

General Purchasing Terms and Conditions for Deliveries of Goods to Körber Group Companies in Malaysia (February 2020)

1. Scope of Validity

- 1.1. Deliveries from the Contractor (CR) to companies of the Körber Group with their registered office in Malaysia as the Customer (CS) shall be undertaken in accordance with these Purchasing Terms and Conditions as well as any other written agreements. The General Business Terms and Conditions of the CR shall not, as a whole, become contractual content even if the CS has not expressly objected to them. This shall also be valid if the CR specifically emphasizes that he wishes to supply only in accordance with his General Business Terms and Conditions or the CS, in the individual case, does not expressly object to the CR's General Business Terms and Conditions or accepts the deliveries unconditionally.
- 1.2. All deliveries referred to in these Purchasing Terms and Conditions shall be the delivery of goods/products by the CR in accordance with an order that has been issued by the CS (Delivery of Goods).
- 1.3. These Purchasing Terms and Conditions shall be valid until their revocation by the CS – including for all future deliveries by the CR – even if they have not once again been expressly agreed. Any agreed deviations shall be valid only for the delivery for which they have been confirmed in writing.

2. Orders

- 2.1. Orders issued by the CS must be in writing or by electronic means. In the event an order is made orally, such orders must be confirmed in writing or by electronic means by the CS and the order number must be specified. This shall also be applicable for any oral ancillary agreements made between the parties or any amendment to an order that has been issued.

Each such order by the CS for the Delivery of Goods shall specify and include:

- (a) The specific items of the goods to be supplied;
- (b) The quantity thereof;
- (c) The designated destination of delivery thereof; and
- (d) The unit and the total prices thereof.

The CR shall accept an order issued by the CS by signing off to a prescribed form and return such form to the CS, unless agreed otherwise between the parties.

- 2.2. Once the CR receives an order for the Delivery of Goods to the CS, the acceptance of the order must be confirmed in writing by the CR within 5 working days (Monday to Friday). Upon such acceptance, a legally binding contract shall arise between the CR and the CS in respect of the accepted order.

Once the time for acceptance has lapsed, the CS

shall be entitled to cancel the order, free-of-charge

- 2.3. No rights against the CS may be derived from commitments made, information, consulting, etc. that have been provided orally or by telephone – except in the event of gross negligence upon the part of the CS. Such oral declarations shall be binding for the CS only if they have been confirmed in writing by the CS or if the CS has demonstrably waived the written form requirement.
- 2.4. The CS's order number must be stated on all written correspondence, on the invoices and on the shipping documents.
- 2.5. The CS may demand changes to the order – even after acceptance has been made by the CR, insofar as this is reasonable for the CR. In such a case, insofar as it is required, the prices and delivery timeframes must be appropriately adjusted.
- 2.6. Without the CS's prior written consent, the CR shall not be entitled to commission third parties with the implementation of the delivery as a whole or with essential portions thereof.
- 2.7. The CR shall ensure that both the delivery and also replacement parts can be supplied at appropriate conditions to the CS for 15 years after the delivery is made. If, after the passage of the timeframe, the CR intends to discontinue the delivery or replacement parts for it, then the CR shall be obliged to promptly notify the CS of this in writing and give him the opportunity to submit a last order.

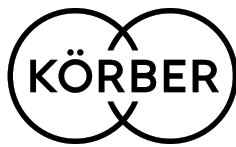
3. Scope of Delivery

- 3.1. The scope of delivery shall be as stated in the order issued by the CS.
- 3.2. Insofar as they are necessary, any required protective devices, original documentation as well as storage, mounting and operational instructions as well as safety data sheets issued in the English language must also be supplied by the CR upon a free-of-charge basis. The same shall be valid for documents which are required for maintenance and repairs for the delivery.
- 3.3. Insofar as this is economically and technically feasible, the CR shall be obliged to use environmentally-friendly products and processes. Upon the CS's request, the CR shall, upon a free-of-charge basis, issue a quality inspection certificate for the supplied goods.

4. Delivery, Transfer of Risk, Documents, Packaging

- 4.1. Any reference made to any Incoterms shall be a reference to Incoterm 2020 issued by the International Chamber of Commerce unless otherwise agreed by the parties in writing.

