

## **General Purchase Terms and Conditions of Viacor Polymer GmbH (applicable as of 01/08/2021)**

### **1 General**

1.1 All purchase orders of Viacor Polymer GmbH (“**Viacor**”) for the delivery of movable property to be produced or generated are exclusively based on the following General Purchase Terms and Conditions (“**GPT**”). They are applicable also to all future transactions with the Supplier as current at the time of the agreement on a transaction.

1.2 These GPT do not apply to contracts on works and services ordered by Viacor that are not deliveries as defined in Clause 1.1.

1.3 Any terms and conditions of the Supplier that deviate from or are not contained in these GPT will not be recognised unless Viacor has expressly agreed to their validity in text form. Counter-confirmations by the Supplier with reference to his terms and conditions of business or delivery are hereby expressly rejected. .

1.4 Deviations and amendments by the Supplier of these GPT shall be valid only with the express confirmation of Viacor in text form (e.g. by facsimile, e-mail, EDI or in writing); they shall be apply only to the agreed transaction on an individual case basis.

1.5 If Viacor and the Supplier agree on provisions that deviate from individual provisions of these GPT, this shall not affect the validity of the remaining provisions of these GPT.

1.6 Generally, an execution of a purchase order by the Supplier shall be considered as acceptance of these GPT.

1.7 Insofar as the special Delivery Specifications/Instructions of Viacor are likewise included in the contract, these take priority over these GPT which, in that case, apply in addition to the special Delivery Specifications/Instructions of Viacor. Viacor is a member of Sto’s business group. The respective Supplier Code of Conduct of the Sto SE & Co. KGaA (“Sto”), which can be retrieved from [www.sto.de](http://www.sto.de) or will be sent by Viacor free of charge on request, is an integral part of the contract and applies correspondingly. Moreover, in particular agreements on quality are also an integral part of the contract.

### **2 Offer, Purchase Order, Conclusion of Contract**

2.1 Offers of the Supplier must comply with the requirements of Viacor contained in the request for quotation regarding quality and quantity as well as other provisions with respect to the goods to be delivered; if the Supplier wants to deviate from Viacor’s request for quotation, he must expressly point out to such possible deviations of the offer.

2.2 Solely Viacor’s purchase order shall be authoritative for the scope of delivery. Purchase orders shall only be binding, if they have been placed or confirmed by Viacor in text form. Cost estimates and prices specified in the purchase order are binding.

2.3 Purchase orders of Viacor must promptly be confirmed in text form on receipt but not later than within 2 working days by specifying all purchase order data. If such confirmation has not been received by Viacor within 2 working days after the date of the purchase order, Viacor is no longer bound by the order, unless any other agreement, e.g. a waiver of order confirmation, has been agreed. If Viacor expressly waives an order confirmation, only the purchase order shall be authoritative.

### **3 Subsidiary Obligations of the Supplier regarding Legal Conformity and Indemnification Obligation**

3.1 Within the scope of contracts concluded, the Supplier must comply with all statutory provisions and specifications.

3.2 The Supplier engages itself to transmit to Viacor unsolicited an original long-term supplier declaration for products with preferential origin in accordance with the respective relevant statutory provisions (presently: Regulation (EC) No. 2015/2447) not only on contract conclusion but also subsequently once during any contract year. If long-term supplier declarations are used, changes in the originating status must be communicated unsolicited to Viacor in text form together with the respective order confirmation. If Viacor or Viacor's customers are charged subsequently by customs authorities due to own faulty declarations of origin or if Viacor or Viacor's customers suffer any other financial disadvantage as a result, and if the mistake is based on an incorrect indication of origin by the Supplier, the Supplier shall be liable for any damages incurred by Viacor. Further claims for compensation shall remain unaffected.

3.3 Insofar as the Supplier delivers products within the meaning of Art. 3 Regulation (EC) No. 1907/2006 for Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH Regulation), Supplier shall be liable to adequately comply with his obligation to forward specific information in accordance with Art. 33 REACH Regulation.

