

## 1. PURPOSE

The purpose of the present general conditions of purchase of goods and/or services (hereinafter the “**General Purchase Conditions**”) is to be part of the Contract that will define the terms and conditions whereby any of the ALSTOM entities which have their registered office in Azerbaijan (hereinafter the “**Purchaser**”) entrusts the supplier (hereinafter the “**Supplier**”), who accepts it, to supply the equipment, parts thereof, other goods and/or any other deliverables including Documentation and Software (hereinafter the “**Goods**”) and/or services (hereinafter the “**Services**”) under the conditions as defined under the Contract. The Purchaser and the Supplier shall be hereinafter referred to separately by “**Party**” or jointly by “**Parties**”..

## 2. FORM AND CONTENT OF THE CONTRACT

**2.1.** The contract (hereinafter the “**Contract**”) that shall govern the supply of Goods and Services by the Supplier to the benefit of the Purchaser in the frame of a contract between the Purchaser and its clients (the “**Customer**”) for a dedicated project (hereinafter the “**Project**”), shall consist of the documents quoted in decreasing order of priority as follows:

- The purchase order(s) (hereinafter the “**Order(s)**”)
- The Specific Purchase Conditions, supplementing and/or amending these General Conditions, agreed in writing (hereinafter the “**Specific Purchase Conditions**”) but excluding any appendices unless expressly stated in the Order(s) to prevail;
- the present General Purchase Conditions (hereinafter the “**GPC**”),
- if applicable, the appendices to the Order(s) or to the Specific Purchase Conditions or if applicable to any purchase agreement for which the present General Purchase Conditions are part of, in numbering or alphabetical order as applicable.

**2.2.** All documents other than those covered in Article 2.1 shall not be applicable between the parties to the Contract, unless otherwise stated in the Order or in the Specific Purchase Conditions.

## 3. COMING INTO FORCE – TERM

**3.1.** The Contract shall come into force once the Supplier has acknowledged receipt of the Order signed by the Purchaser. The Supplier undertakes to return to the Purchaser, the acknowledgement of receipt of the Order within eight (8) calendar days of the receipt thereof whether by electronic means or otherwise.

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

**3.3.** Unless stated otherwise in the Contract, the date of coming into force thereof shall constitute the starting point for the performance time by the Supplier of its obligations under the Contract.

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

## 4. PERFORMANCE OF THE CONTRACT

### 4.1. Good Industry practices.

**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 (“**Goods Industry Practices**”), and in accordance with all the terms and conditions stated in the Contract, regulations and standards in force where the Goods and Services are to be delivered. The Supplier’s Quality Manual, available at <https://alstom.hlpweb.net/supplier-quality-portal-for-supplier>, defines the quality expectations by the Purchaser 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 manufacturing processes, shall comply with contractual requirements, applicable regulations and Good Industry Practices.

**4.1.2.** 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 thus appointed shall be responsible for directing the operations necessary for the delivery of the Goods and/or the performance of the Services and shall be solely entitled to give instructions to the Supplier’s staff who is responsible for the performance of the Services on Site. It shall be the Supplier’s contact person for the Purchaser.

**4.1.3.** The Supplier shall request from the Purchaser in a timely manner, any approvals and instructions needed for the correct performance of the Contract. For its part and as the case may be, the Purchaser shall make available to the Supplier the materials and/or perform the works identified in the Contract. It shall also provide access to the delivery site for the Goods and/or performance of the Services (hereinafter the “**Site**” or “**Sites**”).

### 4.2. Quality Assurance

**4.2.1.** The Supplier shall perform its quality obligations as defined in the Contract and continuously in accordance with the principles set forth in the Supplier Quality Manual. The Supplier Quality Manual defines the quality expectations and actions required by the Purchaser. Supplier shall use Alstom Supplier Quality Portal at all time during the performance of the Contract and/or the Order.

Qualification: The Supplier shall be ISO/TS 22163 certified “Railway industry standard”, as defined in the Supplier Quality Manual or ISO 9001 or equivalent.

Supplier’s and its sub-suppliers’ and/or subcontractors’ qualification certificates must be made available to the Purchaser within forty-eight (48) hours upon request. All corrective actions rendered necessary to reach satisfactory qualification must be put in place within the time frame agreed with the Purchaser and in any case no later than 6 months upon Purchaser’s observation of non-compliance with qualification requirements.

If the Supplier is not ISO/TS 22163 certified “Railway industry standard”, the Purchaser retains the right to perform its own qualification for processes of Supplier and/or its sub-suppliers and/or subcontractors.

**4.2.2.** The Supplier shall implement an appropriate and recognized quality assurance programme and quality control plan for the execution of the Goods and the performance of the Services and shall satisfy itself and the Purchaser by means of appropriate Documentation, processes, inspections, tests and other quality and risk management measures that the Goods and/or Services conform to the requirements of the Contract and shall keep such plan up-to-date throughout the whole cycle of the Goods 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 Goods 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 Goods 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 Section 4.2.

**4.2.3.** The tests shall be performed in accordance with the processes defined in the technical specifications as set out in the Contract. The Supplier shall provide the Purchaser with the relevant test reports. If the test results do not comply with the technical specifications 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 technical specifications’ requirements and the deadlines stipulated in the Contract.

**4.2.4.** 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 Goods and/or Services 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.

