



**BPREX HEALTHCARE OFFFRANVILLE SAS**, share capital 7 275 000 € registered with the Trade Register of Dieppe under Nb. 441 151 917, with registered office at ZI du Douxmesnil, 76550 Offranville, France

**DOUNOR SAS**, share capital 5 000 000 € registered with the Trade Register of Lille Metropole under Nb. 334 781 366, with registered office at 30-32 rue du Vertuquet ZI, 59535 Neuville-en-Ferrain, France

**FIBERWEB FRANCE SAS**, share capital 17 221 323 € registered with the Trade Register of Colmar under Nb. 409 866 415, with registered office at ZI Est, 68600 Biesheim, France

**PGI FRANCE SAS**, share capital 27 968 989 € registered with the Trade Register of Dunkerque under Nb. 327 767 091, with registered office at Avenue des Nations Unies, ZI de la Blanche Maison, 59270 Bailleul, France

## GENERAL SALES TERMS AND CONDITIONS

September 2018

Unless otherwise expressly agreed in writing by Buyer and Seller, these General Sales Terms and Conditions (“*GSTC*”) apply to any sale by BPREX Healthcare Offranville SAS, Dounor SAS, Fiberweb France SAS or PGI France SAS (“*Seller*”) to the purchaser (“*Buyer*”) of goods supplied by Seller (“*Goods*”) under a Contract (as defined below), to the exclusion of any other terms that Buyer seeks to impose or incorporate or which may be implied.

**1. Basis of contract.** A purchase order constitutes an offer by Buyer to purchase Goods in accordance with these *GSTC* and shall only become binding upon Seller once accepted by Seller in writing (each purchase order so accepted by Seller shall be referred to as a “*Contract*”). Buyer shall ensure that the terms of the purchase order are complete and accurate.

**2. Rolling forecast.** Buyer shall submit to Seller on a monthly basis a three (3) month rolling forecast of its consumption needs, per category of Goods.

**3. Price.** Unless otherwise agreed in writing by Buyer and Seller, the price paid for the Goods under a Contract shall be Seller's list price for such Goods prevailing on the date of delivery, together with any applicable value added tax or other tax thereon (the “*Price*”). Seller may, by giving notice to Buyer at any time, increase the Price to reflect (i) any increase in the cost of the Goods, (ii) any request by Buyer to change the delivery date, quantity or type of Goods ordered or (iii) any request by Buyer to change the specification of the Goods or (iv) any delay caused by any instructions of Buyer or failure of Buyer to give Seller adequate or accurate information or instructions.

**4. Payment.** Buyer shall pay each invoice within thirty (30) days of the date of the invoice. No early payment discount will be offered, unless agreed otherwise in writing by Seller and Buyer. Payment shall be made to the bank account nominated in writing by Seller and time of payment is of the essence. Buyer shall pay all amounts due in full and cleared funds without any deduction or withholding and shall not be entitled to assert any credit, set-off or counterclaim against Seller. Seller may at any time, without limiting any other rights or remedies it may have, set off from any payment due to the Buyer any amount owing to it by Buyer. In the event of late payment by Buyer, Seller shall be entitled to charge interest on the overdue amount at the rate of 8% per annum above the rate of the main refinancing operations facility of the European Central Bank from time to time. Such interest shall accrue on a daily basis from the due date until the date of actual payment, whether before or after judgment. Any late payment shall give rise to the payment of a fixed sum of €40 as compensation for the recovery costs.

**5. Delivery.** Unless otherwise agreed in writing by Buyer and Seller, Seller shall deliver the Goods to Buyer on an Ex-works Seller's origin shipping location (Incoterms 2010) basis. Delivery dates are approximate only and the time of delivery is not of the essence. If Buyer fails to take delivery of the Goods on the scheduled delivery date, then Seller shall store the Goods until delivery takes place and charge Buyer for all related costs and expenses (including insurance). If Buyer has not taken delivery of the Goods within three (3) business days after the scheduled delivery date, Seller may resell or otherwise dispose of part or all of the Goods and, after deducting reasonable storage and selling costs, account to Buyer for any excess over the Price or charge Buyer for any shortfall below the Price. Seller may deliver the Goods by installments. All claims for loss or damage during transit must be made against the carrier and by notation on the freight bill or delivery receipt.

**6. Risk/Title.** Risk and title in the Goods shall pass to Buyer when the ordered Goods are loaded onto a common carrier or Buyer's truck at Seller's dock.

**7. Warranties.** Seller warrants that on delivery the Goods shall be (i) free from material defects in design, material and workmanship and (ii) conform in

all material respects with Seller's published specifications within stated tolerances or with Buyer's specifications if previously agreed in writing by Seller (the “*Specifications*”). Notwithstanding the foregoing, it is Buyer's sole responsibility to ensure that such Specifications and tolerances meet the requirements of Buyer and any third party buyer, regardless of Seller's knowledge of such requirements. At Seller's sole discretion, Seller and Buyer may qualify and use a suitable alternative resin for Goods (from a second resin supplier) to reduce the risk of disruption in supply of Goods as a replacement or substitution resin to that described in the Specifications.

