



Mangiarotti S.p.A.  
**TERMS AND CONDITIONS**  
**FOR**  
**PURCHASE OF MATERIALS AND SERVICES**

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## Article 1 – Acceptance and Authority

**1.1** The purchase order ("**Purchase Order**") together with the documents mentioned therein and these Terms and Conditions, which are available on [www.mangiarotti.it](http://www.mangiarotti.it) and have been provided to Seller, collectively constitute a binding agreement (the "**Purchase Agreement**") between Mangiarotti S.p.A acting through its supply chain management organization ("**Mangiarotti**") and Seller (as shown on the face of the Purchase Order) and applies to all purchases by Mangiarotti from Seller of Materials and Services (as each is defined below).

**1.2** In the event of any conflict between the Purchase Agreement and any other document or instrument submitted by Seller, the Purchase Agreement will govern.

**1.3** Mangiarotti expressly limits acceptance of the Purchase Agreement to the terms stated herein. Any additional, different, or inconsistent terms or conditions contained in any form, acknowledgment, acceptance, or confirmation used by Seller in connection with the implementation of the Purchase Order are hereby objected to and rejected by Mangiarotti.

**1.4** If for any reason the Purchase Agreement is construed as an acceptance of Seller's offer, such acceptance is expressly conditioned on Seller's assent to any different, conflicting or additional terms, express or implied, in the Purchase Agreement.

## Article 2 – Definitions

For purposes of the Purchase Agreement, the following defined terms have the meanings given below, except where the context clearly indicates a different meaning is intended. These definitions may be supplemented by any definitions contained elsewhere in these Terms and Conditions or in any of the documents incorporated by reference in the Purchase Agreement, but in case of any conflict or inconsistencies, the definitions set forth below will prevail.

**"Change Notice"** means the written document, issued by Mangiarotti to Seller to make changes to, additions to and/or deletions from the Purchase Order.

**"Day"** means a calendar day and includes Saturdays, Sundays and public holidays.

**"Disclosing Party"** means the Party disclosing Proprietary Information to the other Party.

**"Documentation"** means all information, data, drawings, studies, reports, evaluations, designs, records, forms, manuals, reviews, procedures, specifications, plans, and all other documentation, including all required labor, transportation, packaging, storage, design, drawing, creating, engineering, procurement, and licenses to intellectual property therefore, that are produced or acquired by Seller for or at the direction of Mangiarotti and specified as deliverables (required submittals) in the Purchase Order.

**"Effective Date"** shall mean the effective date identified on the signature page of the Purchase Order.

**"Materials"** means the machinery, goods, materials, components, equipment, computer hardware and its associated software and firmware, apparatus, components, incidentals or other items of any kind that are described in the Purchase Agreement, including all required labor, manufacturing, transportation, packaging, storage, design, drawing, creating, engineering, procurement, and licenses to intellectual property therefor.

**"Party"** and **"Parties"** means Mangiarotti and Seller referred to individually and collectively, as the case may be.

**"Proprietary Information"** means the terms of the Purchase Agreement and any and all information, data, software, trade information as well as technical data, designs, projects obtained or communicated to either party under the Purchase Agreement, as well as all other information that it is confidential by nature such as information relating to know-how, manufacturing processes and inspection methods, economic, commercial and social data (subject to legal and contractual requirements) relating to each of the Parties, including those provided by the Parties during the bidding process, and any other data, information, matter or thing of a secret, proprietary, confidential or private nature identified as confidential and/or proprietary information or the like by the Disclosing Party, relating to the business of the Disclosing Party, including matters of a technical nature, matters of a business nature (such as information about schedules, costs, profits, markets, sales, customers), matters of a proprietary nature (such as information about patents, patent applications, copyrights, trade secrets and trademarks), other information of a similar nature, and any other information which has been derived from the foregoing information by the Receiving Party.

**"Purchase Price"** means the compensation to be paid by Mangiarotti to Seller for Seller's performance of the Work as



specified in the Purchase Order and as may be modified from time to time by the issuance of a Change Notice. The Purchase Price shall be considered net of taxes and duties, who shall be borne by Supplier. Supplier warrants that the Purchase Price is in accordance with applicable government pricing regulations.

**“Quality Assurance Program”** means a written program covering, as applicable to the Work, the design, procurement, manufacturing, erection, testing and inspection of the Work, consistent with its nuclear safety or quality classification, and meeting the requirements of Article 19 – Audit Rights and Quality Assurance.

**“Receiving Party”** means the Party receiving Proprietary Information from the other Party.

**“Services”** means all services that are performed by Seller as described in the scope of Work, including, as applicable, technical support for installation, maintenance, repair, commissioning and testing of the Materials, training, consulting, and any other services necessary to fulfill Seller’s services obligations under the scope of Work.

**“Subcontractor”** means one of Seller’s subcontractors or suppliers of any tier performing or providing a portion of the Work under any contract, purchase order or other writing between Seller and any Subcontractor of any tier, pursuant to which the Subcontractor performs or provides a portion of the Work.

**“Third Party” or “Third Parties”** means a party or parties other than Mangiarotti and Seller.

**“Work”** means all work, including Materials, Services and Documentation supplied by Seller under the Purchase Agreement.

### **Article 3 – Authority and Communication**

**3.1** Seller acknowledges that only an authorized representative of Mangiarotti is authorized to enter into the Purchase Agreement on behalf of Mangiarotti.

**3.2** All written communications must be directed to Mangiarotti’s supply chain management representative. Seller is permitted to communicate with Mangiarotti’s Engineering or Quality Assurance personnel on technical or quality matters only. Any agreements resulting from such communications shall be binding on Mangiarotti and Seller only if documented by Mangiarotti’s Change Notice.

### **Article 4 - Order of Precedence**

In the event of conflict among the various documents of the Purchase Agreement, the conflict shall be resolved according to the priority identified below:

1. Mangiarotti’s Change Notices, with the most recent dated documents taking precedence over earlier documents
2. Mangiarotti’s Purchase Order
3. These Terms and Conditions
4. Mangiarotti’s Purchase Order Attachments and Schedules
5. All other documents to the Purchase Agreement

Any amendment will have priority over the document it amends, and any amended document will have the same precedence as stated in this provision. The various documents constituting the contractual obligations between the Parties shall, insofar as is possible, be so interpreted as to be consistent with one another.

Any terms and conditions in Seller’s quotation if referenced in any Mangiarotti Purchase Order or Purchase Agreement, which are in addition to or inconsistent with the terms and conditions contained in the Mangiarotti Purchase Order or Purchase Agreement are not applicable.

### **Article 5 – Testing and Inspection of Work (Inspection and Acceptance of Work)**

**5.1** All Work in progress (including Work performed by Subcontractors) shall be subject to inspections and tests as Mangiarotti may direct and may be performed by Mangiarotti, Mangiarotti’s customer or representatives of either. If inspections and tests are made on Seller’s (or Subcontractors) premises, Seller shall furnish, at no additional charge, facilities and assistance for safe and convenient inspections and tests. Seller shall provide Mangiarotti and



Mangiarotti's customer or their representatives with access to plant, facilities and records of Seller and its Subcontractors for inspection. Seller shall promptly correct all nonconforming Work at its sole expense.

**5.2** Mangiarotti shall have the right to verify on regular basis the progress of the Seller's performance, also by accessing the Seller's premises. Should Mangiarotti find the Seller's performance not to be in line with the agreed schedule and/or with the applicable technical documentation, Mangiarotti shall have the right to take or to request the Seller and/or a third party to take the necessary corrective actions at the Seller's expenses. It is understood that the performance of the corrective actions hereunder required by Mangiarotti will not relieve the Seller of any obligation under the Purchase Agreement.

**5.3** No inspection or observance of any inspection or testing performed or failed to be performed by Mangiarotti under the Purchase Agreement shall be deemed to constitute a waiver of any of Seller's obligations under the Purchase Agreement or be construed as an approval or acceptance of the Work.

## **Article 6 – Payment**

**6.1** Mangiarotti shall pay a correct and undisputed invoice within 60 Days of receipt of such invoice by Mangiarotti, unless otherwise agreed in writing by the Parties. Payment of any invoice shall not constitute approval or acceptance of any Work; shall not be evidence of satisfactory performance of the Work in whole or in part; shall not be construed to be acceptance of defective or nonconforming Work; and shall not relieve Seller of any of its obligations under the Purchase Agreement. Mangiarotti has the right to withhold all or any portion of any payment to Seller to the extent as may be necessary to protect Mangiarotti from loss due to Seller's failure to fulfill any obligations under the Purchase Agreement.

**6.2** Mangiarotti may set off any sums due and payable by Seller to Mangiarotti under the Purchase Agreement against any payments due to Seller.

**6.3** Seller shall reference the Purchaser Order by number on any invoice issued to Mangiarotti.

**6.4** Seller is not authorized to give mandate to any third party to collect its claims. Mangiarotti will make all payments directly to Seller and exclusively in the country where the latter has its offices, unless otherwise agreed in writing by the Parties on the basis of objective reasons grounding the exception to the rule provided in this provision.

