

# GENERAL CONDITIONS OF PURCHASE



## 1. PURPOSE – APPLICATION

These general conditions of purchase (the “GCP”) shall apply to all orders placed by Flender-Graffenstaden (“FG”) with the supplier, whether or not French (the “Supplier”), in respect, notably, of Goods and/or Services.

**THIS IS AN ESSENTIAL DECISIVE CONDITION FOR THE AGREEMENT OF FLENDER-GRAFFENSTADEN.**

The Supplier hereby acknowledges and accepts such GCP and expressly waives relying on any and all contrary, prior or subsequent provisions appearing in its own general conditions, forms, invoices or elsewhere. The obligations prescribed by these GCP are contractual obligations to which there shall be no exceptions and which not may be altered or contradicted except (i) for the future, and (ii) in respect of a strictly determined transaction, as well as (iii) by a written specific agreement concerning a particular Order which shall be (a) signed by both parties, and (b) appear in such Order duly placed by FG and accepted by the Supplier pursuant to the procedures hereinafter set forth.

## 2. DEFINITIONS

In these general terms of purchase the following terms (beginning with a capital letter) shall be defined as follows:

**GCP** means these general conditions of purchase;

**Goods and Services** means any and all goods and services, equipment, items, products, components, software, licenses and services offered and/or supplied by the Suppliers pursuant to an Order;

**Contract** means the documents specified in Article 3;

**Order** means the order sent by FG and accepted by the Supplier in the forms and within the time limits prescribed hereunder;

**FG** means Flender-Graffenstaden SAS (Strasbourg Register of Trade and Companies 327 095 642);

**Gross Negligence** means any and all actions or omissions constituting a serious breach of care that may be expected from a conscientious co-contractor and/or the wilful disregard of the consequences of such action or omission;

**Force Majeure** means an event that is external to the Order, unforeseeable and cannot be controlled rendering impossible the performance of a contractual obligation;

**Supplier** means the individual or entity with which the Order is placed;

**Information** means the confidential documents and information specified in paragraph 8.7;

**Parties** means FG and the Supplier together (“Party” meaning one of the Parties individually);

**Price** means the payment made in consideration for the Goods and/or Services;

**Acceptance** means formal acceptance including the lifting of reservations, if any, and the control of the conformity file for delivered Goods and/or Services;

**Site** means the place where the Goods and/or Services shall be delivered.

## 3. CONTRACT: FORMATION AND CONTENT

FG’s purchase methods comply with the NF EN ISO 9001 standard and its contractors shall satisfactorily meet the corresponding quality requirements. FG shall be bound only by a formal order sent on its official letterhead (signed by those persons duly empowered to bind it) or duly validated in accordance with SAP procedures, which may contain the indissociable items hereinafter set forth, in the following order of precedence:

(i) order (order form accepted by the Supplier as provided hereinafter);(ii) any special conditions (mentioned or referred to, in principle, in the Order);(iii) the GCP, including its annex relating to the Safety Obligations applicable to the Site;(iv) technical specifications (including the Gearbox Construction Directive, statement of work, etc.);(v) the Supplier’s offers and/or estimates, which may be completed and amended by negotiations;(vi) those terms of the general conditions of sale of the Supplier that are not contrary to the above.

No amendment of an Order shall be binding on FG unless placed in the same manner.

### 3.1. Prior commitments

The Supplier shall keep FG informed, request from it any and all information and details that are necessary and/or useful in order to effectively advise FG, fully meet its needs, and furnish FG with the Goods and/or Services in conformity with their intended use, thereby achieving the result and optimizing it to the greatest extent possible. The Supplier shall, in particular, draw FG’s attention to the specific practices, rules and standards applicable to the Goods and Services or concerned and/or affected by the delivery and/or services which are contemplated. The Supplier accordingly hereby undertakes, in particular, to transmit to FG any and all additional information and/or documents necessary for compliance with import regulations applicable in the country of import or export, or re-export in the case of resale depending on the intended use of the Goods and/or Services. It shall provide mandatory safety data sheets and certificates of conformity, shall inform FG of any hazardous substances (eg. asbestos, lead, chemical, cancerous or mutagen products or products which are toxic for purposes of reproduction, (very) bioaccumulative and/or persistent, subject to authorization, etc.) and the applicable measures and/or protection to be carried out as the case may be. Before beginning performance the Supplier shall familiarize itself with the safety instructions, governmental rules and general conditions of performance applicable to the site and keep itself informed of their evolution. Such elements shall be taken into account in the offers, estimates and other documents issued by the Supplier; the Supplier may not rely on their absence of communication in order to exonerate itself from liability. The Supplier is hereby informed that FG may itself have to supply goods and/or services in sensitive sectors such as defense or nuclear power and it shall take this into account.

