

## 1. APPLICABILITY AND DEFINITIONS

1.1 These General Terms and Conditions for Services (GT&C) are intended to apply to contracts for the supply of Services by Contractor to Buyer.

1.2 "Buyer" shall mean the entity ordering Services from Contractor.

"Contract" shall mean the contract between the Parties consisting of the Purchase Order and all contract documents referenced in or belonging to the Purchase Order, including the documents set out in Clause 1.3 and including any amendments to any such documents.

"Contractor" shall mean the person or entity supplying Services to Buyer pursuant to the Contract.

"Deliverables" shall mean all documentation, results and/or materials to be delivered by Contractor to Buyer as a result or as part of Contractor's services as set forth in the Contract.

"Owner" shall mean the customer of Buyer (or of an affiliate of Buyer, as the case may be) and/or user of the Services or any part thereof and shall include such person's representatives, engineer, successors and assigns, the financing parties to the project and inspection and testing agencies.

"Purchase Order" or "PO" shall mean the purchase order to which these GT&C apply, issued by Buyer to Contractor for the Services.

"Services" shall mean any and all services, works and supplies that are required of Contractor under the Contract or are to be reasonably inferred from the terms thereof, including as applicable the Deliverables and including any work to remedy defects.

1.3 All Contract documents shall be taken as mutually explanatory of one another. In case of conflict, the documents shall be interpreted and prevail in the following order of precedence:

- a) the PO, including any particular terms and conditions incorporated into the PO but excluding any appendices to the PO unless expressly stated in the PO to prevail;
- b) if applicable, the agreement under which the PO is issued, excluding any appendices thereto;
- c) these GT&C;
- d) if applicable, the appendices to the agreement under which the PO is issued, in numbering or alphabetical order as applicable;
- e) as applicable, the appendices to and/or the documents referenced in the PO.

1.4 In no event shall Contractor's general terms and conditions or other terms or conditions of whatever kind apply, unless Buyer has expressly agreed thereto in writing.

## 2. FORMATION OF THE CONTRACT

Contractor shall acknowledge acceptance within ten (10) days after receipt of Buyer's Purchase Order. In case Contractor fails to respond within the ten-day period, the Purchase Order issued by Buyer shall be deemed accepted. In any event Contractor's commencement of performance in any manner under the Purchase Order, sending of any invoice or acceptance of any payment in relation to the Purchase Order, shall constitute unconditional acceptance of said Purchase Order.

## 3. PERFORMANCE OF THE SERVICES

3.1 Prevailing Circumstances. Contractor warrants that it has acquainted itself with all facts and circumstances relevant to the performance of its obligations under the Contract (including without limitation and as applicable, availability of labour, existing structures, existing conditions of structures and equipment to which the Services pertain, access, availability of utilities, surface conditions and other site conditions) and that it has agreed to the terms of the Contract accordingly.

3.2 Subcontracting. The Services shall not be subcontracted in whole or part without Buyer's prior written approval. Contractor shall remain liable at all times for any acts or omissions of any subcontractors.

3.3 Full Responsibility for the Work. Contractor shall be responsible for its own interpretation of any documentation and information obtained. Any participation by Buyer in selecting any subcontractor, planning the Services, processing of any document, information, data, material and/or software, or any review or approval of the same by Buyer, shall not release Contractor from its obligation to perform the Services in full compliance with the terms of the Contract.

3.4 Contractor Personnel. Contractor personnel performing the Services shall be fully competent, qualified and capable of properly performing the Services.

3.5 If requested by Buyer, Contractor shall provide Buyer with a written list of the personnel employed or to be employed in the performance of the Services. In this respect Contractor shall be responsible for complying with any applicable law or regulation on personal data protection.

3.6 Should any personnel provided by the Contractor be unsatisfactory to Buyer for any reason whatsoever, Buyer shall have the right to require the removal of such person from the performance of the Service. Upon such Buyer's request Contractor shall promptly replace such person with another person satisfying the Contract requirements. Any costs resulting from such replacement shall be at the Contractor's sole expenses.

