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General Terms and Conditions for Orders

1. Definitions in these General Terms and Conditions:

- 1.1. **The Client / Tomer** –Tomer– a government-owned company Ltd.
- 1.2. **The Supplier / Service Provider** – any person or corporation engaging with the Client as part of the Order.
- 1.3. **The Order** - The purchase order that Tomer will issue to the Supplier for the purpose of purchasing the Ordered Item, to which these general conditions will apply.
- 1.4. **The Ordered Item** – anything ordered in accordance with the Order including materials, goods, services, know-how, R&D.
- 1.5. **Special Terms and Conditions** – the terms and conditions set out in the body of the Order and any appendix attached thereto and marked as its appendices (hereinafter: the "**Order Appendices**") with the exception of these General Terms and Conditions.
- 1.6. **General Terms and Conditions** – the terms and conditions set out in this document.

2. Interpretation:

- 2.1. All Order Appendices and/or any other documents referenced in the Order (hereinafter: the "**Referenced Documents**") constitute an integral part thereof and supplement one another.
- 2.2. In the event of discrepancy between the provisions set forth in the General Terms and Conditions or in the Referenced Documents and the provisions set forth in the Special Terms and Conditions, the Special Terms and Conditions shall take precedence, followed by the Referenced Documents and the General Terms and Conditions, in the Order. In the event of discrepancy between the Special Terms and Conditions and these General Terms and Conditions, the Client shall decide which of the provisions is binding.



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- 2.3. The Order, including all Order Appendices and all Referenced Documents, constitutes the entire and exclusive agreement between the parties and any other term and/or provision stated in any other document shall not bind the Client, unless the Client agreed thereto expressly and in writing and with the addition of a written notice of the Client stating that its consent will change the terms set forth in the Order.
 - 2.4. The headings of the sections will serve for the purpose of orientation and convenience only and will not serve for the purpose of interpreting this document and its content.
3. **Term of Order, delay, postponement:**
- 3.1. The term of the Order is as stated in the Order.
 - 3.2. Notwithstanding the aforesaid regarding the term of contractual agreement, **Tomer may, at its sole discretion, at any time, demand from the Service Provider by means of written notice to delay or postpone the performance of the contractual agreement, or any part thereof, for a period of up to ninety (90) days from the date notification was given to the Service Provider, and for any additional period of time as agreed between the parties.**
 - 3.3. In the event the contractual agreement was discontinued or postponed in circumstances not depending on the Service Provider, and not as a result of breach of the terms of the Order by the Service Provider, the Service Provider shall be entitled to consideration only for the work it actually performed until the date set in Tomer's notice as stipulated in Section 3.2 above and subject to the provisions set forth in Section 16.2.3 hereunder. Subject to the aforesaid conditions, the Service Provider hereby waives, in a final manner, any argument, demand or claim in connection with the postponement or delay of the contractual agreement, except for the right to an additional postponement for a corresponding period of the timetable for performance of the Order (in the event that the contractual agreement is renewed).



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3.4. The Client shall be entitled to instruct the Service Provider at its sole discretion, in a written notice, to resume work under the terms of the contractual agreement or to cancel the contractual agreement for reasons of convenience or breach, as the case may be, all in accordance with the provisions of Section 16 below.

4. **Declarations and undertakings of the Service Provider:**

4.1. The Service Provider hereby declares that it possesses and will possess, during the entire term of the Order performance, the experience, the technical and professional know-how, the licenses and/or the permits that are required in accordance with the provisions set forth in any law, in addition to the means and the manpower with the proper qualifications required for the purpose of supplying the Ordered Item.

4.2. The Service Provider undertakes that all utilities, equipment, tools and materials that the Service Provider will use for the purpose of providing the Ordered Item will be of the proper kind without exception for the purpose of supplying the Ordered Item and will be in conformance to the requirements of the standards.

4.3. The Service Provider is responsible for assuring that any action that is performed in accordance with the Order and whose performance requires a license/permit/certificate in accordance with the provisions set forth in any law, the Service Provider will hire only experienced workers holding a valid license/permit/certificate.

4.4. The Service Provider, by its workers, undertakes to provide the Ordered Item in accordance with the provisions set forth in the Order and Appendices thereof, and in accordance with the instructions delivered to the Service Provider from the Client from time to time.

4.5. The Service Provider undertakes to employ in the supply of the Ordered Item only professional and skilled workers who underwent general safety training and who are knowledgeable of their work and are responsible for their work. Without derogating from the foregoing, the



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Service Provider shall be responsible for training the workers employed by the Service Provider and will inform said workers regarding the risks at work, including safety risks in equipment, tools, machinery, safety in electricity works, etc.

- 4.6. At any time and in any event, in the event the Client is of the opinion that one or more of the Service Provider's workers is unsuitable for the purpose of performing the task assigned to him, or fails to fulfill his position properly for the purpose of supplying the Ordered Item, or in the event no approval was provided on behalf of the safety officer in Tomer for the purpose of employing the Service Provider's worker, the Client shall be entitled to demand that said worker will be dismissed from his position and will be replaced by another worker, and the Service Provider shall be obligated to act in accordance with the Client's instructions immediately and the Client shall not be held liable in any manner and the Service Provider shall be solely liable as a result of said dismissal of said worker.
- 4.7. In the event the Service Provider failed to make available a substitute worker(s) within 30 days of the date of receiving the Client's request to that effect as stated, the Client shall be entitled to terminate the Order and the Service Provider shall have no suits and/or claims against the Client in connection therewith.
- 4.8. The Service Provider undertakes to observe the terms set forth in the Order as stated and not to change or deviate from such terms, without obtaining the prior, express and written approval of the Client in connection therewith.
- 4.9. Any work or service subject matter of the Order shall be performed for the Client in a reliable manner, of high quality and at a high professional level.
- 4.10. The Service Provider hereby declares that it is familiar with the provisions set forth in the law, including the Organization of Labor Inspection Law 5713-1954, the Safety at Work Law (New Version), 5730-1970, the Safety at Work Regulations (Personal Protective



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Equipment) 5757-1997, the Safety at Work Regulations (First Aid in Work Places) 5748-1988 and all regulations and orders laid down thereunder, and the Service Provider undertakes to observe strictly their provisions.

- 4.11. The Service Provider undertakes to apply safe work methods and provide the Ordered Item according to the safety and health and welfare rules applicable in accordance with the provisions set forth in any law including, but not limited to, proper and standard equipment for the workers, etc. and the Service Provider undertakes to supply the Ordered Item while applying a safe work method, including during its use of the Client's assets that were delivered to its use or its possession, and supply the Ordered Item while using equipment that is in working order and without causing any disruptions or risking its workers, or causing any risk to the Client and its workers and/or to any on their behalf and/or any third-party.
- 4.12. The Service Provider declares that it acts in accordance with the provisions set forth in the Public Bodies Law (Enforcement of Bookkeeping) 5736-1976 and the rules and regulations issued by it.

5. Quality of the Ordered Item

The Ordered Item supplied to the Client shall conform to the requirements and specifications laid down in the Order and/or in a drawing and/or in a specification and/or in any other document constituting a part thereof and/or that will be identical to the samples as stated in the Order. In the event the Order lacks instructions regarding the material, type, quality, job description or any data relating to the Ordered Item, the Ordered Item will be supplied in the best quality and skill in a high professional standard and level. In the event there is an Israeli Standard with respect to the entire Ordered Item or a part thereof – the Ordered Item or that component of the Ordered Item to which the standard applies will comply with the requirements laid down in the standard (in the event there is no Israeli standard but there is an international standard, the international standard shall apply, unless otherwise stated by the Client).



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6. **Changes:**

- 6.1. The Client shall be entitled, from time to time, to issue a change order to the Service Provider in anything related to the Order, including changes in the specifications, transportation method, packaging, place of delivery, quantities of the Ordered Item and the schedule for the delivery of the Ordered Item. The Service Provider undertakes, subject to and in accordance with the provisions set forth in this section hereunder, to perform said change order (hereinafter: the "**Change Order**").
- 6.2. Any material change in the production processes or any other process in the Service Provider in connection with the Ordered Item such as: a change in the place of production, a change in design, replacement of a subcontractor, a change in one or more of the production processes or a change that might affect the Ordered Item in terms of FFF (Fit, Form and Function) requires Tomer's prior and written approval.
- 6.3. If the cost or supply time are affected as a result of a Change Order, the Service Provider will provide to Tomer, within a specific period of time set out by Tomer, an estimate of the change of the Order price or the schedule for delivery as a result of the changes, and the Service Provider will provide to the Client, within the said period of time, the required data. Within 15 days of the date the Client received the data, the parties will agree on a change in the price of the Order and/or the delivery schedule.