Subject to the mandatory provisions of law, the foregoing warranties will not apply (i) in any event, if Seller does not notify Buyer of the defect or the non-conformity within ten (10) business days after the date of delivery or, if the defect or the non-conformity would not be apparent on reasonable inspection, within ten (10) business days after discovery thereof, but in any case within one (1) year of delivery; and/or (ii) in any of the following events: if (a) Buyer makes any further use of the Goods after giving notice in accordance with this clause; or (b) the defect arises because of any act or omission by Buyer (including any unauthorised alteration or repair of the Goods, a failure to follow oral or written instructions as to storage, installation, use and maintenance of the Goods (or good trade practice) or fair wear and tear, willful damage, negligence or abnormal storage or working conditions); or (c) the defect arises as a result of the Seller following any drawing, design or specification supplied by Buyer.

Subject to the mandatory provisions of law, in respect of any defective or non-conforming Goods, where the warranties apply, Seller shall, at its election, (i) repair the Goods; or (ii) supply replacement Goods; or (iii) grant to Buyer a credit equal to the Price (excluding value added taxes), to the exclusions of any other obligation or liability towards Buyer; provided in each case that Buyer, upon request, returns the relevant Goods unaltered to Seller for inspection as soon as possible and at its own risk and expense.

The foregoing warranties are exclusive and in lieu of any other warranty, written or oral, express or implied, including, but not limited to, any warranty from hidden faults and/or merchantability and fitness for particular purpose, to the fullest extent permitted by law.

**8. Liability.** In no event shall Seller be liable to Buyer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for (i) any loss of profit, loss of business or other economic loss; or (ii) any indirect, incidental or consequential, loss or damage arising under or in connection with a Contract. Seller's total liability to the Buyer in respect of all other losses arising under or in connection with a Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall not exceed the Price paid or payable by Buyer to Seller under that Contract.

Nothing in these *GSTC* shall limit or exclude Seller's liability for fraud, death or personal injury caused by its negligence or any matter in respect of which it would be unlawful for Seller to exclude or restrict its liability.

**9. Indemnity.** Buyer shall defend and indemnify Seller, its affiliates and its and their directors, officers, employees, agents and contractors in full against all claims, losses, liabilities, damages and expenses (including legal and other professional fees and expenses) arising as a result of or in connection with (i) Buyer's use of the Goods; or (ii) any infringement or alleged infringement by Buyer of any copyrights, patents, trade secrets or other intellectual property rights of third parties or of Seller; or (iii) Buyer's breach of a Contract.

**10. Compliance with Laws.** Buyer represents and warrants that it shall at all times comply with all applicable laws, regulations, codes, rules, ordinances, judgments, orders and decrees (all together, the “*Laws*”). In particular, Buyer agrees to comply fully with (i) all applicable Laws relating to anti-bribery and anti-corruption and, more specifically, abide by the standards of conduct set forth in the United States Foreign Corrupt Practices Act of 1977, the United Kingdom Bribery Act of 2010, Law no. 2016-1691 of December 9, 2016 “relative à la transparence, à la lutte contre la corruption et à la modernisation de la vie économique” and any other applicable anti-corruption and/or anti-money laundering Laws (all together the “*Anti-Corruption Laws*”); and (ii) all relevant export Laws, trade restriction Laws of the United States, European



Union and any other applicable national Laws (“*Export Laws*”) in force at the relevant time. Buyer shall not, in respect of the Goods: (i) export, re-export, trans-ship, or otherwise transfer, directly or indirectly, in violation of Export Laws; or (ii) use the same for any purposes prohibited by the Export Laws (including, without limitation, nuclear, chemical, or biological weapons proliferation). Upon request, Buyer shall promptly provide Seller with all and any information reasonably requested in order to confirm compliance with the requirements of this clause.

**11. Termination/Suspension.** Seller shall be entitled, at any time by giving reasonable written notice to Buyer and without prejudice to its other rights and remedies to suspend any deliveries of Goods and/or terminate any order for Goods and/or terminate a Contract forthwith if: (i) Buyer fails to pay to the Seller on the due date any amount payable under a Contract; or (ii) Buyer commits a material breach of a Contract; (iii) Buyer becomes insolvent or bankrupt or enters into liquidation or appoints a liquidator, receiver, manager, administrator or administrative receiver or equivalent officer in any jurisdiction in respect of any assets or undertaking of Buyer or any of its affiliates or Buyer or any of its affiliates enters into an arrangement or composition with its creditors or any similar appointment, arrangement or composition is made under any applicable law subject to the mandatory provisions of Law; or (iv) any such event occurs or proceeding is taken with respect to Buyer that has an effect equivalent or similar to any of the foregoing to the fullest extent permitted by Law. Provisions of these GSTC which expressly or impliedly have effect after termination shall continue to be enforceable notwithstanding termination. Upon termination for any reason, all amounts owing by Buyer to Seller, whether under a Contract or for any other reason, shall become immediately due and payable. Seller shall also suspend the execution of the Contract when it is obvious that the Buyer will not execute its own obligation under the Contract and in particular when Seller has significant reasons to believe that any of the foregoing events or proceedings in sub-clauses (i) to (iii) here above might occur.