All domestic delivery of Goods or any order shall be in accordance with the DPU Incoterms rule.



All international delivery of Goods or any order shall be in accordance with the DDP Incoterms rule. Delivery shall be affected to the destination provided by the CS on the date of or within the period stipulated in the order issued by the CS.

The delivery destination shall be stipulated in the orders issued by the CS. In the event a delivery destination is not specified in any order issued, the delivery destination shall be the CS's commercial residence.

- 4.2. The transfer of risk shall be undertaken in accordance with the agreed Incoterms.
- 4.3. The CR shall promptly notify the CS as soon as the goods that are the subject matter of a delivery order are despatched. Partial deliveries are permissible only with the prior written consent of the CS
- 4.4. The delivery papers/delivery documentation must comply in all respects with the relevant Incoterms rule. Such delivery papers / delivery documentation shall also specify and include:
 - (a) the ordered items;
 - (b) the quantity thereof;
 - (c) the weight thereof;
 - (d) the packaging;
 - (e) the shipping method;
 - (f) the proper labelling thereof; and
 - (g) CS's order number and its tracking number.
- 4.5. The manner for packing, packaging and marking for delivery of any orders must be to the satisfaction of the CS at the delivery destination or its premises. The CS shall be entitled, if it so chooses, to return such packaging, not to its satisfaction to the CR or to dispose of it, at the expense of the CR.

For any packaging that has been separately invoiced, the CR shall reimburse 2/3 of the invoiced value to the CS insofar as such packaging is returned in good condition.

5. Delivery Timeframe, Contractual Penalty, Substitute Performance

- 5.1. All agreed dates and times for the performance of the Delivery of Goods of an order at the designated destination of the CS shall be of the essence and shall be binding, and any changes thereto shall require the prior written approval of the CS. The parties hereby agree that a Delivery of Goods will only be considered completed when such Delivery of Goods is accepted by the CS without reservations or conditions at the designated destination.

All Delivery of Goods must be made during customary business hours. The CR is obliged to ask the CS its customary business hours.

- 5.2. An early delivery may only then be made subject to the CS's written consent and shall not affect the agreed payment timeframe.
- 5.3. If it is foreseeable that a deadline will not be met, the CR shall inform the CS forthwith and in writing, stating the reasons of such delay and the anticipated duration of such delay. In such case, the CR shall do all things necessary to ensure that the delivery of the order to the CS is not disrupted

including procuring from alternative sources. All additional costs and expenses incurred in respect of the above, including the costs and expenses of any such procuring from alternative sources, shall be borne by the CR.

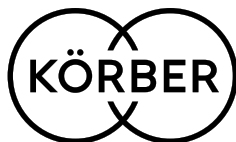
- 5.4. The time stipulated for delivery of an order shall be of the essence. The CR hereby acknowledges that failure to meet any scheduled delivery date(s) may have a serious consequential effect on the CS's business. In view of this, the CR hereby agrees that in the event of delay of the CR in delivering, or failure by the CR to deliver, any such order in accordance with the order issued by CS, the CR shall:
 - (a) pay to the CS liquidated ascertained damages which shall amount to 5% of the respective order value; and
 - (b) be absolutely liable for, and shall defend, indemnify and hold harmless the CS, and shall keep CS indemnified at all times, for all costs, losses, expenses, damages, claims and/or liabilities suffered, sustained and/or incurred by the CS arising from such delay in delivery, or non-delivery of any such order. Such costs, losses, expenses, damages, claims and/or liabilities shall include, and is not limited to, the following:
 - i. liquidated damages, penalties and claims imposed on the CS by its customers in relation to and due to the delay in delivery, or non-delivery of such order; and
 - ii. any incremental costs such as transportation costs.

The parties acknowledge and agree that the CS's election to enforce Clause 5.4(b) shall be in lieu of its right to claim for liquidated damages as set out in Clause 5.4(a) above

- 5.5. Furthermore, after the fruitless lapsing of a notice period that has been appropriately set by the CS, the CS shall be entitled to have the delivery rendered by a third party at the CR's expense. In this case, the CR shall be obliged to promptly hand out the required documents to the CS. Insofar as proprietary rights hinder the delivery being made by third parties, the CR shall be obliged to promptly obtain a corresponding exemption from these rights.
- 5.6. The rights of the CS in this section 5 are cumulative with and in addition to any other rights or remedies available to the CS under these Purchasing Terms and Conditions, any Order, at law or in equity. The acceptance by the CS of any late Delivery of Goods shall not in any way be regarded as a waiver of the right of the CS to claim damages and/or compensation occasioned by such late Delivery of Goods.

