

GENERAL PURCHASE CONDITIONS

V1.3



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1. STRUCTURE

- 1.1. Structure. These General Purchase Conditions are a Schedule of the Framework Agreement and, together with the other Schedules and each Purchase Order, will comprise the Agreement that sets forth the terms and conditions governing the purchase of any Item by Etergo from Supplier.
- 1.2. Definitions. Definitions (marked with capital letters) that are not explicitly explained in these General Purchase Conditions shall have the same meaning as in the Framework Agreement.

2. ETERGO PROPERTY

- 2.1. Ownership. All tools, molds, fixtures or other Equipment supplied by or paid for by Etergo (collectively referred to as "**Etergo Property**") shall be and remain solely Etergo's property and shall not be used by the Supplier for any purpose other than the performance of its obligations under any Agreement with Etergo.
- 2.2. Obligations. The Supplier shall: **(i)** whilst not in use, keep Etergo Property separate and readily identifiable as property of Etergo's; **(ii)** at its own expense keep Etergo Property insured for full replacement value against all usual risks and apply the proceeds of such insurance for replacement of Etergo Property; **(iii)** store safely, treat with due care and keep in good condition (fair wear and tear exempted) all Etergo Tooling; **(iv)** not charge by way of security for any indebtedness; **(v)** not dispose of the Etergo Property without Etergo's prior written permission; and **(vi)** at its own expense repair or replace all Etergo Property damaged or lost due to the Supplier's own negligence.
- 2.3. Return. Upon the expiration or termination of the Agreement for any reason whatsoever, Supplier shall immediately deliver to Etergo all Etergo Property. Supplier will remove all such Etergo Property from its production facility and make such Etergo Property available for pickup at its production facility by a carrier designated by Etergo.
- 2.4. Option. The Supplier hereby grants to Etergo an irrevocable option (exercisable at any time during the duration of the Agreement or after its termination) to take possession of and title to the Equipment that is unique for the manufacturing of the Items for Etergo and not yet owned by Etergo ("**Other Equipment**"), upon payment to the Supplier of the book value thereof less any amounts which Etergo has previously paid to the Supplier for the cost of such Other Equipment.



3. FORECAST

- 3.1. Etergo may periodically issue to Supplier rolling forecasts setting forth projected demand for Items ("**Etergo Forecasts**"). Unless agreed otherwise in the Framework Agreement, Etergo Forecasts are intended for planning purposes only and shall not constitute a binding purchase commitment of Etergo.

4. PURCHASE ORDERS

- 4.1. Purchase agreement. A purchase agreement with regard to Items ordered by Etergo shall come into existence only after Etergo has submitted a Purchase Order and after Supplier has confirmed receipt of such Purchase Order. Etergo may demand from Supplier the use of a certain written form for the receipt of the Purchase Order.
- 4.2. Purchase Orders. A Purchase Order shall (i) identify the Items requested and (ii) state the quantity, delivery date, place of delivery, and the Price of the Items requested (unless specified in the Framework Agreement which shall prevail).
- 4.3. Acceptance/Rejection of Purchase Orders. Supplier shall promptly communicate in writing its acceptance or rejection of a Purchase Order. Supplier may not reject (and shall be deemed to have accepted) a Purchase Order so long as the Purchase Order conforms to the terms and conditions of the Agreement (including any forecasted volume, if applicable). Any notice of rejection shall state the specific grounds for such rejection. In all events, any objection by Supplier to the terms of a Purchase Order shall be deemed waived upon Supplier's delivery of Items. Supplier may not commence any work for Etergo without a valid Purchase Order unless this work is otherwise approved in writing by a duly authorized representative of Etergo.
- 4.4. Purchases by authorized third-party. Certain Items may be (i) incorporated into sub-assemblies, modules, or other Final Products made for Etergo by a third party; or (ii) otherwise processed or assembled by a third party. In such event, Etergo may designate the third-party as authorized to purchase Items from the Supplier, on the third-party's own account or on Etergo's account, but in any event on the terms set forth in this Agreement.
- 4.5. No volume commitment. Unless explicitly agreed in the Framework Agreement, the Supplier acknowledges that no firm volume commitment has been granted by Etergo to the Supplier.
- 4.6. No exclusivity. Nothing in the Agreement shall prevent Etergo from engaging third-parties other than the Supplier to provide goods or services the same as, or similar to the Items.



