

## GENERAL TERMS AND CONDITIONS OF PURCHASE SMULDERS GROUP NV – Revision 6.0 dated 27/01/2020

### 1. AGREEMENT

- 1.1. These general terms and conditions of purchase ("Terms and Conditions") shall govern and form an integral part of all agreements entered into and for all Purchase orders/Subcontract agreements for the supply of goods/the execution of Works (hereinafter referred to as 'the Works') by your company (hereinafter referred to as the "Supplier/Subcontractor") ordered by either of the following companies of the Smulders Group, hereinafter referred to as the "Contractor":
  - Iemants NV, reg. number Crossroads Bank of Enterprises 0456.528.520, Belgium;
  - Willems Staalconstructies NV, reg. number Crossroads bank of Enterprises 0886.535.161, Belgium;
  - Smulders Projects Belgium NV, reg. number Crossroads Bank of Enterprises 0865.525.060, Belgium;
  - Smulders Projects International BV, reg. KVK number 57932069, the Netherlands;
  - Spomasz SA, reg. NIP PL 9280007159, Poland;
  - Angus Consulting Engineers Private Ltd., register of Trade Bangalore 560079, India;
  - Iemants Qatar LLC, register of Trade 2760.05600014, Qatar;
  - Iemants Steel Constructions Middle East LLC, reg. Chamber of Commerce 1182640, Abu Dhabi;
  - Smulders Projects UK Ltd., reg. VAT number GB248973748, United Kingdom;
 and/or any of their Affiliates, thereby excluding the Supplier's/Subcontractor's general terms & conditions.
- 1.2. The term "Affiliate" shall mean any Contractor entity, which, directly or indirectly, controls, is controlled by or is under common control by the Contractor.
- 1.3. Each such Purchase order or Subcontract agreement shall be referred to herein as the "Agreement".
- 1.4. The term "Works" shall include both tangible and intangible goods, services and where appropriate be deemed to include software, service requirements, spare parts and any related software and/or documentation that may accompany the goods.
- 1.5. The Supplier/Subcontractor agrees to sell and the Contractor agrees to purchase/subcontract the Works in accordance with the Agreement. The Agreement shall comprise (in order of precedence): any order amendments, the Purchase order/Subcontract agreement, these General Terms and Conditions, any other document (or document part) referred to in the Purchase order/Subcontract agreement.
- 1.6. The Agreement shall not include any of the Supplier's/Subcontractor's conditions of sale, notwithstanding reference to them in any document before or after entry into the Agreement. Delivery of the Works in response to a Purchase order/Subcontract agreement or corresponding amendment shall be taken to imply that the Supplier/Subcontractor has accepted the terms and conditions of this Agreement. Before entering into this Agreement the Supplier/Subcontractor shall be deemed to have ascertained the extent and nature of the Works, including but not limited to the services, personnel, materials and equipment, plant, consumables and facilities required

for the Works; and the correctness and sufficiency of the Agreement and all its requirements and specifications and sufficiency of the Subcontract Price and all other matters which could affect a timely progress and/or performance and/or completion of the Works.

### 2. GENERAL OBLIGATIONS

- 2.1. Upon entering into this Agreement, the Supplier/Subcontractor hereby accepts to carry out its obligations and guarantees and to provide at its expense all resources required to complete and execute the Works to the entire satisfaction of the Contractor.
- 2.2. The Supplier/Subcontractor shall act as an independent contractor and shall, upon request of the Contractor, participate actively, without delay and in good faith in any discussions between Main Contractor and/or Employer and Contractor.
- 2.3. The Supplier/Subcontractor shall comply with all industry standards, standard practices and all applicable statutory and regulatory provisions and shall execute the Works with the reasonable skill, care and diligence expected of a reputable Supplier/Subcontractor experienced in the type of Works to be carried out under the Agreement.
- 2.4. The Supplier/Subcontractor shall provide sufficient personnel at all times to ensure performance, completion and manufacture of the Works within the agreed schedule and within the agreed delivery milestones. All personnel employed by the Supplier/Subcontractor shall be competent, properly qualified, skilled and experienced in accordance with good industry practice. The Supplier/Subcontractor shall remain responsible for any of the Works performed by any person provided by the Supplier/Subcontractor in connection with the Works as if the Works were performed by employees of the Supplier/Subcontractor.
- 2.5. In carrying out the Works, the Supplier/Subcontractor shall ensure they comply with all applicable laws, rules, permits, regulations.

