

# General Terms and Conditions of Purchase

**HID GLOBAL CID SpA**

## **I. Definitions**

In these Conditions where the context admits the following expressions shall have the meanings defined below:

1.1 "Delivery Date" means the date specified by Purchaser when the Goods are to be delivered.

1.2 "Goods" means all items and services to be provided whether expressly or by implication under the Purchase Order including, by way of example, materials, equipment, fabricated products, software, maintenance and support, consultancy, drawings, certification or other documentation as applicable.

1.3 "Price" means the price of the Goods set out in the Purchase Order as reduced by any discount granted by Supplier in accordance with Condition 7 below.

1.4 "Purchaser" means HID Global SpA, an Italian company having its registered office at Viale Remo De Feo, 1 - 80022 Arzano - Naples (Italy), its successors and assigns.

1.5 "Purchase Order" means the order issued by Purchaser (including these Conditions, any other attachments thereto and the plans, Supplier Documents and other documents referred to therein) for Supplier to supply the Goods together with any and all amendments and modifications thereto.

1.6 "Supplier Documents" means either Supplier Specifications Booklet (SSB) or Specifications of Purchased Materials (SPM). Supplier Documents concern all the specifications relating to the Goods supplied by Supplier to Purchaser prior to or after the date of the Purchase Order but relating to the Goods to be supplied under the Purchase Order.

1.7 "Sub-Order" means an order placed by Supplier or Sub-Supplier relating to the Goods.

1.8 "Sub-Supplier" means any person or company other than Supplier supplying Goods or parts thereof in connection with the Purchase Order directly or indirectly to Purchaser.

1.9 "Supplier" means the person or company who agrees to sell the Goods to Purchaser, such person or company being entrusted with the provision of the Goods including any parts of the work performed through Sub-Suppliers.

## **II. Preamble**

2.1 The Purchase Order shall govern all contracts for the purchase of Goods by Purchaser from Supplier and Supplier agrees to supply Goods upon these Conditions which shall override and exclude any terms and conditions proposed by Supplier or

contained in or endorsed upon any correspondence or documents issued by Supplier irrespective of their date of communication to Purchaser save in so far as they may have been expressly accepted in writing as variations by Purchaser and save that the terms and conditions appearing on the face of the Purchase Order shall, if the same are incompatible with these Conditions, to that extent and no further overrule the latter.

2.2 Despatch or delivery of the Goods by Supplier to Purchaser shall be deemed conclusive evidence of Supplier's acceptance of these Conditions.

2.3 Any variation of these Conditions (including any special terms and conditions agreed between the parties) shall be inapplicable unless agreed in writing by Purchaser.

### **III. Scope of Work**

3.1 Purchaser hereby entrusts Supplier with the provision of the Goods and Supplier undertakes without reserve to supply the Goods in conformity with the Conditions and the Supplier Documents.

3.2 If any Purchase Order accepted by Supplier does not specify specifications, the Goods supplied in accordance with such Purchase Order shall conform with the Supplier Documents unless agreed otherwise in writing by the parties.

3.3 Any Supplier Documents that the Purchaser may issue must be agreed on by Supplier. If the Supplier Documents have not yet been agreed when Supplier accepts the Purchase Order, Purchaser and Supplier shall use their best endeavours to agree the Supplier Documents as soon as possible after Purchase Order acceptance. If for any reason, Parties are unable to agree on the Supplier Documents, Purchaser reserves the right to cancel the Purchase Order by simple written notice to Supplier.

### **IV. Services**

4.1 Supplier shall be responsible for the execution of any services requested by Purchaser as specified in the Purchase Order, by the date specified by Purchaser in the Purchase Order. Supplier shall ensure that its personnel is suitably qualified to perform such services and shall ensure that all necessary licences, work permits or other authorisations (including any policies of insurance which Purchaser may require Supplier to obtain) have been obtained.

4.2 The services to be performed by Supplier shall not be completed until:

(A) Purchaser or its authorized representative has signed a completion document in respect of such services as required by Purchaser; and

(B) at the discretion of Purchaser, a technical inspection has been carried out by Purchaser to confirm the services have been completed to the standard or specification required by Purchaser.

4.3 Signing a completion document and carrying out a technical inspection pursuant to Condition 4.2 above shall not relieve Supplier of responsibility or liability for the performance of the services and shall not imply acceptance thereof by Purchaser. Purchaser shall not be deemed to have accepted the performance of any services unless and until it has confirmed to Supplier that they are in accordance with the Purchase Order.