5. DELIVERY

- 5.1. Incoterms. Unless agreed otherwise on the Purchase Order, Supplier shall deliver the Items 'Free On Board' (agreed port of shipment) for deliveries from outside the European Union and 'Delivered At Place' for deliveries within the European Union (both in accordance with the relevant provisions of the Incoterms 2020).
- 5.2. Delivery times. If Supplier has agreed on a delivery date or time (in the Framework Agreement, a Purchase Order, or otherwise) and becomes aware that it will be unable, for any reason whatsoever, to deliver the Items on the agreed delivery date or time, the Supplier shall notify Etergo immediately by phone followed by a more detailed explanation in writing. If the Supplier does not deliver the Items at the agreed delivery date or time, the Supplier shall be in default without any further notice being required.
- 5.3. Liquidated Damages. In case of late delivery not caused by Etergo, the Supplier shall automatically be obliged to compensate Etergo for liquidated damages of an amount equivalent to 3% of the Price of the delayed Items, as well as liquidated damages of 0.4% of the Price of the delayed Items, per day this shortcoming continues, with a maximum of 15% of the Price of the delayed Items. These liquidated damages are not the exclusive remedy for Etergo and are independent of, and in addition to, the rights and remedies of Etergo under the Agreement or under applicable law.
- 5.4. Expedite. Notwithstanding the obligation to pay liquidated damages, the Supplier shall accelerate and deploy all such additional measures as are required to expedite delivery. The additional costs entailed thereby shall be borne by the Supplier unless the Supplier proves that the delay is caused by Etergo.
- 5.5. Capacity. Supplier shall at all times maintain sufficient capacity to ensure timely delivery of those quantities ordered by Etergo.

6. TRANSFER OF RISK AND OWNERSHIP

- 6.1. At delivery. The Items shall be at the risk of the Supplier until they are delivered in accordance with the Agreement. Title to and risk in the Items shall pass to Etergo at delivery, subject to any right of rejection which Etergo may have under the Agreement or by applicable law.
- 6.2. At payment. Notwithstanding the foregoing, if Etergo makes (down) payments for the Items prior to delivery, title to the Items for which Etergo has paid, shall pass to Etergo upon manufacturing of the Items. In this case, the Supplier shall immediately individualize the Items as belonging to Etergo and the Supplier shall be liable for the safe and appropriate storage of the Items on Etergo's behalf until the Items are delivered in accordance with the Agreement.



7. QUALITY

- 7.1. Entrance control. Etergo may, but is not required to, inspect (or have inspected by a third-party) Items at delivery by means of an entrance control. Etergo's acceptance, inspection, or failure to inspect does not relieve Supplier of any of its obligations under the Agreement.

8. CHANGES

- 8.1. Change Request. Etergo may, upon notice to Supplier, submit change request with respect to any of the following (a "**Change Request**"): **(i)** Specifications and/or drawings; **(ii)** the means of transportation; **(iii)** the place and date of delivery of Items; and/or **(iv)** the place, date and manner of inspection or acceptance of Items. Supplier agrees that it will use best efforts to accommodate a Change Request in a timely and cost effective manner.
- 8.2. Reasonable Adjustments. The Supplier will promptly notify Etergo in writing if the proposed changes in a Change Request will affect timing, quality or cost and provide Etergo with a cost break down analysis of the impact of the proposed change. Etergo and the Supplier will negotiate in good faith on a reasonable price adjustment (up or down), an adjustment in shipping or delivery terms, or other appropriate adjustment. If the Parties agree to an adjustment, the Agreement shall be modified in writing accordingly. No claim by Supplier for adjustment under this subsection shall be valid unless in writing and received by Etergo within (30) days from the date of Supplier's receipt of a Change Request; provided however, that such period may be extended upon the written approval of Etergo.
- 8.3. Exclusion. Any changes requested by Etergo during the development phase, as a result of samples supplied by Supplier not meeting the requirements set forth by Etergo, will not trigger the Change Request procedure as set forth above.

