

## GENERAL CONTRACT CONDITIONS FOR THE SUPPLY OF WORKS AND SERVICES TO MODULA S.p.A.

### Clause 1 SCOPE OF APPLICATION

The present General Contract Conditions (hereinafter called "**General Conditions of Works**") shall apply to all contracts (hereinafter called "**Contract/s**") entered into between Modula S.p.A. (hereinafter called "**Modula**") and its contractors (hereinafter called "**Contractor**") for the supply or execution of a work (hereinafter called "**Work**"). It can also be applied, *mutatis mutandis*, to a service contract (in that case the term "Work" shall be replaced by "**Service**"), unless the provisions of the present General Conditions of Works are not clearly inconsistent with the activity to be performed pursuant to this type of contract. The present General Conditions of Works form an integral and essential part of the formal order (hereinafter called "**Order**") issued by Modula to which they are attached or mentioned together with the documents referred to in the Order and in the present General Conditions of Works, of which the Contractor hereby declares to be fully aware.

### Clause 2 CONTRACTUAL DOCUMENTS

- 2.1 The documents that, as a general rule, regulate the execution of a Work by a Contractor are the following:
- a) Order
  - b) Technical specifications and standards/rules of Modula's final customers
  - c) Drawings
  - d) Work schedule
  - e) Modula's General Conditions of Works
  - f) Other related documents.
- 2.2 This is purely an indicative list. Therefore, in accordance with the nature and circumstances relevant to the Work, one or more of the aforesaid documents may be missing, i.e. the order may be supplemented by other documents not included in the list set out in the previous paragraph.
- 2.3 The provisions set out in the aforesaid contractual documents are complementary. In case of conflict between the provisions of the said contractual documents, the provisions of each document prevail over those of document next following in paragraph 2.1.
- 2.4 Any clause contrary or otherwise additional to the present General Conditions of Works inserted by the Contractor to his invoices, notes, correspondence or any other document shall be deemed to have not been written unless the same is agreed to by Modula in writing.
- 2.5 The dates and stipulations as to time indicated in the Order shall always be essential.
- 2.6 Every service contract must be in written form. The Order and the following modification will be binding only if they are made by Modula's Purchasing Department and they are written and subscribed. The Contractor shall refrain from any works or activities not provided for by the Contract.

### Clause 3 INDEPENDENT CONTRACTOR

- 3.1 The Work described in the Order shall be carried out by the Contractor through his organization and at his own risk, without any dependence and/or subordination towards Modula. The Contractor's obligation is to reach the results of the Work set forth in the Order and this obligation still applies even when the Contractor has to comply with rules, prescriptions, standards, technical advice, etc.
- 3.2 When executing the Order, the Contractor shall take account of all the factors that may affect his activity (seasons, holidays, activities commenced by Modula or by third parties, etc.)
- 3.3 By accepting the Order, the Contractor declares that he has full knowledge of the nature and of technical, technological and functional characteristics of the Work and that he has duly considered all the factors, circumstances, uncertainties connected to the execution of the Work and the operational modalities that

may affect both the execution of the Work and the relevant price. The Contractor shall thereupon not be entitled to any claim due to a slowing down of the works or delay in execution of the Work nor to claim higher costs due to circumstances unforeseen when the Order was accepted.

- 3.4 With the acceptance of the Order the Contractor:
- a) takes full technical and administrative responsibility relevant to the carrying out of the Work described in Order, both towards Modula and towards third parties;
  - b) declares that he has available the means, including the financial means, and the organization to guarantee the performance referred to in the Order and takes full responsibility for the activity of his employees, including the liability for damages that might be caused by them to Modula and/or to Modula's or third parties' employees;
  - c) shall co-ordinate, if so required, his activities with Modula, asking questions and requesting information useful to the accomplishment of the Work;
  - d) notwithstanding his responsibility for the proper and timely fulfilment of the Contract, shall promptly inform Modula in writing, of the occurrence of events and circumstances that could prevent him from executing the Work in compliance with the conditions and terms set forth in the Order.
- 3.5 The lack of, wrong, or inadequate evaluation of all the circumstances relevant to the execution of the Work by the Contractor shall not exempt the latter from fulfilment of all its obligations deriving from the Order.

#### Clause 4 CONCLUSION OF THE CONTRACT

- 4.1 A Contract shall be concluded and the Order shall thereupon become irrevocable on the part of Modula as from the moment in which the respective duplicate copy (confirmation of the Order) is received by Modula free from any alteration or addition and duly signed by the Contractor for acceptance.
- 4.2 Whenever Modula and the Contractor are connected together with a telematic network, the Order and the said confirmation may be transmitted telematically. In this case, the Contract shall be concluded and the Order shall thereupon become irrevocable as from the moment when the confirmation is made available by the telematic data service contractor in Modula's electronic mailbox, subject to the provisions of paragraph 4.3 below.
- 4.3 In the event of non-reception by Modula of the duplicate of the Order (confirmation of the Order) signed by the Contractor for acceptance or transmitted telematically, commencement of the Work set forth in the Order on the part of the Contractor shall in any case be considered as acceptance of the present General Conditions of Works and of the specific conditions stated in the Order.
- 4.4 Requests of any kind relating to the Work, whether written or oral, shall not be binding for Modula until Modula issues the Order duly signed by its own duly empowered representatives.
- 4.5 If the Contractor discovers a material error or omission in the Order issued by Modula concerning the commercial or technical aspects relating to the Work to be supplied, he shall immediately notify Modula of this circumstance so as to enable it to make provision for the appropriate corrections and modifications of the Order.

#### Clause 5 TECHNICAL SPECIFICATIONS

- 5.1 The Contractor shall duly carry out the Work in compliance with the Order and with the other contractual documents, if any, in a perfect workmanlike manner and adopting the most advanced techniques available. In this respect, the Contractor shall ensure, under his sole responsibility and at his own care and expense, that the Work complies with all the technical specifications communicated by Modula or set forth in laws, regulations, uniform standards, etc. that are or may come into force during the execution of the Work until the acceptance of the Work.

