

## GENERAL TERMS AND CONDITIONS OF SALE

of BizLink Silitherm S.r.l. (version 06/2023)

### 1. Scope

- 1.1 These General Terms and Conditions of Sale shall apply to all contracts, declarations of contracts, goods and services of BizLink Silitherm s.r.l. (hereinafter "BizLink") unless otherwise expressly agreed. These General Terms and Conditions of Sale shall apply also to all future provision of goods and services or offers made by BizLink, even if no separate further agreement has been entered into in respect thereof. However, these Terms and Conditions shall not apply to consumers within the meaning of Article 3 of Legislative Decree n. 206/2005 ("Italian Consumers Code").
- 1.2 These General Terms and Conditions for Sale shall apply exclusively. Any general terms and conditions of the Purchaser shall not apply, even where BizLink has not separately objected to them in any individual case. Even if BizLink refers to any letter or writing containing or referring to the general terms and conditions of the Purchaser or any third party, or confirms selection fields on Purchaser portals or similar electronic systems of the Customer that have to be activated for system-related reasons, this shall not constitute consent to the application of such general terms of business. The same shall apply correspondingly in relation to any deliveries or payments.

### 2. Definitions

- 2.1 Some of the terms used related to the copper business in contractual documents of BizLink are not used consistently in the industry. BizLink, however, endeavours to use terminology consistently in the interests of transparent business relationships and customer communication. In order to avoid difficulties in their interpretation, we refer to the following definitions of the terms. These definitions form part of the contract. If the terms defined below are used in contractual documents, they have the meaning given below:
- 2.1.1 Camden: The price of copper published by the International Wire Group (IWG), which is based on the COMEX listing and includes the expected copper price movements for the next two weeks. It is published every two weeks by the IWG at [www.iwgcopper.com](http://www.iwgcopper.com).
- 2.1.2 COMEX: Price for copper in USD on the New York Mercantile Exchange, COMEX Division (Commodity Exchange Inc.), which has licensed warehouses for gold, silver and copper.
- 2.1.3 Westmetall: Daily updated prices for conducting metals, such as copper, are published on the Westmetall website ([www.westmetall.com/en/marktdaten.php](http://www.westmetall.com/en/marktdaten.php)).
- 2.1.4 Effective cross section: The effective cross section is the actual geometric cross section of a conductor (where applicable, inside a cable). Small tolerances are possible due to production processes.
- 2.1.5 Total price: For copper cables, the total price is generally made up of the adder price and the final sales price for the copper product.
- 2.1.6 GIRM: The GIRM (Groupement d'Importation et de Répartition des Métaux) publishes a copper value based on the LME. It can be accessed at [www.kme.com/fr](http://www.kme.com/fr). The listing is mainly used in France.
- 2.1.7 Adder price: The adder price gives the price for the cable without the metal content, which is calculated separately.
- 2.1.8 Copper base/copper base price: The copper base price is a standard value agreed with the customer (e.g. EUR 150/100 kg). Stating the copper base price (e.g. EUR 150/100 kg) is intended to make it easier to compare quotations. On the basis of a hypothetical copper listing of, for example, EUR 150/100 kg, a total price is calculated, which can be compared to other quotations that are calculated based on a different or the same hypothetical copper listing. The actual price to be paid may deviate significantly upwards or downwards depending on the actual copper listing as a considerable copper surcharge may have to be paid in some cases. It is therefore not possible to ascertain the actual invoice amount or a ballpark indication of its amount from this price.
- 2.1.9 (Copper) premium/fabrication charge/fabrication adder: The term describes the costs incurred when transforming the raw copper ore into a usable form, i.e. up into continuous cast wire rod.
- 2.1.10 Final sales price for the copper product: The final sales price for the copper product is calculated based on the agreement with the customer. Calculation factors are normally the delivery quantity, the type of cable, the copper sales factor and a copper price model (e.g. lower copper WM note plus 1% procurement costs).
- 2.1.11 Copper price model: The copper price model is a copper invoicing model agreed with the customer which determines which amount, taking various factors into consideration, such as a certain listing over

a certain period, is to be used as an invoicing value for the copper component when invoicing the customer.

