

# ANNEXMT-B1-rev 3\_General Terms and Conditions for Purchasing Materials and Equipments

## Clause 1. Definitions

“**END USER**”: means the corporation, company, joint venture or entity owning plant and facility for which the GOODS are ultimately purchased under the PURCHASE ORDER.

“**CLIENT**”: means the person, firm, corporation or company who has awarded the Contract to CONTRACTOR.

“**DAY**”: means a calendar day unless specifically stated otherwise in the PURCHASE ORDER.

“**GOODS**”: means the equipment and/or materials including any related services to be supplied by the VENDOR to the CONTRACTOR as described in the PURCHASE ORDER.

“**PRICE**”: means the price of the GOODS as specified in the PURCHASE ORDER.

“**CONTRACTOR**”: means PARIFEX or the person, firm or company so named in the PURCHASE ORDER.

“**PURCHASE ORDER**”: means the purchase order as described in Clause 3, issued by the CONTRACTOR to the VENDOR in respect of the GOODS and to which these terms and conditions apply.

“**REPRESENTATIVES**”: means any of the VENDOR or CONTRACTOR’s directors, officers, employees, contractors, subcontractors or agents.

“**SPECIFICATION**”: means all technical specifications, descriptions, drawings or other technical documents referred to in the PURCHASE ORDER and any such specifications and/or other technical documents, as may otherwise be agreed upon between the VENDOR and the CONTRACTOR as applicable to the GOODS.

“**SUB-VENDOR**”: (also designated as SUB-SUPPLIER in various documents) means any person, firm, corporation or company supplying the VENDOR with materials, machinery, tools, equipment, articles, items or other work or services to the VENDOR for completion of the GOODS.

“**VDL**”: means the applicable VENDOR Document List.

“**VENDOR**”: (also designated as SUPPLIER in various documents) means the person, firm, corporation or company supplying the GOODS with whom the PURCHASE ORDER is placed.

**Clause 2. PRICE**: The PRICE is the amount that shall be paid by the CONTRACTOR to the VENDOR for the complete delivery of the GOODS and performance of all obligations of the VENDOR under the PURCHASE ORDER, inclusive of taxes, charges and fees (but excluding VAT). The PRICE is not subject to any escalation in respect of cost of the GOODS or any other factor whatsoever. The terms of payment of the PRICE shall be as specified in the PURCHASE ORDER.

**Clause 3. The PURCHASE ORDER**: The PURCHASE ORDER (including these terms and conditions and any other document referred to in the PURCHASE ORDER) constitutes the conditions on which the GOODS shall be supplied to the CONTRACTOR. No other conditions proposed by the VENDOR shall apply. The PURCHASE ORDER shall become effective upon acceptance, whether express or implied, by initiating its execution, of the PURCHASE ORDER by the VENDOR.

**Clause 4. VENDOR’s Warranties & Obligations**: 4.1 In addition to any warranties implied at law the VENDOR warrants that the GOODS and all component parts thereof are new and of merchantable quality and of the best quality obtainable, that the GOODS conform in all respects to the SPECIFICATION, are free from faulty design, poor workmanship and/or defective materials, comply with all applicable legal and statutory requirements or other rules, regulations and standards commonly accepted in industry, and shall fulfill in all respects any operating conditions specified in the PURCHASE ORDER and are fit for their intended purpose (the “**Warranty**”). 4.2 The GOODS shall be guaranteed without prejudice to any warranty at law for a minimum time period (the “**Guarantee Period**”) as stipulated in the PURCHASE ORDER. Any VENDOR references issued or incorporated in CONTRACTOR’s documents shall be in full agreement with CONTRACTOR technical data which have been issued to finalize price and PURCHASE ORDER. In case VENDOR references are in contradiction with CONTRACTOR’s documents (VENDOR references shall be less stringent than CONTRACTOR technical data) then VENDOR’s references shall only be considered as information and in no case be considered accepted by CONTRACTOR. If non-compliance appears later on, then all consequences for the update/rectification of the said equipment will be at the sole responsibility of the VENDOR. All associated costs as well as direct and indirect costs incurred by CONTRACTOR shall be borne by the VENDOR. 4.3 In the event that any failure of the GOODS to comply with the Warranty arises within the Guarantee Period, the VENDOR shall immediately on receipt of written notification of such failure from the CONTRACTOR take all necessary steps to rectify such failure at its own account. The CONTRACTOR shall give written notification of any such failure as soon as reasonably practicable after becoming aware of the defect or deficiency in question. The VENDOR shall submit a report detailing corrective and preventive actions taken in relation to the defective GOODS. 4.4 In addition to its obligations under Clause 4.3 above, the VENDOR shall indemnify the CONTRACTOR against the cost of any failure of the GOODS to comply with the requirements of the Warranty, including the cost of identifying such failure and facilitating its repair or replacement. 4.5 Should the VENDOR fail to correct defective or deficient GOODS within a reasonable time of being called upon to do so under Clause 4.3, the CONTRACTOR may, at its option, remove and correct (whether by repair or replacement) such defective or deficient GOODS at the VENDOR’s expense. 4.6 After the VENDOR has altered, repaired or replaced any defective or deficient GOODS, the Warranty shall then apply to such altered, repaired or replaced item for the same additional period of time as defined in the PURCHASE ORDER. 4.7 Nothing in this Clause shall restrict or limit the VENDOR’s express or implied warranties, obligations and liability under any applicable law relating to the sale or delivery of GOODS or trade practices. 4.8 The VENDOR has the obligation to be able to repair all the GOODS bought by the CONTRACTOR for at least 10 years from the date of the PURCHASE ORDER.

