

# Purchase Order Terms and Conditions POTC2002

## 1. PARAGRAPH 1 - GENERAL

- 1.1 The following Purchase Order Terms and Conditions POTC2002 ("TERMS AND CONDITIONS") form an integral part of any Purchase Order and its annexes ("ORDER"), issued by General Dynamics European Land Systems - Mowag GmbH, CH-8280 Kreuzlingen, Switzerland ("GDELS-MOWAG") and placed with the supplier ("SUPPLIER"), covering the manufacturing and / or supply of material and services ("MATERIAL"). These TERMS AND CONDITIONS alone do not create any obligation for GDELS-MOWAG to purchase MATERIAL from SUPPLIER.
- 1.2 Written confirmation of acceptance of the ORDER shall be provided to GDELS-MOWAG by the SUPPLIER within five (5) working days after receipt, and this written acceptance shall establish the agreement ("AGREEMENT") entered into between GDELS-MOWAG and the SUPPLIER regarding the supply of the MATERIAL by the SUPPLIER to GDELS-MOWAG. In the absence of any such confirmation and acceptance, any action taken by SUPPLIER in fulfilment of the ORDER shall be conclusive evidence of SUPPLIER's confirmation of acceptance.
- 1.3 Any ORDER shall be issued in writing, and any modifications and amendments to the ORDER, the AGREEMENT and / or the TERMS AND CONDITIONS, as well as any of the SUPPLIER's own general terms and conditions shall be applicable and binding only if expressly acknowledged in writing by GDELS-MOWAG.
- 1.4 In case of any contradiction between the AGREEMENT and these TERMS AND CONDITIONS, the specific conditions stipulated in the AGREEMENT shall prevail.
- 1.5 These TERMS AND CONDITIONS shall prevail over any of the SUPPLIER's own general terms and conditions, regardless whether referenced in quotations, order acknowledgments, invoices or otherwise.
- 1.6 The AGREEMENT and the terms in these TERMS AND CONDITIONS constitute the entire agreement between GDELS-MOWAG and the SUPPLIER with respect to the matters contained in the AGREEMENT and supersedes all prior representations and agreements.
- 1.7 The term "week" means seven (7) calendar days.

## 2. PARAGRAPH 2 - PRICE BASIS / TERMS OF PAYMENT

- 2.1 The SUPPLIER shall manufacture and / or deliver the MATERIAL and render the services in the quantity stipulated in the AGREEMENT and in accordance with the quality and technical specifications provided therein. Any export / import licences / authorisations necessary for the export / import of the MATERIAL shall be the responsibility of the SUPPLIER.
- 2.2 Unless otherwise stipulated in the AGREEMENT, all prices in the AGREEMENT are valid net, for inspected MATERIAL, properly packed for transportation, labelled and preserved, and marked in accordance with the requirements of GDELS-MOWAG, delivered DAP GDELS-MOWAG, Kreuzlingen (INCOTERMS 2020).
- 2.3 The price according to the AGREEMENT shall remain fixed until complete delivery of the MATERIAL. Changes in wage rates or raw material prices as well as delivery delays may not result in price increases.

- 2.4 The AGREEMENT can be price-audited by the end customer. SUPPLIER shall grant the auditors of the end customer the unrestricted right to audit pre- and post-calculation pricing.
- 2.5 Unless otherwise stipulated in the AGREEMENT, payment shall be made at GDELS-MOWAG's option by bank transfer or other customary payment method in Swiss Francs.
- 2.6 Unless otherwise stipulated in the AGREEMENT, payments for MATERIAL shall become payable only after acceptance, in accordance with Paragraph 11, after demonstrating compliance of the MATERIAL with the requirements of the AGREEMENT. In case of acceptance demonstrating compliance of the MATERIAL with the requirements of the AGREEMENT the invoice shall become due sixty (60) days after receipt by GDELS-MOWAG.
- 2.7 Neither the SUPPLIER nor any third party may allocate payments by GDELS-MOWAG to invoices other than to those indicated by GDELS-MOWAG.
- 2.8 If, following written information by GDELS-MOWAG to the SUPPLIER, the MATERIAL is returned to the SUPPLIER due to non-fulfilment or faulty fulfilment, and SUPPLIER has already been partly or fully paid by GDELS-MOWAG, a full refund shall become due and payable to GDELS-MOWAG upon return receipt of the MATERIAL by the SUPPLIER.
- 2.9 Any reference made to international trade terms will be interpreted in accordance with the INCOTERMS 2020.

### **3. PARAGRAPH 3 - DELIVERY TERM / DELAY IN DELIVERY**

- 3.1 Delivery shall be made strictly in accordance with the delivery schedule established in the AGREEMENT, and the SUPPLIER warrants that the MATERIAL will be delivered in accordance with such delivery schedule.
- 3.2 The SUPPLIER shall immediately notify GDELS-MOWAG in writing if, for whatever reason, the date of the delivery as stipulated in the AGREEMENT cannot or may not be met. This notification will not release the SUPPLIER from SUPPLIER's obligation to fulfil the AGREEMENT in accordance with the agreed delivery schedule. The SUPPLIER shall send with any such notification a recovery plan which shall indicate a recovery delivery schedule with respective quantities. GDELS-MOWAG will assess the recovery plan and decide whether to accept or reject the proposed schedule. Acceptance of the recovery plan by GDELS-MOWAG does not substitute the original delivery schedule and does not release SUPPLIER from payment of penalties and damages as stated in Paragraph 4.

