

# NEVEON

The Future of Foam

## General Terms and Conditions of Purchase

(dated 01 August 2023; Doc.ID: F-SCM-R-ZAF-030)

**These General Terms and Conditions of Purchase contain assumptions of risk and/or liability by you and/or the entity you represent ("Contractor") and may limit and exclude liabilities, obligations and legal responsibilities, which NEVEON and its affiliates (collectively, "NEVEON") will have towards the contractor.**

**No provision in these General Terms and Conditions of Purchase is intended to contravene the applicable provisions of the Consumer Protection Act, 68 of 2008 or similar Legislation in the applicable jurisdiction (the "CPA") and these General Terms and Conditions of Purchase must be treated as being qualified, to the extent necessary, to ensure compliance with all applicable laws, including the CPA.**

### 1 DEFINITIONS

- 1.1 The "Client" shall mean either NEVEON Holding GmbH or NEVEON HOLDING SOUTH AFRICA (PTY) LTD, NEVEON SOUTH AFRICA (PTY) LTD or a company affiliated with NEVEON Holding GmbH that is named in the respective order and enters into a contract with the respective Contractor on the basis of that order.
- 1.2 The "Contractor" (seller) is the company, merchant, or legal entity under private or public law that is named as a contracting party in that order.
- 1.3 The "CPA" shall mean the *Consumer Protection Act 68 of 2008*.
- 1.4 An "Affiliated Company" shall mean a legally independent company in which NEVEON HOLDING SOUTH AFRICA (PTY) LTD holds direct or indirect shareholdings (subsidiaries, sister companies, sub-subsidiaries, and minority shareholdings).
- 1.5 "Delivery Items" may be goods and/or services.
- 1.6 "ECTA" shall mean the *Electronic Communications and Transactions Act 25 of 2002*.
- 1.7 "POPIA" shall mean the *Protection of Personal Information Act 4 of 2013*.
- 1.8 The "VAT Act" shall mean *Value-Added Tax Act 89 of 1991*.

### 2 GENERAL PROVISIONS

- 2.1 These Terms and Conditions of Purchase (also referred to as the "Contract") shall govern the relationship between the Contractor and the Client insofar as no deviation from them have been agreed upon in an individual contract. The Client's order may only be placed on the basis of these Terms and Conditions of Purchase.
- 2.2 The Client will not accept any order confirmations or Terms and Conditions of Sale or similar issued by the Contractor that contain terms and conditions other than these Terms and Conditions and such terms and conditions shall be deemed to be waived, even if no direct objection to them has been raised.  
  
Notwithstanding any offers made, all purchase orders, delivery schedules, delivery contracts, and any amendments or supplements to these shall only be legally binding on the Client if they have been issued in writing by the Client's authorised Purchasing Department. The Contractor may only cite declarations made by other persons if they inform the Client's responsible Purchasing Department of this without delay and obtain written confirmation from them.
- 2.3 These Terms and Conditions of Purchase shall be deemed to have been accepted by the Contractor upon acceptance of the Client's order.
- 2.4 The Client's Terms and Conditions of Purchase also expressly apply to any future business transactions between the Client and the Contractor, even if no specific reference is made to these Terms and Conditions in the individual case. Any exceptional agreements (amendments, supplements) deviating from the Client's Terms and Conditions of Purchase shall only apply to the specific transaction for which they have been confirmed in writing by the responsible department of the Client.

The Client's General Terms and Conditions of Purchase shall also apply if the Contractor installs or assembles Delivery Items on behalf of the Client.

### 3 PLACING ORDERS, CONCLUSION OF THE CONTRACT

- 3.1 The Contract shall become legally binding when it is concluded between the Client and the Contractor, that means when an offer is accepted.
- 3.2 If the Contractor does not accept the order in writing within two weeks, the Client may revoke it. Delivery schedules shall become binding if the

Contractor does not object in writing within two weeks, however three days for the Business Unit Mobility, after receiving the delivery schedule or the order.

