

GENERAL CONDITIONS OF PURCHASE OF IHC MERWEDE HOLDING B.V. AND ASSOCIATED COMPANIES

1. DEFINITIONS

- 1.1 **"Acceptance Test"** means the acceptance test with respect to the Goods and/or Services which may be performed upon delivery and/or after performance at Company's site.
- 1.2 **"Agreement"** means the agreement (to be) concluded between Company and Supplier with respect to the supply of Goods or provision of Services, as confirmed in an Order and as governed by the Terms and Conditions.
- 1.3 **"Company"** means the user of these Terms and Conditions.
- 1.4 **"Confidential Information"** means oral, written or digital information provided by the Company or on its behalf, including but not limited to all information which has been provided or will be provided to Supplier or learned by Supplier in relation to the performance of the Agreement (but does not mean information which is generally known to the public), including but not limited to, all technology, processes and know-how of the Company, business details, business plans and strategies, technical data, photographs, documents, drawings and sketches or any other information of any nature whatsoever and the fact and the content of the communications between Company and the Supplier, employee names, employee data, financial information, new business and product ideas, marketing strategies and plans, databases and the information, computer software source codes, computer/network access codes, and business relationships including all copies of such information, customers or suppliers of the Company which is or might reasonably be considered by the Company to be confidential and of which the Supplier becomes aware through disclosure to it by the Company.
- 1.5 **"Employed Persons"** means all individuals employed, whether at the time the Agreement was concluded or during the performance of any Agreement, by the Supplier, any Subcontractor or via any third party within the framework of the agreed work, Services or supply of Goods.
- 1.6 **"Force Majeure Event"** means any event or circumstance of a kind and nature which is beyond the reasonable control and without the fault or negligence of a party and/or its Subcontractors and which makes the performance of the Agreement (temporarily) impossible and being circumstances or events which could not have been prevented or avoided by the exercise of due diligence or other prudent precautions, but excluding any of the following events: strikes, worker's lockout, shortages of manpower, energy or raw materials, absence due to illness, transport problems, delay or prevention in the performance caused by Supplier's commitments to third parties or breakdown of any tools, machines, equipment or facilities.
- 1.7 **"Goods"** means all materials and other goods that the Supplier has agreed to deliver to the Company, including without limitation parts, certificates, documents and computer software, as well as work and services connected with such delivery.
- 1.8 **"Intellectual Property Rights"** means without limitation any technical information, know how, copyrights, patents, trademarks, design rights, as well as any models, patterns, drawings, specifications, prototypes whether patented or not in any part of the world, and including any patent applications and or divisionals throughout the world.
- 1.9 **"Order"** means a written purchase order issued and signed by the Company and Supplier.
- 1.10 **"Price"** means the price due to Supplier under the Agreement.
- 1.11 **"Services"** means the provision of services to be performed by Supplier now or in the future for the benefit of Company under the Agreement.
- 1.12 **"Subcontractor(s)"** means any third party engaged by the Supplier during the performance of work and/or the provision of Services and/or the supply of Goods.
- 1.13 **"Supplier"** means the legal person, company or natural person with which the Company concludes an agreement for the supply Goods or provision of Services.
- 1.14 **"Terms and Conditions"** means these general terms and conditions.
- 1.15 **"Group Company"** means with respect to any person, any other person that, directly or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, such person, and for purposes of this definition, "control" shall mean, as to any person, the power to direct or cause the direction of the management and policies of such person, whether through the ownership of voting securities, by contract or otherwise and the terms "controlled by," "under common control with" and "controlling" shall have correlative meanings.

2. SCOPE AND APPLICATION

- 2.1 These Terms and Conditions shall apply to all offers requested and received by the Company and to all agreements concluded between the Company and Supplier regarding the purchase of Goods, as well as regarding the performance of work and/or the provision of Services not based on a labour agreement or a contract of employment.
- 2.2 Deviations from these Terms and Conditions shall only be valid if they have been agreed by the Company in writing in the Order.
- 2.3 In these Terms and Conditions "written" shall also mean communication: by fax, e-mail, electronic data interchange (EDI), internet or other electronic medium.
- 2.4 In the event of any inconsistency or conflict between these Terms and Conditions and the Order, the latter shall prevail.

