

## GENERAL CONDITIONS OF PURCHASE

### 1. DEFINITIONS

**Affiliate:** Any legal entity of AGFA in Belgium or abroad, existing, to be acquired or to be created, that directly or indirectly (i) is controlled by AGFA or is under common Control of AGFA together with one or more third parties, whereas the substantive and noun "Control" as used herein shall refer to the possession of the power to direct or cause the direction of the management and the policies of an entity, whether through the ownership of a majority of the outstanding voting rights or by contract or otherwise.

**AGFA:** AGFA-GEVAERT NV, with registered seat at Septestraat 27, 2640 MORTSEL, BELGIUM.

**Agreement:** the entire agreement between AGFA and Vendor consisting of the Purchase Order, with its Specific Conditions, these General Conditions, the AGFA Supplier Code of Conduct and the Quotation (if any).

**Business Day:** any calendar day from Monday through Friday, excluding customary holidays and public holidays.

**Business Hour:** any hour between 09:00 and 17:00 CET on a Business Day.

**Deliverable(s):** the product(s) and/or service(s) purchased by AGFA from the Vendor through the Purchase Order.

**Purchase Order:** an order issued by AGFA by which AGFA orders a Deliverable from the Vendor.

**Quotation:** the offer made by the Vendor with respect to the Deliverables and referred to in the Purchase Order.

**Specific Conditions:** conditions related to a specific order, as specified in the Purchase Order.

**Vendor:** the physical person or legal entity from which the Deliverable is ordered.

The Vendor and AGFA are individually referred to hereinafter as "Party" and jointly as "Parties".

### 2. SCOPE

Unless expressly agreed otherwise by the Parties, all purchases of Deliverables by AGFA shall be governed by these General Conditions of Purchase and the other provisions of the Agreement, to the exclusion of any other provisions, including any terms and conditions of the Vendor. Any term and condition in whatever form or any other document of the Vendor that provides otherwise shall be considered null and void and shall be unenforceable towards AGFA.

### 3. QUOTATIONS

Quotations (if any) bind only the Vendor and are free of charge for AGFA. They must be final, precise and complete and must cover everything required for the complete, turnkey supply of the goods, systems, services or works offered. The quotation must comply with all statutory and administrative regulations. AGFA has the possibility of formulating specifications with its request for quotation. In the event the Vendor has any doubts or objections regarding those specifications (such as, yet not limited to technology, safety, feasibility, cost), then, no later than by the agreed date, it will advise AGFA of this together with an alternative quotation.

### 4. PURCHASE ORDERS

#### 4.1. Issuance

To validly bind AGFA, a Purchase Order shall be issued by an AGFA authorized representative. Each Purchase Order shall be deemed to incorporate the provisions of these General Conditions of Purchase, the AGFA Supplier Code of Conduct and the Specific Conditions and shall be subject to such documents, unless expressly agreed otherwise by the Parties.

#### 4.2. Acceptance of the Purchase Order

The Vendor shall be deemed to have given its firm acceptance of the Purchase Order and the conditions described herein if:

- (a) It does not state in writing no later than five (5) calendar days from the date indicated on the Purchase Order that it is making a reservation, as provided for in section 23.3; and/or
- (b) It signs such Purchase Order or issues an order confirmation for such Purchase Order; and/or
- (c) It starts to perform such Purchase Order or a component thereof; and/or
- (d) It starts the shipment of all or part of the products, or performance of all or part of the services.

In no manner whatsoever may the conditions of the Purchase Order be changed, reduced or adjusted by verbal declarations or stipulations on any other kind of form, letter or document of the Vendor, which are not consistent with these conditions, unless specifically agreed in writing with AGFA. Moreover, by accepting a Purchase Order, the Vendor accepts these General Conditions of Purchase and the Specific Conditions without reserve and renounces to all stipulations included in its general and specific terms and conditions, even if these state that they shall solely apply or shall have priority over any other agreement and even if these are

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accepted by AGFA at any time (for instance, by clicking on "I accept" on a website).

In the event that the Vendor rejects these General Conditions of Purchase and/or the Specific Conditions, any Purchase Order shall be deemed null and void without any compensation due to the Vendor.

## 4.3 Changes to the Purchase Order & Cancellation of the Purchase Order

Until acceptance of a Purchase Order by the Vendor as specified in section 4.2, AGFA shall have the right to cancel or change the Purchase Order or any part of it, without charge by simple notice to the Vendor.

## 5. TERM & TERMINATION

5.1 The Agreement shall enter into effect as from the acceptance of the Purchase Order by the Vendor, as specified in section 4.2 and, unless provided otherwise in the Agreement or unless terminated earlier in accordance with section 5.2 shall terminate on full completion of the last delivery or supply pursuant to the Purchase Order.

5.2 The Agreement may terminate earlier as follows:

(1) Without prejudice to the right of AGFA to damages, AGFA has the right to immediately terminate the whole or any portion of the Agreement without any compensation being due to the Vendor for such termination upon providing the Vendor with written notice of termination by registered letter in the event of a material breach that is not cured within ten (10) calendar days after AGFA has provided the Vendor with written notice of the breach and intent to terminate.

For the purpose of this section "*material breach*" shall include, without any limitation:

- (a) Any proceeding, whether voluntary or involuntary, in insolvency by or against the Vendor or any appointment, with or without the Vendor's consent, of a receiver or an assignee for the benefit of creditors, to the maximum extent permitted by applicable law.
- (b) Ceasing by the Vendor of its business activities.
- (c) Failure to provide AGFA with reasonable assurances of performance; or
- (d) Any other failure by the Vendor to comply with a provision of the Agreement.

