

**1 PURPOSE**

The purpose of the present general purchase conditions (the “GPC”) is to define the terms and conditions which shall govern the supply goods, works and/or services (the “Supply”) to be part of the Contract between **ALSTOM Panama SA**, (the “Purchaser”) and the supplier (the “Supplier”). The Purchaser and the Supplier shall be hereinafter referred to separately by “Party” or jointly by “Parties”. For the purposes of this GPC, the term “Affiliate(s)” designates, towards one or the other Party, companies placed directly or indirectly under the same superior direction, and any company holding, at any time during the duration the Contract, a majority in these companies, either by owning a majority of the shares combined with voting rights or by exercising a control in another way than by owning shares in the concerned controlled companies.

**2 FORM AND CONTENT OF THE CONTRACT**

**2.1** The contract (the “Contract”) shall mean the document encompassing all the obligations agreed upon between the Purchaser and the Supplier and shall consist of the documents quoted in decreasing order of priority as follows:

- The purchase orders (the “Order(s)”);
- The specific purchase conditions (if any), supplementing and/or amending these GPC, agreed in writing (the “SPC”);
- The present GPC as amended or supplemented by its annexes (if any);

**2.2** No document issued by the Supplier shall be binding upon the Purchaser or apply to the Contract unless it is expressly referenced in the Contract.

**3 COMING INTO FORCE – TERM**

**3.1** Issuance of the Contract by the Purchaser shall be deemed to be the end of the negotiations between the Parties. The Supplier shall return the acknowledgement of receipt of the Order within eight (8) days of the receipt thereof whether by electronic means or otherwise. Signature of the acknowledgement of receipt shall mean approval of the Order as is and the Contract shall enter into force on the date the Purchaser has received said acknowledgement. However, and if not returned within this period, the Contract shall be considered to have been concluded based on the preliminary discussions.

**3.2** Any start of performance of the Contract and especially the fact of proceeding to the design, manufacture, delivery or invoice of the Supply, shall be construed as definitive acceptance of the terms and conditions of all the documents stated in Article 2.1.

**3.3** The Contract shall expire when all the obligations of each Party have been fully performed.

**3.4** By accepting the Contract, the Supplier expressly acknowledges having received communication of all of the documents and information that it needs in order to assess the commitments that it has undertaken pursuant hereto, especially concerning the safety standards in force at the Site and any possible dangers connected with the installations and/or machinery nearby, whether these have been received spontaneously from the Purchaser, or whether it has itself solicited them in application of its obligation as a professional to solicit all of the documents and information necessary for the correct performance of its obligations under the Contract. No document or information obtained by the Supplier from the Purchaser in connection with the Contract shall in any way release the Supplier from its obligation to review any such document and information and independently verify the same, and furthermore to promptly notify the Purchaser of conflicts with existing data or instructions provided by the Purchaser, and/or obtain any additional information and data from the Purchaser or from other sources, where appropriate, in order to ensure prompt and proper execution of the Supply.

**4 PERFORMANCE OF THE CONTRACT****4.1 Quality procedures**

**4.1.1** The Supplier shall perform the Contract with the degree of skill, care, diligence and prudence which would reasonably and ordinarily be expected from a skilled, experienced and competent supplier (the “Good Industry Practices”), and in accordance with all the terms and conditions stated in the Contract, regulations and standards in force where the Supply is to be performed. The Supplier’s Quality Manual, available through the following url: <https://www.altes.transport.alstom.com/>, defines the Purchaser’s quality expectations so as to enable the Supplier to determine appropriate actions that it may require to be carried out. The Supplier shall ensure that its sub-suppliers and/or subcontractor’ comply with this contractual requirements, applicable regulations and Good Industry Practices.

**4.1.2** In order to facilitate collaboration and transparency with its suppliers, the Purchaser has developed a web “Supplier Quality Portal”, which is the basic communication tool between Purchaser and each of its suppliers. All the Supplier’s Quality data will be communicated by the Purchaser to the Supplier and made available to the latter on the Portal. Any response or communication by the Supplier related thereto shall be made directly through the Supplier Quality Portal.

**4.2 Supplier’s obligations**

**4.2.1** The Supplier shall be responsible for implementing all the necessary resources for the performance of its obligations under the Contract, with the exception of those specifically mentioned in the Contract as being under the responsibility of the Purchaser. The Supplier shall have all of the materials and tools needed for the performance of the Contract and shall allocate qualified staff in sufficient numbers to perform the Contract within the contractual deadline.

The Supplier shall ensure appropriate personnel training and qualification and submit any proof relating to such qualification upon Purchaser’s request. Within seven (7) days, at the latest, of the Contract coming into force, the Supplier shall appoint a staff member as a project manager and shall inform the Purchaser accordingly. The project manager shall plan, coordinate and monitor all the Supply’s needs in compliance with the Contract and the Good Industry Practices and shall be the Supplier’s contact person for the Purchaser.

**4.2.2** The Supplier shall request from the Purchaser in a timely manner, any approvals and instructions needed for the correct performance of the Contract. If applicable, the Purchaser shall grant access to the site where the Supply is to be performed (the “Site”) and /or make available to the Supplier the materials and/or perform the works identified in the Contract.

**4.2.3** The Supplier shall promptly remedy or shall ensure that its subcontractors promptly remedy any defects relating to the Supply noted during the abovementioned visits as well as any defect notified to it by the Purchaser concerning its performance.

**4.2.4** The Supplier shall ensure that the Supply provided are fit for the purposes that may reasonably be inferred from the Contract and in accordance with the timetable for performance defined in the Contract. In any event the Supplier commits himself to achieve performance and results stipulated in the Contract. The performance deadlines may only be extended or reduced through an amendment to the Contract, in accordance with the provisions of Article 5.1. The Supply shall be delivered in a state of full completion with the complete Documentation associated therewith as well as all instructions, recommendations and other indications necessary in order for them to be used correctly and under the appropriate safety conditions. “Documentation” shall mean any operation and maintenance manuals, drawings, calculations, technical data, logic diagrams, progress reports, quality documentation, conformity certificates, test reports, bill of lading, certificates of origin, export control classification list number as per any applicable export regulation - such as (i) the European Council Regulation 428/2009 (as amended), (ii) the U.S. Export Administration Regulations (“EAR”), (iii) percentage of U.S. origin content, (iv) U.S. Export Control Classification Number (“ECCN”), (v) U.S. Munitions List category (“USML”), (vi) (if applicable) export authorizations and licenses, and/or (vii) Harmonized Tariff Code - and any such other documents required under the Contract and/or applicable laws. The Supplier shall also furnish such programme of design, manufacture and delivery as the Purchaser may reasonably require. If so required by the Purchaser, the Supplier shall submit any such Documentation to the Purchaser with sufficient time for review and approval. Where the Documentation provided by the Supplier is not compliant with Purchaser’s contractual requirements, the Supplier must make the necessary modifications, and indemnify the Purchaser for any costs, liabilities or penalties incurred by the Purchaser due to the delays or non-compliance in Documentation delivered by the Supplier and shall not be entitled to an adjustment of the delivery schedule in case of any revision.

**4.2.5** If applicable, unless different procedures are specified in the Contract, the Supplier shall send the Purchaser, a weekly activity report tracing the Supply performed and any difficulties encountered, which shall include in particular a progress report and any non-compliance datasheets according to a format on which the Purchaser shall have previously agreed in writing.

**4.2.6** If the Supplier is not certain that the Supply complies with the requirements defined in this Article 4, it shall inform immediately the Purchaser thereof in writing, providing all the needed indications concerning the risks of non-compliance and the measures that the Supplier intends to take in order to remedy the situation. The Purchaser shall notify its acceptance or rejection of the Supplier’s proposals as soon as possible and in writing.

**4.3 Audits and testing**

**4.3.1** The tests shall be performed in accordance with the processes defined in the Contract. The Supplier shall provide the Purchaser with the relevant test reports. If the test results do not comply with the Contract and/or performance requirements (Supplier Product Quality Development (SPQD) industry standards, etc.), the Supplier shall immediately carry out the necessary measures and repeat the tests, at its own costs (including potential Purchaser’s travel costs), in such a manner as to comply with Contract’s requirements and the deadlines stipulated in the Contract.

**4.3.2** The Purchaser, who may be accompanied by any person appointed thereby, may at any time make any controlling visit that it considers necessary to the premises where the Supply are to be performed, during normal working hours, in order to ensure the correct performance by the Supplier, of its contractual obligations. The Supplier shall obtain from its subcontractors such visitation rights in their premises, for the Purchaser.

**4.3.3** Supply that doesn’t meet all the requirements set in this Article 4 shall be considered as having a non-conformity as per Article 11 and may be recorded as a non-conformity event (NCE) as defined in the Supplier’s Quality Manual. A lump sum administrative fee will be applied by the Purchaser for each NCE in amount of four hundred twenty five US dollars (425 USD), to be paid in local currency, converted on the payment date. This administrative fee shall not be considered as a penalty and represents a reasonable estimate for the administrative fees required to process the NCE; it is not the sole remedy for the Supplier’s default and is without prejudice to any other remedies available to the Purchaser under the Contract or law.

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**4.3.4** If the Purchaser assesses on its part that the Supplier is not performing the Supply in accordance with the Contract, it may require, in writing, the Supplier to indicate the measures that the Supplier intends to take to remedy the situation.

**4.3.5** In the event that tests demonstrate that the Supply does not achieve the performance required by the Contract, the Purchaser shall be entitled to (i) terminate the Contract as per Article 21 hereunder and/or (ii) have the Contract performed in all or in part by a third Party at the Supplier's risks and expenses. The Supplier shall implement an appropriate and recognized quality assurance programme and quality control plan for the execution of the Supply and shall satisfy itself and the Purchaser by means of appropriate Documentation, processes, inspections, tests and other quality and risk management measures that the Supply conform to the requirements of the Contract and shall keep such plan up-to-date throughout the whole cycle of the Supply production and delivery/Services performance. The Supplier shall perform all tests and inspections and/or provide, within forty-eight (48) hours upon request, all reports and certificates as required under the Contract and/or as the Purchaser may reasonably require. To the extent the tests are related to the Supply validation, the Supplier shall provide the Purchaser with timely notification of any such testing and the Purchaser and/or any third party authorized by the Purchaser shall be entitled to attend these tests. The Supply shall not be delivered to the Purchaser without an inspection and release by the Purchaser, unless the Purchaser waives such inspection and release. The Supplier shall cascade and be further responsible for the compliance by any of its sub-suppliers and/or subcontractors or any third party involved into the Contract performance, with the quality requirements and principles set forth in this Article 4.

## 5 CHANGES IN CONTRACT

**5.1** The Purchaser shall have the right at any time to alter the content of or the conditions attached to the Supply (the "**Changes**"), by means of a written notice to the Supplier. If in the Supplier's reasonable opinion such Changes affect the cost or time required for performance of the Supply, the Supplier shall notify the Purchaser promptly in writing, but in no event later than ten (10) days after the receipt of the Purchaser's notice, including appropriate substantiation regarding the claimed impact. Subject to the Supplier's notification in accordance with the foregoing, if and to the extent that the changes requested by the Purchaser reasonably justify in the circumstances an adjustment of the price, delivery schedule and/or other provision of the Contract, then an equitable adjustment will be made by the Purchaser ("**Change Order**"). The Purchaser has the right to instruct the Supplier to commence the changes prior to having finalised the adjustment to the Change Order. In the absence of a notification by the Supplier in accordance with this Article, the Supplier shall be deemed to have waived its rights for an adjustment and shall carry out the change, and the Purchaser shall be entitled to assume that such Changes will not have any impact on any material term of the Contract, including time schedule, warranties and price.

**5.2** The Supplier shall not make any changes to the Supply without the Purchaser's prior written consent.

**5.3** Once the Supplier's design of the Supply is frozen and final the Supplier shall not be entitled to make any change to such design thereafter without having obtained prior written agreement by the Purchaser. The Supplier shall indemnify and hold harmless the Purchaser from and against any and all claims, liabilities and expenses arising out of or in relation with any change made to the design of such Supply after the design thereof is frozen.

**5.4** If the Supplier considers himself entitled to an adjustment to the time or to the cost by reason of any act or omission of the Purchaser, the Supplier shall give notice, describing the event or circumstances given right to the claim, to the Purchaser within fourteen (14) days from the occurrence of the event or circumstances. If the Supplier fails to give notice within this fourteen (14) day period, the Supplier shall be deemed to have waived its right to claim. Within thirty (30) days from the occurrence of the event of circumstances, the Supplier shall provide the Purchaser with a fully itemized and detailed statement of the claim in order for the Purchaser to review it and determine the merit of such claim. Any adjustment to the time and/or to the cost shall be granted by the Purchaser via an Order amendment.

## 6 PURCHASER'S PROPERTY

**6.1** Materials such as components, machinery, tools, models, moulds, jigs and fixtures, accessories or others which may be made available to the Supplier by the Purchaser for the purposes of the Contract shall be under the Supplier's responsibility, care and custody; the Supplier shall take out insurance against any damage that they might suffer and shall clearly mark them and record them as being the property of the Purchaser.

**6.2** The Supplier agrees to refrain from using such materials other than for the purpose of the Contract; it shall keep them in good working order, except for normal wear and tear.

**6.3** Any damage or deterioration that such materials may suffer due to improper use or negligence by the Supplier shall be repaired at its cost. Without prejudice to the other rights of the Purchaser, the Supplier shall return such materials upon first request.

**6.4** Legal ownership in and/or the right to dispose of any such Purchaser items shall under no circumstances pass to the Supplier. Upon the Purchaser's request, and without prejudice to Purchaser's rights under the Contract, the Supplier, without delay, shall allow the Purchaser, and/or any third party mandated by the Purchaser, to enter any premises of the Supplier to

repossess any such Purchaser items or any part thereof, including as applicable severing any such Purchaser items or parts thereof from other property.

**6.5** Ownership of tools manufactured or acquired by the Supplier especially for the purposes of the Contract such as models, moulds, jigs and fixtures, accessories or others, shall be transferred to the Purchaser at the time of their manufacture or acquisition by the Supplier. The Supplier shall return the tools to the Purchaser by the end of the performance of the Contract at the latest.

## 7 DELIVERY - TRANSPORTATION – PACKAGING

**7.1** Should there be no special stipulation relating thereto in the Contract, the Supplier shall, in all circumstances, use packaging suitable to the nature of the Supply and that guarantees the safety and integrity thereof until they are delivered.

**7.2** Where there is no special stipulation in the Contract, (i) deliveries on the premises mentioned in the Contract shall be made "Delivered At Place" ("DAP" according to Incoterms®, ICC 2020) Purchaser's destination set in the Order or if the Parties are located in the same continent or geographical area or "Free Carrier" ("FCA" ICC Incoterms® 2020) Port set in the Order if the Parties are located in different continents or geographical areas, any costs to be borne by the Supplier with any good included in the Supply packed, marked, loaded, lashed and secured in accordance with the Purchaser's shipping, packing and marking instructions stated in the Contract (notwithstanding the provisions of applicable ICC Incoterms® 2020).

**7.3** The Supplier shall not deliver the Supply without a release by the Purchaser. Should the Supplier proceed with such deliveries without the Purchaser's consent, the Supplier shall reimburse the storage cost incurred by the Purchaser pending full delivery or delivery at the agreed delivery date.

**7.4** Delivery of the Supply shall not be deemed to have occurred if such goods are not fully compliant with all the terms and conditions of the Contract.

**7.5** Any delivery of the Supply shall be accompanied by the Supplier's delivery note, dated, bearing references of the Contract and indicating in particular the details of the items delivered, the contents of the parcels therein, their gross and net weight, method of transportation, date of dispatch, as well as the rail wagon number or vehicle registration number if relevant. The Supplier shall send simultaneously, by separate letter, a copy of the document to the Purchaser's department that issued the Order.

**7.6** The Supplier shall deliver as part of the Supply, the Documentation as specified under Article 4.2.4.. Delivery of the Supply shall not be deemed complete until delivery of all required Documentation has occurred in accordance with the Contract.

**7.7** Upon delivery of the Supply, the Purchaser may, at its sole discretion, inspect the same or any part thereof at that time or at any time thereafter. If the Contract includes the carrying out of tests, then the Supply shall not be deemed complete until such tests have been passed to the satisfaction of the Purchaser.

**7.8** Any approval of a test by the Purchaser, any Purchaser inspection shall in no event relieve the Supplier from any liability nor imply the Purchaser's acceptance of the Supply.

## 8 DELAY

**8.1** Time is of the essence. Delivery must be done within the time schedule specified in the Contract. The date(s) or deadlines for the performance of the Supply specified in the Contract, are compulsory and shall constitute a substantial condition of the Contract.

**8.2** If the delivery of the Supply is likely to be delayed, the Supplier shall notify the Purchaser accordingly immediately in writing. The notification shall include the Supplier's proposal for acceleration of the progress to achieve the delivery date(s). Measures for expediting progress shall include the use of additional manpower and material, multiple shift and weekend work, premium means of transport (such as airfreight). The costs of the acceleration measures shall be borne by the Supplier, unless it is established that the Purchaser is responsible for the delay and shall specify in writing the measures it has adopted or proposes in order to minimize the consequences of such delay.

## 9 PENALTIES

**9.1** If the Supplier fails to comply with the dates or deadlines for the delivery of the Supply specified in the Contract, except for reasons attributable to the Purchaser, the latter is entitled to apply penalties, without prior notification, at the moment the date or deadline has been reached. Unless stipulated otherwise in the Contract, the penalties for delay shall be calculated at the rate of five per cent (5%) of the total price of the Contract exclusive of value added tax which delivery or performance is delayed exclusive per week's delay, limited to thirty per cent (30%) of the total price of the Contract exclusive of value added tax. Each started week gives rise to the application of penalties for the week in question. It is expressly agreed that the payment of such penalties shall give rise to an invoice from the Purchaser.

**9.2** Other penalties for performance can be provided in the Contract.

**9.3** The penalties are cumulative and deemed to be incentive and consequently are not exclusive of any remedy the Purchaser is entitled to under the Contract. These penalties do not constitute any waiver by the Purchaser of the right to terminate the Contract and/or to ask a compensation for any loss suffered.

