

## **GENERAL CONDITIONS GOVERNING CMI DEFENCE PURCHASE ORDERS TO ITS SUPPLIERS (APRIL 2015 EDITION)**

These general conditions shall govern any order for goods or services placed by CMI DEFENCE S.A. (hereinafter referred to as "CMI DEFENCE"), with the exclusion of any earlier documents, negotiations and any Supplier's general conditions, including any clause printed on the Supplier's invoices. "Supply" or "Supplies" is understood herein as any material the Supplier has to provide and/or the provision of services or work pursuant to the terms of the order whose special conditions take precedence over these general conditions. It includes, without limitation, raw materials, components, intermediate assemblies, tools, end products, leased or rented equipment and material, drawings, professional/technical services, labor, non-professional/technical services, transportation services, and utility services. "Party" is understood herein as either CMI DEFENCE or the Supplier, and "Parties" as collectively CMI DEFENCE and the Supplier.

### **1. CREATING AND AMENDING THE CONTRACT**

Matters addressed verbally are subject to written confirmation. This requirement shall also apply to any amendment to the contract. The Supplier's full agreement shall be recognised from either its written and unrestricted acknowledgement or starting of the Supply or its silence during 10 days starting from the CMI DEFENCE purchase order date. No consequence may be drawn merely from CMI DEFENCE's failure to react to the wording and/or payment of the Supplier's invoice.

### **2. ORDER FULFILMENT**

a. The Supplier's compliance with the terms of the purchase order, notably with respect to the execution delays, delivery dates, conformity and performance of the Supply is a condition of the order and constitutes an 'obligation of result'.

b. The Supplier may not transfer or subcontract part or all of the order, nor its resulting rights and obligations, without CMI DEFENCE's prior written authorisation.

c. The Supply must strictly comply with the rules of good practices and all administrative, commercial and technical requirements, as well as the most recent regulatory and legal standards, particularly those laid down in the context of the European regulations. The Supplier shall also comply with all the social and tax regulations that apply to the orders and the completion of the Supply.

d. Without prejudice to the level of the Supplier's obligations and responsibility, CMI DEFENCE is entitled at any time to check the progress of the order at the Supplier's premises or those of the Supplier's subcontractors.

e. The Supply must strictly comply with safety, hygiene and environmental laws and regulations. In this respect, the Supplier must notify CMI DEFENCE of any Supply special safety and environmental features or impact. He must also enquire with CMI DEFENCE about any special characteristics or impact existing at the Supply delivery point. Regarding machinery or mechanised tools, the Supply must bear the "CE" label and be accompanied with an instruction manual and a technical construction file.

f. In the event of work to be undertaken in CMI DEFENCE plants and/or its worksites or those of its customers, the Supplier has to comply with all the special requirements (such as general safety instructions and internal rules) applicable to all Supply sites, and shall impose them on any of its subcontractors. The Supplier shall seek information about the contents of these instructions, which he is supposed to know before starting to fulfil the order.

Moreover, the Supplier will be in possession of all the regulatory approvals or authorisations specified by its contractor's status, in conformity with the law and regulations during the execution period of the works. The same shall apply to the subcontractors for whom the Supplier is fully answerable.

g. The Supplier shall have and maintain a "quality system" that is compatible with its Supply and in conformity with the requirements of the applicable codes and standards.

h. The Supplier shall apply, obtain and maintain all necessary permits and import and/or export licences required by any part of the Supply in reasonable time having regard to the time required for issuance from concerned authorities for the delivery of the Supply and the completion of any works or services.

i. The aforementioned obligations being essential, the Supplier shall be liable for any damage resulting from the non-fulfilment of these obligations.

Failure to meet the aforementioned requirement shall entitle CMI DEFENCE to terminate the contract immediately and claim for damages.

### **3. PACKAGING – PROTECTION – SPECIAL TOOLS**

The Supply of packaging made of recyclable materials as well as protective and transport devices shall be included in the Supply price. Unless otherwise specified in the order, the Supplier shall be responsible for recovering and processing the packaging materials. The Supply shall be consistently protected for a minimum period of three months after delivery with paint, varnish, oil, etc., depending on the case. When the manufacturing of the Supply specified in the contract requires special tools for the manufacturing process and/or models or dies, unless expressly agreed otherwise, these shall also be included in the price and become the sole property of CMI DEFENCE. Their ownership may be claimed at any time without any prior formality or justification, even in the event of the contract being dissolved or of a court settlement whatever, which applies to the Supplier.