3.4 If the Supplier is an Authorised Economic Operator (AEO) certified by the competent customs authority, or a so-called known consignor (bV) accredited by LBA [German Federal Office of Aviation], he is obliged to send the corresponding certificates and/or registration numbers to Viacor in order to guarantee safety in the international supply chain.

3.5 The Supplier engages itself to carefully comply with the provisions of the Construction Products Regulation in accordance with EC Regulation No. 305/2001 and the European Parliament and Council dated 9<sup>th</sup> March 2011 (hereinafter "CPR") as well as the corresponding implementing provisions on it, and to promptly communicate to Viacor all information required in this respect. Viacor must be promptly informed on any deviations. This applies also to inspections and information which occur at the Supplier.

If a product covered by CPR in accordance with the agreement made with Viacor is exclusively or at least in addition marked with the name or the trademark of Viacor, the Supplier will make available to Viacor, prior to the first delivery of the respective product, copies of the technical documentation prepared by the Supplier according to Article 11 (1) CPR as well as the technical documents according to Article 11 (2) CPR. The Supplier will keep the originals of these documents in accordance with the specifications of CPR. If Viacor requires these originals, for example, for submission to supervisory authorities or other public authorities, the Supplier will make them available to Viacor upon Viacor's request and/or permit inspection on-site also by the public authority. In the event of insolvency or any other termination of the business activity of the Supplier, the Supplier shall arrange that the documents are handed over to Viacor in bulk. Moreover, on a priorily agreed date, Viacor shall be entitled to verify the compliance with the requirements of the CPR also during production.

As far as applicable, the Supplier permits Viacor according to Article 36 (1) c) CPR to use the corresponding documentation and initial tests or CE Certificates of Conformity of the Supplier for issuing the CE label as well as the declaration of performance.

The Supplier will inform Viacor not later than twelve weeks prior to implementation of any modification which has an impact on mandated properties according to the harmonised technical specification relevant for the respective product. In that case, all documents modified accordingly including the above mentioned technical documentation in accordance with Article 11 (1) CPR as well as the technical documents according to Article 11 (2) CPR must be made available to Viacor in the agreed upon format unsolicited twelve weeks prior to implementation of the modification.

The Supplier indemnifies Viacor from all third party claims which they may assert and/or be able to assert against Viacor due to infringement of an obligation created in this Clause 3.5.

3.6 The Supplier engages itself vis-à-vis Viacor to communicate at any time evidence – if existing in writing – on the compliance with the above mentioned obligations. This applies in particular also to all self-verifications, inspection certificates and other test records carried out on the products as they occur, for example, by externals within the scope of third party inspection. These must promptly be made available to Viacor upon request.

#### **4 Subsidiary Obligations of the Supplier regarding Foreign Trade Law**

4.1 The Supplier is obliged to inform Viacor on any authorisations required for (re)exports of his goods in accordance with German, European, US and other applicable customs and export regulations.

4.2 Upon request, the Supplier is obliged to communicate to Viacor in text form all foreign trade data on the goods and their components and to promptly inform Viacor in text form of all modifications of the above mentioned data.

In the event of omission or faulty information of the above data, Viacor shall be entitled to withdraw from the contract.

4.3 The Supplier engages itself moreover to regularly verify all contractual products in view of all import and export control restrictions, in particular the requirements regarding so-called Dual Use Goods (presently: Regulation (EC) No. 428/2009 in the respectively valid version), and the provisions of the Foreign Trade Regulation, and to inform Viacor promptly and unsolicited on corresponding modifications in text form.

4.4 Clause 3.6 applies accordingly.

#### **5 Prices**

5.1 All prices are fixed prices without the applicable statutory value added tax which is to be calculated separately. This applies also to unit prices and flat prices.

5.2 If prices have been fixed neither in the offer nor in the order confirmation nor by agreement, the Supplier must submit the prices to Viacor prior to execution of the order for confirmation in text form. Within the scope of existing business relations, the last price for the same or comparable services invoiced by the Supplier shall be applicable in the absence of any express price agreement.

