

## Agreement for Supplier Relationships with Mercateo

*between*

Mercateo AG, Fürstenfelder Straße 5, 80331 München, Germany  
VAT ID.: BE0847176026

*– hereinafter referred to as Mercateo –*

and

[Company name], [street + house number], [postal code + place]  
VAT-ID: [VAT-ID]

*– hereinafter referred to as Partner –*

### § 1 Subject Matter of the Contract

1. The Partner shall provide Mercateo with a product catalogue, which has online operational capability, in a data format that corresponds to Mercateo's technical environment (BMEcat or a database language determined by Mercateo), in electronically readable form, free of charge, and for unrestricted use for the Mercateo platforms listed in § 2 or for electronic purchasing platforms of Mercateo that are comparable to these platforms.
2. Mercateo shall integrate the catalogue provided by the Partner pursuant to § 2 in the platform (go live), so customers can access the content of the catalogue via the platform of Mercateo and place orders through it.

### § 2 Contractual Territory

The Parties agree on the use of the content for the Mercateo platform

- [www.mercateo.be](http://www.mercateo.be) for the contract territory Belgium

### § 3 Costs for the Integration and Participation of the Catalogue at the Market Place

1. Mercateo shall receive from the Partner a remuneration for the initial integration of the catalogue amounting to 0,- euros plus the applicable statutory VAT. This remuneration shall be due at the date of invoicing.
2. For further updates of the catalogue, data storage, provision of the system, and presence on the Mercateo platform, Mercateo shall charge the Partner a lump sum amounting to 0,- euros plus applicable statutory VAT for each commenced calendar month. This remuneration shall be due by the 15th day of each calendar month.

### § 4 Terms of Payment

For this contractual relationship, the parties agree on a term of payment of 45 days from the receipt of the invoice.

The parties agree supplier relationships in accordance with the aforementioned conditions. The parties also agree that the General Terms and Conditions Supplier Relationships and the Code of Conduct for Business Partners of Mercateo shall form a part of the present agreement.

..... [place], ..... [date]

Munich, ..... [date]

Legally effective signature(s)  
On behalf of the Partner

Legally effective signature  
on behalf of the Mercateo AG

## Mercateo General Terms and Conditions for Suppliers

### § 1 Exclusivity of this Agreement, Partner's General Terms and Conditions

1. Only the provisions set out below shall apply between Mercateo and the Partner unless otherwise agreed in an individual case.
2. The application of any regulations of one party that exist apart from this Agreement, in particular general terms and conditions of the Partner or regulations which are adverse to this Agreement, shall be expressly excluded. Such regulations shall not even be included in the event that there is no reaction or express objection to a declaration aiming at their inclusion, e.g. through reference to the business documents, delivery notes, or the like. Conducts implying an intent, in particular the performance of the agreed service or payment, or its unconditional receipt, respectively, shall not be deemed a consent to the inclusion of general terms and conditions.

### § 2 Provision of a Product Catalogue by the Partner

1. The Partner shall provide Mercateo with a product catalogue, which has online operational capability, in a data format that corresponds to Mercateo's technical environment (BMEcat or a database language determined by Mercateo), in electronically readable form, free of charge, and for unrestricted use in the Mercateo platforms described in the contract regarding supply relationships or for electronic purchasing platforms of Mercateo that are comparable to these platforms. The use shall also comprise the use or permitted use of contents of the product catalogue, in particular product images and descriptions, for advertising and/or searching/finding the Mercateo platform or its Products, respectively, through search engines.
2. The Partner shall grant to Mercateo free of charge and for an unlimited period of time a non-exclusive, irrevocable, unrestricted right to use of the content of the product catalogues, in particular the product images and product descriptions. The granted right of use shall include in particular the right to use, reproduce, perform, present, distribute, adjust, change, reformat, feed in other data, create, and use new materials through processing all data that were made available. Feeding in new data, changing or adjusting the data that was made available shall be made exclusively for the purpose of improving the product presentation at Mercateo. Mercateo may sublicense the granted right of use exclusively to affiliated companies. Mercateo shall observe the trademark and copyrights of the Partner; Mercateo shall not change the Partner's trademarks or product images in a way that they do not comply anymore with the form that was provided originally (except size adjustments, as far as the relations of the width-to-height ratio are observed and it is not to be assumed that a falsification has taken place).
3. The delivery areas that the Partner decides for shall comply with the "delivery area" within the meaning of this Agreement. The Partner shall in particular be obliged to actually offer in the selected delivery areas all items listed in the provided catalogue and to ensure the supply to the customers within the delivery period stated in the catalogue. In order to establish appropriate integration into the foreign country platforms, it shall be required that the respective affiliated companies of Mercateo and the Partner or their affiliated companies, respectively, agree on an Annex regarding the respective country.
4. Furthermore, regarding items that are subject to the REACH Regulation [Regulation (EC) No 1907/2006 of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals], the Partner shall among others provide the information provided for in Article 33 of this Regulation in the context of their product description in the catalogue.
5. On request by Mercateo, the Partner shall be obliged to provide a supplier's declaration for goods with preferential origin status.

