

# HITACHI ENERGY GENERAL TERMS AND CONDITIONS FOR PURCHASE OF GOODS AND/OR SERVICES (2021-12 ITALY)

## 1. DEFINITIONS AND INTERPRETATION

1.1 The following terms have the following meanings:

**Affiliate:** any entity which directly or indirectly controls, is controlled by, or is under common control with a Party;

**Contract:** a written agreement and/or the Order for the purchase of Goods and/or Services by Customer from Supplier which shall incorporate by reference these GTC, and any other documents submitted by Customer to form part thereof, such as any specifications (which shall include any Supplier specifications where Customer agrees to use, or places an Order relying on, such specifications);

**Control:** in relation to a person, the power (whether direct or indirect) to direct or cause the direction of its affairs, whether by means of holding shares, possessing voting power, exercising contractual powers or otherwise;

**Customer:** Hitachi Energy Italy S.p.A., the Party ordering Goods and/or Services from Supplier;

**Customer Data:** any data or information, including Personal Data, acquired by Supplier in preparation of or during the fulfilment of the Contract, irrespective of whether such data or information relates to Customer, its Affiliates or their respective customers or suppliers;

**Delivery:** delivery of Goods by Supplier in accordance with Clause 5.1;

**Delivery Location:** Customer's nominated warehouse, factory or other premises for physical delivery of Goods and/or Services, which may be the premises of one of Customer's Affiliates (including such location as may be listed in any relevant price list) or third party freight or logistics providers, or if no location is nominated, Customer's place of business;

**Embedded Software:** software necessary for operation of Goods, and embedded in and delivered as integral part of Goods;

**Goods:** the items to be delivered by Supplier in accordance with the Contract and/or all materials, documents, or other deliverables which are the result of Services provided by Supplier under the Contract in any form or media, including but without limitation to data, diagrams, drawings, reports and specifications;

**GTC:** these Hitachi Energy General Terms and Conditions for Purchase of Goods and/or Services (2021-12 Italy) as may be updated by the Customer from time to time and as published on the Customer's website from time to time;

**Intellectual Property Rights:** (a) patents, utility models, copyrights, database rights and rights in trademarks, trade names, designs, knowhow, and invention disclosures (whether registered or unregistered); (b) applications, reissues, confirmations, renewals, extensions, divisions or continuations for any of these rights; and (c) all other intellectual property rights and similar forms of worldwide protection;

**Order:** Customer's formal purchase order document issued to Supplier for the purchase of Goods and/or Services, including any formal purchase order document issued electronically;

**Party:** Customer or Supplier, collectively the Parties;

**Personal Data:** any data or information of an identified or identifiable natural person;

**Services:** the services to be provided by Supplier in accordance with the Contract;

**Supplier:** the party providing the Goods and/or Services to Customer (or any Customer Affiliate at a relevant Delivery Location);

**Variation Order:** a change to the Order such as to alter, to amend, to omit, to add to, or otherwise to change the Order or any parts thereof.

**VAT:** any value added tax or equivalent sales tax imposed by law in any country in the world.

1.2 References to Clauses are references to clauses of the GTC.

1.3 Headings are for convenience only and do not affect the interpretation of the GTC.

1.4 Any words following the words "include", "includes", "including", "in particular" or any similar words or expressions will be construed without limitation and accordingly will not limit the meaning of the words preceding them.

1.5 Unless the context otherwise indicates, words used in the singular include the plural and vice versa.

## 2. APPLICATION

2.1 The GTC govern the Contract.

2.2 No terms or conditions delivered with or contained in Supplier's quotations, acknowledgements, acceptances, specifications or similar documents will form part of the Contract, and Supplier waives any right which it might have to rely on such terms or conditions.

2.3 Supplier shall accept the Contract either expressly by written statement or impliedly by fulfilling the Contract in whole or in part.

2.4 Save as expressly noted otherwise in these GTC, any amendments to the Contract must be agreed in writing.

## 3. SUPPLIER'S RESPONSIBILITIES

3.1 Supplier shall deliver the Goods and/or provide the Services:

3.1.1 in accordance with the applicable laws and regulations;

3.1.2 in accordance with the Contract (including by providing any necessary documentation) and all Customer instructions;

3.1.3 free from defects and from any rights of third parties; and

3.1.4 fit for any particular purpose specified in the Contract or, in absence thereof, fit for the purposes for which such Goods and/or Services would ordinarily be used.