6. Delivery Disruption and Rescission

- 6.1. The CR and the CS shall not be under any liability to the other party in any way whatsoever for failure or delay to perform any term herein or in any order which are unforeseen at the time of execution of these Purchasing Terms and Conditions



and the terms of any such order, which are beyond the reasonable control of either party. This shall include, but is not limited to, any cause arising out of war, rebellion, civil commotion, strikes, lock-outs and industrial disputes, fire, explosion, landslide, unpredictable transportation breakdown, other acts of God or the requisitioning or other act or order by any governmental department, council or constituted body.

- 6.2. If a party is unable to perform as a direct result of the effect of any of the foregoing events, that party shall within 7 days of the occurrence of such event give written notice to the other party of the inability which sets out details of the event in question and provides a statement of the possible steps to be taken to circumvent or negate the effect of such event as well as an estimate of the time that such steps may take. The operation of these Purchasing Terms and Conditions and/or such order shall be suspended during the period (and only during the period) in which the effect of such event continues.

If the effect of such event continues for a period of more than 30 days and substantially affects the commercial intention of these Purchasing Terms and Conditions and/or any other written agreement between the parties, the party not claiming relief under this clause shall have the right to terminate such order upon giving 30 days written notice to the other party.

- 6.3. The CS shall be entitled to exercise the statutory rights of rescission.
- 6.4. If the CS, in whole or in part, withdraws from the contractual agreement, the CR's payment claims shall be forfeited. Any advance payments must be promptly reimbursed to the CS and without any deductions. No right of retention upon the part of the CR shall exist.
- 6.5. These Purchasing Terms and Conditions and any other written agreement between the parties shall be terminated by the CS upon the issuance of a written termination notice in the event the CR becomes insolvent or if an order is made or a resolution is passed for the winding-up of the CR (other than voluntarily for the purpose of solvent amalgamation or reconstruction), or if an administrator, administrative receiver or receiver is appointed in respect of the whole or any part of the CR's assets or business, or if the CR makes any composition with its creditors or takes or suffers any similar or analogous action in consequence of debt.

In the event of the above, the CS shall be entitled to utilise the equipment required for the continuation of the work or any Delivery of Goods batches previously made by the CR for an appropriate fee.

7. Place of Performance

Unless agreed to the contrary in writing, the place of performance for all supply obligations shall be the delivery destination designated by the CS. If no such delivery destination has been designated, the place of performance shall be the CS's commercial residence.

8. Prices

- 8.1. The price of any order issued by the CS is fixed and shall exclude any subsequent payment claims of any kind.

The prices shall be understood to be in accordance with the agreed Incoterms rule (Incoterms 2020) whereby such prices indicated by the CR shall be without any sales and services tax, value added tax or any similar tax, and any other duties, taxes, levies or import taxes whatsoever (including packaging) unless agreed otherwise between the parties. The price components must be separately indicated by the CR.

- 8.2. The CS shall pay no fees for visits, samples, models, or the drafting of offers, project design work, etc.

9. Payment Terms and Conditions

- 9.1. The payment shall be made in the payment methods chosen by the CS.

- 9.2. The CS shall pay for any order upon the receipt of a Proper Invoice in accordance with Clause 9.3 below, provided that such delivery has been rendered in full and such items delivered have been accepted by the CS. Any early delivery or partial delivery shall not affect the payment timeframe as agreed in writing between the parties.

- 9.3. All invoices issued by the CR must correspond with the information in the order issued by the CS and shall include the following information:

- CR's invoice number;
 - date of invoice;
 - CS's Order number;
 - date specified in order;
 - itemisation of price;
 - CR's bank and payment information; and
 - other classification characteristics
- ("Proper Invoice")

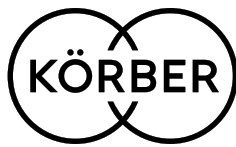
Any invoices that are not in accordance with the requirements above shall be corrected and re-submitted to the CS.

