



**ERG GROUP**

**GENERAL PURCHASING TERMS AND CONDITIONS**

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## 1. SCOPE OF APPLICATION OF THE GENERAL PURCHASING TERMS AND CONDITIONS

- 1.1 The present General Purchasing Terms and Conditions (hereinafter, “**Specifications**”) apply to purchases of goods of any type or nature by ERG S.p.A. or by another company that the latter controls, either directly or indirectly (hereinafter the “**Purchaser**”). The Specifications, together with the other contractual documents (technical annex, price lists, specifications, designs, orders etc.) (the “**Special T&Cs**”), constitute a full and integral part of the contractual relationship between the Purchaser and the Seller (the “**Seller**”) (hereinafter, the “**Contract**”).
- 1.2 In the event of discrepancies, the provisions of the Special T&Cs shall take precedence over those of the present Specifications.
- 1.3 By signing the Contract, the Seller declares that it has examined and accepted in full, and unconditionally, the contents of the present Specifications.
- 1.4 The Purchaser will take care of the technical contacts necessary for defining the supply, the control and approval of designs and other working documents, any activities of solicitation, performance testing and coordination of the supply as a whole, in accordance with what is provided for herein, except in cases where the Purchaser itself decides to appoint third parties for the performance of such activities. In such cases, the technical controls and required procedures mentioned above shall be handled by the company appointed, in accordance with specific instructions that the Purchaser shall communicate to the Seller, and that shall be binding on the latter.
- 1.5 Acceptance of the Contract implies acceptance of, and compliance with, all the rules and standards, tables, data, specifications and designs cited in and/or included as annexes to the Contract, as well as waiver of any and all conditions of sale applied by the Seller.

## 2. DEFINITIONS

- 2.1 Whenever the following terms are used in the present Specifications, they shall have the meanings indicated below:
  - a. **Purchaser**: means the company of the ERG Group that issues the Contract for the Seller.
  - b. **Seller**: means the company engaged to supply the goods under the Contract.
  - c. **ERG Group**: means all the companies directly or indirectly controlled by ERG S.p.A.

## 3. CONFIDENTIAL DOCUMENTS AND CONFIDENTIALITY

- 3.1 All designs, specifications and any other document, technical or otherwise, that the Purchaser makes available to the Seller remain property of the Purchaser and may be used only and exclusively for the performance of the Contract. As a result, such documents may not be used by the Seller for purposes other than the performance of the Contract. Such reserved information, therefore: (i) may be used by the Seller only with regard to the enactment of the supply; (ii) may not be used, disclosed or reproduced without the prior written consent of the Purchaser; (iii) shall be returned or destroyed in a secure manner upon completion of the supply or at the request of the Purchaser, unless the Seller is authorised to retain the reserved information for some other reasons.
- 3.2 The Seller undertakes not to disclose to third parties, without the prior consent of the Purchaser, the contents of the documents referred to in the preceding paragraph, nor any other information, technical or otherwise, regarding procedures, designs, equipment, devices, machines etc. and, in more general terms, relating to the Purchaser and/or any company of the ERG Group, when such information is provided to it by the Purchaser, or when the Seller otherwise acquires knowledge of it while performing its obligations under the Contract.
- 3.3 The confidentiality obligation shall be binding on the Seller for 2 (two) years following full performance of the Contract.

