

## Article 1 – DEFINITIONS

These General Conditions of Purchase are hereinafter referred to as "GTCP". In these Conditions, the following terms shall have the meanings set out below:

**"Conformity" or "in Conformity"**: the conformity of the Supply is determined with regard to:

- the specifications provided and/or approved by the Purchaser and/or any expected results set out in the Contract;
- the other provisions of the Contract;
- the prevailing industry standards; and,
- any applicable statutory provisions;

**"Contract"**: the set of contractual documents concerning the Supply and governing relations between the Supplier and Purchaser, including in particular in descending order of priority:

- 1) the Order Form,
- 2) where applicable, any specific conditions and their appendices,
- 3) the GTCP,
- 4) any other documents drafted by the Supplier, as the case may be, which the Purchaser expressly agrees to incorporate into the Contract.

**"Order Form" or "Order"** the paper or electronic form (as part of electronic transactions) by which the Purchaser orders the Supply from the Supplier which shall include the following as a minimum:

- a description of the Supply, the article code number, the price of the Supply, the date and place of delivery and the quantity ;
- the Purchaser's details ;
- reference to the Contract.

**"Parties" or "Party"**: the Purchaser and/or the Supplier collectively or individually, as the case may be.

**"Purchaser"**: any entity referred to in the Contract of the HUTCHINSON GROUP.

**"Sub-Contractor"**: the natural person or legal entity selected by the Supplier to provide all or part of the Supply.

**"Supplier"**: the natural person or legal entity selected by the Purchaser to perform the Contract.

**"Supply" or "Supplies"**: any goods, product or equipment, including where applicable, the associated documents and installation services of the said goods, products or equipment, as defined in the Contract.

## Article 2 - CONTRACTUAL DOCUMENTS

After negotiation, the Parties agreed that the Contract constitutes the agreement by and between the Parties and in this respect shall prevail and shall override any and all other conditions and provisions contained in the invoices and other documents issued by the Parties, and shall be applicable insofar as no statutory provision stipulates otherwise.

Verbal undertakings and agreements shall be of no force and effect unless they are confirmed by written agreement between the Parties. The Purchaser shall not be liable for any performance by the Supplier pursuant to a request made verbally or to a verbal modification of the Contract. The Supplier may propose duly identified changes or additions to the GTCP. Any changes or additions to the GTCP proposed by the Supplier shall be expressly conveyed in writing at the same time as its response to the Purchaser's consultation. If no changes or additions are proposed, the Supplier's response without reservations, or commencing performance or delivering the Supply without reservations by the Supplier, shall be deemed acceptance of the GTCP. Any modifications or departures from these Conditions shall only apply if they have been agreed in writing between the Parties and shall only be valid for the applicable Contract. The Supplier shall not rely on any of these modifications or departures for other Supply it performs for the Purchaser pursuant to these Conditions.

The Contract constitutes the entire agreement between the Parties and supersedes and replaces all prior exchanges, undertakings and agreements relating to the Supply.

## Article 3 - ACCEPTANCE OF THE CONTRACT and ELECTRONIC TRANSACTIONS

### 3.1 General

All Contracts shall be in writing. A Contract gives rise to the issue of an Order Form. The Supplier shall acknowledge receipt in writing of the Order Form within seven (7) calendar days from the date on which the Order Form was sent. If the Supplier doesn't acknowledge receipt of the Order Form within such period, the Purchaser shall have a further period of seven (7) calendar days in which to notify the Supplier of its decision to cancel the Order Form and/or the Contract without compensation or other indemnity.

Acceptance of the Contract does not confer any exclusivity in favour of the Supplier.

### 3.2 Electronic transactions

#### 3.2.1 General principles:

If the Purchaser and the Supplier so provide in the specific conditions of the Contract, the Order Form may be issued in whole or in part by electronic means. Should this be the case, the Order Form may be issued either through an electronic marketplace (hereinafter referred to as the "Marketplace") requiring the Parties to contract with the agreed Marketplace provider, or alternatively, through any other agreed electronic means. Further conditions applicable to the use of electronic means for issuing the Order Form shall be set out in the specific conditions.

Should an electronic Order Form be issued this shall not prevent the Purchaser from subsequently issuing a paper Order Form and furthermore, shall not prevent the Parties from agreeing that subsequent transactions shall be performed in part or whole by alternative means.

These Conditions shall apply to all electronic transactions and the issuing of an electronic Order Form.