## 10 ACCEPTANCE

**10.1** If the Contract provides for acceptance tests for the Supply after their completion and/or delivery to the Purchaser, and the Documentation having been delivered, according to the Purchaser's contractual requirements, the acceptance shall only be considered as definitive when such tests have demonstrated the compliance of the Supply to the requirements defined in Article 4. The tests report shall include the configuration of the elements being subject of the relevant test.

**10.2** Where the Contract provides for an acceptance procedure, at the end of such procedure, the Parties shall sign an acceptance certificate if they agree on the compliance of the Supply with the terms of the Contract and particularly with the requirements of Article 4. Such acceptance certificate shall be produced in two (2) originals. On the acceptance certificate issued by the Purchaser, the latter may list any reservations it might have on the Supply. The Supplier undertakes to remedy any non-compliances revealed in the certificate within the deadline that it is stipulated therein. In such case all or part of payment due upon acceptance date may be withheld by the Purchaser until it has been established by both Parties that the Supply is compliant.

**11 NON-COMPLIANCE – REJECTION**

**11.1** Whether or not the Contract provides for a specific acceptance procedure, non-compliance of the Supply to the Contract may entitle the Purchaser to refuse or reject such Supply, without prejudice to the Purchaser's right to claim for damages.

**11.2** In case of non-compliance the Purchaser reserves the right (i) to require the Supplier to replace or repair the Supply within the deadline laid down by the Purchaser, or (ii) to perform itself or have performed the said replacement or repair by a third party of its choice, in accordance with the provisions of this Article, or (iii) apply a rebate to the Supply, or (iv) to terminate the Contract in whole or in part in application of Article 21. In all cases, the whole of the costs and risks shall be borne by the Supplier. In the case defined above in item (ii), after Purchaser's notification to remedy the non-compliance addressed to the Supplier by registered letter which remained unfruitful for a fifteen (15) days-period, the Purchaser may choose to remedy the non-compliances by itself and/or to assign to a third-party company of its choice for the repairing or remedying, at the Supplier's cost and risks. The Supplier shall then facilitate the interventions of the Purchaser or third-party company and in particular remit to the Purchaser or third-party all the tools, drawings, studies and any other documents and associated intellectual property rights necessary for the Supply.

**12 TRANSFER OF TITLE– TRANSFER OF RISKS**

**12.1** Title to the Supply shall pass to the Purchaser free and clear of any liens, claims, encumbrances, interests or other rights as soon as they have been individualized and at the latest upon their actual delivery as specified under the Contract. If requested by the Purchaser to do so, the Supplier shall promptly execute any document certifying transfer of title. In case of any defect in title or encumbrance or lien, the Supplier shall promptly indemnify and defend the Purchaser against any and all claims in relation thereto and cause the discharge of any such encumbrance or lien.

**12.2** The risk of loss of or damage to the Supply shall pass from the Supplier to the Purchaser (i) upon the date of their acceptance if this is performed on the Purchaser's in accordance with the provisions of Article 10, or if not (ii) upon delivery of the Supply in compliance with the conditions defined in the Contract.

**13 PRICE – PAYMENT**

**13.1** The prices indicated in the Order shall be firm, definitive and not revisable for the term of the Contract. They shall be stipulated including of all taxes except value added tax.

**13.2** Unless otherwise stipulated in the Contract, the payment of the amounts due to the Supplier shall be made in US Dollars, as the currency of both the account and of payment.

**13.3** Unless otherwise stipulated in the Contract, the price shall include the delivery pursuant to the ICC Incoterms® 2020 provisions set out in Article 7.2.

**13.4** Invoices shall indicate the complete references of the Contract and shall be issued by the Supplier in accordance with the due dates stipulated in the Contract, subject to the complete performance by the Supplier of its corresponding obligations.

**13.5** The invoices issued by the Supplier shall be paid by the Purchaser within forty-five (45) days end of the month from the date of their issuance.

**13.6** As long as the Supplier has not fully fulfilled its obligations, the Purchaser is authorized to retain all or part of the corresponding payment of the price.

**13.7** Under conditions permitted by applicable law, the Purchaser is entitled to deduct from amounts due to the Supplier, any amount due by the Supplier under the Contract, especially in application of the provisions of Articles 6.3, 9, 10.2 and 16.1.

**13.8** In case of late payment by the Purchaser, the Supplier may apply penalties. The rate of interest applicable to such penalties shall be restricted to three times the local legal rate of interest. In addition to this penalty, Supplier will be entitled to obtain from Purchaser a recovery cost for an amount which is fixed by decree.

**14 CONFIDENTIALITY – CYBERSECURITY AND ACCESS TO THE PURCHASER'S IT SYSTEM**

**14.1** Confidentiality

**14.1.1** "Confidential Information" shall mean any information, including, but not limited to, data, business information, technical information, specifications, drawings, sketches, models, records, samples, tools, software and documentation, written, oral or otherwise and designated as being of a confidential nature by the Disclosing Party by an appropriate stamp, legend or marking, or by providing a written notification to that effect, or when they are disclosed orally or more generally in an unwritten manner, by identifying as confidential at the time of disclosure and by reducing it in writing or other tangible form and marking as confidential within one (1) month after disclosure, being agreed that within this period, information disclosed orally or in an unwritten manner shall be deemed to be a Confidential Information furnished by either Party to the other, in the frame of the Contract. Confidential Information shall remain the disclosing Party's property.

**14.1.2** All copies of such Confidential Information in written, graphic or other tangible form shall be returned to the disclosing Party upon request at any time or shall be otherwise disposed of as directed by the supplying Party.

**14.1.3** Each Party shall not at any time divulge, disclose or otherwise furnish to any third party any Confidential Information, except upon prior written authorization of the disclosing Party.

**14.1.4** Each Party shall reveal the Confidential Information only to its employees or subcontractors to whom disclosure is necessary for them to perform their duties, pursuant to the Contract. Each Party shall impose the above obligation of confidentiality on its employees and subcontractors.

**14.1.5** The foregoing obligations shall not apply, however, to any part of the Confidential Information which:

- was already obtained in good faith by the recipient Party prior to receipt hereof;
- was already in the public domain or became so through no fault of the recipient Party;
- was acquired by the recipient Party from a third party having the right to convey the Confidential Information to the recipient Party without any obligation of confidentiality not the disclosure the same;
- is independently developed by the recipient Party;
- is approved for release by prior written authorization by the owner of the Confidential Information;
- is obliged to be produced (after notice of the disclosing Party whenever it is possible) under applicable law or regulation including any order of a court jurisdiction or an arbitral award.

**14.1.6** The above confidentiality obligations shall survive for a period of five (5) years from the expiration or termination of the Contract for whatever reason.

**14.2** Cybersecurity

**14.2.1** The Supplier warrants that it is aware of applicable laws, regulations and industry standards relating to computer security, and especially those relating to computer hacking, to unlawful presence in a system, to the deliberate disruption of the system's operation, and to fraudulent use of the data, and undertakes that it will comply with such regulations. The Supplier particularly warrants and represents that he is properly audited and certified using current standards such as but not only ISO/IEC 27032:2012, ISO/IEC TR 27103:2018, ISO/IEC 27000, ISO/IEC 27001, ISO/IEC 27002, ISO/IEC 27005, IEC 62/444 and all relevant local laws and regulations concerning measures for a high common level of security of network and information systems across the European Union.

**14.2.2** The Supplier undertakes, with respect to all Purchaser's information, materials and data in respect of which the Supplier has custody or control for purposes connected with these GPC, the Contract and/or the Order(s); or which are accessed, transmitted or stored using or on the Supplier's information systems or equipment under these GPC, the Contract and/or the Order(s) ("Purchaser Data") to:

- (i) do all things that a reasonable and prudent entity would do to ensure that all Purchaser Data is protected at all times from unauthorised access or use by a third party or misuse, damage or destruction by any person;
- (ii) provide protective measures for the Purchaser Data that are no less rigorous than accepted industry standards and commensurate with the consequences and probability of unauthorised access to, or use, misuse or loss of, the Purchaser Data;
- (iii) comply with all security regulations or procedures or directions as specified in these GPC, the Contract and/or the Order(s).

**14.2.3** The Supplier undertakes, with respect to the Supply to implement a vulnerability management process organising the commitment from the Supplier to inform of the Purchaser of all vulnerability discovered by the Supplier or any third party on the Supply, during the warranty period as defined under Article 16.2.

**14.2.4** If the Supplier becomes aware of any actual or suspected:

- (i) action taken using computer networks that result in an actual or potentially adverse effect on the Supplier's information system and/or Purchaser Data residing on that system ("Cyber Incident"); or
- (ii) any other unauthorized access or use by a third party or misuse, damage or destruction by any person ("Other Incident"),

the Supplier shall:



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- (i) notify the Purchaser in writing immediately (and no longer than 12 hours after becoming aware of the Cyber Incident or Other Incident); and
- (ii) comply with any directions issued by the Purchaser in connection with the Cyber Incident or Other Incident, including in relation to:
  - a) notifying the relevant body, as required by the Purchaser;
  - b) obtaining evidence about how, when and by whom the Supplier's information system and/or the Purchaser Data has or may have been compromised, providing it to the Purchaser on request, and preserving and protecting that evidence for a period of up to twelve (12) months;
  - c) implementing any mitigation strategies to reduce the impact of the Cyber Incident or Other Incident or the likelihood or impact of any future similar incident; and
  - d) preserving and protecting Purchaser Data (including as necessary reverting to any backup or alternative site or taking other action to recover Purchaser Data).

**14.2.5** The Supplier shall ensure that (i) all subcontracts and other supply chain arrangements, which may allow or cause access to Purchaser Data, contain no provisions that are inconsistent with this Article; and (ii) all employees, Affiliates, contractors, sub-suppliers, vendors, sub-contractors, internet service provider, cloud service providers and all providers of the Supplier in relation with the scope of this Article 14.2 who have access to Purchaser Data comply with the provisions of this Article.

**14.2.6** Upon prior written request by the Purchaser, the Supplier undertakes to make available to the Purchaser all information and all assistance necessary to demonstrate compliance with the obligations laid down in this Article 14.2 and allow for and contribute to audits, including on-site inspections of the Supplier premises or of those of all its subcontractors or suppliers/providers, conducted by the Purchaser or a third party appointed by the Purchaser. It is noted that on-site inspections shall be limited to one (1) per year, and the Purchaser shall give notice to the Supplier of at least thirty (30) days prior to the beginning of any on-site inspection. Prior written notice of audit may not be given in case the audit is initiated by relevant authorities or in case occurred a Cyber Incident or Other Incident.

## **14.3 Access to the Purchaser's information system**

**14.3.1** For any access to the Purchaser's information system, and when authorized under the Contract, the Supplier shall comply (and shall procure its personnel to comply) with all the security conditions specific to the performance of the Contract, if applicable, such as the current conditions of access to the Site concerned and to the Purchaser's information system, which have been communicated in writing prior to any intervention.

**14.3.2** The Supplier is authorized by the Purchaser to access the Purchaser's information system only to the strict extent necessary to perform the Contract.

**14.3.3** The Supplier shall not use software or accesses means other than the ones provided and duly authorized by the Purchaser. The Supplier shall take all the necessary precautions so as to avoid the introduction of any malware or unsecure code into the software, updates, systems supplied to the Purchaser and shall adopt the appropriate measures if the existence of such a threat is demonstrated.

## **15 INTELLECTUAL PROPERTY**

### **15.1 Background**

**15.1.1 "Background"** shall mean any information, documentation, designs, technical drawings, software (system and application software), algorithms, elaborated design data, technical or industrial data, tools, knowledge, know-how, trade secrets, equipment and services process, methodology, and any intellectual property therein, regardless of their support and whether or not protected by an intellectual property right, developed, created or acquired by one Party independently of the execution of the Contract. The Background shall remain at all times the property of the said Party and its Affiliate(s).

**15.1.2** The Purchaser hereby grants a non-exclusive, non-assignable license, which is revocable at any time upon prior information of the Supplier, to Supplier to use any Background including drawings, specifications and other data provided or paid for by the Purchaser hereunder, for the sole purpose of performing the Contract.

**15.1.3** The Supplier grants to the Purchaser: 1) a fully paid-up, non-transferable, non-exclusive and worldwide license to use the Supplier's Background necessary to implement this Contract, including testing of the Supply; and 2) a fully paid-up, non-exclusive, worldwide, transferable license to use the Background necessary to use, manufacture, or have manufactured, commercialize, sell and maintain or have maintained the Supply.

### **15.2 Results**

**15.2.1 "Results"** shall mean any information, documentation, designs, technical drawings, software (system and application software), algorithms, elaborated design data, technical or industrial data, tools, knowledge, know-how, trade secrets, equipment and services process, methodology, and any intellectual property therein, regardless of their support and whether or not protected by an intellectual property right, developed, created or acquired by one Party during the execution of the Contract. The Results shall become the exclusive property of Purchaser as and when they are created or developed.

**15.2.2** The Supplier assigns to the Purchaser, on an exclusive basis, all intellectual property rights related to the Results, for the entire world and the entire term of protection of the Results

provided for in relevant present and future national or international conventions or treaties applicable to intellectual property.

**15.2.3** The Supplier agrees that the price stated in the Contract include the assignment of the ownership on all the intellectual property rights on the Results and of the relevant licenses on the intellectual property rights on the Background as provided above.

**15.2.4** More specifically, with respect to copyright associated with Results, the Supplier assigns to the Purchaser on an exclusive and worldwide basis, for the legal term thereof, all of the representation and reproduction rights, for any purposes and for all uses, direct or indirect. These rights shall notably include to the fullest extent: (a) the irrevocable right to reproduce, by any means, on any media (newspapers, internet, and digital media, etc.), (b) the right of identification and marking by any means, (c) the representation right by any means, (d) the right to correct, adapt, upgrade, enhance, modify, to augment or to create derivative works, and (e) the right to publish and commercially exploit. The rights thus assigned shall apply to any applications and may be assigned by the Purchaser to any third party of its choice.

**15.2.5** The Purchaser shall be solely entitled to decide to protect the Results, in whole or in part, in its own name or that of any Affiliates, without any consideration or compensation of any nature whatsoever being due to the Supplier in addition to the price stipulated in the Contract for the Supply in question.

**15.2.6** The Supplier specifically undertakes, on its own behalf or any of those involved for its part, such as, without this list being exhaustive, employees, representatives, agents, service-providers or sub-contractors, to perform all of the necessary formalities, where applicable, to cause the provisions of the present Article to become effective.

**15.2.7** For the sake of clarity, the expiration or termination of the Contract shall not affect the assignment of intellectual property rights on the existing Results at the time of expiration or termination.

**15.2.8** Except for any commercial advertising purpose, each party gives the other the authorisation to mention their respective names and logo(s) for communication purpose only about their business relationship existence considering the applicable branding. This reciprocal authorization includes the right to: Reproduce or represent or allow third parties to reproduce or represent the names and/or the logo(s) on any media including but not limited to paper, numerical support, Internet. For any other communication use, the Supplier's publications are subject to a prior written validation issued by the Purchaser's Brand Communication department. If either Party determines that a use by the other Party is not compliant, the Party publishing the offending medium undertakes to immediately withdraw it at the express request of the other Party.

### **15.3 Infringement**

**15.3.1** The Supplier represents and warrants that the Supply, and any material, design or any other works or information provided by or on behalf of Supplier in the frame of this Contract, including the use thereof, do not infringe any intellectual property right of a third party, and Supplier will defend, indemnify and hold harmless Purchaser and its affiliates from and against all claims and liabilities based on alleged or actual infringement thereof.

**15.3.2** The Supplier shall protect, defend, indemnify and hold the Purchaser harmless from and against any and all losses, costs, liabilities, claims, damages and expenses of every kind and nature, as incurred, resulting from or relating to or arising out of any claim, legal action or administrative proceedings, which may be brought by a third party against the Purchaser, on the basis of an infringement of patent, design, trademark, copyright or any other existing intellectual property right pertaining to the Supply.

**15.3.3** Should a claim or an action be brought against the Purchaser in the above-mentioned event, the Purchaser shall notify the Supplier accordingly, and said Supplier shall conduct these proceedings or respond to the claim at its own expense. The Purchaser shall, upon the Supplier's request and at the latter's own expense, provide the necessary reasonable assistance.

**15.3.4** Should an intellectual property right is constituting an infringement and be upheld by the courts, the Supplier shall, upon the Purchaser's request, modify or replace at its own expense the infringing item, provided that such amendment or replacement shall not affect the purpose, value, use or performance of the Supply.

### **15.4 Third Party Rights**

If either Party needs to use any element protected by an intellectual property right owned by a third party to implement its obligations under the Contract, this Party shall inform the other Party of the purpose and the extent of the third party rights and shall remain responsible vis-à-vis this third party. It will make sure using such element does not limit neither the rights assigned or licensed to the other Party by the Contract.

## **16 WARRANTY**

**16.1** In addition and without prejudice to all other warranties provided by the Supplier under the Contract or at law, the Supplier warrants that (i) the Supply will be new, of good and satisfactory quality and fit for the purposes for which they are intended, in strict conformity with all requirements of the Contract and legislation in force and free from any defect or lack of conformity in design (except to the extent the design is provided to the Supplier by the Purchaser and for which the Supplier disclaimed liability in writing), workmanship and material and (ii) the Purchaser shall enjoy absolute and unencumbered title to the Supply and any related materials.

**16.2** The Supplier's warranty does not include defects resulting from normal wear and tear on the Supply, usage not compliant with the associated documentation or negligence demonstrated by the Supplier attributable to the Purchaser or its staff.

**16.3** Unless the Contract provides otherwise, the contractual term of the warranty shall be twenty-four (24) months from the date on which the Purchaser's system, or set or product which incorporate the Supply is put into commercial service, and thirty-six (36) months as a maximum from the delivery of the Supply pursuant to the applicable Incoterms®. During the warranty period, the Supplier shall implement all necessary actions to mitigate the consequences of any non-conformity notified to it by the Purchaser, at the Supplier's expense and within a period not exceeding two (2) business days as from the written notification sent by the Purchaser. To this end, it shall apply the most appropriate solution after the Purchaser has consented thereto. The Supplier shall remedy the non-conformity, at its expense, within the timeframe set by the Purchaser. The Supplier shall also cover the costs relating to the logistics, disassembly and installation of the Supply. Any replacement or repair, even partial, of the Supply affected by a defect shall give rise to the application of a new warranty period covering the Supply concerned for a period of twenty-four (24) months from the date of the repair or replacement.