**Clause 5. Title and Risk**: 5.1 Title to the GOODS and to all other items supplied by the VENDOR to the CONTRACTOR under the PURCHASE ORDER shall pass to the CONTRACTOR on whichever occurs earlier between the date when it is first identified as being specific to the GOODS or when it is delivered pursuant to the PURCHASE ORDER. Risk of loss of or damage to the GOODS shall remain with the VENDOR until delivery of conforming GOODS pursuant to the PURCHASE ORDER. Notwithstanding the foregoing, if any delivered GOODS do not strictly comply with the PURCHASE ORDER, the VENDOR shall remain liable for them and bear all risks in relation to them, except if the CONTRACTOR with full knowledge of the non-compliance chooses expressly in writing to accept and retain those GOODS.

**Clause 6. Testing and Inspection**: 6.1 The CONTRACTOR reserves the right to inspect and test the GOODS (either by itself or by others on its behalf) at any time during working hours at any location where the GOODS may from time to time be situated, including the VENDOR’s factory and that of any SUB-VENDOR. Similarly, the VENDOR expressly agrees to also allow identical rights of inspection and test to the CLIENT, his agents, his representatives and any third party that he has engaged to act on his behalf. Should during any Test observed by the CONTRACTOR, the CONTRACTOR consider that in its opinion, the VENDOR is in breach of Clause 6.2, the CONTRACTOR shall have the power to direct the VENDOR to stop the test and at the VENDOR’s cost and expense, reschedule the test. 6.2 The VENDOR shall in addition conduct, at its responsibility and expense, all tests and inspections as required by the SPECIFICATIONS or by laws or regulations, in particular, but without limitation, in accordance with health and safety laws and regulations and the CONTRACTOR’s health and safety policy or rules notified to the VENDOR. 6.3 The VENDOR at its own account shall promptly rectify any defects in the GOODS discovered during testing and/or inspection and comply with all requests of the CONTRACTOR (or the CONTRACTOR’s representatives) in relation thereto. 6.4 Testing and/or inspection or the failure to test and/or inspect by or on behalf of the CONTRACTOR shall not relieve the VENDOR of any of its responsibilities or liabilities under the PURCHASE ORDER, nor be interpreted in any way as implying acceptance of the GOODS. 6.5 The VENDOR shall notify the CONTRACTOR in advance of the date and place of any tests and inspections to be performed on the GOODS. The date and place of the test or inspection shall be confirmed in writing (including facsimile) at least fifteen (15) working days in advance by the VENDOR, unless stipulated otherwise in the PURCHASE ORDER. If for reasons not attributable to the CONTRACTOR, the notified items or material of the GOODS are not ready for such tests and inspections on the date specified, or if the documentation required for such test and inspection is not available, the CONTRACTOR shall be entitled to charge to the VENDOR all costs incurred by the CONTRACTOR and the CLIENT in connection with the above deficiencies. Records and/or certificates of each test

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and/or inspection shall be submitted by the VENDOR to the CONTRACTOR regardless of whether the CONTRACTOR, the CLIENT or their designated inspection party attend or do not attend such test and/or inspection.

**Clause 7. Acceptance**: No express or implied acceptance by the CONTRACTOR, or the putting to use of the GOODS or re-sale of the GOODS by the CONTRACTOR to the CLIENT or any third party shall restrict the VENDOR’s obligations or prejudice the CONTRACTOR’s remedies under Clause 4

**Clause 8. Drawings, Reports, Manuals, etc.**: 8.1 The VENDOR shall, at its own expense, furnish the CONTRACTOR with all documents and data relating to the GOODS including specifications, drawings, reports on fabrication, delivery and inspection, mill certificates, instructions for handling, assembly, erection, operation and maintenance, and the like in accordance with the procedure set out in the VDL, at the time and of the type and in the number of copies stipulated in the PURCHASE ORDER. The VENDOR shall provide both paper (hard) and electronic (soft) copies of required documents. The quantity and detail shall be in accordance with the VDL requirements. Unless specifically stipulated otherwise in the PURCHASE ORDER, the preferred soft versions are AutoCAD (DXF), Adobe (PDF) and Windows Imaging System (TIFF). 8.2 Notwithstanding earlier delivery of any items of plant or equipment to the CONTRACTOR, the GOODS shall not be deemed to have been properly delivered in terms of the PURCHASE ORDER until all deliverables due to the CONTRACTOR under the PURCHASE ORDER have been provided.

**Clause 9. Errors in Documents**: The CONTRACTOR reserves the right to reject any such documents and data containing errors or omissions and in such event the VENDOR shall immediately correct or replace the items in question at the sole cost and expense of the VENDOR.

