

# Wintershall Dea

## General Conditions of Purchase



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### 1. General

**1.1** These general conditions of purchase of Wintershall Dea GmbH and its Affiliated Companies<sup>1</sup> located in Germany (hereinafter "General Conditions of Purchase") form an integral part of contracts on deliveries and services between the supplier of goods or the service provider, respectively, (hereinafter "Contractor") and Wintershall Dea GmbH or its affiliated companies located in Germany, respectively, (hereinafter "Company"). If and to the extent that the Contractor has acknowledged these general conditions of purchase, they shall also apply to future contracts with the Contractor.

**1.2** General terms of business of the Contractor shall only apply if and insofar as the Company has explicitly accepted them in writing. Any references of the Company to correspondence from the Contractor containing or referring to the Contractor's general terms of business shall not constitute the Company's acceptance of the applicability to this contract of such general terms of business. The Contractor's general terms of business shall also not apply if the Company should accept any goods / services in the knowledge that the Contractor has purported to deliver them on general terms of business of the Contractor that deviate from or are in conflict with these general conditions of purchase.

### 2. Offer

**2.1** Offers and price quotes shall not be remunerated and shall not create any obligations on the part of the Company.

**2.2** In its offer the Contractor shall explicitly expose any discrepancies between its offer and the Company's inquiry. If the Contractor has alternatives for an inquiry which is technologically or economically superior it shall additionally present this offer to the Company.

### 3. Delivery Date, Changes in the Delivery of Goods / Provision of Services

**3.1** The Contractor must comply with the agreed dates of delivery or dates of provision of services, respectively. In case of the delivery of goods such compliance requires the delivery free of any defects to the Company within the Company's regular business hours accompanied by the required shipping documents to the address specified in the purchase order (hereinafter "Place of Destination"). If a delivery including assembly / service has been agreed, the delivery of the goods free of any defects shall not be considered timely unless the assembly / service has been duly carried out as specified in the contract. If a formal acceptance procedure is stipulated by law or specified in the contract, the time specified for such acceptance shall be adhered to by both parties. Advance deliveries of goods / provision of services or partial deliveries / partial provision of services require the Company's prior written agreement.

**3.2** If the Contractor recognizes that it will not be able to fulfill its contractual obligations either in full or in part, or not within the stipulated timeframe, it must notify this to the Company in writing forthwith. The notice must state both the reason(s) for the delay and the predicted delay in delivery time. Any acceptance by the Company of a delayed or partial delivery of goods / provision of services shall by no means constitute a waiver of any rights or claims of the Company due to late or partial delivery of goods / provision of services.

**3.3** Any changes to the goods to be delivered or services to be provided require the prior written consent of the Company.

**3.4** If any documents are being prepared by the Company to enable the Contractor to carry out the contract, it is the responsibility of the Contractor to request these documents or other support to be provided by the Company according to the contract in due time.

### 4. Sustainability

**4.1** The Company conducts its business in accordance with the principle of sustainable development and adheres to internationally recognized fundamental standards for occupational health and safety, environmental protection, labor and human rights as well as responsible corporate governance (hereinafter "ESG Standards"). The Company has described its understanding of the ESG Standards in the Supplier Code of Conduct (<https://wintershalldea.com/en/procurement>). The Company expects the Contractor to adhere to the ESG Standards. Furthermore, the Company calls upon the Contractor to ensure that all its subcontractors of any tier adhere to the ESG Standards likewise. The Company shall have the right to check adherence to the ESG Standards, either itself or through third parties that it commissions, with prior notice.

**4.2** While performing the contract, the Contractor must adhere to the Company's occupational health and safety and environmental protection requirements specified in the contract.

### 5. Quality

The Contractor shall carry out and maintain effective quality assurance and, if requested, demonstrate this to the Company. To this end, the Contractor shall use a quality assurance system with elements as per ISO 9000 ff. or a similar system of equivalent standard. The Company shall have the right to inspect the Contractor's quality assurance system with prior notice, either itself or through third parties commissioned by the Company.

### 6. Use of Subcontractors

Third parties (in particular any subcontractors) may only be employed or replaced by the Contractor with the Company's prior written consent. If the Contractor intends to use subcontractors to perform the contract from the outset, the Contractor must inform the Company of this when submitting its offer.