For the avoidance of doubt, the Client shall be entitled to request that the Service Provider start immediately with the performance of the Change Order, and in such circumstances as stated the parties will agree on the changes in the price of the Order and/or the delivery dates, within 30 days of the date of delivery of the Change Order to the Service Provider.
- 6.4. In the event the parties failed to reach an agreement regarding the change in the price of the Order and/or the schedule and/or in any other matter relating to the Change Order, the Service Provider shall be



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obligated to perform the Change Order and the decision regarding the price and/or the schedule will be referred to a professional expert in the field subject matter of the Ordered Item who will be appointed with the mutual approval of the parties, and his decision will be final and binding on the parties.

7. **Quality assurance**

7.1. During the term of the Order is in effect the Service Provider undertakes to maintain and operate a quality assurance system in accordance with the relevant standards and/or any other standard set out in the Order or as updated from time to time, in the highest level of quality assurance as customary in Israel with respect to products and services contemplated in the Order.

7.2. In the event that processes that are defined as special processes are required (such as: coating, painting and thermal treatment) the Service Provider undertakes to hire only service providers who were approved by the Client in advance and/or will perform such processes in its facilities only after obtaining the Client's approval.

8. **Inspection and testing**

8.1. The Client and/or anyone acting on its behalf and/or anyone as instructed by the Client may visit at any time in any place where work in connection with the Order is performed and conduct inspections and tests for the purpose of assuring that the Order is performed in accordance with its instructions, both during and after production, whether in the Service Provider's premises and/or in the premises of any of its other subcontractors. The Service Provider will provide full assistance to the Client for the purpose of conducting the tests by the Client, including the provision of models for the performance of "destructive" or "non-destructive" tests as requested by the Client, the provision of specifications and any other information in connection



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with processes, quality control, quality of materials, rate of performance of the Order, preservation and packaging related to the Order.

- 8.2. In the event the Client found that the Service Provider fails to satisfy or might not satisfy the terms set forth in the Order, the Client shall be entitled to request from the Service Provider to apply immediately all measures for the purpose of satisfying the terms set forth in the Order and the Service Provider undertakes to apply such measures as stated, and the Service Provider shall solely incur all costs in connection therewith.
- 8.3. The provisions set forth in this section shall not derogate from any obligation and/or from any other liability of the Service Provider or impose any obligation and/or liability on the Client.

9. Preventing the use of counterfeit parts

- 9.1. The Service Provider declares and warrants that in any shipment of products the Service Provider will use only new and original materials that do not include any counterfeit components and/or parts or any other item that replaces the original product.
- 9.2. "Counterfeit parts", including, but not limited to, parts that were marked anew for the purpose of concealing or misleading the identity of the manufacturer or defective parts or excess parts that were discarded by the original manufacturer or used parts that were repaired or retrofitted and that are supplied as new.
- 9.3. The Service Provider will purchase original parts or components directly from the Original Equipment Manufacturer ("OEM") or from the Original Component Manufacturer ("OCM") or by a licensed chain of supply or a franchiser holding a franchise from the OCM/OEM. The Service Provider declares and warrants that it will make available to the Client, at the Client's request, any documentation in connection with the procurement process from the OCM/OEM or from the licensed



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chain of supply or the franchiser, confirming that the procurement of the product or its components is original or, alternatively, will undergo authenticity tests in an accredited lab under standard A LEVEL AS6081.

- 9.4. The Service Provider will act in accordance with the provisions set forth in standards AS6174 and AS5553 for the purpose of preventing the supply of counterfeit components to the Client and control over the detection of counterfeit parts.
- 9.5. The Client shall be entitled to seize counterfeit products that were supplied and destroy them in accordance with the provisions set forth in standards AS6174 and AS5553 and charge from the Service Provider all expenses in connection with the destruction and the replacement of the counterfeit products with original ones. The Client shall be entitled to withhold payment for these components.
- 9.6. The Service Provider will incorporate the provisions set forth in this section in its contractual agreements with subcontractors from which the Service Provider purchases components that constitute part of the products that are supplied to the Client as part of the Order.

10. **Packaging, shipment and delivery**

- 10.1. The Ordered Item will be supplied in full in accordance with the applicable standards, the required quality, the required quantity and the required time schedule and all in accordance with the instructions set forth in the Order.
- 10.2. The Service Provider will deliver the Ordered Item at its expense in the Client's factory as stated in the Special Terms and Conditions or in any other location in accordance with the provisions set forth in the Special Terms and Conditions, during the customary hours of work in the delivery place. Said delivery shall be in the manner set out in the Special Terms and Conditions (if stated) and in the event the delivery is not performed in such manner as stated, it shall be performed according to



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the customary professional standard and taking into consideration the sensitivity of the Ordered Item and in its supply to the Client.

The Ordered Item shall be deemed to have been delivered when an authorized representative on behalf of the Client will sign the bill of lading on behalf of the Client. Delivery without a signed certificate as stated shall not be deemed as receipt or as approval by the Client confirming the fulfillment of the Supplier's undertakings in accordance with the Order, including in connection with supply times, quantities of the Ordered Item and/or its quality. In the event that the Ordered Item requires acceptance tests (SAT – Site Acceptance Test), final delivery will only take place after proper operation of the Ordered Item and compliance with all requirements, and receiving Tomer's approval thereof (SAT COC-Certificate of Conformance).

It should be clarified that the supply of the Ordered Item to a carrier shall not be deemed as delivery unless otherwise agreed expressly.

The Service Provider shall not be entitled to deliver the Ordered Item before or after the delivery date(s) stated in the Order and/or in a different place compared to the place stated in the Order, without obtaining the prior and written approval of Client in connection therewith. In the event the Service Provider delivered the Ordered Items prior to the effective date and without obtaining the prior and written approval of the Client, the Service Provider will not receive any consideration except only until the standard payment date according to the date scheduled for the supply.

- 10.3. After delivering the Ordered Item, and in accordance with the terms set forth in the Order, ownership in the Ordered Item will be transferred to the Client without any liens, claims, obligations or limitations.
- 10.4. The terms of supply are as stated in the Order and will be interpreted in accordance with the provisions set forth in the relevant International Commercial Terms 2020 (hereinafter: the "**Incoterms**").
- 10.5. The Service Provider undertakes to incur the transportation costs in accordance with the relevant Incoterms. The Ordered Items will be



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delivered in one shipment, unless the Client instructed otherwise. The Ordered Items will be shipped by a licensed carrier in accordance with the instructions set forth by the Client as stated in the Order.

- 10.6. Unless otherwise stated in the Special Terms and Conditions, the Ordered Item will be packaged in a manner that will protect its safety for the Client during its transportation, and from the Client to the Client's customers (as the case may be) and for long-term storage, and in such manner that the Ordered Item will not be damaged. The package will be protected against damage caused by weather (including humidity, rain, extreme heat and cold). The Service Provider will load the Ordered Item, unless otherwise agreed, and this will be included in the price.
- 10.7. Insofar as this is relevant, at the same time as delivering the Ordered Item to the Client as mentioned above, the Service Provider must hand over to the Client all technical literature relating to the Ordered Item, including updates of all operating, measurement and control software that is available, in the event that this is required for operating the Ordered Item.
- 10.8. **Marking and shipping documents**
 - 10.8.1. **Packing lists will include the following, *inter alia*:** The Service Provider's Order number and item line number; the Client's item number as stated in the Order; the manufacturer's item number and description of the supply:
 - 10.8.2. **Container or package content:** each container or package will include a packing list specifying its content. One copy will be attached outside the container or package in a plastic wrap with multiple sealing. Another copy will be found in the container or the package.
 - 10.8.3. **Bill of lading:** the bill of lading will include two copies, when at least one of these copies is a true and certified copy. The manifest will include invoices and copies of the packing list.