- 5.2 The Contractor shall thereupon assume full knowledge on all technical specifications applicable to the Work and ask Modula for all the available information that may be useful or necessary to the Contractor in carrying out the Work, notwithstanding Modula's legal obligations.
- 5.3 Along with all the documentation envisaged by rules and regulations currently in force or that may come into force the Contractor shall also deliver Modula a copy of all the documentations relating to safe and healthy laws.

#### Clause 6 CONTRACTOR's SPECIFIC OBLIGATIONS

- 6.1 The Contractor shall ensure, on his sole responsibility and at his own expense, that the works are carried out in full compliance with all the laws, rules and regulations and specifications of any authority, both in force or that may be coming into force during the execution of the works, relevant to the execution of the Work until the acceptance of the same.
- 6.2 The Contractor shall also fulfil the obligations and carry out the complementary activities, that though not described or mentioned in the Order, are necessary to accomplish the Work in a perfect workmanlike manner and ensure it is suitable for the use agreed upon. The Contractor is required to perform the Work as thoroughly and as extensively as possible, even if the Order describes only the essential parts of it.
- 6.3 More specifically, the Contractor shall carry out the Work in compliance with all the existing rules and regulations with reference to health and safety, hygiene, environment and ecology, ergonomics, fire prevention, in force from time to time in Italy, in the European Union and in the country of destination of the Work. The Contractor shall thereupon provide all the required documentation and equally make sure that all the operations related to the Work be in full compliance with the labour regulations in force where they are carried out. In particular, but not limited to, the Contractor shall:
- (a) respect safety and security provisions;
  - (b) correspond his personnel a remuneration that should not be lower than that provided for in the collective agreements applying to each specific category of employees;
  - (c) provide all insurances stated by the law for workers such as employer's liability insurance, sickness insurance and social security insurance and comply with the labour legislation in force;
  - (d) take all the precautionary measures to prevent damage to people and properties both during the actual Work performance and in ancillary operations, such as transport, delivery, inspection, etc.;
  - (e) carry out the works with highly qualified and skilled personnel in accordance with the nature of the Work;
  - (f) take the necessary measures to prevent any form of pollution deriving from the performance of the Work.
- 6.4 Whenever the activity takes place, even partly, at Modula's premises or at the premises of a third party, the Contractor's personnel shall comply with all the rules, regulations and disciplinary provisions in force therein.
- 6.5 For this purpose, the Contractor shall inform his employees and/or his contractors of the specific risks connected to the activities carried out at Modula's or third parties' premises and consequently arrange all the individual and collective protection and prevention measures, required and appropriate to prevent accidents and damage to people and properties during execution of the Work. The Contractor shall thereupon issue the required safety provisions and make sure they are duly fulfilled.
- 6.6 Contracts concerning portage services, cleaning, regular maintenance of the equipment may be entered into only with prior exemption by the competent authority. The Contractor shall send Modula a copy of the above-mentioned exemption.
- 6.7 In case of breach of the provisions set forth in paragraphs 6.1 to 6.6 above, Modula shall have the right to terminate the Contract forthwith with immediate effect according to the provisions of article 1456 of the Italian Civil Code by means of a simple written notice to the Contractor and shall be have the right to claim for damages against the Contractor.

## Clause 7 SUBCONTRACTING

- 7.1 The Contractor shall not be permitted to subcontract to third parties, in full or in part, the execution of the Work indicated in the Order without explicit written authorization by Modula. In the event of the Contractor breaching this obligation, Modula shall be fully entitled to terminate the Contract forthwith with immediate effect according to the provisions of article 1456 of the Italian Civil Code, by means of a simple written notice to the Contractor and shall have the right to claim for damages against the Contractor.
- 7.2 Whenever the Contractor receives a written authorization to partially subcontract specific activities or manufacturing operations to specialized firms, such written authorization to subcontracting does not exempt the Contractor from his contractual obligations, charges and liability towards Modula that remains completely alien to the contractual relationship between the Contractor and his subcontractors and/or contractors. The Contractor shall be fully liable for the proper and punctual fulfilment of the activity of his subcontractors just like for his own.
- 7.3 If applicable, the Contractor shall make his subcontractors comply with all the obligations and burdens set forth in these General Conditions of Works and in the other contractual documents for the Contractor.
- 7.4 If Modula, at its absolute discretion, during the execution of the Work, deems the subcontractor unfit to carry out the subcontracted work, the Contractor, upon prior written communication by Modula, must perform the Work directly without being entitled to any claim for additional compensation, damages or postponement of delivery.

## Clause 8 TECHNICAL INFORMATION AND INDUSTRIAL PROPERTY

- 8.1 Any kind of technical and technological information and documentation as well as models and samples ("**Technical Information**") that Modula may communicate to or place at the disposal of the Contractor for the designing, experimentation, development or manufacture of the Work shall remain the sole property of Modula and may only be employed for manufacture of the Work indicated in the Order. The Contractor agrees to protect all the information received and to treat it with the maximum degree of confidentiality, agreeing not to divulge any details about the activities performed to others, except for those of its employees and consultants authorised in advance to receive them and for those third parties authorised in writing by Modula
- 8.2 For this purpose, the Contractor agrees to inform Modula in writing about any events that give rise to the communication of confidential information at least 15 (fifteen) days prior to the date of such communication. It remains understood, in the event of any such communication or otherwise, that the Contractor will take all precautions designed to minimise the adverse effects deriving from the communication concerned. The obligations arising under paragraph 8.1 above will continue to apply after termination of the Contract until the information concerned has fallen into the public domain for reasons independent of the conduct of the Contractor.
- 8.3 The information received remains the sole property of Modula and may be used by the Contractor solely for the performance of the Contract and related activities. The Contractor agrees, upon simple request from Modula communicated at any time and by any means, to return immediately to Modula any written information received.
- 8.4 With regard to such Technical Information, the Contractor even after the termination of the Contract shall:
  - (a) preserve the same with the maximum care and discretion and return it to Modula if so requested;
  - (b) mark the same as the property of Modula if this has not been already done by Modula;
  - (c) neither reproduce nor copy the same except insofar as this is expressly authorized by Modula, nor transmit or disclose the same until they become available to third parties otherwise than a result of Contractor's act or default;