#### 3.2.2 Proof of electronic transactions:

Where an Order Form is issued by electronic means, the Parties are deemed to act in full knowledge of the technical specifications (or, by joining the Marketplace, the Parties are deemed to have accepted its technical specifications) aimed at ensuring the identification, integrity and generally the security of correspondence between them. In particular, the electronic Order Form and subsequent electronic notice of acceptance thereof shall constitute an electronic signature which, as between the Parties, shall have the same effect as a handwritten signature and shall also constitute proof of the Order Form and of its acceptance by the Supplier. Unless otherwise provided for in the Contract, the electronic registers stored on the computer systems of the Marketplace's provider or, failing that, on the Purchaser's computer systems (which shall have adequate security safeguards in place) are agreed to be conclusive evidence of the entire electronic correspondence between the Parties and, as the case may be, of the payments made. In particular, if a time limit is set for a particular action, only the computer dating system of the Marketplace's provider or, failing that, the computer dating system of the Purchaser shall be valid and relied upon. The Parties expressly waive all rights to question the appropriateness of or to challenge the validity of any contractual undertaking conducted by way of exchange of electronic correspondence where such correspondence is stored in the form set out above.

#### **Article 4 - CHANGES TO THE SUPPLY**

The Purchaser shall be entitled to request in writing that the Supplier make changes to the Supply as initially defined in the Contract. Depending on the nature of the proposed change, the Purchaser shall consult the Supplier and obtain its advice about the impacts of requested change.

The Supplier shall inform the Purchaser as soon as possible (and in any event no later than seven (7) calendar days following the Purchaser's request for changes to the Contract) of the new delivery date, of any impact on the cost of the Supply and more generally any other effect on the Contract arising directly from said changes. The changes shall only become effective upon the signature by the Parties of an amendment to the Contract or at the very least, upon receipt of the Purchaser's prior written acceptance of the project estimate and any changes to the cost of the Supplies.

#### **Article 5 – DELIVERY**

##### **5.1 Delivery terms:**

All deliveries shall be made in accordance with the latest edition of Incoterms and any other delivery conditions specified in the Contract. Should the Contract be silent on the method of delivery, all deliveries pursuant to the Contract shall be made "Delivered Duty Paid – named place of delivery" (DDP), as specified in the latest edition of Incoterms, at the place agreed, during working days and normal working hours as set out in the Contract. The place of delivery shall be that set out in the Order Form. The Purchaser is entitled to change the place of delivery by notifying the Supplier in writing of the said change in advance of the expected date of dispatch of the Supply. Any partial delivery is subject to the Purchaser's prior written consent.

##### **5.2 Packing – Labelling – Marking:**

The Supplier shall be responsible for packing the Supply which shall be suitable for the means of transport used and for the Supply carried in accordance with all statutory provisions and industry standards. In all cases, the packing shall be adequate so as to prevent any damage to the Supply during transport, handling and storage at the place of delivery. The Supply shall be adequately labelled and packed in an appropriate manner and the parcels marked by the Supplier in compliance with all applicable statutory provisions and moreover as provided for in the Contract.

**5.3 – Compliance with deadlines and delivery dates – Incentives:** Compliance with deadlines and delivery times is an essential condition of the Contract. Whenever failure to comply with deadlines and delivery times is foreseeable, the Supplier shall inform the Purchaser immediately in writing of the extent of and reasons for the non-compliance. In case the Supplier does not comply with the deadline and delivery time defined in the Contract (whether by early or late delivery) and absent written acceptance by the Purchaser of the new deadline and delivery time, the Purchaser shall be entitled to either return to the Supplier the Supply, at the Supplier's cost, or otherwise to store the same until it is taken back by the Supplier, all at the risks and cost of the Supplier.

Except in case of force majeure, and without notification, the Purchaser shall be entitled to apply the penalties for delay the penalties for delay set forth in the Contract. Where the Contract is silent, the penalties shall be equal to 0.65 % of the total amount of the Contract or the Order, per calendar day late, in a limit of 10 % of the Contract or the Order amount. These penalties shall where relevant have the legal effect of "astreinte".

The payment by the Supplier of these penalties shall not affect the Purchaser's right to claim damages against the Supplier, in addition to the refund of sums already paid by the Purchaser for the Supply (if any), and/or to terminate all or any part of the Contract without notice and as of right, in accordance with the provisions of article 20.1.2.