(2) Without prejudice to the right of AGFA to damages, AGFA has the right to immediately terminate the whole or any portion of the Agreement without any compensation due to the Vendor for such termination upon providing the Vendor with written notice of termination by registered letter, if the Vendor violates any of the following

provisions: Intellectual Property Rights, Secrecy, Data Protection, and Insurance.

(3) In the event of bankruptcy of either Party, the Agreement shall terminate forthwith by operation of law.

## 6. INSTRUCTIONS FOR SHIPMENT

Unless otherwise agreed, the Vendor guarantees and accepts that it will comply with the following instructions for shipment and their associated stipulations:

- (a) *Packing*: At the very least the number of the Purchase Order, part number, serial number and a description of the materials will be attached to the outside of each package and on all packing documents, invoices and similar documents. All goods supplied will comply with prevailing statutory regulations, such as the European regulations relating to CE standardisation and marking. A packing document will accompany every shipment. The goods must be packed in such a way that damage during transport is impossible. Furthermore, the employees involved in loading and unloading must exercise the necessary care, in order to prevent any damage whatsoever.
- (b) *Shipment*: on the day of shipment, the Vendor will provide AGFA with the following information while referring to this Purchase Order: contents, truck number, consignment note number, route and the Purchase Order number.
- (c) *Route*: If AGFA has not given any shipment instructions the Vendor will ship the goods and systems in the most direct and least costly manner.

## 7. RIGHTS & OBLIGATIONS

### 7.1 Access

Subject to reasonable prior notice, AGFA shall give the Vendor access to its facilities during Business Hours, if required for the performance of a Purchase Order.

### 7.2 Compliancy with standards

The Vendor shall perform the Agreement in a timely and professional manner with the due skill and care in accordance with the state of the art and all applicable industry practices and standards and using only competent staff and representatives having expertise suitable to their assignments.

### 7.3 Compliancy with law

The Vendor declares and guarantees that, in the production and sale of the goods and/or services being supplied under the Purchase Order, it has complied with all requirements and all applicable federal, regional and

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local legislation, including health, safety and environment regulations.

## 7.4 Compliancy with the AGFA Supplier Code of Conduct – Supply Chain Security Requirements

The Vendor shall comply with the AGFA Supplier Code of Conduct, which can be consulted on the AGFA public internet site ([www.agfa.com](http://www.agfa.com)).

AGFA has the disposal over an "Authorized Economic Operator Certificate ("AEO") and expects Vendor to have the same or a similar certificate. If no such certificate is obtained, AGFA expects Vendor to meet the supply security requirements hereunto attached to the maximum extent possible.

## 7.5 Indemnification

The Vendor shall indemnify, defend and hold harmless AGFA from and against any and all claims, losses, damages, expenses, fines and liabilities of any sort arising out of or relating to alleged or actual non-compliance by the Vendor, its employees, agents and/or subcontractors with, or provision of the Deliverables in breach of any applicable laws or regulations.

## 7.6 Quality systems

The Vendor must comply with a quality system in accordance with the latest applicable ISO standards. Medical Devices must at least comply with ISO 9001 and ISO 13485. AGFA is entitled at all times to audit these quality systems itself or, assisted by third parties, to monitor the observance and if necessary, also to require post-audits. AGFA may always monitor the good quality and conformity of the Deliverables in the workplaces of Vendor. Parties will each bear their own costs in this. However, if new checks, as a result of defects or because an initial check was impossible, are necessary, then the Vendor will bear all costs of those new checks, including the personnel costs of AGFA. Certificates shall be submitted no later than the time of supply.

## 7.7 Regulatory matters

The Vendor is the manufacturer of the product(s) and is therefore primary responsible for obtaining and maintaining all regulatory approvals and certificates, as well as any amendments or supplements required to sell or distribute the product(s) to AGFA or any (end) customer of AGFA. If the Vendor cannot supply the approvals/certificates for a dedicated country, AGFA or the Vendor can obtain the approval after mutual agreement. In case AGFA has to obtain the approvals, the Vendor will cooperate in this regulatory process and provide all necessary documents.

The products shall be supplied in suitable sea-freight packaging in a form as specified in the specifications. The products shall be labelled in accordance with AGFA's instructions and as specified in the specifications. The packaging has to be conformed to the applicable compulsory national and international law regarding environment, health and safety such as, without limitation, REACH Regulations, RoHS Directives, Conflict Minerals Regulation, Packaging Directive 94/62 EC and the Timber Regulation 995/2010. Vendor agrees to abide by these laws in its deliveries under any Purchase Order, so as to ensure that no third party can hold AGFA liable for any problem, damages or injury that might occur. In any case, AGFA shall promptly notify Vendor of any infringement of any such laws of which AGFA is aware. At the request of AGFA, Vendor will send all necessary information regarding the content of the deliveries to enable AGFA to comply with the ruling regulations regarding the declaration.

The products shall comply with the safety, security and environmental regulations, including, but not limited to, CE, UKCA, FCC (*Federal Communications Commission – US*), RoHS (*Restriction of Hazardous Substance Directive*) and WEEE (*Waste Electrical & Electronic Equipment Directive*) and NRTL and Vendor shall at its expense provide the corresponding certificates. Vendor shall implement any safety related changes imposed by AGFA. In any case, AGFA will have to sign-off on any required safety changes before the products are released for sale.

