

SUPSI

GENERAL TERMS AND CONDITIONS FOR MEMTI SERVICES ("GTC")

1. In General

These GTC govern the provision of research and service activities (hereinafter defined as: Services) of University of Applied Sciences and Arts of Southern Switzerland, Department of Innovative Technologies, Institute for Mechanical Engineering and Materials Technology ("MEMTI") for a Client.

The activities of research and services of MEMTI are essentially developed within five areas: mechanical engineering, thermofluid dynamics and materials technologies.

The concluded contract within the sphere of activities offered by MEMTI qualifies as a contract of mandate pursuant to Swiss law. The activity provided by MEMTI is, however, limited to the provision of Services requested by the Client.

2. Application of the Present General Terms and Conditions

2.1 The present GTC apply to all contractual relations with the contractual partner (hereinafter defined as: Client). Particular conditions contractually negotiated will be treated separately in written form. Oral agreements not followed by a finalized contract, signed by both Parties, are not binding and are regarded as never been concluded.

2.2 Possible general terms and conditions of the Client are applicable to the contractual relationship with MEMTI only upon expressed written consent on the part of MEMTI.

3. Contractual Basis of provided Services

3.1 The Services of MEMTI are regulated on the basis of a written contract, defined by an order confirmation, duly countersigned by the Client. Amendments, modifications and additions to the contract are only valid if made in writing and legally signed by all parties.

3.2 Each request for modification of the contractual basis on the part of the Client, after acceptance of the order confirmation, entails the updating of the services provided, especially as this pertains to the schedule and the price.

4. Intellectual Property Rights and Services Results

4.1 Any intellectual property rights of the parties that have been generated previously, after or outside of the Services ("BACKGROUND IP") shall not be affected by the contract. Specifically, all intellectual property and related rights in and to the equipment, software, knowhow, data, such as 3D-printing data and fabrication and assembly data, developed by MEMTI previous to the start of the Services will remain with MEMTI.

4.2 Any contractual agreed results (hereinafter defined as: Services Results) generated in performance of the Services shall belong to the Client. MEMTI will inform the Client about the Services Results via reports.

4.3 Any other results, such as intellectual property rights, inventions, improvements of MEMTI equipment, data, software, knowhow, generated in performance of the Services shall belong solely to MEMTI.

4.4 MEMTI has the right to use all Services Results, protected or not, treated and mentioned in anonymous form, for research and teaching purposes in any field, including for third-party funded research and services.

5. Confidentiality

5.1 "Confidential Information" shall mean any knowledge, document or information in whatever form the origin of which is, directly or indirectly, in whole or in part, the Disclosing Party, or generally relating to the latter's present or future research, development or business activities relating to the Project. Information includes, but is not limited to, all information or materials prepared in connection with work performed under this or any related subsequent agreement and includes, but is not limited to, drawings, fabrication & assembly drawings, designs, recipes, ingredients, specifications, inventions, patent applications, formulas, techniques, models, data, documentation, diagrams, flow charts, research, development, processes, procedures, systems improvements, software, "knowhow", development or marketing techniques and materials, development or marketing timetables, strategies and development plans, including trade names, trademarks, customer, supplier or personal names and other information related to customers, suppliers or personnel, pricing policies and financial information, and other

information of a similar nature, whether or not reduced to writing or other tangible form, and any other trade secrets or non-public business information.

Information shall also include but shall not be limited to:

- a) Information disclosed by the Disclosing Party in writing marked as "Confidential" at the time of disclosure;
- b) Information disclosed by the Disclosing party orally which is slated to be confidential at the time of disclosure and clearly described in a writing designating the information as "Confidential" delivered to the other Party within ten (10) days of disclosure;
- c) Information disclosed in any other manner which a reasonable person would understand to be confidential at the time of disclosure.

5.2 Confidentiality obligations imposed upon the Receiving Party by this Agreement shall not apply to any portion of Confidential information for which the Receiving Party is able to prove that: a) it was in the public domain or public knowledge at the time it was transmitted to the Receiving Party, or b) it later fell into the public domain or public knowledge for reasons other than an action or omission attributable to the Receiving Party, or c) it already was in the Receiving Party's possession, without any limitation regarding its disclosure at the time it was transmitted to the Receiving Party by the Disclosing Party, provided that such prior possession is supported by written evidence, or d) it was obtained in good faith and without any commitment relating to confidentiality from a third party entitled to disclose it.

5.3 Except for copies on routine information technology backups, copies for the purpose of monitoring compliance with its obligations hereunder and copies for the scientific verification of Services Results and subject to mandatory laws, the Receiving Party will destroy and/or delete any Confidential information of the Disclosing Party upon termination of the Services.

6. Services of MEMTI and Subcontracting of Services

6.1 MEMTI provides the Services to the Client according to the specific written agreements in the contract. MEMTI can, if necessary, subcontract the Services to a third party considering that possible higher costs with respect to the contract will not be charged to the Client. In such a case, the Client will be informed of the identity of the third party. MEMTI shall ensure that the third party is in compliance to any confidentiality obligations as agreed in the contract.

6.2 MEMTI commits itself to provide the Services agreed upon with the Client within the established contractual time limits. The respect of such deadlines on the part of MEMTI demands, however, the receipt, in due time, of necessary instructions, information and samples from the Client.

6.3 In the case of problems and/or delays during the performance of the appropriate Services, MEMTI commits itself to promptly informing the Client in written form.

7. Liability

7.1 Subject to Section 5 and subject to Section 7.2 and to the extent permitted by the applicable law, MEMTI excludes any liability for any damages, including but not limited to any indirect damages or consequential loss or similar damage (e. g. loss of profit) suffered by the Client in connection with the contract, provided such damage was not caused by MEMTI's willful intent or act of gross negligence.