**16.4** Any and all costs relating to the implementation of the warranty obligations of the Supplier as well as those relating to the corrective and remedial actions taken by the Purchaser in relation to the defect shall be borne by the Supplier. Said costs shall include, without limitation, logistics costs as well as the costs relating to the removal and mounting of the Supply.

## **17 LIABILITY**

**17.1** If a failure, resulting from an action or omission of one of the Parties, its agents or representatives or sub-contractors, to perform one or more of its obligation under the Contract gives rise to damages or a loss to the other Party, such damages or losses shall be recoverable from the defaulting Party.

**17.2** Notwithstanding the foregoing, neither Party shall be liable to the other for any indirect damages.

## **18 INSURANCE**

**18.1** The Supplier shall obtain and keep in full force and effect, with a solid insurance company, during the term of the Contract and for at least five (5) years thereafter, the necessary insurance policies to cover the risks and liabilities to which it is subject, pursuant to both the applicable law and regulation and its contractual commitments. In particular:

- it shall include a public and product liability insurance policy for an amount sufficient to cover the financial consequences of any bodily, material or immaterial damages.
- if the Contract is concluded for design services only, the Supplier shall take out a professional liability insurance policy.

**18.2** Prior to the Contract, the Supplier shall produce up-to-date insurance certificates, issued by its insurance company, indicating the reference number and the effective date of the insurance policy, the cover provided, the amounts and deductibles, sub-limits, activities, nature of the work or assignments covered. The Supplier shall also provide the evidence that it is up to date with payment of the premiums.

**18.3** In case of a multi-year insurance policy, the Supplier shall produce the above-mentioned certificate(s) every year on the renewal date of its insurance policy.

**18.4** The provision of proof of the required insurance does not in any way restrict or limit the liability of the Supplier towards the Purchaser as may be outlined in the liability provision of the Contract.

**18.5** The Supplier shall in particular be insured, if applicable, against:

- damage to the Supplies located in the factory or in any other location of the storage, assembly and/or test location, naming the Purchaser as additional Insured during performance of the Contract,
- damage to the Supply covered by the Contract being transported from the loading of the Supply until their final destination, including during temporary storage, up to 110% of its replacement value,
- damage needed to be covered by an insurance such as:
  - ten years guarantee, damage caused by its vehicles or those rented that it uses to perform the Contract (on public roads or on private property), in accordance with current legal clauses;
  - damage suffered by its personnel.

**18.6** It shall also take out, as required, the insurance necessary to cover damage caused by its construction machinery or rented, fixed or mobile machinery that it is using to perform the Contract.

**18.7** The Supplier shall impose equivalent obligations to its subsidiaries, parent or related companies, partners, assignees or subcontractors.

**18.8** Furthermore, the Supplier and its subcontractors shall insure their own equipment, whether they are owners, renters or custodians of the said equipment. The Supplier and its insurers waive all rights and remedies against the Purchaser and its own insurers. The Supplier shall notify the Purchaser of any modification affecting its insurance policies, as well as any event likely to cause the suspension or termination of the policies subscribed to if such change is likely to affect the Supplier's obligations.

## **19 FORCE MAJEURE**

**19.1** "Force Majeure" shall mean any event or circumstance, which (i) is beyond the reasonable control of the Party affected thereby, (ii) could not reasonably have been foreseen at the date of the Contract, and (iii) the affected Party, acting and having acted with all due diligence, could not have prevented, mitigated or overcome; including among others and subject to the conditions set out herein, war, revolution, riots, epidemic, earthquake, terrorist acts or national strikes. For the avoidance of doubt, factory unrest and employee strikes of any kind (except as expressly stated above), as well as production bottlenecks, the lack of the required import/export licenses or import/export authorizations of the authorities lack of qualified personnel, lack of material, or financial problems on the part of the affected Party shall not be deemed to be Force Majeure events.

**19.2** The Party affected by a Force Majeure Event shall immediately inform the other Party in writing and shall take all reasonable steps to mitigate the consequences of such situation, in particular to avoid or limit possible delay and additional costs in the performance of the Supply.

**19.3** The Supplier shall not be entitled to seek Force Majeure relief under the Contract and/or the Order(s) on behalf of its own suppliers and/or subcontractors delays, unless the cause for such delays meets the criteria defined in Article 19.1.

**19.4** During any Force Majeure event affecting Supplier's performance, Purchaser may, at its option, purchase the Supply from other sources and reduce its delivery schedules to Supplier by such quantities, without liability to the Supplier, or require the Supplier to provide the Supply from other sources in quantities and at times requested by the Purchaser at the price set forth in the Contract.

**19.5** If the Force Majeure event lasts more than thirty (30) days from the notification from the Party suffering from Force Majeure to the other Party, both Parties shall meet to determine the conditions of the implementation or the termination of the Contract.

## **20 UNFORESEEABILITY**

Taking into account the period of negotiations preceding the conclusion of the Contract which has enabled each of the Parties to commit in full knowledge on the terms of the Contract, the Supplier and the Purchaser, expressly waive to apply the provisions of Panamanian Law relating to the unforeseeability. Each Party therefore undertakes to assume its obligations and accept to bear all risks and consequence of any change of unforeseeable circumstances arising during the performance of the Contract which have rendered its performance more onerous than could reasonably have been anticipated at the time of the coming into force of the Contract.

## **21 SUSPENSION – TERMINATION**

### **21.1 Suspension**

**21.1.1** The Purchaser may suspend the performance of the Contract at any time through notification made by registered letter with acknowledgement of receipt sent to the Supplier. If and to the extent that the suspension exceeds three (3) months, the Supplier may claim compensation that shall be restricted to the additional reasonable and documented expenditure that has been directly caused by the suspension.

### **21.2 Termination**

**21.2.1** Either of the Parties may terminate the Contract as of right, without prejudice to the exercise of its other rights and remedies, in the following cases:

- Suspension pursuant to Article 21.1 for more than three (3) consecutive months starting from the date of notification by Purchaser;
- If an event of force majeure occurs that is of such a nature as to delay the performance of the Contract by more than three (3) months, without further formality other than the dispatch to the other Party of registered letter with acknowledgement of receipt; or
- The other Party fails in any of its obligations under the Contract and shall not have remedied this default within fifteen (15) days following receipt of a notification sent by registered letter with acknowledgement of receipt from the non-defaulting Party.

**21.2.2** The Purchaser may terminate all or any part of the Contract, for convenience at any time by giving a sufficient prior written notice, merely by sending a registered letter with acknowledgement of receipt to the Supplier.

**21.2.3** In the circumstances covered in Article 21.2.2, the Purchaser will pay to Supplier only the following non-cumulative amounts (a) the contract price for all Supply that have been completed in accordance with the Contract with deduction of all amounts already paid; and (b) the actual, direct, reasonable and justified costs of work-in-process and raw materials incurred by Supplier in furnishing the Supply under the Contract until the termination thereof, to the extent such costs are duly documented, reasonable in amount and are properly allocable or apportionable under generally accepted accounting principles to the terminated portion of the Contract and that the Supplier has otherwise no other means of avoiding or recovering them. In no case may this compensation exceed the amount of the Contract.

**21.2.4** The Supplier shall introduce into its own orders or sub-contracting contracts linked to the Contract, similar provisions to those contained above in order to minimize the potential financial impact of the application thereof.

## **22 REVERSIBILITY**

In case of termination or expiration of the Contract, at the Purchaser's request, the Supplier shall ensure the reversibility of the Supply performed within the context of the Contract in compliance with the reversibility plan described in the Contract by in particular implementing all material, logistic and human resources. The objective is to allow the Purchaser to pursue and/or have a third party of its choice which shall pursue the Supply in whole or in part, provided that the continuity of the Supply shall be maintained within the context of the Contract without impacting their quality.

This reversibility plan is drafted and proposed by the Supplier and subject to the Purchaser's approval. The reversibility plan shall be mutually agreed by the Parties. The Supplier shall ensure the technical training and transfer of skills in order the Purchaser shall pursue the Supply. The Supplier shall support the Purchaser by obtaining necessary information, knowhow and skills in order to pursue the Supply.

### 23 TAXES AND DUTIES

**23.1** The Supplier shall be responsible for the payment of all taxes, duties and levies of any kind for which it may be liable due to the Supply.

**23.2** The Purchaser shall have the right to deduct from the payments due to the Supplier under the terms of the Contract, any taxes or levies, and similar charges if the Supplier fails to remit to the Purchaser the necessary certificates covering exemption from such deductions.

### 24 ASSIGNMENT AND SUB-CONTRACTING

**24.1** The Purchaser may assign the Contract or any part thereof to any Affiliates upon written notice to the Supplier. Under no circumstances may Supplier transfer, assign or delegate, in whole or in part, any of its rights or obligations under the Contract (including, without limitation, any right of payment), whether directly or indirectly, nor by merger, acquisition or contribution to a joint venture, or otherwise without Purchaser's prior written consent.

**24.2** Supplier will not subcontract any of its obligations under the Contract without the prior written consent of Purchaser. Any such consent of Purchaser will not release Supplier from, or limit, any of Supplier's obligations under the Contract. Supplier warrants and guarantees that any such subcontractor's performance will satisfy all requirements applicable to Supplier under the Contract, and the Supplier undertakes to be responsible for the acts or omissions of any sub-suppliers and/or subcontractors of any tier, its agents or employees, as if they were the acts or omissions of the Supplier. The Supplier shall ensure similar restrictions are cascaded to its sub-suppliers and/or subcontractors.

### 25 CHANGE OF CONTROL

**25.1 "Change of Control"** shall mean the acquisition by a third party of direct or indirect control of the Supplier. A third party shall be deemed to control the Supplier if it, directly or indirectly:

- (i) holds a majority of the voting rights in the Supplier;
- (ii) has the right to appoint or remove a majority of the Supplier's board of directors, supervisory board, or any other body in charge of or controlling the management of the Supplier; or
- (iii) has the right to exercise a dominant or decisive influence over the Supplier.

**25.2** In the event a Change of Control of the Supplier is envisaged, the Supplier shall:

- (i) promptly give Purchaser prior written notice of such event identifying the potential investor/acquiring party, the contemplated modification in the share capital composition, or any other change;
- (ii) provide any relevant information to Purchaser during the Change of Control process; and
- (iii) Provide the Purchaser the commitments taken by the acquiring Party to ensure the proper execution of the Contract and to commit to indemnify the Purchaser of all negative changes which could occur from this Change of Control.

**25.3** The Purchaser may terminate the Contract in case of a Change of Control or a merger involving the Supplier, through absorption by a third company, creation of a new company, demerger, partial asset transfer or any other operation involving integration or restructuring, agreement, subject to giving prior written notice of one (1) month to the Supplier.

### 26 COMPLIANCE WITH LAWS AND REGULATIONS

The Supplier shall comply with all laws, rules, regulations and/or standards of the country of destination applicable to the Supply and in particular with the following obligations as set forth in this Article 26 which are essential obligations to the GPC, the Contract and/or the Order:

#### 26.1 Legal and Ethical Compliance

The Purchaser requires its suppliers and contractors to strictly comply with all applicable legal requirements relating to their activities and business environment and the Supplier/Contractor agrees to comply therewith.

##### 26.1.1 Ethics and Sustainable Development Charter

The Supplier hereby acknowledges having read and having full knowledge of Alstom's Ethics and Sustainable Development Charter set out by the Purchaser and incorporated into this agreement by reference and available on the Alstom web site at the following address: <http://www.alstom.com/fr/engagements/ethique>

Supplier agrees to comply with their provisions, and to ensure, when applicable, that each entity of the group it belongs to and any of its vendors, suppliers or subcontractors will comply with such provisions.

##### 26.1.2 Vigilance Plan

The Supplier shall provide the Purchaser with an assessment delivered by a qualified body reasonably acceptable to the Purchaser, evaluating Supplier's Corporate Social Responsibility risks. The Supplier undertakes to implement the necessary preventive corrective and remedial actions and warrants to maintain in place, throughout the term of the Contract and/or the Order(s), risk assessment and prevention improvement plans aiming at preventing serious violations with respect to human rights and fundamental freedoms, health and safety of persons and the protection of the environment.

#### 26.2 Corruption

**26.2.1** The Purchaser prohibits all unlawful payments and practices and is fully committed to the elimination of corruption in its business transactions. In addition, the Purchaser prohibits facilitation payments. The Supplier shall comply with all applicable laws and regulations on corruption, bribery, unlawful business activities and extortion. The Supplier shall never make or approve an unlawful payment to anyone under any circumstances.

**26.2.2** The Supplier warrants that it has not directly or indirectly paid any commission, fees or granted any rebates to any third party, employees of the Purchaser, or made any gifts, entertainment or any other non-monetary favours or other arrangements in violation of Alstom policy or the law.

**26.2.3** Any breach of this Article shall be considered to be a material breach.

**26.2.4** The Supplier shall indemnify and hold harmless the Purchaser, its affiliates, officers, employees or agents, from and against all liabilities, claims, expenses, loss and/or damage arising out of or in connection with Supplier's breach of its obligations and/or warranties under this Article, without prejudice to any other rights or remedies the Purchaser may have, at law, under contract or otherwise.

#### 26.3 Audit Rights

In the event of suspected corruption, the Supplier shall permit Alstom's authorized accounting representative to inspect the Supplier's accounts and records relating to the services provided or to this Agreement. The Supplier's obligation to allow inspection of its accounts and records shall continue for a period of 2 years after the expiration of this Agreement.

#### 26.4 Conflicts of interest

The Purchaser expects the Supplier to identify and avoid situations where there is an actual or potential conflict of interest and the Supplier agrees to comply therewith. The Supplier must disclose any actual or potential conflict of interest. The Purchaser employees are prohibited from accepting kickbacks or bribes of any form.

#### 26.5 Gifts and Hospitality

Purchaser's policy limits its employees' ability to accept gifts and hospitality. Gifts and hospitality are acceptable only if they are of reasonable, modest and symbolic value, occasional, transparent, and can be reciprocated. The Purchaser expects the Supplier to refrain offering gifts and hospitality to the Purchaser employees and will refuse all gifts and hospitality that would not correspond to those criteria.

#### 26.6 Export control and trade sanctions

**26.6.1** In performing its obligations hereunder, the Supplier shall comply with all applicable trade sanctions regulations, or similar requirements establishing export controls on goods, services, software, or technology. Such regulations include without limitation: (i) the U.S. Export Administration Regulations (EAR) which are administered by the U.S. Department of Commerce's Bureau of Industry and Security (BIS), the European Council Regulation 428/2009 (as amended) and (ii) the economic sanctions implemented by the U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC), the EU, the French Republic, the Office of Financial Sanctions Implementation of Her Majesty's Treasury - United Kingdom (UKHMT OFSI) and/or the Hong-Kong Monetary Authority (HKMA) and any applicable local law.

**26.6.2** The Supplier represents and warrants that neither itself and its board of directors nor any of its parent companies, shareholders with a legal or de facto controlling interest (i) is a sanctioned person (i.e., listed by a sanctions authority with jurisdiction over any of the Parties); (ii) is violating any sanctions regulations and orders to the extent that they are applicable to its business, dealing and activities. In the event of a change of situation, the Supplier shall inform the Purchaser by written notice without delay and the Purchaser may, at its option, suspend and/or terminate the Contract with immediate effect upon written notice to the Supplier. The latter agrees to irrevocably waive any and all claims against the Purchaser arising from the suspension or termination of obligations pursuant to a sanctions event.

**26.6.3** The Supplier shall be responsible for obtaining any required authorizations for exports or re-exports as defined in such laws, regulations and orders.

**26.6.4** The Supplier shall provide the Purchaser, upon the latter's prior request, with a certificate of compliance confirming acknowledgement of and compliance with the applicable export control regulations. The Supplier is responsible for the accuracy of the delivered information for all supplied articles.

#### 26.7 Data Privacy

**26.7.1** Each Party undertakes to comply with the regulations in force applicable to the processing of personal data and, in particular, the provisions of Act No. 78-17 of 6 January 1978 as amended and the GDPR (REGULATION (EU) 2016/679 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 27 April 2016 on the protection of individuals with



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regard to the processing of personal data and on the free movement of such data and repealing Directive 95/46/EC), hereinafter together referred to as the “Data Regulations”.

**26.7.2** In accordance with the Data Regulations, the processing of personal data is highly regulated.

**26.7.3** As a result, the Purchaser requires the Supplier to comply with this regulation. The same is true for their possible subcontractors throughout the Contract.

**26.7.4** Each Party thus remains responsible for the databases containing the personal data it has collected on its own behalf and undertakes to comply with the Data Regulations.

**26.7.5** Within the framework of the Contract, each Party shall be informed that personal data collected by the other Party may be processed, whether or not by automatic means, on which each Party acts as data controller. As such, data subjects concerned by such processing may exercise their rights regarding their personal data within the limits of the Data Regulations. The purpose of data processing is the management and monitoring of the performance of the Contract, commercial relationships and communication on the Parties’ activities. Any breach of this data may therefore be considered as a serious breach, which will entitle the Purchaser to terminate the Contract as per Article 21.2.1 to the detriment of the Supplier, given the seriousness of the breach of their privacy and the heavy penalties imposed by the Data Regulations.

## **26.8 Environment, health and safety**

**26.8.1** The Supplier and its staff (and/or any sub-supplier and/or subcontractor) shall comply with the laws and regulations in force related to protection of the environment, the health and safety instructions applicable to the Supply performed pursuant to the Contract and especially, if appropriate, to the Supply performed on any Site by a third company.

**26.8.2** The Supplier and its staff (and/or any sub-supplier and/or subcontractor) shall also comply with the internal rules at the Purchaser and/or third parties site(s) where it may have to work for the purpose of performance of the Contract including EHS rules and requirements, as applicable. In case of conflict between different EHS requirements, the most stringent standard shall apply.