3.2 Supplier shall ensure that the Goods are packed according to industry standards and any applicable laws and regulations, in a manner adequate to preserve and protect the Goods, and sufficient to enable safe unloading and inspection at the relevant Delivery Location.

3.3 When Customer (or a Customer Affiliate at a relevant Delivery Location) identifies quality related issues on the part of Supplier, Customer (or Customer Affiliate) will notify Supplier thereof. Notwithstanding other remedies available to Customer under the Contract, Customer may instruct Supplier to undertake at Supplier's risk and expense an analysis into the root cause(s) of the quality related issues; such analysis being undertaken and reported to Customer within ten (10) calendar days of the notification of the quality related issue(s). Customer reserves the right to undertake an audit (carried out by Customer's nominated personnel, which may include third party experts or Customer Affiliate staff) of Supplier based on the results of the root cause analysis or where Supplier fails to comply with this Clause. Supplier shall also pro-actively advise Customer if it becomes aware of any quality related issues that may affect the Goods and/or Services, and the provisions of this Clause 3.3 shall otherwise apply as if the issue had been notified by Customer.

3.4 Customer may issue Variation Orders to Supplier, and Supplier shall carry out such Variation Orders. If any Variation Order causes an increase or decrease in the cost of, or the time required for the performance of, any Services or Goods, an equitable adjustment shall be made in the purchase price and/or Delivery schedule in writing. Any Supplier claim for adjustment under this Clause will be deemed waived unless asserted within thirty (30) calendar days from Supplier's receipt of the Variation Order. Variation Orders requested by Supplier only become effective after written confirmation by Customer.

3.5 Supplier must not suspend the Delivery of any Goods or the provision of any Services unless required, by written notice from the Customer, to do so.

3.6 Supplier assumes, to the fullest extent permissible by law, full and exclusive responsibility for any occupational accident that occurs, or disease that affects, its employees and its subcontractors in relation to the provision of the Goods and/or Services.

3.7 Supplier is solely and exclusively responsible for any claims and/or lawsuits filed by its employees and/or subcontractors, and shall, without any limitations, defend, indemnify and hold Customer (and any relevant Customer Affiliate) harmless from and against any claim, proceeding, action, fine, loss, cost, damages and expenses arising out of or relating to any such claims and/or lawsuits, and any noncompliance with legislation, regulations, codes of practice, guidance and other requirements of any relevant government or governmental agency applicable to Supplier, its employees or subcontractors. Supplier undertakes to appear in court at its own cost if requested by Customer, acknowledging its status as sole and exclusive employer, and to provide Customer (and/or any relevant Customer Affiliate) with all requested documentation and information necessary to ensure proper legal defence of Customer or its Affiliates in court. Nothing in this Clause 3.7 seeks to restrict or exclude the Customer's liability for matters which it cannot restrict or exclude in law.

3.8 Customer is authorized to make, or procure the making of, any payments due to Supplier's employees and subcontractors providing Goods and/or Services under the Contract, in order to avoid lawsuits, liens or encumbrances. Such payments may be made through withholding Supplier's credits, offsetting or in any other way. Supplier shall provide any support requested by Customer with regard to such payments and indemnify and hold harmless Customer and its Affiliates for any payments made.

## 4. PAYMENT, INVOICING

4.1 In consideration of the Goods delivered and/or the Services provided by Supplier in accordance with the Contract, Customer shall pay to Supplier the purchase price stated in the Contract provided the invoice fulfils the requirements defined by Customer. Payment shall be made in the Country in which Supplier is registered, to a bank account in the name of Supplier. The price is inclusive of all fees and taxes (other than VAT or equivalent) and of all costs of manufacturing, processing, warehousing and packaging (including returning any returnable packaging) of any Goods.

4.2 Supplier shall submit invoices in an auditable form, complying with applicable laws, generally accepted accounting principles and the specific Customer requirements, containing the following minimum information: Supplier name, address and reference person including contact details; invoice date; invoice number; Order number and Supplier number; address of Customer; quantity; specification of Goods and/or Services; price (total amount invoiced); currency; tax or VAT amount; tax or VAT number; Authorized Economic Operator and/or Approved Exporter Authorization number and/or other customs identification number, if applicable; payment terms as agreed. Supplier shall state the Order number on all invoices (in particular but not limited to commercial, pro forma or customs invoices).

