



**Spheros Australia Pty Ltd.**  
**GENERAL SALES TERMS AND CONDITIONS - PART 1 (Generic version)**

**1. General / Scope**

1.1 These general delivery terms ("**Terms**") apply with exclusive effect to all deliveries of goods and services rendered by Spheros and/or its Affiliates as hereinafter defined ("**Deliveries**"). "Affiliate" means any legal entity directly or indirectly owned or controlled by or owning or controlling our under the same ownership or control as a party, such ownership or control existing through the direct or indirect ownership of more than 50% or more of the voting rights or by the ownership of any other nominal value of the issued equity share capital, or ownership of more than 50% or more of the shares entitling the holders to vote for the election of directors or persons performing similar functions, or the right by any other means to elect or appoint directors, or persons performing similar functions who have a majority vote). General business terms and conditions which are to the disadvantage of Spheros and which are conflicting with or deviating from, contradicting and/or supplementing these Terms shall be excluded and may only be recognized if and to the extent that Spheros expressly agrees to them in writing. This shall also apply if Spheros has not expressly objected to the validity of such conflicting or deviating conditions or has carried out Deliveries without reservation.

1.2 These Conditions are solely applicable to and binding for business transactions with entrepreneurs (*Unternehmer*) within the meaning of section 14 BGB (German Civil Code), with legal entities governed by public law and with special trusts under public law ("**Customer**").

1.3 In the course of an ongoing business relationship these Terms shall also apply to all future transactions concerning Deliveries between Spheros and the Customer.

1.4 In case that the Customer provides services to Spheros or otherwise cooperates with Spheros in any manner in providing services to other customers of Spheros ("**Service Partner**"), the Service Partner shall be bound by the additional provisions in **Annex** hereto, in addition to these Terms:

**2. Conclusion of the Contract**

2.1 Any offers from Spheros are subject to change without notice and only serve the purpose of initiating contractual negotiations, unless expressly stated otherwise by Spheros. The same applies to amendments and additions to a contract or an individual transaction such an order.

2.2 Orders are binding for the Customer. Spheros may accept an order from the Customer within two (2) weeks after its submission unless the Customer specifies a longer acceptance period.

2.3 Deliveries from Spheros are made on the basis of the written order confirmation by Spheros. The written form requirement is deemed to be complied with if communications are made by telefax, electronic data transmission (e.g., EDI), SAP purchase order or as pdf document sent by email. Spheros also remains entitled to effectuate the conclusion of a contract by carrying out Deliveries without reservation.

2.4 The content of the order confirmation from Spheros itself as well as the technical or functional specifications or other documents referenced therein, shall become content of the contract, together with these Terms. In case of discrepancies between these Terms and the terms specified in the order confirmation, the latter shall prevail and have priority over these Terms.

**3. Scope of Deliveries, Services, Work Results**

3.1 The Deliveries owed by Spheros are conclusively stipulated and specified in the order confirmation of Spheros including any associated attachments and referenced documents. Spheros is entitled to make changes to the Deliveries in the form of technical improvements, insofar as these are reasonably acceptable to the Customer.

3.2 If the design or execution of a Delivery has to be changed after conclusion of the contract for reasons within the Customer's sphere of responsibility, Spheros reserves the

right to claim any additional costs caused by this.

3.3 Unless expressly agreed otherwise, Spheros reserves all rights to plans, drawings, technical documents, and software which Spheros has made available to the Customer. Unless otherwise agreed in writing, the copyright to all documents, reports, software, and information created by Spheros shall remain with Spheros.

3.4 If the Deliveries also include software, the contract grants the Customer the non-exclusive and non-transferable right to use the software for the agreed purpose and for the sole use with the respective Deliveries. In this respect, the Customer is entitled to use and take other measures within the scope of sections 69a- 69g UrhG (German Copyright Act), including making of copies for archiving purposes, for troubleshooting or for the replacement of defective storage media. Furthermore, the Customer shall not be entitled to make copies, upgrade or otherwise extend the software, nor is it allowed to disassemble, decompile, decrypt or reverse engineer the software without Spheros's prior written consent. If the Customer violates any of these provisions, Spheros may, in addition to any other rights it may have, revoke the right to use the software with immediate effect.

3.5 If the Deliveries have been rendered using know-how, inventions, patents, copyrights or other intellectual property rights whose owner or rightful user is Spheros, the Customer shall only be granted rights of use to the extent necessary to achieve the purpose of the contract. All other rights of use and exploitation shall remain with Spheros. Neither may the Customer use Spheros's brands or trademarks without its prior written consent.

3.6 In addition, all rights and legal claims in any work result, including reports, drawings, photographs, data and specifications, whether on paper, storage medium or in any other form, software programs, derivative works, discoveries, designs, inventions, patents, know-how or improvements ("**Work Result**"), designed, created or developed by or for Spheros in the performance of any contract, are the exclusive property of Spheros. If the Work Result is

based on plans, drawings, technical documents, and software to which the Customer holds a right, the Customer and Spheros shall consult about granting a right of use in this respect. Upon the Customer's request, Spheros shall further grant the Customer a non-exclusive, non-transferable license for reasonable royalties to use the Work Results for the Customer's internal business purposes.

