

# **GENERAL SALES CONDITIONS IMS TECHNOLOGIES GROUP**

## **1. SCOPE OF APPLICATION AND DEFINITIONS**

The present are the sole conditions applicable to all contracts, supplies, orders, offers and services, including consultancy, except where they have not been modified or excluded with the Seller's express written consent.

The term "Goods" shall include components, machinery parts, finished products and any other tangible goods sold by the Seller.

## **2. TERMS AND CONDITIONS OF THE CONTRACT**

**2.1** The Seller shall sell to the Buyer, and the Buyer shall purchase from the Seller, the Goods described more fully in the "Technical Specifications" of the contract.

**2.2** The Parties declare that each of the following dispositions has been specifically negotiated and agreed.

## **3. PRICING – PAYMENT**

**3.1** The price of the Goods (the "Price") is fixed and invariable as of the terms described in the "Commercial and Pricing Summary" except as expressly provided for in clause 3.5 of these terms and conditions.

**3.2** The Price shall be paid by the Buyer pursuant to the terms and conditions described in the "Commercial and Pricing Summary".

**3.3** In the case of Buyer's non-compliance with the terms and conditions of payment, the Seller shall be entitled to suspend fulfillment of its contractual obligations at any moment and until full compliance by the Buyer and/or terminate the contract pursuant to clause 20 hereof.

**3.4** In the case of delayed payments, the Seller – without prejudice to any other rights or remedies available – may charge the Buyer arrears interest at the rate calculated in European Directive 2011/7/EU.

**3.5** The Seller may adjust the Price to cover its reasonably incurred costs and expenses due to circumstances, whether or not foreseeable, resulting in increases to the costs of material, packaging or transportation. The Seller shall give the Buyer written notice of any such adjustment to the Price prior to or at the time of invoicing.

## **4. DELIVERY TERMS**

**4.1** The Goods shall be delivered in compliance with the delivery terms described in the "Technical Specifications".

**4.2** Compliance with the delivery date is subordinate to fulfillment of the following reciprocal obligations:

a) The contract shall be signed and payment of the purchase price – or any instalment thereof – shall be done in compliance with the terms and timelines envisaged in the "Commercial and Pricing Summary".

b) The payment obligations shall be deemed to be fulfilled upon receipt of the relevant amounts on Seller's bank account, in full and without set-off, deduction or counterclaim;

c) Upon receipt of the initial advance payment on its bank account, the Seller shall send the Buyer a list of the information and materials needed to define the features of the Goods and the raw materials required to make an exhaustive F.A.T.;

d) The Buyer shall be required, within a month from the date of the Seller's request, to provide all technical information and materials required to define the features of the Goods;

e) All raw materials needed to produce and test the Goods, being strictly necessary for proper execution of the start-up,

fine tuning and Factory Acceptance Test (hereinafter F.A.T.), are free of charge for the Seller and shall be supplied to the Seller and delivered by the Buyer at his own costs no later than 60 days before the F.A.T.

f) The Seller shall send the Buyer a layout and other technical designs for approval by the latter.

**4.3** In the event of delays in payment of the advanced payment for more than 30 days from the scheduled payment date, the Parties will renegotiate in good faith the contractual conditions, provided that the Seller has not exercised its right of termination, pursuant to clause 20 below.

**4.4** If the work process is delayed for reasons beyond the Seller's control, the delivery term shall be extended consequentially to the duration of the said impediment. The Seller shall inform the Buyer promptly of the beginning of any such impediment to delivery, keeping him informed about the relevant developments.

## **5. RISK TRANSFER**

**5.1** Risk of the Goods shall be transferred from the Seller to the Buyer in accordance with the delivery times indicated in the contract and the INCOTERMS 2020 (International Commercial Terms issued by the International Chamber of Commerce of Paris) provisions as per "Technical Specifications".

**5.2** The Seller shall under no circumstances be deemed liable for loss or damage to the Goods occurring after the risk has been transferred to the Buyer.

## **6. PACKAGING**

As agreed, the Goods shall be dispatched with standard packaging, suitable to ensure transport to the final destination under normal conditions. Any specific requirement regarding packaging shall be requested to the Seller by the Buyer and shall be the subject of a separate quotation.