**6.5** Mangiarotti shall have the right to withhold any payment due to Seller under the Purchase Agreement in the event that any Work supplied by the Seller, either under the Purchase Agreement or not, is found to be faulty or defective.

## **Article 7 – Penalties for delay**

**7.1** The timely performance and delivery is essential to the Purchase Agreement. Seller shall notify Mangiarotti, in writing, of any potential or actual delayed delivery, of the reasons for the delay and the actions taken by Seller to overcome or minimize the delay. Provided that said notice is sent within maximum three (3) Days from occurrence of the event causing the delay, or discovery of the same, Mangiarotti and Seller may agree to adjust the delivery date accordingly. In any event, such notice will in no way relieve Seller of its obligations under the Purchase Agreement.

**7.2** If the Work or any part thereof is not achieved or delivered at the agreed time for achievement or delivery, Mangiarotti shall be entitled to apply penalties to the Seller from the date on which achievement or delivery should have taken place. The Work shall be deemed delivered when the Seller has completed achievement or delivery of the Work in accordance with the agreed trade term, and when the Seller has also completed its other obligations under the Purchase Agreement which shall be fulfilled before achievement or delivery.

**7.3** Unless otherwise stated in the Purchase Order, the penalties shall be payable at a rate of 0.5 percent of the Purchase Price for each commenced Day of delay, and shall not exceed 20 per cent of the total Purchase Price. The penalties apply without prejudice to Mangiarotti's right to claim the additional damages possibly suffered and to exercise any other right (including termination) under the Purchase Agreement or the applicable laws.

## **Article 8 – Changes**

**8.1** The Purchase Agreement may not be changed, amended, waived or modified except upon the prior written authorization of Mangiarotti, acting pursuant to Article 3 above.



**8.2** Mangiarotti may make changes in the Work by written Change Notice, and Seller shall promptly comply with such Change Notice. If the change materially affects Seller's cost or time for performance, the terms of the Purchase Agreement will be equitably adjusted in writing. Seller must assert any claim for adjustment as promptly as possible, but in no event more than 30 Days after receipt of any such Change Notice. Seller shall, at Mangiarotti's direction, proceed with the change(s) pending resolution of any dispute and Seller's failure to proceed as directed shall be deemed to be a material breach of the Purchase Agreement.

**Article 9 – Schedule Requirements**

The Parties agree that the performance and delivery schedules, both general and detailed, attached to or referenced in the Purchase Order are incorporated in the Purchase Agreement as an integral part of the Purchase Agreement and, but for Seller's agreeing to meet the performance and delivery schedule set forth in the Purchase Agreement, Mangiarotti would not have entered into the Purchase Agreement. Any change in the schedule shall only be made by a Change Notice as set forth in Article 8 and a signed written agreement executed by an authorized representative of both Parties.

Mangiarotti reserves the right to postpone the delivery dates for Materials or for parts thereof after they have been completed in the Seller's premises. In such cases, Seller shall keep the Materials at its premises without any compensation being payable by Mangiarotti if the storage period does not exceed three (3) months from the agreed delivery date indicated in the Purchase Order.

**Article 10 – Performance Standards; Seller's Warranties**

Without prejudice to the applicable statutory warranties, the Works shall be subject to the contractual warranties by the Seller, the terms of which are set forth below.

**10.1 Materials and Documentation Warranty.**

(a) Seller warrants that the Materials and Documentation furnished by it under the Purchase Agreement (i) shall be free from defects in design, workmanship and materials; (ii) shall conform to and be of the kind and quality described in the Purchase Agreement and the plans and specifications; (iii) shall perform in the manner specified and be fit the purpose or use for which they are purchased; (iv) shall be in accordance with generally recognized industry standards, unused, free of any lien, encumbrance, tax, duty or security interest; and (v) shall comply with all requirements of the Purchase Agreement.

(b) All such Materials shall be warranted by Seller for twenty-four (24) months from the date the Mangiarotti's equipment to which such Materials relate are placed in service by Mangiarotti's customer or four (4) years after acceptance by Mangiarotti, whichever occurs first. Without prejudice to any other Mangiarotti's right under the Purchase Agreement or pursuant to the applicable laws, Seller shall correct any nonconformance at its sole expense, as directed by Mangiarotti, by promptly: (i) repairing or replacing the non-conforming Materials (and correcting any plans, specifications or drawings thereby affected) in a timely manner; (ii) furnishing Mangiarotti any materials, parts and instructions necessary to enable Mangiarotti or its customer to correct or have corrected the nonconformity, or (iii) refunding the purchase price, or an appropriate portion thereof, to Mangiarotti. Should Seller not be able to meet Mangiarotti's request within a reasonable time, the latter will be entitled to have the nonconformance corrected by a third party at the Seller's expenses and without prejudice to any other Mangiarotti's right under the Purchase Agreement or the applicable laws.

(c) The warranty, with respect to any corrected Materials, shall be extended of one additional year from the date of repair or replacement or from the warranty expiration date as stated in paragraphs (a) and (b) above, whichever is later.

**10.2 Services Warranty.**

(a) Seller warrants that Services furnished (a) by it under the Purchase Agreement (i) shall reflect the highest standards of professional knowledge and judgment, (ii) shall be free from defects in workmanship, and (iii) shall be in compliance with all requirements of the Purchase Agreement, until twenty-four (24) months from the completion of such Services.

(b) Seller shall correct any nonconformity with this warranty at its sole expense, as directed by Mangiarotti,



by promptly: (i) re-performing the non-conforming Services, or (ii) refunding the Purchase Price or appropriate portion thereof to Mangiarotti.

(c) The warranty, with respect to any corrected Services, shall be extended of one additional year from the date of re-performance of Services or from the warranty expiration date as stated in paragraphs (a) and (b) above, whichever is later.

**10.3 Compliance Warranty.**

(a) Seller warrants that:

(i) Seller has and will maintain any permits, licenses, registrations or other governmental approvals, including required export licenses or other approvals to meet the specified delivery obligations herein, which may be required for its performance under the Purchase Agreement. Seller shall comply with all such permits and with all applicable executive orders and laws of the location in which the Materials will be produced or Services performed as well as all rules, orders, requirements and regulations thereunder;

(ii) Seller shall comply with all applicable laws, including, without limitation, those governing equal and fair employment practices, social security contribution, protection of child and women work, trade union rights, health and safety, and those possibly regarding the provisions of the Services and/or the manufacturing, sale and delivery of the Works, and will all applicable codes and standards; and

(iii) while upon the premises of Mangiarotti or Mangiarotti's customer, Seller shall comply with all applicable site rules and policies;

(iv) it shall maintain the honorability requirements represented at the bottom of this document, and shall comply at all times with the principles and rules set forth in the "Code of Ethics" adopted by Mangiarotti, that each Mangiarotti's supplier is required to acknowledge and to respect. Any breach of the applicable laws and regulations as well as any breach of the Code of Ethics shall be considered a serious breach of the Purchase Agreement by the Seller and will entitle Mangiarotti to take any suitable action for the best protection of its rights, including the termination of the Purchase Agreement pursuant to Article 18.3.

(b) Seller shall correct any nonconformity with this warranty at its sole expense, as directed by Mangiarotti.

**10.4 Warranty Beneficiaries.**

The foregoing warranties shall extend to, and be for the benefit of Mangiarotti and Mangiarotti's customers.

**Article 11 – Indemnity**

Seller shall defend, indemnify and hold harmless Mangiarotti and its officers, agents, employees, successors and assigns from and against any and all liabilities, damages, costs, losses, claims, demands, actions, and expenses (including reasonable attorney fees) arising out of, resulting from, or relating to the Purchase Agreement or the Work or performance of the Work, including but not limited to loss of use resulting therefrom, acts or omissions in violation of applicable laws, claims or fines by governmental authorities, and resulting from the death of or injury to any person or damage to any property, except to the extent caused by the negligence or willful misconduct of Mangiarotti.

**Article 12 – Insurance requirements**

**12.1 Seller's Insurance Requirements.** Seller shall, during the performance of the Work, maintain insurance of the types and minimum amounts set forth below. Seller shall ensure that all such insurance is maintained in full force and effect as specified herein from its commencement of performance of the Work to the date of expiration of the Warranty Period hereunder.

<u>Type of Coverage</u>	<u>Minimum Amount of Coverage (Limits USD or equivalent)</u>
Workers' Compensation or equivalent Statutory Compensation (including Employers Liability) complying with the applicable Laws for Seller's	As required by Law (Minimum statutory limit)

territory	
Primary Commercial General Liability (CGL) insurance providing cover for premises, operations, products-completed operations, personal and advertising injury, and liability assumed under an insured contract	Not less than USD 5,000,000 each occurrence, and USD 5,000,000 in the   Aggregate
Automobile Liability, including owned, hired, and non-owned automotive equipment used in connection with the insured operation	Bodily Injury and Property Damage Combined - USD2,000,000 each occurrence
Umbrella or Excess Liability Insurance following the form of the primary liability policies for the coverage required above. The Umbrella limits can also be used to satisfy the overall limit requirements for the above policies	Overall limit to be not less than USD10,000,000 each occurrence; USD 10,000,000 in the aggregate in total when in combination with primary policies
Professional Liability, if specified in the P.O, including coverage for professional negligent acts, errors or omissions.	USD 10,000,000 each accident and in the aggregate per year
Cargo/Transit Insurance must be obtained on Materials to be transported.	In the amount of the value of the Materials, Delivery, FCA (domestic shipments) or DAP (international shipments) Incoterms 2010 unless specified otherwise in the P.O.) +10% CIF
Property 'All Risks' Insurance	In the amount of the reinstatement value of the materials in Seller's (or manufacturer's) custody or control

## 12.2 Provisions Applicable to All Coverages.

(a) All insurance required to be provided by Seller hereunder shall be placed with insurers having an A.M. Best and Company rating level of A- or better, Class VII or better and authorized to do business in the territory where the Work is to be performed.