**26.8.3** In the event of presence or activity of the Supplier (and/or any sub-supplier and/or subcontractor) on any Purchaser and/or third parties Site, the Supplier, and any sub-supplier and/or subcontractor, as the case may be, the Supplier shall ensure appropriate personnel training and qualification and submit any proof relating to such qualification upon Purchaser’s request. Additionally, the Supplier shall consider any hazards associated with Site conditions, installations and/or machinery nearby. More generally, Supplier shall, at all times, comply with the Purchaser and/or third parties internal rules, including EHS rules and requirements, as applicable. In case of conflict between different EHS requirements, the most stringent standard shall apply.

**26.8.4** If the Supplier’s staff (and/or any sub-supplier and/or subcontractor) fail to comply with any of the laws, regulation and/or internal rules mentioned under this Article 26.8, the Purchaser is entitled to apply to the Supplier, penalties which in no case shall be considered as liquidated damages and without any prior official notification, corresponding to six thousand US dollars (6 000 USD) per event, to be paid in local currency, converted on the payment date, without prejudice (i) to the possibility for the Purchaser to ask for the replacement of its staff member or the staff member of its sub-supplier and/or subcontractor, responsible of the breach, and/or (ii) to the possibility for the Purchaser to terminate the Contract for Supplier’s default or to ask for the Supplier to terminate its sub-suppliers and/or subcontractors contracts, and/or (iii) for the Supplier to indemnify and hold harmless the Purchaser, its affiliates, officers, employees and agents against any and all liabilities, claims, expenses, loss and/or damage which may arise as a result of the breach of its obligations and/or warranties under this Article 26.8, with no limits in case of death, bodily injury, or damages to property.

**26.8.5** The Purchaser must take all appropriate measures to ensure the safety and security as well as the physical and mental health of all employees present on its premises. The Supplier shall, in its role as an employer, also cooperate with the Purchaser for the proper implementation of these measures.

**26.8.6** The Supplier shall be fully responsible and commits to take all necessary measures ensuring the safety and security as well as the physical and mental health of all its employees who could have to travel in whatever country for the proper execution by the supplier of its obligations as set out under the Contract.

## **26.9 Illicit employment**

**26.9.1** The Supplier shall comply with all relevant labour legislation and shall pay all its staff-related social charges. Supplier’s obligations set forth in this Article 26.9 are essential obligations to the Contract. In accordance with the laws and regulations in force, the Supplier shall submit to the Purchaser, as soon as the Contract becomes effective and with the frequency imposed by said laws and regulations, the corresponding certificates and any additional document, in due time which may be required by the Purchaser in order for the Purchaser to fulfil its own regulatory obligations.

**26.9.2** In particular, as soon as the Contract becomes effective within the meaning of Article 3 above and every six (6) months thereafter until full performance of its obligations under the Contract, the Supplier shall provide to the Purchaser the following documents:

- (i) A certificate of incorporation or any other equivalent evidence of registration);

- (ii) A vigilance clearance certificate delivered by the competent welfare institution certifying that Supplier has paid all social charges as well as proof of its authenticity; and

- (iii) A certificate of tax payment;

**26.9.3** The Supplier shall be responsible for matters of scheduling and staff and agrees to comply with labour legislation especially that concerning working hours, rest periods and annual or other leave and shall be responsible for paying all the social security or analogous contributions relating to its staff.

## **26.10 Hazardous substances**

**26.10.1** The Supplier undertakes to strictly comply with all applicable laws and regulations on hazardous substances, at the place of origin and at any temporary and final destination of the Supply or any part thereof pursuant to the Contract, including Regulation (EC) No 1907/2006 (“REACH”) as it may be amended from time to time.

**26.10.2** As such, the Supplier acknowledges having read and being fully aware of the “Instruction to Suppliers concerning the placing on the market and use of hazardous substances” adopted by the Purchaser and currently in force which is available on Alstom Supplier Portal at the following address: <http://www.alstom.com/supplier-portal/>. The Supplier further undertakes to respect the principles thereof and represents and warrants that the Supply to be supplied to the Purchaser shall not include any hazardous substances, elements or waste of any kind that are prohibited by law or regulation at the place of origin and/or any temporary and/or final destination of the Supply or any part thereof pursuant to the Contract.

**26.10.3** The Supplier represents and warrants that it shall not in the course of any activity arising in connection with the Contract, and unless a dispensation is granted by the Purchaser, cause any of the Purchaser’s employees or representatives or any third party authorized by the Purchaser to act on its behalf to be exposed to any such hazardous substances, elements or waste as specified in Article 26.10 above, whether at the Supplier’s premises, workshop, manufacturing sites or at any other location.

**26.10.4** The Supplier shall provide the Purchaser in writing with all indications, instructions, warnings and other necessary data in order to comply with the legislative or regulatory provisions applicable for health and safety considerations.

**26.10.5** Any Supply which does not comply with all of the requirements of this Article shall be considered to be defective.

## **26.11 Conflict Minerals**

**26.11.1** The Supplier certifies to the Purchaser that there are no conflict minerals present in the Supply and;

**26.11.2** The Supplier shall submit with each shipment made against a purchase order a separate certification that includes (1) a statement that the Supplier has taken responsible steps to ensure that the Supply being provided does not contain conflict minerals and (2) the name of the country of origin and the name of the smelter from which the minerals were mined and (3) a statement that the materials furnished are in conformance with the applicable law or regulations.

**26.12** Upon prior written request by the Purchaser, the Supplier undertakes to make available to the Purchaser all information and all assistance necessary to demonstrate compliance with the obligations laid down in this Article 26 and allow for and contribute to audits, including on-site inspections, conducted by the Purchaser or a third party appointed by the Purchaser. It is noted that on-site inspections shall be limited to one (1) per year, and the Purchaser shall give notice to the Supplier of at least thirty (30) days prior to the beginning of any on-site inspection. Prior written notice of audit may not be given in case the audit is initiated by relevant authorities or in case of (i) Purchaser’s employee and/or agents exposure to hazardous substances; (ii) failure to provide the Purchaser with the information listed in Article 26.6.

**26.13** The Supplier shall indemnify, hold harmless and defend the Purchaser, its officers, directors, employees or insurers from and against any and all claims, losses, liabilities, suits, judgements, expenses and costs (including attorney fees) or the like arising out of or in connection with the Supplier’s breach of its obligations and/or warranties under this Article 26, without prejudice to any other rights or remedies the Purchaser may have, at law, under contract or otherwise.

## **27 APPLICABLE LAW – LITIGATION**

**27.1** The Contract shall be subject to Panamanian law.

**27.2** The Parties shall use their best efforts to settle amicably any dispute arising out of or in connection with the Contract. If no amicable settlement is reached between the Parties within thirty (30) days from the date of notification of the dispute by one Party to the other, then the dispute arising out of or in connection with the Contract shall be settled by the International Chamber of Commerce (ICC) according to the Panamanian arbitration law notwithstanding plurality of defendants or calls in guarantee and this shall include the case of any emergency injunction..

**27.3** Application to the Contract of the United Nations Convention on contracts for the international sale of goods, signed in Vienna in 1980 is expressly excluded.

## ANNEX A- SPECIFIC ARTICLES APPLICABLE TO IT SERVICES

The purpose of this Annex is to amend or supplement the common articles of the Alstom's General Purchase Conditions for Indirect supply (hereinafter the "GPC") by outlining the specific articles (hereinafter the "Specific Articles") applicable to information technology services. Capitalized terms used in this Specific Articles shall have the meanings set forth in the GPC, unless otherwise defined in the context of the provision.

### ARTICLE A1. PERFORMANCE OF THE CONTRACT

In addition to Article 4 of the GPC, it is specified that:

**A.1.1.** Unless stipulated otherwise in the Contract, the Supplier shall Supply all the Goods and perform the Services (both hereinafter the "IT Services") necessary for the delivery of the IT solution described in the Contract.

**A.1.2.** For the purpose of this Specific Articles, "Goods" shall mean any goods, equipment, accessories, tools (including but not limited to any raw materials and components of any of the foregoing) and, designs, documentation, standard software, standard firmware, hardware to be purchased by Purchaser pursuant to the Contract. Where the Goods comprise or include standard software (either standard software or standard firmware items hereinafter called "Software"), terms and conditions applicable to such Software shall be attached as an appendix to the Contract and shall be applicable, but submitted to, this Specific Articles; "Services" shall mean any services provided by the Supplier pursuant to this Contract, including continuous services, software services, system integration services, software specific developments, software adaptation, parameterization, installation, maintenance, product support, consultancy, training and other professional services as defined in the Contract.

**A.1.3.** In addition to the services, functions, responsibilities and tasks expressly described in the scope of services or other detailed description of the IT Services under the Contract, the following are deemed to be included in such IT Services as if expressly described therein:

**A.1.3.1.** services, functions, responsibilities and tasks that are reasonably required for, or incidental to, the proper performance and provision of the expressly described IT Services or are otherwise customarily performed by providers of the expressly described IT Services; and

**A.1.3.2.** communication and coordination of efforts by and among Supplier' staff as required to perform such services, functions, responsibilities and tasks pursuant to a Contract.

In that respect, the Purchaser entrusts the Supplier, within the framework of an obligation of result, with delivery of the IT Services as defined in the Contract, and including the delivery of the IT Services in full respect with the time schedule and the budget,

**A.1.4.** The delivery of the Goods and the performance of the Services relating to the IT Services are indivisible in the sense that they are linked such that none of the Goods or Services taken alone is of any use to the Purchaser.

**A.1.5.** All the costs related to the delivery of the IT Services are included in the prices and the Supplier must, at its own risk and expense, supply and bring on the delivery site the Goods included in the Contract, the equipment, tools, and, generally, fulfil all the services necessary for the performance and completion of the IT Services.

**A.1.6.** If any training is part of the Contract, it should enable the Purchaser' staff to acquire full control over the operation of the entire IT Services.

**A.1.7.** Unless otherwise agreed in the Contract, the Supplier shall not, without the prior written consent of the Purchaser, include any third-party software (including open source software) in the IT Services. At the request of the Purchaser, the Supplier shall provide the information on the third-party software included in the IT Services. The third-party software shall be considered part of the IT Services hereunder and the Supplier shall be liable for third-party software included in the IT Services as for its own performance under any terms and conditions agreed upon between the Parties. The Supplier shall at all times comply with the license terms of any third-party software used as part of the IT Services.

**A.1.8.** The Supplier ensures the management, control and coordination of the IT Services. As such, the Supplier undertakes in particular to:

**A.1.8.1.** Respect deadlines and contractual commitments;

**A.1.8.2.** Have and maintain the skills necessary to perform the IT Services. In particular, appoint and maintain a competent and available project manager to manage the execution of the Contract;

**A.1.8.3.** Present qualities of flexibility, reactivity and proactivity throughout the duration of the Contract;

**A.1.8.4.** Present to the Steering Committee a report on the progress of the IT Services;

**A.1.8.5.** Manage and coordinate the performance of the IT Services for the full performance of the Contract and guarantee the Purchaser against any difficulty related to the IT Services;

**A.1.8.6.** Advise and / or take measures to meet the needs expressed in writing by the Purchaser;

**A.1.8.7.** Check compliance with the Purchaser's quality expectations;

**A.1.8.8.** Respect the firm and final price appearing in the Contract;

**A.1.8.9.** Carry out the IT Services (i) in accordance with the Contract, (ii) in accordance with the rules of the art, (iii) in compliance with the specifications and procedures set out

in the Contract and (iv) in compliance with all local laws and regulations applicable to the IT Services;

**A.1.8.10.** Guarantee the proper performance of the Contract and a level of quality in accordance with that provided for in the Contract, particularly in terms of performance, availability, safety and volume;

**A.1.8.11.** Define and implement the processes and means necessary to ensure the full execution of the Contract;

**A.1.8.12.** Ensure that the IT Services, including the Documentation, is delivered according to the schedule set between the Parties;

**A.1.8.13.** Establish the detailed functional and technical specifications of the IT Services;

**A.1.8.14.** Ensure the installation of the standard software and its configuration as defined in the Contract;

**A.1.8.15.** Ensure the data migration plan and carry out the recovery of data provided by the Purchaser;

**A.1.8.16.** Carry out specific developments, adaptations, unit tests and integration into the Purchaser's information system;

**A.1.8.17.** Ensure the recommendation of the materials necessary for the implementation of the technical architecture for development, test and production configurations, and on the Purchaser sites;

**A.1.8.18.** Recommend the computer and telecommunications network adapted to the Contract;

**A.1.8.19.** Install the IT Services and ensure its operational start-up;

**A.1.8.20.** Ensure the coexistence and integration of the IT Services into the Purchaser information system,

**A.1.8.21.** Ensure the training of the team designated by the Purchaser and the transfer of skills;

**A.1.8.22.** Provide the contractually agreed deliverables.

**A.1.8.23.** Provide the Purchaser with IT Services in accordance with its needs expressed in the Contract, in particular in terms of security, service levels, performance and availability of the IT Services;

**A.1.8.24.** Prepare and communicate to the Purchaser, within the contractual deadlines, all reports, statistics and scheduled reports;

**A.1.8.25.** Ensure a permanent adequacy of the level of quality of service to the real needs of the Purchaser and their evolutions, particularly in terms of volume;

**A.1.8.26.** Except in cases of force majeure and cases provided for by contract, not suspend or interrupt the execution of the Contract under any pretext, the quality and continuity of service prevailing over any other consideration;

**A.1.8.27.** Take responsibility for all risks, particularly financial risks linked to the intervention of its own suppliers and subcontractors;

**A.1.8.28.** Dialogue with third party suppliers involved in the scope of the Contract and designated by the Purchaser;

**A.1.8.29.** Communicate to the Purchaser with regard to his field of intervention, all the difficulties that he observes and / or of which he could take the measure with regard to his experience, as and when the Contract is executed, in order to allow them to be taken into account as quickly as possible, thus contributing to the success of the whole.

**A.1.9.** In addition, the Supplier undertakes to:

**A.1.9.1.** Make every effort, in the event of difficulties, to demonstrate maximum responsiveness, particularly in terms of human, material and economic resources.

**A.1.9.2.** Assign all human resources with the necessary skills to perform the Contract in sufficient numbers to ensure that the contractual objectives are achieved, and the contractual deadlines respected.

**A.1.9.3.** Make sure that its employees are aware of and apply the health and safety rules in force within the Purchaser's premises in the event that they are required to move to these premises.

**A.1.9.4.** Implement to ensure the execution of the Contract a common methodology that is serious, professional and efficient, in particular with regard to project management.

**A.1.9.5.** To comply with the technical requirements and the levels of service desired by the Purchaser and provided for in the Contract.

**A.1.9.6.** Ensure, under its sole responsibility, the management of all the necessary technical environments until the end of the deployment of the IT Services;

**A.1.9.7.** Communicate to the Purchaser all the information and data useful for the proper performance by the latter of its contractual obligations.

### ARTICLE A2. ADVICE

In addition to the GPC, it is specified that:

**A.2.1.** The Supplier guarantees to be an experienced professional in the IT field. The Supplier, in his capacity as a professional specialist in the field, will give the Purchaser all the advice and useful information, send him any warnings about the risks of any kind related to the execution of the Contract.

**A.2.2.** The Supplier must provide Purchaser with all the necessary advice, warnings and recommendations, with regard to the potential limits of its IT Services.



**A.2.3.** The Supplier must indicate the conditions of compatibility of the IT Services with any other existing Purchaser IT system to which it must integrate, and at Purchaser's request with any future system, whether or not it is supplied by the Supplier.

**A.2.4.** In any event, the Supplier expressly acknowledges having a duty to alert Purchaser for the smooth running of the performance of the Contract. In the event of slippage, it must immediately trigger exceptional meetings of the Steering Committee. At the end of these meetings, the Parties may decide to put in place any palliative measure so as to avoid any slippage in the performance of the Contract, both in terms of schedule and in terms of compliance with quality of service levels.

**ARTICLE A3. ACCEPTANCE**

The acceptance procedure defined below will apply to the IT Services and will supersede the acceptance process as specified in the GPC.

**A.3.1.** The details of the acceptance procedures will be defined by the Purchaser at least two months before the contractual delivery date of the IT Services and will contain, at a minimum, the following operations.

**A.3.1.1. Supply of test sets**

Within a period to be set by mutual agreement between the Parties before the date provided for in the schedule provided in the Contract for the launch of the acceptance procedure, Purchaser provides the Supplier with test sets enabling the expected functionalities to be tested and described in the technical specifications defined in the Contract. The Supplier has ten (10) working days to validate these sets of tests or to make the comments that he deems necessary, justified and documented. In the event of a persistent disagreement on the setting of the test sets following comments from the Supplier, the Project Directors of the two (2) Parties will have to arbitrate.

**A.3.1.2. Factory pre-acceptance by the Supplier**

**A.3.1.2.1.** The IT Services will be the subject of a pre-acceptance in the premises of the Supplier which will take place in the presence of three (3) representatives of Purchaser. Travel expenses of Purchaser representatives will be borne by the latter.

**A.3.1.2.2.** The purpose of this pre-acceptance is to verify the compliance of the IT Services with the technical specifications contained in the Contract and will be carried out by carrying out the sets of tests provided by Purchaser and validated by the Supplier as provided for under Article A.3.1 above.

**A.3.1.2.3.** If the pre-acceptance is not pronounced after completion of the pre-acceptance tests, a new pre-acceptance will occur within ten (10) days of the date of the initial pre-acceptance.

**A.3.1.2.4.** The pre-acceptance will be sanctioned by a pre-acceptance report which must be issued by Purchaser after successful completion of the tests.

**A.3.1.3. Delivery and Installation**

**A.3.1.3.1.** The installation and operational start-up of the IT Services by the Supplier will take place on the Purchaser site at the delivery address designated by Purchaser in the Contract.

**A.3.1.3.2.** This installation and this operational start-up will be carried out in the presence of duly authorized representatives of Purchaser, within fifteen (15) working days from the delivery of all the elements of the IT Services, including the installation and integration of all the software and specific developments carried out within the framework of the Contract, their settings, the migration of all the data to be carried out if any as well as in general all the IT Services defined in the Contract to meet the technical specifications defined in the Contract and which will be the subject of a delivery and installation report (the "Delivery and Installation Report").

