

General Terms & Conditions of Purchase, rev.: 0, date: 29-Sep-2021

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1. DEFINITIONS

Unless the terms or context of the ORDER provide otherwise, the following terms shall have meanings set out below:
“**CLIENT**” means the firm, company, or other corporate entity (including its successors and/or permitted assigns) with whom PURCHASER has contracted for the benefit of OWNER in those instances where PURCHASER has not directly contracted with OWNER and all rights, benefits, and remedies conferred upon OWNER by the ORDER shall also accrue and be available to and for the benefit of CLIENT.

“**FACILITIES**” means the Plant or Site(s) for which the GOODS are purchased under this ORDER.

“**GOODS**” means any and ancillary design and engineering services, warranty related services, technical assistance, all items, articles, materials, apparatus, equipment, spare parts, labor, or other supplies including but not limited to manuals, operating instructions, reports, and all other documents to be supplied or performed by SELLER, as specified, listed, mentioned, scheduled, or implied in the ORDER or any revision thereof.

“**ORDER**” means the written Purchase Order and/or (Sub-)Contract between SELLER and PURCHASER which refers to and incorporates these terms and conditions together with any appendices or attachments thereto for the supply of the GOODS.

“**ORDER SUPPLEMENT**” shall mean any written change to the ORDER signed by PURCHASER and SELLER in accordance with Article 7.

“**ORDER PRICE**” means the price set out in or calculated in accordance with the ORDER including any ORDER SUPPLEMENT.

“**OWNER**” means the entity (including its successors and/or permitted assigns) owning and/or purchasing the FACILITIES for which the GOODS are purchased under this ORDER.

“**SELLER**” or “**SUPPLIER**” means the firm, company or other corporate entity (including its successors and/or permitted assignees) contracted by the ORDER to supply GOODS to the PURCHASER.

“**PURCHASER**” or “**BUYER**” means the DutchPowerGroup as noted on the front of the ORDER (including its parent, affiliates and subsidiaries). To the extent that PURCHASER is not the end-user of the GOODS being herein purchased then all rights, benefits, and remedies conferred upon PURCHASER by the ORDER shall also accrue and be available to and are for the express benefit of OWNER or CLIENT, whichever is the end-user, for which the GOODS are purchased.

“**SUBCONTRACTOR**” means any sub-supplier or subcontractor of any tier on whom the SELLER has directly or indirectly placed a SUB-ORDER. If used in the ORDER the term “sub-supplier” shall have the same meaning as SUBCONTRACTOR.

“**SUB-ORDER**” means an order or suborder directly or indirectly placed by the SELLER with a SUBCONTRACTOR in connection with the manufacture or supply of part of the GOODS.

2. GENERAL

2.1 These terms are binding and supersede and replace any SELLER’s terms and are an integral part of the ORDER and/or ORDER SUPPLEMENT(s). All terms and conditions in or attached to SELLER’s quotation are hereby expressly declared null and void unless specifically included and spelled out in the ORDER. No other agreement or understanding purporting to modify or change terms, conditions or specifications of the ORDER shall be binding unless it has been confirmed in writing by PURCHASER.

2.2 The ORDER shall only be valid if issued on PURCHASER’s order form and signed by an authorized representative of PURCHASER. PURCHASER reserves the right to issue orders also and/or only by fax, email, or letter. PURCHASER does not accept responsibility for verbal orders, unless they are followed by a written ORDER within ten (10) working days.

2.3 If SELLER commences work before returning the signed Acceptance Form, SELLER shall be deemed to have accepted the ORDER and all terms, conditions or specifications thereof including these Terms and Conditions of Purchase. SELLER is requested to abstain from counter confirmation in detail unless specifically asked for in the ORDER.

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2.4 Delivery Terms specified in the ORDER are as described in the latest edition of "Incoterms" issued by the International Chamber of Commerce (unless a different edition of Incoterms is specified in the ORDER).

3. PRICE AND PAYMENT

3.1 SELLER shall be solely responsible for assessing the scope content of this ORDER and the ORDER PRICE as referred to in the ORDER to ensure that it includes everything necessary to manufacture and deliver the GOODS.

3.2 All prices included in the ORDER, unless otherwise expressly stated, are:

(a) Firm, fixed for the term of the ORDER; (b) Exclude all taxes and duties of any kind which either party is required to pay with respect to the sale of the GOODS; and (c) Include all taxes, duties and fees of any kind which either party is required to pay with respect to the provision of Services under the ORDER, and (d) Include all charges related to the packing of the GOODS and transit to the required destination point (s).

3.3 Payment terms are as stated in the ORDER.

3.4 Payments will be made ONLY upon the PURCHASER's receipt of correct invoice(s), and any required backup documents, including lien release forms.

3.5 Payment for any part or all of the GOODS does not constitute acceptance of the GOODS.

3.6 SELLER shall be responsible for ensuring the proper packaging of the GOODS provided hereunder. Any and all costs for packing, crating, special transport, or other related charges are included in SELLER's pricing in this ORDER.

4. TIME OF PERFORMANCE

4.1 Time is a material provision of the ORDER and SELLER acknowledges that PURCHASER's schedule and progress is contingent upon SELLER's timely performance hereunder.

4.2 In the event of any delay or anticipated delay in SELLER's performance, SELLER shall immediately give PURCHASER written notice of such delay, including a description of the source or cause of the delay and of the actions SELLER is undertaking to recover from the delay. If SELLER fails to take steps that PURCHASER determines are necessary to recover the delay or fails to bring its performance into compliance with the requirements of the ORDER, PURCHASER may direct SELLER to accelerate its work by supplying additional labor, including, but not limited to, overtime or additional shifts, supervision and equipment as PURCHASER may reasonably require in order to recover and maintain the schedule set forth in the ORDER. All costs incurred by SELLER to accelerate the work shall be to the account of SELLER.

4.3 Should SELLER fail to take aforesaid measures or should PURCHASER not approve the measures, PURCHASER reserves the right to require SELLER and SELLER shall for SELLER's account forthwith implement such measures as PURCHASER deems necessary. Such measures may include the suspension of all other work which delays or interferes with the production of the GOODS.

4.4 In the event PURCHASER determines that SELLER's performance is such that it will cause a substantial delay in SELLER's delivery of the GOODS, PURCHASER, after having given SELLER written notice, reserves the right to remove the GOODS or any part thereof from SELLER's and/or SUBCONTRACTOR's premises, to complete the manufacture or have it completed by any means at SELLER's cost and/or to cancel the ORDER without prejudice to any other rights or remedies PURCHASER may have under the ORDER or at law.

5. EXPEDITING AND INSPECTION OF GOODS

5.1 It is SELLER's responsibility to expedite delivery and inspect quality of GOODS and subcontracts in support of SELLER's performance of the ORDER.