### **4. PARAGRAPH 4 – MEASURES IN CASE OF DELAYED DELIVERY AND PENALTY**

- 4.1 Unless otherwise stipulated in the AGREEMENT, the SUPPLIER shall, irrespective of any fault on the part of the SUPPLIER, be unconditionally obligated to pay a penalty for any delay in delivery in accordance with the terms of this Paragraph 4. Furthermore, in case of late, non- or faulty fulfilment of the AGREEMENT by the SUPPLIER, the terms of the Swiss Code of Obligations are applicable.
- 4.2 The penalty period begins on the seventh (7<sup>th</sup>) day to be counted from the first day after the day on which SUPPLIER should have delivered the MATERIAL in accordance with the AGREEMENT.
- 4.3 The penalty is 1.0% of the value of the delayed delivery for each week of delay.
- 4.4 The first penalty will be due on the seventh (7<sup>th</sup>) day to be counted from the beginning of the penalty period as described in Paragraph 4.2. The first day of the penalty period is included

in the calculation of the seven (7) days. All further penalties will be due on each seventh (7<sup>th</sup>) day to be calculated from the due date of the first penalty.

- 4.5 Notwithstanding Paragraph 4.3, if the SUPPLIER is in arrears with part of a complete MATERIAL delivery, the penalty shall be based on the price of the complete MATERIAL delivery to be delivered by the SUPPLIER, if this MATERIAL cannot be placed into service because of the delayed delivery. (Example: if 100 left brakes and 100 right brakes are ordered, but only 100 left brakes delivered, the penalty will be based on the value of all 200 brakes).
- 4.6 Payment of a penalty will not release the SUPPLIER from SUPPLIER's obligation to fulfil the AGREEMENT in accordance with the specifications and schedules set forth therein.
- 4.7 GDELS-MOWAG is entitled to offset the penalty at any time in full or in part against any claims by the SUPPLIER against GDELS-MOWAG, or to request payment of the penalty by the SUPPLIER. Not applying this right to claim the penalty immediately does not indicate GDELS-MOWAG's waiver to do so at a later date.
- 4.8 If the SUPPLIER does not meet the agreed delivery dates, and after the grace period of one (1) week has elapsed from the original delivery date, GDELS-MOWAG is entitled to cancel the ORDER / AGREEMENT in whole or in part at any time, and to exercise all further rights and remedies stipulated in Paragraph 4.1.
- 4.9 GDELS-MOWAG is entitled to terminate the AGREEMENT in whole or in part at any time. In the event of such termination GDELS-MOWAG shall have no liability to SUPPLIER for costs incurred by SUPPLIER except as may be agreed between the Parties in writing in an AGREEMENT or as stipulated below:
  - 4.9.1 In case of a termination for convenience as set out in the above Paragraph 4.9 SUPPLIER's right to recover damages shall be limited to:
    - a) the AGREEMENT sales price for finished but undelivered MATERIAL if manufactured in accordance with the AGREEMENT, and to costs of such related raw materials purchased by SUPPLIER up to the receipt of notice of termination, which would be necessary to be included in work specified under the AGREEMENT, but which cannot reasonably be used by SUPPLIER for any of SUPPLIER's other programs or products.
    - b) Payment for proven production labor costs for work in progress directly related to the fulfilment of an AGREEMENT, but only to the extent that such work in progress cannot be used for any of SUPPLIER's other programs or products.
  - 4.9.2 Any payment under Article 4.9.1 shall be limited to the value of the agreed compensation of the ORDER/AGREEMENT. In the event of a partial termination, such payment shall be limited to the value of the agreed compensation for the service to which the partial termination relates.
  - 4.9.3 SUPPLIER shall provide reasonably sufficient documentation to prove the right to any payment stipulated under Paragraph 4.9.1
  - 4.9.4 SUPPLIER may claim for payments under Paragraph 4.9.1 a. to b. only if SUPPLIER, at GDELS-MOWAG's request, delivers all MATERIAL for which payment is demanded, free of any third party rights or claims. This shall include raw materials and any auxiliary materials financed by GDELS-MOWAG and procured by the SUPPLIER in the course of fulfilling the ORDER / AGREEMENT, insofar as these materials are in a returnable state.
  - 4.9.5 SUPPLIER shall have an obligation to support GDELS-MOWAG in mitigating any costs for which GDELS-MOWAG may be liable hereunder.
- 4.10 GDELS-MOWAG may terminate the AGREEMENT at any time with immediate effect by written notice and without any liability for any costs or obligations to SUPPLIER if:

- a) SUPPLIER undergoes any change of ownership or change of Control (SUPPLIER being obliged to notify GDELS-MOWAG within thirty (30) days of any such change); or
  - b) SUPPLIER ceases to do business, becomes or is deemed insolvent, has an insolvency receiver or similar person appointed, or undertakes an equivalent or similar action or is affected by such, or makes any settlement or arrangement with its creditors or takes or suffers any similar action in consequence of debt, or any order or decree is made for its dissolution or liquidation (other than for the purpose of solvent amalgamation or reconstruction), or any equivalent or similar action or proceeding is taken or suffered in any jurisdiction; or
  - c) circumstances arise which could justify the assumption, or it becomes apparent to GDELS-MOWAG that SUPPLIER may be in violation of any law or regulation that may have a material effect on the performance of the ORDER/AGREEMENT, or on the business or obligations of GDELS-MOWAG or any company of the General Dynamics Group.
- 4.11 The above rights of termination as defined under clause 4.10 a. to c. shall be in addition to, and not in lieu of, any other right of termination that GDELS-MOWAG may have under the ORDER/AGREEMENT or under relevant law.