(b) Maintenance of insurance shall not limit Seller's liability for loss or damage in excess of policy limits or outside of policy coverage.

(c) Prior to the Effective Date, Seller shall furnish Mangiarotti one or more certificates of insurance for all insurance policies required to be provided under the Purchase Agreement. The certificates shall list all required endorsements as set forth in Section 12.3 below. Such certificates shall provide that the insurer on each policy shall endeavor to give 30 Days' written notice to Mangiarotti prior to any material change or cancellation of the insurance. Seller shall deliver to Mangiarotti a further certificate(s) of insurance for each subsequent renewal where coverage is required to be maintained within 5 Days of the renewal date. Each certificate furnished pursuant to this Section 12.2(c) shall state that it is being furnished in compliance with the requirements of the Purchase Agreement and shall identify the Purchase Order by the number assigned to it by Mangiarotti.

(d) Neither a failure of Seller to provide the required certificate of insurance nor Seller's submission of a certificate of insurance not in conformance with the insurance requirements stated in this Article 12 relieves Seller



from the obligation to have in force the required insurance coverages and endorsements to the policies as set forth below.

(e) No policy should have an excess or deductible which exceeds USD 250,000 (or equivalent) without prior discussion and agreement with Mangiarotti. Seller is responsible for any excess or deductibles associated with its policies of insurance.

(f) Any limits of coverage may be met by one or more policies.

### **12.3 Policy Endorsements.**

(a) Each liability insurance policy (including the Workers' Compensation and Employer's Liability policies) required to be provided by Seller in Section 12.1 above shall contain or be endorsed to contain the following provision:

The insurer waives any right of subrogation against Mangiarotti S.p.A. and its subsidiaries and affiliates (including Westinghouse Electric Company LLC and/or Westinghouse Electric UK Holdings Ltd), as and its members, officers, directors, employees, lenders, subcontractors and suppliers of any tier.

(b) Each policy (except the Workers' Compensation, Employer's Liability, Property, Professional Liability, Open Cargo and/or Inland Transit Insurance policies) required to be provided by Seller in Section 12.1 above shall also contain or be endorsed to contain the following provisions:

(i) Mangiarotti S.p.A., its subsidiaries and affiliates (including Electric Company LLC and/or Westinghouse Electric UK Holdings Ltd), and its members, officers, directors, employees, lenders, subcontractors and suppliers of any tier are covered as additional insureds to the extent of Seller's indemnity obligations under the Purchase Agreement.

(ii) All provisions of this policy, except the limits of liability, will operate in the same manner as if there were a separate policy covering each insured under each policy.

(iii) The insurer waives any and all right of recourse under this policy against the additional insureds for the payment of premiums, additional premiums or assessments.

(iv) This policy shall be primary, or excess only with respect to the specified primary policy provided by the named insured(s) for such coverage, and not excess or contributing with respect to any other insurance maintained by or for the additional insureds.

### **Article 13 – Liens**

**13.1** Seller warrants that the Materials and Services will be free and clear of all liens, claims and encumbrances at the time of delivery and completion of the Work, and upon Mangiarotti's request, Seller shall promptly provide releases and lien waivers in a form satisfactory to Mangiarotti as a condition to receiving payment from Mangiarotti. Seller shall not file, nor shall Seller permit any Subcontractor or any other person furnishing labor or materials to Seller or to any Subcontractor for the performance of the Work to file, any mechanic's lien or other encumbrance of any type against Mangiarotti or Mangiarotti's customer's buildings, structures or land for any Work or any part thereof. Seller agrees to provide the Work lien free and shall hold the property owner harmless from any lien claim by discharging such claim by cash bond or surety bond.

**13.2** In the event that any Subcontractor files or causes to be filed a mechanics' lien claim or other encumbrance of any type, Seller shall immediately take any and all steps to post cash, securities or a bond in substitution of the mechanics' lien claim. Furthermore, in the event that any Subcontractor files or causes to be filed a mechanics' lien claim or encumbrance, Seller shall protect, defend, hold harmless and indemnify the property owner from and against any and all claims, demands, actions, liabilities, liens, damages, losses, costs and expenses resulting from or in any manner arising out of or in connection with any liens, encumbrances or mechanics' liens noticed, claimed, filed, asserted or otherwise brought against the owner of the property by any person or entity providing labor and/or materials to Mangiarotti or any Subcontractor.

### **Article 14 - Mangiarotti Liability**

In no event shall Mangiarotti's aggregate liability to Seller for any loss or damage arising out of or in connection with or resulting from the Purchase Agreement exceed the price allocable to the Work or unit thereof which gives rise to





the claim. Mangiarotti shall not be liable for interest charges or penalties of any description.

## **Article 15 – Proprietary (Confidential) Information**

**15.1** Previous Agreements Superseded. The terms of this Article 15 will prevail in the event of conflict with any previous proprietary or confidentiality agreement executed by Mangiarotti and Seller for the purposes described in Section 15.2 below.

**15.2** Purpose of Use. Proprietary Information shall be used by the Receiving Party exclusively in connection with the performance of its responsibilities relating to (a) the Work and (b) the Purchase Agreement.

**15.3** Prevention of Unauthorized Disclosure. The Receiving Party shall employ all reasonable commercial efforts and precautions to maintain the Proprietary Information received under the Purchase Agreement in strict confidence and to prevent loss or unauthorized disclosure of the Proprietary Information.

**15.4** Disclosure to Third Parties. Mangiarotti shall have the right to disclose Proprietary Information to Mangiarotti's customer and to Mangiarotti's parent and subsidiary companies and companies under common control. Otherwise, a Receiving Party shall disclose the Proprietary Information only to its employees who (a) have a need to know solely for the purposes set forth in Section 15.2 above and (b) have agreed to comply with the terms of this Article 15. A Receiving Party shall not disclose Proprietary Information to any other person, firm or company without the prior written approval of the Disclosing Party.

**15.5** Disclosure Required by Law or Order. If the Receiving Party becomes legally compelled to disclose any Proprietary Information, the Receiving Party shall provide the Disclosing Party with prompt written notice. The Receiving Party shall disclose only the minimum amount of Proprietary Information that is legally required and shall exercise reasonable efforts to obtain reliable assurance that confidential treatment will be accorded the Proprietary Information so disclosed.

**15.6** Exceptions. The requirements of Sections 15.3, 15.4, and 15.5 will not apply to any Proprietary Information that is:

(a) at the time of disclosure generally known or readily available to the trade or public or becomes so known or readily available without fault of the Receiving Party;

(b) lawfully obtained at any time from a Third Party legally entitled to possess the information and provide it to the Receiving Party, if the use or disclosure (as appropriate) is in accordance with the rights or permission lawfully granted to the Receiving Party by such Third Party;

(c) disclosed in any issued patent, publication, or other source from and after the time it becomes generally available to the public; or

(d) independently developed by the Receiving Party without the benefit of the Proprietary Information disclosed to the Receiving Party under the Purchase Agreement.

## **Article 16 – Ownership of Intellectual Property**

**16.1** Mangiarotti Background Information.

(a) **"Mangiarotti Background Information"** means all of Mangiarotti's data, designs, drawings, technical specifications and other information furnished to Seller for purposes of the Work and the Purchase Agreement.

(b) All Mangiarotti Background Information, including but not limited to all intellectual property rights associated therewith, including its work processes, shall remain the complete and exclusive property of Mangiarotti.

(c) Mangiarotti hereby grants Seller a license on a non-exclusive and royalty-free basis to use and modify the Mangiarotti Background Information solely for the purpose of providing the Work to Mangiarotti.

(d) Mangiarotti shall own all right, title and interest in any and all modifications made by Seller to



Mangiarotti Background Information.

**16.2** Seller Background Information.

(a) **"Seller Background Information"** means all of Seller's data, designs, drawings, technical specifications and other information developed or obtained by Seller outside the scope of the Purchase Agreement (excluding all information provided either by or on behalf of Mangiarotti pursuant to any other agreement with Mangiarotti) and used by Seller to develop the Foreground Information.

(b) All Seller Background Information, including but not limited to all intellectual property rights associated with it, including its work processes, shall remain the complete and exclusive property of Seller. Seller shall retain all right, title and interest in and to Seller Background Information, including all intellectual property rights therein.