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- 10.8.4. Failure to act in accordance with the instructions set forth above might result in a delay of payment to the Service Provider and the Client shall be entitled to offset any expense in accordance with the provisions set forth in this Agreement.
- 10.9. The Service Provider undertakes to supply and install the Ordered Item (if stated in the Order) in the Client's premises in a place as ordered by the Client.
- 10.10. The Service Provider shall not be entitled to deliver the Ordered Item in a quantity that is different or in excess of that which is stated in the Order, without obtaining the prior and written approval of the Client in connection therewith. In the event the Service Provider supplies quantities in excess of the quantities stated on the Order, without obtaining the Client's approval, the Service Provider shall incur all costs in connection therewith including shipping costs, storage costs and/or any other cost applicable in connection therewith.
- 10.11. The Service Provider shall perform all of the aforesaid actions at its expense and under its sole responsibility in observance of the provisions set forth in any law, and that will protect the quality and standard of the Ordered Item in the shipment and the Service Provider will apply all measures for the purpose of protecting the safety, health and the environment. The Service Provider shall be held liable for any damage or loss caused to the Ordered Item until its installation and acceptance by the Client.
11. **Acceptance test**
- 11.1. Without derogating from the mentioned under section 10.2 above, the Client may, within a reasonable time as of the date of receiving the Ordered Item, conduct acceptance test of the Ordered Item and consequently accept or reject the Ordered Item. In the event the Client accepted the Ordered Item, this shall be without prejudice to its right to reject the Ordered Item at a later date, if it is found that the Ordered Item failed to comply with the specification requirements, when such a



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non-conformity was not detected at the time of conducting said acceptance test.

- 11.2. Acceptance or rejection of the Ordered Item shall be without prejudice to any other right of the Client in accordance with the Order and/or in accordance with the provisions set forth in any law.
- 11.3. Shipments that are rejected in accordance with the acceptance test inspection will be returned to the Service Provider/will not be supplied to the Client. Rejected supplies or shipments that are returned will be returned at the Service Provider's expense for the purpose of repair and/or replacement without delay. Payment will be made in addition to any other remedy that the Client may seek in accordance with the law. In the event of down payment, it is expressly agreed that the payment does not constitute final acceptance.
- 11.4. The Service Provider will not resend the supply of Ordered Items that were rejected or repaired before completing the request to repair and the required changes and customizations, except only after obtaining the prior and written approval of the Client.

12. Client's assets and rights, and third-party intellectual property rights

- 12.1. In this section:

"Knowledge" – is information of any kind, including technological, commercial or other information, commercial secrets, other proprietary rights (including patents and patent applications, samples and licenses, whether registered or not), discoveries, techniques, methods, data, engineering, biological and chemical information, information regarding production processes, production methods, test methods, specifications, product file, production file, drawings, charts, printouts, parts lists, notices, plans, expressions, passwords, symbols, codes, improvements, upgrades, concepts, ideas, inventions, trade names, details and any other information whether in writing, verbal or in any printed, optic, electronic or other media.



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"Prior Knowledge" – knowledge that existed in the possession of a party to the Order, or knowledge that it acquired, received or developed, outside of this Order.

"New Knowledge" – knowledge developed by the Service Provider or developed as part of the Order or as a result thereof.

"Intellectual Property" – any Intellectual Property right in its various forms, including knowledge, ideas, inventions, copyrights, trademarks, samples, trade names, commercial and trade secrets, whether registered or not and whether patentable or not.

Ownership rights to Prior Knowledge and New Knowledge

- 12.2. Any Prior Knowledge provided by the Client to the Service Provider shall remain the property of the Client. Any Prior Knowledge provided by the Service Provider to the Client shall remain the property of the Service Provider.
- 12.3. All Intellectual Property rights in the New Knowledge shall be the sole property of the Client, and the Client may use these rights as it sees fit, without any restriction, including copying, publishing, making changes or additions, distribution, and giving permission for use to another party. The Service Provider does not and shall not have any right or demand or claim of any kind against the Client, including a demand for the payment of royalties or any consideration beyond the Consideration paid as part of the Order, in connection with the Intellectual Property rights in the New Knowledge or in the Client's Prior Knowledge, including in connection with specifying the name of the Service Provider. It is hereby clarified that the Service Provider undertakes to disclose to the Client all the Knowledge created as part of or as a result of performing the Order.



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- 12.4. The Service Provider shall mark the Client's Prior Knowledge and New Knowledge as "Tomer's Property" and shall store it as detailed in these General Terms and Conditions.
- 12.5. The Service Provider undertakes to report to the Client regarding any Knowledge accumulated or developed or created thereby in the framework of or as a result of performing the Order. The Service Provider undertakes to assist the Client in any way to register the ownership rights in the Intellectual Property in the Client's name, including submitting an application for patent registration or filing an objection to the patent.

License with Prior Knowledge of the Service Provider granted to the Client

- 12.6. The Service Provider hereby declares and undertakes that it is the owner or the license holder of the Intellectual Property rights in the Prior Knowledge that it gave to the Client or that is required for the performance of the Order, and there is no legal or other impediment to transfer it for the use of the Client. The Service Provider declares that use of items or Knowledge developed thereby during the performance of the work within the framework of the Order do not violate a patent or copyright or commercial secret or trade secret or any other proprietary right of any third party.
- 12.7. The Service Provider undertakes to grant the Client a clean, unrestricted, non-exclusive license to use the Prior Knowledge of the Service Provider as necessary for the use of the Ordered Item and the products of the Order in any field, either as independent units or as integrated with other items. The license cannot be revoked, is not limited in time, bears no obligation to pay royalties, and can be transferred to a third party, and it is also possible to grant sub-licenses by virtue thereof.
- 12.8. The Service Provider shall compensate and/or indemnify the Client and its customers for any expense or damage or loss of any kind and type



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(including legal expenses and attorney's fees) incurred due to a violation of one or more of its undertakings detailed in this Section 12. The Service Provider shall assist the Client, at its own expense, in any legal proceeding in which a claim is filed against the Client for violation of rights as stated in this Section 12.

- 12.9. If as a result of a claim as stated in this Section 12, the Client or its customers shall be prevented from using the goods that are the Ordered Item or part thereof and/or from owning them and/or selling them, the Service Provider undertakes to ensure that the Client and its customers shall have the right to continue to use, keep and sell the goods that are the Ordered Item; or replace an infringing Ordered Item with an identical non-infringing product or service; or change the Ordered Item so that it no longer infringes the rights of third parties; or return to the Client all the amounts that the Client paid to the Service Provider for the Ordered Item, subject to the return of the goods to the Service Provider.
- 12.10. The Service Provider undertakes not to disclose and shall take all reasonable precautions in order to prevent the disclosure of the Client's Prior Knowledge or New Knowledge or their Intellectual Property to any third party. The Service Provider also undertakes that the Intellectual Property in the New Knowledge, or in the Prior Knowledge of the Client, in whole or in part, will not be used by the Service Provider, and will not allow any other person to use them, except for the purpose of performing the Order for the Client, unless the Client has confirmed otherwise in writing. The Service Provider undertakes to bring the provisions of this Section 12 to the attention of its employees and have them sign an appropriate undertaking regarding their agreement to these conditions.
- 12.11. Acceptance by the Service Provider of the Client's Prior Knowledge or New Knowledge shall not be deemed to grant any right or license to the Service Provider with respect to such Knowledge.
- 12.12. Upon completion of the performance of the Order, its termination or cancellation, for any reason whatsoever, the Service Provider shall



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return to the Client the Client's Prior Knowledge which was delivered thereto for use in the condition as received, as well as the Borrowed Equipment as defined in Section 12.14.1 below, when it is in proper condition, good and suitable for use, except for reasonable wear and tear, without copying or transferring it to any third party, and without making any use thereof, except for the purpose of performing the Order and for the Client. In the event the Order was completed or was canceled, for any reason whatsoever, the Service Provider shall be obligated to provide to Tomer the source (original) in its possession, with the addition of a written declaration stating that it did not keep in its possession or in the possession of any other person any other Knowledge or document at source. It should be emphasized that to the extent that the Service Provider is bound by a statutory obligation to keep in its possession any information, the Service Provider shall be entitled to act in said manner subject to the duty of confidentiality required from it in accordance with these terms and conditions, however the aforesaid shall not derogate from the obligation of the Service Provider as stated above, to provide to Tomer a copy of the deliverable.