## **5. PARAGRAPH 5 - FORCE MAJEURE**

- 5.1 Subject to the provisions of this Article 5.1, the SUPPLIER shall not be liable for any delay, interruption, or failure in performance under the ORDER or AGREEMENT caused by force majeure. Force majeure shall be deemed to be any, external, unforeseeable and unavoidable event, whose occurrence the SUPPLIER was unable to prevent despite exercising the greatest possible care and despite the timely application of all means at its disposal, such as acts of war; terrorism; earthquakes or floods; government-imposed lockdowns due to epidemics or pandemics. Strikes and lockouts shall be deemed to be force majeure if they assume a scope that makes it impossible for the SUPPLIER to make timely deliveries. The SUPPLIER must immediately provide GDELS-MOWAG with evidence of any force majeure event, specifying the nature and anticipated duration of the force majeure event, submitting a plan to restore orderly conditions, and keeping GDELS-MOWAG informed of the status of the situation. During the period of non-performance of the ORDER / AGREEMENT by the SUPPLIER due to force majeure, GDELS-MOWAG shall have the right to suspend its performance, in particular payment obligations, under the ORDER / AGREEMENT. If the SUPPLIER claims force majeure as a reason for the non-performance of its obligations under this AGREEMENT, GDELS-MOWAG is entitled to verify by its own means or have verified whether the SUPPLIER's non-performance is actually due to force majeure. The SUPPLIER may not invoke force majeure if it has caused the circumstance of force majeure intentionally or negligently.
- 5.2 In case of delays in delivery due to force majeure, the delivery dates may be postponed accordingly, but only by a maximum of two (2) months. After this two (2) month period, GDELS-MOWAG is entitled to cancel the ORDER / AGREEMENT in whole or in part at any time without a penalty or cost of any kind.

## **6. PARAGRAPH 6 - TECHNICAL MODIFICATIONS**

- 6.1 The SUPPLIER shall supply all MATERIAL with identical specifications and dimensions with respect to fit and contours, overall size and function as specified in the AGREEMENT.
- 6.2 The SUPPLIER undertakes to report to GDELS-MOWAG in writing all technical modifications and improvements, including any possible effects on peripherals, compared to

the recorded execution status, as well as any additional work and potential requests from third parties, prior to implementation of such changes, and to provide GDELS-MOWAG the relevant documents in a reproducible version.

- 6.3 In each case of modifications affecting form, fit, function or interchangeability of the MATERIAL, written consent by the end user must be obtained, via GDELS-MOWAG, prior to the first shipment of affected MATERIAL.
- 6.4 The SUPPLIER shall keep all maintenance and spare parts documentation regarding the MATERIAL updated for a period of at least fifteen (15) years, free of charge.
- 6.5 In case of modifications to individual system parts, the interchangeability (old-new / new-old) of all spare parts and peripherals must be guaranteed.

## **7. PARAGRAPH 7 – OBSOLESCENCE MANAGEMENT**

- 7.1 For a period of at least 30 years after delivery of vehicles, GDELS-MOWAG has undertaken the obligation to provide its end customers with spare parts for such vehicles. For the MATERIAL offered by SUPPLIER, SUPPLIER is obliged to support GDELS-MOWAG in the fulfillment of this obligation, in particular by providing the originally specified MATERIAL or substitute MATERIAL at reasonable prices and conditions.
- 7.2 The SUPPLIER is obligated to supply to GDELS-MOWAG upon reasonable request, additional originally specified MATERIAL or substitution MATERIAL as well as spare parts, for a period of at least 15 years after complete fulfilment of the ORDER at reasonable prices and conditions. Accrued price increases and quantities will be considered when placing an additional purchase order, it being understood that such obligation shall not create any obligation on the part of GDELS-MOWAG to place any further purchase order regarding such MATERIAL with the SUPPLIER. If SUPPLIER engages in manufacturing MATERIAL according to GDELS-MOWAG's drawings or GDELS-MOWAG's technology without an ORDER from GDELS-MOWAG, it shall do so at its own risk and should GDELS-MOWAG no longer order such MATERIAL, SUPPLIER is not entitled to sell such MATERIAL to any third parties without the prior written consent of GDELS-MOWAG.
- 7.3 In the event of any product changes or discontinuations, the SUPPLIER is always obliged, irrespective of the above mentioned periods, to inform GDELS-MOWAG about any Product Change Notice (PCN) or Product Discontinuation Notice (PDN) by using the form available at [https://gdels.com/supply\\_chain.php](https://gdels.com/supply_chain.php) and sending it by E-Mail to [obsolescence@gdels.com](mailto:obsolescence@gdels.com) within the following periods:
  - a) At least 12 months before any modification (PCN) or discontinuation (PDN) of the MATERIAL planned by the manufacturer or supplier takes place
  - b) At least 3 months before any modification (PCN) to MATERIAL is made
  - c) At least 6 months before any discontinuation (PDN) of MATERIAL takes place.
- 7.4 In the event of any PCN or PDN, SUPPLIER shall ensure that it is able to provide substitution MATERIAL equivalent to the original MATERIAL in form, fit, function and interface as well as in process ability, assembly capability, firmness, durability and safety. In this regard, SUPPLIER shall provide GDELS-MOWAG with access to the complete documentation and all data necessary for validation of the relevant MATERIAL.
- 7.5 GDELS-MOWAG is at any time entitled to request information about measures undertaken ensuring any deliveries and the usability of the MATERIAL up to the end of the MATERIAL's life cycle. At GDELS-MOWAG's request, SUPPLIER is in particular obliged to provide information regarding the planed life cycle free of charge.



