

**GENERAL TERMS AND CONDITIONS OF  
PROCUREMENT (“GTP”) of**

Pollmann de México, S.A. de C.V.

a subsidiary of  
Pollmann International GmbH  
and Pollmann Austria GmbH

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## 1. Application of the General Terms and Conditions of Procurement (GTP)

**1.1.** These GTP shall be applicable in their entirety to all current and future deliveries (of goods) and services (collectively referred to as “**SERVICE**”) of a contracting party, who supplies Pollmann de México, S.A. de C.V. (hereinafter referred to as “**POLLMANN**”) with SERVICES (hereinafter referred to as “**SUPPLIER**”), and be considered to be agreed on even without explicit reference to the GTP. Simultaneously, any other terms and conditions of the SUPPLIER shall no longer be applicable, notwithstanding whether they were previously agreed upon, contradict or complement these GTP.

**1.2.** Terms and conditions of the SUPPLIER, which deviate from the GTP, shall only apply with the written consent of POLLMANN. An unconditional acceptance of or the payment for the SUPPLIER's SERVICES by POLLMANN shall not constitute a conclusive acceptance of deviating terms and conditions of the SUPPLIER. Employees of the SUPPLIER, who place orders or deliver or pick up goods for processing shall be deemed to have authority to accept POLLMANN's GTP and to declare any reservations thereto.

**1.3.** Rights and obligations of POLLMANN and of the SUPPLIER regarding the SUPPLIER's SERVICES to POLLMANN shall be governed by POLLMANN's GTP even if the SUPPLIER's terms of delivery or other terms and conditions preclude the use of the GTP.

## 2. Conclusion of the Contract

**2.1.** Orders and all other contracts as well as modifications and amendments thereto require the written form. Any verbal agreement shall only be valid upon POLLMANN's written approval, whereby POLLMANN's GTP shall always be considered as agreed upon. Approvals from POLLMANN via fax or email shall be considered as written approvals.

**2.2.** If the SUPPLIER accepts POLLMANN's orders, a contract is concluded between POLLMANN and the SUPPLIER.

**2.3.** POLLMANN shall be entitled to terminate orders and contracts unilaterally and without giving any reason until 4 weeks prior to the scheduled delivery date.

## 3. Delivery Dates, Delivery Quantity, Prices and Place of Performance

**3.1.** Delivery dates, delivery quantity and place of performance shall exclusively be agreed in purchase orders. If the place of performance was not agreed upon, the registered office of POLLMANN shall be the place of performance.

**3.2.** The SUPPLIER shall be obliged to deliver the agreed SERVICES at the agreed delivery date in the agreed quantity and quality at the agreed place (“**DELIVERY**”). If, for whatever reason, the agreed delivery date cannot be met, POLLMANN shall be immediately informed in writing.

**3.3.** Partial deliveries by the SUPPLIER shall not be permissible except POLLMANN approved partial deliveries.

**3.4.** Unless otherwise evidenced, the incoming goods inspection of POLLMANN and the thereby determined values are decisive for quantities, weights and measurements.

**3.5.** POLLMANN shall have, upon delivery of SERVICES, a right of use to software which is an immanent part of the SERVICES. Such right of use shall be free of charge, exclusive, unrestricted by time and/or place and shall especially include the duplication, editing and combination of the software as well as the right to sublicense, to lease or to otherwise use or to distribute the software.

**3.6.** The SUPPLIER shall bear the risk of damages to the SERVICES that occur until the date of acceptance of the SERVICES at the place of performance by POLLMANN and shall bear all costs incurred – such as transport or customs costs – as well as the costs for an adequate transport insurance. This shall also apply if the SUPPLIER is obliged to hand over the SERVICES to a carrier for their delivery to POLLMANN.

**3.7.** The price shall be a fixed price, unless otherwise agreed between POLLMANN and the SUPPLIER. The price of the delivered goods shall particularly include the packing of the SERVICES, the delivery of the SERVICES to the place of performance, including any customs costs, and the unloading of the SERVICES.