### 3.2. Offers, price lists, prices, estimates

Offers, price lists, prices and other factors shall be submitted by the Supplier free of charge and shall bind the Supplier for a minimum period of 90 days as from their receipt by FG. Where applicable, they shall be sent with the references (date, number, position of the requesting party written out in full) of FG’s request. Prices shall be adequately itemized so as to cover all of the goods and services involved. Prices shall be in euros; they shall be firm, fixed and lump-sum and inclusive of all taxes (aside from VAT, which shall be specifically itemized) and include any and all

excises, levies, duties, taxes, insurance, costs (including banking fees in connection with foreign transfers, costs of transportation, travel, labour contributions or contributions due to other bodies, protection, chocking, securing, packaging and packing in accordance with state of the art requirements, documents such as descriptions, user manuals and instructions in the French language, materials certificates, certificates of origin, approval certificates and/or certificates of labeling), equipment, accessories and tools necessary for the use and/or maintenance of the Goods and/or Services, the intellectual property rights pertaining thereto (including third party rights for which the Supplier shall be personally responsible). It is assumed that the Goods and Services shall be supplied in France by the Supplier, regardless of whether the Supplier is French, and the prices contained in the orders are delivery prices free of customs at the address of delivery (DDU – delivered duty paid at the named place of destination), with any and all import/export authorizations (taking into account the Goods and Services involved), required export licenses and documentation necessary for such purpose. Any and all documents accompanying the requests, offers, etc. made available by FG (such as plans, drawings, calculations, samples, models, data media) are and/or shall become the exclusive property of FG. Accordingly, they may not be made available to third parties without FG’s specific written consent; they may be used solely for FG’s purposes and shall be spontaneously returned to it when no longer used. The Supplier may request; at its exclusive costs and risks, that FG assists it in obtaining any and all import licenses and/or other authorizations necessary for importing the Goods and/or Services ; FG’s sole obligation shall be to provide reasonable assistance in good faith taking into account the circumstances.

### 3.3. Orders, changes to the Orders

The Supplier shall promptly render its decision concerning the order; if FG has not received a written refusal from the Supplier within one(1) week following the date of the order, the Supplier shall be deemed to have accepted the order in its entirety. (The accepted order shall be referred to herein as being an “Order”). The Supplier may not receive any payment, even if partial and/or in the form of an advance payment, until following receipt by FG of the Supplier’s acceptance of the Order. The Supplier agrees to notify in writing to FG, in the Supplier’s acknowledgment of receipt, its confirmation of the Order and invoice, any and all information and/or additional documents necessary for compliance with import regulations applicable in the country of import, export or re-export in case of resale. The Supplier shall in all cases provide FG with the following information and documents by line of Good(s) and/or Service(s), at the latest at the time of confirmation of the Order:

- the ECCN code (Export Control Classification Number) for all Goods and/or Services subject to American regulations (or the equivalent, where applicable);
- the AL code applicable in accordance with EC Regulation 428/2009, in its amended version in force (export list number);

- the customs code (Harmonized System Code or statistical number);

- the country of origin (non-preferential origin); and

- upon FG’s request, the declaration of preferential origin made by the Supplier (if the Supplier is located in the European Union) or preferential certificate (if the Supplier is located outside the European Union). In case of a change in the origin or characteristics of the Supplies and/or modification of the import regulations in force in relation to the initial Order, the Supplier shall update (before the date of supply/delivery) all of the above listed data. The Supplier agrees to assume all updating costs and remedy any and all losses sustained by FG due to the inaccuracy of such data. FG reserves the right to make any and all changes to an Order, even during performance, which it shall consider to be reasonably necessary. The Supplier shall have a maximum period of four (4) days (or less if justified by the circumstances) as from FG’s request to agree to the change and assess the technical and economic consequences of such a change, including in terms of deadlines, in order to make any observations in relation thereto. Failing this, the Order shall be deemed amended as requested by FG. In case of amendment of the Order, the price may be reasonably adjusted by mutual agreement up to the amount of the changes made (unless such changes had been reasonably included in the initial Order and if the Supplier had complied with its obligations hereunder, in particular the obligations arising from this Article). The Supplier shall not make any changes to the specifications, even if minor, without FG’s prior written consent.

### 3.4. Goods and/or Services

The subject matter of the Order (Goods and/or Services) shall be set out in the Order and/or its annexes. The Order shall contain the stipulated subject matter and anything directly and/or indirectly connected thereto (products, equipment, the services hereunder and related services, documents, insurance, start-up, assistance with respect to the rules for importing and/or exporting of the Goods and/or Services depending on their country of origin, destination and countries of transit, warranties, etc.), so that the Order is properly performed and/or the Good is ready for use in accordance with the agreement of the Parties and state of the art requirements. The Supplier agrees to take all measures necessary for ensuring full and complete performance of the Order within the prescribed time limits and may not suspend performance of its contractual obligations even in the event of a dispute or litigation.

## 4. PERFORMANCE OF THE ORDER

### 4.1. Conditions and monitoring

The Supplier alone shall be liable for complete performance of the Order on the date it is to be performed. Notwithstanding the above, the Supplier shall provide the representatives of FG (and the customers of FG) free access to its premises and the premises of its suppliers and/or subcontractors for the purpose of controlling and/or monitoring performance of an Order, having tests be carried out or being present for such tests, without any ensuing responsibility on the part of FG, and/or a decrease in the liability of the Supplier and/or this giving rise to any additional payment, regardless of the number of inspections and/or tests that are carried out.