**Clause 10. Changes**: 10.1 The VENDOR shall make no change to the PURCHASE ORDER, the GOODS or any matters related thereto, without the CONTRACTOR’s prior written consent. 10.2 The CONTRACTOR may at any time propose alterations to quantities, SPECIFICATIONS and drawings specified in the PURCHASE ORDER by written notice to the VENDOR. On receipt of such a notice the VENDOR shall advise the CONTRACTOR in writing within 14 DAYS of the CONTRACTOR’s notice of the effect of such change on the PRICE, delivery dates or any other obligations of the VENDOR under the PURCHASE ORDER. The VENDOR shall provide all reasonable assistance to the CONTRACTOR to allow him to evaluate the effect of the proposed changes as advised by the VENDOR. In the meantime, unless agreed in writing by the CONTRACTOR, the VENDOR shall not delay the delivery of the GOODS. 10.3 Should the CONTRACTOR wish to proceed with the proposed alterations following the VENDOR’s advice the CONTRACTOR and VENDOR shall execute a written variation document confirming the scope of the alteration required by the CONTRACTOR and any agreed changes to the PRICE or other affected terms of the PURCHASE ORDER. 10.4 The VENDOR agrees that failure to advise the CONTRACTOR timely of the effect of the CONTRACTOR’s proposed alterations on the PRICE, delivery or any other obligations as required in Clause 10.2 shall be deemed to be confirmed by the VENDOR that the existing terms and obligations are not affected.

**Clause 11. Expediting**: 11.1 The VENDOR shall be responsible for expediting delivery of the GOODS and any related work of the SUB-VENDORS and shall provide the CONTRACTOR with an itemized schedule, if any, for engineering, procurement, fabrication, assembly, installation, testing and shipping, which shall be followed by expediting reports, if so requested by the CONTRACTOR, including status of deliveries of materials and/or equipment purchased from the SUB-VENDORS, if any, each month (or at such other interval requested by the CONTRACTOR) after acceptance of the PURCHASE ORDER. If the VENDOR, however, encounters delay in obtaining materials from its SUB-VENDORS or foresees any delay in its own manufacturing works, the VENDOR shall immediately inform the CONTRACTOR of such situation, and take necessary and adequate measures to recover such delay. 11.2 The CONTRACTOR or his representatives shall be entitled to access to the premises of the VENDOR or any SUB-VENDOR during normal business hours or otherwise by agreement of the VENDOR or SUB-VENDOR in order to discuss with the VENDOR any means by which delivery of the GOODS may be expedited. The VENDOR expressly agrees to accord identical rights to the CLIENT, his agents, his representatives, and any third party he has engaged to act on his behalf. Whether or not the CONTRACTOR chooses to exercise such access or discuss expediting of the GOODS with the VENDOR in no way relieves the VENDOR of any of his obligations to deliver the GOODS in accordance with the terms of the PURCHASE ORDER.

**Clause 12. Delivery and Delay in Delivery**: 12.1 The VENDOR expressly acknowledges that time is of the essence and that the delivery of the GOODS at the requested date under the PURCHASE ORDER is an essential condition of the PURCHASE ORDER. Unless specified otherwise in the PURCHASE ORDER, the delivery date given in the PURCHASE ORDER is the date of arrival of the GOODS at the place of delivery pursuant to the PURCHASE ORDER. If the delivery of the GOODS is delayed beyond the time specified in the PURCHASE ORDER for the reasons other than Force Majeure stipulated in Clause 15 or without the prior written agreement of the CONTRACTOR, the CONTRACTOR may either refuse to accept the GOODS and terminate the PURCHASE ORDER in accordance with Clause 20 or cause the VENDOR to deliver the GOODS by the most expeditious means of transportation including air-freight without any additional cost to the CONTRACTOR. 12.2 Should the CONTRACTOR elect not to terminate the PURCHASE ORDER pursuant to Clause 12.1, liquidated damages for such delay and not as a penalty shall be imposed on the VENDOR as defined in the PURCHASE ORDER. 12.3 For the avoidance of doubt, liquidated damages shall apply under Clause 12.2 until all deliverables under Clause 8.2 are provided to the CONTRACTOR. In the event that any documentation requires to be rectified pursuant to Clause 9, liquidated damages shall be applied pursuant to the PURCHASE ORDER. 12.4 The VENDOR and CONTRACTOR expressly agree that any sum(s) due or which may become due to the CONTRACTOR by way of liquidated damages may be deducted from payments due to the VENDOR or from the Performance Bond and/or bond guarantee, if any. Whenever liquidated damages have been applied by the CONTRACTOR and deducted from amounts otherwise due to the VENDOR, the VENDOR shall immediately issue a credit note for the corresponding amount. 12.5 If this Clause (or any part thereof) is found for any reason to be void, invalid, or otherwise inoperative so as to prevent the CONTRACTOR from obtaining the payment of liquidated damages, the CONTRACTOR shall be entitled to claim damages at law from the VENDOR for the VENDOR’s failure to timely perform its obligations under the PURCHASE ORDER. 12.6 If the VENDOR intends to make delivery prior to the Delivery Date(s) as stipulated in the PURCHASE ORDER, the VENDOR must notify the CONTRACTOR in writing in sufficient time to allow the CONTRACTOR to arrange for receiving the GOODS and to confirm that early delivery is acceptable to CONTRACTOR in its sole and absolute discretion. If the CONTRACTOR determines that such early delivery is not acceptable, VENDOR shall be responsible and bear the cost of safely storing the GOODS (including the protection and preservation of same) until the contractual dates of delivery are reached. 12.7 Delivery in instalments or separate consignments shall be permitted only after prior written acceptance of the CONTRACTOR and only in accordance with the terms of such acceptance, if granted. Such consent shall not entitle the VENDOR to claim payment prior to delivery of the whole of the GOODS, unless otherwise expressly agreed in writing by the CONTRACTOR. 12.8 The CONTRACTOR reserves the right to request the VENDOR to postpone the delivery of the GOODS finished and ready for dispatch. In such cases any storage and insurance costs and the risks arising during the first ninety (90) DAY period beyond the contractual delivery date(s) shall be borne by the VENDOR. For any periods beyond the first ninety (90) DAYS, the warehousing terms shall be agreed between the VENDOR and the CONTRACTOR but the risks inherent to warehousing shall vest in the VENDOR. 12.9 The signature by the CONTRACTOR or any of its REPRESENTATIVES of any document acknowledging delivery of the GOODS shall not constitute or be interpreted in any way as implying acceptance of the GOODS or as an acknowledgment or representation that such GOODS, or the circumstances of their delivery, comply with the PURCHASE ORDER and shall not relieve the VENDOR of any of its responsibilities or liabilities under the PURCHASE ORDER. 12.10 If the GOODS delivered do not strictly comply with the PURCHASE ORDER: a) the CONTRACTOR may expressly in writing accept and retain all or any of such GOODS or, b) upon delivery or within a reasonable time after having fully acknowledge the non-compliance, may reject all or any of the GOODS (including compliant GOODS) and, in this latter case: (i) the CONTRACTOR may require the VENDOR to forthwith deliver GOODS in substitution for such rejected GOODS as the CONTRACTOR specifies, and the VENDOR shall ensure that the substituted GOODS strictly comply with the requirements of the PURCHASE ORDER; and, except in relation to GOODS under paragraph (i), the VENDOR shall forthwith refund any amount which has been paid in respect of the rejected GOODS. The CONTRACTOR shall not be liable for payment of any rejected GOODS or any loss or damage incurred by the VENDOR resulting from the rejection and, notwithstanding that action that may have been taken pursuant to paragraph b), the VENDOR shall indemnify the CONTRACTOR for any loss or damage resulting from the non-compliance. 12.11 Nothing in Clause 12.9 above shall prevent the CONTRACTOR from exercising all its rights under the PURCHASE ORDER, including those set forth in any of these terms and conditions.