7.2 The parties use the Services Results at their own risk. Notwithstanding Section 7.1, a party using any of the Services Results shall, to the fullest extent permitted by the applicable law, indemnify the other party against third party claims which are based on the party's use of the Services Results.

7.3 The limitations of liability in Section 7.1 and 7.2 shall also be applicable to all auxiliary persons (including but not limited to consultants and students), agents and subcontractors involved by the parties, and to any kind of (Confidential) information exchanged as well as to BACKGROUND IP and all other deliverables or Services Results supplied under the contract.

8. Transport, Delivery and Shipment of Samples

8.1 Upon returning samples or other objects in relation to the contract (hereinafter defined as: Objects) to the Client, in the event of transport, delivery and/or shipment, the responsibility of MEMTI is limited to the period between the loading of samples from its own laboratories and storeroom, and delivery to the forwarder or Client.

8.2 The transport of Objects is always performed in the name of and on behalf of the Client, who accepts all risks of loss, as well as damages, once the Objects leave the laboratories and storeroom of MEMTI.

8.3 The Objects to return to the Client are packed by MEMTI with the same original package wrapping provided by the Client, which MEMTI handles and opens with due care. Only in exceptional cases, with the expressed consent of the Client, is non-original package

wrapping used. In such a case, MEMTI is responsible for damage to the Objects caused by the non-original packing.

8.4 If not otherwise established contractually, the expenses of transport and shipment of Objects (including any possible customs payments and the potential purchase of package wrapping) are the responsibility of the Client and are invoiced to the Client.

8.5 The expenses of storage and storeroom of the Objects at MEMTI for a period of no more than 60 days, counting from the date of issue of the invoice, are included in the agreed upon contractual price. After this period, MEMTI will contact the Client to request the removal of Objects. In the case of failure to remove the Objects by the deadline set, said Objects will be forfeited as the property of MEMTI, without any further notice or compensation whatsoever.

9. Conditions and Terms of Payment for Services

MEMTI commits to invoicing the Client for Services requested by the and indicated in the order confirmation. If not otherwise established contractually, the Client is required to pay the balance within 30 days from the date indicated in the invoice.

The value added tax (VAT) is indicated separately in the invoice.

10. Other Obligations of the Client

10.1 The terms of delivery of instruction, information and/or Objects by the Client to MEMTI, as defined in the contract, are binding and are not extendable, except with an expressed written agreement between the Parties. In the case of lateness on the part of the Client, MEMTI reserves the right to charge the Client for any corresponding harm, including damages for the loss of earnings.

10.2 The Client is responsible for informing MEMTI of any intrinsic or potential peculiarity of the delivered Objects, which may cause harm to personnel or damages to the structures of MEMTI (e.g. the presence or the risk of the presence of radiation, toxicity, explosive elements, environmental pollution, etc.).

11. Data Protection and Storage

11.1 The data processing is based on Client's request and is in accordance with applicable data protection laws and regulations for the fulfilment of obligations and the contract. The personal data collected by MEMTI for the purposes of the contract will be stored and then deleted until the expiry of the statutory retention obligation, unless it is required to be stored for a longer period on account of tax and commercial duties or Client has

provided his/her consent. Any other data related to the provided Services are preserved at MEMTI for a period of five years. Past this period, MEMTI is authorized, without the necessity of consulting the Client, to destroy all relevant documentation, both paper and computer-based.

11.2 Subject to Section 6, in the absence of expressed authorization on the part of the Client, MEMTI provides no information to third parties concerning the Client, data or results of the Services. Exception is made in the case of the request to release information made by Swiss or foreign legal authorities.

12. Term and Termination

12.1 The contract enters into force upon signature by both parties.

12.2 Subject to the following provision, the contract shall terminate upon the completion of the Services or supplying of contractual agreed Objects or Services Results. The provisions which, by their nature are intended to survive the expiry or termination of the agreement shall continue to apply.

12.3 Each party may prematurely terminate the contract only in the event of a fundamental breach of contract by the other party but shall first give the other party thirty (30) days to remedy the breach.

12.4 In the event of premature termination, the Client shall compensate MEMTI for all costs that were incurred until effective termination.

13. Miscellaneous, Complaints, Applicable Law and Court

13.1 The parties do not, through this contractual relationship, acquire any rights from the other party apart from those which are explicitly conferred by the contract. Nothing in the contract shall imply any simple partnership between the parties. No party shall be entitled to commit the other party or the parties to any obligation in connection with the contract, without the prior written consent of the other party.

13.2 MEMTI promotes the satisfaction of the Client as one of the main goals of its policy as well as the continual improvement of its Services. Complaints made by the Client are considered and treated in such a way as to correct, as soon as possible, any inconsistencies indicated.


13.3 In the interests of the Parties, in order to resolve any possible dispute relative to Services provided, the Client must submit any complaints - in writing and not later than 60 days from the date of issuance of the final report - to

the contact person at MEMTI who will duly attend to the verification of the dispute.

13.4 The contract shall be construed and governed by the laws of Switzerland, without reference to its conflict of laws principles, and shall not be governed by the United Nations Convention on Agreement for International Sale of Goods (the Vienna Convention). The sole place of jurisdiction for any dispute arising from, or in connection with, the contract shall be exclusively the courts of the city of Lugano. MEMTI has the specific and preventive faculty to bring the Client to the court within the Client's jurisdiction.

The present general conditions come immediately into force.

Manno, June 2020

A handwritten signature in blue ink, appearing to read 'A. Nasciuti', is positioned above the printed name and title.

Dr. Adriano Nasciuti
Head of MEMTi Institute