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

### 4.3. Goods and Services

**4.3.1.** The Supplier shall ensure that the Goods, “**Software**” (individually and collectively, computer programs and all improvements, Software updates, and enhancements/upgrades thereto and associated Documentation including technical specifications and process flow diagrams and/or the Services provided are fit for the purposes that may reasonably be inferred from the technical specifications 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 5.2.

**4.3.2.** The Goods and/or Services shall be delivered in a state of full completion with the complete “**Documentation**” (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 the European

Council Regulation 428/2009 (as amended) and/or the U.S. Export Administration Regulations ("EAR"), percentage of U.S. origin content, U.S. Export Control Classification Number ("ECCN") or U.S. Munitions List category ("USML") (if applicable) export authorizations and licenses, Harmonized Tariff Code - and any such other documents required under the Contract and/or applicable Laws) 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. 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 by the Customer, in accordance with the time-lines agreed between the Purchaser and the Customer. 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 to 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.

Any delivery of Goods shall be accompanied by:

- a. the Supplier's delivery note dated (for each unit of transport and total), bearing references of the Contract and indicating in particular the details of the Goods delivered, number of packing, tare numbers, the contents of the packings therein, the number of Goods, their gross and net weight, method of transportation, date of dispatch, as well as identification number of transportation mode (by air freight, by road, by railway or sea freight) where relevant. The Supplier shall provide 3 copies of the list of documents with the delivery note;
- b. the Supplier's invoice (in 3 copies) dated, indicating a description of the Goods delivered with the terms of payment, quantities delivered, unit price of the Goods, the country of origin, Order number, Purchaser's reference, terms of delivery.
- c. the airway bill or Consignment note (CMR) in 3 copies;
- d. the Border pass document;
- e. the originals of documents containing information about the completeness of the Goods, its technical characteristics, operating rules, and other information necessary to determine the quality of the Goods and its compliance with regulatory and technical documents, recognized in the Republic of Azerbaijan (certificate of quality/ technical passport and etc.), and duly certified by the Supplier;
- f. Certificate of origin of the Goods duly certified;
- g. a copy of certificate of conformity of production of Supplier to international quality standard ISO 9001:2015 (if such exists) or the Single Form of Declarations of Conformity of Goods with the Technical Regulation Requirements of the Customs Union;
- h. the power of attorney certifying the authority of the person participating in the acceptance-transfer of the Goods.
- i. Act of acceptance of completed works (services rendered) - if the Contract provides for the performance of work / provision of services.

**4.3.3.** Goods or Services that do not meet all the requirements set in this Article 4.3 shall be considered as having a Non-Conformity as per Article 10 of these General Conditions and may be recorded as a non-conformity event (NCE) as defined in the Supplier Quality Manual.

A lump sum administrative fee of seven hundred manat (700 AZN) will be applied by the Purchaser for each NCE. 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.

**4.3.4.** The Goods ordered to the Supplier are intended to be integrated in complex structures, such as signalling systems, infrastructures, or vehicles like trains, tramways, or buses ("Equipment") realized or built for Projects. The Supplier shall ensure necessary interfaces and interoperability with said Equipment.

**4.3.5.** If the Supplier is not certain that the results of the Services or Goods comply with the requirements defined in this Article 4.3, 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.

**4.3.6.** If the Purchaser assesses on its part that the Supplier is not performing the Services and/or supplying the Goods in accordance with the Contract, it may require the Supplier to indicate to it, in writing, the measures that the Supplier intends to take to remedy the situation. The Purchaser shall notify the Supplier in writing as soon as possible of its acceptance or rejection of the Supplier's proposals.

#### **4.4. Records and record audits**

**4.4.1.** The Supplier shall define and implement method enabling him to identify the Goods as well as their status regarding the processes used throughout the Goods production phase and Services performance. The Supplier shall ensure traceability and keep records from the start of manufacturing process till the end of the warranty period as specified under Article 16.2.

**4.4.2.** The Supplier shall keep all Goods related data and Documentation at least for twenty (20) years after the Goods delivery or any such longer time required by applicable law. The Supplier warrants that all records to trace and evidence compliance with the Contract requirements, including EHS requirements, shall at all times be readable and available to the Purchaser and/or the Customer.

**4.5.** 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 Goods and/or Services.

Any participation by the Purchaser in planning or designing of the Goods, in the processing of any document, information, data, material and/or software, or any review or approval of any process or data by the Purchaser, will not release the Supplier from its obligation to perform and supply the Goods and/or Services, in accordance with the terms of the Contract.

**4.6.** Unless different procedures are specified in the Contract, the Supplier shall send the Purchaser, a weekly activity report tracing the Goods and/or Services 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.

**4.7. Quality Portal** 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 (audits, Projects, serial life performance, Concessions/Waiver) 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 Portal.

#### **4.8. Localisation and change of manufacturing process**

**4.8.1.** The Parties shall cooperate to localize all or part of the manufacturing of the Goods and/or performance of any portion of the Services in areas enabling the Supplier to maintain or improve its competitiveness.

**4.8.2.** In case the Purchaser sets special conditions under the Contract, with respect to localization/local content of all or part of the manufacturing of the Goods or performance of all or part of the Services, the Purchaser shall inform, as soon as possible, the Supplier in order to prepare a common proposal to satisfy said requirements. The Supplier shall provide details of prices so that all aspects can be examined by the Purchaser and improved in the interest of both Parties.

