

General Terms and Conditions of Purchase

for Exelliq Austria GmbH (01.01.2023 version)

1. General

These Terms and Conditions of Purchase shall apply to all contracts which we enter into, however they may be described individually, including any orders and any purchase, work or other contracts. In these Terms and Conditions of Purchase the term "Contractor" includes a contractual partner whom we commission for a delivery, piece of work or service.

2. Basis of contracts

The detailed provisions negotiated between the parties will primarily determine the terms of the contracts. However, if the parties do not agree upon any such provisions or do not incorporate individual provisions into an agreement, only these Terms and Conditions of Purchase shall constitute the terms of the relevant contract. Provisions which differ from these Terms and Conditions of Purchase (including any general terms and conditions of business used by the Contractor) and any supplements to them shall only become part of a contract if we have expressly confirmed this in writing. These Terms and Conditions of Purchase shall also apply to any follow-up orders without our having to make separate reference to them.

3. General formal requirements

Orders shall not be legally binding upon us unless we have placed them in writing. We may place orders by fax or e-mail in order to satisfy the requirement for written form.

The parties may transmit legally significant declarations to each other electronically. All documents relating to a contract must specify our contract data in accordance with our order. Any informal order (without an order number) must specify the name of the person who placed the order, as its transmission will otherwise not trigger any time limit.

Changes or supplements to a contract must be made in writing. This also applies to any change to the requirement for written form.

4. Contract confirmation

4.1 The Contractor must confirm our orders in a legally binding manner within two working days, stating the price, quantity, delivery time, customs tariff number, and country of origin. If the Contractor does not confirm an order to us within fourteen days from the date of our order, the relevant contract shall be concluded on the terms set out in our order. We shall be entitled to withdraw our order free of charge and without stating reasons until such time as the Contractor accepts it in full by means of an order confirmation. Our withdrawal of the order shall be deemed to be in good time if we send it before we receive the Contractor's declaration of acceptance.

4.2 The Contractor must notify us by means of the order confirmation if we are required to obtain approval of a delivery item under the EU Dual-Use Regulation, as amended from time to time.

4.3 If an order confirmation differs from the relevant order, the Contractor shall point this out clearly, and shall describe the various differences, in its order confirmation. If the Contractor nevertheless delivers the delivery item without describing such differences, it shall be deemed to have agreed with the terms set out in our order and such delivery shall be based exclusively on these Terms and Conditions of Purchase. We reserve the right to withdraw from a contract if the terms of the order confirmation differ from our order.

5. Prices

5.1 Offers submitted to us shall be free of charge, regardless of the preparatory work which they require.

5.2 Unless expressly agreed otherwise in individual contracts, prices shall be net fixed prices which exclude applicable statutory value added tax, transport taxes, customs duties, fees, and other charges of any kind (e.g. costs of packaging and freight), loading, and obtaining export and import permits, and include agreed documents such as factory certificates. The Contractor shall in all cases bear the cost of any withholding tax to which we are subject.

5.3. The following provisions shall apply insofar as the Contractor's remuneration is subject to withholding tax. We shall be entitled to withhold withholding tax from the remuneration in the amount required by law

and to pay this to the relevant tax office in the name, and for the account, of the Contractor. If the Contractor supplies evidence, within a reasonable period of time before payment, that the conditions for a tax reduction or exemption under the applicable double taxation treaty are fulfilled, we shall retain the withholding tax provided for under such double taxation treaty. The Contractor must prove that the conditions for a tax reduction or exemption are fulfilled by submitting all necessary documents to us.

5.4 Reservations by the Contractor regarding price increases shall not be valid unless we consent to them in writing. Changes in tax law or other changes in circumstances shall not justify a subsequent price increase.

5.5 Exelliq Austria GmbH's value added tax (VAT) identification number is ATU62967347. The Contractor shall be responsible for correctly applying the VAT regulations concerning each delivery and for any subsequent VAT payments which result from any incorrect information it provides in the course of financial audits.

5.6 We shall not accept any price escalation clauses which have not been separately negotiated and agreed in writing in individual cases.

5.7 Prices also reflect that the Contractor shall transfer to us unrestricted title to all records, plans and documentation, to any other documents which are required for new production, maintenance and operation, and to all intellectual property rights (patent, trademark, copyright, design rights, etc.) which we may require for the proper, contractually agreed and free use of the Contractor's services and any services provided by subcontractors.

