

General Terms and Conditions of Purchase of the Emmi Group for the Procurement of Facilities, Technical Systems, Machines and Equipment (GTCP-T)

(Version dated 17.10.2019)

1. Scope of application

These General Terms and Conditions of Purchase (GTCP-T) govern the conclusion, content and processing of contracts for the procurement of facilities, technical systems, machines and equipment. They may only be amended by means of deviating regulations in the contractual document.

2. Tender

- 2.1. The tender, including the demonstration and delivery of associated spare parts lists, plans, samples and models, shall be submitted free of charge.
- 2.2. The Company shall state the VAT separately in the tender.
- 2.3. If the tender differs from the call for tenders issued by the Emmi Group, the Company shall draw express attention to this fact.
- 2.4. The Company itself must inspect the dimensions it has to work with as well as all local and operational conditions at the place of performance. The Emmi Group shall draw the Company's attention to any special circumstances (third-party work, operating restrictions, etc.).
- 2.5. The Company shall explicitly state if there is a risk that third-party intellectual property rights may noticeably restrict the use of deliveries and services by the Emmi Group.
- 2.6. All documents made available by the Emmi Group (plans, functional descriptions, etc.) shall remain the property of the Emmi Group and must be returned with the tender.
- 2.7. The tender shall be binding for the period specified by the Emmi Group. Provided that no other deadline is provided in the call for tenders or in the tender, the Company shall remain bound to the stipulations contained therein for six months from the date of the tender.

3. Execution

- 3.1. The place of performance shall be the delivery address stipulated in the contract or order.

- 3.2. The Company shall provide the Emmi Group with regular updates on the progress of work and shall obtain all necessary specifications. It shall immediately indicate in writing all circumstances that could jeopardise contractual performance, lead to changes in later phases, increase the agreed processing effort or impair existing facilities. It shall inform the Emmi Group of any further developments that, for technical or commercial reasons, could require a change to the scope or nature of services.
- 3.3. The Company shall ensure that the technical systems, machines and equipment meet the latest standard of technology and that the service parameters defined by the Emmi Group are met.
- 3.4. The Company shall furnish the requisite safety certification for the technical systems, machines and equipment as defined by the EU Machinery Directive 2006/42/EC and harmonised standards.
- 3.5. The Company undertakes to construct electrical systems and installations in accordance with SEV and CE specifications.
- 3.6. The Company undertakes to design all components in contact with products in accordance with current EHEDG principles so that they are easy to clean.
- 3.7. The Company undertakes to draw up a declaration of conformity for materials and auxiliary materials in which synthetic nanoparticles have been used, specifying what nanoparticles have been used.
- 3.8. The Company undertakes to draw up a declaration of conformity for the plastic components used, specifying that the plastic used is harmless to the foodstuff in question.
- 3.9. The Company shall comply with the operational requirements of the Emmi Group, in particular its safety regulations and house rules. It shall ensure that these regulations and instructions are complied with by any third parties it commissions.
- 3.10. The Company shall procure the tools and equipment it needs to perform the work at its own cost. It shall have access to facilities and spare parts of the Emmi

Group only to the extent that this has been expressly agreed.

- 3.11. The Company shall not be entitled to derive any claims from minor work interruptions or from maintenance carried out for operational reasons.

4. Changes to services

- 4.1. The Emmi Group may request that changes be made to individual services provided that their overall character is not affected.
- 4.2. The change to the service and any adjustments to remuneration, deadlines and other elements of the contract shall be specified in writing in an addendum to the contractual document prior to execution. If no such agreement is made, the provisions of the original contract shall apply. Adjustments to remuneration shall be calculated according to the principles of the contractually agreed cost basis. If this is not possible and no agreement is reached concerning the elements to be adjusted, the Emmi Group shall be authorised to provide the corresponding services itself or delegate them to a third party.
- 4.3. Unless otherwise agreed, the Company shall continue its work as planned while the proposed changes are being reviewed.

