

General terms and conditions of sale and supply for plant and machinery

1. General

1.1 These General terms and conditions of sale and supply for plant and machinery (hereinafter referred to as "GTC Plant") shall apply to all existing and future legal relationships, including any contracts, offers, order acknowledgment, order acceptances of sale, deliveries and any other services and performances, between DM2 S.r.l., Via dell'Industria, 16, 25039 Travagliato (BS) ("DM2") and the Customer, relating to the design, implementation, manufacture, delivery and sale of DM2's plant, machinery or systems (the "Plant"), and shall apply together with

- the Acceptance test specifications and
- the terms and conditions for machine Installation and services
- the terms and conditions of supply spare parts

all of which shall form an integral part of all legal relationships and all contracts entered into in relation to the Plant.

1.2 These GTC Plant (as well as the Acceptance test specifications, the Machine Installation terms and conditions and the terms and conditions of Supply Spare Parts referred to herein) are also available on the website of DM2 Group under www.dm2.it under "General terms and conditions for customers – DM2 S.r.l."

1.3 These GTC Plant shall apply exclusively, save as varied by express individual agreement accepted in writing by both parties. Any general terms and conditions which deviate from, contradict or supplement these GTC Plant, in particular any customer's terms of purchase, are objected to and will not be binding upon DM2, unless and insofar as their validity is explicitly agreed and confirmed by DM2 in writing (if so, their validity is accepted for the current legal relationship or contract only); this requirement of confirmation by DM2 applies in any case, even if DM2 renders delivery without reservation while being aware of any deviating, contradicting or supplementing general terms and conditions of the Customer.

1.4 The Customer shall not transfer his contractual rights to third parties without the DM2 prior written consent.

2. Scope of supply

2.1 The deliveries and services to be provided by DM2 are listed in the quotation and/or in the order confirmation (the "Contract"), together with any attachments thereto, in the quotation submitted by DM2, in so far as reference is made thereto in the order confirmation, in these GTC Plant, the conditions for the Acceptance tests specifications, the Machine Installation terms and conditions, the terms and conditions of Supply Spare Parts (see Sec. 1.1).

2.2 All agreements and relevant declarations of the parties, as well as the modifications to the scope of supply, must be in writing and signed by DM2 in order to be valid and binding upon DM2. All forms of transmission are assimilated to the written form which allow proof to be furnished by text, such as transmissions by telefax or e-mail.

2.3 Part-deliveries are permitted.

2.4 DM2 reserves the right to make any changes or modification in the specifications of the Plant (i) which are required to conform with any applicable statutory requirements, or (ii) to the

extent that such changes or modification do not substantially impair the purpose of the Contract, the quality and the performance of the Plant. Any price increases or changes of the delivery deadline shall be agreed upon between DM2 and the Customer in writing.

2.5 Any requests by the Customer for changes and/or additions to the specifications of the Plant subsequent to the conclusion of the Contract ("Change Requests") shall be set forth in writing. DM2 reserves the right to either accept or turn down the Customer's requests upon checking out the feasibility of such changes and/or additions.

If the Change Request is accepted by DM2, DM2 and the Customer shall – prior to beginning its implementation- agree in writing on any consequences on the delivery deadline and on the costs. The costs and charges required in order to implement such Change Requests shall be borne solely by the Customer and billed on the basis of DM2 quoted price and rates as they apply from time to time.

3. Drawings, technical documents and information

3.1 All of DM2's drawings, technical documentation such as illustrations, indications of weights and measurements shall be purely indicative unless specifically stated to be a binding part of the Contract pursuant to Sec. 2.1.

3.2 The drawings, technical, business information and documentation relating to the scope of the supply and delivered by either party to the other prior to or after the signature of the Contract shall remain the sole property of the party that discloses them. The receiving party undertakes to consider confidential the drawings, information, documentation concerning technical, commercial, economic data and commits to not disclose or make them available to third parties, nor copy or reproduce them. Such drawings, information, documentation, software received by one party may not be used for any purpose other than the one for which they were made available which is the supply of the scope.

3.3 The Customer will collaborate and shall be responsible towards DM2 (i) for ensuring the accuracy of the terms of any order submitted by the Customer, (ii) for supplying all of the specifications, instructions, documents, drawings, gauges, samples, technical support and any other information which are necessary for the construction of the Plant by DM2 within a sufficient time to enable DM2 to perform the Contract in accordance with its terms and (iii) for ensuring that the structural conditions exist on his premises for the delivered object to be properly installed. Layouts prepared by DM2 must be verified by the Customer on site.

4. Regulations in the country of destination – Protective devices

The Plant complies with the applicable regulations of the country of origin and of the European Community. The Customer shall inform DM2 about any deviating standards and regulations of its country in writing, at the latest until the order is placed. Where modifications are notified in due time, DM2, as far as technically feasible at its own discretion, will make the necessary changes within commensurate time at the Customer's cost and risk, provided that the operational safety is preserved. If the Customer fails to inform DM2

about any deviating standards and regulations in its country or gives false information, the Customer shall bear all additional costs resulting hereby.