- 7.6 SUPPLIER agrees that if SUPPLIER is not able to fulfil its obligation pursuant to clause 7.2 properly, SUPPLIER shall immediately provide GDELS-MOWAG with all drawings, data and technical information necessary for the manufacture of the MATERIAL and related spare parts, free of charge, and GDELS-MOWAG shall have the right to manufacture or have manufactured for it such MATERIAL and spare parts.

## **8. PARAGRAPH 8 - RIGHT TO INSPECT**

- 8.1 GDELS-MOWAG shall have the right upon reasonable notice and during regular business hours to inspect SUPPLIER's facilities used for the manufacture of the MATERIAL. SUPPLIER may require the presence of an escort for such inspection. The right shall include the right of inspection of the SUPPLIER's records and books to the extent necessary for the supervision of the proper fulfilment of the AGREEMENT. In the event SUPPLIER possesses under the AGREEMENT goods in the ownership of GDELS-MOWAG, GDELS-MOWAG is entitled to check the inventory of such goods in accordance with the above conditions.
- 8.2 The SUPPLIER warrants that GDELS-MOWAG may exercise its right to inspect in the same manner vis-à-vis the SUPPLIER's subcontractors in case of subcontracting.
- 8.3 The same right of access shall also be granted to GDELS-MOWAG's end users and customers to the extent necessary for GDELS-MOWAG's end users and customers to verify the proper fulfilment of their agreement with GDELS-MOWAG.
- 8.4 The exercise of any such access rights does not release the SUPPLIER in any way from SUPPLIER's responsibility to manufacture and / or deliver the MATERIAL according to the agreed specifications and delivery dates.

## **9. PARAGRAPH 9 - QUALITY ASSURANCE / COMPLIANCE WITH LAWS**

- 9.1 The SUPPLIER and its suppliers and subcontractors shall ascertain, through an adequate quality assurance system that the MATERIAL will be produced, inspected and certified according to the specifications set forth in the AGREEMENT. The SUPPLIER will include all corresponding certificates (such as but not limited to CoCs, test reports and test certifications, acceptance certificates (FAC) etc.) with each MATERIAL delivery and will list these certificates on the delivery note.
- The SUPPLIER must ensure that only unused, completely functional MATERIAL, which has not been negatively affected by storage is delivered.
- In case the SUPPLIER has knowledge that the MATERIAL is faulty or has a potential weakness which could lead to a failure, the SUPPLIER must inform GDELS-MOWAG without delay in writing of such fault or weakness. In such a case, after GDELS-MOWAG's approval, the SUPPLIER has to remove and replace the affected MATERIAL.
- 9.2 Failure to provide the requested quality inspection certificates may result in withholding of payments from GDELS-MOWAG to SUPPLIER.
- 9.3 Quality certificates must be issued for each production lot, but at least once for each delivery lot and must be delivered to GDELS-MOWAG with the MATERIAL and / or with the invoice.
- 9.3.1 In the performance of the AGREEMENT, the SUPPLIER undertakes to comply with the provisions of the Swiss Ordinance on Due Diligence and Transparency in relation to Minerals and Metals from Conflict-Affected Areas and Child Labour (*«Verordnung über Sorgfaltspflichten und Transparenz bezüglich Mineralien und Metallen aus Konfliktgebieten und Kinderarbeit (VSoTr SR 221.433)»*).

The SUPPLIER shall not supply any MATERIAL which was manufactured with the contribution of child labor.

The SUPPLIER shall be obliged to inform GDELS-MOWAG immediately in writing if SUPPLIER suspects or becomes aware of the fact that child labor contributed to the manufacture of the MATERIAL.

- 9.4 The SUPPLIER, and the MATERIAL and services supplied / rendered by the SUPPLIER shall comply with all applicable laws, such as but not limited to equal rights of men and women, FCPA – Foreign Corrupt Practices Act, regulations, orders and ordinances including but not limited to regulations regarding war material (e.g. ITAR – International Traffic in Arms Regulations, EAR – Export Administration Regulations), and environmental and labour matters. The SUPPLIER shall comply with the principles according to ISO 9001, ISO 14001 and ISO 45001. At GDELS-MOWAG's request, the SUPPLIER shall certify in writing its compliance with the foregoing. The SUPPLIER shall indemnify and hold GDELS-MOWAG harmless from and against any liability claims, demands or expenses arising from or relating to the SUPPLIER's non-compliance. All requirements of this AGREEMENT may be subject to Government Quality Assurance ("GQA"). SUPPLIER will be notified of any GQA activity to be performed.

Neither the SUPPLIER nor the MATERIAL to be delivered shall be subject to any prohibition or restriction under "Council Regulation (EU) No 833/2014 of 31 July 2014 concerning restrictive measures in view of Russia's actions destabilizing the situation in Ukraine" and / or Swiss "Regulation on measures related to the situation in Ukraine SR 946. 231.176.72" in their current versions (hereinafter collectively "REGULATIONS"), which prohibit GDELS-MOWAG from entering into the AGREEMENT with the SUPPLIER and / or procuring MATERIAL thereunder.

Only under the following conditions may SUPPLIER confirm, or impliedly accept, the ORDER:

- a. If there is a prohibition or restriction under the REGULATIONS to enter into the AGREEMENT or to supply MATERIAL to GDELS-MOWAG thereunder, the SUPPLIER may not confirm or impliedly accept the ORDER. In such case, SUPPLIER shall notify GDELS-MOWAG accordingly in writing and shall set forth in detail in writing the reasons for not accepting the ORDER.
- b. By confirming the ORDER or by any implied acceptance of the ORDER by the SUPPLIER, the SUPPLIER expressly acknowledges that neither the SUPPLIER nor the MATERIAL to be supplied is subject to any prohibition or restriction under the REGULATIONS, which prohibits GDELS-MOWAG from entering into the AGREEMENT with the SUPPLIER or procuring the MATERIAL.
- c. Other requirements that the SUPPLIER must comply with under the ORDER are listed under the following link:

[https://www.gdels.com/de\\_supply\\_chain.php](https://www.gdels.com/de_supply_chain.php)

- 9.5 Collaboration in quality matters can be determined by establishing a Quality Assurance Agreement between GDELS-MOWAG and the SUPPLIER.