3.7 Without prejudice to Buyer's right to monitor the performance of the Services, Contractor shall remain responsible for the personnel it assigns to such Services. In particular, Contractor shall have exclusive responsibility for the management, discipline and safety of its personnel.

3.8 Contractor shall be responsible for strictly complying with all applicable laws relating to the employment of labour. It is understood and agreed that Contractor shall assume full liability for the payment of all labor costs associated with performing the Services and for the payment and/or collection of all pension, social security, unemployment insurance and/or other employment taxes or contributions imposed by domestic or foreign authority and arising from the employment of any person by Contractor. Contractor shall be responsible for obtaining at its expenses all visa and work related permits required for the performance of the Services.

3.9 Contractor Equipment. Any equipment, materials, components, tools, consumables and other items used by Contractor shall be suitable, in terms of quantity and quality, for the performance of the Services. Contractor shall promptly replace, at its expenses, any such item that Buyer, in its reasonable opinion, finds unsuitable for the performance of the Services.

3.10 Environment, Health and Safety (EHS) and Site Internal Rules. In case of Services performed on any Buyer and/or Owner site, Contractor shall observe and shall procure that its personnel, as well as its subcontractors and their personnel as the case may be, at all times observe all site internal rules and procedures, including EHS rules and requirements, and applicable instructions of Buyer and/or Owner.

Contractor's personnel are under the responsibility of Contractor's representative on site. It is Contractor's responsibility to ensure that all its personnel follow and abide by at all times the health and safety regulations and the internal rules of the site, where the Services are carried out and the applicable site risk management plan. Contractor shall be responsible for ensuring that its personnel have access to health, first aid and rescue services. Buyer shall have the right to postpone or suspend the performance of the Services if it has reason to believe that Contractor is not performing the Services in compliance with health and safety regulations.

3.11 Accidents - Contractor's Responsibility. Contractor shall be responsible for any accidents and/or bodily injuries resulting from the performance of the Services or as a result of any acts or omissions of its personnel and shall if requested by Buyer provide satisfactory evidence that it maintains insurance to cover claims arising in such circumstances. Contractor waives any claims or actions against Buyer and its insurers for any accidents and/or damages suffered by its personnel. Contractor shall be responsible, both towards Buyer and any third parties, for any and all damages caused by its personnel or any Contractor's equipment during the performance of the Contract.

3.12 Quality Assurance. Contractor shall implement an appropriate and recognised quality assurance programme to ensure that the Services comply with the requirements of the Contract and provide Buyer with all reports and certificates as required under the Contract or as Buyer may reasonably require. Contractor shall provide Buyer timely notification of any testing and Buyer and/or any third party authorised by Buyer shall be entitled to attend the tests.

## 4. CHANGES

Buyer shall have the right at any time to make changes regarding the Services or any part thereof, by means of a written notice to Contractor. If and to the extent that the changes requested by Buyer reasonably justify an adjustment of the price, completion schedule and/or other terms of the Contract, and if Contractor has requested, including appropriate substantiation, within ten (10) days of Buyer's notice that an adjustment be made, then an equitable adjustment will be made by Buyer. Failing a notification by Contractor in accordance with the foregoing, any claim or defence of Contractor with respect to the changes is deemed waived. Buyer may request Contractor to commence the changes prior to having finalised the adjustment to the PO. Contractor shall not make any changes to the Services without Buyer's prior written consent.

## 5. INSPECTION AND REVIEW

Contractor's performance under the Contract and any or all portions of the Services shall at all times be subject to inspection, audit and quality review by Buyer, and/or any third party authorised by Buyer, which, upon reasonable notice, shall be afforded full and free access to the relevant facilities of Contractor and/or subcontractors. Upon completion of the Services or receipt of the Deliverables, Buyer may at its sole discretion review and inspect the same or any part thereof at that time or at any reasonable time thereafter. Buyer's review and/or acceptance of any or all portions of the Services shall not constitute or imply any waiver of any of Buyer's rights, claims or remedies (unless expressly stated otherwise in a written document signed by authorized representatives of Buyer), including any rights, claims or remedies in relation to defects in the Services, Seller's warranties and Seller's failure to perform in accordance with the Contract.