### 3. VARIATIONS

- 3.1. The Contractor shall have the right, before delivery, to send the Supplier/Subcontractor an order amendment adding to, deleting or modifying the Works. If the order amendment will cause a change to the Price or delivery date then the Supplier/Subcontractor must notify the Contractor within two (2) days after receipt of the order amendment of the new Price and delivery date at the same level of cost and profitability as the original Price. The Supplier/Subcontractor shall comply with the Contractor's instructions and directions on all matters relating to the works, including any instructions to vary the Works. In circumstances where the Supplier/Subcontractor believes it is legally or physically impossible to comply with the Contractor's instructions and directions or believes it will create a hazard to safety or affect the Warranties given by the Supplier/Subcontractor, the Supplier/Subcontractor shall immediately notify the Contractor in writing.
- 3.2. The Supplier/Subcontractor must allow the Contractor at least 5 working days to consider any new Price and delivery date. The order amendment shall only take



effect after the Contractor has accepted in writing the new Price and delivery date.

3.3. If the Contractor fails to confirm the order amendment, the performance of the Agreement shall continue as though the said order amendment had not been issued.

#### 4. ACCEPTANCE

4.1. The Contractor shall have the right to reject the Works in whole or in part whether or not paid for in full or in part if they do not conform to the requirements of the Agreement.

4.2. In case of rejection of the Works, the Contractor shall be entitled to dissolve the Agreement in whole or in part and purchase/subcontract equivalent Works elsewhere, without affecting any other rights the Contractor may have.

4.3. In the event of dissolution under this condition, the Supplier/Subcontractor shall promptly repay any moneys paid under the Agreement without any retention or offset whatsoever.

4.4. The Supplier/Subcontractor must collect all rejected Works within a reasonable time of rejection or the Contractor shall return them to the Supplier/Subcontractor at the Supplier's/Subcontractor's risk and expense.

#### 5. TIMING, CHARGES, REPORTING, AND RIGHT TO AUDIT

5.1. Time is of the essence for the Agreement. The Contractor shall be entitled to be compensated by the Supplier/Subcontractor in an amount of 3% of the Agreement Price for each week of delay with a maximum of 15% of the Agreement Price provided that delay is not caused by actions of the Contractor.

5.2. If delay is such that the Contractor is or will become entitled to the maximum penalty, the Contractor may by notice in writing to the Supplier/Subcontractor dissolve the Agreement in whole or in part.

5.3. The Contractor shall have the right to request any information concerning the status of any order at any time and the Supplier/Subcontractor shall promptly provide this information and notify the Contractor in writing of any expected delay.

5.4. If the Supplier/Subcontractor does not comply with the Contractor's delivery or performance schedule, the Contractor may require delivery by fastest means at the Supplier's/Subcontractor's cost.

5.5. The rights and remedies of the Contractor provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under the Agreement.

#### 6. DELIVERY

6.1. Unless specified otherwise in the Agreement, all Works shall be delivered Delivery Duty Paid ("DDP", Incoterms®2010). Title & property of the Works and of components, materials and exchange parts integrated or meant to be integrated into the Works (free and clear from liens and other encumbrances) shall pass to the Contractor on the earlier of

- delivery of components, materials and exchange parts to the Supplier/Subcontractor or to the Supplier's/Subcontractor's subcontractor
- integration of components, materials or exchange parts in the Works
- delivery of the Works to the Contractor or
- the Supplier/Subcontractor being entitled to payment in accordance with this Agreement.