- 9.4. Provided that the services have been completely performed, supplied, delivered and/or accepted in accordance with the terms herein to the satisfaction of the CS, the CS shall pay the invoiced amount as follows:

- the CS shall pay the invoiced amount in accordance with this Clause 9.4 within 60 days from the CS's receipt of a Proper Invoice;
- if payment is made by the CS within 30 days from the CS's receipt of a Proper Invoice, then the CS shall be entitled to a 3% discount on the total invoiced amount; and
- if payment is made by the CS after 30 days from the CS's receipt of a Proper Invoice, then the CS shall pay the total invoiced amount.

For the avoidance of doubt:

- the discount shall also be permitted if the CS makes an off-setting or withholds payment owing to defects in respect of the goods/products delivered; and



- (b) the discount timeframe shall begin to run after the CR makes good any defects in respect of the goods/products delivered (if any) in accordance with these Purchasing Terms and Conditions.

Notwithstanding the above, the CS shall be entitled to dispute any invoices issued by the CR. In the event of any such dispute, the CS reserves the right to withhold or suspend payment until such dispute is resolved amicably

- 9.5. The CR shall issue a warning letter to the CS in the event the CS fails to pay for the Delivery of Goods. The CS shall not enter into any payment default without the prior issuance of a warning letter from the CR to the CS.
- 9.6. Without prejudice to any other rights of the CS in accordance with these Purchasing Terms and Conditions, the CS may retain any payment due and/or deduct/set-off from any payment due or which may become due to the CR:
 - (a) for any compensation and/or liquidated damages specified in these Purchasing Terms and Conditions and/or any debt or monies lawfully due and payable to the CS by the CR under these Purchasing Terms and Conditions; and
 - (b) for all liabilities of which the CS may have paid, suffered or incurred which the CR is lawfully liable to bear, pay and/or reimburse to the CS in accordance with these Purchasing Terms and Conditions.
- 9.7. Insofar as the CS must render payments before delivery is made (advance payments), the CR must issue corresponding bank guarantees from a Malaysian financial institution for the CS's benefit before the CS effects the payment.
- 9.8. Any payment made by the CS to the CR for any Delivery of Goods shall not constitute an unconditional acceptance of such goods/products delivered. The CS reserves the right to reject any damaged/defective/shortage of goods in accordance with these Purchasing Terms and Conditions herein and without limiting any right or remedy available to the CS at law or in equity (which includes the right to claim damages and/or specific performance). The CR hereby agrees that it shall bear all costs and/or expenses for replacing such damaged/defective/shortage of goods.
- 9.9. Without prejudice to the generality of the foregoing, in the event that any appropriate authority introduces any goods and services tax, value added tax or any similar tax (collectively referred to as "Consumption Tax"), and any other duties, taxes, levies or imposts whatsoever, and such Consumption Tax is required to be paid upon the supply of services by the CR to the CS pursuant to any order, these Purchasing Terms and Conditions and any other written agreement between the parties, then in accordance with the agreed Incoterm rule of Incoterms 2020, this is for the CS to bear unless otherwise agreed upon in writing between the parties

10. Assignment, Seizure, Retention of title

- 10.1. The CR may not assign, transfer or sub-contract

any part of these Purchasing Terms and Conditions and any other written agreements without the prior written consent of the CS.

The CR shall not assign its payment claims against the CS or have them collected by any third-party without the prior written consent of the CR.

- 10.2. The CR must promptly notify the CS of any seizures, attachments or other disposals by third parties with regards to the deliveries owed by the CR.

- 10.3. A retention of title upon the part of the CR shall be binding only if it was agreed in writing outside of the parameters of the CR's General Business Terms and Conditions.

The exercising of a retention of title by the CR shall be possible only in the event of the prior rescission of the contractual agreement.

11. Warranty

- 11.1. The CR shall guarantee that all deliveries are free from defects, correspond to the order and its specifications, are suitable for the contractual usage and exploitation and fulfil the currently accepted rules of technology as well as the applicable national and international legal directives including the directives and guidelines issued by government agencies, trade associations and professional associations. If the CR has doubts about the implementation method requested by the CS, he must promptly make notification of this in writing to the CS.

