



Brenmiller Energy Ltd. General Terms and Conditions

The following general terms and conditions (“**T&C’s**”) shall apply to any and all orders of Brenmiller Energy Ltd. (“**Brenmiller**”) for goods and services from its various suppliers (each, a “**Supplier**”).

1. PURCHASE ORDER AND ACCEPTANCE OF THESE GENERAL TERMS AND CONDITIONS

- 1.1. A “**Purchase Order**” or “**PO**” shall be any written order for the purchase goods and/or services (the “**Works**”) sent by Brenmiller to the Supplier, such PO being confirmed by the Supplier in writing (a “**PO**”). For the avoidance of doubt, the PO will bind Brenmiller only following receipt by Brenmiller of Supplier’s written approval of the said PO.
- 1.2. By issuing Brenmiller a written approval of the acceptance of a PO, the Supplier accepts these T&C’s. In the absence of Supplier’s written approval of the PO, any supply of Works set forth in a PO shall be deemed as acceptance of the T&C’s by the Supplier.
- 1.3. Unless otherwise agreed in writing, Brenmiller’s T&C’s will supersede the Supplier’s general terms of purchase, if such exist. In the event that (i) the Parties enter into a definitive agreement; and (ii) there is a conflict between these T&C’s and such definitive agreement; then the definitive agreement shall prevail.

2. CONTRACT PRICE & TERMS OF PAYMENT

- 2.1. The price of the Works (the “**Contract Price**”) is (a) a fixed price, and except as specifically stated herein, shall not be adjusted due to any changes in the costs of labor, materials, transportation, applicable law, etc., and (b) the sole and exclusive compensation the Supplier is entitled to hereunder and will include without limitation any compensation of any of the Supplier’s personnel (as defined below). For avoidance of doubt, product expenses shall include, without limitation, transportation, insurance, packaging, tax expenses, conformity tests, certifications; etc.

- 2.2. All considerations payable hereunder are inclusive of all applicable taxes (except for VAT).
- 2.3. The payment for the Works will be made according to payment terms as shall be specified in each PO. In the event the payment terms have not been determined in a PO, the payment terms shall be current + 60 (i.e. the end of the current month + 60 days).
- 2.4. Each payment will be made against a duly issued tax receipt, subject to the presentation of a certificate of proper bookkeeping, as required by law, and an exemption from deduction of tax at source.
- 2.5. If the Works are charged on an hourly basis, then upon submission of every invoice to Brenmiller, Supplier will provide Brenmiller with the following details: (i) Details of each task order; (ii) hours spent on every task; (iii) date of completion of each task.

3. QUALITY OF SERVICES; WARRANTY

- 3.1. The Works will be provided in accordance with the provisions of any applicable law or regulation. The Works will comply with any applicable standard required by Brenmiller.
- 3.2. Supplier warrants that the Works furnished under the applicable PO and these T&C’s shall be, (if applicable to the nature of the Works): (i) supplied in conformance with the instructions, requirements and specifications provided by Brenmiller; (ii) performed in accordance with standards of care, skill and diligence consistent with highest industry practices, procedures and techniques; (iii) provided to Brenmiller free from faulty design and workmanship; (iv) constructed utilizing new materials and equipment free from faults and defects; and (v) conveyed with free and clear title.
- 3.3. The warranty period for the Works performed shall commence upon acceptance of the Works by Brenmiller, and continue for a period of at least 12 months therefrom and not less than the warranty period customary in the industry (the “**Warranty Period**”). In the event of any defect in the Works within the Warranty Period, Supplier shall promptly rectify the fault as shall be specified by Brenmiller.



4. VARIATIONS

- 4.1. Brenmiller shall be entitled at any time to make any changes, alterations, modifications, additions to or deletions from the Works, including the instructions, requirements and specifications set forth in the PO and these T&C's (the "Variation(s)"), and the Supplier shall be obliged to carry out any such Variation.
- 4.2. In the event required, the Parties shall equitably agree upon an adjustment of the Contract Price and the time schedule due to such Variation. For the removal of doubt it is hereby emphasized that the Supplier shall not be entitled to any adjustments of the Contract Price or the time schedule if the Variation is required due to an act, omission or breach by the Supplier.