3.7 Make and model of any packaging for the Deliveries shall be in the sole election of Spheros. Packaging material may only be returned if the parties have an express agreement in this respect. The same applies for any reusable packaging.

3.8 Protective devices as well as manuals for installation, assembly, operation or similar documents are only supplied if this has been agreed or if applicable law should so require.

## 4. Prices and Payment Conditions

4.1 Unless agreed otherwise, the prices of Spheros are "ex works" (EXW in accordance with Incoterms® 2020) plus any applicable value added tax and plus costs for packaging, unless otherwise agreed. In case of Deliveries to foreign countries, all taxes, customs duties and tariffs and other public charges to be paid by Spheros abroad shall be refunded by the Customer, unless expressly agreed otherwise.

4.2 Prices are due for payment immediately upon delivery and invoicing. Payments to Spheros shall be made without deduction of cash discount. Spheros accepts payments by bank transfer. All bank charges and expenses shall be borne by the Customer. The date on which the payment amount is credited to Spheros's account shall determine the timeliness of the Customer's payment.

4.3 In the event of default, Spheros will charge interest at a rate of 9 percentage points above the respective base interest rate. Further claims and rights of Spheros based on the Customer's default in payment remain unaffected.

4.4 If, after conclusion of a contract, Spheros becomes aware of circumstances which indicate the Customer's inability to pay or other significant deterioration of the Customer's financial situation, and if

Spheros's payment claim is thereby jeopardized, Spheros is entitled to refuse the respective Deliveries under the contract. Spheros's right to refuse performance shall lapse if the Customer makes the due payments or provides security in the amount of Spheros's jeopardized payment claim. If the Customer fails to make the due payments or provide adequate security within a reasonable period of time, Spheros may, irrespective of any other rights it may have, rescind the contract, thereby excluding any claims for compensation on the part of the Customer.

4.5 The Customer may only offset (i) undisputed claims, (ii) finally adjudicated claims or (iii) synallagmatic claims under one and the same contractual relationship. The same applies to the assertion of retention rights by the Customer.

4.6 By granting a SEPA Debit Mandate, Spheros shall be authorized to collect due payments by using the SEPA Direct Debit Scheme. For the pre-notification of the Direct Debit Scheme a deadline shall apply which depends on the individually agreed payment terms with the Customer. Pre-notification shall be given by delivery of the balance list.

## **5. Execution of Deliveries**

5.1 Deliveries will be made EXW (pursuant to Incoterms® 2020) Spheros's site, unless expressly agreed otherwise.

5.2 Spheros is entitled to partial performance, to the extent reasonably acceptable to the Customer. The same applies to premature performance.

5.3 Delivery periods and delivery dates are only binding if this has been expressly agreed with the Customer in writing. Compliance with the agreed deadlines requires the prior clarification of all technical and commercial questions, the availability of required permits and documents as well as the Customer's compliance with the duties and obligations applicable to the Customer by this time. If these conditions are not fulfilled in time or if the Customer adds further requests, the respective dates shall be postponed accordingly, unless Spheros is responsible for the delay.

5.4 In cases of force majeure, the contractual obligations of the parties shall be suspended, and the agreed dates shall be postponed accordingly for the duration of the event of force majeure. Force majeure includes, in particular, such unforeseeable impediments to performance or disruptions which are beyond a party's sphere of influence, which could not have been averted or remedied even by applying the diligence of a prudent businessman. Force majeure shall include in particular, but without limitation, epidemics or pandemics, military mobilization, war or conflict, civil war, acts of terrorism, riots, political unrest, revolution, sabotage, material operational disruptions, failure or breakdown of utilities such as water, energy, of transport or common carriers, accidents, labor disputes, late or incorrect delivery of necessary raw materials, semi-finished or finished products, market failure, actions or omissions by authorities, governmental or supranational bodies, boycott or embargoes, unforeseeable transport impediments, fire, earthquake, volcanic activity, explosion or natural disasters. If an event of force majeure exceeds a duration of three (3) months, either party may terminate or rescind the affected contract.

5.5 The performance obligations of Spheros are subject to the condition that Spheros itself is supplied in a due and timely manner by its suppliers.

5.6 If Spheros defaults on Deliveries, the Customer's claims for damages and reimbursement of expenses due to the default shall be limited to 0.5% of the affected net contract value for each full week of the default, but not exceeding a total of 5% of the affected net contract value. This limitation shall not apply in the event of intent or gross negligence or injury to life, limb or health. Spheros's delayed Deliveries shall only entitle the Customer to rescind the contract in accordance with the statutory provisions as far as Spheros has culpably caused such delay.

5.7 Customer shall arrange for immediate pickup of Deliveries notified as ready for dispatch. Otherwise, Spheros may store such Deliveries, at its sole discretion, at the expense and risk of the Customer. In this case,

Customer shall bear any risk for the deterioration or accidental destruction of these Deliveries, unless Spheros is liable due to its willful misconduct or gross negligence. The same applies if Deliveries are put in Spheros's interim storage upon Customer's request and without charge. Spheros may cancel an order and charge its incurred costs if the Customer fails to pick up a Delivery within 30 days from the date of notification that the Delivery is ready for dispatch.