- 12.13. Without derogating from the provisions set forth in these General Terms and Conditions, the parties agree that the Service Provider does not and will not have any right of lien and/or charge and/or any other right in the Client's property, in the Knowledge and in the deliverables subject matter of the Order, in the New Knowledge and/or in the Borrowed Equipment, within its meaning in Section 12.14.1 hereunder. The ownership of Tomer in its property, in the Knowledge, in the deliverables subject matter of the Order, in the New Knowledge and in the Borrowed Equipment in accordance with these General Terms and Conditions shall take precedence and shall have priority over any other provision or term made between the Service Provider and any other third-party. The Service Provider hereby waives any right of lien the Service Provider may have in accordance with the provisions set forth in any law in connection with the Client's property, in the Knowledge, in the deliverables of the Order, in the New Knowledge and the



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Borrowed Equipment. The Service Provider undertakes to bring this provision to the attention of any other third-party.

12.14. **Equipment and/or materials lent to the Service Provider**

12.14.1. The Service Provider shall be responsible at any time and will protect against any loss or damage caused to the property items of the Client which are under the possession and/or control of the Service Provider or in the event the Service Provider borrows any equipment or materials from the Client (hereinafter: the "**Borrowed Equipment**").

12.14.2. For the avoidance of doubt, any material and/or property supplied by the Client in connection with the Order shall be deemed as lent to the Service Provider solely for the purpose of the Order, and the Client shall retain ownership in such items at all times, and the Service Provider does not and will not have any right in said assets.

12.14.3. The Service Provider undertakes that all Borrowed Equipment will be kept separately, will be marked as the Client's property and will receive preventive service and maintenance by the Service Provider, if necessary.

12.14.4. The Service Provider will not supply to any person, except for the Client, an item that is identical or similar to the item subject matter of the Order, if said item was developed by the Service Provider for the Client, or was produced by the Service Provider according to know-how and/or information that was provided to the Service Provider by the Client for the purpose of the Order.

12.14.5. The Service Provider will not provide to any person other than the Client any information in connection with the Client's assets and/or the Borrowed Equipment, within its meaning in Section 12.14.1 and will be responsible for assuring that such



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information as stated will not reach to any other person in any manner.

- 12.14.6. The Service Provider undertakes not to use and not to permit another person to use any of the items of the Client's assets and/or Borrowed Equipment, within its meaning in Section 12.14.1 except solely and only for the Client and within the framework of the Order. In addition, the Service Provider undertakes not to sell the Client's assets and/or the Borrowed Equipment, within their meaning in Section 12.11.1, not to pledge, charge and not to infringe the rights of the Client in such assets in any other manner.
- 12.14.7. The Service Provider undertakes in particular to protect the information and the know-how contained in the Borrowed Equipment.
- 12.14.8. In the event of loss and/or damage, the Service Provider will deliver notice immediately to the Client regarding such incident.
- 12.14.9. The Service Provider undertakes to compensate and indemnify fully, upon first request, the Client for the Borrowed Equipment that will not be returned to the Client in the manner lent in the original (except for reasonable wear as a result of the use in accordance with the requirements laid down in the Order and solely for the purpose of the Order).
- 12.14.10. The Service Provider undertakes to purchase insurance policies to the satisfaction of the Client, providing insurance coverage against loss and/or damage to all property and/or materials that are lent to the Service Provider and that were supplied to the Service Provider, as long as the Service Provider retains possession therein. Nevertheless, it is clarified that the purchase of said policies shall not release the Service Provider from its liability in anything related to the Client's property.



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13. Open code software

- 13.1.1. The Service Provider undertakes that in respect of Ordered Items that include a software component, it will use an open source software ("**free**" software or **general public license**) only if the Service Provider received from the Client the prior and written approval of the Client in connection therewith, when the Client shall be entitled, at its sole discretion, not to approve the use of such open source software.
- 13.1.2. The Service Provider undertakes to indemnify the Client for any damage, expense or loss caused to the Client in respect of the use of open source software in contravention of the prior and written approval of the Client, including reasonable legal expenses in respect of a legal action that commenced against the Client.

14. Prevention of cyber-attacks, malware or viruses

- 14.1.1. The Service Provider undertakes that in Ordered Items that include software based on a standard operating system (Windows, Linux, iOS, Android etc.), the Service Provider will apply all measures for the purpose of protecting the products and the systems against malware and viruses as stated hereunder, unless the Client released the Service Provider from one or more of the following actions:
 - 14.1.1.1. An operating system update, according to its latest security versions, prior to their delivery to the Client.
 - 14.1.1.2. Blocking BIOS against changes.
 - 14.1.1.3. Performance of tests and removal of viruses and malware prior to the shipment to the Client, including



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documentation of the testing and cleaning process, and report on findings.

14.1.1.4. A declaration document regarding the performance of the cleaning and the process findings, as part of the delivery documents.

14.1.2. In the event that a cyber-attack occurs in the Service Provider's premises or in the premises of its subcontractors or in any place that is relevant to the performance of the Order, the Service Provider undertakes to act in the following manner:

14.1.2.1. The Service Provider will report to the Client within 72 hours at most whether or not information that is the property of the Client was exposed, including unauthorized entry or misuse or loss of information or change of Client's information. .

14.1.2.2. The Service Provider will act promptly for the purpose of investigating the event and all risks associated therewith.

14.1.2.3. The Service Provider will cooperate with the Client in conducting any investigation of the event including its essence and scope.

14.1.2.4. The Service Provider shall incur the reasonable costs associated with conducting such an investigation as stated and rectifying the outcome of the event.

15. Price and payment terms

15.1. The price stated in the Order (hereinafter: the "**Consideration**") is final, in addition to statutory VAT unless otherwise stated in the Order. The Consideration is final, total and fixed for the fulfillment of all undertakings of the Service Provider in accordance with the Order, and no addition will be paid in respect whereof, including additions for increase in costs, changes in the exchange rates, changes in the cost of



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living index and changes in taxes and mandatory payments, unless otherwise agreed in advance and in writing in the Order. The Consideration also includes consideration for acceptance of property in tangible or intangible assets (including know-how, inventions and copyright) contained in the Ordered Item and/or stemming from the performance of the Order.

- 15.2. It will be clarified that making any payment towards the Consideration before performing the aforementioned acceptance tests and/or any quality audits does not constitute confirmation by the Client of the integrity of the Ordered Item or that it is in working order and/or a waiver by the Client to perform the aforementioned acceptance tests and/or quality audits and/or other tests and/or any claim or demand or other right granted thereto according to the Order and/or according to any law.
- 15.3. Notwithstanding the provisions of the Payment Ethics Law 5777-2017, the parties conducted negotiations and agreed on the terms of payment as stated in the Order between the Service Provider and the Client. The parties further agree that the terms of payment do not constitute an unreasonable material adverse change and that these terms are fair in light of the unique nature of the contractual agreement between the parties.
- 15.4. Payments to the Service Provider will be made within the period and under the terms set forth in the Order Special Terms and Conditions. The count of the days for the payment will commence as of the day the Client received an invoice displaying the Supplier's licensed dealer number that was approved in writing by the Client including all appendices thereof, provided that:
 - 15.4.1. The Ordered Item for which the invoice was issued was delivered to the Client prior to submission of the invoice.
 - 15.4.2. All documents stated in Section 15.5 hereunder were received.



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- 15.4.3. The Ordered Item was not rejected as a result of the acceptance test that was conducted in the manner set out in Section 11 above.
- 15.5. The Service Provider will provide to the Client the invoices for the Ordered Item + two copies together with a certificate signed by the Client confirming that the Ordered Item was duly delivered to the Client, and together with a report on the use of materials, in the event the Service Provider used materials that constitute the Client's property. The invoice shall state the Order number and the Service Provider's number in Tomer.
- 15.6. At the Client's request, the Service Provider undertakes to provide all documents that are related to the Order and the performance of all work in connection with the Ordered Item, including the registration of the hours of work (to the extent that the Consideration is paid to the Service Provider in respect of the actual hours of work) and to provide any written explanation requested by the Client in connection with said documents.
- In the event the Client stated, following an inspection of the documents as stated, that the number of work hours whose consideration was paid by the Client is greater than the work hours due to the Service Provider according to the information contained in the Service Provider's records (to the extent that the Consideration is paid to the Service Provider for the actual performance of the work hours) the Service Provider undertakes to return to the Client, upon its first request, any amount that the Service Provider received beyond the amount due to the Service Provider, in addition to statutory linkage differentials and interest as stated from the payment date and until the payment is returned. In addition, the Client shall be entitled to deduct any amount as stated from any amount due to the Service Provider from the Client.
- 15.7. Taxes and levies will be deducted from the Client's payments (including income tax at source) in accordance with the law and as required and customary, unless the Service Provider provides a proper certificate



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regarding exemption from withholding of tax at source and/or a limited withholding of tax at source.