### 7. Statutory Minimum Wages Act (MiLoG), Employee Assignment Law (AEntG), Prohibition on Illegal Employment

**7.1** The Contractor must ensure that the employees used by the Contractor or its subcontractors or personnel service providers to perform contracts with the Company receive the minimum wage as per the German Minimum Wages Act (MiLoG), respectively the minimum hourly rate of pay (Mindeststundenentgelt) according to the regulation based on section 3a of the German Temporary Employment Act (Arbeitnehmerüberlassungsgesetz) or, if the services to be provided are subject to the scope of the Employee Assignment Law (AEntG), the respectively required industry minimum wage. The Contractor must also ensure that binding obligations to pay contributions to social security carriers, employers' liability insurance associations and other institutions such as the joint institutions of the collective bargaining agreement parties named in section 8 AEntG are fulfilled.

**7.2** When choosing subcontractors or personnel service providers, the Contractor shall check fulfillment of the preliminary conditions as per Clause 7.1 and require them to provide written confirmation of compliance. Furthermore, the

<sup>1</sup> Except for Wintershall Dea Deutschland AG and its affiliated companies.

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Contractor shall obtain written assurance from these parties that they will require other subcontractors or personnel service providers as may be engaged to comply with the requirements.

**7.3** The Contractor shall indemnify the Company against justified claims any employee of the Contractor or any employee of a subcontractor, regardless of level, or of a personnel service provider used has brought forward towards the Company as the guarantor of payment of the statutory minimum wage or industry minimum wage, or claims by one of the institutions of the collective bargaining agreement parties named in section 8 AEntG for the provision of payments.

**7.4** The Company is entitled to terminate the contract with the Contractor without notice if and when the Company is justifiably made liable as guarantor according to MiLoG or AEntG.

**7.5** Moreover, the Contractor shall accept liability vis-à-vis the Company for any damage that may be suffered by the Company through culpable failure to meet the obligations as per Clauses 7.1 and 7.2.

**7.6** Illegal employment of all kinds is prohibited.

### **8. Delivery, Shipping, Packaging, Passing of Risk, Transfer of Title**

**8.1** Unless agreed otherwise, the delivery of goods shall be made "DAP to the Place of Destination (Incoterms 2010)". Unless agreed otherwise, the delivery shall be accompanied by two copies of the delivery note, the packing list, cleaning and inspection certificates according to the agreed specifications and all other necessary documents. If known, the following details must be given in all shipping documents and – for packaged goods – on the outer packaging too: purchase order number, gross and net weight, number of packages and type of packaging (disposable / reusable), completion date as well as Place of Destination (unloading point) and consignee. For projects, the complete job number and assembly building must be given as well.

**8.2** For third country deliveries (imports), Company shall become importer of record and Contractor shall support him with all documents and information necessary to complete and lodge a true import declaration to authorities responsible for customs, as required in the customs legislation of the country of import.

**8.3** The Contractor shall notify the Company in writing about the percentage of US controlled content.

**8.4** The Contractor shall uphold the Company's interests during the delivery. Goods must be packed with packaging materials approved for the Place of Destination as so to avoid damage during transport. The Contractor is liable as per the statutory provisions for any damage incurred due to improper packaging.

**8.5** For domestic deliveries, upon the Company's request the Contractor shall collect any accumulated outer packaging, transport and sales packaging from the Place of Destination following delivery and dispose of it or having this done by a third party.

**8.6** The Contractor shall package, label and ship hazardous products according to the applicable national and international laws and regulations. The Contractor complies with all obligations for suppliers (pursuant to Article 3 (32) Regulation (EC) No. 1907/2006/EC (hereinafter "REACH")) under REACH with respect to the delivery of goods. The Contractor shall in particular provide the Company with a safety data sheet according to Article 31 REACH in the national language of the recipient country in all cases stipulated in Article 31 (1) to (3) REACH.

**8.7** Up until the arrival of the goods specified in the contract with the documents mentioned in clauses 8.1 and 8.2 at the Place of Destination, the Contractor shall bear the risk of loss or

damage. If the parties have agreed a delivery inclusive of assembly / service, the risk of loss or damage shall pass to the Company after the assembly / service has been duly completed in accordance with the contract and following the handover of the goods.