### 4.2. Transportation - packaging

Deliveries shall be “delivered duty paid” at the place of destination named in the Order at the full expense of the Supplier. Absent any mention in this regard (and if the Order is not connected to any prior order for which the place of delivery is specified), delivery shall be made at 1 rue du Vieux Moulin, 67400 Illkirch Graffenstaden. The Goods shall be delivered appropriately protected

depending on the method of transportation and the goods involved. The Suppliers shall be liable for any damage to equipment that occurs during transportation due to the packaging or inadequate securing. Except if otherwise agreed, costs of forwarding and making the supplies available shall be borne by the Supplier. The Supplier shall attach two detailed bills of delivery to each shipment with the number of the order, the item and its date; the same bill of delivery may only list goods covered by the same order form. Supplies shall be labelled by the Supplier so that they may be identified. Each package shall notably indicate, in a clear and permanent manner, the country of origin, the delivery address, the net and gross weight, the number and item of the Order, together with a bill of delivery. The working drawings shall be attached to the shipped equipment.

#### **4.3. Transfer of risks, transfer of title**

The Supplier shall bear the risks concerning the Goods and/or Services until final Acceptance of the Goods and/or Services which are acknowledged by FG as compliant; the Supplier undertakes to protect the Goods and/or Services up until such time. The Parties expressly agree that Acceptance shall *ipso jure* entail full transfer of title to FG, notwithstanding any clause to the contrary contained in the documents of the Supplier, its suppliers and/or subcontractors, for which the Supplier shall be personally responsible.

### **5. PERFORMANCE TIMES**

#### **5.1. Date of supply**

The contractual date for delivery of the Good and/or Service shall be set out in the Order; time limits shall begin to run as from the date of the Order. The Goods and/or Services shall be delivered to the places mentioned in the Order. If the agreed time for performance is longer than one week (i.e. five (5) working days), the Supplier shall send FG periodically updated schedules establishing that the time limits for performance conform with the Order or promptly notify FG of potential delays and contemplated solutions. If so provided for in the Order and/or if this may be implied from its subject matter, the Goods and/or Services shall not be deemed delivered until following the completion of tests and trials which are fully satisfactory to FG and remittance of all documents corresponding to the Goods and/or Services as well as the tests and trials (material delivery – delivered in accordance with the contract). If the Order provides that Goods shall be made available on a site, such Goods shall not be deemed materially delivered until ready for acceptance and duly packaged and ready for shipping as provided in the Order. The terms and conditions with respect to deliveries, regulations and customs agreements and transfer of title are consistent with the provisions of the 2000 Incoterms. The Supplier further agrees to furnish all information necessary for the successful crossing of borders and application of current commercial agreements. Deliveries shall be made during FG's working days and during normal business hours. The Supplier shall give FG adequate notice by providing it with the information necessary for planning and organizing receipt of the planned deliveries, including with respect to insurance.

#### **5.2. Early deliveries**

As the Goods and/or Services are to be supplied in accordance with the Order, FG may refuse partial and/or early deliveries. FG's acceptance of an early delivery shall have no effect on the agreed upon date of payment.

#### **5.3. Delays**

Inversely, the Supplier shall immediately inform FG of any foreseeable delay in performance of the Order and, if possible, the causes thereof. In case of delay (noted or notified by the Supplier) in excess of twenty (20) working days, FG may cancel all or part of the Order, without payment of any costs or compensation. The late penalty clause shall not interfere with this right of refusal. If the Supplier considers that it can be excused due to any event (other than a case of Force Majeure) and subject to being estopped, it shall advise FG in writing of such event within forty-eight (48) hours from its occurrence. If FG considers that the circumstances so justify, the Parties may agree to modify the delivery time of the Order in order to reasonably take into account the impact of the event relied upon, depending on the circumstances, without such modification giving rise to payment of any penalties, or the right to suspend and/or terminate the Order.

#### **5.4. Late penalties**

Aside from a case of Force Majeure, in case of delay in relation to the dates agreed to in the Order for delivery of compliant Goods and/or Services, the Supplier shall be obligated to pay late penalties, without prejudice to the provisions relating to suspension and/or termination of all or part of the Orders affected by the delay. These penalties shall be due forthwith, in their entirety, due solely to failure to perform in a timely manner, without any other formality and even in case of "partial" performance. These penalties shall be one percent (1%) of the amount, net of tax of the Order per week late (any fraction of a week that has begun shall be due), the minimum (floor) of which shall be one hundred euros (€100) per Order and the ceiling ten percent (10%) of the total amount of the Order. It is expressly agreed that such penalties shall apply *ipso jure* to the agreed upon price. They shall not constitute lump-sum compensation or full discharge of the losses sustained by FG, which accordingly reserves the right to make a claim against the Supplier for full indemnification of the loss sustained by FG, without prejudice to the provisions in respect of suspension and/or termination. FG may also:

- require that transportation be carried out by more rapid means than those initially agreed to, at the Supplier's exclusive cost; or
- failing full performance of the Order within the set time limits and following the sending of a formal notice by FG to the Supplier, perform the Order or cause it to be performed by a third party selected by FG, at the Supplier's costs and risks or terminate the contract in accordance with the terms and conditions hereinafter set out.

### **6. CONFORMITY – ACCEPTANCE**

#### **6.1. Conformity**

"Acceptance" by FG of Goods and/or Services which are materially delivered shall not imply a compliant delivery (delivery that conforms to all of the specifications of the Order and state of

the art requirements). In order for the Goods and/or Services to be validly considered as conforming they must necessarily meet the following criteria:

- They must conform with all contractual, legal and regulatory requirements, the purposes for which they are intended, as well as with standards, customary international quality criteria and state of the art requirements applicable both at the time the Order is concluded as well as the time of material delivery, including regulations relating to exports or imports and applicable customs obligations.