5. Foreign trade law, Export control

5.1 The Customer recognizes that the delivery of the Plant or Plant items may be subject to foreign trade law (especially export control and/or customs regulations) imposed by the country of origin and/or European Union, including any official licensing requirements, and that an end-use certificate may be necessary.

5.2 The Customer shall support DM2 to obtain all information and documents necessary to abide by such applicable foreign trade law or all information requested by authorities in that regard. Such obligation may especially include information on the end customer/user, the destination and the intended use of the Plant or Plant items, including any required end-use certificate in the requested form.

5.3 In case of delays with the fulfilment of the Parties' obligations under the Contract caused by licensing requirements, confirmation requirements or similar requirements or procedures of the foreign trade law imposed by the country of origin, the time of performance for such obligations, specifically the delivery milestone date, is extended accordingly. Claims for damages by a Party based on such delays are excluded insofar as the delay has not been negligently caused by the other Party.

5.4 If applicable foreign trade law imposed by the local authorities necessitates a license or a confirmation by authorities due to the Parties' obligations under the Contract for an act by a Party and such license/ confirmation is (i) denied or (ii) not issued by the competent authority within a period of 6 months after the application, each Party may declare the withdrawal of the Contract insofar as the act requires a license/ confirmation. However, a Party is not entitled to such right if such Party is to be held solely or predominantly responsible for the circumstances leading to the denial or delay.

5.5 In the event of withdrawal, irrespective of the responsibility as mentioned above, DM2 shall be entitled to withhold the advance payment made by the Customer and to be paid by the Customer in full for work already done until date of withdrawal.

6. Prices, terms of payment

6.1 The price of the Plant or Plant items shall be DM2 quoted price. Unless agreed upon otherwise in writing, all prices shall be on an "EXW, Incoterms 2020", basis and are net prices excluding any applicable value added tax which the Customer shall be additionally liable to pay to DM2. In addition, the Customer shall pay any additional costs such as any costs for bank or payment transactions or postal charges.

Where DM2 agrees to deliver the Plant or Plant items otherwise than at DM2's premises, the Customer shall be additionally liable to pay DM2's charges for packaging, transport, installation, insurance and customs duties.

