

## 1. SCOPE OF AGREEMENT AND DEFINITIONS

These General Terms and Conditions for the Purchase of Supply (hereinafter the “**General Terms and Conditions**”) shall apply to any and all purchases of “**Supply**” by Kempower Inc. and/or its Subsidiaries, and/or its “**Sub-suppliers**”, from “**the Supplier**”. Any reference to and applicability of any General Terms and Conditions of the Supplier are hereby expressly excluded. These General Terms and Conditions shall supersede any other General and/or Special Terms and Conditions even if Kempower has not explicitly excluded them.

These General Terms and Conditions together with the Purchase Order and/or any document(s), to which these terms are attached and/or referred to, constitute the Agreement (hereinafter the “**Agreement**”). This Agreement becomes valid at the time these General Terms and Conditions are presented to the Supplier. Kempower reserves the right to amend these General Terms and Conditions and any amendment to the General Terms and Conditions shall be communicated to the Supplier. For the avoidance of doubt, any oral or verbal statement, communication, commitment, or representation made by Kempower is not binding upon Kempower unless and until confirmed in writing. The governing language of this Agreement is English.

### 1.1 Definitions

Unless expressly otherwise stated under each chapter of this these General Terms and Conditions or evident in the context, the following terms shall have the meanings defined below. The singular (where appropriate) shall include the plural and vice versa.

“**Supply**” shall mean goods, equipment, accessories, spare parts and tools (including but not limited to any raw materials and components of any of the foregoing) and, designs, documentation, services (including installation and testing), software, hardware, and/or consultancy to be purchased by Kempower and designed, manufactured, tested, stored and/or delivered by the Supplier pursuant to this Agreement and the Order(s).

“**Subsidiary**” shall mean another entity controlled by Kempower or under the common control of Kempower. Control shall mean the direct or indirect ownership of more than fifty percent (50%) of the shares or interests which entitle to vote for the directors of an entity or the equivalent, for as long as such entitlement subsists, or which means equivalent power over the management of an entity.

“**Supplier**” shall mean a company performing its obligations under this Agreement.

“**Sub-supplier**” shall mean any company performing any part of the obligations of the Supplier under this Agreement.

“**Agreement**” shall mean this General Terms of Conditions and Purchase Order including its Appendices.

“**Frame Agreement for Purchase by and between Kempower and the Supplier**” shall mean a separate Agreement between Kempower and Supplier where Parties may agree upon a deviation to the scope described on, but not limited to, these General Terms and Conditions for the Purchase of Supply.

“**Appendix**” shall mean an appendix of this Agreement and/or Purchase Order.

“**Party**” and “**Parties**” shall mean Kempower or the Supplier as applicable.

“**Delivery**” shall mean the completion of the delivery of the Supply from the Supplier to Kempower in accordance with the agreed terms of delivery.

“**Purchase Order**” shall mean the order document or other similar written request (in whatever mutually agreed technical form) issued by Kempower for the Delivery of the Supply pursuant to this Agreement.

“**End Customer**” shall mean the Customer of Kempower purchasing the end product of which the Supply forms a part.

“**Specifications**” shall mean the technical specifications, requirements, production methods, documentation, packing and marking instruction, additional directives, designs, relevant standards, software, models, tools, blueprints, instructions, additional data, and/or drawings of the Supplier’s entire scope of Supply set forth in the Order.

## 2. SCOPE OF THE SUPPLY

### 2.1 Specifications and Compliance with Laws and Regulations of the Supply

The Supplier acknowledges and accepts that the Supply becomes parts of end products for which operational safety is an absolute requirement. The Supplier shall design and/or engineer, manufacture, test, store and/or deliver the Supply in accordance with the Specifications provided and/or referred to by Kempower. The design and manufacture of the Supply, and the completed Supply, shall conform to:

- i. the applicable laws;
- ii. standards and codes set out in the Order;
- iii. standards and codes set out in the Specifications; and
- iv. ISO Standards, or IEC Standards, or EN-Norm, or British Standards, or American Standards, or UL Standards, or ETL certification, or similar applicable standards for such or similar products, (including but not limited to health and safety requirements), as valid at the moment of Delivery, and the Supplier understands that such an obligation forms an imperative part of this Agreement. In case there are conflicts, discrepancies, and ambiguities between the requirements specified in sub-paragraphs i. through iv. the Supplier shall notify Kempower and unless otherwise instructed by Kempower, the requirements shall prevail in the order of priority listed above.

Any modification, documentation, approval, certification, or procedure required by applicable laws or regulations shall be the responsibility and cost of the Supplier.

The Supplier shall guarantee the availability of applicable parts and/or spare parts for fifteen (15) years from the Supply.