**4.8.3.** In case of a modification of the production localization and/or the manufacturing process of the Goods or performance of whole or part of the Services initiated by the Supplier, it shall notify the Purchaser in writing eighteen (18) months prior to the intended modification. No such modification shall be implemented without the prior written authorization from the Purchaser and further re-qualification of the Goods. The Supplier shall keep a clear traceability of the manufacturing process related to the Goods before and after authorized modification.

**4.8.4.** In any event, the Supplier shall ensure that the Quality Cost Delivery Technology (QCDDT) requirements shall not be modified without prior Purchaser's consent.

**4.8.5.** In the event of:

- (i) a modification initiated by the Supplier as set forth under Article 4.10.3, the Supplier shall bear all associated costs incurred by the Parties and in particular all costs associated with necessary validation, qualification and type tests processes.
- (ii) a modification of localization or manufacturing process initiated by the Purchaser, the price of the Goods and/or Services may be adjusted on rates and prices specified in the Contract in order to take into account the change concerning the localization and/or manufacturing process. Should these rates and prices not be applicable, such other rates and prices shall apply as may be fair and reasonable.

## **5. CHANGES IN CONTRACT**

**5.1.** The Purchaser shall have the right at any time to make changes in the design and/or the specifications of any or all of the Products or part thereof, delivery terms, scope or other provisions of the Contract, 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 Goods and Services or any other provision(s) of the Contract, 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 of the change. 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 5.1, 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 change 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 Goods and Services or any provision of the Contract without the Purchaser's prior written consent. Once the Supplier's design of the Goods 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 and the Purchaser's Customers 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 Goods after the design thereof is frozen.

## **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 Goods 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 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 the Goods 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).

The Supplier shall not deliver the Goods without a release by the Purchaser, unless the Purchaser waives such right of release. 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.

Delivery of the Goods shall not be deemed to have occurred if the Goods are not fully compliant with all the terms and conditions of the Contract, unless the Purchaser expressly agrees otherwise in writing.

**7.3.** Any delivery of Goods shall be accompanied by the Supplier's delivery note, dated, bearing references of the Contract and indicating in particular the details of the Goods 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.

**7.4.** The Supplier shall deliver as part of the Goods the Documentation as specified under Article 4.3.2 of these GPC. Delivery of the Goods and Services shall not be deemed complete until delivery of all required Documentation has occurred in accordance with the Contract.

**7.5.** Upon receipt of the Goods and/or completion of the Services, 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 on the Goods after its receipt by the Purchaser, then the Goods shall not be deemed complete until such tests have been passed to the satisfaction of the Purchaser.

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 Goods and/or Services.

**7.6.** The acceptance shall only be considered as definitive when such tests have demonstrated the compliance of the Goods and/or the result of the Services to the requirements defined in Article 4.3. The tests report shall include the configuration of the elements being subject of the relevant test.

Where the Contract provides for an acceptance procedure in the presence of both Parties, at the end of such procedure, the Parties shall sign an acceptance certificate if they agree on the compliance of the Goods and/or result of the Services with the terms of the Contract and particularly with the requirements of Article 4.1. Such acceptance certificate shall be produced in two (2) originals.

Signature of the acceptance certificate without any reservations by the Parties shall authorize the Supplier to invoice the Purchaser under the terms of payment due on acceptance date.

The Purchaser may pronounce the acceptance of whole or part of the Goods and/or the result of the Services, subject to reservations for all or part of the Goods and/or the result of the Services in question depending on the circumstances under the sole assessment of the Purchaser and if the non-compliances are revealed to be of an insignificant nature, especially if they do not affect the safety and/or use of the Goods and/or their environment. 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 Goods and/or Services in question have been made compliant.

**7.7. Concessions (or Waiver)** Should Supplier identify or have good reasons to suspect a Non-Conformity prior to the delivery of the Goods or performance of Services that Supplier considers as minor, the Supplier shall promptly inform the Purchaser thereof and may seek a Concession from Purchaser to deliver the Goods or Services. Any given Concession may only cover a single type of Non-Conformity. Supplier shall, in its Concession request, describe as precisely as feasible the Non-Conformity, its consequences, the corrective or curative measures and the planning for their implementation to be carried out by the Supplier.

Delivery by Supplier of the Non-Conforming Goods and/or Services shall be conditional upon the prior grant of the Concession by Purchaser at its discretion. The grant of a Concession shall be without prejudice to the Purchaser's right to have repaired/replaced the Goods delivered subject to the Concession.

Should Purchaser grant the Concession, it may invoice a lump sum amount of two thousand manat (2000 AZN) per Concession as an administrative fee.

The present clause is further detailed in the Supplier Quality Manual.

## **8. DELAY**

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

**8.2.** If the delivery of the Goods and/or performance of the Services 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. Penalties for delay**

**9.1.1.** If the Supplier fails to comply with the dates or deadlines for the delivery of the Goods and/or performance of the Services specified in the Contract, except for reasons attributable to the Purchaser, the latter is entitled to apply penalties, without any prior official notification, from the moment any date or deadline has been reached.

**9.1.2.** Unless stipulated otherwise in the Contract, the penalties mentioned here above shall be calculated at the rate of five per cent (5%) of the price of the Goods or Services which delivery or performance is delayed exclusive of Value Added Tax 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.

**9.1.3.** It is expressly agreed that the payment of such penalties shall be the subject of an invoice. As soon as they are applicable, the penalties may be applied at any time, at the Purchaser's option.