3. AGREEMENT AND VALIDITY

- 3.1 In the event of any apparent error(s) in the Order, Supplier shall consult Company prior to commencing with the performance of the Order.
- 3.2 Any change made to an Agreement shall be valid upon signing by both parties of the amended Order, or upon Supplier commencing the performance in accordance with the amended Order.
- 3.3 Any drawings, models, specifications, instructions, service manuals, test requirements and the like shall form an integral part of the Agreement and shall be made available to the Company by Supplier together with the delivery of the Goods.
- 3.4 Supplier shall not assign any or all of its rights under an Agreement and/or Order to a third party, which includes but is not limited to the restriction to transfer, pledge or encumber any of Supplier's claims on the Company.
- 3.5 Company shall be authorized at any time to request Supplier to implement changes with respect to the scope and/or quality of the Goods and/or Services to be provided.
- 3.6 In the event that any requested changes under clause 3.5 have an impact on the Price or the time of delivery of the Goods or Services, Supplier shall promptly, but in any event not later than 3 working days from Company's request, inform the Company hereof in writing, failing which the originally agreed Price and/or time of delivery shall continue to apply. Upon Company's receipt of the proposed amended Price and/or time of delivery, Company and Supplier aim to agree upon an

amended Agreement within 5 working days. If the Company considers the proposed impact on the Price and/or time of delivery unreasonable, then Company may terminate the Agreement without the obligation to compensate Supplier for any loss or damage incurred as a result of such termination.

3.7 Supplier and its Subcontractor(s) shall not disclose to any third parties the fact that an Agreement exists between Company and Supplier except as strictly required for the performance of the Agreement, and they will keep any details of the Order and the terms agreed between the parties strictly confidential.

4. DELIVERY TIME, AGREED TERMS AND DELIVERY SCOPE

- 4.1 Performance of the Agreement must be carried out at the location and time agreed upon in the Order, whereby all delivery times and dates shall be firm. The Supplier must notify the Company forthwith with regard to any (threatened) delay, stating reasons for the delay.
- 4.2 Delivery of the Goods shall take place in accordance with the Incoterm specified in the Order. The most recent version of Incoterms as at the date of conclusion of the Agreement shall apply.
- 4.3 Supplier may only perform partial delivery of Goods or carry out the performance of the Services in parts, if this has been explicitly agreed with the Company in writing. Any partial delivery or deliveries not agreed upon by Company may be returned to Supplier at Supplier's risk and expense.
- 4.4 Delivery of the Goods or performance of the Services prior to the time agreed upon in the Order is subject to Company's prior written agreement and shall not affect the terms of payment and/or warranty under the Agreement.
- 4.5 In the event of any delay in the delivery of the Goods or the performance of the Services by Supplier, Supplier shall be in default without a written notice of default being required.
- 4.6 Together with the delivery of the Goods, Supplier shall provide all relevant documents required for delivery and acceptance of the Goods, failing which Supplier shall be in default automatically and clause 4.7 shall apply.
- 4.7 The Company may suspend its payment obligations vis-à-vis the Supplier in the event of a delay in delivery by Supplier and without prejudice to Company's right to claim compensation in full for all loss and damage incurred as a result of the delay in delivery or performance.
- 4.8 In the event that Company cannot take delivery of the Goods, or performance of the Services by Supplier must be postponed as a result of a Force Majeure Event or as a result of force majeure of the Company's customer, Supplier shall postpone delivery or performance without any additional charge to Company for a period to be agreed with Company and based on the delay resulting from the Force Majeure Event.

5. PACKAGING AND STORAGE

- 5.1 Supplier must adequately package or preserve the Goods to be supplied to Company during transportation of the Goods.
- 5.2 Supplier shall apply any required distinctive marks, texts or labels to the Goods in accordance with Company's instructions and all relevant legislation, and Supplier shall ensure that any such marks are clearly visible for purposes of stacking the Goods for transportation.
- 5.3 Any storage of the Goods prior to transportation must occur at a storage location acceptable to Company, as confirmed by it in writing.
- 5.4 Supplier shall be liable for any loss or damage as a result of inadequate packaging or preservation, as well as for any damage caused to the Goods as a result of storage of the Goods prior to transportation, whereby Company's written confirmation under clause 5.3 shall not release Supplier from its liability hereunder.