## 6. Transfer of Risk, Retention of Title

6.1 Unless otherwise agreed, the risk of accidental loss and accidental deterioration of the items in a Delivery shall pass to the Customer upon Spheros having made the items available for collection at the agreed place of delivery and having informed the Customer thereof, but in no event after the items have left the Spheros's site.

6.2 Spheros retains title to all Deliveries until complete and irrevocable payment by the Customer of (i) all outstanding claims or (ii) the balance of all claims (in case of continuous netting of claims) from the business relationship (such items, the "**Reserved Goods**").

6.3 The Reserved Goods shall only be processed or transformed for Spheros as manufacturer without obliging Spheros. If Reserved Goods are processed, combined or mixed with material which is not owned by Spheros, Spheros shall always acquire co-ownership of the new object in the proportion of the value of the Deliveries to the value of the new object. If Spheros's title to the Reserved Goods expires as a result of combining or mixing, the Customer hereby assigns to Spheros co-ownership of the new object in the proportion of the value of the Deliveries to the value of the new object and shall hold the object in safe custody for Spheros. The objects which are newly created by processing, combining or mixing the Deliveries of Spheros shall also be deemed Reserved Goods; if Spheros does not become the sole owner of the new objects, however, this shall only apply to the extent of the co-ownership portion acquired by Spheros in the new object.

6.4 As far as the governing law applicable at the place of performance does not recognize the retention of title, the Customer undertakes to co-operate in the establishment of a comparable security right or collateral regarding the Reserved Goods.

6.5 Spheros authorizes the Customer to resell the Reserved Goods within its ordinary course of business. The Customer is not permitted to dispose of the Reserved Goods in any other way, in particular by way of pledge or security assignment (*Sicherungsübereignung*).

6.6 The Customer hereby assigns to Spheros by way of security all claims against its customers arising from the resale of the Reserved Goods. Spheros hereby accepts the assignment. If the Customer resells the Reserved Goods together with other goods not owned by Spheros, the assignment of claims resulting from the resale shall be limited to the value of the Reserved Goods only. If the Customer contributes the claim resulting from the resale of the Reserved Goods to a current account relationship with its customer, the assigned current account claim shall be replaced by the accepted balance after netting, which shall be assigned in the amount of the resale value of the respective Reserved Goods sold.

6.7 The Customer is hereby authorized to collect the claims from the resale assigned to Spheros and to realize the security transferred by way of assignment at Customer's cost. Spheros is entitled to revoke the authorization given to the Customer to resell and/or collect the claims assigned to Spheros if (i) the Customer is in default with payments arising from the business relationship, (ii) the Customer has disposed of the Reserved Goods outside the ordinary course of business, or (iii) after conclusion of the contract a material deterioration in the Customer's credit emerges, which jeopardizes Spheros's claim. Upon the application for the opening of insolvency proceedings over the Customer's assets, the Customer shall no longer be entitled to resell, use or collect claims, and no express revocation by Spheros shall be required. This shall apply until the withdrawal or finally adjudicated rejection of the application to open insolvency proceedings and/or the termination of the

insolvency proceedings. Upon the revocation or lapse of the authorization to collect receivables, the Customer shall immediately collect assigned receivables received by it on a special account, with a clear allocation of such payments to Spheros. Upon the revocation or lapse of the authorization to collect claims, Customer shall identify to Spheros the debtors of the assigned claims, the type and amount of the claims and the transferred securities and shall hand over to Spheros all documents necessary for the enforcement of the claims; at Spheros's request, it shall notify the debtors of the assignment.

6.8 The Customer must keep the Reserved Goods in faultless condition. It is also obliged to adequately insure the Reserved Goods against fire, water and burglary damage. The Customer hereby assigns to Spheros any claims against the insurer in connection with the Reserved Goods under the respective insurance policy. The Customer shall immediately notify Spheros in writing of any attachments, seizures or other measures by third parties which may impair Spheros's rights in the Reserved Goods and shall inform the third party of Spheros's rights.

6.9 Spheros shall, at the Customer's request, release the securities - at Spheros's discretion - to which Spheros is entitled to the extent that their realizable total value exceeds Spheros's secured claims by more than 10%.

## **7. Defects**

7.1 The Deliveries shall be free from material defects at the time of transfer of risk and free from defects of title at the time of transfer of ownership to the Customer. The Deliveries are in accordance with the contract insofar as they correspond to the contractually agreed specifications; the specifications of the Deliveries are comprehensively laid down in the contract with the Customer.

7.2 The Customer shall be responsible for examining the Deliveries with regard to their suitability for the intended purpose as well as for the given conditions of use. Agreements on quality shall remain unaffected.