## **7. RETENTION OF TITLE**

**7.1** The Seller shall retain the title of property of the Goods delivered until full purchase price has been received on Seller's bank account.

**7.2** In the event of any breach of contract by the Buyer, and, in particular, non-compliance with terms of payment, the Seller shall be entitled to record a lien on the Goods and/or take back and dispose of the Goods.

## **8. POSITIONING, INSTALLATION, COMMISSIONING – AFTER SALE SERVICES**

**8.1** If the Goods include after-sales service activities, as shown in the "Technical Specifications", the time schedules shall be indicated in the request for assistance forwarded to the Buyer by the Seller's Customer Service Office.

**8.2** Unloading operations of the Goods supplied shall be performed at the Buyer's expense in accordance with the Seller's instructions, unless indicated otherwise in the "Service" section of the "Technical Specifications".

**8.3** The Buyer, by allowing the Seller's staff to accede to its premises, shall be deemed to have declared that the plant is suitable for the positioning of the Goods supplied.

**8.4** The F.A.T. of the Goods shall be performed at the Seller's premises prior to delivery, while the Site Acceptance Test

(hereinafter S.A.T.) of the Goods supplied shall be made by the Seller's technical staff at the place of destination, in accordance with the time schedule agreed by the Parties.

**8.5** If the Buyer is unable to attend the F.A.T. for reasons not attributable to the Seller, within four weeks from the date of the Seller's declaration that the Goods are ready for trial, the F.A.T. shall be deemed accepted by the Buyer without remarks. and the relevant installment shall be due in payment by the Buyer.

**8.6** The Buyer shall ensure that its staff and/or that of the end user (if different) collaborate with the Seller's staff in positioning all equipment (e.g. electrical tools, drills, etc.) necessary for prompt and correct execution of the aforesaid operations, in compliance with the safety regulations applicable to the Buyer's premises and/or those of the end users. It shall likewise ensure that the flooring has the technical features indicated in the layout. Prior to beginning the operations, the Buyer and the Seller shall exchange risk assessments and safety requirements and shall agree on the safety rules and procedures applicable, defining the relevant safety equipment.

**8.7** Commissioning shall be performed in accordance with the test protocol and shall be performed exclusively on the format agreed by the Parties. Any further start-up of additional formats shall be performed only if previously agreed.

**8.8** During the operations under this article, the Buyer shall provide the Seller's technical staff with direct Internet access from the terminal of the operator working on the Goods.

**8.9** The Buyer shall hold harmless and indemnify the Seller from any liability, including any and all losses, costs and/or expenses, whatsoever in relation to and/or arising from any delays in assembly, commissioning and/or start-up due to causes not attributable to the Seller.

**8.10** If the Seller is unable to perform the S.A.T. for reasons not attributable to the Seller, after four weeks from the Seller's declaration that the Goods are ready for trial, it shall be deemed that the Goods have been accepted in their entirety by the Buyer and the related tranche of the Price shall be due.

## **9. WARRANTY**

**9.1** Subject to clause 9.4, the Seller warrants the good quality and suitability of the materials used to produce the mechanical, electrical and electronic parts of the Goods supplied for a period of 12 months from the S.A.T., duly completed and accepted by the Buyer or not exceeding 18 months from the actual delivery date, whichever took place first, unless indicated otherwise in the "Technical Specifications", provided that the Buyer has complied with obligations of payment.

**9.2** During the Warranty Period, the Seller undertakes to remedy any defects in the supply deriving from faults of design, materials or workmanship, replacing all parts ascertained to be poorly designed or faultily constructed. The parts shall be replaced free of charge.

**9.3** The above Warranty is subject to the following conditions:  
a) The Buyer shall inform the Seller in writing of any faults and defects immediately upon discovery. The Warranty shall apply only to parts declared faulty in the Supplier's judgment. It is understood that Goods or any part thereof not supplied by the Seller shall not be subject to Warranty;

b) The Buyer shall return faulty parts replaced under Warranty to the Seller, at its own expense, suitably packed, within 30 days of the date on which the replacement parts were received;

c) The Buyer shall provide for ordinary maintenance and cleaning of the Goods in accordance with the instructions

contained in the use and maintenance manual supplied by the Seller;

d) The Buyer shall use the Goods provided in a proper manner, in accordance with the conditions of use for which they were manufactured, including, but not limited to, format and production speed as of the agreed technical documentation;

e) The Buyer's staff charged with handling and maintenance of the Goods shall be suitably skilled;

f) The Buyer shall comply with the technical parameters regarding utilities (e.g. water, air and electricity) as of the specifications shown in the agreed technical documentation;

g) The Buyer shall not tamper with the Goods, including dismantling of damaged parts, machines or individual components;

h) The Buyer shall comply with the payment terms and conditions as contained in the "Commercial Pricing and Summary".

