

1 DEFINITIONS AND INTERPRETATION

1.1 In these conditions, the following terms shall have the following meanings:

Buyer and Seller means respectively the parties identified as Buyer/Company and Seller/Contractor in the separate contract/purchase document.

Conditions means these general conditions of purchase.

Contract means the separate contract/purchase document, including any appendices attached thereto, together with these Conditions.

Deliverables means all products, goods and services (including documents, drawings and computer programs) to be delivered by Seller as set out in and pursuant to the Contract.

Work means the work to be performed by Seller for the production, performance and delivery of the Deliverables.

1.2 If there is any conflict between the provisions of the Contract, priority shall be given in the following order: the separate contract/purchase document; these Conditions; the appendices to the contract/purchase document in the order in which they appear.

2 GENERAL OBLIGATIONS OF SELLER

2.1 Seller shall perform the Work and deliver the Deliverables in accordance with all the terms in the Contract.

2.2 Seller guarantees that it has sufficient resources and competence to perform the Work, that it shall perform the Work with the degree of care and skill normally exercised by professional firms performing work of a similar nature and that the Deliverables shall, when delivered:

- meet their description and specifications as set out in the Contract and for a period of, unless otherwise agreed in the Contract, two years after their delivery, be free from defects caused by faulty materials, workmanship or design;
- be fit for their intended purpose; and
- be in compliance with applicable laws and regulations.

2.3 Seller shall obtain and maintain all permits, authorities and approvals necessary for Seller to perform the Work. If requested by Buyer, Seller shall provide evidence that it has complied with this obligation.

2.4 Seller shall not subcontract the Work or parts thereof without Buyer's written consent. Such consent does not relieve Seller from any of its liabilities and obligations under the Contract.

2.5 Seller shall have adequate systems and processes suited to the Deliverables for quality assurance and the protection of health, safety and the environment. Buyer is, at any time, entitled to carry out inspections and audits at Seller's or any subcontractors' premises to confirm compliance. Seller shall assist Buyer with such inspections and audits. If Buyer deems such systems inadequate, Seller shall implement any reasonable changes requested by Buyer within a reasonable time and at Seller's expense.

2.6 If the parties have agreed upon key personnel for the Work, such personnel shall not be replaced without Buyer's prior written consent which shall not be unreasonably withheld.

2.7 Seller shall, at its expense, immediately replace personnel who in Buyer's reasonable opinion conduct themselves in an improper manner or are unsuitable to perform the Work.

2.8 Seller shall ensure that all Work is carried out in compliance with any rules relating to safety and working conditions that are notified to Seller as being applicable at the relevant location.

3 SUPPLIER CODE OF CONDUCT

3.1 Seller shall, throughout the term of the Contract, ensure that it complies with the principles set out in Buyer's Supplier Code of Conduct (a copy of which is attached to the Contract). Furthermore, Seller shall actively promote the principles set out in Buyer's Supplier Code of Conduct with its own suppliers/contractors and sub-suppliers/subcontractors of any tier that have a material contribution to the supply of the Deliverables to Buyer (Seller and such suppliers/contractors/sub-suppliers/subcontractors being together, the "Supply Chain").

3.2 Buyer may, at any time during the term of the Contract, take any reasonable actions to monitor and audit Seller's compliance with its obligations under Article 3.1, including, without limitation, (i) by requiring Seller to provide details of the Supply Chain's compliance systems; and (ii) by carrying out, with reasonable prior notice, inspections of the Supply Chain's sites. Seller shall provide all reasonable assistance to Buyer.

3.3 If at any time, Buyer identifies, or reasonably suspects, non-compliance with or breach of the principles of Buyer's Supplier Code of Conduct ("**Non-Compliance**") by any member of the Supply Chain, Buyer shall notify Seller of such Non-Compliance. Seller shall provide all reasonable assistance to enable Buyer to investigate the Non-Compliance.

3.4 If a Non-Compliance in the Supply Chain is material (with regard to (i) the nature of the principle concerned, (ii) any potential effect on Buyer's and its affiliates' reputations, or (iii) the performance of the Contract) and/or is not able to be corrected, Buyer may terminate the Contract by written notice.

3.5 If a Non-Compliance in the Supply Chain is immaterial and is able to be corrected, Seller shall be given a reasonable period within which the Non-Compliance shall be corrected. Seller shall, without undue delay, submit a correction plan to Buyer. If upon the expiry of the correction period, the Non-Compliance has not been corrected, Buyer may terminate the Contract by written notice.

3.6 The rights and remedies in this Article 3 are not exclusive of and are without prejudice to any rights and remedies provided elsewhere in the Contract and by general law.

4 INSTALLATION AND TESTING

4.1 The provisions of this Article 4 only apply if it has been agreed that the Deliverables shall include installation work and/or testing.