5.3 In the absence of a different agreement in text form, the price includes all cost associated with the delivery of the goods, in particular packing and transport to the place of destination including customs duties, insurance, fees, taxes and other additional cost (DDP, Incoterms 2020) unless another clause of Incoterms has been agreed.

5.4 In the case of orders from abroad, duty-paid goods have to be supplied to Viacor at the agreed upon prices.

5.5 Viacor does not agree to price adjustment clauses or price increase clauses, neither does Viacor accept a list price valid on the day of delivery (current price clause).

#### **6 Delivery Time**

6.1 The delivery periods and delivery dates mentioned in the purchase order of Viacor are binding.

6.2 The delivery periods start on the date of Viacor's purchase order.

6.3 The day of delivery is

- the day of the goods receipt on the premises of Viacor or at the delivery address designated by Viacor, or

- in the case of contractually agreed or statutory acceptance of performance or goods, the day of acceptance.

6.4 If delayed delivery of goods is taken without objections, this serves only to reduce any damages does not constitute a waiver of any claims.

6.5 If no delivery period is agreed upon, the performance has to be provided immediately, unless the circumstances indicate otherwise.

## 7 Delay

7.1 The Supplier is obliged to promptly inform Viacor in text form on the reason and probable duration of any delay, if circumstances occur or become discernible to the Supplier causing the determined delivery period not to be met. The same applies to circumstances and events for which the Supplier is not responsible.

7.2 In the case of delay in delivery, Viacor shall be entitled to demand a lump-sum compensation for damages caused by default in the amount of 0.25% of the delivery value per day of delay, but not more than 5% of the gross delivery value. Further statutory claims (the right to withdraw or compensation instead of delivery) remain unaffected; the lump sum compensation will be credited against claims for damages. The Supplier is entitled to prove that the delay did not cause any or significantly less damage.

7.3 Viacor does not agree to limitations of liability and exclusions of liability of any type by the Supplier in the event of delay in delivery.

## 8 Force Majeure

8.1 "**Force Majeure**" means the occurrence of an event or circumstance which prevents or impedes either party from performing any obligation under the Contract if and to the extent that the party affected by the impediment (the "**Affected Party**") proves (a) that such impediment is beyond its reasonable control and (b) that the effects of the impediment could not reasonably have been avoided or overcome by the Affected Party. For the purposes of lit. (a), obstacles include, but are not limited to, wars, civil wars, insurrections, acts of terrorism, piracy, currency and trade restrictions, embargoes, sanctions, official measures and orders, expropriation, epidemic, pandemic, natural disasters, fire, unless the unaffected party proves otherwise.

8.2 If a party fails to fulfil its contractual obligation due to the failure of a third party (including subcontractors) whom it has engaged to perform the whole or part of the contract, the party may only invoke force majeure to the extent that the conditions set out in Clause 8.1 are fulfilled both for the party and the third party.

8.3 Insofar as the requirements of Clause 8.1 or 8.2 are fulfilled, the Affected Party shall be released from the contractual obligation and from any liability for its breach from the time when the impediment causes the inability to perform and to the extent that the impediment prevents performance, provided that the Affected Party notifies the other party immediately. If such notification is not made without delay, the relief shall only become effective from the time when the notification is received by the other party. The other party may suspend performance of its obligations, if applicable, from the date of such notification.

8.4 If the effect of the alleged impediment or event is temporary, Clause 8.3 shall apply only as long as the alleged impediment prevents the Affected Party from performing its obligations under the contract. The Affected Party must notify the other party as soon as the relevant impediment no longer exists.

8.5 The Affected Party is obliged to remedy the force majeure, and to limit its effects, as far as possible.

8.6 Notwithstanding the foregoing, Viacor is entitled to withdraw from the contract in whole or in part if the Force Majeure lasts for more than four (4) weeks from the agreed delivery date.

