



# General Terms and Conditions of Purchase

Revision January 2018

## 1. Scope

1.1 These General Terms and Conditions of Purchase apply to all orders (supplies and services) of MELECS Holding GmbH and all subsidiaries linked to it as members of the same Group (hereinafter referred to as 'MELECS').

## 2. Purchase Order

2.1 These General Terms and Conditions of Purchase become part of the contract upon acceptance of an order by the Seller. Orders must be in writing to be valid. The Buyer may also place orders via Electronic Data Interchange (EDI) provided this has been expressly agreed between MELECS and the Seller before. Amendments or additions to an order and oral agreements are only valid if confirmed in writing by MELECS.

2.2 The Seller may use subcontractors to perform all or part of its duties under an order if it has obtained MELECS' express prior approval.

## 3. Confirmation of Order, Seller's General Terms and Conditions

3.1 The acceptance of a Purchase Order must be immediately confirmed to MELECS. A Purchase Order may also be confirmed via Electronic Data Interchange (EDI) provided this has been expressly agreed in writing between MELECS and the Seller before. MELECS reserves the right to cancel an order at no cost to MELECS unless it has received from the Seller a proper order confirmation within a reasonable period, no later however than one week after the date of the order. Such cancellation is deemed on time if it is sent to the Seller before MELECS receives the Purchase Order confirmation.

3.2 If the Purchase Order confirmation deviates from the order, the Seller shall clearly state any such deviation in the Purchase Order confirmation. MELECS shall only be bound by such deviation if it has expressly accepted it in writing. An unconditional acceptance by MELECS of the goods delivered by the Seller shall not be considered as acceptance of any such deviation.

3.3 Unless accepted in writing by MELECS, the Seller's general terms and conditions shall not become binding upon MELECS. Any reference in the order to the Seller's quotation documents by MELECS does not imply acceptance of the Seller's terms and conditions.

3.4 Any terms and conditions like AÖSp, ADSp or equivalent conditions shall not be binding and valid.

3.5 Unless expressly accepted by MELECS in writing, any terms and conditions of the Seller or any of its subcontractors made available in paper or digital form together with the delivery shall not be binding upon MELECS, particularly if MELECS or any third

parties attributable to MELECS (e.g. employees, consultants, customers of MELECS) commit an act that, pursuant to those terms and conditions, constitutes a basis for the conclusion of a contract.

## 4. Delivery Period, Consequences of Delay

4.1 Unless expressly agreed otherwise, the period of delivery or performance shall commence on the day the order is issued by MELECS. If no such period has been agreed, the Seller shall deliver goods and services without delay. For the timeliness of deliveries, the relevant point in time shall be the date of receipt at the place of destination specified by MELECS. For the timeliness of deliveries involving erection or installation, the relevant point in time shall be the date of acceptance. When foreseeable delays in delivery occur, MELECS shall be notified immediately and its decision obtained. In that event, the period of delivery or performance shall be extended only if MELECS has explicitly recognized such extension in writing.

4.2 MELECS is entitled to charge a penalty of 0.5% for each calendar day of delay in delivery begun. Such penalty is independent of the Seller's fault and any proof of damage. MELECS reserves the right to claim damages exceeding the amount of the penalty. In the event of a delay, MELECS is entitled to withdraw from the contract after expiry of a reasonable additional time-limit for delivery granted to the Seller. This applies even if MELECS used to accept delayed partial deliveries without reservation before. In the case of a time-sensitive contract, MELECS shall not be obliged to grant an additional time-limit for delivery.

4.3 When it can be foreseen that the Seller will fail to properly deliver or perform by the agreed date, the Buyer shall be entitled to take all measures necessary to prevent an imminent delay in delivery/performance at the Seller's cost and risk.

4.4 In the case of early delivery, MELECS reserves the right to charge the Seller any extra cost, e.g. warehouse and insurance costs, and to effect payment in accordance with the agreed delivery date. Until the agreed date, MELECS shall only bear the responsibility of a depository.

4.5 MELECS is entitled to rescind the contract as a whole or in part, without prejudice to procedural consequences, if insolvency proceedings are opened against the Seller or if the Seller's ownership structure changes. The Seller is obliged to immediately inform MELECS about any such circumstances.