**9.4** The Warranty shall not extend to wear and tear of the parts (e.g. filters, gaskets, suction cups, etc.) and shall not cover faults, defects or malfunctioning due to improper use, tampering, alterations or assistance performed by personnel not authorized by the Seller, use of materials or tools not approved by the Seller, transport of the Goods, use of spare parts not provided by the Seller, workloads and/or stress subjected to the Goods beyond the limits indicated in the contract.

## **10. LIABILITY**

The Seller shall under no circumstances be held liable, whether by contract, tort or otherwise, for direct, indirect and consequential damage, losses, costs deriving from, by way of example but not limited to, delays in delivery, periods of inactivity, loss of income, death or damage to Buyer's and/or third parties goods. This exoneration of liability shall not apply to acts of malice or gross negligence by the Seller. The Parties agree that the Seller's liability, as of the contract, may not, under any circumstances, exceed the amount effectively and periodically paid by the Buyer and received by the Seller on its bank account.

## **11. INTELLECTUAL PROPERTY RIGHTS**

**11.1** Information shared by the Seller to the Buyer during the contract or prior to it shall be deemed confidential and may not be shared with third parties, regardless of the medium on which it is stored or the manner in which it is communicated ("Confidential Information"). By way of example, the following types of Confidential Information are listed below:

a) information used or related to its business, such as products (purchased, manufactured, produced, distributed or sold), product requirements, formulations and specifications, production methods, processes and techniques, experimental formulations, devices, decoding files, references to codes, analyses, procedures and analytical techniques;

b) information relating to know-how, trade secrets, design rights, inventions, discoveries, improvements, patent applications, trademarks, samples, ideas, research evidence, test results and performance;

c) any samples or specifications provided.

**11.2** Confidential Information are and shall remain in the exclusive property of Seller as well as all existing rights regardless of whether they are derived from the same, including, without limitation, patents, trademarks, copyrights, designs, trade secrets ("Intellectual Property").

**11.3** Nothing in the contract shall be construed as granting or conferring any right or license, including but not limited to patent rights and trademarks, by the Seller.

**11.4** The Buyer agrees not to claim any exclusive rights to any inventions and/or discoveries, improvements, ideas, and/or otherwise arising directly and/or indirectly from the confidential information provided by the Seller.

**11.5** The Buyer shall not imitate in any way, directly or indirectly, the Confidential Information provided by the Seller.

**11.6** The Buyer agrees to limit the access to the Confidential Information and to share such information only with those officers, employees or consultants who, by reason of their specific expertise, function or role under the contract, must have access to Confidential Information ("Authorized Persons"). The Buyer represents and warrants that all Authorized Persons are, or will be, informed of and bound by all of the undertakings contained in this clause, as well as in the contract.

**11.7** The Buyer will not use the Confidential Information for any purpose other than the one set forth in the contract, will not make copies, photographs, drawings or recordings of any plant or process, and will not analyze, or engage in any reverse-engineering activities on any document, file, sample, prototype or product to which it may have access, except as strictly and justifiably necessary for the performance of the contract. The information may be used solely and exclusively in connection with the performance of the contract.

## **12. STUDY, DESIGN AND IMPLEMENTATION OF THE SOLUTIONS REQUESTED BY THE BUYER**

**12.1** All intellectual property rights incorporated in any work product and/or resulting from cooperation between the Buyer and the Seller are and shall remain in the exclusive property of the Seller, including for the purpose of creating customization, with the exclusion of confidential data provided by the Buyer, which shall be treated confidentially and shall remain in the property of the Buyer.