6. Furthermore, items which are subject to the RoHS Directive [Directive 2002/95/EC of 27 January 2003 on the restriction of the use of certain hazardous substances in electrical and electronic equipment] shall be in accordance with the provisions of this Directive and the national provisions of the respective delivery area implementing the Directive. In the context of their product description in the catalogue, the Partner shall clearly and precisely mark these items with the note: "As specified by the manufacturer, this product is RoHS compliant". Items that are subject to the RoHS II Directive [Directive 2011/65/EU of 8 June 2011 on the restriction of the use of certain hazardous substances in electrical and electronic equipment, revised version] shall be in accordance with the provisions thereof and with the national provisions implementing the Directive. In the context of their product description in the catalogue, the Partner shall clearly and precisely mark these items with the note: "As specified by the manufacturer, this product is RoHS II compliant". The notes required in accordance with this item may be written in the respective language/s of the catalogue.

7. Furthermore, as far as this is required in accordance with the current legal framework, before the delivery, the Partner shall, either themselves or through an upstream supplier, license all components of the sales packaging which they deliver to customers with a return, collection and recovery system in accordance with the applicable provisions of Directive 94/62/EC of 20 December 1994 on Packaging and Packaging Waste and the applicable national provisions of the respective delivery area. In the case that this licensing is done by an upstream supplier, the Partner shall verify such licensing before the delivery to the customer and have the upstream supplier confirm the lawfulness of such licensing in writing. The Partner shall procure and provide to Mercateo at first request without delay a copy of all documentation provided by and to be provided by the upstream supplier in connection with the licensing as well as the documentation of the Partner themselves which Mercateo demands for the purpose of complying with their own obligation to present documents. Without being requested to do so by Mercateo, the Partner shall inform Mercateo without delay of changes to the licensing of the sales packaging used by the Partner.

### § 3 Integration of the Catalogue, Blocking of the Partner

1. Mercateo shall not be obliged to completely upload the Partner's catalogue to the platform; in accordance with their own volition as business professionals, Mercateo shall be entitled to restrict the scope of the uploaded catalogue or the catalogue to be uploaded by products or groups of products. Mercateo shall inform the Partner of any restrictions they made.
2. Furthermore, Mercateo shall be entitled to take one or several of the following measures in the case that there are indications for the fact that the Partner does not observe or infringes statutory provisions, third party rights, these GTC, the supplier guidelines, and in particular the indicated delivery times and availability requirements:
  - a) Notification to the Partner, in connection with the request to cease and desist/for an alteration;
  - b) Deleting the product/service descriptions or adjustments regarding the availability and delivery times;
  - c) Limiting the functionalities of the integration into the Mercateo platform;
  - d) Temporary blocking;
  - e) Definitive blocking.
3. When choosing from the abovementioned measures, Mercateo shall take into consideration the Partner's legitimate interests, and

Mercateo AG  
P.O. Box 1460  
06354 Köthen  
Germany  
Tel.: +31 43 2010687  
service@mercateo.be

Management Board:  
Peter Ledermann,  
Dr. Sebastian Wieser  
Chairman of the  
Supervisory Board:  
Karl Mayer-Rieckh

Registered Office of Company:  
Munich Local Court  
HBR: 153308  
VAT-ID:  
BE0847176026  
www.mercateo.be

Mercateo AG  
Deutsche Bank München  
SWIFT/BIC:  
DEUTDEMM  
IBAN:  
DE12700700100225033000

particularly whether there are indications as to fact that the infringement is not or not mainly attributable to the Partner.