## 5. Shipment, Delivery, Passing of Risk, Export Control

5.1 In the case of deliveries involving erection or installation and in the case of services, the risk passes upon acceptance; for deliveries not involving erection



or installation the risk passes upon receipt by MELECS at the place of destination. Delivery DDP (Delivered Duty Paid) to the place of destination is agreed upon. The Seller shall bear the costs and risk of unloading the goods.

5.2 Partial as well as over deliveries and under deliveries are only permissible after obtaining MELECS' express written approval. Goods are delivered to the goods receiving department of the place designated for delivery at the times agreed for the receipt of goods in the order. Each delivery shall be accompanied by a delivery note detailing, the net weight per item and the complete Purchase Order number.

5.3 All requirements by MELECS regarding mode of transportation, carrier and shipment rules must be strictly adhered to. Unless MELECS has required a particular mode of transportation, goods must be dispatched at the lowest possible cost, failing which any adverse consequences and additional cost shall be borne by the Seller. Additional cost arising from the need to meet the delivery date by way of expedited shipment shall be borne by the Seller. Should agreed payment instruments (e.g. letter of credit) and shipping documents, in particular Purchase Order data, be missing or incomplete, MELECS shall be entitled to refuse acceptance at the Seller's cost and risk.

5.4 The Seller is obliged to immediately inform MELECS in detail about any irregularities, particularly in the event of damage, defects of packaging and shipping, circumstances preventing carriage and all other delays or interruptions related to transportation, to take instructions from MELECS and to take measures to minimize the damage and to preserve evidence at its own expense.

5.5 When providing goods and services, the Seller shall comply with all requirements of export, customs and foreign trade legislation ("Foreign Trade Regulations") and obtain the required export authorizations, unless not the Seller, but MELECS or a third party is obliged to apply for the export authorizations under applicable Foreign Trade Regulations.

5.6 The Seller guarantees obtaining any necessary permission, for hazardous materials transportation the last valid requirements are binding and to be complied with. The Seller ensures that only vehicles fulfilling all requirements are being used.

5.7 The Seller shall strictly comply with MELECS' and the addressee's applying regulations concerning fire safety, protection of employees, environmental protection and any other requirement. It is the Seller's obligation to request these regulations from MELECS or the addressee.

5.8 The Seller shall forward to MELECS in writing all information and data (for each item on the Purchase Order confirmation, delivery note and invoice) required by MELECS to comply with all applicable Foreign Trade Regulations governing the export and

import as well as the re-export of the goods and services as early as possible, but in any case before the Delivery Date, including for each commodity/service the following "Export Control and Foreign Trade Data":

- the "Export Control Classification Number" pursuant to the U.S. Commerce Control List (ECCN) if the Product is subject to the U.S. Export Administration Regulations and all applicable export list numbers; and
- the statistical commodity code according to the current commodity classification for foreign trade statistics and the HS (Harmonized System) Code; and
- the country of origin (non-preferential origin); and
- upon request of MELECS: preferential origin declarations by the Seller (in the case of European Sellers) or other preferential certificates (in the case of non-European Sellers).

5.9 In the case of changes in the origin or features of the goods or services or the applicable Foreign Trade Regulations, the Seller shall update and communicate in writing to MELECS the Export Control and Foreign Trade Data as early as possible, but in any case before the Delivery Date. The Seller shall be liable for any expenses and/or damage incurred by MELECS due to the lack or incorrectness of Export Control and Foreign Trade Data.

5.10 Direct supplies to MELECS' customers shall be made in neutral packaging and with shipping documents in the name and on behalf of MELECS, where necessary. The Seller shall provide MELECS with a copy of these delivery notes.

5.11 Retention of title of whatsoever nature by the Seller is invalid.

5.12 Where prices are quoted without packaging, packaging shall be charged at cost price and stated separately in the invoices. Unless otherwise agreed by the parties, the value of packaging material returned by MELECS to the Seller for reuse shall be reimbursed by the Seller. The Seller is liable for any damage caused by improper packaging. When delivering hazardous goods, the Seller shall comply with all applicable statutory provisions, in particular those relating to the type and marking of packaging and to the means of transport to be used.

## **6. Liability**

6.1 Unless regulated differently in these conditions or any Purchase Order shall the liability of the Seller be based on the relevant laws and legislation.

6.2 A SVS/RVS/SKR prohibition applies for the Seller. Unless regulated differently in any Purchase Order the MELECS transport insurance shall be used and the Seller contribute with respective information in timely manner. The transportation insurer is recourse-entitled. A transport and/or a warehousing insurance shall only be used on express order of MELECS.