- 9.6 New and counterfeit MATERIAL:

- a) In performing this AGREEMENT, SUPPLIER shall only deliver new MATERIAL. Used, reconditioned, or anything other than new MATERIAL shall not be delivered unless approved in advance and in writing by GDELS-MOWAG.
- b) In performing this AGREEMENT, SUPPLIER shall purchase only genuine MATERIAL. SUPPLIER shall purchase MATERIAL only from 1) the Original Component Manufacturer (OCM) or Original Equipment Manufacturer (OEM), or 2) from a distributor that has purchased such MATERIAL directly from the OCM/OEM and is authorized in writing by the OCM/OEM to resell the MATERIAL. SUPPLIER shall not use or furnish counterfeit

MATERIAL, nor MATERIAL purchased from other sources unless specifically approved in advance and in writing by GDELS-MOWAG. At GDELS-MOWAG's request, SUPPLIER shall confirm the OCM/OEM of the components contained in the MATERIAL and provide the relevant OEM part numbers and drawings.

c) In performing this AGREEMENT, SUPPLIER shall maintain and follow written policies, reasonably acceptable to GDELS-MOWAG and, if applicable to GDELS-MOWAG's Customers, for the detection of counterfeit MATERIAL and the traceability of the MATERIALs used in performing this AGREEMENT to the OCM/OEM. Upon reasonable request, SUPPLIER shall permit the inspection and copying of such policies and records relating thereto.

d) SUPPLIER represents and warrants that in performing this ORDER, it shall use and deliver only genuine new MATERIAL purchased from OCM/OEMs or their authorized distributors and acquired in conformance with SUPPLIER's approved policies. In addition to any other remedy available to GDELS-MOWAG for breach of this warranty, GDELS-MOWAG may: 1) reject MATERIAL tendered for delivery; 2) revoke acceptance of any MATERIAL previously delivered and accepted; 3) require SUPPLIER to repair or replace any MATERIAL previously accepted at SUPPLIER's expense; and 4) repair or replace, at SUPPLIER's expense, any MATERIAL previously accepted. SUPPLIER shall indemnify and hold harmless GDELS-MOWAG and its Customers from all liability, costs and expenses for breach of this clause.

e) SUPPLIER shall incorporate the substance of this clause in every subcontract awarded under this AGREEMENT.

f) The MATERIAL may not originate from the following countries: Belarus, Burma, China, Cuba, Iran, North Korea, Russia, Syria and Venezuela.

**10. PARAGRAPH 10 - CONFLICT MINERALS: DODD-FRANK ACT, SECTION 1502 - SECURITIES AND EXCHANGE ACT OF 1934, 17CFR AND OECD DUE DILIGENCE GUIDANCE FOR RESPONSIBLE SUPPLY CHAINS OF MINERALS FROM CONFLICT-AFFECTED AND HIGH-RISK AREAS**

10.1 GDELS-MOWAG follows the OECD due diligence guidelines for Responsible Minerals sourcing and requires SUPPLIER to also follow these in the performance of the AGREEMENT.

10.2 MATERIAL to be delivered by SUPPLIER shall not contain any intentionally added columbite-tantalite (coltan), cassiterite, gold, wolframite, tin, tantalum, tungsten or their derivatives (together: "Conflict Minerals") that is necessary for the functionality or production of the MATERIAL. Intentionally added means that Conflict Minerals were intentionally added to the MATERIAL by the SUPPLIER or its sub-suppliers.

10.3 If ordered MATERIAL contains any Conflict Minerals SUPPLIER is only entitled to confirm the ORDER and supply MATERIAL if prior to ORDER confirmation, based on a Reasonable Country of Origin Inquiry (RCOI) SUPPLIER knows or reasonably believes:

- a) that the Conflict Minerals are from recycled or scrap sources and SUPPLIER also discloses this determination in writing to GDELS-MOWAG and describes the RCOI and its results to GDELS-MOWAG, or
- b) that the Conflict Minerals do NOT originate from the Democratic Republic of Congo or an adjoining country to it and, or from conflict-affected and high-risk areas (together "Covered Countries") and SUPPLIER also discloses this determination in writing to GDELS-MOWAG and describes the RCOI and its results to GDELS-MOWAG.



- 10.4 Should SUPPLIER not be able to determine and confirm above points a) or b) based on an RCOI, SUPPLIER may not confirm the ORDER and may not supply MATERIAL but must inform GDELS-MOWAG in writing and in detail of the following:

- i) which MATERIAL/single component/s of MATERIAL is/are affected
- ii) which Conflict Mineral/s is/are contained in the MATERIAL/components
- iii) what is the source of the Conflict Minerals contained in the MATERIAL/components

Based on above points i) – iii), GDELS-MOWAG may, in its sole discretion, in writing, allow SUPPLIER to confirm the ORDER and supply the MATERIAL.