(c) Seller hereby grants Mangiarotti a license on an irrevocable, perpetual, non-exclusive, assignable, paid-up, royalty-free and worldwide basis to use, have used, copy, modify, have modified, create derivative works of, store electronically and sublicense Seller Background Information for purposes of licensing, maintaining, operating, repairing, and modifying the Work, demonstrating compliance with codes and standards, and other similar purposes as may be required by Mangiarotti.

(d) At Mangiarotti's reasonable request, Seller shall provide Mangiarotti with remote electronic access to Seller Background Information unless precluded by third-party license restrictions.

**16.3** Foreground Information.

(a) **"Foreground Information"** means all information, data, documents, drawings, software, designs, specifications or innovations generated, developed or obtained by Seller under the Purchase Agreement and incorporated in the Work.

(b) Mangiarotti shall own all right, title and interest in all Foreground Information, including all associated intellectual property rights therefor (including copyright).

(c) For the term of the Purchase Agreement only, Mangiarotti hereby grants Seller a license on a non-exclusive, royalty-free basis to use the Foreground Information for performance of the Work for the benefit of Mangiarotti.

(d) Seller shall provide Mangiarotti with the necessary assistance (and direct its employees to do the same) for Mangiarotti to file and prosecute patent applications in order to protect Foreground Information, including by making any assignments of ownership that may be required by Mangiarotti.

**16.4** Third-Party Information.

(a) **"Third-Party Information"** means any information and intellectual property provided by unaffiliated third parties that is used by Seller in the performance of and incorporated into the Work.

(b) To the extent such Third-Party Information is included in any Work, Seller shall obtain for Mangiarotti and its suppliers, subcontractors, and customers, to the extent reasonably possible, the right to use, have used, copy, modify, have modified such Third-Party Information as required for the design, construction, operation, maintenance and licensing of the Work.

(c) Seller represents that it holds a license to such Third-Party Information and it is authorized under such license to sublicense the Third-Party Information as required herein.

**16.5** Documentation.

(a) Subject to Section 16.2 above, Mangiarotti shall own all right, title and interest in and to all



Documentation, including all intellectual property rights associated with the contents of the Documentation, in whatever medium the Documentation may be provided.

(b) Seller shall provide Mangiarotti with the necessary assistance (and direct its employees to do the same) for Mangiarotti to file and prosecute patent applications or otherwise to assert, establish and protect its intellectual property rights in the Documentation, including by making any assignments of ownership that may be required by Mangiarotti at no out-of-pocket expense to Seller.

(c) For Documentation containing no Seller Background Information or Third-Party Information, Seller shall clearly mark such Documentation with the notation "Mangiarotti Proprietary" unless otherwise directed by Mangiarotti.

(d) For Documentation that contains Seller Background Information and/or Third-Party Information, Seller shall clearly mark and identify such Seller Background Information and/or Third-Party Information, if possible, and shall mark such Documentation with a notation that states, "This document contains [Seller's] proprietary information and [Mangiarotti's] proprietary information, and it shall be treated in accordance with the agreement under which it was provided."

(e) For Documentation that is manifested or transmitted electronically, such marking(s) shall first appear on the computer screen when accessing the file in which it is recorded.

(f) Documentation submitted without any markings as required above shall be deemed to contain no Seller Background Information or Third-Party Information and to contain entirely Mangiarotti Background Information and/or Foreground Information. Mangiarotti shall have the right to mark such Documentation accordingly.

## **Article 17 – Title; Risk of Loss; Delivery**

### **17.1 Transfer of Title.**

(a) Title to Materials and related Documentation furnished under the Purchase Agreement shall pass to Mangiarotti upon and in proportion with the payment made by Mangiarotti to Seller. While Seller has any Materials and Documentation in its possession that are owned by Mangiarotti or in which Mangiarotti holds an interest in any way, whether secured or unsecured, Seller shall clearly identify and segregate such Materials as well as identify and segregate the Documentation to the maximum extent possible, unless this requirement is waived in writing by Mangiarotti or this is not possible. A notice shall be displayed and record made in the books of the Seller as may be necessary for the purpose of ensuring that all such items are readily identifiable as being the property of Mangiarotti, and if any direction is given by Mangiarotti to the Seller as to the steps to be taken to ensure that any such items shall be readily identifiable as being the property of Mangiarotti, the Seller shall comply with that direction.

(b) In the event payments are made by Mangiarotti prior to delivery, Seller hereby grants a security interest in such Materials and related Documentation to the extent of Mangiarotti 's advance payments and Seller shall execute and deliver such documents as may be deemed necessary by Mangiarotti to protect its rights in and to the Materials and related Documentation.

(c) The passage of title to Mangiarotti shall not be deemed an acceptance or approval of any Work, shall not affect the allocation of risk of loss, and shall not otherwise relieve Seller of any obligations, including obligations related to delivery, under the Purchase Agreement.

**17.2 Risk of Loss.** Regardless of whether title has passed to Mangiarotti, the risk of loss for the Work remains with Seller until delivery of the Work to Mangiarotti in accordance with this Article 17. Seller shall at its cost promptly replace, repair or reconstruct any Work that is lost, damaged, or destroyed while Seller bears the risk of loss.

**17.3 Delivery.** Unless otherwise specified in the Purchase Order, any deliveries shall be DDP at the place of delivery designated in this Purchase Order (Incoterms ©2010).

## **Article 18 – Termination and Suspension**

**18.1** Mangiarotti may terminate or suspend the Purchase Agreement for its convenience, in whole or in part, at



any time by written notice. In such event, Seller shall promptly comply with the directions contained in such notice and shall, subject to such direction, (1) take all necessary action to terminate or suspend the Work as provided in the notice, minimizing costs and liabilities, (2) protect, preserve and deliver any property related to the Purchase Agreement that is in Seller's possession pursuant to Mangiarotti's direction; and (3) continue the performance of such part of the Work, if any, as may not have been terminated or suspended by the notice; failure to continue the performance of such part of the Work, if any, as may not have been suspended shall be deemed to be a material breach of the Purchase Agreement. If Seller at the time of such termination or suspension has in stock or on firm order any completed or uncompleted items or any raw, semi-processed or completed materials for use in fulfilling the Purchase Agreement that cannot be used by Seller for any other purpose, then: (1) in the case of completed items or materials, Mangiarotti may either require delivery of all or part of the completed items or materials and make payment thereof at the purchase price or, without taking delivery thereof, pay Seller the difference, if any, of the purchase price over the market price at the time of termination, and (2) in the case of uncompleted items or raw or semi-processed materials, Mangiarotti shall, at its option, either require Seller to deliver all or part of such items or materials at the portion of the purchase price representing their stage of completion or, without taking delivery thereof, pay Seller with respect to such items or materials as are properly allocable to the Purchase Agreement, a portion of the purchase price representing the state of completion of such items or materials, reduced by the higher of the market or scrap value of such items or materials at such stage of completion; and (3) in the case of items or materials which Seller has on firm order, Mangiarotti shall, at its option, either take an assignment of Seller's right under such order or pay the costs, if any, of settling or discharging Seller's obligation under the Purchase Agreement.

**18.2** Either Party may terminate the Purchase Agreement in case of breach or default of the other Party that is not cured within thirty (30) Days following the receipt of a written notice by the non-breaching/non-defaulting Party.

**18.3** Mangiarotti shall have the right to terminate the Purchase Agreement by written notice with immediate effect without liability to the Seller and without prejudice to Mangiarotti's right to claim damages or to pursue any other remedy provided by law, if: (1) if Seller fails to meet achievements or fails to deliver the Work within the time or in the manner provided under the Purchase Order, (2) if Seller breaches the assignment and subcontracting restrictions under Article 21, (3) if Seller breaches the provisions Article 6.4, (4) if Seller breaches its confidentiality obligations under Article 15, (5) if Seller breaches the warranty obligation under Article 10.3 (a), (6) if Seller does not meet the honorability requirements under the declaration required by Mangiarotti or provides false information in relation to the existence of said requirements, or breaches any of the principles or rules set forth in Mangiarotti's Code of Ethics, (7) if a third party has claimed infringement and Seller does not remedy the intellectual property defect, (8) if Seller breaches Articles 28.11 and 28.12, (9) if Seller transfers and/or assigns any part of its business relating to the Work, or transfers the controlling interest in said business, (10) if Seller breaches Mangiarotti's Code of Ethics; (11) if Seller breaches the provisions of Article 31, where applicable, (12) if Seller becomes insolvent or makes an assignment for the benefit of creditors, commits an act of bankruptcy or files or has filed against it a petition in bankruptcy or reorganization/pre-bankruptcy proceedings.

**18.4** In the event Mangiarotti terminates the Purchase Agreement, in whole or in part, for default, Mangiarotti shall be entitled to all rights and remedies provided by law.

#### **Article 19 – Audit Rights and Quality Assurance**

**19.1** Mangiarotti shall have reasonable access during normal working hours and for a reasonable length of time to Seller's books or records as far as legally possible, and all supporting documents thereto, insofar as such access is pertinent to support Seller's charges for cost-reimbursable Work performed under the Purchase Agreement. Seller must ensure that the financial records and procedures adhere to generally accepted accounting practices (e.g., "GAAP") and principles.

