

# Calenberg General Conditions of Purchase for Products and Services

## 1. INTRODUCTION

These General Conditions of Purchase set out the terms and conditions that will always apply to the purchase of Products and Services by Buyer from the Supplier unless the Parties have expressly agreed otherwise in writing. Each Purchase Order shall constitute a separate agreement between the Supplier and Buyer and shall be deemed to incorporate these General Conditions of Purchase and any Additional Terms (if applicable). If there is any conflict, ambiguity or inconsistency with such documents then the following order of precedence shall apply: (a) the Additional Terms (if any); (b) the terms of the Purchase Order; and (c) these General Conditions of Purchase.

## 2. DEFINITIONS AND INTERPRETATION

- 2.1 The following expressions shall have the following meanings in these General Conditions of Purchase:

**"Additional Terms"** means any additional terms and conditions which the Parties have agreed in writing shall be applicable to Purchase Orders such as a 'supplier agreement', 'framework agreement', 'form of agreement' or other similar document signed by the Parties;

**"Agreement"** means collectively these General Conditions of Purchase, the Purchase Order and the Additional Terms (if any), together with all schedules and appendices referred to in each of those documents;

**"Bespoke Products"** means Products which have been designed and/or produced specifically for or by Buyer and/or to satisfy the requirements of Buyer or its customers;

**"Buyer"** means the Callenberg entity that enters into a Purchase Order to order Products and/or Services from the Supplier;

**"Buyer's Affiliate"** means any entity that (a) directly or indirectly controls, or is controlled by, or is under common control with Buyer; or (b) beneficially owns, holds or controls 50% (fifty percent) or more of the equity interest in Buyer; and

**"Buyer Branding"** means any branding, trademarks, trade-names, logos and similar identifiers which are owned by or licensed to Buyer and which are identified in a Purchase Order as may be used in relation to the Products by the Supplier (such as the following brands "Callenberg", "TI" and "IES").

**"Confidential Information"** means in relation to each Party, all information of a confidential nature relating to the business, customers and/or operations of that Party (whether such information is disclosed in writing, by delivery of items, orally, by visual presentation, by means of providing access to such information (when, for example, the information is contained on a database or otherwise)) including but not limited to: (i) any such

information subsisting in any Intellectual Property Rights of that Party; (ii) any such information which is commercially sensitive or price sensitive; (iii) the business, finances, systems or other affairs of the that Party (and, in the case of Buyer, the business, finances, systems or other affairs of any Buyer's Affiliate); (iv) in the case of Buyer, the customers and potential and actual customer orders of Buyer and Buyer's Affiliates, including, but not limited to customer orders which relate to Purchase Orders; and (v) the provisions of these General Conditions of Purchase, the Additional Terms and the content of any Purchase Order;

**"Customised Products"** shall mean Standard Products which have been customised for Buyer;

**"Delivery"** means completion of delivery of Products, including documentation, in accordance with the Purchase Order;

**"General Conditions of Purchase"** means these standard terms and conditions;

**"Intellectual Property Rights"** means: (i) patents, designs, trademarks (including where applicable, the Buyer trademarks) and trade names (whether registered or unregistered), copyright and related rights, database rights, knowhow and Confidential Information; (ii) all other intellectual property rights and similar or equivalent rights anywhere in the world which currently exist or are recognised in the future; and (iii) all applications, extensions and renewals in relation to any such rights;

**"Non Standard Products"** shall mean Bespoke Products and Customised Products;

**"Party"** shall mean either Buyer or the Supplier (as applicable). A reference to the **"Parties"** shall mean Buyer and the Supplier;

**"Products"** means the products, including documentation, ordered by Buyer and to be supplied by the Supplier as set out in the Purchase Order;

**"Public Official"** means (i) any official or employee of any government agency or government-owned or controlled enterprise; (ii) any person performing a public function; (iii) any official or employee of a public international organisation; (iv) any candidate for political office; or (v) any political party or an official of a political party;

**"Purchase Order"** means an order for Products submitted in writing by Buyer to the Supplier which shall incorporate these General Conditions of Purchase and the Additional Terms (if applicable);

**"Purchase Order Number"** means the reference number assigned by Buyer;

**"Purchase Price"** shall mean the amount payable by Buyer to the Supplier of the Products to be supplied under the Purchase Order;

**"Services"** shall mean any services which are identified on a Purchase Order as being to be provided by the Supplier or which are reasonably required or incidental to the provision of the Products;

**"Standard Products"** means the Supplier's products which are offered of made available generally, such as an 'off-the-shelf' item;

**"Supplier"** means the entity that receives a Purchase Order to supply Products and/or Services to Buyer;

**"VAT"** means value added tax sales tax or similar taxes;

References to **"Conditions"** are to the provisions in these General Conditions of Purchase. The Condition headings are for convenience only and shall not affect the interpretation of these General Conditions of Purchase. Any phrase introduced by the expressions **"including"**, **"include"**, **"in particular"** or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms. A reference to **"writing"** or **"written"** includes faxes and for the purposes of issuing Purchase Orders only, also includes email.