- 11.2. Unless agreed otherwise in writing, the warranty period shall amount to 24 months.

The warranty period shall begin to run upon the commissioning or the final acceptance of the delivery by the CS. If a commissioning or a final acceptance is not prescribed, the warranty period shall begin to run upon the delivery to the CS.

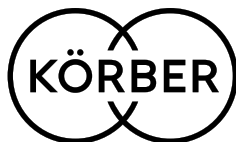
With regards to deliveries which the CS resells, the warranty period shall begin to run upon the commissioning or the final acceptance by the CS's end customer. If a commissioning or a final acceptance is not prescribed by the CS's end customer, the warranty period shall begin to run upon the delivery to the CS's end customer.

The warranty period shall end by no later than 36 months after the delivery is made to the designated delivery destination.

- 11.3. The CS shall examine the delivery within an appropriate timeframe for externally-recognizable quality and quantity deviations. Any defects that are discovered shall be promptly reported to the CR.

Any quality and quantity deviations which are not externally-recognizable shall be reported to the CR as soon as they have been discovered during ordinary business operations. The notification shall be considered to have been made promptly if it is submitted within a timeframe of 10 working days after the discovery of the defect.

- 11.4. In the event that bulk deliveries are made, the CS shall be obliged only to do random sampling. If it



is discovered that significant portions of the random sampling do not fulfil the contractual or statutory requirements, the CS shall be released from any obligation to conduct a follow-up inspection and shall be entitled to reject the entire delivery. The rejection of the delivery shall not constitute a declaration of the rescission of the contractual agreement.

11.5. The CR represents and warrants that if any defect of the goods/products results in the rejection of any Delivery of Goods by the CS, the CR shall:

- (a) replace such defective goods/products in accordance with these Purchasing Terms and Conditions, at no cost; and
- (b) take necessary measures to eliminate any further failure, defect, damage, deficiency or fault in the products/goods

The rights and remedies provided to the CS in this Clause 11.5 are cumulative and not exclusive of any rights or remedies provided by law or equity.

11.6. The CR shall bear all costs and/or expenditure in connection with the identification and rectification of any defects. Such costs and/or expenditure includes but are not limited to:

- (a) inspection costs;
- (b) dismantling and installation costs;
- (c) transport costs;
- (d) infrastructure costs;
- (e) labor costs;
- (f) material costs; and
- (g) travel costs.

Without prejudice to the CS's rights under these Purchasing Terms and Conditions, the CR's responsibility above extends to any increase in costs/expenditures even if the Goods are moved to a location other than the delivery destination

11.7. The CS shall give written notification the CR in respect of any defects, failures, shortages and/or damages to the delivered products/goods. In such written notification from the CS to the CR, the CS shall set a period in which such defect, failure, shortage and/or damage shall be replaced, made good and/or rectified ("Period of Rectification").

The CS reserves the right and absolute discretion to remedy and/or make good any defective goods/products whether or not the CR complies with the Period of Rectification

All costs in conjunction with the identification and/or rectification of the defect shall be borne solely by the CR.

11.8. Subject to reasonable prior written notification to the CR, the CS reserves the right to take measures, or commission a third-party, to make good any minor defects that may threaten the operational safety of the CS or any other third-party. All costs and/or expenditure incurred in this respect shall be borne solely by the CR.

Such prior written notification by the CS to the CR shall include the reason, type and scope of these measures.

For the avoidance of doubt, the CR's warranty obligation shall not be affected by this clause.

11.9. For deliveries or portions thereof which cannot be used by the CS or the CS's end customer for the duration of the defect and / or the elimination of the defect, the warranty period shall be extended by the duration of the usage disruption. For any rectified or replaced deliveries or portions thereof, the warranty period shall begin to run anew at the point in time when the defect is eliminated.

12. Third-Party Suits/Action

12.1. The CR shall be absolutely liable for and shall indemnify the CR for any damage, loss, cost and/or expense incurred in the event of death, personal injury and/or damage to property of any third-party arising out of or in connection with the goods delivered by the CR to the CS.

