

# INFINEUM TERMS AND CONDITIONS FOR PURCHASE OF SERVICES

## 1. INTERPRETATION

1.1 In these Conditions (except where the context requires otherwise):

“**Agreement**” means the purchase order and/or the document describing Services, the specific commercial terms and any special conditions relating to those Services;

“**Contract**” means the Agreement and the Conditions to the exclusion of any other conditions including any standard terms and conditions of Contractor;

“**Contractor**” means the party named in the Agreement providing Services to Infineum;

“**Force Majeure**” means any circumstance beyond the reasonable control of the party affected including, without limitation, strikes (including strikes involving a party's own employees), shortage of labour materials or utilities, government action, riots, rebellion or extreme weather conditions;

“**Infineum**” means the Infineum party named in the Contract;

“**Infineum Affiliate**” means any member of the Infineum group of companies (in addition to the contracting Infineum entity) having common ultimate parent entities each owning or controlling, directly or indirectly, fifty percent (50%) of the shares, voting powers or other evidence of ownership;

“**Information**” means all information or data of Infineum or its Affiliates except for information or data that (a) at the time of disclosure is in the public domain or which, after disclosure, enters the public domain except as a result of a breach of the Contract or any other obligation of confidentiality; (b) is provided to Contractor by a third party, except where the third party is subject to a confidentiality obligation to maintain this information in confidence; (c) is independently developed for Contractor by employees of Contractor who had no access to the confidential or proprietary information of Infineum or its Affiliates; or (d) was in Contractor's possession prior to disclosure under the Contract without confidentiality restrictions;

“**Insolvent**” means where a party makes a general assignment for the benefit of creditors or institutes a proceeding seeking to adjudicate such party as bankrupt or insolvent or seeking protection of relief from creditors or seeking liquidation, winding up, or rearrangement, reorganization or adjustment of the party or its debts, or seeking the entry of an order for the appointment of a receiver, trustee or other similar official for the party or for all or a substantial part of the party's assets, or where any proceeding of the type herein described is instituted against a party and remains undismissed or unstayed for a period of one hundred twenty (120) days;

“**Services**” mean the services which are the subject of the Contract;

“**Service Level Indicators**” means the indicators, if any, included in the Agreement, used to check Contractor's performance in providing Services.

1.2 Except where it is otherwise expressly provided in the Contract, where rights or obligations are given to or imposed upon “Infineum” then such rights or obligations may be exercised or discharged by an Infineum Affiliate.

1.3 If there is any conflict between the Conditions and the Agreement, the terms of the Agreement shall take precedence.

## 2. TERM AND TERMINATION

2.1 Services will be supplied by Contractor to Infineum for the fixed term set out in the Agreement unless terminated earlier as set out below.

2.2 Infineum has the right to terminate the Contract in whole or in part at any time by written notice to Contractor. In such case, Contractor may claim only properly supported direct costs plus a reasonable amount of demonstrable overhead for work already performed, all to be determined in accordance with generally accepted accounting principles. For specially made goods unique to the Contract, any partially completed work or raw materials whose full costs are included in the above termination charges, will be identified in writing and held by Contractor for disposal in accordance with Infineum's written instructions.

2.3 Either Infineum or Contractor may terminate the Contract immediately by notice in writing if the other has become Insolvent.

2.4 If either Infineum or Contractor commits a material breach of the Contract and fails to remedy that breach within thirty (30) days of having received from the non-defaulting party a written notice specifying the breach and requiring it to be remedied, then the non-defaulting party will be entitled to terminate this Contract immediately by giving written notice. Termination will be without prejudice to any other rights or remedies available.

2.5 Contractor's obligations which by their nature extend beyond the term of the Contract, including without limitation those set out in Conditions 5, 9.3, 11, 14 and 21, will survive any termination or expiration of the Contract.

## 3. PRICE AND PAYMENT

3.1 The price for Services is set out in the Agreement. The price is inclusive of all expenses, costs and charges incurred by Contractor in the performance of its obligations under the Contract, save for those, if any, separately itemised in the Agreement. The price is exclusive of value added or sales taxes which will be added, where applicable.

3.2 Services will not be invoiced earlier than the date of their performance. Contractor will only submit a single invoice in any calendar month for all Services performed in the previous month, if any.

3.3 Provided that invoices are correct in all material respects, Infineum will pay invoices by the 60<sup>th</sup> day of the date of invoice unless stated otherwise in the Agreement.

3.4 In the event that Contractor fails in any way to perform its obligations under the Contract, then Infineum may offset, as appropriate, any performance or payment due by Infineum under this or any other agreement between the parties.

