

## **1. DEFINITIONS**

In this document: (a) "**Affiliate(s)**" shall mean in relation to a party, at any time (i) any person who directly or indirectly controls, is controlled by or is under the common control of such party and (ii) any person who has or holds, whether directly or indirectly, 50% or more of any voting securities (including equity interest) in such party or in any other company where such party has or holds, directly or indirectly, 50% or more of securities (including equity interest) with voting rights. For the purposes of this definition, "control" means, when used with respect to any specified person, the power to direct the administration and policies of that person, whether directly or indirectly, through equity interest, securities with voting rights, contract or otherwise; in each case, the terms "controlling" and "controlled" shall have related meanings; (b) "**Agreement**" shall mean the binding contract formed as described in Clause 2 herein; (c) "**Company**" means the company identified in the purchase order as the party ordering the Services; (d) "**Day**" a calendar day, for which a maximum of 8 times the Hourly Rate can be charged by the Supplier; (e) "**(Hourly) Rates**" shall mean the amount (per hour) that the Company pays to the Supplier for the Services duly carried out as set out in the Purchase Order if a Lumpsum Price is not mentioned in the Purchase Order; (f) "**Intellectual Property Rights**" or "**IPR**" shall mean patents, utility certificates, utility models, industrial design rights, copyrights, database rights, trade secrets, any protection offered by law to information and all registrations, applications, renewals, extensions, combinations, divisions, continuations or reissues of any of the foregoing or which otherwise arises or is enforceable under the laws of any jurisdiction or any bi-lateral or multi-lateral treaty regime; (g) "**Lumpsum Price**" shall mean the fixed and firm amount to be paid by the Company to the Supplier for the performance of the Services (including delivery of Work Product(s)) as stated in the Purchase Order; (h) "**Personal Data**" shall mean any and all information relating to an identified or identifiable individual, including but not limited to Company's current or former employees, employee family members, dependents or beneficiaries, customers, consumers, suppliers, business partners or contractors; (i) "**Processing**" shall mean any operation or set of operations performed or to be performed upon Personal Data, whether or not by automatic means, such as creation, access, collection, recording, organization, storage, loading, employing, adaptation or alteration, retrieval, consultation, displaying, use, disclosure, dissemination or otherwise making available, alignment or combination, blocking, erasure or destruction (hereinafter also referred to as a verb "Process"); (j) "**Purchase Order**" means the document named purchase order issued by the Company; (k) "**Services**" shall mean the services to be performed by the Supplier for Company under the Agreement; (l) "**Supplier**" means the party providing Services and/or Work Product(s) to the Company; (m) "**Time Sheet**" shall mean the detailed overview indicating the services and the hours actually performed by the Supplier in a given period (n) "**Work Product**" shall mean all deliverables (including future deliverables) and other data, reports, works, inventions, know-how, software, improvements, designs, devices, apparatus, practices, processes, methods, drafts, prototypes, products and other work product or intermediate versions thereof produced or acquired by Supplier, its personnel or its agents for Company in the performance of Services under the Agreement.

## **2. FORMATION OF THE AGREEMENT**

These General Conditions, together with the relevant Purchase Order, set forth the terms under which Company offers to acquire Services from Supplier. Where special conditions are defined in a Purchase Order that conflict with the terms of the General Conditions, these special conditions will prevail over the General Conditions. When Supplier accepts the Purchase Order, either by acknowledgement and/or commencement of performance of any Services, a binding contract shall be formed. Such Agreement is limited to these General Conditions, the relevant Purchase Order and any attachments. The Agreement can be varied only in writing signed by Company. Any other statement or writing of Supplier shall not alter, add to, or otherwise affect the Agreement.

Company is not bound by and hereby expressly rejects Supplier's general conditions of sale and any additional or different terms or provisions that may appear on any proposal, quotation, price list, acknowledgment, invoice or the like used by Supplier.

## **3. TIME IS OF ESSENCE**

Time is of the essence and all dates referred to in the Agreement shall be firm. In the event that Supplier anticipates any difficulty in complying with any delivery date or any of its other obligations under the Agreement, Supplier shall promptly notify Company in writing. In the event that Supplier is delayed in complying with any delivery date or any of its other obligations under the Agreement due to circumstances for which the Supplier is responsible, which includes every circumstance - other than an event of Force Majeure - occurring on the side of Supplier, Supplier will be in default, without any notice of default being required.