- 6.2 Unless a fixed price is agreed upon, DM2 reserves the right, by giving notice to the Customer at any time before delivery, to increase the price of the Plant or Plant items to reflect an increase in the costs to DM2 which is due to any factor beyond the control of DM2 (such as significant increase in the costs of material or other costs of manufacture including energy, alteration of customs duties, currency regulation or foreign exchange fluctuation) or any change in delivery dates or in specifications agreed.
The Customer shall be bound to full payment of the amounts relating to the changes and/or additions referred to in section 2.5 above, on the basis of the rates prevailing at DM2 from time to time and in keeping with the terms set forth above.
- 6.3 Unless agreed upon otherwise, payments for the delivery of the Plant shall be invoiced as follows:
- (i) 40% as a down payment upon having entered into the Contract;
 - (ii) 30% in payment of the engineering activity, to be paid upon the completion thereof;
 - (iii) 20% in payment of the completion and assembly of the Plant at DM2's premises, to be paid upon preliminary acceptance;
 - (iv) the balance, i.e. 10%, to be paid upon final acceptance in the Customer's premises, at latest one month after delivery by DM2.
- In the event of partial deliveries or partial fulfilment of the requirements under (i) – (iv) above, corresponding partial payments shall be invoiced.
- 6.4 Unless agreed otherwise in writing, DM2's invoices are due for payment within 30 calendar days from the date of invoice without any deduction.
- 6.5 Payment shall be executed by interbank payment transaction only; no cheque or bill of exchange will be considered as fulfilment of the payment obligation.
- 6.6 All payments by Customer shall be made exclusively in the EUR currency. Any exchange rate risks shall be borne by the Customer.
- 6.7 It may be agreed between the Parties that the Customer has to deliver a letter of credit issued by its bank (or any bank acceptable to DM2). In this individual case it is assumed that any letter of credit will be issued in accordance with the Uniform Customs and Practice for Documentary Credits, 2006 Revision, ICC Publication No. 600.
- 6.8 If the Customer fails to make any payment on the due date, then, without prejudice to any other right or remedy available to DM2, DM2 shall at its discretion be entitled to
- (i) cancel the Contract; or
 - (ii) suspend or delay until payment in full any further work or deliveries to the Customer; or
 - (iii) charge the Customer interest on the amount unpaid, at the rate of 8 per cent per annum above the base interest rate from then being valid, until payment in full is made. The Customer shall be entitled to prove that the delay of payment caused no or little damage only.
- 6.9 The Customer may only offset receivables due to DM2 with counter claims, if such counter claims are undisputed or have been established in law in a binding and unappealable manner or are recognized by DM2 in writing.
- 6.10 If DM2 becomes aware of a substantial worsening of the Customer's financial situation, or if prejudicial elements of any kind were to come to the fore against the Customer, DM2 may demand immediate settlement in advance, request further partial payments or guarantees, or be entitled to terminate the Contract and to keep the partial prepayments as consideration for the services or part thereof that has already been completed, without prejudice to the right to claim for any damages it may have suffered.
- 7. Reservation of ownership**
- 7.1 Notwithstanding the delivery and the passing of risk in the Plant, or any other provision of these GTC Plant, the property in the Plant shall not pass to Customer until DM2 has received payment in full of the purchase price of the Plant. By entering into the Contract, the Customer authorizes DM2 to enter or notify the retention of title in the required form in public registers, books or similar records in accordance with any relevant national laws and to fulfil all corresponding formalities at Customer's costs.
- 7.2 To the extent legally permissible, the Customer shall be obliged upon request of DM2 (e.g. in case of insolvency proceedings) to mark the Plant subject to retention of title visibly as "Property of DM2 S.r.l. Via dell'Industria, 16, 25039 Travagliato (BS), Italy" with the indication of the date of this agreement. The customer will also be required to promptly replace and/or correct, upon request and according to the seller's non-negotiable instructions, the aforementioned wording in case of changes to the company and/or other distinctive elements for the purpose of identifying ownership of the asset.
- 7.3 Until such time as the property in the Plant passes to Customer, the Customer shall hold the Plant as DM2's fiduciary agent, and shall keep the Plant properly stored, protected, handled with care and insured. In the event that the Customer fails to provide evidence to DM2 upon its request of having adequately insured the Plant at replacement value against damages caused by fire, water, theft, breakage and destruction, DM2 shall be entitled to enter into such insurance contract at the costs of the Customer. Required maintenance and inspection services shall be executed by the Customer in a timely manner at its own expense.
- 7.4 If third parties take up steps to pledge or otherwise dispose of the Plant, the Customer shall immediately notify DM2 in order to enable DM2 to seek legal defence such as a court injunction in accordance with applicable laws. If the Customer fails to do so in due time, the Customer will be held liable for any damages caused.
- 8. Transfer of risks, insurance, acceptance**
- 8.1 Unless agreed upon otherwise in writing, the Plant or any Plant items shall be delivered at DM2's premises ("EXW", Incoterms 2020). A transport insurance shall only be concluded upon the Customer's written request and costs.
- 8.2 The risk of accidental loss or accidental damage of the Plant passes to the Customer when the Plant is handed over to the (first) person in charge of the transport. This shall also apply if DM2 carries out the transport on behalf of the Customer even if DM2 bears the costs for packaging and shipment. If the dispatch of the Plant is delayed due to reasons attributable to the Customer, the risk of accidental loss or accidental damage passes to the Customer on the day of DM2's notification of readiness for dispatch to the Customer.
- 8.3 DM2 shall be entitled to determine the method of packaging at its free discretion, unless agreed upon otherwise in writing.
- 8.4 If the packaging shows damage, the Customer shall take all measures necessary to secure the goods against further imminent damage or to limit damage that has already occurred.
- 9. Delivery lead time - Elements to be provided by the customer**
- 9.1 The term of delivery shall be set forth in the Contract unless agreed upon otherwise. The term of delivery shall begin at the earliest on the date of conclusion of Contract, however not before all commercial, administrative and technical aspects having been defined and agreed upon by the Parties and the Customer having complied with all obligations due at this time under the Contract, in particular the complete receipt by DM2 from the Customer of (i) all information and documents necessary for the performance of the Contract (e.g. technical specifications, drawings), (ii) all required official documents such as approvals, authorizations and clearances, (iii) any necessary raw materials or other materials and (iv) any agreed advance or instalment payment or payment guarantee consistent with the Contract.
- 9.2 The term of delivery shall be deemed to be observed if notification of readiness for dispatch has been given when it expires. Deliveries before the delivery date and partial deliveries are permitted to a reasonable extent.
- 9.3 In the event that the Customer fails, during the manufacture of the Plant, to provide items to be supplied by the Customer (e.g. specimen parts, raw materials, other necessary elements and information) or process devices in the desired quality and quantity, the term of delivery is adequately extended. In addition, DM2 may invoice to the Customer the additional costs resulting therefrom.
The supply of the aforementioned elements to be provided by the Customer shall take place Free DM2, Incoterms 2020 DDP – Delivered Duty Paid. The dates of supply for such elements to be provided by Customer are set forth in the order confirmation, in the specification of work to be performed by DM2 or in the notices sent by DM2 to the Customer well in advance during the performance of the work.
- 9.4 If either Party is prevented from, or delayed in, performing any duty under the Contract by any event beyond its reasonable control, then this event shall be deemed Force Majeure, and this Party shall not be considered in default and no remedy, be it under the Contract or otherwise, shall be available to the other Party. Force Majeure events include, but are not limited to, war (whether war is declared or not), riots, insurrections, piracy, acts of sabotage or similar occurrences, terrorism or justified fear of terrorism; strikes, lock-out or other labour unrest, newly introduced laws or Government regulations or measures, statutory or official orders and constraints, bans on import, export or transit, delay due to action or inaction on the part of any Government or Government agency, fire, explosion or other unavoidable or unforeseen and extraordinary accidents, flood, storm, earthquake or other natural disasters, epidemics and pandemics, or other unavoidable

events in connection to the global supply chain issues and delays .