4.3 Invoices must be sent to the billing address specified in the Contract (or as otherwise agreed with Customer).

4.4 Customer shall pay the invoice in accordance with the payment terms agreed in the Contract.

4.5 Customer will reimburse expenses only at cost and to the extent agreed in writing.

4.6 Services charged on the basis of hourly rates require written confirmation of Supplier's time sheets by Customer. Supplier shall submit such time sheets to Customer for confirmation as may be instructed by Customer but latest together with any related invoice. Confirmation of time sheets cannot be construed as acknowledgement of any claims. Customer is not obliged to pay invoices based on time sheets which are not confirmed by Customer in writing.

4.7 Customer reserves the right to set off or withhold payment for Goods and/or Services not provided in accordance with the Contract.

4.8 If an invoice received by Customer is not paid by the due date, Supplier may give notice in writing that the amount is overdue. Thirty (30) days after receipt of notice, unless the payment is disputed in good faith by Customer, Supplier may charge interest at the rate of 3% above the 3-month LIBOR rate (for unsecured USD loans) on any unpaid and undisputed amount, from the date payment fell due (or such other date as may be agreed in writing between the Parties), until receipt of the amount owed. Supplier acknowledges and agrees that this Clause 4.8 provides Supplier with a substantial remedy in respect of any late payment of sums due under any Contract.

## 5. DELIVERY, PERFORMANCE OF SERVICES

5.1 Unless agreed otherwise in the Contract, the Goods shall be delivered in accordance with INCOTERMS 2020 FCA, to the Delivery Location.

5.2 The Services shall be provided at the Delivery Location.

5.3 Supplier shall provide, no later than at the time of acceptance of the Contract, the following minimum information: number of packages and contents, the customs tariff numbers of the Country of consignment, and the countries of origin for all Goods. For controlled Goods, the relevant national export control numbers must be indicated and, if the Goods and/or Services are subject to U.S. export regulations, the U.S. Export Control Classification Numbers (ECCN) or classification numbers of the International Traffic in Arms Regulations (ITAR) must be specified. Proofs of preferential origin as well as conformity declarations and marks of the Country of consignment or destination are to be submitted without being requested; certificates of origin upon request.

5.4 The Goods shall be delivered, and Services shall be provided, during Customer's business hours (or those of the requested Delivery Location) unless otherwise requested by Customer.

5.5 Upon Delivery, Supplier (or its appointed carrier) shall provide Customer (or, if requested, any nominated Customer Affiliate at the Delivery Location) a delivery note and any other required export and import documents not mentioned in Clause 5.3. If Customer has approved partial delivery, such delivery note shall also include the outstanding balance.

5.6 Ownership of the Goods passes to Customer at Delivery. To the extent that the Goods contain Embedded Software, ownership of such Embedded Software will not pass to Customer, but Supplier shall grant, or – as applicable – shall procure that the third party owner grants, Customer and all users a worldwide, irrevocable, perpetual, transferable, non-exclusive, royalty-free right to use the Embedded Software as integral part of such Goods and/or for servicing either of them. For the avoidance of doubt, Supplier shall have no rights of retention of title, and Supplier will convey good title to the Goods, free of any liens or encumbrances (but transfer of title and ownership in the Goods to Customer shall not release Customer from its obligation to pay for those Goods, in accordance with the terms of the Contract).

## 6. ACCEPTANCE

6.1 Delivery of Goods or provision of Services shall not be deemed to be acceptance of such Goods or Services by Customer. Customer (or its nominated Customer Affiliate at the Delivery Location) shall have reasonable time to inspect or test the Goods and/or Services and to report any defects to Supplier. If a defect in the Goods and/or Services was not reasonably detectable during the inspection, Customer (or its nominated Customer Affiliate at the Delivery Location) shall have reasonable time to provide notice of such defect after it has become apparent and/or to reject the Goods and/or Services.

6.2 The Parties may agree on a certain acceptance procedure, in which case acceptance will be subject to Customer's written acceptance statement (or that of Customer's nominated Affiliate). Supplier shall inform Customer (and any relevant Customer Affiliate) in writing within a reasonable time period in advance when the Goods and/or Services are ready for acceptance.

6.3 Customer may enforce any remedy defined in the Contract for any rejected Goods or Services.

## 7. DELAY

7.1 Supplier will deliver Goods in accordance with any date or time, and at least in accordance with any lead times, specified in the Contract. If the Delivery of Goods or the provision of Services does not comply with the agreed date(s), Customer may:

7.1.1 terminate the Contract in whole or in part;

7.1.2 refuse any subsequent delivery of the Goods or provision of the Services;

7.1.3 recover from Supplier any expenses reasonably incurred by Customer (or any affected Customer Affiliate) in obtaining the Goods and/or Services in substitution from another supplier;

7.1.4 claim damages for any cost, loss, expenses and liquidated damages incurred by Customer (or by any affected Customer Affiliate) which are attributable to Supplier's delay;

7.1.5 claim liquidated damages as agreed in the Contract;

and it is agreed that Customer may select one or more such remedies, and recovering costs or damages under any of Clauses 7.3 to 7.5 shall not exclude Customer from recovering other costs or damages under the other parts of this Clause 7.