## 3. SUPPLY OF THE PRODUCTS AND SERVICES

3.1 The Supplier shall supply to Buyer such quantities of Products and Services as set out in the Purchase Order in accordance with the Purchase Order.

3.2 The Supplier shall confirm the Purchase Order to Buyer in writing within 5 (five) days of receipt of the Purchase Order. If such confirmation has not been received by Buyer within 5 (five) days of receipt of the Purchase Order by the Supplier, or if the Purchase Order is not rejected within such timeframe, [or if the Purchaser otherwise agrees to, or does provide the Products and Services as set out in the Purchase Order] Purchase Order shall be deemed to be confirmed by the Supplier. In such circumstances the Supplier shall issue a confirmation as soon as possible after the expiry of the 5 (five) day term from the receipt of the Purchase Order. Each Party shall use the relevant Purchase Order Number assigned in all subsequent correspondence relating to the Purchase Order.

3.3 The order confirmation shall always state the Purchase Price, and the time and place of delivery. Where any of the Products to which the Purchase Order relates are dangerous goods, this shall be stated on the confirmation. However, for the avoidance of doubt, the purchase order confirmation cannot vary the terms of the Purchase Order and any statement in the confirmation or any other document issued by the Supplier to the contrary shall have no effect.

3.4 The Supplier shall at its own cost and risk maintain a reasonable stock for each of the Products to be supplied in quantities sufficient to meet Buyer's reasonable requirements and estimated purchase orders (if any).

This document contains confidential information. Its contents may not be copied, altered or passed on to any unauthorised person without the written permission of Callenberg.