In such event, the Supplier will be due to the Company the Liquidated Damages for Delay set out in the Purchase Order, notwithstanding the Company's right to all damages sustained and to be sustained by the Company due to such delay. Such damages include, but are not limited to, any and all delay compensations and/or penalties due by the Company to its client. If no specific Liquidated Damages for Delay have been set in the Purchase Order, the Liquidated Damages for Delay per commenced day of delay shall be equal to 1% of the value of the Agreement. The Liquidated Damages for Delay shall not exceed 25% of the value of the Agreement. If the maximum amount of Liquidated Damages for Delay as set out above is reached the Company shall be entitled to terminate the Agreement.

In the event of any delay in the progress of the Services, as far as the delay is attributable to the Supplier, the Supplier shall take all additional measures required to remedy the delay. Any and all additional expenses and costs regarding these measures shall be for the risk and account of the Supplier.

Furthermore, if the Company is of the reasonable opinion that the Services cannot be completed within the timeframe of the Agreement, the Company has the option to cancel the Services without any recourse of Supplier towards the Company and to have the Services completed by another supplier.

## **4. DRAWINGS - SPECIFICATIONS - TECHNICAL DATA**

When executing the Agreement, the Supplier shall not deviate from the drawings, specifications and/or technical data supplied by the Company, nor shall he make any amendments to them without prior written consent of the Company. Immediately upon receipt of such information, the Supplier must check the drawings, specifications and technical data for errors, omissions, inconsistencies and inaccuracies. If the Supplier is of the opinion that an amendment to the drawings, specifications and/or technical data should be made, the Supplier shall immediately notify the Company of the same in writing. If the Supplier fails to do so, the Supplier forfeits the right to rely on the error, omission, inconsistency, inaccuracy, amendment or modification.

Drawings, specifications and/or technical data supplied by the Company to the Supplier shall not be disclosed or used by the Supplier for any reason other than the execution of the Agreement. The Supplier shall provide the Company with drawings, specifications and/or technical data for approval and/or archiving on receipt of the first written request of the Company. Any approval of drawings, specifications and/or technical data provided by the Supplier shall not release the Supplier in any way from his obligations under the Agreement.

## **5. PERFORMANCE OF SERVICES**

Supplier shall perform the Services referred to in the Purchase Order and shall do so in accordance with the agreed programme.

The Supplier declares that as at the date of the Agreement there are no circumstances or matters that may give rise to a conflict of interest in the performance of its obligations under the Agreement. The Supplier shall inform the Company immediately if it becomes aware of any such circumstances or matters. Supplier shall perform the Services with due skill, care and diligence to be expected from a supplier experienced in the provision of such services for projects of similar size, nature and complexity, using the proper materials and employing sufficiently qualified staff. Supplier shall be fully liable for the acts and omissions of all third parties with whom it has contracted in connection with the Services.

Only written confirmation by Company shall constitute acceptance of the Services performed. The key personnel who are proposed by the Supplier to perform the Services shall be subject to acceptance by the Company with regard to their qualifications and experience. Such acceptance by the Company shall not be unreasonably withheld. If it is necessary for any reason to replace any of the personnel provided by Supplier, Supplier shall arrange at its own cost replacement promptly by (a) person(s) of suitable qualification and experience in the provision of the Services.

## **6. INSPECTION, TESTING AND REJECTION OF SERVICES**

Without prejudice to the obligation of the Supplier to carry out the necessary reviews himself, the Company and its client(s) or third parties as instructed in writing by the Company, are entitled to review the Services at any time during execution of this Agreement. The Supplier shall ensure that any third-party suppliers involved with the Services also extend their cooperation to that end to the Company and its client(s) or third parties, free of charge.

Notwithstanding any such inspection by the Company or its client(s), Supplier shall retain full liability for the correct execution of the Agreement. Unless expressly agreed otherwise, the Supplier shall, during the execution of this Agreement submit the necessary drawings, calculations, Work Products and specifications for approval. Approval from, or review by the Company in any form or for any reason, does not constitute acceptance and does not limit the responsibility of the Supplier to fulfil his obligations in any way. If Company does not accept the Service and/or Work Product(s), Clause 11 below shall apply. Company shall promptly notify

Supplier of any rejection, and Supplier will, at its own expense, carry out the necessary corrections, additions and modifications reasonably requested by Company in writing within thirty (30) days of such notification (or such other period as may be agreed). If the Supplier fails remedy its default within such term Clause 21 below shall apply.