- 3.4 Should the confidentiality obligation not be fulfilled, then the Seller shall compensate the Purchaser for any damages derived from such breach. It is understood that the confidentiality obligation does not apply in the case of information that, at such time as it has been, or shall be, communicated, was, or shall be, in the public domain, or that enters the public domain for reasons others than the breach of this confidentiality obligations.
- 3.5 The Seller shall also remain responsible towards the Purchaser for precise compliance with the aforementioned confidentiality obligations on the part of its employees, sub-Sellers and external contributors, as well as any employees of these latter.
- 3.6 The Seller acknowledges that the Purchaser is the controller for the processing of personal data carried out by means of the applications and procedures in relation to which the Works covered by this Contract shall be performed. As such, the Purchaser remains the sole and only responsible in determining the purposes and the modalities relating to the aforementioned processing of personal data by the Purchasercontract itself and in verifying that the above-mentioned purposes and modalities are in accordance with the contents of the applicable legislation, with particular reference to Regulation (EU) No 679 of 2016 (the “Regulation”).
- 3.7 The Parties mutually acknowledge that the personal data that shall be exchanged between them shall be processed solely for the purpose of executing the Contract, considering that, should such personal data not be exchanged, it may impair the execution, in total or in part, of the Contract. In accordance with the provisions of the applicable law, the Seller is obliged to notify the Pruchaser the names of its personnel which it is necessary to appoint, by Purchaser, as System Administrator or as processor for the processing of personal data.
- 3.8 Where the procedures for executing the Works under the Contract require the Seller to be liable for the obligations set forth, under the applicable law, in relation to the processing of personal data, the Sellre shall fulfil its obligations and provide the Purchaser evidence of such fulfilment, with particular reference to the appointment of the individuals whose appointment is mandatory under the applicable law.
- 3.9 If necessary under the applicable law, the Parties shall stipulate, by separate deed, the regulation for the appointment of the Seller as processor for the processing of the personal data pursuant to article 28 of the Regulation, with particular reference to the sole processing activities and only in relation to personal data that the processor shall be required to process in connection with the execution of the Contract on behalf of the Purchaser.
- 3.10 The Seller acknowledges and agrees on its commitment to ensure that the provisions set forth herein are met also by its subcontractors authorised under the Contract, if any.

#### **4. MATERIALS/GOODS INCLUDED IN THE SUPPLY AND MATERIALS/GOODS SUPPLIED BY THE PURCHASER**

- 4.1 The materials/goods covered by the Contract must comply with the specifications of the contractual documents and be new, top choice and quality and free of faults and defects, including hidden ones.
- 4.2 Any materials/goods supplied by the Purchaser shall remain property of the Purchaser itself. In addition to the Seller’s responsibility under applicable law for any and all damages that may befall said materials/goods while they are in the possession of the Seller, the latter shall still be required to take out adequate insurance coverage against all damages, none excluded, as well as against the theft of said materials/goods for the entire period of performance of the activities covered by the Contract.

## **5. QUANTITIES**

- 5.1 The Purchaser shall only accept the quantities of goods ordered by it.
- 5.2 The Purchaser does not, therefore, accept any responsibility nor charge of any kind for goods supplied in excess of what was ordered, nor even in the event that such goods were placed in its storage facilities, with any event that should occur that is relevant to such goods, remaining the sole and exclusive risk and responsibility of the Seller.

## **6. ACCEPTANCE OF GOODS – REPORTING OF FAULTS OR DEFECTS**

- 6.1 The mere receipt of goods by the Purchaser, or their payment, shall not amount to acceptance or approval of the same.
  - a) Complaints for faults and/or defects may be made by the Purchaser at any point in time following receipt of the goods, as long as no more than 12 (twelve) months have passed from the date on which they were placed in operation or 24 (twenty-four) months from the date of delivery.
  - b) In reporting faults or defects to the Seller, the Purchaser shall not be required to observe the deadlines referred to under art. 1495 (first paragraph) of the Italian Civil Code.
- 6.2 In case the Special T&Cs provide for goods to be delivered in more than one lot, the failure to report faults or defects of goods in certain lots already delivered shall not imply acceptance of the entire supply, with the Purchaser remaining entitled to report the same within the deadlines indicated above.

## **7. TRANSFER OF OWNERSHIP AND RISK**

- 7.1 The goods shall be delivered to the plants/warehouses/production facilities of the Purchaser, in accordance with what is provided for under the Special T&Cs.
- 7.2 Shipping expenses shall be on the account of the Seller, unless an express provision of the Special T&Cs specifies otherwise.
- 7.3 The transfer of the ownership of materials/goods covered by the Contract shall occur at the time of the delivery of the same to the plants/warehouses/production facilities of the Purchaser, as indicated under the Special T&Cs. The transfer of risk of loss on materials/goods from the Seller to the Purchaser shall only take place upon acceptance of the same by the Purchaser.