5.2 PURCHASER reserves the right to expedite delivery and inspect quality of any GOODS and enter the premises of SELLER and SUBCONTRACTOR at any time for the purpose of Expediting or Inspection. At all times during performance of the ORDER, SELLER shall provide PURCHASER and OWNER and/or their representatives reasonable access to its and its SUBCONTRACTOR's facilities for purposes of inspections, verification of compliance with quality assurance testing and requirements, and for verification of the progress of the SELLER's scope of supply, as requested or required by PURCHASER. SELLER shall provide at its own expense, and shall cause its SUBCONTRACTORS to provide at their own or SELLER's expense, the equipment, facilities and personnel necessary for the performance of Purchaser's expediting and inspection requirements, including performance of any tests specified in the ORDER or which are deemed in PURCHASER's sole discretion to be reasonably required for inspections or to verify the SELLER's performance hereunder. SELLER shall not be entitled to an extension of time or adjustment to the ORDER price for any such inspection or for SELLER's rejection of GOODS as a result thereof.

5.3. In the event that extraordinary expediting activities are required by BUYER to maintain the conditions stipulated in this ORDER, the extra costs (in-house and third party) shall be charged to SELLER. These costs shall include cost for salaries, including burdens and benefits, during working and traveling hours, as well as cost for travel, boarding and lodging.

5.4 SELLER shall carry out, at its sole expense, any tests and inspections required under the ORDER or necessary to verify that the GOODS, including but not limited to packing, marking and quantity verification, comply with the ORDER requirements. Any cost for inspection tests such as mechanical, chemical, hydro-static, X-ray, ultrasonic, and laboratory tests as well as any personal expenses for third party inspectors required by SELLER, such as cost for travel, living, and salaries are for SELLER's account, unless otherwise specified in the ORDER. PURCHASER has the right to ask for additional testing beyond the testing specified in the ORDER or required by this Section.

5.5 Cost for additional expediting or inspection by PURCHASER caused by reasons for which SELLER is responsible, shall be for SELLER's account. These costs shall include cost for salaries, including burdens and benefits, during working and traveling hours, as well as cost for travel, boarding and lodging.

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5.6 If GOODS appear as a result of testing not to be in compliance with the requirements of the ORDER, all costs of additional testing, including PURCHASER's, CLIENT's and OWNER's costs for attending, witnessing and/or reviewing such tests, are for SELLER's account.

5.7 No GOODS shall be shipped before all tests and inspections have been performed in accordance with the ORDER and the results of such tests or inspections have been accepted and released by PURCHASER. Certified copies of the test results and inspection reports shall be transmitted to PURCHASER in accordance with the required schedule set forth in the ORDER.

5.8 PURCHASER and/or OWNER's expediting, inspection, waiver of inspection, or testing of the Goods, directions, review, authorization, acknowledgment, approval or consent, or election not to test or inspect, shall not discharge SELLER from its obligations, responsibilities, or liabilities under this ORDER.

5.9 If at any time prior to the start of the Warranty Period, any GOODS are found to be defective or not in conformance with the ORDER, PURCHASER shall have the right, upon giving notice and the basis for its decision to: 1) require correction by repair or replacement of the nonconforming GOODS; 2) reject any or all defective or nonconforming GOODS; or 3) accept and correct such GOODS, at SELLER's expense. Seller shall pay all costs and expenses associated with any failure by SELLER to comply with quality assurance requirements or programs or to failure to comply with the requirements of the ORDER, including such repair, replacement, rejection, or correction, and all handling and transportation costs to and from destination, and PURCHASER's costs and expenses for any required expediting, re-inspections, analyses, or additional testing.

5.10 SELLER's failure to comply to the ORDER requirements, including, but not limited to quality and/or schedule requirements, may, at the PURCHASER's sole discretion, require the PURCHASER to increase its inspection, quality and/or expediting oversight of the SELLER and/or its SUBCONTRACTORS, or take other measures to assure itself that the WORK meets the requirements of the ORDER and that progress is sufficient to meet the SELLER's delivery commitment. Any and all costs associated with such additional measures shall be to the SELLER's account.

6. GUARANTEES AND WARRANTIES

6.1 SELLER guarantees that all the GOODS furnished by SELLER in performance of this ORDER will comply fully any and all applicable safety rules, codes and regulations there under to the extent applicable, and SELLER shall release, indemnify, defend, and hold harmless PURCHASER from and against any and all claims, loss or liability arising from failure of such GOODS to comply therewith.

6.2 SELLER guarantees and warrants that the GOODS and every item provided in the ORDER (a) will be new and meet all the requirements of the ORDER, drawings, and specifications, (b) are in no way counterfeit or misrepresent their origin, source or original manufacturer, and (c) are free from all latent or patent defects, in design, material, title, and workmanship, and conform to the ORDER. This guarantee shall be until twelve (12) months after commencement of operation of the FACILITIES in which the GOODS are incorporated or twenty-four (24) months after the last actual delivery date, whichever is later.

6.3 The warranty period of the GOODS shall be extended by any period(s) equal to the period(s) during which the FACILITIES in which the GOODS are incorporated have been out of operation or their commencement of operation has been delayed as a result of a defect to which this warranty applies. In addition, the warranty period with respect to replaced or repaired GOODS shall be extended by twelve (12) months from the date of acceptance of repairs or replacements by PURCHASER.

6.4 PURCHASER or OWNER/CLIENT shall notify SELLER in writing (e-mail), or by telephone confirmed in writing, whenever PURCHASER discovers a discrepancy or defect covered by this guarantee. SELLER shall promptly repair and/or replace, at SELLER's sole expense, any discrepancy or defective work, including defective workmanship and/or materials furnished by SELLER and/or its SUBCONTRACTORS. If such discrepancies or defects are not immediately corrected, PURCHASER may cause same to be corrected at SELLER's expense, including but not limited to all associated site costs, such as cranes, scaffolding, and special equipment required to make such corrections to the GOODS.

6.5 All of SELLER's and its SUBCONTRACTORS representations, warranties, and guarantees contained in the ORDER are and shall be deemed material and shall survive the completion or termination of this ORDER.

7. TITLE AND RISK OF LOSS

7.1 SELLER shall continuously protect the GOODS and property of PURCHASER, CLIENT, and OWNER and others from injury, damage, or loss arising in connection with SELLER's performance under this ORDER and shall bear all risk of loss therefore while in the care, custody, or control of SELLER.

7.2 SELLER warrants good title to all the GOODS furnished by it hereunder. Title to all of the GOODS shall pass to PURCHASER at (a) the date all or such portion of said GOODS is placed at the ORDER delivery point, or as otherwise set forth in the ORDER, or (b) the date payment for all or such portion of the GOODS is made, whichever of the foregoing first occurs. Said transfer of title shall in no way affect PURCHASER'S rights to refuse the GOODS in case of non-conformity with the requirements for the GOODS as set forth in other provisions of the ORDER.

