate manner.

c) If the end of such an interruption is not foreseeable or the interruption lasts longer than two months, then each party shall have the right to withdraw from the affected contract (or the not yet fulfilled Products) or to terminate the contract without notice.

#### **6. Dispatch, Transfer of Risk**

a) The delivery (including the transfer of risk) shall comply with the trade terms (in particular Incoterms 2000) usual and specified in the order and at the place of receipt/use or collection specified by PROPHETE in the order. In the absence of such a provision, the delivery shall be made DDP (Incoterms 2000) to the place of receipt or use specified in the order. In this case the risk is transferred at the time of delivery to the agreed place of receipt/use.

b) The supplier shall undertake to enclose the relevant delivery notes with the deliveries. All contents and in particular the order number of PROPHETE and the supplier number must be stated on the delivery notes. If these conditions are not fulfilled, then PROPHETE shall not be responsible for any ensuing delays in processing.

#### **7. BSCI Code (Business Social Compliance Initiative)**

Basic social standards throughout the production chain must have their validity. This means that the production must take place before or in addition to the final level in decent conditions. PROPHETE expects that the contractor and its suppliers and subcontractors, including those which are not active on the final level, may observe the standards of the BSCI Code of Conduct (in its currently valid version) and comply and prove this if necessary.

#### **8. Quality and Documentation**

a) The supplier shall comply with the recognized technical regulations and any applicable safety regulations, e.g. DIN/EN, REACH, RoHS etc.. In terms of the design and characteristic features of the delivery item, the supplier shall comply with any drawings, samples or other specifications or documents received from PROPHETE. Modifications to the delivery item or a previously approved production process or its relocation to another site shall require a written notice in due time to PROPHETE and the prior express consent of PROPHETE in writing.

b) If the supplier delivers production material to PROPHETE, the following provisions shall also apply unless PROPHETE has made a different written request in an individual case or has made a different agreement with the supplier.

c) The supplier shall maintain or develop a quality management system based on the latest valid version of QS 9000, ISO 9001, ISO/TS 16949: 2002. Certificates from an accredited body or second-party certification and equivalent QM systems may be recognized by PROPHETE after prior inspection by PROPHETE. The supplier shall provide PROPHETE with a copy of the latest certificate and shall send PROPHETE a new certificate without being asked upon the expiry of the certificate's validity date. PROPHETE shall be informed immediately if the certificate is revoked.

d) For each case of negligent non-compliance with a valid quality management system requirement in accordance with lit. a) + c) the supplier shall incur a contractual penalty of EUR 5,000.

e) The initial sampling is carried out pursuant to lit. c) quality management system installed in their latest position. In addition to the initial samples, the supplier shall disclose all material information and is part of the release of the initial samples

f) Irrespective of successful initial sampling in accordance with lit. e), the supplier shall continually check the quality of the delivery items. Moreover, the parties to the contract shall each keep the other informed about the options for further quality improvement.

g) If the supplier and PROPHETE have not reached a firm agreement as to the nature and extent of the tests as well as the test equipment and methods, PROPHETE shall be prepared, at the supplier's request, to discuss the tests with the supplier within the limits of its knowledge, experience and possibilities in order to establish the required state of the testing technology.

h) In the case of Products specifically identified in the technical documents or by means of a separate agreement, the supplier shall moreover record in special drawings, when, in what way and by whom the delivery items have been tested with regard to the characteristics specified in the documentation as well as the outcome of the required quality tests. The test documents shall be retained for 15 years and submitted to PROPHETE as required. The supplier shall impose the same obligation on sub-suppliers within the bounds of what is legally possible.

i) In so far as any authorities or customers of PROPHETE ask to inspect the production processes and test documents of PROPHETE in order to verify certain requirements, the supplier shall be ready to grant them the same rights in its company and give all reasonable assistance, unless doing so he would infringe the supplier's existing obligations of secrecy towards a third party. The supplier shall impose the same obligation on sub-suppliers within the bounds of what is legally possible.

j) In other respects, following a reasonable period of notice and during normal business hours, and at intervals PROPHETE deems necessary, PROPHETE shall be entitled at any time to carry out reasonable inspections and quality audits of the premises in which the supplier manufactures the Products. PROPHETE shall have the right to terminate the present contract by informing the supplier in writing to this effect if the supplier fails to comply with the agreed quality standards for a period of three months.

k) The supplier shall impose on its subcontractors the obligations contained in the above provisions of this item 8.