The products shall comply with articles 33 and 67 of REACH Regulation 1907/2006, RoHS2 Directive (2011/65/EC). If duty to communicate under article 33 of REACH, please, provide all necessary information by e-mail: [compliance@agfa.com](mailto:compliance@agfa.com). In addition, the products may not contain substances listed in Annex I of POP Regulation 2019/1021/EC or listed as CSCL Class I Specified Chemical Substances (Japan), nor may the Products contain substances listed in section 6 of TSCA (USA). When the Products contain California Proposition 65 substances (USA), Vendor shall provide all necessary information by e-mail: [compliance@agfa.com](mailto:compliance@agfa.com).

## 7.8 Complaint handling

Complaints are understood to be systemic or severe product issues. The Vendor is responsible for handling repair, warranty, and nonconformity requests and investigations. AGFA shall forward all repair, warranty, and nonconformity requests to the Vendor.

The Vendor will investigate the request and provide AGFA the results of the investigation and if applicable with a solution in a timely manner.

In case of medical products, the Vendor will have a process for reportable issues. In case of potential reportable issues, the Vendor will respond AGFA within

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eighty-four (48) hours with the outcome of the root cause after notification.

## 8. DELIVERY

### 8.1 General

All products shall be delivered DDP ("Delivered Duty Paid"), MORTSEL, BELGIUM, or in accordance with any other applicable ICC 2010 INCOTERM as may be agreed on between AGFA and Vendor.

The standard delivery term for products is four (4) weeks as from the date of the acceptance of the Purchase Order by the Vendor.

Without prejudice to section 4.3, the due delivery date or the performance date of the Deliverable(s), the planning (if any) and the delivery address shall be specified in the Purchase Order. Said dates are imperative.

If Deliverables are delivered more than three (3) Business Days prior to the due delivery date, AGFA may either return the Deliverables or delay the processing of the corresponding invoice until the due delivery date.

The Vendor shall give AGFA notice of any prospective failure to ship a Deliverable on a due delivery date specified in the Purchase Order. In such a case, AGFA has the right to postpone the delivery date with a three (3) Business Days prior notice.

If only a portion of Deliverables is available for shipment to meet the due delivery date, the Vendor shall promptly notify AGFA. AGFA shall direct the Vendor to reschedule shipment, unless AGFA allows shipment of the available Deliverables.

### 8.2 Documentation & delivery note

Deliverables shall be supplied together with all available associated documentation and with a delivery note. The associated documentation shall include (without limitation) all relevant information on the Deliverables (such as warranty statements) and all operating and other instructions/information about any risk to life, health, safety or the environment arising out of the transportation, handling, storage and use of the Deliverables as required under any applicable law. The Vendor shall also supply all updates thereof.

The delivery note shall be filled in for each destination, for each Purchase Order and shall contain in particular:

- (a) Date and place of shipment and place of delivery;
- (b) Purchase Order number;
- (c) Identification of Vendor;
- (d) Identification of each Deliverable delivered;
- (e) Description, AGFA part number, quantity, serial numbers if the Deliverables are serialized); and
- (f) If relevant, their partition per package.

The information on the packing note must comply with the information on the Vendor invoice.

### 8.3 Protection & packaging of Deliverables

The Vendor shall preserve, package, handle and pack the Deliverables so as to protect them from loss or damage in accordance with good commercial practice, the specifications of AGFA, government regulations and any other applicable requirements.

Regardless of when title and/or risk passes from the Vendor to AGFA, the Vendor shall be responsible for any loss or damage that is due to the Vendor's failure to properly preserve, package, handle or pack Deliverables. AGFA shall not be required to assert any claims for such loss or damage against the carrier involved.

### 8.4 Time of delivery

- (a) For products, subject to acceptance by AGFA and all other rights and remedies, the delivery is completed upon the handing over of a receipt or signing of the delivery note's duplicate by AGFA to the Vendor. In order to be invoked against AGFA, the receipt or the packing notes duplicate must be signed by an authorized representative of AGFA, with a readable specification of his name, his function and his telephone number.
- (b) For services, subject to acceptance by AGFA and all other rights and remedies, the delivery is completed upon signature of the timesheets related to the Purchase Order by an authorized representative of AGFA with a readable specification of his name, function and telephone number.

### 8.5 Delivery conditions

Unless specific delivery conditions have been agreed upon, the Vendor shall comply with above mentioned delivery conditions. If delivery conditions are not met, AGFA may refuse the delivery and pass on the additional expenses to the Vendor.

### 8.6 Late performance

In case of failure by the Vendor to meet the agreed due delivery date, (planning, if any) or performance date, Vendor will immediately inform AGFA.

At its discretion and without limiting its other rights, without prejudice to the right of AGFA to compensation for its entire damage and all its other rights and remedies under the Agreement or by law, AGFA shall have the right:

- (a) To impose upon the Vendor, by operation of law and without prior notice, liquidated damages of an amount of one percent (1%) of the value of the

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Agreement for each Business Day as of the due date until the day of actual delivery or performance or, where applicable, until the date of termination of the Agreement, with a maximum of twenty-five percent (25%) of the value of the Agreement and a minimum of EUR 125, without waiving its right to claim compensation beyond that maximum for any proven loss or damages; and/or

- (b) To immediately cancel or terminate the whole or any portion of the (non-fulfilled) Agreement, by operation of law and without prior notice, without any compensation due to the Vendor; and/or
- (c) To order the non-performed part of the Purchase Order elsewhere at the cost and expense of Vendor.