### **9.2 Other form of penalties**

Other penalties for performance (noise, weight, reliability, immobilization) or otherwise can be provided in the Contract depending on the nature of the Goods and or Services and Purchaser's customer requirements.

### **9.3 Terms of application**

These 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. NON-COMPLIANCE – REJECTION OF DELIVERY**

**10.1.** If, when they arrive at the Purchaser's premises or any other place agreed between the Parties, the Goods and/or the result of the Services are considered as non-compliant with the Purchaser's expectations as described in the Contract, the Purchaser may reject all or part of them. The delivery shall then be considered as not having been made.

**10.2.** In this case, the Purchaser reserves the right (i) to require the Supplier to replace or repair the rejected Goods and/or the result of the Services, 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 Article 10.3, or (iii) to retain the Goods and/or the result of the Services subject to a rebate, or (iv) to terminate the Contract in whole or in part in application of Article 22. In all cases, the totality of the costs and risks shall be borne by the Supplier.

**10.3.** In the case defined in Article 10.2 (ii), 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, after an official notification to remedy the non-compliance addressed to the Supplier by registered letter with fifteen (15) days' notice has remained unfruitful. The Supplier shall then facilitate the interventions of the Purchaser or third-party company in optimum conditions and particularly to remit to them the tools, drawings, studies and any other documents and associated intellectual property rights necessary for the production of the Goods and/or execution of the Services.

## **11. VALIDATION, INSPECTION HOMOLOGATION TESTS**

### **11.1 First Article Inspection and Type Tests**

The pre-series Goods manufactured and/or assembled in the normal production conditions, i.e. with a stabilized and formalized process, will be subject to a First Article Inspection (FAI) at Supplier's factory with the attendance of Purchaser, and Customer if required.

FAI and type tests processes are defined in the Supplier's Quality Manual and the SPQD Plan part of the Contract.

The authorization to deliver series Goods shall be conditional upon the First Article Inspection validation.

Performance of the FAI and validation thereof shall not relieve Supplier from its obligations under the Contract, in particular, with respect to its obligation to deliver Goods conforming with the contractual requirements.

If, for any reason attributable to Supplier, any trip additional to the initially scheduled trips is required to be made by Purchaser and Customer to attend the FAI or type tests, the additional expenses shall be reimbursed by Supplier.

### **11.2 First Mounting Inspection**

The delivered pre-series Goods shall be subject to FMI tests aimed to define as soon as possible the conception and the procedures in detecting and solving the devising of the Goods and/or parts.

The FMI tests will be made on all types of the Goods by Purchaser at its premises and with the attendance of Supplier if required by Purchaser.

The FMI tests shall be carried out pursuant to the processes defined in the SPQD Plan and the technical specifications as set out in the Contract.

The FMI will relate, but not comprehensively, to static and dynamic tests, integration tests.

### **11.3 Other tests related to the validation of the Goods by Purchaser**

Supplier shall carry out tests regarding the design and performance of the Goods and tests regarding accessibility and maintainability of the Goods mounted into the Equipment on the date of the FMI at the earliest and by three (3) months from the FMI date at the latest and/or at any point in time thereafter upon request from the Purchaser.

The aim of these tests is to demonstrate conformity of the Goods to the maintainability and accessibility requirements set out in the Contract.

### **11.4 Homologation and specific tests**

**11.4.1** Homologation and related specific tests on the Goods may be required for the homologation by the Customer of the Goods in its operating conditions. These tests will be carried out in accordance with the technical specifications as set out in the Contract.

**11.4.2** If Purchaser informs Supplier that Customer has set its own homologation and/or specific tests procedures, Supplier shall implement these procedures in respect of the Goods and shall provide assistance to Purchaser for the implementation by Purchaser of said procedures in respect of the Equipment, being understood that Supplier shall provide Purchaser with all Documentation related to the Goods and/or Services required for the homologation of the Equipment.

### **11.5 Technical assistance during the tests**

Purchaser may request Supplier to attend or take part in the First Mounting Inspection and/or test and commissioning of the Equipment, at no additional cost for Purchaser (such cost being included in the Prices).

In addition, Supplier shall provide:

- phone assistance from Monday to Friday, seven consecutive (7) business hours per day, during the period starting from the delivery date of the pre-series Goods and ending on the commissioning date of the last delivered series equipment;
- technical assistance within twenty-four (24) hours from the Purchaser's notice, on sites defined by the Purchaser;
- technical assistance, upon request of the Purchaser, during nights and holidays in order to implement modification or adaptation on the Equipment, parts on Customer's sites.

## **12. TRANSFER OF TITLE– TRANSFER OF RISKS**

### **12.1. Transfer of title**

Title to the Goods and/or Services 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 upon the Goods, or any part thereof, 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. Transfer of risk**

The risk of loss of or damage to the Goods and/or Services shall pass from the Supplier to the Purchaser (i) upon the date of their acceptance if this is performed on the Purchaser's premises in accordance with the provisions of Article 11, or if not (ii) upon delivery of the Goods at the named destination pursuant to the Incoterm ICC 2020 as defined in Article 7 above.

## **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 AZN (manat), as the currency of both the account and of payment.

**13.3.** Unless it has been stipulated otherwise in the Contract, the price shall mean DAP or FCA pursuant to the provisions of Article 7.2 hereinabove.

**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.** Unless stipulated otherwise in the Contract, 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 at any time in consideration of the performance of its obligations,



any amount for which the Supplier shall be made liable under the Contract, especially in application of the provisions of Articles 6.3, 9, 10.3 and 16.1.