**A.3.1.4. Operational Acceptance Test**

**A.3.1.4.1.** At the end of the Delivery and Installation Report, the IT Services enter in the operational acceptance test phase which will take place over a period of two (2) months (the "Operational Acceptance Test" or "OAT").

**A.3.1.4.2.** In this context, Purchaser will perform in the presence of the Supplier, the tests to verify and confirm that the IT Services is fully compliant with the technical specifications defined in the Contract.

**A.3.1.4.3.** During the performance of these tests, a list of all non-conformities with the technical specifications will be drawn up, which must be recorded in writing and notified to the Supplier.

**A.3.1.4.4.** The non-conformities constituting anomalies can be of three (3) kinds:

**A.3.1.4.4.1.** blocking anomalies (hereinafter "Blocking Anomalies") mean any anomaly causing the blocking of a scenario defined in the technical specifications defined in the Contract without the possibility of a functional workaround solution.

**A.3.1.4.4.2.** major anomalies (hereinafter "Major Anomalies") mean any anomaly causing the blocking of a scenario defined in the technical specifications defined in the Contract with the possibility of a functional workaround solution.

**A.3.1.4.4.3.** minor anomalies (hereinafter "Minor Anomalies") mean any anomaly which is neither a Blocking Anomaly nor a Major Anomaly.

**A.3.1.4.5.** As long as no Blocking Anomaly is revealed, and there is a maximum of 10 Major Anomalies, Purchaser will issue an OAT report. The OAT minutes will list all Major Anomalies and Minor Anomalies to be repaired during the RVS period.

**A.3.1.5. Regular Verification in Service**

**A.3.1.5.1.** The issuance of the OAT minutes will be the starting point for the start of production and the Regular Verification Service period, which will have to be spread over a minimum period of 3 months (the "Regular Verification Service" or "RVS").

**A.3.1.5.2.** During this RVS period, the Supplier is required to repair all Major and / or Minor Anomalies which have been recorded in the OAT report.

**A.3.1.5.3.** Purchaser will only issue the final acceptance when all repairs of the anomalies recorded in OAT Report have been repaired.

**ARTICLE A4. GUARANTEE**

The provisions set forth in this Article replace the provisions of Article 16 of the GPC.

**A.4.1. Guarantee of conformity**

**A.4.1.1.** The Supplier guarantees that the IT Services complies with the Contract, in particular for all business aspects, and that it is compatible with the architecture and configuration of Purchaser's information systems.

**A.4.1.2.** In addition, the Supplier guarantees the compliant execution of the Contract and guarantees that it will respect the needs expressed by the Purchaser within the framework of the Contract, in particular for all aspects related to service levels, in particular in terms of performance and availability of the IT Services and/or any other guarantee provided by the Supplier in the Contract.

**A.4.1.3.** The Supplier acknowledges that compliance with the Purchaser's needs, expressed in the Contract, is strategic for Purchaser and that the Supplier's failure to comply with this compliance would result in serious prejudice for Purchaser.

**A.4.2. Quality of service guarantee**

**A.4.2.1.** The Supplier guarantees compliance with the quality of service levels ("SLA") and in particular the performance of the IT Services provided for in the Contract and the non-degradation of this performance over time.

**A.4.2.2.** In addition, the Supplier is prohibited from reducing the ergonomic qualities of all or part of the IT Services to compensate for any performance drops.

**A.4.2.3.** In the event of non-compliance with the guaranteed SLA, the Supplier undertakes to implement all the necessary means, whatever they may be, to obtain performance, at its expense, as soon as possible.

**A.4.3. Security guarantee**

**A.4.3.1.** The Service Provider guarantees that it has taken into account Purchaser's security needs, in particular as set out in the Contract.

**A.4.3.2.** The Supplier undertakes to take in charge of all difficulties, including any third party claim, related to security, whether it concerns data protection, data confidentiality and/or the integrity of results of processing or the physical security of software of the IT Services.

**A.4.4. Compatibility guarantee**

The Supplier guarantees the compatibility between them of the various elements it provides and constituting the IT Services.

**A.4.5. Anti-virus warranty**

The Supplier undertakes to provide the IT Services and all masters free from all viruses and undertakes to restore damaged data and programs at its expense in the event that a virus is present in the IT Services, whatever the medium used, including the Guarantee of sustainability as set out under Article A.4.6. The Supplier guarantees the sustainability of the software that it provides to form part of the IT Services, for a period of 10 years from the signing of the OAT minutes and for a period identical from the installation at Purchaser of each new version.

**A.4.6. Guarantee of sustainability**

The Supplier guarantees the sustainability of the software that it provides for the IT Services, for a period of 10 years from the signing of the OAT Minutes and for a period identical from the installation at Purchaser of each new version.

**A.4.7. Guarantee of compliance with standards / regulations**

The Supplier throughout the duration of the Contract, ensures compliance with local, European and international standards and regulations applicable to the business areas covered by the IT Services and to ensure the traceability of the processing operations carried out with the IT Services.

**A.4.8. Data backups and archiving**

**A.4.8.1.** The Supplier guarantees that the IT Services will allow Purchaser to ensure the backups and archiving of data processed by the IT Services in accordance with applicable legislation, in particular in order to maintain the probative value of said data and in compliance with the mandatory retention periods resulting from the regulations applicable to the data concerned. The Supplier guarantees that the IT Services will ensure the confidentiality, integrity and durability of the data thus saved and archived.

**A.4.8.2.** Purchaser will be able to obtain copies of these files at any time on request. Also, the Supplier undertakes to keep at Purchaser's disposal a means of reading and extracting said files.

**A.4.8.3.** The Supplier is prohibited from carrying out any retention of data, processing, files, programs or other elements belonging to Purchaser for any reason whatsoever and also undertakes to respect their confidentiality in the terms set out in Article 14 of the GTC.

**A.4.9. Guarantee of evolution**

## ANNEXA- SPECIFIC ARTICLES APPLICABLE TO IT SERVICES

**A4.9.1.** The Supplier guarantees that the elements composing the IT Services are sufficiently standard to be compatible with the technologies and materials most widely present on the market at the date hereof.

**A4.9.2.** The Supplier also guarantees:

**A4.9.2.1.** the scalability of the IT Services in relation to changes in Purchaser's operating environment, i.e. the possibility of continuing to use the IT Services after modification or addition, in the event of modifications to the exploitation environment or of the information system of Purchaser to which the IT Services is integrated, carried out as part of its maintenance or improvements made to it,

**A4.9.2.2.** the adaptability and sustainability of the IT Services delivered, with regard to the expected use by Purchaser of the said IT Services, Purchaser has indicated to the Supplier, including with regard to performance in relation to the operating environment or with regard to any other Purchaser project for its activity,

**A4.9.2.3.** the upward compatibility and non-regression of the IT Services between updates and successive versions of these components, in particular the standard software integrated in the IT Services. Thus, these changes will not result in degradation or modification of normal operating conditions.

**A4.9.3.** The Supplier guarantees the backward compatibility of the standard software integrated in the IT Services, the adaptations, the settings and the specific developments of the IT Services. As such, the Supplier will carry out, at its expense, any modification or adaptation necessary in the event of a change of version of the Software integrated in the IT Services.

**A4.9.4.** In addition, the Supplier guarantees the integration of the IT Services with Purchaser's information systems, including its evolutions within the framework of the guarantee of scalability, thus allowing the perfect functioning of the IT Services.

**A4.10.** Contractual guarantee of the IT Services

**A4.10.1.** The Service Provider undertakes, at no additional cost, for a period of twelve (12) months from the issuance of the RVS report of the IT Services to:

**A4.10.1.1.** search for the causes of Anomalies as defined in Article A.3.1.4;

**A4.10.1.2.** correct these Anomalies or provide a workaround solution, within the deadlines set forth in the Contract, depending on the level of severity of the Anomaly, as defined in Article A.3.1.4.

**A4.10.2.** The starting point for the correction or workaround solution corresponds to the receipt by the Supplier of the request indicating the Anomaly by telephone and / or in writing (email or fax).

**A4.10.3.** The Supplier undertakes to respect the deadlines for resolution or for setting up a workaround solution defined in the Contract as part of an obligation of result.

**A4.10.4.** For all the corrections of Anomalies to which only a workaround solution acceptable by Purchaser has been provided, the Supplier will define an action plan, within five (5) working days, in order to permanently correct the Anomaly. During this period, the Supplier will provide enhanced assistance to Purchaser in order to guarantee the sustainability and reliability of the workaround solution.

**A4.10.5.** The delivery of a definitive correction of a blocking Anomaly must take place in any event no later than two (2) working days from the implementation of the workaround solution, unless the Steering Committee decides otherwise.

**A4.10.6.** The Supplier will be responsible for reconstituting data destroyed or damaged due to a malfunction attributable to an Anomaly, on the basis of the backups made by Purchaser.

**A4.11.** Guarantee of hidden defects

**A4.11.1.** The Supplier guarantees Purchaser against any defect or hidden defect which would affect the IT Services it provides in their design or programming.

**A4.11.2.** In the event of a hidden defect, Purchaser could exercise against the Supplier the actions recognized by law and the courts to the Purchaser of a thing affected by a hidden defect within five years from the knowledge by Purchaser of said hidden defect.

### ARTICLE A5. INTELLECTUAL PROPERTY

The Intellectual Property provisions defined below will apply to the IT Services and will supersede the Article 15 of the GPC. For the purpose of this Specific Articles "Intellectual Property Rights" means patents (including utility models), design patents, and designs, chip topography rights and other like protection, copyright, trademark and any other form of statutory protection of any kind, whether or not capable of registration, and applications for any of the foregoing respectively as well as any trade secrets (including Confidential Information).

**A5.1.** Right to use on the Supplier standard software

The Supplier grants to Purchaser (or procures that Purchaser is granted), at no additional cost, a worldwide, non-exclusive limited license to use, copy, modify, adapt, enhance the Supplier standard software in respect of any Supplier standard software incorporated within IT Services or which use in connection with the IT Services is required, for the sole purpose of and to the extent necessary for Purchaser its affiliates and representatives as well as all third parties which should have an access and need to use the IT Services. Such license is granted for the maximum period provided for under Applicable Laws and Regulations.

**A5.2.** Right to use on the Third party standard software

**A5.2.1.** Unless otherwise specified in the Contract, the Supplier grants, at no additional cost, to Purchaser (or procures that Purchaser is granted) a worldwide, non-exclusive limited license to use, copy, modify, adapt, enhance any third Party Standard software incorporated within the IT Services or which use in connection with the IT Services is required, for the sole purpose of and to the extent necessary for Purchaser its affiliates and representatives as well as all third parties which should have an access and need to use the IT Services. Such license is granted for the maximum period provided for under Applicable Laws and Regulations.

**A5.2.2.** The Supplier shall not incorporate any Third Party standard software in the IT Services unless Purchaser has expressly agreed to the same in accordance with the applicable quality assurance procedures and provided that such use is provided for in the Contract.

**A5.2.3.** The Supplier ensures that arrangements it has in relation to Third Party Standard software are sufficient to grant Purchaser the license rights referred to above. The Supplier represents and warrants that it has such rights in relation to Third Party Standard software or that it will procure such rights to Purchaser.

**A5.2.4.** In the event that the Supplier has not been able to enter into arrangements in relation to the Third Party Standard software which are sufficient to grant Purchaser the license rights mentioned above, the Supplier will notify Purchaser and will not enter into the relevant third party agreement nor utilize such Third Party standard software for the purposes of the provision of the Services without Purchaser's prior written consent. For Third Party standard software, the licenses terms and conditions and any restrictions will be expressly set out in the Contract.

**A5.3.** Ownership of the adaptations parameterizations and specific developments

**A5.3.1.** The Supplier will deliver to Purchaser the necessary adaptations and parameterizations made on the standard software as well as the Specific Developments that he will have or made have carried out specifically within the framework of the Contract in order to ensure the total compliance of the IT Services with Purchaser's technical specifications such as specified in the Contract, in object and source codes version with all the associated Documentation.

**A5.3.2.** The Supplier assigns to Purchaser, with all the relevant guarantees, exclusively, as and when they are created, the intellectual property rights on the source and object codes version of the whole, adaptations, parameterization made on standard software, specific developments as defined in the previous paragraph and their Documentation (hereinafter the "transferred Elements"). This assignment covers the rights of exploitation, reproduction, representation, modification, adaptation, correction, use and integration relating thereto, in all their versions, whether completed or unfinished from the In the broadest way, for the entire legal period of protection of intellectual property rights and for the whole world, without restriction.

**A5.4.** These rights, include:

**A5.4.1.** For the reproduction right:

The right to reproduce or have reproduced in whole or in part, on any medium, in particular paper, magnetic, digital, CD-Rom, CD-I, DVD or any other computer or electronic medium, known or unknown, current or future without limitation of number.

**A5.4.2.** For the right of adaptation:

The translation or any other modification of the Transferred Elements, in whole or in part, in any language, or in any language of the Transferred Elements, the right to adapt them, correct them, develop them, carry out new versions or new developments, maintain them, decompile, mix, modify, assemble, transcribe, arrange, digitize, relate to any configuration, interface with any software, database, computer product, use the algorithms for any purpose, transcribe them in whole or in part, under any form, modified, amputated, condensed, extended, to integrate all or part of it into or into existing or future works, and this, on all media mentioned in this article;

**A5.4.3.** For the right of exploitation:

The right to retrocede to third parties, in whole or in part, in any form whatsoever, and in particular by an assignment, license or any type of contract, in any form, all or part of the rights assigned, temporarily or permanently.

**A5.4.4.** For the distribution right:

The right to place on the market free of charge or not, including the rental and loan of elements, in whole or in part, by any process or on any medium, known or unknown to date, and whatever the destination, for all audiences, without limitation.

**A5.4.5.** For the right of representation:

The right, for all or part of the transferred Elements, to represent or have represented, in any way whatsoever, by any process, whatever it is, known or unknown to date, and in particular by all media mentioned herein article, in all formats, directly to third parties, including any administrative body, for the purpose of carrying out any form of processing, for any reason whatsoever.

**A5.4.6.** For the right of use:

The right to use and exploit, for personal reasons or for the benefit of third parties, free of charge or not, the transferred Elements.

**A5.5.** This assignment covers all the transferred elements, in all their versions, whether completed or unfinished. At the end of this transfer, the Supplier acknowledges that he no longer has any rights to the transferred elements referred to above. The Supplier is

## ANNEX A- SPECIFIC ARTICLES APPLICABLE TO IT SERVICES

therefore prohibited from using for its own benefit or from assigning to any third party all or part of these adaptations, settings and specific developments as well as their associated documentation, produced under the Contract, in any form.

**A.5.6.** This article will remain in effect after the termination hereof.

**A.5.7.** Purchaser information and data

All files, data, including Purchaser logos and trademarks and information of any kind communicated by Purchaser to the Supplier or processed for the performance of the Contract are and will remain in all circumstances the property of Purchaser. The Supplier undertakes to strictly respect these Purchaser intellectual property rights, in particular. The Supplier may use them for the purposes of performing the Contract.

### ARTICLE A6. GOVERNANCE

In addition to the GPC, it is specified that:

**A.6.1.** General modalities

**A.6.1.1.** Each Party recognizes that the nature of the IT Services requires active, positive and respectful monitoring of the schedule provided in the Contract as well as the performance of the IT Services. The purpose of this monitoring is in particular to resolve any problems arising during the performance of the IT Services. To this end, each Party shall cooperate in good faith to deal with these difficulties expeditiously.

**A.6.1.2.** In particular, during the negotiation of the Contract, the Parties agreed that the necessary respect of the dates set out in the schedule and of the compliance of the IT Services with the technical specifications as specified in the Contract made it essential to closely monitor said contractual schedule, as well as the execution of the Contract by the Supplier who remains responsible for it.

**A.6.1.3.** As such, each Party will inform the other Party as soon as possible of any event that may have an impact on the schedule as well as on the performance of the IT Services. The Parties will then jointly examine the means to remedy it, the Supplier nevertheless remaining fully responsible for the proper execution of the Contract.

**A.6.1.4.** This monitoring is organized as follows; the parts:

- will each appoint a Project Director,
- carry out weekly operational monitoring committee meetings,
- participate in a monthly steering committee.

**A.6.1.5.** Project Director designation

Each Party designates a member of its team (hereinafter referred to as "the Project Director") as the other Party's main point of contact. The possible replacement of a Project Director would be the subject of prior information between the Parties.

**A.6.1.6.** Weekly monitoring meetings

Follow-up meetings take place between the two Project Directors. The purpose of these meetings is:

- to exchange information,
- to take stock of the progress of the Contract and the difficulties encountered,
- take the necessary technical decisions.

**A.6.1.7.** Monthly steering committee

Monthly Steering committee meetings take place between the Participants indicated below:

- for Purchaser: The IT Department of Purchaser representative, the Project Director and the other regular participants to be defined by Purchaser.
- for the Supplier: the Project Director and the other regular participants to be defined by the Supplier.

The purpose of these meetings is:

- to take stock of the progress of the IT Services;
- discuss and decide on the options or choices proposed by the Project teams (strategy, organization, costs, resources, deadlines, risks, etc.);
- examine any difficulties or delays and decide on the necessary corrective measures;
- to arbitrate on possible points of disagreement between the Project Directors.

**A.6.1.8.** Common provisions to monitoring and steering committees

Anyone whose presence is necessary, given the agenda, may also participate in the meeting by prior agreement of the two Parties. The reports will be drawn up by Purchaser and sent to the Supplier for approval within a maximum of five (5) working days following the date of the meeting. Comments will be sent to Purchaser by the Supplier within five (5) working days following the date of publication. In the absence of a remark received within this period, the reports are deemed to be accepted.

### ARTICLE A7. REVERSIBILITY

In addition to the GPC, it is specified that:

**A.7.1.** Commitment

**A.7.1.1.** For the purposes of this article, the term "Reversibility" designates all the operations allowing Purchaser or a third party of its choice (hereinafter the "Third Party") the possibility of taking over the performance of the IT Services, subject of the contract.