6. INSPECTION, TESTING AND ACCEPTANCE

- 6.1 Company or a third party delegated by it has the right at all times to inspect or test the Goods and/or the Services provided under the Agreement. Supplier shall fully cooperate and make available all the information, facilities and tools necessary for such inspection or testing.
- 6.2 All costs related to the inspection or testing, except for Company's costs and Company's employees or persons acting on behalf of Company, shall be for account of the Supplier. Any costs resulting from a delay in inspection or testing of the Goods through no fault of Company, or costs resulting from a rejection of the Goods by Company on reasonable grounds, as well as all costs related to subsequent inspections or tests, shall be for the account of Supplier.
- 6.3 Supplier shall promptly and for its account remedy any defect with respect to any Goods rejected by Company during an inspection or trial. This obligation shall be without prejudice to any other rights that Company may have.
- 6.4 If Company and Supplier have agreed to perform an acceptance test, Supplier must present the Goods for this purpose on the agreed date for such test in order to establish whether the Goods meet the requirements under the Agreement. The procedure for the acceptance test as well as the term for carrying out the test shall be agreed between Company and the Supplier in writing prior to the test taking place.
- 6.5 Upon successful completion of the acceptance test Company will sign the Acceptance Protocol, stating any minor defects that do not impact the primary use or operation of the Goods. Supplier shall remedy any such minor defects at its cost within 7 days from the signing of the Acceptance Protocol.
- 6.6 In the event that the acceptance test is not completed successfully, Supplier shall make any such repairs and/or amendments to the Goods so as to enable the Goods to successfully pass the next acceptance test. The Goods will again be subjected to an acceptance test in accordance with the provisions of this clause 6. All costs arising from a new acceptance test shall be at Supplier's expense.
- 6.7 Upon unsuccessful completion of the 2nd acceptance test, Company may terminate the Agreement without any obligation to compensate Supplier for any costs of damages incurred by it and without prejudice to Company's right to demand compensation in full of all loss and damage incurred by it.
- 6.8 Any testing or inspection of the Goods by or on behalf of the Company does not constitute or imply any acknowledgement that the Goods meet the requirements under the Agreement, and shall not release Supplier from any obligation or liability under the Agreement or by law.
- 6.9 Company shall have no liability whatsoever vis-à-vis Supplier or any third parties resulting from a delay in the performance of the acceptance test in case of a Force Majeure Event.

7. SUPPLIER PERSONNEL AND TAXES

- 7.1 Prior to commencing with the performance of the Services, Supplier must provide to Company the following documents:

- a) A recent extract (not older than 3 months) from the Dutch Chamber of Commerce or from a similar body abroad for Suppliers not established in the Netherlands;
- b) A written statement regarding the persons employed by Supplier and engaged in the performance of Services for Company, including without limitation relevant surnames, first names, place of residence, date and place of birth and social fiscal numbers (citizen service numbers);
- c) A copy of a document as provided for in article 1 of the Dutch Compulsory Identification Act (Bulletin of Acts and Decrees 1993, 660) (identity document), as well as all other information requested by Company in relation to the persons employed by Supplier;
- d) With respect to persons employed by Supplier that are nationals of either a non-EU member state or Romania or Bulgaria, Supplier must provide a copy of their work permit (Dutch: "tewerkstellingsvergunning") or proof that a notification procedure has been completed with the employee insurance schemes implementing body (the so-called Uitvoeringsinstituut Werknemersverzekeringen, "UWV") as well as their employment conditions;
- e) With respect to Supplier's employees from an EU member state Supplier must provide a secondment declaration (Form A1, formerly called E101-declaration) as provided for in EC Directive 883/2004. For Supplier's employees from a non-EU member state with which the Netherlands has concluded a bilateral social security treaty, Supplier must provide a certificate of coverage;
- f) If it is evident from the Agreement and on the basis of the Supplier's information that the work of Supplier is performed by independent contractors, the Supplier must furnish a valid declaration of independent contractor status (in Dutch: "VAR-verklaring") and a copy of the relevant identity document;

7.2 Any amendments to data submitted on the basis of paragraph 7.1 to Company shall be communicated forthwith by Supplier to the Company in writing.

7.3 At the request of Company, Supplier will provide a copy of a valid registration with the UWV.

7.4 At the request of Company, Supplier will provide on a monthly basis a recent declaration of payment history ("Verklaring Betaalgedrag") of the Dutch tax authorities. Any such declaration may not be older than one month.