## **8. SCHEDULING**

- 8.1 Within 20 (twenty) calendar days from the date of the Special T&Cs, the Seller must send to the Purchaser the schedules of issuance of the orders for supply of goods and manufacture, as well as a copy of each sub-order, plus the related confirmation of the sub-order, making prompt communication of any variations and/or modifications that should arise.

## **9. COMMUNICATIONS BETWEEN THE PARTIES**

- 9.1 All communications between the Seller and the Purchaser regarding the supply shall be made in writing to the addresses – including the certified electronic-mail address (“PEC”) – at which the parties elect their domiciles, as indicated under the Special T&Cs.
- 9.2 The Seller shall send the required technical documentation to the Purchaser within the deadlines indicated in the contractual documents.
- 9.3 Documentation that requires the approval of the Purchaser shall be returned to the Seller either approved or with a request for modification no later than 20 (twenty) calendar days from the date of its receipt, unless otherwise agreed. The Seller, for its part, shall return such documentation to the Purchaser within 15 (fifteen) calendar days, in the form of a reproducible copy duly signed and sealed.
- 9.4 The Seller shall have exclusive responsibility for the planning and for the performance of the supply, as well

as for its compliance with the instructions, rules and/or specifications indicated in the Contract and under the applicable laws currently in force. Therefore, no approval by the Purchaser of the documentation, technical or otherwise, provided by the Seller shall relieve the latter of the aforementioned responsibilities.

- 9.5 The documentation supplied by the Seller to the Purchaser may be freely used by the latter for any purpose whatsoever, without any obligation towards the Seller.

## **10. TERMS OF DELIVERY**

- 10.1 Contractually agreed terms of delivery are understood to be of essence and not subject to modification, nor shall any extension be allowed, unless authorised in writing by the Purchaser. Failure to abide to these terms (as eventually modified following written authorisation from the Purchaser), shall entitle the Purchaser to terminate the Contract, as per the provisions and effects of art. 1456 of the Italian Civil Code, by registered letter with a return receipt, or by certified e-mail (“PEC”), without prior notice, to the address of the Seller indicated under the Special T&Cs, without anything being due to the Seller at any title or reason whatsoever. In such cases, the Purchaser shall be entitled to the restitution of any amount paid to the Seller (apart from payments made for any performance already rendered which is not disputed between the parties), as well as to compensation for damages.
- c) The Purchaser may also exercise the right described above in the event that penalties for delayed delivery were agreed to under the Special T&Cs and the period corresponding to the maximum penalty has passed. Unless otherwise provided under the Special T&Cs, the penalty for delay shall be equal to 1% of the value of the Contract for each week of delay incurred by the Seller.

## **11. FORCE MAJEURE EVENTS**

- 11.1 The terms of delivery specified under the Contract may be deferred for a period equal to the duration of events of force majeure, should they occur during the performance of the Contract. The only events that shall be regarded as force majeure are accidental or exceptional occurrences that fall outside any possibility of control by the Seller and that impede, in all or in part, the fulfilment of the content of the Contract. To mention only some of the possible examples of force majeure, these can include: explosions, fires, natural disasters (e.g. flooding, earthquake), wars, revolutions and nationwide strikes (excluding, therefore, strikes involving only the Seller’s company or its sub-suppliers), orders and/or acts issued by authorities with jurisdiction over the parties, with the exception of those issued following acts and/or omissions on the part of the Seller in violation of laws and/or regulations and/or applicable measures. Events that, although presenting the characteristics indicated above, would not impede the performance of the contractual obligations, shall not be considered as relevant for the purposes of the present article.
- 11.2 To calculate any extension of the terms of delivery, each day of duration of force majeure events shall result in an equal postponement of the terms of delivery, without ever taking into account any related secondary effects.
- 11.3 The Seller undertakes to immediately notify the Purchaser, by means of a registered letter with return receipt and/or a fax and/or by certified e-mail (“PEC”), to the addresses indicated under the Special T&Cs, of the occurrence or of the cessation of such events, along with an estimate, where possible, of their duration.
- 11.4 During the period of force majeure, the Seller shall be required to do whatever is necessary to limit or reduce the damaging effects caused to the Purchaser as a result of the force majeure event(s).
- 11.5 Should the force majeure event last for more than 30 (thirty) consecutive calendar days, the Purchaser shall be entitled to withdraw from the Contract without anything being owed, under any title nor for any reason, to the Seller.
- 11.6 Adverse weather conditions, such as snow, rain etc., shall not be regarded as a force majeure event.
- 11.7 The occurrence of force majeure events shall not entitle the Seller to any indemnification or additional compensation, neither for the longer duration of the activities nor for any loss of equipment nor for any other reason.