**8.8** If a formal acceptance is stipulated by law or by the contract, the passing of risk shall take place upon acceptance by the Company. If formal acceptance is agreed, the risk of loss shall not pass from the Contractor to the Company before a successful acceptance has been confirmed by the Company in the acceptance certificate. Payment of invoice balances shall not replace a formal acceptance.

**8.9** Transfer of title and ownership shall pass to Company as per the statutory provisions.

### **9. Origin and Status of Goods**

**9.1** The Contractor declares the non-preferential origin of goods (country of origin) in commercial documents. In addition, the Contractor provides an A.TR movement certificate, if applicable. Upon the Company's request he will provide a proof / certificate of origin specifying the origin of the goods.

**9.2** The goods must comply with the regulations for the preferential origin of goods as per the bilateral or multilateral agreements or the unilateral regulations for the origin of goods pursuant to the Generalized Systems of Preferences (GSP), insofar as the delivery is within the scope of preferential trade.

### **10. Condition of the Delivery / Service, Complaints, Rights in the Event of Defects**

**10.1** The Contractor is responsible for delivering goods and services free of defects, in particular compliance with the agreed specification of goods and services, and, additionally, for ensuring that guaranteed properties and features are present. In addition, the Contractor guarantees that goods and services meet the current technical standards and – if applicable – the generally recognized standards in plant safety, occupational medicine and hygiene; are delivered by qualified personnel and are in line with all pertinent legal regulations at the Place of Destination. If machines, equipment or plants constitute delivery items, they shall meet the special safety requirements applicable to machinery, equipment and plants at the time of contract fulfillment, and shall be CE marked.

**10.2** The Contractor shall ensure that all materials contained in the goods have effectively been pre-registered, registered (or exempt from the obligation to register) and – if relevant – authorized in accordance with the applicable requirements of REACH for the uses disclosed by the Company. If the goods classified as an article according to Article 7 REACH the preceding sentence shall also apply to substances released from such goods.

**10.3** The Contractor shall forthwith notify the Company if a component of the product contains a substance in a concentration exceeding 0.1 mass percent (W/W) if this substance fulfills the criteria of Article 57 and 59 REACH (so-called substances of very high concern). This also applies to packaging products.

**10.4** Where the commercial inspection and notification obligation applies as per section 377 HGB, the Company shall notify any obvious defects to the Contractor within ten (10) days following delivery of the goods. Any defects that only become apparent at a later point in time must be notified by the Company within ten (10) days following their discovery.

**10.5** If an acceptance by the Company is legally stipulated or contractually agreed, the Company can refuse to declare the acceptance and withhold any installment payment associated with the acceptance if the goods or services are not provided in

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full or are defective. This also applies in the case of an agreed acceptance date or a deadline for acceptance set for the Company by the Contractor.

**10.6** In the event of any defects, the Company has the right to demand rectification of such defects according to applicable law. The mode of rectification shall be at the Company's discretion. The rectification location shall at Company's option be either the Place of Destination or the place of acceptance, if acceptance is legally required or contractually agreed, or another delivery location for the goods if this was known to the Contractor when the contract was concluded. The Contractor shall bear the cost of rectification and must execute rectification in all respects in accordance with the Company's instructions and requirements. If (i) rectification does not take place within an appropriate period of time, (ii) rectification has failed, or (iii) it is not necessary to fix a grace period for rectification, the Company shall be entitled to claim further legal rights in the event of defects.

**10.6** If rectification does not take place within an appropriate period of time, if it has failed, or if it is not necessary to fix a grace period for rectification, the Company has the right, in addition to the rights named in Clause 10.5, to remedy the defects itself at the cost and liability of the Contractor, or allow this work to be undertaken by third parties. The Company is in this case entitled to demand compensation from the Contractor for the required measures. A grace period for rectification is particularly unnecessary if there is a danger of unreasonably high damages and the Contractor cannot be reached. In addition, the applicable law shall apply. Any additional rights of the Company concerning the Contractor's statutory liability for defects or under any guarantees shall remain unaffected.

**10.7** Claims under warranty shall become time-barred thirty (30) months after the passing of risk unless a longer expiration period is prescribed by law. The Company shall not be deemed to have waived any of its rights to make claims under warranty in the absence of an express written waiver.