7.5 Supplier shall duly perform its statutory obligations as a withholding agent with respect to the payment of taxes. At Company's first written demand, Supplier shall allow Company to inspect its books and records with respect to personnel, payroll, filing and payment records in relation to the Dutch tax authorities and the UWV.

7.6 Company shall at any time be entitled to withhold the contributions, wage taxes and VAT payable by the Supplier in respect of persons employed by Supplier and engaged in the performance of Services for Company, from the amounts due to the Supplier, and on behalf of Supplier settle such contributions, wage tax and VAT with the UWV and collector of state taxes.

7.7 Without prejudice to the above Supplier shall, at the first request of the Company, be obliged to open a G-account and to enter into a G-account agreement, all this as provided for in article 34 and/or 35 of the Dutch Collection of State Taxes Act 1990, as well as to enter into a transfer agreement with the Company which meets the requirements laid down in the implementation regulations for the Collection of State Taxes Act 1990. Company shall then be entitled to transfer into this G-account such part of the payment it owes the Supplier as is made up from the amounts due for contributions, wage tax and VAT (if applicable) with respect to the Supplier's employees engaged in the performance of Services for the Company. Such transfer will discharge the Company from the relevant part of the payment to Supplier. If and as long as Supplier has not yet informed the Company in writing of the opening of the G-account, the Company will be entitled to withhold the amount in question from the payment due to the Supplier in respect of the Services.

7.8 In the event that Company is held liable for the payment of wage taxes, contributions, VAT, fines, and/or levy interest due by Supplier in respect of the Services provided to Company, and accordingly makes payment of such wage taxes, contributions, VAT, fines, and/or interests, Company shall have recourse against Supplier for the full amount paid by Company. Any such claim against Supplier shall be increased by the statutory interest as of the date of payment by Company and by judicial and extrajudicial costs.

7.9 The abovementioned provisions (paragraph 7.1 – 7.8) similarly apply where the Supplier outsources all or part of the Services to a Subcontractor.

8. PERFORMANCE AND OUTSOURCING

8.1 Supplier shall ensure that its personnel has the expertise required for the proper performance of the Services. Supplier shall indemnify and keep Company harmless from and against any claims by third parties with respect to loss or damage caused by its personnel, as well as any claims made or filed by its personnel in relation thereto.

8.2 Supplier shall provide adequate (safety) clothing and equipment required for the performance of the Services.

8.3 Supplier shall provide replacement personnel in the event of sickness or holiday of its personnel.

8.4 In the event of misconduct or unsuitable behaviour by Supplier's personnel or if Supplier's personnel refuses to comply with regulations or instructions with respect to order, safety or the environment, at its discretion, Company will be entitled to deny the offender(s) access to the site(s)/location(s) where the Services are performed or remove them from such site(s)/location(s). In any such case, Supplier shall promptly provide replacement personnel, without any obligation for Company to compensate Supplier for any costs incurred as a result of such replacement.

8.5 Supplier may subcontract part of the Services after obtaining Company's prior written approval, whereby Supplier shall bind any of its Subcontractors to confidentiality provisions not less restrictive than those contained herein and which shall apply to any Confidential Information provided by the Company to Supplier.

8.6 Supplier shall at all times remain fully liable vis-à-vis the Company for the proper performance of the Services agreed hereunder, irrespective of whether such Services are performed by Supplier's personnel or personnel of a Subcontractor engaged by Supplier.

9. ORDER, SAFETY & ENVIRONMENT

9.1 Prior to commencing with the performance of the Services, Supplier shall familiarise itself with the relevant local regulations regarding order, safety and the environment. At Supplier's written request a copy of the relevant safety regulations will be forwarded to Supplier.

9.2 Supplier is responsible for the safety and working conditions under which the Services are performed and must ensure that its personnel complies with any instructions provided by Company in respect hereof.

9.3 Supplier warrants that it shall comply with all safety, order and environmental regulations applicable at the time and at the location where the Services are performed. Supplier shall indemnify and hold Company harmless from and against any loss or damage resulting from non-compliance with any applicable environmental regulations, and including without limitation from any third party claims in this respect.