#### **9. Hazardous Substances and Preparations**

a) The supplier shall fulfil the legal regulations of the countries of manufacture and distribution relating to goods, materials and procedures that are subject to special treatment, inter alia regarding their transportation, packaging, labelling, storage, handling, manufacture and disposal on account of laws, ordinances and other regulations or on account of their composition and their impact on the environment.

b) In this case, the supplier shall provide PROPHETE with the necessary papers and documents before the order is confirmed. In particular, all hazardous substances and water-endangering materials may be delivered only after presentation of an EC safety data sheet and after approval has been given by PROPHETE. Should the requirements in accordance with lit. a) change during the delivery relations, the supplier shall immediately forward to PROPHETE the papers and documents relating to the changed requirements.

c) PROPHETE shall be entitled to return hazardous substances and water-endangering materials that were supplied for test purposes to the supplier free of charge.

d) The supplier shall be liable to PROPHETE for any damage arising as a result of negligent non-compliance with the existing legal regulations.

e) The supplier shall ensure that the requirements of the EU chemical legislation REACH (Regulation (EC) in the current version) – hereafter referred to as "REACH" – are complied with within the specified time, in particular preregistration and registration. PROPHETE shall not be obliged in any way to carry out the (pre)registration. The supplier is aware that the Products cannot be used if the requirements of REACH are not completely and properly complied with.

f) In fulfilling its contractual obligations, the supplier shall also comply with all legal and official regulations with regard to environmental protection.

g) The supplier shall indemnify PROPHETE in full against all consequences, in particular damages suffered by PROPHETE and any claims of third parties against PROPHETE, that result from the supplier negligently not, partially, or belatedly complying with or fulfilling the above provisions.

#### **10. Packaging**

a) The supplier shall comply with the requirements of the latest valid Packaging Ordinance.

b) The supplier shall take back used, empty packaging free of charge. If this is not possible, the supplier shall pay the corresponding, reasonable disposal costs incurred by PROPHETE.

#### **11. Material Defects and Recourse**

a) Unless otherwise stated in the following provisions, the legal regulations shall apply to deliveries of defective goods (in particular to production material).

b) On receipt of Products supplied by the supplier for production purposes (production material) PROPHETE shall examine that the goods ordered conform with those delivered and inspect them for any discrepancies in quantity or externally identifiable damage in so far as and as soon as this is possible in the ordinary course of business. PROPHETE shall inform the supplier immediately of any defects ascertained during this inspection. In all other respects the supplier shall waive any further incoming goods inspection and testing on PROPHETE's part. In the case of other defects that are not ascertained by PROPHETE until the supplied goods are being processed or used for their intended purpose, PROPHETE shall inform the supplier immediately upon ascertaining the defects. In this respect the supplier shall waive the defence of delayed complaint.

c) If defective goods are delivered, the supplier shall first be given the opportunity to carry out remedial work, i.e. at PROPHETE's discretion either to remedy the defect or supply a new item (replacement parts). In both cases the supplier shall bear all costs resulting to the supplier or PROPHETE, e.g. transportation costs, travelling expenses, labor and material costs or costs for an incoming goods inspection over and beyond the normal scope. The same shall apply to any costs that may be incurred for removal and fitting. If the case of a subsequent delivery, the supplier shall bear the cost of taking back the defective Products.