6. Deliveries

Unless otherwise agreed, the Contractor shall make its deliveries in accordance with Incoterms 2020. Unless otherwise specified in the order in individual cases, the Contractor shall make its deliveries in accordance with the Delivered At Place (DAP) Incoterm rule if it is based within the European Union or in accordance with the Delivered Duty Paid (DDP) Incoterm rule if it is based outside the European Union. In the case of multi-party legal transactions, the parties must always agree in writing on the Incoterm rules to be applied. The place of performance shall be the place where goods are to be delivered, or where work is to be performed, according to the relevant contract (i.e. the destination). In case of doubt, this shall be our own delivery address as stated in the order.

The Contractor shall ensure that the goods are properly packed and shall bear the packaging costs.

The Contractor shall perform the delivery or service on the agreed date at the specified receiving point.

The Contractor may not subcontract an order (in whole or in part) to any subcontractors without our consent.

7. Formal requirements for delivery documents

The Contractor must enclose a delivery note with each consignment of goods, stating our order number, order item number, quantity and unit of measure, our material number and an exact description of each item delivered, to ensure that we can receive the goods in a trouble-free way. The customs tariff number and country of origin must also be indicated for each item.

We shall be entitled to return a delivery to the Contractor at its expense and risk if the data we require for acceptance of the delivery are not stated in the delivery note or if the delivery note is not available.

8. Delivery dates, delivery periods, force majeure and delay

8.1 Unless expressly stated otherwise, specified delivery dates and periods shall be binding and of the essence of the contract. If the parties agree on periods instead of specific dates, the periods shall begin on the dates of the relevant orders.

8.2 The Contractor shall be deemed to have adhered to the relevant delivery date or period if it has performed a delivery or service (irrespective of the provisions of the relevant Incoterm rule) in full and as agreed at the given time and we have accepted it in accordance with these Terms and Conditions of Purchase.

The Contractor must adhere strictly to deadlines. Deliveries before the due date shall require our prior written approval and shall not entitle the Contractor to make any early claims for payment. Partial deliveries are only permitted if we have agreed to them in writing. In the event of such an agreement, we shall be entitled to make use of any partial services before receiving the entire service without thereby confirming that the Contractor has performed in accordance with the contract and/or waiving any other legal rights. A partial delivery shall not entitle the Contractor to make a claim for payment, unless we have previously agreed to this in writing.

8.3 If we are responsible for arranging transport in accordance with the relevant Incoterm, the Contractor must make the goods available to us in good time, taking loading and dispatch into account.

8.4 If the Contractor delivers the goods to us before the agreed date, we reserve the right to charge the Contractor for any additional costs (e.g. storage costs) which result from this.

8.4.1 Automatic deliveries under a framework contract or agreement are excluded, even if they have already expired: deliveries always require us to make a separate written individual order or calloff.

8.4.2 Pre-production for framework agreements, contracts or arrangements is only permitted if we have agreed to it in writing or it was stipulated in writing when the contract was concluded.

8.5 The Contractor shall only be released in whole or in part from its obligation to perform a contract on a timely basis if it is obstructed from doing so by one or more force majeure events. Only fire, natural forces, war and riots shall constitute force majeure events. The following shall not, in any case, constitute force majeure events: official measures and prohibitions, operational disruptions, delays in delivery by sub-suppliers, transport and customs delays, shortages of energy or raw materials, strikes, and cybercrime. If the Contractor is obstructed from performing a contract by a force majeure event, it may only invoke the existence of force majeure if it submits a registered statement about the beginning and anticipated end of the obstruction, which is confirmed by the relevant government authority or chamber of commerce in the country in which the relevant delivery or service is due, about the cause, and the expected effect and duration, of the delay to us without delay, and at the latest within five calendar days. In cases of force majeure, the Contractor shall use its best efforts to eliminate or reduce the problems and the foreseeable damages and shall keep us informed about its progress on an ongoing basis. Deadlines and time periods that cannot be met due to the effects of force majeure shall be extended by the duration of such effects. We shall be entitled to terminate the contract in whole or in part if a force majeure event lasts for longer than two weeks. We shall not be liable towards the Contractor for the consequences of any obstructions to its performance of the contract which are caused by unavoidable events.