# CALLEMBERG GENERAL CONDITIONS OF PURCHASE FOR PRODUCTS AND SERVICES

<p>3.5 Buyer shall not be obliged to order Products from the Supplier and may order products identical or similar to the Products from any third party.</p> <p>3.6 Buyer and Buyer's Affiliates may distribute and re-sell (or authorise third party distributors, agents or representatives to distribute and re-sell) the Products and nothing contained herein shall restrict such distribution or re-sale. Buyer may incorporate the Products in Buyer's product range and may promote the Products through Buyer's general marketing activities.</p> <p>3.7 Unless agreed otherwise by the Parties, the Supplier undertakes that it shall not distribute or sell to any other customers any product being branded "Callenberg", "IES", "TI" or with any other Buyer owned trademark or brand.</p> <p>3.8 Where the Supplier provides (or is to provide) Services, the Supplier shall:</p> <ul style="list-style-type: none"> <li>i. co-operate with Buyer in all matters relating to the Services and provide all information (including documents) reasonably requested by Buyer to facilitate the provision of the Services;</li> <li>ii. procure and maintain at its own expense all tools and equipment required to perform the Services;</li> <li>iii. exercise all reasonable skill, care, diligence and proper professional and technical expertise and judgement in its performance of the Services;</li> <li>iv. observe, and ensure that the Supplier's and its sub-contractors' personnel observe, all health and safety rules and regulations and any other security requirements that apply at any location where the Services are provided;</li> <li>v. obtain, and at all times maintain, all necessary licences, insurances and consents and comply with all relevant legislation applicable to the provision of the Services; and</li> <li>vi. comply with all relevant legal requirements and all applicable law.</li> </ul> <p>4. <b>VARIATIONS</b></p> <p>4.1 Buyer has the right to order variations to the Products and/or Services ("Variation Order") and Supplier shall implement the Variation Order without undue delay even if the effects of the Variation Order have not yet been set out. Variations to the Products and/or Services may include an increase or decrease in the quantity, or a change in character, quality, kind or execution of the Product and/or Services or any part thereof, as well as a change to the Delivery schedule.</p> <p>4.2 In the event that a Variation Order has a substantial impact on the scope of the Products and/or Services, the delivery schedule and/or price, the Supplier shall no later than seven (7) days, submit a detailed calculation of the schedule and/or price impact based upon</p>	<p>the price calculation model and level of pricing of the original Purchase Order.</p> <p>5. <b>MANUFACTURE AND QUALITY ASSURANCE INSPECTION/VERIFICATION</b></p> <p>5.1 The Supplier shall manufacture, pack and supply the Products in accordance with: (i) ISO 9001:2008 and any other ISO standard that may apply to the Products; and (ii) all generally accepted industry standards and practices that are applicable.</p> <p>5.2 The Supplier shall ensure that the Products are properly packed and secured in such manner as to enable them to reach their destination in good condition including ensuring that any packaging materials (including wooden packing material such as pallets) used for shipments to Buyer comply with all applicable statutory and regulatory requirements. In particular, all wood packing material s used must be treated in accordance with IPPC standard ISPM no 15 where applicable.</p> <p>5.3 Buyer shall be entitled to perform such inspections and factory acceptance tests, as Buyer deems necessary to establish that the Products are produced and/or supplied in accordance to the Purchase Order, including but not limited to examining and verifying the Supplier's quality assurance system and/or its sub-contractors. Such inspections may be performed at the Supplier's and/or the Supplier's sub-contractors' premises (and the Supplier will procure cooperation from its sub-contractor when required by Buyer). The Supplier shall procure or provide Buyer with necessary assistance in performing such inspections and factory acceptance tests. The Supplier shall on request furnish Buyer with copies of any test reports, material certificates, calculations, etc., that are in the Supplier's possession. Any such inspection or factory acceptance tests performed by Buyer will not exempt the Supplier from its responsibility for the Products in accordance with any Purchase Order.</p> <p>6. <b>DELIVERY</b></p> <p>6.1 The Supplier shall ensure that Products and Services shall be supplied in accordance with the timeframes specified in the Purchase Order (or in the Additional Terms if applicable). Time shall be of the essence in relation to such supply.</p> <p>6.2 Each delivery pursuant to a Purchase Order shall be accompanied by a delivery note from the Supplier showing the Purchase Order Number, the date of the Purchase Order, the type and quantity of Products included in the Purchase Order, including the code numbers of the Products where applicable, and, in the case of a Purchase Order being delivered by instalments, the outstanding balance of Products remaining to be delivered. For the avoidance of doubt, the Products may only be delivered in instalments if this is expressly set out in the Purchase Order. In addition, where the Products being supplied are dangerous goods, such items will be</p>	<p>supplied with the material safety data sheet (MSDS) and any other information or packaging required to comply with all applicable statutory and regulatory requirements.</p> <p>6.3 The Purchase Order will set out the applicable terms for delivery. Unless otherwise is stated in the Purchase Order, the terms of delivery shall be interpreted in accordance with Incoterms® 2010. If no specific delivery method is specified in the Purchase Order or Additional Terms (if applicable), the delivery method will be FCA (Free Carrier) at a place reasonably specified by Buyer.</p> <p>6.4 The title to and risk in the Products delivered to Buyer shall pass to Buyer on Delivery.</p> <p>7. <b>DELAY</b></p> <p>7.1 If the Supplier has reason to believe that delivery will be delayed, the Supplier shall, without unnecessary delay and latest within 2 (two) working days of becoming aware of the actual or potential delay, inform Buyer, by written notification, about the delay. This notification shall give information of (i) the reason for and the expected duration of the delay; and (ii) action(s) taken to avoid, limit or remedy the delay.</p> <p>7.2 If Products are not delivered by the Supplier in accordance with a Purchase Order, then, without limiting any other right or remedy Buyer may have, Buyer may claim liquidated damages from the Supplier as described in Condition 7.3. In addition, Buyer shall also be entitled to any of the following: (i) reject any delivered items and/or refuse to take any subsequent attempted delivery of the Products under the Purchase Order; (ii) terminate the relevant Purchase Order with immediate effect; and/or (iii) obtain substitute products from another supplier and recover from the Supplier any costs and expenses reasonably incurred by Buyer in obtaining such substitute products. In all the aforementioned events Buyer may claim damages for any other costs, expenses or losses resulting from the Supplier's failure to deliver the Products in accordance with the Purchase Order.</p> <p>7.3 If the delivery is delayed, the Supplier shall pay liquidated damages from the date on which the Products should have been delivered at a rate of 0.5% of the total Purchase Price for the Products for each day of delay. The liquidated damages shall not exceed 10% of the total value of the Purchase Price.</p> <p>8. <b>ACCEPTANCE</b></p> <p>8.1 In addition to the factory acceptance tests described in Condition 5.3, Buyer shall be entitled to conduct reasonable acceptance tests on the Products. The Supplier shall provide Buyer with all reasonable assistance in relation to such tests. The conduct of such acceptance tests shall not preclude the right of Buyer to reject the Products if it subsequently transpires that they are defective due to a latent defect.</p>
--	--	--

This document contains confidential information. Its contents may not be copied, altered or passed on to any unauthorised person without the written permission of Callenberg.