## 8. WARRANTY AND REMEDIES

8.1 Supplier warrants that the Goods and/or Services comply with the Contract, including Supplier's responsibilities as defined in Clause 3.1.

8.2 Supplier warrants that the Goods are new and unused at the date of Delivery and remain free from defects during the warranty period.

8.3 The warranty period is twenty four (24) months from Delivery, or as otherwise set out in the Contract.

8.4 In case of breach of any warranty which is not remedied within forty-eight (48) hours from Customer's notification, or in case of any other breach of the Contract, Customer is entitled to enforce any or all of the following remedies at its discretion and at Supplier's expense:

8.4.1 to give Supplier an opportunity to carry out any additional work necessary to ensure that the Contract is fulfilled;

8.4.2 to require Supplier promptly to repair or replace the defective Goods and/or Services;

8.4.3 to carry out (or to instruct a third party to carry out) any additional work necessary to make the Goods and/or Services comply with the Contract;

8.4.4 to refuse any further Goods and/or Services;

8.4.5 to require Supplier to indemnify and hold harmless Customer (and any relevant Customer Affiliate) for such damages as may have been sustained by Customer (or any Customer Affiliate) as a result of Supplier's breach of the Contract;

8.4.6 to terminate the Contract, and in such event:

8.4.6.1. Customer has no obligation to compensate Supplier (including paying for the Goods and/or Services which have been rejected); and

8.4.6.2. at Customer's option, Supplier shall pay back to Customer any remuneration received from Customer for the Goods and/or Services and take back the Goods at Supplier's own cost and risk; and

8.4.6.3. Customer may source equivalent replacement goods and/or services from an alternative supplier (with any incremental costs incurred in doing so being for Supplier's account).

8.5 In case of a breach of any warranty, the entire warranty period shall be restarted for the defective Goods/Services from the date the remediation is completed to Customer's satisfaction.

8.6 The rights and remedies available to Customer under the Contract are cumulative and are not exclusive of any rights or remedies available at law or in equity.

## 9. INTELLECTUAL PROPERTY RIGHTS

9.1 Subject to Clause 9.2, Supplier hereby grants Customer and its Affiliates, or undertakes to procure that Customer and its Affiliates are granted, a worldwide, irrevocable, transferable, sub-licensable, non-exclusive, royalty-free license to use the Intellectual Property Rights in the Goods, including Embedded Software, if any.

9.2 Supplier herewith assigns to Customer (or will assign to Customer's nominated Affiliate) full ownership rights in any Intellectual Property Rights in Goods resulting from the Services. Supplier further agrees, upon Customer's request and at its cost, to take all further steps necessary to perfect Customer's ownership (or that of its nominated Affiliate) to the Intellectual Property Rights.

9.3 Intellectual Property Rights in any Goods created by or licensed to Supplier prior to or outside a Contract (Pre-Existing IPR) will remain vested in Supplier (or the third party owner). To the extent that Pre-Existing IPR are embedded in any Goods resulting from the Services, Supplier grants, or undertakes to procure that the third party owner grants, Customer and its Affiliates a worldwide, irrevocable, transferable, sub-licensable, non-exclusive, royalty-free license to use the Pre-Existing IPR as part of such Goods, including the right to improve, develop, market, distribute, sublicense or otherwise use such Pre-Existing IPR.

9.4 Supplier must specify in writing and prior to Delivery all open source software contained in or used by Embedded Software, if any, and request Customer's written approval. Supplier agrees to replace at its own cost any open source software components rejected by Customer with software of at least the same quality and functionality.

9.5 If any claim is made against Customer (or any Customer Affiliate) that the Goods and/or Services infringe a third party's Intellectual Property Rights, Supplier shall at its cost, but at Customer's discretion: (i) procure for Customer, Customer's Affiliates and Customer's clients, as the case may be, the right to continue using the Goods and/or Services; (ii) modify the Goods and/or Services so they cease to be infringing; or (iii) replace the Goods and/or Services with non-infringing equivalents. Otherwise, Customer is entitled to terminate the Contract and to reclaim all sums which it, or any Customer Affiliate, has paid to Supplier thereunder.