**13.8.** In case of late payment by the Purchaser, the Supplier may apply penalties. The penalty is calculated based on the official refinancing rate of the Central Bank of the Republic of Azerbaijan on the day of fulfillment of the monetary obligation or its corresponding part. 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.

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.

**14.1.2** 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.

**14.1.3** 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.

**14.1.4** 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.

**14.1.5** Subject to the provision of the above paragraph, these obligations of confidentiality shall survive for a period of five (5) years from the expiration or termination of the Contract.

##### **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 all Goods to be delivered and Services to be performed under the Contract 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 Goods and/or on the Services, 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:

- (iii) notify the Purchaser in writing immediately (and no longer than 12 hours after becoming aware of the Cyber Incident or Other Incident); and
- (iv) 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:

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 14.2; and 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 another Incident.

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

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 IT system, which have been communicated in writing prior to any intervention.

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

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 Goods and/or Services; 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 Goods and/or Services.

## **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, (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 ALSTOM Group Company, 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 Goods and/or Services 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 15 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. This request must be sent by mail to: ALSTOM - Brand Communication Department - 48 rue Albert Dhalenne, 93400 Saint-Ouen sur Seine (France); Email: [brand.requests@alstomgroup.com](mailto:brand.requests@alstomgroup.com)

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 Goods and/or Services, 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, its Affiliates and Customers 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 Goods and/or Services.

**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 Goods and/or Services.

## **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.

## **15.5 Escrow**

**15.5.1** Supplier shall deposit, at its own costs and within a maximum of sixty (60) days after the signature by the Parties of the Contract, the software source codes, including all the necessary files for the recompilation of the source codes, their protection, their program tools and the documentation related to such source codes, all documentation relating to assistance, maintenance, correction and evolution of the software, as well as all the necessary documents for the manufacturing, repair and the maintenance of all Goods, in their latest version (hereafter the "Deposit Materials").

**15.5.2** If a template escrow agreement is part of the annexes attached to the Contract, such document shall apply to any deposit and agreement between the Supplier, Purchaser, escrow agent and, if necessary, the Customer.

**15.5.3** Supplier shall deposit a copy of any release, update or new version of the Deposit Materials to the escrow agent within sixty (60) days from the issuance of such release, update or new version, during the whole term of the Contract. At the time of each deposit or update, Supplier shall provide the escrow agent with an accurate and complete description of the Deposit Materials.

**15.5.4** Upon written request of Purchaser to the escrow agent, the Deposit Materials shall be released to Purchaser if any of the following events occurs:

- Supplier becomes bankrupt, or insolvent or any step is taken for the Supplier's winding up or dissolution or any similar or analogous proceedings or event occurs, or
- Supplier ceases temporarily or definitely the manufacture and sale of the Goods without being able to provide to Purchaser an alternative source of supply offering at least the same specifications, or
- Supplier is in material breach with any of its obligations pursuant to the Contract. Supplier will be deemed in material breach if it has not remedied a breach within twenty (20) business days after receiving a written notice from the Purchaser. A copy of this written notice shall be sent for information by Purchaser to the escrow agent, or
- Supplier becomes controlled by a third party which is a direct competitor of Purchaser and which in the reasonable opinion of Purchaser may adversely affect its interests, or
- Supplier assigns its intellectual property rights in the Deposit Materials to a third party ("Assignee") and the Assignee fails, within twenty (20) business days of all Parties knowledge of such assignment, to continue escrow protection for the benefit of Purchaser by failing to enter into either:
  - a novation agreement with the escrow agent for the assumption of Supplier's rights and obligations under the Contract by the Assignee, or
  - a new escrow agreement for the Deposit Materials, which offers Purchaser substantially similar protection to that provided by the Contract,
- Supplier or, where relevant, its agent, or affiliated companies, ceases to perform its obligations in connection with the Deposit Materials and has failed to remedy such default notified by the Purchaser to the Supplier within a reasonable period.

**15.5.5** Following such request, Purchaser shall be entitled to use and exploit the Deposit Materials for the purpose of understanding, maintaining, using, modifying and correcting the Deposit Materials in order to carry out its own developments, to manufacture or to have manufactured the Goods, to perform the assistance services and maintenance services in the frame of the Projects and for which a Contract has been entered into by the Parties.

Following the right of access and the right of use of the Deposit Materials granted to Purchaser, the latter undertakes to limit within its reasonable needs the duration and use of the Deposit Materials.

Such rights of access and use shall not include a transfer to Purchaser of the intellectual property rights of the Deposit Materials.

## **16.WARRANTY**

### **16.1. General Provisions**

In addition and without prejudice to all other warranties provided by the Supplier under the Contract or at law, the Supplier warrants that (a) the Goods and/or Services 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 (b) the Purchaser shall enjoy absolute and unencumbered title to the Goods and/or Services and any related materials.

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

#### 16.2. Warranty period and related obligations

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 Goods and/or results of Services is put into commercial service, and thirty-six (36) months as a maximum from the delivery of the Goods and/or Services 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 Goods on the Customer's equipment, depending on the case. Any replacement or repair, even partial, of/to a Goods affected by a defect shall give rise to the application of a new warranty period covering the Goods concerned for a period of twenty-four (24) months from the date of the repair or replacement.