### **4. DRAWINGS, DOCUMENTS AND SOFTWARE BELONGING TO THE BUYER**

Any drawings, documents and software remitted to the Supplier shall remain the property of CMI DEFENCE. Unless written permission is given, they may not be copied or transmitted to third parties or used for purposes not covered by the contract. Any failure to meet this obligation shall entitle CMI DEFENCE to terminate the contract and claim for compensation. They shall be returned in good condition together with the Supply at the latest, unless otherwise agreed upon. Any document provided when the order is placed and during the fulfilment thereof, must be carefully checked by the Supplier, who is required to immediately report any inaccuracies, errors, omissions, incompatibilities, interferences or contradictions of any kind, otherwise the Supplier shall be held liable for the consequences of its failure in its examination obligation.

### **5. INDUSTRIAL PROPERTY**

The Supplier shall guarantee that the Supply and the use thereof shall not infringe any patent, trademark, industrial design or model and, more generally, any right that a third party may invoke concerning industrial or intellectual property or the exclusive use thereof. The Supplier shall guarantee CMI DEFENCE and its customers the immunity from any counterfeit action and any other proceedings that could be initiated against them owing to the use of all or part of the Supply. The Supplier shall accept all direct and indirect consequences for CMI DEFENCE and its customers resulting from such legal action and proceedings. The price of the order shall include the granting to CMI DEFENCE and its customer of the entitlement to exercise all the aforementioned intellectual property rights.

### **6. TIME LIMIT – FAILURE TO FULFIL THE ORDER**

a. Time is of essence, involving the commitment to deliver the Supply on a set date.

Any delay shall entitle CMI DEFENCE, without the need for any formal notice, to cancel all or part of the order and/or to substitute for the Supplier at the latter's cost and own risk, and to apply automatically a penalty equal to 2 % of the overall value of the purchase order for every week of delay, up to a maximum of 10 % and moreover, to receive full compensation equal to the actual damage sustained by CMI DEFENCE.

b. Generally speaking, if the Supplier fails to meet all or part of his obligations, CMI DEFENCE shall be entitled, after providing formal notice and without appealing to the courts, to substitute for the Supplier's failure(s), at the latter's cost and own risk, without any prejudice to damages.

The same shall apply if CMI DEFENCE has valid reasons to fear that the Supplier will not meet his obligations or a major part thereof, or the Supplier is exposed to seizures, claims of Supplier's creditors towards CMI DEFENCE, insolvency or bad credit.

Should the Supplier be involved in court settlement proceedings, CMI DEFENCE shall be entitled, without giving notice and without appealing to the courts, to terminate the contract, with the resulting costs charged to the defaulting Supplier.

c. Any factor likely to materially affect the fulfilment of the order must be notified to CMI DEFENCE in writing within three calendar days after it occurred.

d. In case the contract between CMI DEFENCE and its customer is dissolved or suspended for any reason, CMI DEFENCE shall be entitled, subject to providing notice by registered letter and without appealing to the courts, to cancel or suspend the order or take any action aimed at preventing or limiting costs.

These measures may involve, in particular, the termination of supplies, manufacturing, shipment or any other activity.

In such circumstances and except if the Supplier is at fault, the Supplier shall be paid on the basis of the loss that it has actually suffered in relation to the Supply not yet delivered on a cost basis excluding overheads and profit.

The Supplier shall ensure that the same obligations are imposed on its own Suppliers and subcontractors.

## **7. DELIVERY**

a. The Supply must be delivered to the location and according to the conditions set forth in the special conditions of the purchase order or as specified at a later date.

Unless otherwise specified in the purchase order, the Supply shall be delivered DAP (Delivered at Place – Incoterm 2010 – at the named place of destination) and shall travel at the Supplier's own risk.

b. The Supplier must add all the properly filled transport and delivery documents, and where appropriate, must strictly comply with the specifications and requirements referred to in the special conditions of the purchase order.

In the event of a failure to comply with these specifications and requirements, only the Supplier shall bear all the consequences of its omissions, delays or errors.

c. Regarding the delivery of the Supply, the only discharge shall consist in a document duly drawn up and originating from an authorised CMI DEFENCE proxy or official intermediary.

## **8. APPROVAL - ACCEPTANCE**

a. According to the case foreseen in the special conditions of the order, the approval or acceptance of the Supply takes place at the site of its final destination.

The quantitative approval takes place within a minimum period of 15 days after delivery.

The storage and payment of the Supply shall not be construed as approval or acceptance. The qualitative approval and acceptance procedures are set forth in the order's special conditions. CMI DEFENCE has at least one month to perform the qualitative approval or acceptance. In any event, any approval or acceptance of the Supply shall continue to be subject to the conditions preceding the approval or acceptance of the Supply by CMI DEFENCE's customer.