5. Remuneration

- 5.1. The Company shall provide the services according to the Emmi Group's specifications for a fixed price or based on time spent subject to an upper limit on remuneration (cost ceiling). It shall specify the cost types and cost rates in its tender. If there is a possibility that the cost ceiling will be exceeded, the Company shall notify the Emmi Group without delay.
- 5.2. The remuneration shall cover all services that are required for the proper performance of the contract. The remuneration shall cover in particular installation and documentation costs, costs for initial training, expenses, licence fees, packaging, transport, insurance and unloading costs and all public duties (customs, VAT, etc.).
- 5.3. Deliveries shall be performed in accordance with INCOTERMS DAP or DDP, place of performance.

- 5.4. Remuneration shall become due upon acceptance. Any deadlines deviating from this must be specified in the payment plan. When remuneration becomes due, the Company shall submit a corresponding invoice. The Emmi Group shall settle payments due within 30 days of receipt of the invoice.

- 5.5. The remuneration shall be adjusted for inflation only if and to the extent provided for in the contractual document.

6. Involvement of third parties

- 6.1. The involvement of third parties (e.g. freelance staff, specialists) for the performance of the contract shall require the prior written consent of the Emmi Group.
- 6.2. The Company shall integrate all provisions of the contract into its contracts with third parties that are necessary to safeguard the interests of the Emmi Group.
- 6.3. The third parties enlisted by the Company to perform the contract shall in all cases be deemed their associates within the meaning of Art. 101 of the Swiss Code of Obligations (CO). The Emmi Group's consent to or knowledge of the involvement of third parties shall not affect the Company's liability under or in connection with the contract. Art. 399 (2) CO is expressly excluded.

7. Right of the Emmi Group to make direct payments

If the Company encounters payment difficulties or if serious differences arise between the Company and third parties commissioned by it or the Emmi Group, the latter may, after consulting the parties involved and receiving a valid invoice, pay the commissioned third parties directly or deposit the amount in question, both with exempting effect.

8. Intellectual property rights

- 8.1. Documents and know-how that the Emmi Group makes available to the Company for the performance of the contract may only be used strictly for project-related purposes. The Company shall make the corresponding obligation binding on any third parties it commissions (e.g.

subcontractors). The Emmi Group reserves the right to take action against unauthorised use (such as reproduction, distribution) of its documents and other infringements of the rights to which it is entitled.

- 8.2. The intellectual property rights to work results produced specifically for the Emmi Group (including calculations, drawings, drafts, source code, program descriptions and documentation) as well as to all ideas, procedures and methods developed within this context in written or machine-readable form shall belong to the Emmi Group. The complete software documentation (in particular the documented source code including overview, data and functional model and functional description) and the other documents must be submitted to the Emmi Group before the joint inspection at the latest.
- 8.3. The remaining intellectual property rights shall remain with the Company. The Emmi Group shall acquire a non-transferable, irrevocable and non-exclusive right to use and exploit these work results within the scope of the contract. The right of use and exploitation also extends to replacements, applications for testing and training purposes as well as to modification, supplementary or maintenance work and deliveries of spare parts. The Emmi Group may perform modification, supplementary or maintenance work itself or have this performed by third parties. It shall require such third parties to maintain confidentiality and prohibit them from use for any other purpose.
- 8.4. The Company shall bear the costs and risks of settling claims from third parties relating to infringements of intellectual property rights. The Emmi Group shall notify the Company of any such claims without delay and shall entrust it with sole responsibility for conducting any legal proceedings and implementing measures for the judicial or extrajudicial settlement of the legal dispute. Subject to the foregoing, the Company shall assume the costs and compensation for damages incurred by the Emmi Group.

9. Documentation

- 9.1. The Company shall provide the Emmi Group with complete and reproducible documentation for operations and maintenance in the languages and number of copies agreed in the contractual

document no later than prior to the joint inspection.