5. OWNERSHIP AND LICENSES

- 5.1. Supplier hereby irrevocably warrants, represents and agrees that Brenmiller shall have all title, rights and interest and the full and exclusive ownership to: (A) any confidential information (as defined below) that has been disclosed, or will be disclosed by Brenmiller to Supplier, or otherwise obtained by Supplier; (B) any design documents and any intellectual property rights of any kind whether or not patentable ("IP Rights") related to the Works; and (C) any IP Rights and any and all data, processes, materials and documentation, which (i) the Supplier and/or any of the Supplier's personnel may develop or create during the course of the Works, or which may otherwise result the Works and/or any other work done by Supplier for, or at the request of, Brenmiller; or (ii) results from and/or related to the any modification if made by Brenmiller, or any on its behalf, to the Works; or (iii) results from Brenmiller's use of or access to any Confidential Information; or developed or created in violation of the provisions of the NDA (collectively, the "IP and Materials").
- 5.2. Supplier shall not acquire any rights in the IP and Materials and these T&C's shall not be construed in any way to grant Supplier any right or license with respect to the IP and Materials other than the right to use the IP and Materials solely to perform the Works in accordance with

the terms of the NDA and the confidentiality provisions contained herein.

- 5.3. All property of Brenmiller which is provided to Supplier shall be treated by Supplier as follows: (i) it shall be clearly marked as Brenmiller's; (ii) it shall be segregated when not in use; (iii) it shall be kept in good working condition at the Supplier's expense; and (iv) it shall be returned to Brenmiller immediately upon Brenmiller's first demand.

6. INDEMNIFICATION

- 6.1. Supplier shall indemnify, defend and hold Brenmiller harmless from and against any and all claims, losses, costs, penalties, damages, liabilities and expenses (including legal fees) Brenmiller may incur arising out of, or in connection with, (A) injury or death of any person or (B) damage to any property of Brenmiller or of any other person or (C) non-compliance (of Supplier or any on its behalf) with: (i) the PO; (ii) these T&C's; and (iii) applicable law, caused in connection with the performance of the Works hereunder. Furthermore, the Supplier shall indemnify, defend and hold Brenmiller harmless from and against any and all losses, costs, penalties, damages, liabilities and expenses (including legal fees) incurred by Brenmiller due to any act, omission or breach of (i) the PO; (ii) these T&C's; and (iii) applicable law by the Supplier or anyone acting on its behalf.

7. INSURANCE

- 7.1. The Supplier is responsible for maintaining sufficient insurance and paying the respective insurance premiums to cover damages and losses to raw materials and/or equipment received by it from Brenmiller.

8. CONFIDENTIALITY

- 8.1. The Parties shall be committed to confidentiality in accordance with the provisions of any non-disclosure agreement executed between the Parties (the "NDA") and the confidentiality provisions contained herein. Any breach or threatened breach of such NDA and the confidentiality provisions contained herein shall be considered a material breach of these T&C's and the PO.