## 4. Delivery

**4.1.** The SUPPLIER's SERVICES shall entirely comply with the performance requirements specified in the purchase order. Upon delivery of the SERVICES, the SUPPLIER shall be obliged to provide POLLMANN with all documents, instructions, drawings, software and other documentation necessary for the proper use (installation, handling etc.) of the SERVICES. Defects will be reported by POLLMANN immediately after detection. The SUPPLIER shall waive any claims related to a late notification of defects (*verspätete Mängelrüge*).

**4.2.** Upon receipt of the SERVICES POLLMANN will examine the SERVICES for evident defects, which are in particular transport damages and deviations in the identity and quantity of the SERVICES.

**4.3.** To the extent that the quality or the construction of the SERVICES is not specified in the purchase order, the SUPPLIER shall be obliged to deliver the SERVICES in the quality and construction, which is suitable for the purpose specified in the purchase order or, if the purpose is not determined in the purchase order, is appropriate for the purpose for which such goods are usually used.

**4.4.** The accepted purchase order shall neither in total, nor in parts, be performed by a subcontractor of the SUPPLIER without the prior written consent of POLLMANN. If POLLMANN approves the performance of (parts of) the purchase order by subcontractors of the SUPPLIER, the SUPPLIER shall be obliged to immediately inform POLLMANN in writing of the

respective responsibilities dedicated to each subcontractor. For the avoidance of doubt, the contractual partner of POLLMANN shall always remain the SUPPLIER. The SUPPLIER shall be liable for the delivery of the defect-free SERVICES, even if they have been manufactured by a subcontractor of the SUPPLIER upon approval of POLLMANN.

**4.5.** If the PARTIES have agreed separately on quality standards, the SUPPLIER shall be obliged to comply with both, the separately agreed quality standards as well as with the quality standards resulting from the GTP.

**4.6.** The SERVICES shall be properly packed and prepared for transport in accordance with the requirements specified in the purchase order. If the purchase order does not foresee specific provisions on the packing and the preparing of the SERVICES for transport, the SUPPLIER shall be obliged to pack the SERVICES in the usual manner, or, if a usual manner cannot be determined, in such a manner which preserves and protects the SERVICES.

**4.7.** If the delivered SERVICES of the SUPPLIER were defected, as determined by POLLMANN and are notified to the SUPPLIER ("**COMPLAINT**"), the SUPPLIER shall be obliged to pay an amount of \$5,000.00 (FIVE THOUSAND PESOS 00/ 100 MXN) per COMPLAINT to POLLMANN additionally to the compensation for any potentially incurred damages.

**4.8.** The SUPPLIER shall be liable for any damages incurred by POLLMANN and caused by improper packing. This does, however, not apply if the packaging was predefined by POLLMANN.

## 5. Payment Conditions

**5.1.** The prices stated in the purchase order shall be applicable. Unless otherwise agreed, payment will either be made within 30 days after the complete and defect-free delivery with a 3 percent discount or net within 90 days.

**5.2.** With respect to the billing modalities, the SUPPLIER agrees to process the billing by way of a monthly collective bill.

**5.3.** In addition to the rights granted by law, POLLMANN shall be entitled to set-off claims against the SUPPLIER with receivables arising from other contracts.

## 6. Default of Performance

**6.1.** The SUPPLIER shall be in default if it fails to deliver its SERVICES at the agreed place of performance on the last day of the delivery period.

**6.2.** If the SUPPLIER is in default, POLLMANN shall be entitled to either set a reasonable grace period and to continue to request the delivery of the SERVICES of the SUPPLIER, or, to terminate the contract.

**6.3.** The SUPPLIER shall be obliged to reimburse POLLMANN all additional costs incurred by POLLMANN to meet delivery schedules towards his customers. However, POLLMANN's right to claim further damages which exceed such additional costs remain unaffected.