Risk shall pass to the Contractor upon delivery to the Contractor.

6.2. The Supplier/Subcontractor and the Supplier's/Subcontractor's subcontractor shall ensure that these components, materials and exchange parts are stored separately and shall be clearly marked as the Contractor's property.

6.3. Any processing of the materials and components and exchange parts by the Supplier/Subcontractor and/or the Supplier's/Subcontractor's subcontractor shall take place exclusively for the purpose of the Agreement. The Contractor shall in this respect become the owner of all products created from the aforementioned components and materials.

6.4. The Supplier/Subcontractor shall make no deliveries before the agreed delivery date(s) and the Contractor shall not be liable for any costs caused by or related to production, installation, assembly, commissioning or any other work related to such Works prior to delivery. Where the Agreement provides for installation, commissioning or any other work to be carried out by the Supplier/Subcontractor such work shall be executed with good workmanship and using proper materials. As a minimum requirement, such Works shall comply with all applicable quality and certification standards.

6.5. The Supplier/Subcontractor shall pack, mark and ship the Works in such manner as to prevent damage during transport and which facilitates unloading, handling and storage.

6.6. The Supplier/Subcontractor agrees to provide all updates and modifications to the Software provided by the Supplier/Subcontractor to the Contractor during the term of the Agreement without additional charges.

6.7. Any license fees for Software shall be included in the Agreement price or any other amounts payable under the Agreement.

#### 7. WARRANTIES

7.1. Without prejudice to any warranty, expressly or implicitly extended by law, the Supplier/Subcontractor expressly warrants and represents to the Contractor that all Works to be supplied shall be new and unused, of good quality, design, materials, construction and workmanship, and that all Works conform strictly to the specifications, approved samples, industry standards and all other requirements of the Agreement, and are suitable for the intended purpose.

7.2. In the case of non-compliance with this warranty, the Contractor may, at its discretion and without prejudice to any other right or remedy available under the Agreement or at law, reject the Works.

7.3. In the event of such rejection or if the Contractor detects any Works having a defect after acceptance thereof, the Contractor, at its option, shall be entitled to require the Supplier/Subcontractor to remedy the defect promptly, to replace the defective Works or to fully refund the Agreement price of the defective Works.

7.4. In such event the Supplier/Subcontractor shall be responsible for and indemnify and hold the Contractor harmless from any and all costs of repair, replacement and transportation of the defective Works, as well as from all costs and expenses (including, without limitation, recall, inspection, handling and storage costs) and damage incurred by the Contractor in connection with such defective Works. Risk regarding the Works shall pass to the Supplier/Subcontractor as from the notice of rejection.

7.5. The Supplier/Subcontractor shall observe all applicable legal requirements, the relevant European and international regulations, directives and agreements in relation to health, safety and environment such as the marking of hazardous Works and the provision of data sheets for hazardous materials. The Supplier's/Subcontractor's failure to comply herewith shall be deemed to constitute a material breach of the Agreement.

7.6. It is expressly agreed that:

- i) the Supplier/Subcontractor shall promptly make good at the Supplier's/ Subcontractor's expense any defect in the Works that the Contractor discovers during the first of 60 months of actual use or 72 months from the date of acceptance by the Contractor whichever period shall expire last;
- ii) repairs or replacements will themselves be covered by the above warranty and for an additional period of 24 months from acceptance of these repairs and replacements by the Contractor, whichever period expires last.

The Supplier/Subcontractor will provide out of warranty service to the Contractor and ensure that compatible spares are available at commercially reasonable prices for a period of ten (10) years after the last delivery.

## 8. PAYMENT

- 8.1. Subject to acceptance of the Works by the Contractor, payment shall be made upon a properly submitted invoice at the end of the second month following the date on which the Works are delivered.
- 8.2. The Supplier/Subcontractor acknowledges and agrees that any debt of the Contractor to the Supplier/Subcontractor may be paid on behalf of the Contractor by any of its Affiliates and/or any third party designated by the Contractor.
- 8.3. At all times the Contractor shall be entitled to set-off any amount owing at any time from the Supplier/Subcontractor to the Contractor or any of its Affiliates against any amount payable at any time by the Contractor in connection with the Agreement.