## 8.7 Damaged or incomplete Deliverables upon delivery

If the Deliverables are supplied in a damaged or incomplete condition, then, at its own discretion, AGFA may exercise those rights and legal remedies that are available for refusing and may also refuse to accept delivery of the Deliverables by the carrier. In such a case, the risk for loss and damage of the refused Deliverables shall be re-transferred to Vendor upon removal of the Deliverables from the premises of AGFA, or after seven (7) Business Days from the date on which AGFA has sent notice of rejection, whichever comes first.

## 9. ACCEPTANCE

### 9.1 Acceptance period

AGFA shall have ten (10) Business Days as of the Business Day following delivery or full completion of a Purchase Order to examine the Deliverables and send the Vendor notice of acceptance or rejection.

Notwithstanding the foregoing, if the Vendor is required to install the Deliverables, such period shall be, unless otherwise indicated in the Specific Conditions, forty-five (45) Business Days as of full completion of the Purchase Order. Failure by AGFA to send notice to the Vendor within such period shall be considered as tacit acceptance of the supplied Deliverables.

### 9.2 Inspection

Inspection of the Deliverables shall be quantitative and qualitative:

- (a) *Quantitative inspection*: if the delivered quantity does not comply with the agreed-on specifications, AGFA may require the Vendor in default to either take back the surplus, or to promptly complete the delivery. The quantitative inspection shall be carried out within two (2) Business Days as of the Business Day following delivery or full completion of a Purchase Order.

- (b) *Qualitative inspection*: in case of rejection by AGFA, the Vendor shall remove any rejected products from the premises of AGFA at the cost and expense of Vendor and upon the request of AGFA and replace such by fully compliant products. In the case of a rejected service, the Vendor shall upon the request of AGFA perform the service again until it is fully compliant. The qualitative inspection shall be carried out within the period specified under section 9.1.

### 9.3 Hidden defects

Acceptance shall in all cases be without prejudice to the rights and remedies of AGFA in case of hidden defects.

### 9.4 Refusal of acceptance

If AGFA refuses to accept the Deliverables, AGFA may exercise the following rights and legal remedies with regard to all or part of the goods and/or services:

- (a) Return the products to the Vendor at the risk and expense of Vendor for repair, replacement or crediting.
- (b) Ask the (re)-performance of the services by the Vendor or by a third-party, at the cost and expense of Vendor.

## 10. TRANSFER OF OWNERSHIP & PROPERTY

- 10.1 Title to the Deliverables shall pass to AGFA upon acceptance of the Purchase Order by the Vendor as specified under section 4.2, without prejudice to the right of AGFA to reject the Deliverables in accordance with the Agreement.
- 10.2 If the Vendor supplies products in excess of the Purchase Order of AGFA, AGFA will return said products to the Vendor at the cost and expense of Vendor. Risk and title of the surplus continue to reside with the Vendor at all times.

## 11. PRICE & ALLOWANCES

- 11.1 All prices payable under the Agreement shall include all costs and taxes imposed on or relating to the Deliverables, except VAT.
- 11.2 Except otherwise expressly agreed in the Agreement, all prices and charges payable by AGFA to the Vendor under the Agreement shall be set out, invoiced and paid in Euro (EUR).
- 11.3 Prices set out in the Agreement are final and shall not be modified unless agreed to otherwise between the Parties. Price increases are in any event excluded.

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## 12. INVOICING

- 12.1 Invoices stating the AGFA Purchase Order number must be raised and sent in one (1) original (unless otherwise required) to AGFA at the address as indicated in the Purchase Order, following the Specific Conditions.
- 12.2 The invoice shall mention the Purchase Order number, VAT rates and amounts, unit price exclusive VAT, the total amount and any other information required under any applicable law and any information reasonably requested by the Customer. A list /description of the invoiced Deliverables shall be attached to the invoice.
- 12.3 AGFA may, at its absolute discretion, refuse to pay any invoice which is not provided in accordance with the terms of the Agreement, or which lists products or services that were not requested in writing by AGFA. In this case, such invoice will be returned to the Vendor for correction.

## 13. PAYMENT TERMS

- 13.1 Invoices will be payable by AGFA within a period of ninety (90) calendar days from the date of receipt of the invoice by AGFA. Departures from this are only permitted in mutual consultation and must be laid down contractually.
- 13.2 Should AGFA fail to pay any undisputed amount in accordance with this section, the Vendor shall serve AGFA notice by registered letter. If within thirty (30) calendar days after receipt of such notice, AGFA still has not paid the undisputed amount in arrears, the Vendor shall be entitled to charge an interest of zero-point five percent (0.5%) per month for such undisputed amount.
- 13.3 For calculating the delayed payment interest, the payments of AGFA will be deducted from its oldest outstanding invoices.

## 14. VENDOR WARRANTIES

- 14.1 The Vendor warrants that AGFA will receive a good, merchantable title with regard to the Deliverables to be supplied under the Agreement.
- 14.2 Moreover, the Vendor warrants that all Deliverables supplied to AGFA under the Agreement shall:
  - (a) Be free from any defect or error in design, material, manufacturing or workmanship.
  - (b) Be suited to specifications, drawings, samples or other descriptions provided or accepted by AGFA and will be fit and beneficial for their intended purpose, merchantable and without deficiencies.