- They must be delivered fully completed.

- They must be accompanied by all certificates, instructions, recommendations, indications, and directions necessary for their proper, secured (with, notably, all safety data slips concerning the substances contained in the Order) and optimal use. The Goods and/or Services must necessarily conform with export/import regulations and customs requirements; the Supplier hereby guarantees and agrees to furnish FG with any and all required export licenses (unless pursuant to law such licenses must be obtained by FG and/or a third party other than the Supplier). In case of noted non-conformity, the Supplier shall immediately and at its exclusive expense make all modifications and/or necessary replacements without prejudice to FG's right to avail itself of all other rights granted to it hereunder.

#### **6.2. Acceptance**

Except if otherwise expressly agreed, Acceptance of the Goods and/or Services and acknowledgment of their conformity shall take place in FG's workshops by a duly empowered representative of FG. If the Goods and/or Services conform with the Order, Acceptance shall be entered in FG's SAP IT system. Acceptance shall not release the Supplier from the warranties for which it is liable by operation of law or contract. In case the Goods and/or Services are found to be non-conforming before or even following Acceptance, FG shall issue an opinion of non-conformity and may, at its election, either cancel the Order or refuse Acceptance under the conditions hereinafter set out, without prejudice to FG's right to claim compensation for the entire loss sustained (in addition to any late performance interest). In case of cancellation of an Order, the Goods and/or Services shall remain at the disposition of the Supplier for a period of ten (10) days as from the date of dispatch of the opinion of nonconformity. Beyond this time limit storage costs shall be borne by the Supplier and – when possible – FG may reship them to the Supplier at the Supplier's exclusive costs and risks. FG may send the corresponding invoices to the Supplier. The Parties hereby agree that the corresponding invoices shall be set-off with any and all amounts due to the Supplier; for the remainder the Supplier shall draw up all necessary adjustment credits and/or any invoice cancellations. If Acceptance is refused, FG may, at its option:

- require either that the Goods and/or Services be brought into conformity in the workshops of the Supplier or that they be replaced or exchanged within a time limit granted by FG; or

- bring such Goods and/or Services into conformity in its own workshops, either on its own and/or by a third party. The Supplier shall be informed of the solution that has been chosen; the costs incurred and the risks connected to these various options shall be fully and exclusively borne by the Supplier. If the problem persists, whether or not there has been an exchange and/or attempt to bring the Goods and Services into conformity, regardless of by whom, FG may cancel the Order. Any problems connected to the fact that it is impossible for the Goods and/or Services to be Accepted or a delay in Acceptance may give rise to the application of late penalties, without prejudice to FG's right to make a claim for compensation for the entire loss sustained by it and/or to avail itself of any other recourse available to it.

### **7. PAYMENT**

#### **7.1. Prices**

Except as otherwise provided, the prices quoted by the Supplier, which shall conform with the submitted offers, price lists and estimates, and the Order that follows therefrom, shall be inclusive of all taxes (any VAT due, at the legal rate, shall be specifically itemized), and shall be firm, lump-sum and fixed, for the supply of all of the Goods and Services covered by an Order (which shall correspond to the conditions set out in Article 3 above), delivered DDP, shipping and packaging paid, delivery accomplished, to the site named in the Order (or failing this, to FG's site in Illkirch-Graffenstaden as stated above). When prices are indexed in accordance with a revision formula, such formula shall be the subject of a prior written agreement. The Supplier nevertheless hereby warrants to FG that the prices contained in its offers, price lists, estimates and the Order shall not exceed the prices for the supply of similar and/or comparable Goods and/or Services furnished to third parties; in the contrary case the Supplier shall promptly inform FG of this fact and grant FG a corresponding price adjustment.

#### **7.2. Invoices**

In order to be payable, invoices issued by the Supplier shall conform with applicable legal and regulatory conditions, be made out to FG and sent to its Illkirch-Graffenstaden factory (to the attention of the "vendor accounting" department), in duplicate at the same time as the supply or following the supply of conforming Goods and/or Services, and shall notably contain the following information:

(i) the information prescribed by regulations in force concerning the identity and address of the Parties, the VAT identification number of the Parties, the date and number of the invoice; (ii) the date, number and item (written out in full) of the Order; in principle no invoice can refer to more than one Order (nor, in principle, can any Order give rise to more than one invoice); (iii) FG's Order references; (iv) the site or place of the work site involved; (v) information justifying the progress of performance of the Order and the payment of the sums requested with the information concerning each specified operation (date, quantities and exact designations of the Goods and/or Services furnished, the unit price, net of tax, any granted discounts and rebates that may be calculated directly connected to such operation, the applicable VAT or mention of any exoneration therefrom, the references, the type of services, together with copies of the bills of delivery signed by the addressees, prior invoices, bills of lading, partial acceptance report, signed report of Acceptance, etc.); (vi) the price (or the part of the price for which payment is due on the deadline and pursuant to the time limits prescribed in the special conditions in case of staggered payment); (vii) where applicable, details concerning payment of the VAT that is due, with the details required by the

regulations in force by rate of taxation (amount, net of tax, rate and amount of the applicable VAT), the total amount of the VAT due, references to French, Community or other relevant laws and regulations setting forth the tax system governing the transaction; (viii) discounts and/or rebates that are not connected to a specific transaction; (ix) the due date; and(x) where applicable, the balance due for the Order involved. FG's intra-Community VAT number shall be transmitted upon first request of the Supplier. Any and all documents that do not contain such information shall be deemed as nonconforming and may be returned to the Supplier and the latter shall issue a conforming invoice. Packaging that is invoiced separately with FG's express consent shall be kept or returned to the Supplier postage paid, in exchange for a credit for the invoiced amount.

