1. General

1.1 These General Terms and Conditions of Purchase ("GTC") shall apply exclusively to business transactions concluded between the Contractor and Greiner Bio-One GmbH ("GBO") and shall be regarded as incorporated into all offers and contracts, unless these GTC are clearly stated to be excluded or a different contract conclusion is agreed in writing.

1.2 These GTC shall also apply to future legal transactions concluded between the Contractor and GBO, even if not all the terms and conditions of these GTC are expressly referred to in these future transactions.

1.3 These GTC shall also apply if the Contractor installs, assembles, maintains, converts or repairs machines/systems on behalf of GBO.

1.4 The Contractor acknowledges that the data contained in an order is processed by GBO in an automated manner for accounting and supplier evidence purposes. Processing of the data, in particular transfer to third parties, is permitted in the context of contractual performance, in the case of legal obligations, as well as for monetary and tax reasons.

1.5 The Contractor irrevocably agrees to the future unilateral amendment of these GTC.

2. Offer and placing of orders

2.1 Offers issued by the Contractor must be complete and conclusive and must include the Deliverable and the price. Offers, cost estimates, plans, test certificates for technical devices and similar documents as well as all other documents and information required by GBO to conclude the transaction shall be binding and shall not be remunerated, unless expressly agreed otherwise in writing.

2.2 If the Contractor's order confirmation deviates from the content of the order, the Contractor must be informed in writing and the written consent of GBO must be obtained; otherwise, no contract shall be concluded.

2.3 On all documents addressed to GBO, in particular order confirmations, dispatch notices, delivery notes and invoices, the Contractor shall state the order number, the order date, the article number and all the data that GBO uses to identify its order in greater detail.

3. Plans, technical documents and information

3.1 The Contractor is responsible for informing all the necessary technical documents such as illustrations, drawings, weight information and dimensions to GBO in time so that it can take care of the constructional requirements for the installation of the Deliverable.

3.2 The Deliverable and the supplied accessories must comply with the applicable laws, regulations and standards, in particular those of the European Union.

3.3 Materials, data, information, work equipment, modules, copyrights, design rights or other forms of intellectual property rights to all drawings, specifications, data and information provided by GBO to the Contractor shall remain the exclusive property of GBO at all times. The items that are the property of GBO shall be safely stored and kept in good condition. Any confidential and/or sensitive data provided to GBO shall be kept isolated and prevented from unauthorized use.

3.4 Any invoice shall be issued in accordance with the applicable VAT laws and sent by e-mail to purchasing.Invoices@DE@gob.com for invoices for services relating to works must also include details of the confirmed wage or timesheets. Invoice duplicates must be marked as duplicates.

4. Prices, payment terms and billing

4.1 The prices stated in the order and agreed with the Contractor shall be fixed prices. Any changes to prices during the agreed delivery period shall be void, even in the context of blanket orders. GBO does not acknowledge and expressly excludes any price escalation clauses.

4.2 Prices do not include statutory value added tax or other ("tax") taxes, customs duties, fees or other levies of any kind. Changes in tax law or other changes in circumstances do not affect the validly contracted prices. Invoices must be issued in accordance with the applicable VAT laws and sent by e-mail to purchasing.Invoices@DE@gob.com or to the address stated in the GTC. Invoices for services relating to works must include details of the confirmed wage or timesheets. Invoice duplicates must be marked as duplicates.

5. Delivery/insurance

5.1 The agreed delivery and performance dates are binding. The delivery or performance period shall commence on the date of the agreement. If no deadline is agreed, delivery or performance shall be made without delay.

5.2 If a delay in delivery or performance is expected, GBO must be informed of this immediately in writing stating the reasons and the expected duration of the delay. Point 13. shall apply mutatis mutandis.

5.3 A delivery or service provision before the agreed date or a partial delivery is only permissible in the event of the circumstances. In all cases, GBO may not incur any disadvantages from such a delivery or service provision; in particular, the payment and discount deadline shall be in accordance with Point 4.7 shall not commence before the originally agreed date.