**12. Confidentiality and Intellectual Property Rights.** Buyer shall keep in strict confidence all information (including without limitation all technical or commercial data, intellectual property, know-how, specifications, inventions, technology, processes or initiatives) disclosed by or relating to Seller, its affiliates or their businesses or activities and of which Buyer becomes aware (“*Information*”). Buyer shall only use the Information in performing its obligations under a Contract and shall disclose the Information to those of its officers and employees on a need-to-know basis only, subject to ensuring that such officers and employees are bound by similar obligations of confidentiality. Ownership of the Information shall remain vested in Seller and Buyer shall not use the Information in any way so as to gain commercial advantage over Seller (including without limitation through abuse of Seller’s intellectual property rights).

**13. Force Majeure.** Delay in performance or failure to perform hereunder shall be excused to the extent caused by circumstances beyond the reasonable control of the party claiming such excuse (including without limitation, acts of God, riots, war, armed conflict, terrorist attacks, rebellion, nuclear disaster, volcano eruptions, fires, lock-outs, riots, strikes or other labour disputes, unusually severe weather, transportation problems, energy shortages, raw material shortages, power outages, accident, fire, explosion, flood, epidemic, machine breakdown, inability to obtain supplies or governmental actions). The party claiming such circumstances shall give written notice to the other party as soon as reasonably practicable giving its best estimate of the expected period of delay.

**14. Amending of General Sales Terms and Conditions.** Seller may unilaterally amend these terms and conditions stipulated herein either totally or partially, publishing any change in its website and notifying the change to Buyer. No such amendments shall affect the terms of any Contract already made.

**15. Notices.** Any notice or other communication given under or in connection with the Contract shall be in writing, addressed to that party at its registered office or principal place of business (or such other address as that party may nominate in writing in accordance with this clause) and shall be delivered personally, sent by pre-paid first-class post or fax to its main business fax number. A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to above; if sent by pre-paid first class post, at 9.00 am on the second business day after posting; or if sent by fax, one business day after transmission. The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.

**16. Whole Agreement, No Amendment.** The Contract constitutes the entire agreement between Buyer and Seller relating to the subject matter thereof. Buyer acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of Seller which is not set out in the Contract. No variation of the Contract or any order for Goods shall be effective unless it is in writing and signed by or on behalf of the Buyer and Seller.

**17. Waiver.** A waiver of any right or remedy under a Contract is only effective if given in writing, and shall not be deemed a waiver of any subsequent breach or default. No failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it preclude or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.

**18. Third party rights.** No one other than Seller and Buyer (and their permitted assignees) shall have any right to enforce any of the terms of these GSTC or of a Contract.

**19. Status.** Nothing in a Contract is intended to, or shall be deemed to, constitute a partnership or joint venture of any kind between Buyer and Seller, nor constitute any party the agent of another party for any purpose.

**20. Assignment and Subcontracting.** Buyer shall not, without the prior written consent of Seller, assign, transfer, charge or subcontract a Contract or any of its rights or obligations under a Contract or purport to do any of the same.

**21. Severance.** If any court or competent authority finds that any provision of a Contract or of these GSTC (or part of any provision) is invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed to be deleted and the validity and enforceability of the other provisions of the Contract or of these GSTC shall not be affected. If any invalid, unenforceable or illegal provision of a Contract or of these GSTC would be valid, enforceable and legal if some part of it were deleted, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable.

**22. Governing language.** If these GSTC are translated into any language other than English and there is any conflict or ambiguity between the English version and the other version(s), the English version shall prevail.

**23. Governing Law and Jurisdiction.** The construction, validity, performance or enforceability of any Contract or these GSTC and any dispute or claim arising out of or in connection thereof (including non-contractual disputes or claims) shall be governed by and construed in accordance with French law. The applicability of the U.N. Convention on Contracts for the International Sale of Goods of 1980 is explicitly excluded. Buyer and Seller irrevocably submit to the non-exclusive jurisdiction of the courts of (i) Dieppe where the Seller is BPRES Healthcare Offranville SAS, (ii) Lille where the Seller is Dounor SAS or PGI France SAS and (iii) Colmar where the Seller is Fiberweb France SAS.