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**Clause 13. Free Issue Items:** 13.1 If the CONTRACTOR supplies equipment and/ or materials and/ or parts for incorporation in the GOODS ("Free Issue Items") to the VENDOR in accordance with the PURCHASE ORDER, the title to the Free Issue Items shall remain with the CONTRACTOR but the risk of loss or damage to such Free Issue Items shall be borne by the VENDOR until the GOODS are delivered to the CONTRACTOR under the PURCHASE ORDER. 13.2 Unless otherwise agreed in the PURCHASE ORDER, CONTRACTOR shall deliver any such Free Issue Items to VENDOR's premises. 13.3 Upon delivery and taking receipt of the Free Issue Items the VENDOR shall immediately inspect the Free Issue Items. Unless VENDOR notifies the CONTRACTOR in writing of any shortfall, defect damage or breakage within the number of DAYS set out in the PURCHASE ORDER from the date of receipt of the said Free Issue Items, such Free Issue Items shall be deemed to have been accepted by the VENDOR. 13.4 VENDOR shall not be liable for any latent defect that cannot be ascertained by visual inspection at the time of receipt by VENDOR of CONTRACTOR's Free Issue Items. 13.5 All Free Issue Items provided by the CONTRACTOR shall be entered into suitable registers of receipt. VENDOR shall exercise due care over the Free Issue Items delivered to VENDOR by CONTRACTOR. VENDOR shall place the Free Issue Items in a covered storage area and take protective measures against fire and theft, and more generally all such other measures as may be necessary to prevent loss, damage or deterioration from occurring. The cost associated with such protective measures shall be deemed to be included in the PRICE. However upon taking delivery of the Free Issue Items, the VENDOR shall be responsible for loss, damage or deterioration thereof and shall assume care, custody and control of same. 13.6 Unless otherwise stated in the PURCHASE ORDER the CONTRACTOR shall secure and maintain and furnish CONTRACTOR with proof of insurance coverage for the replacement value of the Free Issue Items provided by the CONTRACTOR to the VENDOR and bear the cost of any deductible in the event of a claim. 13.7 When the work is completed, any unused Free Issue Items shall be returned to the CONTRACTOR at the location to be identified by the CONTRACTOR and the associated costs are deemed to be included in the PRICE. All other details concerning Free Issue Items are stipulated in the PURCHASE ORDER.

**Clause 14. Non-Disclosure:** 14.1 The VENDOR shall handle confidentially and use solely for the purpose of the PURCHASE ORDER, any and all information, know-how, trade secrets, designs, drawings, specifications and data, whether technical or non-technical, (hereinafter called "Information") which is in any way disclosed to the VENDOR by or on behalf of the CONTRACTOR in the course of, as a result of, or in connection with the PURCHASE ORDER, proposals or negotiations for the PURCHASE ORDER and in any case shall not use or copy or communicate such Information to others without prior written consent of the CONTRACTOR. These provisions shall remain in force for a period of 5 (five) years from completion or earlier termination of the PURCHASE ORDER. 14.2 The VENDOR shall promptly return all the Information to the CONTRACTOR upon cancellation or termination of the PURCHASE ORDER or on demand. 14.3 The VENDOR's obligations under 14.1 shall not apply to any Information to the extent that the Information: 1. Is or becomes generally available to the public through no fault or omission on the part of the VENDOR, or 2. Has been known to the VENDOR prior to the first disclosure or furnishing to the VENDOR by or on behalf of the CONTRACTOR and the VENDOR can establish such fact with competent documentary records kept in the ordinary course of business, or 3. Is received by the VENDOR from a third party who is lawfully in possession thereof, provided such third party did not obtain it either directly or indirectly from the CONTRACTOR or any affiliate of the CONTRACTOR and who does not impose any obligation of secrecy with respect thereto on the VENDOR and does not restrict the VENDOR's use thereof in any way. 14.4 The CONTRACTOR shall have the right, from time to time, upon reasonable notice and during normal working hours, to check and review the VENDOR's facilities, records and procedures to ensure the implementation of the VENDOR's obligations to the CONTRACTOR with respect to Clause 14.1. The VENDOR, at the VENDOR's account, shall take such action as may reasonably be requested by the CONTRACTOR to correct deficiencies, if any, and/or to assure compliance and implementation of the VENDOR's obligations.