Any Supply that is refused shall be replaced within the initial contractual delay period. Otherwise paragraph 6 shall apply.

b. Blank parts to be processed by CMI DEFENCE

If the Supply includes blank parts that have to be processed by CMI DEFENCE or its subcontractors, the approval or acceptance shall take place once the process is finished.

If during the process phase the parts show one or more defects that render them unfit for their anticipated use, they will be refused and sent back to the Supplier, at his costs and own risk. Moreover, any additional costs or losses incurred by CMI DEFENCE or its subcontractors as a consequence of the above-mentioned defects shall be compensated by the Supplier.

Parts noted to have defects that CMI DEFENCE believes can be repaired, may in the event of urgency be repaired by CMI DEFENCE at the cost of the Supplier, which shall be notified thereof.

c. Blank parts provided by CMI DEFENCE for processing

If the part is made unusable owing to the Supplier's fault, the latter shall bear the costs of its replacement, carry out a new process and bear all the consequences of its action.

The completion of the replacement of the parts must be carried out as soon as possible.

d. The transfer of the risks to the Supply shall take place upon the actual and final approval or acceptance of the Supply by CMI DEFENCE or its customer.

## **9. WARRANTY**

Without prejudice to the legal warranty against latent defects and specific warranties defined in the special conditions of the order, the Supplier shall guarantee the Supply for 24 months starting from the qualitative approval or acceptance, against any design, erection, material, manufacturing or assembly defects. The Supplier shall investigate and remedy the defects by repairing or replacing the defective Supply as soon as possible, according to CMI DEFENCE's choice. All the costs, including investigation, dismantling, reassembling, erection, installation, commissioning and transport will remain at the Supplier's charge. Any Supply that is replaced or repaired shall bear a 24-month warranty. Should the replaced Supply be vital for the operation of the equipment, the entire equipment shall be guaranteed for a further 24-month period, not including the period when the equipment cannot be operated as intended.

## **10. PRICE - INVOICING - PAYMENT**

a. The price indicated in the purchase order is firm and non-revisable.

b. Valid invoices are payable within 90 days from the invoicing date, in accordance with the payment terms set forth in the purchase order, and provided the Supplier has complied with its contractual obligations. All invoices shall be made out in the currency specified in the purchase order and forwarded to the accounting department of CMI DEFENCE with any required supporting document. Apart from the official information, the invoices must feature at the very least the following details: CMI DEFENCE references, bank account information, object, date and number of the purchase order, a precise description of the corresponding services, down payment or balance required and the level completion of the order to which it is related.

The settlement at the due date of a guarantee retention shall take place subject to the express condition that any reservations expressed during the approval or acceptance have been lifted. In no way shall the Supplier be allowed to invoice for additional or complementary supplies or services, unless these were the object of a former written order of CMI DEFENCE.

c. Should the Supplier fail to meet one of his obligations, CMI DEFENCE shall be authorised to regard its possible debts and claims towards the Supplier as a sole and unique contractual commitment. Consequently, CMI DEFENCE may suspend the payment of invoices it receives from the Supplier and set-off with its own debts and claims against the Supplier.

A payment does not imply a waiver of the rights that CMI DEFENCE may invoke against the Supplier, particularly in the case of penalties or call to bank guarantees issued by the Supplier.

## **11. TRANSFER OF OWNERSHIP – LIABILITY - INSURANCE**

a. The transfer of ownership of the Supply shall be made to CMI DEFENCE according to the progress made by the Supplier in completing the order and, in any event, on the date the Supply is approved or accepted, with the understanding that the Supplier shall continue to be responsible for the complete fulfilment of its obligations, and the specific risks to the supplies shall continue to be borne by the Supplier until the date they are approved or accepted without any reservation by CMI DEFENCE or its customers. Acceptance of the order shall imply the Supplier's waiver to any right of retention of title.

b. The Supplier shall remain solely and personally liable to CMI DEFENCE and/or its customer and third parties, for damage caused by its action or that of its representative or subcontractors. The

Supplier must buy coverage from a first class insurance company and purchase all the insurance policies needed for effective cover of risks related to the Supplier's third party and professional liability, up to an amount consistent with the Supplier's contractual obligations. The Supplier shall show proof of its insurance coverage at any time upon the request of CMI DEFENCE, otherwise the order may be cancelled.