#### **Article 6 - REGISTRATIONS, APPROVALS, AUTHORISATIONS**

The Supplier warrants that it and its Subcontractors, if any, have all statutory registrations, approvals and authorisations required to perform the Contract including but not limited to all licences, permits and registrations with public authorities and all authorisations and certifications as are required from professional organisations. The Supplier shall deliver to the Purchaser a copy thereof prior to beginning the performance of the Contract.

In the event any or all such licences, permits, registrations, approvals and/or authorisations are withdrawn from the Supplier or from any of its Subcontractors or are not renewed, the Supplier shall immediately inform the Purchaser of the same whereupon the Purchaser shall be entitled to terminate all or any part of the Contract in accordance with the provisions of article 20.1.2.

#### **Article 7 - PREVENTION OF ILLEGAL LABOUR**

The Supplier guarantees that its personnel and the personnel of its Subcontractors (if any), involved in the performance of the Contract, shall be employed and registered in full compliance with the applicable legislation.

#### **Article 8 - ACCEPTANCE OF THE SUPPLY**

Acceptance of the Supply is expected to occur following written verification by the Purchaser that the Supply Conforms to the Contract and, where applicable, following receipt by the Purchaser or by its representative of the documents relating to the Supply (including material certificates and drawings) and more generally receipt of any document set out in the Contract. At any time of such verification, the Supplier shall also deliver to the Purchaser all information and documents required for the safe and proper use of the Supply.

The absence of a refusal of the Supply by the Purchaser whether at the time of delivery and/or on payment shall not constitute acceptance. If the Supply is expressly rejected, it shall be kept available for the Supplier at the point of delivery, at the Supplier's risk and expense. In the event of such rejection, and unless the Purchaser decides otherwise in writing, the Supplier shall, at the choice of the Purchaser, either be repaired or be replaced not later than seven (7) calendar days following rejection by the Purchaser. The Supplier shall not raise any objection, including regarding its own manufacturing or delivery schedule, with regards to fulfilling the above obligation to repair or to replace.

#### **Article 9 - TRANSFER OF OWNERSHIP AND OF RISKS**

The transfer of ownership shall occur on delivery of the Supply, except if all or part of payments are made before the delivery date, in which case the transfer of ownership shall occur in advance as soon as the Supply can be identified. In the latter case, the Supplier undertakes to identify and to set aside in the name of the Purchaser the Supply deliverable for the performance of the Contract as and when produced, in such a way that it cannot be confused with the Supplier's own stocks or with any other items to be delivered to third parties. The Supplier shall ensure that its Sub-Contractors do the same. The Supplier waives any right of recourse to any retention of title clause not expressly agreed by the Purchaser. The Supplier shall ensure that its own supplier's chain and its Sub-Contractors do the same. The transfer of risks shall occur in all cases on delivery of the Supply, except in the event of refusal of the said Supply as provided in Article 8.

#### **Article 10 – PRICES**

Unless otherwise specified in the Contract, the prices stated in the Contract shall be fixed lump sums and, except as provided in article 12, shall not be subject to amendment. These prices shall include, but not be limited to, all costs incurred in the course of production, packing, loading, transport and unloading of the Supply. All prices are net of VAT. The Supplier shall bear all costs relating to customs duties, taxes, fees and levies arising in connection with the Supply.

**Article 11 - INVOICING AND PAYMENT TERMS**

Unless otherwise provided for in the Contract, invoices shall be issued by the Supplier in duplicate, in compliance with all applicable statutory provisions and the provisions of the Contract, in the name of the Purchaser. The invoices shall be sent at the address specified in the Order Form and shall quote the reference number of the Contract and the Order Form. All invoices shall be made out in the currency specified in the Contract.

The Purchaser may request to the Supplier to implement an electronic invoicing system. Technical, functional and operational specifications of such system will be agreed upon in writing by both Parties.

Where it is agreed that the costs of some services, such as transport, are to be paid by the Purchaser separately from the price of the Supply, the Supplier shall submit detailed vouchers and other relevant documents to the Purchaser.

The invoice shall, unless otherwise provided for in the Contract, be paid within sixty (60) days net date of invoice.

Payment will be made in the manner provided for in the Contract, namely by bank transfer or, exceptionally, by check.

Payment of the invoice shall not affect the Purchaser's right to dispute in writing any unjustified charge.

**Article 12 - PERSONAL DATA PROTECTION**

If personal data is processed, the Supplier warrants that it will process such data in compliance with the applicable statutes.