**16.3.** 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 Goods on the Customer's equipment, as applicable.

#### 16.4. Epidemic defects

For the purpose of this Article, "Epidemic Defect" shall mean the same defect affecting at least five (5%) per cent of the Goods or a same defect affecting at least three (3 %) per cent of circuit boards, components or electronic sub-assemblies delivered by the Supplier to the Purchaser under the Contract, measured over a continuous period of twelve (12) consecutive months starting from delivery of the first Goods until three (3) years after the date of the delivery of the last Goods in the frame of the same project. If an Epidemic Defect affects the same part or the same Goods in one or more Orders, the Supplier shall repair, replace or redesign all of the identical parts or the same Goods, which is the subject of said Order(s). The Supplier shall also bear the costs of the logistics, dismounting and mounting of the parts or the Goods. In the event of a repair of an Epidemic Defect, the warranty period covering the relevant part or Goods shall be extended for a period of twenty-four (24) months from the date of commissioning of the repaired part or Goods. Throughout the duration of the warranty period for Epidemic Defect, the Supplier shall provide an analysis and action plan to correct any Epidemic Defect as notified by the Purchaser within a maximum period of five (5) business days from said notification. This action plan shall be implemented within a reasonable period, to be mutually agreed upon by the Parties having regard to the nature of the Epidemic Defect.

#### 16.5. Reliability

Reliability targets (Mean Time Between Failures (MTBF)) are defined in the technical specifications as set out in the Contract. Notwithstanding any possible application of penalties relating to reliability defined in the Contract, Goods shall remain covered by the warranty defined in this Article 16 as long as the reliability commitments have not been reached.

#### 16.6. Consignment stock

**16.6.1. Principle.** In the frame of the Contract, the Supplier shall provide the Purchaser, without any additional cost, with a stock of consignment spares (hereinafter "**Consignment Stock**"), enabling the Supplier to facilitate the implementation of its obligations regarding warranty as defined in this Article 16. The content (choice of parts and their number) of which shall guarantee reliable maintenance of the Equipment sold to the Customer and be compatible with the operation requirements and Customer requirements for availability.

The Consignment Stock shall not be used to cure Epidemic Defects or Defects which are not covered by warranty as defined in this Article 16.

The ownership of the content of the Consignment Stock shall remain to the Supplier.

In the case the Purchaser uses the Consignment Stock for other purposes, the Purchaser shall place an Order within a reasonable delay to replace the used parts.

In such case, if the parts are used to cure a Defect within the scope of the Warranty as defined in this Article 16, ownership of the said Parts shall pass, without extra costs, to the Purchaser.

**16.6.2. Management of consignment stock.** The exact content of this Consignment Stock as well as the packing conditions of the consigned equipment and/or parts shall be defined at

the latest one (1) month prior to the first delivery, as provided under the Contract. The content shall be updated with regard to reference number and quantity by the Supplier to enable the after-sales service of the Purchaser and/or Supplier to start repairs within less than four (4) working hours from the notification from the Purchaser, throughout the warranty period as defined at this Article 16.

The Supplier shall define the content of a Consignment Stock in the frame of the Contract, based on its reliability analysis and number of maintenance sites and communicate it to the Purchaser.

The parts and/or equipment contained in the Consignment Stock shall be identical with the parts and/or series of the delivered Goods in the frame of the Project. The Supplier shall update the content of the Consignment Stock in case of evolution of the series Goods.

The parts of the Consignment Stock shall be delivered at the latest upon the delivery of the Goods as provided under the Contract.

The parts of the Consignment Stock shall be delivered with a packaging enabling handling, storage and guaranteeing the integrity and use of parts and/or Goods during the warranty period defined in this Article 16.

The Consignment Stock shall be under the responsibility to keep and manage entrance and exit of the Purchaser or the Supplier if the Supplier is on the site.

The Consignment Stock shall either be stored in the premises of the Supplier or of the Purchaser or made available to the Customer at the option of the Purchaser.

Upon expiry of the warranty period defined in this Article 16, the Purchaser shall negotiate with the Customer that the latter acquire the remainder of the Consignment Stock. Should the Customer refuse to do so, the remainder shall be returned to the Supplier at its own costs.

### 17 – TRAIN LIFE SERVICES

#### 17.1 Long-term supply

**17.1.1** Supplier shall supply Goods corresponding exactly to the technical specifications as set out in the Contract, for a period of thirty (30) years unless otherwise agreed in the Contract, as from the delivery date of the last series equipment of the last order linked to a same Project.

**17.1.2** If at any time during this thirty (30)-year period, Supplier fails to meet this obligation:

- it shall inform Purchaser in writing as soon as it knows its failure; and
- give to Purchaser the possibility of purchasing a stock of Goods to satisfy Purchaser's requirements for the period during which Supplier cannot meet its obligation; and
- provide to Purchaser, all the drawings, specifications, specific tools, documents and information regardless of their support, to enable Purchaser to find alternative source of supply.

**17.1.3** Should Supplier decide to cease manufacture and sale of any of the Goods, it shall so inform Purchaser in writing twelve at least (12) months prior to any such cessation.

In this case, Supplier shall give to Purchaser the possibility of purchasing a stock of Goods.

In addition, Supplier shall provide to Purchaser, all the drawings, specifications, specific tools, documents and information for manufacture, sale, repair and maintenance of such Goods in order to enable the Purchaser to continue performance of the contract entered into by Purchaser and Customer for a Project.