**6.4.** Furthermore, the SUPPLIER shall be obliged to pay to POLLMANN a contractual penalty independent of fault amounting to 2 percent of the total purchase order value for every commenced week of delay until the effective delivery or until the termination of the contract by POLLMANN. If POLLMANN has terminated the contract due to the default of the SUPPLIER, the SUPPLIER shall be obliged to pay to POLLMANN an additional contractual penalty irrespective of fault in the amount of 10% of the total purchase order value.

## 7. Payment, Assignment Prohibition

**7.1.** The payment period for payments by POLLMANN shall begin with the receipt of the invoice by POLLMANN or, if later, with the acceptance of the SERVICES by POLLMANN.

**7.2.** Payments by POLLMANN shall not constitute an acknowledgement by POLLMANN of defect-free delivery of the SUPPLIER's SERVICES, a waiver by POLLMANN of its right to claim for damages or a waiver by POLLMANN to assert further claims related to the defective delivery of SERVICES.

**7.3.** The SUPPLIER shall only be allowed to assign SERVICE-related claims against POLLMANN to third parties upon POLLMANN's written approval.

## 8. Confidentiality of Information

**8.1.** „**CONFIDENTIAL INFORMATION**“ shall mean information, documents and records on POLLMANN (or its clients and any other business partners) may it be of a technical, commercial, legal or organizational nature (e.g. analysis, data, project plans, implementation drafts, studies, statements, results, presentations, contracts and any other materials etc.) and may it has been disclosed to or otherwise gained by the SUPPLIER. This shall apply irrespective of how the

CONFIDENTIAL INFORMATION became available to the SUPPLIER or POLLMANN (hereinafter the "PARTIES") during the business relationship or cooperation – may it be received directly from one of the PARTIES, or indirectly from its clients or business partners. CONFIDENTIAL INFORMATION shall also include the fact that the PARTIES intend to enter into a business relationship, that such exists or that such has been terminated.

**8.2.** CONFIDENTIAL INFORMATION shall be treated confidentially and shall not be disclosed or made available to third parties and shall only be used for the respective business relationship and its purpose. The PARTIES shall be mutually liable for the compliance with this obligation as well as for the adherence of data secrecy and the data security by all persons and subcontractors, which are engaged, have been engaged or will be engaged for the performance of the SERVICES of the respective business relationship, irrespectively whether or which form of contractual relationship they entered into. POLLMANN, however, shall be entitled to disclose CONFIDENTIAL INFORMATION to its clients within the scope of the respective business relationship. Further, the SUPPLIER shall only engage subcontractors, which can be classified as service companies for data protection upon expressly written approval of POLLMANN. The PARTIES shall disclose CONFIDENTIAL INFORMATION only to persons who are

... tied through an employment contract or any other written agreement which contains provisions of confidentiality which are at least as strict as these provisions or to which these have been assigned to and respective evidence hereof has been provided. The PARTIES shall be liable for restricting the access to CONFIDENTIAL INFORMATION to those persons who need the CONFIDENTIAL INFORMATION for their performance within the respective business relationship (restricted results – "need to know principle"). It shall, however, not be considered as a breach of these confidentiality obligations if the CONFIDENTIAL INFORMATION has been or will be disclosed or become commonly known without active involvement or non-compliance of the PARTIES.

**8.3.** The PARTIES shall be obliged to store the CONFIDENTIAL INFORMATION safely and to protect it against unlawful access by third parties; this by arrangements which at least comply to the current technical state of the art. This shall apply particularly for the transport of such information. The PARTIES shall be obliged to mutually notify without delay if CONFIDENTIAL INFORMATION got lost – further, if such loss was due to robbery, burglary, theft, unauthorized access to the documents, hacking or in a similar manner.

**8.4.** The obligation of the SUPPLIER to keep CONFIDENTIAL INFORMATION confidential shall apply for an unlimited period of time.