The CR and the CS shall promptly notify each other of any discovered risks of third-party actions and consult each other in advance with a view of settling the issue by mutual agreement.

12.2. The CR warrants that the goods delivered do not infringe upon any intellectual property rights of any third-party.

The CR shall fully indemnify the CS against all actions, damages, liabilities and costs of whatever nature arising out of the use and/or sale of the goods delivered by the CR in violation of any industrial and/or intellectual property rights.

13. Software

13.1. The CS shall be entitled to use the software from the delivery – including the documentation – in the scope which is required for the contractual usage of the delivery.

13.2. Before its delivery and installation, the CR shall inspect the software for viruses, Trojans or other computer malware by utilizing current, virus protection programs that are customary for the market.

14. Statutory Requirements, Quality Assurance, Product Liability

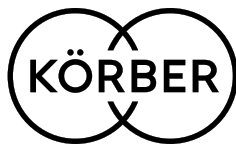
14.1. The CR's attention is drawn to the fact that the CS sells its products worldwide.

14.2. The CR represents, warrants and undertakes to observe all laws and regulations that is applicable to the Goods when performing its obligations in accordance with these Purchasing Terms and Conditions, especially laws and regulations in respect of accident prevention, industrial and machine safety and environmental protection.

14.3. The CR must implement a quality assurance process which, based upon the type and scope, is suitable and corresponds to the latest state of the technology and, upon request, document this to the CS.

Upon request, the CR shall conclude a corresponding Quality Assurance Agreement with the CS.

14.4. The CR shall ensure that all Delivery of Goods correspond to the CS's technical specification and orders issued by the CS. The CR shall keep records of the implemented inspection and ar-



chive all testing, measurement and controlling results of the delivered products for 10 years. In the course of such 10 years, the CS shall be entitled at any time to examine such documents and to make copies thereof.

- 14.5. Unless agreed otherwise in writing, the CR shall label the delivery goods in such a manner that they are permanently recognizable as being his products.
- 14.6. If the CS has legal claims asserted against it owing to the violation of statutory provisions – particularly safety guidelines or owing to domestic or international product liability directives, the CR shall be obliged to indemnify the CS and its customer from all claims insofar as they have been created as the result of the delivery from the CR. This indemnification shall also encompass the costs of a precautionary recall campaign. Insofar as this is possible and reasonable, the CS shall notify the CR of the content and scope of the recall measures to be implemented and give the CR the opportunity to submit a position statement.
- 14.7. The CR shall insure himself against all risks arising from product liability – including the recall campaign risk – in an appropriate amount and, upon request, present the insurance policy to the CS for examination purposes.
- 14.8. The CR must notify the CS, without this having to be requested and promptly, of any changes in the composition of the processed materials or the constructive composition of his deliveries. The changes must be approved in writing by the CS. The CR and the CS shall promptly notify each other of any discovered violation risks or purported violation cases and ward off corresponding claims by mutual agreement.

15. Customs and Foreign Trade Law

- 15.1. The CR shall be obliged to follow the applicable national and international customs and foreign trade law (collectively "Foreign Trade Law"). The CR must promptly report all information and data in writing to the CS by no later than two weeks after the order is made as well as of any changes which the CS requires for the fulfilment of foreign trade law during the exporting, importing and re-exporting – particularly:
 - (a) All applicable export list numbers including the Export Control Classification Number in accordance with the U.S. Commerce Control List (ECCN);
 - (b) The statistical item number in accordance with the current goods allocation in the foreign trade statistics and the HS (Harmonized System) Code; and
 - (c) The country of origin (non-preferential origin) and, insofar as this is requested by the CS, the declarations from the suppliers regarding the preferential origin (for European suppliers) or certificates regarding preference (for non-European suppliers).

All the aforementioned information and data shall be agreed to be quality features of the delivery.

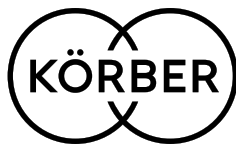
- 15.2. If the CR violates his obligations in accordance

with Clause 15.1, the CS shall be entitled to rescind the contractual agreement as well as to assert claims for all damages created in this context. The CR shall indemnify the CS in this regard.