16. Cancellation of the Order for reasons of breach or convenience

- 16.1. Without derogating from any of its rights in accordance with the provisions set forth in any law, the Client shall be entitled to cancel the Order forthwith, in whole or in part, upon the occurrence of each of the following cases, by delivery of written notice to the Service Provider:
- 16.1.1. Breach of one or more of its undertakings, including, but not limited to, as a result of failure by the Service Provider to meet the schedule set out in the Order, and the Service Provider failed to remedy the breach after receiving a notice from Tomer in connection therewith.
 - 16.1.2. Failure by the Service Provider to fulfil the terms set forth in the specifications, whether the Client detected said failure in an inspection in any stage of the performance of the Order, and whether detected in the course of acceptance test of partial deliveries of the Ordered Item.
 - 16.1.3. In the event liquidation and/or receivership proceedings commenced and/or in the event of making a composition with creditors against the Service Provider and/or in the event a special administrator was appointed for the Service Provider and said proceedings were not canceled within thirty days of the date of their commencement, and/or in the event the Service Provider filed an application for voluntary liquidation and/or its business operations were fully and/or materially terminated for a period greater than thirty days/one month.
 - 16.1.4. In any event in which the safety instructions set out in Section 19 were breached.
 - 16.1.5. In the event one or more of the insurance policies the Service Provider is obligated to take out in accordance with these



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General Terms and Conditions and/or the Order documents expired, or one or more of the insurance policies fails to comply with the requirements laid down in these General Terms and Conditions and/or the Order documents.

- 16.1.6. In any event in which the contractual agreement between the Client and its customer (hereinafter: the "Customer") was postponed/stopped/canceled and/or the Customer's Order or the contractual agreement was not extended, when the Ordered Item was intended to fulfill the undertakings of the Client towards the Customer in accordance with this contractual agreement, and for any other objective and reasonable reason.
- 16.2. In the event of cancellation of the Order as stated in Section 16.1, the Service Provider will terminate immediately the work on the Order or that part of the Order that was canceled, and will notify the subcontractors to act in the same manner and the following provisions shall apply:
 - 16.2.1. In the event the Client canceled the Order or any part thereof under the circumstances set out in Sections 16.1.1 to 16.1.5 the Client shall be entitled to order, at the Service Provider's expense, the performance of the Order or any part thereof with another service provider, as the case may be, and the Service Provider shall be obligated to indemnify the Client for its damage, including sums that the Client will be obligated to pay to the other service provider and that are greater than the Order amount. In the event the Service Provider receives from the Client payments for the Order or the part of the Order that was canceled, the Service Provider will return said payments to the Client.
 - 16.2.2. In the event the Client canceled the Order or any part thereof, upon the occurrence of the circumstances set out in Sections 16.1.1 to 16.1.5, the Service Provider undertakes to compensate the Client for all damage caused to the Client



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and/or that will be caused to the Client as a result of the breach and/or compel the Service Provider to pay to the Client liquidated damages in accordance with the terms set forth in the Order, without derogating from the provisions set forth in Section 16.2.1 above.

16.2.3. In the event the Order was canceled not as a result of the breach of its conditions by the Service Provider or upon the occurrence of the circumstances described in Section 16.1.6, the Client will pay to the Service Provider consideration for the Ordered Item that was supplied and for the direct and reasonable costs that the Service Provider actually incurred until the cancellation date, provided that the Client proves such costs to the Service Provider, and on the condition that the total amount of the consideration that was paid and all costs as stated will not be greater than the price of the Order. The provisions set forth in this section shall not diminish from the obligation of the Service Provider to mitigate its losses.

16.2.4. In the event the Order was canceled by the Client upon the occurrence of the circumstances as stated in Section 16.1.6, the Service Provider undertakes to cooperate with the Client in the proceedings for the demand for compensation in respect of such cancellation from the Client, and the compensation to which the Service Provider shall be entitled will be the relative amount of the compensation that the Client actually received from the Customer.

16.3. Cancellation of the Order for reasons of convenience: Without derogating from any right under the law and/or agreement, the Client is entitled to cancel the Order in whole or in part, at any time and for any reason, at its sole discretion, by means of written notice to the Service Provider, and the Service Provider will have no claim and/or any demand in this regard, other than for consideration for the work actually performed up to the date specified in the notice and subject to the conditions set forth in Section 16.2.3 above.



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- 16.4. Cancellation of the Order, in whole or in part, by the Client, will not release the Service Provider from its liability for that part of the Ordered Item that was delivered by the Service Provider prior to the cancellation. The Service Provider will return to the Client any payment paid to it on account of items or work that were not supplied as a result of the cancellation of the Order as stated in this section. The sums will be returned with the addition of statutory linkage differentials and interest as of the actual payment date and until the day of their return.
 - 16.5. It should be emphasized that the Service Provider shall not be entitled to any compensation or to any additional payment as a result of the cancellation of the Order, for reasons of its breach by the Service Provider or for reasons of convenience, except for the payments as stated in this section.
 - 16.6. Cancellation of the contractual agreement, in whole or in part, shall not derogate from any other relief the Client may seek in accordance with any law or agreement.
17. **Licenses and permits**
- 17.1. The Service Provider shall be solely responsible for obtaining all approvals, permits or other licenses for the purpose of fulfilling its undertakings in accordance with the Order.
 - 17.2. The Service Provider declares and warrants that in the performance of the Order by the Service Provider the Service Provider will not infringe intellectual property rights or other third-party rights of any kind, within or outside of Israel, whether or not the said rights are registered. The Service Provider hereby undertakes to indemnify the Client, immediately upon its first demand, in respect of any damage or expenses (including legal expenses) caused to the Client in respect of or in connection with third-party claims or demands as stated.



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17.3. Export licenses

- 17.3.1. Where the Service Provider's products are subject to Defense Export Control law, the Service Provider will obtain an Israeli export license or will obtain a foreign export license that is required for the purpose of supplying the Service Provider's products to the Client, for the Client's use. The Service Provider shall be deemed as exporter until the supply of the product to the Client at the gate of the Client.
- 17.3.2. The Service Provider will report to the Client within 30 days of the date of receiving the Order regarding the Defense Export Control law laws applicable to the Service Provider's products (missile equipment, dual-purpose equipment, ITAR, EAR etc.) and will specify the classification of said products (a section in the equipment list: USML Category, CCL, ECCN , etc.). In the event the Service Provider's products are exempt from such a license as stated, the Service Provider will state this in writing.
- 17.3.3. Upon obtaining such license as stated, the Service Provider will provide to the Client a full copy of the license and any other document relating to the license. The Service Provider shall be solely responsible for the veracity of its declarations and the effect of the documents that were signed by the Service Provider.
- 17.3.4. The Service Provider shall not be entitled to deliver any declaration on behalf of the Client including a certificate of use/end user without obtaining the prior and written approval of the Client confirming the declaration and its content.
- 17.3.5. The Service Provider will keep organized records of the controlled items and after their supply will attach all relevant licenses and permits.
- 17.3.6. These provisions shall also apply to a license and/or permit that is required for the purpose of selling the Ordered Item to the Customer, whether as standalone units and whether



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integrated in other products/items/materials supplied to the Customer.

- 17.3.7. The Client shall be responsible for obtaining an export license for the purpose of supplying to the Client's Customer, which includes the Service Provider's products, if required and in accordance with the relevant law. If necessary, the Service Provider will provide to the Client all information that is necessary for the purpose of obtaining said license.
- 17.3.8. In the event the Client delivered to the Service Provider technical information that might be subject to the Israeli defense export control law or foreign export control law, the Service Provider undertakes to use the information solely for the purpose of fulfilling its undertakings in accordance with the Order and while protecting the duty of confidentiality applicable to the Service Provider, and further undertakes not to transfer and not to disclose the information to any third-party, including to its workers who were not born in Israel, except solely after obtaining the Client's prior and written approval. Upon completing performance of the Order, the Service Provider and any third-party on its behalf who received such technical information as stated, will return such information immediately to the Client and will declare that they do not possess any copy of the said information.

