

## **Terms and Conditions of Purchase**

### **Definitions**

1. Buyer shall mean any Company, and/or subsidiary and/or associated companies forming part of Vassallo Group.
2. Seller shall mean the party to whom an official Purchase Order has been issued for the provision of goods or rendering of a service/s.
3. Purchase Order is an official document of contract issued and solely recognised by the Purchaser and is subject only to the Terms and Conditions outlined within this document. This document supersedes all previous communications, negotiations and arrangements. The Buyer shall accept no terms and conditions stated by the Seller unless specifically outlined in the Purchase Order. The document shall include details for the provision of product and /or equipment and/or service. Details shall include quantities, delivery dates, Company and Seller details, delivery address and other related information.
4. Specifications shall mean all the relevant technical details, technical drawings or descriptions for goods or services referred to by the Buyer

### **Section1:- Purchase Order Acceptance**

**1.1** The Seller upon receipt of Purchase Order shall comply fully with the obligations of the Terms and Conditions of this document and is to supply the service/product at the price, specifications, delivery and/or milestone dates contained in the Purchase Order. The Buyer will accept no alteration, variation, modification or amendment from the original Purchase Order unless a formal request in writing has been forwarded by the Seller within a maximum period of five days from receipt of Purchase Order and if this is accepted by the Buyer than a newly amended Purchase Order shall then be is issued. Any additional or different Terms and Conditions other than those listed in this document shall be included and clearly defined in the Purchase Order.

**1.2** The Purchase Order along with its Terms and Conditions contained within this document shall prevail over any other condition, correspondence and documentation, or any other agreement or warranty agreed upon prior to date of issue of Purchase Order unless otherwise explicitly accepted, in writing between Buyer and Seller.

**1.3** In cases where a Purchase Order is issued after delivery of goods has taken place the outlined Terms and Conditions of Purchase are still applicable. Invoices, prices and rates will only be accepted once the Purchaser issues an official Purchase Order.

**1.4** All Invoices, Delivery Notes, Service Chits or any other documentation or correspondence relating to supply of Goods or rendering of a Service whenever possible should always include the Purchase Order Number/s given by the Buyer.

## **Section 2:- Prices**

- 2.1. Prices shown on the Purchase Order cannot in no way be re-negotiated unless otherwise specified and are therefore fixed and inclusive of all transport, shipping, transit, delivery, packing, handling unloading, transportation, un-packing, checking, levies, insurance, trade licences, eco tax (if applicable) and/or authorizations documentation and any other related charges.
- 2.2. Prices shown in the Purchase Order are also inclusive of the provision of documentation, designs, drawings, samples, models and specifications requested by the Purchaser.
- 2.3. Prices are also inclusive of Certifications, Trail Tests, Supervision and Training and where applicable also inclusive of on site assembly and commissioning as well as all tools, PPE, power supply and any other equipment required during the provision of a service or supply of product or equipment unless otherwise agreed.
- 2.4. All prices and rates should be in Euro (€) unless otherwise specified.
- 2.5. VAT is applicable at the current legal rate on the day of the service provision or delivery of item, based on the tax laws applicable thereto.
- 2.6. The Seller declares that the Price indicated within the Purchase Order covers the scope of Equipment and Services and/or the Specifications of any Item as defined in the Purchase Order and that is a fair price taking into consideration all foreseeable normal eventualities of those supply and services. Therefore, the Purchase Order Price is fixed and shall not be subject to any revision. Except for any variation ordered by the Purchaser, the Seller shall not be entitled to receive any other payment for the execution of the Scope of the Supply or rendering of a Service.

## **Section 3:- Payment Terms**

- 3.1. Unless otherwise agreed the normal payment credit terms as agreed between Buyer and Seller are applicable.
- 3.2. Unless otherwise agreed all payments will be made in Euro (€)
- 3.3. Progress payment, payment on account or deposits shall be clearly defined in the Purchase Order.
- 3.4. Revision of prices will not be accepted.

## **Section 4:- Correspondence**

- 4.1. All correspondence between Seller and Buyer shall be made in English Language. Technical Literature and drawings shall also be in English Language.