**17.1.4** Should Supplier intend to sell to any third-party any product involving any element owned by Purchaser pursuant to Article 22 (Intellectual Property) hereinafter, then Supplier shall first request Purchaser's prior written consent and Supplier shall pay to Purchaser a consideration equal to twenty percent (20%) of the Ex-Works sale price of the products to the third party.

#### 17.2 Obsolescence

A Goods is considered as obsolete when it is no longer possible to order identical or functionally equivalent and compatible spares.

Supplier's obligation in terms of obsolescence management are defined in the Contract.

#### 17.3 Life cycle cost

For each item of Goods, Supplier shall provide a document called "Life Cycle Cost" (hereinafter "**LCC**") at the latest on the date of the Contract entering into force. This document shall specify all costs related to maintenance operations and shall be registered in the data base selected by Purchaser. It shall form part of the contractual documents of the Contract.

Supplier shall, in the LCC, make a commitment on the following parameters, which shall be defined in the Contract:

- corrective maintenance: Reliability rate (medium Kilometer between each failure or MKBF);
- Medium Time To Repair the Equipment (MTTR) and raw medium cost (price of each part multiplied by its own reliability rate) or a fixed repair price;
- preventive maintenance: medium cost per kilometer on 2 years, 5 years and 10 years;
- costs of main maintenance operations and recommended frequency for those main maintenance operations.

A LCC review shall be made by the Parties two (2) years after the commissioning by the Customer and before the end of warranty period defined in Article 16 ("Warranty") hereabove,

and then every two (2) years to assess the consumption, the frequency of spare parts changes, the unit price and mounting and dismounting time.

If pursuant to these reviews it appears that actual maintenance cost on the elapsed years is for the same period greater than the LCC initially submitted, Supplier shall:

- analyze the causes of this gap;
- implement an action plan to remedy this gap;
- bear costs related to this action plan if the gap is attributable to Supplier.

The price for the parts and spare parts specified in the LCC shall be a maximum price for those parts in the after-series phase.

#### **17.4 End of life**

Supplier shall provide, at the latest at the date of the FAI, unless otherwise required by Purchaser, a document describing different recycling or disposal processes of the Goods, their components and "end of life" subassemblies. Such document shall comply with Customer's country regulations, on the delivery date of the Goods.

#### **17.5 Integrated Logistic Support activities**

With regards to integrated logistic support, Supplier shall deliver studies made during the design phase ("Studies") as well as the Documentation detailed in the Contract hereof and, in particular, the following:

- System / Equipment Logistic Breakdown Structure at LRU & SRU levels
- General LCC commitment on all activities of preventive & corrective maintenance
- Preventive & corrective maintenance documentation (technical level 1 to 4).
- Spare parts (initial batch, capital spares, spare parts) & consumables list
- Tools and test equipment list
- Obsolescence Management Plan
- Maintenance Training Plan
- End Of Life Management Procedure

The Documentation shall be delivered in a format requested and based on a template provided by Purchaser.

The Studies and Documentation shall be updated and provided by Supplier per Contract and/or Order.

#### **17.6 Consumables**

During the design phase, Purchaser may participate in the selection of suppliers of consumables of the Supplier. In such case, the choice regarding the final selection of the said suppliers shall be mutually agreed between the Parties. Two suppliers shall be identified and selected for each type of consumables.

#### **17.7 Software - Embedded software**

Notwithstanding any other provision of the Contract, the Supplier warrants that the Software, whether acting separately or in combination, including all dating systems and/or date/time functions provided by the Supplier, whether provided as Goods or embedded in the Goods or Services will function correctly and reliably without any limitation or interruption throughout the lifetime of the products and/or services of the Purchaser into which the Software is embedded (at least 35 years from last Delivery).

During this lifetime warranty period as specified above the Supplier shall, at its cost, promptly correct any non-compliance with the warranted functionalities which shall include one-time or repeated corrections of the impacted products or services.

The Supplier shall at its cost perform specific testing to demonstrate to Alstom's satisfaction that the warranted dating systems and their date/time functions work correctly and reliably without any limitation and interruption. Such testing shall be conducted by regression tests upon the Purchaser's demand at any time during the lifetime of the Purchaser's product and/or services into which the Software is embedded. For the purpose of this clause any reference to any limitation includes known time limitations such as Year 2038 limitations, Year 2036 limitation with NTP V3 and GPS Roll over every 20 years time problems and any other limitations.

#### **18. LIABILITY**

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.

#### **19. INSURANCE AND BONDS**

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.

Prior to the Contract, the Supplier shall produce tip-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.

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.

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.

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 Goods covered by the Contract being transported from the loading of the Goods 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.

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.

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

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.

Within the scope of any Project, in order to guarantee the proper performance by Supplier of its obligations under the applicable Contractual Documents, Supplier shall have issued if Supplier is part of a group companies, at Purchaser's option either by a bank acceptable to Purchaser or by a parent company of any tier acceptable to Purchaser, if Supplier is not part of any group companies, by a bank acceptable to Purchaser, a first demand and irrevocable performance bond in favour of Purchaser within one (1) month from issuance of each Order.

The amount of the performance bond shall correspond to twenty percent (20%) of the amount of such Order.

The performance bond shall expire upon Delivery of the complete Documentation (with respect to NRC Order) or Delivery of Goods under the related Order

#### **20. FORCE MAJEURE**

**20.1.** "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, (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, acts of a public enemy, revolution, civil commotion or riots, epidemic, fire, flood, explosion, material change in law, act of Government, or any act of God, earthquake, terrorist acts and national strikes or labor disputes. 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.