5.4 GBO reserves the right to withdraw the order if GBO informs the Contractor thereof in writing no later than six (six) weeks before the agreed date.

5.5 The delivery shall be made at the expense and risk of the Contractor. Unless otherwise agreed in writing, the Incoterms 2020 shall apply to the delivery, with duly paid, to the respective Greiner permanent establishment. The Contractor shall give GBO a written order to purchase the respective delivery services and pay the respective applicable hazardous goods transportation tax. Cash on delivery shipments shall not be accepted by GBO. The shipment must be accompanied by a delivery note stating the order and/or article number(s) and, if applicable, a copy of the drawing(s) shall be attached to the order.

5.6 The Deliverable must be handed over to authorised employees of GBO at the destination. At this point in time, the Deliverable shall only be checked for obvious defects upon arrival at the destination. However, a qualitative and quantitative check will only be performed when the Deliverable is processed. GBO employees are generally not authorised to confirm at the time of acceptance that the Deliverable is free of quality and/or quality defects. If an employee nonetheless confirms that the Deliverable has been accepted in good order, this confirmation does not mean that the Deliverable is free of quantity and/or quality defects. The obligations of Section 377 HGB (German Commercial Code) ("Rügepflicht") are excluded.

5.7 The Contractor shall state all the necessary and appropriate insurance to cover its potential liability from any business and supply relationship with GBO. In particular, the Contractor shall insure the Deliverable sufficiently at its own expense against damage of and/or damage to third parties. GBO must be informed of any request for insurance upon request and, in the event of insurance claims occurring, shall assign the claims arising from these insurance policies to GBO, insofar as GBO requests this. If the Contractor does not provide insurance or has provided it with inadequate insurance, GBO shall be entitled to obtain such an insurance for the account of the Contractor after a grace period of 30 (thirty) days has passed fruitlessly.

5.8 The Contractor shall indemnify and hold GBO harmless from all claims, as well as any applicable laws, provisions, regulations, directives, and requirements and complies with all market standards.

5.9 The contracting staff at GBO must be trained without additional remuneration (i.e. within the framework of the agreed remuneration). All required labels, assembly plans and operating instructions must be provided or enclosed in German and English (including all connections, any base design), even if the Deliverable is installed by commissioned third parties.

5.10 The Contractor is aware that certain territories, legal entities and/or natural persons are subject to sanctions and/or embargoes under different legal systems (e.g. under US law, EU law, national law). The Contractor is obligated to: (i) conduct sufficient due diligence and monitor its business partners, (ii) ensure that the Deliverable shall comply with all applicable standards that it does not purchase products from legal entities, natural persons and/or territories subject to applicable sanctions and/or embargoes; or (iii) otherwise violate applicable sanctions and/or embargoes. The Contractor shall be responsible for observing all foreign trade regulations to be applied in connection with a delivery and, in particular, for obtaining all the approvals required under export law on its own responsibility and at its own expense.

6. Preliminary and final acceptance

6.1 Unless otherwise agreed in writing, a pre-acceptance of the Deliverable shall be carried out at the Contractor's premises and shall take place within a maximum of 1 (one) week after written notification of readiness for pre-acceptance by GBO. The delivery or service provision shall cease from the compensation and pay it to the competent tax office on behalf and for the account of the Contractor. If the Contractor is able to prove to GBO in due time before payment that it meets the requirements for tax deduction or tax exemption in accordance with the applicable double taxation agreement, the VAT on the final acceptance shall also be rendered to GBO.

6.2 GBO is entitled to obtain within 10 days after notification by GBO an official insurance attesting to the conformity of the Deliverable with GBO's requirements. Final acceptance shall take place on the premises of GBO. The pre- and final acceptance shall take place in accordance with the respective contractual agreed standards.

6.3 GBO shall not refuse pre- and final acceptance due to minor defects, in particular defects that do not significantly impair the functionality of the Deliverable. Such defects must be remedied by the Contractor without undue delay.

6.4 If final acceptance does not take place within 3 (three) months after delivery of the Deliverable at the latest and this is due to reasons for which the Contractor is not responsible, the Deliverable shall be deemed to have been accepted by GBO.