If either Party is prevented from, or delayed in, performing any duty under this Contract, then this Party shall immediately notify the other Party of the event, of the duty affected and of the expected duration of the event. In such case, the term of delivery shall be extended by such time period in which the event of Force Majeure prevents or delays performance of any duty under the Contract. If any Force Majeure event prevents or delays the performance of any duty for more than 90 (ninety) days, subject to section 9.5 of these GTC Plant, then either Party may on due notification to the other Party terminate the Contract unless an appropriate adaptation of the Contract was agreed upon in writing. If DM2 has already performed in part or if partial performance of the Contract is possible, the Customer may only withdraw from the entire contract if the Customer can evidence that it has no interest in partial performance.

9.5 In the event of late delivery, the customer shall have no entitlement to compensation or to terminate the Contract. If a fixed time for delivery is provided for in the Contract, and DM2 fails to deliver within such time or any extension thereof granted, the Customer shall be entitled, upon giving to DM2 prior written notice at the latest within 2 weeks from the effective delivery date of the Equipment, in respect of the late parts of the delivery and to the exclusion of any further claims or secondary damages, to require, for each full week of delay, payment of liquidated damages of 0.25%, subject to a maximum of 5%, of the value of that part of the overall scope of supply which was not delivered on the contractual terms as a result of the delay. The first four weeks of delay shall not, however, give any entitlement to compensation for late performance.

9.6 In the case of late delivery, which is not attributable to reasons for which DM2 is responsible, DM2 shall be entitled to place the delivered goods in storage at the cost of the Customer and/or to invoice the additional costs accruing to it as a result of the delay (e.g. in connection with rescheduling, overtime etc.), together with any other damages.

10. Verification, preliminary and final acceptance and clearance of the delivered goods for production purposes

10.1 Unless agreed upon otherwise, preliminary acceptance of a Plant shall take place on the premises of DM2 within ten days of notification of readiness for despatch being given by DM2. DM2 and Customer shall agree on a date for a test run of the Plant, which the Customer shall attend, for verifying its consistency with the agreed specifications; the results shall be documented in a protocol of preliminary acceptance test which shall be signed by both Parties. Such signed protocol of preliminary acceptance test shall constitute final acceptance of the Plant by the Customer and the release for delivery. Unless agreed upon otherwise, DM2 and Customer shall agree on a date or time period for the Plant's installation on the Customer's premises within ten days of signing the protocol of preliminary acceptance test. The Customer shall ensure the existence of adequate structural requirements for the installation.

DM2 and Customer shall furthermore agree on a date for a final test run of the Plant for verifying proper installation and start-up of the Plant within ten days of the installation, unless otherwise agreed. The Customer shall

prearrange everything necessary for the proper performance of the test run. The results shall be documented in a protocol of final acceptance test which shall be signed by both Parties and which is deemed to be definitive acceptance of the Plant by the Customer.

Unless agreed upon otherwise, the preliminary and definitive acceptance set forth in sec. 10.1 and 10.2 herein shall be effected in accordance with the terms set forth in DM2's "Acceptance test specifications" and the respective installation of the Plant on the Customer's premises in accordance with DM2's "Terms and conditions for machine installation and services".

10.2 The Customer may not withhold acceptance and signing of the protocol of preliminary or final acceptance for reason of minor defects, in particular those which do not significantly impair the functional quality and the performance of the Plant and of the delivered goods and services. Such minor defects shall be repaired by DM2 within a reasonable period of time. Defects which could not be recognized at the time of preliminary or final acceptance shall be notified by the customer to DM2 in writing as soon as they are detected, failing which the items concerned shall be deemed to have been accepted. Should defects occur, the customer shall in all cases allow DM2 to verify the goods supplied and the repairs made thereto pursuant to Section 10 of these conditions. DM2 shall not be liable for defects which are notified after expiry of the warranty period. Deficiencies of any kind in supply of the Plant or services shall not entitle the Customer to any rights and claims other than those expressly stipulated in sec. 11 and 12 below.

10.3 If preliminary acceptance, dispatch, delivery or definitive acceptance are delayed for reasons attributable to the Customer, the Customer shall nevertheless make any payment conditional on preliminary acceptance, dispatch, delivery or definitive acceptance as if such events have taken place.

Furthermore, if preliminary acceptance, dispatch, delivery or definitive acceptance are delayed for reasons attributable to the Customer, DM2 shall be entitled by notice in writing to fix a deadline after the fruitless expiry of which DM2 shall be entitled to terminate the Contract, withhold any advance and instalment payments received and demand the full payment of the purchase price of the Plant. DM2 shall be free to sell the Plant to a third party under crediting any purchase price received to any outstanding payment of the Customer. Any other rights and claims of DM2 remain unaffected.

10.4 In the case of late preliminary acceptance, dispatch or delivery which is not attributable to reasons for which DM2 is responsible, DM2 shall be entitled to arrange for storage of the Plant at the risk and costs of the Customer and/or to invoice the Customer for the additional costs accruing to it as a result of the delay (e.g. in connection with rescheduling, overtime), together with any other damages; further rights and claims of DM2 remain unaffected.

10.5 If final acceptance does not take place at the latest within one month upon delivery of the Plant for reasons which are not attributable to DM2, the Plant shall be deemed to have been definitively accepted by the Customer.

10.6 The Customer undertakes not to use the machinery for production purposes without the written approval of DM2 before the final

acceptance report has been signed or before definitive final acceptance has taken place.