**Article 13 - WARRANTIES AND OTHER UNDERTAKINGS****13.1 Purpose:**

The Supplier shall, irrespective of the Purchaser having any prior competence or knowledge, give the Purchaser all necessary information, advice and warnings in relation to the nature and composition of the Supply. The Supplier shall warn the Purchaser about the risks related to the Supply, including but not limited to health and safety risks or concerns and any other hazardous risks. The Supplier warrants that it has the full right to sell the Supply and that the Supply is free from any encumbrances, rights and privileges of any third party. The Supplier warrants that the Supply corresponds to any description, specification and to any samples referred to in the Contract. The Supplier further warrants that the Supply is fit for the purpose(s) and objective(s), specified by the Purchaser and shall have no recourse to any purported lack of accuracy in the documents attached to the Contract. The Supplier shall observe all laws, rules, provisions and highest professional standards applicable to the Supply, in particular with regard to production, manufacture, repair, price definition, delivery and recycling in order to ensure that the said Supply may be legally purchased, sold, transported and exported.

**13.2 Duration and scope:**

Unless otherwise provided for in the Contract, the Supplier warrants, for a period of twelve (12) months, from the date of the first use of the Supply and for a maximum of eighteen (18) from the date of delivery, that the Supply is free of all defects, defaults, contamination and abnormal wear of whatsoever nature. Should the Supply be defective, the Purchaser shall at its option either require the Supplier to repair or to replace the Supply or if the Supplier does not do so within seven (7) calendar days as of the date of the request by the Purchaser, take appropriate measures to arrange the same itself or through a third party. In any event, the Supplier shall bear all costs of any replacement and repair of the Supply, including but not limited to travel expenses, the costs of returning the Supply to the factory and any parts and labour, but without prejudice to any other rights or remedies the Purchaser may have. Any replacement or repair of the Supply under warranty shall give rise to a new warranty for a minimum period of twelve (12) months from the date of the Purchaser's acceptance of delivery of the repaired or replaced Supply. The Supplier remains bound by all applicable statutory warranties and product liability guarantees as well as for latent defects.

**13.3 Availability of spare parts:**

The Supplier warrants that it shall promptly supply all spare parts required for the correct operation of the Supply for a minimum period of ten (10) years from the date of delivery, unless otherwise specified in the Contract. The applicable price for such spare parts after the contractual or statutory warranty period shall be agreed by the Parties.

**Article 14 - HEALTH, SAFETY AND THE ENVIRONMENT**

The Supplier undertakes, on its own behalf and on behalf of its personnel and its Subcontractors (if any), to comply and to ensure compliance with the statutes, standards and best practices applicable with respect to health, safety, working conditions and the environment.

When delivering the Supply to a Site designated by the Purchaser, the Supplier shall observe and ensure that all of its employees, representatives or Sub-Contractors comply with all rules and regulations in force on the site designated by the Purchaser regarding health, safety, working conditions and the environment as well as all applicable legislation and regulations. If the Supplier, its contractors, employees or representatives do not comply with any of these obligations, the Purchaser reserves the right to refuse the Supplier and/or any of its employees or Subcontractors access to or continued presence at the site. All consequences of non-compliance with any of these obligations, and the denial of access to or of continued presence on the site shall solely be borne by the Supplier.

In case of complementary installation services on the Purchaser's Site, the Supplier and/or its Subcontractors present on the Site shall ensure that its personnel and/or the personnel of its Subcontractors shall be fluent in the official language of the Site and shall be able to communicate, to apply and to ensure that all instructions, rules and procedures in force on the Site are applied.

In the event the Supply contains chemicals substances that make it fall under Regulation "Reach" (European Regulation n°1907/2006, hereinafter referred to as "Reach Regulation"), the Supplier warrants that it complies with and has its Subcontractors or suppliers to comply with all of the obligations provided by the Reach Regulation and its subsequent amendments. All consequences of non-compliance with the Reach Regulation shall be borne by the Supplier. In case the commercialisation of the Supply is discontinued as the result of the Reach Regulation, the Supplier shall notify to the Purchaser in writing the discontinuity effective date with a six (6) months' prior notice, unless otherwise provided in the Contract.

**Article 15 – QUALITY****15.1 Quality controls:**

The Supplier represents that it has a quality management system in place.

The Supplier shall implement all measures, including, without limitation, quality controls, necessary to ensure that the Supply is in Conformity.

**15.2 Traceability:**

Upon written request by the Purchaser, the Supplier undertakes to furnish to the Purchaser all information necessary to identify the origin, place and date of manufacture of the Supply; its components; the quality controls performed in relation to the Supply, the serial or batch numbers, and any other relevant information, as well as, the serial or batch numbers, when applicable.