## **V. Acceptance of Order and Modifications**

5.1 Supplier shall acknowledge receipt of the Purchase Order in writing and shall confirm the Price, quantities and Delivery Date stipulated in the Purchase Order no later than three (3) working days from receipt thereof. If Supplier fails to acknowledge receipt of the Purchase Order within the stated period, it will be deemed to have accepted the Purchase Order.

5.2 Once Supplier has acknowledged receipt of the Purchase Order or is deemed to have accepted the Purchase Order, Supplier shall not amend or modify the Purchase Order without the prior written consent of Purchaser.

5.3 Up to the Delivery Date Purchaser reserves the right to modify any Purchase Order (including but not limited to increases and/or reductions in the quantities of Goods originally requested). Any claim by Supplier for additional payment in respect of such modifications must be made in writing forthwith after receipt of such modifications by Supplier and delivered to Purchaser for Purchaser's prior approval before proceeding with the changes in question.

## **VI. Sufficiency of Purchase Order Documents**

6.1 Supplier shall examine the Purchase Order and promptly notify Purchaser (and in any event within 7 days) of any errors, omissions or discrepancies in such Purchase Order. In the event that Supplier fails to notify Purchaser in accordance with this Condition 6.1, Supplier shall be responsible to Purchaser for the effects of such error, omission or discrepancy. On the receipt of a notification from Supplier in accordance with this Condition 6.1, Purchaser shall, to the extent that it is in its reasonable opinion necessary, promptly amend the Purchase Order to take account of any matters notified by Supplier.

6.2 Where more than one standard or technical specification relating to the same article to be supplied to Purchaser appears or is referred to in the Purchase Order, the most stringent of such standards or specifications shall apply.

6.3 Should any work be required which is not specified in the Purchase Order but which in the reasonable opinion of Purchaser is nevertheless necessary for the proper supply of the Goods, Supplier shall perform this work and such work shall be deemed to have been included in the Price.

6.4 With the exception of any obligations which Purchaser expressly agrees to perform under the Purchase Order, Supplier shall be responsible for doing everything necessary for the provision of such Goods to Purchaser.

## **VII. Prices**

7.1 The Price payable for the Goods shall, if necessary, be inclusive of installation as well as of all royalties, fees or other amounts payable to any third party in respect of the Goods.

7.2 Unless otherwise agreed in writing, all Prices stated in the Purchase Order are firm, non revisable and include all charges for packing, packaging, loading, transport, insurance, delivery and unloading to the delivery point specified in the Purchase Order and any duties, taxes and levies other than VAT.

7.3 Purchaser shall be entitled to any discount for prompt payment, bulk purchase, volume or otherwise which Supplier customarily grants to its customers.

7.4 The prices which Supplier offers to Purchaser shall be no greater than those that Supplier charges its most favoured customers, due regard having been given to relevant differences in specification, quantity, economic conditions at time of order and other terms of supply.

7.5 Any increase in the Price, whether on account of increased material, labour costs, transport cost and any other costs, fees and expenses or for any other reason, shall be subject to the express prior written consent of Purchaser.

7.6 Purchaser reserves the right to deduct from the Price:

(A) the Price of any defective Goods or services, any costs and expenses incurred by Purchaser in returning defective Goods to Supplier and any consequential loss or loss of profits arising therefrom; and

(B) any liquidated damages due in accordance with Condition 10.3 below; and

(C) any other set-off or counterclaim to which Purchaser may at any time be entitled.

## **VIII. Invoicing and Payments**

8.1 Each delivery shall be covered by a separate invoice.

8.2 Each invoice shall specify the total gross and net weight of each consignment, the quantities delivered, Purchaser's Purchase Order number, the Price, any discounts granted and, if applicable, any related expenses defined in the Purchase Order.

8.3 Unless otherwise stipulated in the Purchase Order, payment terms shall be sixty (60) days after the end of the month in which the Goods have been delivered and accepted by Purchaser. Payment shall be made by bank transfer or cheque provided the invoice complies in all respects with Condition 8.2.

8.4 Payment by Purchaser of the Price shall not constitute acceptance of the Goods and is without prejudice to any rights Purchaser may have by reason of the Goods failing to comply with any specification relating to the Goods or any breach by Supplier of all or any of the clauses in the Purchase Order.

8.5 Purchaser may at any time set off any amount owed by Supplier to Purchaser, whether under the applicable contract of sale or otherwise, against any amount owed by Purchaser to Supplier (including any applicable VAT payable).