8.6 The occurrence of force majeure shall not entitle the Contractor to terminate a contract, to increase its prices, or to make any additional claims.

If the Contractor fails to meet the time periods or any interim or final deadlines agreed in an order, it shall be liable to pay us the following contractual penalties, each calculated by reference to the total order value, until the actual delivery date. Alternatively, we may deduct the contractual penalties from the Contractor's current invoices or claims, if applicable. In the event of a delay in its delivery of goods or its provision of services, the Contractor shall pay us, irrespective of its fault and without the need for us to prove that we have suffered damages, a contractual penalty which is not subject to judicial moderation of:

1% of the total order value for each week of delay, or part thereof, subject to a maximum of 10% of the total order value;

- Documentation:

0.5% of the total order value for each week of delay, or part thereof, subject to a maximum of 5% of the total order value.

Our entitlement to payment of this contractual penalty shall not prejudice any other contractual or statutory claims that we may have.

8.7 The Contractor's obligation to pay a contractual penalty for delay shall arise when the relevant delay begins. However, in the event of a defective delivery or service, the time between our acceptance of it and our notification of defects shall not be subject to the contractual penalty. We shall not be required to express reservations upon acceptance of the relevant delivery in order to safeguard our claim to a contractual penalty.

8.8 If we change the scope of delivery or otherwise prevent the Contractor from making deliveries, and this results in changes to deadlines that are subject to a contractual penalty, the changed deadlines shall be deemed to be equally subject to the contractual penalty (i.e. the deadlines which are subject to the contractual penalty shall only be postponed and not cancelled).

8.9 The Contractor's payment of contractual penalties shall not release it from its performance obligations and resulting liabilities. Contractual penalties under these Terms and Conditions of Purchase shall not be subject to judicial moderation.

9. Acceptance

9.1 Provided that we give the Contractor reasonable notice, we and our agents and designated third parties shall have access at any time to the Contractor's and its subcontractors' production facilities in order to check their progress in production, their use of suitable materials, and their professional execution of the services we have ordered. We may carry out such inspections without any legal effect upon a potential possible acceptance. An inspection shall not replace an acceptance or in any way limit the Contractor's sole responsibility for its services. In particular, the Contractor may not base any defence of contributory negligence on our part on an inspection.

9.2 The Contractor shall be obliged to carry out all necessary inspections and tests prior to delivery to ensure that its delivery complies with the provisions of the relevant contract, irrespective of our right of inspection pursuant to Clause 9.1 of these Terms and Conditions of Purchase.

9.3 Any required acceptance tests must be agreed in writing between the Contractor and ourselves.

9.4 Our receipt of goods or services as being in accordance with the relevant contract and its specifications and, if agreed, our issuance of an acceptance certificate shall constitute our acceptance. An acceptance certificate provides a record of our confirmation that the Contractor's goods and services were produced or performed free of defects and in conformity with the relevant contract, so far as we could determine through the acceptance test. For machines and deliveries that are part of a process, this includes proof of compliance with specified performance values in an agreed or customary test run. If the Contractor provides services which it charges for by the hour, we must approve them in writing on a daily basis, failing which we shall not be required to pay for them. The Contractor must ensure that details in its reports about work for which it charges by the hour are legible, failing which we shall not be required to accept them, and the Contractor must attach these reports to its invoices. The Contractor must in any case comply with any applicable statutory provisions on working hours.

9.5 The Contractor shall remedy any defects detected during an acceptance test without delay. We may refuse acceptance and demand a repeat of the test until the Contractor has completely remedied all defects. The Contractor shall bear the expenses and costs of any repeated tests.

9.6 If we cannot carry out an acceptance in a timely manner due to circumstances for which the Contractor is responsible (for example, a failure on its part to remedy existing defects in good time), we shall be entitled to claim all consequences of default which are provided for by law or the relevant contract.

9.7 We shall be entitled to assert any defects which we did not detect during an acceptance test, and which did not prevent an acceptance certificate from being issued, at any time during the relevant warranty period.

10. Transfer of risk, retention of title

10.1 Unless otherwise agreed in writing, the time of transfer of risk shall be determined in accordance with Incoterms 2020.

10.2 We do not recognise any extended retention of title by the Contractor. We shall only recognise a simple retention of title which allows us to sell, process and/or mix the relevant delivery goods in the ordinary course of our business.