## 4. WARRANTIES

4.1 Contractor warrants that:

4.1.1 all Services will be performed in a competent, professional, efficient and timely manner utilizing the highest standards of care and practice in the industry and in accordance with the Service Level Indicators;

4.1.2 it possesses the requisite skills and knowledge in the applicable field and, at all times during the term of the Contract, will maintain all licences, if any, necessary to perform the Service;

4.1.3 when performing any part of the Contract at any site owned, leased, or otherwise operated by or on behalf of, or for the benefit of or otherwise in connection with Infineum /any Infineum Affiliate (the “Infineum Site”) it will comply and cause its sub-contractors to comply with the Infineum Site policies, where these have been communicated to Contractor, as if reference to Infineum employees/site employees were replaced by references to employees of Contractor and/or its sub-contractors;

4.1.4 where Services include the provision of any materials by Contractor, they will be of satisfactory quality and (where this has been communicated to Contractor) be fit for purpose;

4.1.5 Services may be used free of any rightful claim of any third party by way of infringement of any patents, designs, design rights, trade marks, copyright or other similar rights whether registered or not.

4.2 If Contractor is in breach of any of the warranties set out in Condition 4.1, or otherwise fails to perform its obligations under the Contract, Infineum will be entitled to require Contractor, without prejudice to any other remedies, to:

4.2.1 re-perform Services promptly (and/or replace any materials as appropriate) to a standard acceptable to Infineum at no extra cost and any Services -so re-performed will be warranted on the same basis as provided in Condition 4.1.1; and/or

4.2.2 compensate Infineum for all losses it incurs as a result of such breach or failure to perform including the costs of Infineum itself assuming the performance of Services or using a replacement contractor to perform and/or rectify any defects in Services.

4.3 Contractor will use its best efforts to ensure that all warranties provided by sub-contractors and (in the case of materials procured for Services) manufacturers are either assigned to or made available for Infineum's benefit. A copy of each such written warranty will be delivered to Infineum.

## 5. INTELLECTUAL PROPERTY

Contractor will grant a non-exclusive free of charge licence to Infineum to use all intellectual property of the Contractor necessary to receive and use the results of Services for its own benefit and the benefit of the Infineum Affiliates.

## 6. COMPLIANCE WITH LAWS

6.1 Infineum and Contractor will comply with all relevant legal and regulatory requirements and all appropriate non-statutory codes of practice of governmental and other agencies, associations, bodies and regulatory authorities having jurisdiction, authority or relevance with regard to the Services.

6.2 Where applicable to Services, Contractor will provide adequate information to Infineum on or before the start of the performance of Services as to any conditions necessary to ensure that Services are carried out safely and without risks to health.

6.3 Upon notice to Contractor and for any lawful reason Infineum may in its discretion require the immediate removal from any Infineum Site of any employee or sub-contractor of Contractor, including without limitation in the case where such employee or sub-contractor fails to comply with the health, safety and security rules and/or policies in place at the Infineum Site or in Infineum's opinion poses a threat to the safe operations of the Infineum Site or the working environment of its employees or contractors.

## 7. BUSINESS ETHICS

7.1 Contractor will ensure that invoices and accounts are full and accurate, payments from Infineum are received exclusively on Contractor's own account and no part of them are transferred or promised in any way to any official, employee, representative or agent of any government or political party.

7.2 Contractor will not offer, solicit, accept or pay a bribe, kickback, facilitation payment or other improper payment directly or indirectly

(such as by using an agent or third party) in any form for any reason in connection with this Agreement (including the performance of this Agreement) or any dealings with or in behalf of Infineum or its Affiliates. For clarity, a facilitation payment is considered to be a payment to a public official, which is not officially required, to enable or speed up a routine function which the official is otherwise obligated to perform, and a kickback is considered to be the giving or accepting of money, gifts or anything of value that is provided in return for favourable treatment. Charitable donations must not be used as a cover or substitute for a bribe, kickback, facilitation payment or other improper payment. This sub-clause applies equally to transactions involving foreign or domestic government officials or employees (including officials or employees of state owned enterprises) and to transactions involving persons representing public or private companies, whether in the conduct of domestic or international business. Further, Contractor will establish precautions to prevent its employees, agents, representatives and sub-contractors from offering, soliciting, accepting or paying any bribe, kickback, facilitation payment or other improper payment in connection with this Agreement (including the performance of this Agreement) or any dealings with or on behalf of Infineum or its Affiliates.