d) If the opportunity to carry out remedial work fails, or if such work represents an unreasonable burden on PROPHETE, or if the supplier does not make an immediate start, then PROPHETE shall be entitled to withdraw from the contract / order without setting any further time limit and to return the Products at the supplier's risk and expense. In these and other, urgent cases, in particular to avert acute dangers or avoid substantial damage, if it is no longer possible to inform the supplier of defects and give the supplier even a short period in which to remedy them, PROPHETE shall be entitled to remedy the faults itself or have them remedied by a third party at the supplier's expense.

e) Unless otherwise specified below, claims based on defects shall be subject to a limitation period of 36 months from the date the goods are delivered to PROPHETE. The legal regulations shall apply to material defects in delivered items that are used according to their intended purpose for a building or to defects of title. If replacement parts are supplied (cf. lit. c)) the limitation period shall commence anew upon their delivery to PROPHETE.

f) Any further claims, in particular for damages or in connection with warranties of the supplier, shall not be affected.

g) For each case wherein PROPHETE settles a warranty claim, the supplier, if responsible for the defect, shall undertake to pay fixed lump-sum compensation of EUR 100 (notwithstanding PROPHETE's right to assert greater damages in individual cases). The supplier shall in each case be entitled to demonstrate that PROPHETE has incurred no damages or fewer damages.

## **12. Product Liability and Recall**

a) If the supplier has caused a product fault and/or (depending upon the basis upon which the claim is made) is responsible for the fault, the supplier shall undertake to pay PROPHETE compensation at first request or to indemnify PROPHETE against any third party claims, providing the cause of the claim lies within the supplier's control and organization and the supplier would itself be liable to a third party. If PROPHETE has contributed to the cause or fault, then the supplier shall be able to assert this contributory responsibility for the cause or this contributory fault against PROPHETE. In the relationship between PROPHETE and the supplier, each party's share in the payment of compensation shall be in proportion to the respective share in the fault (§ 254 German Civil Code, BGB) and/or responsibility for the cause.

b) The obligations of the supplier in accordance with lit. a) shall also include the payment of costs incurred by PROPHETE in calling on the services of a lawyer or otherwise incurred in connection with the defence of product liability claims. If PROPHETE is subject to special regulations regarding the burden of proof in relations with the injured party, these regulations shall also apply to relations between PROPHETE and the supplier provided that the circumstances requiring proof do not fall within PROPHETE's area of responsibility.

c) In product liability cases in accordance with lit. a), the supplier shall provide PROPHETE with all necessary information and every support within the bounds of reason to fend off claims.

d) In so far as a recall action or program to give notice of ownership is necessary to comply with a law, ordinance, order or any other state requirement or as a safety measure to avoid personal injuries or death or in the case of other field or service actions, the costs, including labor, transportation and verifiability costs inter alia shall be shared on the basis of the contributory fault (§ 254 BGB) / contributory responsibility for the cause attributable to PROPHETE and the supplier. PROPHETE shall inform the supplier - in so far as this is possible and reasonable - of the content and extent of the recall action or other field or service actions that are to be carried out and shall give the supplier the opportunity to express its opinion. This shall not affect any other legal claims.

e) The supplier shall undertake to take out and maintain sufficient product liability insurance to cover the risks of product liability, including the risk of recall. At the request of PROPHETE the supplier shall immediately provide documentary evidence of the conclusion of such an insurance contract. If the supplier is not in a position to furnish evidence of the insurance policies within two weeks, PROPHETE shall be entitled to conclude such insurance at the supplier's expense.