## **Section 5:- Delivery of Goods or Provision of a Service**

**5.1.** The Seller shall deliver goods in a secure and safe manner adequately marked and labelled so that goods are received in good order and condition. The Seller is to ensure that the packing should be adequate to prevent deterioration during delivery and as well as during the storage phase. Unless otherwise specified prices should be inclusive of all related packing, carriage and delivery to site or stores charges and should also be inclusive of VAT, duty, port charges and any other related taxes or customs fees.

**5.2.** The packing material is to be disposed off by the Seller.

**5.3.** Deliveries are to be made to the Delivery Address indicated in the Purchase Order and within the date/period of time indicated in the Purchaser Order.

**5.4.** All local Sellers are to send with their deliveries or when rendering a service an official delivery note, service chit or invoice. Such documentation must be signed and confirmed by the personnel authorized to receive such goods or services. The Seller may request a list detailing all personnel authorized for such scope. No documents will be accepted after delivery has taken place or the rendering of a service is completed without the necessary approved signatures.

**5.5.** International Sellers are to provide originals of Packing lists, Invoices, Eur 1 certificates (where applicable), T2L Certificate, Bill of Lading, CMR documents, Air Way Bill and where necessary Test Certificates of Compliance. All documents are to be forwarded to the Purchaser by courier service prior to arrival of consignment in Malta unless otherwise agreed. Any costs relating to demurrage, bond and wharf charges or eventual loss of profit from failure to present the required documents or their delay shall be payable by the Seller.

**5.6.** The Buyer may temporarily suspend or postpone the delivery of goods or the rendering of a service if the conditions for the delivery or the provision of such service to any particular location are not acceptable. In such eventuality Seller shall be responsible for the free storage of goods up to a maximum period of 3 months.

**5.7.** International and Local Sellers are also to ensure where applicable that all related Drawings, Calculations, Technical Descriptions, Operator's Manuals, Installation Manuals, Maintenance Manuals, Parts Manuals, Work Shop Manuals, Material and Safety Data Sheets are sent prior to delivery of goods or rendering of a service .

**5.8.** All costs relating to personnel carrying supervisory duties or any other task related to technical support sent by International Sellers inclusive of any local taxes, work permits, insurances shall be borne by the Sellers unless otherwise specified. All lodging transfers transport and airfares shall also be borne by Seller unless otherwise agreed. The Seller both local and foreign shall in the execution of works observe and fulfil the obligations upon contractors as laid down in the Conditions of Employment Regulations and take the necessary action to comply with the local Health and Safety regulations.

**5.9.** The Seller is to deliver the said goods within the agreed delivery period and end destination (local) as shown in the Purchase Order.

**5.10.** Where indicated by the Buyer, the Seller shall mark and label all goods and provide documentary traceability of items delivered. In case of equipment Seller shall ensure that a heavy duty identification plate is affixed in a firm manner to the delivered items.

**5.11.** The Buyer reserves the right to return any unused material/products, which are still in good order and condition and not to pay for these goods until Seller forwards an official Credit Note.

**5.12.** Any additional costs incurred by the Buyer relating to short delivered items, long due deliveries or late completion date or any other directly or indirectly related expenses or losses shall be charged to the Seller. The Purchaser also reserves the right to cancel Purchase Order

in whole or in part if the Seller is in breach of any of the Terms and Conditions outlined in this document and to make all the necessary arrangements for the supply of the required material or completion of works at the expense of the Seller.

**5.13.** All personnel carrying deliveries or rendering a service on behalf of the Seller to sites, locations or stores indicated by the Buyer shall be doing so at the sole responsibility of the Seller.

**5.14.** Personnel delivering goods or providing a service shall ensure that this done within the days and times indicated by the Buyer and the Seller binds itself to follow any instructions given from time to time by the Buyer.

**5.15.** The Seller shall take all reasonable precautions not to create inconvenience to the Buyer's operations and/or Buyers' clients or third parties whilst delivering goods or rendering a service.

## **Section 6: Nature of Goods/Services**

**6.1.** The Seller shall supply Goods/Services in accordance to samples, technical drawings, surveys, models or specifications given and unless otherwise specified all goods supplied shall be new and in good order and condition. Whenever used goods are supplied these should be free from defects, toxic materials or any form of hazard. All Goods/Services are to be of the highest quality material and workmanship and are to fit in every respect the purpose expressly or by implication requested by the Buyer.