# Calenberg General Conditions of Purchase for Products and Services

- 8.2 If any Products delivered to Buyer do not comply with the Purchase Order on Delivery or otherwise do not pass the acceptance tests described in Condition 8.1, then without prejudice to any other right or remedy that Buyer may have, Buyer may reject those Products and: (i) obtain substitute products from a third party supplier, or have the rejected Products repaired by a third party, and the Supplier shall reimburse Buyer for the costs and expenses it reasonably incurs in doing so; (ii) require the Supplier to repay the Purchase Price of the rejected Products in full (whether or not Buyer has previously required the Supplier to repair or replace the rejected Products); and/or (iii) claim damages for any other costs, expenses or losses resulting from the Supplier's delivery of Products that are not in conformity with the Purchase Order.
- 8.3 Notwithstanding Conditions 8.1 and 8.2, the Supplier agrees and acknowledges that it shall be responsible for all testing and meeting the required quality standards of the Products that it supplies to Buyer. These General Conditions of Purchase shall apply to any repaired or replacement Products supplied by the Supplier.
- 9. PURCHASE PRICES, PAYMENT AND TAX**
- 9.1 The Purchase Prices are inclusive of the costs of packaging, packing, labelling, export documents, invoicing and insurance. In no event shall Buyer be responsible for any fees, charges or expenses not expressly provided for in the Purchase Order.
- 9.2 An invoice for Products may only be raised following Delivery. Each invoice shall set out the Purchase Prices payable, quote the relevant Purchase Order Numbers and any other information reasonably requested by Buyer. Subject to Condition 9.3, Buyer shall pay the invoice 45 (forty five) days after receipt of the invoice by Buyer in accordance with this Condition 9.2.
- 9.3 If Buyer disputes any invoice or other statement of payments due, Buyer shall notify the Supplier in writing and the Supplier shall provide all such evidence as may be reasonably necessary to verify the disputed invoice or request for payment. Where only part of an invoice is disputed, the undisputed amount shall be paid by Buyer in accordance with Condition 9.2 provided that Buyer has received from the Supplier a revised invoice in respect of the undisputed amount. The Supplier's obligations to supply the Products shall not be affected by any payment dispute.
- 9.4 Unless otherwise stated in the Purchase Order, the Purchase Prices are exclusive of amounts in respect of VAT, sales tax or similar taxes. Any such tax if imposed shall be separately stated on the applicable invoice and Buyer shall, on receipt of a valid VAT invoice from the Supplier, pay to the Supplier such additional amounts in respect of VAT as are chargeable on a supply of Products and/or Services.
- 9.5 Buyer shall have no liability to pay any tax, duty, levy or charge of any kind imposed by any state or state authority by reason of the purchase of the Products and/or Services other than tax on its overall net income, profits and gains imposed in a state in which Buyer is based for tax purposes.
- 9.6 The Supplier shall bear the cost and be responsible for making all necessary arrangements for and the payment of all import and re-export charges including, but not limited to, customs' duties, fees, licenses, import tariffs or similar charges imposed, including any brokerage fees and other ancillary fees in connection therewith on any Product imported and employed or used by the Supplier in the performance of this Agreement and/or any Purchase Order.
- 9.7 The Supplier shall pay and be responsible for all taxes including withholding tax, assessed or levied against or on account of salaries or other benefits paid to Supplier's employees its agents and representatives imposed by any governmental authority having jurisdiction over the Supplier, this Agreement and/or any Purchase Order.
- 9.8 Buyer may, without limiting any other rights or remedies it may have, set off any amounts owed to it or any other Buyer's Affiliates by the Supplier against any amounts payable by Buyer to the Supplier.
- 10. WARRANTIES**