- (d) not apply for the granting of a patent or other form of industrial property right; notwithstanding the above, if the Contractor obtains the grant of such patents, he shall assign them to Modula as sole owner;
  - (e) neither manufacture nor have manufactured and/or supply to third parties, for any reason whatsoever, whether directly or indirectly, products designed and manufactured through exploitation of the Technical Information;
  - (f) require and ensure compliance with the obligations arising out of this clause on the part of his employees, subcontractors or third parties co-operating with him provided always that has been authorized by Modula to disclose the Technical Information for the execution of the Order.
- 8.5 When proposing or agreeing to design and/or adapt for or to supply a Product to Modula, the Contractor must give Modula advance written notice if any and, where applicable, which industrial rights – relating or applicable to the Products concerned or to a part included within them – belong to Contractor or are used by the Contractor under license from third parties. Failure by the Contractor to provide such advance written notice will be understood as a waiver of such industrial rights belonging to the Contractor in relation to Modula and also to those contractors engaged by Modula, even after completion of the Order, to manufacture the Products on its behalf. Failure to provide such notice will also be understood as agreement to obtain for Modula and the other contractors mentioned, the authorization to use the industrial rights used by the Contractor under license from third parties.
- 8.6 The Contractor agrees not to utilize the information and industrial property rights belonging to Modula that have come to its attention for the manufacture of other products similar to those covered by the Order, unless prior written authorization has been obtained from Modula.
- 8.7 If, in connection with research, design, experimental or development work carried out in performance of the Order, the Contractor makes inventions, whether patentable or not, or develops intellectual property, it must inform Modula and make available to the latter all information and documentation necessary or useful for their production, at the same time granting to Modula a free, non-exclusive license for their production or reproduction (both directly and via third parties) and for their sale and use in Italy and abroad. If the invention subject to industrial ownership rights or the intellectual property subject to authorship rights applying to the Products has been obtained by the Contractor in an entirely independent manner, and not in connection with research, design, experimental or development work carried out in performance of the Order, and without drawing on the information, documentation or technical collaboration provided by Modula, the latter will pay fair remuneration as consideration for the license. The Contractor agrees, if requested by Modula, to apply for suitable protection for the invention in Italy and the principal foreign countries, or to allow Modula to do this in the name of and on behalf of the Contractor.
- 8.8 If the above work was performed by the Contractor at the specific request of Modula, the invention and the related industrial ownership rights, the drawings and in general the technical results and intellectual property obtained will be the exclusive property of Modula, on condition that the request was made by Modula in return for a fee.
- 8.9 The Contractor guarantees that the production, use and commercialization of the Products and the parts used in the manufacture of the Products do not involve breaching the industrial ownership rights of third parties, both in Italy and abroad, agreeing to settle promptly any claims made by third parties and, in any case, to hold free and protect Modula from such claims and all actions that may prevent the unrestricted production and sale of the Products. In all cases, the Contractor will hold Modula free from any responsibility and from any charges or claims made against it in relation to the use of patents, licenses, drawings, models, trademarks and other industrial ownership rights concerning the supplies, materials, installations, processes and means employed in the manufacture of the Products. In the event of disputes relating to such industrial ownership rights, the Contractor agrees to intervene and stand in place of Modula, if the latter is cited, guaranteeing Modula's defense and reimbursing all expenses and charges incurred by the latter.
- 8.10 If Modula is obliged to cease use of the Work as a consequence of the above ownership claims, the Contractor at its own expense must immediately guarantee for Modula, as an alternative, one of the following solutions:

- a) replace or modify the Work in order to avoid further disputes about usage rights, without prejudice to the requirement in all cases for performance to be equivalent to that of the original Products;
- b) take back the Work from Modula, returning the consideration paid.

It remains understood, in any case, that the Contractor will be liable to reimburse the losses incurred by Modula.

8.11 The Contractor agrees, if requested by Modula, to apply the Modula logo or other trademarks or distinctive signs belonging to Modula to the Work and to any spare parts, on the basis and in accordance with the instructions given by Modula. Such application may not under any circumstances be understood as a license to use the Modula logo. Accordingly, the Work marked as above may be supplied solely to Modula. Use of Modula's trademarks must cease whenever requested by Modula and, in any case, following the last supply envisaged in the Order.

#### Clause 9 INSURANCE

9.1 In addition to all the insurance policies required by the law (labour accident insurance, professional diseases, etc.) for all the personnel employed in the execution of the Work, the Contractor shall arrange with insurance companies approved by Modula all the insurance policies required to guarantee his employees, as well as those of Modula and of third parties against all damages that might be caused to them as a consequence of the fulfilment of the Order: *inter alia* the Contractor shall be required to stipulate a product liability insurance policy. The Contractor must contract with highest standing insurance companies, approved by Modula, suitable General and Product Liability (Third Parties Liability /Workers Liability /Product Liability) policies. The cover limit of such insurance policies (General e Product Liability) shall not be lower than Euro 3 million unless otherwise required by Modula.

9.2 The aforesaid policies shall remain in full force for the entire duration of the activity related to the Work, inspection included, and until final acceptance.

9.3 Upon simple request by Modula, the Contractor shall produce all the insurance policies mentioned in paragraph 9.1 above, certifying that they are still in force, it being understood that the existence of those policies cannot be construed as a limitation to the Contractor's liability provided for by the law or related to the Order. As a consequence, the Contractor shall be directly liable if damages exceed the maximum amounts covered by the insurance policies.

9.4 The Contractor shall keep Modula informed on modifications, suspension or termination of the said policies.

#### Clause 10 OBLIGATION TO INFORM

10.1 The Contractor has the obligation to inquire and consequently give prompt notice to Modula of all the facts and circumstances connected or related to the Work, including the consequences of works or supplies by third parties out of his responsibility, that may affect or hamper the proper and timely fulfilment of the Order.

10.2 Whenever the Contract, the law or circumstances require the co-operation by the Contractor to make the execution or continuation of the Work possible by other Modula contractors, the Contractor shall promptly and duly offer his cooperation.

#### Clause 11 REPRESENTATIVES OF THE CONTRACTOR

11.1 Upon acceptance of the Order, the Contractor shall appoint a duly empowered representative, who shall act as interface with Modula for all issues related to the fulfilment of the Order.