10.3 We shall not in any circumstances accept any declarations by the Contractor or a third party that the Contractor or such third party retains ownership of, or similar rights of control or disposal over, the goods, and we shall in any case reject any proposed agreement to that effect. We also expressly reject any form of extended or prolonged retention of title by the Contractor or a third party.

11. Formal requirements for invoices

The Contractor must issue its invoices in accordance with applicable VAT legislation and must include our order and material numbers and its own delivery note number in them. Completeness of the Contractor's delivery and service also requires it to deliver any required material tests, test reports, and quality and other documents to us.

The Contractor must disclose the customs tariff numbers and countries of origin to us in its invoices, if it has not previously disclosed them to us. It must also notify us if we are required to obtain approval of delivery items under the EU Dual-Use Regulation, as amended from time to time.

12. Payment

12.1 Unless otherwise expressly agreed in an individual contract, we shall make payment by delivering a transfer order to our bank within 30 days (after deducting a 3% discount) or 60 days (net cash) after receipt of goods in accordance with the relevant contract or completion of the relevant service and receipt of a properly prepared and verifiable invoice.

Presentation of incorrect or incomplete invoices shall not trigger the commencement of payment periods. We shall be free to choose the means of payment.

12.2 Cash discounts are also permitted if we withhold payments in an appropriate amount due to defects. Payment periods shall begin after complete remediation of any defects. Payments shall not constitute recognition that deliveries and services are in accordance with the relevant contracts.

12.3 We shall not suffer any consequences of default under a contract unless we fail to pay following a reminder from the Contractor after the relevant due date.

12.4 The Contractor shall not be entitled to assign any claims against us to third parties, to pledge them, or to deal with them in any other way without our prior consent.

12.5 The Contractor shall not be entitled to set-off any counterclaims of any kind whatsoever that it may have against us, against any claims that we may have against it.

12.6 Advance and part payments shall require express written agreement and (unless otherwise expressly agreed) shall only fall

due, taking into account the periods and discount periods stipulated in Clauses 12.1 and 12.2, after receipt of an unconditional, irrevocable bank guarantee for the same amount from a reputable European credit institution, which may be called upon without stating reasons.

12.7 Payments shall not in any circumstances constitute recognition of the correctness and completeness of a delivery.

13. Warranty, guarantee

13.1 The Contractor guarantees that the deliveries it makes and the services it performs shall not only have the properties which are expressly specified or otherwise promised or generally expected, but shall also be complete, free from defects, and suitable to meet the needs of the individual case.

13.2 We are entitled to the statutory warranty claims in full. The warranty period shall be 24 months from acceptance of the relevant goods or service at the end-purchaser's premises, and shall end at the latest 36 months after the final delivery of the goods or service is duly made by the Contractor at the agreed destination in accordance with the relevant order. For hidden defects, the warranty period shall commence upon their identification and notification to the Contractor.

13.3 The Contractor waives its right in any case to object to any late notification of defects. If we serve a written notice of defects, this shall stop the relevant warranty period from running. The warranty period for the entire contractual delivery or service shall recommence once the Contractor has completed its remediation actions under the warranty. We shall have no obligation to inspect the Contractor's deliveries and services before commissioning or using them.

13.4 The Contractor shall bear all costs for return transportation of any defective parts. We shall in any case be entitled to require the Contractor to reimburse all direct repair costs. We may also require the Contractor to reimburse our inspection costs if the inspection has revealed any defects.

13.5 If we insist on the repair or replacement of a delivery or service, we shall be entitled to withhold the entire payment until the Contractor has performed such delivery or service in full.

13.6 We shall not accept any exclusions or limitations of liability on the part of the Contractor, including in respect of the Contractor's warranty or liability to compensate us for damages. The Contractor shall indemnify and hold us completely harmless if any delivered goods prove to be defective within the meaning of the Austrian Product Liability Act (*Produkthaftungsgesetz*) and this results in a claim against us.

The Contractor shall be obliged to provide a complete but easily understandable instruction manual, to retain all necessary documents, and to observe its products closely.

13.7 If the Contractor delivers replacement goods or repairs goods which it has already delivered, its warranty and guarantee obligations shall recommence.