#### **7. PROVISION OF PERSONNEL**

If the Purchase Order includes the provision of personnel by the Supplier to the Company, the following will apply in addition to the other provisions of the Purchase Order. The Supplier shall ensure that the provision of personnel is fully in accordance with all applicable laws and regulations in respect of the provision of personnel and nothing in the Purchase Order and/or the execution thereof, and nothing in the relationship between the parties (including hired personnel) can be deemed to construe an employment (or similar relation) with the Company. The Supplier shall indemnify and hold harmless the Company from any claims, liabilities, penalties, forfeitures, and associated costs and expenses (including attorney's fees), which Company may incur due to Supplier's non-compliance with applicable laws, rules and regulations in respect of the provision of personnel.

The Supplier will ensure that the personnel it provides has the qualifications and fits the requirements as specified in the Purchase Order and is fully qualified to perform the Services.

The Supplier is fully liable for all acts and omissions of the personnel it provides whether in the Supplier's employment or not.

The Supplier shall ensure and warrants that the personnel it provides shall fully adhere to all rules, regulations, prescriptions and precautions in respect of safety, environment, health and working conditions at the work site.

The Supplier shall not engage personnel that is not in Supplier's employment without the prior written approval of the Company.

If personnel made available by the Supplier does not meet the requirements set out in this section or if such personnel acts contrary to the obligations set out in this section or if the Company is dissatisfied with such personnel, all to the discretion of the Company, the Company is entitled to demand that such personnel is removed. The Supplier shall then, at its cost, ensure that such personnel is removed and replaced by other personnel fully complying with the requirements of this section.

All personnel is obliged to identify itself by means of official ID documents on the worksite.

The Supplier shall provide, upon first request of the Company, such details in respect of the personnel as the Company may reasonably require (e.g. names, social security/tax numbers, etc.).

The Supplier is solely responsible for fulfilling all payment obligations in respect of personnel, including but not limited to the payment of wages and of all taxes, social security contributions and pension premiums.

#### **8. CHANGE ORDER - VARIATIONS**

The Company may initiate changes by issuing to Supplier written notices that alter, add to, or deduct from the Services, but that are otherwise subject to the General Conditions. Supplier will promptly comply with the terms of any change order.

The Supplier is only permitted to execute additional services, not forming part of the Services as described in the Purchase Order, after submitting the full technical and financial consequences of the additional services and obtaining prior written approval of the Company.

#### **9. PRICE AND PAYMENT**

The Supplier is entitled to charge the Company for the (Hourly) Rate or the agreed Lump Sum for the Services executed by the Supplier. All prices stated in the Purchase Order are fixed and firm and shall not be adjusted save as provided otherwise in the Purchase Order.

Unless otherwise stated in the Purchase Order, the Company shall be charged the (Hourly) Rate only for hours worked and excluding travel time.

Out-of-pocket expenses incurred when performing the Services will only be reimbursed to the extent stated in the Purchase Order, or if otherwise agreed in writing between the Parties, in any case before incurring the expense. The Company is under no obligation to provide reimbursement for any such costs that are not properly documented and supported by original receipts and tickets. Normal working hours are eight hours per Day, five Days a week. On project locations other working hours per Day can be agreed upon between the Parties. If reimbursement of the Supplier is based on (Hourly) Rates, and unless otherwise stated in the Purchase Order, the Supplier shall provide the Company on a monthly basis with the Time Sheet to the Company for approval. The Time Sheet shall at least include the following information: name of Supplier's personnel providing the Services, Purchase Order number and breakdown of hours worked together with a description of the Services executed.

Following approval of the Time Sheet by the Company the Supplier may issue the corresponding invoice. The invoices shall explicitly state, as applicable, the

Purchase Order number, cost-code, the approved Time Sheet, the original receipts and tickets in respect of expenses that are eligible for reimbursement by the Company. If the Supplier has not complied with the above-mentioned requirements, the Client has the right to suspend his payment obligations.

