

## BAG electronics, Inc.

# General Terms and Conditions of Purchase ("GTCP")

Version: September 2018

### 1. General, Scope

- 1.1 The following GTCP shall apply, even if not separately agreed upon or even if not explicitly referred to, to all orders or purchases of goods or services (e.g. raw materials, supplies, goods, rights, services, equipment, machinery, tools, spare parts, etc.) duly made by BAG electronics, Inc. (the "Company") from suppliers within and outside the Philippines including further required services related thereto such as but not limited to installation or commissioning services.
- 1.2 This GTCP shall also apply to any amendment to the Purchase Order or relevant contract and to any future business with the suppliers.
- 1.3 Unless otherwise specifically indicated in the Purchase Order or relevant contract, only the terms and conditions mentioned in this GTCP shall apply to the subject matter of or the transaction involved. All other terms and conditions which are not provided herein are not applicable unless agreed in writing by the Company. Delivery of the goods and performance of services by the supplier to the Company, or the conformity of the supplier through the signature herein or in another document, or any other act of conformity, express or implied, by the supplier shall be conclusive evidence of acceptance by the supplier of this GTCP. Any modification of the GTCP shall not be binding unless agreed upon in writing by the Company.
- 1.4 Once duly signed by both parties, this GTCP shall constitute the entire and only agreement between the Company and all the supplier, except as provided for in the Purchase Order or relevant contract. This GTCP therefore supersedes, cancels and annuls any and all related prior or contemporaneous negotiations or communications. In view of this, any of the Company's employees are not authorized to agree to terms and conditions not contained in or is inconsistent with this GTCP whether verbally made or contained in delivery notes, delivery receipts and the like.
- 1.5 Any and all terms and conditions introduced by the supplier which contradict, deviate from or are inconsistent with this GTCP and/or the Purchase Order or relevant contract are hereby rejected and waived even in the absence of a further explicit rejection unless the validity of such terms and conditions has been explicitly acknowledged or duly agreed upon by the Company's duly authorized representatives, in writing. This GTCP shall likewise continue to apply in the event that the Company unreservedly accept deliveries by supplier with the knowledge of such supplier's terms and conditions which contradict or deviate from this GTCP.
- 1.6 Any modification of the contents of this GTCP shall require written approval by the Company's purchasing department, senior management or executive management.
- 1.7 The delivery of the goods and performance of the services by the supplier or any other similar act of conformity shall be conclusive evidence of the supplier's acknowledgment of this GTCP even when no explicit reference is made to this GTCP.
- 1.8 All contemporaneous and subsequent agreements made between the Company and supplier concerning the execution of the contract must be made in writing and duly signed by duly authorized representatives of both parties.
- 1.9 Where declarations are required to be made in writing pursuant to this GTCP, the use of textual forms (e.g. E-Mail, Fax) shall be permissible as well.

- 1.10 This GTCP shall be binding and obligatory between and among the Company and the supplier in their capacity as principals and not in the capacity of agent or representative of any other entity or person.

## **2. Offer, Offer Documents, Conclusion of Contract**

- 2.1 The suppliers' offers shall be made at no charge to the Company. The supplier shall be bound by its offer for a period of four (4) weeks from date of transmission or delivery of the offer to the Company.
- 2.2 In its offer, the supplier shall specify the quantity, quality and execution of the goods or services to be supplied. The supplier may offer alternatives, however only with explicit mention of their alternative character. Such alternatives may only be pursued and availed of once the Company has made the written order explicitly accepting the said alternative offer.
- 2.3 Only written orders placed and duly signed by duly authorized representatives of the Company shall be legally binding. However, verbal agreements regarding the execution of an order shall only be valid once confirmed in writing by the Company's duly authorized representatives.
- 2.4 The supplier shall immediately confirm the orders in writing and such written confirmation shall be signed and addressed to the attention of the Company's purchasing department. The supplier shall likewise manifest its confirmation of the order through a duly signed copy of this GTCP.
- 2.5 The Company shall not and shall no longer be bound by the previously made order if the supplier's confirmation, including a copy of the signed GTCP, is not received within the period stated in the corresponding written order, or, where no such specifications exist, within a period of ten (10) working days upon receipt of the order.
- 2.6 The Company reserves the right to cancel the Purchase Order or relevant contract for any reason such as but not limited to the sudden change in demand or availability of the goods or the necessary materials at any time before the goods are delivered or the services rendered by giving written notice to the supplier. The Company shall not be liable for any loss or damage whatever arising from such cancellation.