7.3 Title to all goods and materials including title to the work-in-progress and intellectual property developed for the GOODS for which payment has been made, whether or not the same has been incorporated in the GOODS, and title to all completed GOODS whether paid for or not, shall vest in PURCHASER, and in any case shall not be part of SELLER's property or estate in the event SELLER is adjudged insolvent or makes a general assignment for the benefit of creditors, or if a receiver is appointed on account of SELLER's insolvency, or if ORDER is terminated. Notwithstanding the foregoing, SELLER shall be responsible for and shall bear any and all risk for loss or damage to the GOODS until delivery thereof in accordance with the delivery provisions of the ORDER. Upon such delivery, SELLER shall cease to bear the risk of loss or damage; provided however, that any loss or damage, whenever occurring, which results from SELLER's nonconforming packaging or crating shall be borne by SELLER.

7.4 For the purpose of protecting PURCHASER's interest in the GOODS with respect to which title has passed to PURCHASER but which remain in the possession of SELLER, SELLER shall take or cause to be taken all steps necessary under the laws of

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the appropriate jurisdiction(s) to protect PURCHASER's title and shall protect, defend and hold harmless PURCHASER against claims by other parties with respect thereto.

7.5 Any of the GOODS furnished hereunder for which title has passed to PURCHASER but which remains in the care and custody of SELLER, or its SUBCONTRACTORS and any PURCHASER provided items, shall be clearly identified as being the property of PURCHASER and shall be segregated from SELLER's property. In addition, title to materials or partially completed GOODS whose full costs are included in any cancellation charges shall pass to PURCHASER. PURCHASER shall advise SELLER, in writing, of the disposition of such GOODS.

8. SUBSTITUTIONS

8.1 PURCHASER must approve all deviations, substitutions, or exceptions to this ORDER, in writing, by use of e-mail, fax or letter, and later confirmed with an ORDER SUPPLEMENT. If a specific product or its equal is called for in this ORDER, PURCHASER must approve the proposed equal in writing. Where there is any question concerning the use of materials, products, equipment or devices not manufactured by SELLER, which must be used to comply with this ORDER, SELLER shall obtain and follow the recommendations of the manufacturer regarding the use.

8.2 Should SELLER propose to furnish equivalent materials, processes and/or products, either in substitution for or as an alternate to the Purchaser's specification, SELLER shall submit full details thereof and obtain PURCHASER's prior written approval. PURCHASER's decision as to the suitability of any such equivalent materials, processes and/or products shall be final, but the approval of PURCHASER shall not relieve SELLER from its responsibility for complying in all respects with the ORDER requirements and shall not affect the warranty or any guarantees covering all parts of the WORK.

8.3 If SELLER institutes a design change without written authorization of PURCHASER, which results in a deviation from or nonconformance with the specification, any additional costs incurred by PURCHASER in connection with such deviation or nonconformance shall be for SELLER'S account.

9. CHANGES

9.1 PURCHASER shall have the right to make changes to the quantity and quality of the GOODS and to make changes to the specifications and drawings for GOODS covered by this ORDER. If SELLER believes that such changes affect the ORDER PRICE or delivery of the GOODS, SELLER shall notify PURCHASER in writing (with complete supporting documentation) within ten (10) calendar days after receipt of PURCHASER'S written notice of change. Unless the SELLER presents to PURCHASER a written request for adjustment in the ORDER PRICE or delivery by SELLER within ten (10) calendar days after receipt of PURCHASER'S written notice of a change, the SELLER shall be conclusively deemed to have waived all claims against the PURCHASER with respect thereto. However, SELLER shall not perform any change unless authorized in writing by PURCHASER.

9.2 PURCHASER and SELLER shall mutually agree in writing upon any adjustment pursuant to this Article to reflect the extent, if any, that such change has resulted in an increase or decrease in the ORDER PRICE and/or a delay or acceleration of the delivery date. SELLER shall not suspend performance of the unaffected portion of the GOODS under this ORDER while PURCHASER and SELLER are in the process of making any such change. If released in writing by PURCHASER, SELLER shall comply with and perform such change in accordance with the terms of this ORDER during the time SELLER and PURCHASER are working to mutually agree upon an equitable adjustment in the ORDER PRICE or delivery or both. Agreement to such adjustment shall constitute a waiver of all claims by SELLER arising out of the change. In the event any such change or alteration results in a reduction in SELLER'S scope of work, no allowance shall be made to SELLER for damages, including loss of anticipated profits.

9.3 No agreement or understanding modifying the conditions or terms of this ORDER shall be binding upon PURCHASER, nor will PURCHASER pay compensation, unless the agreement or understanding is made in writing. Such written agreement will be by means of an ORDER SUPPLEMENT, which will formally recognize the agreements made between PURCHASER and SELLER. This ORDER SUPPLEMENT shall be deemed to be incorporated in the ORDER and to be complete and final and to include the accumulative effect of any previously agreed to ORDER SUPPLEMENTS with respect to both cost and time.

9.4 Should SELLER consider itself entitled to any claim for additional compensation or extension of schedule, SELLER shall, as a condition precedent to SELLER's right to make a claim for such additional compensation or extension of schedule, do the following: (a) within ten (10) calendar days after such event has arisen, notify PURCHASER in writing of the same; and (b) within ten (10) calendar days after such notification, submit in writing to PURCHASER detailed particulars of any additional compensation or extension of time to which SELLER may consider itself entitled and the basis substantiating said claim in order that the PURCHASER may properly evaluate such claim. 9.5 If SELLER institutes a design change without written authorization of PURCHASER, which results in a deviation from or nonconformance with the specification, any additional costs incurred by PURCHASER in connection with such deviation or nonconformance shall be for SELLER's account.

9.6 It being understood that any failure to comply with any requirement as stipulated in this Article shall forfeit any rights SELLER may have in respect of such additional compensation or extension of time.

10. BACK CHARGES

10.1 In the event that the GOODS are found to be defective either with respect to workmanship or materials or to not, in any manner, be in conformance with the ORDER or SELLER default with respect to its obligations hereunder, SELLER shall promptly correct any such deficiency in the GOODS when notified by PURCHASER. While PURCHASER will generally inspect GOODS provided under this ORDER, any such procedures or inspection shall in no way relieve SELLER of its responsibility to correct any deficiencies in the GOODS in connection with this ORDER.

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10.2 In the event that PURCHASER requests that SELLER correct any deficiencies in any GOODS procured in connection with this ORDER and if SELLER does not arrange for the correction of such GOODS immediately or in the event PURCHASER deems it necessary in case of emergency, PURCHASER may then arrange for correction of such GOODS and charge SELLER for the costs associated with any such correction.

10.3 Upon completion of any remedial work necessary for the correction of any deficient GOODS, PURCHASER will invoice SELLER for the costs incurred and may withhold all itemized amounts from any funds still due and owing to SELLER by PURCHASER. The cost of back charge work may include, but is not limited to, the following: (a) Labor: at actual cost including payroll burdens, overhead, and profit; (b) Material: at actual supplier and freight invoice cost delivered to the FACILITIES; (c) Construction equipment: at actual third party rental cost, or at PURCHASER's equipment rental rates, as applicable. (d) All taxes, levies, duties, and assessments attributable to the back charge work. (e) A mark-up of thirty percent (30%) applied to items (a) through (d) above for PURCHASER's indirect costs, supervision, and administration.