## 6. DOCUMENTATION

6.1 Contractor shall furnish as part of the Services any manuals, drawings, calculations, technical data, diagrams, progress reports, quality confirmation certificates, licences, and any such other documents as required under the Contract and/or any applicable laws. If so required by Buyer, Contractor shall submit any such documents to Buyer for review and approval. The Services shall not be deemed to be completed until delivery of all required documentation in accordance with the Contract has occurred.

6.2 Contractor shall keep all data and documents pertaining to the Services at least for ten (10) years after completion or any such longer time required by applicable law. Contractor warrants that all records to trace and evidence compliance with the Contract requirements, including EHS requirements, shall at all times be available to Buyer and/or Owner as the case may be.

## 7. BUYER MATERIAL AND EQUIPMENT

7.1 Any materials, components, tools, patterns, equipment, consumables and other items provided by Buyer to Contractor for the performance of the Services shall be under Contractor's custody, clearly marked and recorded by Contractor as belonging to Buyer and during such custody shall be at Contractor's risk. Legal ownership in and/or the right to dispose of any such Buyer items shall under no circumstances pass to Contractor. Upon Buyer's request, including in case of termination for whatever reason, Contractor shall allow Buyer, and/or any third party mandated by Buyer, to enter any premises of Contractor to repossess any such Buyer items or any part thereof.

7.2 Upon receipt of any such Buyer item Contractor shall inspect it and give immediate notice to Buyer of any defect, damage or lack in quantity or quality; should Contractor fail to immediately notify Buyer as per the foregoing, any such item shall be deemed to be received by Contractor free from defects and damages and in the appropriate quantity.

**8. TIME FOR PERFORMANCE**

8.1 The Services shall be performed in a timely manner and Contractor shall attain each of the milestones as described in the Contract by the respective date specified in the Contract. Contractor shall give immediate notice to Buyer if any performance or delivery is delayed or likely to be delayed beyond its specified date. The notice shall include Contractor's proposal for acceleration of the progress to achieve the specified date(s). Measures for expediting progress shall include the use of additional manpower and material, multiple shift and weekend work (to the extent permitted by applicable law). The costs of the acceleration measures shall be borne by Contractor, unless it is established that Buyer is responsible for the delay.

8.2 If the completion of all or any portion of the Services (including delivery of the Deliverables) is delayed beyond the respective date specified in the Contract, where liquidated damages or penalties are provided for in the Contract, Contractor shall be liable for such liquidated damages or penalties (irrespective of whether or not Buyer reserves its right thereto when taking delayed delivery or acknowledging delayed completion) in the amount set forth in the Contract, without prejudice to Buyer's other rights and remedies, including Buyer's right to compensation for any additional damage incurred and Buyer's right to terminate the Contract. Said liquidated damages or penalties are due even without evidence of actual damage. Liquidated damages will not be due by Contractor to the extent that Contractor's delay (i) is due to a act or omission of Buyer provided that Contractor has notified Buyer in writing within three (3) days of such act or omission specifying the impact of Buyer's act or omission on the schedule or (ii) is caused by Force Majeure notified in accordance with Clause 11.

**9. PRICE AND PAYMENTS****9.1 General**

9.1.1 Buyer shall pay Contractor for the Services performed in accordance with the Contract as per the provisions on price and payments agreed in the Contract. The provisions of Clause 9.2 (Lump Sum Price) and/or Clause 9.3 (price based on agreed rates and reimbursable expenses), as the case may be, shall apply, unless and to the extent expressly specified otherwise in the Contract.

9.1.2 Except to the extent expressly stated otherwise in the Contract, the prices stated in the Contract shall be firm and fixed and are inclusive of all levies, taxes, fees, and duties that may be levied in relation to the Contract and Contractor's performance of the Services. Contractor shall promptly pay all such levies, taxes, fees, and duties and immediately indemnify Buyer if Buyer is called upon to pay the same. The prices stated in the Contract shall constitute Contractor's sole entitlement to compensation for its performance of the Contract.