## **3. Prices, Payment Terms**

- 3.1 The price/s and payment terms stated in the order are firm or fixed and is understood to include all ancillary costs including but not limited to costs relating to all license rights for the use of the goods, documents, etc. The price/s may not be increased and the payment terms may not be modified by the supplier. In the absence of any valid subsequent written agreement to the contrary, delivery to the stipulated destination, including packaging, insurance costs and the like shall be free of charge. In case subsequent deviating agreements exist, the freight and packaging costs shall be advanced by supplier and itemized separately on the invoices.
- 3.2 The Company, in addition to all remedies available to it under this GTCP or under the law such as but not limited to the termination of the contract and entitlement to damages, shall be entitled to a discount or a reduction of the price in the event of delivery by the seller of a quantity of the goods or services which is lesser than that agreed upon, defective quality of the goods or services, delay in the delivery of the goods or performance of the services or other analogous cases or the performance of services that do not meet the required scope of services or standards.
- 3.3 Modifications of the price/s due to any increase of costs, taxes etc. after the fact shall be excluded.

- 3.4 The statutory value added tax or sales tax is not included in the price and must be itemized separately on supplier's invoices.
- 3.5 Invoices can only be processed by the Company when these include the Purchase Order number, according to the specifications in the order and all consequences due to non-compliance with this obligation shall be for the sole responsibility of supplier. The invoices must be submitted separately and immediately upon completing delivery in compliance with statutory and regulatory requirements. Monthly invoices must also be submitted at the latest by the fifth of the month following the delivery. Invoices shall become payable within sixty (60) days upon full delivery and performance (including, as the case may be, an agreed upon approval) as well as receipt of a proper BIR registered invoice of official receipt compliant with Philippine statutory requirements for in country suppliers, and the proper invoice compliant with statutory requirements of the home country of suppliers outside the Philippines.
- 3.6 The Company shall not be liable for any interest. For any occurrence of default, the pertinent statutory provisions will apply, whereas in deviation thereof, an overdue notice in writing by supplier shall be required in any case.
- 3.7 The Company shall have the right to set-off any of the amounts payable by it to the supplier pursuant to this GTCP against any amount then owing from the supplier to the Company in respect of this GTCP or other transactions. The Company shall likewise have the right of retention and may exercise this up to the extent provided by law. The supplier may only transfer its claims to a third party or have them collected by a third party with our confirmation in writing.
- 3.8 All check payments shall be made payable to BAG electronics, Inc.

#### **4. Delivery, Period of Delivery, Default, Penalty**

- 4.1 The period of delivery stated in the Purchase Order or relevant contract shall be binding and the said period shall be strictly adhered to by the supplier. The period of delivery shall commence on the date of receipt of the order by supplier. The supplier shall be considered in default upon expiry of the period of delivery without need for any overdue notice. There is compliance with the period of delivery once the goods have been received in the department or unloading point specified by the Company and within the Company's standard hours of business. In the event that the goods are delivered to an incorrect receiving point, this shall not qualify as delivery.
- 4.2 If supplier becomes aware of any actual or potential event, including but not limited to labor disputes, that delay or may delay the timely delivery of the goods or services within the delivery period, the supplier shall give immediate written notice to the Company. In such cases, the Company shall be entitled to either extend the delivery period or, should interest in the delivery be substantially reduced, to withdraw partially or entirely from the contract and, as the case may be, to demand compensation for damages. The supplier shall be obligated to immediately inform the Company once such obstacle has ceased to exist. The supplier shall not be entitled to withdraw from the contract.
- 4.3 In cases of force majeure, the Company shall not be liable to the supplier for failure to perform or for delays in the performance of its obligations hereunder due to the occurrence of any event beyond the reasonable control of the Company and affecting its performance including but not limited to government regulations or orders, delay by the government in the issuance of any permit, license or approval, withdrawal or delay of any of the Company's clients or customers with respect to the goods or services, outbreak of a state emergency, acts of God, war, warlike hostilities, civil commotion, riots, epidemics, fire, strikes, lockouts or any other similar cause or causes. On its part, the supplier shall not increase its prices in event of force