- 9.2. The Emmi Group may copy the documentation for the intended use stipulated in the contract.
- 9.3. If defects have been rectified, the Company shall update the documentation including the source code.
- 9.4. The Company shall undertake initial training of the staff of the Emmi Group. The scope of this initial training shall be specified in the call for tenders or in the contractual document. In the absence of such information, instructions on operation, installation and maintenance/care shall suffice. The Company guarantees that it can provide training on the optimal use of the technical systems, machines and equipment.

10. Default and contractual penalty

- 10.1. In the event of non-compliance with the deadlines and dates agreed in the contractual document as giving rise to default (transactions subject to expiry dates), the Company shall automatically be deemed to be in default; in all other cases, after a reminder has been issued, the Company shall be granted a reasonable period of grace.
- 10.2. If the Company is in default, it shall be liable to pay – insofar as contractually agreed – a contractual penalty if it cannot prove that it is not at fault. The contractual penalty shall also be due if the services are accepted without reservation. Payment of the contractual penalty shall not release the Company from its other contractual obligations; the contractual penalty shall, however, be charged against the compensation for damages that is due.
- 10.3. The contractual penalty shall be 1 % of the total remuneration per week of delay commenced, but not more than 5 % in total.
- 10.4. The Emmi Group shall be authorised to offset the contractual penalty against the remuneration.
- 10.5. The contractual penalty shall be owed for each deadline that is missed (cumulative).
- 10.6. If a deadline is postponed by mutual agreement, this shall apply accordingly to the contractual penalty.

11. Acceptance

- 11.1. A joint inspection shall be carried out prior to acceptance. The Company shall provide the Emmi Group with an invitation to this effect in good time. A record shall be drawn up of the inspection and its results, signed by both contracting parties. Partial acceptances are possible subject to mutual agreement.
- 11.2. If only minor defects are identified during the inspection, acceptance shall be issued upon conclusion of the inspection. The Company shall rectify any identified defects without delay and notify the Emmi Group of their rectification.
- 11.3. If major defects are identified during the joint inspection (e.g. missing documentation), acceptance shall be deferred. The Company shall rectify the identified defects without delay and invite the Emmi Group to a new inspection in good time. If acceptance is deferred and the acceptance deadline specified in the contract is exceeded as a result, the Company shall automatically be deemed to be in default.
- 11.4. Even if acceptance has been deferred, the subject of the contract may be transferred to the Emmi Group for use by mutual agreement, whereby all rights and obligations of the contracting parties with regard to acceptance and its legal consequences shall continue to exist.

12. Warranty

- 12.1. The Company assures the Emmi Group that its services exhibit the agreed properties as well as those properties the Emmi Group might reasonably expect in good faith without any special agreement. The Company's liability shall lapse insofar as the Emmi Group is at fault.
- 12.2. A defect is any deviation from the subject of the contract, irrespective of the fault of the Company.
- 12.3. If a defect is found, the Emmi Group may request that it is rectified at no cost. The Company shall rectify the defect within the prescribed deadline and shall bear any costs arising therefrom. If it is only possible to rectify the defect through a new product, the right to rectification shall also include the right to a new product.
- 12.4. If the Company fails to rectify the defect as requested or the corrective action is not

successful, the Emmi Group may at its discretion:

- decrease the remuneration in line with the reduced value delivered;
 - withdraw from the contract, but only in the case of a major defect;
 - demand the return of the necessary documents (namely the source code) – insofar as there are no legal or contractual provisions to the contrary – and take the appropriate measures itself or have them taken by a third party at the Company's expense and risk, but only in the case of a serious defect.
- 12.5. Defects must be notified within 60 days of discovery. Warranty rights shall lapse two years after acceptance. Once the notified defects have been rectified, the warranty periods for the repaired parts shall start anew. Claims for maliciously concealed defects may be asserted up to ten years after acceptance.
 - 12.6. Maintenance services and deliveries of spare parts by the Company during the limitation period shall be classified as the rectification of defects and must be completed within 48 hours of being notified thereof, unless the Company provides proof to the contrary.
 - 12.7. The warranty period for intellectual property is not limited in time.