7.3 The Customer shall inspect the Deliveries immediately upon their delivery within the ordinary course of business. Defects which can be detected through this inspection shall be notified immediately; hidden defects shall be notified immediately upon their respective discovery. Any notification of defects by the Customer must be made in writing. After an acceptance of the Delivery has been made (which can be agreed to be made, as an exception), the notification of defects that can be detected during such acceptance shall be excluded. In all other respects, the requirements and consequences of a delayed notice of defects shall be subject to the statutory provisions.

7.4 In the event of complaints about the Deliveries, the Customer shall immediately give Spheros the opportunity to inspect the affected Deliveries and shall carry out all necessary joint actions for this purpose. In the event of unjustified notices of defects, Spheros reserves the right to charge the Customer with the costs caused thereby.

7.5 Spheros shall, at its sole discretion, provide supplementary performance either by replacement delivery or by remedy of defects. Disassembly and installation costs are not deemed supplementary performance costs, unless the installation or disassembly of the Delivery is part of the Deliveries owed by Spheros. Spheros may refuse supplementary performance if both alternatives of supplementary performance involve disproportionate costs. If the supplementary performance fails, the Customer may either reduce the purchase price proportionately or rescind the contract. Upon request, the Customer shall advise Spheros within a reasonable period of time whether it opts to rescind the contract or insists on performance. Statutory self-remedy rights remain unaffected. Even in the event of a recourse against the seller (*Verkäuferregress*), the Customer is, in deviation from section 445a para. 2 BGB, obliged to provide Spheros with the opportunity for supplementary performance within the period set to the Customer by its buyer. Setting a deadline is only dispensable if setting a deadline according to section 445a para. 2 BGB is already dispensable in the relationship between the Customer and its buyer, so that



the Customer cannot give Spheros an opportunity for supplementary performance.

7.6 The Customer's right of recourse against Spheros pursuant to section 478 BGB is limited to the statutory scope of the claims for defects asserted against the Customer by end consumers and requires that the Customer has fulfilled its obligation to give notice of defects to Spheros pursuant to section 377 HGB (German Commercial Code). The provisions in Section 8 of these Terms shall remain unaffected.

7.7 For defects of title, the following complimentary provisions apply:

7.7.1 Rights or claims of third parties based on industrial or other intellectual property shall only constitute a defect of title if they exist in the country of Spheros's general place of business in accordance with the customary national requirements, including the requirements of the EU patent ("**IP Rights**").

7.7.2 The Customer must inform Spheros immediately and in writing of all claims asserted against the Customer which involve the infringement of IP Rights of third parties.

7.7.3 A defect due to infringement of IP Rights of third parties does not exist, if:

- (i) the infringement of an IP Right is due to specifications provided by the Customer;
- (ii) the infringement of an IP right is due to a use of the Deliveries in a manner not foreseeable by Spheros; or
- (iii) the infringement of an IP Right is due to the fact that Deliveries were subsequently modified or used in connection with products or in other ways for which the Deliveries were not intended.

7.7.4 If a third party asserts justified claims against the Customer due to the infringement of IP Rights, Spheros shall - at its sole discretion - either obtain a right of use for the Delivery, modify it in such a way that IP Rights are not infringed or exchange it. If this fails, the Customer - without prejudice to other rights - is entitled to the statutory rights of rescission or payment reduction.

7.7.5 Claims of the Customer in the case of an infringement of IP Rights are excluded insofar as the Customer is responsible for the infringement. In this case the Customer shall indemnify Spheros against all claims of third parties based on the infringement of IP Rights asserted against Spheros.

7.8 In addition, Section 8 of these Terms shall apply to claims for damages and reimbursement of expenses due to a defect. Any other claims and rights of the Customer against Spheros due to a defect are excluded.

## **8. Limitation of Liability**

8.1 Unless otherwise stipulated in these Terms, Spheros shall not be liable to the Customer for damages and reimbursement of expenses - irrespective of the legal basis. However, the above exclusion of liability does not apply insofar as Spheros is liable (i) for claims for reimbursement of expenses in accordance with section 439 Para. 3 BGB and section 445a Para. 1 BGB, (ii) for intent or gross negligence, (iii) according to the ProdHaftG (Product Liability Act) or corresponding statutes under foreign jurisdictions, (iv) due to culpable injury to life, limb or health, (v) due to the assumption of a guarantee or a procurement risk, (vi) in the event of a culpable breach of an essential contractual obligation, *i.e.*, such obligations whose fulfillment allows the proper execution of a contract and on whose observance the Customer regularly relies and may rely on, or (vii) in cases where an exclusion or limitation of liability would be prohibited due to mandatory law. In the event of a culpable breach of material contractual obligations Spheros shall be liable - except in cases of intent or gross negligence - only for the contractually typical foreseeable damage.

8.2 The above provisions do not imply a change in the burden of proof to the disadvantage of the Customer.

8.3 Any liability for damages caused by the Customer - such as for wear and tear - is excluded, unless to the extent they have been caused at least by negligence Spheros. This applies in particular for wear parts and disposable safety devices, inappropriate or incorrect usage, incorrect storage, non-compliance with installation and operating instructions, incorrect or careless treatment, inappropriate resources, as well as climatic or any comparable influences. Liability is excluded for defects that have been caused by constructional faults or by the choice of inappropriate material, provided that the Customer has specified the

construction or the material against Spheros's advice.