- 2.1.12 Copper sales factor: The copper sales factor is a purely commercial calculation factor that is used to calculate the total price of a cable. Although customarily expressed in the business in kg/km, the copper sales factor does not indicate the quantity or weight of the actual copper contained in the cable. It is a purely arithmetic calculation factor that does not give any direct indication of the quantity of copper used in the cable.
- 2.1.13 Copper surcharge: The copper surcharge is calculated based on the difference between the copper price model agreed with the customer and the copper base price agreed with the customer, which is multiplied by the copper sales factor. The following formula is used to calculate the copper surcharge:  

$$\text{Copper surcharge [€/km]} = \text{Copper sales factor [kg/km]} \times \frac{(\text{agreed copper price model [€/100 kg]} - \text{copper base price [€/100 kg]})}{100}$$
- 2.1.14 BizLink : Continually updated BizLink prices for various copper alloys, which are made up of at least two elements. The respective formula is based on the chemical composition of the respective alloy.
- 2.1.15 LME: Exchange price on the London Metal Exchange for copper in USD.
- 2.1.16 LME1: Exchange price on the London Metal Exchange, one of the world's largest metal trading centers. The exchange determines global reference and cash settlement prices for metals on a daily basis.
- 2.1.17 MK: The "metal listing for copper" (German: Metallnotierung Kupfer) refers to the metal base price calculated by the largest European manufacturer of semi-finished copper products. The MK price is based on the LME listing plus additional price components and is accessible at [www.westmetall.com](http://www.westmetall.com).
- 2.1.18 Nominal cross section: Nominal cross section is the cross section specified in certain documents. This does not always correspond to the actual cable cross section, but it is a good basis for standardization and calculations. The electrically effective cable cross section for metal cables is determined by measuring the electrical resistance (generally the DC resistance) and, due to the different constructions of the individual types of cable and additional processing effects, does not categorically correspond to the geometric cable cross section, which would be derived from the nominal cross section and the standard values for specific resistances. It is therefore a nominal value that indicates certain operational characteristics and possible uses. This is to be expressly indicated when using the term.
- 2.1.19 Nominal: The use of the term "nominal" with reference to a number indicates that it refers to an abstract indicator. The specific number indicated may differ from the actual number; however, a number given as "nominal" indicates an approximate value that is generally present based on the standards and experience.
- 2.1.20 SHME: The Shanghai Metal Exchange (SHME), a state futures exchange in China, is a non-profit, self-regulating corporation. The exchange was created for trading in non-ferrous metals including copper, aluminum, lead, zinc, tin and nickel. The listing is normally used in China.
- 2.1.21 WME/Westmetall: Westmetall GmbH & Co. KG is an internationally oriented trading company for non-ferrous metals. Its core business is trading the commodity metals copper, tin, nickel and lead as well as copper alloys. Daily prices for these metals are published online at [www.westmetall.com](http://www.westmetall.com). BizLink uses these mainly for alloys.
3. Contract Formation / Deliveries
- 3.1 Any contracts for the supply of goods (order and acceptance) shall be valid only if made in writing. If, in any individual case, the Parties make other arrangements or agreements, such arrangements or agreements must be confirmed in writing in detail without delay. Orders must conform to BizLink's offer or contain express references to any departures therefrom.
- 3.2 Unless otherwise agreed, in the event of a framework agreement, call-off orders must be apportioned and accepted by the Purchaser within six months of the formation of the contract with BizLink or from BizLink's confirmation of the order. Upon expiry of the acceptance period, or where the Purchaser does not make any use of an agreed call-off order within six months of the date the order being issued, after having set a grace period of two weeks, BizLink shall be entitled, at its option, to either demand immediate acceptance and payment for the goods or to withdraw from the contract or to demand compensatory damages for breach.
- 3.3 If, subsequently to the conclusion of any contract, any circumstances come to light which justify doubts regarding the creditworthiness of the Purchaser, BizLink shall be entitled to set a reasonable period within which the Purchaser must either simultaneously exchange payment for delivery of goods or shall provide security. After the expiry of such a period without the Purchaser having made the choice, BizLink, at its sole discretion, may withdraw from the contract or demand advance payment. In cases of such withdrawal, the Purchaser shall not be entitled to assert any claims for breach.