9.1.3 All Contractor's invoices shall comply with the invoicing instructions specified by Buyer in the Contract or as it may reasonably provide. Buyer shall be entitled to return for correction incorrect invoices, or invoices which are not accompanied by the proper supporting documents. The payment period for such corrected invoices shall commence on the day of receipt of the corrected invoice.

9.1.4 Payment by Buyer in accordance with this Clause 9 shall be in full discharge of Buyer's liabilities and obligations under the Contract. However no payment shall become due prior to unequivocal formal written acceptance by Contractor of the Purchase Order and all its terms. Buyer shall be under no obligation to make any payment to Contractor if Contractor is in breach of contract and for so long as such breach continues.

9.1.5 If Buyer is in default in respect of any sum due and payable, Contractor, by way of a sole and exclusive remedy, shall be entitled to interest at the then applicable LIBOR rate for three month borrowing.

9.1.6 Contractor shall not be entitled to set off any claim that it might have against Buyer against sums owing to Buyer unless such Contractor claim is undisputed by Buyer or has been decided in Contractor's favour finally and conclusively pursuant to Clause 21 (Dispute Resolution).

**9.2 Lump Sum Price**

9.2.1 In the event that the price agreed in the Contract is a lump sum price ("Lump Sum Price"), Contractor shall complete the Services in full in accordance with the Contract for no more than the Lump Sum Price, and accordingly shall not be entitled to any sum in excess of the Lump Sum Price except as provided in Clause 4 (Changes) and Clause 16 (Suspension).

9.2.2 Contractor shall be entitled to invoice for payment for the Services only when completion of the Services or achievement of a payment milestone in accordance with the Contract has occurred, and payments due by Buyer shall then be made within sixty (60) days after receipt of Contractor's invoice accompanied by the relevant documentation, into the bank account nominated by Contractor.

**9.3 Prices Based on Agreed Rates and Reimbursable Expenses**

9.3.1 In the event that the Contract provides for Contractor's compensation based on agreed rates and reimbursable expenses Buyer shall pay Contractor for the Services performed in accordance with the Contract at the rates and reimbursable expenses stated therein. When the Contract provides for reimbursement of expenses, Buyer shall reimburse Contractor for its justified and reasonable expenses at the rates specified in the Contract (or failing those, at cost), provided always that Contractor has incurred such expenses in accordance with the Contract and/or Buyer's reasonable instructions (including, as applicable, Buyer's business expense policy) and provides appropriate substantiation of such expenses. If the Contract provides for Contractor's compensation for material and/or services procured from subcontractors, then Contractor shall be entitled to reimbursement of the cost for agreed items and services purchased directly for the Services; provided always that Contractor shall make its best efforts to procure materials and services at the most advantageous conditions and shall support all costs claimed by submitting paid invoices or other appropriate substantiation.

9.3.2 (a) Contractor shall furnish to Buyer, in a timely fashion as specified in the Contract or if no specific timing is stated in the Contract at least fortnightly, a "Contractor Cost Summary" including, as applicable:

- i. timesheets of personnel engaged in performing any part of the Services in the preceding reporting period, including the following minimum information:
  - the name and category of personnel engaged in accordance with the rate categories specified in the Contract;
  - the tasks they were working on; and
  - the number of hours performed.
- ii. statement of expenses, specifying the expenses to be reimbursed by Buyer under the Contract incurred by Contractor in relation to the performance of the Services in the preceding reporting period, along with any supporting documents as reasonably required to evidence said expenses.