### 2.1.1 Export Control

The Supplier shall comply with all applicable export control laws and regulations. The Supplier shall obtain all required export licenses or agreements necessary to perform the Supplier’s obligations under this Agreement, as applicable. The Supplier shall notify Kempower if any use, sale, import, or export by Kempower of the Supplies to be delivered under this Agreement is restricted by any export control laws or regulations. When the Supplies are subject to export control the Supplier shall inform Kempower of the Export Control Classification Numbers (ECCN) for the supplied items (articles, technology, and software). The Supplier shall indemnify, hold harmless and, at the election of Kempower, defend Kempower from and against all losses, damages, liabilities, and expenses, including but not limited to reasonable attorneys’ fees, arising from or related to any act or omission of the Supplier or Sub-suppliers at any tier in the performance of any of its obligations under this Article.

### 2.2 Illicit Payments prohibited

The Supplier acknowledges that it is expected to fully comply with all applicable foreign and domestic laws and regulations prohibiting bribery, money laundering, and extortion including the UK Bribery Act 2019, the U.S. Foreign Corrupt Practices Act of 1977 and other laws and regulations with the standards of conduct and spirit of the OECD Convention on Combating Bribery of Foreign Officials in International Business Transactions and the Commentaries thereon and the Rules of Conduct to Combat Extortion and Bribery of the International Chamber of Commerce each of OECD Convention and ICC Rules being read and understood by the Supplier.

If the Supplier directly or indirectly promises, offers, pays, solicits, or accepts payment of any money or anything of value to any government, public or political party, official, or an employee of a party involved in the Supply for the purpose of influencing the official or employee or an act or decision of such official or employee in the course of carrying out this Agreement, or is in breach of any of its representations and warranties in this Article, Kempower is entitled, without limiting any other legal remedy under this Agreement or law, to terminate this Agreement through a simple notice with an immediate effect.

### 2.3 Ordering of the Supply

Kempower may issue an Inquiry for the Supply from the Supplier. The Supplier shall send a binding Offer based on the Inquiry soonest possible. The Offer shall be valid for thirty (30) days by default if no other validity requirement is specified. Kempower shall have the right to issue Orders and the Supplier agrees to accept Orders for the Supply as set forth in this Agreement. Based on the Orders Kempower shall purchase, and the Supplier shall sell and deliver in accordance with the provisions of this Agreement. Unless otherwise agreed, the Supplier shall send a written confirmation of each Purchase Order the latest within two (2) business days from the date of the Purchase Order. Each Party shall have the right to require correction of obvious calculation and typing errors in the Purchase Order.

The Supplier shall not have the right to refuse to deliver the Supply in accordance with Purchase Orders which have been placed in accordance with this Agreement. Kempower’s liability for any claims arising out of or related to any Purchase Order shall be limited as set forth in this Agreement and allocated to Kempower stated on the Purchase Order. For the sake of clarity, the Parties acknowledge that nothing contained in this Agreement or otherwise shall mean that Kempower has any obligation to place Purchase Orders or have any minimum purchase commitments under or in relation to this Agreement.

### 2.4 Variation and Suspension of Supply

Kempower has the right to issue a written variation or suspension of the Supply at any time prior to the Delivery. Any adjustment to the Purchase Price and to the Delivery Time caused by the change shall be agreed upon separately in writing. When Kempower orders a variation or suspension the Supplier shall confirm the acceptance of the variation in writing without delay. The rights and obligations of the Parties under this Agreement shall extend to all changes.

Kempower shall have the right, free of charge and without any liability to Supplier, by written notice no later than five (5) business days prior to the intended Delivery Date, to cancel Purchase Order for its convenience upon written notice thereof to Supplier.

The Supplier shall not change (and shall ensure that no Sub-supplier will change) the Supply, the Specification (including without limitation, detailed design, components, or materials), the production methods, or the production location without prior written consent of Kempower. The same requirement shall apply in case the Supplier uses products, materials, or services supplied by third parties. In case the Supplier or its Sub-supplier considers making any changes to the manufacturing methods, the place of manufacturing, the production process and/or the design owned by it pertaining to the product being part of the Supply, the Supplier shall communicate such changes

to Kempower without delay for Kempower to be able to foresee any possible consequences.

## 2.5 Transfer of the Order

The Supplier may not transfer, assign, or subcontract the Agreement, the Purchase Order, or any part of its obligations without the prior written consent of Kempower. Should Kempower consent to the use of a Sub-supplier, the Supplier shall require the Sub-supplier to warrant that the Sub-supplier fulfills the same conditions as the Supplier, set out in this Agreement. Kempower is entitled to terminate the Agreement immediately if the Supplier breaches the provisions of this Article. The Supplier shall at all times be liable for its Sub-suppliers.

## 2.6 Documentation of the Supply

The Supplier shall provide Kempower with all agreed and necessary documentation and written instructions to enable the orderly use, installation, and servicing of the Supply including but not limited to technical documentation and operation and maintenance instructions of the Supply in accordance with this Agreement. The documentation and instructions shall be included in the Delivery unless otherwise agreed in writing. Kempower shall have the right to use all documentation that has been placed at its disposal, for any authorized purpose and to place such documents at the disposal of authorities, the End Customer, or any other third party, as necessary in such connection.