**Article 16 - AUDITS**

Subject it notifies seven (7) calendar days in advance the Supplier, the Purchaser or its representative shall be entitled to carry out audits at the sites of the Supplier, its Subcontractors or at any other site before and/or during the performance of the Contract.

Within the frame of the Contract or the Supply, such audits will include, but not be limited to, the verification of compliance with the Supplier's contractual obligations, the laws and regulations in force and applicable statutory provisions and the prevailing industry standards.

These audits carried out by the Purchaser shall not reduce the Supplier's contractual liability in any way whatsoever, for example regarding the extent of the Supplier's own required quality controls, and further they shall not affect the Purchaser's right to subsequently refuse all or part of the Supply on delivery. The Supplier shall provide to the Purchaser all assistance required to carry out such audits.

## **Article 17 - LIABILITY AND INSURANCE**

### **17.1 Liability:**

Each Party shall be liable for any damage or cost that it or its employees, representatives and/or Sub-Contractors causes to the other Party or to a third party in relation to the Supply and/or in connection with the performance of the Contract. Such Party shall indemnify and hold harmless the other Party and its insurers against any such damage, cost or liability that the other Party may suffer.

### **17.2 Insurance:**

The Supplier and the Supplier's Sub-Contractors shall take out and maintain in force and effect the following insurance policies, at their own expense and throughout the entire period of performance of the Contract including any extension:

- a "General / Public Liability" and a "Product Liability" insurance, for a minimum amount of € 2,500,000 (two million five hundred thousand Euro) to include cover for damage to property, financial loss and bodily injury for each case and combined single limit per occurrence;
- a civil or third party liability automobile insurance policy for automobiles and automotive equipment used to perform the Contract;
- an insurance policy covering damages caused to its personnel, when the Supplier is located in a country in which there is no system of social security insurance;
- in addition, any other insurance required in order to comply with the applicable laws and regulations.

Before commencing performance of the Contract, the Supplier shall provide the Purchaser with copies of all insurance certificates issued by the Supplier's insurer certifying the existence, insured capital, guarantees, duration and renewal dates of the policy or policies. These insurance certificates shall conform with the insurance certificate examples (if any) appended to the Contract. None of the amounts set out above shall be construed or interpreted as limiting the Supplier's liability in any respect.

## **Article 18 - FORCE MAJEURE**

None of the Parties shall be deemed in default of their contractual obligations to the extent that their non-performance is due to an event of force majeure as recognised by law and courts. Force majeure shall only relieve the affected Party from its contractual obligations to the extent and for such period as the said Party is prevented from performing those obligations. Each Party shall bear its own expenses resulting from the occurrence of a force majeure event.

The Party affected by an event of force majeure shall immediately notify the other Party ("the Non-Defaulting Party") of the situation by fax confirmed by registered letter with receipt, supplying all necessary documentary evidence. The Non-Defaulting Party reserves the right to verify the reality of the claimed facts. The Party claiming an event of force majeure shall make every effort to mitigate as far as possible any adverse effect arising from this situation. In any event, strikes that are limited to employees of the Supplier or employees of any of the Supplier's Sub-Contractors shall not relieve the Supplier from liability for late or impeded delivery and shall therefore not be deemed to be a force majeure event. If the event or circumstance giving rise to an event of force majeure continues for longer than fifteen (15) consecutive calendar days, the Non Defaulting Party shall be entitled to cancel the Contract immediately as of right and without compensation. The Supplier shall refund the Purchaser any and all amounts already paid pursuant to the Contract to the extent such sums do not correspond with Supplies delivered at the time of occurrence of the event of force majeure.

## **Article 19 - ASSIGNMENT OF ORDER / SUB-CONTRACTORS**

### **19.1 Assignment and Change of Control:**

The Supplier shall not assign the Contract to any third party, in whole or in part, without the prior written consent of the Purchaser. The Purchaser shall be entitled to assign all or part of the Contract to a company, which is part of the Purchaser's Group, as defined in Article 1, subject to prior written information regarding such assignment being sent to the Supplier.

In the event of the Supplier merging with a company not controlled by the same company as the company controlling the Supplier, or in the event of a contribution in kind to a company which is not controlled by the company controlling the Supplier, or in the event of a change of control, the Supplier shall immediately notify the Purchaser thereof. For the purposes of these Conditions, control shall mean ownership or possession of more than fifty percent (50%) of the shares in the capital giving voting rights or the right to elect a majority of the board of directors of another company. Within thirty (30) calendar days following dispatch of such notification, the Purchaser shall be entitled to cancel the Contract on giving two (2) months' written notice. Any such termination shall be without indemnity to the Supplier but shall not affect any Order in the course of being performed.