11. Warranty, liability for defects

11.1 Subject to sec. 11.4 herein, warranty claims shall be time-barred after 12 (twelve) months or 3'500 hours of operation. The warranty period shall begin on the day after the date of final acceptance, or at latest 3 (three) months after delivery by DM2. For replaced or repaired parts, warranty claims shall be time-barred after 6 (six) months beginning from the day after the date of replacement, completion of the repair or the acceptance thereof, unless the original warranty period covers a longer residual period which shall then be the decisive one.

For deliveries of goods and services which are not brought into service on the operating site by DM2, or by fitters specifically authorized by DM2, or which have been used for productive purposes before definitive final acceptance without the consent of DM2, the latter shall give no warranty.

11.2 The Customer shall notify DM2 of any defect in the quality or condition of the Plant including any deviations in quantity and false deliveries or its failure to correspond with agreed specifications within a reasonable time from the date of coming into light.

11.3 DM2 warrants that the Plant delivered under the Contract will be free from defects in material and workmanship, conform to applicable agreed specifications, and, to the extent that detailed designs have not been furnished by the Customer for implementation, will be free from design defects.

Unless agreed upon otherwise in writing, claims based on defects are excluded in the event of minor deviations from the agreed or usual characteristics or utility, e.g. minor deviations in colour, sizes and/or quality or performance characteristics.

DM2 does not warrant the fitness of the Plant for a specific purpose or a particular performance unless otherwise agreed in writing between DM2 and the Customer. For the avoidance of doubt, there shall be no warranty obligation if the intended use of the Plant by the Customer deviates from the common use, unless otherwise agreed in writing.

11.4 The warranty set forth under sec. 11.3 above is given by DM2 subject to the following conditions:

(i) DM2 shall not be liable in respect of any defect, lack of quality inefficiency or shortcoming of the Plant arising from any design, specification (e.g. drawings, samples or other instructions), material, semi-processed and/or accessory elements or instruments supplied and requested by Customer or in respect of any items or parts manufactured pursuant to the design or specifications of the Customer not matching with other items or parts already existing as requested by Customer or also manufactured pursuant to the design or specifications of the Customer;

(ii) DM2 shall not be liable if any price for the Plant has not been paid by the due date for the payment;

(iii) the warranty becomes void and does not extend to any change in hardware (i.e. material) and/or software or to any parts, materials or equipment made, manufactured and/or installed on the Plant by the Customer or by third parties on behalf of the Customer unless and only to the extent (e.g. limits and timeframe,