## **9 Invoicing and Terms of Payment**

9.1 For each individual delivery a separate, auditable invoice corresponding to the applicable fiscal provisions must be issued. The invoice address for deliveries to Viacor is: Graf-Benzel-Str. 78, 72108 Rottenburg am Neckar, Germany. The invoice must be sent by the Supplier solely as a pdf-file to the e-mail address: rechnung@viacor.de; per invoice one pdf-file each is sent by separate e-mail.

9.2 Supplier's invoices can only be processed by Viacor, if they contain the standard commercial details (in particular order and/or item number as well as commission number, precise description of the goods, quantity delivered, dimensions, weight, packing). The Supplier shall be liable for all consequences arising from non-compliance of said obligation, unless he proves non-culpability for the non-compliance.

9.3 Unless any specifically otherwise agreed, payment will be made within two weeks after receipt of goods and invoice with a discount of 3% of the invoiced amount or within 30 days after receipt of goods and invoice without deduction. If instalment payments have been agreed, the discount will be granted for each individual payment, insofar as it made within the period of two weeks.

9.4 Agreed payments prior to receipt of the delivery, in particular advance payments and prepayments, shall be due for payment only after the advance performance risk has been secured by handing over an absolute, unlimited bank guarantee, free of costs for Viacor, in the amount of the prepayment.

9.5 A discount deduction is also possible in case of offset or justified retention or withholding by Viacor.

9.6 Payments of Viacor will be made subject to correction or a claim for return, if subsequently the incorrectness of calculation or objections arise, as well as under the prerequisite of proper receipt of the goods. Payments do not constitute an acceptance of the delivery.

9.7 The day of payment is deemed to be the day of performance.

9.8 Viacor does not agree to interest payable from the due date or default interest which is higher than interest legally owed.

## **10 Delivery, Transfer of Risk, Advance, partial and additional performance**

10.1 Generally, delivery and transfer of risk are according the agreed clause of the Incoterms 2020.

10.2 If no such Incoterms clause is agreed, delivery will be DDP (Incoterms 2020) to the place of destination defined in the purchase order.

10.3 The risk shall pass according to Clause 10.1 or 10.2 to Viacor only after a department authorised by Viacor has acknowledged receipt of the goods.

10.4 Advance performance, partial performance and additional performance are only permitted with prior approval of Viacor in text form, and must be noted on the delivery documents and invoices.

## **11 Shipment, Packing, Labelling**

11.1 The Supplier is obliged to include on all shipping documents, delivery notes, package addresses and/or other accompanying documents (e.g. bills of lading) the shipping address as well as the order number of Viacor and other standard commercial details. The surplus cost and damages incurred as a result of culpable non-compliance shall be borne by the Supplier.

11.2 During shipment the relevant terms and provisions of the selected form of transport must be observed and, in case Viacor carries the shipping cost, the most cost-effective shipping opportunity for Viacor has to be selected,

unless the means of transport have expressly been stipulated by Viacor. If not expressly agreed in the individual contract, the Supplier shall adequately insure the goods to be delivered for the duration of transport at his own expense. The Supplier must affect adequate transport insurance for coverage of the shipment risk borne by him.

11.3 Shipment must be notified to Viacor not later than at the time of dispatch of the goods.

11.4 If no delivery note of the Supplier is included in the delivery, Viacor is entitled to return the goods at the expense of the Supplier.

11.5 The delivered goods must be packaged properly. The packing must comply with all technical, statutory and official regulations as well as with the packaging instructions of Viacor.

11.6 In the case of deliveries by train or by forwarding agencies, Viacor will receive an official proof of weight and/or evidence that weighing complies with German calibration law with respect to goods which are based on a weight calculation.

11.7 For delivery of raw materials, auxiliary materials and consumables, the relevant statutory provisions regarding classification, packaging and labelling requirements must be complied with, in particular those of the German Chemicals Act. Damages incurred by Viacor due to culpable infringements of statutory provisions must be replaced by the Supplier.

## **12 Properties of the Goods Supplied, Examination Obligation of Supplier**

12.1 The goods delivered must exhibit the agreed upon properties, correspond precisely to the data specified on the purchase order of Viacor, and present the technical standard applicable at the time of delivery.