18. Conflict of interests

- 18.1. The Service Provider and anyone acting on its behalf hereby undertake that during the entire period of performance of the Order and the supply of the Ordered Item they will ensure that there will be no conflict of interests between them and the Client in respect of actions and/or works that they perform within the framework of their work with the Client.



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- 18.2. The Service Provider undertakes to incorporate in the contracts made with its employees and/or anyone performing works on its behalf sections that will prevent a conflict of interests between the work that is performed for the Client and the work for other customers.
 - 18.3. Without derogating from the foregoing, in any event of a concern about a conflict of interests during the performance of the Order for the Client, the Service Provider undertakes to deliver written notice to the Client immediately after learning about the concern of a conflict of interests.
19. **Security and confidentiality**
- 19.1. The Service Provider declares that it is aware that the Ordered Item is intended for Tomer Government Company Ltd. (i.e., the Client), and the Service Provider undertakes that it and its workers and anyone related to the performance of the Order will keep in confidence and will not disclose to others any information relating to the Order and any information relating to its performance.
 - 19.2. The Service Provider undertakes that it and any person on its behalf in connection with the performance of the Order will observe all safety instructions, including instructions regarding special arrangements that are required in the Service Provider's offices, including anything related to the transportation and movement with classified materials outside the Client's premises or to the Service Provider's offices after they received security clearance for the performance of such actions, will observe the instructions of the security officer on behalf of the Client and will sign an undertaking of confidentiality, upon receiving the Client's request. The Service Provider declares that it is aware that the entry of any person to the Client's facilities and premises is conditional upon obtaining prior security clearance from the Client and that the Client's decision for the purpose of this matter is final.
 - 19.3. The Service Provider undertakes to employ only workers who obtained proper security clearance from the security officer of the Client and will not replace them without obtaining the Client's prior approval in



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connection therewith. For the purpose of obtaining such approval as stated, the Service Provider will provide to the Client's representative, no less than 14 days prior to the commencement of the Order, the list of workers that the Service Provider will employ regularly in the performance of the Order and any other particular in connection therewith, as may be required. For the avoidance of doubt, it is clarified that failure to provide security clearance to the workers shall not release the Service Provider from its responsibility for the performance of the works subject matter of the Order. The Service Provider further acknowledges that the security officer is entitled to withhold approval to a person to perform the works required in accordance with the Order for reasons relating to security clearance, and without giving reasons for his decision.

- 19.4. The Client shall be entitled to demand the expulsion from the facility of any worker employed by the Service Provider, and the Service Provider undertakes to expel such a worker immediately upon receiving the Client's demand to that effect.
- 19.5. The security classification of the documents related to performing an Order shall be in accordance with the classification determined by Tomer's representative. If no classification is specified on a document – the Service Provider undertakes to contact Tomer's representatives to obtain the document's classification.
- 19.6. All materials related to performance of the Order shall be stored by the Service Provider in a locked place, which will be accessible solely to the Service Provider's authorized representatives. The Service Provider shall keep the information stored on a computer at its facilities in coded folders only.
- 19.7. Any information that will reach the Service Provider and its employees in connection with the performance of the Order is confidential and the Service Provider undertakes to keep it confidential and not to transfer, inform, deliver or bring this information to the attention of any person, not to publish this information and not to allow its employees to publish anything related to and/or involved in the performance of the



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work and/or resulting from its performance, and not to copy the information and/or allow others to reproduce, copy, print or any other form of copying the information or part thereof except solely for the purpose of performing the Order.

- 19.8. The cost of performing security checks and security instructions, including with regard to the provision of security training to the Service Provider's employees and offices, shall be borne exclusively by the Service Provider, unless otherwise agreed with the Client in advance.
- 19.9. The Service Provider shall appoint, from among its employees, a security trustee whose job it is to monitor the performance of the above mentioned security instructions, and the security instructions that shall be given to the Service Provider from time to time by the security supervisor at Tomer or someone on his behalf. If the Service Provider has not appointed a security trustee, the Service Provider's manager shall serve as security trustee.
- 19.10. The Service Provider also undertakes to take all measures so that this confidentiality is maintained.
- 19.11. The Service Provider hereby declares that it is aware that failure to fulfill its undertakings according to Sections 19.1, 19.7, 19.10 above constitutes an offense according to Sections 117, 118, 119 of the Penal Law 5737-1977.
- 19.12. The provisions set forth in this section above shall add to, and shall not derogate from the undertakings of the Service Provider in accordance with the provisions set forth in any non-disclosure agreement made between the Service Provider and the Client.
- 19.13. In the event the Service Provider failed to act in accordance with the provisions set forth in this section including sub-sections thereof, in whole or in part, the Client shall be entitled to cancel the Order forthwith.



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20. Tort liability and indemnity for damage

- 20.1. The Service Provider shall be held liable in accordance with any law for any personal injury or damage to property caused to the Client for any reason and under any circumstances, its workers and/or anyone acting on its behalf or to any person staying in its premises or to any third-party as a result of an act or omission of the Service Provider or its workers or anyone acting on its behalf in connection with the performance of the Order.
- 20.2. The Service Provider shall be held liable for any loss and/or damage caused to the Client and/or to any third-party as a result of an unlawful act or omission committed by the Service Provider or anyone acting on its behalf or as a result of a professional error of the Service Provider or anyone acting on its behalf and/or an error and/or an omission and/or neglect in the fulfillment of its professional duties and/or as a result of the use of defective materials or accessories and/or the violation of the provisions set forth in the law that apply to safety at work, including the Organization of Labor Inspection Law 5713-1954, the Safety at Work Law (New Version), 5730-1970, the Safety at Work Regulations (Personal Protective Equipment) 5757-1997, the Safety at Work Regulations (First Aid in Work Places) 5748-1988 and all regulations and orders promulgated thereunder. The liability of the Service Provider shall apply also to any event of negligence detected after expiration of the term of the contractual agreement.
- 20.3. The Service Provider undertakes to compensate the Client for any harm, loss, damage or expense for which the Service Provider is held liable in accordance with the provisions set forth in this chapter or in accordance with the provisions set forth in any law, and the Service Provider undertakes to indemnify the Client for any expense incurred by the Client as a result of a claim brought against the Client by any party in respect of damage, injury or accident for which the Service Provider is held liable in accordance with the provisions set forth in this chapter and in accordance with the provisions set forth in any law, following a judgment given by a competent court or a settlement



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agreement, on the condition that a notice regarding the claim is delivered to the Service Provider and that the Service Provider is afforded an opportunity to defend against the claim.

- 20.4. Any amount that the Service Provider is obligated to pay to the Client in accordance with this chapter will be offset from the payments that the Client owes to the Service Provider, without derogating from the right of the Client to commence legal action in accordance with the provisions set forth in any law.
- 20.5. It is hereby emphasized that the Client shall be under no obligation to compensate the Service Provider and/or any person on its behalf and/or any third-party in respect of any damage caused as a result of the unlawful performance of the Order by the Service Provider and/or a negligent performance of the Order and/or performance in contravention of the provisions set forth in these General Terms and Conditions and the accompanying documents, and the Service Provider shall be solely liable in connection therewith.

21. **Warranty for non-conformity**

- 21.1. The Service Provider shall provide warranty for any non-conformity, malfunction or defect and/or failure to meet the required quality standards pursuant to the provisions of Section 5 above (hereinafter: the "Non-Conformity") detected in the Ordered Item and that stem from defects in materials and/or in labor and/or design of the Ordered Item and/or their Non-Conformity to the specifications and/or the models for a period of twelve (12) months as of the date of accepting and receiving the Ordered Item in the Client's premises by the Client, unless the parties agreed on another warranty period and this was noted in the Order documents or in the other contractual agreement documents. In circumstances of covert defects, the warranty period will be ten (10) years for each covert defect, unless otherwise stated in the Order terms and conditions and with respect to any defect that might be detected as a result of a defective design, quality of work, material or performance.