- 3.4 Unless binding delivery periods have been agreed, delivery periods indicated shall constitute approximations of the date of delivery FCA BizLink Silitherm S.r.l. Monticelli d'Ongina (PC) assuming that all of the prerequisites to production have been met. BizLink does not assume any warranty with respect to any specific transport period.
- 3.5 BizLink's compliance with agreed delivery periods shall be subject to the condition precedent that the duties of cooperation incumbent on the Purchaser have been discharged (in particular, receipt of all documents, plans, drawings, data, material supplies, necessary approvals and clearances) in a timely manner and compliance with agreed terms of payment and other obligations by the Purchaser is achieved. Where such conditions precedent are not promptly met, the periods shall be deemed to have been extended by an appropriate time; the foregoing shall not apply where BizLink is responsible for the delay.
- 3.6 Force majeure, labour disputes, unrest, measures of public authorities and other unforeseeable, unavoidable and serious events ("**force majeure**") shall relieve the Parties to the contract of their respective duties to perform the contract for the duration of the disruption and to the extent of the impact thereof. Force majeure in respect of a supplier of BizLink and any delay by BizLink in effecting delivery which results therefrom shall be deemed the equivalent of direct force majeure. This shall apply even where such events occur at a point in time at which the Party in question is already in default, except where the Party caused the preceding delay in a manner which was intentional or grossly negligent. The Parties shall provide such information as is necessary without delay, to the extent reasonable, and shall adapt their obligations in good faith to the changed circumstances. Where the delivery of goods is rendered impossible as a result of force majeure, BizLink's obligation to supply the goods shall be deemed to cease. In such cases, the Purchaser shall have no claim for damages.
- 3.7 Should BizLink be in default in performing its duties under any contract, BizLink shall only be liable for the direct damages for delay where such would be customarily regarded as foreseeable within that business sector. Except in cases of intentional acts or omissions or gross negligence, BizLink shall only bear liability up to the amount of the contract value of the individual order in question. Liability for production line stoppages, lost profits and all indirect damages as a result of default and any liability for all other consequential and pecuniary losses is hereby excluded. The foregoing shall not apply in cases of gross negligence or intentional acts or omissions.
- 3.8 If the Purchaser is in default of (or delays the) acceptance of the goods and/or services, BizLink shall be entitled to charge the Purchaser (beginning one month from the date of notice that BizLink is ready to ship) for the storage costs incurred, but at least 0.5% of the amount of the invoice for each month or partial month, up to a maximum of 5% of the agreed price of the goods regarding to which the Purchaser is in default. The Purchaser shall be entitled to provide proof that no losses have been incurred or that a lesser amount of loss has been incurred. BizLink shall retain the right to prove losses of a higher amount. In the event of delay higher than 3 months in the acceptance of the goods and/or services, BizLink shall retain the right to terminate the agreement.
- 3.9 The Purchaser shall, independently and in a timely manner, take all necessary measures for importation of the goods underlying the Parties' supply agreement to the Purchaser's country, such as procuring import licences and exchange control approvals. If the Purchaser becomes aware of circumstances which would constitute obstacles to importation, it shall notify BizLink thereof without delay. If the ability to obtain the necessary importation documents is uncertain, BizLink shall be entitled to withdraw from the contract after having set another grace period of two weeks.
- 3.10 In cases of deliveries to EU countries, the Purchaser shall comply with the Convention on the Contract for the International Carriage of Goods by Road and shall inform BizLink of its VAT identification number at the time of placing its order. In the event that the Purchaser fails to provide BizLink with this number or provides incorrect details thereof, BizLink shall be entitled not to process the order and/or to demand damages. The Purchaser shall not be entitled to rely on the defence of contributory negligence; the foregoing shall also apply to the extent any legal obligation exists on the part of BizLink to verify the VAT ID number. In addition, the Purchaser shall provide BizLink with any necessary confirmation by the end-purchasers of the goods regarding the transport and final destination of the goods (certificate of delivery and/or documentary evidence of the Intra-EU transfer). In the event that BizLink does not timely receive the certificate of delivery, the Purchaser

shall compensate BizLink for the statutory VAT in addition to the agreed purchase price; in such case, BizLink shall issue a new invoice showing the statutory VAT for the delivery in question.