- 3.3 The commercial basis of the Contract is to secure the Contractor's competitiveness in terms of price, quality, innovativeness and security of supply.
- 3.4 Delivery contracts are also deemed to have been effectively concluded if the Contractor has begun to deliver the order.
- 3.5 Any offers made by the Contractor (including project costs) shall be free of charge for the Client and shall be construed exclusively as an invitation to conclude a contract (order).
- 3.6 When submitting an offer, the Contractor must adhere precisely to the quantity and quality of the goods and to any technical design details requested by the Client. For goods charged by weight, pricing is based on net weight without packaging or packaging aids (such as mesh boxes, pallets, sleeves, etc.).
- 3.7 Cost estimates are binding and are to be provided free of charge unless expressly agreed otherwise in writing.
- 3.8 Orders, transactions and delivery schedules issued by means of a signature-less purchase order generated automatically from an electronic system and quoting an order number, amendments and supplements to such orders, and amendments to the underlying Contract, including these Terms and Conditions of Purchase and this provision, are not legally effective unless in writing. This also applies to any termination.
- 3.9 Verbal agreements of any kind – including subsequent amendments and supplements to the Terms and Conditions of Purchase of the Client and this written form clause – shall be confirmed in writing by the Client in order to be legally effective.
- 3.10 The written form requirement may also be satisfied by electronic transmission (email) or telefax. For the purposes of these General Terms and Conditions of Purchase, the written form ("in writing") requirement is met if (i) a document is signed by hand, scanned and sent by email, or (ii) is an electronically signed document (Signature as defined in Sections 13 (1) and 13(3) of ECTA and is sent by email.
- 3.11 Prices on orders placed by the Client are deemed to be agreed and binding and may not be changed in any way in subsequent documents (including but not limited to order confirmations, invoices). If the Client's order does not include any information on prices or only indicative prices, the Contractor must add binding prices in the order confirmation. However, these prices must be approved in writing by the Client.
- 3.12 If the order confirmation deviates from the content of the Client's order in any way, this must be expressly indicated and the Client's written consent obtained. The Client may revoke any orders it has placed until receipt of a written order confirmation. The Client reserves the right to revoke the order in any case if the order is not accepted by mutual agreement within 30 (thirty) days.
- 3.13 The Contractor must include the Client's order number, the date of the Client's order, the item number and all other data used by the Client for the purpose of labelling and clearly identifying the order on all documents addressed to the Client, in particular order confirmations, dispatch notes, delivery notes and invoices. For call placed, the Contractor shall also note the respective dates of the call orders concerned.

### 4 PRICES, TERMS OF PAYMENT AND INVOICING

- 4.1 The total price of the Delivery Item ("Price") shall be as set out in the order. The Prices stated in the Client's order or agreed with the Contractor are fixed prices. No changes may be made during the agreed delivery period, even for call orders. The Client accepts no price escalation clauses.
- 4.2 Unless expressly otherwise agreed in an individual contract, all Prices are net fixed prices – not including the applicable statutory value added tax or other (transactional) taxes, customs duties, fees or other levies of any kind – including packaging and freight costs. If the Client has to pay a tax deducted at source, this shall be borne by the Contractor in every case.
- 4.3 If the payment is subject to tax deducted at source, the following rule shall apply: The Client may withhold tax deducted at source from the payment in the amount provided for by law and to pay it to the competent tax office on behalf and for the account of the Contractor. If

# NEVEON

## The Future of Foam

the Client is provided with evidence within a reasonable period of time prior to payment that the conditions for a tax reduction or tax exemption under the applicable double taxation agreement have been fulfilled, the tax deducted at source shall be withheld in accordance with the applicable double taxation agreement. The Contractor shall submit all the necessary documents to prove that the requirements for a tax reduction or tax exemption have been met.

- 4.4 Changes in tax law or other changes in underlying circumstances shall not entitle the Contractor to a subsequent price increase; in particular, fluctuations in exchange rates shall be borne by the Contractor. The Client is free to choose whether to pay at the exchange rate in effect on the date of the order or on the date the payment falls due.
- 4.5 Invoices shall be issued for the deliveries made and services rendered in accordance with the applicable statutory provisions on value added tax. Invoices shall be issued in accordance with provision 3.13 and sent electronically by email. Proof of performance and other supporting documents must be attached to the invoice.
- 4.6 The Client's and Contractor's VAT number will be indicated in the order in terms of the provisions of the *VAT Act*. The Contractor is liable for the correct application of the applicable statutory provisions on value added tax to the respective delivery transaction as well as for any additional value added tax payments that may arise in the course of a financial audit due to incorrect information provided by the Contractor.
- 4.7 Unless otherwise agreed, payments shall be made within either 30 days at a 3% discount or 90 days net after acceptance of the Delivery Item or receipt of a proper and auditable invoice, whichever is later. If the delivery is defective or delayed, the Client may withhold payment until proper fulfilment; this shall not entail any loss of rebates, discounts or similar payment concessions.
- 4.8 If the invoice is received later than the goods, the discount period is calculated from the date of receipt of the invoice rather than the date of receipt of the goods. A discount deduction is also permissible if the Contractor offsets any other claims.
- 4.9 The Contractor may not offset claims against the Client's claims. Notwithstanding any wider legal rights, the Client may offset any outstanding claims against the Contractor against their own liabilities towards the Contractor.