10.4 PURCHASER's performance of back charge work will not relieve the SELLER of its responsibilities and obligations under the ORDER

11. TAXES AND DUTIES

11.1 All taxes and duties levied on or charged to PURCHASER as a result of the ORDER or the performance thereof, shall be for SELLER's account, unless otherwise specified in the ORDER. SELLER shall invoice PURCHASER for such taxes based on the delivery location of the GOODS and such taxes shall be listed as a separate line item on SELLER's invoices.

11.2 SELLER hereby accepts exclusive liability for, and shall release, indemnify, defend and hold harmless PURCHASER against liability for the payment of any and all taxes, contributions for unemployment insurance, old age pensions or annuities, or any other purposes now or hereafter imposed by any government authority, in connection with this order.

12. AUDIT

12.1 SELLER shall keep complete and accurate accounts and records of all transactions relating to the ORDER in accordance with generally accepted accounting principles, and shall maintain the accounts and records for a period of at least three (3) years after receipt of the final payment made to SELLER by PURCHASER under the terms of this ORDER. All invoices issued by SELLER to PURCHASER shall accurately reflect the nature and extent of the matters to which they pertain.

12.2 PURCHASER shall, through its own and/or any authorized third party representatives, have the right to inspect the accounts and records at all reasonable times during the performance of this ORDER for the purpose of verifying the correctness of amounts invoiced by SELLER. PURCHASER shall have the right to reproduce any of the aforesaid documents.

12.3 Wherever SELLER is entitled to the reimbursement of direct cost under the ORDER, such costs shall be justified, substantiated, and the subject of audit.

12.4 If any audit reveals errors in amounts invoiced and/or paid, PURCHASER will notify SELLER and shall either be entitled to recover from SELLER any amount paid in excess of that due under the ORDER or pay SELLER the amount of any under-payment that may be revealed.

13. RIGHT TO OFFSET

13.1 PURCHASER shall have the right to withhold payment from SELLER for any amounts owed by SELLER to PURCHASER under this or any other agreement and to offset payments due to SELLER with such amounts. PURCHASER may withhold disputed amounts invoiced by SELLER until such disputes are resolved according to the dispute resolution procedures outlined herein.

13.2 SELLER agrees that all sums payable to PURCHASER as liquidated damages pursuant to the ORDER may be deducted by PURCHASER from the sums to be paid to SELLER. The payment or deduction of such liquidated damages shall not relieve SELLER from its obligations to carry out and complete the WORK and deliver the GOODS, or from any other of its obligations and liabilities under this ORDER or remedies available to PURCHASER, and SELLER acknowledges that such payment or deduction does not affect PURCHASER's right to claim specific performance.

14. TERMINATION

14.1 PURCHASER may terminate this ORDER in whole or in part for SELLER's default at any time upon written notice to SELLER without cost to PURCHASER and/or claim damages if: (a) SELLER becomes bankrupt or commences a voluntary bankruptcy proceeding, or SELLER goes into liquidation, or SELLER makes a general assignment for the benefit of creditors, or a receiver is appointed for any property of SELLER, or other similar event, or (b) SELLER fails to comply with any provision of this ORDER; or (c) if it is found that gratuities, (in the form of entertainment, gifts, or otherwise), were offered or given by the SELLER, or any agent or representative of the SELLER to any officer or employee of the OWNER/CLIENT/PURCHASER with a view toward securing this ORDER or securing favorable treatment with respect to the awarding or amending, or making of any determination with respect to the performing of this ORDER.

14.2 Should conditions arise which, in PURCHASER's opinion, make it advisable or necessary to terminate this ORDER for its convenience, PURCHASER may terminate this ORDER in whole or in part without fault of SELLER by giving written notice to SELLER specifying the date and the extent to which this ORDER is terminated.

14.3 Upon any termination pursuant to Sections 12.1 or 12.2, SELLER shall immediately or upon such other date as is specified in the notice: (a) discontinue performance of all terminated work (except as may be necessary to preserve and protect the GOODS) and refrain from placing further contracts relating to the terminated work; (b) assign to PURCHASER, or its nominee, to the extent required by PURCHASER, all contracts which SELLER shall have with SUBSUPPLIERS relating to the terminated work; (c) terminate all contracts relating to the terminated work which are not assigned pursuant to (b) above; and (d) enable

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PURCHASER or its nominee to take over the work completed as of such date and all of the Relevant part of the materials in SELLER's or its SUBSUPPLIER's care, custody or control as required by PURCHASER. SELLER shall continue performance of this ORDER to the extent not terminated. PURCHASER may complete the performance of this ORDER by such means as PURCHASER selects (including, without limitation, the procurement of alternative GOODS upon such terms as PURCHASER deems appropriate) and in the event of such cancellation under Section 12.1 SELLER shall be responsible for any additional costs incurred by BUYER in so doing.

14.4 In the event of PURCHASER's termination in accordance with Article 12.2 herein, PURCHASER shall pay SELLER for any GOODS completed and delivered to PURCHASER in full compliance with the terms of this ORDER prior to termination and shall reimburse SELLER for any actual and justifiable costs and expenses incurred by SELLER resulting from such termination, but in no event shall the total payment under this paragraph exceed the total price of this ORDER. Notwithstanding the foregoing, any amounts due to SELLER for GOODS completed by SELLER in full compliance with the terms of this ORDER prior to termination shall be subject to set off of PURCHASER's additional costs of completing the ORDER and other damages incurred by PURCHASER as a result of SELLER's default under Section 12.1.

15. ASSIGNMENT

15.1 SELLER shall not assign this ORDER, or any partial or total interest therein, including, but not limited to, any monies due or to become due SELLER hereunder, without PURCHASER's prior written consent, which consent shall not be unreasonably withheld; provided, however, that PURCHASER may, without prior written consent of SELLER, assign this ORDER or any interest herein to any of OWNER's or CLIENT's respective affiliates or designees.

15.2 At the request of PURCHASER, SELLER agrees to the rights and the obligations of PURCHASER to be assigned to the OWNER or CLIENT at PURCHASER'S option. Any assignment shall ensure that the terms and conditions remain predominantly unchanged. Upon assignment, all actions of PURCHASER shall transfer to OWNER or CLIENT as so designated by PURCHASER and PURCHASER shall not be secondarily liable with respect to this ORDER and SELLER shall receive and act upon the instructions of OWNER or CLIENT in conformance with this ORDER. Such assignment of the ORDER includes, but is not limited to, all outstanding monies due to SELLER at the point of assignment.

16. LIENS

16.1 SELLER shall obtain releases of liens, claims and encumbrances in form and substance acceptable to PURCHASER, executed by all persons or entities (including SELLER) who by reason of furnishing materials, equipment, labor, or other services under this ORDER are or may be actual or potential lien holders and claimants, and PURCHASER may withhold payment hereunder until SELLER provides such releases to PURCHASER.