9.4 Prior to delivery Supplier shall, with respect to substances and materials with toxic properties, submit to Company a detailed statement regarding the properties and composition of those substances and materials. In the absence of such statement, and if Company suspects toxicity of substances or materials delivered without documentation, they shall be removed and destroyed without delay and at Suppliers' expense in accordance with all relevant regulations.

9.5 Storage of any items, raw materials and/or equipment at Company's site(s) or premise(s) used or processed by Supplier in the performance of the Services shall be stored in accordance with all relevant safety instructions and any particular instructions by Company. The risk of loss and damage to any such items, raw materials and/or equipment shall at all times remain with Supplier.

9.6 At the end of each working day, Supplier shall ensure that its personnel remove all rubbish, waste and any materials resulting from the performance of the Services at Company's site(s) or location(s).

9.7 Where the Supplier makes use of materials and/or equipment of Company in the performance of the Services, Supplier shall ascertain that the materials and/or equipment are in good working condition and shall report any defects within 24 hours of receipt of the materials and/or equipment and prior to use of same. Supplier will return the materials and/or equipment in good working condition to Company upon completion of the Services, failing which Supplier must compensate Company for any damage sustained by Company as a result hereof.

9.8 Any materials and equipment used by Supplier in the performance of the Services must comply with all relevant safety regulations. Supplier shall indemnify and hold Company harmless from and against any claims by third parties, including Customer's employees and consultants, resulting from any such unsafe or faulty materials and/or equipment.

9.9 Supplier warrants that it shall take out adequate insurance with respect to its responsibilities under this clause 9, and any such policy must exclude the option for the insurers to exercise a right of recourse against the Company and/or Company's customer.

10. TITLE AND RISK

10.1 The transfer of risk in the Goods to the Company takes place in accordance with the agreed Incoterm. In the event of rejection of the Goods, the risk in the Goods remains with the Supplier from the date stated on the relevant notification addressed to Supplier.

10.2 Title to the Goods shall transfer to the Company upon delivery of the Goods by Supplier.

10.3 In the event Company makes instalment payments prior to the delivery of the Goods, title to the Goods shall pass to Company as of the date of payment of the first instalment. Supplier hereby delivers the Goods to the Company and the Company accepts same, whereby delivery of the Goods takes place subject to the condition of payment of the first instalment. As of the date of payment of the first instalment, Supplier shall keep the Goods for the Company and label the Goods as property held for the Company.

10.4 If at the date of payment of the first instalment there are future Goods, delivery of such future Goods will happen in advance as of the date of payment of the first instalment. Title to any such future Goods will transfer to Company as soon as Supplier has the right to dispose of said Goods.

10.5 If instalment payments are made under an Agreement in relation to Goods as referred to in article 5:14 through 5:16 of the Dutch Civil Code, title to such Goods shall pass to the Company as of the date of the first instalment payment.

10.6 Supplier shall not claim any lien or attachment on any part of the Goods or on any property of the Company in the possession of Supplier, and Supplier hereby waives any right to exercise a lien or obtain security for any claim against the Goods or part thereof at any time.

10.7 If the transfer of title as referred to in clause 10.4 and/or 10.5 of these Terms and Conditions requires a separate action for transfer, said act, insofar as possible, is deemed to have hereby been carried out. Moreover, the Supplier shall be bound, as soon as the first instalment payment as referred to in clause 10.4 and/or 10.5 hereof has taken place, to cooperate in carrying out any such separate action for transfer as may be required to accomplish such transfer.

10.8 All items made available by Company to Supplier for the performance of Services or for the production of Goods such as for example raw materials, semi-finished products, parts or specifications may be used for the benefit of Company only. Supplier shall keep any such items at its expense and in a good state of repair and shall clearly mark them as Company's property. For as long as Supplier uses any such items, Supplier will bear the risk of loss or destruction and will insure all items at Supplier's expense.

10.9 Upon completion or expiration of the Agreement, Supplier will return any items referred to in clause 10.8 to the Company at its expense.

11. PRICE, INVOICING AND PAYMENT

11.1 The Price shall be fixed in euro, exclusive of VAT on the basis of the Incoterm agreed in the Order.

11.2 Supplier shall send Company a detailed invoice(s) upon delivery of the Goods or performance of the Services. If the Supplier performs work on an hourly-pricing basis or fixed pricing basis the relevant timesheets (man-hours register) work and/or production cards must be enclosed with each invoice, and must be signed for approval by or on behalf of the Company. The man-days register must include the names of all the Employees hired by the Supplier for the work, as well as a copy of the identity document of the Employees, including their dates of birth and citizen service numbers and a timesheet expressed in man-hours.