## 9. PRICES

- 9.1. The Supplier/Subcontractor will sell to the Contractor the Works for the lump sum stated in the Agreement. The price is inclusive of all taxes, duties, storage, packing, insurance, delivery, installation and commissioning as applicable.
- 9.2. All such taxes and duties deemed included in the price shall be borne by the Supplier/Subcontractor, and the Supplier/Subcontractor shall pay such taxes and duties itself or, where these have been paid by the Contractor, reimburse the Contractor for such taxes and duties.
- 9.3. The Supplier/Subcontractor warrants that the prices for Works will not be less favorable than prices applicable to sales by the Supplier/Subcontractor to any other customer purchasing like quantities of substantially comparable products.

## 10. WORK ON CONTRACTOR PREMISES

If the Agreement involves any works or services which the Supplier/Subcontractor performs on the Contractor's premises, the Supplier/Subcontractor shall ensure that the Supplier/Subcontractor and its employees, subcontractors and any other person associated with the Supplier/Subcontractor will adhere in every respect to the duties & obligations imposed on the Supplier/Subcontractor by current safety

legislation or any regulations that the Contractor may notify to the Supplier/Subcontractor in writing.

## 11. QUALITY MANAGEMENT, INSPECTION & TESTING

- 11.1. The Contractor, Main Contractor, Employer, Third Parties and/or the Certifying Bodies shall have full access to visit, inspect and test the Supplier's/Subcontractor's Plant and all elements that form part of the Works at any time.
- 11.2. The Supplier/Subcontractor shall carry out all tests and inspections as detailed in this Agreement, the Main Contract and those applicable to the Works. If the Contractor so requires, the Supplier/Subcontractor shall carry out any inspection, test or retest on any materials or equipment provided by the Supplier/Subcontractor in order to confirm that the requirements of the Agreement are met.
- 11.3. The Supplier/Subcontractor shall supply the Contractor with certified copies of all such test records and inspection reports as soon as they become available (and where an electronic file-sharing system is in place for the Project, such documents may be provided via that system).
- 11.4. The Contractor has the right but not the obligation, to witness any test or inspection carried out by the Supplier/Subcontractor. The Supplier/Subcontractor shall notify the Contractor in adequate time, but in any event not less than five (5) business days prior to each test or inspection, in order that the Contractor may exercise this right. The Contractor has the right, but not the obligation, to inspect, test and examine all things provided by the Supplier/Subcontractor for the purposes of the Works, including but not limited to materials and equipment, together with all documentation relating thereto.
- 11.5. No inspection or lack of inspection by the Contractor under this clause shall affect the obligations or liabilities of the Supplier/Subcontractor under this Agreement.
- 11.6. Payment, inspection, testing or acceptance of any Works by the Contractor shall not relieve the Supplier/Subcontractor of any of its obligations under the Agreement, nor shall it constitute a waiver of any defect, nonconformity or any rights or remedies available under the Agreement or at law.

## 12. DRAWINGS, TOOLS AND MATERIALS

- 12.1. All tools, materials, drawings, specifications and other equipment and data ("the Articles") lent or temporarily given by the Contractor to the Supplier/Subcontractor in connection with the Agreement shall always remain the Contractor's property and be surrendered to the Contractor upon demand in good and serviceable condition and are to be used by the Supplier/Subcontractor solely for the purpose of completing the Agreement.
- 12.2. The Supplier/Subcontractor agrees that no copy of any of the Articles will be made without the consent in writing of the Contractor. Until the Supplier/Subcontractor returns all the Articles to the Contractor they shall be at the Supplier's/Subcontractor's risk and insured by the Supplier/Subcontractor at the Supplier's/Subcontractor's own expense against the risk of loss, theft or damage.
- 12.3. Any specifications, drawings, information, tools, moulds, and other materials furnished to the Supplier/Subcontractor or funded or paid for by the Contractor (whether separate or as a part of the unit price), in whole or in part, shall
  - i) remain or become as of the moment of completion thereof, the Contractor's property,

provided the risk therefor remains with the Supplier/Subcontractor until delivery to the Contractor. The Contractor shall become the owner of all products created from the aforementioned materials.