**A.7.1.2.** In the event of termination of the Contract, for any reason whatsoever, the Supplier undertakes to ensure Reversibility according to the terms defined below, in order to allow Purchaser to resume or have resumed under the best conditions by any Third

Party of its choice the performance of the IT Services provided by the Supplier under the Contract.

**A.7.2.** Operations

Reversibility operations include in particular:

**A.7.2.1.** The return in particular of all the documents and elements made available to the Supplier by Purchaser as well as the deliverables resulting from the performance of the IT Services; the Supplier undertakes not to keep any copy thereof on any medium whatsoever;

**A.7.2.2.** The information that is necessary for Purchaser to enable it to prepare for Reversibility. This information will be gathered in a reversibility file describing the respective tasks to be performed by the Supplier on the one hand and by Purchaser or the Third Party on the other hand, to ensure the Reversibility. The reversibility file must be updated at each evolution of the IT Services and validated by the Parties;

**A.7.2.3.** Training for new teams responsible for ensuring the continuation of the IT Services;

**A.7.2.4.** The assistance of the Supplier, in parallel with the execution of the IT Services in progress, in order to allow the acquisition of the relevant knowledge by Purchaser or the designated Third Party. This task consists of allowing Purchaser or the designated Third Party to learn about the IT Services in their last known state as well as the methods and tools used by the Supplier to perform the IT Services. The Supplier will communicate all the information and their characteristics necessary for the resumption of the IT Services.

**A.7.3.** During the implementation of the Reversibility and until the effective date of the transfer of all the IT Services:

**A.7.3.1.** The Contract is still in force and the Supplier undertakes to ensure the continuity of the IT Services in accordance with the conditions of the Contract,

**A.7.3.2.** the IT Services are still invoiced and the related payments until that date, in accordance with the terms provided for in the Contract.

**A.7.4.** The Supplier undertakes to maintain the personnel necessary for the proper execution of the Contract throughout the period of implementation of the Reversibility, both in number and in quality.

**A.7.5.** The Supplier will only be released from its obligations under the Contract after signature by the Parties of a report of acceptance of the Reversibility.

**A.7.6.** If the Reversibility results from the termination of the Contract considered due to a breach by the Supplier of one of its obligations, all of the Reversibility operations, including the assistance services will be the responsibility of the Supplier.

**A.7.7.** All of the Reversibility operations described above are included in the fixed price of the Contract.

## ANNEX B- SPECIFIC ARTICLES APPLICABLE TO CIVIL WORKS

The purpose of this Annex is to amend or supplement the GPC of Alstom's General Purchase Conditions for Indirect Supply (hereinafter the "GPC") by outlining the specific articles (hereinafter the "Specific Articles") applicable to the Supply of building and civil engineering works. Capitalized terms used in this Specific Articles shall have the meanings set forth in the GPC.

### ARTICLE B1. DEFINITIONS

For the purpose of the Specific Articles, the following terms used with capital initial letters shall have the following meanings:

"**Site**" means the location(s) provided by the Purchaser where the Supply are to be executed and to which equipment and materials are to be delivered and any other places as may be specified in the Contract in writing as forming part of the Site.

"**Acceptance**" means the time when Supplier certifies, and Purchaser acknowledges that the Supply are completed as provided in ARTICLE B6 hereto.

### ARTICLE B2. CONTRACT PRICE

In addition to the Article 4.2.1. of the GPC, it is specified that:

The Contract price means, depending on the stipulations of the Contract, either the overall price if the Contract has been awarded on a lump sum basis, or the price resulting from the application of the unit prices to the number of Supply units comprising the construction, as well as any adjustments resulting from Changes in accordance with Article 5 of the GPC.

The Purchaser shall pay the contract price to the Supplier as full and complete compensation for the performance and the completion of the Supply in accordance with the Contract. The contract price, unit prices and rates are firm and not subject to escalation, variations, whether directly or indirectly, and for any reason except due to Changes mutually agreed in writing between Parties. The costs of performing the Supply shall be exclusively the risk of the Supplier who shall be deemed to have obtained, prior to the execution hereof, all information and taken into account all circumstances, which may affect such cost.

Any costs and expenses not specifically made reimbursable or optional by the Purchaser shall be deemed to be included in the Contract Price.

### ARTICLE B3. STORAGE AND SUPPLIER'S EQUIPMENT ON SITE

In addition to the Article 7 of the GPC, it is specified that:

Unless stipulated otherwise in the Contract, the Supplier shall be responsible for packing, loading, transporting, receiving, unloading, storing and protecting all goods and other things required for the Supply. These operations are carried out in conformity with the applicable rules in place at the Purchaser's Site. Consignments and packages must state the Supplier's identity and the correct delivery location on Site.

The Supplier shall be responsible for all Supplier's equipment on Site. The Supplier shall not be entitled to store more items of Supplier's equipment on the Site than is necessary for the immediate performance of the Supply and shall store or park them to the satisfaction of the Purchaser.

The Purchaser is entitled to require that any of the Supplier's equipment (i.e. crane rails, scaffolding, storage places and the like), placed on the erection Site, be relocated at any time. All Supplier's equipment must be in good working condition and the Supplier shall submit to the Purchaser the certificates of compliance prior to its use on the Site. The Supplier shall exhibit the proper licenses for the Supplier's personnel for the use of the Supplier's equipment. The Supplier shall promptly replace any item of Supplier's equipment, for which the certificate is not valid or not submitted to the Purchaser or is in bad condition or whose performance, in the opinion of the Purchaser, is inadequate for the Supply. The Supplier shall immediately replace any of the Supplier's personnel whose license is not valid or not submitted to the Purchaser for the use of Supplier's equipment. The Supplier shall not be entitled to claim for an adjustment of the time schedule and extension of the time or claim any cost incurred by the Supplier resulting from such replacement(s).

### ARTICLE B4. OBLIGATIONS OF THE SUPPLIER

In addition to the Article 4.2 of the GPC, it is specified that:

#### B.4.1 SITE CONDITIONS

The Supplier shall be deemed to have obtained all necessary information as to risks, contingencies and other circumstances which may influence or affect performance of the Supply. To the same extent, the Supplier shall be deemed to have inspected and examined the Site, its surroundings, the data provided by the Purchaser and to have satisfied before entering into the Contract as to all relevant matters, including (without limitation): (a) the form and nature of the Site, including sub-surface conditions, (b) the hydrological and climatic conditions, (c) the extent and nature of the work and goods necessary for the execution and completion of the Supply and the remedying of any defects, (d) the laws, procedures and labour practices of the Site's country and (e) the requirements for access, accommodation, facilities, personnel, power, transport, water and other services.

#### B.4.2 SAFETY ON SITE

The Supplier shall take comply with all applicable safety regulations, take care for the safety of all persons entitled to be on the Site, use reasonable efforts to keep the Site and Supply clear of unnecessary obstruction so as to avoid danger to these persons, provide fencing,

lighting, guarding and watching of the Supply until completion and Acceptance of the Supply, provide any temporary measures which may be necessary, because of the execution of the Supply, for the use and protection of the public and of occupiers of adjacent Site.

All Supplier's personnel shall, at all times, on Site carry the identification badge issued by the Site security or the Purchaser as the case may be and shall wear, at all times, safety helmets with the Supplier's name and logo and other additional identifying code that may be required by the Purchaser.

No visitor shall be allowed trespass on the Site to visit the Supplier without the Supplier having first obtained the written authorization of the Purchaser. The Supplier shall apply for such authorization in accordance with the Site regulation and applicable coordination procedure.

Photo and video cameras shall not be allowed on the Site unless, and subject to the provisions of the Site regulation, the Purchaser has given his written authorization for limited pictures.

#### B.4.3 COOPERATION

The Supplier shall diligently and timely cooperate with the Purchaser, any other contractors or related parties for all interfaces in accordance with the Contract and provide any input that may be required by the Purchaser, any other contractors or related parties. The Supplier shall be responsible for his constructions activities on the Site and shall coordinate his own activities with those of other contractor to the extent stated in the Contract. If the Supplier encounters difficulties in performing its contractual obligations due to coordination issues with other contractors, it shall give notice to the Purchaser of such in writing without delay.

The Supplier shall give access to the Purchaser's personnel, other contractors employed by the Purchaser or the personnel of any legally constituted public authorities who may be employed in the execution on or near the Site of any work not included in the Contract.

The Supplier shall do its best efforts to solve any cooperation issues raised with other contractors working on the Site.

#### B.4.4 EMERGENCY INSTRUCTIONS

In the event of an emergency, which, as determined by the Purchaser, threatens to disrupt the orderly performance of the Supply or endangers persons or property, the Purchaser may issue to the Supplier summary instructions, written if possible under the circumstances, otherwise oral instructions to be confirmed in writing by the Purchaser as soon as possible thereafter, to perform necessary action. The Supplier shall carry out such emergency actions.

The foregoing shall not be construed as limiting Supplier's duty to implement any reasonable measures necessary to prevent or mitigate current or imminent emergency circumstances endangering the life or bodily integrity of persons or property on or near the Site without delay upon discovering such circumstances.

Should the Supplier fail to take necessary action in such circumstances, the Purchaser may choose to perform the necessary action by itself and/or to assign a third-party company of its choice for performing such action, at the Supplier's risks and expenses.

#### B.4.5 OTHER CONDITIONS

The Supplier shall be liable to any damages caused to any equipment or installations belonging to any third parties or to the Purchaser and shall therefore take all corrective measure to remedy, replace or make good the damages equipment or installation, as soon as possible. If the Supplier fails to take corrective measure, the Purchaser may, following written notice which remained unfruitful within the time period stated in the notice, choose to remedy the damages by itself and/or to assign to a third-party company of its choice for the repairing or remedying, at the Supplier's risks and expenses.

All goods, equipment and material shall be brand new, of first class workmanship, fully meeting agreed specifications and all required regulations in force at the time of Acceptance, fit for the purposes contemplated in the Contract and duly assembled without any defect or repairs, except for repairs expressly authorized in writing by the Purchaser. Defective or inappropriate materials, equipment or Supply may be refused by the Purchaser, and the Supplier is required to remove them from the Site without undue delay, failing which the provisions of Article 11.2 of the GPC shall apply.

### ARTICLE B5. WARRANTY SECURITY

The Supplier shall provide the Purchaser with an unconditional, irrevocable, first demand guarantee, issued by a first class international merchant bank or insurance company guarantee as a security for the Supplier's performance of its obligations during the warranty period as defined in ARTICLE B7 of the Specific Articles (the "**Warranty Security**").

This Warranty Security shall be for the amount of five (5%) of the Contract price and shall be valid as from the date of Acceptance set out in ARTICLE B6, and shall be released by the Purchaser upon Supplier's request transmitted to the Purchaser representative at the expiry of the Warranty Period plus one month provided that the Supplier has fulfilled all its obligations under the Contract.

### ARTICLE B6. ACCEPTANCE

The provisions set forth in this Article replace the provisions of Article 10 of the GPC.

#### B.6.1 USE OF PART OF THE SUPPLY BEFORE ACCEPTANCE



## ANNEX B- SPECIFIC ARTICLES APPLICABLE TO CIVIL WORKS

The Purchaser shall be entitled to use a part of the Supply as a temporary measure or for trial purposes prior to the Acceptance provided that such use is either specified in the Contract or agreed by the Parties. This shall not be deemed either as a partial take over or a partial Acceptance and shall not modify the duration and extent of Supplier's warranties under ARTICLE B7 of the Specific Articles.

### B.6.2 TESTS ON COMPLETION

The Supplier informs in writing the Purchaser of the date on which the Supply will be completed.

The Supplier shall, in coordination with the Purchaser, carry out all checks and tests in accordance with the requirements set out in the Contract and the detailed tests on completion program submitted to and approved by the Purchaser.

The Purchaser shall witness all tests on completion and the Supplier shall provide copies of all test reports for acceptance to the Purchaser. The Supplier shall give the Purchaser at least ten (10) days written notice of the start of each test on completion. The Supplier shall conduct such tests under its responsibility, control and direction in the presence of the Purchaser.

The tests on completion include:

- acknowledgment of the Supply carried out;
- any tests provided for in the Contract;
- the reporting of any defects or faulty Supply;
- the reporting of the removal of the installations from the site and the restoration of the land and premises;
- reports relating to completion of the Supply.

If any part of the Supply fails to pass the test on completion, the Supplier shall carry out the necessary additional or remedial works and repeat the relevant tests on completion upon the same terms and conditions, all at its expense. The Supplier shall carry out such adjustments, modifications and the achievement of successful tests within a reasonable time fixed by the Purchaser and without prejudice to the Supplier's liability for penalties for delay. The Purchaser shall give reasonable notice of this date.

If any such adjustment, repair or modification might affect part of the Supply having satisfied the requirements for test on completion, the Purchaser may require the Supplier to carry out the test on completion again for such part of the Supply (having satisfied the requirements for test on completion) at the Supplier's expense in order to demonstrate that they continue to satisfy the requirements for test on completion.

The costs incurred by the Purchaser as a result of a repeat test on completion after a failed test, such as costs of inspection agencies, Purchaser representatives, utilities, etc. shall be borne by the Supplier.

If any part of the Supplier fails to pass the tests on completion repeated on the date notified by the Purchaser, then the Purchaser shall be entitled, at any time and at its option, to reject such part of the Supplier and the Purchaser shall be entitled to proceed in accordance with Article 11.2 of the GPC without prejudice to any other right of the Purchaser under the Contract.

### B.6.3 ACCEPTANCE

The Purchaser shall issue the certificate of Acceptance to the Supplier solely for the whole of the Supply once they are completed and when:

- The whole of the Supply has passed all tests on completion to the Purchaser's satisfaction, and
- A list of punch items (i.e. minor item which can be left outstanding at a given time without affecting the use of the Supply or part thereof) and their time for completion has been established by the Purchaser and agreed by the Supplier, and
- When applicable, any statutory or regulatory declaration of compliance of the Supply required to be delivered in the law of the country of the Site, and
- When applicable, the Supplier has provided the Purchaser with the certificate of conformity of incorporation with the assembly instruction manuals of any equipment, and
- When applicable, the Supplier has provided the Purchaser with the certificate of conformity of the electrical works with the assembly instruction manuals of electrical equipment and apparatus as per the Purchaser requirements set out in the Contract, and
- The Purchaser has received all as built documents, the complete manufacturer data reports (including amongst others the declaration of conformity with the applicable regulations for the equipment, the certificate of conformity with the applicable regulations for the components), the operating and maintenance manuals required to be submitted by the Supplier prior to the Acceptance in the format and the quantity required by the Contract.

The certificate of Acceptance shall state the date of Acceptance and be signed by both Parties.

## ARTICLE B7. WARRANTY PERIOD

The provisions set forth in this Article replace the provisions of Article 16 of the GPC.

### B.7.1 WARRANTY PERIOD

Without prejudice to the Supplier's statutory or regulatory liabilities, the warranty period is defined as the period from the date of the Acceptance up to twenty-four (24) months after the date of Acceptance, unless any extended period is stated in the Contract.

### B.7.2 SCOPE OF WARRANTY

Without prejudice to the Supplier's statutory, regulatory and other contractual liabilities, the Supplier hereby represents and warrants the following with regard to each part of Supply for the duration of the warranty period applicable to that part:

- (a) All equipment, material shall be brand new, of first class workmanship, fully meeting agreed specifications and all required regulations in force at the time of Acceptance, fit for the purposes contemplated in the Contract and duly assembled without any defect or repairs, except for repairs expressly authorised in writing by the Purchaser;
- (b) The Supply have been performed properly in accordance with the drawings and the Contract, are free of defect and shall be of the highest professional quality and will follow the applicable laws and design codes, at the time of Acceptance.
- (c) The Supply contain, at the time of Acceptance, no component infringing upon any European, British, U.S., South Korean or Japanese trade sanctions or dual-use regulations.

### B.7.3 REMEDY OF DEFECTS

In the event that a defect is discovered in any part of the Supply during the warranty period applicable to such part, the Purchaser shall notify the Supplier thereof in writing and the Purchaser shall demonstrate to the Supplier that a defect exists, without having the obligation to prove the cause of the defect nor that the defect is to be attributed to the Supplier, whereupon, unless the Supplier shall prove that such defect was caused by the fault of the Purchaser or arises from normal wear and tear, the Supplier shall promptly commence and diligently complete the necessary works to correct the defect at its own cost. The Purchaser shall grant the Supplier access to any part of the Supply which may have been taken over by the Purchaser in order to allow the Supplier to carry out such remedial works, at such time as the Purchaser may at its sole discretion decide so as to minimise disruption to the operation of the works.

If the Supplier shall fail to commence promptly or to complete diligently the correction of any defect, the Purchaser shall be entitled to carry out the necessary works itself or through a third party, at the costs and risks of the Supplier.

### B.7.4 EXTENSION OF THE WARRANTY PERIOD

In the event that the correction of a defect pursuant to Article B.7.3 of the Specific Articles shall require the repair, replacement or substitution of any part, then the warranty period for such part shall be extended automatically by a period equal to the original warranty period starting on the date of completion of such repair, replacement or substitution.

### B.7.5 STATUTORY LIABILITY

The warranties of the Supplier under this ARTICLE B7 of the Specific Articles are in addition to statutory or regulatory liabilities of the Supplier pursuant to the law of the country of the Site regarding the stability, solidity of the Supply and other hidden defects rendering the Supply unfit for their intended use and any other mandatory or default provisions of law applicable to the Supply.

## ARTICLE B8. RIGHT OF OWNERSHIP OF DISCOVERED ITEMS

The Purchaser retains ownership of any fossils, minerals, coins, articles of value, antiques, relics, structures or other things of geological or archaeological interest, materials and objects of any kind which are found during excavation or demolition. The Supplier is required to inform its staff of the Purchaser's right in this respect. The Supplier shall immediately implement all necessary measures to preserve such items discovered at the Site in the original location and condition in which it was found and notify the Purchaser in writing.

