

**General Terms and Conditions of Purchase of the Emmi Group for Service (GTCP-S)**  
(Version dated 21.09.2022)

**1. Scope of application**

- 1.1. These General Terms and Conditions of Purchase (GTCP-S) govern the conclusion, content and processing of contracts for services, in particular in the area of consulting, planning, support and training (with the exception of construction services).
- 1.2. Any party (Company) that submits a tender to the Emmi Group thereby accepts these GTCP-S. Deviations shall only be valid if they are agreed in writing.

**2. Tender**

- 2.1. The tender shall be drawn up on the basis of the call for tenders issued by the Emmi Group.
- 2.2. The Company shall state the VAT separately in the tender.
- 2.3. The tender, including any presentations, shall be submitted free of charge unless otherwise stated in the call for tenders.
- 2.4. The tender shall be binding for the period specified in the call for tenders. In the absence of such information, a period of six months shall apply.

**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 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.
- 3.4. 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.
- 3.5. The Company shall not be entitled to derive any claims from minor interruptions in work or from maintenance carried out for operational reasons.

**4. Deployment of employees**

- 4.1. The Company shall only deploy carefully selected and well-trained employees who possess the necessary authorisations. At the request of the Emmi Group, it shall replace within a reasonable period of time any employees who do not have the requisite skills and expertise or who otherwise impede or jeopardise the performance of the contract. The Company shall bear any costs arising from this.
- 4.2. The Company shall only replace deployed employees with the written consent of the Emmi Group.

**5. Involvement of third parties**

- 5.1. 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.
- 5.2. 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.
- 5.3. 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

2/5

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.

## **6. Remuneration**

- 6.1. 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.
- 6.2. The contractually defined remuneration shall cover all services that are required for the proper performance of the contract. The remuneration shall cover in particular the costs of transferring rights, documentation and materials, as well as all expenses, secretarial services, social security contributions and other insurance contributions for accident, illness, disability and death, and public charges (e.g. VAT).
- 6.3. Remuneration shall generally become due once the service has been provided. Services which are charged on a flat-rate basis for the full calendar year may be invoiced halfway through the respective calendar year, unless alternative due dates have been stipulated in the contract. The Emmi Group shall settle payments due within 30 days of receipt of the invoice.

## **7. Right of the Emmi Group to make direct payments**

- 7.1. 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. Liability**

- 8.1. 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.

- 8.2. The Company shall be liable for the conduct of its associates and involved third parties (e.g. suppliers, subcontractors, substitutes) as for its own.

## **9. Social security contributions**

The Company shall take care of all necessary registrations for itself and its employees with the relevant social security institutions. In the case of sole proprietorships, the Company shall be required to provide the Emmi Group with confirmation of self-employment from its compensation office. The Emmi Group shall not owe the Company and its employees any social security contributions (old age, disability, loss of income, unemployment, etc.) or any other compensation payments, in particular in the event of illness, disability or death.

## **10. Intellectual property rights**

- 10.1. The Company shall transfer to the Emmi Group all intellectual property rights (intellectual property and performance rights as well as entitlements to the same) to work results arising in connection with the performance of the contract at the time they arise. It shall waive the exercise of any non-transferable personal rights. Both contracting parties shall be entitled to use and dispose of ideas, procedures and methods not protected by law arising during performance of the contract.
- 10.2. All intellectual property rights to work results that constitute a component of the contract and that do not arise during the performance of the contract (pre-existing work results) shall remain with the Company. It shall grant the Emmi Group an unrestricted, gratuitous and permanent right without limitation as to time, territory or content to use the work results. This includes all current and potential future types of use, the right to sublicense and assign, and the right to edit.
- 10.3. The Company guarantees that both it and any third parties it enlists possess all rights

to provide its services as stipulated in the contract. It undertakes to settle claims from third parties resulting from infringements of intellectual property rights without delay and to bear all costs (including compensation for damages) incurred by the Emmi Group.

- 10.4. Intellectual property rights and information not protected by law (ideas, procedures, methods) and information carriers (e.g. documents) that the Emmi Group makes available to the Company for the purpose of processing the contract may only be used by the Company within this framework. At the request of the Emmi Group, the Company must return any information carriers and confirm that it has deleted any copies of these information carriers.

#### **11. Default and contractual penalty**

- 11.1. In the event of non-compliance with the deadlines and dates agreed in the contractual document (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.
- 11.2. 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.
- 11.3. The contractual penalty shall be 1 % of the total remuneration per week of delay commenced, but not more than 5 % in total.
- 11.4. The Emmi Group shall be authorised to offset the contractual penalty against the remuneration.
- 11.5. The contractual penalty shall be owed for each deadline that is missed (cumulative).
- 11.6. If a deadline is postponed by mutual agreement, this shall apply accordingly to the contractual penalty.

#### **12. Responsibility for society and the environment**

The company undertakes to comply with the applicable ethical, social and environmental regulations in the broadest sense and also entrusts this obligation to its suppliers or suppliers. The Emmi Group reserves the right to make the continuation of the business relationship dependent on the acceptance and implementation of the Emmi Supplier Code of Conduct.

#### **13. Integrity**

- 13.1. 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.
- 13.2. The contracting parties undertake to take all necessary measures to prevent corruption so that no improper benefits or other advantages are offered or accepted.
- 13.3. 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.
- 13.4. The Company shall contractually impose the obligations of this section on any third parties enlisted by it to perform the contract.

#### **14. VAT / Customs**

- 14.1. The Company undertakes to comply with Swiss VAT legislation.
- 14.2. 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).

## **15. Audit**

- 15.1. 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.
- 15.2. 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.
- 15.3. 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.
- 15.4. The Company shall contractually impose the obligations of this section on any third parties enlisted by it to perform the contract.

## **16. Confidentiality**

- 16.1. 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.
- 16.2. 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.
- 16.3. 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.

- 16.4. 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.
- 16.5. 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.

## **17. 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.

## **18. Termination for good cause**

- 18.1. 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.

18.2. 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.

**19. Ban on assignments and pledges**

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

**20. 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.

**21. 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.

**22. 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 11.04.1980) are expressly excluded.

**23. Jurisdiction**

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