(b) Buyer shall review the Contractor Cost Summary. Failing any feedback from Buyer within said two (2) weeks, the Contractor Cost Summary shall be considered approved

(c) If Buyer disputes any part or all of the Contractor Cost Summary, it shall do so within the aforementioned two (2) weeks along with written reasons. Contractor shall review Buyer's comments and promptly revise the documents concerned as reasonably justified. To the extent that Contractor rejects specific comments made by Buyer, it shall provide Buyer with reasonable justification. If no agreement on the Contractor Cost Summary is reached within four (4) weeks of Buyer's receipt of the full information as per item (a) above, the issue shall be elevated to Buyer and Contractor department heads for resolution.

9.3.3 Unless specified otherwise in the Contract, Contractor shall be entitled to invoice monthly for the Services performed in the preceding calendar month at the rates stated in the Contract. All Contractor's invoices shall comply with the invoicing instructions specified by the Buyer in the Contract and shall be accompanied by copies of the relevant Contractor Cost Summary documents approved by Buyer in accordance with the foregoing Clause 9.3.2.

9.3.4 Contractor shall keep account of its ongoing charges and expenses and notify Buyer monthly of the cumulative amount invoiced. In the event that the Contract states a maximum total price or limit of costs ("Maximum Price"), Contractor shall complete the Services in full in accordance with the Contract for no more than the Maximum Price, and accordingly shall not be entitled to any sum in excess of the Maximum Price except as provided in Clause 4 (Changes) and Clause 16 (Suspension).

9.3.5 Payments due by the Buyer shall be made within sixty (60) days after receipt of Contractor's invoice accompanied by the relevant documentation, into the bank account nominated by Contractor.

**10. WARRANTY**

10.1 In addition and without prejudice to any other warranties provided by Contractor under the Contract, Contractor warrants that:

- a) the Services will be performed in a timely, safe, competent and professional manner in accordance with the best practices and standards applicable in Contractor's industry and be of the highest professional quality, Contractor possessing all the necessary expertise, facilities, resources and equipment required to perform the Services;
- b) the Services shall be performed by the most skilled, knowledgeable, and experienced personnel in a manner consistent with the highest degree of care and skill exercised by members of the same profession;
- c) the Services shall be free from any defect or lack of conformity in design (except to the extent the design is provided to Contractor by Buyer), workmanship and material and otherwise in strict conformity with all requirements of the Contract;
- d) the Services shall be of good and satisfactory quality and fit for the purposes for which they are intended; and
- e) the Services shall be free and clear from all liens, claims, or encumbrances.

10.2 If within a period of twenty-four (24) months from the date of completion of all Services in accordance with the Contract, any portion of the Services is found to be defective or otherwise not having being performed in conformity with the Contract, including the warranties and other requirements set forth in the Contract, Contractor shall promptly upon Buyer's demand, and at Contractor's expense and risk, re-perform any such portion of the Services and/or take such actions as may be required to bring the Services into conformity with Contract requirements, and shall compensate Buyer for any additional costs incurred by Buyer due to the defect or non-conformity. Should Contractor fail to remedy the defect or non-conformity with due diligence and within such reasonable time specified by Buyer (or failing that within such reasonable time after Buyer's request), or if the circumstances otherwise reasonably justify such action, Buyer may take all such actions as may be required to remedy the defect or non-conformity of the Services, itself or through a third party, at Contractor's expense and risk. If the defect or non-conformity is such that the Services or any portion thereof are of no use to Buyer (or the Owner as the case may be) or such use is significantly impaired, or in the event of a recurring defect, Buyer may reject said Services or portion thereof and reclaim any sums paid in that respect. The remedies stated herein are without prejudice to Buyer's other rights and remedies under the Contract or at law.

**11. FORCE MAJEURE**

If performance of the Contract, in whole or in part, is prevented or delayed due to a Force Majeure event (i.e. any unforeseeable and unavoidable event beyond the Parties' reasonable control and which cannot be overcome despite reasonable efforts of the affected Party), then the time for performance shall be modified accordingly, subject to the delayed Party promptly (but at the latest within three (3) days) notifying the other Party of the event and taking all reasonable steps to reduce the resulting delay.