## **13. Industrial Property Rights**

a) The supplier guarantees that through the purchase, ownership, offering, use, processing or further transfer of the Products neither PROPHETE nor customers of PROPHETE shall infringe any intellectual property rights of third parties, in particular any rights of a third party as to brand, company, name, patent, utility model, design, equipment, or copyrights (including the relevant industrial property right applications) (hereafter "Industrial Property Rights") in the supplier's country of origin, as well as within the German Federal Republic and the European Union. If the supplier negligently infringes this obligation, then the supplier shall indemnify PROPHETE and its customers at PROPHETE's first request against any third-party claims arising from such actual or alleged infringements of property rights and shall bear all costs and expenses incurred by PROPHETE in this respect, in particular firstly the cost of bringing an action and of defence and secondly costs resulting from observance of a possible duty to refrain.

b) Lit. a) shall not apply if the delivery item was produced on the basis of drawings, models or other detailed information from PROPHETE and the supplier neither was nor needed to be aware that Industrial Property Rights of third parties were thereby infringed.

c) The parties shall undertake to inform one another immediately of any infringement risks that become known and any cases of alleged infringement and to take reasonable action by common consent against infringement claims.

d) The period of limitation shall be 3 years from the conclusion of the relevant contract.

## **14. Reservation of Title, Means of Production**

a) The Products shall become the property of PROPHETE upon payment of their full purchase price. Any extended or expanded reservation of title on the part of the supplier to delivered Products is excluded.

b) All parts, raw materials, tools, materials or other devices or items provided by PROPHETE or purchased by the supplier at PROPHETE's expense (and whose procurement costs have been reimbursed by PROPHETE or are included in and paid for in full in the price payable for the Products) and that are associated with the manufacture of the Products or used for that purpose (hereafter "Means of Production") shall remain or become the sole property of PROPHETE (hereafter "PROPHETE Property"). PROPHETE shall also retain all rights to drafts, samples, drawings, data, models or other information and documents supplied by PROPHETE (hereafter "PROPHETE Documents"). The

supplier shall expressly agree that PROPHETE Property or PROPHETE Documents shall not be used for the manufacture or construction of products for third-party customers without PROPHETE's prior consent in writing.

c) The supplier shall possess PROPHETE Property and PROPHETE Documents as a borrower and shall store them separately and apart from any property belonging to other persons and clearly labelled PROPHETE Property and PROPHETE Documents to indicate that they are the property of PROPHETE. PROPHETE Property and PROPHETE Documents shall not be removed from the supplier's company premises without written instruction from PROPHETE, except for the purpose of fulfilling the contract.

d) The supplier shall undertake to insure PROPHETE Property for its replacement value and at the supplier's own expense at least against fire, water damage and theft and to maintain such insurance policies. On request, the supplier shall provide PROPHETE with documentary evidence of the existence of appropriate insurance policies. The supplier shall carry out any necessary maintenance work at the usual intervals and at its own expense and shall notify PROPHETE immediately of any damage or faults.

e) If PROPHETE provides the supplier with products, raw materials or other material ("Goods") so that the supplier can manufacture Products, PROPHETE reserves title to such Goods. The treatment and processing, modification or installation or reshaping of such Goods by the supplier shall be carried out in the name of PROPHETE. If the reserved Goods are processed together with other items that are not the property of PROPHETE, PROPHETE shall acquire joint ownership of the new Product in proportion to the value of PROPHETE's Goods (purchase price plus VAT) to the other processed items at the time of production.

f) If the Goods provided by PROPHETE are inseparably combined or mixed with other items that are not the property of PROPHETE, PROPHETE shall acquire joint ownership to the new Product in proportion to the value of its reserved Goods (purchase price plus VAT) to the other combined or mixed items at the time of combination or mixing. If the combination or mixing is carried out in such a way that the supplier's items may be considered the main item, it shall be agreed that the supplier shall assign proportional joint ownership to PROPHETE; the supplier shall store and hold in safe custody the sole property of PROPHETE or the joint ownership of PROPHETE in the name of PROPHETE.