**6.2.** Should the Seller seek advise or information from the Buyer, this will in no way relieve or reduce the Seller's requirement to make his own independent assessment in order to confirm that goods/service supplied are for fit for the intended use and purpose.

**6.3.** The Seller shall supply all products/services in accordance and in conformity to EU standards and specifications that are applicable in Malta or that are internationally recognized and accepted locally.

**6.4.** The Seller shall provide upon request all the necessary documentation, certification and carry out tests relating to the specifications and standards of item being supplied. The Buyer reserves the right to inspect, examine, measure, test and verify at the expense of the Seller that the items/products supplied are in accordance to the specifications, quality, quantity, workmanship and standards requested.

**6.5.** The Seller shall provide an identification number, batch number or serial number in order that the original source and consignment/batch number or manufacture date can be easily traced. This is applicable to all products/items that are delivered, supplied or installed. This number is to be clearly indicated on all official documentation issued by the Seller.

## **Section 7:- Assignment, Delegation and Sub-Contracting**

The Seller shall not assign, delegate or sub-contract whether in whole or in part any works or provision of services or products listed in the Purchase Order without the prior express written approval of the Buyer

- 7.1. The Seller shall be responsible for all defaults, omissions, negligence of its subcontractors including its agents and employees and approval by the Buyer of subcontractors will not exempt the Seller from such liabilities
- 7.2. Provided that any variation in the share capital of the Seller whereby any third party were to acquire a right or interest amounting to or in excess of thirty per cent (30%) of the Seller's share capital as varied shall be deemed to be a prohibited assignment for the purposes of Purchase Order.
- 7.3. The Buyer will not recognise any links between themselves and the Sellers' subcontractors.

## **Section 8:- Additional Items/ Works**

- 8.1. Where additional items and works are required than Seller is obliged to perform additional works or provide other services or supply more goods than originally ordered at the same rates and prices unless otherwise agreed.
- 8.2. Such works, services and goods will be supplied on the same Terms and Conditions as outlined in this document and will be confirmed and accepted by the Buyer once a Purchase Order is issued within a maximum period of five working days from notification to proceed with supply of goods or rendering of a service

## **Section 9:- After Sales Service**

- 9.1. The Seller shall guarantee availability of spare parts for equipment and/or products supplied for a period of at least ten years after the lapse of warranty period.
- 9.2. Following the ten year period Seller is to inform Buyer in writing about discontinuation of production/availability of spare parts

## **Section 10:- Transport Insurance Cover**

- 10.1. Unless otherwise agreed insurance cover should be the sole responsibility of the Seller from Seller's ex-works up to the delivery site or stores indicated by the Buyer (door to door basis).
- 10.2. However when the insurance is the responsibility of the Buyer than the Seller shall notify at least five days prior to departure of goods from Seller's ex-works so as the necessary arrangements for an insurance cover are carried out.

## **Section 11:- Commissioning and Acceptance of Goods and Related Risks**

- 11.1.** The Buyer shall not accept any responsibility or liability to any equipment and goods that require commissioning until this is carried out to the full satisfaction of the Buyer or any other third party appointed by the Buyer to verify this. Any guarantees and warranties will commence on date of commissioning.
- 11.2.** The acceptance and full responsibility of Goods supplied shall be transferred to the Buyer once all the terms and conditions have been satisfied and Goods have been accepted or paid for by the Buyer. Should the Buyer reject any goods the responsibility will remain that of the Seller

## **Section 12:- Liquidated Damages**

- 16.1.** Seller shall pay any costs, damages, disbursements and any other expenses and shall also be subject to the rejection of the product, equipment or service, in whole or in part, in accordance with details listed in the Purchase Order in the following cases:
- a) If the delivery time or completion date as indicated in the Purchase Order is not met due to delays attributable to the Seller or any other issues under the direct control of the Seller.
  - b) Goods or the provision of service is not in line with the requested specifications and standards
- 16.2.** The Buyer is to provide evidence of all costs incurred resulting from omission, delays or incompliance of the Supplier.
- 16.3.** The Buyer reserves the right to deduct the amount of Liquidated Damages from balance due to Seller.