## **7. Suspension, Cancellation**

7.1 MELECS reserves the right to order the Seller to suspend the performance of the contract at any time. If the performance of the contract is suspended for more than three months, the Seller will have to prove to MELECS in detail that it has incurred costs resulting from such suspension. However, MELECS shall not be liable to the Seller for any loss of profits. The Seller may claim compensation only for such proven costs. The Seller may not claim compensation for any costs incurred as a result

of a suspension of less than three months, or, in the case of a suspension of more than three months, for the costs incurred during the first three months.

7.2 MELECS reserves the right to withdraw from the contract, as a whole or in part, irrespective of any fault on the part of the Seller. In such a case, the Seller is only entitled to charge MELECS for the services proved to have been performed by the date of withdrawal.

7.3 The Seller is obliged to resume the performance or deliveries according to the Purchase Order at the end of the suspension and after MELECS' instructions.

## **8. Invoicing, Set-off**

8.1 Invoices must indicate all Purchase Order details and be submitted to MELECS immediately after delivery of goods or completion of services. Copy invoices must be marked as duplicates. Invoices shall be worded and structured to facilitate both their comparison with the order and their auditing. Each invoice must show the Purchase Order number and the Purchase Order data. Invoices relating to services and installation performed shall be accompanied by time records confirmed by MELECS. Invoices relating to goods requiring export authorizations shall list all marking requirements fulfilled.

8.2 MELECS reserves the right to return invoices which do not comply with its requirements; in particular those regarding purchase order data or VAT rules, unprocessed. In such a case, invoices are considered as not submitted.

8.3 The Seller is not entitled to set off claims it may have against MELECS.

8.4 All additional expenses and charges arising during the provision of service shall be borne by the Seller.

## **9. Terms of payment**

9.1 The period within which invoices must be paid commences with MELECS' unconditional acceptance of delivered goods or services and upon receipt of the properly issued invoice. If the Seller is obliged to provide material tests, test records or quality control documents or any other documentation, deliveries and services will be regarded as fully performed only upon receipt of such documentation.

9.2 Unless otherwise agreed, payments are to be made within 30 days less a discount of 3% or within 90

days net, at MELECS' choice. Payment shall not be considered as an acceptance that the goods or services were delivered in accordance with the contract, nor as a waiver of any rights on the part of MELECS. Payments are deemed to have been made in a timely manner upon execution of the transfer order with MELECS' bank by the due date of payment. The Seller bears bank charges incurred by the receiving bank.

9.3 MELECS is entitled to set off claims of its affiliated companies against the Seller's claims.

9.4 Assignments of claims are only permissible under the explicit written approval of MELECS.

## **10. Acceptance, Notice of Defects, Liability for Defects, Product Liability, Intellectual Property Rights, Quality Assurance**

10.1 The mere receipt or temporary use of deliveries and services or payments made thereof do not constitute an acceptance or waiver of rights by MELECS. Acknowledgements of receipt issued by the goods receiving department of MELECS do not constitute a final acceptance by MELECS of the goods delivered.

10.2 The goods are taken over (received) and checked as to their completeness and any visible defects within a reasonable time after their receipt. If random checks show that parts of a delivery do not comply with MELECS' requirements or do not have the required marketable quality, MELECS may reject the delivery as a whole. MELECS shall notify the Seller of any defects detected as soon as possible. However, MELECS is not obliged to notify defects pursuant to Sect. 377 of the Austrian Business Code (Unternehmensgesetzbuch).

10.3 The Seller warrants to the Buyer that it will use best, appropriate and brand-new materials, manufacture the products adequately and in compliance with the underlying technical drawings, and that it will provide for their proper installation. The warranty period for supplies and services by the Seller is two years. The warranty period for products and services that become a fixed part of buildings or land is three years. After rectification of defects notified by MELECS, the warranty period for the replaced product begins to run afresh. The warranty period for deliveries begins to run with the erection or installation of the delivered products, for services with their acceptance, for deliveries not involving erection or installation with their delivery to the place of destination, for hidden defects with their identification. For deliveries to locations where MELECS uses the Seller's goods to perform contracts outside its premises, the warranty period begins to run with the acceptance of the services to be rendered by MELECS by MELECS' customer. This time-limit is deemed to be observed if MELECS has asserted warranty claims against the Seller within the aforesaid periods in writing.