Where the Contract is assigned by the Supplier to a third party, all the Purchaser's rights arising from the Contract, including the right to claim damages shall be enforceable against the said third party. Unless expressly stipulated to the contrary, the Supplier shall remain jointly and severally liable to the Purchaser for the full performance of the Contract.

### **19.2 Sub-Contractors:**

Under no circumstances shall the manufacturing of the Supply to be performed in accordance with specifications of the Purchaser and the operations associated with such performance under the Contract be subcontracted or entrusted to another person or company by the Supplier without the prior written consent of the Purchaser and the same shall only be so subcontracted subject to the condition that the Supplier and the said third party both comply with all statutory provisions applicable.

In all cases, the Supplier shall remain solely liable for the proper performance of the entire Contract. The Supplier shall indemnify and hold the Purchaser harmless from and against any and all claims by the Supplier's employees or Sub-Contractors or by the personnel of said Sub-Contractors.

## **Article 20 – TERMINATION**

### **20.1 Termination for non-performance:**

**20.1.1** Either Party shall be entitled to terminate as of right any or all part of the Contract in the event of a breach of an obligation by the other Party that is not remedied within fifteen (15) calendar days after receipt of a written notice to do so. In particular, the Purchaser shall be entitled to terminate the Contract in the event of default or deficiency relating to the quality, characteristics, manufacture or performance of the Supply.

The fifteen (15) day period set out in the paragraph above shall be reduced to seven (7) calendar days where the Purchaser terminates for repeated breaches by the Supplier of one of its obligations.

20.1.2 The Purchaser shall be entitled to terminate all or any part of the Contract as of right and without prior notice:

- in the event of repeated breaches by the Supplier or repeated defaults of the Supply set out in article 20.1.1; or,
- in the event of non-compliance by the Supplier with one or more rules and/or regulations concerning health, hygiene, safety working conditions and/or environment that may be detrimental to persons or property; or,
- in the event of the Supplier failing to meet the conditions set out in articles “5.3 - Compliance with deadlines and delivery times – Incentives”, “6 - Registrations, Approvals, Authorisations”; or “23 Confidentiality; or
- in any other circumstance so provided for in the Contract.

In such case, termination shall be effective immediately upon receipt by the Supplier of the notification of termination.

20.1.3 In the event of termination of all or any part of the Contract by the Purchaser, all payments already made and concerning any undelivered portion of the Supply shall be immediately refunded to the Purchaser.

The right of a Party to terminate all or any part of the Contract is without prejudice to its rights to claim damages against the other Party.

#### **20.2 Termination at the initiative of the Purchaser:**

The Purchaser is entitled to terminate all or any part of the Contract at any time, subject to a thirty (30) calendar days' prior notice sent by registered letter with receipt to the Supplier whereupon the Supplier shall from receipt of such notice immediately cease further performance of such all or any part of the Contract. Termination of the Contract in the aforementioned manner shall have the effect of terminating any Order Form outstanding or solely any Order Form as specified in the termination notice.

Following such termination the Parties shall in good faith agree on a termination fee. Unless otherwise provided in the Contract, such termination fee shall not exceed the reasonable and duly justified costs incurred by the Supplier for the performance of any firm Order Forms which have been affected by such termination.

This termination fee shall be a lump sum in full and final settlement of any claims whether in respect of costs incurred, loss, damages or any other cost suffered by the Supplier as a result of such termination and the Supplier shall waive any right of recourse against the Purchaser.

#### **20.3 Termination in the event of insolvency:**

Unless contrary to any provision of public order, the Purchaser shall be entitled to terminate the Contract as of right without warning and without notice in the event the Supplier has a petition for its winding up presented or advertised, calls a meeting with a view to going into liquidation, or otherwise enters into liquidation or has a petition presented for appointment of any administrator in respect of the Suppliers business.

### **Article 21 - INTELLECTUAL PROPERTY RIGHTS - INFRINGEMENT**

#### **21.1 Intellectual Property rights**

##### **21.1.1 Specific / Bespoke elements:**

The price(s) include(s), without need to make any reference to the same in the Contract, the acquisition of the intellectual property rights pertaining to any specific elements prepared by the Supplier, its personnel or any Subcontractor (if any) and delivered to the Purchaser, including but not limited to plans, studies, model, designs and drawings, user guides, technical documentation, manuals, and documents (hereinafter referred to as the "Specific Elements").