- ii) if use thereof by the Supplier/Subcontractor is allowed by the Contractor, be used exclusively for the purposes of the Agreement, be properly used, maintained and kept in good working condition at the Supplier's/Subcontractor's expense,
- iii) be clearly marked as the Contractor's property and be kept in separate storage when not in use, and
- iv) be delivered to the Contractor promptly on the Contractor's first demand. The Supplier/Subcontractor shall inform any third parties who might seek recourse thereon of the Contractor's proprietary right; the Supplier/Subcontractor shall immediately inform the Contractor of any such event.

The Supplier/Subcontractor shall take out adequate insurance, mentioning the Contractor as co-insured, for all property of the Contractor in the possession of the Supplier/ Subcontractor.

12.4 The Supplier/Subcontractor shall not file, claim or register any lien and guarantees that no lien will be filed, claimed or registered by any Supplier/Subcontractor or by any supplier, employee, servant or agent of the Supplier/Subcontractor against the property of the Contractor used for any of the Works. The Supplier/Subcontractor shall indemnify and hold the Contractor harmless from and against all and any claim, damages, liabilities, losses and expenses (including legal fees and expenses arising out of the breach of this clause).

**13. INDEMNIFICATION**

13.1. Without prejudice to any other right or remedy available to the Contractor under the Agreement or at law, the Supplier/Subcontractor shall indemnify and hold the Contractor and its Affiliates and their successors and assignees, harmless from and against all liabilities, claims, suits, losses, damages, costs and expenses (including reasonable attorney's fees), whether direct or indirect, arising from or relating to a third party's claim arguing that the Works constitute(d) infringement, violation or misappropriation of any intellectual property right or other proprietary right of a third party. The Supplier/Subcontractor shall procure the right for the Contractor to continue to use the Works at no extra costs to the Contractor.

13.2. Without prejudice to any other right or remedy available to the Contractor under the Agreement or at law, the Supplier/Subcontractor will indemnify and hold the Contractor, its Affiliates and their successors and assignees harmless from and against all liabilities, including without limitation product liability, claims, losses, damages, costs and expenses (including reasonable attorney's fees), whether direct or indirect (including, without limitation, loss of profits), arising from or relating to the Supplier's/Subcontractor's (or its officers, employees, agents or subcontractors) failure to comply with any of its obligations under the Agreement.

13.3. The Supplier/Subcontractor shall hold satisfactory insurance cover with a reputable insurer to fulfil the Supplier's/Subcontractor's insurance obligations for the duration of this Agreement including public liability insurance cover of at least € 2,5 (two and a half million Euro) per occurrence.

13.4. The Supplier/Subcontractor shall effect insurance against all those risks arising from the Supplier's/Subcontractor's indemnity in this article. Satisfactory evidence of such insurance and payment of current premiums shall be shown to the Contractor upon request.

**14. CONFIDENTIAL INFORMATION**

14.1. The Supplier/Subcontractor agrees to treat as confidential and to use only for the purposes of the Agreement all information, including but not limited to, technical and commercial information, which is provided "as is" in whatever form or medium by or on behalf of the Contractor and of its Affiliates and to give access to such information only on a need to know basis to its employees and not to transfer, publish, disclose or otherwise make available such information or any portion thereof to any third party without the Contractor's prior written consent.

14.2. All information shall remain the Contractor's property and no licenses or rights are granted in any such information and the Supplier/Subcontractor shall, upon the Contractor's demand, promptly return to or destroy all such materials and information, not retaining any copies thereof.