11.3 Payment shall be effected by Company within 60 calendar days from the date agreed in the Order.

11.4 Payment by Company does not constitute or imply acknowledgement that the Goods and/or Services satisfy the requirements under the Agreement.

11.5 Company shall be entitled at all times, to set off any claims by the Supplier on Company against claims by the Company or one or more of its Group Companies against the Supplier for purposes of compensation of loss or damage incurred by Company under the Agreement.

11.6 In the event of a late payment, interest shall be calculated from the due date of payment up to the date of receipt of payment at an interest rate of Euribor 1 month plus 1%.

12. LIABILITY AND INSURANCE

12.1 Subject to the limitations and exclusion on the liability of Supplier as provided in clause 12.6 below, Supplier shall indemnify and hold Company harmless from and against any liabilities, costs, expenses, damages and losses suffered or incurred by Company and arising out of or in connection with i) a breach by Supplier of the warranties given by it under the Agreement, ii) Supplier's breach or negligent performance or non-performance under the Agreement, iii) any claim made against Company by a third party arising out of or in connection with any breach, negligent performance or failure or delay in performance of the Agreement by Supplier, its representatives or Subcontractors or any Employed Persons;

and/or iv) any claims made against Company by a third party for death, personal injury or damage to property arising out of or in connection with any defective Goods or Services provided by Supplier to Company under or in connection with the Agreement.

12.2 Supplier shall be responsible for and shall indemnify and hold harmless Company and its Group Companies from and against all claims, damages, costs (including legal costs), expenses and liabilities howsoever arising related to i) disease of or injury to or death of any Employed Person, and ii) damage to or loss of Supplier's property, Subcontractor's property and/or property of Employed Persons, and which arises out of or is in connection with the performance of the Agreement.

12.3 Company shall be responsible for and shall indemnify and hold harmless Supplier and its Group Companies from and against all claims, damages, costs (including legal costs), expenses and liabilities howsoever arising related to i) disease of or injury to or death of any personnel of Company and ii) damage to or loss of Company's property, Subcontractor's property and/or property of Company's personnel, and which arises out of or is in connection with the performance of the Agreement.

12.4 Supplier shall not be liable for loss or damage caused as a result of the gross negligence or tortuous acts by Company.

12.5 Notwithstanding the above obligations, and at its expense, Supplier shall take out liability insurance covering contractual and extra-contractual liability on conditions acceptable to Company. Upon request, Supplier will make available a copy of such policy to Company. Company shall be named as co-insured under all insurance policies taken out by the Supplier pursuant to this clause 12.5. Supplier shall ensure that the insurances to be provided by it contain a waiver of subrogation against and release Company and its directors, employees and representatives from all liability covered by Supplier's insurance for claims for loss or damage arising out of Supplier's performance or failure to perform the Agreement.

12.6 Except as provided in clause 6.8, 9.3, 9.7, 9.8, 12.2, 12.3 and 15.5 or except in case of wilful intent or gross negligence, in no event shall either the Company or Supplier be liable for loss of profit, loss of business, or depletion of goodwill in each case whether direct, indirect or consequential, or any claims for consequential compensation whatsoever (howsoever caused) which arise out of or in connection with the Agreement.

13. WARRANTY

13.1 Supplier shall have the obligation to familiarize itself with the purpose of the Goods and or Services to be provided to Company, failing which Supplier is expected to be familiar with the purpose for which the Goods and/or Services are intended as well as the circumstances under which the Goods will be delivered or the Services must be performed.

13.2 Supplier warrants that:

- a) the Goods and/or Services are complete and suitable for their intended purpose;
- b) the Goods and/or Services comply fully with the details and specifications agreed in the Order as well as any other information provided by the Company and inserted in the Order;
- c) the Goods and/or Services are of good quality and free from any defects in design, construction and/or materials, and that new materials and skilled personnel will be used or deployed for the performance of the Services and/or the delivery of the Goods;
- d) the Goods meet the relevant regulations, and obtain all relevant permits, consents and/or licenses which may be required;
- e) it will supply the result agreed upon, regardless of whether it concerns Goods or Services;
- f) the Goods are accompanied by all relevant papers, certificates, assembly instructions, instructions for use, technical details and drawings, tax forms and other documents.