- 10.1 The Supplier warrants that Products supplied to Buyer by the Supplier are new and shall: (i) be of satisfactory quality and fit for any purpose held out by the Supplier or made known to the Supplier by Buyer and for any purpose for which such Products are commonly supplied; (ii) be free from defects in design, material and workmanship; (iii) comply with their drawings and specification; and (iv) comply with all applicable statutory and regulatory requirements.
- 10.2 Unless agreed by the Parties in writing otherwise, the Supplier warrants the Products in accordance with Condition 10.1 for a period of 24 months from the date on which the Products were first put to their intended use by Buyer or its customer (as applicable).
- 10.3 Following discovery of a defect, Buyer shall submit a complaint to the Supplier no later than 30 days after the defect was discovered by Buyer.
- 10.4 Without prejudice to Condition 8.2, if the Products suffer from a defect and/or are non-compliant with Condition 10.1 the Supplier shall repair or replace the defective item at Buyer's option. Where a repair is required this will be conducted at a location reasonably specified by Buyer. All delivery costs associated with a repair or replacement of defective Products shall be at the Supplier's expense. If the Supplier is unable remedy the defect within a reasonable time, Buyer shall, having given the Supplier notification to this effect, be entitled to perform or arrange the performance of the remedying of the defect and/or to cancel the Purchase Order and be refunded for sums paid. All necessary costs in connection with remedying the defect shall be paid by the Supplier.
- 10.5 If the Supplier has replaced or repaired the Products, the Supplier warrants that the replaced or repaired Products shall be free from defects and shall comply with Condition 10.1 for a further period of 24 months from the date of replacement or conclusion of the repairs, unless the remaining part of the warranty period pursuant to Condition 10.2 is longer, in which case such longer period shall be deemed to run for the repaired or replaced Products from the date of repair or replacement.
- 11. INTELLECTUAL PROPERTY**
- 11.1 The Supplier hereby grants to Buyer a perpetual, non-exclusive, transferable, royalty free, irrevocable licence to use the Intellectual Property Rights in the Products and any related documentation or information supplied or made available in relation to the Products.
- 11.2 Without prejudice to the foregoing, all Intellectual Property Rights arising in or in relation to (i) Bespoke Products; and (ii) the customisations which form part of the Customised Products, including but not limited to the relevant specification, plans and drawings, technical descriptions, calculations, test results, models and other data and documentation developed and/or provided to Buyer (collectively the "Materials") shall vest in Buyer. The Supplier hereby assigns (by way of present and, where appropriate, future assignment), all such Intellectual Property Rights and right, title and interest with full title guarantee to Buyer. The Supplier shall do and execute, or arrange for the doing and executing of, each necessary act, document and thing that Buyer may consider necessary or desirable to perfect the right, title and interest of Buyer in and to the Intellectual Property Rights in the Materials.
- 11.3 Buyer grants to the Supplier a non-exclusive, non-transferable, royalty free, revocable licence to the Supplier to use the Materials and Buyer Branding for the sole purpose of providing the Products under this Agreement. Accordingly, the Materials and Buyer Branding shall not be used for any other purpose by the Supplier.
- 11.4 The Parties agree that, except as expressly provided to the contrary, this agreement does not transfer ownership of, or create any licences (implied or otherwise), in any Intellectual Property Rights.
- 12. INDEMNITY**
- The Supplier shall indemnify Buyer and all Buyer Affiliates against all liabilities, costs, expenses, damages and losses suffered or incurred by Buyer and/or Buyer Affiliates arising out of or in connection with:
- any breach by the Supplier of its confidentiality obligations under these General Conditions of Purchase;
  - any use of Buyer's Intellectual Property Rights which is not expressly permitted in writing by Buyer;