## **12. SECRECY**

The Supplier is required to maintain secrecy for itself, its representatives, subcontractors and Suppliers and to refrain from using for the benefit of third parties, any information belonging to CMI DEFENCE that the Supplier may have access to in the framework of the order. Any information on CMI DEFENCE's own work, techniques and know-how used or developed by CMI DEFENCE are subject to the Supplier's obligation to maintain secrecy and to refrain from making use of said information for any purpose other than the performance of the contract. In turn, the Supplier has to obtain the same secrecy commitment and restriction to use from its staff and subcontractors. This secrecy obligation shall continue to apply even when the contract has expired.

## **13. SUSPENSION OF SUPPLY**

a. CMI DEFENCE in its absolute and sole discretion may suspend further manufacture and delivery of the Supply by the Supplier for any reason, at any time and from time to time, by giving written notice (Notice of Suspension) thereof to the Supplier. The Notice of Suspension shall specify the date of suspension and the estimated duration of the suspension.

b. Upon receiving such Notice of Suspension, the Supplier shall immediately suspend further manufacture and delivery of the Supply to the extent specified by CMI DEFENCE and during the period of such suspension the Supplier shall properly care and protect all Supply, work in progress and materials, supplies and equipment the Supplier has on hand for the manufacture and delivery of the Supply.

c. CMI DEFENCE may at any time withdraw the suspension of the manufacture and delivery of the Supply as well as to all or part of the suspended manufacture and delivery of the Supply by written notice to the Supplier specifying the new conditions of the Supply and scope of withdrawal, and the Supplier shall resume diligent execution of the manufacture and delivery of the Supply, for which suspension is withdrawn, on the specified effective date of withdrawal.

d. Should the Supplier believe that any such suspension or withdrawal of suspension justifies extra direct costs (excluding profit and overhead costs) and/or of the modification of the delivery date(s), then the Supplier shall present a proposal to CMI DEFENCE within 14 days after receipt of the order to suspend execution of the Supply. The Supplier's claim for extra costs shall be substantiated with invoices, payroll documents and other documents satisfactory to CMI DEFENCE. The Supplier shall take all reasonable measures to reduce or control the costs during the suspension period. The Supplier shall not be entitled to be paid any additional costs if the suspension is necessary by reason of a default on the part of the Supplier.

## **14. EARLY TERMINATION OF ORDER**

a. CMI DEFENCE in its absolute and sole discretion may terminate the purchase order or any part thereof for any reason and at any time by giving ten (10) calendar days written notice thereof to the Supplier.

On the date of such termination stated in said notice, the Supplier shall discontinue all Supply and shall preserve all material on hand purchased for use and all Supply in progress or completed Supply, both in its own and in any other premises pending CMI DEFENCE's instructions.

b. If the order is terminated pursuant to the terms of this Clause, payment to the Supplier or refund to CMI DEFENCE, if any, shall be promptly and mutually agreed to by CMI DEFENCE and the Supplier, based on that portion of the Supply satisfactorily performed up to and including the date of

termination. The Supplier is not entitled to any other payment, including any consequential costs, losses or damages.

c. In no event shall the Supplier be entitled to be paid by CMI DEFENCE for any prospective profits or any other damages as a result of such early termination of the purchase order.

d. If the termination payments turn out to be less than what CMI DEFENCE has already paid to Seller, or if no Goods and Services have been completed and delivered by Seller, Seller will return the down / advance payment or any payment received in excess to CMI DEFENCE within 15 days of CMI DEFENCE's request for repayment.

#### **15. FORCE MAJEURE**

a. Force majeure may suspend any affected obligations resulting from the agreement between the Parties.

b. The party invoking a case of force majeure shall notify the other within the shortest possible time period after discovering the occurrence of the force majeure event and inform it about the likely duration. The party shall take all the steps necessary to minimise its consequences. Should force majeure continue beyond sixty (60) days, only the price of the part of the Supply fulfilled prior to the start of the force majeure incident shall be payable by CMI DEFENCE. Any excess sum paid as an advance payment by CMI DEFENCE shall be reimbursed to CMI DEFENCE by the Supplier.

c. For the avoidance of doubt, a force majeure event does not include, among others: technical failures, normal wear and tear in machinery, or breakdown in equipment; shortage of parts, materials or other similar circumstances for which the Supplier may be responsible, pursuant to the contract; late or non delivery of machinery, equipment, materials or spare parts; a delay or default in the performance of any subcontractor or sub-supplier; strikes or similar labour disputes at the facilities of the Supplier and/or its contractors and/or its sub-suppliers; rescinding or non granting of import or export licences.