- 8.2. Publications in connection with the PO or the performance of the Works require the written consent of Brenmiller.
- 8.3. Without derogating from the provisions of the confidentiality agreement signed by the Supplier, if signed, any Confidential Information (as defined in Section 8.4. For the purpose of this Section 8. CONFIDENTIALITY, "Confidential Information" shall include all and any information of a confidential or proprietary nature, whether or not patentable that has been or will be disclosed to the Receiving Party by the Disclosing Party or by any on its behalf, including without limitation, any technical, commercial and financial information, conceptions, developments, ideas, discoveries, improvement, inventions, know how, innovations, technology, trade secrets, professional secrets, copyrights and any other intellectual property, whether communicated orally or written or on disk or by electronic media or in any other media, way or method (including, but not limited to, documentation, drawings, reports, surveys, correspondence, formula, data, specification, materials, processes, models, prototypes, drawings, blueprints, designs, manuals, specification documents, documentation, source or object codes, tape discs and other storage media, letters, notes, notebooks, reports, and all other materials or devices, or the like). below) obtained by the Supplier in relation with the performance of the PO and any Confidential Information obtained due to development or research operations conducted for Brenmiller, or obtained while performing the PO, shall be treated as confidential and the Supplier will maintain its confidentiality and will not disclose, transfer, transmit or bring to the knowledge of any third party the said Confidential Information. In addition, the Supplier hereby undertakes to take all measures necessary to meet the confidentiality requirement set forth herein.
- 8.4. For the purpose of this Section 8. CONFIDENTIALITY, "Confidential Information" shall include all and any information of a confidential or proprietary nature, whether or not patentable that has been or will be disclosed to the Receiving Party by

the Disclosing Party or by any on its behalf, including without limitation, any technical, commercial and financial information, conceptions, developments, ideas, discoveries, improvement, inventions, know how, innovations, technology, trade secrets, professional secrets, copyrights and any other intellectual property, whether communicated orally or written or on disk or by electronic media or in any other media, way or method (including, but not limited to, documentation, drawings, reports, surveys, correspondence, formula, data, specification, materials, processes, models, prototypes, drawings, blueprints, designs, manuals, specification documents, documentation, source or object codes, tape discs and other storage media, letters, notes, notebooks, reports, and all other materials or devices, or the like).

- 8.5. The Supplier and its employees shall not disclose any detail related to the delivery of products to Brenmiller, the performance of works or the provisions of services, including, but not limited to, the business engagement between the Parties.

9. TERMINATION

- 9.1. Brenmiller shall be entitled to terminate the PO or any part thereof for convenience, at any time and without prejudice to any other right or remedy, upon written notice to Supplier ("Termination for Convenience"). Such termination shall be effective in the manner specified in the written notice. In the event of such termination, Supplier shall immediately stop all Work hereunder, and shall immediately cause anyone acting on its behalf, including, but not limited to, suppliers and subcontractors, to cease their work, subject to any other instruction by Brenmiller. Prior to final settlement, Supplier shall furnish a complete general release of all claims by Supplier against Brenmiller.
- 9.2. In the case of Termination for Convenience, Brenmiller shall pay to the Supplier, as a total exclusive termination charges, the following sums, less amounts, if any, previously paid by Brenmiller to the Supplier under the PO: the outstanding balance of the contract value of the products and/or services already provided.



9.3. Brenmiller shall be entitled to forthwith terminate the PO, in whole, in the event that (a) the Supplier commits a material breach under this Agreement (including an assignment or subcontracting of the Works, or a delay in delivery of the Works); or (b) the Supplier fails to successfully complete any applicable test or achieve applicable performance levels within the scheduled time for completion specified in the PO, or (c) the Supplier becomes bankrupt or insolvent, goes into liquidation, has a receiving or administration order made against him, or if any act is done or event occurs which under the applicable law has a similar effect to any of these acts or events (together, "Termination for Cause").

9.4. A non-material breach shall be considered to be material if the breach has not been rectified by Supplier within 14 calendar days following the provision of notice of breach by Brenmiller.

9.5. If Brenmiller terminates the PO due to a Termination for Cause, the following terms and condition shall apply:

9.5.1. The Supplier will immediately return Brenmiller any advance payment it received under the terminated PO for any Works not delivered due to such breach.

9.5.2. In any case where due to a breach of Supplier's obligations, in whole or in part (including in case that the PO is cancelled as a result thereof), the Supplier fails to supply the Works in whole or in part, or in the event that the Works are rejected due to non-compliance, the Supplier will pay Brenmiller liquidated damages of an amount equal to 20% of the PO Contract Price. The compensation referred to in this sub-section will be in addition to any amount due to Brenmiller, and will not derogate from any other remedy available to Brenmiller pursuant to the PO or under any applicable law.