### **7.3. Payment**

Complete performance including acceptance of all of the required items alone shall give rise to the Supplier's right to payment. Except as otherwise provided in the Order, payment shall be made sixty (60) days as from the date of issue of a conforming invoice. In case of non-compliance with the time for payment set out above, a late penalty may be applied as from the actual due date equal to three times the legal interest rate in effect on the date of late payment, except in the event of a dispute and/or lateness attributable to the Supplier. Except if otherwise provided, retention money (which may be replaced by a personal and joint bank guarantee if FG agrees thereto) may be provided for in the contract; unless otherwise provided, it shall be 5% of the amount of the Order and shall be paid (respectively levied) upon expiry of the time limit of the guarantee which shall be two years (24) months absent a contrary agreement. Payment of the invoices may never be construed as acknowledgment and final acceptance of the full and/or conforming performance of the Order; FG shall reserve any and all recourse in this regard.

## **8. GUARANTEES**

### **8.1. Personal nature of the Order**

The Order is concluded based on the identity of the Supplier which, accordingly, shall notify FG at least fifteen (15) days in advance of any and all intended modification of its legal (and administrative) status and/or its direct or indirect control (within the meaning of the provisions of Article L.233-3 of the Commercial Code). Depending on the circumstances and information provided by the Supplier (notably whether control of the Supplier is taken over by a group that is a competitor of the group to which FG belongs), FG shall, at its election, either accept the modification, terminate all or part of pending Orders and/or reserve its decision. If case of financial deterioration of the Supplier, in particular due to the Supplier being placed under protection of the court, a concordat, court-ordered reorganization and/or liquidation or the equivalent thereof depending on the country involved, the Supplier shall immediately inform FG of this situation. The Supplier may neither assign, transfer nor subcontract all or part of its rights and obligations arising from the Order, or subcontract, even partially, performance of the Order without FG's prior written authorization; the Supplier and its assignees and/or subcontractors shall remain jointly and severally liable for complete performance of contractual obligations.

### **8.2. Labor and legal warranty**

The Supplier hereby warrants that it has and shall have the approvals, authorizations, human skills and means and tools necessary for complete performance of the Order, that it and its own co-contractors are in compliance with labor law regulations, including concerning the fight against illegal employment, training, qualifications, clearance, health and safety, etc. The Supplier shall, in general, comply with legal procedures in force concerning the method of production and content of the Goods and/or Services to be delivered. It furthermore agrees to strictly comply with the laws and enactments applicable to it for the carrying out of its business. The Supplier shall comply with ethical principles and values and rules in organizing and conducting business activities required by the group to which FG belongs (prohibition on misappropriation of public funds with respect to national and international contracts, bribes, etc.) of which the Supplier has received a copy and which it hereby confirms having read. The Supplier shall be liable for the conduct of all of the parties acting on its behalf (whether representatives, salaried personnel, agents, subcontractors, service suppliers or others); the Supplier shall be liable for their acts and/or omissions which shall bind the Supplier. It shall therefore be up to the Supplier to ensure that they comply with the provisions of these GCP in order that it not be held directly liable. Even if the Supplier's personnel (and where applicable, that of third parties acting on behalf of the Supplier) shall act on the site of FG and/or its customers, such personnel shall remain under the authority of the Supplier, which shall always maintain exclusive management and disciplinary powers over them and powers in respect of safety; it shall ensure their compliance with the rules applicable on the site of FG and/or its customer (including health and safety, internal rules and regulations, risk prevention plan, etc.), and shall make first aid available to them. The Supplier (and/or its teams and any and all parties acting on its behalf) alone shall remain the custodian and be responsible for their tools, equipment, etc. that they shall use on the site of FG and/or the customer of FG for the preparation, carrying out and/or follow-up of an Order.

### **8.3. Safety Warranty**

The Supplier hereby warrants that the delivered Goods and/or Services are free from any and all dangerous chemical agents (regardless of its physical state) prohibited by applicable regulations (lead, asbestos, etc.) and/or any other prohibited dangerous substance (and/or, where applicable, whose import/export is prohibited) by the applicable regulations and/or state of the art requirements on the date of the Order. If the Goods and/or Services present specific risks, the Supplier agrees to clearly determine them, point out the nature, contours and the consequences thereof, if any, inform FG thereof and provide FG as far upstream as possible with all information and items and necessary assistance in order that all measures with respect to information, warnings, prevention, posting, training, handling or any and all other measures may be assessed, planned and taken in a timely manner before the Order (including with respect to applicable environmental, health, hygiene and safety regulations). The Supplier shall verify that all that is necessary has been done before being able to make delivery. The corresponding time limits shall be prescribed in the Order. The Supplier hereby warrants that it shall comply with applicable