7. Packaging and shipping

7.1 Irrespective of which delivery terms have been agreed, the Contractor shall be obliged to package, label, and ship the ordered Deliverable in a suitable manner at its own expense and risk; this also applies without restriction to hazardous goods. Should GBO, as an exception, take over the costs of packaging after written agreement, GBO shall be charged for its cost price and this shall be shown separately in the invoice; in this case too, the Contractor shall bear the risk of the consequences of defective or improper packaging or labelling. Should claims be asserted against GBO by third parties due to defective or improper packaging, labelling and/or shipment of the Deliverable, the Contractor shall indemnify GBO and/or its representatives in full and immediately in writing, stating the reasons and the expected duration of the delay. The Contractor shall be responsible for observing all foreign trade regulations to be applied in connection with a delivery and, in particular, for obtaining all the approvals required under export law on its own responsibility and at its own expense.

7.2 The Contractor shall be liable for all consequences of the defective condition of the packaging. Goods damaged during transport shall be returned to the Contractor at its own expense. The Contractor is responsible for settling the damage with the forwarding agent or transporter.

7.3 GBO reserves the right to have the packaging to the Contractor. The value of the packaging shall be credited to GBO.

7.4 If the Contractor participates in a comprehensive packaging disposal system (e.g. through the framework of the EU packaging directive), the Contractor is expected to provide evidence that the packaging is included in the system. The Contractor is expected to provide evidence that the packaging is included in the system. The Contractor is expected to provide evidence that the packaging is included in the system. The Contractor is expected to provide evidence that the packaging is included in the system. The Contractor is expected to provide evidence that the packaging is included in the system. The Contractor is expected to provide evidence that the packaging is included in the system.

7.5 If the Contractor fails to comply with this obligation, GBO shall be entitled to have the disposal carried out by third parties at the Contractor's risk and expense.

7.6 The Contractor shall at all times, at its own risk and expense, either dispose of all Delivery residues or return them to GBO at GBO's expense. The Contractor is responsible for the costs of disposal after their intended use or take them back for disposal. Should the Contractor fail to comply with this obligation, GBO shall be entitled to have the disposal carried out by third parties at the Contractor's own risk and expense.
7.6 In the case of shipment by means of EURO pallets, the Contractor must use its own, at least as good as new EURO exchange pallets, which shall be exchanged upon handover to GBO. If wood is used in the packaging, it shall comply with the applicable EU phytosanitary regulations. The IPPC / ISPM15 standard shall be used.

8. Quality assurance
8.1 To ensure the conformity with the agreed quality, the Contractor undertakes to conduct all quality-control measures at all times. The documents and information must be certified at least in accordance with ISO 9001 or another comparable quality management scheme. The Contractor shall strive to implement continuous measures and practices for quality improvement which conform to said standards and practices or similar standards and practices and operate a quality assurance program which serves to identify, correct, and prevent defects. In order to ensure quality, the Contractor shall, inter alia, adhere under at least the following obligations: (i) to request and conduct all quality-control measures in accordance with specifications and, in the absence of such specifications, with the agreed specifications and applicable law; and (ii) to keep detailed records of inspection, documentation and other data with regard to the manufacturing process and the prevailing quality control procedures and quality standards for at least 2 (two) years from the date of delivery to GBO.

8.2 GBO has the right to inspect the Contractor’s quality management system during normal business hours at the Contractor’s place of business, subject to GBO providing the Contractor with written notice at least 5 (five) working days in advance; under no circumstances may the Contractor use the inspection to delay or prevent delivery of the Deliverables. Detailed records of inspection, documents and other data relating to the current manufacturing processes, quality-control procedures and quality standards of the Contractor shall be maintained by the Contractor. In the event of non-compliance, the Contractor shall immediately remedy the defects at its own risk and expense. Upon request from GBO, the Contractor shall immediately, and at the latest within 10 (ten) working days, exchange defective parts of goods or services for defect-free parts at its own risk and expense. If the documentation is faulty, but the Deliverables themselves have no defects, the documentation must be corrected and sent to GBO within 5 (five) working days. If the Contractor does not cure or remedy within the respective timeframes, clause 12.6 shall apply accordingly.