## ARTICLE B9. TRANSFER OF OWNERSHIP AND TRANSFER OF RISKS

In addition to the Article 12 of the GPC, it is specified that:

### B.9.1 TRANSFER OF OWNERSHIP

The Supply becomes the property of the Purchaser, free from liens and other encumbrances, at whichever is the earlier of the following time (i) delivery on Site or (ii) incorporation into the Supply.

### B.9.2 TRANSFER OF RISKS

The Supplier shall bear all risks for the Supply up to and including the date of Acceptance.

## ARTICLE B10. INSURANCES

In addition to the Article 18 of the GPC, it is specified that:

### B.10.1 SUPPLIER'S INSURANCE

The Supplier shall keep valid a Civil Liability Insurance (or any other insurance covering civil liability and engineering risks), for whole duration of supply.

Accordingly, all those involved warrant that they will pass on all the obligations resulting from this Article to any subcontractors. They are furthermore obligated to obtain from their own insurers and their subcontractors' insurance acceptance of the clauses in this Article.

## ANNEX B- SPECIFIC ARTICLES APPLICABLE TO CIVIL WORKS

The Supplier who is awarded the Contract must then send the Purchaser, before entry into force of the Contract, a specific insurance certificate for this Supply from its insurer and full pricing details of its Civil Liability Insurance. It must also send the same information for any subcontractors.

The implementation of these policies by the Supplier does not in any way release the Supplier from its legal or contractual obligations.

### **B.10.2 PURCHASER'S INSURANCE**

The Purchaser reserves the right to take out, on its own initiative:

- a "Contractors' All Risks" policy to cover physical damage to the structure from the arrival of the first materials on site until final acceptance,
- an additional Contractors' "Civil Liability" policy in addition to the civil liability policies taken out by the Supplier which are bound to such an obligation. This coverage will be put in place only for the project in excess of eighteen million two hundred four thousand US dollars (18 204 000 USD) and only for works with a legal insurance obligation.

Should the Purchaser decide to subscribe the above-mentioned policies for performance of the Contract, the Supplier shall be bound to unreservedly sign up to the above-defined insurance schedule, even though the Supplier may have been in competition with the Purchaser for those policies subscription.

After examination of the information provided in respect of this ARTICLE B10, the Purchaser will announce to the Supplier retained for the Contract its decision relating to taking out a Contractors' All Risks, before the Contract is concluded. This decision will automatically be imposed on the Supplier retained without the Purchaser being required to justify such decision.

The Contract will then specify whether the additional Contractors' All Risks and "Complementary Civil Liability" policies are incumbent on the Purchaser or the Supplier.

If applicable, on opening of the site, the Purchaser will send the Supplier a certificate of cover for the additional Contractors' All Risks and Civil Liability policies.

Whether or not the Purchaser chooses to take out the above-mentioned policies has no effect on the Supplier's risks and responsibilities in respect of the applicable laws, regulations, standards and contractual obligations, any policies taken out by the Purchaser shall not provide any change, exemption or novation in this respect.

Where these policies are extended solely due to the Supplier, the latter will pay the additional premiums corresponding to its own delay.

### **ARTICLE B11. DOCUMENTS TO BE PROVIDED BY THE SUPPLIER**

The Supplier is required to provide the Purchaser with the following certificates:

- a) a valid certificate proving it is qualified by an accredited body, corresponding to the Supply to be carried out;
- b) all insurance certificates necessary for the performance of the Contract as per article 18.2 of the GPC such as a public and product liability insurance policy, a civil liability insurance certificate as per ARTICLE B10, stating that the premium has been paid to the insurer and complying with applicable law; and
- c) a declaration by the manufacturers of the components used by the Supplier, certifying that they are covered for their liability under Panamanian Civil Code and any other applicable law.

## ANNEX C- SPECIFIC ARTICLES APPLICABLE TO TRANSPORT SERVICES

The purpose of this Annex is to supplement the common articles of the General Terms and Conditions (hereinafter the Common Articles) by outlining the specific clauses applicable to Transport Services.

The Supplier undertakes to perform, under his own responsibility, the transportation of products by own means.

### ARTICLE C1. THE TRANSPORT ORDER AS A REFERENCE

In addition to the Common Articles, it is specified that:

**C1.1** Services will be subject to a Transport Order (hereinafter the Order) issued by the Purchaser, which will define a global amount corresponding to the transport to be performed. The Order shall constitute for the Supplier, the only authorization for the Supplier to engage the transport operation, eligible for payment.

**C1.2** The Supplier shall acknowledge receipt of any Order within one (1) working day from its receipt. The Order shall be deemed accepted by the Supplier, except in the case of a reservation expressly stipulated to the Purchaser within the same timeframe.

**C1.3** No correspondence issued by the Supplier shall amend or supersede the conditions detailed in the Order, unless and until expressly accepted in writing by the Purchaser.

**C1.4** Any commencement of the performance of the Services by the Supplier, subject to an Order, implies acceptance by the Supplier of the GPC, the SPC and/or said Order.

### ARTICLE C2. SUPPLIER'S OBLIGATIONS

In addition to the Common Articles, it is specified that:

**C2.1** The Supplier's expertise and experience means that the Purchaser is entitled to expect it to perform the entrusted transport services in accordance with professional practice and as an experimented and recognized professional specialized in transport services. The Supplier therefore commits to an obligation of result for a Level of service, which is measured using several indicators as detailed hereinafter.

The Supplier undertakes to provide the Purchaser with the benefit of its technical expertise and know-how, which is notably materialized by a duty to warn with respect to performing the Contract and the Order properly.

**C2.2** The Supplier warrants that it has a perfect knowledge of the request and information provided by the Purchaser and considers it to be sufficiently clear, complete and explicit because it has examined and checked it. Otherwise the Supplier shall immediately notify the Purchaser.

**C2.3** The Supplier further warrants that it is solely liable for performing the transport services and that it waives any claim which could be based on a lack of information. The Supplier therefore undertakes to perform the transport services properly as can be described in the Order.

**C2.4** The Supplier shall perform quality services, in accordance with this Contract and/or Order and in compliance with the professional standards, good industry practices, laws and regulations

**C2.5** The Supplier has determined human and technical resources necessary and sufficient for the transport services performance under the Contract.

The Supplier will use its expertise, know-how, experience, its own resources, a skilled workforce in sufficient numbers, and its management to achieve this. The Supplier will be allowed to adjust this organization to perform the Services, under its sole responsibility.

The Supplier recruits, remunerates, employs, trains and manages the personnel required to perform the Services under its sole responsibility. The Supplier will be responsible for problems concerning timekeeping and personnel, and for compliance with employment legislation or any other applicable legislation.

The Supplier's personnel who perform the Services will only receive instructions from the Supplier's designated technical manager. The Supplier's personnel will remain under the Supplier's managerial, disciplinary and legal authority, which will therefore have managerial authority and control, but also technical authority, and administrative, accounting and social management of its personnel. The Supplier's personnel can never be legally assimilated to the Purchaser's salaried personnel or to temporary workforce supplied to it.

**C2.6** The Supplier ensures that the packaging is appropriate for Products subject of the Order. In the event that the Supplier would find that the packaging is not suitable for the Products, it shall immediately alert the Purchaser.

**C2.7** The Supplier undertakes to respect and ensure that its staff fully respect the **Safety Protocol** specific to the shipper, to the Purchaser or other recipient's site as listed in the Order.

The Safety Protocol consists in a written document which aims to describe the information relevant to risk assessment generated by the Intervention on said sites and prevention measures and safety practices at all stages of its implementation (such as plan and traffic instructions, emergency provisions in case of accident, etc. ...).

For each of the Purchaser's Sites, the model of Safety Protocol will be completed and signed by the Parties.

**C2.8** If applicable, the Supplier supports the **Tools** for handling and transportation provided by the Purchaser for performing the services.

Tooling shall remain the ownership of the Purchaser. The Supplier stores, maintains, and ensures the replacement and shall bear the cost of repair in case of misuse.

The Supplier undertakes to ensure that the property of the Purchaser relating to this Tools is properly identified as such in the Supplier premises, so that the Purchaser can resume possession of the Tools immediately and without difficulty, if necessary.

A contradictory written statement of such Tools shall be established by the Parties when its become available and when its return.

If necessary, the Parties shall sign, by endorsement, a loan of Tools that will be part of the Contract.

### ARTICLE C3. PURCHASER'S OBLIGATIONS

In addition to the Common Articles, it is specified that:

**C3.1** The Purchaser undertakes to provide the Supplier sufficient instructions for carrying out the Services, so that the Supplier can reach the expected service level (SLA) as agreed between the Parties.

The Purchaser will issue, in due course, reasonable instructions to the Supplier and provide it with all details with regards to the Products to be received and carried from the Purchaser's or its supplier's premises or other designated point to the Site of delivery.

**C3.2** The Purchaser undertakes to provide the Supplier, if necessary and at the Supplier request, the handling tools necessary for performing the Services.

**C3.3** The Purchaser warrants that the description and particulars of any Products or information furnished to the Supplier are full and accurate, that all Products have been properly and sufficiently prepared, packed, stowed, labelled and/or marked and that the preparation, packing, stowage, labelling and marking are appropriate to the operations or transactions affecting the products.

### ARTICLE C4. PERFORMANCE OF THE SERVICES

In addition to the Common Articles, it is specified that:

#### C4.1 Terms and conditions of performance

Throughout the term of the Contract, the Supplier undertakes to (i) respect the Level of service specified in the SPC and/or the Order, and (ii) return the copy of the proofs of delivery to the Purchaser.

#### C4.2 Supervising the services

Regular progress exchanges may be scheduled between the Supplier and the Purchaser. During these exchanges, the Supplier shall inform the Purchaser about the status of pending Order(s).

After the Services have been completed in accordance with an Order, the Supplier will return a dated, stamped and initialed proof of delivery together with the receipts for each Incidental charge.

#### C4.3 The 'SLA rate':

The Supplier calculates a service rate called 'SLA rate' (or Service Level Agreement rate) for each shipment relating to services performance. Such SLA shall be defined in a SPC and/or the Order.

A shipment is considered non-conform in case:

- The agreed SLA specified in the SPC and/or the Order is not fully respected.
- And/or there are breakages, average, wrongly routed shipments (shipment to the wrong site) or shortages found in the shipments.
- The recipient makes express reserves in accordance with the reserves procedure specified below.

#### C4.4 Reserves Procedure

In the event of any loss or damage sustained by the products, or of any delay, the Purchaser or the recipient shall make proper and adequate inspections, express motivated reserves and, generally, carry out any action useful for the protection of claims and confirm said reserves in legal forms and timeframes.

The Purchaser and/or the recipient can make reserves in writing on the Transport Documents presented by the Supplier when the Products are delivered. These reserves must be dated and explicit.

The Supplier must inform the Purchaser of a reserve from a recipient within twenty-four (24) hours following its issuance.

#### C4.5 Security, Health and Environment (EHS) policy and PPE wearing

Within the Purchaser's policy frame concerning personal safety, the wearing of the Personal Protective Equipment (PPE) is compulsory on the Purchaser and its clients' sites. The Supplier shall put in application the wearing of the PPE during the survey operations, loading/unloading operations in the Purchaser and its client's sites.

Are defined as PPE the following equipment:

- Reflective jacket
- Security shoes
- Helmet, hard hat
- Glasses

More generally, the Supplier commits for its own personal to respect the EHS rules in relation to the services performed.

The Purchaser shall inform the Supplier, prior to the start of any operation, of any applicable Safety Protocol on site by attaching said Safety Protocol to any SPC or Order for each of the Purchaser and / or clients' site concerned.

## ANNEX C- SPECIFIC ARTICLES APPLICABLE TO TRANSPORT SERVICES

Any violation noted for not wearing PPE, total or partial, during survey, loading and / or unloading operations on the Purchaser and / or clients' sites, or failure to apply the loading / unloading procedures will be penalized with a penalty of six thousand US dollars (6 000 USD) per person and per violation found.

These penalties will apply from the first infraction and without limit.

Any records of three consecutive breaches from the same person will automatically result in a definitive prohibition to enter into any of the Purchaser's or of the clients' sites for this person.

### ARTICLE C5. ADDITIONAL CHARGES

In addition to the Common Articles, it is specified that:

**C5.1** The Supplier may have to incur additional charges for the proper performance of the services, other than the transport costs and the incidental charges included in the agreed price.

In such case, the applicable additional charges shall be detailed and submitted for written approval to the Purchaser by the Supplier, prior they are actually incurred.

### ARTICLE C6. INVOICING TERMS

In addition to the Common Articles, it is specified that:

**C6.1** To be payable, the invoice shall be sent under terms and conditions specified in this Contract and/or Order. It will contain all the information required by law as well as the reference to the Order, this Contract, the volumes, weights and amounts relating to the transport service actually performed by the Supplier and the price, which shall be consistent with the financial terms specified in the SPC and/or Order.

#### C6.2 Form and frequency of invoicing

A shipment corresponds to a transport Order and an invoicing.

Invoices are issued only after the transport services have been fully performed, in compliance with the Contract.

The billing of agreed additional charges shall be charged with separate invoicing.

#### C6.3 Contents of the invoice

To be acceptable and payable, the Supplier's invoicing shall include the following elements:

- (i) The invoice in a paper format with the following clearly readable information (scannable):
  - INVOICE ISSUER: name / address / EU VAT number / contact details of the Supplier establishment issuing the invoice;
  - The Purchaser site billed: name / address / EU VAT number of the site that is being billed,
  - THE POSTAL ADDRESS OF THE INVOICEE: Name / Services / Invoicing address requested by the Purchaser,
  - The Order number;
  - The identifiers of the invoice (date, invoice number, reference period);
  - The number of Products to be transported and the Project's name (if any);
  - Shipment identified (CMR / BOL / AWB number) / date (shipment loading, arrival, etc.)
  - Gross taxable weight, number of parcels / palettes / linear meter / complete or any other handling quantities (container etc), quantity;
  - Per line,
    - The type of load invoiced: transport or incidental or additional Charges
    - The receipt number (CMR / BOL / AWB number),
    - The quantity, index, unit price, net price of VAT,
  - At the foot of the invoice, breakdown of the amounts invoiced in accordance with the applicable VAT rates (with or without).
- (ii) The copies of proofs of delivery with all necessary Transport Documents specified and listed in the Contract and/or Order, in paper form (copies of the initialled delivery slip, combined manifest/report (CMR), etc), and any other initialled supporting documentation relative to the Shipments such as a BOL or an AWB, including all the original documents associated with the Customs records, as well as all documents associated with any additional charges).

The non-transmission of an invoice complying with the rules set out in this Article, of the detailed file or of the delivery documentation puts the invoice on hold and may trigger a request for a credit for the amount not justified.

#### C6.4 Methods of checking the invoice

The Supplier shall be alerted by email in case of any abnormality on the invoices or on the supporting documents.

This alert shall describe the type of problem encountered for each line of the invoice. The "anomalous" invoices are put on hold while awaiting feedback from the Supplier (supporting documents or credits).

### ARTICLE C7. TERMS OF PAYMENT

As an exception to the Common Articles, it is specified that:

Invoices for any Order governed by Panamanian Law will be paid within thirty (30) days date of issuance of the invoice.

For any Transport Order not governed by Panamanian Law, the payment of invoices shall be made as described in the SPC and/or Order, or within any other period specified if it is governed by other imperative law than Panamanian law.

### ARTICLE C8. BANK GUARANTEE

In addition to the Common Articles, it is specified that:

In order to guaranty the proper execution of its contractual obligations pursuant to the Contract and/or Order(s), the Supplier shall issue in favor of the Purchaser a first demand and irrevocable performance bond from a first class bank or other financial institutes agreed by the Purchaser, to guaranty good performance by the Supplier of its obligations under the Contract.

The Supplier shall issue the bond within thirty (30) days after issuance of the SPC or of the Order.

Each performance bond shall amount to fifteen per cent (15%) of the total value of the concerned SPC and / or Order.

Each performance bond shall expire when the transport service has been fully performed in compliance with the Contract.

### ARTICLE C9. SERVICE LEVEL AGREEMENT AND ASSOCIATED PENALTIES

In addition to the Common Articles, it is specified that:

#### C9.1 The Service Level Agreement (SLA) as a substantial obligation of the Contract, SPC and/or Order.

The Supplier recognizes that compliance with the SLA is a substantial obligation of the SPC and/or any Order. If the Supplier considers that it is not able to meet the SLA of the Services as be set forth between the Parties, it shall immediately notify the Purchaser. The notification by the Supplier of its inability to meet the SLA does not relieve the Supplier of its obligations under this Contract to reach the minimum service levels in the conditions specified hereafter, the Supplier shall make best endeavours to achieve the desired Service levels.

#### C9.2 Application of penalties

Following a monthly update on the analysis of the indicators, the Purchaser issues an invoice corresponding to the amount of penalties for the month.

Should penalties apply, payment by the Supplier of the penalties does not relieve the Supplier of its obligations to perform its obligations.

The penalties set out in the SPC or in the Order shall apply without prejudice to any other costs incurred by the Purchaser resulting from the failure of the Supplier.

The penalties shall be invoiced by the Purchaser to the Supplier and in no way can be considered as a lump sum compensation for any loss that may be suffered by the Purchaser in the course of performance of the Contract and shall not be considered as a sole remedy and full satisfaction of the Supplier's liability.

The penalties shall be paid by the Supplier within the same deadlines as the deadlines for payment specified in article C7 above.

The application of the penalties is independent of the termination of the Contract, SPC and / or Order, which may eventually result from the delay or poor performance by the Supplier of its obligations.

In particular, the Parties consider that the Supplier has materially failed to perform its services if the SLA floor rate is reached four (4) consecutive times over a period of six (6) months.

#### C9.3 Calculation of service level

On a monthly basis, unless agreed otherwise by the Parties, the Supplier and the Purchaser agree to calculate at minimum two types of indicators for measuring the service level:

- Administrative Milestones as set forth in the SPC and/or Order, and
- Technical Milestones as set forth in the SPC and/or Order.

**C9.4** Level of the target SLA and associated penalties shall be agreed upon by the Parties in the SPC and/or Order.

### ARTICLE C10. TERMINATION

In addition to the Common Articles, it is specified that:

The Purchaser can terminate the Contract and/or any Order within thirty (30) days after sending a registered letter with acknowledgement of receipt, without prejudice to its other rights and claims, if (i) the Supplier does not respect the SLA floor rate for four (4) consecutive times over a period of six (6) months, or (ii) if the corresponding Main Contract concluded between the Purchaser and its Client is terminated.