## 2.7 Packing, Marking, and Storage of Supply

The Supplier shall furnish the packing material and adequately pack the Supply according to the nature of the Product and to withstand ordinary strain in transportation in accordance with any requirements in the Order if any. The delivery shall be clearly marked and shall include a case or unit-specific and certified packing list, as applicable, containing details, such as Kempower product code or item number, Order number, markings, packages, dimensions, gross and net weight, or any other information or specific handling and storage instructions required specified in the Order.

## 3. APPLICABLE QUALITY, HEALTH, SAFETY, ENVIRONMENT, SUSTAINABILITY, AND SECURITY MANAGEMENT REQUIREMENTS

Operational safety is an absolute requirement for the Supply. The Supply shall include all specified safety devices and instructions and the Supplier shall ensure that the Supply fully satisfies the requirements of any applicable safety regulations, standards, and laws. If any additional safety devices are required due to noncompliance with any regulations, standards, or laws, they shall be installed at the cost of the Supplier. Kempower emphasizes social responsibility in all its operations and expects also its Supply Chain to follow the latest ISO 26000 guidance.

### 3.1 Quality Management System of the Supplier

The quality management system of the Supplier shall be certified according to, or at the minimum, shall comply with the latest edition of the International Standard ISO 9001. The quality management system of the Supplier shall control the materials used, the sourcing and procurement of components, the production process of the Supply as well as the finishing, final inspection, and testing, as applicable, and packing for Delivery. The quality management system shall ensure that the Supply is in accordance with this Agreement and as a minimum complies with all requirements of the Specifications, quality instructions of Kempower, and the Order. The Supplier shall have the processes mapped and implemented and the quality plans presented preferably in accordance with the International Standard ISO 10005 for components, equipment, systems, and services of Kempower.

### 3.2 Health, Safety, and Environment Management of the Supplier

The occupational health and safety management system of the Supplier shall be certified, or at minimum, shall comply with the latest edition of the International Standard ISO 45001. The occupational health and safety management system shall ensure effective planning, operation, continuous improvement and reduce health and safety risks. The Supplier shall have readiness and procedures for emergency situations.

The environmental management system of the Supplier shall be certified according to, or at the minimum shall comply with, the latest edition of the International Standard ISO 14001 or EMAS. The environmental management system shall ensure effective planning, operation, continual improvement, and control of environmental aspects and risks. The Supplier shall record annually the amounts of packing materials submitted to Kempower and report the annual figures to Kempower upon request.

With respect to environmental requirements and regulations the Supplier shall provide the Supply in compliance with all applicable laws, regulations, and latest standards for similar Products, including but not limited to the Toxic Substances Control Act (TSCA) as amended. Any modification, documentation, approval, or procedure required by applicable laws and regulations shall be the responsibility and cost of the Supplier. The Supplier shall certify and ensure that the Supply is not containing asbestos or any other hazardous material, substance, or radioactivity in any form in the basic material or in the components used in the Supply. The Supplier shall certify and ensure that the Supplier does not procure, and the Supply is not containing tin, tantalum, tungsten or gold ("Conflict Minerals") originating in conflict-affected or high-risk areas.

### 3.3 Sustainability Management of the Supplier

The Supplier shall comply with the relevant EU Corporate Sustainability Reporting Directive (CSRD), Directive on Corporate Sustainability Due Diligence (CSDD), and EU Taxonomy requirements and provide Kempower, upon request, information for Kempower to fulfill its compulsory reporting duties. The Suppliers sustainability management system shall ensure that the Supplier assesses its own Supply Chain risks, monitors continuously its Supply Chain, and mitigates and remediates identified risks in the Supply Chain together with its Sub-suppliers. The Supplier shall provide Kempower, upon request, the carbon footprint of its Supply reported as CO2e in accordance with the Greenhouse Gas Protocol.

### 3.4 Security Management of the Suppliers Supply Chain and Risk Management

The Supplier shall have a security management system which shall i) ensure and document the supply chain security processes, and ii) prevent unauthorized access to and tampering with the Supply, the premises, the cargo units, the Supply in transit, and the storages. The security management system shall comply with the latest edition of the International Standard ISO 28001 at the minimum and the Supplier shall conduct a risk assessment of its operations preferably according to the latest edition of the International Standard ISO 31000.

The Suppliers Information security management systems shall comply with the latest edition of the International Standard ISO 27001 at the minimum and the Supplier hereby undertakes to use its best efforts to ascertain that the electronic communication with the Supplier or the Supply, if applicable, does not contain any virus or other software routine designated to permit unauthorized access to the associated computer system or to disable, erase or otherwise damage software, hardware, or data, or perform other similar actions.

## 4. QUALITY INSPECTION, TRACEABILITY, ACCEPTANCE, AND NON-CONFORMITY

### 4.1 Quality Inspections and traceability of the Supply

The Supplier shall be responsible for the quality of the Supply and for carrying out all the necessary quality inspections and tests required by the applicable laws, regulations, and standards to ensure that the Supply conforms to the agreed. The costs of carrying out any tests and inspections shall be borne by the Supplier. Kempower shall not have any liability to conduct inspections but may do so. The Supplier shall provide Kempower, upon request, a Product Quality Plan and/or Production Inspection Test Plan, including inspections and a test plan for the Delivery. Such documents shall identify detailed test activities and controls (acceptance criteria, reference, and verification documents) to be performed by the Supplier in the design, material inspection, manufacturing, and final testing phase, in order to achieve the required quality level of Delivery.