#### **15. Confidentiality**

a) The supplier shall undertake to treat in confidence all confidential information obtained directly or indirectly from the other party to the contract. Orders and all associated commercial and technical details are also to be treated as confidential information. In particular, all received illustrations, drawings, calculations, quality guidelines, samples and similar items are to be treated as confidential. The copying and forwarding of confidential information is only permissible within the context of operational requirements. Confidential information may only be disclosed to a third party with PROPHETE's prior written consent.

b) The above obligations shall not apply to such confidential information as the supplier can prove

(i) was already generally accessible at the time of notification or was generally accessible thereafter through no fault of the supplier;

(ii) was already in the supplier's possession at the time of notification;

(iii) was made accessible to the supplier by a third party without any obligation as to confidentiality and non-usage, provided that this third party has not obtained the information directly or indirectly from the supplier;

(iiii) was to be furnished to the authorities on the basis of legal regulations.

c) The supplier shall undertake to impose the same obligations to maintain secrecy on subcontractors. Confidential information made known to the supplier by PROPHETE shall be used exclusively for the intended purpose.

d) The obligation to maintain secrecy shall continue to apply for a period of three years after the delivery relations have ended. At the end of the delivery relations, the supplier shall undertake to return to PROPHETE all received confidential information if it is embodied or stored on electronic storage media. At PROPHETE's request, the supplier shall confirm to PROPHETE in writing that it has fulfilled the obligation arising from the last two sentences.

#### **16. Order Development**

If the supplier carries out development work for production material or Means of Production (in particular tools) on PROPHETE's behalf whose costs are reimbursed by PROPHETE either separately and/or by means of the price paid for the Products (order development), the following shall apply:

a) The supplier shall reach a development conclusion that is free from the Industrial Property Rights of any third party; Item 13 shall apply accordingly.

b) The proprietorship of all development results (including all discoveries, know-how, experiment and development reports, suggestions, ideas, drafts, designs, recommendations, samples, models etc.) achieved by the supplier in the context of the cooperation (hereafter "Work Results") shall fall to PROPHETE as it arises.

c) If the Work Results are protectable, PROPHETE shall, in particular, be entitled at its discretion to apply for Industrial Property Rights at home and abroad in its own name, to pursue this further and also to abandon it at any time.

d) The supplier shall claim the title of protectable inventions made by its employees in executing this contract in all cases by means of a declaration against the inventor; the right to the invention is to be assigned to PROPHETE immediately.

e) If the Work Results are protected by copyrights of the supplier, the supplier shall grant PROPHETE, as well as affiliated companies of PROPHETE, the exclusive, non-remunerable, irrevocable, sublicenceable, transferable right, unlimited in terms of time, place and content to use and exploit such Work Results as desired, in any manner and free of charge. If Work Results take the form of software the rights of use and utilisation shall not be restricted to the object code. PROPHETE shall in particular have a claim for the source code and documentation to be handed over. PROPHETE may demand the hand-over at any time, even during the implementation of the development project.

f) The supplier (as well as companies affiliated with it) is and shall remain the owner of inventions made before the start of the cooperation as well as Industrial Property Rights applied for or granted for them, as well as any copyrights, design rights and know-how existing before the start of the cooperation (hereafter "Existing Property Rights").

g) If Existing Property Rights are necessary for the utilisation or further development of development results, PROPHETE shall be granted their non-remunerable, non-exclusive, sublicenceable, transferable and irrevocable right of utilisation unlimited in terms of time and place.

h) If, in the context of the services the supplier is required to perform, the supplier calls in subcontractor, the supplier shall undertake to ensure by means of suitable contractual agreements that PROPHETE is granted the property and utilisation rights accorded by the regulation expressed in this Item 16.

#### **17. Provision of Spare Parts**

The supplier shall undertake to guarantee the provision of spare parts for the stipulated lifetime of the end products for which the Products are to be used. The minimum period shall be 10 years after the end of the series production of the Products. In good time before the expiry of the minimum period, the supplier shall grant PROPHETE the option to place a concluding order for the all-time requirement.