### 5 PLACE AND TIME OF DELIVERY

- 5.1 The place of performance is the facility at which delivery is to be made or the place of delivery specified in the order.
- 5.2 The date of delivery for deliveries and services is defined as the date of complete and defect-free performance of the Contractor's obligations in accordance with the order, including complete and correct documentation.
- 5.3 Agreed delivery periods and delivery dates are binding. The relevant factor for ascertaining compliance with the delivery time is receipt of the complete and defect-free Delivery Item by the Client or at the agreed place of use. Any deviating delivery dates or partial deliveries are subject to the prior written approval of the Client.
- 5.4 If circumstances arise or become known to the Contractor that indicate that the agreed delivery time cannot be met, the Contractor shall notify the Client in writing without delay.
- 5.5 The Client is entitled to the relevant statutory claims in the event of a delay in delivery. If delivery of goods, services and/or documentation is delayed, the Client may, in addition to performance, claim a contractual penalty of 1% of the order value for each additional week of delay, but not more than a total of 25% of the order value for exceeding the delivery time, without having to provide specific evidence of loss or damage. In all other respects, the statutory provisions shall apply.
- 5.6 The Client reserves the right to assert claims for any additional loss or damage incurred.

### 6 PACKAGING AND SHIPPING

- 6.1 Delivery shall be made to the place of receipt designated by the Client, by the most economical means of transport, and shall be free of freight charges, packaging costs, customs duties and fees for the Client. The Client may refuse to accept freight forward consignments. The transport risk shall be borne by the Contractor.
- 6.2 Unless otherwise specified in a particular instance, deliveries shall be made in accordance with the Incoterms clause DDP "Delivered Duty Paid" (Incoterms 2020); for contractors domiciled in the European Union (EU), deliveries shall be made in accordance with the Incoterms clause DAP "Delivered At Place" (Incoterms 2020). For legal transactions involving more than one party, a written agreement on the

applicable Incoterms clauses must always be concluded between the contracting parties.

- 6.3 Notice of claims arising out of damage in transit must be lodged and carried out in accordance with the agreed Incoterms®. The Customer shall co-operate and assist NEVEON where it is required to lodge or defend any claims.
- 6.4 The Delivery Items shall, insofar as they require packaging, be securely packed, labelled and safely loaded for transport to protect them against loss or damage and to prevent damage to persons, equipment or other goods, and at the Contractor's expense. The Contractor is liable for any consequences of a defect in or defective condition of packaging. Items damaged in transit shall be returned to the Contractor freight forward, and the Contractor shall be responsible for settling any applicable damage claims with the carrier.
- 6.5 The Contractor is responsible for packaging, labelling and shipping hazardous products in accordance with the applicable national and international regulations.
- 6.6 The Client reserves the right to return the packaging to the Contractor, in which case the value shall be credited to the Client if the return is free of charge for the Contractor.
- 6.7 The Contractor guarantees that all necessary documents will be supplied in accordance with the Client's requirements.
- 6.8 If any working materials are used for services, repair/assembly or similar, they must be labelled, packaged, transported, stored and handled in accordance with the law; the Contractor shall properly dispose of any remaining residues and empty containers after completion of the work. The Contractor shall bear any costs incurred for this.
- 6.9 For deliveries/services that require or permit the display of the CE label and/or a declaration of conformity, the Contractor shall comply with all relevant legal provisions and display the CE label on a machine/system ready for use and/or provide the Client with the necessary declarations of conformity in the language(s) required for the documentation or in the language(s) as stipulated by the legal provisions (for the place of use at the Client's premises). The hazard analysis shall always be submitted to the Client.

### 7 FORCE MAJEURE

- 7.1 Neither party shall be liable in cases of force majeure. For the purposes of this Contract, force majeure is defined as an event that could not have been prevented by the party affected by force majeure and which prevents such party from duly fulfilling its obligations. Examples of force majeure include war, whether declared or not, riots, revolution, insurrection, boycotts, non-issuance or revocation of export/re-export licences, terrorism, strikes, fire, or natural disasters including, for example, floods, earthquakes, and typhoons.
- 7.2 Raw material shortages are not a force majeure event. Each party shall, within reason, immediately provide the other party with the necessary information, do everything to eliminate the disruption, and/or mitigate the effects of the disruption. The contracting parties shall also seek alternative ways and means to enable the continued fulfilment of the performance obligations and, if necessary, adjust their obligations to the changed circumstances in good faith for the duration of the disruption. As soon as the disruption has ceased, the original performance obligations shall be reinstated.
- 7.3 If the Client is so prevented or delayed for a period of more than 3 (three) months, NEVEON may terminate the applicable Accepted Order(s) on notice to the Contractor without the Contractor having any right to compensation.