Kempower and its appointed representatives shall be granted free access to the facilities of the Supplier at reasonable times for the purpose of inspecting and/or testing the Supply, manufacturing processes, and/or the quality thereof and witnessing tests that may have been agreed upon. The cost of attending the facilities of the Supplier for the purpose of inspecting and/or testing the Supply shall be borne by the attending party. The Supplier is responsible for delivering inspection and test reports and certificates of the quality of the Supply to Kempower in writing on Kempower's demand. Approval of the Supplier's technical documents or drawings, inspections, testing of the Supply, or supervision of design work or manufacturing, whether by Kempower or the End Customer, shall not be construed as implying any limitation of the obligations and liabilities of the Supplier. Whenever any work is performed at any facility of Kempower, the Supplier shall comply with all applicable safety regulations of Kempower and follow all instructions given by Kempower.

The Supply delivered under this Agreement shall be traceable to the source of the materials and/or components used. Quality control, inspection, and test records shall be available upon request by Kempower. Identification of the used materials and/or components shall include but is not limited to the following types of information: revisions, quality records (inspections, factory acceptance tests, QC for each phase, and any other test records), material certificates (type, specification, and heat number), manufacturing location and time. In any case, the Supplier shall be able to produce identification information to adequately identify all material and/or components in such a manner that required traceability is ensured.

### 4.2 Acceptance of the Supply and Non-conformity

All Supplies are subject to final acceptance by Kempower up to the time that the Supply is taken into use by the End Customer of Kempower. Kempower is not required to inspect the Supply upon Delivery. Kempower must be able to rely on the quality management system of the Supplier which shall control the production process and shall assure that the Supply is in accordance with the Specifications and this Agreement. No failure or inability of Kempower to inspect or test any part of the Supply,

including drawings, information, and samples, as well as any approval, consent, or rejection by Kempower shall release the Supplier from its obligations and/or liability under this Agreement and/or the law.

The rights of Kempower upon rejection shall include, not limiting any other legal remedy under this Agreement or law, prompt repair, replacement, or crediting of the non-conforming Supply by the Supplier. The Supplier shall without delay inform Kempower of the reasons for the non-conformity and the corrective actions taken. The Delivery shall not be deemed to have been made until the Delivery of a repaired or replaced Supply is accepted by Kempower. The Supplier shall be liable for reimbursement (by payment or setoff) of all costs incurred by Kempower.

In case of any non-conformity the Supplier shall provide a thorough root cause analysis upon the request of Kempower. Should there be a need, due to the Supplier, to check any Supply in Kempower stock or at the Customers of Kempower the Supplier shall bear all costs and expenses arising thereof. The Supplier shall inform Kempower without any delay if the Supplier has any reason to believe that there might be a risk of a major or an epidemic type of quality problem. Should there be a need to recall any Supply from Customers of Kempower due to the Supplier, the Supplier shall bear all costs and expenses arising thereof. If the non-conformity of the Supply is established after or during manufacturing operations performed by Kempower or a supplier of Kempower following the Delivery of the Supply, the Supplier shall compensate Kempower for the costs of such manufacturing operations. The Supplier shall pay the actual machining and material costs and labor hours.

## 5. PRICE, PAYMENT TERM AND INVOICING THE SUPPLY

### 5.1 Purchase Price

The price of the Supply is exclusive of Value Added Tax (VAT) but inclusive of all other taxes, fees, duties, levies, and charges for producing and delivering the Supply. The costs of inspection(s), test(s), material certificates and /or material safety data sheets are included in the price. The price shall constitute full and complete compensation for all obligations of the Supplier under this Agreement and the Purchase Order(s). For the sake of clarity, Kempower does not accept any additional handling or invoicing costs besides the cost of the Supply.

### 5.2 Payment Term

Subject to the Supplier performing its contractual obligations in accordance with Article 2 and subject to the receipt of the invoice and documents by Kempower, Kempower shall pay for the Supply within ninety (90) days from the receipt of the accepted invoice and the documents. Payment for the Supply is subject to deduction or set-off of any claim related to this Agreement which Kempower may have against the Supplier or any other claim that Kempower or any companies within Kempower group of companies may have towards the Supplier.

Kempower is entitled to withhold payment in respect of a Delivery that is not completed in accordance with the requirements of this Agreement until the Delivery is completed and accepted. Kempower may also withhold any amount owed by the Supplier from any payment of the Purchase Price. Kempower shall pay the undisputed amounts payable pursuant to this Agreement, however, disputed amounts shall be payable only after the final settlement of such disputes.

### 5.3 Invoicing the Supply

All invoices and payments shall be in USD (\$) or the currency stated in the Purchase Order. All invoices shall refer to the Order number of Kempower, item numbers in the Order, and marking as to the description of the Supply (marks and numbers, number and kind of packages, gross and net weight, measurements, commodity codes, country of origin, information on eventual intercommunity Supply, the actual delivery address of the Supply). The Supplier shall separately specify the freight and insurance costs in the invoice if any.