majeure or the like at its own discretion. Shortage of financial resources, staff, production materials or resources, breach of contract by third parties commissioned by supplier as well as untimely deliveries to supplier shall not be considered as events of force majeure.

## **5. Execution**

- 5.1 In the event that the Company requires an initial sample or approval sample, the supplier may only start series manufacturing once the series sample has been cleared in writing.
- 5.2 The Company may request modifications in the quality and/or agreed specification of supplied goods or services within supplier's scope of technical capability later on. Technical modifications and their effect on prices, delivery period or other terms and conditions shall require an agreement pursuant to article 2 of this GTCP.
- 5.3 The Company shall have the right to refuse acceptance of the goods or services or any portion thereof which does not conform to any applicable specification or requirement previously agreed upon. Partial deliveries shall only be permissible upon prior agreement in writing, otherwise the Company may refuse acceptance. In any case, partial deliveries shall not be considered independent transactions and must be marked in writing.
- 5.4 In the event of urgent issues in the Company such as but not limited to due to force majeure, fire, flooding etc., the Company shall be entitled to withdraw from the contract against a compensation payment of 5 % of the agreed upon price of the goods not yet delivered from the respective order without further costs.
- 5.5 Drawings, models, samples, specifications, data, designs, sketches, blueprints, inventions and other technical information supplied by the Company to the seller in connection with the Purchase Order or relevant contract, if any, shall be and remain the Company's property and shall be held in strict confidence by the seller. Such information shall not be reproduced, used or disclosed to others by the seller without the Company's prior written consent in each instance and shall be returned to the Company immediately upon completion of the Purchase Order, contract or upon demand by the Company. Any information which the seller may disclose to the Company with respect to the design, production, sale or use of the goods and/or services covered by the Purchase Order or relevant contract shall be deemed to have been disclosed as part of the consideration for the Purchase Order or relevant contract, and the seller shall not assert any claim against the Company by reason of the Company's use thereof. The purchase price of the goods and services are, in part, consideration for design work, if any, performed by the seller in connection with the Purchase Order or relevant contract and incorporated in the goods or services. The Company shall retain title to any patterns, dies, molds, tools and special appliances furnished by or paid for by the Company in connection with the Purchase Order or relevant contract (the "Furnished Items"), The seller shall mark the Furnished Items as the Company's property and shall maintain and use the Furnished Items at its own risk and shall replace them if lost or destroyed. The Furnished Items shall be insured by the seller with loss payable to the Company; not be used in production of any item for any third party without the Company's prior written consent in each instance; be subject to disposition by the Company at any and all times; and at the completion of the Purchase Order or relevant contract, be immediately returned to the Company unless the Company shall otherwise direct. Nothing herein shall impose any obligation on the Company to provide any Furnished Items or to warrant the accuracy, quality or suitability of any of the Furnished Items.

## **6. Shipping, Transfer of Risk, Default of Acceptance, Place of Delivery**

- 6.1 Unless otherwise agreed upon in writing, deliveries shall be made to the shipping address or point of use specified by the Company on the Purchase Order or relevant contract.