## **11. PARAGRAPH 11 - ACCEPTANCE**

- 11.1 Unless otherwise stipulated in the AGREEMENT, acceptance of the MATERIAL will take place at GDELS-MOWAG's premises in Kreuzlingen, within a maximum of ten (10) working days after receipt of the MATERIAL.
- 11.2 The acceptance authority is the Quality Assurance Department of GDELS-MOWAG.
- 11.3 If the MATERIAL fulfils all specifications and conditions stipulated in the AGREEMENT during quality inspection and acceptance, it shall be accepted. The fact that the MATERIAL has been accepted does not release the SUPPLIER from its warranty obligations as per Paragraph 12.
- 11.4 If the MATERIAL does not pass quality inspection as well as the acceptance tests and therefore does not meet the specifications stipulated in the AGREEMENT, GDELS-MOWAG may reject the MATERIAL and set a new date for reinspection / acceptance. GDELS-MOWAG reserves the right to verify the conformity of subsequent deliveries and the implementation of measures at the SUPPLIER's premises. The SUPPLIER shall bear all costs arising to GDELS-MOWAG for the repetition of the inspection / acceptance.

## **12. PARAGRAPH 12 - WARRANTY / LIABILITY FOR DEFECTS**

- 12.1 The SUPPLIER represents and warrants that the MATERIAL will conform to and comply with the requirements, specifications, drawings and samples stipulated in the AGREEMENT, is free from any manufacturing and design defects and will be fit and sufficient for the particular use by GDELS-MOWAG and its end users and customers. Further, SUPPLIER represents and warrants that, except for the material provided by GDELS-MOWAG for processing (as defined in Paragraph 13), SUPPLIER has good and legal title to the MATERIAL, free and clear of any liens, charges and encumbrances.
- 12.2 The warranty period, unless stated otherwise in the AGREEMENT, shall be 24 months after delivery of the MATERIAL to GDELS-MOWAG's customer, but in any case, not more than 36 months after acceptance of the MATERIAL by GDELS-MOWAG. GDELS-MOWAG shall not be obliged to inspect the MATERIAL for its condition upon receipt and shall be entitled to notify the SUPPLIER of defects at any time during the entire period of warranty. If GDELS-MOWAG notifies that the MATERIAL is defective, the statute of limitations shall not commence, or if it has already commenced, it shall be suspended for the period from receipt of the complaint until the defect has been successfully remedied.
- 12.3 In case the same defect is found in a statistically significant number of products of the same kind already delivered in the same delivery lot by SUPPLIER to GDELS-MOWAG, GDELS-MOWAG shall be entitled to replace all relevant parts at the SUPPLIER's costs, during the warranty period, and regardless of whether it has been demonstrated that all such products delivered by SUPPLIER are defective.

- 12.4 In the event the MATERIAL is defective or otherwise non-conforming with the specifications stipulated in the AGREEMENT, GDELS-MOWAG may at its option cancel / rescind the ORDER / AGREEMENT, claim a price reduction, claim for repair or replacement and / or claim damages (including but not limited to loss of production, loss of use, loss of orders, loss of profit and other direct or consequential damages).
- 12.5 The rights and remedies provided to GDELS-MOWAG in the TERMS AND CONDITIONS shall be cumulative, and in addition to all other or further remedies provided by law.
- 12.6 The SUPPLIER will bear all costs of shipping rejected MATERIAL back and forth, to and from the SUPPLIER, as well as any travel expenses and additional working hours arising from warranty work.
- 12.7 SUPPLIER grants the same warranty for replacement deliveries and repairs as for new MATERIAL. The length of the warranty period for replacement deliveries shall be the same as described in Paragraph 12.2 and shall be calculated from the delivery date of the replacement delivery.
- 12.8 The SUPPLIER's warranty covers its own performance as well as the performance of its own suppliers and subcontractors.
- 12.9 If the SUPPLIER fails to perform its warranty obligations in a timely manner, GDELS-MOWAG is entitled, after previous written notice, to execute the necessary work of its own accord or have it executed by a third party, at the SUPPLIER's risk and cost.
- 12.10 Irrespective of any claim which GDELS-MOWAG might have under this Paragraph 12 against the SUPPLIER, GDELS-MOWAG shall have an unconditional right of recourse, irrespective of any fault on the part of the SUPPLIER, against the SUPPLIER for any product liability claim brought by a third party against GDELS-MOWAG to the extent such claim is based on a defect in the MATERIAL attributable to the SUPPLIER and / or its subcontractors. In the same manner, the SUPPLIER shall indemnify GDELS-MOWAG for all costs and expenses which incur to GDELS-MOWAG in connection with such claim.
- 12.11 SUPPLIER will comply with the Swiss Product Safety Law (PrSG).

### **13. PARAGRAPH 13 - MATERIAL SUPPLIED BY GDELS-MOWAG**

- 13.1 Any material provided by GDELS-MOWAG to the SUPPLIER for processing or installation ("Customer Furnished Equipment" or "CFE") remains the property of GDELS-MOWAG. The SUPPLIER shall check the quantities of CFE delivered, as well as inspect the CFE visually for damage caused by transportation or storage, and confirm receipt of the CFE to GDELS-MOWAG in writing within ten (10) calendar days. In case the CFE supplied by GDELS-MOWAG is defective or is not delivered in sufficient quantity or does not comply with the quality and/or technical specifications stipulated in the AGREEMENT, the SUPPLIER shall notify GDELS-MOWAG immediately thereof in writing. The CFE will be delivered DAP SUPPLIER's address (INCOTERMS 2020).
- 13.2 The CFE may not be used by the SUPPLIER for purposes other than for the fulfilment of the AGREEMENT. The SUPPLIER shall mark the CFE "Property of GDELS-MOWAG GmbH" store it in a safe place and at all times separate from other material / products owned by the SUPPLIER or third parties and shall insure it against deterioration and destruction at its own expense. The SUPPLIER shall ensure that GDELS-MOWAG can assert its ownership rights to the CFE and access the CFE at any time.
- 13.3 The SUPPLIER shall carry out an inventory of the CFE in November of each year and send GDELS-MOWAG the updated inventory list by November 30. If there are inventory differences, the SUPPLIER shall compensate GDELS-MOWAG for the resulting costs.