This document contains confidential information. Its contents may not be copied, altered or passed on to any unauthorised person without the written permission of Callenberg.

# Calenberg General Conditions of Purchase for Products and Services

- iii. any claim made against Buyer and/or any Buyer's Affiliate for actual or alleged infringement of a third party's Intellectual Property Rights arising out of, or in connection with, the supply or use of the Products;
- iv. any death, personal injury or damage to property arising out of, or in connection with defective Products, to the extent that the defect in the Products is attributable to the acts or omissions of the Supplier, its representatives, employees, agents, suppliers or subcontractors (including any claim made against Buyer and/or Buyer's Affiliates by a third party); and
- v. any claim made against Buyer and/or any Buyer's Affiliate by a third party arising out of, or in connection with, the supply of the Products, to the extent that such claim arises out of the breach, negligent performance or failure or delay in performance by the Supplier, its representatives, employees, agents, suppliers or subcontractors.

## 13. LIMITATION OF LIABILITY

- 13.1 Nothing in the Purchase Order, the Additional Terms or these General Conditions of Purchase shall limit or exclude the liability of either Party for:
- i. death or personal injury resulting from negligence;
  - ii. fraud or fraudulent misrepresentation;
  - iii. breach of the terms implied by section 12 of the Sale of Goods Act 1979;
  - iv. the Supplier's liability under the indemnities contained in Conditions 12 i – 12iv; or
  - v. any liability which cannot be limited or excluded by applicable law.
- 13.2 Subject to Condition 13.1, Supplier's total liability arising under or in connection with each Purchase Order, whether arising in contract, tort (including negligence), for breach of statutory duty or misrepresentation, or otherwise, shall be limited to one hundred and fifty per cent (150%) of the amount payable to the Supplier under such Purchase Order.
- 13.3 Subject to Condition 13.1, neither Party shall be liable for any indirect or consequential loss or damage arising out of or related to the Purchase Order, whether arising in contract, tort (including negligence), for breach of statutory duty or misrepresentation, or otherwise, even if that Party was aware of the possibility that such loss or damage might be incurred by the other Party.

## 14. INSURANCE

The Supplier shall at its own account keep and maintain a public and product liability insurance policy for the duration of this Agreement. The Supplier shall provide certificates of insurance to Buyer upon request. The Supplier shall also comply with any applicable statutory insurance requirements.

## 15. CONFIDENTIALITY

15.1 Each Party undertakes to keep confidential any Confidential Information relating to the other Party (and in the case of the Supplier, any Buyer's Affiliate) which it obtains under or in connection with the Purchase Order, these General Conditions of Purchase and the Additional Terms (if any) and not to use such information or disclose it to any other person, other than as permitted under Condition 15.2, or otherwise use such Confidential Information except to allow the Party to fulfil its obligations under a Purchase Order, these General Conditions of Purchase and/or the Additional Terms. This Condition 15 shall apply from the placing of any Purchase Order or agreeing any Additional Terms (whichever is sooner) and shall survive the termination or expiry of the Agreement. For the avoidance of doubt, the customers and potential and actual customer orders of Buyer and Buyer's Affiliates, including, but not limited to customer orders which relate to Purchase Orders shall be treated as Confidential Information by the Supplier. Accordingly, the Supplier undertakes not to contact any customer of Buyer or any Buyer's Affiliate in relation to any actual or proposed Purchase Order unless this is expressly permitted in writing by Buyer. For the avoidance of doubt, the Supplier acknowledges that any Confidential Information it obtains from Buyer or a Buyer's Affiliate in relation to a Purchaser Order may not be used by the Supplier in relation to any subsequent negotiations or orders between the Supplier and Buyer's customer.

15.2 Condition 15.1 shall not apply to the disclosure of Confidential Information: (i) disclosed by Buyer to a Buyer's Affiliate or to any of its directors, employees, advisers and agents including to any of Buyer's Affiliates' directors, employees, advisers and agents; (ii) disclosed with the consent of the Party to whom the Confidential Information relates; and/or (iii) if and to the extent: (A) disclosure is required by applicable law; (B) disclosure is required by any competent regulatory authority or recognised stock exchange; (C) that such information is in the public domain other than through breach of this Condition 15; or (D) the Confidential Information is supplied in connection with the Products to a customer of Buyer or a Buyer's Affiliate for the purposes of using the Products or marketing, selling or distributing the Products.

## 16. EXPIRY AND TERMINATION

16.1 The Agreement may be terminated by Buyer (in whole or in part), if Supplier:

- i. commits a material breach of its obligations under the Additional Terms (if any), these General Conditions of Purchase or Purchase Order (as applicable) and such breach is (i) not capable of remedy; or (ii) is capable of remedy but is not remedied within a period of 7 days following receipt of notice in writing requiring it to do so;
  - ii. is declared bankrupt, becomes insolvent, is unable to pay debts or enters into an arrangement with its creditors; or
  - iii. has a petition presented, an order made or a resolution passed for its liquidation (otherwise than for the purposes of a solvent amalgamation or reconstruction), administration, bankruptcy or dissolution or if an administrative or other receiver, manager, trustee, liquidator, administrator or similar officer is appointed to the other Party and/or over all or any part of the assets of the other Party.
- 16.2 In the event of termination of the Agreement pursuant to Condition 16.1, Buyer may procure, upon such terms and in such manner as it deems appropriate, products or services similar to those undelivered at the time of termination, and the Supplier shall be liable to the Buyer for the additional costs for such products and/or services.
- 16.3 Buyer has the right to terminate the Agreement (in whole or in part) for any reason by giving Supplier written notice.
- 16.4 In the event of termination of the Agreement for any reason other than Supplier's default, Buyer shall compensate Supplier for all Products delivered and Services performed up to the date of termination.
- 16.5 Termination or expiry of a Purchase Order or the Additional Terms shall not prejudice any of the Parties' rights and remedies which have accrued as at termination or expiry.