**12.2** The Seller may hold patents, trademarks or other industrial property rights in connection with the disclosed Confidential Information, or may apply for such patents, trademarks or other industrial property rights, including in connection with customizations that may arise from the performance of the contract.

**12.3** Should the Buyer request the Seller to study, design and/or manufacture a particular type of component and/or technical solution, the Buyer shall indemnify and hold the Seller harmless from and against all claims made by third parties related to or arising out of violations or alleged violations of industrial property rights.

## **13. FORCE MAJEURE**

**13.1** If any Party to the contract is unable to perform, wholly or partially, its contractual obligations, other than obligations of payment which remain unaffected, because of a Force Majeure Event, the said Party shall not be liable for failure to comply with such obligations for as long as the Force Majeure Event continues, or for all consequences caused by and deriving from the said Event. The suspension of the execution of the contract as a result of a Force Majeure Event shall be limited to the period of time during which the effects of the Force Majeure Event persist. The Parties to this document undertake to reduce to a minimum the consequences of any such Force Majeure Event. It is understood that obligations of payment shall never be affected by Force Majeure Events.

**13.2** If any Party is unable to perform, wholly or partially, its contractual obligations, other than obligations of payment which remain unaffected, because of a Force Majeure Event, the Seller may, in its sole discretion, exercise the option to immediately terminate the contract by serving written notice

on the Buyer. Upon the service of such notice both Parties shall forthwith and without condition be relieved of all further obligations hereunder, unless otherwise specified in the contract. Notwithstanding, the Seller shall be indemnified and held harmless by the Buyer in respect of any and all documented costs and/or losses and/or expenses whatsoever incurred by the Seller as a result of the cancellation of the contract due to the Force Majeure Event.

**13.3** For the purposes of the contract, a "Force Majeure Event" shall be deemed any event, beyond the control of one of the Parties, whether or not foreseen, affecting its capacity to fulfil one of its contractual obligations, other than obligations of payment by making it impossible or unduly burdensome, and will include events such as, but not limited to: a) natural phenomena, earthquakes, epidemics and pandemics, serious fires, sea emergencies, flood etc.; b) actions taken by a government authority which prevent or delay implementation of any of the affected party's obligations as of the contract; c) failure or delayed performance and/or delivery of raw materials by Seller's subcontractors and/or suppliers or d) strikes, lock down, boycotts, fires, terrorist attack, insurrection, threat of or preparation of war, wars, armed conflict, riots, civil commotion, embargos, breaking off of diplomatic relations, nuclear, chemical or biological contamination or attack, or sonic boom, any law or any action taken by a government or public authority, quota or prohibition, or failing to grant a necessary license or consent revolutions, imposition of sanctions, provisions of the competent Authorities, etc.

**13.4** The Party affected by the Force Majeure Event shall give written notice to the other Party, setting forth the particulars thereof in reasonable details within four weeks from of the occurrence of such Force Majeure Event.

**13.5** Until such time as the contract may be cancelled by the Parties pursuant to clause 13.2, the Party declaring the Force Majeure Event shall make all reasonable efforts to resume performance and act as necessary to mitigate its effects and in case a shipment is suspended for Force Majeure Event, the Parties shall agree on a new shipping schedule after termination of said Event.

**13.6** Subject to the provisions of clause 13.2 hereof, if a situation of Force Majeure lasts for a period of six (6) months, or longer, the Parties shall have the right to terminate the contract and, upon such termination, both Parties shall forthwith and without condition be relieved of all further obligations hereunder, unless otherwise specified in the contract.

## **14. HARDSHIP CLAUSE**

**14.1** Each of the Parties are required to fulfil their contractual obligations, even in the occurrence of an event or events that renders the fulfilment of the contract more difficult than is reasonably foreseeable at the time of the signing of the contract.

**14.2** Notwithstanding clause 14.1, where one of the contracting Parties reasonably believes and demonstrates that: a) the continued fulfilment of its contractual obligations has become excessively burdensome due to an event beyond its reasonable control, which it could not reasonably be expected to have taken into account at the time of contracting; or b) there has been a change in the economic circumstances relating to the contract and, in consequence thereof, the notifying Party is suffering substantial economic hardship; and c) it could not reasonably have avoided or overcome the event or its consequences.

the Party seeking to invoke this clause shall give notice thereof to the other Party and the Parties shall, within a reasonable period of time of giving notice of the same, revise contractual conditions, including reviewing the basis of the determination of the Price, in good faith so as to allow as far as reasonably practicable for the consequences of the event and/or economic hardship to be overcome.