12.1 In the event that the Contractor fails to fulfill its warranty obligations within the period stated in these GTC or otherwise within a reasonable period, GBO shall be entitled to request the defects to be remedied or, if the defects cannot be remedied in a reasonable manner or the Contractor refuses or is unable to remedy the defects, to order a replacement of the Contractor’s expense. In urgent cases (e.g., to avoid production delays or interruptions), GBO shall be entitled to remedy the defects itself and charge the Contractor for the cost of the Contractor without providing an extension of time to cure. If defects cannot be remedied on site, any transport costs shall be borne by the Contractor.

12.3 The Contractor shall be under a duty to provide a complete and easily comprehensible instruction manual for use in German or English and to keep all necessary documents of manufacture and manuals. Furthermore, the Contractor is obliged to monitor its production processes and, if necessary, to recall defective products delivered to GBO as Deliverables at its own expense, to immediately provide a copy of the manufacturing documents and to cooperate with GBO in this respect as well as to provide all necessary assistance, and to name the manufacturer/importer within 14 (fourteen) working days.

12.9 The above representations and warranties provisions shall also apply if the Contractor installs or assembles the Deliverables at GBO’s request. In such event, the warranty period shall commence upon formal acceptance by GBO in accordance with the written instructions of GBO.

12.10 The Contractor shall fully indemnify and hold GBO harmless for any and all disadvantages of any kind whatsoever which GBO may suffer directly or indirectly as a result of a defective delivery or service, due to violation of official safety regulations, due to violation of domestic or foreign product liability regulations or laws, due to violation of the agreed delivery times and deadlines, under-delivery or for any other legal reasons attributable to the Contractor. The Contractor is obliged to fully compensate for all damages that occur in this context (e.g. due to initiated recall actions). This applies in particular to any own or third party expenses (e.g. material and personnel expenses) in connection with the defective products as well as any warranty or service works, material and personnel expenses and costs caused by defects; furthermore for lost profit and for any other loss on the Contractor’s side from business interruption or other damages caused by faulty goods, personnel and material caused by or connected with the delivery in delivery, as well as for any penalties and other compensation payments to be paid by GBO to third parties. The Contractor shall bear all damages that occur in this context (e.g. due to initiated recall actions). This applies in particular to any own or third party expenses (e.g. material and personnel expenses) in connection with the defective products as well as any warranty or service works, material and personnel expenses and costs caused by defects; furthermore for lost profit and for any other loss on the Contractor’s side from business interruption or other damages caused by faulty goods, personnel and material caused by or connected with the delivery in delivery, as well as for any penalties and other compensation payments to be paid by GBO to third parties.

12.11 Regarding to all types of loss, during the entire limitation period, the Contractor shall bear the burden of proof concerning the demonstration of absence of fault (Verschulden).

12.12 In case of liability of the Contractor, in particular on the basis of warranty or damages, shall not be accepted unless the same have been expressly negotiated in detail with GBO and agreed in writing. In such case this shall therefore result in a limitation of the Contractor’s liability for breaches of duty or to the detriment of GBO, with regard to the exclusion of recourse claims.

12.13 The Contractor shall be liable for negligence and defects of its sub-contractors for its own. The Contractor shall ensure that any of such sub-suppliers, are instructed to rendering their services in accordance with the terms agreed with GBO.

13. Delay, withdrawal and contractual penalty
13.1 In case of delivery or performance delay or default in respect of delivery or performance in breach of contractual terms, then notwithstanding all and any further claims, GBO shall be entitled either to withdraw immediately from the contract or to demand correction of the defects within a reasonable period and duration of impact of such circumstances. In the event of non-compliance within such period, GBO shall be entitled to demand a contractual penalty of 0.25% of the total order amount up to a maximum of 5% for each day commenced by the delivery or service provision delay or if the non-compliance has been exceeded. GBO reserves the right to claim damages in excess of this contractual penalty.