11.2 If the Work is carried out, totally or partially at Modula's premises or at the premises of a third party (e.g. Modula's customer) the Contractor shall propose Modula, upon acceptance of the Order, the appointment of his representative who shall act as Site Supervisor. Such Site Supervisor shall fulfil all the tasks, inspections, and bear all the responsibilities related to the Work management and execution, including the

technical, administrative and management activities in order to coordinate the site activities of the Contractor's personnel and as well as of Modula's or other contractors'. For this purpose, the Site Supervisor shall previously draw up a detailed work schedule and agree upon its implementation with the competent Modula and third party department where the Work is being carried out. The works shall therefore be coordinated with the other activities taking place at the same premises to guarantee the safety of the concerned workers.

- 11.3 More specifically, the Site Supervisor shall verify that the Work is carried out in compliance with the contractual provisions and that all the necessary measures be taken, according to the nature of the Work, based on experience and existing techniques along with the machining operations and activities carried out, to safeguard the physical integrity of the Contractor's employees. The Site Supervisor shall specifically ensure that all the measures be adopted and that all rules and regulations, currently in force or that may come into force, on hygiene, safety and accident-prevention be complied with.
- 11.4 The name of the proposed Site Supervisor is subject to the written approval of Modula, who shall also be entitled to request his replacement at any moment if, at its absolute discretion, the designated person does not meet the necessary requirements. In any case, the approval or request to replace the person shall not entail any responsibility for Modula and shall not relieve the Contractor from the responsibilities and liability deriving from the activity of his representative and his collaborators.
- 11.5 The person/s appointed by the Contractor and described in paragraphs 11.1 and 11.2 above must have the required technical competence and empowerment.
- 11.6 It is to be understood that possible limitations to the powers of the Contractor's employees in carrying out acts referred to the Work must be previously notified to Modula in writing. Otherwise all acts carried out by the Contractor's employees during the performance of the Contract (such as, by way of example, participating in meetings, signing of letters, minutes or documents, etc.) shall be considered as performed by duly empowered representatives.

#### Clause 12 SPECIFIC EQUIPMENT AND MATERIALS

- 12.1 The Contractor must use its own machinery and equipment to manufacture the Work, with duly calibrated and verified instruments for the performance of the planned checks. Such machinery and equipment must comply and be maintained at all times with the applicable healthy and safety laws. The Contractor shall make available to Modula all the relevant documentation, at Modula's request, in order to verify the compliance by the Contractor of the provisions contained herein. The Contractor shall give due evidence or the aforesaid calibrations upon Modula's request.
- 12.2 Any equipment (gauges, dies, drills, specific equipment, control equipment etc.) made available to the Contractor on an exceptional basis by Modula for the performance of the Order will remain the exclusive property of Modula. Use of such equipment is granted to the Contractor by Modula on a free loan basis. The equipment must be returned upon simple request from Modula, made at any time without need for explanation. The Contractor is responsible for damage to the equipment and its loss or destruction.
- 12.3 With regard to the equipment referred to in paragraph 3.2 above, the Contractor must:
- a) record it as the property of Modula;
  - b) arrange, if requested by Modula, for adequate insurance cover against the risks of fire, theft, vandalism, natural disaster, tampering and other insurable risks of loss or damage;
  - c) look after and use it with the maximum care and carry out routine maintenance at its own expense, without tampering with or modifying it, except to perform work relating to the improvement of the process/Product after receiving specific written authorisation for this from Modula;
  - d) report any necessary special repairs, replacements, modifications or refurbishment to Modula with the maximum urgency, so that Modula can decide what action to take, if any; the related expenses will be borne by Modula on condition that they were not incurred due to the negligence or other fault of the Contractor, in which case all expenses will be borne by the latter. Any Work faults or

- defects caused by defects in the equipment or materials supplied by Modula must be reported promptly by the Contractor, otherwise the Contractor will have sole responsibility for them;
- e) avoid transferring it away from the Contractor's factories, except to the extent agreed beforehand by Modula on a case-by-case basis;
  - f) follow persons authorised by Modula access during normal working hours to check on how they are stored and used, as well as on their condition avoid transferring it to third parties on whatever basis and avoid giving it in guarantee;
  - g) avoid using it or allowing it to be used for purposes other than the performance of the Order, even after termination of the related supply, and in any case avoid producing and/or transferring to third parties on whatever basis, directly or indirectly, for use in production or as spare parts, products designed or manufactured using it;
  - h) comply with the instructions given by Modula regarding its return, scrapping or retention for any supply of spare parts to Modula;
  - i) check the compliance with the health and safety laws;
  - j) use it in accordance with instruction and maintenance handbook;
  - k) ensure that the employees are qualified to use them for the effect of the Italian art.73 D.lgs. 81/2008;
  - l) at Modula's request, give a copy of training attestation about the employees.
- 12.4 In the event of improper use of the said equipment by the Contractor, Modula reserves the right to charge him with all such losses as may arise therefrom.
- 12.5 The provisions of paragraphs 12.2, 12.3 and 12.4 above shall also apply insofar as they are compatible to semifinished products and other materials belonging to Modula that it has placed at the disposal of the Contractor for or in relation to the execution of the Contract.
- 12.6 Any and all equipment specially developed and manufactured or used by the Contractor to make the Work will be used by the Contractor solely for the production of the Work. If the equipment manufactured or used by the Contractor to make the Work is its exclusive property, the Contractor hereby grants Modula an option to purchase such equipment at its residual cost after accumulated depreciation. This option will be exercised by Modula via a written request sent to the Contractor within 90 (ninety) days of termination of the supply relationship for whatever reason.
- 12.7 In the event of any early or other termination of the supply relationship, it is understood that the Contractor agrees to return at its expense the equipment made available by Modula or, if Modula exercises the option referred to in paragraph 12.6 above, to deliver the equipment to Modula carriage paid.