- warranty terms) such warranty is given and assigned by the manufacturer to DM2;
- (iv) the warranty becomes void and does not extend to supplies and services from any third parties, unless and only to the extent (e.g. limits and timeframe, warranty terms) such warranty is given and assigned by the third party to DM2.
- 11.5 The warranty set forth under sec. 11.3 above does not cover defects in or damage to the Plant which are due to (i) fair wear and tear, (ii) incorrect installation or start-up by the Customer or a third party not authorized by DM2, (iii) mishandling, improper, incorrect or careless use, or misuse by the Customer or a third party, (iv) failure to comply with the instructions for use and safety rules, (v) lack of regular maintenance, careless treatment or neglect, (vi) use of other than original or acknowledged DM2 spare parts, (vii) inappropriate operational means or materials, (viii) inadequate building ground or area of facility where the Plant is located, (ix) mechanical, chemical, electronic, electric or comparable influences which do not correspond to the average standard influences, (x) or any cause other than ordinary commercial application.
- 11.6 In the case of goods and services provided by sub-contractors who were prescribed by the Customer, DM2 shall only give a warranty within the framework of the warranty obligations of such sub-contractors.
- 11.7 In case of defects of the Plant resulting in a justified warranty claim, the Customer is entitled to supplementary performance in the form of replacement or repair; DM2 shall, at its discretion and without undue delay, repair or replace the defective component at his own risk and cost. Replaced components shall become or, as the case may be, remain the property of DM2 and shall be handed over to DM2 at its costs upon its request.
If the defect is not cured within a first time limit and the Customer together with DM2 have set a reasonable second time limit without success or if the agreed reasonable number of attempts to repair and/or replacement is unsuccessful, then the Customer may, subject to the prerequisites set by law, demand to DM2 reduction of the purchase price.
In case of a substantial defect only (such as the Plant cannot be used at all for production purpose) and if an agreement on a technical and/or business solution is not achieved with DM2, then the Customer, subject to the prerequisites set by law, is entitled to claim the withdraw from the Contract.
In case of defects in partial deliveries, the Customer may in such case only withdraw from the entire Contract if the Customer can evidence to have no interest in the partial performance.
In the event of withdrawal, whether in total or partially, the Customer shall pay DM2 for all work done until the date of receipt of the notice. Further claims, in particular claims for reimbursement of price, advance payment, expenses and claims for damages, are excluded unless provided otherwise in sec. 11.8 or sec. 12 herein.
- 11.8 Only in the event of urgent cases of a risk to the Plant's operational safety or for protection against unreasonably high damages, the Customer shall be entitled to cure the defect itself or by appointing a third party upon prior notice to and consent of DM2. The necessary costs will be agreed between Customer and DM2 based on evidence of the defects to the Plant and related urgent need.
- 11.9 In the event of an unjustified notice of defect or a defect which is not attributable to DM2, DM2 is entitled to demand from the Customer the reimbursement of any expenses (e.g. costs of check, personnel travel expenses) resulting therefrom.
- 12. Liability**
- 12.1 Unless provided otherwise by mandatory law DM2 shall be liable only in accordance with the provisions set out in this section 12; any more extensive liability of DM2 is excluded on the merits.
- 12.2 DM2 shall be unrestricted liable for death, personal injury or damage to health caused by the intent or negligence of DM2, its legal representatives or assistants in performance.
- 12.3 DM2 shall be liable in accordance with the Swiss Product Liability Act in the event of product liability.
- 12.4 DM2 shall be liable for breach of a guarantee given to Customer or in case of defects that DM2 has kept maliciously silent.
- 12.5 DM2 shall be unrestricted liable for losses caused intentionally or with gross negligence by DM2, its legal representatives or executives and other assistants in performance.
- 12.6 DM2 shall be liable for losses caused by the breach of its primary obligations by DM2, its legal representatives or assistants in performance. Primary obligations are such basic duties which form the essence of the Contract, which were decisive for the conclusion of the Contract and on the performance of which the Customer may rely.
If DM2 breaches its primary obligations through simple negligence, then its ensuing liability shall be limited to the loss which was reasonably foreseeable by DM2 and typical for this kind of Contract at the time of performance. As far as legally permitted, the reasonably foreseeable loss and loss which is typical for this kind of Contract shall be the 10% (ten percent) of the contract value i.e the 10% (ten percent) of the purchase price for the Plant.
- 12.7 DM2 is not liable to the Customer or any third party for any indirect or consequential damages such as but not limited to the loss of productions, loss of use, loss of orders, loss of profits or revenues, loss of goodwill, special, incidental, punitive or exemplary damages any indemnification arising out of or resulting from the delivery of the Plant and/or in relation to the Contract with the Customer.
- 12.8 DM2 shall be liable for loss of data only up to the amount of typical recovery costs which would have arisen had proper and regular data backup measures been taken.
- 13. Intellectual Property rights**
- 13.1 Nothing in the Contract or any relevant purchase order shall be construed, by implication or otherwise, as a transfer or assignment of either Party's intellectual property rights, whether patented, registered or not. Any knowledge of either Party relating to the Plant, including, but not limited to, any plans, drawings, designs, construction documents, specifications, calculations, documents containing data or test reports, computer systems and programs and any other related intellectual property rights created or used for or in connection with the Contract (together the "Intellectual Property") shall remain the sole and exclusive ownership of the disclosing Party providing such Intellectual Property to the other Party.
- Each disclosing Party grants to the other Party, during the term of such rights, a non-exclusive, non-transferable, worldwide, irrevocable (subject to sec. 13.3 herein), royalty-free license to use and exploit the Intellectual Property exclusively for and in connection with the design, manufacture, implementation, operating, use and maintenance of the Plant.
- 13.2 DM2 will provide the Customer, in electronic, paper or any other form, with relevant customized plans, drawings, designs, calculations or any other documents for agreeing on the Plant's design, establishing, operating and maintaining the Plant as far as necessary; any further manufacturing documentation or any further documents or know-how shall not be disclosed to the Customer.
- 13.3 Any Intellectual Property of DM2, whether disclosed or becoming accessible to the other Party or not, including any documents on which DM2's offer is based, remain the sole and exclusive ownership of DM2 or any nominated affiliated company thereof. Even if DM2 leaves any such Intellectual Property to the Customer, DM2's intellectual property rights remain unaffected.
Sec. 15.2 (confidentiality) below shall apply to such Intellectual Property accordingly.
Upon breach of Contract by Customer, DM2 shall be entitled to require at Customer's expense the return of such Intellectual Property or its deletion, together with a written confirmation that no further copies were made, given to third parties and/or retained, without undue delay.
- 13.4 In the case of series-manufactured components forming part of the Plant, DM2 shall be responsible for assuring that the acquisition or use of the delivered Plant, or parts thereof, does not infringe the patent rights of third parties in the Customer's own country. DM2 shall be entitled to contest or otherwise settle purported claims of third parties in or out of court in any appropriate manner. The Customer shall grant due authority to DM2 for that purpose. In the case of equipment components specific to the Customer, and for the deliveries and services as a whole, DM2 declines all liability, as it is impossible for DM2 to make sure that the patent rights of third parties are not affected or infringed.
- 13.5 The Customer gives a full guarantee that the manufacture of the product part according to his specifications does not infringe the protected property rights of third parties; he undertakes to release DM2 from any resulting claims on grounds of infringement and claims for compensation.
- 14. Use of Software**
- 14.1 To the extent that any software is included in the scope of delivery of the Plant, DM2 grants, as far as entitled hereto, to the Customer the non-exclusive, non-transferable right to use and exploit the software, including the object code and any documentation supplied, (together the "Licensed Software") exclusively for and in connection with the operating, use and maintenance of the Plant delivered by DM2. The Licensed Software shall not be used on more than one Plant system.
- 14.2 The Licensed Software shall be installed by DM2 and the Customer shall not be entitled to

install any other software on the Plant. The Customer undertakes not to remove any manufacturer identification labels including, but not limited to copyright marks. As far as legally permitted, the Customer shall not and shall not allow any person or entity to remove, modify, copy, reverse engineer, merge, decompile or disassemble the Licensed Software.