4.2 Buyer shall provide those items and services that Buyer has agreed to provide under the Contract in order to facilitate the installation work and/or tests. If Seller requires other items or services, such items or services shall be provided at Seller's expense by Seller.

4.3 Testing and any necessary rectification shall continue for a reasonable period (or such period agreed in the Contract) until Buyer finally accepts or rejects the Deliverables as being or not being in compliance with the Contract.

4.4 Delivery is successfully completed when the installation work and/or tests have been completed and Buyer has confirmed in writing that the Deliverables are accepted.

4.5 If Buyer finally rejects the Deliverables, it shall notify Seller and Seller shall uninstall and remove them. Unless otherwise agreed in the Contract, Buyer shall not be liable for any further payments to Seller under the Contract.

4.6 Unless otherwise agreed in the Contract, the agreed Contract price includes the costs of installation, tests and any necessary rectification work.

5 PROGRESS AND DELAYS

5.1 If Seller becomes aware that it will be unable to meet any of the agreed milestone or delivery date(s) for the Deliverables, it shall immediately notify Buyer in writing and include the reason for the delay, proposals to minimise the delay and the anticipated new milestone or delivery date(s).

5.2 If Seller or those for whom it is responsible are the cause of the delay, Seller is not entitled to claim compensation for any costs related to the delay or actions required to minimise it. If Buyer or those for whom it is responsible are the cause of the delay, Seller may claim compensation for its reasonable and documented costs related to the delay and/or actions required to minimise it, together with a reasonable extension to the original agreed milestone/delivery date(s), but only provided it notifies Buyer of such claim within 14 days after becoming aware of the delay.

5.3 Regardless of the cause of the delay, Seller is liable for those costs, expenses and losses suffered by Buyer which could have been avoided if Seller had notified Buyer of the delay upon becoming aware of it.

5.4 Unless otherwise agreed in the Contract, liquidated damages shall accrue at a rate of 0.3% of the total Contract price per day by which each of the milestone or delivery dates is delayed for a reason caused by Seller or those for which it is responsible, subject to a total limit of 15% of the total Contract price.

5.5 If the delay is caused by gross negligence of or a willful breach by Seller or someone for whom Seller is responsible, Buyer may, instead of claiming liquidated damages, claim compensation for the losses suffered due to the delay.

6 DELIVERY, TITLE AND RISK

6.1 Unless otherwise agreed in the Contract, title to each Deliverable passes from Seller to Buyer at the earlier of:

- payment of the agreed purchase price for the Deliverable; and
- delivery of the Deliverable at Buyer's nominated delivery location.

6.2 Risk of loss of and damage to each Deliverable passes from Seller to Buyer upon delivery of the Deliverable at Buyer's nominated delivery location.

6.3 For the purposes of this Article 6, if Seller shall carry out installation work and/or testing, delivery occurs only when Buyer has confirmed its acceptance of each Deliverable.

6.4 Any reference to Incoterms in delivery obligations shall be deemed to be a reference to the latest version of Incoterms at the date of the Contract.

7 VARIATIONS

7.1 Within the scope of what the parties could reasonably have expected at the time the Contract was entered into, Buyer may require a variation with regard to the quality and/or quantity of the Deliverables, the milestone or delivery date(s) and any other aspect of the Work ("**Variation**").

7.2 If Seller considers that a Variation is required, Seller shall without undue delay notify Buyer in writing of such requirement and the reason for it.

7.3 If Buyer notifies Seller that it requires a Variation, Seller shall, without undue delay, submit in writing a description of the Variation work together with an estimate of any effects on the Contract price and the Work schedule.

7.4 All Variations must be approved and issued by Buyer by means of a written variation order prior to Seller initiating the Variation work.

7.5 Compensation for Variation work shall be in accordance with the prices and rates contained in the Contract or, where such cannot be applied, the general price level of the Contract (e.g. taking account of discounts given to Buyer in the Contract). If a Variation provides cost savings to Seller, Buyer shall be credited accordingly.

7.6 If the parties disagree as to (i) whether a Variation is required or (ii) the effects of the Variation, including the impact on costs and schedule, such dispute shall be recorded on a disputed variation order issued by Buyer and Seller shall implement the work identified therein without awaiting the final outcome of the dispute. Disputes shall be settled in accordance with Article 19.

8 PAYMENT

8.1 Unless otherwise agreed in the Contract, Seller shall, as soon as reasonably practicable following completion of the Work, submit an invoice including all sums for the Deliverables. If it is agreed that Seller may invoice regularly or in instalments of the Contract price, the final invoice must include all outstanding sums and be presented within 60 days of the completion of the Work.