4. Mercateo shall be entitled to exclude the Partner definitely from the connection to the Mercateo platform ("definite blocking") in the case that
  - f) the clients complain about/return items of the Partner more often than on average;
  - g) there are conflicts between the clients and the Partner more often than on average;
  - h) the Partner was more often than on average not or not in due time (i.e. contrary to the information regarding the term for delivery) able to deliver/provide offered items/services;
  - i) the Partner causes damage to Mercateo to a significant extent, and in particular uses Mercateo's services or functionalities contrary to the terms of the contract or abuses them for other purposes;
  - j) the Partner infringes statutory provisions repeatedly or to a significant extent;
  - k) there is another important reason that would entitle Mercateo to a termination of this contract for cause.
5. In the event of temporary blocking, Mercateo shall decide about withdrawing the blocking of the Partner's connection after a consultation with the partner at their equitable discretion within a reasonable time and shall notify the Partner thereof.

#### § 4 Costs

1. The remuneration for the contractual services shall depend on the respective current price list or on the contract regarding the delivery terms and conditions, respectively. Except for the monthly service fee, the remuneration shall be invoiced after the conclusion of the contract and shall be immediately due for payment.
2. Mercateo shall be entitled to change, i.e. to increase or reduce, the service charges at their equitable discretion, as far as relevant cost factors do change. In the case of such a change, particularly the total turnover amounts, the number of transactions, the average turnover, the number of back charges as well as other cost relevant framework conditions shall be taken into account at their equitable discretion as cost factors. Mercateo shall inform the Partner in writing about the change in due time.

#### § 5 Catalogue Prices and Purchase Prices

1. The Partner shall offer the items shown in the catalogue to Mercateo on the basis of the Partner's currently applicable purchase price list while taking into account any special conditions agreed with Mercateo (purchase price).
2. The Partner may amend the purchase prices vis-à-vis Mercateo by means of a catalogue update at all times. The amendments shall take effect at the time of the integration of the catalogue update provided by the Partner at the platform (making it available online). This shall not apply to orders that Mercateo submits to the Partner not later than five calendar days after making the update available online (cf. § 6, item 3), in the case that the orders are based on a purchase order by the customer from the previous catalogue that was valid before the update was made available online. The previous purchase prices shall continue to apply to these orders.
3. In principle, Mercateo themselves shall add the sales prices for these items that the customer may order from the catalogue through the platform (catalogue price) to the catalogue provided by the Partner. In exceptional cases to be defined solely by Mercateo, Mercateo shall notify the Partner of these prices, so that the Partner may add them to the catalogue to be provided to Mercateo. Regarding this notification, it shall be sufficient that Mercateo notifies the Partner of the formula(s) with that Mercateo determines the sales prices so that the Partner can calculate these and add them to the catalogue. The supplier shall not have a right to receive the price calculation formula.

#### § 6 Order Processing, Right of Rescission

1. The contractual relationship shall exist exclusively between Mercateo and the Partner. There shall be no contractual relationship between the customer and the Partner. Mercateo shall use the Partner to process orders vis-à-vis the customer. The Partner shall supply the items to the customer on behalf of Mercateo.
2. In principle, Mercateo as the dealer shall be the contact point for the customer and the Partner. As far as the customer makes declarations towards the Partner (in particular declarations according to which the customer refuses the goods delivered to the customer, only partially accepts the delivered goods, declares a notification of a defect, an

examination or a complaint in respect of a defect regarding the goods, or asserts guarantee or warranty claims), the Partner shall inform Mercateo without delay and completely specifying the date, the goods concerned, and stating further information that the customer provided to the Partner, in particular regarding the reasons for the customer's conduct.

3. Mercateo shall submit purchase orders by the customer from the catalogue in electronic form. The electronic form hereinafter agreed shall depend on the documentation regarding the electronic document processing in the version that is up-to-date at the time of the conclusion of the respective contract. The exact format shall be determined in accordance with item 3.1 of this document, and the communication line in accordance with item 3.2. The Partner shall ensure constant reachability via the defined communication lines.
4. The purchase order submitted by Mercateo to the Partner shall be a binding offer regarding the conclusion of a purchase contract subject to the criteria such as price, availability, and delivery time indicated by the Partner. Unless the Partner immediately rejects the order, the purchase contract about the ordered goods shall be concluded between the parties without the Partner expressly accepting the offer. Independent of that, the Partner shall send an order confirmation to Mercateo in electronic form without delay after the receipt of the order.
5. After the conclusion of a purchase contract, the Partner shall notify Mercateo without delay in electronic form of any delivery delays, lacks of availability, or other disruptions regarding the delivery and/or deviations from the agreed conditions. In this case, Mercateo shall be granted the right to rescind from the individual purchase contract.
6. The Partner shall send the goods directly to the customer indicated in the order and shall notify Mercateo without delay in electronic form by means of a dispatch notification of the time of handing them over to the individual responsible for the delivery of the goods, and as far as possible of the delivery to the customer. This notification of dispatch to the customer shall also include data which is also included in the delivery note addressed to the customer and which may allow for the shipment to be tracked. The delivery note shall be based on a template created by Mercateo, and shall particularly contain the information that in the case of returned goods/a complaint, Mercateo shall first be contacted.
7. The Partner shall address their invoice for the order from Mercateo directly to Mercateo. There shall not be any invoicing by the Partner in relation to the customer.
8. Irrespective of the legal basis, the customer shall return goods upon instruction by Mercateo directly to the Partner. The Partner shall not charge any costs as reimbursement for expenses for this (separate remuneration, reimbursement of costs, other remuneration, fee or the like).
9. The Partner shall be exclusively responsible for preparing, performing and post-processing any product recalls.