#### **18. Cancellation/Rescission of Orders/Contracts**

a) If one party to the contract stops payments or an application is made to open insolvency proceedings against the party's assets, the other party shall be entitled to withdraw from the contract on account of the unfulfilled parts of the contract.

b) In the case of long-term contracts concerning the delivery of Goods the provisions in lit. c) – e) shall apply with regard to their validity period and termination.

c) PROPHETE shall be entitled to terminate such contracts in writing with a notice period of 6 months and the supplier with a notice period of 9 months.

d) In cases where the customer of PROPHETE cancels or amends its order extraordinarily or without cause, PROPHETE shall be entitled, notwithstanding its right to terminate the contract in accordance with Item 18 c), to agree mutually another arrangement with the supplier that takes account of these circumstances. Unless otherwise agreed the following degrees of bindingness shall then apply:

(i) The quantity determined for the month following the order (month 1) shall be deemed bindingly authorized.

(ii) The quantity ordered for the next month (month 2) shall entitle the supplier to procure feedstock. If this quantity is later not taken by PROPHETE, the supplier shall be entitled to invoice PROPHETE for the feedstock, whereby PROPHETE may demand delivery of the feedstock. Quantities manufactured in excess of this and procured materials shall be exclusively at the supplier's risk and to the supplier's account.

e) Each party shall have the right to terminate a contract for good cause at any time without notice. The following cases in particular represent good cause:

(i) Cessation of payment on the part of one party, the opening of insolvency proceedings against the assets of one party or its rejection on the grounds of the absence of assets, or the liquidation of one of the parties;

(ii) Infringement of important contractual obligations; in the case of an infringement that can be remedied, however, only after the innocent party has called upon the other party in writing to remedy the infringement, has warned the party of the impending termination for good cause and has granted a reasonable period of grace of at least four weeks that has expired without outcome;

(iii) One party comes under the dominant control of one of the other party's competitors on account of a change in its equity holders or shareholders.

f) In the case of the cancellation or other termination of a contract, the supplier shall return PROPHETE Property and PROPHETE Documents (cf. Item 14 b)) as well as all other items made available by PROPHETE, including all drawings and other documents, devices and tools.

#### **19. Other Provisions**

a) If one of the above provisions is or becomes invalid or unenforceable, the legal validity of the remaining provisions shall not be affected. In place of the invalid or unenforceable provision, a provision shall be deemed to have been agreed which comes as close as possible in legal terms to that which the parties to the contract required according to the original meaning and purpose of the in-effective or unenforceable provision. This shall also apply to any loopholes in the contract.

b) Without the prior written approval of PROPHETE the supplier shall not assign or transfer any order or the contract, either in whole or in part.

c) The supplier shall not employ one or more subcontractors to fulfill an order or part of an order without the prior written approval of PROPHETE.

d) This English language version of the General Terms and Conditions of Purchase of the companies of the PROPHETE Group serves exclusively for the purposes of information and translation. In the event of any discrepancies between the terms of the German and the English language version, the German language version shall prevail in all cases. In the event of disagreement or litigation, the German language version shall also be the decisive version for the interpretation of individual provisions of the General Terms and Conditions of Purchase of the German Companies of the PROPHETE Group.

e) All previous general terms and conditions are no longer valid

#### **20. Place of Performance, Applicable Law, Place of Jurisdiction**

a) The place of performance for the supplier's delivery obligations shall be the place of receipt or utilisation specified by PROPHETE. The place of performance for PROPHETE's payment obligations shall be the head office of PROPHETE.

b) The law of the Federal Republic of Germany exclusively shall apply to this contract. The Vienna UN Convention on the International Sale of Goods (CISG) shall not apply.

c) The place of jurisdiction for all disputes arising from the business relationship between the parties to the contract shall be Bielefeld. PROPHETE shall furthermore have the right at its discretion to take action against the supplier at the latter's general place of jurisdiction.