## 6. OWNERSHIP AND DELIVERY

### 6.1 Transfer of ownership and risk

Title to and ownership of the Supply shall fully pass to Kempower upon Delivery or in proportion to the payment by Kempower and in full upon Delivery at the latest. The risk of the Supply or parts thereof shall pass from the Supplier to Kempower according to the applicable terms of delivery.

In the event of the Supplier's material default, delay, or bankruptcy Kempower is given the right to take possession of the Supply, to transfer this Agreement to another Supplier, or to take over the manufacturing of the Supply at the Supplier's factory. Such possession must also be exercised without delay if any of these events materialize. The rights set in this Article do not restrict Kempower's rights to remedies relating to defects or delays.

### 6.2 Delivery Term and Delivery Time

The delivery term shall be DDP delivery address in accordance with Incoterms® 2020 unless otherwise specified in the Frame Agreement. The Supply shall be delivered to Kempower in accordance with the Delivery Time specified on the Purchase Order. No Supply shall be delivered prior to the Delivery Time without the prior written consent of Kempower.

### 6.3 Delay in Delivery

Should the Supplier have any reason to assume that the Supplier will not be able to meet the agreed Delivery Time, the Supplier shall immediately notify Kempower thereof, stating the cause and estimated duration of the delay. If the Supplier fails to give such notice, Kempower shall be entitled to compensation for any additional costs which it incurs and that could have been avoided had it received such notice. For clarity, the notification does not limit or free the Supplier from the Supplier's liabilities due to late delivery.

The Supplier acknowledges that the correct fulfilment of Purchase Orders in accordance with the agreed Delivery Time is of the essence for Kempower. Should the Delivery Time be exceeded for any reason other than Force Majeure or a reason solely attributable to Kempower, Kempower shall be entitled to liquidated damages for delay. Unless otherwise agreed in the Frame Agreement for Purchase by and between Kempower and the Supplier the amount of liquidated damages shall be three percent (3%) of the total price of the delayed Supply under the respective Purchase Order for each commencing calendar week by which the Delivery Time is exceeded up to the maximum of twenty-one percent (21%) (incremental 3% for each beginning calendar week 3%, 6%, 9%...21%) of the total price of the delayed Supply under the respective Purchase Order.

The liquidated damages become due to Kempower's demand. Kempower is not obliged to prove to the Supplier that Kempower has suffered actual damage due to the delay in order to be entitled to liquidated damages for delay. If more expensive means of transportation than otherwise intended must be used in order to limit the effects of the late delivery, or if other additional costs for the delivery should arise, such costs shall be borne by the Supplier. In the event of the Supplier's delay continuing after the maximum amount of the liquidated damages has materialized, Kempower may as an option, not limiting any other legal remedy under this Agreement, terminate this Agreement and/or the respective Purchase Order, at Kempower's sole discretion, with immediate effect without the Supplier being entitled to any compensation thereof. In addition to the obligation to pay liquidated damages for delay as described above, the Supplier shall be liable to compensate any and all direct damages and costs incurred to Kempower in connection with the delay, such as installation costs.

## 7. WARRANTY

The Supplier guarantees that the Supply complies strictly and in every respect with the Specifications, samples, or other descriptions and other quality and technical requirements defined in this Agreement as well as requirements provided by applicable laws and regulations. The Supplier also guarantees that the Supply is free from any defect in design, materials, and workmanship and is suitable for their ordinary and intended purpose. The warranty does not cover defects caused by normal wear and tear.

Unless otherwise agreed in the Frame Agreement for Purchase by and between Kempower and the Supplier the guarantee period shall be twenty-four (24) months from the date of acceptance of the end product containing the Product by the End Customer (hereinafter "**Guarantee Period**") or thirty-six (36) months from the delivery of the Supply, whichever later occurs. Any non-compliance or defect appearing during the Guarantee Period shall be repaired or replaced by the Supplier without delay and without any cost to Kempower or the End Customer. Parties may agree upon in writing, also on a longer warranty period.

The Guarantee Period in respect of the affected Supply shall be renewed starting from the date when the repair or replacement was approved by Kempower or the End Customer. The same applies to the repair or replacement made subsequent to Kempower or the End Customer having put the Supply in service. In any case, the maximum guarantee period shall be no longer than sixty (60) months for the Supply.

Should the Supplier refuse or fail to fulfill its warranty obligation to Kempower's satisfaction within a reasonable period of time, Kempower shall be entitled to repair or replace the Supply by a third party at the Supplier's expense. The same right shall accrue to Kempower if in a case of urgency Kempower finds it inappropriate to wait for the Supplier to carry out the work. Kempower shall inform the Supplier, if possible before such work is commenced. In case none of the aforementioned corrections of the non-compliances or defects can be reasonably carried out, Kempower shall, in addition to any other rights and remedies available, have the right to terminate the Purchase Order and/or this Agreement concerning the Supply not meeting the guarantee given by the Supplier.