- 3.11 In cases of export to countries outside the European Union, the Purchaser shall provide BizLink with such documentation as required under the applicable tax rules without delay following the delivery of the goods. If the Purchaser fails to discharge this duty, BizLink shall be entitled to demand damages.
- 3.12 BizLink shall be entitled to partial deliveries of goods and partial services to the extent this is reasonable for the Purchaser. Deliveries of excess quantities or short quantities shall not constitute a defect or deficiency and the Purchaser shall accept these up to 10% of the contract volume. Billing shall be in line with the quantities actually delivered.

#### 4. Prices and Payment

- 4.1 All prices are based on costings at the time the supply contract is concluded. If the agreed delivery takes place 4 months after conclusion of the supply agreement and if the cost of material, wages or other costs increase up to the date of production of the goods for delivery/the provision of the services, BizLink shall be entitled to charge supplements in line with the cost increases which have occurred, on the basis of its original price calculations.
- 4.2 Prices are quoted FCA BizLink Silitherm S.r.l. Monticelli d'Ongina (PC) (Incoterms 2020) net of the applicable rate of VAT in each case. Unless agreed to the contrary, packaging, freight and additional costs shall be charged to the Purchaser.
- 4.3 Empties, in particular transportation equipment such as pallets, coils, drums and kegs etc. ("Empties") shall be invoiced separately and the Purchaser shall pay for them at the same time as it pays for the goods delivered. Upon full payment, legal title to the Empties shall pass to the Purchaser. The Purchaser shall have the right to return Empties which are in a proper, clean and reusable condition, to BizLink's plant at the Purchaser's own cost and risk within a period of six months from the date of the invoice. In such case, the Purchaser shall receive a refund of the full purchase price of the Empties. BizLink shall not accept returns of single-use designs.
- 4.4 In the event that, in derogation of § 4.3 hereof, BizLink and the Purchaser agree to provide the Empties to the Purchaser on a borrow basis, the Purchaser shall return them to BizLink's production plant within six months' time from the date of the invoice, at the Purchaser's own cost and risk. The value of the Empties will be detailed in the order acceptance or in the invoice (even if not charged). In the event of any damage to the Empties which is caused by the Purchaser, BizLink shall be entitled to demand that the Purchaser shall pay compensation for the costs of repairs incurred. The same shall apply in respect of the costs of any necessary cleaning. In the event that, as a result of the damage to the Empties, they have been rendered unusable or to the extent that, in BizLink's reasonable discretion, it would not make commercial sense to repair the Empties, the Purchaser shall compensate BizLink for the value of the Empties. In the event that the Empties are not returned in a timely manner, then, after setting a grace period of two weeks, BizLink shall be entitled to invoice the Purchaser for the value of the Empties. The Empties shall pass to the ownership of the Purchaser upon full payment thereof.
- 4.5 Costs of tools shall be invoiced separately, but this shall not vest any rights to the tools in the Purchaser.
- 4.6 Promises of discounts shall be subject to the provision that all outstanding receivables have been paid. BizLink shall only accept bills of exchange as full performance of the contract if this has been agreed previously. The Purchaser shall be responsible for any fees and charges.
- 4.7 The Purchaser may only exercise a right of set-off or make retentions where its counterclaims have been acknowledged by BizLink or have been determined by *res judicata* court decision.
- 4.8 The Purchaser is only entitled to enforce a right of retention to the extent that his counterclaim is based on the same purchase contract.
- 4.9 The issuance of credits and refunds shall not constitute any acknowledgment of fault or any legal obligation.
5. Terms of Shipping
- 5.1 Unless otherwise agreed, the delivery of goods shall occur FCA BizLink Silitherm S.r.l. Monticelli d'Ongina (PC) (Incoterms 2020) at BizLink's plant.
- 5.2 The risk shall generally be deemed to pass in accordance with the Incoterms agreed by the Parties and, in the event of lack of such agreement, according to FCA (Incoterms 2020).
- 5.3 In the case of unforeseen events such as the risk of war, the outbreak of war-like conflicts, closure of shipping lanes and similar force majeure events, BizLink shall be entitled to pass on to the Purchaser any increases in the freight and insurance costs resulting therefrom.