## 17. FORCE MAJEURE

- 17.1 For the purposes of this Condition 17, a "Force Majeure Event" means an event the occurrence of which is beyond the reasonable control of either Party, including the following: act of god, war, explosions, fires, floods, tempests, earthquake, insurrection, acts of terrorism, riot, civil disturbance, rebellion, strike, lock-out or labour dispute but not a strike, lock-out or labour dispute involving the Party relying on this Condition.
- 17.2 If a Force Majeure Event occurs which prevents a Party (the "Affected Party") from performing any of its obligations to the other (the "Other Party") the Affected Party shall not be liable to the Other Party and shall be released from its obligations to the extent that its ability to perform such obligations has been affected by the Force Majeure Event, provided that: (i) in the case of the Supplier, the lack of ability to perform the obligations caused by the Force Majeure Event could not have been prevented by reasonable precautions; (ii) the Affected Party notifies the Other Party in writing as soon as reasonably practical of the occurrence of the Force

This document contains confidential information. Its contents may not be copied, altered or passed on to any unauthorised person without the written permission of Callenberg.

# Calenberg General Conditions of Purchase for Products and Services

Majeure Event and the nature and likely duration of its impact upon the Other Party; (iii) the Affected Party takes all reasonable steps to mitigate the impact of the Force Majeure Event on the Other Party and in particular continues to perform those obligations affected by the Force Majeure Event but whose performance has not been rendered impossible to the highest standard reasonably practicable in the circumstances; and (iv) the Affected Party resumes normal performance of all affected obligations as soon as the impact of the Force Majeure Event ceases, and notifies the Other Party in writing of such resumption.

- 17.3 If the impact of the Force Majeure Event upon the Affected Party prevents it from performing a substantial part of its obligations under the Purchase Order for a period of sixty (60) consecutive days, the Other Party may, by written notice, terminate the Purchase Order either in whole or in part (in respect of all or some of those Products which have been affected by the Force Majeure Event) with immediate effect and without liability to the Affected Party.
18. **ETHICAL STANDARDS, OFAC COMPLIANCE AND RECORDS**
- 18.1 The Parties agree that neither Party shall:
- 18.1.1 offer or agree to give any person working for or engaged by the other Party any gift or other consideration, which could act as an inducement or a reward for any act or omission to act in connection with the Agreement or any other agreement between the Parties;
- 18.1.2 enter into the Agreement or any other agreement with the other Party if it has knowledge that, in connection with it, any money has been, or will be, paid to any person working for or engaged by the other Party or that an agreement has been reached to that effect unless (i) details of any such arrangement have been disclosed in writing to the other Party prior to the execution of the agreement; and (ii) approval of such arrangement by an authorised representative of the other Party has been obtained;
- 18.1.3 offer, pay or promise to pay either directly or indirectly, anything of value to a Public Official in connection with the Agreement. The Parties further agree that in the performance of their respective obligations under the Agreement, the Parties and their respective representatives, agents, sub-contractors, suppliers and employees shall comply with the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (or any subsequent replacement or amendment of such convention). The Supplier shall notify Buyer immediately in writing with full particulars in the event that the Supplier receives a request from any Public Official requesting illicit payments in connection with the Agreement; or
- 18.1.4 take any other action which results in a breach by either Party of any applicable anti-corruption legislation.
- 18.2 If Supplier or any of its representatives, agents, sub-contractors, suppliers or employees breaches Condition 18.1, Buyer may

terminate any Purchase Orders and the Additional Terms (if any) by written notice with immediate effect.