## **IX. Delivery**

9.1 Unless otherwise agreed in writing, delivery of the Goods and/or performance of any services shall take place on the Delivery Date at the place and time stated in the Purchase Order and shall be accompanied by a delivery note bearing the number of the Purchase Order and the description and quantity of Goods delivered.

9.2 Supplier will provide Purchaser with any information which may be necessary or useful to enable Purchaser to take delivery of the Goods.

9.3 Each delivery shall correspond exactly to the quantity stated in the Purchase Order and Purchaser reserves the right to return any surplus Goods in accordance with Condition 12.

9.4 Acceptance of delivery of the Goods shall not be deemed to constitute acceptance of the Goods.

9.5 If the delivery is incomplete, without prejudice to any other rights or remedies Purchaser may have under the Purchase Order or at law, Purchaser reserves the right to accept or reject the Goods notwithstanding signature by Purchaser of the delivery note, and to suspend payment.

9.6 Delivery or performance by instalments shall be subject to the express prior written consent of Purchaser and in the event Purchaser accepts delivery of the Goods by instalments, each delivery shall be invoiced separately but the deliveries shall be treated as a single order and not severable.

9.7 Delivery prior to the Delivery Date shall not give rise to any increase in the Price.

9.8 Purchaser may order Supplier to suspend delivery of the Goods or performance of the services at any time for up to thirty (30) days, provided that Purchaser shall provide Supplier with written notice of such suspension at least ten (10) days prior to the Delivery Date and Purchaser shall be under no liability to Supplier in connection with any such suspension. In the event of a suspension by Purchaser in accordance with this Condition 9.8, Supplier shall be liable for storing the Goods until the new Delivery Date at its risk and cost.

## **X. Delays in Delivery**

10.1 Time shall be of the essence in relation to the performance of any and all of the Supplier's obligations under this Purchase Order.

10.2 Supplier shall immediately and in any event within three (3) working days give Purchaser written notice of any delay in the delivery of the Goods or the performance of any services that occurs or is foreseen by Supplier. Such notice shall include details of any resultant effect on the Delivery Date, the causes of such delay and the corrective action proposed by Supplier. The giving of such notice shall not release Supplier from using its best endeavours to overcome such delay and is without prejudice to any rights or remedies Purchaser may have under the Purchase Order or at law.

10.3 Notwithstanding the receipt of notice in accordance with Condition 10.2 above, Purchaser reserves the right at its discretion and without prejudice to any other rights and remedies it may have under the Purchase Order or at law:

(A) to agree to an extension of the Delivery Date or a revised performance schedule;  
or

(B) to cancel the Purchase Order in whole or in part, and Supplier shall not be entitled to any compensation for cancellation of the Purchase Order and shall reimburse to Purchaser all costs and expenses incurred by Purchaser as a result of

the cancellation of the Purchase Order, including but not limited to the cost of purchase of substitute items obtained from other suppliers; or

(C) to levy against Supplier without prior notice liquidated damages of two per cent (2%) of the value of the delayed order for each week (or part of week) of delay up to a maximum of twenty per cent (20%) of the total value of the Purchase Order. The payment of such liquidated damages by Supplier shall not release Supplier from the performance of its obligations under the Purchase Order and shall be without prejudice to the right of Purchaser to claim additional damages to the extent that the liquidated damages paid do not cover fully all damages that are suffered by Purchaser as a result of Supplier's delay.

10.4 Without prejudice to any rights or remedies Purchaser may have under the Purchase Order or at law, if Purchaser has already accepted part delivery or performance of the Goods and in the reasonable opinion of Purchaser such Goods cannot be used or operated without the Goods which are late in being delivered or performed, Purchaser reserves the right to return any Goods which have already been delivered at the expense of Supplier and Supplier will forthwith reimburse to Purchaser any amounts already paid to Supplier in respect thereof and/or in the performance of any services.

## **XI. Passing of Property and Risk**

11.1 Without prejudice to any right of rejection which may accrue to Purchaser, full title to the Goods (insofar as such Goods do not constitute services) shall pass to Purchaser at the earliest of:

(A) the date the Goods are delivered to Purchaser; or  
(B) the date Purchaser makes payment for said Goods, and Supplier agrees to execute all documents and do all things necessary to perfect such transfer of title.

11.2 Risk in the Goods (insofar as such Goods do not constitute services) shall remain with Supplier until said Goods are delivered in accordance with the Purchase Order.