**19.2** Seller represents that it has established and implemented a Quality Assurance Program. Seller represents that the Quality Assurance Program meets Mangiarotti's compliance requirements and the applicable requirements of the authorities related to quality control and quality assurance. Seller shall, at its sole cost and expense, provide Mangiarotti with a copy of the quality assurance manuals applicable to the Work.

**19.3** Mangiarotti shall, at its sole cost and expense, have access to Seller's manufacturing facilities where the Work is being performed for the purpose of quality assurance surveillance, the witnessing of the general performance



of the Work and participating in specific witness points. Mangiarotti shall have the right to issue a stop-work order at any time Mangiarotti determines that the Work is not in compliance with the Quality Assurance Program or other requirements of the Purchase Agreement. Seller shall compensate Mangiarotti for its additional costs and expenses incurred as a result of such non-compliance by Seller, and Mangiarotti shall not be obligated to compensate Seller for time, costs, damages or delays caused by such non-compliance nor shall such delays constitute grounds for any change or modification of the delivery schedule.

**19.4** Mangiarotti shall have the right to establish, under the Purchase Agreement, a separate and independent inspection and testing program for the Work. Should Mangiarotti establish such a program, Seller shall use its best efforts to cooperate in the performance of such program. Should it be determined, as a result of such program, that the Work does not conform to the requirements of the Purchase Agreement, the Parties shall mutually agree as to method of correcting the nonconformance. Such program shall not in any way release Seller from its obligations under the Purchase Agreement.

**19.5** Mangiarotti shall have access to Seller's facilities for the purpose of auditing Seller's Quality Assurance Program and quality control records applicable to the Work. Seller shall retain the applicable quality control records in a form which minimizes the risk of their destruction or loss for the period of time specified in the applicable codes and standards. Seller shall advise Mangiarotti prior to disposal of such records.

**19.6** The obligations contained in this Article shall apply to Seller's Subcontractors, and Seller must impose the same obligations on its Subcontractors through its agreements with its Subcontractors.

**19.7** Seller's quality control and Quality Assurance Program must include provisions for non-safety related items within the scope of the Work. The level of quality control provided in these areas need not meet the specific quality assurance requirements of Seller's Quality Assurance Program, but shall provide for an adequate level of quality in such areas. Mangiarotti shall be allowed access to Seller's facilities to inspect workmanship, observe tests and inspections, expedite delivery, and obtain required information for the Materials. Seller shall use its best efforts to obtain for Mangiarotti the same access rights at Subcontractors' facilities.

**19.8** Subject to the confidentiality obligations of Article 15, Mangiarotti shall have the right to make copies of or extracts, as far as legally possible, from all financial and related records relating to or pertaining to this Purchase Agreement kept by or under the control of Seller and/or Subcontractors. Seller hereby agrees that Mangiarotti may use the services of a third party auditor provided such third party executes a confidentiality agreement with Mangiarotti limiting use of Seller's proprietary information to performance of the audit services and prohibiting further disclosure.

**19.9** Seller shall respond to Mangiarotti in writing to all audit findings within a reasonable amount of time from the receipt of the audit report. Responses should include timelines and plans for closure of all corrective actions and commitments.

## **Article 20 – Control of the Work; Independent Contractor**

**20.1** Control of the Work. Seller shall be solely responsible for the performance of the Work and shall furnish the labor, tools, equipment and materials, and such other activities necessary to perform the Work properly and safely. Seller shall be solely responsible for the actions of Subcontractors and their personnel.

**20.2** Independent Contractor. Seller is an independent contractor and nothing contained herein shall be construed as creating (a) any relationship between Mangiarotti and Seller other than that of independent contractor; (b) any relationship whatsoever between Mangiarotti and Seller's employees or Subcontractors; or (c) a fiduciary relationship between Seller and Mangiarotti. Neither Seller nor any of its employees are or shall be deemed to be employees of Mangiarotti. Terms and economic conditions in the Purchase Agreement have been drafted under these conditions, and the Seller shall therefore never be deemed to be an employee, dependent agent, commission agent, commercial agent or similar in relation to Mangiarotti. Neither shall the aforementioned legal entities be applied analogously to the Seller's rights after the termination of the Purchase Agreement. The Seller shall therefore not be entitled to compensation from Mangiarotti when the Purchase Agreement is terminated, due to such grounds or any other ground.



## **Article 21 – Subcontracting and Assignment**

Seller shall not subcontract any portion of the Work without prior written approval of Mangiarotti. On the assumption that the Seller might subcontract all or part of the supplies, he shall, impose on his own Subcontractors the same obligations as those defined in these conditions. In any event, the Seller shall alone be responsible to us for the entire supplies.

Seller shall not assign the Purchase Agreement, the relevant credits or, in general, any of its rights under the Purchase Agreement, in whole or part, without Mangiarotti's prior written consent. Seller shall promptly notify Mangiarotti in writing of any change in its status including, but not limited to bankruptcy, insolvency, change of ownership or control, strike or work stoppage.

## **Article 22 – Notices**

All notices, consents, communications, and approvals required or permitted to be given under the Purchase Agreement shall be in writing and shall be valid and sufficient if: (a) delivered in person or dispatched by certified mail (return receipt requested) to Mangiarotti, or (b) delivered by electronic mail to Mangiarotti, provided that the tracking option on such electronic mail is enabled to provide both a delivery receipt and a read receipt from the addressee (i.e., the sender will receive a return acknowledgement that the electronic mail has been received and read by the addressee).

## **Article 23 – Publicity**

Seller shall not, except with the express prior written consent of Mangiarotti, in any manner advertise or publish or release for publication any statement or information mentioning Mangiarotti, its parent, affiliates and or subsidiaries or the fact that the Seller has been furnished or has been contracted to furnish to Mangiarotti the Work required by the Purchase Agreement.

## **Article 24 – Anti-Bribery/Kickback**

Seller represents, warrants and covenants that neither it nor any of its officers, directors, employees, agents, representatives or Subcontractors on its behalf will either make or promise to make any gift or payment of money or anything of value, directly or indirectly, to any other person for the corrupt purpose of inducing such other person to misuse his or her position or to influence any act or decision to obtain, retain or direct business in connection with the Purchase Agreement.

Seller shall deliver annually or as requested by Mangiarotti certifications of compliance with respect to this Article 24, as well as other reasonable assurances required by Mangiarotti. Any violation of this Article 24 by Seller shall give Mangiarotti the right to terminate the Purchase Agreement.

## **Article 25 – Intellectual Property Infringement Indemnity**

**25.1** Seller represents and warrants that all Work delivered or performed pursuant to the Purchase Agreement and the sale or use thereof do not infringe any Third Party's intellectual property rights, including but not limited to patent, trade secret, copyright or trademark rights.

**25.2** The Seller hereby undertakes to reimburse Mangiarotti for any compensation and damages which Mangiarotti has been obliged to pay through settlement or judgment for infringement of intellectual property rights stemming from the use of the Work.

In the event that a third party claims an infringement, Mangiarotti shall inform the Seller thereof and the Seller shall, if Mangiarotti so requests, at his own expense take over the dispute and pursue the case on Mangiarotti behalf, and at his own expense either ensure Mangiarotti, or other to whom Mangiarotti has assigned the Work, the right to continued use of the Work or replace the disputed part of the Work with a part that conforms to the agreed specifications. If continued use of the Work is possible during the dispute, the Seller shall provide security for the loss which Mangiarotti might come to incur on account of the claimed infringement.

Mangiarotti shall be entitled to terminate this Purchase Agreement with immediate effect by written notice to the Seller if the Seller does not remedy an intellectual property defect within a reasonable time from the point in time when the Seller received notice from Mangiarotti that a third party has claimed infringement.



In addition to compensation for sums which Mangiarotti was compelled to pay to a third party, Mangiarotti shall be entitled to compensation for all other damage and loss suffered due to an intellectual property defect.

#### **Article 26 – Mangiarotti-Furnished Property**

**26.1** Any tools, patterns, equipment, material or other property which is supplied to Seller by Mangiarotti (“**Mangiarotti-Furnished Property**”) shall not be used by Seller on any other work outside the scope of the Purchase Agreement without the prior written consent of Mangiarotti.

**26.2** Title to Mangiarotti-Furnished Property shall remain with Mangiarotti. Seller shall segregate and clearly mark Mangiarotti-Furnished Property to show Mangiarotti’s ownership and shall preserve Mangiarotti’s title thereto free and clear of all encumbrances. Should Mangiarotti at any time have reason to believe that its title to, or right to the possession of, any Mangiarotti-Furnished Property is threatened, Mangiarotti shall have the right to enter upon Seller’s premises and collect such Mangiarotti-Furnished Property. Mangiarotti reserves the right to abandon Mangiarotti-Furnished Property at no additional cost to Mangiarotti upon issuance of written notification to Seller of such intent.

**26.3** Seller shall, at its expense, perform all maintenance, repairs and replacements necessary with respect to Mangiarotti-Furnished Property so that the same may remain suitable for the use contemplated by the Purchase Agreement and may be returned to Mangiarotti in as good condition as when received, except for reasonable wear and tear or consumption of materials necessarily resulting from their use.