If reimbursement of the Supplier is based on a Lump Sum Price, Supplier shall invoice the Company on the basis of the payment schedule agreed in the Purchase Order, or if no payment schedule is agreed the Lump Sum Price shall be invoiced on monthly basis pro rata progress of the Services. To that effect, the Supplier shall provide the Company on a monthly basis with a statement confirming the milestone or progress (as applicable) to the Company for approval. The statement shall at least include the following information: milestone or progress (as applicable) achieved and Purchase Order number together with a description of the Services executed. Following approval of the statement by the Company the Supplier may issue the corresponding invoice. The invoices shall explicitly state, as applicable, the Purchase Order number, cost-code and the approved statement. If the Supplier has not complied with the above-mentioned requirements, the Client has the right to suspend his payment obligations.

Unless otherwise stated in the Purchase Order, Company shall pay all properly invoiced amounts due to Supplier within thirty (30) days following the end of month in which Company received the invoice, except for any amounts disputed by Company. The parties shall seek to resolve all such disputes in an amicable manner. Supplier shall continue performing its obligations under the Purchase Order notwithstanding any such dispute.

If Supplier fails to fulfil any of its obligations under the Agreement, Company may suspend payment to Supplier upon notice to Supplier.

Supplier hereby unconditionally accepts that Company and any of its Affiliates shall at all times have the right to set-off any amounts that the Company or any of its Affiliates owes to Supplier or its Affiliates against any amounts that Supplier or its Affiliates owes to Company or its Affiliates.

Payment of an invoice is not evidence or admission that the Services meet the requirements of the Agreement.

Any bank charges incurred with payments made in connection with an Agreement shall be borne by the party incurring them.

Unless otherwise stated in the Purchase Order, all rates and prices of Supplier are inclusive of any possible taxes (including any withholding taxes), duties, levies and/or fees, except for any value added tax (VAT) or similar tax (e.g. goods and services tax, consumption tax, etc.). The rates and prices further include any license fees.

#### **10. WARRANTY**

Supplier represents and warrants to Company that (a) the Supplier is competent, properly qualified, skilled and experienced in accordance with good industry practice for the provision of the Services; (b) the Supplier will strictly comply with all provisions of the Agreement; (c) the Supplier has, and shall continue to have throughout the duration of this Agreement, all required permits, licenses and permissions to provide the Services to the Company; (d) the Services and any Work Product(s) are suitable for the intended purpose and shall be of good quality and free from all defects; (e) the Services will be carried out in accordance with all applicable laws, and standards of good workmanship; (f) the Services and any Work Product(s) are delivered with all required licenses which shall remain valid and in place, and with the scope to properly cover the intended use; and (g) the Services and any Work Product(s) shall be free from any and all liens and encumbrances.

These warranties are not exhaustive and shall not be deemed to exclude any warranties set by law, Supplier's standard warranties or other rights or warranties which Company may be entitled to. These warranties shall survive any delivery, inspection, acceptance or payment of the Services.

#### **11. NON-CONFORMITY**

If any Services or Work Products are defective, latent or otherwise do not conform to the requirements of the Agreement, Company shall notify Supplier and may, without prejudice to any other right or remedy available to it under the Agreement or at law, at its sole discretion: (a) require performance by Supplier; (b) require delivery of substitute Work Products; (c) require Supplier to remedy the lack of conformity; (d) declare the Agreement rescinded; or (e) reduce the price in the same proportion as the value of the Services delivered in accordance with the Agreement, even if that results in a full refund of the price paid to Supplier.

#### **12. INTELLECTUAL PROPERTY**

Supplier represents and warrants to Company that the Services and any Work Product(s) do not and shall not, alone or in any combination, infringe or violate any third party (including Supplier's employees and subcontractors) IPR.

The performance of the Services shall confer on Company and its Affiliates an irrevocable, world-wide, royalty-free and fully paid up, non-exclusive and perpetual license under all IPR owned or controlled, directly or indirectly, by Supplier to use, make, have made, build-in, have built-in, market, sell, lease,

license, distribute and/or otherwise dispose of the Services. Furthermore, all such licenses shall include the right to transfer any such license and the right to grant sublicenses. Company shall retain all rights in any samples, data, works, materials and intellectual and other property provided by Company to Supplier.

All rights in and titles to the Work Product shall become Company's property upon its creation. If required, Supplier shall execute and deliver any documents and do such things as may be necessary or desirable in order to carry into effect the provisions of this clause.