#### § 7 Warranty, Security Retention

1. The Partner shall be liable towards Mercateo in accordance with the statutory provisions regarding defects of quality and title as well as guarantees. Independent guarantees of the manufacturer regarding the delivered goods shall remain unaffected. Warranty claims shall exist independently from a notice of defects within the meaning of the respective trade customs.
2. Mercateo shall make use of the Partner regarding the compliance with the warranty and possible guarantee obligations that Mercateo has due to the resale of the goods. The Partner shall be obliged in relation to Mercateo to fulfil corresponding warranty and guarantee claims that are asserted against Mercateo in consultation with Mercateo as the contractual partner. Mercateo and the Partner shall be obliged to collaborate in processing these warranty and guarantee claims that are asserted against Mercateo in a way that ensures optimal and expeditious clarification and settlement of the claims. As far as the Partner provides services or exercises legal acts with regard to guarantee and/or warranty claims asserted against Mercateo that result in the satisfaction of these claims, the Partner shall be released to this extent from the corresponding guarantee and/or warranty obligations in their relationship to Mercateo.
3. The Partner shall agree to comply to the same extent in relation to Mercateo with the warranty and possible guarantee obligations that Mercateo is obliged to comply with in the respective delivery area in relation to the customer.
4. In the case that the Partner complies with their duty of supplementary performance by means of substitute delivery, the limitation period

shall start anew regarding the item delivered as substitute after its delivery, unless on the occasion of the supplementary performance, the Partner has expressly and correctly reserved for themselves to perform the substitute delivery only as a gesture of goodwill, in order to avoid disputes, or in the interest of continuing the supply relationship.

5. In the case of the application for the commencement of insolvency proceedings regarding the assets of the Partner, Mercateo shall be entitled to perform a security retention of a maximum of 5 per cent of the amount of the outstanding debts still existing vis-à-vis the Partner. The security shall serve to ensure the performance of the contractual obligations in accordance with the contract, in particular the processing in the case of insolvency of the claims based on defects existing vis-à-vis the Partner. After the expiration of two years, Mercateo shall return any securities regarding claims based on defects that were not realised, unless a different time was agreed for the return. However, Mercateo shall be entitled to retain a corresponding part of the security, as far as the asserted claims are not fulfilled at that time.

#### **§ 8 Liability, Obligation of the Partner, Indemnity**

1. The Partner shall be responsible for the merchantability of the items displayed in their catalogue as well as for compliance with the requirements for offering and/or putting the items on the market, in particular through an online platform. This shall mean in particular that obligations imposed under public law are complied with or that permits or authorisations have been obtained, in particular those for importing and/or exporting the goods offered in the catalogue into or from the contractual territory, respectively, and/or that requirements that are applicable pursuant to European or national law regarding the respective products (e.g. tobacco goods, alcoholic goods, electronic devices, food, skin-care products) of the Partner's product range such as permits, authorisations, bans, restrictions, customs duties, or taxes are obtained in due time and for the period during which they are required or are complied with during the period of their validity, respectively, in particular when products are advertised, offered, and delivered as well as in cases of warranty. In the case that an item does not or has ceased to comply with the essential requirements for making an offer and/or placement on the market, the Partner shall notify Mercateo of this occurrence without delay and provide Mercateo in due time with a version of the catalogue, which has been amended accordingly.
2. In the case that requirements for offering and/or placing items on the market – in particular through an online platform – are not to be complied with in the sphere of the Partner, the Partner shall inform Mercateo of product-specific requirements for placing it on the market and/or offering the respective item via an online platform without delay in a manner and to an extent that Mercateo is able to take necessary measures for complying with these requirements and implement them (in particular applying for and obtaining possible permits) or is at least able to make an informed decision as regards taking items offline, to which Mercateo is entitled pursuant to § 3.
3. The Partner shall be responsible for the factual and legal correctness and completeness of the information, pictures, product descriptions, and other contents in the provided catalogue. The Partner shall ensure that the catalogue provided to Mercateo as well as the information, pictures, product descriptions and other contents contained therein do not infringe any third-party rights. The Partner shall in particular ensure that they are entitled to use content provided by third parties for the creation of the catalogue and to grant to Mercateo the rights granted for the purpose of performing this Agreement, and in particular to make the catalogue publicly available.
4. The Partner shall indemnify Mercateo against all claims that third parties assert against Mercateo due to and/or referring to
  - non-compliance with a requirement indicated in no. 1 and/or 3;
  - non-compliance with one of the requirements that no. 2 is based on, as far as the Partner did not duly comply with the Partner's obligation to notify;
  - the catalogue and/or the content of the catalogue, which the Partner provided to Mercateo;
  - product recalls in connection with the content of the catalogue;
  - defects of quality and title, the statement of grounds for the defectiveness of which refers to data in the catalogue and/or references to product descriptions contained therein;
  - the infringement of the Trademark, Design, Utility Model, or Copyright Act, the Patent Law or the Law Against Unfair