European and French regulations in respect of the products that are used, including those regulations concerning the classification, labeling and packaging of substances and mixtures [EC Regulation No. 1272/2008 of 16 December 2008 creating a globally harmonized system of classification and labeling of chemical products ("GHS") and Regulation (EC) No.1907/2006 concerning the registration, evaluation and authorization of chemicals and the restrictions applicable to such substances ("REACH")]. If the Supplier is not or no longer within the territory of one of the Member States of the European Union, it shall appoint an exclusive agent therein for the purpose of ensuring compliance with the standards and obligations arising from such Regulations. If a substance used for the Order comes within the scope of such Regulations, the Supplier shall send FG all information (date of authorization and number, date of registration and number, etc.). If it turns out that the substance cannot be legally used and/or without difficulty, the Supplier shall find an authorized alternative without any additional cost or sustain the consequences of termination due to its exclusive fault. In case of breach of the clauses relating to safety, FG may invoice the Supplier for a penalty of ten percent (10%) of the amount that may be invoiced by virtue of the Order. In the event of serious and/or repeated breaches, access to the site or sites may be refused for the equipment and/or personnel and/or vehicles of the Supplier and/or its subcontractors, without prejudice to other legal remedies available to FG by virtue of law, regulations in force and/or the Contract. The Supplier shall be liable for all the consequences, claims and costs arising from breach of paragraph 8.3 herein, both concerning FG as well as third parties and/or customers of FG. The Supplier shall take and update any and all necessary measures in order to apply a safety management and crisis management policy so as to anticipate the risks affecting its business and in the interest of FG; FG reserves the right to audit the Supplier's policy in this respect.

### **8.4. Specific warranties – replacement**

The Supplier hereby represents and warrants that it is a competent and recognized professional in its field of business. It warrants that it is the owner of the Goods and/or Services, that such Goods and/or Services have been materially delivered and conform with the Order, the legal and governmental provisions in force, the technical specifications and state of the art requirements, are free of design and material defects, defects in workmanship and patent and/or latent defects, that all of the supplies sold shall not be the subject of any claim by third parties whatsoever. The Supplier shall remain liable for all legal warranties applicable to sales and supplies of services. For the remainder and without prejudice to legal and/or contractual provisions that are more favourable for FG, the rules appearing below shall apply to the widest extent and for the longest period of time allowed by law. No clause limiting the scope of warranty, regardless of the supply or service, shall be allowed. As to the warranty concerning factory parts, machines and installation as well as the case where certain Goods and/or Services prove to be generally defective and/or affected by flaws, FG may require that the Supplier replace them upon request within two years (24 months) (or any longer warranty period agreed to with the Supplier) as from the day that the flaw and/or defect is discovered which, absent agreement and/or a special case, shall correspond to the start-up of the Goods and/or Services at the premises of FG and/or the end customer. The warranty concerning materials and semi-finished products shall be unlimited. Upon first request, the Supplier shall promptly replace and/or reinstall non-conforming, defective and/or faulty Goods and/or Services, at its exclusive costs and risks (including costs of disassembly, transportation, re-assembly and re-installation at the final destination, insurance, etc.) and take any and all measures in order to reduce the periods during which such Goods and/or Services cannot be used. Replacement supplies shall be subject to a new warranty under the same conditions as hereinabove provided.

### **8.5. Follow-up**

The Supplier shall ensure follow-up and the supply of spare parts, data and other items necessary for the replacement and good working order of the Goods and/or Services for a minimum period of 10 years as from the latest of the following events: their Acceptance, commercial start-up and/or operational use.

### **8.6. Indemnification and insurance**

The Supplier agrees to comply with the legal insurance requirements in the countries in which it shall operate. Failure to comply with the provisions of this Article may entail termination of the Order, in whole or in part, due to the fault of the Supplier alone, under the conditions set forth in paragraph 9.4 (Termination).

#### **8.6.1. Individual/health insurance**

The Supplier shall continue to be responsible for the management and costs of all labor benefits concerning its personnel. It agrees, in particular, to take out all coverage for its personnel, such as Social Security, industrial accidents insurance, family allowance insurance, supplementary pensions, death and disability insurance, etc. All risks connected to the personnel of the service supplier shall be adequately covered.

#### **8.6.2. Civil Liability Insurance**

The Supplier shall take out insurance with a notoriously solvent company covering the monetary consequences of its general, professional and/or product liability and/or liability following delivery, in an adequate amount, and shall pay the premiums thereof. Such insurance policy or policies shall cover, notably, bodily harm, damage to property, consequential or non-consequential damages, resulting directly or indirectly from the services arising from this contract, including *inter alia* damages to supplies on hand and entrusted goods. The Supplier shall maintain such insurance coverage throughout the life of this contract with FG. In no case may the Supplier rely on any ceiling in its insurance policies in order to limit its liability towards FG.

#### **8.6.3. Ten-Year Civil Liability Insurance**

The Supplier shall take out insurance covering its ten-year civil liability in the event it can be held liable for works subject to the Law of 4 January 1978 as well as those works referred to in the Decree of 8 June 2005.