14. Compliance
14.1 The Contractor guarantees and provides its assurance that the Deliverable:
   i) is free and unencumbered of all liens, security interests, claims and encumbrances;
   ii) does not infringe the intellectual property rights of third parties;
   iii) complies with the agreed specifications and requirements, holds all the relevant and necessary certificates, permits, approvals, licences and authorisations and is suitable for the intended purpose;
   iv) has no defects regarding design, material and workmanship and is in a fundamentally condition customary to the industry; and
   vi) always complies with all applicable laws, regulations, ordinances, directives, and standards in respect of the Deliverable and make them available to GBO upon request.
14.2 In the event of a delay or default in respect of delivery or performance, or delivery or performance in breach of contractual terms, then notwithstanding all and any further claims, GBO shall be entitled either to withdraw immediately from the contract or to demand correction of the defects within a reasonable period and duration of impact of such circumstances. In the event of non-compliance within such period, GBO shall be entitled to demand a contractual penalty of 0.25% of the total order amount up to a maximum of 5% for each day commenced by the delivery or service provision delay or if the non-compliance has been exceeded. GBO reserves the right to claim damages in excess of this contractual penalty.

15. Rights of use
15.1 The Contractor shall transfer to GBO a global, irrevocable and unrestricted transferable right to use the Deliverable and its documentation in full (e.g. test certificates, operating instructions, institutional use, etc.), which must be handed over in German and English at the time of delivery.

15.2 Insofar as standardised software is included in the scope of delivery, GBO is granted a simple, transferable right of use. GBO may only use the software to the extent permitted by legal instructions, translate or convert from the object code into the source code. Point 21 applies to customised software.
16. Property rights

16.1 Documents of any kind, such as descriptions, samples, drawings, models, tools, moulds and/or tools, which are provided to the Contractor by GBO or are otherwise known to him, remain the exclusive property of GBO. The Contractor may neither use such documents for its own purposes nor make such available to third parties, to the extent not directly connected with the performance of the order or order, without the express prior consent of GBO. The Contractor undertakes to take all appropriate measures to protect the documents from unauthorized access, reproduction, distribution, copying, disclosure or use by third parties, which is to be done under penalty of law. The Contractor shall keep the documents confidential and shall return them to GBO at the request of GBO. If such documents shall be lost, damaged or destroyed during the course of their use by the Contractor, the Contractor shall indemnify GBO for the loss of the documents, without exception, at GBO’s request. Should the Contractor make use of the documents in the performance of the order or order, the Contractor shall furnish them to GBO at the end of the contract. Should the Contractor be unable to return the documents to GBO in a usable condition, it shall be required to pay a fee calculated according to its value.

16.2 The Contractor may neither use such documents for its own purposes nor make such available to third parties, to the extent not directly connected with the performance of the order or order, without the express prior consent of GBO. The Contractor undertakes to take all appropriate measures to protect the documents from unauthorized access, reproduction, distribution, copying, disclosure or use by third parties, which is to be done under penalty of law. The Contractor shall keep the documents confidential and shall return them to GBO at the request of GBO. If such documents shall be lost, damaged or destroyed during the course of their use by the Contractor, the Contractor shall indemnify GBO for the loss of the documents, without exception, at GBO’s request. Should the Contractor make use of the documents in the performance of the order or order, the Contractor shall furnish them to GBO at the end of the contract. Should the Contractor be unable to return the documents to GBO in a usable condition, it shall be required to pay a fee calculated according to its value.

17. Property rights

17.1 The Contractor undertakes to inform GBO in writing of all sub-suppliers who support the Contractor in the fulfillment of contractual obligations. The Contractor is not entitled to use the name or technology of sub-suppliers for GBO’s own purposes, even if the Contractor is not bound by any contractual relationship with the sub-supplier. Sub-suppliers’ data shall be treated as trade secrets and are subject to confidentiality obligations. Should the Contractor have reason to believe that the sub-suppliers’ data has been disclosed to third parties, the Contractor shall immediately inform GBO in writing.

17.2 Any modification or disposal of the mould and/or the tool is only permitted after expiry of the storage obligation and only after written approval by GBO. The disposal costs of the moulds and/or the tool shall be borne by the Contractor.