10.4 If engineering, advisory, software or documentation services or staff are provided by the



Seller, the Seller fully guarantees the correctness and completeness of its written and verbal information and instructions for a period of two years after their provision.

10.5 MELECS may assert claims against the Seller pursuant to Sect. 933b of the Austrian Civil Code (ABGB), irrespective of whether the final customer is a consumer or an entrepreneur. The Seller waives the objection of MELECS' failure to assert warranty claims in a timely manner pursuant to Sect. 933b, Para. 2 of the Austrian Civil Code (ABGB) by MELECS.

10.6 The Seller's upstream suppliers are regarded as its agents.

10.7 MELECS may require the Seller either to immediately remedy defects identified within the above specified warranty periods at the Seller's expense at the place of destination or to provide defect-free goods or services within the set deadline. MELECS is entitled to claim all costs incurred in connection with the rectification of defects, e.g. installation and removal costs. The Seller shall reimburse MELECS for any inspection costs if an inspection has revealed defects. In the case of imminent danger, e.g. in order to avoid its own default, or if the Seller fails to rectify defects within a reasonable time, MELECS shall be entitled to acquire defect-free products from third parties, after setting a reasonable short deadline by e-mail and without prejudice to its warranty claims against the Seller or to repair or have defective goods repaired at the Seller's expense. The Seller shall fully reimburse MELECS for the cost of such repairs, even if it exceeds the cost of repair by the Seller.

10.8 The Seller shall indemnify and hold MELECS harmless against disputes arising from any patent, copyright, trade mark or registered design, and guarantee MELECS the unrestricted use of the delivered product. Without prejudice to other obligations, the Seller will indemnify and hold MELECS harmless against any product liability claims raised by third parties against MELECS as a result of defects in the products delivered by the Seller. The Seller undertakes to compensate MELECS for costs incurred in connection with a defense against any such claim or in connection with an obligation to repair defective products. The Seller will provide MELECS with ample proof that it has taken out adequate insurance to cover these risks.

10.9 For a period of fifteen years after the last delivery, the Seller shall provide MELECS upon the latter's request with the names of the respective manufacturers, importers, upstream suppliers without delay, not later however than two weeks after being requested to do so. Furthermore, the Seller will provide MELECS immediately with appropriate evidence, such as production records and documents specifying production and delivery batches and/or the date of production and delivery to enable MELECS to oppose product liability claims.

10.10 Installations or products delivered by the Seller must have the required safety features and comply with the applicable safety standards (for installations or parts thereof in particular with those applicable at the place of destination). In any case, all respective EU-Codes, e.g. EU-Code 2011/65/EU, RoHS (Restriction of the use of certain hazardous substances), and EC-Act 1907/2006/EG; REACH (Registration, Evaluation and Authorization of Chemicals), as well as the current state of the art and technical rules shall be complied with. In particular, the relevant EC directives, the Austrian Electrical Engineering Act (Elektrotechnikgesetz) and any provisions based thereon (e.g. Elektro- und Elektronikaltgerätegesetz) as well as ÖVE or VDE regulations in their currently applicable version, Austrian technical standards (ÖNORMEN), DIN standards, European standards and similar bodies of rules must be complied with. Installations, systems or products delivered by the Seller must bear the CE markings required under the relevant EC directives and Austrian legislation. Upon delivery, the Seller shall provide MELECS with EC declarations of conformity with short technical descriptions as well as installation instructions and installation requirements. Especially shall all relevant information, documentation, certificates, analysis, test results, safety sheets to comply with EC-Acts and Codes REACH and ROHS be delivered by the Seller being an important part of the delivery and/or service.

When delivering equipment designed to be assembled by MELECS or a third party, the Seller shall provide MELECS, to the extent necessary, with all documentation required by MELECS, including assembly schedules, data sheets, installation instructions, processing instructions, storage, operation and maintenance instructions, lists of spare and non-consumable parts etc. Delivered products have to be marked in German and – upon MELECS' request – in other languages as well. The operating requirements and instructions must be drawn up in duplicate in German and - upon MELECS' request - also in other languages.

10.11 MELECS reserves the right to demand proof of the Seller's quality control system and the Seller's documentation of the quality tests executed, and to carry out audits on the Seller's premises at any time. The Seller shall compensate MELECS for the costs of the audit if defects in the quality control system or errors of the documentation of quality tests are detected in the course of the audit.