#### **8.6.4. Proof of insurance**

The Supplier shall furnish to FG, spontaneously and/or upon first request from FG, at the time of signing an Order, as well as at the time of each due date of the insurance policy involved, a certificate from the insurer setting out the coverage of the Supplier under the insurance policies

specified in paragraphs 8.6.2. and 8.6.3. above. Such certificate shall mention the amount of insurance by type of coverage, the Supplier's activities and justify payment of the premiums. In case of inadequate coverage, absence of coverage or termination of the policy or policies that have been taken out, FG reserves the right to either require that the Supplier take out additional insurance or new insurance at the Supplier's exclusive expense, or take out said additional insurance on behalf of the Supplier. In such case, and unless paid for by the Supplier, the premiums for such additional insurance shall be deducted *ipso jure* from the amount due to the Supplier and charged to the latter either at the time of payment of any monthly instalments or at the time of final payment. The Supplier agrees to guarantee and hold harmless FG and/or its final customer and/or their insurers against any and all damages they may be ordered to pay as well as all reasonable costs and fees incurred in order to ensure their defense.

#### **8.7. Intellectual and material property – Confidentiality**

As the Confidential Information is not in the public domain when disclosed by FG to the Supplier in connection with negotiations and performance of an Order (covering, in particular, designs, drawings, plans, equipment, specifications, models and tooling and any and all technical or commercial information, technical documents, disclosed IT files, calculations, notes), such Information is and shall remain strictly confidential; it shall remain the exclusive property of FG and may not be destroyed, altered or used for any purpose other than the performance of the Order, except with FG's prior written authorization. It shall be immediately returned at the time of Acceptance and/or if an Order is terminated for any other reason whatsoever (Termination, Rescission, etc.). The Supplier may not disclose such confidential information to any third party nor disclose information relating to the Order (aside from the limited circle of the Supplier's teams which shall prepare and perform the Order) without FG's prior express consent. In connection with the preparation of an Order and before any performance thereof it shall be up to the Supplier to verify the information communicated to it by FG, including notes and calculations. The Supplier may not use such Information nor make offers and/or furnish to any third parties Goods and/or Services, parts or other items made or performed based on or using such Information in order to directly or indirectly carry out other transactions without FG's prior express consent. The Supplier hereby warrants to FG that the Goods and/or Services covered by the Order do not infringe the pre-existing industrial or intellectual property rights of any third party. The Supplier shall guarantee and hold harmless FG, without any reservations, against any and all actions brought by the holders of licenses, trademarks and other intellectual property rights and shall be liable for any and all direct or indirect losses sustained by FG due to interference with such rights. The Supplier shall transfer to FG the ownership of all the Goods and/or Services, tooling, models, equipment, plans, specifications and other items of information manufactured and/or acquired by FG specifically for the purposes of the Order, all rights to keep and use the Goods and/or Services together with authorization to modify them and cause them to freely evolve, etc. The Supplier warrants that in the event that the Goods and/or Services include software or other components involving intellectual and/or industrial property rights, the price of the Order shall necessarily include the corresponding licenses, which shall be assignable, irrevocable and have an unlimited duration. The Supplier hereby guarantees that if for any reason whatsoever FG (and/or its customers) cannot use a Good and/or Service due to a prohibition on its use, the Supplier shall do what is necessary forthwith so as to obtain the necessary authorizations and the lifting of the prohibition, replace and/or modify all or part of the Goods and/or Services to allow for the use thereof in compliance with their intended use, without prejudice to FG's right to claim for compensation for the entire loss that has been sustained.

### **9. SUSPENSION OR END OF THE AGREEMENT**

#### **9.1. Force majeure**

If either one of the Parties cannot or shall not be able to reasonably fulfil all or part of its contractual obligations in a timely manner due to a case of Force Majeure, it shall immediately inform the other Party thereof (by any and all means available considering the circumstances), providing it with all information explaining and justifying the evoked event, its nature, its impact on contractual obligations and its estimated duration. The obligations of the Parties shall consequently be suspended for the duration of the Force Majeure, but not for any longer. A case of Force Majeure shall not be raised against FG unless (i) it is notified as provided above, (ii) to the extent that it may be validly raised against FG's customer or customers, and (iii) the Supplier effectively takes all reasonably possible measures to minimize the consequences of the case of Force Majeure on FG and/or the customers of FG. If the case of Force Majeure raised by the Supplier continues for a continuous period of sixty(60) days, FG may terminate the Order, without prejudice to its rights under the contract.

#### **9.2. Suspension**

FG reserves the right to suspend performance of the Order, in whole or in part, by simple notice specifying the date of suspension (or immediately, failing such mention) and/or, where appropriate, the conditions necessary for resuming performance of such Order by the Supplier. Other Orders in respect of which the terms of Article 8 of the GCP have been breached may be suspended, including where it is found that the Supplier and/or parties acting for the Supplier have failed to comply with the safety regulations applicable on the site of FG and/or its customer. The Supplier shall adequately protect the work in progress and, upon first request by FG, furnish FG with any and all documents proving the progress of the pending Order (subcontracting invoices, photographs, etc.). The conditions for performance of the Order as well as the agreed upon price shall not be modified due to suspension (except with FG's express consent duly notified to the Supplier, which shall concern only the payment of an indemnity corresponding to all or part of the expenses directly caused by the suspension, to the exclusion of any other loss, such as lost earnings).