9. WARRANTIES

- 9.1. General. Supplier warrants that during the applicable Warranty Period (as defined in clause 9.2) the Parts will: **(i)** conform to the Specifications; **(ii)** be free from defects, be of the highest quality standards and be fit for the purposes intended by Etergo; **(iii)** be in strict compliance with all applicable laws and regulations, in the country in which the Parts are produced, delivered, and all other countries in which Etergo will sell the Parts or the Final Products incorporating the Parts; and **(iv)** be free of all liens, claims and encumbrances whatsoever.



These warranties are intended to provide Etergo with protection from any and all claims (including warranty claims) brought against Etergo by its end-customers that can be related back to Non-Conforming Parts (as defined below). The foregoing warranties are in addition to those available to Etergo by applicable law. For the purpose of clause 9 (warranties) and 10 (recall), if a Supplier delivers Components to Etergo, the word 'Parts' should be read as to also include Components.

- 9.2. Warranty Period. For all Parts the warranty period (the "**Warranty Period**") begins on the date of delivery of the Parts and ends on the later of: **(i)** 24 months after delivery of the Parts; **(ii)** the expiration of any warranty provided to end-customers of the vehicle into which the Parts are incorporated or, if the Parts are sold separately to end-customers, the expiration of any warranty provided to end-customers of the Parts or; **(iii)** any period required by applicable law covering the Parts.
- 9.3. Non-conforming Parts. If Parts do not conform to all requirements set forth in the Agreement ("**Non-Conforming Parts**"), the Supplier is deemed to be immediately in default and Etergo is entitled to reject the non-conforming Parts and require Seller: **(i)** at Seller's expense (including applicable shipping costs) to re-deliver conforming Parts; or **(ii)** to refund to Etergo the amount paid for the non-conforming Parts. These remedies are in addition to all other rights and remedies available elsewhere in the Agreement or by law.
- 9.4. Rejection. If any part of a shipment or a production batch of the Parts does not conform to the Agreement, Etergo may reject, at its discretion, the entire shipment or production batch without any payment becoming due by Etergo for any part of such shipment or production batch of the Parts and without any liability towards the Supplier. Etergo shall store the rejected Parts or cause them to be stored at the Supplier's expense and risk.
- 9.5. Product liability. Besides the above and also outside the Warranty Period, Supplier will indemnify and hold harmless Etergo against all legal costs and third-party claims relating to injury or death to persons or property damage, if and to the extent caused by Non-Conforming Parts, and/or its negligent acts or omissions in its performance under the Agreement.

10. RECALL

- 10.1. General. If a repetitive defect or an otherwise significant problem in (a batch of) the Parts becomes apparent to either Party after incorporation into Etergo's Final Product, the Parties shall immediately carry out a joint investigation to determine the cause of the defect, to evaluate any safety issues and to establish the remedial action required, if any. If it is determined by Etergo that the relevant defect affects the safety of Etergo's Final Products or significantly damages the brand image of Etergo, Etergo and its service network



shall implement an adequate recall or service action campaign (a "**Recall**"). Supplier shall repair or replace such Parts (including any Parts held for replacement purposes) as are, or may prove to be defective.

- 10.2. Cooperation. In the event of a Recall by Etergo, the Supplier shall: **(i)** provide active and full cooperation to Etergo to determine the cause of the incident resulting to the Recall; **(ii)** provide reasonable assistance in developing a Recall strategy and shall cooperate in monitoring and executing the Recall operation and in preparing such reports as may reasonably be required; and **(iii)** not take any action or make any public statement in relation to the Recall or to any involvement of the parties related to the Recall, unless this is explicitly approved in writing by Etergo.
- 10.3. Damages. Supplier will be liable for costs and damages resulting from a Recall only if the Recall results in whole or in part from a failure of the Parts to conform to the warranties in clause 9 (warranties) during the Warranty Period. This liability includes but is not limited to reimbursing Etergo for the price paid by Etergo for the Parts, and the reasonable costs for inspection, testing, removal from the market of the Parts, the cost of destruction, customer fines/fees related to the Recall, public relations, labor and shipping. If the Parties are equally at fault for such Recall, the Parties shall share such losses, damages, liabilities, costs and expenses equally.