10.12 In addition, the Seller shall inform MELECS about intended changes in materials, manufacturing procedures, sub supplier parts, sub suppliers, manufacturing facilities, manufacturing tools and EC declarations of conformity in a timely fashion via [pcn@melecs.com](mailto:pcn@melecs.com). Without prior approval of MELECS the intended changes shall not be implemented.



## **11. Material provided by MELECS**

11.1 Material provided by MELECS remains MELECS' property and is to be stored, labeled and managed separately free of charge. Upon MELECS' request, the Seller shall confirm the receipt of material provided by MELECS. The Seller may use such material only to execute orders from MELECS. The Seller shall compensate MELECS for a diminution in value or loss. Claims for damages arising from the delayed provision of such material as well as any right of retention of the Seller shall be excluded.

## **12. Special Conditions for Hardware and Software**

12.1 Unless otherwise agreed in the order, hardware and software always constitute a single product.

12.2 If the Seller is to deliver software that has not been developed individually for MELECS, the Seller will grant MELECS the transferable and non-exclusive right to use such software. This right of use shall not be limited in duration in cases where the payment of a lump sum has been agreed for the use of such software. For software products which have been individually developed for MELECS, the Seller will grant MELECS an exclusive and transferable exploitation right that is unlimited in time and also excludes the Seller itself from using the software for any purpose. Unless otherwise agreed, the software shall be delivered together with the source code in its latest version. The Seller shall install the software. Following the installation of the software, the Seller shall provide a data carrier which can be disclosed on MELECS' system both in source code and object code form together with the related documentation (contents and structure of the data carrier, program and data flow charts, test procedures, test programs, error processing, etc.). Apart from this documentation, the Seller shall provide MELECS with comprehensive written user documentation in German language and/or in any language selected by MELECS and in a sufficient number before acceptance.

12.3 Software individually developed for MELECS will be accepted explicitly in the form of a written acceptance protocol if it meets the agreed requirements specifications. Any repair to be performed by the Seller will be also included in the acceptance protocol. If MELECS fails to accept delivery for four weeks after notification of readiness for acceptance by the Seller, or if MELECS denies acceptance without justification, the software will be deemed accepted after it has been tested free of charge for at least four weeks and such testing has shown satisfactory results and produced no error messages. In case of doubt, the mentioned period shall commence with the commercial use of the software by MELECS or by MELECS' end customer, whichever comes last.

12.4 The Seller undertakes to make available to MELECS all subsequent program versions in which errors have been eliminated (updates) free of charge within the warranty period. The Seller furthermore

undertakes to offer MELECS software maintenance at competitive market prices for at least five years from the date of acceptance. Within the warranty period, maintenance charges will be reduced accordingly.

## **13. Special provisions for planning activities**

13.1 Any and all documentation, such as plans, drawings, and models shall become the property of MELECS, even if the contract should be terminated prematurely, and shall be handed over to MELECS upon request. The Seller shall grant to MELECS exclusively, irrevocably and without claim for additional remuneration the sub-licensable right of use of, unlimited with respect to contents, time and place, as well as the corresponding permission to use the works resulting from this contract. MELECS thus is entitled to exploit, by means of implementation of the respective plans, or otherwise use said plans and other documentation in their original form or after modification without any further participation or approval by the Seller.

## **14. Drawings, Tools, Auxiliary Devices, Authorizations**

14.1 Drawings and technical calculations shall be made available by the Seller free of charge, where necessary. Any tools, patterns, samples, models, profiles, drawings, standard specification sheets, printing templates and materials provided by MELECS, as well as any materials derived therefrom, shall remain MELECS' property and shall not be made available to any third party nor be used for any other purposes than those contractually agreed, without MELECS' prior written authorization. Tools, patterns, etc., that have been produced at MELECS' expense, shall become its property upon payment.

14.2 All tools and related auxiliary devices, in a broad sense, shall be clearly marked as MELECS' property and protected against unauthorized access or use, or maintained and repaired, if and where applicable. They shall be returned either upon execution or cancellation of the order. Subject to any further rights, MELECS may demand the return of such materials if the Seller violates the duties referred to above. The Seller has no right of retention.