The guaranteed obligation of the Supplier shall not extend to non-compliances or defects proved to have been directly caused by incorrect or negligent operation, overloading, or inadequate maintenance of the Supply contrary to instructions given by the Supplier.

## 8. LIABILITY AND INDEMNIFICATION

### 8.1 Liability for damages

As Kempower's operations demand promptness and reliability, the Supplier acknowledges that it is of the essence that the Supplier fulfills its obligations in a timely manner and with particular care and that even a minor breach may cause considerable damage to the End Customer. Any damages and costs incurred by Kempower or an End Customer due to any breach related to the Supplier's Supply shall be compensated for in full by the Supplier. The Supplier shall particularly undertake to fulfill its obligations in respect of the quality and safety of the Supply.

### 8.2 Indemnification

The Supplier shall indemnify, defend and hold Kempower, companies belonging to Kempower group, agents, officers, directors, employees, representatives, and Customers harmless from and against any claims, actions, damages, liabilities, losses, suits, costs, and expenses, including but not limited to reasonable attorneys' fees, due to or arising from or relating to injuries or damage to any person or property which may arise out of or as a consequence of the performance or non-performance of the Agreement by the Supplier.

The Supplier shall further indemnify, defend and hold Kempower harmless from and against any and all claims, actions, damages, losses, costs, and expenses, including but not limited to reasonable attorneys' fees, incurred by Kempower its affiliates, any of its Customers or Sub-suppliers arising out of, as a result of or in connection with due to or arising from or relating to product liability and/or product safety, loss of and/or damage to property and/or personal injury and/or death which claims, actions or demands are attributable to the Supply or the use of the Supplies. Provided always that the Supplier's liability to indemnify Kempower as aforesaid shall be reduced proportionately to the extent that the act or neglect of Kempower, its employees, or agents may have contributed to the said loss, injury or damage.

The Parties shall promptly inform each other of any demands, lawsuits, or actions that relate to the Supply as soon as reasonably possible after having received the knowledge of the same.

### 8.3 Limitation of liability

Notwithstanding anything contained in these General Terms and Conditions, neither Party shall be liable for any special, indirect, or consequential damages or losses including but not limited to loss of profit, loss of revenue, loss of use, loss of markets, loss of production, cost of capital or costs connected with interruption of operation unless such damage is caused by gross negligence or willful misconduct or breach of the confidentiality obligation or the intellectual property right indemnification according to the Article 10. It is explicitly agreed that this limitation of liability is not applicable to damage or losses arising out of death or personal injury.

This exclusion of liability does not apply to the following (to the extent any of them would be considered consequential damages and/or losses): the warranty obligations of the Supplier, the obligation of the Supplier to pay liquidated damages, the indemnification obligations of the Supplier pursuant to Article 8.2 and/or consequences of infringement of Intellectual Property Rights of the Parties.

## 9. FORCE MAJEURE

Neither Party shall be liable to the other for delay or non-performance of its obligations in the event and to the extent that such delay or non-performance is due to an event of Force Majeure. Force Majeure shall mean an unforeseen event beyond the reasonable control of the Parties, which occurs after this Agreement has become valid, and which was not reasonably foreseeable at the time Parties joined this Agreement, and whose effects are not capable of being overcome without the unreasonable expense and/or loss of time to the Party concerned. Events of Force Majeure shall include but not be limited to war and mobilization in the country of Parties operation, strikes, blockades, revolutions, civil riots, natural disasters, hostilities, public disorder, epidemics, currency, and other restrictions imposed by a governmental authority ("Force Majeure"). Force Majeure events shall not include fire, strike at the Suppliers or Sub-suppliers' premises, insolvency or non-performance of a Sub-supplier, shortage or lack of material or resources, or shortage of transport.

The Party affected by Force Majeure shall immediately take reasonable steps to limit or minimize the consequences of such Force Majeure. The Party claiming Force Majeure shall inform the other Party in writing and without delay of the Force Majeure, of the time it began and its expected duration. The end of the Force Majeure shall also be reported in writing by the Party affected by Force Majeure.

The Party who has claimed Force Majeure shall prove its effect on the fulfillment of the Agreement. If an event of Force Majeure results in delay or non-performance of a Party for a period of three (3) months or longer, then either Party shall have the right to terminate the Agreement and/or any Purchase Order by written notice to the other Party. In case of termination, the Parties shall decide a proper arrangement regarding the consequences of such termination, by way of repayment of money or otherwise, which shall be just and equitable under the circumstances.

## 10. INTELLECTUAL PROPERTY RIGHTS AND NON-DISCLOSURE OF CONFIDENTIAL INFORMATION

### 10.1 Ownership of intellectual property rights

Any pre-existing intellectual property rights shall remain vested in the Party owning them at the effective date of this Agreement. No rights to such pre-existing intellectual property rights are granted to the other Party unless expressly stated otherwise in the Frame Agreement for Purchase by and between Kempower and the Supplier.