### 8 TRANSFER OF RISK

- 8.1 Risk shall not transfer to the Client until acceptance of the Delivery Item at the place of receipt specified by the Client. For deliveries involving installation or assembly, risk passes to the Client upon issuance of the signed acceptance report of the installed and assembled Delivery Item.

### 9 TRANSFER OF OWNERSHIP

- 9.1 The Delivery Item becomes the property of the Client after risk has been transferred, at the latest at the time of payment.

### 10 WARRANTY AND LIABILITY

- 10.1 No exclusion of liability in any respect and no limitation of liability of the Client's contractual partners, in particular under the title of warranty or compensation for loss or damage, shall be accepted unless these have been expressly negotiated in detail with the Client and recorded in writing. This therefore applies e.g. to changes in the legal burden of proof to the detriment of the Client, shortening of deadlines, etc.

# NEVEON

## The Future of Foam

- The Contractor shall ensure that the deliveries and services are free of defects. Delivery Items shall possess the warranted properties, perform as agreed, and conform to the current state of the art in design and materials. It must not have any defects that nullify or diminish its value or suitability for ordinary use or the use that was assumed or indicated when the order was placed.
- 10.2 The quality, dimensions, weights and requirements of the delivered material shall be determined exclusively in accordance with European Standards (EN) and the Supplier Quality Assurance Agreement, and for the Mobility Business Unit with the OEM-specific standards, VDA, FAA standards and EASA standards. All deliveries shall fully comply with the national and international laws, directives, standards and provisions regarding occupational health and safety, environmental protection and fire prevention, and with the statutory accident prevention regulations and safety regulations (CE conformity) in effect at the time of delivery.
- The Contractor undertakes, represents and warrants to the Client that any raw materials (if applicable) used in manufacturing the Goods and the Goods and/or the Services (where applicable) themselves will:
  - conform in all respects as to quantity, quality, safety, instruction of the Buyer, or sample provided to the Buyer, and description, with all particulars stated in the Contract, any applicable specification provided by the Buyer and all relevant national statutes, directives, laws and regulations in force from time to time; and
  - be free from defect in design, material and workmanship; and be accompanied with accurate, complete and comprehensible instructions for the treatment, assembly, use and/or storage of the Goods; and
  - be of satisfactory quality, free from defects in materials and workmanship and fit for their intended purpose (whether such purpose is implied or expressly stated in the Contract); and
  - be free from design and other inherent defects (save to the extent that the Goods have been supplied in accordance with designs of the Buyer); and
  - will not infringe any third-party intellectual property rights; and
  - will be performed by appropriately qualified, trained and experienced personnel with a high standard of skill, care and diligence and in accordance with the Contract;
  - will be performed to such standards of quality generally observed in the industry for similar Services; and
  - will comply with the relevant sections of the *CPA*.
- 10.3 If the Delivery Item lacks any warranted or agreed characteristics or characteristics specified by the Client, if it fails to comply with accident prevention regulations or other protective provisions or if the Delivery Item has other defects, the Client shall be entitled, irrespective of the severity of the defect, to demand, at the Client's discretion, rescission of the contract (cancellation), reduction of the purchase price (abatement), free-of-charge rectification of the defect, or a free-of-charge replacement delivery. This shall not affect all claims for compensation for direct or indirect consequential damage caused by a defective delivery.
- 10.4 If the Contractor fails to fulfil their warranty obligations within a reasonable period of time, the Client may remedy the defects or have them remedied by third parties or to procure replacements elsewhere at the Contractor's expense. In urgent cases (e.g. to avoid interruptions in production), the Client may remedy the identified defects at the Contractor's expense without setting a deadline beforehand.
- 10.5 If defects cannot be remedied on site, the transport costs shall be borne by the Contractor.
- 10.6 The Contractor's warranty obligation is three years, calculated from the date of the transfer of risk, unless longer periods apply by law or are otherwise stipulated in an individual contract. For deliveries/services that have been replaced, the Client is entitled to a new warranty period of the same duration starting from the date of replacement.