## 6. Reservation of Title

- 6.1 The goods shall remain BizLink's property until such time as all present and future claims arising out of the business relationship with the Purchaser have been settled. The Purchaser shall store the goods separately. BizLink's reservation of title shall also extend to acknowledged outstanding balances insofar as BizLink enters claims against the Purchaser in a current account (reservation in respect to current account).
  - 6.2 The Purchaser hereby transfers and assigns in advance to BizLink its co-ownership shares arising out of any comingling or combination of the reservation of title goods with other items of property, effective as of the time it receives the reservation of title goods. The Purchaser shall safeguard the products or overall items of property on behalf of BizLink, without additional costs.
  - 6.3 The Purchaser may only sell the reservation of title goods and the items of property resulting from modification or processing thereof subject to BizLink's reservation of title, and may not impair BizLink's reservation of title rights by making any dispositions over the goods (e.g. transfer by way of security or pledge). BizLink may revoke the Purchaser's authorisation to resell the goods constituting BizLink's property or co-owned by BizLink at any time and may demand that the Purchaser provide security wherever the Purchaser fails to properly discharge its payment obligations.
  - 6.4 The Purchaser shall notify BizLink without delay in writing of any substantive or legal interference with the reservation of title goods by third parties as well as any damage to or loss of the reservation of title goods.
  - 6.5 All claims derived by the Purchaser from the resale of the reservation of title goods or based on other legal grounds in respect thereof (including any and all current account receivables) are hereby assigned now and in advance to BizLink. If the reservation of title goods are sold together with other items of property not belonging to BizLink or if they are incorporated into deliveries under works and services contracts, the assignment shall be deemed to apply only up to the amount of the invoiced value of the reservation of title goods. The Purchaser is obliged, on a revocable basis, to collect the receivables it has assigned to BizLink in its own name but for BizLink's account. This collection authorisation may be revoked at any time if the Purchaser fails to duly discharge its payment obligations.
  - 6.6 To the extent that the value of such security capable of realisation exceeds BizLink's receivables by more than 10%, BizLink shall select and release collateral upon request of the Purchaser.
  - 6.7 The Purchaser shall provide BizLink at all times with all the required information concerning the products subject to retention of title and/or claims assigned to BizLink under the relevant purchase contract for purposes of collection or to notify all third-party debtors of the assignment of those claims.
- ## 7. Payment Default
- 7.1 The Purchaser shall be deemed in default if the Purchaser fails to make payment in line with the Parties' contract within the date of expiry of the invoice. In this case, BizLink reserves the right to stop shipments to the Purchaser and / or its affiliates until payment of the expired amounts has been made.
  - 7.2 In the event of payment default of the Purchaser, BizLink's claims against the Purchaser arising out of the underlying legal transaction shall be immediately due for payment in cash, notwithstanding any bills of exchange BizLink may have accepted or payment deadlines it may have granted.
- ## 8. Claims for Defects
- 8.1 The Purchaser shall inspect the goods delivered without delay upon receipt. Insofar as goods are supplied based on samples or models, the Purchaser shall have no claims for defects even in the case of concealed defects if the goods delivered corresponded to the sample or model. To the extent that the cause of any defect is found to lie in the material provided by the Purchaser itself, the Purchaser shall have no claim for defects whatsoever.
  - 8.2 All claims for defects shall be subject to the condition that the Purchaser has reported the defect to BizLink within a period of 8 days from the date the goods are received upon ascertaining it and prior to any modification or processing, in writing, or by electronic means, and has provided a sample of the goods giving rise to the complaint. Damage to goods in transport must be noted on the consignment note and the delivery note and confirmed by the driver's signature.
  - 8.3 If any defect as to quality or title is found within the prescription period