#### **16. SUPPLIER'S ORGANIZATION**

The Supplier shall notify CMI DEFENCE without delay about any major changes affecting his set-up and legal structure as well as any changes affecting the control of its assets and shareholders. In case of a lack of information from the Supplier or if these changes affect the rights of CMI DEFENCE, CMI DEFENCE may cancel the order without any compensation to the Supplier.

#### **17. BURDEN OF PROOF**

In the event of a dispute or conflict, it is up to the Supplier to prove that it has fulfilled its obligations in terms of quantity and quality.

#### **18. BUYER PROPERTY – PROTECTION OF TITLE**

a. Unless otherwise agreed in writing, all tools, equipment or material of every description furnished to Seller by CMI DEFENCE or specially paid for by CMI DEFENCE and any replacement thereof, or any materials affixed or attached thereto, shall be and remain the personal property of CMI DEFENCE and shall be used by Seller solely to perform hereunder.

b. Such property and, whenever practical, each individual item thereof, shall be plainly marked or otherwise adequately identified by Seller as "Property of CMI DEFENCE", shall be kept free of all liens, claims, encumbrances and interests of third parties, shall be kept in good and working condition at Seller's expense, and shall be safely stored separate and apart from Seller's property, and Seller shall pay all taxes applicable to such property while in Seller's custody or control. Seller shall not substitute any property for CMI DEFENCE's property.

c. Such property, while in Seller's custody or control, shall be held at Seller's risk, shall be kept insured by Seller at Seller's expense in an amount equal to the replacement cost with loss payable to CMI DEFENCE, and shall be subject to removal at CMI DEFENCE's written request, in which event Seller shall prepare such property for shipment and shall deliver to CMI DEFENCE in the same condition as

originally received by Seller, reasonable wear and tear excepted, all at Seller's expense. Seller will not dispose of or change CMI DEFENCE's property without the express written authorization of CMI DEFENCE.

d. For the purpose of protecting CMI DEFENCE's interest in the Goods with respect to which title has passed to CMI DEFENCE but which remains in the possession of Supplier or subcontractor of Seller, Seller shall take or cause to be taken all commercially reasonable steps necessary under applicable Law to protect CMI DEFENCE's title and to protect CMI DEFENCE against claims by such other parties with respect thereto.

e. If, after notice in writing from CMI DEFENCE and the lapse of a reasonable time in which to obtain a discharge, Seller fails to discharge, or, in a manner acceptable to CMI DEFENCE, effectively to provide for such discharge or to secure CMI DEFENCE against any lien or claim upon any Goods arising from Seller's or a subcontractor's performance of the contract, CMI DEFENCE shall have the right, at its option, upon notice in writing to require Seller to provide by agreement, payment or otherwise for the discharge of such lien or claim.

f. Seller shall reimburse CMI DEFENCE for all amounts incurred by CMI DEFENCE to obtain such discharge, including all direct costs and reasonable attorneys' fees and expenses. To the extent reasonably required, Seller shall mark such materials as defined in this article with an identifying mark or symbol indicating that each item is the property of CMI DEFENCE.

#### **19. NON COMPETITION**

a. The Supplier is aware that CMI DEFENCE intends to supply under the purchase order all of the spare parts, consumables and after sales works and services relating to the Supply that will be procured by CMI DEFENCE.

b. The Supplier undertakes not to compete, either directly or indirectly through any of its "Affiliates" or subcontractors, with CMI DEFENCE's activities and business as referred to above, during (i) the whole validity period of the purchase order and (ii) during a period of five (5) years from the expiry date of all contractual Supplier's obligations.

c. The term "Affiliates" includes, without limitation, any entity controlled by, controlling, or under common control with Seller.

d. Should CMI DEFENCE state any breach from the Supplier of this particular obligation of non-competition towards CMI DEFENCE, then CMI DEFENCE shall have the right (i) to terminate forthwith the contract for breach from the Supplier and/or (ii) to claim damages to the Supplier. The amount of the damages to be paid by the Supplier to CMI DEFENCE shall be two hundred and fifty (250) thousand euro at the minimum for each Seller's infringement in order to cover at least the attorney's and proceedings costs and expenses of CMI DEFENCE.

#### **20. JURISDICTION – APPLICABLE LAW**

a. Unless stated otherwise in the special conditions, Belgian Law shall apply exclusively to all agreements, calls for tenders and proposals referred to in the general purchasing conditions, with the exclusion of the UN Convention on Contracts for the International Sale of Goods, concluded in Vienna on 11 April 1980.

b. The courts of Liège (Belgium) shall have the sole jurisdiction to deal with any dispute between CMI DEFENCE and the Supplier, regarding the interpretation or fulfilment of the order or its consequences.