**Clause 15. Force Majeure:** 15.1 Neither party hereto shall be responsible for any delay or failure in performance of the PURCHASE ORDER, if and to the extent such delay or failure is caused by Force Majeure described below. 15.2 Force Majeure shall mean any occurrences beyond the reasonable control of the party affected including, but not limited to, expropriation or confiscation, war, rebellion, civil unrest, floods, earthquakes or other similar occurrences. The following, however, shall not be considered as Force Majeure. 1. Inability to obtain raw materials, or increases in the price of raw materials or labor; or 2. Strikes or similar occurrences where the cause arises at the premises of the VENDOR or SUB-VENDOR; or 3. Fire, explosion or other incident disabling the premises of the VENDOR or SUB-VENDOR where the cause is due in whole or part to the fault of the VENDOR or Sub-vendor or parties for whom they are responsible. 15.3 Should the VENDOR be delayed or envisage delay in delivering of the GOODS by an occurrence which the VENDOR reasonably judges as Force Majeure, and the VENDOR cannot avoid or prevent said delay by any reasonable effort, the VENDOR shall notify the CONTRACTOR immediately and confirm full details in writing within seven (7) DAYS of the occurrence and the CONTRACTOR, if it agrees, shall then give notice to the VENDOR confirming the existence of Force Majeure and shall authorize an unavoidable delay to the extent such delay is caused by Force Majeure. No amendment to the PRICE, however, shall be allowable because of Force Majeure occurrences. 15.4 The VENDOR shall take all reasonable measures to mitigate the effect of Force Majeure and shall advise the CONTRACTOR immediately on the cessation of circumstance or occurrence of Force Majeure. 15.5 Should the circumstances of Force Majeure, in the reasonable opinion of the CONTRACTOR, make impossible the completion and delivery of the GOODS or last or, in the reasonable opinion of the CONTRACTOR, deem to last more than 60 days, the CONTRACTOR shall, without penalty have the right, if no other understanding is reached, to terminate the PURCHASE ORDER in whole or in part. 15.6 CONTRACTOR has the right to terminate the Agreement (and/or withdraw its offer) with immediate effect and without incurring any liability, by giving notice in writing, in case a sanction or order of the UN, EU, USA, Japan or any other government or international agency is or becomes applicable, by issue, reinstatement, extension or otherwise, which negatively affects CONTRACTOR's ability, to be determined in CONTRACTOR's sole discretion, to perform any of its obligations in accordance with the Agreement (and/or its offer).

**Clause 16. Indemnity and Liability:** 16.1 Before transfer of risk as defined in Clause 5, VENDOR shall defend, indemnify and hold harmless the CONTRACTOR and/or the CLIENT and/or their REPRESENTATIVES in respect of loss of or damage to the GOODS until risk thereof has been transferred to the CONTRACTOR in accordance with the PURCHASE ORDER. 16.2 The VENDOR shall defend, indemnify and hold the CONTRACTOR and/or the CLIENT and/or their REPRESENTATIVES harmless from and against all claims, losses, damages or expense caused by the GOODS supplied by the VENDOR or caused in connection with the work or performance of the PURCHASE ORDER by the VENDOR or by any failure of the VENDOR to meet its obligations hereunder. 16.3 The VENDOR shall indemnify and hold the CONTRACTOR and/or the CLIENT and/or their REPRESENTATIVES harmless from and against any and all losses, damages or expenses in account of any and all claims, suits or judgements arising out of the use or sale of the GOODS or part thereof supplied by the VENDOR in infringement or alleged infringement of rights under any rights of industrial and/or intellectual property including any rights under patents, industrial designs, trademarks, trade names, brands, copyrights or applications therefore. 16.4 In the event that the VENDOR is required by the PURCHASE ORDER to install the GOODS or perform other services for the CONTRACTOR, the VENDOR shall defend, indemnify and hold harmless the CONTRACTOR and/or the CLIENT and/or their respective REPRESENTATIVES from any and all claims, suits and demands of any nature whatsoever for injury to any person, including death resulting there from, and damage to property caused by or in connection with the performance of such work by the VENDOR. The VENDOR shall in addition hold the CONTRACTOR harmless in respect of any injury sustained by any employee or servant of the VENDOR however arising, and all loss or destruction of or damage to all tools, equipment and other property of the VENDOR, any SUB-VENDOR or any of their employees or agents. VENDOR acknowledges that the foregoing indemnification obligations shall not be limited by the payment of benefits by VENDOR under any worker compensation acts, disability benefit acts or other employee benefit laws.