- 10.7 The Client may submit a notice of defects within 4 (four) weeks after receipt of the Delivery Item, and within 2 (two) weeks after discovery in the case of hidden defects but no later than six months after receipt of the Deliver Item. Hidden defects also include defects in the object of the Contract, which are only discovered during processing, or commissioning in the normal course of operations. The Contractor shall take immediate remedial action for defective deliveries (replacement deliveries, sorting or reworking, etc.). The Client is under no obligation to inspect the Contractor's deliveries and services prior to use.
- 10.8 The above warranty provisions shall also apply if the Contractor installs or assembles Delivery Items on behalf of the Client. In this case, the warranty period commences upon acceptance of the fully assembled items by the Client or the Client's customer in accordance with the written confirmation of acceptance.
- 10.9 The Contractor is required to maintain sufficient liability insurance cover at their own expense for any loss or damage for which they and/or their vicarious agents are responsible. Proof of the amount of cover per damage event shall be provided to the Client on request. The Contractor's contractual and statutory liability shall remain unaffected by the scope and amount of their insurance cover.
- 10.10 The Contractor shall undertake to inform the Client of the expiry of a material at least six (6) months in advance.
- 10.11 Employees of the Client and of the authorities and agencies corresponding to the business unit ((e.g. EASA / ACG / FAA / IATF / OEMs and other official representatives), may expressly visit the Contractor's and the subcontractor's plant following prior notification and announcement of the date, reason, place and duration.
- 10.12 If there are any concerns about the type of execution requested by the Client, the Contractor shall inform the Client of these concerns in writing without delay. Only justified concerns shall have an influence on the binding nature of the originally scheduled delivery date.
- 10.13 If a claim is made against the Client on the grounds of product liability, the Contractor shall indemnify the Client against such claims and any expenses and damages arising from them, insofar as the product defect was caused by the Contractor.
- 10.14 The Contractor shall be liable for any expenses and loss or damage incurred as a result of measures taken by the Client to avert damage, insofar as such measures are based on the defectiveness of the goods delivered by the Contractor or any other breach of duty on the part of the Contractor.
- 10.15 The Contractor shall, upon request, provide the Client with appropriate support in investigating and defending against third-party claims.
- 10.16 Any other statutory or contractual rights of the Client shall remain unaffected by the provisions of this section 9.
- ### 11 TRANSFER / ASSIGNMENT
- 11.1 The Contractor's delivery obligation as agreed with the Client may not be transferred to third parties without the Client's prior written consent.
- 11.2 The Contractor is not entitled to assign any claim they may have against the Client under the delivery or service contract to third parties without the Client's prior written consent.
- 11.3 Any transfer or assignment made contrary to these provisions is void.
- ### 12 ENTRUSTED DOCUMENTS AND CONFIDENTIALITY
- 12.1 Documents of any kind, such as descriptions, samples, drawings, models, tools, moulds and other objects, which the Client has made available to the Contractor, shall remain the property of the Client.
- 12.2 The Contractor may not use the Client's documents, information or tools for their own purposes or make them available to third parties unless there is a direct connection with the execution of the order. The Contractor shall return all documents, information and tools, including any copies, without being requested to do so, at the latest when they are no longer required by the Contractor for the performance of the services and deliveries. Returns shall be free of charge for the Client.
- 12.3 The Contractor shall check these documents immediately after receiving them. Deviations from this are only permissible with the written consent of the Client. If these documents contain technical or other defects, the Contractor shall inform the Client of these immediately after their discovery.
- 12.4 The Contractor shall undertake to keep all technical and commercial data relating to the Client confidential, insofar as they are not in the public domain. This applies in particular to the documents referred to in sub-section 12.1, as well as regarding to the price quotations and conditions.
- 12.5 Unless otherwise agreed in writing, the Contractor shall keep quality records for ten (10) years from the date of the order.
- 12.6 The Contractor grants the Client the right to use and exploit all plans, drawings, graphics, calculations and other documents relating to the Contract, which the Contractor has either produced or commissioned third parties to produce for the Client in terms of the Contract, in all known forms of media, including electronic media, the internet and online media, on all image, sound and data storage devices, without restriction in terms of space, content or time, for the purposes agreed

# NEVEON

## The Future of Foam

in the Contract or required in accordance with the Contract. The Client may use the drawings for the manufacture of spare parts and similar, including by commissioning third parties.