14.3 The Seller expressly states that it is in possession of all industrial authorizations as well as any other authorizations necessary to ensure the performance of the services as agreed in the contract and that it will, upon MELECS' request, make available to MELECS the respective documents. Insofar as for the performance of the deliveries and services special regulatory approvals, authorizations or inspections are required, such approvals, permissions and inspections will be obtained by the Seller without entitlement to special remuneration in a timely manner.

## **15. Confidentiality, Data Protection**

15.1 The Seller undertakes to keep confidential information pertinent to MELECS or the subject matter



of the contract, which he has rightfully obtained in connection with the Purchase Order, unless this information has become generally known or known to the Seller in another lawful manner. Furthermore, the Seller shall keep confidential the results or partial results obtained from MELECS in fulfillment of the Purchase Order and use them exclusively for the performance of the present Purchase Order. In the event that the Seller makes use of a third party for the performance of its contractual obligations, it shall make sure that such third party contractually commits itself to at least the same degree of confidentiality.

15.2 The same applies to personal data relating to MELECS or any third party, information according to Sect. 38 Banking Act (Bankwesengesetz) or Sect. 48a Stock Exchange Act (Börsegesetz) etc. that the Seller has acquired in connection with the contract with MELECS. The Seller shall protect such information from access by third parties, ensure compliance with Sect. 15 Data Protection Act (Datenschutzgesetz) and commit its employees dealing with contractually relevant tasks to the same level of confidentiality.

15.3 The Seller's data (commercial register data, address, telephone and facsimile number as well as other information required for correspondence following from modern communication tools, locations, contact persons, ordered goods, supply volumes and prices) which become known to MELECS in connection with the respective business transaction will be automatically processed only for the execution of the contract, in particular, for administration and billing purposes. For technical reasons, it may be necessary to store such data on servers of another company.

15.4 The Seller expressly agrees that the data obtained from each business transaction and stored according to 15.3 may be passed on to other companies affiliated to MELECS for information purposes (e.g. purchase pooling), and within the scope of the MELECS Group's reporting duties for statistical and risk management purposes and that these companies as well as MELECS may send the Seller information on products or services in writing or by e-mail or otherwise contact it (e.g. by phone). Such consent may be revoked in writing or by e-mail at any time.

## **16. Information, Declaration of Materials, Disposal, Packaging, RoHS, Conflict Minerals**

16.1 Notwithstanding any legal information duties, the Seller shall provide MELECS with all necessary and useful information pertinent to the goods and services to be delivered, in particular, information on proper storage as well as safety data sheets in accordance with Regulations 91/155/EEC, 93/112/EC, 99/45/EC and 2001/58/EC. In addition, the Seller shall raise MELECS' attention to the possibility of hazardous waste or waste oils arising from the goods delivered by the Seller and shall, in particular, advise MELECS on their disposal. Upon MELECS' request, the Seller

shall take back, free of charge, any waste resulting from the ordinary use of the delivered goods or similar products, as defined in the applicable Waste Disposal Act (Abfallwirtschaftsgesetz). However, such obligations shall be limited to the amount delivered by the Seller. Should the Seller refuse or should the Seller not be able to accept such waste, MELECS shall be entitled to dispose of it at the Seller's expense.

16.2 Any transport, sales and service packaging of domestic supplies to MELECS must be disposed of by the Seller exclusively through Altstoff Recycling Austria AG ("ARA AG"). The Seller shall indemnify MELECS for any costs arising from a lack of disposal or from disposal by a collecting and disposing system other than that of ARA AG.

16.3 The Seller ensures that deliveries under the order are RoHS-compliant and therefore in conformity with the EU Directive on the Restriction of the use of certain hazardous substances (Directive 2011/65/EU) at the time of delivery. In the event that deliveries fail to comply with this EC Directive, the Seller shall – without prejudice to any warranty claims MELECS may raise – compensate MELECS for any damage arising from such non-compliance.

16.4 The Seller undertakes to not deliver goods which may contain so-called "Conflict Minerals" particularly from the Democratic Republic of Congo or from its neighbouring countries. Upon request of MELECS a corresponding confirmation is to be provided by the Seller.

16.5 The Seller shall maintain an environmental management system according to ISO 14001 or equivalent.

16.6 The Seller shall declare all materials and their components in accordance with IMDS and to document the declaration in the PPAP documents. Hazardous materials are forbidden. The Seller must supervise the use and the determination of materials as hazardous materials e.g. by permanently monitoring the „Global Automotive Declarable Substances List GADSL“ ([www.gadsl.org](http://www.gadsl.org)) or equivalent.