## **XII. Rejection and Return of Goods**

12.1 Purchaser shall not be deemed to have accepted any part of the Goods until after Purchaser, or its sub-purchasers, have conducted a physical inspection of the Goods and confirmed to Supplier that they are in accordance with the Purchase Order. Purchaser may by written notice to Supplier reject Goods which it reasonably believes are not in accordance with the Purchase Order until a reasonable time after such inspection.

12.2 In the notice of rejection Purchaser shall specify the reasons for rejection and return the rejected Goods to Supplier (insofar as such Goods do not constitute services) at Supplier's risk and expense. Unless Purchaser notifies Supplier to the contrary, Supplier shall replace such rejected Goods without delay and at no cost to Purchaser with Goods which are, in all respects, in accordance with the Purchase Order and shall reimburse Purchaser for any advance payment made by Purchaser in respect of such rejected Goods.



12.3 Rejection of the Goods by Purchaser shall in no way relieve Supplier of its liability with respect to delivery time and without prejudice to the generality of the foregoing, any Goods delivered which are not in accordance with the requirements of the Purchase Order shall be treated as a late delivery and subject to the provisions of Condition 10.

### **XIII. Packaging**

13.1 The Goods shall be marked in accordance with Purchaser's instructions and any applicable regulations and requirements and packaged by Supplier in containers built to ensure that the contents arrive in perfect condition and will subsequently remain in perfect condition when in storage, and will be delivered to Purchaser by a method of transport which ensures that the Goods arrive in perfect condition.

13.2 Supplier shall be liable and shall indemnify Purchaser for all loss, damage and expenses (whether direct, indirect or consequential) suffered or incurred by Purchaser in connection with, arising from or as a result of any claim in relation to unsuitable containers and/or packaging materials which do not comply with any relevant laws, rules or regulations.

13.3 Unless otherwise agreed in writing, Purchaser shall not be required to return to Supplier any packaging materials.

### **XIV. Inspection and Testing**

14.1 When Purchaser provides Supplier with raw materials, Supplier shall perform an incoming inspection of these raw materials, whether consigned or not, in accordance with the Acceptable Quality Limit (AQL) table defined in the related Supplier Documents.

14.2 Supplier shall carry out, at its own costs, an outgoing inspection of the Goods in accordance with the Acceptable Quality Limit (AQL) table defined in the related Supplier Documents and provide certification each as specifically required by the Purchase Order or as otherwise required by law, appropriate codes and sound engineering practices. Supplier shall give Purchaser not less than fourteen (14) days written notice by e-mail or facsimile of the time and place of any such examinations and/or tests. Supplier shall, upon Purchaser's request, provide Purchaser with a copy of all relevant examination/test data. No Goods shall be delivered until all applicable tests and inspections have been completed revealing no defects therein.

14.3 Purchaser reserves the right to attend and witness all examinations and tests of Goods as well as to carry out its own examination, testing and inspection of Goods and to audit any services performed. Purchaser shall be allowed, free of charge, reasonable access to Supplier's premises and, where reasonably practicable, to the premises of a Sub-Supplier for the purpose of examination and testing as described herein.

14.4 Supplier shall provide, free of charge, to the personnel or authorized representatives of Purchaser conducting any examination, testing and inspection on behalf of Purchaser, all reasonably necessary equipment, supplies and facilities to enable their tasks to be carried out at Supplier's premises or, where reasonably practicable, at the premises of a Sub-Supplier.

14.5 Neither:

(A) the attendance or non attendance of Purchaser at examination and testing performed by Supplier; nor

(B) the examination, testing or inspection by Purchaser; nor the review or approval by Purchaser of documents or other work of the Supplier ; shall relieve Supplier of its obligations under this Purchase Order or be deemed to constitute any acceptance of the Goods by Purchaser.

14.6 Purchaser reserves the right to appoint third parties to examine, test, inspect, expedite and administer the Purchase Order on its behalf and Supplier shall treat these agents as if they were Purchaser's own personnel.

14.7 Purchaser and its authorised representatives shall have the right at all reasonable times during the period of this Purchase Order and for a period of five (5) years thereafter, to inspect all records and related documents, procedures and controls, and to interview Supplier, its agents and Sub-Suppliers, for the sole purpose of determining whether there has been compliance with the requirements of the Purchase Order and Supplier shall keep all records and related documents, procedures and controls relating to the Purchase Order for a period of five (5) years from the completion of the performance of the Purchase Order.