9.5.3. Without derogating from any other right of Brenmiller pursuant to the PO or under any applicable law, Supplier hereby undertakes to immediately repair, at Brenmiller's first demand, any fault, malfunction, non-compliance or any other defect at Supplier's sole expense,

and indemnify Brenmiller for the full amount of damages or losses incurred by it as a result of such defect. If the Supplier fails to complete the repairs within a reasonable time, Brenmiller will be entitled, to remedy the fault using any other supplier, and the Supplier will reimburse Brenmiller for all costs incurred thereby.

9.5.4. Under no circumstance shall the Supplier be entitled to take any acts or proceedings the purpose or effect of which shall be the delay of the Works, including injunctive orders. It is hereby clarified that the sole remedy available to the Supplier, other than as specifically provided in the PO and these T&C's, shall be monetary compensation.

10. MISCELLANEOUS

10.1. It is the intention of Brenmiller to establish an online portal to allow suppliers to liaise with Brenmiller online rather than by an exchange of emails or other means. Upon notification by Brenmiller, Supplier shall make use of such portal pursuant to the instructions received from Brenmiller.

10.2. The Parties explicitly recognize that Brenmiller's reviews, agreement, approvals, disapprovals and authorizations pursuant to the PO are administrative in nature and do not relieve Supplier of its obligations under the PO or these T&C's or impose any such obligations or liabilities on Brenmiller.

10.3. Other than as explicitly set forth herein, Supplier shall not be entitled to assign, delegate, subcontract or otherwise transfer any of its rights or obligations under the PO or these T&C's without the prior written approval of Brenmiller.

10.4. Any notice required or desired to be given under the PO or these T&C's by one Party to the other shall be in writing and shall be deemed to have been duly given upon delivery: if manually delivered on the same business day; or, if mailed by registered or certified mail, postage prepaid, after five (5) days from the date of mailing; or if by facsimile transmission



which gives the sender proof of delivery, on the first business day after such transmission.

the exclusive jurisdiction of the courts of Tel-Aviv-Jaffa.

- 10.5. The relationship between Brenmiller and Supplier, or any on its behalf, is that of independent contractors. Nothing in the PO or these T&C's will be deemed to create any labor, agency, partnership, joint venture or other joint relationship between the Parties. Neither Party shall have the right, power or authority to bind the other Party, enter into an agreement, grant a promise, provide warranties, guarantees or commitments, transact any business in the other Party's name or in its behalf or incur any liability for or on behalf of the other Party, and each Party shall remain an independent contractor and responsible for its own actions. The Supplier will be solely responsible for all obligations with respect to its personnel under the applicable law and for obtaining all licenses, working permits and any other authorizations required thereunder.
- 10.6. In the event that any provision of the under the PO or these T&C's is invalid or becomes invalid under the applicable law, then this shall have no effect on the remaining provisions. Further, the Parties agree to replace any invalid provision with a new, valid provision having, as far as possible, the same intent as the provision replaced.
- 10.7. Modification or amendment of the PO or these T&C's is of no force or effect unless the modification or amendment is in writing, is expressly stipulated to be an amendment of the Agreement and is signed by duly authorized representatives of both Parties.
- 10.8. Any provisions of the PO or these T&C's which, by nature, would survive termination or expiration of the PO or these T&C's will survive any such termination or expiration of the PO or these T&C's.
- 10.9. No delay, failure or omission by either Party in enforcing, exercising or pursuing any claim or other remedy arising under the PO or these T&C's shall be deemed to be or treated as waiving that claim or other remedy.
- 10.10. The PO and these T&C's shall be governed by, and construed in accordance with, the laws of the State of Israel without regard to its choice of law rules. The Parties hereto hereby submit to