14.3. The Supplier/Subcontractor shall not use the name, logo, trademark, or any other reference to the Contractor, either direct or indirect, in press releases, advertisements, sales literature or other publications and shall not disclose the existence or the terms and conditions of the Agreement, without the prior written consent of the Contractor.

**15. INTELLECTUAL PROPERTY RIGHTS**

15.1. The Supplier/Subcontractor agrees that any information, drawings, know-how, specifications, designs, concepts, techniques, developments, inventions, technologies and other work products generated or developed in the course of work performed under the Agreement by the Supplier/Subcontractor and any intellectual property and other proprietary rights therein or thereto shall vest in the Contractor upon their creation.

15.2. They shall not be used by the Supplier/Subcontractor other than for the purpose of completing the Works hereunder, and all documents and copies thereof shall be returned to the Contractor prior delivery of the ordered Works, unless otherwise agreed.

15.3. The Supplier/Subcontractor assigns or shall cause to be assigned to the Contractor all right, title and interest to any and all such items and rights and to do everything necessary to perfect such rights and to protect the Contractor's interest therein.

15.4. The Supplier/Subcontractor shall inform any third parties who might seek recourse thereon of the Contractor's proprietary rights; the Supplier/Subcontractor shall immediately inform the Contractor of such an event.

**16. STEP-IN**

16.1 In accepting this Agreement, the parties recognize that the Main Contractor has the right to step in and take over any part or all of the Works under this Agreement at the Main Contractor's sole discretion in case the Main Contractor is entitled to terminate the Works undertaken by the Contractor. The Contractor will give notice in writing to the Supplier/Subcontractor of the Main Contractor's intention to exercise this step-in right. In this event, this Agreement shall be novated to the Main Contractor. The Supplier/Subcontractor shall

cooperate fully with the Contractor and/or Main Contractor in providing the information or documentation reasonably required to evaluate the novation of this Agreement. The step-in will be effective upon completion of the novation.

In turn, the Supplier/Subcontractor shall ensure to include relevant step-in rights in the subcontracts with its own suppliers/subcontractors relevant to the performance of the Works in accordance with the above.

16.2 In turn, the Supplier/Subcontractor shall ensure to include in each subcontract with its own subcontractors/suppliers which is relevant to the performance of the Works a step-in right in accordance with 16.1 in favor of the Contractor in case the Contractor is entitled to terminate this Agreement. In turn, the Supplier/Subcontractor shall ensure to include relevant step-in rights in the subcontracts with its own suppliers/subcontractors relevant to the performance of the Works in accordance with the above.

## 17. DEFAULT AND FORCE MAJEUR

17.1. Neither the Supplier/Subcontractor nor the Contractor shall be considered in default in the performance of its obligations to the extent that performance of such is delayed or prevented due to unforeseeable causes beyond the control of said party. The following events shall be considered to be force majeure events: 'acts of God', war, revolution, civil commotion, blockade or embargo and any law, order, regulation, ordinance, of any government.

17.2. The Contractor may by written notice of default to the Supplier/Subcontractor terminate the whole or any part of the Agreement in any one of the following circumstances:

- i) if the Supplier/Subcontractor fails to perform any obligations of the Agreement. The Supplier/Subcontractor shall be in default without further notice being required;  
or
- ii) if the Supplier/Subcontractor shall become insolvent, is liquidated or dissolved or if any attachment is made over the assets of the Supplier/Subcontractor, makes a general assignment for the benefit of creditors or if a petition under any bankruptcy act or similar statute is filed by or against the Supplier/Subcontractor, and in any of these circumstances does not cure such failure within a period of ten (10) days or such longer period as the Contractor may authorize in writing;

Upon such termination, the Contractor may procure supplies or services similar to those terminated, at the Supplier's/Subcontractor's cost or claim damages resulting from such termination.