### **Clause 13 RELIABILITY, QUALITY AND CHECKS**

- 13.1 Even when the Work is carried out by the Contractor in accordance with the technical and technological documentation placed at his disposal by Modula, he is required to carry out and/or arrange for the carrying out of all tests and/or checks needed to determine the reliability and suitability of the Work for the use envisaged as well as its conformity to the provisions of the Italian and EU regulations and laws and those indicated by Modula or applicable to the Work. The results of the said tests and checks shall not be binding for Modula, which reserves the right to carry out its own checks and to approve the supply at its own absolute discretion.
- 13.2 The Contractor shall adopt and maintain production and checking means and processes capable of ensuring that the Work is at all times reliable and of appropriate quality and conforms to the technical requirements indicated by Modula (drawings, regulations, specifications, schedules, certified and/or registered samples, etc.). The Contractor shall also notify Modula of all technical innovations potentially capable of improving the quality and/or the characteristics of the Work, as well as of all technological innovations that might concern its quality.
- 13.3 If the Work is subject to Italian and/or foreign laws and regulations regarding safety, prevention of pollution etc. the Contractor shall prepare specific documentation relating to the certification and to the production

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processes in which it is shown, inter alia how, by whom and with what results the characteristics concerned were finally tested. The said documentation must be kept by the Contractor for at least fifteen (15) years and handed over to Modula at its request. In addition, since Modula is required by its customers to allow on their part checks and inspections of the methods of production and final test, the Contractor shall allow similar checks and inspections to be carried out at his own premises.

The Contractor shall impose similar obligations on his own subcontractors.

#### **Clause 14 WORK IN PROCESS INSPECTIONS**

14.1 Modula has free access to the Contractor's plant and to the premises where the Contractor or his subcontractors carry out any activity relevant to the Work, during normal working hours to verify whether the Work is duly carried out and according to the conditions set forth in the Order and in a perfect workmanlike manner. During such inspections, Modula might ask the Contractor to perform specific material tests or other specific tests to verify how the Work is being manufactured.

14.2 The Contractor, at his expense, shall make corrections and perform the reworking that Modula deems necessary to ensure that the Work is duly carried out in accordance with the Order and in a perfect workmanlike manner. Contractor should not comply to what set forth above, Modula shall have the right to perform or have the corrections and reworking performed by third parties at the Contractor's expense. In addition Modula shall have the right to terminate the Contract in compliance with section 2 of article 1662 of the Italian Civil Code.

14.3 In the cases indicated in paragraphs 14.1 and 14.2 above, the Work delivery terms shall not be postponed.

14.4 Modula's inspections however do not reduce or exempt the Contractor from duly carrying out the Work and comply with all the conditions set forth in the Contract and in the documents mentioned therein, and does not prevent Modula from claiming, on the occasion of the final acceptance tests of the Work, for defects or faults relevant to parts already inspected.

#### **Clause 15 DESIGN RESPONSABILITY AND PROPERTY- WORK MODIFICATIONS**

15.1 Whenever the Work has been designed, even partially, by the Contractor, he is fully responsible for the quality and technical accuracy of the design even if it has been approved by Modula.

15.2 The final overall drawings (including lay-out drawings, machine interconnections, etc., if applicable) must be sent to Modula in duplicate to receive its approval before manufacture start-up. In case of design modifications, they must be promptly updated and delivered to Modula for approval. If the design totally or partially developed by the Contractor needs corrections or additions to ensure that the Work is duly carried out and suitable for its final use, the Contractor must obtain the written approval of Modula and carry out the above mentioned corrections or additions at his own expense without being entitled to claim any additional compensation.

15.3 All the drawings and papers drawn up by the Contractor to perform the Work are the sole property of Modula and may not be subsequently used by the Contractor with the exception of those covered by the Contractor's or third party's prior patent rights. They must be promptly updated and delivered to Modula in their final version, by and not later than thirty (30) days from the acceptance date of the Work.

15.4 Whenever the design of the Work is supplied by Modula, the Contractor is required to give Modula written notice of any design modification necessary to duly carry out the Work and ensure it is suitable for its use. Design modifications shall also include the modifications deriving from modification of laws or uniform regulations coming into force in the time between the acceptance of the Order and the transfer of ownership of the Work. Unless prompt written notice of the required corrections or additions is sent to Modula, any faults or defects in the Work shall be fully under the Contractor's charge and responsibility. Modifications to the design or to the Work must be specify with written permission linked to the Order as at 15.6. below.

- 15.5 Notwithstanding the above, during the execution of the Work Modula shall have the right to provide further design elements for a better Work definition or for the correction of previous mistakes in which case the Contractor shall conform to such new elements without being entitled to any additional indemnity or compensation.
- 15.6 Modifications to the design or to the Work may be introduced by the Contractor only upon prior expressed written approval by Modula. The Contractor should introduce such modifications to the design or Work without previously informing Modula and obtaining the previous written approval, Modula shall have the right to require the Contractor to remove the modifications at his own expense and to reject any request for price variation related to the said modifications. In other case the modifications to the Works or project will be under the Contractor's charge.
- 15.7 Contractor must do the modifications ordered by Modula even if the amount of these modifications is higher of fifth of the global price but not higher of the half of the same.
- 15.8. Since the contract refers to a complete Work and modifications fall into the normal range of risks of the Contract, any other design or Work modifications shall be fully borne by the Contractor.
- 15.9. Modula may at any moment order qualitative and quantitative reductions in the Work. In that case the price shall be reduced in proportion to the part of Work not performed.
- 15.10 Whenever Modula requires modifications that determine both an increasing and reducing of the price, the relevant price shall be off-set accordingly.

**Clause 16 MATERIALS USED FOR THE EXECUTION OF THE WORK**

- 16.1 The materials supplied by the Contractor and used for the execution of the Work must be first-choice, first-quality, defect-free materials. The Contractor must carry out the appropriate tests and inspections at his expense to verify the suitability of the said materials. The Contractor shall also obtain at his expense and within the established time-limit, all the conformity statements and certifications stated in the applicable laws and regulations and must pass them on to Modula if so requested. Any delay in obtaining the documentation does not entitle the Contractor to any postponement in the execution of the Work.
- 16.2 Whenever the materials to be employed in the execution of the Work are fully or partially supplied by Modula, the Contractor shall check their perfect state at their receipt and promptly notify Modula any faults or defects. As a consequence, when the Contractor receives the above-mentioned materials, he takes all the responsibility relating to their defects, with the exception of design and manufacture defects that were not discovered by the Contractor in a diligent inspection.
- 16.3 Any delay in the delivery of materials by Modula does not entitle the Contractor to claim an increase of the compensation stated in the Contract, it only entitles the Contractor to be granted a corresponding postponement in the Work delivery terms.
- 16.4 At receipt on delivery of the materials the Contractor shall arrange for the identification, storage, care and preservation of the said materials and to introduce them in his stock accounting system (in-coming goods, out-going goods, returns, etc.). The Contractor shall, at his expense, refill the materials that for any reason might be missing or deteriorated, for any reason, and indemnify Modula for any loss incurred into due to loss or deterioration of such materials.
- 16.5 It is to be understood that no material supplied by Modula may be utilized for a different purpose than for the execution of the Work, nor may be transported outside the site of delivery without prior written authorization by Modula.