#### **9.3. Termination (early ending of the Order)**

FG reserves the right to terminate (or end performance of the Order) for any reasons for which it sees fit (notably, in case of interruption of the contract between FG and its customer). Where appropriate, the Parties shall meet to mutually settle the transaction. The Supplier shall furnish

all documents and supporting evidence of the state of progress of the Order and any costs specifically incurred in this regard (subcontracting invoices, photographs, etc.) and – if so requested by FG – the corresponding documentation (descriptions, user's instructions, etc.). Unless otherwise agreed, the Supplier shall have the right, upon presentation of supporting evidence and less any advance payments and other sums already paid, to a maximum compensation corresponding to the amount of the Goods and/or Services already delivered (on the date of termination) in accordance with the terminated Order; FG shall be the owner of the delivered Goods and/or Services and the corresponding studies and documents.

#### **9.4. Termination for breach of contract**

Subject to the provisions concerning Force Majeure and/or suspension, an Order may be partially or wholly terminated (without any judicial formality) by FG due to breach by the Supplier of its contractual obligations which have not been cured within 15 days following the first presentation of a formal notice to cure sent to the Supplier by FG by registered letter, return receipt requested. FG shall not be required to send such formal notice to cure in the case of Gross Negligence on the part of the Supplier, failure by the Supplier to comply with its obligations in respect of delivery times, compliance with safety rules, or refusal to accept modification of the Supplier's legal status and/or control. Termination may take place, in particular, if it is established that the Goods and/or Services: - are not "delivered" in accordance with the conditions of the Contract (notably in the event of a delay which is not justified by a case of Force Majeure); and/or - are not "compliant deliveries" (notably in the event of failure to conform with contractual specifications and state of the art requirements, defects in quality or type, discovery of defects affecting the items already delivered, etc.). Termination of the Order may also take place to the extent that applicable regulations so allow and/or provide if the Supplier is subject to a procedure for the cessation of business operations, a concordat, a safeguard procedure, receivership and/or court-ordered liquidation and/or an equivalent procedure. In such case, the Supplier may not claim any compensation from FG due to Termination but, on the contrary, the Supplier shall be liable to FG for compensation for the loss actually sustained by FG (notably, due to the necessity of placing an order for similar Goods and/or Services with another supplier, finding alternative solutions, the imposing of penalties on FG by any co-contractors and/or late penalties or other penalties paid to FG's customers which are affected by such Termination). The Supplier shall pay initial damages to FG in an amount equal to ten percent (10%) of the price of the terminated Order. FG may, at its election, keep and/or sell and/or scrap and/or return to the Supplier (at the Supplier's exclusive costs and risks and in exchange for reimbursement of the amounts advanced by FG in this regard) all or part of the Goods and/or Services already made available to FG and/or FG's customer. The Order shall be settled following completion of supply of Goods and/or Services by another contractor of FG's choice, less penalties, damages, costs and additional expenses incurred by it owing to the completion of such Goods and/or Services by another contractor.

#### **9.5. Rescission**

Depending on the circumstances, FG may:

- release the Supplier from future performance of all or part of its obligations in consideration for an equitable reduction in price; and/or
- grant additional time limits for material delivery of conforming Goods and/or Services; and/or
- force the Supplier to perform; and/or
- perform or have performed by a third party of its choosing the work, replacements and anything else which is necessary, at the Supplier's exclusive costs and risks; and/or
- suspend and/or terminate the Order as provided above; and/or
- bring court proceedings for rescission of the Order.

The above shall be without prejudice to FG's right to make a claim for full compensation of the loss actually sustained by it in addition to late penalties and/or stipulated initial damages.

### **10. MISCELLANEOUS**

#### **10.1. Offsetting**

The Parties expressly agree that if the Supplier fails to perform any one of its obligations arising herefrom and/or the Orders placed by FG, FG may consider all its debts an claims vis a vis the Supplier as arising from one and the same contractual commitment and offset such debts and claims vis a vis the Supplier.

#### **10.2. Applicable law**

The Order shall be governed by the laws of France, to the exclusion of the provisions relating to the Vienna Convention on the International Sale of Goods of 11 April 1980.

#### **10.3. Jurisdiction**

Any disputes that may arise during performance of this Order shall be within the exclusive jurisdiction of the courts of Strasbourg, even in the case of impleader or more than one defendant.

If, however, FG so requests in case of a dispute between FG and one of its customers connected to the Goods and/or Services supplied by the Supplier, the Supplier agrees that it may be impleaded in order to defend itself together with FG before the court to which the dispute is submitted.

#### **10.4. Language**

The Parties agree to use the French language between them. FG shall not be obligated to accept documents in any language other than French and may request a translation thereof at all times. If in a particular case FG agrees to take into consideration one or several documents in languages other than the French language, this shall not be construed as a final waiver by FG to request a version in French, or exclude the use of languages other than French in the future by the Parties.

#### **10.5. Notices**

Notices, communications and other official exchanges shall be in the French language and shall be made by any and all written means by an authorized signatory.

Notwithstanding, formal notices and/or other notifications to be made in connection with Article 9 shall be immediately (or if circumstances do not allow, as soon as possible) made or confirmed by registered letter, return receipt requested.

**Safety Obligations applicable on the Site**