16.2 SELLER shall release, indemnify, defend and hold PURCHASER, OWNER, and CLIENT harmless from any and all claims or liens filed and/or made in connection with the GOODS, including all expenses and attorneys' fees incurred in discharging any claims, liens or similar encumbrances.

16.3 If SELLER shall default in discharging any lien(s), claim(s), or encumbrance(s) upon the materials and equipment to be provided hereunder, or the facilities, structures or the premises upon which they are located arising out of the performance of this ORDER by SELLER, or its SUBCONTRACTORS, PURCHASER shall promptly notify SELLER in writing and give SELLER an opportunity to satisfy, remove, discharge, or defend any such lien(s) or claim(s) or encumbrance(s). If SELLER either does not promptly satisfy such lien(s), claim(s) or encumbrance(s) or cannot give PURCHASER satisfactory reasons in writing for not paying such lien(s), claim(s) or encumbrance(s), PURCHASER shall have the right, at its option, after written notification to SELLER, to settle by agreement or otherwise provide for the discharge of such lien(s), claim(s) or encumbrance(s), and SELLER shall reimburse PURCHASER for all costs incurred by PURCHASER necessary to discharge such lien(s), claim(s) or encumbrance(s), including administrative costs, attorneys' fees and any other related expenses.

17. INTELLECTUAL PROPERTY

17.1 SELLER warrants that PURCHASER's use or sale of the GOODS will not infringe any valid patents, copyrights, trademarks and other proprietary information. SELLER agrees, at its own expense, to defend any claim, suit, proceeding, or action brought against PURCHASER for alleged infringement of patent or invention rights, copyrights, trademarks, or other proprietary rights arising from the sale or use of GOODS and technical information furnished hereunder and SELLER agrees to hold harmless and indemnify PURCHASER, CLIENT and OWNER from any loss, liability, cost, damage, and expenses incurred by SUCH PARTIES in connection with any such claim, suit, proceeding, or action whether against PURCHASER, CLIENT or OWNER. PURCHASER has the right to participate in the defense of such suits or actions, or if it elects, it may assume the entire defense of such suits through its own counsel. SELLER shall pay any amount negotiated by SELLER for the settlement of said claim and all damages and costs awarded against PURCHASER, CLIENT and/or OWNER in such suit, action or proceeding. If said GOODS or technical information are held to constitute infringement and the use of same is enjoined, SELLER shall, at its expense, either obtain for PURCHASER the right to continue using said GOODS or technical information, or replace same with non-infringing goods or technical information acceptable to PURCHASER or modify said GOODS or technical information so it becomes non-infringing; provided, however that no such replacement or modifications shall in any way diminish the rated capacity or performance of the GOODS.

17.2 SELLER shall grant to PURCHASER a non-exclusive royalty-free transferable, irrevocable license under patents, now or hereafter owned by SELLER, to use and sell the GOODS.

17.3 The terms of this Article shall survive the expiration or any termination of this ORDER.

18. GENERAL INDEMNIFICATION

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18.1 SELLER shall release, indemnify, defend and hold harmless PURCHASER, CLIENT and OWNER, and their respective parents, partners, affiliates, subsidiaries, directors, officers, employees, agents, representatives, successors and assignees (collectively, the "Indemnified Parties"), from any and all claims, losses, demands, causes of action and any and all related costs and expenses of every kind and character, including attorneys' fees, arising out of or in connection with bodily injuries or death of any person(s), or damages to any and all property in any way sustained or alleged to be sustained in connection with or by reason of SELLER'S performance under this order, or by any act or omission by SELLER, its SUBCONTRACTORS, VENDORS, AGENTS or EMPLOYEES, howsoever arising and whether or not the liability involved is founded on the indemnified party's tort (including active negligence and strict liability), breach of contract, breach of warranty or other legal fault, except that SELLER shall not be liable for the sole negligence of PURCHASER, CLIENT or OWNER.

18.2 SELLER shall be liable for, and shall release, defend, indemnify and hold PURCHASER, CLIENT and OWNER harmless from and against any and all CLAIMS which arise out of or in any way relate directly or indirectly to the failure of SELLER or any of its SUBCONTRACTORS to comply fully with all laws, regulations, rules and orders of any governmental authority having jurisdiction over SELLER'S activities hereunder.

18.3 The terms of this Article shall survive the expiration or any termination of this ORDER.

19. LIMITATIONS AND EXCLUSIONS OF LIABILITY

19.1 Limitations on and exclusions of liability shall not apply for the benefit of any party if and to the extent that such party caused (or contributed to) any claim, loss or liability by its own gross negligence or willful misconduct. "Gross Negligence" shall mean any act or failure to act (whether sole, joint or concurrent) which seriously and substantially deviates from a reasonable standard of care or conduct which is in reckless disregard of or indifference to the harmful consequences of such act or failure to act. "Willful Misconduct" shall mean conduct with an intentional disregard of good and prudent standards of performance, or if not intentional, conduct that demonstrates an indifference or conscious disregard for the safety of others or their property.

19.2 Neither party to the ORDER shall be liable to the other and each party to the order shall release, indemnify, defend, and hold harmless the other party from any loss or deferment of profit, loss of revenue, loss of use, loss of production, or business interruption, or for any consequential or indirect loss or damage ("CONSEQUENTIAL LOSS"), however the liability arises and whether pursuant to this ORDER, tort (including negligence and strict liability), breach of contract, breach of warranty, or any other legal fault or otherwise at law .

19.3 The following shall not be deemed to be CONSEQUENTIAL LOSS:

(a) any liquidated damages or penalties payable under the ORDER; (b) liabilities under Articles 4, 15,16 and 20.

20. APPLICABLE LAW

Unless agreed otherwise, this ORDER shall be governed by, and interpreted in accordance with the laws of The Netherlands which shall be the applicable law, without regard to the principles of Conflict of Laws. The United Nations Convention on Contracts for the International Sales of Goods shall not apply to this ORDER.

21. DISPUTE RESOLUTION

21.1 Any dispute between the parties which may arise in connection with this ORDER, or the interpretation, application, implementation, validity, breach or termination of this ORDER or any provision thereof, shall, in the first instance be considered by the parties at the management level and then, failing resolution at the management level, shall be referred to the senior management level.

21.2 Accordingly, All disputes that arise between the PURCHASER and the SELLER shall be finally settled in accordance with the Rules of the Netherlands Arbitration Institute ("Nederlands Arbitrage Instituut"), but without prejudice to the right of the PURCHASER to have the dispute adjudicated by the civil court with competent jurisdiction in the Netherlands, whether or not in interim injunction proceedings. The place of arbitration will be Amsterdam, The Netherlands.

21.3 The parties agree that OWNER/CLIENT may initiate or join any arbitration proceeding and/or proceeding to enforce any arbitration award related to any benefit conferred on OWNER/CLIENT by this ORDER.