### 11. Infringing Property Rights

It is the Contractor's responsibility to ensure that the delivery of the goods and / or provision of the services and the use thereof by the Company pursuant to the contract will not infringe any patent laws, copyright or other proprietary rights of third parties. Notwithstanding other legal claims, the Contractor shall indemnify the Company from any third party claims for which the Company may be held liable as a result of the infringement of any of the aforementioned property rights if these are based on a culpable violation of obligations by the Contractor. In this case, the Contractor shall bear the cost of any licensing fees, expenses and fees incurred by the Company in preventing and / or rectifying any infringements of property rights.

### 12. Contract Penalty

If a contract penalty has been agreed upon and is incurred, the Company is entitled to claim such penalty until the final payment is due without requiring a reservation pursuant to section 341 paragraph 3 of the German Civil Code ("BGB").

### 13. General Liability, Insurance

**13.1** Unless otherwise established in these general purchasing conditions, the Contractor shall be liable as per the statutory provisions.

**13.2** The Contractor shall maintain sufficient liability insurance at its own expense for damage for which it or its subcontractors or agents for which it is vicariously liable are responsible. Evidence of the amount of insurance coverage for each

occurrence of damage shall be provided to the Company upon request. The Contractor's contractual and legal liability remains unaffected by the extent and amount of its insurance coverage.

### 14. Invoicing, Payment

**14.1** The agreed prices are net of any applicable value-added tax. Invoices are to be issued for deliveries made and services provided. These invoices shall comply with the relevant statutory invoicing requirements according to the national value-added tax legislations to which the deliveries / services being invoiced are subject. If self-billing (evaluated receipt settlement) is agreed, the Contractor must transfer to the Company all data required as per the applicable value-added tax legislation specified in advance.

**14.2** The Contractor must provide a separate, auditable invoice for each purchase order, which must include all of the legally required information under German law. The invoice must include the Company's full order number and, if applicable, the Contractor's delivery note number. Certificates of work completed and any other records are to be submitted with the invoice. Invoices must correspond to the information in the purchase order in respect of the goods described, price, quantity, the order of the items and item numbers. Invoices are to be sent to the billing address specified by the Company in the purchase order.

**14.3** The Company shall only make installment payments when these are contractually agreed and the prerequisites for the payment becoming due have been met, unless the Contractor is entitled to a claim as per § 632a of the German Civil Code (BGB) and provides the Company with the corresponding collateral.

The collateral is to be provided in German Law by means of a guarantee or an absolute guarantee in the meaning of the German "selbstschuldnerische Bürgschaft" issued by a financial institution / insurance company, whose registered office is located in the European Union.

**14.4** Unless agreed otherwise, the payment period shall commence as soon as an invoice that meets the applicable value-added tax requirements has been received at the billing address. In the case of self-billing, the payment period commences the day the credit memo is issued. Payment will be made subject to determination of contractual compliance and completeness for the delivery / service provided.

**14.5** Payments by the Company shall not represent an acceptance of the conditions and prices stated in the invoice, and shall not constitute a waiver of the Company's rights with regard to deliveries made / services provided that differed from those as agreed upon, the Company's rights to inspection, and the right to find fault with an invoice due to other reasons.

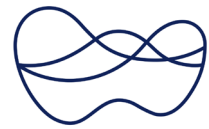
**14.6** If the Company pays license fees to foreign Contractors, the Company is obliged to withhold taxes pursuant to section 50a German Income Tax Law. The Company can only abstain from deducting or reduce the withholding tax if the Contractor provides the Company with a valid exemption certificate pursuant to section 50d German Income Tax Law.

### 15. Assignment of Contract, Transfer, Change of Company Name, Offsetting, Retention

**15.1** The Contractor may assign the rights and obligations under the contract with the Company to third parties only with the prior written consent of the Company.

**15.2** The Contractor is required to notify the Company forthwith in writing of any assignment of the contract by virtue of law and of any change of its trade name.

**15.3** The Company may assign the rights and obligations under the contract with the Contractor to BASF SE, Ludwigshafen



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(Rhine) or to any affiliated company pursuant to section 15 of the German Stock Corporation Act at any time without the Contractor's prior agreement.