Supplier shall not use any trademark, trade name or other indication alone or in any combination without Company's prior written approval and any use of any trademark, trade name or other indication as authorized by Company shall be strictly in accordance with the instructions of and for the purposes specified by Company.

Supplier shall not, without Company's prior written consent, publicly make any reference to Company, whether in press releases, advertisements, sales literature or otherwise.

Supplier shall indemnify and hold harmless Company, its Affiliates, agents and employees and any person selling or using any of Company's products in respect of any and all claims, damages, costs and expenses (including but not limited to loss of profit and reasonable attorneys' fees) in connection with any third party claim that any of the Services or Work Product(s), alone or in any combination or their use infringes any third party IPR, or, if so directed by Company, shall defend any such claim at Supplier's own expense.

Company shall give Supplier prompt written notice of any such claim, provided, however, any delay in notice shall not relieve Supplier of its obligations hereunder. Supplier shall provide all assistance in connection with any such claim as Company may reasonably require.

If any Services or Work Product(s), alone or in any combination, supplied under the Agreement are held to constitute an infringement or if their use is enjoined, Supplier shall, as directed by Company, but at its own expense: either (a) procure for Company or its customers the right to continue using the Services or Work Product(s) alone or in any combination; or (b) replace or modify the Services or Work Products alone or in any combination with a functional, non-infringing equivalent. If Supplier is unable either to procure for Company the right to continue to use the Services or Work Product(s) alone or in any combination or to replace or modify the Services or Work Product(s) alone or in any combination in accordance with the above, Company may terminate the Agreement and upon such termination, Supplier shall reimburse to Company the price paid, without prejudice to Supplier's obligation to indemnify Company as set forth herein.

### **13. INDEMNIFICATION**

Supplier shall defend, indemnify, and hold harmless Company and Company Affiliates, their agents, successors or assigns and their respective directors, officers, shareholders and employees and anyone using or selling Company's products or services (collectively, "Indemnitees") against any and all loss, damage, liability, claim, allegation, action, judgement, interest, penalty, fines, cost or expense, including reasonable legal fees and costs, and the cost of enforcing any right to indemnification hereunder (collectively, "Losses") arising out of or occurring in connection with Supplier's performance or non-performance of its obligations hereunder, Supplier's negligence, wilful misconduct or breach of the Agreement. Supplier shall not enter into any settlement without Company's or Indemnitee's prior written consent.

### **14. LIMITATION OF LIABILITY**

Neither party excludes or limits its liability for death or personal injury arising from its own negligence, fraud, or for any liability that cannot by law be excluded or limited. Without limiting the above paragraph, in no event shall Company be liable under any theory of liability for indirect, incidental, special, consequential or punitive damages, which includes without limitation damages for lost profits or revenues, lost business opportunities, loss of image or lost data, even if Company has been advised of the possibility of such damages and in no event shall Company be liable to Supplier, its successors or assigns for damages in excess of the amount due to Supplier for complete performance under the Agreement, less any amounts already paid to Supplier by Company.

### **15. INSURANCE**

Supplier shall, at its own expense, maintain insurance in full force and effect with financially sound and reputable insurers and for the duration of the Agreement, which includes (as applicable): (a) commercial general liability (including product liability) in a sum no less than EUR 1,000,000 (or equivalent in any other currency) per occurrence; (b) workers' compensation insurance in compliance with the applicable laws of each jurisdiction affected by the Agreement; (c) if the Supplier will use or provide for use of motor vehicles in providing and/or performing the Agreement, automobile (motor vehicle) insurance covering all liabilities for

personal injury and property damage arising from the use of such vehicles, in compliance with the applicable laws of the country where such vehicles are used. Until the Supplier has provided Company with a certificate of insurance evidencing the coverage specified in this Agreement, the Company shall be entitled to withhold all payments to the Supplier.

### **16. COMPLIANCE WITH LAW**

Supplier warrants and represents to Company that it is in compliance with and shall remain in compliance during performance of the Agreement and ensure that its employees, agents, contractors and subcontractors comply with all applicable laws, regulations and ordinances, including, without limitation, the health, safety and environmental policies and standards of Company.

Supplier has and shall maintain in effect all the licenses, permissions, authorizations, consents and permits required by law to carry out its obligations under the Agreement.