- 8.2** Payment shall be made within 60 days following the end of the month in which delivery took place. However, payment shall in no event be due until 60 days after Buyer's receipt of a valid invoice.
- 8.3** Seller's invoices must include the Contract number (and any other agreed references) and a description of the Deliverables to which the invoices relate. Buyer is entitled to reject invoices that do not meet these requirements.

8.4 Unless otherwise agreed, invoiced amounts shall be inclusive of all relevant duties, taxes and levies. If Buyer requests, Seller shall provide evidence to Buyer of payment of all relevant duties, taxes and levies. Failure to provide such evidence entitles Buyer to withhold payment under the Contract.

8.5 If it has been agreed that Seller shall provide a bank and/or parent company guarantee, Buyer shall not be obliged to make any payments prior to receipt of such guarantee(s).

8.6 Buyer is entitled to deduct and/or set off against Seller's invoices any disputed or insufficiently documented amounts, prepayments and amounts owed by Seller to Buyer (including accrued liquidated damages).

9 SUSPENSION AND CANCELLATION

9.1 Buyer may temporarily suspend the Work or parts thereof by written notice to Seller. Following such notice, Seller shall, without undue delay, inform Buyer of the effects of the suspension on the Work. During the suspension period, Buyer shall only compensate Seller for documented, necessary and reasonable expenses incurred in connection with demobilisation and remobilisation of personnel. Seller shall resume the Work when requested by Buyer. If the suspension period exceeds 90 days, Seller is entitled to cancel the Contract by written notice to Buyer.

9.2 Buyer may cancel the Deliverables or parts thereof with immediate effect by written notification to Seller. Following cancellation, Buyer shall only pay Seller's documented, necessary and reasonable expenses incurred as a direct result of the cancellation.

10 DEFECTS AND GUARANTEE LIABILITY

10.1 Unless otherwise agreed in the Contract, Buyer shall inspect the Deliverables within a reasonable time after delivery.

10.2 Neither Buyer's inspection of the Deliverables nor Buyer's receipt of drawings or samples for Buyer's inspection prior to delivery shall limit Seller's obligation to ensure that the Deliverables are in compliance with the Contract.

10.3 If Buyer discovers a defect during inspection or at any time during the guarantee period set out in Article 2.2, Buyer shall issue a written notice of defect to Seller within a reasonable time after its discovery.

10.4 If the defect is discovered during a delivery inspection, Buyer may:

- if the defect is material, reject the Deliverables and apply the provisions regarding delays in Article 5; or
- order Seller to commence rectification of the defect without delay or at a time reasonably requested by Buyer.

10.5 If the defect is discovered during the guarantee period, Seller shall commence rectification of the defect without delay or at a time reasonably requested by Buyer.

10.6 If Seller fails to rectify the defect within a reasonable time, Buyer is entitled to rectify the defect itself or employ a third party to do so at Seller's expense. In such case, Buyer shall notify Seller in writing prior to initiating the rectification work.

10.7 All costs of and in connection with the rectification work shall be borne by Seller. In addition, Buyer is entitled to claim compensation for its costs and losses incurred due to defects.

11 INDEMNITIES

11.1 Seller shall indemnify Buyer against all damages, claims, costs, losses and expenses incurred by Buyer as a result of a third party claiming that the Deliverables constitute an infringement of their intellectual property rights, unless the Deliverables were made to Buyer's specifications and Seller did not know and ought reasonably not to have known that such an infringement would occur.

11.2 Seller shall indemnify Buyer, its affiliates, agents, representatives, employees, directors and contractors (other than Seller) (together "**Buyer Indemnified Parties**") against all damages, claims, costs, losses and expenses incurred by Buyer Indemnified Parties as a result of any bodily injury, loss of life or damage to property that is caused (whether negligently, willfully or otherwise), by Seller or those for whom it is responsible.

11.3 Buyer shall indemnify Seller, its affiliates, agents, representatives, employees, directors and contractors (together "**Contractor Indemnified Parties**") against all damages, claims, costs, losses and expenses incurred by Contractor Indemnified Parties as a result of any bodily injury, loss of life or damage to property that is caused (whether negligently, willfully or otherwise) by Buyer or those for whom it is responsible.

11.4 The indemnified party in any indemnity under this Article 11 shall: (i) provide prompt written notice of the claim in question; (ii) allow the indemnifying party to take control of the defense of the claim in question; and (iii) cooperate with all the reasonably requests of the indemnifying party relating to the defense of the claim in question.

11.5 The indemnifying party shall obtain the prior consent of the indemnified party before settling or admitting any liability in relation to any claim in question, such consent not to be unreasonably withheld or delayed.