- 6.2 The transfer of risk to the Company shall not occur before receipt of goods. Notwithstanding any provision to the contrary, the risk of loss of the goods shall pass from the supplier to the Company at the time of actual delivery and due receipt of the same. The receipt of a delivery shall not by itself constitute an approval of the goods and such acceptance shall not impair any right or remedy of the Company including but not limited to the right to reject and/or recover damages with respect to any non-conformity by the supplier found at a later time.
- 6.3 Goods shall be marked in accordance with the Company's instructions or specifications in the order and shall be properly packaged in accordance with standard commercial practices and secured for delivery to the Company in undamaged condition. If this is not the case, the Company reserves the right to return the goods or to claim the additional expenditures arising therefrom.
- 6.4 The Company shall not be held in delay or in default of acceptance if the acceptance of the goods was or has been obstructed by force majeure or by causes beyond the control of the Company.
- 6.5 Unless otherwise stated in our order, the place of performance shall be in the principal office of the Company. This shall also apply for all rights and obligations arising from this legal relationship as well as for payments in relation to or arising from the GTCP.

**7. Documents, Export Controls and Foreign Trade Data Regulations, Supplier's Declarations**

- 7.1 The supplier shall be obligated to enclose a delivery note with every delivery and to correctly indicate the corresponding order number on all shipping documentation and delivery notes; if the supplier fails to do so, it shall solely bear responsibility for any delays resulting therefrom.
- 7.2 The supplier shall immediately notify the Company in the event that a delivery is subject to any export restrictions. Moreover, supplier shall communicate, upon request, the customs tariff numbers for its goods as well as other information pertaining to its territorial and organizational area relating to its deliveries and services which are necessary for the Company to ensure compliance with export control regulations.
- 7.3 For all Products to be delivered and Services to be provided according to this Agreement Supplier shall comply with all applicable export control, customs and foreign trade regulations ("Foreign Trade Regulations") and shall obtain all necessary export licenses, unless Buyer or any party other than Supplier is required to apply for the export licenses pursuant to the applicable Foreign Trade Regulations.
- 7.4 Supplier shall advise Buyer in writing as early as possible but not later than [weeks/days prior to the] the Delivery Date of any information and data required by Buyer to comply with all Foreign Trade Regulations for the Products and Services applicable in the countries of export and import as well as re-export in case of resale. In any case Supplier shall provide Buyer for each Product and Service
  - 7.4.1 the "Export Control Classification Number" according to the U.S. Commerce Control List (ECCN) if the Product is subject to the U.S. Export Administration Regulations; and
  - 7.4.2 all applicable export list numbers; and
  - 7.4.3 the statistical commodity code according to the current commodity classification for foreign trade statistics and the HS (Harmonized System) coding; and
  - 7.4.4 the country of origin (non-preferential origin); and
  - 7.4.5 upon request of Buyer: Supplier's declaration for preferential origin (in case of European suppliers) or preferential certificates (in case of non-European suppliers) („Export Control and Foreign Trade Data“)

- 7.5 In case of any alterations to origin and/or characteristics of the Products and Services and/or to the applicable Foreign Trade Regulations Supplier shall update the Export Control and Foreign Trade Data as early as possible but not later than [weeks/das prior to] the Delivery Date. Supplier shall be liable for any expenses and/or damage incurred by Buyer due to the lack of or inaccuracy of said Export Control and Foreign Trade Data