- 8.5.** The SUPPLIER has the right to:
- Access fully and without limitation to the information provided to the other party.
  - Correct and rectify the provided information.
  - Cancel the access to the information non essential for the service.
  - Oppose to the disclosure of some specific data non essential for the service.

The aforementioned actions can be requested by the SUPPLIER indicating the data that the party desires to access, correct, cancel or oppose to the next email address: office@pollmann.mx

**9. Defects**

**9.1.** The SUPPLIER warrants that the rendered SERVICES comply with the respective specifications and are free from any defect. If the SUPPLIER is also responsible for the construction, the SUPPLIER shall also warrants that the construction is free of defects and that the delivered SERVICES are suitable for the intended purpose.

**9.2.** The SERVICES delivered to POLLMANN shall not be burdened by any security rights or other rights of third parties, otherwise they shall be considered as defective.

**9.3.** If SERVICES are defective, POLLMANN can request at its own discretion from the SUPPLIER to either correct, to repair or to replace the defective SERVICES with SERVICES free from defects, each at the cost and risk of the SUPPLIER. If SERVICES are already part of the production process of POLLMANN or its clients and if, due to operative reasons and particularly reasons related to the manufacturing process, it cannot be reasonably expected from POLLMANN that the SUPPLIER conducts

the rectification of defects or if the SUPPLIER is not able to rectify the defects, POLLMANN shall be entitled to rectify the defects or replacements by itself or by third parties; this at the cost and risk of the SUPPLIER.

**9.4.** If the SERVICES have already been constructed and delivered to the POLLMANN's clients, POLLMANN shall make available to the SUPPLIER an adequate sample of the defective products for examination purposes at its cost and risk.

**9.5.** Further, the SUPPLIER shall reimburse POLLMANN for all costs incurred in connection with the supply of defective SERVICES.

**9.6.** The warranty period shall be 36 (thirty-sixty) months starting with the DELIVERY of the SERVICES.

**9.7.** The rights of POLLMANN agreed in this clause shall apply in addition to any other statutory and/or contractual claims.

**10. Product Liability and Recall**

**10.1.** If SERVICES of the SUPPLIER are defective due to the fault of the SUPPLIER and POLLMANN is held liable by third parties on the basis of product liability claims, the SUPPLIER is under obligation to indemnify POLLMANN for such claims. In such case, the SUPPLIER shall bear all costs and expenses, including legal costs of POLLMANN. If the cause of the damage is in the SUPPLIER's area of responsibility, the SUPPLIER shall have the burden of proof that it had no fault.

**10.2.** If a recall procedure becomes necessary due to defective SERVICES of the SUPPLIER, POLLMANN shall grant the SUPPLIER the right to participate in such procedures. This does not apply in the case of urgency. If the recall procedure was necessary because of defects of the SERVICES of the SUPPLIER, the SUPPLIER shall be under obligation to bear the costs of such recall procedure.

**11. Liability and Insurance**

**11.1.** The SUPPLIER shall reimburse POLLMANN for all costs and damages caused by the delivery of defective SERVICES or the breach of an obligation under the contract. The SUPPLIER shall be obliged to fully indemnify POLLMANN for all claims in this respect including the entire costs of the legal defense of POLLMANN, the compensation of all judicial and extrajudicial costs. The same applies to costs of administrative and criminal defense measures if and insofar as POLLMANN is not personal responsible. If the SUPPLIER proves that it is not at fault, this shall not apply.

**11.2.** The SUPPLIER shall be obliged to conclude customary global insurances, which are appropriate in the automotive industry customary (in particular business liability-, product liability- and recall insurance) with a high-performance insurer. The insurance coverage shall be guaranteed during the entire term of the contract. Upon request of POLLMANN, the SUPPLIER shall submit a certificate from its insurer with regard to the scope of the insurance coverage.