Competition by a conduct of the Partner, in particular by the catalogue, its content, and/or products of the Partner;

- the statutory product liability, or
- an infringement of statutory provisions regarding handling the data of third parties by the Partner.

In particular, the indemnity shall include the performance that Mercateo has to render vis-à-vis third parties, such as compensation for damages, contractual penalties due to the contravention of declarations to cease and desist and declarations of commitment which are under threat of penalty, or fines, and the expenses incurred by Mercateo due to the claim, such as costs incurred by Mercateo due to product recalls or costs for an appropriate protection of their rights. Mercateo shall inform the Partner in the case that it is foreseeable for Mercateo that costs for reasonable measures to protect their rights will be incurred that are in excess of the applicable statutory fee schedule and shall grant the Partner the opportunity to protect their rights autonomously and at the Partner's own responsibility. On the internet page

<http://www.mercateo.com/corporate/unterlassungserklaerungen/>,

Mercateo shall provide the Partner an overview of the declarations to cease and desist and declarations of commitment already signed by Mercateo that are or are not under threat of penalty. The Partner shall undertake to actively obtain knowledge of the overview and in particular to examine whether the facts that lead to the declarations to cease and desist and the declarations of commitment are also affected by their catalogue or their other presence on the Mercateo platform. Mercateo shall inform the Partner of any change/amendment to the overview without delay and via e-mail in order to enable the Partner to comply with their obligation to examine such matters.

#### **§ 9 Liability of Mercateo**

Mercateo shall be fully liable for damages arising from injury to life, body, or health attributable to a failure by Mercateo, their statutory representatives, or Mercateo's vicarious agents to comply with their duties. Moreover, Mercateo shall also be liable for other damages which are based on an intentional or grossly negligent failure by Mercateo, their statutory representatives, or Mercateo's vicarious agents to comply with their duties. In the case that other damages are attributable to ordinary negligence, Mercateo shall be liable in the event of an infringement of an essential contractual obligation, however, the amount that Mercateo is liable for shall be limited to the damages that have been foreseeable at the time of the conclusion of the contract and that are typical for the contract; essential contractual obligations are those the compliance with which characterises the contract and on which the Partner may rely. Any further liability shall be excluded; the statutory product liability as well as for fraudulent intents and/or guarantees shall remain unaffected.

#### **§ 10 Terms of Payment, Invoicing**

1. A payment shall be effected when Mercateo has transferred the amount to an account indicated by the recipient of the payment; any other method of payment such as delivery of a title constituting a payment obligation, a bill of exchange, or a cheque shall not be sufficient. The party effecting the payment shall bear the costs incurred for processing the payment, except for costs incurred at the financial institution keeping the recipient's account for receiving or crediting the payment.
2. The parties shall be obliged to prepare invoices and credit notes in a manner that complies with the tax and tax law requirements of the respective contractual territory. Any necessary corrections shall be made without delay when it becomes evident that a correction is necessary.

#### **§ 11 Data Protection**

1. The parties shall comply with the applicable statutory and agreed provisions on data protection in force and oblige the persons entrusted by them with the performance of this Agreement in an adequate way regarding the compliance with the statutory and the agreed provisions on data protection.
2. The Partner shall undertake to use the customer data transmitted by Mercateo exclusively for processing the order by Mercateo. In the case that the data transmitted by Mercateo shall be used for another purpose than processing the order, the Partner shall be obliged to obtain an express consent from the client.
3. The Partner shall undertake not to pass the customer data transmitted by Mercateo to third parties in any way, e.g. by means of sale or exchange.