## **8. Warranties, Quality Agreements**

- 8.1 In addition to the warranties required under existing law, the following are the warranties of the Seller with respect to the quality or fitness of the Goods: (8.1.1) the seller shall ensure that all the goods shall be brand new and shall be manufactured, stored, tested and packed in accordance with commercially acceptable standards and the laws and regulations applicable to them; (8.1.2) the seller warrants that all the goods are of good and merchantable quality and fit for purpose or for the purposes for which the Company intends to use such goods and free of faults in construction, manufacturing, material, design and production; (8.1.3) the seller warrants that the goods shall at the time of delivery correspond to the description given by the seller; (8.1.4) all representations, statements or warranties made or given by the seller, its officers, employees, agents, representatives or any other person or entity acting on behalf of the seller (whether orally, in writing or in any of the seller's brochures, catalogues and advertisements) regarding the quality and fitness for the purpose of the goods shall be deemed to be express conditions of this GTCP; (8.1.5) that the goods are free of any rights of third parties and d) that the goods comply with the applicable statutory requirements, guidelines, provisions and regulations, particularly regarding occupational safety, environmental and product safety, e.g. RoHS or REACH, and comply with property insurer's requirements, and that the goods are certified for CE conformity. The seller shall repair or replace the goods, at the seller's sole cost and expense, in the event of violation of any of the warranties under this GTCP. The Company shall also be entitled to such other remedies under this GTCP or under the law for violation by the seller of the foregoing warranties. The warranty period shall be Thirty Six (36) months starting from delivery, and where an acceptance is agreed upon, starting from acceptance. The foregoing period, however, shall only commence upon complete and defect-free delivery of goods. Notifications of defects can be submitted at any point within the said period whereas a first-time notification of defects suspends the running of the warranty period until all notifications of defects are settled.
- 8.2 In any case, such product descriptions, which – particularly through designation or reference in the order – are subject of the respective contract or have been included in the contract in the same manner as this GTCP shall be considered quality agreements. It shall thereby make no difference whether the product description originated with the Company, the supplier or manufacturer.
- 8.3 If supplier has concerns about the manner of execution, it shall immediately notify the Company thereof in writing. Where deviations from provisions become indispensable in individual cases, supplier must obtain the Company's prior written consent. Supplier's liability shall not be restricted by this.

## **9. Incoming Goods Inspection, Liability for Material Defects**

- 9.1 The seller shall permit the Company or its authorized representatives to inspect and test the goods or services during their manufacture or processing at any time at the discretion of the Company. If the Company is not satisfied that the goods or services, or their manufacture or processing does not comply in any material respect with its requirements, the Seller, without extra cost to the Company, shall take all steps necessary to ensure due compliance. Where applicable and if so required by the Company, the goods shall within fourteen (14) days prior to delivery be tested by the seller in the presence of authorized representatives of the Company by using the goods in the usual manner. If the goods shall fail to work in accordance

with the required specifications, the seller shall remedy the defects within seven (7) days after the testing and the goods shall be tested again in the manner set out above. Where applicable and if so required by the Company, the Seller shall on dispatch weigh or quantify the goods in the presence of authorized representatives of the Company and the weights or quantities when ascertained shall be recorded by the seller and notified to the Company upon delivery.

- 9.2 The goods shall upon delivery and the services upon completion shall be subject to final inspection before acceptance by the Company or its representatives or the Company's sub-buyers. It is agreed that any prior payment by the Company to the seller shall not constitute acceptance of the goods and services and shall not impair any right or remedy of the Company. The Company shall have the right to refuse acceptance of the goods or services or any portion thereof which does not conform to any applicable specification or requirement. Acceptance shall not impair any right or remedy of the Company, including, without limitation, the right to reject and/or recover damages with respect to any non-conformity by the seller found at a later time, even if such loss or damage is found after acceptance of the goods or after delivery to the Company's customer or the final user of the goods or after acceptance of the services rendered.
- 9.3 The Company, in addition to all remedies available to the Company, shall be entitled to require the supplier to either remedy the defects or to arrange for the delivery of a new item, as the Company may see fit. The supplier shall be obligated to bear all necessary expenditures for any remedy of defects or replacement delivery, such as but not limited to transport costs, experts' fees, administration costs, own expenses, installation and removal costs, costs for equipment, lifting devices and scaffolding. The Company may also demand the reimbursement of costs in relation to inspections if defects occur in a number that is above average and thus necessitate the conduct of inspections of incoming goods in addition to standard sample inspections.
- 9.4 The Company is obligated to report obvious defects in the delivery to supplier insofar as such defects can be identified in the proper course of business. Where approval is agreed upon, there shall be no obligation to inspect. The Company shall not be obligated to perform additional incoming goods inspection. In the case of goods where defects can only be identified in the course of processing, a notice of defects may be sent within a reasonable time upon identification of defects. In this respect, supplier shall waive any objection over late notification of defects. Any self-checks or inspections performed by the Company shall not release the supplier from its obligation to deliver goods free from defects.
- 9.5 The right to compensation for damages, particularly the right to compensation for damages due to non-performance is hereby expressly reserved by the Company, and supplier shall particularly be obligated to compensate the Company for damages, even consequential damages, resulting from any existence of a defect. The Company shall be entitled to remedy the defects at the supplier's cost if the supplier's remedy has failed, if there is imminent danger or in cases of particular urgency. In such cases, the Company shall inform supplier thereof within a reasonable time.
- 9.6 Any payment of the purchase price or parts thereof as well as acceptance or approval of any documents (drawings, drafts, models, samples, proofs, even intermediate goods etc.) before an identification of defects shall not constitute an acknowledgement of the goods being free from defects and having been delivered according to contract, and thus shall not constitute any waiver of claims to remedy of defects.