**15.4** The Contractor is only permitted to offset claims that are undisputed or substantiated by court judgement. The Contractor is only entitled to a right of retention if the claim, due to which the right of retention shall be deemed valid, has its origins in the same contractual relationship.

### 16. Termination, Rescission

**16.1** The Company's right to ordinary termination of the contract with notice or to rescission from the contract shall follow statutory provisions, unless set forth otherwise in the individual contract.

**16.2** Each contracting party is entitled to terminate the agreement for good cause, provided the respective statutory requirements for this are met, such as for continuing obligations as per § 314 BGB or services within the scope of work contracts as per § 648a BGB. A good cause for termination by the Company also exists when:

- The Contractor commits a breach of duty within the scope of a continuing obligation, which is not remedied within a reasonable period of time defined by the Company and following a termination warning or a fruitless warning, or
- There is significant disruption of the trusting relationship due to circumstances which occurred after contract conclusion, e.g. due to the violation of criminal laws and committing offenses by the Contractor or by persons within the scope of fulfillment of the contract, whose behavior must be attributed to the Contractor, or
- A significant deterioration in the asset situation of the Contractor has taken place, which jeopardizes contract fulfillment, or
- The Contractor does not comply with his/her obligation to pay taxes or social security contributions, or
- There are other circumstances that make continuation of the contract with the Contractor unreasonable for the Company.

**16.3** In cases of termination for good cause as per No. 16.2, the services verifiably performed by the Contractor in line with the contract up to the time of the cancellation shall be remunerated upon submission of the relevant receipts. Payments already made by the Company shall be offset against the payment or refunded in cases of overpayment. The Company's further statutory rights and claims, in particular with regard to damage compensation, shall remain unaffected.

**16.4** If the Contractor has acquired from the Company any documents, records, plans or drawings within the scope of the contractual collaboration or for the purposes of fulfilling the contract the Contractor must forthwith hand them over to the Company in the event of termination of the contract by a party to the contract. These requirements apply likewise in the event of rescission.

### 17. Contractor's Removal Duty in the Event of Termination of Contract

In the event of termination of the contract, the Contractor must, at its own expense and regardless of the grounds for termination, forthwith dismantle and remove any plant, tools and equipment used and / or stored on the Company's premises. Any waste or debris produced by the Contractor's work must be promptly removed and disposed of appropriately by the Contractor at its own expense. If the Contractor does not fulfill its duties in this regard, the Company may undertake the work itself or have it undertaken by a third party and charge the expenses incurred to the Contractor if the work has still not

been completed after a reasonable period of time has elapsed. These requirements apply likewise in the event of rescission.

### 18. Documents, Confidentiality, Rights of Use

**18.1** The Contractor must provide to the Company the agreed quantity of any plans, calculations or other documents in order not to exceed the contractual deadline for execution.

**18.2** The review of any documents by the Company shall not relieve the Contractor of any of its responsibilities under the contract.

**18.3** Any models, samples, drawings, data, materials and other documents provided to the Contractor by the Company (hereinafter "Company Documentation") shall remain the property of the Company and must be returned to the Company forthwith upon its request at any point in time. The Contractor shall have no rights to retain any Company Documentation. The Contractor must observe the proprietary rights of the Company in and to all Company Documentation.

**18.4** The Contractor is obliged to keep confidential all technical, scientific, commercial and other information obtained either directly or indirectly within the scope of the contract, in particular the information given in Company Documentation (hereinafter "Confidential Information"). The Contractor may not exploit Confidential Information for commercial purposes, make it the object of industrial property rights, pass it on or make it accessible to third parties in any way. The Contractor is entitled to share confidential information with subcontractors approved by the Company if the subcontractor requires this information in order to fulfill the contract.

Confidential Information may not be used for any purpose other than fulfilling the contract. The aforementioned confidentiality obligation shall continue to apply for a period of ten (10) years after the contract has ended.

**18.5** This confidentiality requirement shall not include any information that the Contractor lawfully possessed prior to the Company's disclosure of such information, or is lawfully known to the public, or has been lawfully obtained from a third party. Also excluded from this confidentiality requirement shall be information that is disclosed to persons subject to a legal obligation to confidentiality, whereas the Contractor shall not release such a person from its obligation to confidentiality. The burden of proof for such an exception lies with the Contractor.