for defects pursuant to § 8.4 below, BizLink shall, at its option, either remediate the goods so that they are in compliance with the contract or replace them free of costs and shipping charges at the place of delivery specified in the contract in exchange for return of the defective goods. The Purchaser shall have no claims for expenditures rendered necessary for purposes of subsequent performance, in particular, for costs of transport, travel per diems, working time and material costs to the extent that such expenses are increased because the goods were subsequently conveyed to any location other than the place of delivery specified in the contract. Any goods which are replaced shall pass to BizLink's ownership. In the event that remediation/delivery of a replacement should fail, the Purchaser may withdraw from the individual purchase contract in question or assert a claim for abatement of the price. In any case, BizLink will be liable with the Purchaser for any damage attributable to BizLink for intentional acts or gross negligence. Apart from such case, the maximum liability of BizLink is limited to a maximum total amount equivalent to the price of the corresponding contract. The liability of BizLink shall be limited to direct damages (excluding, therefore, loss of profits, loss of business, reputational damage or any other type of indirect damage) effectively caused to the Purchaser.

- 8.4 All of the Purchaser's claims for defects shall be deemed prescribed upon the expiry of the 12-month prescription period for defects, calculated from the date of delivery, unless BizLink fraudulently concealed the defect.

## 9. Intellectual Property Rights

- 9.1 Unless agreed otherwise, BizLink shall provide the goods and services free of any intellectual property rights and copyright of third parties (hereinafter "IPR") only in regard to the country in which the place of delivery is located. If any third party makes a claim against the Purchaser for infringement of IPRs by goods and services provided by BizLink and utilised in line with the contract, BizLink shall be liable to the Purchaser within the term specified in § 8.4 hereof as follows:
    - 9.1.1 BizLink may at its discretion and its own expense in relation to the respective deliveries either procure a right of use or a licence for the goods and services in question, modify such so that the IPR is not infringed or replace such. If this is not possible for BizLink under reasonable conditions, the Purchaser may withdraw from the contract or reduce the price.
    - 9.1.2 Any obligation of BizLink to pay compensation shall be subject to § 8.3.
    - 9.1.3 The obligations of BizLink referenced above shall only apply if the Purchaser informs BizLink in writing without delay regarding the claims asserted by the third party, does not acknowledge any infringement and reserves for BizLink any defence or settlement negotiations. If the Purchaser ceases to use the goods and services for reasons of mitigation of damages, it shall be obliged to alert the third party to the fact that its cessation of use thereof is not associated with any acknowledgment of any alleged infringement of IPR.
  - 9.2 The Purchaser shall have no entitlement to assert any claims if the Purchaser bears fault for the IPR infringement.
  - 9.3 Any rights of the Purchaser to claim are hereby excluded if the IPR infringement results from special instructions of the Purchaser, or is caused by an application thereof which was not foreseeable to BizLink, or is caused by the fact that the Purchaser has modified the goods and services or utilised them together with products which were not supplied by BizLink.
  - 9.4 Where third-party IPRs are infringed in the case of goods and services provided to drawings or other details provided by the Purchaser, the Purchaser shall bear an obligation to indemnify and hold BizLink harmless against all claims.
  - 9.5 In the event/ case of any other defects of title, the provisions of § 8.3 shall apply correspondingly.
  - 9.6 The Parties hereby agree that no claims against BizLink and its vicarious agents beyond those claims of the Purchaser provided for under this § 9 shall be allowed.
- ## 10. Social Responsibility
- 10.1 For BizLink conducting business with integrity is of essential importance. This applies not only in the context of supply relationships but in all commercial activities. Accordingly, BizLink has issued a code of behavior (BizLink Code of Conduct) that indicates compliance with the law and conducting business with integrity. those principles.
  - 10.2 However, it must be the express aim of BizLink and the Purchaser to observe the following principles and to act in accordance with them: Respect for human dignity and human rights, the prohibition of child labour, the prohibition of compulsory labour, the prohibition of discrimination, respect for the right of free association and of the relevant national standards on compensation, working time and health and safety at the workplace, environmental protection and anti-corruption measures. The Purchaser hereby undertakes to accordingly see to it that the above-referenced principles are adhered to and implemented within its own organisation.