- 7.3 Contractor will not offer, solicit, accept or make any substantial gifts, extravagant entertainment or any payment or benefits to or from Infineum's or its Affiliates' employees, their families or third parties concerned with this Agreement. Further, Contractor will establish precautions to prevent its employees, agents, representatives and sub-contractors from making or offering gifts, and/or providing entertainment, payments, loans, or other consideration, for the purpose of influencing any act or decision.
- 7.4 At Infineum's request, Contractor will cooperate fully with any due diligence actions or documentation required by Infineum to ensure compliance with anti-bribery and corruption ("ABC") laws, regulations, practices and the requirements set out in this clause 8. This includes, without limitation, any request by Infineum for Contractor to complete and sign periodic ABC compliance certification documentation.
- 7.5 Contractor will notify Infineum promptly upon discovery of any instance where Contractor fails to comply with this clause.

#### **8. INSURANCE**

- 8.1 Contractor will have in force, and will require any subcontractor employed by it to have in force, insurance against liabilities for death of, or injury to, any person, and loss of, or damage to any property arising out of or relating to the Contract. Such insurance will be for such amount as Contractor deems necessary, but in any event for at least the amount specified in the Agreement for each and every incident.
- 8.2 The insurance specified in Condition 8.1 will extend to indemnifying Infineum against any claim for which Contractor or any sub-contractor may be legally liable under the Contract.
- 8.3 If Contractor will fail upon request to produce to Infineum satisfactory evidence that there is in force the insurances required under the Contract, then and in such case Infineum may effect and keep in force any such insurance and pay such premium or premiums that may be necessary for the purpose and from time to time deduct the amount so paid from any monies due or which may become due to Contractor or recover the same as a debt due from Contractor.

#### **9. AUDIT**

- 9.1. Contractor will keep and cause its subcontractors to keep accurate documentation relating to the performance of Services.
- 9.2. Infineum will be entitled to audit Contractor's compliance with the terms of the Contract upon prior written notice and during normal working hours. Contractor will accordingly give and will cause its sub-contractors to give access to Infineum and its authorised representatives to premises, appropriate personnel and documentation relating to Services. Contractor will take prompt corrective action to rectify deficiencies identified.
- 9.3. The provisions of Condition 9 will be applicable during the term of the Contract and for a period of three year following its termination or expiry.

#### **10. ANNOUNCEMENTS / USE OF INFINEUM'S NAME**

Without Infineum's prior written consent, Contractor will neither make public announcements regarding the Contract nor use the name and/or trademarks of Infineum or its Affiliates in promotional material.

#### **11. INDEMNITY**

**Contractor will indemnify and hold Infineum and its Affiliates harmless from:**

- 11.1 any third party claims, demands and causes of action for intellectual property infringement or personal injury, death or loss of or damage to property resulting from Contractor's negligence, wilful misconduct, wrongful act or omission or breach of the Contract;

- 11.2 any claims, demands and causes of action by any governmental or regulatory authority resulting from Contractor's non compliance with legislation including failure to account for or late payment of any tax, social or welfare contributions due by Contractor in respect of its employees involved in the provision of Services.

#### **12. SUBCONTRACTORS**

- 12.1 Contractor will not sub-contract any Services save to those sub-contractors approved in advance in writing by Infineum from time to time.
- 12.2 Contractor will ensure that its sub-contractors comply with the terms of the Contract to the extent applicable to Services that they provide. Contractor however will be liable to Infineum for any default on the part of the sub-contractors and no provision of this Contract will be deemed to create a contractual relationship between Infineum and any sub-contractor.

#### **13. DATA PROTECTION**

Infineum and Contractor will each notify the relevant authorities as required under the relevant data protection legislation applicable to it and comply with the requirements of that legislation, as set out from time to time. Infineum and Contractor each confirms that in the event it is processing personal data on behalf of the other, it will act solely on the instructions of that other party. Infineum and Contractor each confirms that it has undertaken appropriate measures against unauthorized or unlawful processing of data, accidental loss or damage to data.

#### **14. CONFIDENTIALITY**

- 14.1 Contractor agrees that it will at all times both during the term of the Contract and for a period of three (3) years after its termination for non-technical Information (including but not limited to pricing, business, plans, etc) and ten (10) years after its termination for technical Information (including but not limited to product specifications, formulations, compositions, etc) keep confidential, and will not use (other than strictly for the purposes of the Contract) and will not without the prior written consent of Infineum disclose to any third party any Information.
- 14.2 To the extent necessary to implement the provisions of the Contract (but not further or otherwise), Contractor may disclose Information to any relevant governmental or other authority or regulatory body and to any employees of Contractor as may be reasonable or desirable, provided that before such disclosure, Contractor will notify Infineum of the persons to whom Contractor intends to disclose Information to, makes those persons aware of its obligations of confidentiality under this Contract and will use its best endeavours to obtain a binding undertaking as to confidentiality from all such persons.
- 14.3 On termination, all documents and other records (in whatever form) containing Information supplied to or acquired by Contractor from Infineum or its Affiliates will be returned promptly to Infineum or destroyed by Contractor on Infineum's instructions. No copies will be kept by Contractor.