11. PROVISION OF SERVICES

- 11.1. Warranties. If any Services are to be performed by the Supplier then the Supplier warrants that all Services provided to Etergo shall: **(i)** conform to the Specifications and/or statement of work as approved by Etergo; and **(ii)** be of the highest professional quality and provided with due care by properly skilled professionals which are authorized to provide the Services and comply with all applicable laws and regulations, covenants and any other requirements in the country in which they are provided.
- 11.2. Remedies. In the event of any failure to meet the warranties described above, Supplier shall compensate Etergo's costs incurred as a result thereof and shall, at Etergo's request and without limiting the other (statutory) remedies available to Etergo: **(i)** re-perform the Services without additional charge to Etergo or, at Etergo's option; **(ii)** refund to Etergo the amount paid for such Services.

12. PRICE, PAYMENT

- 12.1. All inclusive Price. Unless explicitly agreed otherwise in writing, the agreed Price is all inclusive and therefore includes all costs for adequate packaging, inspections, tests, certificates, import duties, levies, travelling and accommodation expenses, travelling hours, transport, office, meal, administrative costs and other overheads, but does not include applicable sales tax, personal income tax, value added tax or any equivalent tax.



- 12.2. No increase. The Supplier may not increase the agreed prices during the term of the Agreement, unless specifically agreed by both Parties in writing. Supplier assumes the risk of any event or cause affecting prices, including without limitation, foreign exchange rates, increases in raw material costs, inflation, increases in labor and other production and supply costs and any other event which impacts the price or availability of materials or supplies. In the event the Supplier is obliged to increase the prices by virtue of a mandatory law provision, then Etergo shall have the right to terminate the Agreement with immediate effect.
- 12.3. Continuous quality improvement. Etergo and the Supplier shall work together to reduce the cost to the Supplier of producing the Items. The Supplier will promote continuous quality improvement in the manufacturing, production and distribution of the Items. The Supplier commits to endeavor to reduce Items costs and pass on the savings to Etergo.
- 12.4. Invoicing. Invoices shall only be eligible for payment if they are correctly specified, bear the correct reference or Purchase Order number and the date of the Purchase Order of Etergo and are sent to the correct address as set forth in the Purchase Order. Incorrectly specified invoices will be returned to the Supplier and may lead to payment delays. No invoice or related document may reference any term separate from or different than the Agreement.
- 12.5. Payment term. Unless agreed otherwise in writing and to the extent the Supplier meets its contractual obligations, Etergo shall initiate payment of invoices within 60 days from receipt of a valid invoice or receipt of the Items, whichever is later.
- 12.6. Currency. Payment will be made in the currency expressly stated in the Purchase Order; if no such currency is stated, payment will be in Euro.
- 12.7. Effect of payment and right to offset. Payment may not be regarded as constituting any acknowledgement by Etergo of the soundness of the delivered Items. All payments shall be subject to adjustment for errors, shortages, non-conformities or defects. Etergo may at any time set off against the Etergo's accounts payable to the Supplier any amounts for which Etergo determines in good faith the Supplier is liable to Etergo under the Agreement.

13. INTELLECTUAL PROPERTY RIGHTS

- 13.1. General. "Intellectual Property Rights" means any patent, patentable subject matter including trade secrets, copyright, database right, design right, registered design, trademark, domain name, logo, trade dress, know-how, utility model, unregistered design, or other industrial or intellectual property rights, existing in any



part of the world and, where relevant, any application for protection or proprietorship of any such right and any right to make an application for registered protection for any such rights.