### 13 PROTECTION OF PERSONAL INFORMATION

13.1 Where the Client is the Responsible Party and the Contractor is the Operator under the Contract:

- a) The Contractor shall at all times comply with obligations equivalent to the obligations of the Client under the provisions of Condition 7 of the *POPIA* and shall take appropriate, reasonable technical and organisational measures to prevent unauthorised or unlawful access or processing of Personal Information and against loss or destruction of, or damage to, Personal Information. When considering what measure is appropriate, the Contractor shall have regard to the state of good practice, technical development and the cost of implementing any measures to ensure a level of security appropriate to the harm that might result from such unauthorised or unlawful access or processing or loss or destruction, and to the nature of the Personal Information to be protected;
- b) The Contractor shall process Personal Information only to the extent, and in such a manner, as is necessary for the purposes of delivering the Goods and/or Services under the Contract and solely in accordance with the Client's instructions from time to time.
- c) The Contractor shall ensure that access to the Personal Information is limited to:
  - i. those employees who need access to the Personal Information to meet the Contractor's obligations under the Contract; and
  - ii. in the case of any access by any employee, such part or parts of the Personal Information as is strictly necessary for performance of that employee's duties.
- d) The Contractor shall ensure that all employees who have access to the Personal Information in accordance with Condition 13.1(c) above:
  - i. are informed of the confidential nature of the Personal Information;
  - ii. have undertaken training in the laws relating to handling Personal Information; and
  - iii. are aware both of the Contractor's duties and their personal duties and obligations under such laws and the Contract.
- e) The Contractor will keep a record of any processing of Personal Information it carries out on behalf of the Client.
- f) The Contractor shall promptly comply with any request from the Client requiring the Contractor to amend, transfer or delete the Personal Information.
- g) At the Client's request, the Contractor shall provide to the Client a copy of all Personal Information held by it in the format and on the media reasonably specified by the Client.
- h) The Contractor shall not transfer the Personal Information outside the Republic of South Africa without the prior written consent of the Client. The Contractor shall ensure that the transfer of any Personal Information out of the Republic of South Africa will apply with applicable laws.
- i) The Contractor shall promptly inform the Client and shall provide the Client with full co-operation and assistance if it becomes aware of any advance in technology and methods of working regarding the protection of Personal Information in connection with the Contract; any unauthorised or unlawful processing of any Personal Information; or if any Personal Information is lost or destroyed or becomes damaged, corrupted, or unusable. The Contractor will restore such Personal Information at its own expense.
- j) The Contractor shall notify the Client immediately if it receives a request from a Data Subject for access to that person's Personal Information and shall provide the Client with full co-operation and assistance in relation to any request made by a Data Subject to have access to that person's Personal Information.
- k) The Contractor shall not disclose the Personal Information to any Data Subject or to a third party other than at the request of the Client or as provided for in the Contract.
- l) Where the Contractor collects Personal Information on behalf of the Client it must do so in accordance with instruction from the Client and in a format agreed by the Client in writing containing a data protection notice informing the Data Subject of the identity of the Client, the identity of any data protection representative it may have appointed, the purposes or purposes for which their Personal Information will be processed and any other information which is necessary having regard to the specific circumstances in which the

data is, or is to be, processed to enable processing in respect of the Data Subject to be fair.

13.2 Where the Services/Goods involve the sale of Personal Information to the Client the Contractor shall ensure that all Personal Information has been collected and sold in accordance with the *POPIA* as may be amended from time to time and that the Client is able to use the Personal Information for the required purpose under the Contract.

13.3 If the Contractor receives any complaint, notice or communication which relates directly or indirectly to the processing of the Personal Information or to either party's compliance with the *POPIA* and the data protection conditions set out therein, it shall immediately notify the Client and it shall provide the Client with full co-operation and assistance in relation to any such complaint, notice or communication.

13.4 The Operator agrees to indemnify, defend and holds harmless the Responsible Party, its Associates, respective staff, successors, cessionaries and assigns, from any and all losses, costs, expenses and damage, including penalties and fines arising from the Operator's non-compliance with the provisions of this Condition and the *POPIA*.

### 14 MOULDS AND TOOLS

14.1 Tools or moulds manufactured or procured by the Contractor on behalf of the Client shall become the sole property of the Client upon manufacture or procurement by the Contractor. The Contractor undertakes to store and maintain these goods with due care. Storage fees and costs for servicing and maintenance shall be included in the tool costs.

14.2 The Contractor is liable for any kind of deterioration or loss of the tools and moulds during storage.

14.3 The Contractor undertakes to insure tools and moulds against theft, fire, destruction and any kind of deterioration at their own expense and to provide evidence of this insurance to the Client upon request.

14.4 The Contractor shall maintain tools and moulds at their own expense.

14.5 The aforementioned items may not be scrapped or made accessible to third parties without the written consent of the Client and may only be used for the contractually agreed purposes.

14.6 The Contractor may not transfer tools or moulds to third parties or use them for their own or third-party purposes.

14.7 The Client may make tools and moulds available to third parties for the production of parts for the Client, and to repair, renew or modify the tools and moulds for the purposes of the Client or commission a third party to do so.

14.8 The Client may withdraw the tools from the Contractor if the parts are not delivered on time or in the correct manner or if the Contractor demands higher prices for the parts in future orders than were agreed at the beginning of the Contract.