16. Models, Tools, Documents, Advertising and Confidentiality

- 16.1. Any models, tools and devices, which are produced or procured by the CR at the CS's expense, shall become the CS's property after it makes payment for them. They must be carefully handled by the CR, labelled as being the CS's property and, insofar as this is possible, stored separately from the CR's other products as well as insured against loss and other damages at the CR's expense. The manufacture and delivery of products and parts thereof, which are produced via these models and tools or with these devices, shall be permitted exclusively to the CS. Upon the CS's request, the CR must, without exception, return the models, tools and devices not encumbered by third-party rights to the CS.
- 16.2. All drawings, plans, sketches and other technical documents as well as supplied materials which are provided to the CR for the implementation of the orders shall, even in the case of processing, remain the CS's property. They must be promptly returned at any given time to the CS upon request as well as after the implementation of the order without any special request having to be made in this regard.
- 16.3. Documents and materials from the CS may be used exclusively for the CS's purposes and exclusively in the scope approved by the CS and, without the CS's prior written consent, may neither be reproduced nor passed on to third parties.
- 16.4. Except where disclosure is requested by a court of competent jurisdiction or by a regulator and unless prior written consent of the CS shall have been obtained, the CR shall be obliged not to disclose information in relation to any orders issued by the CS and all technical, commercial, organisational details which have become known to the CR through the business relationship with the CS (Confidential Information) to any person and/or third party. Disclosure to the CR's personnel and advisors is permitted only to the extent that such personnel and advisors:
 - (a) have a definite need to know such information;
 - (b) have been duly appraised of the requirements set out in this clause; and
 - (c) are or will be bound to keep such information confidential as required in these Purchasing Terms and Conditions and any other written agreement between the parties.

The CR agrees that it shall be responsible for the disclosure of Confidential Information by its personnel, advisors and agents. Disclosure of any Confidential Information by the CR's personnel, advisors and agents shall be deemed disclosure by the CR for the purpose of this clause.



16.5. Notwithstanding the foregoing, "Confidential Information" shall not include information that:

- (a) was, at the time of its disclosure by the CS, already in the possession of the CR and the CR can establish, through reasonably sufficient and credible competent evidence, such prior possession;
- (b) is independently developed by the CR not pursuant to these Purchasing Terms and Conditions and any other written agreement between the parties;
- (c) is disclosed to a third-party by the CS without imposing similar restrictions on that third-party's rights of disclosure;
- (d) is or becomes generally available to the public other than as a result of a breach of these Purchasing Terms and Conditions and any other written agreement between the parties, by the CR, its personnel or advisors; and/or
- (e) becomes available to the CR on a non-confidential basis from a source other than the CS, its personnel or advisers; provided, however, that such source is not to the knowledge of the CR bound by a confidentiality agreement or other legal or fiduciary obligation of secrecy to the CS.

16.6. In the event that these Purchasing Terms and Conditions (or any part thereof) or any other Confidential Information is required to be disclosed by a court of competent jurisdiction or regulator, the CR shall give prompt written notice to the CS prior to any disclosure, sufficient under the circumstances to allow the CS to seek protective order or other protective remedy.

The CR shall:

- (a) only disclose such minimum information as is legally required and shall, at the request of CS, use commercially reasonable efforts to obtain confidential treatment for any Confidential Information that is to be disclosed and allow the CS if it wishes, to also take such measures as it deems necessary or desirable to challenge any such disclosure or to otherwise redact or minimise such disclosure; or
- (b) fully cooperate with the CS with respect to the CS's direction or efforts to challenge or minimise such disclosure as aforesaid.

16.7. The CR shall use the Confidential Information and documents, which have been or are made available to him during the cooperation with the CS, only for the Supply of the Goods for the CS. The same shall be valid for the results, data and know-how created in conjunction with this contractual agreement. The CR may make reference to the business relationship with the CS only subject to CS's written consent. The CR shall not be entitled to use business names, logos or trademarks of the CS.

16.8. The CR shall be obliged to protect all of the CS's Confidential Information and business secrets against unauthorised third-party access using the same level of protection it uses to protect its own Confidential Information, however, using at least

protection in accordance with reasonable standards permitted by the current state of technology. If the CR has indications that unauthorised third parties have possibly obtained knowledge of the CS's business secrets, then the CR must promptly notify the CS of this, and in consultation with the CS, introduce required measures.