## 12. SOLICITATIONS

- 12.1 Representatives of the Purchaser, be they either employees of the Purchaser or third-parties engaged by the same, may solicit performance of the supply in accordance with the terms provided under the contractual documentation, throughout the various phases of its execution. The Seller shall provide such representatives unrestricted access to its facilities during working hours, as well as the information and assistance they may need to carry out their tasks.
- 12.2 The Seller undertakes to obtain an equivalent authorisation from any of its sub-Seller, so that the Purchaser is able to carry out the controls referred to above.

## 13. INSPECTIONS - CONTROLS – PERFORMANCE TESTS

- 13.1 The inspectors appointed by the Purchaser shall be entitled to oversee the performance of the supply covered by the Contract and to request and control compliance with the contractual documents, both during the production activities and at the time of delivery.
- d) The aforementioned inspectors may, at their discretion, veto the use and the shipping of equipment and/or materials that, during the inspections or the performance tests, are found not to be in compliance with the characteristics required for the supply.
  - e) It follows that all performance tests, and all trials in general, including those to be carried out on materials not produced by the Seller, must take place in the presence of the inspectors of the Purchaser or of inspectors engaged by the latter.
  - f) The Seller, therefore, must notify the Purchaser, solely and exclusively by means of certified e-mail (“PEC”) or fax, of the exact date scheduled for the control/performance test, doing so at least 10 (ten) calendar days in advance, with specification of the place in which the materials/goods covered by the Contract are found, as well as of the quantities ready for performance testing, also communicating whether the performance test is a preliminary or final trial.
  - g) Should the Purchaser, upon receiving the aforementioned communication, not intend to be present at the performance test, then written notification shall be sent to the Seller forthwith.
  - h) The Seller shall allow the aforementioned inspectors to have unrestricted access to its facilities during normal working hours, in addition to providing them with whatever assistance is necessary for the controls/performance tests; similar authorisations must also be granted to sub-Sellers.
  - i) Any expenses regarding the controls/performance tests, the compilation of reports on the same or of bulletins issued by qualified laboratories, shall be borne by the Seller, including those referred to under art. 13.2.
  - j) At the time of the control/performance test, the Purchaser shall be presented with the complete certifications, in the form of the originals plus 3 (three) copies, demonstrating that the materials correspond to the order (otherwise the materials shall not be regarded as accepted), such certifications to be delivered to the inspector of the Purchaser.
  - k) Should the Purchaser waive its right to be present at the performance test, then the referred certifications must be sent to it no later than 10 (ten) calendar days from the date of the performance test.
  - l) All performance tests must be carried out in accordance with the standards and/or specifications mentioned under the Special T&Cs.
  - m) With reference to the obligations contained in the Italian Legislative Decree 105/2015, the Seller shall submit to the approval of the Purchaser a quality control plan for the operation for each and all works involving equipment or parts of plants that are at risk of a major accident (“*incidente rilevante*”).
- 13.2 The Seller shall be responsible for carrying out in timely fashion all procedures relevant to the approval and/or to the performance tests, as provided under any applicable law, by the entities assigned to such tasks by the competent authorities, with respect to the equipment ordered and to its installation. The Seller shall also be responsible for any delay, whether occurring in the approval phase, in the performance-testing phase or in the phase involving the issuance of the necessary certificates; no delays on the part of such entities may be considered as force majeure event for the purposes of article 11 above.
- 13.3 In case of any equipment and/or materials tested by the entities above, the Seller must send the related booklet to the Purchaser, doing so by registered mail.