**18.6** The Contractor shall ensure that its employees and other vicarious agents deployed to fulfill the contract are obliged to confidentiality according to the above confidentiality provisions by means of appropriate contractual agreements, too. Upon request, the Contractor shall confirm compliance with these obligations to the Company in writing.

**18.7** The Contractor shall specifically undertake all required, appropriate precautions and measures to effectively protect the Confidential Information obtained at all times against loss or against unauthorized access. This includes in particular the creation and maintenance of appropriate, required access and entry precautions for facilities, repositories, IT systems, data storage devices and other information storage devices, especially those which contain Confidential Information. This also includes informing and instructing those people who are granted access to Confidential Information pursuant to this clause. The Contractor is required to promptly notify the Company in writing in the event that Confidential Information is lost and / or accessed by unauthorized parties.

**18.8** Any obligations to preserve the confidentiality of commercially sensitive information pursuant to the Energy Industry Act and the duty to disclose non-discriminating information that may be commercially advantageous pursuant



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to the Energy Industry Act shall not be affected by the aforementioned requirements.

**18.9** The Contractor shall grant the Company rights of use free from any restrictions as to area, content or time for all plans, drawings, graphics, calculations and other documents related to the contract, in all known media formats including electronic media, Internet and online media saved to all imaging, audio and data storage devices, for the contractually agreed purposes or purposes implied as per the contract. This information may have either been prepared by the Contractor itself or by third parties.

**18.10** Moreover, the Contractor shall grant the Company an exclusive right to use and exploit work results that the Contractor created specifically for the Company or had third parties create for the Company, and shall obtain any necessary rights from third parties. Pre-existing rights of the Contractor or of third parties shall remain unaffected hereby.

**18.11** In case the Contractor, in the course of the performance of the respective contract, receives from the Company or otherwise obtains personal data related to employees of Company (hereinafter referred to as "Personal Data") the following provisions shall apply.

If processing of Personal Data disclosed in the aforementioned manner is not carried out on behalf of the Company, Contractor shall only be entitled to process Personal Data for the performance of the respective contract. Contractor shall not, except as permitted by applicable laws, process Personal Data otherwise, in particular disclose Personal Data to third parties and/or analyze such data for its own purposes and/or form a profile.

If and to the extent permitted by applicable laws, Contractor is entitled to further process the Personal Data, in particular to transmit Personal Data to its affiliated companies for the purpose of performing the respective contract. Contractor shall ensure that Personal Data is only accessible by its employees, if and to the extent such employees require access for the performance of the respective contract (need-to-know-principle). Contractor shall structure its internal organization in a way that ensures compliance with the requirements of data protection laws. In particular, Contractor shall take technical and organizational measures to ensure a level of security appropriate to the risk of misuse and loss of Personal Data.

Contractor will not acquire ownership of or other proprietary rights to the Personal Data and is obliged, according to applicable laws, to rectify, erase and/or restrict the processing of the Personal Data. Any right of retention of Contractor with regards to Personal Data shall be excluded.

In addition to its statutory obligations, Contractor shall inform Company in case of a Personal Data breach, in particular in case of loss, without undue delay, however not later than 24 hours after having become aware of it. Upon termination or expiration of the respective contract Contractor shall, according to applicable laws, erase the Personal Data including any and all copies thereof.

### **19. Publicity Ban, Severability Clause, Applicable Law, Place of Jurisdiction**

**19.1** The Contractor may only refer to or publicly disclose otherwise its business relationship with the Company with the prior written consent of the Company, or where this is unavoidable in order to fulfill the contract.

**19.2** The invalidity or unenforceability of any provision or part of a provision of the contract shall not affect the validity of the entire contract.

**19.3** The contract shall be construed and be subject to the substantive laws of the Federal Republic of Germany with the

exclusion of (i) the United Nations Convention on Contracts for the International Sale of Goods ("CISG") dated 11 April 1980 and (ii) the applicable law rules in Germany on the conflict-of-laws.

**19.4** At the Company's option the place of jurisdiction shall be either the court competent for the Company's registered office or the court competent according to the applicable law.