

General Terms and Conditions of Purchase (indirect material and services)



Preamble

Any purchase orders for Production Equipment, Indirect Goods, and Services placed by FORNIX with a supplier (a "Purchase Order") concurrently with or after the transmittal of this document are specifically conditioned on the following terms and conditions ("Terms and Conditions") and shall govern the respective purchase agreement (the "Purchase"). The recipient of a purchase order is referred to as "Supplier" and FORNIX.

§1

BASIS OF AGREEMENT

Delivery of goods and/or performance of services at the quality and price levels and time specified in a Purchase Order or otherwise referenced therein are the essence of any Purchase.

§2

ACCEPTANCE OF PURCHASE ORDER

Unless otherwise specified in a written agreement between the parties, a Purchase Order shall be deemed accepted when Supplier (a) gives written acceptance; (b) makes a delivery of conforming goods within the time specified herein; (c) renders services within the time specified herein; or (d) commences work on goods to be specially manufactured for FORNIX Unless a different time frame is specified for a Purchase Order, Supplier shall either accept or reject any Purchase Order by written notice to FORNIX within 2 days of the receipt.

§3

PREVAILING CONDITIONS

FORNIX expressly intends that these, and only these, Terms and Conditions and, if applicable, any documentation referenced herein, shall exclusively govern any Purchase. Only FORNIX's specific written consent will bind it to any terms hereafter transmitted or proposed by Supplier. The general terms herein may be modified and supplemented by the following documents, which shall be incorporated herein by reference, whereby the conflicting term in the first mentioned document shall prevail over a conflicting term in a later mentioned document, provided, however, such conflict shall not affect the rest of any of the documents (the "Purchase Documentation"):

- (1) Purchase Order;
- (2) Product, part or order specific specifications;
- (3) Requirements / Specifications Manual;
- (4) This General Terms and Conditions of Purchase (indirect material and services)
- (5) Frame Supply Agreement

Any of the Purchase Documentation shall apply if and in the form most recently, prior to a Purchase, communicated to Supplier, provided, however, that the Master Supply Agreement shall apply in the form executed.

§4

PACKING, MARKING AND DELIVERY

(a) Unless otherwise specified in the Purchase Documentation, all goods shall, at Supplier's expense, be properly packed, marked and delivered in accordance with the specifications of the Purchase Documentation or, if not specified therein, in accordance with good and accepted practices for ensuring on-time delivery and no damage, so as to secure lowest transportation rates, meet carrier's requirements and insure arrival at the "ship to" point specified free of damage. Supplier retains responsibility for all goods until delivery at the designated delivery point, regardless of point of inspection; (b) FORNIX shall not be liable to Supplier to pay for or return any containers, packing, or crating materials; and (c) Supplier shall process shipping documents and route shipment to the F.O.B. delivery point as directed by FORNIX.

§5

TIME OF DELIVERY

Time is of the essence in connection with any Purchase and Supplier is responsible for strict adherence to the scheduled delivery date. Supplier agrees that if delivery is delayed beyond the scheduled delivery date for any reason, Supplier is responsible for all charges and expenses to FORNIX occasioned by such delay, including, without limitation, express transportation and delivery charges, including air freight, and weekend delivery charges. Supplier also agrees that upon such delay, Supplier is responsible for any and all incidental and consequential damages of Fornix d.o.o., including, without limitation, overtime wage and related employee benefit costs, incremental operational and work stoppage costs, express transportation and delivery charges, including air freight, weekend delivery charges, and other costs, expenses, fees, and losses resulting from the inability of FORNIX to comply with the terms of an agreement due to the delay.

§6

INSPECTION AND REJECTION

Supplier agrees that FORNIX has the right to inspect and test the goods and workmanship to the extent FORNIX deems practicable at any time and place including during the time of manufacture; that FORNIX also has the right, notwithstanding prior payment or tests, to notify Supplier that the goods or services tendered either are rejected or require correction or repair thereof; and that Supplier, at its sole expense, will promptly take all steps necessary to accomplish complete conformance with all the terms of a Purchase.

§7

TITLE

FORNIX shall obtain free and clear title to the goods and services purchased upon FORNIX acceptance of such goods and services. Title shall be deemed to transfer in the Republic of Croatia upon delivery.

§8

WARRANTY

The Supplier warrants that the goods or services provided (1) comply with the respective Purchase Order, and any specifications, drawings, descriptions or samples furnished to or specified by FORNIX; (2) will be state of the art, merchantable, of good material and workmanship, free from defect; (3) incorporate most recent advances in engineering and technology; (4) will be fit and sufficient for the purposes intended, including, without limitation, able to handle the intended capacity; (5) comply with all laws and regulations for the intended use at the intended location of use; and (6) carry all marks, markings, and certifications required for such use at the intended location of use. Supplier is responsible for full reimbursement of reasonable costs (including fines) associated with non-conforming product or services. Supplier expressly agrees to defend, indemnify and hold harmless FORNIX from and against any and all claims, losses, replacement cost, incidental and consequential damages, and settlement expenses resulting from any occurrence within 24 months of the final acceptance, including all litigation costs and attorney's fees, that in turn resulted from, or arose out of, a breach of Supplier's warranties, provided, however, that any production tooling shall be warranted, if not specifically otherwise agreed in writing, beyond such 24 month period throughout the intended production cycle. The terms of this Section 8 survive the termination or expiration of any contractual relationship among the parties.

§9

ASSIGNMENT OF PERFORMANCE BY SUPPLIER

Supplier shall not assign, subcontract or delegate the performance of its duties without the express prior written consent of FORNIX, which may be withheld for any reason and which at no time shall constitute or be deemed to constitute a novation, and Supplier shall at all times remain liable to FORNIX for any assignee's breach of the terms defined in the Purchase Documentation.