## **10. Liability, Producer's Liability, Third-Party Property Rights**

- 10.1 Upon the occurrence of any or more of the following events:(10.1) if any portion of the goods or services delivered to the Company is defective, damaged or is otherwise not in conformity with the description or specification under the Purchase Order or relevant contract (including,

without limitation, a failure to comply with the warranties and representations set forth in this GTCP); (10.2) if in the reasonable judgment of the Company; the seller becomes unable to perform its duties under the Purchase Order, relevant contract or this GTCP;(10.3) If the seller shall fail to comply with the delivery date; and/or, (10.4) if the seller shall otherwise fail to perform any of its obligations hereunder, the Company shall have the right, at its own discretion and without prejudice to other rights and remedies which it may have, (i) to return the goods(or the defective portion thereof) to the seller at the seller's expense; (ii) to sell or dispose of any or all of the goods, and to retain the sum obtained from such sale or disposition and apply such sum against any and all of the Company's damages hereunder and any other debts of the seller to the Company, and remit the remaining amount, if any, to the seller; (iv) to require the goods to be replaced or to be corrected promptly with satisfactory material and workmanship or to require the services to be rendered again or rendered by another service provider at the expense of the seller; or, (iv) to forthwith terminate the Purchase Order or relevant contract in whole or in part by notice in writing to the seller and without need of judicial action; and in any case, the seller shall, upon demand of the Company, refund to the Company all monies paid pursuant to the Purchase Order or relevant contract, if any, and compensate the Company for any loss or damage suffered by the Company due to such default, including any loss or damage from claims by the Company's customers or by the final user due to any defect in the goods or the services or due to any default of the seller, including late delivery. The seller agrees to indemnify, defend and save the Company free and harmless from any loss, penalty, payment and liability or damage resulting from the seller's refusal or failure to make delivery as specified. In addition to all of the foregoing and such other rights and remedies of the Company, in the event of delay by the seller, the seller shall pay to the Company a penalty of 1/10 of 1% of the selling price for every day of delay in the delivery of the goods. The said penalty shall be deducted from any amount due the seller from the Company. The Company is also entitled to a price reduction per purchase or service item at the rate of 2% for each week of delay, but not exceeding 10%.

- 10.1 Supplier shall, upon first request, indemnify the Company against indirect third-party claims against the Company due to poor performance of supplier or in the event that the goods supplied by the supplier are defective or do not meet required specifications.
- 10.2 If supplier is responsible for product damages, it shall be obligated to indemnify the Company, upon first request, against third-party claims for damages, especially against claims for product damages, insofar as the cause is located in its sphere of control and organizational area and it shall be solely liable in relation to third parties. The Company shall inform supplier – as soon as possible and as is reasonable – about the content and scope of the recall and/or warning actions to be performed to give supplier the opportunity to comment. Other statutory claims shall remain untouched.
- 10.3 Supplier shall be obligated to maintain a product liability insurance policy, issued by an insurance company acceptable to the Company, with a coverage amount of at least US\$ 3.000.000 per personal injury / material damage (flat), and which insurance policy shall remain effective for a period of five years from the date of acceptance by the Company of the delivery of the goods. Said policy and any changes in insurance protection shall be verified by the Company upon request. Supplier shall pre-emptively release its insurance company already now from its confidentiality obligation so that the Company shall be entitled to obtain information directly from said insurance company. Where the Company is entitled to further compensation for damages, those shall remain unaffected.
- 10.4 Supplier shall warrant that no third-party rights, particularly patents, trademarks and copyrights, are being infringed in relation to its delivery and that the delivered goods meet all statutory regulations and official requirements insofar as supplier was familiar with the infringement or should have been in its capacity as a specialized company. The supplier shall indemnify and hold the Company free and harmless from and against any and all claims, demands, liabilities, lawsuits, proceedings, losses, damages, costs and expenses (including attorneys' fees) for actual or alleged infringement of any patent, utility model, design,