4. The Partner undertakes to delete all customer data transmitted by Mercateo after the order has been processed. This shall not apply in the case that the Partner has obtained the customer's express consent to use the data. In the case that statutory provisions and/or the reason for the preservation of evidence permissibly prevent a deletion at that time, this data shall be blocked; the data has to be deleted as soon as the blocking is no longer justified.
5. The Partner undertakes to delete upon request the customer data transmitted by Mercateo. In the case that the Partner infringes the abovementioned provisions, Mercateo may request the Partner to delete all data received from Mercateo, as far as there are no statutory reasons preventing a deletion.

#### **§ 12 Confidentiality**

1. Each party shall be obliged to maintain confidentiality towards third parties regarding all company and business secrets of the other party of which the party gains knowledge in the scope of the performance of this Agreement, regardless of whether the company and business secrets are designated as such or as confidential or as classified information. In any case, these company and business secrets of the other party may also not be used for purposes beyond the scope of this Agreement.
2. The confidentiality obligation shall not apply to any information, or shall cease to apply to former company and business secrets which (i) are obvious or become obvious without this being attributable to an infringement of this Agreement by the party obliged to maintain confidentiality or which (ii) the party obliged to maintain confidentiality has received from a third party which is authorised to disclose it to this party and the public. The party, which refers to this exception, shall bear the burden of proof.

#### **§ 13 Term of the Contract and Termination**

1. The parties shall enter into the agreement for an indefinite period of time. Unless otherwise agreed, it shall take effect when it is signed.
2. The agreement may be terminated by written notice with a term of three months to the end of the month. In this case, the written form may not be superseded by the electronic form.
3. The right to termination without notice for good cause shall remain unaffected. Among others, the following events shall be considered to be a good cause:
  - the repeated culpable infringement of information and cooperation obligations arising from this Agreement despite a previous warning in the event that the obliged party does not subsequently comply with the information and cooperation obligations within a reasonable grace period and, if applicable, makes compensation for any possible damages that occurred;
  - compulsory enforcement measures of third parties against one party that may adversely affect the reputation of the distribution system in the perception of third parties, as far as these measures may not be averted within one month from the commencement of these measures;
  - the application for the commencement of insolvency proceedings regarding the assets of a party as far as the reasons leading to the application for the commencement of insolvency proceedings cannot be averted within a period of three months from the time of application;
  - the retention of unlawful content in the catalogue by the Partner despite a time limit being set by Mercateo and Mercateo having requested to remove the unlawful content and/or to the unlawfulness;
  - the fact that the Partner handles customer data in a way that infringes data protection law provisions.
4. In the event of a termination by the Partner, the Partner shall undertake to immediately notify the customer that is subject to the framework agreement without delay of the termination and to indemnify Mercateo against all damages which arise due to the termination of the supplier relationship and the unfeasibility to perform the contractual relationship between Mercateo and the customer that is subject to the framework agreement.
5. The parties agree that notwithstanding a termination of this Agreement, orders that are not completed at the time at which the termination becomes effective shall be duly processed in accordance with this Agreement.

6. Furthermore, the Parties agree that the obligations regarding the indemnification pursuant to § 8, no. 2 and the warranty pursuant to § 7 shall continue to apply after the termination of this Agreement as long as third parties assert claims against Mercateo or as long as the warranty periods last.
7. The confidentiality obligation pursuant to § 12 shall remain in force after the termination of this Agreement.

#### **§ 14 Place of Performance and Transport Risk**

1. The place of performance regarding the payment obligations of Mercateo shall be the registered office of the Mercateo company performing the contract.
2. The place of performance for deliveries by the Partner shall be the point of delivery to the respective customer or a designated addressee, respectively. The Partner shall bear the transport risk until the delivery of the goods to the customer or the person designated by the customer (the addressee), respectively, and shall at their own option and at their own discretion sufficiently insure the goods to be delivered.

#### **§ 15 Assignment, Set-off, and Retention**

1. Any assignment, transfer, charging, authorisation of third parties to safeguard rights or fulfil obligations arising from this Agreement or any other handling in that regard shall require the consent of the other party, unless the assignment is made between affiliated enterprises within the meaning of Article 3 Nr. 3 of the Annex of Recommendation 2003/361/EC.
2. A set-off shall be possible extra-judicially and judicially in accordance with the law that the parties agreed in this Agreement to be applied. The Partner shall be entitled to offset against claims of Mercateo such claims of the Partner that have previously become res judicata or that have been acknowledged by Mercateo in writing.