- (c) Comply with their description in the Quotation (if any) and all documentation provided by the Vendor.

- 14.3 Unless otherwise agreed in writing, the Vendor grants a guarantee for the longer of the Vendor's normal warranty period or of one (1) year from the date of delivery of the Deliverables to AGFA, hereinafter the "Warranty Period". During the Warranty Period, the Vendor shall repair all defects without delay, in full and at no charge. The Vendor bears all costs of assembly, disassembly, and transport. In urgent cases or in the event of a delay, AGFA may repair the defects itself or have them repaired and recover the costs from the Vendor, on condition that it has warned the Vendor of this intention. The repairs will start a new warranty period running.

- 14.4 Should a Deliverable show any error or defect or otherwise not be in conformity as specified in above sections 14.1, 14.2 and 14.3 during the Warranty Period, hereinafter "Non-Compliant" Deliverable, the Vendor shall at its own cost remedy the Non-Compliant Deliverable within fifteen (15) Business Days from notification by AGFA, which means that the Vendor shall, at the option of AGFA:

- (a) Either repair such Non-Compliant Deliverable to be fully compliant; or
- (b) Replace such Deliverable by an equivalent Deliverable that is fully compliant; or
- (c) In the case of a service, perform such again until fully compliant.

- 14.5 If at the end of the above warranty period or any remedy period subsequently granted by AGFA to the Vendor, a Deliverable still is non-Compliant in the reasonable opinion of AGFA, AGFA shall have the right, at its option and as many times as such event will occur, without prejudice to its right to compensation for damages and all its other rights and remedies under the Agreement or by law, to:

- (a) Extend the Warranty Period for the Vendor to repair or replace the Non-Compliant Deliverable; and/or
- (b) Return the Non-Compliant Deliverable to Vendor; and/or
- (c) Repair or replace the Non-Compliant Deliverable at the cost and expense of Vendor, either by itself or by appointing a third party to do so.

- 14.6 In all cases where a Deliverable is Non-Compliant, AGFA shall have the right to be reimbursed for the price paid for the Non-Compliant Deliverable, and all returns, repairs, and replacements of Deliverables pursuant to this section 14 shall be at the risk and expense of Vendor and, including

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transportation charges (round trip charges for repair or replacement).

- 14.7 Any Deliverable repaired or provided in replacement by the Vendor shall be subject to acceptance by AGFA and new warranty according to the above provisions.

## **15. PERFORMANCE OF WORKS & SERVICES**

- 15.1 If the Vendor's task under the Purchase Order means works/services, which must be carried out on an AGFA site, or one of its customer's sites, the Vendor will take all precautions to prevent damage being caused to persons or property during the work process and, save if any damage occurs solely due to and as a direct consequence of negligence on the part of AGFA or one of its customers, the Vendor shall indemnify AGFA for all loss arising from any activity or negligence on the part of the Vendor, its agents, employees or subcontractors. The Vendor will take out an insurance policy for its liability for damage to property, employer's liability and compensation, which protects AGFA from such risks and any requirement under any applicable law on workers' compensation and disability.
- 15.2 The Vendor performing the works or services must observe the applicable safety rules on AGFA – and customer sites, as well as all applicable statutory and administrative rules. The Vendor is responsible for guarding installation components due to be fitted until assembly is completely finished. Entry to AGFA buildings and sites is at the Vendor's own risk. Consequently, AGFA cannot be held liable for any damage because of accidents occurring on those sites or in those buildings.

## **16. INSURANCE**

The Vendor shall at its own expense, secure and maintain, for the duration of the Agreement, and for a period of three (3) years thereafter, the types of insurance necessary to duly guarantee the performance of its obligations under the Agreement, including civil liability insurance for the following liabilities: personal, material, immaterial damage, whether or not consecutive, for a minimum amount of one million Euros (€ 1.000.000) per occurrence, or series of occurrences arising from one (1) cause or event annually.

## **17. INTELLECTUAL PROPERTY RIGHTS**

### **17.1 AGFA materials**

Any materials provided by AGFA to the Vendor, regardless of their form, support, or media, shall remain the property of AGFA or its licensors. The Vendor shall use such only as necessary to perform the Purchase Order and in accordance with the instructions of AGFA

and shall return such to AGFA upon completion of the Purchase Order.

### **17.2 License**

If the Deliverables are protected by intellectual property rights, ownership and title to such Deliverables shall vest in the Vendor. In that case the Vendor shall grant to AGFA a non-exclusive, perpetual, worldwide license under all intellectual property rights to use and reproduce such Deliverables and/or any part or component thereof for its internal use and for any activities deemed necessary by AGFA within the scope of its business, including creating and/or supplying products and/or services to third parties, in any way whatsoever and on any and all supports, at its sole discretion.

The content of any documentation (including documentation resulting from services) can be reproduced, summarized, translated, adapted, and distributed by AGFA internally without limitation.

Should the Parties agree that the Deliverables are to be distributed to third parties the license under this section shall also include the right for AGFA to distribute, market, rent and exploit the Deliverables by whichever method.

The license under this section shall be effective upon acceptance of the Purchase Order by the Vendor, as specified under section 4.2 and shall remain in force for all the period over which such Deliverables are protected by an intellectual property right.