17.3 As an alternate remedy the Contractor, at its sole discretion, may elect to extend the delivery schedule and/or to waive other deficiencies in the Supplier's/Subcontractor's performance, in which case an equitable reduction in the Order Price shall be granted.

## 18. TERMINATION

18.1. The Contractor may terminate all or any part of its obligations under any Agreement to purchase or accept Works for its convenience upon written notice to the Supplier/Subcontractor at any time.

18.2. If the Contractor provides the written notice to the Supplier/Subcontractor at least thirty (30) days prior to the specified shipping date of the relevant Works,

the Contractor shall have no liability for the effects caused by the termination.

18.3. If the Contractor terminates the Agreement on less than thirty (30) days' notice, the Contractor and the Supplier/Subcontractor will negotiate a reasonable termination charge, if any, based on all appropriate factors, including, without limitation, the percentage of work performed by the Supplier/Subcontractor prior to termination, the Supplier's/Subcontractor's ability to resell or reuse the Works, and market conditions at the time of termination.

18.4. The Supplier/Subcontractor has a duty to use its best efforts to mitigate any damages or losses resulting from a termination by the Contractor. The Contractor shall have the right to audit all elements of the termination charge and the Supplier/Subcontractor shall make available to the Contractor on request, all books, records and papers relating thereto.

18.5. If the Contractor for any reason anticipates any difficulty for the Supplier/Subcontractor in complying with any obligations of the Agreement, the Contractor shall be entitled to require the Supplier/Subcontractor to remedy such non-compliance within a period to be set by the Contractor.

18.6. All provisions of the Agreement destined to survive the dissolution, termination or expiration thereof shall survive such dissolution, termination or expiration.

18.7. In the event that the Supplier/Subcontractor has placed work with third parties, the Supplier/Subcontractor is not permitted to include a provision in his agreement with those third parties that prohibits that those third parties may have direct contact with Contractor and/or deliver goods on request of Contractor to Contractor.

## 19. HEALTH, SAFETY & ENVIRONMENT

19.1. The Contractor places prime importance on health, safety and environmental issues and the Supplier/Subcontractor confirms that it and all the members of the Supplier/Subcontractor shall act according to and in compliance with the relevant rules and regulations. The Supplier/Subcontractor shall take full responsibility for the adequacy, stability and safety of all its operations and that of its subcontractors/suppliers necessary for the performance of the Works.

19.2. The Supplier/Subcontractor represents and warrants to the Contractor that the Works will and have been designed, manufactured and delivered and/or the services will have been performed in compliance with all applicable laws and regulations (including, without limitation, environmental, health and safety laws, REACH-regulations, and any policies or guidelines on the environment and banned substances).

19.3. In the event of dangerous or hazardous Works, the Supplier/Subcontractor shall provide to the Contractor written and detailed specifications of the composition of such Works and of all laws, regulations and other requirements relating to such Works in order to enable the Contractor to properly transport, store, process and use such Works.

19.4. The Supplier/Subcontractor shall at all times take all reasonable precautions to maintain the health and safety of its Personnel.

Furthermore, the Supplier/Subcontractor shall, if so required by the Contractor, comply with any additional requirements in respect of health, fire, safety, environmental precautions and emergency procedures.

The Supplier/Subcontractor's failure to maintain a satisfactory standard of safety in the performance of the Works shall be deemed to be a material breach of

the Agreement and the Contractor shall have, at its sole discretion, the right to either

- a) take the necessary measures at the Supplier's/Subcontractor's expense or to terminate the Agreement forthwith by giving written notice to the Supplier/Subcontractor; or
- b) to issue an improvement notice specifying the reasons therefor and requiring the Supplier/Subcontractor to make good the failure and issues raised by the Contractor within a specified reasonable period of time (hereinafter the "Improvement Notice").

The Supplier/Subcontractor shall immediately instigate corrective measures raised in the Improvement Notice and communicate in writing the corrective actions taken. If the Contractor is satisfied, acting reasonably, with the action taken then he shall write to the Supplier/Subcontractor revoking the Improvement Notice.