#### **§ 16 Jurisdiction and applicable Law**

1. The exclusive place of jurisdiction for all disputes arising from or regarding this Agreement as well as about its conclusion and its validity shall be the registered office of the Mercateo company performing the contract.
2. This Agreement, in particular its conclusion, validity, form, performance, termination, and winding up shall be governed by the law which is applicable to the Mercateo company performing the contract. The United Nations Convention on Contracts for the International Sale of Goods shall be excluded. The foregoing provisions shall apply mutatis mutandis to unilateral legal transactions and acts that are similar to business transactions relating to this Agreement.

#### **§ 17 Severability Clause, Changes in the General Terms and Conditions**

1. In the event that one of the foregoing provisions is or becomes invalid or void, the validity of the other provisions shall remain unaffected thereof. Unless the parties individually agree otherwise, the invalid or void provision shall be replaced by the statutory provision.
2. Should it turn out after the conclusion of the Agreement that this Agreement does not regulate a circumstance which the parties would have regulated if at least one party would have considered it at the conclusion of the Agreement, such regulatory gap shall be filled by the respective statutory provision, unless the parties individually agree otherwise.

Mercateo reserves the right to change these General Terms and Conditions as well as all other documents relevant to any contracts with effect for the future, as far as essential regulations of the contractual relationship are not affected thereof and as far as this is necessary for the adjustment to developments which were not foreseeable at the time of the conclusion of the contract, and if their non-consideration would significantly disrupt the balance of the contractual relationship. In that case, Mercateo shall notify the Partner prior to the changes in textual form. The changes shall be deemed to be accepted in the case that the Partner does not object to them in writing within four weeks after a change notice. In the event that the Partner objects to a change, Mercateo shall be entitled to terminate the contractual relationship in accordance with the ordinary notice period

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## Mercateo Code of Conduct for Partners

This Code of Conduct describes the essential requirements of Mercateo towards their business partners regarding the business partner's responsibility to people, society, and the environment. The principles described below shall be basic minimum requirements. The business partner undertakes vis-à-vis Mercateo to comply with the following principles:

### § 1 Compliance with Laws

The business partner shall comply with the laws and rules of the applicable jurisdiction/s and the ones of the United Nations, as well as the International Labour Organization. This shall involve all relevant laws and rules and not only those concerning aspects that are specifically addressed by this Code of Conduct. At all times, the laws and rules that impose the strictest requirements to the behaviour shall be taken as a basis.

### § 2 Compliance with and Protection of the Human Rights of the Employees

The business partner shall comply with their employees' human rights, in particular with the ones set out in the United Nations Universal Declaration of Human Rights. The business partner shall ensure the compliance within their area of responsibility and shall in particular

- ensure and encourage equal opportunity and equal treatment, notwithstanding of their employee's skin colour, race, nationality, social background, physical or mental disability, sexual orientation, political or religious belief, age or gender;
- respect their employees' personal dignity, privacy, and the personal rights and not infringe on these directly or indirectly;
- not employ anyone or compel anyone to work against their will;
- pay a remuneration that corresponds to the employee's work and not fall short of any statutory national minimum wage;
- comply with the statutory maximum working hours;
- acknowledge the employees' statutory freedom of association and not discriminate against them due to a membership in a workers' organisation or trade union;
- not cause and/or tolerate any behaviour by which pressure is exerted in a sexual respect or which is threatening, abusing or exploiting;
- not cause and/or tolerate any treatment of their employees that is unacceptable in any other way apart from the aforementioned manifestations and which particularly means psychological hardship, physical violence, sexual or personal harassment or discrimination.

### § 3 Health and Safety of the Employees

The business partner shall be responsible for the physical and psychological integrity, health and safety of their employees. The business partner shall limit threatening risks and shall provide for optimal precautions against accidents and occupational illness. The business partner shall ensure that the employees are informed and trained regularly regarding health protection and safety standards as

well as safety precautions in a way that they are capable of applying them. The business partner shall maintain documentation in that regard.

#### **§ 4 Children and Adolescents**

Any direct or indirect exploitation of children and adolescents, particularly child labour, shall be prohibited. The minimum age of an employee shall not be lower than the age at which the compulsory education ends for the respective employee, but in any case not less than 15 years as regards easy tasks and not less than 18 years as regards dangerous tasks, except where the International Labour Organization permits something different in an individual case. Children and adolescents may not undertake any hard work and shall be assigned exclusively such tasks that correspond to their physical and psychological abilities and that do not impair or adversely affect their physical and psychological development or may cause such a result. Employing children and adolescents shall be of secondary importance in relation to their school education.