trademark or any other intellectual or industrial property right or copyright arising from the purchase, use or sale of the goods or performance of the services. Supplier's duty to indemnify shall relate to all expenditures inevitably arising to the Company from or in relation with the third-party claim.

- 10.5 The Company shall be entitled to obtain from the holder of the property rights all necessary licenses for delivery, commissioning, use, resale etc. of the delivery item at supplier's cost if the costs thus incurred turn out substantially lower than the damages resulting for both parties in the case of a reverse transaction.

## **11. Statute of Limitations**

- 11.1 The mutual claims of the parties to the contract shall expire by limitation according to statutory provisions unless agreed upon otherwise.
- 11.2 The general limitation or warranty period for claims for defects shall be Thirty-Six (36) months starting from delivery, and where an acceptance is agreed upon, starting from acceptance. The period, however, shall only commence upon complete and defect-free delivery of goods. Notifications of defects can be submitted at any point within the limitation period whereas a first-time notification of defects suspends limitation until all notifications of defects are settled, unless settlement is a goodwill service by supplier or defects are entirely negligible.

## **12. Auxiliary Goods, Retention of Title, References, Confidentiality**

- 12.1 All technical and commercial documents, drafts, drawings, product descriptions, images and other documents provided by the Company to the supplier in connection with this GTCP, if any, shall be and remain to be the Company's property and shall be held in strict confidence by the supplier. Such documents shall be used exclusively by the supplier for the performance of the contract and shall be returned to the Company upon demand or upon completion of contract. Documents, whether in printed form or in soft copy, and all other data and other information communicated to or in any manner acquired by supplier shall be kept strictly confidential towards third parties, and shall not be reproduced, used or disclosed to others by the supplier unless the Company's prior written consent has been obtained.
- 12.2 The immediately foregoing provision shall likewise apply to substances and materials (e.g. software, finished and semi-finished products) as well as tools, templates, samples and other items provided by the Company to the supplier for manufacturing purposes. Such items, provided that these are not being processed, shall be stored separately by supplier and reasonably insured against destruction and loss at supplier's cost. Processing, mixing and binding (further processing) of provided items by supplier shall be carried out for the Company.
- 12.3 The Company shall likewise retain ownership of the intellectual property and other rights over the drafts, drawings, product descriptions, images and other similar documents provided to the supplier.
- 12.4 Any extended and expanded retention of title by supplier shall be excluded. The Company and the supplier hereby consider the terms and conditions of this GTCP as strictly confidential and the supplier shall not divulge the same without prior written consent or approval by the Company, except as otherwise required by a court order or by relevant laws, rules or regulations. The supplier shall be prohibited from naming the Company as a reference, unless it has obtained the Company's prior written consent.
- 12.5 The confidentiality obligations shall not apply if supplier obtains confidential information from third parties without any breach of this agreement, provided that the respective third party has obtained the information lawfully, and/or supplier is bound legally and/or by judicial or official

order to disclose the confidential information. In such cases, supplier shall inform the Company as soon as is legally permissible and with sufficient time prior to disclosure so that the Company may prevent disclosure or the consequences thereof through legal measures.

- 12.6 The confidentiality obligations shall remain valid even after conclusion of this contract.