8.4 Insofar as Spheros's liability is excluded or limited in accordance with this Clause, this shall also apply to the corresponding personal liability of Spheros's vicarious agents and other auxiliary persons, legal representatives, and employees.

8.5 For prototypes, test models, pilot constructions and similar components ("**Prototypes**"), the following additional provisions apply: The specification of Prototypes may deviate from planned development targets and/or components for commercial production. Prototypes may solely be used for development, demonstration, pretesting and similar purposes. Prototypes are strictly prohibited to be used on the road, commercially and/or by the general public, as they have not undergone the legally required steps for obtaining the necessary licensing, certification, registration, technical approval and/or validation (collectively, the "**Approval**"). If the Customer intends to use or release the Prototypes on the road, commercially and/or to the general public by itself or by third parties, directly or indirectly, it shall be obliged and solely assume any associated liability to obtain any required Approval from the competent regulatory authorities or motor vehicle agencies, prior to any such use or release. Any application for an Approval by the Customer requires Spheros's prior written consent. As far as legally permissible, Spheros shall assume no liability whatsoever (i) if the Prototypes do not fulfill the requirements of a serial-grade component or (ii) if the Customer violates any of the aforesaid provisions. The Customer shall remain solely responsible and liable for operation, use, testing, proper installation and de-installation as well as maintenance and repairs of the Prototypes and shall ensure that only adequately skilled, trained and qualified personnel will be entrusted with such work.

## **9. Statute of Limitations**

9.1 The limitation period for claims and rights due to defects in the Deliveries shall be twelve (12) months. The limitation period commences on the date the Delivery is first

assembled onto a vehicle or the date such vehicle obtains its first road traffic certification. It expires, however, at the latest 18 months from the delivery date of the respective Delivery or spare part. Notwithstanding the foregoing, the statutory limitation period shall apply with regard to all claims and rights of the Customer:

(i) in the case of section 438 Para 1 no. 1a BGB (right *in rem* of a third party), section 438 Para 1 no. 1b BGB (registered right in the land register (*Grundbuch*)), section 438 Para 1 no. 2a BGB (buildings), section 438 Para 1 no. 2b BGB (object which has been used for a building in accordance with its customary use), section 445b BGB (recourse claims in recourse against suppliers), section 478 Para 2 BGB (recourse in consumer goods purchase), section 634a Para 1 no. 2 BGB (buildings and related planning and monitoring services), in the case of fraudulent intent as well as

(ii) in the case of claims for damages in the event of culpable injury to life, limb or health, gross negligence, or intent as well as liability under the ProdHaftG (Product Liability Act) or corresponding statutes under foreign jurisdictions.

9.2 Generally, Spheros remedies defects or makes replacement deliveries as a gesture of goodwill and without accepting any legal obligation to do so. Any such remedy or delivery shall not reset the limitation period, unless Spheros has acknowledged a defect.

9.3 For any other claims of the Customer against Spheros, the regular limitation period shall be shortened to two (2) years from the initiation of the statutory limitation period. This shall not apply to claims for damages in the cases specified in Clause 8.1.

## **10. Compliance with Export Control Provisions and Economic Sanctions**

10.1 Spheros may withhold the fulfillment of its obligations under a contract with the Customer - thereby excluding any claims the Customer may have against Spheros - if and to the extent that the fulfillment of the contractual obligations is prohibited or impaired by national or international foreign trade regulations or embargoes and/or other comparable sanctions such as, in particular, economic sanctions, export controls, and



other import or export regulations of the European Union ("EU"), its Member States, the United States of America and all other relevant jurisdictions in performance of the respective agreement, including but not limited to the Export Administration Regulations (EAR), the economic sanctions programs administered by the Office of Foreign Assets Control (OFAC), the EU's Regulation (EC) no. 428/2009 (dual-use), as last amended, the Union Customs Code (UCC) and the economic sanctions laws adopted by the EU and its Member States ("**Foreign Trade Law**") which impede fulfillment.

10.2 If the fulfillment of Spheros's obligations under a contract is impeded due to Foreign Trade Law, any potential deadline for the fulfillment of such obligations shall be extended accordingly. Claims for damages by the Customer against Spheros due to such delays are excluded if and to the extent that Spheros is not responsible for such delays.

10.3 The Customer shall comply with all relevant export control, customs, and Foreign Trade Law regulations. Particularly in connection with Deliveries supplied by Spheros, Customer will not, directly or indirectly, engage in any activities that would violate applicable Foreign Trade Law.

10.4 If the fulfillment of Spheros's obligations under a contract is prohibited or impeded by applicable Foreign Trade Law for a period of three (3) months or longer, Spheros and the Customer are each entitled to terminate the contract with immediate effect or to rescind the contract.