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- 21.2. The Client will notify the Service Provider regarding any Non-Conformity within three (3) months of the date of learning about the Non-Conformity.
- 21.3. The provisions of Sections 13, 14 and 15 of the Sale Law 5728-1968 and the provisions of Section 3 of the Contractor Contract Law 5734-1974 and any other provision requiring that the Client inspect the Ordered Item or notify regarding any Non-Conformity therein shall not apply to the Order. In addition, no provision limiting the rights of the Client in the event of failure to conduct an inspection or failure to deliver notice regarding such a Non-Conformity shall apply to the Order.
- 21.4. Without derogating from any other right of the Client in accordance with the Order or in accordance with the law, the Service Provider undertakes to repair and/or replace, immediately upon receiving the Client's request, any Non-conformity at its expense, and compensate the Client for the full damage or loss that were caused or that will be caused to it as a result of the Non-Conformity, including compensation for hours of work and materials that the Client invested in the Ordered Item after its acceptance, in the event the Non-Conformity was not detected in the acceptance test. The decision regarding the reasons for the malfunction, the manner of repair (including a decision regarding the need to replace or settling for the repair) and the level of liability of the Service Provider shall be made by the Client. The Service Provider will cooperate with any investigation of a malfunction conducted by the Client, and will perform by itself and at its expense, upon receiving the Client's request, an investigation of such a malfunction as stated.
- 21.5. Any replacement and/or repair as a result of a Non-Conformity will be performed within 30 days of the date of receiving the Client's notice regarding a Non-Conformity, or within any other date to be agreed between the parties, and in the event the Service Provider fails to act in the manner required fully during this period of time, the Client shall be entitled, but not obligated, to replace or repair the Non-Conformity in person and to charge the Service Provider the expenses for said repair



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or replacement, and for all losses caused to the Client in connection therewith.

21.6. Notwithstanding the provisions of this section above, in the event that any Non-Conformities were detected in the Ordered Item stemming from an act or omission of the Service Provider, the Client shall be entitled, at its sole discretion, to inspect the Ordered Item and accept it notwithstanding the existence of such Non-Conformities as stated. The Service Provider shall incur the costs of said inspection and the Client shall be entitled to offset them from the consideration. The aforesaid shall not constitute an undertaking of the Client to conduct this inspection and/or accept the Ordered Item, and the Client reserves its right to cancel the Order, even after conducting said inspections in respect of the Non-Conformity that was detected.

21.7. The period of time as of the date in which the Client delivered notice to the Service Provider regarding the non-conformity and until the Client grants its approval to the proper repair of the non-conformity will be added to the warranty period.

22. **Guarantee**

22.1. In order to secure its undertakings in accordance with the Order, in whole or in part, and at the request of the Client, the Service Provider will issue at its expense, for the benefit of the Client, an "A" class bank autonomous guarantee(s) that will be used as a down payment guarantee and/or performance guarantee, in a format to be approved by the Client. Acceptance of the guarantee(s) as aforesaid, does not derogate from the Client's other rights under any law and/or under the terms of the Order.

23. **Insurance**

23.1. The Service Provider undertakes to take out at its expense insurance coverage, 7 days prior to the commencement of the Order, at its expense, and maintain such insurance during all relevant times to this contractual agreement, and as long as the Service Provider is held liable under this document and Appendices thereof and/or in accordance



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with the provisions set forth in any law, its liability and the liability of Tomer and their workers in respect of and/or in connection with the supply made under the Order, and for insurance coverage that will not fall below the insurance coverage and the liability limits and the terms set forth in the form attached as **Appendix A**, constituting an integral part of these Terms and Conditions.

At the time of signing the Order, and during the entire period the Order is in effect, and as long as the Supplier might be held liable in accordance with the law in connection with the supplied items/services, the Service Provider will provide Tomer an approval of the insurance covers in accordance with appendix A, signed by his insurer and / or insurance broker.

The Service Provider will once again present the approval upon expiration of each insurance term without receiving any request from Tomer in connection therewith, 14 days prior to the expiration of the policy at any time.

- 23.2. The Service Provider shall solely incur at its expense the insurance premiums costs and the deductibles set out in the policies as stated in the Insurance Appendix.
- 23.3. In the event of damage to the Client's property as a result of the supply subject matter of the Order, the insurance benefits, if due, will be paid to the Client.
- 23.4. The Service Provider undertakes to provide to the Client, immediately upon receiving its request, the insurance policies as stated in the Order, and observe all terms set forth in the policies and cooperate with the Client for the purpose of realizing them when necessary.
- 23.5. In the event the Service Provider fails to provide the insurance coverage that the Service Provider is required to take out in accordance with the provisions set forth in the Order, the Client shall be entitled, but not obligated, to perform them in lieu of the Service Provider (in whole or in part) and deduct the insurance expenses from any amount due to the Service Provider from the Client at any time, without derogating from



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the right of the Client to collect said expenses from the Service Provider in any other lawful manner it deems fit, with the addition of 15% overhead expenses.

- 23.6. In the event the Client arranged the insurance coverage as stated, the Service Provider shall be entitled to inspect the insurance policy in the Client's offices.
- 23.7. The Service Provider undertakes to notify the Client and the insurance companies regarding any damage, accident or an insured event that occurred during the supply contemplated in the Order immediately after the occurrence of the event.
- 23.8. These provisions shall be without prejudice from any obligation or undertaking of the Service Provider in accordance with the Order, and arrangement of said insurance coverage shall not release the Service Provider from any statutory liability and for any other liability not covered under the said insurance coverage for any reason.

24. Compensation for a delay in supply

- 24.1. In any event in which the actual supply date was later than the supply date set out between the parties in the Special Terms and Conditions, the Service Provider will compensate the Client for the delay.
- 24.2. The compensation rate shall apply to the price set out in the Order (with respect to that part that was supplied after a delay) and will be updated according to the linkage terms in the Order. Calculation of the compensation shall apply to the price components paid as down payments.
- 24.3. The compensation rate will be 1% for each month of delay for the period of the first 10 months. In respect of Orders whose supply date exceeds 36 months, the compensation rate will be ½% for each month of delay for the period of the first 20 months. In any event the cumulative compensation will not be greater than 10% of the real value of the Ordered Item that is delayed.



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- 24.4. A "month" or a "month of delay" according to Gregorian calendar shall mean also part of that month as stated, including one day.
- 24.5. The "price in the Order" for the purpose of calculating the liquidated damages shall mean the entire consideration stated in the Order and which includes all taxes and levies that apply to the items, the work and/or the service subject matter of the Order.
- 24.6. Calculation of the compensation in partial supply will be made with respect to each supply separately.
- 24.7. The compensation amount that will be calculated will be subtracted from the amounts due to the Service Provider with the performance of the Order.

25. Offset and retention of payments

- 25.1. The Client shall be entitled to offset any amount that the Service Provider will owe the Client against any amount that the Client is expected to pay the Service Provider in accordance with the Order, and/or by virtue of any agreement/order and/or under any law without giving offset notice, including expenses, costs and damages caused to the Client, including the liquidated damages amounts.
- 25.2. The Client shall be entitled to withhold payments due to the Client in the event Service Provider fails to fulfill its undertakings in accordance with the Order or in any other agreement. No interest or linkage will be paid in respect of withholding of such payments as stated.

26. No employer-employee relationship

- 26.1. The Service Provider declares and affirms that it acts as an independent contractor and that the workers on its behalf are the Service Provider's workers, and that no employer-employee relationship is maintained or will be maintained between them and the Client, and the Service Provider further declares that it is not an agent or an officer or an



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official representative on behalf of Tomer and undertakes not to represent itself as such. The Service Provider acknowledges that the Client contracted with it in the Order based on this representation.

- 26.2. The Service Provider shall be responsible for making all payments applicable to an employer due from the Service Provider to the tax authorities, to the National Insurance Institute, social-benefit payments etc. for the work of anyone working on its behalf performing the Order and supplying the Ordered Item.
- 26.3. The Service Provider's workers will be under the supervision, care, control and responsibility of the Service Provider and the Service Provider shall solely incur all expenses in connection with the performance of its services to the Client, including payment of wages, social-benefit payments and any other or additional payment applicable to the employer for its workers, including the terms of their work and employment, and will deposit all social-benefit payments as required in accordance with the provisions set forth in any law. The Service Provider undertakes to observe the provisions set forth in labor laws during the entire period of the Order with respect to the workers employed by the Service Provider in the performance of the Order and the provisions set forth in the general collective agreements and in the manner said agreements will be amended or updated in the future, including the relevant extension orders in the sector of the Service Provider's workers.
- 26.4. The parties agree and declare that in the event a competent court decides, notwithstanding the provisions and declarations set out in the Order, that the Service Provider or anyone acting on its behalf is in a status of the Client's employee, the Service Provider will indemnify the Client, upon receiving its first written request, for any expense, damage and/or payment the Client incurs or will incur in connection therewith, as follows:
- (1) The consideration to the Service Provider will be replaced by the consideration to the "employee" according to the wages paid to the Client's worker in a rank, seniority and rank that are



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appropriate to the skills and the education of the Service Provider.