12.2 The Supplier warrants that its deliveries and services comply with the statutory and official regulations applicable on the day of delivery, in particular with the relevant environmental, accident prevention and occupational safety and health regulations.

12.3 Upon request of Viacor, the Supplier is obligated to make available a specimen, a sample and/or data sheets. The quality of the specimens or samples submitted on request - in the absence of other contractual agreements - is considered as the contractually agreed upon quality of the goods. The same applies to data in the test certificates.

12.4 The Supplier shall review any technical documents, drawings or specifications that form part of Viacor's order and shall draw Viacor's attention to any discrepancies and request clarification.

12.5 If Viacor approves technical documents, drawings and specifications prepared by the Supplier, this shall not release the Supplier from its responsibility for the proper performance of the contract.

## **13 Inspection and Notification of Defects**

13.1 The statutory provisions apply to the commercial duty to inspect and give notice of defects, subject to the following proviso: The duty to inspect is limited to defects which become apparent during an external inspection of incoming goods including the delivery papers (e.g. transport damage, wrong and short delivery) or which are recognisable during a quality control by random sampling. In all other respects, the duty to inspect depends on the extent to which an inspection is feasible in the normal course of business, taking into account the circumstances of the individual case. The obligation to give notice of defects discovered later remains unaffected. Irrespective of the duty to inspect, Viacor's notification of defects shall in any event be deemed to be prompt and timely if it is sent within two (2) weeks of discovery or, in the case of obvious defects, of receipt of the goods.

13.2 Insofar as the goods are not delivered to Viacor but, as agreed, by the Supplier directly to the final customer or a processor or distribution service provider commissioned by Viacor, a notification of defects can also be made

by the final customer or processor or distribution service provider of the goods on behalf of Viacor. Clause 13.1 shall apply accordingly.

13.3 Deliveries involving larger quantities of same parts, in particular smaller vendor parts, are examined by Viacor in statistical sampling method. Insofar as the random samples reveal defective parts, Viacor is entitled, at Viacor's option, to reject the entire delivery without any further inspection or to carry out further inspection. The Supplier bears all cost of further inspection.

#### **14 Warranty**

14.1 Viacor is entitled to the statutory claims based on defects without restriction.

14.2 In any case, Viacor is entitled to request from the Supplier, at Viacor's option, repair of defect or replacement delivery (subsequent performance). The Supplier bears all cost and expenses caused by the defective delivery including removal and installation costs, even if the expenses are increased in the case of subsequent performance because, after delivery, the purchased item has been taken to another place than the place of destination, unless this does not correspond to the intended use. The right to compensation for damages, in particular compensation for damages instead of delivery, is expressly reserved.

14.3 In the event of defective delivery, Viacor shall be entitled to return the goods by forwarding agent at the Supplier's expense. In this case, the Supplier shall bear the risk from the time of handover to the carrier and Viacor shall be entitled to debit the invoice amount accordingly. Viacor is entitled to charge for all cases of a defective delivery an expense allowance of 5% of the gross price of the defective goods. Viacor reserves the right to provide evidence of higher expenses. The Supplier is free to prove lower expenses or no expenses incurred by Viacor.

14.4 Notwithstanding the statutory rights and the above provisions, the following shall apply: If the Supplier fails to fulfil its obligation to provide subsequent performance within a reasonable grace period set by Viacor, Viacor may remedy the defect and any damage caused thereby itself and demand reimbursement of the necessary expenses or a corresponding advance payment from the Supplier. If subsequent performance by the Supplier has failed or is unreasonable for Viacor (e.g. due to particular urgency, endangerment of operational safety or the threat of disproportionate damage), Viacor need not set a grace period; Viacor shall inform the Supplier of such circumstances without delay, if possible in advance.

#### **15 Changes to the Contractual Product**

15.1 Deviations from the agreed specifications and other technical changes made by the Supplier after the contract has been concluded are excluded, unless approved by Viacor in text form.