## ANNEX D - SPECIFIC CLAUSES APPLICABLE TO FREIGHT FORWARDING SERVICES

The purpose of this Annex is to supplement the common articles of the General Terms and Conditions (hereinafter the Common Articles) by outlining the specific clauses applicable to Freight forwarding Services.

The Supplier undertakes to perform, under his own responsibility, the full transportation of products, including customs clearance, by own means or by using outsourcing.

### ARTICLE D1. THE TRANSPORT ORDER AS A REFERENCE

In addition to the Common Articles, it is specified that:

**D1.1** Services will be subject to a Transport Order (hereinafter the Order) issued by the Purchaser, which will define a global amount corresponding to freight forwarding to be performed. The Order shall constitute for the Supplier, the only authorization for the Supplier to engage services for the corresponding services, eligible for payment.

**D1.2** The Supplier shall acknowledge receipt of any Order within one (1) working day from its receipt. The Order shall be deemed accepted by the Supplier, except in the case of a reservation expressly stipulated to the Purchaser within the same timeframe.

**D1.3** No correspondence issued by the Supplier shall amend or supersede the conditions detailed in the Order, unless and until expressly accepted in writing by the Purchaser.

**D1.4** Any commencement of the performance of the Services by the Supplier, subject to an Order, implies acceptance by the Supplier of the GPC, the SPC and/or said Order.

### ARTICLE D2. SUPPLIER'S OBLIGATIONS

In addition to the Common Articles, it is specified that:

**D2.1** The Supplier's expertise and experience means that the Purchaser is entitled to expect it to perform the entrusted services in accordance with professional practice and as an experimented and recognized professional specialized in freight forwarding services. The Supplier therefore commits to an obligation of result for a Level of service, which is measured using several indicators as detailed hereinafter.

The Supplier undertakes to provide the Purchaser with the benefit of its technical expertise and know-how, which is notably materialized by a duty to advise, inform, recommend and to warn with respect to performing the Contract and the Order properly. In all cases, the Supplier must defend the Purchaser economic interests.

**D2.2** The Supplier warrants that it has a perfect knowledge of each of the documents and information provided by the Purchaser, and considers them to be sufficiently clear, complete and explicit because it has examined them and checked their consistency. Otherwise the Supplier shall immediately notify the Purchaser, as part of its duty to advise.

**D2.3** The Supplier further warrants that it is acting as a 'FORWARDING AGENT' within the scope of this Contract and that it is solely liable for performing the services, after examining the local conditions and the measures to be taken to successfully perform its transport services and that it waives any claim which could be based on a lack of information, irrespective of whether it performs the service personally or subcontracts it.

The Supplier therefore undertakes to perform all tasks including all the administrative (notably the submission of customs documents without delay associated with services to the Purchaser's entity having placed the Order) and technical tasks required to perform the services properly as can be described in the Order.

**D2.4** The Supplier shall perform quality services, in accordance with the professional standards, good industry practices, laws and regulations, while performing this Contract and/or Order.

**D2.4** The Supplier is responsible for performing the Transport Services properly and for correctly managing the Orders which are placed by the Purchaser.

**D2.5** The Supplier has determined human and technical resources necessary and sufficient for the transport services performance under the Contract.

The Supplier will use its expertise, know-how, experience, its own resources or its subcontractors' resources, a skilled workforce in sufficient numbers, and its management to achieve this. The Supplier will be allowed to adjust this organization to perform the Services, under its sole responsibility.

The Supplier recruits, remunerates, employs, trains and manages the personnel required to perform the Services under its sole responsibility. The Supplier will be responsible for problems concerning timekeeping and personnel, and for compliance with employment legislation or any other applicable legislation.

The Supplier's personnel who perform the Services will only receive instructions from the Supplier's designated technical manager. The Supplier's personnel will remain under the Supplier's managerial, disciplinary and legal authority, which will therefore have managerial authority and control, but also technical authority, and administrative, accounting and social management of its personnel. The Supplier's personnel can never be legally assimilated to the Purchaser's salaried personnel or to temporary workforce supplied to it.

**D2.6** The Supplier will pass on all its obligations pursuant to the Contract and/or the Order to its subcontractors or possible suppliers and will remain responsible towards

the Purchaser for all subcontracted obligations. Unless otherwise agreed by the Parties and specified in the GPC and/or the Order, the Supplier also undertakes to prohibit its subcontractors from further subcontracting the services entrusted to them by the Purchaser.

**D2.7** The Supplier ensures that the packaging is appropriate for Products subject of the Order. In the event that the Supplier would find that the packaging is not suitable for Products, it shall immediately alert the Purchaser.

**D2.8** The Supplier undertakes to respect and ensure that its staff and its subcontractor's staff fully respect the **Safety Protocol** specific to shipper, Purchaser or other recipient's site as listed in the Order.

The Safety Protocol consists in a written document which aims to describe the information relevant to risk assessment generated by the Intervention on said sites and prevention measures and safety practices at all stages of its implementation (such as plan and traffic instructions, emergency provisions in case of accident, etc. ...).

For each of the Purchaser's Sites, the model of Safety Protocol will be completed and signed by the Parties.

**D2.9** If applicable, the Supplier supports the **Tools** for handling and transportation provided by the Purchaser for performing the services.

Tooling shall remain the ownership of the Purchaser. The Supplier stores, maintains, and ensures the replacement and shall bear the cost of repair in case of misuse.

The Supplier undertakes to ensure that the property of the Purchaser relating to this Tools is properly identified as such in the Supplier premises and/or sub-contractors, so that the Purchaser can resume possession of the Tools immediately and without difficulty, if necessary.

A contradictory written statement of such Tools shall be established by the Parties when its become available and when its return.

If necessary, the Parties shall sign, by endorsement, a loan of Tools that will be part of the Contract.

The Supplier undertakes to pass on to its suppliers and/or subcontractors all the obligations of the Contract and Order(s) and to remain the sole guarantor vis-à-vis the Purchaser and/or its affiliates of all the obligations under the Contract and / or Order.

### ARTICLE D3. PURCHASER'S OBLIGATIONS

In addition to the Common Articles, it is specified that:

**D3.1** The Purchaser undertakes to provide the Supplier sufficient instructions for carrying out the Services, so that the Supplier can reach the expected service level (SLA) as agreed between the Parties.

The Purchaser will issue, in due course, reasonable instructions to the Supplier and provide it with all details with regards to the Products to be received and carried from the Purchaser's or its supplier's premises or other designated point to the Site of delivery.

**D3.2** The Purchaser undertakes to provide the Supplier, if necessary and at the Supplier request, the handling tools necessary for performing the Services.

**D3.3** The Purchaser warrants that the description and particulars of any Products or information furnished to the Supplier are full and accurate, that all Products have been properly and sufficiently prepared, packed, stowed, labelled and/or marked and that the preparation, packing, stowage, labelling and marking are appropriate to the operations or transactions affecting the products.

### ARTICLE D4. PERFORMANCE OF THE SERVICES

In addition to the Common Articles, it is specified that:

#### D4.1 Terms and conditions of performance

Throughout the term of the Contract, the Supplier undertakes to (i) respect the Level of service specified in the SPC and/or the Order, and (ii) return the copy of the proofs of delivery to the Purchaser.

#### D4.2 Supervising the services

Regular progress meetings are scheduled between the Supplier and the Purchaser. During these meetings, the Purchaser can announce its decisions, technical choices and any other observations it has in general. The Supplier can suggest improvements in the Services and more generally make any kind of suggestions.

After the Services have been completed in accordance with an Order, the Supplier will return a dated, stamped and initialed proof of delivery together with the receipts for each Incidental charge.

#### D4.3 The 'SLA rate':

The Supplier calculates a service rate called 'SLA rate' (or Service Level Agreement rate) for each shipment relating to services performance. Such SLA shall be defined in a SPC and/or the Order.

A shipment is considered non-conform in case:

- The agreed SLA specified in the SPC and/or the Order is not fully respected.
- And/or there are breakages, average, wrongly routed shipments (shipment to the wrong site) or shortages found in the shipments.

## ANNEX D - SPECIFIC CLAUSES APPLICABLE TO FREIGHT FORWARDING SERVICES

- The recipient makes express reserves in accordance with the reserves procedure specified below.

### D4.4 Reserves Procedure

In the event of any loss or damage sustained by the products, or of any delay, the Purchaser or the recipient shall make proper and adequate inspections, express motivated reserves and, generally, carry out any action useful for the protection of claims and confirm said reserves in legal forms and timeframes.

The Purchaser and/or the recipient can make reserves in writing on the Transport Documents presented by the Supplier when the Products are delivered. These reserves must be dated and explicit.

The Supplier must inform the Purchaser of a reserve from a recipient within twenty-four (24) hours following its issuance.

### D4.5 Security, Health and Environment (EHS) policy and PPE wearing

Within the Purchaser's policy frame concerning personal safety, the wearing of the Personal Protective Equipment (PPE) is compulsory on the Purchaser and its clients' sites.

The Supplier shall put in application the wearing of the PPE during the survey operations, loading/unloading operations in the Purchaser and its client's sites.

Are defined as PPE the following equipment:

- Reflective jacket
- Security shoes
- Helmet, hard hat
- Glasses

More generally, the Supplier commits for its own personal and its potential subcontractor to respect the EHS rules in relation to the services performed.

The Purchaser shall inform the Supplier, prior to the start of any operation, of any applicable Safety Protocol on site by attaching said Safety Protocol to any SPC or Order for each of the Purchaser and / or clients' site concerned.

Any violation noted for not wearing PPE, total or partial, during survey, loading and / or unloading operations on the Purchaser and / or clients' sites, or failure to apply the loading / unloading procedures will be penalized with a penalty of six thousand US dollars (6 000 USD) per person and per violation found.

These penalties will apply from the first infraction and without limit.

Any records of three consecutive breaches from the same person will automatically result in a definitive prohibition to enter into any of the Purchaser's or of the clients' sites for this person.

### ARTICLE D5. ADDITIONAL CHARGES

In addition to the Common Articles, it is specified that:

The Supplier may have to incur additional charges for the proper performance of the services, other than the transport costs and the incidental charges included in the agreed price.

In such case, the applicable additional charges shall be detailed and submitted for written approval to the Purchaser by the Supplier, prior they are actually incurred.

### ARTICLE D6. INVOICING TERMS

In addition to the Common Articles, it is specified that:

**D6.1** To be payable, the invoice shall be sent under terms and conditions specified in this Contract and/or Order. It will contain all the information required by law as well as the reference to the Order, this Contract, the volumes, weights and amounts relating to the shipments actually performed by the Supplier and the price, which shall be consistent with the financial terms specified in the SPC and/or Order.

### D6.2 Form and frequency of invoicing

A shipment corresponds to a transport Order and an invoicing.

Invoices are issued only after the services have been fully performed, in compliance with the Contract.

The billing of expenses other than those provided for in the specifications (dead freight, awaiting truck, etc.) shall be charged with separate invoicing.

### D6.3 Contents of the invoice

To be acceptable and payable, the Supplier's invoicing shall include the following elements:

- (i) The invoice in a paper format with the following clearly readable information (scannable):
  - INVOICE ISSUER: name / address / EU VAT number / contact details of the Supplier establishment issuing the invoice;
  - The Purchaser site billed: name / address / EU VAT number of the site that is being billed,
  - THE POSTAL ADDRESS OF THE INVOICEE: Name / Services / Invoicing address requested by the Purchaser,
  - The Order number;
  - The identifiers of the invoice (date, invoice number, reference period);

- The number of Products to be transported and the Project's name (if any);
- Shipment identified (CMR / BOL / AWB number) / date (shipment loading, arrival, etc.)
- Gross taxable weight, number of parcels / palettes / linear meter / complete or any other handling quantities (container etc), quantity;
- Per line,
  - The type of load invoiced: freight or incidental Charges
  - The receipt number (CMR / BOL / AWB number),
  - The quantity, index, unit price, net price of VAT,
- At the foot of the invoice, breakdown of the amounts invoiced in accordance with the applicable VAT rates (with or without).

- (ii) The copies of proofs of delivery of the relevant shipment(s) and/or successful completion of the services with all necessary Transport Documents and/or the implementation of the services specified and listed in the Contract and/or Order, in paper form (copies of the initialled delivery slip, initialled freight bill or combined manifest/report (CMR), and any other initialled supporting documentation relative to the Shipments such as a BOL or an AWB, including all the original documents associated with the Customs records, as well as all documents associated with any supplementary charges).

The non-transmission of an invoice complying with the rules set out in this Article, of the detailed file or of the delivery documentation puts the invoice on hold and may trigger a request for a credit for the amount not justified.

### D6.4 Methods of checking the invoice

The Supplier shall be alerted by email in case of any abnormality on the invoices or on the supporting documents.

This alert shall describe the type of problem encountered for each line of the invoice. The "anomalous" invoices are put on hold while awaiting feedback from the Supplier (supporting documents or credits).

### ARTICLE D7. TERMS OF PAYMENT

As an exception to the Common Articles, it is specified that:

Invoices for any Order governed by Panamanian Law will be paid within thirty (30) days date of issuance of the invoice.

For any Transport Order not governed by Panamanian Law, the payment of invoices shall be made as described in the SPC and/or Order, or within any other period specified if it is governed by other imperative law than Panamanian law.

### ARTICLE D8. BANK GUARANTEE

In addition to the Common Articles, it is specified that:

In order to guaranty the proper execution of its contractual obligations pursuant to the Contract and/or Order(s), the Supplier shall issue in favor of the Purchaser a first demand and irrevocable performance bond from a first class bank or other financial institutes agreed by the Purchaser, to guaranty good performance by the Supplier of its obligations under the Contract.

The Supplier shall issue the bond within thirty (30) days after issuance of the SPC or of the Order.

Each performance bond shall amount to fifteen per cent (15%) of the total value of the concerned SPC and / or Order.

Each performance bond shall expire when the relevant services have been fully performed in compliance with the Contract.

### ARTICLE D9. SERVICE LEVEL AGREEMENT AND ASSOCIATED PENALTIES

In addition to the Common Articles, it is specified that:

#### D9.1 The Service Level Agreement (SLA) as a substantial obligation of the Contract, SPC and/or Order.

The Supplier recognizes that compliance with the SLA is a substantial obligation of the SPC and/or any Order. If the Supplier considers that it is not able to meet the SLA of the Services as be set forth between the Parties, it shall immediately notify the Purchaser. The notification by the Supplier of its inability to meet the SLA does not relieve the Supplier of its obligations under this Contract to reach the minimum service levels in the conditions specified hereafter, the Supplier shall make best endeavours to achieve the desired Service levels.

#### D9.2 Application of penalties

Following a monthly update on the analysis of the indicators, the Purchaser issues an invoice corresponding to the amount of penalties for the month.

Should penalties apply, payment by the Supplier of the penalties does not relieve the Supplier of its obligations to perform its obligations.

The penalties set out in the SPC or in the Order shall apply without prejudice to any other costs incurred by the Purchaser resulting from the failure of the Supplier.

The penalties shall be invoiced by the Purchaser to the Supplier and in no way can be considered as a lump sum compensation for any loss that may be suffered by the

Purchaser in the course of performance of the Contract and shall not be considered as a sole remedy and full satisfaction of the Supplier's liability.

The penalties shall be paid by the Supplier within the same deadlines as the deadlines for payment specified in article D7 above.

The application of the penalties is independent of the termination of the Contract, SCPC and / or Order, which may eventually result from the delay or poor performance by the Supplier of its obligations.

In particular, the Parties consider that the Supplier has materially failed to perform its services if the SLA floor rate is reached four (4) consecutive times over a period of six (6) months.

**D9.3 Calculation of service level**

On a monthly basis, unless agreed otherwise by the Parties, the Supplier and the Purchaser agree to calculate at minimum two types of indicators for measuring the service level:

- Administrative Milestones as set forth in the SPC and/or Order, and
- Technical Milestones as set forth in the SPC and/or Order.

**D9.4** Level of the target SLA and associated penalties shall be agreed upon by the Parties in the SPC and/or Order.

**ARTICLE D10. LIABILITY**

In addition to the Common Articles, it is specified that:

The Liability of the Supplier for actions, negligence or omission of substitutes and subcontractors is limited to the liability incurred by the substituted parties according to mandatory local regulation or mandatory international convention applicable to the mean of transport concerned.

When the limitations of intermediaries or substituted parties are unknown or are not mandatory, they shall be deemed equal to those of the Supplier.

**ARTICLE D11. TERMINATION**

In addition to the Common Articles, it is specified that:

The Purchaser can terminate the Contract and/or any Order within thirty (30) days after sending a registered letter with acknowledgement of receipt, without prejudice to its other rights and claims, if (i) the Supplier does not respect the SLA floor rate for four (4) consecutive times over a period of six (6) months, or (ii) if the corresponding Main Contract concluded between the Purchaser and its Client is terminated.

**ARTICLE D12. SUBCONTRACTING**

As an exception to the Common Articles, it is specified that:

**D12.1** Neither Party shall assign or transfer this Contract and/or any Order to a third party any part thereof without the prior written approval of the other Party.

The Supplier shall in no case subcontract whole or part of its mission as "commissionnaire de transport" under this Contract and/or Transport to a third party without the prior written approval of the Purchaser.

**D12.2** The Supplier commits to pass on to all its subcontractors and/or suppliers all the instructions, information and requirements defined in the GPC, SPC and / or Orders. In any event, the Supplier shall remain the sole guarantor vis-à-vis the Purchaser for all the obligations subcontracted and shall in consequence bear the consequences towards the Purchaser of any default of one of its subcontractors in the fulfilment of the services.

The Supplier commits to select reputed and experimented subcontractors and/or suppliers with in particular appropriate means and resources and high level of expertise in order to achieve the good execution of the services.

In addition, the Supplier commits not to authorize its subcontractors and/or suppliers to subcontract the services.

The present article constitutes a material obligation for the Purchaser without which he would not have entered into the Contract with the Supplier.