13.8 Any warranties and their conditions shall be specified in individual contracts between the parties.

14. Industrial property rights

The Contractor shall indemnify us against any patent, copyright, trademark and design protection disputes or other disputes arising from its deliveries and services and shall guarantee our unrestricted use of any delivered goods. The Contractor shall in any case reimburse us for any and all costs which we may incur in defending a claim or in paying compensation.

15. Health and safety regulations

Plants erected or products delivered by the Contractor must comply with the health and safety regulations which apply in the recipient countries. The Contractor must provide appropriate EU declarations of conformity or declarations of incorporation with operating instructions and, if applicable, assembly instructions, installation instructions and product data sheets. The plants and products must also conform to the latest technical standards.

16. Dangerous goods

The Contractor must (if applicable) point out in the order confirmation, if it has not already done so, that goods are dangerous and that the relevant legal principles and regulations must be observed.

17. Confidentiality

17.1 The Contractor undertakes to keep all drawings, samples, and other information ("Confidential Information") which we provide in connection with an order confidential and to forward Confidential Information only to persons who are directly required for performing the relevant service. The Contractor must also take systematic and organisational precautions to ensure that unauthorised persons cannot learn the Confidential Information.

17.2 This duty of confidentiality shall also apply to the Contractor's subcontractors, shall begin with the phase of order initiation, and shall continue after the end of the business relationship for as long

as the Confidential Information does not become public. The Contractor shall bear the burden of proving that Confidential Information has become public.

17.3 The Contractor undertakes to pay us a contractual penalty equal to three times the damages we are proven to have suffered in respect of each breach by the Contractor of its duty of confidentiality.

17.4 Each of the parties assures the other that it will duly comply with its obligations under all applicable data protection laws.

18. Production documents

Samples, models, drawings, plates and other aids which we make available to the Contractor to enable it to perform its contractual obligations shall remain our material and intellectual property, which we may freely dispose of. The Contractor may only use these aids for carrying out our orders and may not make them available, or forward them, to third parties outside its organisation without our consent. The Contractor must return them to us, free of charge, after carrying out an order if we so request.

19. Provision of materials

19.1 Materials which we provide to the Contractor shall remain our property and must be marked as such and stored separately. The Contractor must report any defects in the materials to us without delay. The Contractor may only process defective material in accordance with our instructions. The Contractor shall be responsible for handling materials provided to it for processing or finishing appropriately. If materials which we provide to the Contractor become unusable through the Contractor's fault or negligence, we will replace them for the Contractor for a separate charge.

19.2 We do not assume any liability for any tools and devices which we have made available to the Contractor.

20. Technical amendments and pre-produced quantities

20.1 We reserve the right to change drawings at any time. We shall have no obligation to accept any quantities that the Contractor produces in excess of the volumes we order.

20.2 If the Contractor is able to demonstrate that any amendments we have requested are not covered by the relevant contract price or would lead to an extension of the relevant contract period, it shall not carry out such changes without first agreeing with us on any changes to the contract price and the contract period in a written amendment order. Otherwise, any amendments which we request shall be deemed to be covered by the relevant contract price and the Contractor shall complete them within the agreed delivery period.

20.3 By accepting an order from us, the Contractor undertakes to inform us within three months of any future changes being made to any goods previously ordered from it, any such goods being replaced by another type, any change in the type designation of any such goods, and/or any such goods being discontinued without replacement. The Contractor shall be responsible for any disadvantages which result from any failure on its part to comply with these conditions.

21. Insolvency of the Contractor

The Contractor shall inform us immediately if insolvency proceedings (bankruptcy, insolvency, etc.) are commenced against it or if a petition for its bankruptcy is rejected due to a lack of assets to cover the costs, and shall take all necessary and helpful measures to assert its separation rights against us.

We shall be entitled to withdraw from the contract in whole or in part, or to terminate it, if a provisional insolvency administrator is appointed or insolvency proceedings are applied for or commenced against the Contractor's assets.