- 13.2. Creation of new Intellectual Property Rights. Any and all Intellectual Property Rights created in the course of or as a result of any work carried out by the Supplier (or its subcontractors) and paid for by Etergo under or in pursuance of the Agreement, shall, from the date of their creation by the Supplier or its subcontractors belong exclusively, in perpetuity, throughout the world, to Etergo. The Supplier will assign or procure the assignment with full title guarantee to Etergo of all such Intellectual Property Rights and relevant know-how pertaining to the same. The Supplier shall provide all support and undertake all actions needed to transfer the Intellectual Property Rights to Etergo in full, including cooperating with authorities for transfer, registration and/or recording of transfer of the Intellectual Property Rights.
- 13.3. License. Without prejudice to the other provisions of this clause, where necessary, the Supplier shall grant or procure the grant of an adequate licence or sublicense to Etergo at no extra cost, of any Intellectual Property Rights which the Supplier owns and does not own, but which is incorporated or utilised in any work done or Items supplied by the Supplier for Etergo in pursuance of the Agreement, sufficient to enable Etergo (without infringing any third party's Intellectual Property Rights and without paying any royalty or payment) to make full use of the results of such work or such Items and to repair, update or maintain the work or such Items in which such results are incorporated.
- 13.4. Indemnity. The Supplier will, at its sole cost and expense, indemnify Etergo against any and all claims for any alleged infringement of Intellectual Property Rights by Supplier that may be brought against Etergo.
- 13.5. Lookalikes. Supplier shall not sell, market or distribute any lookalikes, counterfeit, defective or surplus Items containing or embodying any Intellectual Property Rights owned by Etergo.
- 13.6. Logo. Unless otherwise agreed, the Supplier (or its subcontractors) shall not affix or incorporate in any way its own name or logo onto the Items created for or licensed to Etergo.
- 13.7. Scrap. Supplier shall ensure that all defective, obsolete or excess materials containing Intellectual Property Rights are rendered unsuitable for usage. The Supplier shall provide evidence of compliance with this provision to Etergo when required.

14. CONFIDENTIALITY AND DATA PROTECTION

- 14.1. General. "**Confidential Information**" means all business and technical information, including but not limited to know-how, data, process techniques, design drawings, and test data relating to any research project, work in process and future development; engineering; manufacturing; marketing; servicing; financial, commercial or



technical information with respect to present and/or future business of the Parties; whether in oral, written, graphic and/or electronic form, which is disclosed by the disclosing Party to the other Party, irrespective of whether it is marked "confidential" or "proprietary" by the disclosing Party at the time of disclosure, or if orally disclosed, was identified as confidential.

- 14.2. Permitted and prohibited activities. The receiving Party of any Confidential Information shall: **(i)** use any Confidential information solely for the proper performance of the Agreement; **(ii)** take all reasonable technical and organizational measures to protect the secrecy and avoid unauthorized disclosure or use of Confidential Information and promptly notify the other Party of any unauthorized disclosure or use of Confidential Information that may come to its attention; and **(iii)** only disclose Confidential Information in whole or in part to its employees, sub-contractors and/or agents who need to know the Confidential Information to be able to perform the Agreement and provided that these employees, sub-contractors and/or agents are bound to terms substantially as protective as this clause. This obligation shall not apply to the extent Confidential Information becomes public knowledge through no fault of the receiving Party or the receiving Party is required to disclose by law.
- 14.3. Manufacturing Line. Except for Items that can be considered commodities, Supplier shall keep the manufacturing of the Items confidential by placing physical screens around the manufacturing line of the Items to avoid third parties from being able to observe the manufacturing of the Items.
- 14.4. Publicity. Without Etergo's prior written consent the Supplier shall abstain from any publicity in whatsoever form about any Agreement and/or cooperation between the parties or of any of the terms and conditions or other facts with respect to any Agreement between the parties, including the status thereof and will direct its directors, officers, employees and representatives to do the same.
- 14.5. Other NDA's. During the business relationship between Supplier and Etergo one or more non-disclosure agreements ("**NDA's**") may be, or may have been, entered into. In the event of an apparent conflict between or among any of the provisions of these General Purchase Conditions and any NDA, such provisions shall be read in a mutually consistent way, or if no such reading is reasonably possible, the provisions that are most protective for Etergo shall take precedence over conflicting or less protective provisions.
- 14.6. Notice of Disclosure. Supplier shall, immediately upon becoming aware of it, give notice to Etergo of any unauthorized disclosure, misuse, theft or other loss of Confidential Information, whether inadvertent or otherwise.



- 14.7. Personal data. In the event the delivery of the Items, entails the processing of personal data by Supplier, the Supplier shall comply with all applicable data protection laws and shall enter into a data processing agreement between Etergo and the Supplier.