## **XV. Specific Provisions When Purchaser Provides Raw Materials**

Unless otherwise agreed in writing, Supplier undertakes to perform an incoming inspection of the raw materials, whether consigned or not, in accordance with the Acceptable Quality Limit (AQL) table defined in the related Supplier Documents.

### *Warranty*

Supplier warrants and represents to Purchaser that:

(A) the design, construction and quality of the Goods (including replacement parts) shall comply in all respects with the Supplier Documents, performance criteria, drawings and other descriptions supplied by Purchaser and will be new, fit and sufficient for the purposes for which they are intended as evidenced in the Purchase Order, and of satisfactory quality;

(B) it has the experience and capability (including sufficient and competent engineers, supervisors and other personnel), has available all requisite services, expertise and financing and will make available all requisite materials, tools and equipment for the satisfactory and timely supply of the Goods;

(C) it shall observe and exercise the standard of care and competence which reputable suppliers normally practise in the performance of similar work and shall not incorporate into the Goods without the prior written approval of Purchaser any design or feature unless said design or feature has been incorporated in items similar to the Goods and proven in commercial service;



(D) any services performed by Supplier or a Sub-Supplier shall be performed at all times to the highest standards of workmanship and with all due speed, care, skill and diligence and such services shall be carried out in accordance with any specifications supplied by Purchaser and in accordance with the best standards prevailing in Supplier's industry; and

(E) the Goods shall be supplied and any services performed shall be in compliance with the relevant requirements of any statute, statutory instrument, order or regulation which may be in force from time to time when the same are supplied.

15.2 If any malfunction, breakdown or defect attributable to the faulty design, (other than faulty designs made, furnished or specified by Purchaser for which Supplier has disclaimed responsibility in writing prior to commencing the manufacture of Goods in accordance with such design), Supplier's erroneous use of data, inadequate or faulty materials, workmanship or operating characteristics of any Goods or the breach of any of the warranties set out in Condition 15.1 arises at any time up to two (2) years after the date on which such Goods are put into commercial use by Purchaser, its sub-purchasers or customers and Supplier is given written notice thereof by Purchaser, Supplier shall at its own expense as quickly as possible and at the option of Purchaser make such alterations, repairs and replacements as may be necessary so that the Goods comply with the contractual specification and warranties set out in Condition 15.1 above and shall reimburse Purchaser for any and all costs and expenses incurred by Purchaser in connection with the rectification of such malfunction, breakdown or defect.

15.3 In the event that Supplier does not commence and diligently proceed to complete the alteration, repair or replacement of the Goods in accordance with Condition 15.2 within the time agreed between the parties (to be a reasonable period in the event that the parties fail to agree such time), Purchaser may carry out such remedy or procure that a third party carries out such remedy on its behalf and all costs thereof shall be borne by Supplier, provided that prior written notice of the performance of the remedy by or on behalf of Purchaser is given to Supplier. Purchaser shall have the right to set off any amount owed to it by Supplier pursuant to this Condition 15.3 against any monies owed by Purchaser to Supplier (whether under this Purchase Order or otherwise).

15.4 If Supplier replaces or repairs Goods pursuant to Condition 15.2 then the provisions of Conditions 15.2 and 15.3 shall apply to such replaced or repaired Goods for a period of one (1) year from the date they are introduced back into commercial use.

15.5 For the avoidance of doubt, all representations, warranties and guarantees given by Supplier under this Purchase Order are conditions of this Purchase Order.

15.6 Each of the representations, warranties and guarantees set out in this Condition 15 is separate and independent and such representations, warranties and guarantees are additional to and are not in lieu of any warranties, conditions, terms or remedies provided for or implied by law.

15.7 The terms of this Condition 15 shall survive the expiration or any termination of this Purchase Order.

#### **XVI. Purchaser's Tools**

16.1 Any tools, moulds or other equipment provided or paid for by Purchaser to Supplier in the performance of the Purchase Order (hereinafter referred to as "Purchaser's Property") shall be and shall remain the property of Purchaser and Supplier shall keep Purchaser's Property clearly labelled as being the property of Purchaser at all times. Supplier shall hold Purchaser's Property as bailee and shall use Purchaser's Property exclusively for the performance of the Purchase Order for and on behalf of Purchaser and shall return Purchaser's Property to Purchaser forthwith upon its request.