21.4 The place of arbitration shall in The Netherlands and the language of the arbitral proceedings shall be English.

21.5 If a dispute between the parties is referred for resolution pursuant to this article, the parties shall nevertheless continue to perform their respective obligations under this ORDER.

22. COMPLIANCE WITH LAWS

SELLER shall observe and comply with all applicable federal, state and local laws, codes, and regulations in the manufacturing and supply of the GOODS including, but not limited to requirements for applicable export license and/or permits. SELLER shall immediately contact PURCHASER for instructions if SELLER believes any part of this ORDER does not comply or may not comply, with an applicable law, code or regulation.

23. REMEDIES

The rights and remedies of PURCHASER provided in this or any other article shall not be exclusive and are in addition to any rights and remedies provided by law or under this ORDER.

24. HAZARDOUS MATERIAL

In the performance of this ORDER, SELLER shall comply with all applicable laws, regulations, rules, requirements, and ordinances including, but not limited to, those relating to environmental law, toxic or hazardous materials, or occupational health

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and safety. If this ORDER calls for the transfer to PURCHASER by SELLER of any chemical substance or mixture, or any material which may generate or release a chemical substance or any hazardous agent, SELLER shall provide PURCHASER before said transfer a Safety Data Sheet (SDS) and any associated labels which are current, accurate, and complete, which include but are not limited to a statement of GOODS, hazards and precautions for safe use. Copies of the SDS shall include the ORDER number, shipping location, and shall be sent with the GOODS to the shipping location identified in this ORDER.

25. EXPORT/IMPORT CONTROLS AND LICENSES

- 25.1 SELLER understands that materials, equipment, software, and information provided under this ORDER may be subject to Export Control laws and regulations, and that reexports, retransfers, disclosure, release, or other transfer (collectively, "Transfer") of such materials, equipment, software, or information to persons or to destinations or entities may require prior government authorization. SELLER acknowledges being made aware of the identity of the OWNER for this ORDER as well as the intended end use and final destination. SELLER agrees to comply with Export Control laws and regulations, and to be solely responsible for identifying the need for and obtaining any necessary licenses, including export and import licenses, required for delivery to the final destination (independent of quoted shipping terms of any implied lesser obligation). SELLER shall advise PURCHASER of the requirements for export licenses.
- 25.2 SELLER shall control the Transfer of technical data, information and other items received under this ORDER in accordance with U.S. export control laws and regulations. SELLER agrees that no technical data, information or other items in connection with this ORDER shall be Transferred to any non-US person wherever he or she is located (including any non-US Person with dual nationality) or to a foreign entity, including without limitation a foreign subsidiary of SELLER or an entity in the U.S. that is incorporated in a foreign country, without the express written authorization of PURCHASER and SELLER's obtaining the appropriate export license, if required.
- 25.3 SELLER shall immediately notify PURCHASER if it becomes listed on any Excluded or Denied Party List of an agency of the U.S. Government or its export privileges are denied, suspended or revoked. SELLER shall ensure that it does not Transfer any information or items received under this ORDER to any person or entity on any such Excluded or Denied Party List.
- 25.4 Should SELLER's GOODS originate from a foreign location, those GOODS may also be subject to the export control laws and regulations of the country in which the articles or services originate. SELLER agrees to abide by the all applicable export control and trade laws and regulations of that originating country. SELLER shall be responsible for complying with any laws and regulations governing the importation of the GOODS into the United States of America or other country of delivery.
- 25.5 SELLER may be required to provide information concerning citizenship or export status of SELLER's personnel in connection with its compliance with Export laws and regulations. SELLER agrees to provide such information as necessary to PURCHASER, and to certify such information to be true and correct. PURCHASER may require certifications of compliance with this Article at any time during performance of the ORDER, and may conduct such audits of export and import compliance as are deemed reasonably necessary.
- 25.6 Notwithstanding any limitation of liability or other term to the contrary in this ORDER, SELLER shall release, defend, indemnify and hold PURCHASER harmless from any and all liabilities, penalties, losses, damages, costs, and expenses that may be imposed on or incurred by PURCHASER in connection with any violations of such laws and regulations by SELLER.
- 25.7 The terms of this Article shall survive the expiration or any termination of this ORDER.

26. ANTI-CORRUPTION

SELLER shall not, and shall cause its SUBCONTRACTORS to not, offer, make, give or promise to offer, make or give, directly or indirectly, any improper payments or anything of value to any "government official" in connection with GOODS or this ORDER and shall comply with all applicable laws prohibiting the conduct of corrupt business practices. All payments by PURCHASER to SELLER shall be received by SELLER for its own account, and SELLER shall not offer or give, or promise to offer or give, any part of such payments, directly or indirectly, to any "government official". As used herein, "governmental official" means any officer, director, employee, agent, representative or official of any department, instrumentality, agency or company of any government or partially owned by a government entity, or of a public international organization, or any person acting in an official capacity for or on behalf of any such government, agency, or instrumentality, or for or on behalf of any public international organization.

27. WAIVER

Unless expressly provided otherwise, failure or delay on the part of any party to exercise any right, power or privilege under this ORDER, or under any other agreement relating hereto, shall not operate as a waiver thereof; nor shall any single or partial exercise of any right, power or privilege preclude any other future exercise thereof.

28. SEVERABILITY

In the event that any provision in this ORDER is illegal, contrary to public policy, or otherwise unenforceable, then such provision shall be deleted from the ORDER leaving the remainder of this ORDER legal, valid and enforceable. The deleted provision shall be replaced by a valid new provision negotiated by the parties, having as nearly as is legally possible the same economic and business effect as the illegal or unenforceable provision was intended to have.

29. ENTIRE AGREEMENT

This ORDER sets forth the entire agreement between SELLER and PURCHASER and all prior negotiations, dealings and understandings are superseded hereby. No terms, conditions, understanding or agreement purporting to modify or vary the terms of this ORDER shall be binding unless hereafter made in writing in an ORDER SUPPLEMENT and signed by SELLER

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and PURCHASER. PURCHASER's signature on any invoice or other form or document accompanying delivery of the GOODS furnished in performance of this ORDER shall constitute acknowledgment of receipt of said GOODS only, and shall not constitute PURCHASER's assent to any terms and conditions contained thereon.

30. SUPPLEMENTAL TERMS

If applicable and as indicated in the ORDER, supplemental terms and conditions will be included in the ORDER. Such terms are requirements of PURCHASER's contract with CLIENT or OWNER. If any supplement terms and conditions are inconsistent with these terms and conditions, the supplemental terms and conditions will prevail to the extent of any inconsistency.