- 18.3 The Supplier shall (and shall ensure that its representatives, agents, sub-contractors, suppliers and employees shall) comply with all applicable child labour and human rights laws relating to the manufacture, packing, packaging, marking, storage, handling, and delivery of the Products and all other obligations of the Supplier under the Agreement.
- 18.4 Pursuant to the U.S. Department of Treasury, Office of Foreign Assets Control ("OFAC") regulations respecting USD payments, neither Party can facilitate USD payments in any transaction related to OFAC sanctioned entities, either directly or indirectly. As of the date of these General Conditions of Purchase, sanctioned entities include the countries of Russia, Burma, Cuba, Iran, North Korea, Sudan and Syria, and certain named persons linked to those countries. Either Party may be required to request information from the other Party which supports a verification statement which New York intermediary banks may require according to the OFAC regulations, including whether a person is a "specially designated national" listed by OFAC or any executive order, or a "national" of any country with which transactions are regulated by OFAC. Both Parties shall provide timely and truthful responses to any such reasonable enquiries the other Party may make to support any required verification statements.
- 18.5 The Supplier shall maintain complete and accurate records of the supply of the Products and Services, its compliance with this Agreement and all costs incurred and charges made in connection therewith (the "Records"). All financial Records in connection with the supply of Products shall be maintained in accordance with international generally accepted accounting principles, consistently applied. The Supplier shall retain all Records for at least five (5) years from Delivery of the relevant Products. Buyer shall be entitled to audit all Records upon giving Supplier reasonable notice.
19. **GENERAL**
- 19.1 Buyer may assign the Agreement to any third party. The Supplier may not assign or sub-contract any part of the Agreement without Buyer's prior written consent. Notwithstanding Buyer's given consent, if the Supplier sub-contracts any of its obligations, it shall be liable for the actions of its sub-contractors as if they are its own.
- 19.2 Except as otherwise expressly provided, any notice or other communication from any Party to the other Party which is required to be given under the Agreement must be in writing and addressed to the address provided by the other Party on the relevant Purchase Order.
- 19.3 The Purchase Order (including these General Conditions of Purchase) and the Additional Terms (if any) shall constitute the entire agreement between the Parties in relation to its respective subject matter, and replaces and extinguishes all prior agreements,

draft agreements, arrangements, undertakings or collateral contracts of any nature made by the Parties, whether oral or written, in relation to such subject matter. The rights, powers and remedies provided in these General Conditions of Purchase to Buyer are (except as expressly provided) cumulative and not exclusive of any rights, powers and remedies provided by applicable law, or otherwise.

- 19.4 Except where provided in these General Conditions of Purchase (in particular, the references to Buyer's Affiliates) to the contrary, a person who is not a Party to the Agreements may not enforce any of their provisions under the Contracts (Rights of Third Parties) Act 1999. Any right granted to a Buyer's Affiliate may be enforced directly against the Supplier by that Buyer's Affiliate. The consent of any Buyer's Affiliate or any other third party is not necessary for any variation (including any release or compromise in whole or in part of any liability) or termination of the Agreement, any Purchase Order or any one or more Conditions of these General Conditions of Purchase.
- 19.5 If any provision, or part of a provision, of the Agreement is found by any court or authority of competent jurisdiction to be illegal, invalid or unenforceable, that provision or part-provision shall be deemed not to form part of the Agreements and the legality, validity or enforceability of the remainder of the provisions of the Agreement shall not be affected, unless otherwise stipulated under applicable law.

## 20. GOVERNING LAW AND ARBITRATION

- 20.1 The Agreement and any dispute or claim arising out of or in connection with all or part of the Agreement or its subject matter or formation (including any dispute or claim relating to non-contractual obligations) shall be governed by and construed in accordance with English law.
- 20.2 The Parties agree that if there is any dispute arising in connection with the Agreement, the Parties shall first attempt to resolve the dispute by negotiation. If the Parties are unable to resolve any such dispute within 45 days of commencing negotiations, such dispute may be referred by either Party to and finally resolved by arbitration under the London Maritime Arbitrators Association ("LMAA") terms current at the time when the arbitration proceedings are commenced, except that where neither the claim nor any counterclaim exceeds the sum of US\$50,000 the arbitration shall be conducted in accordance with the LMAA Small Claims Procedure. The number of arbitrators shall be three, except that the reference shall be to one sole arbitrator where the LMAA Small Claims Procedure applies. The seat, or legal place, of the arbitration shall be London, England. The language to be used in the arbitration shall be English. Nothing stated in this Condition shall preclude the right of either Party to seek security or interim orders from any court of competent jurisdiction as may be necessary.

This document contains confidential information. Its contents may not be copied, altered or passed on to any unauthorised person without the written permission of Callenberg.