## 10. COMPLIANCE, INTEGRITY

10.1 Supplier shall provide the Goods and/or Services in compliance with all relevant laws, regulations, and codes of practice.

10.2 Supplier and its subcontractors must comply with the Hitachi Energy List of Prohibited and Restricted Substances and report to Customer (and/or any Customer Affiliate operating at the relevant Delivery Location) the substances contained in the

Goods. Supplier must also comply with the reporting and other requirements regarding Conflict Minerals made available under [www.hitachienergy.com/about-us/supplying](http://www.hitachienergy.com/about-us/supplying) – **Material Compliance** or otherwise and shall provide Customer (and any relevant Customer Affiliate) with documents, certificates and statements as requested. Any statement made by Supplier to Customer (whether directly or indirectly) with regard to materials used for or in connection with the Goods and/or Services will be deemed to be a representation under the Contract.

10.3 Supplier represents and warrants that it is and will remain fully compliant with all applicable trade and customs laws, regulations, instructions, and policies, including, but not limited to, satisfying all necessary clearance requirements, proofs of origin, export and import licenses and exemptions from, and making all proper filings with appropriate governmental bodies and/or disclosures relating to the provision of services, the release or transfer of goods, hardware, software and technology.

10.4 No material or equipment included in or used for the Goods and/or Services must originate from any company or Country listed in any relevant embargo issued by the authority in the Country where the Goods and/or Services will be used, or by an authority otherwise having influence over the equipment and material forming part of the Goods and/or Services. If any of the Goods and/or Services are or will be subject to export restrictions, it is Supplier's responsibility to promptly inform Customer (and any relevant Customer Affiliate) in writing of the particulars of such restrictions.

10.5 Each Party warrants that it will not, directly or indirectly, and that each has no knowledge that other persons will, directly or indirectly, make any payment, gift or other commitment to its customers, to government officials or to agents, directors and employees of each Party, or any other party, in a manner contrary to applicable laws (including but not limited to the U. S. Foreign Corrupt Practices Act, the UK Bribery Act 2010 and, where applicable, legislation enacted by member States and signatories implementing the OECD Convention Combating Bribery of Foreign Officials), and shall comply with all relevant laws, regulations, ordinances and rules regarding bribery and corruption. Nothing in the Contract will render either Party or any of its Affiliates liable to reimburse the other for any such consideration given or promised.

10.6 Supplier herewith acknowledges and confirms that Supplier has received a copy of Hitachi Energy's Code of Conduct and Hitachi Energy's Supplier Code of Conduct or has been provided information on how to access both Hitachi Energy Codes of Conduct online under [www.hitachienergy.com/integrity](http://www.hitachienergy.com/integrity). Supplier agrees to perform its contractual obligations in accordance with both Hitachi Energy Codes of Conduct.

10.7 Hitachi Energy has established reporting channels where Supplier and its employees may report suspected violations of applicable laws, policies or standards of conduct (Web portal: [www.hitachienergy.com/integrity](http://www.hitachienergy.com/integrity) – **Reporting Channels**; contact details specified on this Web portal), and Supplier shall ensure that such reporting channels are used to report any suspected violations.

Customer has adopted an Organizational Model pursuant to Legislative Decree no. 231/01, as amended, which can be consulted on its website;

10.8 Any violation of an obligation contained in this Clause 10 is a material breach of the Contract according to art. 1456 of the Italian Civil Code and entitles the other Party to terminate the Contract with immediate effect and without prejudice to any further rights or remedies available thereunder or at law. Notwithstanding anything to the contrary in the Contract, Supplier shall, without any limitations, indemnify and hold harmless Customer (and any affected Customer Affiliate) for all liabilities, damages, cost or expenses incurred as a result of any such violation and/or termination of the Contract, or arising from export restrictions concealed by Supplier.

## 11. CONFIDENTIALITY, DATA SECURITY, DATA PROTECTION

11.1 Supplier shall keep in strict confidence all Customer Data and any other information concerning Customer's or its Affiliates' business, their products and/or their technologies which Supplier obtains in connection with the Goods and/or Services to be provided (whether before or after acceptance of the Contract). Supplier shall restrict disclosure of such confidential material to such of its employees, agents or subcontractors or other third parties as need to know the same for the purpose of the provision of the Goods and/or Services to Customer. Supplier shall ensure that such employees, agents, subcontractors or other third parties are subject to and comply with the same obligations of confidentiality as applicable to Supplier and will be liable for any unauthorized disclosures.