#### **§ 5 Environmental Protection**

The protection of the environment (particularly water, air, land, flora, and fauna) shall be ensured. The business partner shall work continuously towards the prevention and reduction of environmental pollution by their business operations and immediately implement measures that are suitable for achieving that aim. In the scope of their business operations, the business partner shall take into account to a special degree the protection and conservation of the natural resources, in particular in dealing with chemical and poisonous materials and substances, in dealing with sewage and waste, when emitting waste gas and other kinds or air pollution as well as when using water and energy.

#### **§ 6 Prohibition of Corruption**

Any direct and indirect form of bribery, blackmail, corruption, or fraud shall be prohibited. At all times, the business partner shall behave in a way that personal dependencies, personal obligations or personal influences will be excluded. The business partner shall ensure that their employees behave in such a way.

#### **§ 7 Compliance with the Code of Conduct**

1. This Code of Conduct may not be circumvented, e.g. not by contractual agreements or similar measures.
2. The business partner shall ensure that their business partners have knowledge of the requirements regarding their behaviour set out in his Code of Conduct and that they do comply with them. The business partner shall be responsible for the fact that business partners which form their chain of business relationships comply with this Code of Conduct.
3. The business partner shall immediately inform Mercateo in the event that they learn about an infringement of this Code of Conduct or indicators of such an infringement in their area of responsibility (including the chain of business relationships), in particular if this infringement or possible infringement may cause damages to Mercateo (e.g. a damage to the reputation).
4. Mercateo shall be entitled to examine the compliance of the Code of Conduct by the business partner after giving appropriate advance notice. In that way, the business partner shall immediately support Mercateo in any reasonable way.
5. A culpable infringement of the Code of Conduct by the business partner shall be considered a good cause that entitles Mercateo to terminate the contractual relationship between the partner and Mercateo for cause and without notice, unless the partner remedies this infringement and also removes the results of this infringement within a time limit designated by Mercateo; in that context, the business partner shall bear the burden of proof.

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## Declaration of Adherence to the RoHS II Provision

### (Directive 2011/65/EC of 8 June 2011)

It is hereby confirmed by the company

[Company name]

to Mercateo:

that it delivers exclusively such electrical and electronic devices within the meaning of Directive 2011/65/EC of 8 June 2011 (Recast directive on the restriction of the use of certain hazardous substances in electrical and electronic equipment) which are in accordance with the valid requirements of these directives as amended and the national provisions which implement these directives, in particular that the specified amounts of substances are not exceeded. Each device within the meaning of the Directive 2011/65/EC contains a EC conformity declaration in accordance with Annex VI of the Directive 2011/65/EC.

The article descriptions which we provide to Mercateo for the catalogue are continuously up-dated by us.

Furthermore, all of the articles we deliver are in accordance with the valid European regulations and directives, the national law provisions which implement such regulations and directives as well as further national provisions of the contractual territory in the respective prevailing version.

..... [place], ..... [date]

Stamp and legally effective signature(s)  
On behalf of the Partner

## Declaration of Compliance with the REACH Regulation

(Regulation (EC) No 1907/2006)

With this document, [Company name] confirms to Mercateo:

1. to offer and market substances, preparations and articles which are subject to Regulation (EC) No 1907/2006 on the Mercateo platform solely in accordance with the applicable legal stipulations.
2. to update the safety data sheet without delay on the following occasions:
  - a. as soon as new information which may affect the risk management measures, or new information on hazards becomes available;
  - b. once an authorisation has been granted or refused;
  - c. once a restriction has been imposed.
3. The new, dated version of the information, identified as "Revision: (date)", shall be sent to Mercateo via e-mail at SDB@mercateo.com, stating the respective Mercateo order number. This shall only apply to orders where the Company has supplied the substance or preparation within the preceding twelve months. Any updates following registration shall include the registration number.
4. to update the amended safety data sheet in the product description.
5. to review the legal conformity of the information provided on the Mercateo platform and to follow and observe the latest legal developments.
6. in case of any infringements, to reimburse Mercateo AG for all costs, particularly contractual penalties, legal expenses, handling costs and claims for damages, arising from such infringements.

..... [place], ..... [date]

Stamp and legally effective signature(s)  
On behalf of the Partner