**Clause 17 COMPLETION, VERIFICATION AND TAKING-OVER TESTS - PENALTIES**

- 17.1 The whole Work, or if explicitly envisaged by the Contract, individual parts of the Work, must be completed, including all the relevant documentation (design documents, instruction manual, etc.) within the delivery terms and in the premises set forth in the Contract in order to proceed to the relevant verifications and final tests.
- 17.2 Whenever the verification of the tests are limited to individual parts of the Work, Modula shall be nonetheless entitled to make reservations or raise objections related to the parts already tested when they are submitted to final verification and tests.
- 17.3 The delivery dates and schedules specified in the Order are binding and essential and, with respect to these, no delays or early deliveries are allowed. Accordingly, Modula is authorized to return supplies received prior to the agreed dates at the Contractor's expense and risk, or to charge storage expenses to the latter.
- 17.4 The Contractor shall notify Modula in writing the beginning of the verification and taking-over tests operations with at least ten working days' notice prior to the completion term indicated in the paragraph 17.1 above. These operations may also be performed by independent inspectors appointed by Modula.
- 17.5 The Contractor shall do what is required to enable the inspector/s appointed by Modula to carry out the verifications and tests putting at their free disposal all means required (equipment, inspection tools, etc.) and giving the necessary cooperation.
- 17.6 The verification and tests expenses shall be fully borne by the Contractor with the exception of those related to the personnel appointed by Modula.
- 17.7 After the completion verification and taking-over tests operations of the Work (or in the above-mentioned case, of parts of the Work) a minute in 3 (three) copies shall be drawn up as a rule and the inspector appointed by Modula shall note down the presence of any defects, faults or deficiencies in the Work (indicating, where possible, both causes and remedies) and shall state a final date to carry out repairs, modifications, replacements, completion works or reworking to eliminate such defects, faults or deficiencies. This shall not prejudice Modula's right to terminate the Contract forthwith according to the provisions of article 1456 of the Italian Civil Code if the Work, both upon its verification and tests and subsequently during the warranty period, does not comply with the essential performance (cycle-time, product quality, etc.) set forth in the Order and the relevant specifications all without prejudice to Modula's right to reimbursement for any additional losses actually incurred.
- 17.8 The Contractor's comments or reservations shall be written down in the inspection minute or must be communicated to Modula in writing not later than 30 (thirty) days from the completion of the verification and tests operations. In the absence of any comments or reservations expressed according to the above-mentioned procedure, Modula's statements shall be regarded as accepted by the Contractor.
- 17.9 Final delivery of the Work (or part of the Work as stated in paragraph 17.2 above) shall take place when, after the verification and taking-over tests, Modula expressly confirms its acceptance in writing, even in the event of Modula expressing reservations. It is however understood that the Contractor shall completely eliminate any defects and/or deficiencies at his expense within the terms stated by Modula without prejudice of the provisions of paragraph 17.10 below.
- 17.10 Should the Work not be completed within the delivery date stated in the Contract or should Modula not accept the Work, Modula shall be entitled to state a new completion date and shall have the right to apply a penalty for late delivery equal to 0.3% of the overall Work price for each calendar day of delay having regard to the delivery terms set forth in the Order and to claim compensation for any greater loss, if applicable, unless pending works are only deemed to be minor works or finishing works.

- 17.11 As an alternative to the provisions of paragraph 17.10 above, Modula shall be entitled to terminate the Contract in compliance with clause 29 below, all without prejudice to Modula's right to reimbursement for any additional losses actually incurred.
- 17.12 Under no circumstances the Work shall be regarded as tacitly accepted by Modula, except when Modula, despite prior notice given by the Contractor in compliance with paragraph 17.4 above, without justified reasons did not carry out the Work verification and taking-over tests within 60 (sixty) days from the date stated by the Contractor.
- 17.13 In the event Modula detects any non-compliance with respect to health, safety and environmental laws, Modula shall have the right to apply any and all protection rules that, depending on the seriousness of the event, could trigger the removal of the Contractor and its personnel, agents and subcontractors, from the site, the application of penalties or liquidated damages, the termination of the Contract and the ban of the Contractor from the list of the qualified contractors. In addition Modula shall have the right to claim for the compensation of all suffered damages arising therefrom.
- 17.14 For the sake of clarity the provisions of the previous paragraphs shall also apply "*mutatis mutandis*" to any Contract concerning the performance of Services carried out by the Contractor pursuant to an Order issued by Modula.

#### Clause 18 DELIVERY TERMS AND MODALITIES

- 18.1 Marking, packaging, labeling, identification, shipment and transport operations must take place in accordance with Modula's instructions and the regulations applicable thereto. The Contractor shall be liable for any losses deriving from any delay, loss or harm caused by deficiencies in marking, packaging, labeling, identification, shipment and transport arising from failure to comply with the aforesaid instructions or regulations. In particular with respect to the carriage of goods, unless further provisions set forth in the Order or agreed upon between Modula and the Contractor, the Contractor shall insure the goods against all damages or accidents that could occur during the carriage of goods (e.g. theft, fire, damages, loss, etc.) with adequate insurance policy previously approved by Modula and shall only utilize those carriers that apply highest international standards prevailing in the market sector (i.e. transport means suitable for the carriage of the goods, theft protection systems, etc.) previously approved by Modula. The Contractor shall notify Modula in advance the names of the underwriters and of the carriers for approval.
- 18.2 The delivery terms and programs stated in the Order are binding and essential and neither postponements nor deliveries in advance are permitted. Modula shall thus be authorized to send back supplies received before the due time at the Contractor's risk and expense or charge him with the corresponding storage costs.