10.5 Customer shall not sell, transfer, supply or otherwise provide, directly or indirectly, any completed vehicles containing Deliveries, or any aftermarket, replacement, or spare parts provided to Customer by Spheros, to parties in or for any of sanctioned countries/territories (including for incorporation into finished vehicles assembled in a third country but destined for one of these countries/territories). This prohibition applies in particular to Cuba, Crimea, Iran, North Korea and Syria, this list being regularly updated by Spheros.

10.6 In case of any doubt or risk about the final destination or the final use of Deliveries,

Customer should immediately contact their sales representative at Spheros.

## **11. Tools and Raw Materials**

11.1 Any tools, materials, parts, containers and special packaging provided by Spheros free of charge as well as materials derived therefrom ("**Material**") shall remain Spheros's property.

11.2 Material shall be stored and labeled by the Customer as property of Spheros, at no costs to Spheros. The Customer may only use such Material as designated and such use is restricted to the performance of the respective order. The Customer shall be liable for damage to or loss of such Material and shall supply replacements in the event of reduction of value, loss or damage if the Customer is responsible for such loss or damage.

11.3 Material shall not be made available to any third party nor used for any purposes other than those contractually agreed, except with Spheros's prior written consent, nor pledged, transferred as security or copied. Material shall be protected against unauthorized access or use.

11.4 Notwithstanding any other rights Spheros may have, Spheros is entitled to demand that such Material be returned at any time upon a respective prior written notification by Spheros to the Customer, irrespective of whether the Customer is in breach of the duties set forth herein.

11.5 The Materials shall only be processed or transformed for Spheros as manufacturer without obliging Spheros. Spheros shall immediately become owner of the processed or transformed Material Should Spheros lose its ownership right by way of combination, mixing or processing, the Customer is hereby transferring to Spheros its ownership rights in the new object in the proportion of the net material value of the Material, and shall keep such objects in safe custody for Spheros free of charge.

11.6 If the realizable value of the securities in favor of Spheros exceeds the value of Spheros's claims by more than 10% in the aggregate, Spheros shall release the securities - at Spheros's discretion - to this extent, upon Customer's request.



## 12. Rules and Policies at Spheros

Any stay and works on the premises of Spheros requires that the applicable rules and policies on site shall be complied with.

## 13. Confidentiality and Documentation

13.1 All information, in particular of a technical, industrial, production-related, business and/or financial nature, which is made accessible or available to the Customer by Spheros, its affiliated companies or representatives, is confidential, insofar as the confidential information (i) is not or does not become generally known without the Customer having violated the confidentiality obligations pursuant to this Clause 13, (ii) was demonstrably not lawfully known to the Customer prior to receipt, and without being bound to confidentiality, (iii) is lawfully disclosed to the Customer by third parties without being bound to confidentiality, or insofar as Spheros has granted its prior written consent to the disclosure of the confidential information. The confidentiality obligations pursuant to this Clause 13 shall apply regardless of how the respective information has been made accessible, whether orally, in writing or otherwise; the confidentiality obligations pursuant to this Clause 13 shall also apply to designs, drawings, descriptions, specifications, electronic media, software and corresponding documentation, samples and prototypes.

13.2 Confidential information within the meaning of Clause 13.1 may only be used, duplicated, and exploited by the Customer in connection with and for the purposes of the contract concluded with Spheros. Such confidential information may only be made accessible to persons in the Customer's business operations if such involvement in the use of the information is essential for the purposes of the contract with Spheros, and if the persons are bound to confidentiality in a manner comparable to these provisions. The Customer undertakes to take all necessary measures to ensure that confidential information is not made accessible to third parties without Spheros's express prior written consent. At Spheros's request, all

confidential information originating from Spheros shall be returned to Spheros or be destroyed immediately and completely.

13.3 Spheros reserves all rights to such information (including copyrights and the right to apply for intellectual property rights such as patents, utility models, etc.), unless expressly agreed otherwise.

13.4 Products manufactured according to documents designed by Spheros, such as drawings, models, Spheros's tools or tools manufactured according to Spheros's tools, may not be used by the Customer nor offered or supplied to third parties. This also applies *mutatis mutandis* to Spheros's print orders.

13.5 The above confidentiality obligations shall remain upright for a period of five (5) years upon termination or expiry of the contract, regardless of the reason for termination or expiry.

## 14. Compliance

14.1 The Customer undertakes, within the scope of its business relationship with Spheros, not to engage, actively or passively, directly or indirectly, in any form of bribery, not to offer or grant, promote or accept any advantage, neither in its business operations nor when dealing with governmental officials, which may be in breach of applicable domestic, EU and international anti-corruption or anti-bribery laws, rules or regulations ("**Anti-Corruption Laws**").

14.2 The Customer undertakes, within the scope of its business relationship with Spheros, not to enter into any agreements or to commit concerted practices with other companies, aiming to or having the effect of a prevention, restriction or distortion of competition under applicable domestic, EU or international antitrust or competition laws, rules or regulations.

14.3 The Customer acknowledges its obligation to comply with the applicable laws governing the general minimum wage and shall ensure that its sub-suppliers and subcontractors are similarly bound thereby. Upon request, the Customer shall provide evidence of compliance with the aforesaid obligation.