**Clause 17. Insurance:** 17.1 The VENDOR shall provide, maintain and pay the premiums associated with the provision of Commercial General Liability insurance covering bodily, property damages to the CONTRACTOR, the CLIENT and any other third party, including Product Liability and Professional Liability (if applicable) and any other agreed insurance in terms satisfactory to the CONTRACTOR in respect of the supply and use of the GOODS. The VENDOR shall submit to the CONTRACTOR detailed insurance certificates or any other documents evidencing that the required insurance policies are in place If the VENDOR fails to provide the required insurance cover or fails to provide satisfactory evidence of this cover, the CONTRACTOR may at its option take out the relevant cover in the name of the VENDOR and the PRICE shall be adjusted accordingly. 17.2 The VENDOR shall provide, maintain and pay for insurance in respect of the GOODS until risk therein has passed to the CONTRACTOR in accordance with the PURCHASE ORDER.

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**Clause 18. Assignment:** The VENDOR shall not assign the PURCHASE ORDER in whole or in part without the prior written approval of the CONTRACTOR. In no event shall any such approval of assignment relieve the VENDOR of any of its obligations under the PURCHASE ORDER. Any attempted assignment by VENDOR in violation of this provision shall be void.

**Clause 19. Suspension:** Subject to the provisions of Clause 12.8, CONTRACTOR may instruct the suspension of the performance of the PURCHASE ORDER at any time and from time to time upon ten (10) days prior written notice of such suspension. Thereafter, VENDOR shall resume performance as directed by CONTRACTOR. In the event of such suspension, VENDOR shall be entitled to submit any additional costs reasonably and necessarily incurred or to be incurred by VENDOR in effectuating such suspension, to the extent that such sums are claimed within fifteen (15) DAYS from the instruction to suspend. VENDOR and CONTRACTOR shall discuss and agree the actual amount to be paid within a reasonable period after resumption of performance.

**Clause 20. Termination for Default by VENDOR:** 20.1 In case of default by the VENDOR in fulfillment of performance of its contractual obligations or conditions, or in case of its serious malpractice including, but not limited to, refusal to co-operate and interruption of the work without the consent of the CONTRACTOR, the CONTRACTOR shall send to the VENDOR a written request to remedy the situation. If the VENDOR does not comply with such request to the CONTRACTOR's satisfaction within fifteen (15) DAYS, the CONTRACTOR may terminate the PURCHASE ORDER. 20.2 The PURCHASE ORDER may also be immediately terminated by the CONTRACTOR in case of a proceeding brought by or against the VENDOR seeking any reorganization, rearrangement, composition, readjustment, liquidation, dissolution or similar relief, in case of insolvency, bankruptcy of the VENDOR, or in case of any proceeding brought seeking the appointment of a receiver or similar officer of the court with respect to the VENDOR's business. 20.3 In case of termination under this Clause 20, the VENDOR shall be liable to the CONTRACTOR for all damages and losses sustained by the CONTRACTOR arising from stoppage of the work and early termination including any difference in price with regard to the PRICE which the CONTRACTOR may incur in procuring or completing the GOODS elsewhere. 20.4 The CONTRACTOR shall only be liable to pay the VENDOR as full and final compensation in case of early termination due to a default of the VENDOR the amount due for GOODS completed by VENDOR and delivered to CONTRACTOR in compliance with the PURCHASE ORDER prior to the date of early termination, after deduction of any amounts due by the VENDOR to CONTRACTOR in indemnification of the above mentioned losses and damages sustained by the CONTRACTOR.

**Clause 21. Termination by CONTRACTOR:** 21.1 The CONTRACTOR may at any time with immediate effect terminate the PURCHASE ORDER, in whole or in part, by giving written notice to the VENDOR. In case of termination as aforesaid: 1. The VENDOR shall effect the immediate termination of orders which it may have placed with others and discontinue all work of manufacturing the GOODS, and 2. The VENDOR shall, upon the CONTRACTOR's request, deliver to the CONTRACTOR any or all of the works, all drawings, specifications, data sheets, and other matters that the VENDOR may have prepared for the GOODS and all materials, supplies and equipment paid for by the CONTRACTOR either directly or indirectly, and the CONTRACTOR shall have the right to make use of same for completion of the GOODS elsewhere. 3. The VENDOR shall immediately return all the Free Issue Items supplied by the CONTRACTOR. 21.2 Upon termination by the CONTRACTOR under this Clause, the CONTRACTOR shall pay to the VENDOR the following amounts less that already paid to the VENDOR: - 1. The relevant portion of the PRICE for those supplies or services (if any) which have been completed in accordance with the PURCHASE ORDER as at the date of termination; 2. The actual costs properly incurred by the VENDOR in performance of the PURCHASE ORDER at the date of termination to the extent that such costs are reasonable in amount and substantiated to the CONTRACTOR's reasonable satisfaction; and 3. The amount of any unavoidable bona fide cancellation charges payable by the VENDOR to any SUB-VENDOR, provided that any such charges arising after the date of termination are not paid until the CONTRACTOR has been given notice of the same in writing by the VENDOR and the VENDOR has taken such reasonable steps as the CONTRACTOR may suggest to mitigate the extent of such charges. 21.3 If upon termination of the PURCHASE ORDER and presentation by the VENDOR of the costs described above and the acceptance and approval in writing by the CONTRACTOR to an agreed amount with respect to the termination of the PURCHASE ORDER, it appears that the VENDOR has already been paid in excess of the agreed amount, then the VENDOR shall immediately reimburse the CONTRACTOR the said excess payments. Failing which the VENDOR and CONTRACTOR expressly agree that the CONTRACTOR shall be entitled to recover such amounts from the performance bond or by any other means available to him under the PURCHASE ORDER or at Law.