16.2 Supplier shall exercise all necessary care in safeguarding and maintaining Purchaser's Property and will be liable for any loss or damage thereto or caused by Purchaser's Property whilst it is in the possession or under the control of Supplier. Supplier shall insure Purchaser's Property to its full replacement value in the joint names of Supplier and Purchaser and to the satisfaction of Purchaser against loss, damage, theft or destruction. All monies received under such insurance shall be paid directly to Purchaser.

16.3 Supplier shall not pledge, charge or grant liens over or claim any title, right or interest in Purchaser's Property.

#### **XVII. Insurance, Liability and Indemnity**

17.1 Supplier shall maintain at its own cost full and sufficient insurance cover with a reputable insurance company to cover its actual and potential liabilities hereunder within limits acceptable to Purchaser and will, on the request of Purchaser, produce appropriate evidence confirming that such insurance is in place.

17.2 Supplier shall be liable for all direct losses, damages, costs and expenses (such as but not limited to loss of profits, goodwill, reputation, business receipts or contracts, or losses or expenses resulting from third party claim) suffered by Purchaser as a result of any breach of warranty by Supplier, default by Supplier in the performance of its obligations under this Purchase Order, misrepresentation by Supplier or Purchaser terminating the Purchase Order pursuant to Condition 19.

17.3 Supplier shall indemnify Purchaser and hold Purchaser harmless from and against any and all liability for death, illness or injury to any third party or for loss or damage to any third party's property and against all claims, demands, proceedings and causes of action resulting directly or indirectly therefrom and arising out of any act or default on the part of the Supplier, its Sub-Suppliers, servants or agents in the performance of any of its obligations under this Purchase Order, including, without limiting the generality of the foregoing, any liability arising under any relevant product liability legislation applicable from time to time.

**XVIII. Suspension by Purchaser for Cause**

18.1 If Supplier fails to comply with any of its obligations under the Purchase Order, Purchaser may order Supplier to suspend the Purchase Order in whole or in part, at any time for up to 6 months, without prejudice to Purchaser's other rights in law or under this Purchase Order.

18.2 Any and all costs to Supplier due to a suspension under this Condition 18 shall be to the sole account and expense of Supplier.

**XIX. Termination by Purchaser**

19.1 The Purchase Order shall automatically terminate if Supplier breaches any of its contractual obligations and fails to remedy its breach within eight (8) calendar days from receipt of a receipted recorded delivery notice to comply from Purchaser, without prejudice to any claim for damages for non-performance of the obligation concerned becomes insolvent or has a receiving order made against it or enters into liquidation whether compulsory or voluntary (except for the purposes of bona fide reconstruction or amalgamation), or compounds with or makes any arrangement with its creditors or makes a general assignment for the benefit of its creditors, or carries out its business under a Receiver, Manager, Administrative Receiver or Administrator for the benefit of its creditors or any of them, or is the subject of proceedings, analogous to any of the foregoing in any jurisdiction in which it is incorporated or carries on its business.

19.2 Purchaser shall be entitled to terminate the Purchase Order in whole or in part, upon notice to Supplier, if the end customer of Purchaser cancels its order for the Goods with Purchaser or the project for which Purchaser wishes to acquire the Goods is cancelled. Supplier shall accept, in settlement of any and all claims under the cancelled Purchase Order, payment by Purchaser of all reasonable and documented third party fixed costs incurred by Supplier in relation to the Goods which are the subject of the cancelled Purchase Order and which Supplier can demonstrate could not reasonably be avoided by Supplier acting in accordance with established market practice.

19.3 Upon termination by Purchaser under Condition 19.1 and 19.2 hereof, Purchaser may:

(A) return to Supplier at Supplier's cost and risk part or all of Goods delivered, and/or

(B) enter Supplier's premises and recover any Goods in which title has passed to Purchaser under Condition 11.1 hereof.

Any and all losses, damages, expenses and costs incurred by Purchaser as a result of such termination, whether direct, indirect, consequential or otherwise including but not limited to liquidated damages, shipping and storage costs and costs involved in having the Goods supplied by third parties, shall be to the sole account and expense of Supplier.

**XX. Confidentiality and Publicity**

20.1 Supplier shall and shall procure that its employees and Sub-Suppliers shall maintain in strict secrecy and shall not divulge to any third party (except employees of Supplier on a "need-to-know" basis and Sub-Suppliers accepting a like obligation of secrecy, and then only to the extent necessary for the performance of Sub-Orders), any information, data and documentation furnished by Purchaser to Supplier in connection with the Purchase Order or becoming known to Supplier through its performance of work under the Purchase Order, in so far as it is not in the public domain other than through the act or omission of Supplier. Save to the extent necessary for the provision of the Goods, Supplier shall neither copy nor make abstracts of documents relating to the Purchase Order on its own behalf or on behalf of third parties.