14.3 DM2 and its licensors, if any, shall retain sole title to all Licensed Software integrated in or relating to the Plant. Upon breach of Contract by Customer, DM2 shall be entitled to require at Customer's expense the return of all copies of the Licensed Software or, if applicable, to demand the assignment of Customer's right of return of third parties. In such case upon DM2's request, Customer shall confirm in writing that neither the Licensed Software nor copies thereof were retained and that all installations of the Licensed Software have been irrevocably deleted from Customer's or third party's systems.

14.4 The Customer undertakes to allow DM2 or an agent of DM2 to audit whether Customer's use of the Licensed Software is consistent with the rights granted to Customer upon request of DM2 and provided there is a legitimate interest therein and to give full cooperation to DM2 or its agent carrying out such audit.

14.5 DM2 shall be liable in accordance with the provisions under sec. 12 herein only.

15. Data sharing, Cyber security and Confidentiality

For and in connection with performing the Contract as well as for purposes of predictive remote maintenance during any term of maintenance of the Plant by DM2 upon delivery (together hereinafter the "Permitted Purpose"), both the Customer and DM2 will share with each other such business and technical data relating to the Plant (e.g. as regards performance, wear and tear, consumption) (hereinafter the "Plant Data") as agreed to be necessary or useful to achieve the Permitted Purpose. For such Permitted Purpose, the Customer and DM2 shall be connected online via human machine interfaces to constantly exchange the Plant Data.

15.1 It shall be the Customer's own responsibility to establish an appropriate and secure connection between its IT system and DM2's IT system, which complies to international industry standards and to take any reasonable and adequate precautions against any technical and security risks (e.g. risk of viruses, cyberattacks) related to the use of the system as well as to bear any costs thereby incurred. Upon request by DM2, the Customer shall complete DM2's cybersecurity questionnaire for its review for ensuring the adequacy of the internet connection and safety protection and shall adhere to DM2's requirements as regards cybersecurity. On request of DM2, the Customer and DM2 shall agree on the encryption of any Plant Data to be transmitted or stored.

15.2 During the term of the Contract and without time limitation thereafter, the Customer shall keep such Plant Data strictly confidential and not (completely or partly) disclose or make accessible otherwise any part of Plant Data to a person other than set forth in sec. 15.2.(ii).

(i) The Customer shall take adequate measures to protect Plant Data (in electronic, printed or any other form) against disclosure, misuse, espionage,

loss, unauthorized use or theft and shall not use, reproduce, process or store Plant Data on any computer or electronic information system which can be accessed remotely or transmit Plant Data outside its business premises.

(ii) The Customer shall not disclose or make accessible otherwise any part of Plant Data to any person other than to those directors, employees and other personnel which have a need-to-know in order to achieve the Permitted Purpose and which are informed of the confidential nature of the Plant Data and are contractually or professionally obliged to keep Plant Data secret.

In case that the Customer is legally compelled by court order, by administrative order or by a legal obligation to disclose any of the Plant Data, the Customer is obliged to inform DM2 immediately and support DM2 on its request as far as possible to protect the Plant Data or have the Plant Data protected by court order to the largest extent.

15.3 DM2 herewith grants to Customer a non-exclusive, non-transferable right of use (license) permitting the Customer to access, read and process the Plant Data provided by DM2, to use the Plant Data for analysis and evaluations and to copy, save and store the Plant Data for the Permitted Purpose. The Customer may use Plant Data solely for the Permitted Purpose and shall be in particular, but not exclusively, obliged not to change or decompile Plant Data, not to use Plant Data in any commercial way and not to use Plant Data directly or indirectly to damage or harm DM2. All Plant Data provided by DM2 remain the sole property of DM2 and shall under no circumstances be deemed to be sold and transferred to Customer.

Furthermore, the Customer herewith grants to DM2 free of any costs a non-exclusive, non-transferable right of use (license) permitting DM2 to access, read and process the Plant Data provided by Customer, to use the Plant Data for analysis and evaluations and to copy, save and store the Plant Data for the Permitted Purpose.

15.4 DM2 applies a standardized routine for a quality control with spot-checks for the correctness, the completeness and the actuality of the Plant Data. Having followed such internal procedures, any liability for and in connection with Plant Data is excluded.

15.5 Any Plant Data received may be archived and destroyed in accordance with any legal retention periods.

16. Data Privacy

16.1 For the Permitted Purpose as defined in sec. 15 above, personal data is and processed in accordance with the GDPR - EU Regulation No. 2016/679. In order to ensure that such personal data are processed only in accordance with the applicable data protection laws,

i. the disclosing Party, as the case may be, shall use its best efforts to remove any personally identifiable information before it is made available and will only disclose personally identifiable information where it is absolutely necessary to do so;

ii. any Party shall ensure that all representatives who obtain access to personal data pursuant to, or in connection with, the Permitted Purpose have adequate knowledge of the provisions of the applicable data protection laws;

iii. any Party shall not transfer any personal data received by the other Party to any country outside of the EU, Italy or the EEA. Should any Party intend to transfer such data outside of the EU, Italy or the EEA, no such transfer shall be performed unless appropriate safeguards (e.g. the conclusion of the Standard Contractual Clauses as approved by the European Commission) will be provided, as regulated by the applicable data protection legislation.