#### **15. FORCE MAJEURE**

- 15.1 Neither Infineum nor Contractor will be liable for failure to fulfil its obligations under this Contract nor for delay in performance thereof to the extent that such failure or delay is caused by an event of Force Majeure, provided that the party affected gives notice in writing to the other party as soon as possible of its becoming aware of any Force Majeure circumstance. For the avoidance of doubt, breakdown or unavailability of plant or other facilities, shortage of labour, materials or utilities or delays or failures by sub-contractors will not constitute Force Majeure unless they are caused by circumstances beyond the reasonable control of the party affected.
- 15.2 The notice required in Condition 15.1 will contain full details of the problem, its likely duration and action being taken to remedy it, and progress reports will be regularly supplied from time to time or when otherwise requested.
- 15.3 All times for performance whether fixed or estimated will be deemed to be duly extended for the period that Force Majeure circumstance prevails.
- 15.4 Notwithstanding any provision of the Agreement, Infineum will be free to purchase from other contractors any Services which Contractor fails to perform in accordance with the Contract.

#### **16. ASSIGNMENT**

Contractor may not assign or transfer any of its rights and obligations under the Contract without the prior written consent of Infineum, such consent not to be unreasonably withheld. Infineum may assign any or all of its rights or transfer any or all of its obligations to an Infineum Affiliate or to a successor or other transferee of its business without consent.

#### **17. INDEPENDENT CONTRACTOR**

Contractor will transact all business pursuant to the Contract as an independent contractor on its own behalf and for its own account and except

as expressly provided otherwise in the Agreement, has no power or authority to act as agent or otherwise for the account of or on behalf of Infineum.

**18. ENTIRE AGREEMENT, SEVERABILITY, AMENDMENTS, WAIVER, RIGHTS**

18.1 The Contract constitutes the entire understanding between Infineum and Contractor with respect to the subject matter of the Contract and supersedes all prior agreements, negotiations and discussions, either oral or written, between them relating to the subject matter of the Contract.

18.2 The Contract can be amended only by mutual agreement of Infineum and Contractor in writing signed by their respective duly authorized representatives and referencing the Contract, unless expressly specified otherwise in relation to any particular term of the Contract.

18.3 If any portion of the Contract is held invalid, illegal or unenforceable by a court, tribunal or other authority of competent jurisdiction, the remaining portions will continue to be valid and enforceable unless enforcement of the remaining portions significantly alters the economic and legal substance of the transactions governed by the Contract.

18.4 The failure of Infineum to enforce or otherwise exercise any right under the Contract will not be deemed to be a waiver of that right nor operate to bar the enforcement or other exercise of such right at any time or times thereafter.

18.5 The rights and remedies of Infineum under the Contract are cumulative, and not exclusive of any rights or remedies that it may have under the general law. Infineum may exercise each of its rights as often as it believes appropriate.

**19. NOTICES**

Unless expressly provided to the contrary in the Agreement, any notice, demand or other communication required or permitted under the Contract will be deemed sufficiently given if in writing and (i) hand delivered; or (ii) sent by post or facsimile to the respective addresses set out in the Agreement or to such other address as Infineum and Contractor may from time to time communicate in writing to the other. The notice, demand or other communication, (i) if hand delivered, will be deemed to have been received on the date of delivery; (ii) if sent by post, will be deemed to have been received three (3) business days following the day of posting; and (iii) if sent by facsimile, will be deemed to have been received two (2) hours following the time stated on the facsimile sheet as the case may be.

**20. THIRD PARTY RIGHTS**

Unless expressly provided otherwise, nothing in the Contract expressed or implied is intended or can be construed to confer upon or give to any third party any rights (including without limitation enforcement rights), remedies, benefits or basis for reliance upon, under or by reason of the Contract. For the present purposes, "third party" does not include the parties to the Contract, their respective successors or their permitted assigns."

**21. GOVERNING LAW**

Any dispute arising out of or relating to the Contract, including the validity and interpretation of the Contract and non-contractual disputes and claims, is governed by and enforced in accordance with the laws set out in the Agreement without reference to its conflicts law. The parties hereby irrevocably submit to the non-exclusive jurisdiction of the courts set out in the Agreement.