15.2 Any suggestions and requests for modifications made by Viacor shall be reviewed by the Supplier on its own responsibility for their feasibility, and Viacor shall be notified of any concerns.

15.3 Within the scope of current business relations as well as when a delivery item has been examined and tested and released by Viacor first, the Supplier must inform Viacor unsolicited in text form of any product change.

15.4 In the cases of an ongoing delivery or a delivery after product release, the Supplier is also obligated to inspect the delivery item for all deviations and modifications at any change of production conditions in its plant and/or deviations from contractual specifications regarding production, standards to be complied with, raw materials to be used, labelling and other product relevant properties and data, as well as any replacement of raw materials, tools, machines and/or in the case of introduction of new manufacturing methods, , and to inform Viacor in text form on such deviations and modifications.

15.5 If the Supplier omits such information in the above mentioned cases, the obligations for examination and notification of Viacor do not apply insofar as the modified nature of the delivery item results in a defect.

15.6 The Supplier is obliged to inspect the goods before delivery to ensure that they comply with the specifications stated in the purchase order and are free from defects. If goods are delivered in violation of this obligation to outgoing goods inspection, the Supplier may not invoke a violation of the obligation to inspect and give notice of defects.

## **16 Statute of Limitation**

16.1 The period of limitation is 36 months and for building materials 72 months as from passing of risk.

16.2 In the case of subsequent performance, a new period of limitation according to Clause 16.1 starts after completion of repair or replacement delivery. The new period of limitation, however, only refers to the repaired and/or replaced part of a delivery item, if only this - even dependent - part has been replaced.

16.3 The period of limitation is extended by the period during which the delivery item due to a defect or also its elimination cannot be used. Suspension of the expiry of the time limit starts on the day on which this defect is notified to the Supplier, and ends when the delivery item can be used again by Viacor.

16.4 Reduction of the warranty periods of these GPT is expressly contradicted. In all cases at least the statutory limitation periods shall apply, unless longer time periods have been agreed upon above.

## **17 Scope of liability**

17.1 Viacor does not agree to a limitation of any contractual or statutory liability of the Supplier, neither with respect to the standard of fault nor with respect to the scope of liability or the extent of liability.

## **18 Product Liability, Indemnity**

18.1 The Supplier shall draw the attention of Viacor to the risks arising from Supplier's product even in the event of improper use.

18.2 Insofar as the Supplier is responsible for a product related damage and besides Viacor is liable as joint and several debtor to an injured third party, the Supplier shall hold harmless and indemnify Viacor insofar from third party damage claims on first demand, as the cause results from the Supplier's area of control and organisation.

18.3 If Viacor intends to make a claim against the Supplier in accordance with Clause 18.2 above, Viacor shall inform and consult the Supplier immediately and comprehensively. Viacor shall give the Supplier the opportunity to investigate the case of damage and shall consult with the Supplier on the measures to be taken, in particular in settlement negotiations.

18.4 Within the scope of its liability for cases of damage within the meaning of Clause 18.2, the Supplier is also obliged to reimburse possible expenses in accordance with the principles of management without mandate or within the framework of tortious joint and several liability which result from or in connection with a recall action carried out by Viacor. Viacor will inform the Supplier - insofar as is possible and reasonable - on content and scope of the recall actions to be carried out and give the Supplier the opportunity to comment. Further statutory claims shall remain unaffected.

## **19 Insurance**

19.1 The Supplier is obliged to maintain a business liability and product liability insurance with a coverage of EUR 5 mio. per case of damage (personal injury and/or material damage); if Viacor is entitled to further damage claims, these shall remain unaffected.

19.2 Upon request by Viacor, evidence on conclusion of the insurance must be provided.

## **20 Rights of Retention, Set-off, Assignment**

20.1 Viacor shall be entitled to the statutory rights of set-off and retention in full.

20.2 Assignment of claims against Viacor are legally valid only with the prior approval of Viacor in text form.

## **21 Intellectual and Industrial Property Rights**

21.1 The Supplier is liable for the fact that in connection with its delivery no third party rights, in particular patent and other intellectual property rights, are infringed.