**11.3** If SUPPLIER's SERVICES also include work on the premises of POLLMANN or one of its customers, the SUPPLIER shall take all necessary precautions to avoid personal injuries or material damages when carrying out this work. The SUPPLIER shall be obliged to compensate POLLMANN all costs and damages, caused by its work on the premises of POLLMANN and shall indemnify POLLMANN from all claims in this regard. If the SUPPLIER proves that hits is not at fault, this shall not apply.

**11.4.** The SUPPLIER is liable for its employees and any subcontractors to the same extent as for its own liability, thus, POLLMANN will not be considered as an employer of any worker or subcontractor of the SUPPLIER. The SUPPLIER will defend POLLMANN and set him free of any claim filed by any of his employees and subcontractors.

## 12. Supplements

**12.1.** „SUPPLEMENTS“ are materials, parts, containers and special packages, provided for a fee or free of charge by the POLLMANN to the SUPPLIER.

**12.2.** SUPPLEMENTS may only be used as specified in the order. The processing and assembly of SUPPLEMENTS by the SUPPLIER shall exclusively be for POLLMANN. SUPPLEMENTS shall therefore always remain in the property of POLLMANN. Upon approval of POLLMANN, the SUPPLIER shall be entitled to resell manufactured products using SUPPLEMENTS under reservation of ownership.

**12.3.** If SUPPLEMENTS are processed into complete products („TOTAL PRODUCTS“), POLLMANN shall become co-owner of the TOTAL PRODUCTS in proportion of the value of the SUPPLEMENTS to the TOTAL PRODUCTS. POLLMANN reserves the co-ownership of the TOTAL PRODUCTS until full compliance of all claims arising from the SUPPLEMENT.

## 13. Right of withdrawal and termination

The SUPPLIER shall return all received information, data, documents and storage media to POLLMANN without undue delay after performance of the SERVICES. Further, the SUPPLIER shall permanently remove all data and information from his data processing systems, and return all copies of the data and storage media to POLLMANN, or destroy the reproductions including backup copies in such a way that reconstruction is impossible. The SUPPLIER shall immediately prove the return or destruction of information, data, documents and storage media on POLLMANN's request and confirm it in writing.

## 14. Force Majeure

Force majeure, war, shortages of raw materials and energy, labor strikes, civil disturbances, official measures and other unforeseeable, unavoidable and serious events such as natural disasters (fires, floods, earthquakes, hurricanes or other extreme natural disasters) as well as all other cases of force majeure (“FORCE MAJEURE EVENTS”), shall release the SUPPLIER from his contractual obligations only for the duration of the FORCE MAJEURE EVENTS and only to the extent of their effects. The SUPPLIER shall be obliged to immediately notify

POLLMANN about the occurrence of FORCE MAJEURE EVENTS, otherwise the SUPPLIER shall not be released from its obligation to deliver. In case of occurrence of FORCE MAJEURE EVENTS, POLLMANN shall be entitled to terminate the contract with the SUPPLIER in whole or in parts without the SUPPLIER having any claims against POLLMANN arising from this termination, particularly to damages. Further POLLMANN shall be entitled to terminate the contract in case that the FORCE MAJEURE EVENTS have negative economic impacts on POLLMANN's transactions or respectively to POLLMANN's business. In case of a termination of the contract by POLLMANN, the SUPPLIER shall be obliged to return to POLLMANN already received payments or other consideration immediately and without being requested thereto.

## 15. Intellectual Property and Licenses

**15.1.** The SUPPLIER warrant that the intended use of the SERVICES by POLLMANN does not violate the rights of third parties, in particular any industrial property rights. The SUPPLIER is obliged to indemnify and hold POLLMANN harmless from any claims in this regard, including any resulting disputes. This does not apply if the SUPPLIER is not responsible for the infringement of the protective rights.