15. INSURANCE

- 15.1. Supplier shall at its own expense, obtain and maintain business liability insurance as well as product liability insurance and a recall insurance of adequate coverage in line with industry norms. Such insurance shall cover Supplier's liability toward Etergo. At any time upon Etergo's request, Supplier shall provide Etergo with proof of existence of and the extent of coverage of such insurance. Existence of any insurance contract shall not limit Supplier's obligations under the Agreement. At the request of Etergo, Supplier shall transfer and assign all rights and claims of the Supplier against its insurer relating to Supplier's liability toward Etergo.

16. AUDITS

- 16.1. General. Without prejudice to any other rights under the Agreement, Etergo shall have the right at any time to conduct an audit of the Supplier and/or any subcontractor and/or its or their operations, facilities, procedures, systems and insurance arrangements to ensure compliance with the Agreement, and applicable laws and regulations. Etergo and its auditors shall be entitled to have access to the Supplier's and its subcontractors' premises to conduct such audits. The Supplier shall, and shall procure that its subcontractors shall, permit Etergo or its auditors to have access to the relevant records and documentation reasonably necessary to conduct such audit.
- 16.2. Notice. Etergo shall give the Supplier and its subcontractors timely notice of an audit and carry out such audit in normal working hours.
- 16.3. No release. The fact that Etergo has exercised the right of audit or carried out any inspection shall not release the Supplier from any obligation under the Agreement.

17. ASSIGNMENT AND SUB-CONTRACTING

- 17.1. Assignment. Etergo may assign and transfer (all claims and obligations following from) the Agreement in part or in full to an Affiliate or a third-party designated by Etergo to perform the assembly of the Final Products. Etergo may, in the event of an acquisition of its business to which the Agreement relates, assign and transfer (all claims and obligations following from) the Agreement in part or in full to the purchaser of such business. Otherwise, no Party shall without the prior written consent of the other, assign (any claim following from) the Agreement (including by operation of law) in whole or part or to any third party.



- 17.2. Sub-contracting. The Supplier may only sub-contract any of its obligations under the Agreement if: **(i)** after having supplied to Etergo all the necessary information the Supplier obtains the prior written consent of Etergo (not to be unreasonably withheld or delayed); **(ii)** the Supplier shall at all times remain liable to Etergo for the performance of all its duties and obligations under the Agreement; and **(iii)** the Supplier shall require any subcontractor to be bound by all appropriate obligations corresponding to those placed on the Supplier under the Agreement.

18. ENTIRE AGREEMENT

- 18.1. The Parties acknowledge that this Agreement sets forth the entire understanding between the Parties with respect to the matters contemplated thereby. Any and all prior oral and written agreements and understandings between the Parties with respect to the matters set forth herein are hereby superseded. This Agreement shall not be modified or altered, except by an instrument duly signed by the Parties.

19. MISCELLANEOUS

- 19.1. Pledge. Supplier cannot pledge or transfer any payment obligations by Etergo to Supplier (as referred to in article 3:83 paragraph 2 Dutch Civil Code) to any third party.
- 19.2. Suspension. Supplier shall not suspend the delivery of any part of the Items (unless requested by Etergo) where Etergo is reasonably disputing any amount due to Supplier.
- 19.3. Change of control. Supplier will notify Etergo immediately of Supplier's intent (or any other person's intent, to the extent Supplier is aware of it) to effect any sale of all or substantially all of Supplier's assets, any consolidation, merger or other transaction involving the sale or transfer of 50% or more of Supplier's capital stock or similar ownership interest of Supplier.
- 19.4. Language. If this Agreement should be translated into a language other than English, the English version shall prevail in the event of a conflict.

20. APPLICABLE LAW AND JURISDICTION

- 20.1. Applicable law. All Agreements between Etergo and the Supplier are subject to the laws of the Netherlands. The applicability of the United Nations Convention on Contracts for the International Sale of Goods of 1980 (CISG) is excluded.



Jurisdiction. Any disputes between the parties that result from or are otherwise connected with any Agreement shall be exclusively settled by the competent court in Amsterdam, the Netherlands.