AGFA is entitled to transfer the license to or to sublicense to any of its Affiliates and to authorize third parties to use the Deliverables for the internal needs of AGFA provided that such third parties use the Deliverables in accordance with the terms of the Agreement.

Termination of the Agreement shall not affect the duration of any license granted here above.

### **17.3 No intellectual property rights infringement**

The Vendor represents warrants that it is the exclusive holder of all intellectual property rights on the Deliverables or that it is entitled to grant AGFA the rights to the Deliverables, as provided for under the Agreement, and that the Deliverables do not infringe any intellectual property right or contractual right of a third party and are free of all claims against title.

The Vendor shall indemnify, defend and hold harmless AGFA from and against any and all damages, losses, expenses, costs and liabilities of any sort incurred by AGFA, its Affiliates, and its customers, including, without limitation, those arising out of any and all claims, actions, suits or proceedings made by a third party and reasonable legal and court fees and expenses incurred in investigation or defense, hereinafter "Damages", either during or after the term of the Agreement, to the extent such Damages arise out of or relate to any actual or

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alleged infringement of any intellectual property right or contractual right of a third party as a result of the use of any Deliverable by AGFA in accordance with the Agreement.

In the event that any Deliverable becomes, or in the reasonable opinion of AGFA or Vendor is likely to become, in whole or in part the subject of any claim, action or proceeding by a third party, the Vendor shall defend AGFA or assist and intervene on behalf of AGFA in the defense of AGFA and shall, taking into account the preferences indicated by AGFA in this respect and, at sole cost and expense of Vendor, Vendor shall:

- (a) Secure for AGFA the right to continue using the Deliverable under the same conditions as those provided for in the Agreement; or
- (b) Modify the Deliverable to make it non-infringing, while on providing the same functions; or
- (c) Replace the Deliverable by a non-infringing Deliverable of equivalent capability, providing the same functions; or
- (d) Take back the Deliverable and refund such proportion of the fees paid by AGFA for the Deliverable as the Parties may agree having regard to the length of time that AGFA has had use of the Deliverable, without prejudice to the right of AGFA to compensation for damages and all its other rights and remedies.

AGFA shall give reasonable notice to the Vendor of any claim brought against AGFA. AGFA shall not make any prejudicial statements or settlement offers without the Vendor's prior written consent and shall co-operate with the Vendor in the defense or settlement of the claim as reasonably requested by the Vendor. Notwithstanding the foregoing, if the Vendor does not react within a period of fourteen (14) Business Days following the notification by AGFA of a claim, AGFA shall have the right to take all necessary measures at its discretion and at the cost and expense of Vendor.

## **18. CONFIDENTIALITY**

### **18.1 General principle**

For the purpose of the Agreement "*Confidential Information*" shall mean all information of any nature whatsoever (including but not limited to: data, trade secrets, business information and specification) in whatever form or format (including but not limited to written, oral, graphic, electronic, pictures, audio, video) that AGFA discloses to the Vendor or to which the Vendor obtains access and that relates to the current, future products, services, business and/or organization of AGFA (including but not limited to technologies, development, strategies, costs, profits, forecasts, pricing, methods, processes and customers) and any information which is not otherwise described above, is designated by AGFA as confidential or is of such a nature that a reasonable person would believe it to be confidential, including the purpose and the content of the Agreement.

### **18.2 Exclusion**

Confidential Information shall not include information that:

- (a) Is at the time of disclosure, or thereafter becomes, in the public domain without violation of the Agreement; or
- (b) Is lawfully obtained from a third party that has lawfully obtained such information; or
- (c) Was already known by and on record at the Vendor prior to disclosure by AGFA or prior to access by the Vendor; or
- (d) Is developed by the Vendor completely independently of any disclosure by AGFA or of any access by the Vendor.

### **18.3 Confidentiality obligation**

The Vendor shall hold all Confidential Information in strict confidence. In particular, the Vendor shall:

- (a) Use the Confidential Information only for the purposes of the performance of its obligations under the Agreement.
- (b) Restrict disclosure of or access to the Confidential Information to its representatives, advisors and/or auditors who need to know such for the purposes of the performance of the Agreement, and not divulge it to any other third parties without the written consent of AGFA.
- (c) Subject any person having access to the Secret Information to secrecy and non-use obligations at least as restrictive as the ones set out herein; and
- (d) Upon request of AGFA at any time and at its option, promptly destroy or return to AGFA the Confidential Information, including any copies and supports pertaining to such and provide an affidavit to such effect.

### **18.4 Title**

All rights, title, and interest to and in the Secret Information shall vest and remain in AGFA. Nothing in this Agreement shall be construed as conferring upon the Vendor any license, right, title or interest to any patent or any other intellectual or industrial property right.

### **18.5 Media releases & Use of the brands, trademarks, or trade names of AGFA**

The Vendor shall not issue any media release, public announcement or other disclosure relating to the existence, the purpose and the content of the Agreement or use the name, trademark, or logo of AGFA without the prior written agreement of AGFA including, without limitation, in promotional or marketing material, or on a list of customers.



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## 18.6 Duration

The obligations and restrictions set forth in this section 18 shall remain in effect five (5) years after expiration or termination of the Agreement.

## 19. DATA PROTECTION

19.1 Should AGFA provide or make available personal data (as defined under any applicable law) to the Vendor in connection with this Agreement, the Vendor shall process such personal data exclusively under the authority of AGFA, in accordance with the instructions of AGFA and for the sole purposes of the performance of the obligations of Vendor under the Purchase Order concerned.