14. GUARANTEE, DEFECTS, NON-CONFORMITY AND REPAIR

14.1 Unless agreed otherwise, any defects to the Goods or non-conformity of the Goods with the warranties in clause 13 discovered by the Company within 24 months from the date of delivery or acceptance of the Goods, whichever comes later, shall be remedied by Supplier in accordance with the provisions of this clause 14.

14.2 Any breach of the warranties in clause 13 discovered by the Company within 12 months from the performance of the Services or, where so agreed, a date stipulated in the Order, and due to a faulty, incorrect or negligent performance of the Services by or on behalf of Supplier shall be remedied by Supplier in accordance with the provisions of this clause 14.

14.3 Upon discovery of a defect or non-conformity, Company will promptly inform the Supplier hereof and Supplier shall commence with remedying the defect or non-conformity to the Goods or with the renewed performance of the Services at the location specified by Company at the earliest possible date, and in any case within 48 hours from such notification by Company, unless the nature of the defect or non-conformity is such that Company cannot reasonably be expected to allow Supplier to remedy the non-conformity. In any such case Company shall be entitled to remedy the defect or non-conformity itself or engage a third party to do so at Supplier's expense.

14.4 All costs incurred in relation to the repair or replacement by Supplier shall be for account of the Supplier, including without limitation, cost of shipment, materials, travel and accommodation, assembly and disassembly and other labour costs.

14.5 In the event that Supplier fails to remedy any defect or non-conformity, or fails to remedy any defect or non-conformity within the period stated in Company's defect notification, and also in cases of urgency, Company will be entitled to do or instruct a third party to do all that is necessary, at the Supplier's risk and expense, to repair or replace the defect or non-conformity.

14.6 Upon replacement or repair by Supplier of any Goods or part(s) thereof in accordance with this clause 14, a renewed guarantee period of 24 months shall apply to the Goods or part(s) so repaired and/or replaced as of the date of commissioning of said repaired or replaced Goods or part(s), and up to a maximum of 36 months of the original date of delivery or acceptance, whichever was later.

14.7 The provisions of this clause 14 do not affect any other rights that Company may have by law or otherwise.

14.8 If as a result of a defect or non-conformity of the Goods supplied by Supplier the Company becomes liable vis-à-vis a third party with whom it has contracted in respect of the Goods and/or Services, the Supplier shall indemnify the Company against all claims of any such third parties for compensation of loss and damage resulting from the defect or non-conformity of the Goods. This clause shall apply regardless of the length of the agreed guarantee term and the expiry hereof.

15. INTELLECTUAL PROPERTY AND CONFIDENTIALITY

15.1 All drawings, models, equipment, technical specifications and all other documents and items provided by Company to Supplier in relation to the performance of the Agreement, shall remain Company's property and must be returned by Supplier promptly upon expiration or termination of the Agreement at Supplier's cost. Any Intellectual Property Rights relating to the aforementioned drawings, models, equipment and specifications shall remain Company's exclusive property and may only be used by Supplier for the performance of this Agreement in accordance with its terms.

15.2 Any Intellectual Property Rights in the Goods and in any drawings, models, equipment, technical specifications and other documents, developed, designed or made in the performance of this Agreement shall become Company's exclusive property, and Supplier undertakes to assist Company at any time either during or after the performance of the Agreement, to execute all documents, make all applications, give all assistance and do all acts and things as may be necessary or desirable to vest any Intellectual Property Rights in, and to register them in, the name of the Company. Supplier shall have no rights with respect to the aforementioned Intellectual Property Rights.

15.3 If contrary to clause 15.2 it has been agreed that specific drawings, models and designs shall remain the property of Supplier, and the Intellectual Property Rights to or in such items shall be vested in Supplier, Supplier hereby grants Company a perpetual worldwide, exclusive, royalty-free, transferable license to use said Intellectual Property Rights for the use of the Goods, equipment, technical specifications and other documents developed or produced by Supplier, and/or Services provided by Supplier.