### **17. DATA PROTECTION**

Where Supplier in the performance of the Agreement Processes Personal Data, then Supplier agrees and warrants to the Company that Supplier shall: (a) comply with all privacy and data protection law and regulations applicable to its Services; (b) Process Personal Data only (i) on behalf of and for the benefit of Company, (ii) in accordance with Company's instructions, and (iii) for the purposes authorized by this Agreement or otherwise by Company, and (iv) insofar necessary for the Services rendered to Company and as permitted or required by law; (c) maintain the security, confidentiality, integrity and availability of the Personal Data; (d) implement and maintain appropriate technical, physical, organizational and administrative security measures, procedures, practices and other safeguards to protect the Personal Data against (i) anticipatable threats or hazards to its security and integrity; and (ii) loss, unauthorized access to, or acquisition or use of or unlawful Processing; and (e) promptly inform Company of any actual or suspected security incident involving the Personal Data. To the extent that Supplier allows a (sub)contractor to process the Personal Data, Supplier shall ensure that it binds such (sub)contractor to obligations which provide a similar level of protection, but in no way less restrictive, as this Clause 17.

Supplier shall, upon the termination of the Agreement, securely erase or destroy all records or documents containing the Personal Data. Supplier accepts and confirms that it is solely liable for any unauthorized or illegal processing or loss of the Personal Data, if Supplier fails to erase or destroy the Personal Data upon termination of the Agreement.

Supplier shall indemnify and hold harmless Company, their officers, agents and personnel from any damages, fines, losses and claims arising out of a breach of its obligations under this Clause 17.

The Supplier confirms having been adequately informed about the processing of its personal data and about its rights to access, rectification, deletion and objection. For further information on this process and on the rights, the Company explicitly refers to the privacy policy, which is available on the website <http://www.jandenul.com>.

### **18. ETHICAL CODE OF CONDUCT**

With respect to the performance of this Agreement, the Supplier undertakes, for the entire duration of the Agreement, to comply with the Supplier Code of Conduct, rules and policies of the Jan De Nul Group, available on [Partners & Suppliers](#).

### **19. FORCE MAJEURE**

Neither party shall be liable to the other for any delay or failure in performing its obligations under the Agreement to the extent that such delay or failure is caused by an event or circumstance that is beyond the reasonable control of that party, without such party's fault or negligence, and which could not have been foreseen or avoided by such party ("Force Majeure"). Force Majeure includes, but is not limited to, acts of God or the public enemy, government restrictions, floods, fire, earthquakes, explosion, epidemic, war, invasion, terrorist acts, riots, commotion, disorder, strike or lockout by persons other than employees of the affected party, or embargoes. The Supplier's economic hardship or changes in market conditions are not considered as Force Majeure. The Supplier shall use all reasonable efforts to mitigate the effects of any Force Majeure and resume performance under the Agreement promptly upon cessation of Force Majeure. If Force Majeure prevents the Supplier from performing its obligations under the Agreement for a continuous period of more than five (5) business days, the Company may terminate the Agreement immediately by giving written notice to Supplier.

### **20. TERMINATION FOR CONVENIENCE**

Company may terminate the Agreement, in whole or in part, for any reason by giving written notice to Supplier at any time, in which event the Company shall - as Supplier's sole and exclusive remedy - compensate Supplier for the Services or Work Products properly rendered at the date of cancellation. Upon receipt of such notice, the Supplier shall immediately cease all activities as is reasonable practicable.

**21. TERMINATION FOR DEFAULT**

Company may terminate the Agreement, effective immediately, by giving notice in writing without compensation to the Supplier if the Supplier is in material breach of the Agreement and, if such breach is remediable, such breach has not been remedied within 30 days of the written notice. Material breaches by the Supplier shall include: (a) refusal or failure to perform the Services in whole or in part; (b) failure to perform any other provision of the Agreement; or (c) failure to make progress so as, in the reasonable opinion of the Company, to endanger the performance of the Agreement in accordance with its terms.

If the Supplier is in default, the Company may recover from the Supplier damages resulting from such default.