## **15 FINAL AGREEMENTS AND SEVERANCE CLAUSE**

**15.1** These terms and conditions cancel and replace any previous verbal or written agreement between the Parties. Any modifications to the conditions, subsequent to signature of the contract, shall be valid only if expressly agreed in writing between the Parties.

**15.2** In the case that any disposition of the contract should be found not valid, unlawful or inapplicable, the validity, lawfulness and applicability of the remaining dispositions shall not be affected or compromised.

## **16. APPLICABLE LAW**

### ITALY:

Per quanto non espressamente qui previsto, il contratto sarà regolato dalla legge italiana, con esplicita esclusione dell'applicazione della Convenzione di Vienna del 11.04.1980 relativa alla Vendita internazionale di Merci.

### ASIA:

For all matters not expressly envisaged herein the governing law shall be the laws of England.

The United Nations Convention on the International Sale of Goods (1980) shall not apply to these conditions.

A person who is not a party to these conditions has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement.

### WORD - NO ITALY, NO ASIA:

For all matters not expressly envisaged herein the governing law shall be the laws of England.

The United Nations Convention on the International Sale of Goods (1980) shall not apply to these conditions.

A person who is not a party to these conditions has no right under the contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement.

## **17. JURISDICTION**

### ITALY:

Per qualsiasi disputa che potrebbe riguardare l'interpretazione, l'esecuzione, la validità e l'efficacia del contratto che le Parti non saranno in grado di risolvere in via amichevole, il Tribunale di Milano (Italia) avrà giurisdizione esclusiva.

### ASIA:

For any dispute concerning the interpretation, execution, validity and effectiveness of the contract which the Parties shall be referred to and finally resolved by arbitration in Singapore in accordance with the Arbitration Rules of the Singapore International Arbitration Centre ("SIAC Rules") for the time being in force, which rules are deemed to be incorporated by reference in this clause.

The Parties agree that any arbitration commenced pursuant to this clause shall be conducted in accordance with the Expedited Procedure set out in Rule 5.2 of the SIAC Rules.

The Tribunal shall consist of one arbitrator.

The language of the arbitration shall be English.

### WORD - NO ITALY, NO ASIA:

For any dispute concerning the interpretation, execution, validity and effectiveness of the contract which the Parties shall be referred to and finally resolved by arbitration under

the LCIA Rules, which Rules are deemed to be incorporated by reference into this clause.

The number of arbitrators shall be three.

The seat, or legal place, of arbitration shall be London.

The language to be used in the arbitral proceedings shall be English.

The arbitration award shall be final and binding upon the Parties to such arbitration and may be enforced in any court having jurisdiction.

The Parties shall not be entitled to commence or maintain any action in any court of law in their own countries or elsewhere upon any matter in dispute until such matter shall have been submitted and determined as hereinbefore provided and then only for the enforcement of any resulting arbitral awards. In particular, the Parties both agree that their domestic courts shall not have any jurisdiction to hear and/or finally dispose of any substantive dispute(s) between the Parties.

## **18. IMS TECHNOLOGIES CODE OF CONDUCT**

In performing the activities of the contract, and by agreeing to these terms and conditions, the Buyer undertakes to observe, and have its own staff and employees observe, the regulations of the Code of Ethics and Guidelines for Conduct of the IMS TECHNOLOGIES Group available on the website [www.imstechnologies.com/Governance](http://www.imstechnologies.com/Governance) which are designed to prevent offences in general being committed, in compliance with Italian Legislative Decree 231/2001. In the event that the Buyer does not act in compliance with the terms and conditions of the above-mentioned Code, the Seller shall be entitled to terminate the contract pursuant to clause 20 below.