**12. CONFIDENTIALITY AND INTELLECTUAL PROPERTY RIGHTS**

12.1 Each Party shall maintain in strict confidence any proprietary or confidential information and material disclosed by the other Party in connection with this Contract (provided that Buyer shall not be precluded from disclosing any such information and material received from Contractor as part of the Services, to the extent necessary for any tenders, sale, manufacture, erection, commissioning and/or servicing of power systems and equipment by Buyer or its affiliates).

12.2 All information and know-how including drawings, specifications and other data provided by Buyer in connection with the Contract as well as any documents or data derived from such information and know-how shall remain at all times the property of Buyer or its affiliate(s) (as the case may be) and may be used by Contractor only for the purpose of performing the Contract.

12.3 Buyer shall have the irrevocable, royalty free and unrestricted world-wide right to use (including the right to sublicense) all systems, programmes, documentation, know-how or other intellectual property rights relating to or embodied into the Services delivered to Buyer.

12.4 Contractor warrants that the performance of the Services and any Deliverables and/or other material, design, works or information provided by or on behalf of Contractor, including the use thereof, does not infringe any intellectual property right of a third party, and Contractor will defend, indemnify and hold harmless Buyer and the Owner from and against all claims and liabilities based on alleged or actual infringement thereof. In case of infringement, Buyer, at its option, may require Contractor (a) to procure at Contractor's expense the necessary rights, (b) to modify or re-perform the Services or part thereof such that they no longer infringe and/or to modify or replace any Deliverables with non-infringing equivalent, or (c) to refund to Buyer all payments received under the Contract with interest upon Buyer instruction to halt the Services and/or Buyer's return of the infringing Deliverables.

12.5 Contractor expressly represents and warrants that it will not, and shall ensure that its affiliates and subcontractors will not, either alone or jointly with others, directly or indirectly through any other person, infringe the intellectual property rights of Buyer or its affiliate(s) and in particular shall not (a) accept or use, for any reason, any of the proprietary information of Buyer or its affiliate(s) which it has reason to believe has been improperly obtained from such party, (b) reveal, or entice any person to reveal, any of the proprietary information of Buyer or its affiliate(s) to any third party without prior written approval by Buyer, (c) use, or entice any person to use, proprietary information of Buyer or its affiliate(s) for any purpose other than that which is expressly authorized by Buyer.

### 13. COMPLIANCE

13.1 Contractor represents and warrants that

a) the Services are in strict compliance with all applicable laws and regulations, including any environment, health and safety (EHS) requirements;

b) any Deliverables and/or other materials to be supplied to Buyer shall not include any arsenic, asbestos, lead or any other hazardous and/or contaminated substances, elements or waste of any kind that are restricted by law or regulation at the place of origin and/or any temporary and/or final destination of such Deliverables and/or other materials or any part thereof pursuant to the Contract, or by good international power engineering practice;

c) Contractor shall not in the course of any activity arising in connection with the Contract cause any of Buyer or Owner employees or representatives or any third party authorized by Buyer to act on its behalf to be exposed to any such hazardous and/or contaminated substances, elements or waste as specified in a) above;

d) as applicable, the Services shall be performed and the Deliverable shall be delivered complete with all instructions, warnings and other data necessary for safe and proper operation.

In case of conflict between different EHS requirements, the most stringent standard shall apply.

13.2 Contractor hereby acknowledges having read and having full knowledge of the Charter for Sustainable Development and the Code of Ethics set out by ALSTOM and the last updated versions of which are available on the ALSTOM web site at the following address [www.alstom.com](http://www.alstom.com) on the date hereof, and undertakes to comply with their provisions, and to ensure, when applicable, that each entity of the group it belongs to and any subcontractors and sub-suppliers comply with such provisions.

13.3 Contractor warrants that it has not directly or indirectly paid any commission, fees or granted any rebates to any third party, employees of Buyer or Buyer's customers, or made any gifts, entertainment or any other non-monetary favours or other arrangements.

13.4 Any breach of this Clause shall be considered to be a material breach. Contractor shall indemnify and hold harmless Buyer, its affiliates, officers, employees or agents, from and against any and all claims, liabilities, loss, damage, costs and expenses (including legal fees and expenses) which may arise as a result of or in connection with Contractor's breach of its obligations and/or warranties under this Clause.