## **Section 13:- Health & Safety**

- 13.1.** The Seller is to provide all the necessary safety data sheets and in particular cases the necessary training to the Buyer's personnel relating to products supplied indicating handling, method of use and application and other precautions to be taken whilst making use or storing specific goods. All equipment, vehicles, plant, tools, machinery, lifting/hoisting gear used by the Seller during the rendering of a Service or delivery of Goods are to be certified as safe and in conformity with the local Health and Safety regulations and where applicable in conformity with all HACCP regulations and standards.
- 13.2.** The Seller upon demand shall present the necessary documentation, inspection log sheets, and tests certifying or carry out tests at the Seller's expense confirming compliance to Clause No. 2. In addition to this the Seller shall keep all equipment, vehicles, tools, plant, and machinery in a good and well maintained running order whilst rendering a service to the Buyer.

- 13.3.** The Seller is to ensure that its personnel or any other person/s entrusted to carry out work on its behalf have a valid driving licence or operators licence when rendering a service and that such personnel are physically able and professionally competent to operate such equipment, tools, vehicles or machinery.
- 13.4.** The Seller shall be responsible for compliance with relevant regulations issued by the Government, Nominated Authorities, Local Authorities, including but not limited to Regulations under the Act XXVII of 2000 as amended, Subsidiary Legislation 424.09 – Work Place (Health, Safety and Welfare Regulation), and any insurance made necessary thereby.
- 13.5.** Crane Providers, Equipment Rental Providers and Transport Service Providers shall ensure that all the necessary safety precautions are taken on each location prior to the provision of service or supply of equipment.
- 13.6.** Crane Providers, Equipment Rental Providers and Transport Service Providers are to comply as far as practical with BS 7121 for planning, supervising and controlling the lifting, handling and transportation operations, including the preparation and distribution of risk assessments, method statements and for the safe slinging of the goods to be lifted or handled.
- 13.7.** If advice or information is sought from and given by any person employed or contracted by the Buyer, then the Seller understands and accepts that such advice or information is given without responsibility and not to relieve or reduce the Seller's requirement to make his own independent assessment.
- 13.8.** During deliveries, provision of service or execution of works the Seller is to provide for all the necessary safety and protection wear and equipment to all of its personnel and to any of its sub-contractors.
- 13.9.** The Seller shall ensure that its personnel comply with all the Health and Safety regulations, indications and requirements when supplying goods or rendering a service at the Buyer's premises or those of the Buyer's client/s or end user/s.

#### **Section 14:- Indemnity**

- 14.1.** The Seller is to assume all responsibility whatsoever for any damages in relation to loss of, damage to or destruction of property and/or bodily injury, illness or death incurred by the Buyer or any of its employees, clients or third parties and their property caused by or arising out of the supply of a product or provision of a service, use of any equipment, vehicles, plant, tools, and machinery belonging to the Seller or from any negligence whatsoever on the part of the Seller or any of Seller's personnel during the execution of works or provision of a product in relation to this agreement and any costs incurred directly or indirectly are to be borne by the Seller. In any case the Buyer, his directors, partners and/or employees will not be held responsible or liable for any actions, suits, claims, proceedings, costs and expenses whatsoever arising therefrom.

## **Section 15:- Insurance**

**15.1.** In line with the service/s or products that the Seller is being engaged for as noted on the Purchase Order, the Seller must ensure to have adequate insurance throughout the duration of the service/s and/or during the entire period for the provision of a product being provided and/or in line with any legal requirements including but not limited to injury and/or death towards the Seller's employees, injury and/or death to any employee and/or official of the Buyer, injury/death to any other third parties and /or property damage to Buyer's property and/or property damage to any other third parties, and/or property damage to the service/s being provided where applicable.

**15.2.** For the purpose of this clause the Buyer shall extend to include subsidiary and/or associated companies and/or directors and/or shareholders and/or partners **and/or** employees.