11.2 Supplier shall apply appropriate safeguards, adequate to the type of Customer Data to be protected, against the unauthorised access or disclosure of Customer Data and protect such Customer Data in accordance with the generally accepted standards of protection in the related industry, or in the same manner and to the same degree that it protects its own confidential and proprietary information – whichever standard is higher. Supplier may disclose confidential information to Permitted Additional Recipients (which means Supplier's authorised representatives, including auditors, legal counsel, consultants and advisors) provided always that: (i) such information is disclosed on a strict need-to-know basis; and (ii) such Permitted Additional Recipients sign with Supplier a confidentiality agreement with terms substantially similar hereto or, where applicable, are required to comply with codes of professional conduct ensuring confidentiality of such information. Supplier shall comply with, and ensure that the Permitted Additional Recipients comply with, any security procedure, policy or standard provided to Supplier by Customer or any of its Affiliates from time to time, and in particular with the Hitachi Energy Cyber Security Requirements for Suppliers as made available under [www.hitachienergy.com/about-us/supplying](http://www.hitachienergy.com/about-us/supplying) - **Supplier Cyber Security** or as otherwise set out in the Contract.

11.3 Supplier must not: (i) use Customer Data for any other purposes than for providing the Goods and/or Services; or (ii) reproduce the Customer Data in whole or in part in any form except as may be required by the Contract; or (iii) disclose Customer Data to any third party, except to Permitted Additional Recipients or with the prior written consent of Customer.

11.4 Supplier shall install and update at its own cost adequate virus protection software and operating system security patches for all computers and software utilized in connection with providing the Goods and/or Services.

11.5 Supplier shall inform Customer (and any affected Customer Affiliate) without delay about suspicion of breaches of data security or other serious incidents or irregularities regarding any Customer Data.

11.6 Supplier agrees that Customer (and any affected Customer Affiliate) may provide any information received from Supplier to other Affiliates of Customer and to third parties.

### 11.7 Protection of Personal Data

11.7.1 If Customer discloses Personal Data to Supplier, Supplier shall comply with all applicable data protection laws and regulations.

11.7.2 Supplier shall apply appropriate physical, technical and organizational measures to ensure a level of security of Personal Data appropriate to the respective risk and the ability to ensure the ongoing confidentiality, integrity, availability and resilience of processing systems and services.

11.7.3 Supplier agrees that it will not withhold or delay its consent to any changes to this Clause 11 which in Customer's or its Affiliates' reasonable opinion are required to be made in order to comply with applicable data protection laws and regulations and/or with guidelines and advice from any competent

supervisory authority, and agrees to implement any such changes at no additional cost to Customer.

11.7.4 Supplier acknowledges that the processing of Personal Data in accordance with the Contract may require the conclusion of additional data processing or data protection agreements with Customer or its Affiliates. To the extent such additional agreements are not initially concluded as part of the Contract, Supplier, its relevant Affiliates or subcontractors shall upon Customer's request promptly enter into any such agreement(s), as designated by Customer and as required by mandatory law or a competent data protection or other competent authority.

## 12. LIABILITY AND INDEMNITY

12.1 Without prejudice to applicable mandatory law, Supplier shall, without any limitations, indemnify and hold harmless Customer, and any affected Customer Affiliate, for all liabilities, damages, cost, losses or expenses incurred by Customer (or such Customer Affiliate) as a result of Supplier's breach of the Contract. Supplier shall, without any limitations, indemnify and hold harmless Customer and each relevant Customer Affiliate for any claim made by a third party against Customer (or such Customer Affiliate) in connection with the Goods and/or Services, including claims that such Goods and/or Services infringe a third party's Intellectual Property Rights. Upon Customer's request Supplier shall defend Customer (or any relevant Customer Affiliate) against any third party claims.

12.2 Supplier is responsible for the control and management of all of its employees, suppliers and/or subcontractors, and it is responsible for their acts or omissions as if they were the acts or omissions of Supplier.

12.3 Supplier shall maintain in force, and upon request provide evidence of, adequate liability insurance and statutory worker's compensation/employer's liability insurance with reputable and financially sound insurers, which however will not relieve Supplier from any liability towards Customer (or any Customer Affiliate). The insured amount cannot be considered as limitation of liability.