The Supplier shall assign to the Purchaser, and shall procure the assignment by its personnel and/or Subcontractors (if any) of all the exclusive rights to use and exploit such Specific Elements, including the rights of reproduction, representation, translation, adaptation and sale, on all media and for all forms of use and exploitation. This assignment shall be made for the whole duration of the intellectual property rights, for all countries and in all languages.

This assignment of intellectual property rights shall occur as and when such Specific Elements are created.

##### **21.1.2 Standard elements:**

To the extent that the Supply contains standard elements (including but not limited to plans, manuals or brochures, documents, standard software included in or incidental to the Supply) subject to intellectual property rights and handed over by the Supplier to the Purchaser for utilising the Supply, the Supplier grants to the Purchaser, to the entities of the HUTCHINSON Group that may be beneficiaries of the Contract and to the third parties acting on behalf of or for the benefit of the Purchaser and/or any entity of the HUTCHINSON Group that may be beneficiaries of the Contract, a personal and non-exclusive right to use, reproduce, represent, translate and adapt the said standard elements for its own purposes. This right shall be granted without additional cost for the entire duration of the applicable intellectual property right protection, and where permitted by law, in perpetuity, for all countries and for all media. In case of transfer by the Purchaser of the Supply to a third party, the above right to use on standard elements shall be transferable by the Purchaser to such third party without necessitating specific consent to such transfer from the Supplier and without additional cost to the Purchaser.

##### **21.2 Infringement:**

The Supplier declares that all intellectual property rights relating to the Supply are either the exclusive property of the Supplier or subject to a licence granted to the Supplier by a third party holding these rights, under conditions allowing the Purchaser to freely use and/or transfer the Supply. Consequently, the Supplier shall indemnify and hold harmless the Purchaser against any and all claims, costs, damages, expenses or legal action by third parties in connection with any actual or alleged infringement of intellectual property rights in relation to the Supply. If in the opinion of the Purchaser the Supply carries a risk of claim or legal action, the Supplier shall take all steps necessary to ensure that such risk of infringement is eliminated. If an allegation is made that the Purchaser may not use the Supply without infringing a third party's intellectual property right, the Supplier shall, at its own cost and at the sole option of the Purchaser, either replace or modify the Supply in respect of which such allegation is made, in such a way so as to ensure that the infringement of Intellectual Property rights no longer exist and at all times in accordance with its contractual obligations. Such replacement or modification shall be performed within time scales compatible with the requirements of the Purchaser. Failing such replacement or modification, the Supplier shall refund to the Purchaser the price of the Supplies. The above provisions do not affect the Purchaser's right to claim further damages from the Supplier.

### **Article 22 - FUNDAMENTAL PRINCIPLES OF PURCHASING (FPP)**

The Supplier undertakes to acquaint itself and to comply and cause its Subcontractors (if any) to comply with the Fundamental Principles of Purchasing (FPP) set out in the Attachment to the GCITP entitled “Fundamental Principles of Purchasing (FPP)”.

### **Article 23 – CONFIDENTIALITY**

Any document or information provided by the Purchaser to the Supplier in connection with the performance of the Contract, and all elements (including all statements, studies, and other documents) prepared by Supplier for the performance of the Contract shall be treated as strictly confidential by the Supplier.

Furthermore, any document and information the Supplier may acquire in connection with the performance of the Contract (including but not limited to any documents or information concerning the Purchaser's organisation, business activities, or financial results) shall be treated as strictly confidential by the Supplier.

The Supplier shall only be entitled to use the documents, information and/or elements referred to above for the performance of the Contract and shall not disclose the same to any third party or to any staff or agent of the Supplier other than to those who are involved in the performance of the Contract. This paragraph shall not apply to the extent disclosure is mandatory by virtue of any statutory, accounting or regulatory obligations.

The Supplier undertakes to comply with these obligations of non-use and of confidentiality and shall cause that its employees, agents and Sub-Contractors do the same, throughout the duration of the Contract and for a further period of five (5) years after the termination of the Contract.

The Supplier shall however not be liable for the disclosure of information to the extent that such information is already in the public domain or has been legitimately obtained from other sources.

The Supplier shall, at the expiry or termination of the Contract, for whatever reason, return to the Purchaser the information provided by the Purchaser and all data obtained by the Supplier, together with all copies thereof which the Supplier may have at its disposal in connection with the performance of the Contract, or shall, upon written request of the Purchaser, destroy the confidential information and data.