- (2) The Service Provider will be required to return to the Client forthwith any amount paid to the Service Provider as of the commencement date of the contractual agreement (including VAT) and that is greater than the consideration to the "employee" in accordance with the provisions set forth above, in addition to statutory linkage differentials and interest.
- (3) In the event the Client is required or obligated to pay to the Service Provider or anyone acting on its behalf any amount according to the decision of a competent authority stating that the contractor on behalf of the Service Provider is an "employee," said payments will be calculated according to the consideration to the "employee" in accordance with the provisions set forth above.
- (4) In the event the Client is required or is obligated to pay any amount to a third-party or to an authority following a decision of competent authority stating that the contractor was the Client's employee, the Service Provider will indemnify the Client for the entire liability as stated.
- (5) The Client shall be entitled to offset from any amount due to the Service Provider, if due, the amounts of the return or indemnity due to the Client from the Service Provider.

27. Employment of foreign workers in Israel

In the event the Service Provider employs foreign workers in Israel, the Service Provider hereby undertakes to employ said workers in accordance with the provisions set forth in any law, including in accordance with the provisions of the Foreign Workers Law 5751-1991, the Employment Service Law 5719-1959 and the regulations promulgated thereunder.



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28. **Force majeure**

"*Force majeure*" shall mean an event or a cause that, at the time of signing the Agreement, the Client and/or the Service Provider had no knowledge of and/or did not foresee such an event and/or could not have known or have foreseen such an event, and that is beyond their control, and that constitutes an extraordinary and unforeseeable event and that, despite applying proper measures for the purpose of preventing such an event, the Client or the Service Provider could not have fulfilled their undertakings in accordance with the Agreement and/or that caused that the fulfillment of their undertakings will be impossible or materially different than the one agreed, under the same circumstances between the parties, such as a fire, pandemic, natural disasters, floods, compulsory enlistment for military service or war.

In any event in which the circumstances of a *force majeure* arose and these prevent the parties to fulfill their undertakings in accordance with this Agreement, said party will deliver notice to the other party regarding their existence, as shortly as possible after the date of occurrence of the event. Upon delivery of notice regarding the occurrence of a *force majeure* event, the mutual undertakings of both parties will be suspended until the *force majeure* event is eliminated, and the time for the fulfillment of the undertakings will be extended accordingly by a period of time corresponding to the continuation of the *force majeure* event, unless one party proved to the other party that it requires a longer period of time. However, the party that is affected by circumstances of a *force majeure* event will apply all measures for the purpose of eliminating the delay.

In the event the delay continued for more than 90 days, each of the parties shall be entitled to terminate the contractual agreement without paying compensation to the other party.

29. **Prohibition on assignment**

The Service Provider may not assign the Order, in whole or in part, or assign any right it may have in accordance with the Order towards the Client, and shall not be entitled to engage, for the purpose of performing the Order or any part



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thereof, with a third-party, without obtaining first the Client's written approval. Such approval as said, if granted, will not give rise to any contractual relationships between the Client and a third-party and the Service Provider shall be held liable towards the Client for the performance of the Order including all terms thereof even if it transfers, assigns, endorses or delivers the fulfillment of its undertakings or any part thereof to another. Such a transfer, assignment, endorsement or delivery as stated without obtaining the prior and written approval of the Client shall be deemed as null and void. The Client shall grant such approval at its discretion, and without giving reasons for its consent or refusal.

The Client shall be entitled to assign and/or endorse its rights and/or obligations in accordance with the Order without obtaining the approval and/or consent of the Service Provider in connection therewith, by delivery of notice to the Service Provider, provided that the rights of the Service Provider in accordance with this Agreement shall not be impaired thereby.

30. **No exclusivity**: The Client reserves the right to engage with any service provider and/or any other entity that provides products/goods/services/materials that are identical or similar to the Ordered Item and/or that are used for the same purpose, and the Service Provider may not argue to the Client that it is its exclusive service provider.
31. **Acceptance of Order**: Commencement of the performance of the Order by the Service Provider or the delivery of the Ordered Item to the Client, in whole or in part, shall be deemed as the consent of the Service Provider for the acceptance of the Order including all terms thereof, even if the Order was not signed by the Service Provider.
32. **Waiver**: No waiver, avoidance from action or an extension granted by the Client shall be deemed as waiver of its rights in accordance with the Order and shall not give rise to a preclusion to a claim, unless the Client executed such waiver



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expressly and in writing. It is emphasized that such waiver as stated shall be in effect only if granted by the authorized signatories or their substitutes who signed the Order.

33. **Applicable Law and Jurisdiction:** The Order and these General Terms and Conditions shall be governed, construed and interpreted in accordance with the laws of Israel. The Magistrates Court or District Court of Tel Aviv (as the case may be) shall have exclusive jurisdiction with respect to any claim that might be brought in connection with the Order.
34. **Notices:** Any notice in connection with the Order shall be delivered in writing and shall be delivered in person or by registered mail to the address stated in the Order. Notices on behalf of the Client shall be in effect only if signed by the authorized signatories who signed the Order or their substitutes.

Service Provider Name

ID. No./License Dealer
No./Private Company Reg. No.

Date

Service Provider Signature



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Appendix A

CERTIFICATE OF INSURANCE							Date of issue:
This certificate is confirmation that the insured holds a valid insurance policy, in accordance with the particulars appearing therein. The information contained in this certificate does not include all of the terms, conditions and exclusions of the policy. Nonetheless, in the event of any discrepancy between the conditions appearing in this certificate and the conditions appearing in the insurance policy – that stated in the insurance policy will prevail other than in a case where the conditions of this certificate improve the situation of the party applying for the certificate (hereinafter: “the Certificate holder”).							
The certificate holder		The insured		Nature of business		The certificate holder Status	
Tomer and/or Ministry of defence and /or employees of the above				<input type="checkbox"/> Real Estate <input checked="" type="checkbox"/> Services <input checked="" type="checkbox"/> Product supply <input checked="" type="checkbox"/> Other: _____		<input type="checkbox"/> Lessor <input type="checkbox"/> Lessee <input type="checkbox"/> Franchiser <input type="checkbox"/> Subcontractor <input checked="" type="checkbox"/> Service recipient <input checked="" type="checkbox"/> Product recipient <input type="checkbox"/> Other: _____	
I.D. number / company no.		I.D. number / company no.					
Address		Address					
Covers							
Type of insurance	Policy no.	Policy wording and edition	Inception date	Expiry date	Limits of liability / sums insured		Other valid covers / extensions
					Amount	Currency	
General liability / Third party Liability					250,000	\$	302 - Cross liability clause 304 - Extension of indemnity clause 309 - Waiver of the right of subrogation in favour of the Certificate holder 315 - Claims of the National Insurance Institute 328 – primacy 329 The Certificate holder will be considered as a third party
Employers liability / Worker's compensation							309 - Waiver of the right of subrogation in favour of the Certificate holder 319 – The certificate holder will be considered as an employer of the insured's employees 328 - primacy
Product liability					500,000	\$	302 - Cross liability clause 304 - Extension of indemnity clause 309 - Waiver of the right of subrogation in favour of the Certificate holder 328 - primacy 332 - Extended discovery period - 6 months
Details of the services (subject to the services specified in the agreement between the insured and the certificate holder)							
046 Sale / purchase / rental of equipment							
Cancellation / amendment to the policy							
Any amendment to the detriment of the Certificate holder or cancellation of the insurance policy shall only take effect 60 days after notice has been sent to the Certificate holder concerning the amendment or the cancellation.							



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CERTIFICATE OF INSURANCE	
Signature	Date of issue:
The insurer:	