#### Clause 19 TRANSFER OF RISK

- 19.1 With the exception of force majeure, risks are transferred to Modula when the Work is delivered to Modula or to any third party defined by it if the Work has already been accepted or, if Modula is late in performing the verification and tests required for acceptance, the transfer occurs from the date Modula is put in suit, in compliance with the legislative requirements.
- 19.2 Despite the works completion, the Contractor remains responsible for the good preservation and perfect maintenance of the Work till the delivery date.
- 19.3 All commercial conditions agreed with regard to the transfer of risks will be interpreted by reference to the Contract is signed. If no specific conditions are agreed, the risks are transferred to Modula when delivery is made "duty paid" at the place indicated by Modula.

## Clause 20 WARRANTIES

- 20.1 The Contractor warrants the conformity of the Work to the provisions of the Order and to what indicated in the delivery documents in terms of quality and quantity.
- 20.2 The Contractor warrants that the Work is free from defects and complies with the Order and the rules and regulations applicable to the Work or notified by Modula. The Contractor also warrants the proper operation and duration of the Work till the end of the warranty period offered by Modula to his customers in its various markets. The warranty terms described in this paragraph or those agreed upon in the Contract shall start from the acceptance of the complete Work by Modula's final customer and, at all events, should not be longer than three years from Modula's date of acceptance of the Work.
- 20.3 If Modula discovers defects, non-conformity or non-operation, Modula shall be entitled:
- a) to require the Contractor to eliminate the faults or defects (more specifically, by way of example, to promptly free replace the defective parts) at the Contractor's expense;
  - b) to carry out directly or through third parties all activities required to eliminate faults and defects charging the Contractor a price corresponding to their price increased by 10%, or
  - c) to terminate the Contract if the Work is unsuitable for its use, in which case the provisions of paragraph 29.5 below shall be applicable.
- It is understood that Modula reserves the right to receive an indemnity for any greater loss incurred by it.
- 20.4 Whenever Modula discovers a fault or defect in a component repeatedly used in the Work, Modula may require the Contractor to replace all the other components at his expense.
- 20.5 In case the defects are eliminated directly by Modula, the cost of the operations carried out to eliminate the defect shall be calculated in accordance with Modula's invoicing rates.
- 20.6 With reference to the notification of faults and defects, Modula shall not be bound to comply with the terms stated in the second paragraph of article 1667 and 1670 of the Italian Civil Code. The Contractor undertakes to take all steps stated in Modula's claims but shall have the right to check at its own expense the validity of such claims at the places, in Italy and abroad, indicated by Modula.
- 20.7 Whenever the defect in the Work is due to defective material supplied to the Contractor by Modula, the Contractor shall be exempted from the obligations set out in the previous paragraphs only if the defect of the said material could not have been discovered by the Contractor by diligent test.
- 20.8 The Contractor undertakes not to put on the market but scrap returned defective or non-conforming components for which no additional rework and recovery for Modula has been agreed upon and Modula shall be fully free to inspect and check that this undertaking is complied with. Modula shall have the right to proceed with such scrapping on behalf of the Contractor and at his expense with the prior agreement with the Contractor concerning the relating modalities or if the Contractor fails to take all necessary steps for the prompt withdrawal of the defective parts.
- 20.9 In cases where claims have been advanced whether in the form of legal proceedings or otherwise against Modula alleging (i) its liability whether in contract or in tort (including product liability), or (ii) its violation of laws or regulation (concerning safety, pollution, etc.) or (iii) its breach of contractual obligations as a result of the defectiveness, nonconformity or unreliability of the Work, the Contractor shall hold harmless and indemnify Modula for any loss it may suffer. Modula shall promptly inform the Contractor as soon as it becomes aware that the alleged violation of a law or the claim for its liability is based on the defectiveness, non-conformity or non-operation of the Work or part of it supplied by the Contractor.
- 20.10 Where Modula undertakes a campaign for the remediation of its machineries to replace or repair components incorporated in the Work found to be defective, non-operating or not in conformity with the applicable regulations even if such defect, non-operation or non-conformity appear after the expiry of the

warranty period, the Contractor shall supply Modula free and without any charge to Modula such components as may be necessary for carrying on the said remediation campaign and shall reimburse Modula the cost of the disassembly and reassembly and remediation operations, provided the Contractor's responsibility is ascertained.

#### Clause 21 TRANSFER OF WARRANTIES

- 21.1 Modula is entitled to transfer to third parties, without the Contractor's consent, the warranties stated in the Contract and/or in these General Conditions of Works, and the legal warranties relating to the defects of the Work.
- 21.2 The transfer of warranties described in the previous paragraph shall take place by way of a simple written communication of the transferee's name by Modula.
- 21.3 Upon transfer of the warranties, the Contractor shall fulfil the obligations deriving from such warranties, directly to the transferee who shall be entitled to require the fulfilment of such obligations directly from the Contractor.
- 21.4 The transfer of warranties does not exempt the Contractor from the obligations deriving from the Contract or the law towards Modula.

#### Clause 22 SPARES

The Contractor agrees to supply Modula with spare parts for the Work for a period of 10 (ten) years from their delivery; such parts will be made using materials and technologies equal to or better than those used to execute the Work.

#### Clause 23 FORCE MAJEURE

- 23.1 If performance of the Contract is prevented by proven force majeure, being those events completely beyond the control of the Contractor (for example: natural disasters, riots, strikes – solely in a domestic context -, etc.), the Contractor must immediately send written notice to Modula by e-mail or fax, subsequently confirmed by registered letter with proof of receipt, about such events and must take all steps to limit their effects. In these cases, the delivery terms will be extended and the new dates will be established by the parties by mutual consent. Force majeure cannot be invoked if the event arises subsequent to the delivery date agreed. Delays for whatever reason by the Contractor's own contractors will never be deemed to be due to force majeure
- 23.2 If the force majeure event causes a delay of more than one forth of the delivery term stated in the Contract or even a shorter delay incompatible with Modula's engagements with its customers or its own production requirements, Modula shall be entitled to terminate the Contract, whether in whole or in part, by way of a simple written notice to the Contractor and to acquire the ownership of the part of Work already performed by the Contractor to the extent such part can be utilized by Modula. In this case, the provisions of paragraph 29 below shall apply.
- 23.3 Modula has no responsibility if natural disasters, strikes, fires, picketing or other circumstances beyond Modula's control prevent it from receiving the Work.