14.4 The Customer shall comply with the respective statutory provisions governing the



treatment of employees, environmental protection and health and safety at work and to work towards reducing the adverse effects of its activities on human beings and the environment. Furthermore, the Customer shall comply with the principles of the UN Global Compact Initiative relating to the protection of international human rights, the abolition of forced and child labor, the elimination of discrimination in hiring and employing personnel and the responsibility for the environment.

14.5 In the event of a suspected violation of the obligations under Clauses 14.1 through 14.4, the Customer shall investigate any such potential violation without undue delay and inform Spheros of the investigation measures initiated or taken, subject to applicable data protection laws. If the suspicion proves to be reasonably justified, the Customer shall inform Spheros within a reasonable time of the corrective and remedial measures that it has taken or will take internally within its organization in order to prevent future violations. In this context, the Customer is also solely responsible to ensure that processes and measures of equivalent effectiveness be implemented and adopted by its subcontractors and sub-suppliers, which it uses in the performance of its obligations towards Spheros.

14.6 The Customer shall in particular comply with any applicable rules and regulations set forth in the U.S. Foreign Corrupt Practices Act (FCPA) and the U.K. Bribery Act (UKBA) as well as all other international Anti-Corruption Laws and conventions.

14.7 The Customer shall protect personal data in accordance with the applicable data protection provisions. The Customer takes notice of and accepts the Spheros Data Protection Statement and Privacy Notice, the currently applicable version of which is published under <https://www.spheros.com>.

14.8 The Customer shall provide for any required organizational structures, instructions and measures, particularly with regard to the following: safety of premises, packaging and transport, business partners, personnel and information in order to guarantee the security in the supply chain according to the requirements of respective

internationally accepted initiatives based on the WCO SAFE Framework of Standards.

14.9 The Customer is responsible to ensure and maintain a professional and effective Compliance Management System comparable to ISO 37001.

14.10 In the event of a breach of any of its obligations as set forth in this Clause 14, the Customer shall indemnify Spheros and hold Spheros harmless from and against any and all third-party claims, and shall be obliged to reimburse Spheros for any fines imposed on Spheros and any costs and expenses incurred by Spheros (including reasonable attorney fees) out of or in connection with such breach, unless the Customer is not responsible for such breach.

14.11 In addition to any rights and remedies available to Spheros, if the Customer fails to comply with these obligations or guarantees, Spheros reserves the right to rescind or terminate contracts within a reasonable time at Spheros's sole discretion. However, provided that Customer's breach is capable of remedy, such rights of Spheros are subject to the condition that such breach has not been cured by the Customer within a reasonable deadline set by Spheros.

## 15. Miscellaneous

15.1 If one or more provisions of these Terms or parts thereof should be or become invalid or unenforceable, this shall not affect the validity and enforceability of the remaining provisions of these Terms or parts thereof.

15.2 Insofar as these Terms refer to (i) a written form requirement, the text form (letter, fax, e-mail, etc.) is sufficient to observe the written form; (ii) "**days**", this shall mean calendar days.

15.3 Unless agreed otherwise, the place of performance for all obligations of Spheros and the Customer arising out of the contract, including Spheros's obligation to provide supplementary performance, and the mutual restitution obligations in the event of rescission, shall be the registered office of Spheros.

15.4 Assignments of claims against Spheros are only permissible with Spheros's prior written consent. Section 354a HGB

(German Commercial Code) remains unaffected.

15.5 If Spheros does not exercise any of its rights under these Terms, this shall not constitute a waiver of any of its rights under these Terms or a modification of an order.

15.6 The contractual relationship between Spheros and the Customer is subject to the laws of the Federal Republic of Germany, without regard to principles of conflicts of laws. The application of the UN Convention on Contracts for the International Sale of Goods (CISG) is excluded.

15.7 The venue for all legal disputes arising out of or in connection with contractual relationships including disputes regarding their validity shall be Munich, Germany. The language shall be German provided the Customer is registered in German speaking countries, in all other cases the language used shall be English. Alternatively, provided that the Customer's seat is not in an EU member state, each Party as plaintiff is granted the right to have any such disputes or claims finally settled by way of arbitration in accordance with the Arbitration Rules of the German Institution of Arbitration e.V. (DIS) by three arbitrators appointed in accordance with the said Rules, instead of recourse to the ordinary courts of law. In this case, the venue of arbitration shall be Munich, Germany. The language of the arbitration proceedings shall be English, unless both parties have their seat in a German-speaking country, in which case it shall be German. The German ZPO (Civil Procedure Code) shall apply to the proceeding, in particular regarding the taking of evidence.

15.8 Part 2 of these Terms, if any, forms an integral part of the Terms. All capitalized terms not otherwise defined in an Annex or Part 2 of the Terms shall have the meaning ascribed to it in the Part 1, and vice versa.

15.9 The rights and obligations of the Parties under these Terms are set out in more detail in Part 2 hereto if necessary. In case of conflict, the Part 2 provisions shall supersede the Part 1 provisions.