## **Section 16:- Cancellation of Purchaser Order by Buyer :**

**16.1.** In cases of the Seller's repeated or serious breach of the provisions of these Terms and Conditions or any legal provisions applicable to this document, the Buyer reserves the right to cancel Purchase Order in the following cases:

- a) Bankruptcy of the Seller;
- b) Liquidation or dissolution, except liquidation or dissolution for the purpose of merger or corporate restructuring, subjection to any judicial company recovery measure or judicial or administrative disqualification from conducting business with regard to the Seller;
- c) Conviction of the Seller, by judgment which has the force of *res judicata*, for any offence that seriously affects its good repute and negatively affects the proper performance of the agreed works/service or the delivery of goods.
- d) Fraudulent activity by the Seller, to the detriment of the Buyer;
- e) The Seller's failure to abide by court decisions or judgments rendered by competent authorities, whenever this non-compliance negatively affects the proper performance of the agreed works/service or the delivery of goods.
- f) The failure to arrange or maintain the insurances for which the Seller is responsible according the Terms and Conditions outlined in this document and applicable law;
- g) Serious negligence or fault, in particular the use of unacceptable materials or resources that affect the proper performance of product or service.
- h) Repeated failure by the Seller to carry out any repairs or modifications considered necessary for the proper functioning of the supplied product or equipment
- i) Abandonment of works during the rendering of a service or inaction by the Seller to provide the requested goods.

**16.2.** If any of the situations referred on a), b), c), d), and e) occurs, the Buyer shall notify the Seller in writing of the cancellation of the Purchase Order with immediate effect.

**16.3.** If any of the situations referred on f), g), h) or i) occurs, the Buyer shall inform the Seller in writing of its intention to cancel Purchase Order, granting the Seller a reasonable



and adequate time limit for performance of obligations in default or the restoration of the normal situation;

- 16.4.** Once the time limit granted to the Seller has expired without the failure having been remedied or the normal situation restored, the Buyer shall take a decision on the cancellation Purchase Order and on the effects attributed, which shall take immediate effect regardless of any other formality, as soon as the Seller is informed thereof;

### **Section 17:- Cancellation of Purchase Order by Seller:**

**17.1.** Seller may Cancel Purchase Order in the following cases:

- a) If the Buyer puts on hold the order or the delivery of items and/or suspends the work for a period of 140 (one hundred forty) days, without indication of the new start or delivery date;
- b) If Buyer files for bankruptcy;
- c) If the fails to make any undisputed payment of as per agreed Credit Terms due to Seller;

**17.2.** If any of the situations referred to in sub-clause 1 above occurs, the Seller shall inform the Purchaser in writing of its intention to cancel Purchase Order, granting the Buyer a reasonable and adequate time limit to rectify the relevant failure;

**17.3.** Once the time limit granted to Buyer has expired without the failure having been remedied or the normal situation restored, the Seller shall take a decision on the termination of the Purchase Order, which shall take immediate effect regardless of any other formality, as soon as the Buyer is informed thereof.

**17.4.** In any event of termination mentioned under sub-clause 1 b), the Buyer shall pay to the Seller

- a) any portion of the Purchase Order Price due and unpaid on the date of termination,
- b) the cost of labour, materials, services or goods ordered for the performance of the works, provision of product and/or service which have been delivered/performed to the Seller or of which the Seller is legally liable to accept delivery/performance,
- c) An additional amount of the part of the Purchase Order Price which has not been payable to Seller because of the termination, whereas the amount is depending from the date of termination.

### **Section 18:- Breach of Terms and Conditions**

**18.1.** Should the Seller fail in whole or in part to any of the above mentioned Terms and Conditions the Buyer without prejudice to any other right and remedies established in applicable law, reserves the right to:

- a) Reject the Goods or Services in whole or in part and cancel Purchase Order

- b) Cancel the Purchase Order even though goods have been accepted in full or in part by the Buyer and it subsequently transpires that goods are not of conforming quality or standard.
- c) If the Seller does not comply within an reasonable timeframe to carry out the necessary repairs, changes or replacement for products provided or to make good for any defective works or whilst rendering a service.
- d) If Seller acts in a negligent manner or fails to adhere to instructions given by the Buyer that could negatively affect the Buyer's operation, performance and/or obligations.