**26.4** Seller waives any and all claims relating to loss, damage, injury or delay arising out of or related to Mangiarotti-Furnished Property and Seller shall indemnify Mangiarotti against any and all liability for damage to property or injury to or death of persons arising from or incidental to the presence or use of Mangiarotti-Furnished Property, whether such damage, injury or death be caused by defects in such property, negligence in the use thereof, strict liability or otherwise.

#### **Article 27 – Export Control/Government Requirements**

The Seller agrees not to disclose, transfer, export, or re-export, directly or indirectly, any and all Purchaser furnished items, including but not limited to Proprietary Information, technology, materials, equipment, spare parts, services, deliverables, training, training materials, software and other export controlled items furnished hereunder, or any direct products or technology resulting therefrom (“**Items**”) to any country, natural person or entity, except in accordance with applicable export control laws, specifically the U.S., the E.U. (including the European Community, EC 428/2009), and other applicable government export control laws and regulations (“**Applicable Laws**”). To assure compliance with the Applicable Laws of the United States Government, specifically the U.S Department of Energy export regulations of nuclear technology under 10 C.F.R Part 810 (U.S Code of Federal Regulations), the Nuclear Regulatory Commission export regulations under 10 C.F.R. Part 110, the U.S. Department of Commerce export regulations of commercial or dual use items under 15 C.F.R. 30 et seq., and the U.S. Department of Treasury’s sanctions programs and sanctions lists, the Seller shall not disclose, transfer, export, or re-export, directly or indirectly, any Item it receives hereunder without the prior written permission of the Purchaser, which may be contingent on additional United States Government and other applicable government approvals. The Seller represents and warrants that (i) neither Seller nor its personnel (including its employees, contractors, officers, directors and principal owners) are currently included in any published lists maintained by the governments of the U.S., E.U. and other countries and international organizations of persons and entities whose export or import privileges have been denied or restricted, (ii) Seller will not use the Items in any activity prohibited by 15 CFR Part 744, including without limitation nuclear, chemical, or biological weapons proliferation activities, and (iii) the Seller will not disclose Items to any countries for which the U.S., the E.U. and other applicable governments maintain an embargo or to citizens or residents thereof if prohibited by such embargo. If applicable, Seller shall provide to Purchaser the export control classification number (for example the ECCN or ECN) as defined under the export control regulations of Seller’s country of nationality, upon the earlier of the shipment date or request by Purchaser. Subject to Article 15, the Seller may transfer or re-export Items to approved affiliates and sub-suppliers provided that such recipients are located in the same country as the Seller or Purchaser and the recipient is not included in any published lists of natural persons and entities whose export or import privileges are in any way restricted, which are maintained by the United States, the European Union, or other countries and international organizations. The Seller shall fully comply with all such laws and regulations with regards to the Items it receives hereunder and shall



cooperate in good faith with the reasonable requests of the Purchaser made for purposes of its compliance with such Applicable Laws. Notwithstanding any other provisions in this Purchase Agreement, the obligations set forth in this Article 27 shall survive so long as the relevant Applicable Laws are in effect

## **Article 28 - Environment, Health and Safety**

**28.1** Seller shall take appropriate actions necessary to protect health, safety and the environment, including, without limitation, in the workplace and during transport of the Work and has established an effective program to ensure any Subcontractors it uses to perform the Work will be in compliance with this Article 28.

**28.2** Seller warrants that each chemical substance constituting or contained in Materials sold or otherwise transferred to Mangiarotti is suitable for use and/or transport in any jurisdiction to or through which Mangiarotti informs Seller the Material will likely be shipped or to or through which Seller otherwise has knowledge that shipment will likely occur and is listed on or in, as the case may be: A) the list of chemical substances compiled and published by the Administrator of the U.S. Environmental Protection Agency pursuant to the U.S. Toxic Substances Control Act ("**TSCA**") (15 U.S.C. § 2601), also known as the TSCA Inventory, or exempted from such list under 40 CFR 720.30-38; B) the Federal Hazardous Substances Act (P.L. 92-516) as amended; C) the European Inventory of Existing Commercial Chemical Substances ("**EINECS**") as amended; D) the European List of Notified Chemical Substances ("**ELINCS**") and lawful standards and regulations thereunder; or e) the People's Republic of China's Inventory of Existing Chemical Substance in China ("**IECSC**"); or (f) any equivalent or similar lists in any other jurisdiction to or through which Mangiarotti informs Seller the Materials will likely be shipped or to or through which Seller otherwise has knowledge that shipment will likely occur.

**28.3** Seller warrants that each chemical substance constituting or contained in Materials sold or otherwise transferred to Mangiarotti: A) is properly documented and/or registered as required in the jurisdiction to or through which Mangiarotti informs Seller the Materials will likely be shipped or to or through which Seller otherwise has knowledge that shipment will likely occur, including but not limited to pre-registration and registration, if required, under Regulation (EC) No. 1907/2006 ("**REACH**"); B) is not restricted under Annex XVII of REACH or other similar legislation in any country through which Mangiarotti informs Seller the Equipment will likely be shipped or to or through which Seller otherwise has knowledge that shipment will likely occur; and C) if subject to authorization under REACH or similar legislation, is authorized for Mangiarotti's use. In each case, Seller shall provide Mangiarotti with supporting documentation prior to delivery or transfer and timely upon request, including but not limited to, 1) pre-registration numbers for each substance; 2) the exact weight by weight percentage of any REACH Candidate List (defined below) substance constituting or contained in the Materials; 3) all relevant information that Mangiarotti needs to meet its obligations under REACH to communicate safe use to its customers; 4) the documentation of the authorization for Mangiarotti's use of an Annex XIV substance; and (5) any other information related to the composition and/ or authorization of use the Equipment. Seller shall notify Mangiarotti if it decides not to register substances that are subject to registration under REACH or other similar applicable legislation and are constituting or contained in Materials supplied to Mangiarotti at least 18 months before their registration deadline. Seller must monitor the publication by the European Chemicals Agency of the list of substances meeting the criteria for authorization under REACH (the "**Candidate List**") and immediately notify Mangiarotti if any of the Materials supplied to Mangiarotti constitute or contain a substance submitted and/or proposed for listing on the Candidate List. Seller shall provide Mangiarotti with the name of the substance and sufficient information to allow Mangiarotti to safely use the Materials and fulfill Mangiarotti own obligations under REACH.

**28.4** Seller warrants that none of the Materials sold or transferred to Mangiarotti contain any: A) of the following chemicals: arsenic, asbestos, benzene, beryllium, carbon tetrachloride, cyanide, lead or lead compounds, cadmium or cadmium compounds, hexavalent chromium, mercury or mercury compounds, trichloroethylene, tetrachloroethylene, methyl chloroform, polychlorinated biphenyls ("**PCBs**"), polybrominated biphenyls ("**PBBs**"), polybrominated diphenyl ethers ("**PBDEs**"); B) chemical or hazardous material otherwise prohibited pursuant to Section 6 of TSCA, if applicable; C) chemical or hazardous material otherwise restricted pursuant to EU Directive 2011/65/EU (21 July 2011) (the "**RoHS Directive**"), as amended; (D) chemical or hazardous otherwise restricted pursuant to China's Management Methods for Control of Pollution Caused by Electronic and Electrical Products ("**China RoHS**"), if applicable; (E) designated ozone depleting chemicals as restricted under the Montreal Protocol (including, without limitation, 1,1,1 trichloroethane, carbon tetrachloride, Halon-1211, 1301, and 2402, and chlorofluorocarbons ("**CFCs**") 11-13, 111-115, 211-217); F) substance listed on the REACH Candidate List, subject to authorization and listed on Annex XIV of REACH, or restricted under Annex XVII of REACH; or F) other chemical or hazardous material the use





of which is restricted in any other jurisdiction to or through which Mangiarotti informs Seller the Materials are likely to be shipped or to or through which Seller otherwise has knowledge that shipment will likely occur, unless with regard to all of the foregoing, Mangiarotti expressly agrees in writing and Seller identifies an applicable exception from any relevant legal restriction on the inclusion of such chemicals or hazardous materials in the Materials sold or transferred to Mangiarotti. Upon request from Mangiarotti and subject to reasonable confidentiality provisions that enable Mangiarotti to meet Mangiarotti's compliance obligations, Seller shall provide Mangiarotti with the chemical composition, including proportions and weights, of any substance, preparation, mixture, alloy or goods supplied under the Purchase Agreement and any other relevant information or data regarding the properties, including without limitation test data and hazard information.