13. Liability

- 13.1. The Company shall be liable for all damages it causes to the other contracting party unless it can prove that it is not at fault.
- 13.2. The Company shall be liable for the conduct of its associates and involved third parties (e.g. suppliers, subcontractors, substitutes) as for its own.

14. Technical aftercare

- 14.1. The Company shall ensure the delivery of spare parts to the Emmi Group for at least ten years after acceptance. Different delivery periods for spare parts must be specified in the contractual document.
- 14.2. The Company shall provide maintenance for the subject of the contract at the request

of the Emmi Group for a period of eight years after expiry of the two-year limitation period for warranty rights; a maintenance contract is to be concluded separately for this purpose.

- 14.3. If bankruptcy proceedings are initiated against the Company within ten years of acceptance or if the Company wishes to discontinue the delivery of spare parts during or after this period, it shall notify the Emmi Group in good time and give it the opportunity to submit a final order. Following this it shall provide the Emmi Group with its documentation (descriptions, plans, complete software documentation, etc.) and aids (templates, models, special tools, etc.) at no cost so that it can manufacture spare parts according to its specific needs. If it is not possible to rebuild the spare parts, the Company undertakes to look for a replacement product free of charge and to clarify its implementation.
- 14.4. Deliveries and services provided by the Company within the scope of technical aftercare after expiry of the two-year limitation period for warranty rights shall be subject to payment at competitive conditions.

15. Provisions under labour law

- 15.1. The Company undertakes to comply with the conventions of the International Labour Organisation (ILO) and shall not employ any workers under 15 years of age. Countries covered by ILO Convention 138 as developing countries and permitted to employ workers of at least 14 years of age are excluded from this regulation.
- 15.2. The Company shall contractually impose the obligations of this section on any third parties enlisted by it to perform the contract.
- 15.3. The Emmi Group shall notify the Company of any breaches of these obligations and may demand corrective action. If the Company fails to take such corrective action or if such corrective action is not possible, the Emmi Group shall either suspend or terminate the contract at its discretion.

16. Integrity

- 16.1. The contracting parties shall take appropriate measures to ensure

compliance with the law and regulations. They undertake in particular to comply with the principles and rules outlined in the Emmi Group Code of Conduct. Insofar as these principles and rules are substantially equivalent to those stipulated in the Company's code of conduct, compliance with the latter shall suffice.

- 16.2. The contracting parties undertake to take all necessary measures to prevent corruption so that no improper benefits or other advantages are offered or accepted.
- 16.3. The Emmi Group shall notify the Company of any breaches of these obligations and may demand corrective action. If the Company fails to take such corrective action or if such corrective action is not possible, the Emmi Group shall either suspend or terminate the contract at its discretion.
- 16.4. The Company shall contractually impose the obligations of this section on any third parties enlisted by it to perform the contract.

17. VAT / Customs

- 17.1. The Company undertakes to comply with Swiss VAT legislation.
- 17.2. The Emmi Group may demand corrective action if this obligation is breached. If the Company fails to take such corrective action or if such corrective action is not possible, the Company shall bear all resulting costs (e.g. taxes, customs duties).

18. Audit

- 18.1. The Emmi Group is entitled to audit the Company's compliance with the obligations under the section "Integrity" as well as with other key obligations, either itself or through an independent audit firm it appoints. The Emmi Group may not request such an audit more than once per calendar year without good reason. The Emmi Group shall notify the Company in writing that an audit is being conducted, unless the Emmi Group perceives an imminent danger.
- 18.2. The Company may request that the audit be conducted by an independent third party. The Company shall bear the costs of the audit in this case as well if it is determined during the audit that the Company has breached the obligations

under the section “Integrity” or other key obligations towards the Emmi Group.