If actions taken by the Supplier/Subcontractor are inadequate to address the issues raised in the Improvement Notice then the Contractor shall after three (3) days calculated from the date of the Improvement Notice, be entitled to withhold an amount of five per cent (5%) per Improvement Notice from all subsequent payments until adequate actions have been taken by the Supplier/Subcontractor.

Such payment deduction shall not constitute an event of Contractor's default under this Agreement nor shall it entitle the Supplier/Subcontractor to claim any late interest payments.

The Supplier/Subcontractor shall not be entitled to claim for additional costs or an extension of Time for Completion for any delays and/or additional resources incurred by the Supplier/Subcontractor addressing issues raised in an Improvement Notice.

The Supplier/Subcontractor is entitled to reclaim payment of any money withheld by the Contractor under this Clause following the Contractor's revoking all Improvement Notices.

## 20. SUBCONTRACTING AND ASSIGNMENT

- 20.1. The Supplier/Subcontractor shall not subcontract, transfer or assign any of its rights, obligations or benefits, nor any part of it, under the Agreement to any third party or any of its affiliates without the prior written consent of the Contractor.
- 20.2. In case the Supplier/Subcontractor is permitted to subcontract any of its obligations hereunder, it shall remain fully responsible and liable for the proper performance of its obligations under any Agreement and shall ensure that these subcontracts comply with the provisions of the Agreement.
- 20.3. The Contractor shall have the unconditional right to assign, transfer, or novate any or all of its rights and/or obligations under the Agreement to its Affiliates and/or any other party upon written notice to the Supplier/Subcontractor.

The Supplier/Subcontractor shall, upon request of the Contractor, execute any document required to that effect without delay.

## 21. NO WAIVER

No waiver by the Contractor of any breach of any condition or term of the Agreement shall be effective unless it is in writing and no failure or delay by the Contractor in enforcing any provision of the Agreement or in exercising any right, power or privilege hereunder shall operate as a waiver thereof.

## 22. CONSEQUENTIAL DAMAGES

In no event shall the Supplier/Subcontractor be entitled to loss of profits, revenue, or production downtime, or indirect, special, incidental or any other consequential damages whether direct or indirect.

## 23. SEVERABILITY

In the event that any provision(s) of the Agreement or these Terms and Conditions shall be held invalid or unenforceable by a court of competent jurisdiction or by any future legislative or administrative action, such holding or action shall not negate the validity or enforceability of any other provisions hereof.

## 24. GOVERNING LAW AND DISPUTE RESOLUTION

- 24.1. The Agreement shall be governed by the laws of the country where the Contractor has its registered seat. The UN Convention on Agreements for the International Sale of Goods shall not apply to the Agreement.
- 24.2. All disputes arising out or in connection with the Agreement shall first be attempted to be settled through consultation and negotiation in good faith and a spirit of mutual cooperation by the Supplier/Subcontractor and the Contractor.
- 24.3. All disputes that are not so settled within a period of, circumstances permitting, thirty (30) days from the date the relevant dispute first arose may be submitted to the competent courts of the country where the Contractor has its registered seat, provided that the Contractor shall always be permitted to bring any action or proceedings against the Supplier/Subcontractor in any other court of competent jurisdiction.

## 25. PERSONAL DATA PROTECTION

Both the Supplier/Subcontractor and the Contractor recognize that, as part of the implementation of the Agreement, it may need to process the personal data of the each other's staff, customers or suppliers, which is protected by the relevant laws on protection of personal data.

As part of this processing, both the Supplier/Subcontractor and the Contractor commit to respect the applicable law on protection of personal data for the personal data received from each other that must be processed.

In case of any failure by either the Supplier/Subcontractor or the Contractor to comply with the relevant laws of protection of personal data, the defaulting Party will be liable for such breach and shall indemnify and hold harmless the other Party for any and all consequences resulting from such failure.