12 CONTRACT TERMINATION

12.1 In addition to the termination rights set out elsewhere in these Conditions,

either party may terminate the Contract with immediate effect if the other party:

- becomes insolvent or is the subject of insolvency proceedings; or
- commits any material breach of the Contract which, if such breach can be remedied, is not remedied within 30 days (or another reasonable or agreed period of time) of receiving notice of such breach.

12.2 Buyer may also terminate the Contract with immediate effect if it becomes entitled to be paid the maximum amount of liquidated damages under the Contract.

12.3 Any indemnity or obligation of confidence under the Contract is independent and survives termination of the Contract. Any other term which by its nature is intended to survive termination of the Contract, survives such termination.

13 FORCE MAJEURE

13.1 Force majeure means an occurrence beyond the control of the party affected (i) that could not reasonably have been foreseen or avoided at the time of entering into the Contract and (ii) its consequences could not be overcome. The failure of a sub-supplier/subcontractor and changes in market conditions shall not be considered force majeure events unless such were caused by force majeure events.

13.2 A party shall not be considered in breach of the Contract to the extent it can prove that it was unable to fulfil its obligations due to force majeure. Each party shall cover its own costs resulting from force majeure.

13.3 The party invoking force majeure shall notify the other party without undue delay including a description of the effects and the presumed duration. The party invoking force majeure shall use all reasonable endeavours to minimise the effects and duration of the force majeure event.

13.4 If the effects of the force majeure event continue, or it is obvious that they will continue, for more than 120 days, either party may terminate the Contract without liability to the other party for such termination.

14 INTELLECTUAL PROPERTY RIGHTS

14.1 If either party has provided any intellectual property for the performance of the Work, ownership of such intellectual property shall remain with the party who provided it.

14.2 Each party is granted a royalty free, irrevocable licence to use the other's intellectual property referred to in this Article, only for the purposes of performing the Work and/or utilising the Deliverables. The parties shall keep each others intellectual property confidential in accordance with Article 15.

14.3 If, during the performance of the Work, new intellectual property is created, it will be assigned to and owned by Buyer unless otherwise agreed. Seller represents to Buyer that it has agreements with its employees, agents, consultants and subcontractors that allow such assignment to Buyer and Seller shall, at its expense, ensure that any such assignment is executed by such parties. Furthermore, Seller shall execute any other document and provide such assistance as is necessary to ensure that Buyer obtains full and proper ownership of such new intellectual property.

15 CONFIDENTIALITY

15.1 All commercial, financial and technical information exchanged between the parties ("**Confidential Information**") shall be treated by the parties as confidential and shall be used solely for the purposes of performing their obligations under the Contract.

15.2 Information shall not be regarded as Confidential Information if: (i) it was already known to the receiving party at the time it was received; (ii) it is or becomes public knowledge (except through a breach of this Contract); (iii) the party has independently created the information; (iv) it is rightfully received from a third party without an obligation of confidence; or (v) it is required to be disclosed due to applicable laws and regulations.

15.3 Confidential Information may be disclosed to any person who requires knowledge of it for the purposes of the Contract, utilisation of the Deliverables or in contemplation of the purchase of the business of a party, provided that such person is bound by confidentiality obligations consistent with this Article 15. All other disclosures of Confidential Information require the written consent of the other party.

15.4 If Buyer requests that specific personnel of Seller, or persons to whom Seller wishes to disclose Confidential Information, enter into a separate confidentiality agreement with Buyer, Seller shall procure this.

15.5 If Buyer notifies Seller that certain Confidential Information requires special storage and handling, Seller shall implement such requirements without delay.

15.6 Without Buyer's written consent, Seller shall not issue any press release or otherwise disclose the existence or contents of this Contract.

16 INSURANCE

16.1 Unless specific insurance is a requirement in the separate contract/purchase document, Seller shall maintain appropriate insurance policies in order to protect the Deliverables and itself against potential risks and liabilities that may arise from the performance of the Work.

16.2 If requested by Buyer, Seller shall provide certified copies of original insurance certificates for the insurance required under the Contract.

17 NOTICES

Any notices, claims or communications required to be made under the Contract shall be sent to the other party's appointed representative by courier, registered letter or through an electronic communication system agreed by the parties.

18 ASSIGNMENT OF THE CONTRACT

Buyer is entitled to assign, novate or transfer its rights and obligations under the Contract, fully or partly, to any subsidiary or affiliated company without requiring the consent of Seller. All other assignments, novations and transfers of a party's rights and obligations under the Contract require the written consent of the other party, which shall not be unreasonably withheld.

19 APPLICABLE LAW AND LEGAL VENUE

The Contract and all related disputes, contractual and non-contractual, shall be governed by Dutch law, with the exclusion of the Vienna Sale Convention. The parties submit to the exclusive jurisdiction of the courts of the place of business of Buyer. The parties may also agree upon an alternate jurisdiction.