**Clause 22. Language and Trade Terms:** Any and all correspondence documents and execution of services hereunder, unless otherwise specifically designated, shall be in the English language. The interpretation of any trade terms in the PURCHASE ORDER shall be in accordance with INCOTERMS (International Rules for the Interpretation of Trade Terms) published by the International Chamber of Commerce in 2010 and any supplement thereto in existence on the date of issuance of the PURCHASE ORDER.

**Clause 23. Compliance with Law:** 23.1 The VENDOR shall comply and secure compliance by its SUB-VENDORS, with all applicable laws, ordinances and government rules, regulations and orders in connection with the GOODS and services to be performed hereunder in force at the time of the PURCHASE ORDER and that may be introduced from time to time, wherever they said GOODS or services are provided If the VENDOR discovers any variance between the provisions of applicable laws and regulations and the drawings, specifications and other technical data furnished by the CONTRACTOR, the VENDOR shall promptly notify the CONTRACTOR in writing thereof and obtain necessary changes from the CONTRACTOR before proceeding with the part of the services affected thereby. 23.2 The VENDOR shall comply with, and shall cause its employees and all SUB-VENDORS to abide by, all health, safety and security rules and regulations in force on any premises or sites relating to the goods or services provided. 23.3 The CONTRACTOR will comply with the General Regulations on Data Protection and undertakes to provide within 72 hours the data relating to the VENDOR, following a written.

**Clause 24. Performance Bond, Advance Payment Bond:** 24.1 If requested by the CONTRACTOR a Performance Bond shall be provided by the VENDOR in favor of the CONTRACTOR covering all the VENDOR's obligations, warranties and liabilities under the PURCHASE ORDER. The wording of such Bond shall be provided by the CONTRACTOR and the Bond shall be issued by a Bank acceptable to the CONTRACTOR. The possible requirement for a Bond will be advised to the VENDOR prior to agreement of the PRICE and execution of PURCHASE ORDER. 24.2 If requested by the CONTRACTOR and if the terms of payment of the PURCHASE ORDER include an advance payment, the VENDOR shall provide in favor of the CONTRACTOR an advance payment bond. The wording of such bond shall be provided by the CONTRACTOR and the bond shall be issued by a Bank acceptable to the CONTRACTOR. The advance payment shall remain in full force and effect until the GOODS and documents have been delivered to the CONTRACTOR as described elsewhere in this PURCHASE ORDER. 24.3 No payments will become due to the VENDOR unless and until such time as all requirements relating to the provision of bond(s) have been issued to the CONTRACTOR in the form stipulated.

**Clause 25. Non-waiver:** No provision of the PURCHASE ORDER shall be considered to be waived by the CONTRACTOR unless the CONTRACTOR gives such notice of waiver in writing. Even if such notice has been given, such waiver shall not be construed as being a waiver of any other past or future right of the CONTRACTOR under the provisions of the PURCHASE ORDER, unless otherwise expressly stipulated therein.

**Clause 26. Entire Agreement:** The PURCHASE ORDER shall constitute the entire agreement between the CONTRACTOR and the VENDOR. The parties shall not be bound by any statement, representation, promise, inducement or understanding of any kind not set forth in the PURCHASE ORDER. Any change, amendment or modification of any of the terms and conditions of the PURCHASE ORDER shall be made in writing and executed by the parties.

**Clause 27. Governing Law:** The PURCHASE ORDER shall be governed by and construed in accordance with the laws of France, unless otherwise provided in the PURCHASE ORDER.

**Clause 28. Notices:** Any notice given under or in connection with the PURCHASE ORDER shall only be given in writing to the address of the CONTRACTOR and VENDOR indicated in the PURCHASE ORDER by one of the methods specified below and shall be effective: i) if personally delivered by hand, at the time of delivery at the relevant address; ii) if sent by recorded delivery or registered post, when received at the recipient's address; iii) if sent by facsimile or email on receipt, provided that a confirmation letter is delivered or transmitted as per i) or ii) above or that the email or facsimile contains a scanned copy of a signed letter or document. VENDOR and CONTRACTOR shall notify each other of any change in the above address.

## ANNEXMT-B1-rev 3\_General Terms and Conditions for Purchasing Materials and Equipments

**Clause 29. Hazardous and Toxic Substances Disclosure Requirements:** In the performance of this PURCHASE ORDER VENDOR shall comply with all applicable laws, rules, requirements, and ordinances including, but not limited to, those relating to environmental law, toxic or hazardous materials, occupational health and safety. If this PURCHASE ORDER calls for the transfer to CONTRACTOR by VENDOR of any chemical substance or mixture, or any material which may generate or release a chemical substance or any hazardous agents, VENDOR shall provide before or with said transfer, a Materials Certificate and label that are current, accurate and complete, which include but are not limited to a statement of product hazards and precautions for safe use, or such other statutory certification required. Copies of the certification shall include the PURCHASE ORDER number, shipping location, and shall be sent to the shipping location identified in this PURCHASE ORDER.

**Clause 30. Right of Audit:** The VENDOR shall maintain all records and accounts pertaining to the PURCHASE ORDER, during execution thereof and for a period of 5 (five) years after completion of the Project and shall ensure that his subcontractors and sub-vendors do likewise. The CONTRACTOR, the CLIENT and their authorized REPRESENTATIVES have the right to access such records wherever works relating to the PURCHASE ORDER are being executed and to examine, audit, copy and inspect the said records and accounts at all reasonable times during the execution of the PURCHASE ORDER and during the said 5 (five) year period.