19.2 The personal data shall remain property of AGFA and shall be returned to AGFA when it is no longer required for the performance of the obligations of Vendor under the Purchase Order.

19.3 The Vendor shall take all appropriate technical and organizational measures to protect all personal data from any form of unlawful or unauthorized processing and shall treat the personal data as strictly confidential in accordance with section 18. The Vendor shall have full and sole liability for all damages resulting from a failure on its part to comply with the provisions of this section 19.

## 20. AUDIT

### 20.1 Right to audit

AGFA shall have the right upon reasonable prior notice at any time during the term of the Agreement (including prior to delivery or completion of a Purchase Order) to audit, at the cost and expense of AGFA, the systems, processes, procedures, practices, supporting documentation, financial and other books and records of the Vendor to the extent that such relate to the Deliverables and/or otherwise relate to the Agreement, as shall be necessary in the reasonable opinion of AGFA to determine and verify the compliance of the Vendor with its obligations under the Agreement and/or to enable the Vendor to meet applicable regulatory requirements. In particular, without limitation, the internal and external auditors of AGFA shall have the right to:

- (a) Examine and copy all records and materials of the Vendor pertaining to the Deliverables.
- (b) Audit all procedures and practices relating to applications development and maintenance, general controls (such as organizational controls, input/output controls, system modification controls, processing controls, system design controls and access controls) and all

procedures and practices relating to security, business continuity, disaster recovery and backup; and

- (c) Interview personnel.

The Vendor shall provide assistance to the internal and external auditors of AGFA as they reasonably require. Visits, inspections, and other actions taken by AGFA must be preceded by reasonable notice to the Vendor and will be conducted during Business Hours.

### 20.2 Audit report & measures

As soon as reasonably practicable, AGFA shall provide an audit report to the Vendor. Such report may identify failures, errors, imperfections, problems in the Vendor's control environment and/or non-compliance by the Vendor with any of its obligations under the Agreement and may also include comments and recommended measures for improvement, correction or remedy. The Vendor shall reply formally in writing to the audit report of AGFA within fifteen (15) Business Days from the receipt thereof.

If the audit report of AGFA identifies any failure, error, imperfection, problem and/or non-compliance, the Vendor's reply shall include a proposed action plan and implementation scheme. The Parties shall agree upon the appropriate manner, if any, in which to respond to the changes suggested by the audit report and/or to correct any failures, errors, imperfections or problems or remedy any non-compliance within a mutually acceptable timetable. Where an audit reveals that the Vendor is not in compliance with the requirements of the Agreement, the Vendor shall pay to AGFA, reasonable costs of AGFA in connection with the audit.

## 21. NO ASSIGNMENT OR SUBCONTRACTING

### 21.1 Assignment

Neither party may assign or otherwise dispose of its rights and obligations under the Agreement without the other party's prior written consent.

Any attempted assignment or disposal in breach of this section 21.1 shall be void. Notwithstanding the foregoing, AGFA has the right to assign and/or otherwise dispose of any of its rights and/or obligations under the Agreement to

(a) any of its Affiliates, (b) the surviving corporation with or into which AGFA may merge or consolidate, (c) an entity to which AGFA transfers all, or substantially all, of its business and assets, and/or (d) a third party that AGFA has selected for the outsourcing of an information technology process.

### 21.2 Subcontracting

The subcontracting by the Vendor of any of its obligations under the Agreement to a third party shall be subject to

# PURCHASING



the prior written consent of AGFA, which shall not be unreasonably withheld, and shall not relieve the Vendor of any of its obligations under this Agreement. AGFA does not acknowledge any legal bond with a subcontractor.

## **22. APPLICABLE LAW & LEGAL VENUE**

All issues, questions and disputes concerning the validity, interpretation, enforcement, performance or termination of the Agreement shall be governed by and construed in accordance with the laws of Belgium, without giving effect to any other choice of law, or conflict-of-laws rules, or foreign or any international law provisions, including the United Nations Convention on Contracts for the International Sale of Goods (1980) ("Vienna Convention") (if applicable), that would cause the laws of any jurisdiction other than Belgian law to be applicable.

Any dispute concerning the validity, interpretation, enforcement, performance, or termination of the Agreement shall be submitted to the exclusive jurisdiction of the courts of Antwerp, Belgium.

## **23. MISCELLANEOUS**

### **23.1 Notices**

Any notice provided or requested by a Party to another Party under the Agreement shall be in writing and shall be deemed properly given or made on the date delivered by hand, or three (3) Business Days after deposited in mail, postage prepaid, certified or registered, return receipt requested, or on the date delivered if sent by express overnight mail (by a courier that has the ability to track deliveries and to confirm receipt, in each case to the address listed for such Party in the Purchase Order or any subsequent address supplied by such Party by written notice to the other Party.

### **23.2 Severability**

In the event that any of the terms, conditions, or provisions or those of any exhibits attached to this Agreement shall be determined by any competent authority or jurisdiction to be invalid, unlawful or unenforceable to any extent, such term, condition or provision shall to that extent be severed from the remaining terms, conditions and provisions which shall continue to be valid to the fullest extent permitted by law.

### **23.3 Waiver**

Any waiver of default in performance of an obligation hereunder shall be deemed a waiver of the particular instance only, and not of consent to any continuing default. The waiver or failure of either party to exercise in any respect any right provided for in the Agreement shall not be deemed a waiver of any further right. The exercise

of any right or remedy provided in the Agreement shall be without prejudice to the right to exercise any other right or remedy provided by law.