21.2 If claims are raised against Viacor due to such an infringement of rights by a third party, the Supplier is obliged to indemnify Viacor from such claims upon first written demand according to Clauses 21.3 through 21.7 below.

21.3 In the event of claims for damages by the third party, the Supplier retains the right to prove that he was not to blame for the infringement of the third party's rights. Viacor shall not be entitled to enter into any agreements with the third party without the consent of the Supplier, in particular to conclude a settlement.

21.4 The Supplier's obligation to indemnify shall apply to all expenses necessarily incurred by Viacor as a result of or in connection with the claim asserted by the third party, unless the Supplier proves that Supplier is not responsible for the breach of duty on which the infringement of the third party rights is based.

21.5 The assertion of further rights remains reserved.

21.6 Viacor does not agree with any limitation of statutory rights to which Viacor is entitled in the event of a defect of title.

21.7 The period of limitation for these claims is three years starting with transfer of risk, unless the 5 years' warranty period for building products applies.

## **22 Manufacture/Creation of Movable Objects**

Insofar as the Supplier has to manufacture or to create for Viacor and then to deliver a movable object, the following provisions apply in addition:

22.1 The Supplier engages itself, to manufacture or to create and to deliver and/or make available to Viacor the movable object to be made exclusively in accordance with the description and specification stipulated in the individual contract and according to the instructions transmitted by Viacor in text form. Prior to start of processing, Supplier must confirm in text form upon request of Viacor that he has taken note of the description and specification in all details.

22.2 Insofar as on studying the description and specification as well as the instructions of Viacor according to Clause 22.1, uncertainties appear and/or the Supplier has concerns against the type of execution intended, against the quality of the substances or components supplied by Viacor or against the services of other companies engaged by Viacor, Supplier is obligated to notify Viacor thereof in text form and work towards a joint clarification with Viacor. Viacor will prepare a record of such clarification to be signed by both contractual parties. The same applies, if the

uncertainties and/or concerns occur only in the course of execution of the purchase order. Until entire removal of uncertainties and/or concerns, the Supplier must interrupt the manufacture or creation .

22.3 It is incumbent upon the Supplier to start manufacture or creation only when the description and the specification as well as the written instructions of Viacor have been clarified in all details. The Supplier can request that Viacor declare clearance - if necessary also partial clearance - for manufacture or generation in text form. Costs, which are incurred by the Supplier without necessary clarification of uncertainties, shall be borne by the Supplier.

22.4 If Viacor considers technical modifications to the delivery item after the conclusion of the contract to be relevant or necessary, Viacor shall inform the Supplier thereof without delay. In this case, both parties must agree on the resulting modifications to the content and execution of the contract.

22.5 If subsequently a modification or extension of the subject matter of the contract is agreed, the Supplier is entitled to request an adjustment of the price for the additional cost incurred as a result of the modification, if the Supplier has notified Viacor of such additional cost as an offer for contract modification prior to modification or extension of the subject matter of the contract. A claim of the Supplier for the increased price arises only if the offer for contract modification is expressly accepted by Viacor and Viacor is obligated to accept the offer, if the Supplier proves that the additional cost advised by it are caused by the subsequent modification of the subject matter of the contract.

22.6 If the Supplier engages itself to manufacture or create a non-fungible movable item, in addition the following provisions shall apply:

22.7 If Viacor has to render services, which are required for manufacture/creation of the movable object, Viacor will render these in accordance with the description and specification stipulated in the individual contract, and the time limits fixed therein. If Viacor does not render these services according to agreement, the Supplier can request adequate compensation from Viacor, the calculation of which is specified in the individual contract or is fixed as a flat rate amount. Such compensation will be offset against what the Supplier has saved in expenses as a result of the default of Viacor or what he can earn by using his labour resources elsewhere. Regarding this, the Supplier is subject to a disclosure obligation. The disclosure obligation can be fulfilled by the Supplier by granting Viacor - via an expert subject to the professional obligation of confidentiality - the right to examine the accounting records. In such cases, a right of termination of the Supplier is excluded, unless further adherence to the individual contract cannot be reasonably expected from the Supplier despite the compensation stipulated herein.