**Clause 31. VENDOR list:** 31.1 All of VENDOR's subcontractors and sub-suppliers shall be selected from the applicable approved VENDOR list included as an appendix to the PURCHASE ORDER. The VENDOR's price shall include for using exclusively vendors who are included on such approved VENDOR list. 31.2 If the CLIENT requires that standardization be achieved for equipment and/or materials, The CONTRACTOR will communicate to the VENDOR the list of the said equipment and /or materials to be standardized and the related nominated suppliers or restricted sourcing requirements. Insofar as the nominated suppliers or the restricted sourcing list included in the approved VENDOR list, the VENDOR expressly acknowledges and agrees that he shall not be entitled to any additional compensation over and above the agreed PRICE for complying with such requirements

**Clause 32. Spare Parts Management:** 32.1 VENDOR shall provide, store and maintain an adequate stock of spare parts and operating supplies, and shall promptly carry out- at his expense -any necessary maintenance, repair or replacement up to the end of the warranty period or at least twenty four (24) months from the relevant delivery date(s) of the GOODS at the delivery points, whichever expires later. 32.2 VENDOR warrants that the spare parts are new, original free from defects and interchangeable with their counterpart. In case of materials whose availability in the market is uncertain for the period of time stipulated in the preceding Clause, such time shall be set out in the PURCHASE ORDER together with the appropriate terms , (if any). 32.3 The following terms will apply, from the effective date of the PURCHASE ORDER, to future spare parts supplies (commissioning spares / 2 years spares / capital spares or any other spares) relating to the equipment supplied by the VENDOR to CONTRACTOR, in such instances where it has been possible to positively identify the original equipment: a) On any PURCHASE ORDER placed to VENDOR by CONTRACTOR, VENDOR has the obligation as a minimum to commit on optional price for commissioning spares / capital spares / two years spares. If the spares are not listed within CONTRACTOR enquiry an optimal list has to be proposed by VENDOR b) Spare parts quoted directly to third party associated to this PO will receive no discount and a 15% commission will be payable to CONTRACTOR on any subsequent sales. Upon receipt of an applicable order from a third party linked to this PURCHASE ORDER, an acknowledgement will be sent by the VENDOR to CONTRACTOR as notification of any payable commission; this notification will indicate the amount of the commission due and the dispatch date of the order. To claim any commission notified in this manner, CONTRACTOR will submit an invoice to the VENDOR against the notification acknowledgement. Commission invoice received by VENDOR becomes payable 45 days upon receipt of payment by the VENDOR from the third party. Meetings between CONTRACTOR and VENDOR can be organized regularly (once a year for example) to review the business and to issue statistics about the spare parts flux. Every effort will be made by the VENDOR to determine the identity of the original equipment upon receipt of spare parts enquiries / order. However in some instances generic stock coded part numbers are utilized and / or the original equipment identity may not be disclosed. CONTRACTOR sales records are available from the VENDOR sale system. As such it can be determined whether an identified piece of equipment was originally supplied to CONTRACTOR. In addition to that during engineering phase VENDOR will provide to CONTRACTOR spare parts lists on native files. All drawings related to items indicated in the spare part lists shall not be identified with VENDOR / MANUFACTURER references but shall make reference to spare parts list documents only. For VENDOR which is as well MANUFACTURER, a CONTRACTOR serial number (different than the VENDOR's one) will be given in order to be indicated on the documentation and equipment to ensure that CONTRACTOR project will be easily identified. The provisions of this clause shall remain effective for a period of five years following the date of the end of the guaranty period of the equipment. A complete set of equipment is considered as a spare part.

**Clause 33. Intellectual Property :** 33.1 The VENDOR hereby warrants and represents that the GOODS do not infringe any industrial and/or intellectual property rights including without limitation any rights under patents, copyrights, designs, know-how, trade secrets, trade names, trademarks or other such protected rights and/or applications thereof, whether foreign or domestic and shall defend, indemnify and hold harmless the CONTRACTOR and the CLIENT from and against any and all losses, damages or expenses in account of any and all claims, suits or judgements arising out of the use or sale of the GOODS or part thereof. 33.2 In case the GOODS, or any part thereof, is held in such suit to constitute infringement and/ or its use is enjoined, the VENDOR shall, at its own expense, either procure for the CONTRACTOR and the CLIENT an irrevocable, royalty-free license to continue using such GOODS or, with the CONTRACTOR prior written approval, replace the GOODS with substantially equal but not-infringing GOODS or modify them so they become non-infringing, provided that no such replacement or modification shall in any way amend or relieve the VENDOR of its warranties and guarantees set forth in the PURCHASE ORDER. 33.3 Clause 35.1 above shall not apply to GOODS delivered and, where manufacture is required, manufactured, strictly in accordance with the detailed technical drawings provided to the VENDOR by the CONTRACTOR for the purpose of performance by the CONTRACTOR of the PURCHASE ORDER, provided that if the VENDOR knows or suspects or ought to know or suspect that any such GOODS may be infringing then it shall forthwith give notice in writing to the CONTRACTOR to that effect and shall not manufacture or deliver such GOODS except upon subsequent written direction from the CONTRACTOR. In the absence of such written notice from the CONTRACTOR Clause 35.1 shall apply.

**Clause 34. Bribery and Corruption:** The VENDOR warrants that it has not directly or indirectly paid any commission, fees or granted any rebates to any third party, employees of the CONTRACTOR or its customer, or made any gifts, entertainment or any other non-monetary favours or other arrangements. Any breach of this provision shall be treated as a material breach.

(END OF DOCUMENT)