### 14. INDEMNITIES

Contractor shall indemnify, hold harmless and defend Buyer, its affiliates, agents, employees, officers and directors, from and against any and all claims, liabilities, loss, damage, costs and expenses (including legal fees and expenses) arising out of or in connection with Contractor's act or omission (including negligence) or breach of obligations in relation to the performance or non-performance of the Contract, and resulting in: a) bodily injury or death (including Contractor, Buyer and Owner personnel) and/or b) destruction of or damage to tangible property.

### 15. INSURANCE

Contractor shall procure and maintain, and cause its subcontractors and sub-suppliers to procure and maintain, with respect to the subject matter of the Contract appropriate insurance coverage, with a reputable insurer acceptable to Buyer, for the duration of the Contract. Such insurance coverage shall include as a minimum Workmen's Compensation and Employers Liability Insurance per statutory requirements, Comprehensive General Liability Insurance and Professional Indemnity Insurance for at least EUR 3,000,000 (three million euros) per occurrence. Comprehensive General Liability and Professional Indemnity Insurance shall name Buyer as an additional insured. All policies provided for herein shall contain a waiver of subrogation against Buyer, Owner, their subsidiaries, affiliates and their respective employees.

### 16. SUSPENSION

Buyer may at any time instruct Contractor to suspend the performance of the Services or portion thereof by giving notice to Contractor. Contractor shall take all reasonable steps to minimise costs associated with the suspension. If and to the extent that the suspension exceeds three (3) months, Buyer shall reimburse Contractor for the direct costs (excluding any profit element) attributable to the suspension, provided that the same are reasonable and properly evidenced by Contractor. Contractor shall not suspend performance, except with the express written consent of Buyer.

### 17. TERMINATION

#### 17.1 Grounds for Termination

17.1.1 Termination for Cause. Without prejudice to any other rights and remedies of Buyer, Buyer, without liability, may terminate forthwith the whole or any part of the Contract by written notice to Contractor, if (i) Contractor is in material breach of its obligations, including any breach of the Contract which Contractor has failed to remedy within thirty (30) days of being notified of the same by Buyer; (ii) Contractor fails to make progress such as to endanger proper performance of the Contract (iii) Contractor becomes bankrupt or insolvent, or makes an arrangement with its creditors, has a receiver or administrator appointed, commences winding up or similar proceedings or ceases or threatens to cease to carry on business or becomes unable to pay its debts as they fall due.

17.1.2 Termination for Convenience. Buyer may at any time terminate the Contract, in whole or in part, for convenience, by means of written notice to Contractor.

#### 17.2 Consequences of Termination

17.2.1 General. Upon Buyer's request, Contractor shall deliver to Buyer any documentation (whether in electronic format or paper based) and any other item created by Contractor in connection with the Contract, whether or not completed, and do and procure all things necessary to enable Buyer to complete the Services or have them completed by a third party.

17.2.2 Termination for Cause. Upon termination by Buyer, Buyer may, at its sole discretion, opt to reject all or any part of the Services to the extent that they cannot reasonably be used by Buyer and reclaim any sums paid in respect thereof with interest. In the event that any part of the Services performed by Contractor in accordance with the Contract prior to termination is accepted by Buyer, Contractor shall be entitled to compensation for that part, determined on the basis of the rates stated in the Contract and in accordance with the provisions of Clause 9. Contractor shall promptly upon Buyer's request compensate Buyer for all costs, expenses, damage and loss incurred by Buyer as a result or in connection with the termination and/or Contractor's default, including as applicable any excess cost and expense incurred to complete the Services or any part thereof itself or through any third party and damage or loss due to non-compliance with the terms of the Contract, including late completion. Buyer is entitled to withhold payment of any amounts due to Contractor until the amounts due by Contractor have been established.