- 13.4 Deliveries of CFE by GDELS-MOWAG in accordance with the ORDER shall in no way release the SUPPLIER from its liability and responsibility for the MATERIAL ordered as a whole, including the proper integration of such CFE, and does not affect the SUPPLIER's warranty obligations.
- 13.5 The SUPPLIER may not procure any missing CFE directly from third parties, but only from GDELS-MOWAG, or from sources approved by GDELS-MOWAG's Purchasing Department.

**14. PARAGRAPH 14 - AGE OR TEMPERATURE SENSITIVE MATERIAL**

- 14.1 For MATERIAL with a limited shelf life, the expiry date or the date of manufacture with the corresponding use-by date must be clearly marked on each individual part or container.
- 14.2 If the MATERIAL must be stored under special conditions, this shall be notified to GDELS-MOWAG in writing no later than at the time of acceptance of the ORDER.
- 14.3 Proper storage temperature range must be distinctly marked on every container, if outside the + 15 / + 25 degrees Celsius range.

**15. PARAGRAPH 15 - PASSING OF BENEFIT AND RISK**

- 15.1 Title, benefit, and risk of loss of the MATERIAL shall pass to GDELS-MOWAG upon acceptance of the MATERIAL by GDELS-MOWAG pursuant to Paragraph 11.

**16. PARAGRAPH 16 - INTELLECTUAL PROPERTY**

- 16.1 The SUPPLIER agrees:
- a) to defend, hold harmless and indemnify GDELS-MOWAG and its end users / customers against any claim of infringement of intellectual property (for example, but not restricted to, patent, trademark, copyright, industrial design rights, or other proprietary rights, or misuse or misappropriation of trade secrets, etc.) and resulting damages and expenses incurred in any way in relation to the MATERIAL under the AGREEMENT, including such damages where the SUPPLIER has provided only part of the MATERIAL;
  - b) that GDELS-MOWAG, its subcontractors or and/or end users / customers shall have the right to repair, reconstruct, or rebuild the MATERIAL delivered under this AGREEMENT without payment of any license fees to the SUPPLIER;
  - c) that the MATERIAL manufactured based on GDELS-MOWAG's drawings and / or specifications may not be used for SUPPLIER's own purposes or sold to third parties without GDELS-MOWAG's express written authorization;
  - d) that all technical or other information provided by GDELS-MOWAG to the SUPPLIER for the performance of the ORDER, and technical Information developed by the SUPPLIER specifically for GDELS-MOWAG under this ORDER shall be treated as confidential and shall not be disclosed to any third party and shall only be used for the performance of the ORDER;
  - e) that if the subject matter of the AGREEMENT is the commissioning of development work, the SUPPLIER hereby assigns to GDELS-MOWAG all copyrights and intellectual property rights thereto, free of charge, including the rights to all drawings and documents created for the development and/or provided with the development;

f) that any intellectual property, whether or not protectable, which was created by the SUPPLIER within the scope of and based on the AGREEMENT ("Foreground Intellectual Property" or "FIP") belongs, upon payment of the defined price therein, exclusively to GDELS-MOWAG, or GDELS-MOWAG shall have an exclusive, perpetual, unlimited, worldwide, free of charge, irrevocable, sub-licensable, transferable right of ownership and right of use over the FIP. The SUPPLIER may use the FIP only for the execution of the AGREEMENT. The SUPPLIER shall prepare a written list of any FIPs created in the performance of the AGREEMENT and shall deliver the list together with the MATERIAL under the AGREEMENT to GDELS-MOWAG; and

g) if the subject matter of the AGREEMENT is a purchase transaction, GDELS-MOWAG is granted a non-exclusive, perpetual, unlimited, worldwide, free of charge, irrevocable, sub-licensable, transferrable right to use all drawings provided by the SUPPLIER, which relate to the MATERIAL in accordance the AGREEMENT and GDELS-MOWAG is entitled to use these drawings and documentation as required by GDELS-MOWAG to fulfil its business objectives.

**17. PARAGRAPH 17 - SUBCONTRACTING / NON-ASSIGNABILITY / RELATIONSHIP BETWEEN THE PARTIES**

- 17.1 In case of delegation or subcontracting, the SUPPLIER shall remain liable to GDELS-MOWAG for the proper and timely fulfilment of the AGREEMENT and for compliance, by its subcontractors, with any of the TERMS AND CONDITIONS and the AGREEMENT. Upon GDELS-MOWAG's request, SUPPLIER must identify and list its subcontractors in writing within five (5) working days.
- 17.2 The SUPPLIER shall not be entitled to assign or pledge this AGREEMENT or any rights or obligations arising thereunder to third parties, or otherwise encumber it, without the prior written consent of GDELS-MOWAG.
- 17.3 The SUPPLIER and GDELS-MOWAG are independent contracting parties and nothing in the ORDER / AGREEMENT shall make either party the agent or legal representative of the other for any purpose whatsoever, nor does it grant either party any authority to assume or create any obligation on behalf of or in the name of the other.