## **14. GUARANTEES**

- 14.1 The Seller represents and warrants that (i) what is supplied under the Contract will correspond to the features, standards and specifications provided by the Contract; (ii) the materials employed will be free of faults and defects, including hidden ones; and (iii) the working operations will be carried out in perfect accordance with accepted standards of workmanship, as well as the most suitable technical advances/practices. Approval for shipping from the inspectors of the Purchaser, following assessment at the facilities of the Seller, does not relieve the latter of its responsibilities, including the warranties referred to above.
- 14.2 Consequently, should it occur that, at the time of assembly and/or during operation, defects attributable to the materials utilised and/or to the production procedures and/or to non-compliance with features, standards or specifications manifest themselves within a period of 24 (twenty-four) months from the date of delivery, then the Seller must arrange, under its own responsibility and at its own expense, for the necessary substitutions to be made on-site, within the least amount of time possible.
- 14.3 In the event that, in the opinion of the Seller, defects can be eliminated through modifications and/or repairs, as opposed to substitutions, then the Seller shall handle the related operations as soon as possible, having first received the approval of the Purchaser.
- 14.4 Should the operations of modification and/or repair fail to completely eliminate the defects detected, then the Seller must replace, under its own responsibility and at its own expense, and in response to a simple request from the Purchaser, the non-compliant materials, in accordance with the time schedule agreed with the Purchaser.
- 14.5 Should the Seller fail to make the modifications and/or repairs rapidly and within the period of time deemed to be acceptable by the Purchaser, then the latter may carry out the operations on its own, charging the resulting expenses to the Seller. It is understood that, in such cases, the Seller shall not be released from its obligations of guarantee.
- 14.6 The guarantee given on the components involved in such operations (of replacement and/or modification and/or repair) shall be valid for 12 (twelve) months, starting from the components placement into operation following the completion of the relevant work.
- 14.7 All the guarantees provided shall remain valid despite the execution of the performance tests.

## **15. SELLER'S RESPONSIBILITIES**

- 15.1 Should the Purchaser also request that the Seller carries out activities involving the assembly and/or coupling of the materials/goods supplied by the Seller with other materials/goods supplied or produced by third parties, then the Seller shall be responsible not only for the supply covered by the Contract, but also for the perfect functional performance of the whole, based on the technical and mechanical features provided for under the relevant specifications, with particular attention paid to conditions of mechanical coupling, dynamic momentum and start-up torques.
- 15.2 The Seller undertakes, therefore, to establish the appropriate contacts with the third-party Seller or manufacturer, as it may be indicated by the Purchaser, so as to be able to exchange the data and information needed to ensure perfect operation of the supply as a whole. In the case of goods received for manufacturing purposes from third parties, the Seller shall send a proper manifest ("*nota di carico*") to the Purchaser.

## **16. PRICES**

- 16.1 The prices shall be set and invariable for the entire duration of the Contract, as expressly agreed and accepted by the parties, and in derogation from the provisions of art. 1467 of the Italian Civil Code.
- 16.2 The prices are accepted by the Seller at its advantage and risk, meaning that they are absolutely invariable, even if there should be variations in costs for raw materials, labour, currency-exchange rates and/or taxes of any type (levied by the state, provincial or municipal treasuries etc.), customs duties, longer periods of work than had been planned, or for any other circumstance that might occur.



## 17. PACKAGING

- 17.1 Packaging equipment and procedures shall be defined at the initiative, expense and responsibility of the Seller, based on the needs and circumstances of transport by railway or by motor vehicle, as well as the moving and handling needs in the facilities of the Purchaser, as per the instructions received from the latter. Any damages caused by defects in packaging shall be charged to the Seller.

## 18. DESPATCH RULES

- 18.1 Regardless of the mode of consignment provided under the Special T&Cs, the Seller shall notify the Purchaser, via fax and/or e-mail, of the exact date on which the materials/goods shall be ready for immediate despatch, doing so at least 5 (five) calendar days in advance, with further indication of: (i) the place where the materials/goods to be supplied according to the Contract are located; (ii) the quantity of materials/goods ready for immediate despatch; (iii) the dimensions and weights of the materials/goods; (iv) the number of packages and (v) the value of the materials/goods shipped.