In case the Specifications related to the Supply are provided by Kempower and/or are based on a design that is proprietary to Kempower, in whole or in part, then the Supplier shall not have any right to directly or indirectly use, copy, otherwise exploit, manufacture, sell, license, lease, dispose, or distribute such Supply and/or any documentation relating to such Supply and/or their design to third parties or otherwise utilize the design or the Specifications of Kempower or other technical information provided by Kempower without the prior written consent of Kempower.

The copyright to all drawings, specifications, manuals, documents, data, and software provided by Kempower is the exclusive property of Kempower and the Supplier shall be deemed to have been granted a limited license to use such material solely for the performance of its obligations under this Agreement, but not for any other purpose. No other licenses or property rights are hereby granted. Kempower shall own all rights, titles, and interests including, but not limited to, the intellectual property rights in and to the Supply excluding, however, the rights of the Supplier to the Supply. The ownership as described above shall also determine the rights and obligations of a Party to seek, obtain and maintain protection of intellectual property rights in such countries as that Party may consider appropriate.

### 10.2 Trademarks and trade names

Kempower has the right to mark the Supply with Kempower's trademark. Nothing in this Agreement gives either Party the right to use the other Party's name, trademarks, trade names, or refer to this Agreement directly or indirectly in connection with marketing activities of any kind without the other Party's prior written consent.

### 10.3 Infringements of intellectual property rights

The Supplier warrants and shall be liable to ensure that the Supply is free from any rights or claims of third parties and does not infringe any patents, trademarks, copyrights, design rights, or other intellectual property rights or other rights of third parties. The Supplier shall indemnify, defend and hold Kempower harmless from and against any claims, actions, damages, losses, costs, and expenses, including but not limited to reasonable attorneys' fees, due to or arising from any infringement or alleged infringement of third-party rights attributable to Supplies, their manufacture, processing, use or sale. The Supplier shall be liable for compensating any and all costs, expenses, compensations, losses, and damages caused to Kempower due to such third-party claims or actions.

In the event that the Supply or any parts thereof, or the use of the Supplies or any part thereof, would be or is likely to be confirmed by a competent court or agreed in a settlement to constitute infringement, and its further use would or could be prohibited or enjoined, the Supplier shall without undue delay at its own expense either: (i) procure the continued right for Kempower or an End Customer to continue the use of the infringing Supply or part thereof concerned, or (ii) replace the infringing Supply or with an equivalent, non-infringing Supply of equivalent function and performance and meeting the Specifications and requirements, or (iii) modify the infringing Supply to be non-infringing while continuing to be compliant with this Agreement including the Specifications and requirements. The obligations set forth above shall survive the termination, cancellation, or expiry of this Agreement.

### 10.4 Non-disclosure of confidential information

All business documents, drawings and technical and nontechnical information and documents submitted by Kempower to the Supplier prior to or subsequent to this Agreement, shall remain the exclusive property of Kempower. They may not, without Kempower's express written consent, be utilized by the Supplier or copied, reproduced, transmitted, or communicated to a third party.

The Supplier shall, at Kempower's request, immediately return any copies of the business documents, drawings, or technical documents held by him. The Supplier shall ensure that no information regarding this Agreement is brought to the knowledge of any third party without obtaining prior consent thereto from Kempower.

The Supplier hereby acknowledges and agrees that any infringement of Article 10 or any other obligations of the Supplier regarding Confidential Information or Intellectual Property Rights, shall be considered as a material breach of this Agreement. Any such breach will entitle Kempower, without limiting any other legal remedy or claim for damages under this Agreement or law, to liquidated damages, and/or to terminate the Agreement with immediate effect.

## 11. CANCELLATION OF PURCHASE ORDER

Kempower reserves the right to cancel all or any part of undelivered Supply under a Purchase Order by written notice to the Supplier with the consequence that the Supplier's obligation to perform the Supply shall immediately cease. The Supplier shall be paid a reasonable termination charge consisting solely of the actual and documented direct costs for the work already performed. All Supplies paid by Kempower shall become the property of Kempower. The Supplier shall not be entitled to any other remuneration or damages for such cancellation. The provisions of this Article shall not limit or affect other rights of Kempower.

## 12. FINAL PROVISIONS

### 12.1 Contact information and notices

All communication between the Parties shall be effected through the representatives named in the respective Purchase Order or their substitutes as notified by either Party to the other Party in an agreed manner.

Notices will be deemed to have been validly given if delivered personally in writing (against receipt), sent by registered mail, or e-mail to their respective addresses set forth in the Purchase Order. If the notice is sent by e-mail, it will be deemed to have been received the same day.

### 12.2 No waiver

No waiver is effective unless made in writing and signed by both Parties. The failure of either Party to require the performance of any term or condition in the Agreement or the waiver by either Party of any breach of the Agreement shall not prevent a subsequent enforcement of such term or condition nor be deemed to be a waiver of a subsequent breach. A decision not to make a claim in a single instance does not mean that the Party is waiving its right to later make a claim for a later breach of the same provision.