20.2 Supplier shall be responsible for the compliance by its employees and Sub Suppliers with the obligations of Supplier under this Condition 20.

20.3 Supplier shall not disclose the existence of this Purchase Order or Purchaser's name in any brochure, internal house organ, publicity material or other similar communication to any third party without the prior consent in writing of Purchaser.

20.4 Photographs of any of Purchaser's equipment, installations or property shall be taken only with Purchaser's prior consent in writing. Any such photograph and the negative thereof shall be considered to be proprietary information of Purchaser.

20.5 The provisions of this Condition 20 shall survive the termination or expiry of this Purchase Order for any cause whatsoever but shall cease to apply to any information, data and documentation upon its going into the public domain otherwise than by breach by Supplier of its obligations herein contained.

**XXI. Intellectual Property**

21.1 Any reports, specifications, drawings, other documents, plans, designs or computer software supplied by Purchaser to Supplier in connection with this Purchase Order shall remain the exclusive property of Purchaser, shall be used by Supplier for the sole purpose of the execution of this Purchase Order and shall be returned forthwith to Purchaser upon completion of this Purchase Order or termination thereof for any reason whatsoever.

21.2 Title to all drawings, specifications, calculations and other documents or computer software (including object codes and documented source codes of software) prepared by Supplier or Sub-Suppliers specifically in connection with the supply of the Goods to Purchaser together with any copyright, design rights or other intellectual property rights therein shall vest exclusively in Purchaser and Purchaser shall have the right to use all drawings, specifications, calculations and other documents or computer software supplied under this Purchase Order without any obligation of any kind to Supplier or Sub-Suppliers.

21.3 Goods made specifically to Purchaser's specifications shall not be manufactured by Supplier for or used by Supplier for any third party without Purchaser's prior written consent.

21.4 Supplier undertakes not to assert against Purchaser any intellectual property rights held by Supplier in the Goods and to obtain from its personnel, its Sub-Suppliers, the creators and inventors and more generally any person directly or indirectly involved in the development/manufacture of the Goods, all the rights necessary to freely assign to Purchaser the Goods and the intellectual property rights therein.

21.5 Any invention, whether patentable or not, made by Supplier in connection with the execution of any Purchase Order placed by Purchaser for inter alia, the development of a new product or a new process, shall be the exclusive property of Purchaser. The use of any such invention by Supplier shall be authorised for the sole purposes of the performance of Purchase Orders placed by Purchaser with Supplier unless otherwise agreed by Supplier and Purchaser in a separate agreement.

21.6 Supplier shall pay all royalties and license fees which may be payable on account of the manufacture or performance by it of the Goods or services hereunder or any part thereof.

21.7 Supplier shall indemnify and hold harmless Purchaser, its successors, assignees, vendees, and users of the Goods from and against any and all claims, demands, damages, losses, costs and liabilities arising out of or resulting from the actual or alleged infringement by the Goods or by the services performed by Supplier of any rights under patents or other intellectual property rights or any litigation based thereon. If the Goods or any part thereof are held to constitute an infringement of the patents or other intellectual property rights of any third party and use thereof is enjoined, Supplier shall at the discretion of Purchaser and at the expense of Supplier either replace the infringing Goods or part thereof by non-infringing goods or parts with similar technical specifications as those of the infringing Goods or parts thereof; modify such Goods or part thereof so that they become non infringing without affecting the performance thereof; or obtain the right for Purchaser, its successors, assignees, vendees, and users of the Goods to continue use of the Goods at no cost to any of them.

21.8 Any alternative goods supplied to Purchaser by Supplier in accordance with Condition 21.7 shall be deemed to be the Goods for the purposes of this Purchase Order including, without limitation, for the purposes of the warranties and guarantee set out in Condition 15.

## **XXII. Legal and Beneficial Owner**

Purchaser warrants that it sells the Goods (to the extent that such Goods do not consist of services) as sole legal and beneficial owner.