- 18.2 Following the notification referred to above, the Purchaser may approve the despatch. Despatch shall not occur without the prior authorisation of the Purchaser, which shall not be unreasonably withheld.

- 18.3 Each package shall be marked as follows, in clearly visible fashion, with indelible paint:

- n) RECIPIENT PURCHASER
- o) Contract No. ....
- p) Package No. ....
- q) Gross weight in Kg. ....
- r) Net weight in Kg. ....
- s) Dimensions ..... X ..... X .....(in cm.)
- t) Content .....

- 18.4 Prior to despatching materials/goods originating from abroad, 3 (three) copies of the packing list drawn up in Italian and containing the exact same indications as of the marking of the packages, shall be sent to the Purchaser.

- 18.5 At the time of despatch, the Seller shall issue, in addition to the documentation required under applicable law, the manifest ("*nota di carico*"), including the original of the packing list and at least 2 (two) copies of everything, unless additional copies are called for under the Special T&Cs. This documentation must be distributed as follows:

- the originals, countersigned by the despatcher, plus 1 (one) copy, to the Purchaser;
- 2 (two) copies to be included with the materials/goods;
- 1 (one) copy to the despatcher at the time of the receipt of the materials.

The shipping documents must contain the following indications:

- the serial number of the document;
- the date of delivery or the despatch date;
- the personal details of the subjects between whom the operation is being carried out;
- the personal details of the carrier;
- Contract no.;
- description of the materials/goods;
- whether the supply is "FULLY PAID" or "ON ACCOUNT";
- the quantity of packages, their gross and net weights and their dimensions;
- any clause of retention of title on the merchandise.

In the case of merchandise despatched to third parties for production or processing work, the Seller must send a fifth copy of the delivery document to the Purchaser.

## 19. INVOICING

- 19.1 The originals of invoices shall be sent, together with a copy, to the Purchaser [Administrative Department]. They must indicate:

- the number and date of the Contract;

- the quantities and descriptions of the materials/goods, in the sequence shown on the notice of despatch;
  - the unit of measure;
  - the unit price and total price;
  - the number of crates, with the weights and dimensions of the same;
  - whether the invoice is for a payment on account or for the entire balance of the order.
- 19.2 Invoices may be paid only if they are sent together with a copy of the manifest countersigned by the despatcher.
- 19.3 In the case of materials/goods produced abroad, supplied by a foreign company, 4 (four) copies of the invoice shall be provided, on Seller's letterhead paper, in addition to the original.
- 19.4 For invoices issued by foreign companies and regarding professional services, the Seller shall provide the Purchaser with the documentation required for exclusion of the application of double tax charges, in order to prevent the withholding charge called for under art. 25 of Presidential Decree no. 600 of 29 September 1973. Such documentation shall consist of the following: a declaration from the Seller stating that it does not possess a stable organisation in Italy; a certificate issued by the tax authorities of the home country of the Seller, stating its domicile; any other specific documentation and/or declaration called for under the international convention applicable to the exclusion of double taxation.
- 19.5 For invoices regarding materials/goods produced abroad and resold by Italian companies, in transit or located in sites under customs oversight prior to clearance, the Seller must provide the Purchaser with: 1 original and 6 copies on its letterhead paper. All invoices shall bear the following phrase: 'Merchandise of foreign origin sold prior to clearance through customs, operation not subject to VAT, as per art. 7-bis of the Italian Presidential Decree no. 633 of 26 October 1972'.
- 19.6 In the case of the invoices referred to under paragraphs 19.4 and 19.5, the Seller must provide the following documentation:
- a) packing list, issued in 5 copies on unstamped paper.
  - b) Certificate of origin plus 1 copy, or TL2 certificate for European Single Market countries (only for materials/goods originating from abroad).
  - c) Certificates of "all risk" insurance, the originals plus 2 copies (only for materials/goods originating from abroad).
  - d) Shipping policy (3 originals and 6 copies - "*not negotiable*" - and/or a letter of the carrier, should the delivery be free at destination or free at the Italian border).