31. CONFIDENTIALITY

31.1 As used herein, the term CONFIDENTIAL INFORMATION means all information which SELLER, directly or indirectly, acquires from PURCHASER, OWNER or CLIENT or concerning the technical and business activities and know-how of PURCHASER or OWNER or CLIENT. SELLER shall not make or authorize any news release, advertisement, or other disclosure, including any release to any information broker, that relates to the ORDER or the relationship with PURCHASER and SELLER denies or confirms the existence of the ORDER or makes use of PURCHASER'S name or logo without the prior written consent of PURCHASER and such information shall be included in the definition of CONFIDENTIAL INFORMATION. CONFIDENTIAL INFORMATION shall not include: (a) Information, which, prior to the time of disclosure or acquisition hereunder, is lawfully in the public domain; (b) Information, which, after disclosure or acquisition hereunder, lawfully enters the public domain, except where such entry is the result of SELLER's breach of this ORDER; (c) Information, other than that obtained from third parties, which, prior to disclosure or acquisition hereunder, was already lawfully in SELLER's possession either without limitation on disclosure to others or which subsequently, becomes free of such limitation; (d) Information, obtained by SELLER from a third party who is lawfully in possession of such information and not subject to a contractual or fiduciary relationship with PURCHASER or OWNER or CLIENT with respect to said information. SELLER may use and disclose such information in accordance with the terms under which it was provided by such third party.

31.2 CONFIDENTIAL INFORMATION shall not be deemed to be within the foregoing categories merely because such information is embraced by more general information lawfully in the public domain or in SELLER's possession. In addition, any combination of features shall not be deemed to be within the foregoing categories merely because individual features are in the public domain or in SELLER's possession but only if the combination itself and its principle of operation are lawfully in the public domain or in SELLER's possession.

31.3 SELLER represents that it has a policy and procedure designed to protect trade secret rights of its own confidential information including notices to its employees to prevent unauthorized publication and disclosure of such information.

31.4 CONFIDENTIAL INFORMATION shall be subject to such policy and procedure. In addition, SELLER shall not disclose any CONFIDENTIAL INFORMATION to any third party or use CONFIDENTIAL INFORMATION other than on PURCHASER'S behalf except as PURCHASER may otherwise authorize in writing. If disclosure to a third party is so authorized, SELLER shall enter into a confidentiality agreement with said party containing the same terms and conditions with respect to restrictions on the use or disclosure of CONFIDENTIAL INFORMATION as this Article contains.

31.5 SELLER shall also safeguard all documents containing CONFIDENTIAL INFORMATION. SELLER may make copies of such documents only to the extent necessary for the design, manufacture, fabrication, or performance of the GOODS. SELLER shall prevent access to all such documents by third parties except as provided above. On completion of the GOODS, SELLER shall return to PURCHASER all such documents containing CONFIDENTIAL INFORMATION and destroy all copies thereof. However, should SELLER desire to retain certain documents and should it receive PURCHASER'S written approval therefore, SELLER shall continue to treat said documents in accordance with the terms of this Article.

31.6 SELLER shall also enter into confidentiality agreements with third parties upon request by PURCHASER, and shall keep in force confidentiality agreements concerning third parties' proprietary information, which agreements shall permit SELLER to use such third parties' proprietary information in the GOODS.

31.7 The terms of this Article shall survive the expiration or any termination of this ORDER.

32. INCONSISTENCIES OR CONTRADICTIONS

In the event of conflict, ambiguity, or inconsistency between this ORDER and specifications, drawings, data sheets, or any other documents referenced herein or attached hereto, the more stringent requirement shall apply or in case of omission or errors, SELLER shall be responsible for contacting PURCHASER immediately for clarification.

33. SUB-ORDERING

33.1 SELLER shall not SUB-ORDER all or any portion of the GOODS without prior approval by PURCHASER. Approval by PURCHASER of a SUB-ORDER shall not relieve SELLER of any of its obligations under this ORDER. SELLER represents and warrants that all SUBCONTRACTORS shall perform their portion of the work in accordance with their respective SUB-ORDERS. SELLER shall furnish such information relative to its SUBCONTRACTORS as PURCHASER may reasonably request. No SUB-ORDER shall bind or purport to bind PURCHASER, but each such SUB-ORDER shall contain a provision permitting assignment of it to PURCHASER upon PURCHASER'S written request.

33.2 SELLER shall, by written agreement with each SUBCONTRACTOR, require each SUBCONTRACTOR to be bound by terms consistent with this ORDER with respect to that portion of the GOODS for which the SUBCONTRACTOR is responsible.

33.3 SELLER shall include in all SUB-ORDERS the right of unilateral written cancellation, with or without cause, by SELLER of all or any portion of such SUB-ORDER. Each SUB-ORDER shall state that in the event of a total or partial cancellation, SUBCONTRACTOR may claim only its properly supported out-of-pocket costs plus a reasonable amount to compensate

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SUBCONTRACTOR for demonstrable related charges for the cancelled portions, all to be determined in accordance with generally accepted accounting principles. In addition, SUB-ORDER shall state that title to fully or partially completed GOODS whose full costs are included in the cancellation charges shall pass to SELLER or PURCHASER and that SUBCONTRACTOR will be advised, in writing what disposition shall be made of such GOODS.

34. INSURANCE

34.1 SELLER shall provide insurance covering the full replacement cost of the GOODS and any and all equipment and materials to be incorporated into the GOODS (regardless of who may have title/ownership), which is in SELLER's care, custody and control. Any deductibles maintained under this insurance shall be for the account of the SELLER. In those instances wherein PURCHASER holds title to all or a portion of the GOODS before delivery then PURCHASER shall be included as a loss payee as its interests may appear under this policy. In addition, SELLER shall waive on behalf of PURCHASER all of its rights of recovery and its insurance carrier's rights of subrogation.

34.3 SELLER shall maintain, at SELLER's expense, with insurers having an S&P or Best rating of A- or better, the following types of insurance with minimum policy limits as specified below: (a) Workers Compensation Insurance as required by law. (b) Employer's Liability Insurance with a limit of Eur. 2,000,000 each accident, Eur. 2,000,000 disease each employee, and Eur. 2,000,000 disease policy limit. (c) Commercial General Liability Insurance with a limit of Eur. 5,000,000 per occurrence and in the aggregate; and Eur. 5,000,000 Products/Completed Operations aggregate. (d) Commercial Automobile Liability Insurance, covering all owned, non-owned and hired vehicles with a limit of Eur. 2,000,000 per accident. (e) Excess Liability or Umbrella Insurance may be used in combination with the coverages required herein to satisfy the required limits.

34.4 SELLER shall (a) cause PURCHASER, CLIENT, and OWNER to be named as additional insured's on SELLER's Commercial General and Business Automobile Liability policies to the extent of SELLER's indemnification obligations in Article 16, (b) obtain a waiver of subrogation in favor of PURCHASER, CLIENT, and OWNER, (c) ensure that the insurances constitute primary insurances without any right of contribution from any insurances taken out by PURCHASER, CLIENT, AND OWNER, (d) be responsible for any self-insured retention or deductible at its sole expense, and (e) provide PURCHASER with certificates of insurance evidencing the required coverage prior to commencing any work under this ORDER. All insurance carried hereunder shall be endorsed to require the insurer to furnish PURCHASER with thirty (30) days' written notice prior to the effective date of any cancellation or adverse change of insurance.