17.2.3 Termination for Convenience. Buyer may opt to complete the Services or any part thereof itself or employ any third party to do so. Contractor shall be entitled to a) for any part of the Services performed in accordance with the Contract up to the date of termination (and thereafter, to the extent Contractor is requested in writing by Buyer to perform certain Services after termination), the applicable amounts as per Clause 9 and b) an equitable amount to cover possible other direct, unavoidable costs incurred or committed by it prior to termination, provided however that such amounts be properly established. The amounts due to Contractor shall in no case exceed, in aggregate, the Lump Sum Price or Maximum Price, to the extent applicable. Contractor shall make every reasonable effort to mitigate the termination costs and shall promptly submit to Buyer, for its review and approval, the termination costs together with supporting evidence. If Buyer disputes the termination costs submitted by Contractor, it shall be entitled to have Contractor's accounts audited by a competent accounting firm of its choice. Contractor shall be entitled to no other payment or compensation as a consequence of the termination.

### 18. CONTRACTOR CLAIMS

Contractor shall only be entitled to make a claim in the circumstances set forth expressly in the Contract. Contractor shall not be entitled to exercise any lien on any Buyer property. As a condition precedent to any claim, Contractor must give notice to Buyer of any circumstance which in Contractor's view might give rise to a claim within three (3) days of the occurrence and must submit without undue delay any claim in writing to Buyer including all such substantiation and evidence as reasonably practicable.

### 19. MISCELLANEOUS

19.1 Amendments. Except where the Contract expressly states otherwise, any amendment to the Contract shall be binding only if in writing and signed by duly authorised representative(s) of the Parties.

19.2 Assignments. Buyer may assign the Contract or any part thereof to any of its affiliates or to the Owner upon written notice to Contractor. Contractor shall not assign this Contract or any part thereof without Buyer's prior written consent.

19.3 Entire Agreement. The Contract shall be and incorporate the entire agreement and understanding between the Parties in relation to all matters contained therein and supersedes any previous written or oral agreements, negotiations, commitments, communications and representations of any kind.

19.4 No Waiver. Neither Party's rights shall be prejudiced or restricted by any indulgence or forbearance extended by such Party or by any delay in exercising or failure to exercise any right and no waiver by either Party of any breach shall operate as a waiver of any other or further breach, whether of a like or different character.

19.5 Survival of Obligations. Any obligations which by their nature extend beyond the expiration or termination of the Contract, including (without limitation) the provisions of Clauses 10, 12 and 21, shall survive the expiration or termination of the Contract.

19.6 Notices and Communications. Any notice to be given to either Party under the Contract shall be in writing and delivered by hand or sent by courier, post or facsimile to the respective addresses stated in the PO (or such other nominated address notified in writing to the other Party). Communications dealing with day-to-day business may be made by electronic mail.

19.7 Independent Contractor. Contractor hereby acknowledges that it is an independent Contractor. The Contract shall not be interpreted or construed to create any relationship of agency, association, joint venture, or partnership between the Parties or to impose any partnership obligation or liability upon either Party. Neither Party shall have the right, power or authority to enter into any contract or undertaking for, or act on behalf of, or to act as or be an agent or representative of, or to otherwise bind the other Party, unless expressly otherwise agreed in writing.

19.8 Severability. The invalidity, in whole or in part, of any of the provisions of the Contract shall not affect the remainder of such provision or any other provision of the Contract. To the extent allowable under the law applicable to the Contract, the Parties agree in good faith to replace any such invalid provision by a lawful provision having proximate economic effect.

## **20. GOVERNING LAW AND CONTRACT LANGUAGE**

20.1 The Contract shall be governed by and construed in accordance with the laws of Switzerland with the exception of its conflict of law provisions.

20.2 The language of the Contract shall be English and all communications thereunder or in relation thereto shall be delivered in English unless otherwise agreed in writing.

## **21. DISPUTE RESOLUTION**

Any dispute arising out of or in connection with the Contract shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with the said Rules. The place of arbitration shall be Zurich, Switzerland and the language shall be English. The arbitration shall be confidential.