15.4 Supplier shall keep confidential all Company Confidential Information and instructions obtained in the context of the cooperation with the Company, and shall not use same except for the performance of its obligations under the Agreement. Supplier shall impose the same secrecy obligations on its personnel and/or Subcontractors and Supplier warrants vis-à-vis Company that any such parties will keep the Company Confidential Information absolutely secret.

15.5 Supplier warrants that the Goods and/or Services do not infringe upon any third party Intellectual Property Rights and shall indemnify and keep Company harmless against any claim made against Company for actual or alleged infringement of a third party Intellectual Property Right arising out of or in connection with any Goods or Services provided or made available by Supplier to Company under or in connection with the Agreement

16. TERMINATION AND SUSPENSION

16.1 Notwithstanding the provisions of clause 3.5, the Company may suspend its obligations under the Agreement or terminate the Agreement with immediate effect without further notice of default being required, without being under any obligation to pay damages and without prejudice to its rights under the Agreement or by law, if at any time:

- a) Supplier, upon receipt of a written notice of default by Company requesting Supplier to remedy the default within a reasonable time-frame, does not remedy any material or repeated breach or non-observance of any of the provisions of this Agreement;
- b) Supplier refuses or neglects to comply with any reasonable and lawful directions of the Company;
- c) Supplier or any of its officers or employees are convicted of any criminal offence (other than an offence under any road traffic legislation for which a fine or non-custodial penalty is imposed);
- d) Supplier is declared bankrupt, makes any arrangement with or for the benefit of his creditors, is winding-up, suspending its payments or transferring the business and/or a substantial part of its claims;
- e) Supplier or any of its officers or employees commits any fraud or dishonesty or acts in any manner which in the opinion of the Company brings or is likely to bring the Company or any Group Company into disrepute or is materially adverse to the interests of the Company or any Group Company.

16.2 In case of an event referred to in clause 16.1, Company may request, and Supplier shall provide adequate security for the performance of its obligations under the Agreement, in the absence of which Company shall be entitled to suspend performance of its obligations under the Agreement.

16.3 All claims that Company has or may acquire on the Supplier shall immediately become due and payable in the event of a situation as referred to in clause 16.1 or 16.2.

16.4 Upon termination Supplier shall:

- a) immediately deliver to the Company all items owned by Company and in the possession or under control of Supplier, and;
- b) immediately deliver the Goods and/or Services to the extent completed at that time; and;
- c) return and/or delete any and all Confidential Information provided by Company to Supplier.

17. FORCE MAJEURE

17.1 In the event that Supplier is prevented from the performance of its obligations under the Agreement as a result of a Force Majeure Event, Company shall have the right to (i) terminate the Agreement in whole or in part with immediate effect, or (ii) set Supplier a term for performance. If Supplier does not perform its obligations within the additional term provided Company may terminate the Agreement with immediate effect. Any such termination by Company covers, at the option of Company, any or all parts already delivered by Supplier to Company and Company shall return said parts to Supplier promptly upon terminating the Agreement. Within 10 days of its receipt of such parts, Supplier will return any monies already paid by Company in respect of the delivery of said parts.

17.2 Supplier shall have no obligation to compensate Company for any loss or damage incurred as a result of a termination of the Agreement due to Force Majeure.

17.3 Supplier shall notify Company promptly and in any event within forty-eight (48) hours of any Force Majeure Event by providing a written notice setting out details of the Force Majeure Event, including Supplier's intended actions to resolve the event. Supplier must use its best endeavors to mitigate the effects of the Force Majeure Event, at its cost.

18. GOVERNING LAW AND JURISDICTION

18.1 This Agreement has been construed in accordance with and shall be governed by Dutch law. The application of the Vienna Sales Conventions (CISG) is hereby explicitly excluded.

18.2 Any disputes arising out of or in connection with an Agreement between Company and Supplier shall be settled in accordance with the rules of arbitration of the Netherlands Arbitration Institute (NAI), without prejudice to Company's right to apply for equitable relief, including without limitation injunctive relief, in case of a breach or threatened breach of any provisions of the Agreement by Supplier for which urgent measures are required and damages alone would not be an adequate remedy.

18.3 The place of arbitration shall be Rotterdam, the Netherlands. The language of arbitration shall be Dutch except where the Supplier is based outside the Netherlands in which case the language shall be English.