#### **Article 24 - REFERENCE TO THE PURCHASER'S BRANDS AND TRADE NAMES**

The Supplier shall not be entitled to refer to the company names, trademarks and or logos of the Purchaser's Group without the prior written consent of the Purchaser.

#### **Article 25 - APPLICABLE LAW AND JURISDICTION**

By mutual agreement, the Parties shall attempt to amicably resolve any dispute, including by mediation. However, such attempt shall not be a mandatory precondition to initiating proceedings before the court with jurisdiction as defined below.

Unless otherwise specified in the Contract, any dispute relating to the Contract, including its existence, validity and/or termination shall be subject to:

- French law and to the jurisdiction of the *Tribunal de Commerce de Paris* if the delivery of the Supply is to take place in France or outside the European Union;
- the law and to the jurisdiction of the relevant country of delivery, if the delivery is to take place in the European Union (other than France).

The Purchaser and Supplier expressly renounce application of the United Nations Convention on Contracts for the International Sale of Goods (CISG), signed in Vienna on 11 April 1980.

#### **Article 26 - MISCELLANEOUS PROVISIONS**

##### **26.1 Independence of the Parties:**

This Contract has been concluded between independent parties and none of its provisions shall be interpreted as giving the right or mandate to either Party to act on behalf of the other Party nor as implying any association, agency, partnership or society between them.

##### **26.2 Partial invalidity:**

Should any provision of the Contract be or become invalid or unenforceable under any law, regulations or court decision, such provision shall be considered as not written. All other provisions of the Contract shall, however, remain valid.

##### **26.3 Waiver:**

The waiver by either Party of a breach or default of any of the provisions of this Agreement shall not be construed as a waiver of any further breach of the same or other provisions, nor shall any delay or omission by either Party to exercise any right herein operate as a waiver of any breach or default by such Party.

##### **26.4 Surviving Provisions:**

The provisions of articles 3.2, 13, 15, 21, 23, 24, 25, 26 and any other provision of these GTC which is intended to apply after termination of the Contract shall survive the expiry or termination of the Contract (howsoever occasioned) and shall continue and thereafter remain in full force and effect.

##### **26.5 Compensation:**

The Purchaser shall be entitled to set-off any sum owed by the Supplier for whatever reason against any amount owed by the Purchaser to the Supplier in connection with the purchase of the Supply.

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**Attachment : Fundamental Principles of Purchasing (FPP)**

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In accordance with the fundamental principles set out in particular in the United Nations Universal Declaration of Human Rights, the Conventions of the International Labour Organization, the United Nations Global Compact, and the OECD Guidelines for Multinational companies, suppliers are required to comply with - and to make sure that their own suppliers and subcontractors comply with – current laws, as well as principles equivalent to those defined below.

- **Respecting human rights at work:**
  - Ensure that working conditions and remuneration of workers preserve human dignity and are consistent with fundamental principles defined and protected by the Universal Declaration of Human Rights, by the fundamental principles of the International Labour Organization, and in particular with rules relating to the prohibition of forced labour and child labour, workplace safety, the establishment of an employment contract, working time, rest and parental leave, treatment of discrimination and harassment at the workplace, freedom of speech, association and collective bargaining, freedom of thought, conscience and religion;
  - Improve their standards and procedures concerning human rights at work.
- **Protecting health, safety, and security:**
  - Perform risk analysis and assessments in these areas and implement appropriate means to prevent those risks;
  - Establish a system for monitoring events that occurred in these areas.
- **Preserving the environment:**
  - Implement an appropriate environment risk management system, in order to identify and control the environmental impact of activities, products or services, to continuously improve environmental performance, and to implement a systematic approach to define environmental objectives, achieve them and demonstrate that they have been achieved;
  - Undertake the improvements needed for protecting the environment;
  - Limit the impact of industrial activities on the environment.
- **Preventing corruption, conflict of interests, and fighting against fraud:**
  - Fight against fraud;
  - Prevent and ban any form of corruption: active or passive, private or public, direct or indirect;
  - Avoid conflicts of interest, in particular when personal interests may influence professional interests.
- **Respecting the competition law:**
  - Comply with the applicable competition law.
- **Promoting economic and social development:**
  - Create a climate of trust with stakeholders, engaging in a dialogue with local communities, promoting local sustainable development initiatives, and giving local companies the opportunity to develop their business.

Compliance with these laws and principles may be audited.