### **23.4 Amendments & Order of priority**

No additions, omissions or modifications to the Agreement shall be valid, unless made in writing and signed by authorized representatives of both of the Parties hereto.

In the event of any inconsistency, documents shall take precedence in the following decreasing order of priority:

1. Purchase Order
2. General Conditions of Purchase
3. AGFA Supplier Code of Conduct
4. Supply Chain Security Requirements
5. Quotation (if any)

### **23.5 Sustainability**

Supplier shall comply with, and requires its subcontractors and any person under its control, to comply with, all applicable state, national, and international laws, rules, and regulations relating to ethical and responsible standards of behavior, including, without limitation, those dealing with human rights including, without limitation, human trafficking and slavery and conflict mineral sourcing, environmental protection, sustainable development and bribery and corruption

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## ATTACHMENT

### **SUPPLY CHAIN SECURITY**

Custom authorities worldwide have issued stricter rules for the international movements. The companies' import and export are submitted to more frequent and stricter checks, bringing along considerable time loss as well as additional costs. These new regulations do not match with the need of companies to move goods faster and with less administrative costs. Moreover, with the number of international movements of goods increasing, the risk is real that Customs cannot handle the workload any longer.

Therefore, the EU has launched a program, under which companies can obtain an "AEO certificate", whereby AEO stands for "Authorized Economic Operator".

The AEO-certificate, granted by national Customs, guarantees the certified companies that they will be less subject to controls and that they will obtain certain facilities in relation to custom transactions.

A company can obtain this certification when it proofs: to be financially healthy; to comply with all of the customs' legislation; to have a thorough administration of its flows of goods and bookkeeping and to have a sufficient high security level. The latter is not limited to AGFA itself, but involves also the business partners of AGFA, both suppliers, as well as customers. AGFA has participated to this program and has obtained AEO certification in February 2012.

As a result, AGFA request from its partners that they will commit to secure their part of the supply chain that is related to their business with AGFA. This can be through their AEO-certificates or similar programs (e.g., CT-PAT), by indicating that their certification is pending or by confirming that they do meet the standards as described below. These standards reflect the main requirements of AEO.

Fundamental is that an AEO certification is based on the same principles as other international standards where internal quality assurance standards are being adhered to by your company. You are responsible for having quality assured procedures at your premises for customs matters, as well as security matters. Internal policies and/or instructions must be documented either electronically or in paper form. They must be known within your organization, be available to all users and continuously updated.

### **REQUIRED SUPPLY CHAIN SECURITY STANDARDS**

#### Standard 1: Personnel Security

- prospective applicants must be screened: work history, background, references
- procedures must be in place to remove identification, facility, and system access from terminated employees
- internal labor regulations, as part of the labor contract, must include codes of conduct regarding security
- staff should receive appropriate training with regard to security and safety requirements such as security protocols, detection of intrusion/tampering and reporting of incidents and the risks associated with international supply chains; training should be updated, and a record made of all training activity should be maintained

#### Standard 2: ITC Security

- password access to ITC applications
- regular change of passwords
- documented IT usage policies must be in place
- monitoring of access to systems by users
- procedures addressing system violators including disciplinary measures
- report any activity that may be questionable immediately to a supervisor
- access ceased upon termination of (labor)contract
- segregation of duties between users and analysts, developers
- safety plan describing the measures protecting your computer hardware and software; details on firewalls, anti-virus, business continuity/disaster recovery plan
- backup routines, server-room protection

#### Standard 3: Physical Security & Access Controls

- facilities must be secure from intruders
- periodic physical security assessments must be completed
- warehouses, storage areas, containers/trucks that are on site must have physical security and physical access controls
- an employee identification system must be in place for positive identification and access control purposes
- the issuance, changing and retrieval of access devices must be controlled and documented
- must have a Visitor's policy in place and to include the positive identification of visitors
- procedures for identification, challenging and addressing unauthorized/unidentified persons must be in place
- any suspicion or breach should be reported immediately

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- buildings used in connection with the operations are to be constructed of materials which resist unlawful entry and provide protection against unlawful intrusion
- control/record visitors/staff/contractor/... vehicles attending your premises
- prevent unauthorized access to shipping areas, loading docks etc.

## Standard 4: Secured Loading & Unloading of Trucks/Trailers/Containers

- must have procedures in place which includes seal security, truck/trailer/container inspection and t/t/c storage
- seal security: seals to be kept in safe place, only designated supervisors can handle seals, a log capturing t/t/c-number, seal number, name of employee affixing seals, etc.; written procedures have to be in place; procedures in place to verify seals upon unloading of t/t/c
- t/t/c- inspection: verification procedures need to be in place for checking physical integrity; seven-point inspection (outside, inside, right side, left side, front wall, ceiling/roof, floor)
- t/t/c to be stored in secure manner to prevent unauthorized access
- segregation of duties between ordering of goods, receipt, entering of the goods in the system and payment of the invoice
- all goods must be marked, packed, labeled in a secured way

## Standard 5: Compliance Record

During the last three (3) years you should not have committed a serious infringement or repeated infringements of customs rules; the record of compliance may however be considered as acceptable if the infringements are of minor or negligible importance in relation to the number /size of customs related operations and activities. In any case there should not be any fraudulent intent or negligence and remedial actions are to be taken in order to prevent or minimize future orders.

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