### 15 COMPLIANCE

15.1 The Contractor understands and acknowledges that the activities of the Client and thus also the activities of the Contractor for the Client are subject not only to the local laws in the jurisdiction where the Contractor is domiciled, but also to the laws of other countries and organisations. The Contractor further acknowledges that the Client has adopted a strict code of conduct and that the Contractor's continued and rigorous compliance with all laws and regulations is a prerequisite for the Client to contract and continue to do business with the Contractor.

The Contractor undertakes to comply at all times with the Greiner Code of Conduct (<https://www.greiner.com/en/greiner-ag/compliance/>) and the Greiner Code of Conduct for Suppliers and Business Partners (<https://sustainability.greiner.com/en/suppliers/>), with laws and regulations, in particular the U.S. Foreign Corrupt Practices Act of 1977, (as amended), and with current local antitrust, anti-corruption, anti-bribery and ethical laws and regulations. Neither the Contractor nor any of their directors, officers, employees, or agents shall make or offer to make any payment or gift, directly or indirectly, to any third party, including any employee, officer or agent of any governmental agency or other political party or candidate.

15.2 The Contractor undertakes to keep written records of their activities for the Client. The Contractor shall forward the relevant records to the Client upon request and shall assist the Client with any questions or requirements in this regard.

15.3 The Client reserves the right to verify the Contractor's compliance with the provisions of this Agreement and all applicable laws and provisions, including the Greiner Code of Conduct, during business hours following prior written notification.

# NEVEON

## The Future of Foam

### 16 TERMINATION

- 16.1 The Client may terminate the Contract at any time, subject to a notice period of 1 (one) month.
- 16.2 Without prejudice to any of its other rights under the Contract the Client may by notice in writing to the Contractor terminate the Contract forthwith if:
- The Contractor commits any breach of the Contract, or
  - The Contractor ceases or threatens to cease to carry on business or permits any judgment against it to remain unsatisfied for 7 (seven) days; or
  - There is a change in control of the Contractor, or
  - Being a company, a close corporation or a partnership the Contractor has a petition presented or a meeting is convened for the purpose of considering a resolution or other steps are taken for its winding up (otherwise than for the purposes of a bona fide amalgamation or reconstruction) or compounds with its creditors, or if the Contractor becomes insolvent, or an examiner is appointed to it or a receiver, liquidator or similar officer is appointed in respect of all or any part of its business or assets, or a comparable event in any jurisdiction; or
  - Being an individual the Contractor dies, or becomes bankrupt or insolvent, or enters into any arrangement with creditors or takes or suffers any similar action in any jurisdiction in consequence of debts.
- 16.3 The termination of the Contract shall be without prejudice to the rights and remedies of either party which may have accrued up to the date of termination.
- 16.4 Upon termination of the Contract for any reason whatsoever:
- (subject to paragraph 16.2 above) the relationship of the parties shall cease save as (and to the extent) expressly provided for in this paragraph 16.3.
  - Any provision which expressly or by implication is intended to come into or remain in force on or after termination shall continue in full force and effect; and
  - The Contractor shall immediately return to the Client (or if the Client so requests by notice in writing, destroy) all of the Client's property in its possession at the date of termination including all Information, together with all copies of such Information and shall certify that it has done so, and shall make no further use of such Information and/or all plans, drawings, specifications and patterns belonging to the Client.
- 16.5 The Client may request changes to the Delivery Item (e.g. in construction and design) at any time. Any resulting additional or reduced costs or adjustments to the due dates shall be settled by mutual agreement.

### 17 USAGE RIGHTS

- 17.1 Models, sketches, matrices, templates, samples, drawings, specifications, etc., and confidential information and design data provided to the Contractor by the Client or paid for in full by the Client may expressly not be used for other purposes, including in particular delivery to third parties. This is only permitted in exceptional cases if the Client has agreed beforehand in writing. The Contractor shall use the confidential information and means of production exclusively in connection with deliveries to the Client and not for other purposes.
- 17.2 All models, tools, devices, drawings and other manufacturing aids, etc. to be produced for the execution of the order become the property of the Client and shall be identified as such. The Contractor shall grant the Client free and transferable rights of use, unlimited in terms of space and time, to all the documents made available.
- 17.3 The Client's intellectual property rights and usage rights to all documents, including engineering, documentation, software and know-how, shall remain with the Client without restriction. The documents submitted to the Contractor by the Client may not be edited, copied, reproduced, translated into another language, disseminated or processed (by printing, photocopying, microfilming or any other method), either in whole or in part, whether electronically or by any other means, without the prior written consent of the Client.
- 17.4 The Contractor shall ensure that neither the goods nor the manufacturing process infringe upon any third-party rights (in particular patent rights, utility model rights, copyrights, design rights, trademark rights or other intellectual property rights), and the Contractor shall indemnify the Client and their customers against all third-party claims for infringement of such rights.