22.8 If it is incumbent upon the Supplier to provide the material for manufacture/creation of the movable object, the Supplier has to accomplish this at his own expenses and at his own risk. The material used by the Supplier must comply with the description and specification of the goods stipulated in the individual contract. If the Supplier wants to use equivalent but different material, this use is only according to contract, if Viacor has given a prior approval in text form. Insofar as Viacor has stipulated specific sources of supply for procurement of the material, only use of material originating from this source of supply is according to contract. In such cases or if there is a justified interest of Viacor, the Supplier is obliged on request of Viacor to prove to Viacor its Supplier and the place of origin of the material .

22.9 Until manufacture/creation of the movable object Viacor is entitled, to terminate the individual contract at any time without giving reasons. If the individual contract is terminated by Viacor, the Supplier is entitled to request a proportional remuneration for the partial performances already carried out according to contract as well as for the preparation of future partial performances according to contract.

### **23 Retention of Title, Property Rights**

23.1 The Supplier is entitled to deliver the goods under simple retention of title up to their payment. Viacor does not agree to further provisions of retention of title, in particular so-called extended retentions of title or group reservations of title.

23.2 The parties agree already now that during processing or combination of the property of Viacor with objects, which are not property of Viacor, Viacor is entitled to a co-ownership share in the new object created in proportion of the value of the property of Viacor to that of the other processed goods or objects.

23.3 The same applies, if objects and goods are directly delivered to the Supplier by third parties for processing on behalf and for the account of Viacor.

23.4 When determining the co-ownership share of Viacor, manufacturing cost, overhead cost and other imputed cost remain disregarded.

23.5 A storage free of charge for Viacor by the Supplier is already agreed now.

### **24 Documents of Viacor, Confidentiality**

24.1 The documents for production of the delivery item handed over by Viacor to the Supplier and/or the information contained therein remain property of Viacor. Viacor reserves all copyrights.

24.2 These documents and/or the information contained therein, without our express prior approval given in text form, are not permitted to be used for any other purposes than for the production of the delivery item, nor to be copied nor made accessible to third parties; the latter as long as and as far as they are not proven to be public knowledge.

24.3 After performance of the delivery or upon request, the documents must be promptly returned to Viacor in full, including all copies.

24.4 The same applies to drawings and documents which the Supplier prepares according to specifications of Viacor; the contractual parties agree already now that ownership of these documents is transferred to Viacor and that the documents are kept safe for Viacor by the Supplier.

24.5 The Supplier is liable for all damages incurred by Viacor from violation of any of the above mentioned obligations unless Supplier has not culpably caused the violation.

24.6 Insofar as the Supplier makes accessible to third parties, e.g. to subsuppliers, goods, tools or documents with approval of Viacor, the above mentioned obligations must be imposed on them as well.

### **25 Final provisions**

25.1 Solely the laws of the Federal Republic of Germany shall apply ; application of the United Nations Convention on the International Sale of Goods (CISG) is excluded.

25.2 The place of destination mentioned in the purchase order is the place of performance for all services of the Supplier. Place of performance - also for the payments of Viacor - is Rottenburg am Neckar.

Insofar as the Supplier is a merchant within the meaning of the commercial code, a legal entity of public law or a special fund under public law or if the Supplier or the branch of the Supplier which concludes the contract has its registered office outside the Federal Republic of Germany, the registered seat of Viacor is place of jurisdiction for all rights and obligations of the contractual parties from transactions of any type. The same applies, if the Supplier transfers his domicile or habitual residence abroad after contract conclusion, or if his domicile



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or habitual residence is unknown at the time when a legal action is commenced. But Viacor is also entitled to sue the Supplier at his place of general jurisdiction.