16.2 The Customer accepts that DM2 transmits personal data pursuant to, or in connection with, the permitted Purpose to Group companies within Italy, Switzerland, in Germany and, as the case may be, other countries such as Lithuania, Singapore, China and USA in accordance with any relevant applicable data protection laws.

16.3 The Customer is informed that the "DM2 Data Protection Policy" is available on the website of DM2 Group under <http://www.dm2.it>

17. Compliance

In connection with the Permitted Purpose as defined in sec. 15.1 above, the Parties shall conduct business with the highest degree of ethics and integrity and shall comply with the wording and purpose of the law, including:

17.1 Compliance Policies and Guidelines
The Parties will (i) comply with their respective own policies and guidelines implemented in relation to Compliance (e.g. anti-corruption, competition law compliance and Code of conduct), as amended from time to time, (ii) maintain adequate procedures to ensure compliance with any applicable laws, and (iii) enforce them where appropriate. In particular, any Party shall comply with the applicable laws regarding to anti-corruption and competition in the relevant market and immediately notify the other Party of any request or demand for any undue financial or other advantage of any kind received in connection with the performance of the Contract.

17.2 No unlawful payments
The Contract and any Party (including their directors, employees or any other representatives) may provide lawful, adequate, documented and transparent remuneration, gifts, hospitality, sponsoring and donations only.

17.3 Accurate Books and Records
Any Party will ensure that its books, accounts and records precisely and fairly reflect, in sufficient detail, its transactions and dispositions of funds paid under the Contract.

18. Environmental and operational safety

18.1 The Customer undertakes to comply with the operating manual and safety guidelines handed over to it. The Customer shall provide its personnel with adequate training in order to guarantee the safe and environmentally-friendly and compatible operation of the Plant. The Customer shall confirm the receipt of the operating manual and the safety guidelines in writing.

18.2 The safety rules and hazard warnings attached to the Plant may not be removed. Poorly fixed or damaged safety instructions have to be replaced immediately. DM2 undertakes to replace at the expense of and for attachment by the Customer, at any time and in adequate quantities, any safety rules and warnings which are no longer usable. Improvements of the safety instructions shall be accepted by the

Customer at any time upon DM2's request and shall be complied with.

18.3 Any technical changes to the Plant, specifically if they affect the security and safety of the personnel or of the environment, shall only be made after DM2 prior consent. Any modifications made without DM2 consent shall be removed immediately.

18.4 The Customer shall inform DM2 immediately about any accidents on the Plant or if certain dangers exist in connection with the operation of the Plant.

18.5 If the Customer fails to comply with any of the aforementioned duties relating to the environmental and operational safety, the Customer shall indemnify DM2 against any third party's claims for damage resulting therefrom.

19. Place of performance, Applicable law, Place of jurisdiction

19.1 For all claims arising out of the business relationship between the Customer and DM2, the place of performance shall be Travagliato (BS), ITALY

19.2 All disputes arising from contracts to which these GTC Plant apply as well as all business relationships between DM2 and the Customer shall exclusively be governed and construed by Swiss law excluding the rules of the United Nations Convention on Contracts for the International Sale of Goods (CISG) and any rules on conflict of laws.

19.3 The exclusive place of jurisdiction for all claims resulting from the business relationship with the Customer including any claims from cheques and drafts shall be the place of performance if the Customer is an entrepreneur, a legal entity under public law or an asset under public law. DM2 is also authorized, however, to sue its Customer at Customer's general place of jurisdiction.

20. Severability clause

Should one or several provisions of these GTC Plant be or become fully or partly invalid, the validity of the remaining provisions shall remain unaffected.

Travagliato, (Date).....

Dm2 S.r.l.

Signature

Customer

Signature

21. Oppressive clauses

Pursuant to and for the purposes of articles 1341 and 1342 of the Civil Code, the Customer declares to have carefully read and specifically approved the clauses of these General Terms and Conditions of Sale here below recalled: 1. (General); 2. (Scope of supply); 3. (Drawings, Technical documents and information); 4. (Regulations in the country of destination – Protective devices); 5. (Foreign trade law, Export control); 6. (Prices, terms of payment); 7. (Reservation of

ownership); 8. (Transfer of risks, insurance, acceptance); 9 (Delivery lead time – Elements to be provided by the customer); 10. (Verification, preliminary and final acceptance and clearance of the delivered goods for production purposes);11. (Warranty, liability for defects); 12. (Liability);13. (Intellectual property rights);14. (Use of software);15. (Data sharing, cybersecurity, and confidentiality);16. (Place of performance, applicable law, competent jurisdiction).

Travagliato, (Date)

Dm2 S.r.l.

Signature

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Customer

Signature

.....

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