§10

PURCHASER'S TERMINATION OPTION

FORNIX, at its option, may terminate a Purchase in whole or in part by written notice to Supplier, upon receipt of which notice Supplier will promptly stop work on the date and to the extent specified in such notice and terminate all orders and/or contracts to the extent the same relate to the terminated Purchase. Supplier, immediately upon receipt of notice of termination of a Purchase, shall advise FORNIX of the quantities of materials and work on hand or purchased and received prior to termination and the most favourable disposition Supplier can make thereof. Supplier will comply with FORNIX's instructions regarding transfer and disposition of title and possession of such work and goods. FORNIX will pay to Supplier the order price for finished work and/or goods accepted by FORNIX and the cost to Supplier of work in process and raw materials allocable to the terminated work, subject to any audit FORNIX may conduct.

§11

CANCELLATION UPON DEFAULT

If Supplier (a) fails to deliver goods or perform services at the times specified in the Purchase Documents (or as otherwise expressly agreed by FORNIX in writing), (b) fails to perform any of the other provisions of a Purchase and does not cure such default(s) within 10 days after receipt of notice from FORNIX specifying such default(s), (c) becomes insolvent, makes an assignment in favor of creditors or enters bankruptcy or dissolution procedures, or (d) is merged into another company and/or is expropriated or nationalized, FORNIX, by written notice to Supplier, may cancel all or any part of a Purchase without any liability except for the price as specified in the Purchase Documentation for completed services and completed goods delivered to, and accepted by, FORNIX thereunder. With respect to finished, in process or otherwise unfinished work under a Purchase, FORNIX reserves the right to take full title and possession, free and clear of any liens, of all or part of such work immediately upon notice to Supplier to that effect, whether or not final price terms have been agreed upon. If after notice of default it is determined that Supplier was not in default, work affected by such termination shall be deemed terminated pursuant to the preceding Section 10, and the rights and obligations of the parties shall be governed by said Section 10.

§12

CHANGES

FORNIX, at any time and by written notice to Supplier, may make changes within the general scope of a Purchase. If any such change causes an increase or decrease in the cost of, or time required for, performance of any part of a Purchase, the order price, delivery time or both shall be equitably adjusted but only if the change was approved by FORNIX's purchasing representative indicated on the respective purchase order.

§13

CONFIDENTIALITY

Supplier shall keep strictly confidential the terms of any Purchase, the fact that it sells to FORNIX, that it has been contacted by FORNIX with respect to supplying goods and services to FORNIX, and all information exchanged in connection with a potential or actual Purchase that is not readily available to the public. Supplier further agrees not to use FORNIX's name in any manner, including but not limited to, advertising or other promotional materials or publications without first obtaining FORNIX's advance written consent.

§14

INTELLECTUAL PROPERTY RIGHTS

Supplier warrants that the sale or use of the goods and/or services does not infringe or contribute to the infringement of any patent, copyright, trademark, service mark or other intellectual property of any third party. Supplier covenants that it shall defend, indemnify, and hold harmless FORNIX from and against any and every infringement suit in any country and any and all liability arising therefrom, including but not limited to attorneys' fees and court costs. All samples, jigs, dies, molds, patterns, special taps, gauges, test equipment, drawings, plans, specifications and any and all related materials supplied to Supplier shall remain the property of FORNIX, and Supplier shall keep the same confidential, and shall make no use thereof other than to perform under a Purchase and shall immediately return to FORNIX all such materials upon the filing or termination of the respective Purchase.

§15

SUPPLIER CODE OF CONDUCT

FORNIX is committed to sustainable development and responsible business practice to ensure alignment across the supply chain and expects suppliers and sub-contractors to adopt similar business practices. These are incorporated in the FORNIX "Code of Conduct" and FORNIX "Code of Business Conduct" and are part of the Agreement. Attention is specifically drawn to the FORNIX requirement that Suppliers and sub-contractors shall not undertake or cause to be undertaken any activity which is illegal or unlawful under Relevant Laws and shall not engage in any form of bribery, corruption or money laundering. This encompasses the denial of payments, in any form, which can be construed as bribes or inducements outside the normal business relationship. Should the Supplier fail to comply with FORNIX principles as mentioned above, FORNIX has the right to terminate this Agreement and will not be responsible for any cost or indemnification whatsoever. FORNIX "Code of Conduct" and FORNIX "Code of Business Conduct" are available on the FORNIX website.

§16

FORCE MAJEURE

Any Purchase is subject to modification by FORNIX in event of fire, accident, strikes, government acts or other conditions beyond FORNIX's control.

§17

REMEDIES CUMULATIVE

The rights and remedies reserved to FORNIX in the Purchase Documentation are cumulative and in addition to any other or further rights and remedies available at law or in equity. No waiver of any specific breach or default will constitute a waiver of any other or future breach or default or of any of FORNIX rights.

§18

GOVERNMENT REGULATIONS

During the performance under a Purchase, Supplier agrees to be in compliance with all applicable state and local laws and regulations, including, but not limited to, applicable Environmental Protection Laws and Regulations, Equal Employment Opportunity Laws and Regulations, the Occupational Health and Safety Act, and the Fair Labour Standards Act and ensure the same for sub-contractors and suppliers.

§19

GOVERNING LAW; JURISDICTION

The laws of the Republic of Croatia shall govern any Purchase and any resulting contractual relationship of FORNIX with a Supplier and the respective transactions and Purchase Documentation without any reference to conflicts of law provisions that may cause other states' laws to be applicable. Sole and exclusive jurisdiction and venue for any legal disputes that relate to such supply relationship shall reside in the courts of the Republic of Croatia.