**28.5** Seller warrants that, except as specifically listed on the Purchase Order or in an applicable addendum, none of the Materials supplied under the Purchase Agreement are electrical or electronic equipment or batteries or accumulators as defined by laws, codes or regulations of a jurisdiction to or through which Mangiarotti informs Seller the Materials are likely to be shipped or to or through which Seller otherwise has knowledge that shipment likely will occur, including but not limited to EU Directive 2012/19/EU (24 July 2012) (the "**WEEE Directive**"), as amended and EU Directive 2006/66/EC (26 September 2006) (the "**Batteries Directive**"), as amended and/or any other legislation or regulation providing for the taking back of such electrical or electronic equipment or batteries or accumulators (collectively, "**Take-Back Legislation**"). For any goods specifically listed on the Purchase Order or in such addendum as electrical or electronic equipment or batteries or accumulators that are covered by any Take-Back Legislation, Seller shall: A) assume responsibility for taking back such goods in the future upon the request of Mangiarotti and treating or otherwise managing them in accordance with the requirements of applicable Take-Back Legislation; B) take back as of the date of the Purchase Agreement any used goods currently owned by Mangiarotti of the same class of such Materials purchased by Mangiarotti under the Purchase Agreement up to the number of new units being purchased by Mangiarotti or to arrange with a Third Party to do so in accordance with all applicable requirements; and C) appropriately mark and/or label the goods as required by any applicable Take-Back Legislation. Seller shall not charge Mangiarotti any additional amounts, and no additional payments shall be due from Mangiarotti for Seller's agreement to undertake these responsibilities.

**28.6** Seller warrants that all Materials conform with applicable Conformité Européenne ("**CE**") directives for goods intended for use in the EU, including those regarding electrical and electronic devices, machinery and pressure vessels/equipment. Seller shall affix the CE mark on Materials as required. Seller shall provide all Documentation required by the applicable CE directives, including but not limited to Declarations of Conformity, Declarations of Incorporation, technical files and any documentation regarding interpretations of limitations or exclusions.

**28.7** With respect to any Materials sold or otherwise transferred to Mangiarotti under the Purchase Agreement, Seller shall notify Mangiarotti in writing of the presence of any engineered nanoscale material (defined for these purposes as any substance with at least one dimension of such substance known to be less than one hundred (100) nanometers in length). With respect to all such nanoscale material(s), Seller shall provide a description of its regulatory status and any safety data or other notifications that are appropriate in the EU, U.S. and any other jurisdiction to which Mangiarotti informs Seller the Materials will be shipped or to which the Seller otherwise has knowledge that shipment will likely occur.

**28.8** With respect to Materials sold or otherwise transferred to Mangiarotti under the Purchase Agreement, Seller shall provide all relevant information, including but not limited to, safety data sheets in the language and legally required format of the location to which the Materials will be shipped and mandated labeling information, required pursuant to applicable requirements such as: A) the United Nations Globally Harmonized System of Classification and Labeling of Chemicals (GHS) or similar legislation; B) the Occupational Safety and Health Act ("**OSHA**") regulations codified at 29 CFR 1910.1200, as amended; C) EU REACH Regulation (EC) No. 1907/2006, EU Regulation (EC) No. 1272/2008 classification, labeling and packaging of substances and mixtures ("**CLP**"), EU Directives 67/548/EEC and 1999/45/EC, as amended, if applicable; (D) any applicable labeling and information disclosure requirements of China's Management Methods for Control of Pollution Caused by Electronic and Electrical Products ("**China RoHS**"); and E) any other applicable law, rule, or regulation or any similar requirements in any other jurisdictions to or through which Mangiarotti informs Seller the Materials are likely to be shipped or through which Seller otherwise has knowledge that shipment will likely occur, such as the U.S. Department of Transportation regulations governing the packaging, marking, shipping and documentation of hazardous materials, including hazardous materials specified pursuant to 49 CFR, the International Maritime Organization ("**IMO**"), the International Air Transport Association ("**IATA**").



**28.9** Seller will remove and dispose of all chemical substances and/or mixtures, containers, materials and residue from their use, in accordance with all applicable statutes, laws, regulations, rules, orders and ordinances at Seller's facilities, Mangiarotti facilities, and Mangiarotti's customer facilities.

**28.10** Seller warrants that all of the Materials furnished under the Purchase Agreement have been completely and accurately labeled pursuant to the requirements of 40 CFR Part 82, "Protection of Stratospheric Ozone" or that the Materials do not require such labeling.

**28.11** Seller undertakes to act in full compliance with the applicable legislation on health and safety in the workplace. Further, the Seller providing Services at Mangiarotti's premises may be required to act in compliance with the "DUVRI" (Documento Unico di Valutazione dei Rischi da Interferenza, i.e., Internal assessment of interference-related risks) prepared by Mangiarotti, which forms an integral part of the Purchase Agreement and is aimed at identifying the specific risks entailed by the performance of the Seller's Services at Mangiarotti's working environment.

**28.12** The Seller providing Services at Mangiarotti's premises also undertakes to act in full compliance with Italian environmental laws, with particular reference to Legislative Decree No. 152/2006. In particular, same Seller expressly undertakes to (i) properly manage any noxious substances possibly used; (ii) to manage directly and autonomously the wastes deriving from the supply of the Services; (iii) to adopt the most adequate security measures to avoid the contamination of ground, underground, water and atmosphere.

**28.13** Should Seller's personnel breach the obligations set forth in Articles 28.11 and 28.12 above, Seller shall pay to Mangiarotti a penalty equal to Euro 250.00 (two hundred fifty/00). Said penalty will be increased of Euro 50.00 (fifty/00) for each subsequent breach. It is understood that in case of breach of the obligations under Articles 28.11 and 28.12 above, Mangiarotti shall, in any event, have the right to claim the additional damages and expenses possibly suffered as a consequence of the Seller's breach, without prejudice to the remedies provided under Article 18.3.

#### **Article 29 - Counterfeit and/or Suspect Work**

Counterfeit/Suspect Work ("CSW") refers to goods that may be (1) mis-labeled as to source or quality, (2) falsely labeled as new, (3) fraudulently stamped or identified as having been produced to high or approved standards, (4) an unauthorized copy of a known product within the industry, or (5) materially misrepresented in some way by the seller. All CSW are presumed to be not in conformance with the requirements of this Purchase Agreement.

Seller shall implement a program, applicable at all levels of supply, to document the sourcing of all items and components, and to ensure that CSW is not delivered or incorporated into the Work. In this regard, Seller shall only incorporate equipment and components that are sourced from Original Equipment Manufacturers, Original Component Manufacturers, and their respective authorized distributors. Deviations from this general standard must be approved in writing by Mangiarotti.

If Seller becomes aware or suspects that it has furnished CSW, in any form, Seller shall immediately notify Mangiarotti in writing with the pertinent facts and Seller shall immediately: (1) provide OCM/OEM documentation that authenticates the traceability of the items in question and a certificate of conformance evidencing compliance with the requirements of this Purchase Order; or (2) promptly replace the CSW with items acceptable to Mangiarotti at Seller's sole cost and expense. These costs include, but may not be limited to costs of removing CSW, costs of reinserting replacement parts, any testing necessitated by the reinstallation of replacement parts after CSW has been exchanged, travel expenses, legal expenses, shipping costs, fines or penalties, labor, replacement materials, impoundment and administrative expenses.

If Mangiarotti, at any time, has reasonable cause to believe Seller has furnished CSW, in any form, Mangiarotti shall notify Seller and Seller shall immediately: (1) provide OCM/OEM documentation that authenticates the traceability of the items in question and a certificate of conformance evidencing compliance with the requirements of this Purchase Agreement; or (2) promptly replace the CSW with items acceptable to Mangiarotti at Seller's sole cost and expense. These costs include, but may not be limited to costs of removing CSW, costs of reinserting replacement parts, any testing necessitated by the reinstallation of replacement parts after CSW has been exchanged, travel expenses, legal expenses, shipping costs, fines or penalties, labor, replacement materials, impoundment and administrative expenses.

## Article 30 – Force Majeure

“**Force Majeure**” means any act, event, cause or occurrence beyond the reasonable control of Mangiarotti or of the Seller (including, but not limited to, acts of God, acts of government, war, riots, embargoes, etc.) and which renders either Party unable to perform its obligations under the Purchase Agreement. Neither Party shall be liable towards the other Party for any delay or omission in the performance of any obligation hereunder where the delay or omission is due to any cause or condition of Force Majeure. The Party invoking a Force Majeure event shall give written notice as soon as reasonably possible (but in any event within three (3) days from the date of occurrence of the event of Force Majeure or knowledge of occurrence thereof) to the other Party specifying the condition of Force Majeure and the extent to which it affects performance of the Purchase Agreement, and providing the necessary evidence. In case of Force Majeure, Parties may jointly agree to make changes to the Purchase Order to adjust the delivery date. After sixty (60) cumulative days of Force Majeure affecting the Seller's performance, Mangiarotti may terminate the Purchase Order, in whole or in part, with no liability to Seller for any costs or damages arising out of the cancellation due to Force Majeure other than the price for the work in progress, the completed Materials and related Documentation.

## Article 31 – Safety Conscious Work Environment (SCWE)

**31.1 Safety Conscious Work Environment.** Mangiarotti is committed to safe operations, a strong nuclear safety culture and to maintaining a Safety Conscious Work Environment (“**SCWE**”) in connection with its operations and its nuclear and quality work activities. To this end, Mangiarotti adheres to the INPO® Principles for a Strong Nuclear Safety Culture and the use of Human Performance Tools, and it requires its Sellers of any tier to demonstrate commitment and adherence to and practice of these principles and tools. Accordingly, Seller shall demonstrate its commitment to and maintain a SCWE, shall implement a SCWE program at its facilities and shall follow Mangiarotti's or Mangiarotti Customer's SCWE program for work at Mangiarotti Customer's site. A SCWE program is one in which Seller and all of its personnel and the personnel of its Subcontractors are informed and are entitled and encouraged to raise safety and quality concerns to Seller's management, to Mangiarotti or to Mangiarotti's Customer without fear of retaliation or other discrimination.