Company may further terminate the Agreement without compensation and with immediate effect by serving a written notice to the Supplier if the Supplier: (a) becomes (or threatens to become) insolvent or bankrupt, is placed (or threatens to be placed) into administration, receivership or liquidation, commences (or threatens to commence) proceedings to be wound up, enters into (or threatens to enter) into any voluntary arrangement with its creditors, or on the occurrence of any similar event according to the laws of its domicile; (b) undergoes any change in its ownership or disposes of all or a substantial part of its business or assets (other than for the purposes of a legitimate reorganisation), without the Company's prior written consent, which consent shall not be unreasonably withheld or delayed; or (c) if the Supplier, its agents or subcontractors, or any of their directors, officers and/or employees commit any breach of anti-corruption laws, rules or regulations applicable to the Supplier and the Company's business operations.

**22. CONFIDENTIAL INFORMATION**

All information disclosed or delivered by the Company to the Supplier including, but not limited to, specifications, samples, patterns, designs, plans, drawings, documents, data, business operations and dealings, pricing, discounts or rebates, whether orally or in writing, and whether or not marked as "confidential," in connection with the Agreement shall be treated by the Supplier as confidential, and shall not be disclosed or made available to others by the Supplier without the prior written consent of the Company. Upon Company's request, Supplier shall promptly return all documents and other materials received from Company. Company shall be entitled to injunctive relief for any violation of this Clause. This Clause shall not apply to information that: (a) is or becomes generally available to the public other than as a result of a disclosure by the Supplier; (b) is rightfully and legally known to the Supplier at the time of disclosure; or (c) rightfully and legally obtained by the Supplier on a non-confidential basis from a third party who is not otherwise bound by a confidentiality obligation to the Company.

This Clause shall survive the termination of the Agreement for a period of five (5) years.

**23. GOVERNING LAW AND DISPUTE RESOLUTION**

Unless otherwise stated in the Purchase Order, all matters arising out of or relating to the Agreement shall be governed by and construed in accordance with the laws of the Grand Duchy Luxembourg, excluding any choice or conflict of law rules. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to the Agreement.

Unless otherwise stated in the Purchase Order, any dispute arising out of or in connection with the Agreement, including any question regarding its existence, validity or termination, shall be referred to the exclusive jurisdiction of the courts of the Grand Duchy of Luxembourg. The Company has the right, however, to bring the dispute before any other court of a competent jurisdiction.

Without prejudice to the foregoing provisions in this Clause, nothing in the Agreement shall restrict, limit or exclude the rights of the parties to seek injunctive relief or interlocutory measures before the jurisdiction of any other competent court.

**24. CUMULATIVE REMEDIES**

The rights and remedies under the Agreement are cumulative and are in addition to any other rights and remedies available at law or in equity or otherwise.

**25. RELATIONSHIP OF THE PARTIES**

The Supplier is an independent contractor. Nothing contained herein shall be construed as creating any agency, partnership, employment or fiduciary relationship. Neither party shall have authority to bind the other party in any manner whatsoever.

**26. NOTICES**

All notices, consents, claims, demands, waivers and communications hereunder shall be in writing and addressed to the parties at the addresses set forth in the Agreement or to such other address that may be designated by the receiving party in writing. All notices shall be delivered by personal delivery, facsimile, registered mail or electronic mail. A notice is effective only upon receipt of the receiving party, and if the party giving the notice has complied with the requirements of this Clause.

**27. SEVERABILITY**

If any term or provision of the Agreement is found invalid, illegal or unenforceable, such invalidity, illegality or unenforceability shall not affect the validity of any other term of the Agreement which shall remain in full force and effect as if such invalid, illegal or enforceable provision had never been contained herein.

**28. ASSIGNMENT**

The Company shall be entitled to transfer the whole or any part of its rights and obligations under the Agreement to any Affiliate or the Company's client without requiring the Supplier's consent.

The Supplier shall not assign, transfer, delegate or subcontract any of its rights or obligations under the Agreement without the Company's prior written consent. Any purported assignment or delegation in violation of this Clause shall be null and void. No assignment shall relieve the Supplier of any of its obligations hereunder.

**29. NO WAIVER**

No waiver by any party of any of the provisions of the Agreement shall be effective unless explicitly set forth in writing and signed by the party so waiving. No failure to exercise, or delay in exercising, any rights, remedy, power or privilege arising from the Agreement by Company shall operate or be construed as a waiver thereof, nor shall any single or partial exercise of any right, remedy, or privilege hereunder preclude any other exercise of any additional right, remedy, or privilege.