12.4 Customer reserves the right to set off any claims under a Contract against any amounts owed to Supplier.

## 13. TERMINATION

13.1 Customer may terminate the Contract for convenience in whole or in part by giving Supplier thirty (30) calendar days written notice. In such event Customer shall pay to Supplier the value of the delivered but unpaid Goods and/or Services (provided that such Goods and/or Services otherwise comply with the Contract) and proven direct costs reasonably incurred by Supplier for undelivered Goods and/or Services, however in no event more than the price for the Goods and/or Services agreed under the Contract. No further compensation will be due to Supplier.

13.2 In the event of Supplier's breach of the Contract, Customer is entitled to terminate the Contract in accordance with Clause 8.4.

13.3 Customer may terminate the Contract with immediate effect by notice in writing in the event that: (i) an interim order is applied for or made, or a voluntary arrangement approved, or a petition for a bankruptcy order is presented or a bankruptcy order is made against Supplier; or (ii) any circumstances arise which entitle the court or a creditor to appoint a receiver or administrator or to make a winding-up order; or (iii) other similar or analogous action is taken against or by Supplier by reason of its insolvency or in consequence of debt; or (iv) there is a change of Control of Supplier.

13.4 Upon termination Supplier shall immediately and at Supplier's expense return to Customer (or Customer's Affiliate) all Customer or Customer Affiliate property (including any Customer Data, documentation, and transfer of Intellectual Property Rights) then under Supplier's control and provide Customer (or its nominated Affiliate) with the complete documentation about the Goods and/or Services.

## 14. FORCE MAJEURE

14.1 Neither Party (nor any Customer Affiliate receiving the Goods and/or Services) will be liable for any delay or failure to perform its obligations under a Contract if the delay or failure results from an event of Force Majeure. **Force Majeure** means an event that was not foreseeable by the affected Party (or Customer Affiliate) at the time of execution of the Contract, is unavoidable and outside the reasonable control of the affected Party (or Customer Affiliate), provided that it cannot overcome such event despite all reasonable efforts, and that it provides notice to the other Party (and, in the case of Supplier being affected, to any relevant Customer Affiliate) within five (5) calendar days from occurrence of the Force Majeure event.

14.2 If a Force Majeure event exceeds thirty (30) calendar days, either Party may terminate the Contract forthwith by written notice without liability. Each Party shall use reasonable efforts to minimise the effects of the Force Majeure event.

## 15. ASSIGNMENT AND SUBCONTRACTING

15.1 Supplier may neither assign, nor novate, transfer, encumber or subcontract the Contract, nor any parts thereof (including any monetary receivables from Customer) without prior written approval of Customer.

15.2 Customer may assign, novate, transfer, subcontract or deal in any other manner with the Contract, in whole or in part, at any time, and on more than one occasion thereof to its Affiliates, or to any successor-in-interest or title which acquires that part of Customer's group of companies' business to which the relevant Contract relates (and such transferee may do the same).

## 16. NOTICES

Any notice must be given duly signed by registered mail, courier or by e-mail to the address of the relevant Party as stated in the Contract and/or to such other address as such Party may have notified in writing (including Customer Affiliates operating at relevant Delivery Locations). E-mail require written confirmation of the receiving Party. Supplier's reply, correspondence, information or documentation related to the Contract must be provided in the language used in the Contract.

## 17. WAIVERS

Failure to enforce or exercise any term of the Contract does not constitute a waiver of such term and does not affect the right later to enforce such or any other term therein contained.

## 18. GOVERNING LAW AND DISPUTE SETTLEMENT

18.1 The Contract is governed by the laws of the Country (and/or the State, as applicable) where Customer is registered, however under exclusion of its conflict of law rules and the United Nations Convention on International Sale of Goods.

18.2 If Customer and Supplier are registered in the same Country, any dispute arising in connection with the Contract which cannot be settled amicably shall be submitted for resolution to the jurisdiction of the competent courts at Customer's place of registration.

18.3 If Customer and Supplier are registered in different countries, any dispute arising in connection with the Contract which cannot be settled amicably shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce by one arbitrator appointed in accordance therewith. Place of arbitration shall be Customer's place of registration. The language of the proceedings and of the award shall be English.

## 19. SEVERABILITY

The invalidity or unenforceability of any term of the Contract will not adversely affect the validity or enforceability of the remaining terms. The Contract will be given effect as if the invalid or unenforceable term had been replaced by a term with a similar economic effect.

## 20. SURVIVAL

20.1 Provisions of the Contract which either are expressed to survive its termination or from their nature or context it is contemplated that they are to survive such termination will remain in full force and effect notwithstanding such termination.

20.2 The obligations set forth in Clauses 8 (Warranty and Remedies), 9 (Intellectual Property Rights), 11 (Confidentiality, Data Security, Data Protection) and 12 (Liability and Indemnity) exist for an indefinite period of time and survive expiration or termination of the Contract for any reason.