- 10.3 A serious breach or repeated breaches of the principles referenced in § 10.2 by the Purchaser shall render the continuation of the supply relationship unreasonable to BizLink. In such case, BizLink shall be entitled to terminate a contract without notice for good cause, both with respect to individual agreements and with respect to any master agreements with the Purchaser.
11. **Confidentiality**
- The Purchaser is obliged not to disclose to third parties any confidential information (including business secrets) that the Purchaser becomes aware of through the business relationship with BizLink. Employees in the business operations of the Purchaser are not third parties in this sense, provided that they are also subject to a confidentiality obligation. Confidential information is information of any kind (e.g. technical or business data, documents or knowledge / know-how) and / or prototypes / samples which the Purchaser receives in connection with the contractual relationship, irrespective of the type and form of transmission or knowledge of such information. No confidential information in the above sense is information that (i) was already lawfully known to the Purchaser prior to the time of transfer by BizLink without an obligation of confidentiality, (ii) is already publicly known at the time of transfer or becomes publicly known thereafter without a breach of this obligation of confidentiality by the Purchaser, (iii) has been communicated to the Purchaser by a third party, unless the Purchaser is aware or should have been aware that the third party has breached a confidentiality obligation by its communication, which it has assumed vis-à-vis BizLink, or (iv) has been developed by the Purchaser independently of and without recourse to the confidential information. If the Purchaser invokes one or more of the aforementioned exceptions, it must prove the existence of the respective requirements. The Purchaser is prohibited from obtaining confidential information by way of reverse engineering. "Reverse engineering" shall mean all actions, including observing, testing, investigating and dismantling and, if necessary, reassembling, with the aim of obtaining confidential information. The obligation of confidentiality does not apply if the Purchaser is obliged to disclose the confidential information by law or due to an official or court decision which is final and absolute. In this case, the Purchaser shall inform BizLink immediately of the obligation to disclose. If the Purchaser violates its obligations under this clause, it shall owe a contractual penalty of EUR 10,000.00, unless it is not responsible for the violation of its obligations.
12. **Place of Performance, Jurisdiction and Venue, Arbitration Clause**
- 12.1 The place of performance, including for any liabilities arising out of bills of exchange, shall be BizLink's place of business.
- 12.2 The exclusive jurisdiction and venue for all legal disputes arising out of the substance of any supply contract and with respect to the formation and validity thereof (including all actions for bills of exchange or cheques) shall be the courts at the place of BizLink's registered office. However, BizLink shall also be entitled, at its own option, to assert claims against the Purchaser at the courts at the location of the Purchaser's place of business.
- 12.3 BizLink is entitled to assert claims against the Purchaser before an arbitral tribunal under the Rules of Conciliation and Arbitration of the International Chamber of Commerce, in lieu of the ordinary courts; such arbitral tribunal shall be composed similarly at the location of the competent court. The number of arbitrators shall be three. Each Party is entitled to appoint one arbitrator. The third arbitrator, who shall act as the chair of the arbitral tribunal and who must be a fully qualified lawyer, shall be selected by the other two arbitrators. The language of the tribunal shall be German. The applicable substantive law shall be Italian law. The decision of the arbitral tribunal shall be final and binding on the Parties.
13. **Choice of Law**
- The law of the Republic of Italy shall apply exclusively to the exclusion of any rules of the conflicts of laws. The Parties hereby agree that the UN Convention on the International Sale of Goods of 11 April 1980 (CISG) shall not apply.
14. **Miscellaneous**
- 14.1 Assignments and delegations of rights and duties of the Purchaser under the contract made with BizLink shall be valid only with BizLink's written consent. The foregoing shall not apply to the extent that the rights and obligations assigned are claims for money.
- 14.2 BizLink is entitled to assign the credits stemming from the contract made with the Purchaser.
- 14.3 In the event that any term of these Terms and Conditions and any further agreements made hereunder are or become void or invalid, the validity of the remaining provisions and of this Agreement shall remain unaffected thereby.