## **20. CONDITIONS OF PAYMENT**

- 20.1 Unless otherwise provided in Special T&Cs, payment shall be made at 60 (sixty) days from the end of the month in which the date of the invoice falls, having been issued upon the delivery of materials that were accepted by the Purchaser. The Purchaser shall not be responsible for any delays in payment in case one or more of the provisions of art. 19 above are not met.
- 20.2 Payments shall only be allowed in countries where the Seller has a registered office, even if it is a secondary office.

## **21. ADVERTISING**

- 21.1 The Seller and any other subjects involved in the performance of the Contract shall be prohibited from carrying out any activity that amounts to advertising with reference to the Contract without express written authorisation of the Purchaser.

## **22. NON-TRANSFERABILITY OF CREDITS**

- 22.1 The Seller shall not be entitled to assign to third parties, as provided for under art. 1260, second paragraph, of the Italian Civil Code, any credit to which it is entitled to as a result of the Contract so that the Seller is responsible to the Purchaser, as well as to any assignees, for any breach of the present covenant. Further, the Seller shall not be entitled to grant to third parties special mandates for the collection of funds or any other

forms of delegation of payment.

- 22.2 The Purchaser reserves the right, in certain cases, to authorise the assignment of credits to banks deemed satisfactory by the Purchaser.
- 22.3 If authorised, the assignment shall apply to all credits resulting from all the sale and purchase contracts in force with the Seller.
- 22.4 Authorisation for assignments may be revoked at any point in time, at the discretion of the Purchaser, effective on the credits that shall accrue after the date of such revocation.

### **23. ASSIGNMENT OF THE CONTRACT**

- 23.1 Under no circumstances the Seller shall be entitled to assign the Contract, in all or in part, to any third party, without the prior formal written authorisation from the Purchaser.
- 23.2 The Purchaser shall be entitled to assign the Contract, notifying it to the Seller in writing.

### **24. PATENTS, TRADEMARKS AND LICENSES**

- 24.1 The Seller shall indemnify and hold the Purchaser harmless from and against any and all responsibility, expense and/or claim involving the use or violation of patents and/or trademarks and/or other copyrights regarding the use of materials, machinery or working methods employed in the performance of the activities covered by the Contract. The Seller shall be responsible for the payment of any royalties and license fees for the use of such patents and/or trademarks and/or other copyrights.

### **25. TERMINATION**

- 25.1 In addition to the other termination provisions contained in the present Contract, the Purchaser shall be entitled to terminate the Contract pursuant to the provisions of art. 1456 of the Italian Civil Code, without prejudice to its right to compensation for damages, by registered letter with return receipt, or via certified e-mail ("PEC"), without prior notice, to the address of the Seller indicated under the Special T&Cs, in the following cases:
- a) breach by the Seller of the provisions of article 10 (Terms of Delivery) of the Specifications;
  - b) breach by the Seller of the provisions of articles 4.1 or 9.2, or 14.4 or 15.2, of the Specifications;
  - c) should the Seller breach the provisions of articles 8 (Scheduling) or 22 (Non-transferability of credits) or 23 (Transfer of the Contract) or 27 (Sub-supply) of the Specifications;
  - d) should the Seller make, at its own initiative, and without the approval and/or written authorisation of the Purchaser, any modifications and/or variations in the specifications of the materials/goods covered by the Contract;
  - e) should the Seller fail to comply with all applicable legislation and standards currently in force regarding insurance, economic and social-security treatment of its own personnel as well as with all measures relevant to the environment, health and safety at the workplace;
  - f) should the Seller fail to have and maintain the insurance policies provided for under the Contract and/or should it fail to renew those policies;
  - g) should the Seller become insolvent in its relations with its creditors or should it transfer its assets to creditors;
  - h) should a proceeding be commenced vis-à-vis the Seller for dissolution, winding-up, bankruptcy or any other insolvency proceeding contemplated under the applicable law;
  - i) should the certifications exhibited or presented by the Seller for the purpose of bidding the Contract, or for its performance, prove to be, in any manner or form, irregular;
  - j) should the Seller no longer be in possession of any authorisations or licenses needed to carry out the activities covered by the Contract.

### **26. WITHDRAWAL**

- 26.1 The Purchaser shall be entitled to withdraw from the Contract at any point in time without reason. The withdrawal shall not have effect on the supply of materials already delivered. In the event of withdrawal, no

additional compensation and/or indemnity nor additional consideration shall be due to the Seller for any reason whatsoever.