**20.2.** 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 in delivery of the Goods and/or execution of the Services.

**20.3.** 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 20.1.



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

**20.5.** 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.

## **21. UNFORESEEABILITY**

Each Party 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.

## **22. SUSPENSION – TERMINATION**

**22.1. Suspension.** 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.

**22.2. Termination for cause:** 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 22.1. for more than six (6) 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) calendar days following receipt of an official notification sent by registered letter with acknowledgement of receipt from the non-defaulting party.

**22.3. Termination for convenience:** 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.

**22.4.** The Purchaser may terminate the Contract in the event of termination of the contract existing between the Purchaser and the Customer.

**22.5.** In the circumstances covered in Articles 22.3 and 22.4 above, the Purchaser will pay to Supplier only the following amounts, without duplication: (a) the contract price for all Goods and Services that have been completed in accordance with the Contract and not previously paid for; and (b) the actual, direct, reasonable and justified costs of work-in-process and raw materials incurred by Supplier in furnishing the Goods or Services 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.

**22.6.** 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.

## **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 delivery of the Goods and/or the performance of the Services.

**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 – CHANGE OF CONTROL**

**24.1. Assignment:** The Purchaser may assign the Contract or any part thereof to the Customer or successors in the interest of the Customer, or to any Alstom Group Company 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. Subcontracting:** 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.

**24.3. Change of Control:** Change of Control (hereinafter "**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:

- holds a majority of the voting rights in the Supplier;
- 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
- has the right to exercise a dominant or decisive influence over the Supplier.

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

- 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; and
- provide any relevant information to Purchaser during the Change of Control process
- 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.

**24.5.** 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.

## **25. 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 Goods and Services and in particular with the following obligations as set forth in this Article 25 which are essential obligations to the GPC, the Contract and/or the Order:

### **25.1. Ethics and compliance**

#### **25.1.1 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.

#### **25.1.2 Alstom's Ethics and Sustainable Development Charter**

##### **25.1.2.1 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:

<https://www.alstom.com/company/commitments/sustainable-procurement>

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.

##### **25.1.2.2 Vigilance Plan**

Upon Purchaser's request, 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.

### **25.1.3 Corruption**

**25.1.3.1** 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.

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 Purchaser's customer, or made any gifts, entertainment or any other non-monetary favours or other arrangements in violation of Alstom policy or the law.

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

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.

#### **25.1.3.2 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.

#### **25.1.4 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.

#### **25.1.5 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.

#### **25.2. Export control and trade sanctions**

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).

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.

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

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 Goods.

#### **25.3 Data Privacy**

Each Party undertakes to comply with the current rules applicable to the processing of personal data in accordance with the legislation of the Republic of Azerbaijan (hereinafter collectively referred to as the "Data Regulations").

In accordance with the Data Regulations, the processing of personal data is highly regulated. As a result, the Purchaser requires the Supplier to comply with this regulation. The same is true for their possible subcontractors throughout the Contract.

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.

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 22.2 to the detriment of the Supplier, given the seriousness of the breach of their privacy and the heavy penalties imposed by the Data Regulations.

#### **25.4. Environment, health and safety**

**25.4.1.** 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 Goods and Services performed pursuant to the Contract and especially, if appropriate, to the Goods and Services performed on any Site by a third company.

**25.4.2.** 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 Customer's 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.

**25.4.3.** In the event of presence or activity of the Supplier (and/or any sub-supplier and/or subcontractor) on any Purchaser and/or Customer 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 Customer internal rules, including EHS rules and requirements, as applicable. In case of conflict between different EHS requirements, the most stringent standard shall apply.

**25.4.4.** 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 25.4, 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 ten thousand three hundred manat (10300 AZN) per event, 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 25.4, with no limits in case of death, bodily injury, or damages to property.

**25.4.5** 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.

**25.4.6.** 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.

#### **25.5. Illicit employment**

**25.5.1.** 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 25.5 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.

**25.5.2.** 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 (Kbis excerpt or any other equivalent evidence of registration) and Charter (Articles of association);
- (ii) A certificate of tax payment;
- (iii) document confirming the authority of the person to sign the Contract.

**25.5.3.** 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.

#### **25.6. Hazardous substances**

**25.6.1.** 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 Goods or any part thereof pursuant to the Contract, including Regulation (EC) No 1907/2006 ("REACH") as it may be amended from time to time.

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 Goods 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 Goods or any part thereof pursuant to the Contract.

**25.6.2.** 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 25.6.1 above, whether at the Supplier's premises, workshop, manufacturing sites or at any other location.

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.

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

#### **25.7 Conflict Minerals**

**25.7.1** The Supplier certifies to the Purchaser that there are no "Conflict Minerals" present in the Goods and;

**25.7.2** 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 Goods 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.

**25.8** 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 25 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) Alstom employee and/or agents exposure to hazardous substances; (ii) failure to provide the Purchaser with the information listed in Article 25.5.

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 25, without prejudice to any other rights or remedies the Purchaser may have, at law, under contract or otherwise.

#### **26. APPLICABLE LAW – LITIGATION**

**26.1.** The Contract shall be subject to Azerbaijan law.

**26.2.** 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 dispute shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce by three arbitrators appointed in accordance with the said Rules. The seat of arbitration shall be Baku.

**26.3.** 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.