## **XXIII. License**

Supplier grants to Purchaser an irrevocable, transferable, non exclusive and royalty-free licence to use all technology, data, information, materials, patents and know how now or hereafter owned or controlled by Supplier relating to the Goods and necessary for the development, manufacture and use of the Goods and their repair or alteration, whether by Purchaser or a third party of its choice, in the event that any of the following events occurs:

(A) termination for whatever reason of the development or manufacture of the Goods under the Purchase Order; or

(B) the bankruptcy or winding up of Supplier or any other analogous proceedings against Supplier, or

(C) termination of this Purchase Order due to breach by Supplier of any of its obligations hereunder; or

(D) Supplier ceasing to conduct business for any reason.

#### **XXIV. Law and Jurisdiction**

24.1 These Conditions and the Purchase Order shall be governed by and construed in accordance with the laws of Italy. Any dispute arising in connection with these Conditions or the Purchase Order will be submitted to the exclusive jurisdiction of the competent courts of Rome (Italy).

24.2 In the event of any disagreement or dispute between the parties and notwithstanding any legal proceeding arising out of or in connection with the Purchase Order or its performance, Supplier and Purchaser shall carry out their obligations hereunder until a final judgment has been issued by a competent court unless the parties agree otherwise in writing, and thereafter in accordance with such judgment. Any failure to proceed in accordance with the foregoing shall constitute a breach of a condition of this Purchase Order.

#### **XXV. Compliance With Laws, Regulations, Codes and Standards**

25.1 Supplier warrants that, in undertaking the requirements of the Purchase Order, both Supplier and the Goods shall comply with all applicable laws, regulations, codes and standards including, without prejudice to the generality of the foregoing, all regulations relating to export and import, health, safety, packaging, labelling, environmental, manufacture and delivery, and shall use its best endeavours to procure that any Sub-Suppliers comply therewith.

25.2 Supplier shall defend, indemnify and hold harmless Purchaser against any fine, penalty or sanction of a similar nature which may be imposed on Purchaser by any government authority by reason of a breach of Condition 25.1 as well as against all claims, suits and proceedings related thereto.

25.3 All taxes, fees, customs, import duties and related charges of whatever nature imposed upon Supplier as a result of the execution of this Purchase Order shall be paid by Supplier and Supplier shall indemnify and hold Purchaser harmless therefor.

#### **XXVI. Waiver and Severability**

26.1 Failure or delay of Purchaser in exercising any of its rights under this Purchase Order shall in no way constitute a waiver of those rights nor shall such failure excuse Supplier from any of its obligations under this Purchase Order.

26.2 No single or partial exercise of any right, power, privilege or remedy by Purchaser under this Purchase Order shall prevent any further or other exercise thereof or the exercise of any other right or remedy.



26.3 The rights, powers and remedies of Purchaser provided in these Conditions are cumulative and are not exclusive of any rights, powers or remedies provided by law or otherwise.

26.4 The parties agree that if any part of this Purchase Order is found to be unreasonable, invalid, void, unenforceable or unlawful under any enactment or rule of law pertaining thereto of any jurisdiction, the legality, validity and enforceability of the remainder of this Purchase Order in that jurisdiction shall not be affected, and the legality, validity and enforceability of the whole of these Conditions shall not be affected in any other jurisdiction.

## **XXVII. Liens and Claims**

27.1 Supplier undertakes not to create or do anything (including by act or omission) which could result in the creation of any lien, charge or other encumbrance on the property of Purchaser (or the property of Supplier which could in any way affect Supplier's performance of its obligations hereunder), and Supplier hereby declares that it has not created any such lien, charge or other encumbrance or done anything herein above prior to the Purchase Order.

27.2 Supplier shall protect, indemnify and hold Purchaser harmless from and against any and all liabilities, demands, costs, expenses, claims, fines, penalties and the like incurred in connection with the discharge of any lien claimed against the Goods or the property of Purchaser created or caused by any act, omission or negligence by Supplier and/or by Sub-Suppliers or their respective employees and agents. Purchaser shall have the right to deduct from any sums due or becoming due to Supplier such amounts necessary to discharge any lien or claim unless Supplier satisfactorily evidences forthwith that such lien is not valid.

## **XXVIII. Assignment and Sub-Letting**

28.1 The Purchase Order shall not be assigned or sub-let, in whole or in part, by Supplier without the express prior written consent of Purchaser. Notwithstanding the consent of Purchaser, Supplier shall not be relieved of any obligations under the Purchase Order and for the purpose of the Purchase Order, Supplier shall be deemed to have supplied the Goods to Purchaser.

28.2 Any sub-letting of the whole or any part of the Purchase Order by Supplier shall not create any contractual relationship between any Sub-Suppliers and Purchaser.