**18.2.** Make alternative arrangements to complete any outstanding work and/or supply of items at the expense of the Seller and charge the Seller any additional costs, losses or expenses which may be incurred directly or indirectly due to Seller's failure to meet the agreed Delivery and/or Completion date or as a result of negligent, intentional or defective works or supply of poor quality or non-compliant goods or due to the Sellers poor professional advice. The Seller shall also be responsible for injury or death to the Purchaser's staff, customers, end users and/or property attributable to the negligence of the Seller's personnel whilst rendering a service or supplying goods at any of the locations indicated by the Buyer or due to or other terms and conditions included in this document.

**18.3.** The Seller's obligations shall be subject to all the terms and conditions listed in this documents and shall in no way be affected by whether or not:

- a) Goods were purchased by description or specified under a patent or trade name.
- b) The Buyer has examined the Goods or the sample and the non-conformance with description (e.g. specification, brand, model and/or technical designs) is not obvious.

### **Section 19:- Warranty**

**19.1.** The period of warranty unless otherwise specified and accepted will end after twenty four months from the delivery and/or commissioning of goods to end location.

**19.2.** The Seller warrants that all items delivered are in conformity with the technical specifications, samples, models, designs, drawings and descriptions and in addition guarantees that such items are fit for the intended purpose and free from latent defects, omissions, defects of design, defects resulting from materials and/or bad workmanship and are of good quality and standard.

**19.3.** Acceptance of receipt of goods, approval upon commissioning and payment of invoices will not mean renunciation by Buyer of the warranty terms included in this document.

**19.4.** During the Warranty Period, Seller shall replace and/or repair at its own option and at its own cost all Works, Items or parts thereof supplied by Seller that are defective by reason of defective workmanship or defective materials if and provided:

- a) the Equipment or product has been maintained and/or used properly by Buyer or its end customer according to the terms and conditions specified in the Operator's Manual supplied by Seller;
- b) has not been modified nor linked with or transported or sited in such a way as to cause the damage;

c) the defect or damage is not induced by normal wear and tear.

**19.5.** Seller shall be responsible for all costs including, but not limited to, costs of labour and transportation, custom duties and taxes costs required.

**19.6.** Seller's liability for defects shall be limited to its obligation to replace or repair all works, items or parts thereof.

**19.7.** Should the Seller decline to take any action for the immediate repair, make good or replacement of parts within ten days from official notification and complete the works within a reasonable time frame the Purchaser may without any prejudice to any future legal action that might be taken, carry out repairs, replacements and/or make use of third parties to carry out the work at the Seller's expense. This is irrespective of any warranties or guaranty periods given by the Seller on the Goods supplied or Works carried out.

**19.8.** Any repair, replacement or performance by the Seller hereunder shall extend the Warranty Period for a further period of time which is equivalent to the time taken by the Seller to replace damaged or defective item or carry out the necessary repairs.

**19.9.** Seller providing a service shall warrant that the requested works have been carried out in accordance with good workmanship and best industry practices.

## **Section 20:- Confidentiality**

**20.1.** Both the Seller and the Buyer shall treat and maintain all documents, technical and business information as confidential, as well as any information that is not of public knowledge, and neither party shall copy or disclose such information to third parties.

**20.2.** The Seller and the Buyer may only use the Confidential Information for the purposes outlined in the Purchase Order and may provide its employees, directors, agents, sub-contractors, rating agencies and professional advisers with access to Confidential Information on a strict "need-to-know" basis only.

**20.3.** Clauses 1 and 2 shall not apply to the disclosure of Confidential Information if and to the extent that such disclosure is:

- a) required by any law;
- b) required by any court of competent jurisdiction or any competent judicial, governmental, supervisory or regulatory body;
- c) required by the listing rules of any stock exchange;
- d) the disclosing Party has given written consent to the disclosure;
- e) such information is or will become in the public domain by other means than through breach of this Clause;
- f) such information was known by the recipient at the time of disclosure as shown by written record to this effect;
- g) such information which recipient can show was received by it from a third party who did not to the best knowledge of recipient acquire the information, directly or indirectly, from discloser under an obligation of confidence;
- h) Such information which recipient can show was independently developed by an employee of recipient, the said employee having no knowledge of the disclosure pursuant to these Terms and Conditions outlined in this document and having had no access to any of discloser's information