- 17.5 The Client hereby acquires the right to use all documents, drawings, sketches, etc. submitted by the Contractor without restriction in terms of time or place, and is entitled, among other things, to forward the documentation received from the Contractor or their subcontractors to their other contractual partners and to use such documentation without restriction.
- 17.6 If joint activities of the contracting parties, in particular in the field of development, lead to patentable manufacturing processes or materials, the parties shall separately agree on the conditions for filing a patent application and exploiting this expertise. This agreement may under no circumstances lead to an increase in the prices for the products covered by the Contract.
- 17.7 The Contractor undertakes to care for, maintain and service production equipment.
- 17.8 Further or deviating agreements shall be made in a separate contract (e.g. tool contract).

### 18 QUALITY AND DOCUMENTATION

- 18.1 The Contractor shall guarantee that the Delivery Item is in flawless condition in terms of workmanship and the materials used as per the relevant sections of the CPA. The Contractor is responsible for complying with all safety requirements and shall ensure that the Delivery Item and its production and provisions comply with national and international laws, directives, standards (South African and if applicable EU as well as Austrian standards, REACH, and if applicable VDA and AIAG standards, etc.), in particular with regard to occupational health and safety, environmental protection and fire protection (in particular, compliance with minimum wage laws). Insofar as no deviating requirements result from this, the generally recognised state-of-the-art technology shall be applied.
- 18.2 The Contractor shall – insofar as possible – provide complete and easily understandable use instructions and store all necessary documentation, and shall closely monitor the product.
- 18.3 Series production in the automotive sector may not commence until the Client has accepted the initial samples and has certified this in writing by issuing an acceptance protocol or a test report signed by both contracting parties.
- 18.4 If there is no written agreement between the Contractor and the Client on the scope and type of testing or on the testing equipment and methods, the required technical standards shall be mutually established by the respective quality departments at the request of one of the two contracting parties.
- 18.5 The Contractor is responsible for complying with the fire protection regulations posted at the Client's premises during construction, repair, assembly and installation work on site. The Contractor may request a copy of these regulations from the Client's production management.

### 19 JURISDICTION AND CHOICE OF LAW

- 19.1 All disputes arising out of or in connection with the present contract shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce by three arbitrators appointed in accordance with the said Rules. The arbitration proceeding shall be held in the English language and all documents not in English submitted by either party shall be accompanied by an English translation. The decision and/or award rendered by the arbitrators shall be written, final and non-appealable and may be entered in any court of competent jurisdiction. The losing party shall bear all the costs of arbitration including the fees and expenses of the arbitrators and, in particular, pay the costs of the successful party (in particular attorneys' and expert fees). Place of arbitration shall be Vienna. The court of arbitration shall reach its decision in accordance with South African substantive law.
- 19.2 South African substantive law shall apply. The applicability of the UN Convention on Contracts for the International Sale of Goods and the international reference standards is expressly excluded.
- 19.3 Without prejudice to any other rights or remedies that the Client may have, the Contractor acknowledges and agrees that where damages alone would not be an adequate remedy for any breach of the Contract by the Contractor, the Client shall be entitled to the remedies of injunction, specific performance or other equitable relief for any threatened or actual breach of the terms of this Contract.

### 20 SEVERABILITY CLAUSE

- 20.1 The Contract concluded between the Client and the Contractor shall remain binding even if individual provisions of the Contract or of these Terms and Conditions of Purchase are legally ineffective.
- 20.2 Any provision, term or condition that is ineffective shall be replaced in good faith by a provision that comes as close as possible to the purpose

# NEVEON

The Future of Foam

of the ineffective provision, term or condition and that ensures that the economic purpose of the Contract is achieved.

## **21 WAIVER**

21.1 No waiver of any right under, or breach of the Contract will operate as a continuing waiver or waiver of any subsequent breach of that or any other provision. Any waiver of any breach of the Contract shall be in writing.

## **22 NOTICE**

22.1 Any notice or other document required to be served on the Contractor shall be delivered by email or fax to the Client and any notice or other document required to be served on the Client shall, in the case of an invoice or statement, be delivered by email or fax to the Contractor.

## **23 VARIATION**

23.1 No purported alteration or variation of any provision of the Contract shall be effective unless it is in writing, refers specifically to the Contract and is signed by a duly authorised representative of each of the parties to the Contract.