- 18.3. If the audit is not conducted by the Emmi Group itself, the audit report shall merely inform the Emmi Group whether the Company is fulfilling its contractual obligations, unless a breach has been committed. In this case, the Emmi Group shall have a comprehensive right to inspect the information relevant to the breach.
- 18.4. The Company shall contractually impose the obligations of this section on any third parties enlisted by it to perform the contract.

19. Confidentiality

- 19.1. The contracting parties shall treat as confidential all information and data arising out of the contractual relationship which are neither common knowledge nor accessible to the general public, even if these are not marked as confidential. In case of doubt, all information and data should be treated as confidential. This shall remain subject to any legal obligations to inform.
- 19.2. The obligation to maintain confidentiality shall apply even prior to conclusion of the contract and shall continue to apply after termination of the contractual relationship.
- 19.3. The obligation to maintain confidentiality shall apply to third parties. There shall be no breach of confidentiality if confidential information is forwarded within the Company or to involved third parties. This applies for the Company insofar as the information needs to be forwarded to perform the contract.
- 19.4. If one party breaches the obligation to maintain confidentiality, it shall be liable to pay the other party a contractual penalty if it cannot prove that it is not at fault. This shall be 10 % of the contract amount per case, but at least CHF 3,000 and no more than CHF 100,000. Payment of the contractual penalty shall not release the parties from their obligation to maintain confidentiality; the contractual penalty shall, however, be charged against the compensation for damages that is due.
- 19.5. In the case of master agreements, the remuneration paid for the annual requirement in the previous year shall serve as a basis for calculating the contractual penalty. In the first year of the contract or in years where no remuneration

was paid in the previous year, the remuneration for the planned annual requirement shall apply.

20. Statements to the media (including social media, testimonials) and use of the Emmi Group logo

Statements to the media in connection with the contract and use of the name and/or logo of the Emmi Group shall require the express consent of the Emmi Group. Statements to third parties which are accessible to the general public (in particular testimonials) shall be deemed equivalent to statements to the media.

21. Termination for good cause

- 21.1. The contracting parties may terminate the contract without notice for good cause if said cause makes it untenable to continue the contract. If the contract is terminated prematurely, the remuneration for services provided pursuant to the contract up to the point of termination shall be due pro rata. There shall be no further entitlement to compensation – especially to lost earnings – under any circumstances.
- 21.2. The following situations in particular shall be considered good cause justifying premature termination of the contract by the Emmi Group:
- If the Company has breached its contractual obligations in a serious manner and this breach is not remedied after appropriate written request within 30 days. A serious breach of contract shall include in particular non-compliance with applicable legislation, repeated non-compliance with the agreed deadlines and dates or with the agreed intervention period for rectifying faults, and poor performance of the contract;
 - If the Company repeatedly fails to comply with operational requirements or repeatedly disregards instructions given by the Emmi Group;
 - If bankruptcy or administration proceedings are initiated against the Company.

22. Use and risk

Use and risk shall be transferred to the Emmi Group at the place of performance.

23. Ban on assignments and pledges

Claims accruing to the Company may neither be assigned nor pledged without the written consent of the Emmi Group.

24. No waiver

If a party holds off on or defers its right to assert a claim or does not exercise its rights or does so only in part, this shall not constitute a waiver of these or future claims. A waiver shall require a written declaration by the waiving party in order to be valid.

25. Written form

The conclusion of or amendments and additions to the contract and the components thereof shall require the written form and signature by both contracting parties in order to be valid.

26. Applicable law

This contract is subject exclusively to Swiss law, to the exclusion of provisions regarding conflicts of law. The provisions of the Vienna Sales Convention (United Nations Convention on Contracts for the International Sale of Goods (CISG), concluded in Vienna on 11 April 1980) are expressly excluded.

27. Jurisdiction

The competent courts in Lucerne shall have exclusive jurisdiction in disputes arising out of or in connection with the contract.