## **27. SUB-SUPPLIES**

- 27.1 The Seller may not assign the supply of the materials/goods covered by the Contract, in all or in part, to third parties, without the prior written authorisation of the Purchaser.
- 27.2 Should authorisation for sub-supply be granted, the Seller:
- shall remain the sole interface with the Purchaser, as well as the sole subject responsible to the latter for the perfect and proper performance of the Contract;
  - shall be responsible for the correct and suitable selection of any sub-Seller, based on their specific professional skills and expertise with regard to the activities assigned to them;
  - undertakes to ensure that any sub-Seller it engages will be granted ample autonomy in terms of organising, managing and carrying out the activities assigned to it;
  - is required to ensure that each eventual sub-Seller shall comply with the provisions of the applicable law, including those regarding the safeguarding of health and safety of workers and/or the protection of the environment, with any violation of the same to constitute a serious breach of the obligations placed upon the Seller under the provisions of the Contract. The Purchaser, therefore, reserves the right to terminate the Contract pursuant to art. 1456 of the Italian Civil Code, without prejudice to its right to compensation for damages.
- 27.3 Authorisation for sub-supply shall not exempt the Seller from responsibility for the precise and complete fulfilment of the supplies, according to the highest professional standards, also with regard to those activities assigned to third parties.

## **28. CONFLICT OF INTEREST**

- 28.1 No agent or employee of the Seller may give to the Purchaser or to its agents or employees, nor may they receive from the Purchaser or from its agents or employees, with regard to the Contract, commissions, compensation, gifts or free goods of significant value. In the same way, they may not engage in business relations of a private nature with agents or employees of the Purchaser, or of companies that belong to the ERG Group. Should such relations exist, then the Purchaser must be informed of the fact forthwith, in writing.
- 28.2 The Purchaser is entitled to carry out accounting inspections at the Sellers premises, by means of authorised personnel, for the sole purpose of ensuring that the above prohibition is respected.

## **29. CODE OF ETHICS OF THE ERG GROUP AND MODEL OF ORGANISATION, MANAGEMENT AND CONTROL**

- 29.1 The Seller declares that it is aware of the contents of Legislative Decree no. 31 of 8 June 2001 (“Legislative Decree 231”), and of the Model of Organisation and Management referred to under Legislative Decree 231 (the “Model”), as well as the Code of Ethics adopted by the Purchaser (published on the site [www.erg.eu](http://www.erg.eu)), and it undertakes to conduct itself in a manner that complies with the provisions of the above.
- 29.2 The Seller declares (also with regard, when relevant, to its legal representatives and/or company management) that it has never been involved in proceedings concerning any crimes contemplated under Legislative Decree 231, and it undertakes to notify the Purchaser forthwith, should any such proceedings be initiated against it (or, when relevant, against its legal representatives and/or company management), providing the necessary information with regard to the same.
- 29.3 The Seller further declares that it is aware of the fact that compliance with the provisions of the Model and the Code of Ethics, as well as, in general terms, with the obligations provided for in the present article, constitutes a key element of the corporate organisation of the Purchaser, in addition to representing one of the underlying premises of the decision of the latter to enter into the present Contract.
- 29.4 Failure by the Seller to observe any of the provisions and obligations referred to above constitutes a serious breach of the present Contract, entitling the Purchaser to terminate the Contract, effective immediately, under

the provisions and effects of art. 1456 of the Italian Civil Code, without prejudice to the Purchaser right to compensation for damages.

### **30. DISPUTES RESOLUTION**

- 30.1 Any and all disputes arising out or in any way connected with the Contract, or otherwise related to it, shall be resolved exclusively through arbitration, in accordance with the Regulations of the Chamber of Arbitration of Milan, by three arbiters appointed in accordance with those regulations. The Arbitration Chamber shall adopt its decision applying Italian law. The site of the arbitration shall be Genoa. The language of the arbitration shall be Italian. On any dispute arising from or relating to the Contract, and which cannot be decided under arbitration, the Courts of Genoa shall have exclusive jurisdiction.