## **19. SANCTIONS**

**19.1** If, as a result of the introduction of Sanctions binding for a Party, it becomes illegal for a Party to fulfill its obligations under the contract, such obligations shall be suspended, the affected Party shall immediately notify the other Party, to the extent not reasonably restricted from doing so by any applicable Sanctions (i.e. any economic sanctions laws, regulations, embargoes or similar or equivalent restrictive measures imposed, administered, enacted or enforced by any other Sanctions Authority, as better defined above, to the extent applicable to the transactions contemplated by this contract), the Parties undertake, without any additional compensation, to take all necessary measures to fulfil its obligations under the contract and to take all possible measures to eliminate or reduce the negative impact of the Sanctions on the performance of the contract.

**19.2** The Parties shall negotiate in good faith with the objective to agree on an adjustment to their relationship in such a way that it permits them, to the maximum extent permitted by applicable law and/or Sanctions, to continue their relationship economically, legally and structurally as closely as possible to that contemplated under the contract.

**19.3** Without prejudice to the above, in the event that a payment arising pursuant to the contract cannot be made due to Sanctions or applicable laws, the Parties shall review and mutually agree in writing an applicable payment settlement currency and the relative rate of exchange; provided that this does not contravene any Sanctions or applicable law, regulation or decree binding upon a Party, and the Parties shall amend, or procure the amendment the contract accordingly. The rate of exchange is to be fixed using an internationally recognized and tradable daily fixation based on

the date on which the Parties shall agree the currency to be used.

**19.4** If, as a result of the introduction of Sanctions, a Party needs to obtain the appropriate authorization from the Sanctions Authority (i.e. the Office of Foreign Assets Control of the US Department of the Treasury, the US Department of Commerce, the US State Department, the US Department of Justice, any other US state or federal governmental authority over Sanctions, United Nations, the European Union, any member state of the European Union or any governmental authority thereof having jurisdiction to impose Sanctions, the Swiss Confederation, the State Secretariat for Economic Affairs of Switzerland, the Monetary Authority of Singapore or any other Singapore governmental authority, state authority of the Russian Federation, each such authority as amended, supplemented or substituted from time to time), such Party shall use best efforts to obtain a license or approval from the Sanctions Authority in order to fulfil its obligations under the contract.

**19.5** If after the expiry of three (3) months after the introduction of the Sanctions the restriction for the Party remains due to the unlawfulness of the performance of its obligations under this contract, either Party could terminate the contract.

**19.6** In case of termination of the contract because of Sanctions, all obligations to make payment which arose before such termination shall remain in effect (albeit there shall be no obligation to remit such payment if in breach of Sanctions and, in such a case: (a) the Party whose payment obligation is suspended due to Sanctions shall place the affected amount on interest-bearing deposit; and (b) such Party shall repay such amount on deposit to the other Party (together with interest accrued thereon) immediately after such payment becomes possible without breach of Sanctions).

## **20. TERMINATION OF THE CONTRACT**

**20.1** Either Party shall be entitled to terminate the contract by notice in writing in case the other Party is in breach and such breach has not been remedied within 45 days of the non-defaulting Party's notice.

**20.2** In the event of termination not due to the Seller's acts or omissions, the Seller shall be entitled to retain all the amounts already received by the Buyer during the performance of the contract, without prejudice to any other right of the Seller to be compensated by the Buyer for the additional costs and/or losses and/or expenses incurred until the date of termination.

## **21. PRIVACY POLICY**

**21.1** Pursuant to and for the purposes of EU Regulation 679/2016 (hereinafter the "Regulation") and Legislative Decree 196/2003 (hereinafter the "Privacy Code"), the Seller shall process the Purchaser's data for the following purposes:

- a) purposes related and instrumental to the execution of the contract;
- b) administrative-accounting purposes (e.g. organizational, financial, internal control, etc.);
- c) protection of the legitimate interests of the Seller or of third parties;
- d) fulfillment of legal or regulatory obligations.

**21.2** Pursuant to the Regulations, the Seller undertakes and is authorized to process only the personal data necessary for the performance of the activities provided for by the contract, guaranteeing the confidentiality and integrity of the personal data processed. In this regard, the Buyer accepts the

confidentiality instructions and the authorization to process the personal data provided.

**21.3** The Parties, in the fulfilment of their contractual obligations and in the execution of the activities provided for by the contract, will each act as autonomous personal data controllers in accordance with the Regulations, as well as with the applicable provisions on the protection of personal data of the provisions of the Guarantor for the Protection of Personal Data.