**15.2.** If the SUPPLIER's intellectual property rights are required for the use of SERVICES by POLLMANN, the SUPPLIER shall grant POLLMANN the worldwide, irrevocable and free of charge right of the use of the SERVICES itself or by third parties, to repair or in any other way use or resell them in its sole discretion. If the SUPPLIER fails to fulfill the contract for any reason, the SUPPLIER shall also grant POLLMANN the right to produce or reproduce the SERVICES by itself or by a third party. If the SUPPLIER is responsible for the non-fulfilment of the SERVICES, the grant of right takes place free of charge, otherwise for a reasonable fee.

**15.3.** If a standard-user software is subject of a delivery contract, the SUPPLIER grants POLLMANN a freely transferable right of use. The SUPPLIER provides POLLMANN with the respective software free of charge. The SUPPLIER ensures that the sold software is free from viruses or similar defects.

**15.4.** If a delivery contract includes development works, which are to be paid by POLLMANN over the partial price through a one-off payment or in installments, POLLMANN shall acquire ownership of all development results. In addition, the SUPPLIER shall grant POLLMANN the irrevocable, non-exclusive, free of charge, worldwide license with the right to give out sublicenses to all protective rights on which the development results are based or which POLLMANN requires for the direct or indirect use of development results.

## 16. Applicable Law, Jurisdiction

**16.1.** all disputes or claims arising out of or in connection with these GTP or the contract on which these GTP are based, including disputes relating to its validity, breach, termination or nullity, shall be finally settled under the Rules of Arbitration of the Arbitration Center of Mexico (CAM) by one or three arbitrators appointed in

accordance with the criteria established in clause 16.

**16.2.** Rules related to the accelerated procedure shall not be applicable.

**16.3.** If the amount in the dispute is up to \$19,999,999.00 (NINETEEN MILLION PESOS NINE HUNDRED NINETY NINE THOUSAND NINE HUNDRED NINETY NINE PESOS 00/100 MXN), the dispute shall be settled by a sole arbitrator and, if the amount exceeds \$20,000,000.00 (TWENTY MILLION PESOS 00/100 MXN), three arbitrators shall decide the dispute.

**16.4.** Mexican substantive law shall be applicable. The conflict-of-law rules of international private law and the United Nation Convention on Contracts for the International Sale of Goods (CISG) are hereby expressly excluded.

**16.5.** The language to be used in the arbitration shall be English.

**16.6.** The seat of the arbitral tribunal shall be

State of Guanajuato, Mexico.

## **17. Compliance**

**17.1.** The SUPPLIER shall ensure that its employees comply with applicable anti-corruption and antitrust regulations using means of suitable control systems. Furthermore, the SUPPLIER shall comply with all legal regulations regarding the handling of employees, environmental protection and occupational safety.

**17.2.** POLLMANN is entitled to withdraw from all contracts concluded with the SUPPLIER without delay in case of serious breaches of the law and violations of the obligations arising from this section by the SUPPLIER.

## **18. Final Provisions**

**18.1.** Without prior written approval of POLLMANN, the SUPPLIER shall not be entitled to make advertisement and publications using the business relationship with POLLMANN, the name of POLLMANN or the SERVICES (advertising ban).

**18.2.** Headings in these GPT's are not normative; they only serve the structure, but not the interpretation of the provisions contained in the individual regulations.

**18.3.** Should one or more provisions of these GTP not be legally valid or unenforceable or invalid (invalid contractual provisions), this shall not affect the validity of the remaining provisions of the GTP. The contracting parties undertake to immediately agree to amend the respective invalid provisions with the closest provisions in terms of economic purpose. This also applies if the invalidity of a provision is based on standard SERVICES or time scaled; in such cases, a legally permissible measure of the SERVICES or time shall be agreed upon.

**18.4.** The SUPPLIER waives all rights to refuse

performance and rights of retention as well as contesting the contract on the grounds of error and frustration of contract.

**18.5.** The delivery address is the address specified in the contract. The PARTIES must immediately inform the other PARTIES without delay in writing about changes, otherwise the delivery at the last known address shall be legally effective