## 21. ENTIRETY

21.1 The Contract (incorporating these GTC), and any documents incorporated into an Order or other agreement (including by reference) constitute the entire agreement between the Parties and replaces any prior agreement between them with regard to its subject.

21.2 In the event of any inconsistency between documents comprising the Contract, the following order of precedence shall apply:

21.2.1 any Contract established by the Customer (to the extent that specific deviations from the GTC, are explicitly identified in that Contract); then

21.2.2 these GTC;

and, for the avoidance of doubt, any terms and conditions set out, or referenced, in any other document shall not apply, nor form part of any Contract.

## 22. RELATIONSHIP OF PARTIES

22.1 The relationship of the Parties is that of independent parties dealing at arm's length and nothing in the Contract may be construed to constitute Supplier as an agent or employee of Customer (or of any Customer Affiliate) or so as to have any kind of partnership with Customer or any Customer Affiliate, and Supplier must not represent itself as or act on behalf of Customer or its Affiliates.

22.2 The Contract does not imply any employment relationship between Customer (or any Customer Affiliate), and Supplier, or between Customer (or any Customer Affiliate) and Supplier's employees assigned to the execution of the Contract. Customer and its Affiliates remain free of any responsibility or liability for labour, social security or taxes with respect to Supplier and its employees assigned to the execution of the Contract.

## 23. TRACEABILITY OF FINANCIAL FLOWS FOR PUBLIC PROCUREMENT

- a) Supplier – in the capacity of sub-contractor/sub-supplier/sub-party of Customer within the main Contract – assumes, where applicable, all the obligations specified in art. 3 of the Law nr. 136/2010, as modified by the Law nr. 217/2010.
- b) In particular, in order to ensure the traceability of financial flows aimed to prevent criminal infiltration, Supplier must use, for the financial movements associated to the activities of the Contract, one or more bank or post accounts opened at banks or at the Poste Italiane S.p.A. company dedicated, even not exclusively, to public procurement.
- c) Any financial movement associated to the activities of the Contract shall have to be performed exclusively by means of bank or mail transfer, or through Ri.Ba. (Electronic Collection Order).
- d) Any financial movement associated to the activities of the Contract shall have to report: the relevant tender identification code (CIG) and, where envisaged, the associated project unique code (CUP). Supplier undertakes to indicate the CIG (and, where envisaged, the CUP) in the invoices it shall issue to Customer.
- e) Supplier is obliged to transmit to Customer the identification details of the above-mentioned dedicated bank account within 10 days from the stipulation of the Contract and also, within the same term, the personal details and the tax code

of the individuals authorised to operate on it. Supplier shall also provide to promptly communicate any change concerning the transmitted data.

- f) If the credits of Supplier deriving from the Contract, following the written approval of Customer are subject to transfer to third parties, the above mentioned obligations shall also have to be fulfilled by the transferee. For this purpose Supplier undertakes, by also promising the deed of the third party, to make sure that the transferee assumes the above mentioned obligations.
- g) The infringement by Supplier of one or more provisions of the Law nr. 136/2010, as modified by the Law nr. 217/2010, shall legitimate Customer to declare the automatic termination of the Contract.
- h) Under penalty to make the Contract null and void, Supplier undertakes to add to the contracts with any of its sub-contractors, sub-suppliers or sub-parties, previously authorised in writing by Customer, a similar clause with which each one of them assumes all the obligations concerning the traceability of financial flows as per the above mentioned article 3 of the Law nr. 136/2010, as modified by the Law nr. 217/2010.
- i) Supplier, in the capacity of sub-contractor/sub-supplier/sub-party of Customer, undertakes to give immediate notice to the contacting party associated to the CIG communicated by Customer and to the competent Prefecture – Territorial Government Office – of the failure of its counterpart to comply with financial traceability obligations.

Supplier's signature:

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Pursuant to articles 1341 and 1342 of the Italian Civil Codes, Supplier specifically accepts and approves the following Clauses:

- Clause 2 – Application;
- Clause 3 – Supplier's Responsibilities;
- Clause 7 – Delay;
- Clause 8 – Warranty and Remedies;
- Clause 10 – Compliance, Integrity;
- Clause 12 – Liability and Indemnity;
- Clause 13 – Termination;
- Clause 15 – Assignment and Subcontracting;
- Clause 18 – Governing Law and Dispute Settlement.

Supplier's signature:

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