Notwithstanding anything to the contrary in any of the terms of the Agreement, any co-operation, requirement, request, direction, instruction, acceptance, consent, approval, or other similar action or lack of any of the above mentioned by Kempower shall not in any way or to any extent release the Supplier from any of its obligations in the Agreement, unless expressly and specifically agreed by Kempower in writing when taking such action.

### 12.3 Severability

If any provision of this Agreement is found to be invalid or unenforceable, in whole or in part, such invalidity or unenforceability shall not affect the validity of the other provisions of this Agreement, unless Kempower deems the unenforceable provision to be essential to this Agreement, in which case Kempower may terminate this Agreement with immediate effect upon notice to the Supplier. The relevant provisions hereunder shall automatically be replaced by a valid provision that shall meet with the purpose hereof as close as possible.

### 12.4 Insurance

The Supplier shall maintain at its own expense an effective and comprehensive insurance policy to cover any of its obligations pursuant to this Agreement, including its own scope of activities, liabilities, general third-party liability, and product liability. The same requirement applies to possible Sub-suppliers of the Supplier. The Supplier shall, at the request of Kempower, provide certified copies of the policies or insurance certificates, also from its Sub-suppliers. The obligation to maintain insurance shall have no effect or limit the Supplier's liability by the law or the liability of its Sub-suppliers.

Supplier shall, at its sole cost and expense, subscribe for, maintain, and provide: (a) Commercial Liability (including Premises, Products/Completed Operations and Contractual Liability) with limits of \$1,000,000 per occurrence and \$2,000,000 general aggregate, (b) Automobile Liability with Combined Single Limits of \$1,000,000, (c) Workers' Compensation with Statutory Limits and Employers' Liability with limits of \$1,000,000, and (d) Umbrella Liability with limits of \$5,000,000. Keolis will be named as additional insured on (a) and (b) above. Supplier shall deliver to Keolis certificates annually evidencing that such insurance coverage is in full force and effect and provide that such coverage may not be cancelled or modified without Keolis first receiving thirty (30) days prior written notice. Supplier shall be responsible for premiums and deductibles for the foregoing insurance. Supplier understands and agrees that it shall not be covered by any insurance subscribed for, maintained, and provided by Keolis for Keolis's benefit.

### 12.5 Volume indications

Any possible future purchasing volume indication given by Kempower is given for information purposes only, without any commitment of Kempower, and shall be used by the Supplier for the planning of the necessary investments and for the allocation of resources in order to fulfill the requirements of Kempower. Any measures undertaken by the Supplier based on such volume indications are at the Supplier's sole risk. Parties may agree for the Supplier to maintain a buffer stock of the Supply, this however will be agreed on the Frame Agreement for Purchase by and between Kempower and the Supplier.

### 12.6. Kempower After Sales

The Supplier shall refrain from taking part in any after-sales activities directly with Kempower's End Customers unless otherwise specifically agreed with Kempower. Should the Supplier receive an inquiry identified as Kempower after-sales, the Supplier shall forward such inquiry to his contact person at Kempower Purchasing and Sourcing.

## 13. APPLICABLE LAW AND DISPUTES

### 13.1 Applicable law

Any disputes controversy or claim arising out of or in connection to this Agreement shall be governed by and construed in accordance with the laws of Delaware without giving effect to its principles or rules of conflict of laws to the extent such principles or rules are not mandatorily applicable by statute and would require or permit the application of the laws of another jurisdiction, as to all matters, including matters of validity, construction, effect, performance and remedies. In no event shall this Agreement be governed by the United Nations Convention on Contracts for the International Sale of Goods (UCITA). The Parties further agree that UCITA, whether enacted in whole or in part by any state or applicable jurisdiction, regardless of how codified shall not apply to this Agreement and is hereby disclaimed.

### 13.2 Settlement of disputes

Any disputes controversy or claim arising from or relating to this Agreement or the breach, termination, or validity thereof, shall be finally settled by arbitration in accordance with the American Arbitration Association ("AAA") under its commercial Arbitration Rules and Mediation Procedures ("**Commercial Rules**"). Any award rendered by the arbitrators shall be final and binding on the Parties and may be entered and enforced in any court having jurisdiction, and any court where a Party or its assets are located. Judgment on such awards shall be final and non-appealable. There shall be one arbitrator, which shall be appointed by the AAA in accordance with its Commercial Rules. If more than one arbitration is commenced under the Agreement and any Party contends that two or more arbitrations are substantially related and that the issues should be heard in one proceeding, the arbitrator selected in the first-filed proceeding shall determine whether, in the interests of justice and efficiency, the proceedings should be consolidated before such arbitrator. The seat or place of arbitration shall be Durham, North Carolina. The arbitration shall be conducted, and the award shall be rendered, in the English language. Except as may be required by law, neither a Party nor any arbitrator may disclose the existence, content, or results of any arbitration without the prior written consent of both Parties, unless to protect or pursue a legal right.

Any dispute, controversy, or claim arising from or relating to this Agreement, including the possibility or existence of the proceedings, the proceedings themselves, oral statements made during the course of the proceedings, documents and other information submitted by the Parties or prepared by the arbitrator and the final award shall be deemed Confidential Information as set out in Article 10.4.