**31.2 Notice of Seller's Personnel Concerns.** Seller shall promptly (but in no event later than 5 working days) notify Mangiarotti after any concern is received by the Seller or brought to the Seller's attention from Seller's personnel (or former personnel) or the personnel (or former personnel) of its Subcontractors of an allegation in connection with the work of discrimination or retaliation related to raising safety or quality concerns. Moreover, Seller shall promptly and aggressively investigate, or shall ensure that its Subcontractor promptly and aggressively investigates, any and all allegations that include a charge that any Seller or its Subcontractor personnel (or former personnel) have been discriminated or retaliated against for raising safety or quality concerns, shall cooperate fully with Mangiarotti to assure a complete investigation of such allegation, including providing Mangiarotti with any [non-privileged] information that it includes in any report it may prepare or which may be prepared by the applicable government authorities, and shall provide Mangiarotti with a full written description of any action which may be taken in response to any such allegation or complaint.

**31.3 Further Information; Audit.** If Seller requires further information or clarification regarding these requirements or Mangiarotti's expectations, it is Seller's responsibility to contact Mangiarotti to seek such information and/or clarification or information on Mangiarotti's SCWE policies or programs. Mangiarotti and Mangiarotti's Customer shall have the right to audit the effectiveness of such programs not less than once every twelve (12) months during the term of the Purchase Agreement. If Mangiarotti determines through any such audit that there are deficiencies in the implementation and practice of Seller's SCWE program, Seller shall undertake appropriate corrective actions to Mangiarotti's reasonable approval.

**31.4 Material Breach.** Any breach of these provisions shall be deemed a material breach of the Purchase Agreement. In the event that any applicable government authority imposes a fine or penalty against Mangiarotti or Mangiarotti's Customer as a result of Seller's breach of these provisions, such fine or penalty may be considered by the Parties to be direct damages and not consequential, special or indirect damages under this Purchase Agreement.

**31.5 Flow-Down Requirement.** Seller shall include the foregoing provisions into each of its Subcontracts for the performance of nuclear safety or quality work in connection with the Contract, and Seller shall be responsible for ensuring compliance by its Subcontractors.

### **Article 32 – Governing Law and Venue**

The Purchase Agreement shall be governed by the laws of Italy, without regard to its provisions for choice of laws or conflicts of laws, and shall not be governed by the United Nations Convention for the International Sale of Goods.

The Parties undertake to endeavor to settle amicably all disputes arising out of or in connection with the Purchase Agreement, or the breach, termination or invalidity thereof. If the Parties fail to come to a decision within thirty (30) days after the dispute has been submitted, the Parties agree, in the first instance, to discuss and consider submitting the matter to the mediation proceedings under the Amicable Dispute Resolution Rules of the International Chamber of Commerce of Paris (ICC). All related costs for the ICC and fees of the neutral party shall be borne in equal shares by the Parties. Each Party will bear its own costs associated with the dispute. If (i) the Parties decide not to submit the dispute to the Amicable Dispute Resolution Rules within fifteen (15) days, or if (ii) the dispute has not been settled pursuant to said Rules within sixty (60) days following the filing of a Request for Amicable Dispute resolution, or within such other period as the Parties may agree in writing, such dispute shall be finally settled by the Court of Udine, being understood that Mangiarotti may elect to bring an action for injunction or other equitable remedy from any court of competent jurisdiction.

Notwithstanding any dispute, it shall be the responsibility of Seller to continue the performance of all Works diligently and in a good and workmanlike manner in conformity with the Purchase Agreement. Seller shall have no right to cease or delay the performance hereunder.

### **Article 33 – Severability**

If any provision of the Purchase Agreement or the application of the Purchase Agreement to any person or circumstance shall to any extent be held invalid or unenforceable by a court of competent jurisdiction or otherwise, then: (a) the remainder of the Purchase Agreement and the application of that provision to persons or circumstances other than those as to which it is specifically held invalid or unenforceable shall not be affected, and every remaining provision of the Purchase Agreement shall be valid and binding to the fullest extent permitted by law, and (b) a suitable and equitable provision shall be substituted for such invalid or unenforceable provision in order to carry out, so far as may be valid and enforceable, the intent and purpose of such invalid or unenforceable provision.

### **Article 34 – Resolution of Conflicts or Inconsistencies**

If Seller discovers any errors, omissions, discrepancies or conflicts in any part of the Purchase Agreement, including these Terms and Conditions, it shall immediately so inform Mangiarotti in writing. Mangiarotti shall promptly correct and/or clarify such matters and so inform Seller. Mangiarotti's decision shall be binding, and Seller shall proceed with the applicable portion of the Work only after such information has been supplied by Mangiarotti. Should Seller fail to contact Mangiarotti to resolve any such conflicts or inconsistencies, Seller shall be solely responsible for any errors resulting from any conflicts or inconsistencies occurring in the Purchase Agreement. Where documents are referenced, the issue date in effect as of the date Effective Date of the Purchase Order or Change Notice placement shall be applicable, unless another issue date is specified in the Purchase Order or Change Notice.

### **Article 35 – No Waiver**

Neither shall the failure of either Party to enforce at any time any of the provisions of the Purchase Agreement be construed as a waiver of such provision nor shall it in any way affect the validity of the Purchase Agreement or the right of either Party to enforce each and every provision.

### **Article 36 – Survival**

The Parties agree that the provisions of Article 6 – Payment; Article 10 – Performance Standards; Seller's Warranties; Article 11 – Indemnity; Article 12 – Insurance requirements; Article 14 – Mangiarotti liability; Article 15 – Proprietary (Confidential) Information; Article 16 – Ownership of Intellectual Property; Article 18 – Termination and Suspension; Article 19 – Audit Rights and Quality Assurance; Article 22 – Notices; Article 23 – Publicity; Article 24 – Anti-bribery/Kickback; Article 27 – Export Control/Government Requirements; Article 28 – Environment, Health and Safety; Article 29 - Counterfeit and/or Suspect Work, Article 31 – Safety Conscious Work Environment (SCWE); Article 32 – Governing Law and Venue; this Article 36 – Survival; and any other terms and conditions of the Purchase Agreement that by their context are intended to survive or which are expressly stated to survive shall survive or limit the liability of Mangiarotti shall survive termination, cancellation or expiration of the Purchase Agreement.



Date: \_\_\_\_\_

Mangiarotti S.p.A.

Seller

\_\_\_\_\_  
CEO

\_\_\_\_\_  
Seller full name, stamp and signature

\_\_\_\_\_  
Print Name and Title of Authorized Representative

Pursuant to, and for the purposes of Articles 1341 and 1342 of the Italian Civil Code, Seller represents to have specifically examined and to accept the provisions set forth in: Article 5 - Testing and Inspection of Work (Inspection and Acceptance of Work); Article 6 – Payment; Article 7 – Penalties for delay; Article 8 – Changes; Article 10 Performance Standards; Seller’s Warranties; Article 11 – Indemnity; Article 14 – Mangiarotti liability; Article 17 - Title; Risk of Loss; Delivery; Article 18 – Termination; Article 21 - Subcontracting and Assignment; Article 25 - Intellectual Property Infringement Indemnity; Article 26 - Mangiarotti-Furnished Property; Article 28 - Environment, Health and Safety (and relevant penalties); Article 30 – Force Majeure; Article 32 - Governing Law and Venue; Article 34 - Resolution of Conflicts or Inconsistencies.

Date: \_\_\_\_\_

Seller

\_\_\_\_\_  
Seller full name, stamp and signature

\_\_\_\_\_  
Print Name and Title of Authorized Representative



**SELLER HONORABILITY DECLARATION**

Seller represents and warrants the following:

- A) Seller confirms (i) to be an existing entity and to be entitled to operate under the applicable laws, (ii) not to be subject to winding up, special arrangement with creditors or subject to any pre-bankruptcy procedure, (iii) not to be prohibited from establishing contractual relationships with public authorities/entities;
- B) The Seller's business activity is consistent with the one declared and registered with the competent authorities;
- C) Seller possess all permits/ authorizations required for the performance of its business activity;
- D) Seller has been duly complying, and shall always comply, with all applicable social security and insurance laws;
- E) Seller's directors, shareholders and/or legal representatives have not been sanctioned in relation to criminal offences, in particular those related to bribery, money laundering or participation to criminal conspiracy;
- F) Seller has not been sanctioned for having committed any of the criminal offences contemplated by Legislative Decree No. 231/2001;
- G) Seller is not subject to any restriction arising from mob-related crimes;
- H) Seller has not provided false or incorrect information/representations in relation to the above-listed circumstances.

Seller undertakes to inform promptly Mangiarotti in writing in the event of variation of any of the above requirements.

Date: \_\_\_\_\_

Seller

\_\_\_\_\_  
Seller full name, stamp and signature

\_\_\_\_\_  
Print Name and Title of Authorized Representative