34.5 OWNER and PURCHASER reserves the right to create a Controlled Insurance Program (OCIP/CCIP) for work at the project site. OWNER and PURCHASER reserve the right to exclude any party, including SELLER or its SUBSUPPLIERS, from coverage under the OCIP/CCIP.

34.6 Approval, disapproval or failure to act by Purchaser regarding any insurance supplied by the Supplier shall not constitute a waiver, release or relieve the Supplier of full responsibility or liability for damages or accidents as set forth in this Purchase Order.

35. SUSPENSION

35.1 PURCHASER may at any time suspend performance of all or any part of the GOODS by giving written notice to SELLER. SELLER shall be entitled to receive payment of the actual, reasonable and necessary costs that were incurred in suspending the work. The delivery date of the affected GOODS shall be extended by the period of the suspension.

35.2 Such suspension may continue for a period of up to sixty (60) calendar days after the effective date of suspension, during which period PURCHASER, in writing, may request SELLER to resume performance on the GOODS. If at the end of said sixty (60) day period PURCHASER has not required a resumption of the work, that portion of the work which has been suspended shall be deemed terminated as of the effective date of suspension pursuant to the provisions of this Article, unless PURCHASER and SELLER have agreed in writing to a further extension of the suspension period, and as such PURCHASER shall compensate SELLER in accordance with the first paragraph of this Article.

36. FORCE MAJEURE

36.1 Neither party shall be liable to the other for failure to perform or for delay in performance due to any cause or event which in an objective view, is unforeseeable, unavoidable, and is not able to be overcome (i.e., an event of Force Majeure). Force Majeure events shall include, but not be limited to: floods, earthquakes, tidal wave, hurricane, fire, or other major natural disasters, acts of governmental authority, war (whether declared or not), hostilities, riots, acts or threats of terrorism, and civil commotions, and embargoes or other import or export restrictions.

36.2 Strikes, labor or employment disputes or difficulties or other concerted acts of workmen, whether direct or indirect among SELLER's personnel, or those of any of its SUBCONTRACTORS, shall not constitute Force Majeure.

36.3 In the event of delay in performance due to any such cause, the date of delivery or time for completion may be extended by a period of time reasonably necessary to overcome the effect of such delay up to a maximum of the number of calendar days' delay directly attributable to the Force Majeure event. The party claiming a Force Majeure event shall give written notification to the other party within forty-eight (48) hours after becoming aware of a cause entitling it to an extension of time.

36.4 If within a reasonable time after a Force Majeure occurrence which has caused SELLER to suspend or delay performance of the GOODS, SELLER has failed to take such action as SELLER could lawfully initiate to remove or relieve either the Force Majeure occurrence or its direct or indirect effects, PURCHASER may, at its sole discretion and after written notice to SELLER, initiate such measures, including but not limited to, the hiring of third parties, as are designed to remove or relieve such Force Majeure occurrence or its direct or indirect effects; and PURCHASER may thereafter require SELLER to resume full or partial

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performance with respect to the manufacture or delivery of the GOODS. Alternatively, PURCHASER, in its sole discretion, may decide to terminate this ORDER in accordance with the terms of Article 12.

36.5 Any Force Majeure delay as defined herein shall be considered an excusable delay, and neither party shall be entitled to compensation, beyond the provisions of the ORDER, as a result thereof.

37. OWNERSHIP

37.1 Documents. All drawings, data calculations, plans, specifications and other documents made available, directly or indirectly, to SELLER by PURCHASER or OWNER/CLIENT for use in connection with GOODS or this ORDER shall remain the property of the providing party and shall not be used, copied, or distributed by SELLER for any purpose other than performance of GOODS.

37.2 Inventions. All documents (whether in paper or electronic form) prepared by SELLER or SUBCONTRACTOR in connection with this ORDER, such as drawings, photos (conventional and digital), plans, specifications, calculations (including computer programs specially developed in or for the performance of GOODS under this ORDER), estimates, operating/maintenance procedures, purchase orders and subcontracts, and the other engineering and procurement documents prepared by SELLER or SUBCONTRACTORS under this ORDER shall become property of PURCHASER or their respective designee(s) when first prepared.

37.3 All inventions, discoveries, and improvements, whether patentable or un-patentable, and copyrightable materials that are made or conceived by SELLER, SUBCONTRACTOR or the personnel of either in connection with GOODS under this ORDER and all patent rights and copyright rights therein, both domestic and foreign, shall belong to, and shall be assigned by such personnel to PURCHASER or its respective designee(s). SELLER shall cause personnel of SELLER and SUBCONTRACTORS to be bound to promptly and fully disclose all such inventions, discoveries and improvements to PURCHASER and shall cooperate, at PURCHASER cost, with PURCHASER as may be reasonably required in order to obtain patent and/or copyright protection therefore, including the signing of assignments of inventions and patent rights therein, and the signing of any proper affidavits, declarations, applications for patents or for registration of copyrights and the like.

37.4 SELLER shall ensure that all SUB-ORDERS with SUBCONTRACTORS contain respective provisions, which bind SUBCONTRACTORS at least to the same extent as SELLER is bound, and to secure PURCHASER rights as stated in this Article.

38. MATERIALS MADE AVAILABLE BY PURCHASER

38.1 The PURCHASER retains the title to all materials it has made available to the PURCHASER for the purpose of the ORDER, including models, stamps, drawings, tools and other auxiliary equipment. The SELLER shall refrain from any acts or omissions in respect to these materials causing the PURCHASER to lose his property rights by doing business, copying, mixing, or any other treatment, save if the PURCHASER has granted permission in writing for such acts or omissions. Furthermore, the SELLER guarantees that these materials shall not be pledged or encumbered with third-party rights in any way. The materials will be for the risk of the SELLER.

38.2 The SELLER has no right of retention or suspension in respect of the forementioned materials.

38.3 The SELLER shall insure these materials for his expense and account in the name of the PURCHASER at generally accepted conditions against all loss, which may be caused by partial or complete loss or damage to the materials due to any cause. The PURCHASER is entitled to inspect the respective insurance policy or policies, in which the PURCHASER shall be named as co-beneficiary.

38.4 The PURCHASER retains his intellectual property rights (comparable rights such as knowhow included) to the materials. The SELLER acquires a strictly personal, non-transferable license to use the materials for the duration of the ORDER within the meaning of this article, and under the resolutive condition in the event that the SELLER fails to fulfil any or all of the statutory and contractual obligations vis-à-vis the PURCHASER.

38.5 Upon termination of the ORDER, or upon first written request of the PURCHASER, the SELLER shall return the materials in good order to the PURCHASER. The SELLER will use the materials for his own risk; the PURCHASER will not be liable for any loss arising from the SELLER or third parties using the materials, save if caused by intentional act or gross negligence on the PURCHASER or his employees' part. The SELLER shall not use the materials, or allow or authorize third parties to use the Objects for any other purpose than for the correct execution of the ORDER.