## **Section 21:- Intellectual Property Rights**

- 21.1.** The Seller acknowledges that any and all of the Intellectual Property Rights used or embodied in or in connection with the supply of goods or the provision of a service shall remain the sole property of the Buyer or of such other party as may be identified therein or thereon.
- 21.2.** The Seller expressly agrees that the use of such Intellectual Property Rights shall be limited to the performance of the provision of products or services as listed in the Purchase Order and such Intellectual Property Rights shall not be used for any other purpose whatsoever unless the Buyer gives its prior express written consent.
- 21.3.** For the purposes of this document 'Intellectual Property Rights' means patents, trademarks, registered and unregistered designs, copyright and all other intellectual property protection wherever in the world enforceable.

## **Section 22:- Force Majeure**

- 22.1.** "Force Majeure" means any act, event or condition whether affecting the site, warehouse, location, Seller, Buyer, or the End Customer to the extent that it materially and adversely affects the ability of either Party to perform any obligation under the Terms and Conditions contained within this document (except for payment obligations), if such act, event or condition
- a) is beyond the reasonable control of and is not the result of the wilful or negligent action or inaction the Party relying thereon as justification for not performing an obligation or complying with any condition required of such party hereunder and
  - b) could not be avoided or overcome by the reasonably diligent actions of such party;
- 22.2.** Provided, however, that the contesting in good faith or the failure in good faith to contest such action or inaction shall not be construed as wilful or negligent action or a lack of reasonable diligence of either Party.
- 22.3.** Such acts or events may include, but shall not be limited to the following:
- a) war, hostilities (whether war be declared or not), invasion, act of foreign enemies;
  - b) rebellion, terrorism, revolution, insurrection, military or usurped power, or civil war;
  - c) riot, commotion or disorder,;
  - d) munitions of war, explosive materials, ionizing radiation or contamination by radio-activity;
  - e) natural catastrophes such as floods, earthquake, hurricane, typhoon or volcanic activity;
- 22.4.** In no event shall Purchaser and/or Seller be liable for performance of any obligation materially and adversely affected by a Force Majeure event and shall be entitled to receive schedule relief to the extent necessary to overcome the delay at least for a period equal to the delayed duration resulted by the Force Majeure event.

**22.5.** The party affected by a Force Majeure event shall notify the other party within a deadline of 7 (seven) days after occurrence of the Force Majeure event specifying the impact that such event has on its ability to comply with the Terms and Conditions outlined in this document.

### **Section 23:- Compliance**

**23.1.** Each party guarantees and undertakes to the other whilst providing service or supplying goods it shall comply with all the laws, rules, regulations, decrees and other acts and ordinances issued by any supra governmental, governmental, state or other authority relating to the subject matter of the outlined Terms and Conditions of this document and to the performance by the parties hereto of their obligations hereunder.

### **Section 24:- Miscellaneous**

**24.1.** Foreign Staff and Labour: Seller may use any personnel deemed necessary for the execution of the works. Seller must ensure that such personnel have the required residence visas, work permits and necessary insurance covers during their deployment.

**24.2.** Any alterations to the Purchase Order are valid only provided that they are object of the provision of a revised PO which must be signed by the Buyer and the Seller. An amended Purchase Order can be considered. The illegality, invalidity or ineffectiveness of any clause or part of these Terms and Conditions will not affect the legality, validity or effectiveness of the rest of this document. If any of these clauses or part of them is considered illegal, invalid or ineffective by a court or competent authority, the Buyer and the Seller hereby agree to proceed with their replacement by others as similar as possible to the provisions affected, without thus making them illegal, invalid or ineffective.

### **Section 25:- Disputes and Legal Action**

**25.1.** The Buyer and Seller shall make all possible attempts to reach an amicable settlement of any disputes arising from provision of goods or service or for works carried out. If settlement is not reached within a maximum period of 120 days from receipt of dispute notification than either party may take the necessary legal measures.

**25.2.** All disputes and legal action arising from interpretation or fulfilment of these Terms and Conditions shall be subject and in accordance to the laws of the Republic of Malta and the Courts of Malta shall have exclusive jurisdiction over such disputes and legal action.