**18. PARAGRAPH 18 - CONFIDENTIALITY / NO ADVERTISING**

- 18.1 The SUPPLIER shall keep confidential the TERMS AND CONDITIONS and the contents of the AGREEMENT.
- 18.2 GDELS-MOWAG and the SUPPLIER agree to keep confidential each other's manufacturing and trade secrets or other confidential information of which they may have become aware in connection with the performance of the AGREEMENT.
- 18.3 The SUPPLIER shall not, without first obtaining the written consent of GDELS-MOWAG, publicize in any manner the fact that the SUPPLIER supplies the MATERIAL covered by this ORDER, or use any trademarks or trade names of GDELS-MOWAG or of any other companies of the General Dynamics group in the SUPPLIER's advertising or other materials.
- 18.4 The undertakings set forth in this paragraph shall remain in effect also after fulfilment of the ORDER and shall survive the termination of the AGREEMENT regardless of the reason.
- 18.5 Upon termination of the business relationship, the SUPPLIER shall cease any use of Confidential Information received under the ORDER/AGREEMENT and shall return it and any copy thereof to GDELS-MOWAG within thirty (30) calendar days upon GDELS-MOWAG's request. If the return of the Confidential Information is not requested by GDELS-

MOWAG, the SUPPLIER shall destroy such Confidential Information and any copy thereof and confirm this in writing to GDELS-MOWAG after having done so. Article 18.5 shall apply to the extent and with the restriction that the retention of such confidential information is not mandatory by law.

**19. PARAGRAPH 19 - IDENTIFICATION**

- 19.1 The SUPPLIER shall use GDELS-MOWAG's part numbers and drawing numbers stated in the AGREEMENT on its documents (invoice, delivery note, and certificate), in addition to its own descriptions and part numbers.
- 19.2 The SUPPLIER shall inform GDELS-MOWAG no later than when submitting its offer, and again when sending its order confirmation, if its delivery contains MATERIAL that is subject to the United States International Traffic in Arms Regulations ("ITAR"), the Export Administration Regulations ("EAR") or other national military goods restrictions or limitations.
- 19.3 ITAR and EAR controlled MATERIAL: In case the MATERIAL to be supplied by SUPPLIER to GDELS-MOWAG is fully or partially controlled by the US ITAR (International Traffic in Arms Regulations) or the US EAR (Export Administration Regulations), SUPPLIER shall send GDELS-MOWAG a copy of any related ITAR and EAR licenses which were issued (for example, but not limited to DSP-5, DSP-83, any kind of EAR licenses), necessary for the transfer of the MATERIAL to GDELS-MOWAG and from GDELS-MOWAG to the End-User. Furthermore, SUPPLIER shall provide GDELS-MOWAG in writing with the exact ITAR and EAR classification of the MATERIAL, such as but not limited to the applicable ITAR USML number or EAR ECCN number.

**20. PARAGRAPH 20 - OFFSET PERFORMANCE**

- 20.1 GDELS-MOWAG shall be entitled to register this ORDER / AGREEMENT as fulfilment or partial fulfilment of offset obligations, and SUPPLIER undertakes to support GDELS-MOWAG in this respect. If GDELS-MOWAG elects not to exercise its right to use this transaction as fulfilment of any GDELS-MOWAG's offset obligations, but rather against offset obligations of another company of the General Dynamics Group, SUPPLIER shall cooperate with GDELS-MOWAG to assist any such company of the General Dynamics Group to use this ORDER / AGREEMENT for the fulfilment of their offset obligations. Such cooperation shall comply with the requirements of applicable laws and regulations, shall not create any additional costs, obligations or expenses on the part of the SUPPLIER and shall not limit the SUPPLIER's rights.

**21. PARAGRAPH 21 - DATA PROTECTION / CYBER SECURITY**

- 21.1 The SUPPLIER undertakes to comply with the provisions of the Swiss Informations-sicherheitsgesetz (Information Security Act) (ISG), including the relevant implementing ordinances, when processing GDELS-MOWAG's own data or information, or data or information provided by GDELS-MOWAG.
- 21.2 In addition, the SUPPLIER undertakes to comply with the requirements of the European General Data Protection Regulation (EU) 2016/679 (GDPR) and the Swiss Data Protection Act (DPA) for any processing of personal data.
- 21.3 The SUPPLIER shall transfer these obligations to third parties it engages (e.g. suppliers and sub-suppliers, designee, subcontractors).



- 21.4 The processing of personal data by GDELS-MOWAG is also carried out in compliance with the GDPR and DSG and in accordance with the GDELS Privacy Notice, which is available under the following link:

<https://www.gdels.com/en/legal/privacy-notice>

For any questions regarding data protection please contact:

[privacy@gdels.com](mailto:privacy@gdels.com)

- 21.5 The SUPPLIER also undertakes to comply with the cyber security requirements of General Dynamics European Land Systems (GDELS), which are available at the following link and form an integral part of these POTCs.

<https://www.gdels.com/de/partnership/downloads>

## **22. PARAGRAPH 22 - SEVERABILITY CLAUSE**

- 22.1 Should any part of this AGREEMENT be invalid for any reason, it is to be replaced with a corresponding text, which is valid and equivalent to the intended meaning. The rest of the AGREEMENT shall remain unaffected and valid.

## **23. PARAGRAPH 23 - GOVERNING LAW / JURISDICTION**

- 23.1 The TERMS AND CONDITIONS as well as the ORDER / AGREEMENT shall be subject to and governed by Swiss law; the United Nations Convention on Contracts for the International Sale of Goods shall not apply.
- 23.2 Any dispute arising out of or in connection with the ORDER / AGREEMENT and the TERMS AND CONDITIONS shall be submitted to the exclusive jurisdiction of the competent courts of Kreuzlingen, Switzerland.