18. Software

21. Software

21.1 Insolvent as the scope of delivery includes non-standardised software, in particular software specially created or modified for the purposes of delivery, the Contractor declares that it is willing to make changes and/or improvements to the software for a period of 5 (five) years from delivery of the Deliverable against reasonable reimbursement of costs in accordance with GBO’s specifications, unless specifically provided for in a software maintenance and/or licence agreement.

22. Place of performance, place of jurisdiction and choice of law

22.1 Unless otherwise agreed in Section 4 of these GTC or in contracts subject to these GTC, the place of performance for services or service provisions of the Contractor shall be the place of performance prescribed by GBO.

22.2 German substantive law shall apply exclusively. The applicability of the UN Convention on Contracts for the International Sale of Goods (CISG) and the conflict of laws rules are expressly excluded.

22.3 Any dispute arising out of or in connection with these GTC and/or in connection with any contractual relationship between GBO and the Contractor subject to these GTC, including related to its creation, validity, nullity, interpretation, performance and termination as well as its pre- and post-contractual effects (“Dispute”), shall be settled by the competent court in Stuttgart, Germany having jurisdiction over the subject-matter.

22.4 Particularly, with respect, but not limited, to Contractor’s outside the European Union, GBO may, at its sole discretion, alternatively, submit a Dispute for final settlement under the Rules of Arbitration of the International Chamber of Commerce (ICC) by one arbitrator appointed in accordance with the said Rules; in case GBO submits a Dispute for final settlement under the Rules of Arbitration of the ICC and in case the amount in dispute acceses to more than EUR 1.000.000,00 (one million euros), either Party may opt for a tribunal with three arbitrators appointed in accordance with the said Rules. The seat of the arbitration shall in each case be Stuttgart, Germany. The language of the arbitration shall be German. To avoid any misunderstandings, it is expressly agreed that the governing law of this Arbitration Agreement shall be Austrian law without regard of the conflict-of-law rules. The decision and/or award rendered by the arbitrator(s) shall be written, final and non-appealable. The losing party shall bear all the costs of arbitration including the fees and expenses of the arbitrator(s) and, in particular, pay the costs of the successful party (in particular attorneys’ and expert fees).

23. Final provisions

23.1 All orders, transactions and call-offs, amendments, and additions thereto and amendment of the underlying contract, including these GTC and this written-form clause itself, shall only be legally valid when in writing. This shall also apply with regard to any contractual termination.

23.2 Any order or contract between GBO and Contractor shall not establish any employment contract whatsoever between GBO and any person whomsoever employed by the Contractor. For this reason, it is expressly agreed that the Contractor shall itself be responsible for any employment obligations imposed on it in accordance with applicable law in connection with the performance of the contract. Furthermore, GBO shall assume no liability for making payments such as wages, daily allowances, pension contributions, social security contributions, and other such contributions. The Contractor shall fully indemnify and hold harmless GBO in this regard.

23.3 Each party represents and warrants to the other that it will duly comply with its obligations towards the other and will comply with all applicable laws and regulations.

23.4 The Contractor is not entitled to assign claims from or in connection with a contract with GBO to third parties without the prior written consent of GBO, and any assignment that is not so given shall be void.

23.5 Any orders and contracts executed between GBO and the Contractor shall remain binding, even if individual terms of the contract or of these GTC may be legally invalid. If a provision of these GTC or of any contract subject to these GTC is or becomes illegal, invalid, or unenforceable, it shall not affect the validity or enforceability of these GTC, nor the validity or enforceability of any other provision of these GTC. The invalid provision shall be replaced in good faith with a valid, legal, and enforceable provision the economic effect of which comes as close as possible to that of the invalid, illegal or unenforceable provision.

23.6 In respect of the cooperation, the Contractor may only advertise using the business connection and/or the products of GBO subject to obtaining the prior written consent of GBO. The contract may be revoked at any time without reason and shall require the immediate deletion/cancellation of further use for any purpose without any entitlement to cost reimbursement.