### **Annex: Additional Provisions for Service Partners**

(see Section 1.4 of the Terms)

1. The Service Partner agrees to respect the **Spheros Business Partner Code of Conduct**, which is currently accessible under <https://www.spheros.com> and to make them available to all of its personnel conducting activities for or on behalf of Spheros ("**Intermediary Personnel**"), to keep full and accurate books and records of all payments made in respect of any transaction or business affected in connection with this agreement, and to make all such books and records available to Spheros's duly authorized representatives as deemed necessary by Spheros to verify Service Partner's and Intermediary Personnel's compliance with Anti-Corruption Laws and this agreement.

2. In particular and without limiting the generality of the foregoing, while performing their obligations under the agreement, the Service Partner, its affiliates, employees, facilitators and Intermediary Personnel shall not directly or indirectly:

- implement any actions treated as giving / taking bribes or committing bribery under the law applicable for the agreement or any actions violating the requirements of the applicable Anti-Corruption Laws and international anti-corruption statements.
- pay, offer to pay or give assent for payment of any amount of cash or things of value to anyone to influence their actions or decisions with the purpose to receive any unjustifiable advantages or to reach any other inappropriate goals.

3. The Service Partner agrees that payments to it by Spheros shall be made (i) to it directly, not to third parties; (ii) by check or wire transfer only, and that no requests for cash payments shall be accepted; and (iii) in the country where Service Partner or its Intermediary Personnel performed the work for which it is being compensated or in the country of its or its principal place of business.

4. The Service Partner shall not utilize or employ any third party, individual or entity that will, or is likely to, assist Spheros with interactions with government officials, or assign its rights or obligations under this

agreement to any other party, without the express prior written approval of Spheros.

5. The Service Partner agrees to obtain the prior written approval of Spheros before incurring any travel, entertainment, or other expenses for, on behalf of, or related to any government official in the performance of this agreement and that it will be reimbursed by Spheros only if such prior written approval is provided by Spheros and Service Partner retains and provides accurate detailed records and supporting documentation for such expenses.

6. The Service Partner agrees that should it or any of its Intermediary Personnel learn of, or suspect, any act or circumstance, whether in connection with performance of this agreement or its other activities, that may constitute improper conduct, or that may violate any of the provisions or this agreement, it will immediately advise its sales representative at Spheros in writing of such knowledge or suspicion.

7. Should the Service Partner breach its obligations, or fail to confirm compliance with the above terms in due course, Spheros will be entitled to not renew or to terminate the agreement in its sole discretion in full or in part by sending a written notification of the termination.

### **Annex B: Additional Provisions for Agents**

(see Section 1.5 of the Terms)

1. The Agent agrees to respect the **Spheros Business Partner Code of Conduct**, which is currently accessible under <https://www.spheros.com> and to make it available to all of its personnel conducting activities for or on behalf of Spheros ("**Intermediary Personnel**").

2. The Agent agrees to keep full and accurate books and records of all payments made in respect of any transaction or business affected in connection with this agreement, and to make all such books and records available to Spheros's duly authorized representatives as deemed necessary by Spheros to verify Agent's and Intermediary Personnel's compliance with Anti-Corruption Laws and this agreement.

3. The Agent reconfirms annually its compliance following the actual procedures



and conducts all mandatory training by Spheros.





**Spheros Australia PTY LTD (ABN 36160 791 855)**  
**GENERAL DELIVERY TERMS AND CONDITIONS**  
**PART 2 (Local version)**

**1. General / Scope**

1.1 These Terms - Part 2 are supplemental to Part 1 of the Terms and apply if any Spheros Affiliate is located in another country than Germany in order to adapt local law and jurisdiction.

If any provision of this Part 2 is or becomes invalid, void or unenforceable, it is intended that the remainder of this Terms (Part 1 and Part 2) remains valid. In such cases the Parties shall be obliged to agree on valid and enforceable provisions that come economically as close as possible to the invalid, void or unenforceable provision.

**2. Governing law and jurisdiction**

2.1. These Terms shall be governed by and construed in accordance with the laws of Victoria, Australia. The Customer and Spheros will attempt in good faith promptly to resolve any dispute arising out of this agreement by negotiations between representatives who have authority to settle the controversy. If unsuccessful, the parties further shall submit the case to an arbitration organization in Australia. The venue of arbitration shall be Victoria, Australia. The arbitral award is final and binding upon the Parties.

2.2 Any dispute not so resolved by negotiation or arbitration may then be submitted to a court of competent jurisdiction of Victoria, Australia, in accordance with the terms of this agreement. These procedures are the exclusive procedures for the resolution of all such disputes between the parties.

**3. Statute of Limitations**

3.1 Notwithstanding Section 9 of the Terms - Part 1 the limitation period for claims and rights shall be twelve (12) months. The limitation period commences on the date of the delivery. This is applicable for any issue due to the Products.

3.2 Generally, Spheros remedies defects or makes replacement deliveries as a gesture of goodwill and without accepting any legal obligation to do so. Any such remedy or delivery shall not reset the limitation period, unless Spheros has acknowledged a defect.

**4. Miscellaneous**