The CR shall be obliged, after the completion of the rendering of his services, to return to the CS all information, data, documents and storage media that have been received. Moreover, the CR shall remove this information from his data processing systems as well as, as the CS so chooses, return any physical documents to the CS or permanently delete the data. Upon the CS's request, the CR shall document, and confirm in writing, the complete return or destruction thereof.

The CR shall be obliged to follow all data protection law provisions as may be amended from time to time and which are currently in force.

16.9. This clause shall survive expiration and termination of these Purchasing Terms and Conditions and any other written agreement between the parties.

17. Indemnity and Liability

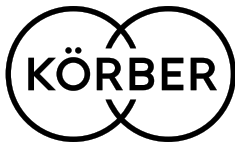
17.1. Without prejudice to all other warranties, indemnities, remedies or other rights (expressed or implied) and whether pursuant to statute, common law or otherwise, the CR shall be liable to and shall indemnify the CS in full against all liability, loss, damages, death or injury, costs and expenses (including legal expenses) or any consequential loss or damage (whether loss of profit or otherwise) or other claims for consequential compensation whatsoever asserted by or against, awarded against or incurred or paid or agreed to be paid by the CS as a result of or in connection with:

- (a) any breach of or failure to perform any terms and/or obligations under these Purchasing Terms and Conditions and any other written agreement between the parties or any duty at common law, by the CR; and
- (b) any claim that the products/goods infringe the patent, copyright, design right, trademark or other intellectual property rights of any other person;
- (c) any act or commission of the CR or its employees, agents or sub-contractors in connection with the performance of the Delivery of Goods.

18. Miscellaneous

18.1. Any term, condition, stipulation, provision, covenant and/or undertaking of these Purchasing Terms and Conditions which are illegal, prohibited or unenforceable shall be fully severable and ineffective to the extent of such illegality, voidness, prohibition or unenforceability without invalidating and/or affecting the validity of the remaining provisions hereof.

18.2. Time wherever mentioned is of the essence of these Purchasing Terms and Conditions and any



other written agreement between the parties.

- 18.3. No failure or delay on the part of either party in exercising nor any omission to exercise any right power privilege or remedy accruing to either party under these Purchasing Terms and Conditions upon any default on the part of the other party shall impair any such right power privilege or remedy or be construed as a waiver thereof or any acquiescence in such default nor shall any action by either party in respect of any default or any acquiescence in any such default affect or impair any right power privilege or remedy of such party in respect of any other or subsequent default.
- 18.4. The rights and remedies provided in these Purchasing Terms and Conditions agreement are cumulative and not exclusive of any rights or remedies provided by law or equity. For the avoidance of doubt, in the event of any breach or threatened breach of any term herein, each party hereto shall be entitled to claim any and all equitable remedies available to it subject to applicable laws.
- 18.5. No amendment or variation of these Purchasing Terms and Conditions agreement and any other written agreement between the parties shall be

effective and binding unless it is in writing and signed by the parties.

- 18.6. These Purchasing Terms and Conditions may be executed in one or more counterparts and shall bind each party that has executed each counterpart, each such executed counterpart being deemed to be an original. All of such executed counterparts taken together shall be deemed to constitute one and the same instrument.

19. Place of Jurisdiction and Applicable Law

- 19.1. The parties hereby agree to submit irrevocably to the exclusive jurisdiction to the Courts of Kuala Lumpur, Malaysia to settle and all disputes that may arise out of or in connection with these Purchasing Terms and Conditions and any other written agreement between the parties. The parties hereby waive any objection to proceedings commenced thereat based solely on *forum non conveniens*.
- 19.2. These Purchasing Terms and Conditions and any other written agreement agreed between the parties shall be governed by and construed in accordance with the laws of Malaysia.

Compliance Notice

We wish to point out that our employees have been instructed to strictly follow all valid statutory directives as well as respect the values and principles of Körber AG. In particular, our employees may not request any inappropriate advantages and benefits, have them promised to them or accept them. You can find more details in this regard in our Code of Conduct at www.koerber.de/compliance.