22. Compliance

The Contractor undertakes to comply at all times during this agreement with the current version of the Exelliq Code of Conduct <https://www.exelliq.com/fileadmin/exelliq/downloads/en/code-of-conduct-exelliq.pdf> and all applicable laws and regulations, in particular the US Foreign Corrupt Practices Act of 1977 (as amended from time to time), as well as applicable antitrust, competition and anti-corruption laws. Neither the Contractor, nor any person acting on its behalf, including its officers, employees, or agents, will make or offer any improper payments or gifts, directly or indirectly, to any third party, including its officers, employees, or agents, or to any public official, representative of any governmental body or agency, or any political party or its candidates. The Contractor shall ensure that its own suppliers comply with at least comparable principles to those of the Exelliq Code of Conduct. We reserve the right to inspect the Contractor at any time during business hours, after prior written notice, with regard to its compliance with the conditions of this agreement and all applicable laws and regulations, including the Exelliq Code of Conduct. We reserve the right to terminate this agreement at any time and with immediate effect by written notice to the Contractor, if the Contractor fails to comply with it.

23. Export licences

The Contractor shall provide us with all export data and corresponding export documents in connection with its deliveries, in case any export licences (including those required under US re-export regulations) are required. This is information as to whether a product is subject to an export licence pursuant to Regulation (EC) 428/2009 as amended (the Dual-Use Regulation), nationally applicable export law and/or US re-export law (Export Administration Regulations). If so, the Contractor must send the corresponding export list number and/or Export Control Classification Number (ECCN) with the relevant order confirmation. If the Contractor holds general licences for goods which are subject to export control, it must make these available to us. The Contractor shall ensure that, at the time an order is placed, complete delivery of the ordered goods is secured and shall be liable for any damage caused to us and/or the end-purchaser if it fails to do so. The Contractor shall inform us in good time after conclusion of a contract of any new export bans or restrictions that may arise and shall submit alternative solutions to us free of charge and in good time.

24. Termination

24.1 We may terminate a contract in whole or in part if the Contractor breaches a duty and fails to remedy the breach after we have set a reasonable grace period. If we remind the Contractor to comply with a contract, we shall be deemed to have set a reasonable grace period. Breaches of duty shall include any delays to interim or final dates, unauthorised subcontracting, or defects which put our own performance of our contracts with end-purchasers at risk.

24.2 In such cases, we may carry out any omitted or insufficiently performed deliveries and services ourselves (self-performance) or through third parties (substitute performance) at the Contractor's expense. We may invoice any costs which we thereby incur directly to the Contractor or deduct them from the payments which we are next due to make to the Contractor.

24.3 If exercising our right to self-performance or substitute performance requires access to any industrial property rights, documentation (such as workshop drawings or calculations) or other information, the Contractor must provide such rights, documentation and information to us.

24.4 We shall be entitled to terminate any contract in whole or in part at any time, even if the Contractor is not at fault. In such a case, we shall be obliged to pay the Contractor the contractual price in proportion to any deliveries and services which it has already performed and to reimburse any proven direct costs of deliveries and services which are in progress or which result from the cancellation of sub-contracts. The Contractor shall be obliged, following our declaration of termination, to use its best efforts to keep the costs which we have to reimburse it as low as possible.

Following our termination of a contract, we shall be entitled to use the relevant ordered goods free of charge for ourselves and/or the end-purchaser until a replacement solution is accepted.

24.5 The Contractor shall notify us immediately and in full of any imminent or commenced composition or bankruptcy proceedings or any change in its ownership structure. We may immediately withdraw from any contract in whole or in part if composition or bankruptcy proceedings commence or a change occurs in the Contractor's ownership structure.

25. Insurance policies

The Contractor shall maintain any insurance policies which are required for performing the contracts (in particular to cover warranty, guarantee and transport damages), with the customary scope of cover, at its own expense with a reputable insurance company, and shall submit a written confirmation of insurance to us on request. Such insurance policies must be valid for the final destinations of any ordered goods and services (i.e. the end-purchasers' locations).

26. Choice of Law, Jurisdiction

This agreement shall be governed by Austrian law, excluding the United Nations Convention on Contracts for the International Sale of Goods. The competent court in Steyr, Austria shall have jurisdiction over any disputes involving Exelliq Austria GmbH.

Irrespective of this, we shall be entitled to sue the Contractor before the ordinary court of law which has subject matter jurisdiction according to the Contractor's domicile, registered office or usual place of business.

27. Severability

If any individual provisions of these Terms and Conditions of Purchase prove to be invalid or unenforceable, the remaining provisions shall remain in full force and effect. In such a case, the invalid or unenforceable provision shall be replaced by a provision which comes as close as possible to the invalid or unenforceable provision in economic terms.

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