## **17. Legal Succession**

17.1 MELECS may assign its rights and obligations arising from the contract with the Seller to another company within the MELECS group. The Seller has no right to cancel the contract for reasons of such assignment.

## **18. Anti-Corruption, Code of Conduct for Sellers**

18.1 The Seller shall notify MELECS – at the latest upon submission of the Seller's offer to MELECS – in writing if the Seller or members of its management board have been sentenced by final judgment of a national court for corruption of a public officer within the last five years prior to the submission of the Seller's offer to MELECS, and, without undue delay, if the Seller or members of its management board are charged with corruption of a public officer before a national



court at any time between submission of the Seller's offer to MELECS and acceptance of the supplies/services of the Seller.

18.2 Such notification shall ensure compliance with the requirements laid down by the OECD Recommendation on Anti-Corruption.

18.3 The Seller is obliged to comply with the laws of the respective jurisdiction. In particular, the Seller shall not engage, actively or passively, directly or indirectly, in any form of bribery, violation of fundamental rights of its employees or child labour. Moreover, the Seller shall take responsibility for the health and safety of its employees, act in accordance with the applicable environmental laws and make best efforts to promote this Code of Conduct among its suppliers.

18.4 Without prejudice to other rights and remedies MELECS may have, MELECS may terminate the contract if the Seller has culpably violated any of these obligations. If, however, the Seller's breach of duty is capable of remedy, MELECS may terminate the contract only if the Seller has failed to comply with a period granted by MELECS for remedying its breach of contract.

#### **19. Miscellaneous, Statutory and regulatory requirements, Premium freights**

19.1 All personnel used by the Seller shall communicate in the language used by the addressee of the delivery and/or service.

19.2 Any queries shall be solely addressed to the person or department shown on the Purchase Order.

19.3 The Seller shall announce any changes of his address by registered mail. Until receipt of respective mail shall all announcements and information sent to the former address be considered as delivered.

19.4 The Seller shall keep all necessary documents for a minimum of seven years starting with the delivery and/or service.

19.5 The Seller shall ensure that all products, processes, and services conform to the current applicable statutory and regulatory requirements in the country of receipt, the country of shipment, and the customer-identified country of destination. The Seller shall document their process (see IATF 16949, 8.4.2.2).

19.6 The Seller shall pass down all applicable statutory and regulatory requirements and special product and process characteristics to their suppliers and require the suppliers to cascade all applicable requirements down the supply chain to the point of manufacture (see IATF 16949, 8.4.3.1).

19.7 The Seller must inform MELECS (via e-mail purchasing@melecs.com) within the first week after the beginning of a new calendar quarter about the number of premium freights for MELECS within the last four quarters, separated by quarter, if any (see IATF 16949, 8.4.2.4).

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

20.1 The place of performance for deliveries or services shall be the place of destination. For payments, the place of performance shall be MELECS' seat.

20.2 Austrian law shall apply with the exception of such legal provisions that make reference to the law of other countries.

20.3 Disputes, in particular those related to the formation or dissolution of the contract, the contractual relation of the parties or any claims arising thereunder shall be decided by the court having subject matter jurisdiction for the 1st district of Vienna (Austria). However, if the Supplier's registered office is not within the European Union (EU) or within one of the EFTA States, all disputes shall be finally settled in accordance with the Rules of Arbitration of the International Chamber of Commerce (ICC) by one or more arbitrators appointed in accordance with the said Rules; the place of arbitration shall be Vienna; the language of arbitration shall be English.

Furthermore, MELECS shall also be entitled to bring proceedings against the Seller before any other court, e.g. before the Seller's court of general jurisdiction.

20.4 The Seller shall compensate MELECS for any costs necessary for bringing appropriate legal action, in particular for attorneys' fees, and for any pre-trial expenses incurred by MELECS.

20.5 The invalidity of individual provisions shall not affect the validity of the remaining provisions of the contract. The invalid provision shall be replaced with a provision that is closest in sense, intention and purpose to the invalid provision with regard to the economical aspects but in a manner that is legally effective. Contractual gaps shall be filled in the same manner.

20.6 MELECS' obligation to fulfill this contract is subject to the proviso that the fulfillment is not prevented by any impediments arising out of national or international foreign trade legislation or by any embargos or any other sanctions.