### **13. Specific Grounds for Cancellation**

In addition to the right to withdraw from the Purchase Order or relevant contract, as previously stated in this GTCP, the Company shall be entitled to withdraw or terminate extraordinarily if (preliminary) insolvency proceedings are opened on supplier's assets or if supplier discontinues its payments for more than only temporary time period. The same shall apply in the event that circumstances occur which prevent supplier from performing delivery (e.g. preliminary injunctions or official orders) and such circumstances subsist uninterruptedly for a period exceeding two (2) months, as well as in the event that improper competition or corruption offenses concerning relating to this GTCP become known.

### **14. Social Responsibility, Environmental Protection, Data Protection**

- 14.1 The Company is obligated to comply with the ZVEI Code of Conduct, a code of conduct by the central association of the electrical and electronics industry (ZVEI) which can be accessed on the ZVEI website <http://www.zvei.org/Themen/GesellschaftUndUmwelt/Seiten/ZVEI-Code-of-Conduct.aspx>, and the Company's expects the supplier to comply with these provisions, which are based on internationally established standards. The Company endeavors to implement these principles throughout the supply chain as far as its sphere of influence reaches. Supplier shall undertake all suitable and reasonable efforts to promote compliance and sustainability throughout the entire supply chain, and particularly to continuously implement and apply the principles and values stated in the "ZVEI Code of Conduct for Social Responsibility" or comparable codes of conduct of supplier's own. Upon request, supplier shall report to the Company within the scope of a reciprocal cooperation concerning the substantial measures taken and render possible a review within the scope of audits in order to establish accountability on the fundamental guarantee of their observation. This shall not constitute a right for disclosure of business and trade secrets or information pertaining to competition or worthy of protection.
- 14.2 In the performance of contractual services, supplier shall strictly adhere to statutory and official provisions for environmental protection particularly concerning the use of materials and substances capable of polluting or in other form negatively affecting soil or water, supplier shall take precautions against any leakage. Moreover, supplier shall be obligated to take back packaging.
- 14.3 Supplier shall strictly comply with the requirements of Republic Act No. 10173 or the Philippine Data Privacy Act of 2012 on the processing of personal data as far as it is necessary for the execution of the Purchase Order or relevant contact.

### **15. Governing Law, Jurisdiction, Miscellaneous and Final Provisions**

- 15.1 All legal relationships between the Company and the supplier, as well as any construction or interpretation of this GTCP shall be subjected to, governed by and construed in accordance with the laws of the Philippines.
- 15.2 The courts of competent jurisdiction in the City of Binan, Laguna, Philippines, to the exclusion of all other venues, shall be the venue for all legal actions or disputes arising out of or relating

to the Purchase Order or relevant contract, this GTCP or the breach thereof, which cannot be amicably settled by the parties.

- 15.3 This GTCP shall remain to be valid and shall still be given full force and effect even in the event that any of its individual clauses prove to be legally invalid or unenforceable. Any invalid clause shall be amended or reinterpreted by the parties in such a manner that the economic purpose intended by the invalid clause is achieved as far as possible. The same shall apply in the event that a gap requiring amending is identified in the execution of the contractual relationship. If the invalidity is due to a performance or time provision, the statutorily admissible extent shall apply instead.
- 15.4 Where a provision of this GTCP or the contract becomes invalid with regards to mandatory foreign law, supplier shall upon request arrange for such contractual amendments with us and make such declarations towards third parties or authorities that guarantee the effect of the provision in question and, should that not be possible, their economic content under foreign law.
- 15.5 All headings contained herein are for ease of reference only and shall not affect the construction of this GTCP.
- 15.6 Any notice required to be served pursuant to this GTCP shall be in writing and served by either party on the other by personal delivery or registered mail at the address specified herein or such other address as the parties hereto may from time to time notify each other in writing.
- 15.7 Herein supplier represents and warrants that it has full power, authority and legal right to execute, deliver and perform this GTCP and has taken all the necessary corporation action, if a corporation, to authorize the foregoing and authorize the herein signatory to sign on its behalf.

**I hereby confirm that I have read the GTCP and agree with the provisions.**

Name of Supplier and address of principal office:

\_\_\_\_\_

Name and position of signee:

\_\_\_\_\_

Date:

\_\_\_\_\_

Stamp/signature:

\_\_\_\_\_