#### Clause 24 PROHIBITION TO SUSPEND THE WORKS FOR THE CONTRACTOR

- 24.1 The Contractor shall not be entitled to discontinue and/or slow down the Works for any reason whatsoever, even in case of disputes with Modula occurred during the term of the Contract.

24.2 If the Contractor fails to fulfill the obligations set forth in the previous paragraph, Modula shall be entitled to terminate the Contract forthwith according to provisions art. 1456 of Italian Civil Code by means of a simple written notice.

#### Clause 25 PRICE

25.1 The price of the Work indicated in the Order is net of taxes. The said price is an all-inclusive, global, fixed and final comprising all costs, charges and expenses for insurance, transport, irrespective of the customs clearance procedure, packaging, making up, unloading and maintenance until the moment of delivery.

25.2 The contractual price shall cover all the Contractor's deliveries, services, charges and obligations, even if these are not expressly listed or contemplated nor in any way charged to the Contractor in the contractual documents, required for the execution of the Work in a perfect workmanlike manner according to the agreed directions, modalities and times.

25.3 Increases (if any) in the price set forth in the Order shall only be due if deriving from modifications of the Work previously authorized by Modula in writing as set forth in article 15 above. In this case the Contractor shall prove that the said modifications, entailing a higher consideration, were not implied or, in any event, foreseeable when the Contractor submitted his offer.

25.4 With the acceptance of the Order the Contractor acknowledges that the price set forth in the Contract is a remunerative compensation which includes profits, uncertainties, costs, etc. related to the execution of the Work. Therefore the Contractor undertakes not to raise any objections, not to claim any compensation nor make any reservation in the future, to any title, not even in case of discontinuation of the Contract by Modula.

#### Clause 26 INVOICES, WAYBILLS AND PAYMENTS

26.1 Invoices must cover the individual Work or individual parts of the Work included in a single Order. They must show:

- the number and date of the Order, the position of the Order, the internal purchase request indicated in the Order, the delivery request, the Contractor's registered code and tax code references, the waybill and drawing (where applicable);
- the list of parts and components as shown in the waybills;
- the measurement unit. The unit indicated in the Order must be used on both the invoice and the waybill, and in special cases where this is not possible there must be a clear indication of the quantity referred to both measurement units and the relation between them.

26.2 The shipped Work, individual parts of the Work or components must be accompanied by the number of copies of the waybill requested by Modula. The waybill must contain the following information: name of the Contractor, part number/drawing, Contractor's registered code number, name of the Work or component, date of shipment, number and date of the Order and internal purchase request, destination warehouse number, quantity of the batch shipped, number of packages and all the other indications required by the Order. The waybill number must be composed of figures only with no strokes and not more than seven digits in length.

26.3 Payment will be made following the presentation of invoices issued on the basis established in the Order and presentation of the documents envisaged in paragraphs 26.1 and 26.2 above or those envisaged in the Order, where applicable, on condition that the right to such payment is already established on the date of issue of the related invoices. If not, the payment terms will commence from the end of the month during which the right to payment becomes established.

26.4 If the payment is subject to a work progress, the Contractor shall not be entitled to issue the relevant invoices before receiving Modula's written approval of relevant work progress. Should the invoiced amount

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not correspond to Modula's approved amount (or should the invoice be issued before Modula's written approval as above) Modula may reject the invoice.

- 26.5 Under no circumstances shall the fact that Modula does not raise objections to an invoice nor send it back be construed as approval of the same.
- 26.6 The payment terms will be agreed between the parties on a case-by-case basis and indicated in the Order.
- 26.7 If envisaged in the Order and to the extent indicated in the Order, a withholding may be made from the invoiced amount to guarantee proper performance by the Contractor of all contractual obligations. This withholding will be retained for the period agreed in the Order. As an alternative to the withholding, the Contractor may release a bank and/or insurance guarantee for the same amount in favour of Modula, collectible upon demand and given by a leading bank or insurance company approved by Modula; the text of such guarantee must be approved in advance by Modula. The interest allowed for early payment must be agreed in advance with Modula and deducted from the price of the Work.
- 26.8 Such sums as may be due to Modula from the Contractor by way of penalties or for any other reason shall also be withheld from any payment.
- 26.9 Modula shall have the right in case the Contractor fails to fulfil its obligations set forth in the Order and in the present General Conditions of Works to hold back payments that may have become due for earlier performances, even if not related to the Contract, as a guarantee against the consequences of the Contractor's failure to fulfil its contractual obligations and to offset such credits. Modula shall also have the right to hold back payments that may have become due for any performance related to the Contract as a guarantee against the consequences of the Contractor's failure to fulfil any other obligation also not in connection with the Order and to offset such credits.
- 26.10 Under no circumstances payment effected by Modula prior to the final taking-over test of the Work shall be regarded as tacit partial acceptance by Modula of the Work or of the checked quantities even if such payments determine a passing of ownership to Modula.
- 26.11 The Contractor cannot draw bills for the payment of the supplies. If such bills are drawn, they shall not be accepted and the Contractor shall be responsible for all losses arising from such non-acceptance.
- 26.12 In cases where the Work or its components are found to be faulty or defective, Modula shall be entitled to suspend the payments due to the Contractor, until the Contractor duly eliminates the said faults and defects.
- 26.13 Without prejudice to the provisions of the previous paragraphs in this article, any payment delays by Modula are understood to be subject to interest at a rate not exceeding the legal rate in force during the period of delay, determined pursuant to and for the effects of art. 1284 of the Italian Civil Code. The Contractor will have no right to reimbursement of the costs incurred for the recovery of unpaid amounts if a default letter has not been sent directly to Modula, by registered post with proof of receipt addressed to the manager of, and 30 (thirty) days have elapsed without satisfaction from the date of such default letter.

#### **Clause 27 WORK SUSPENSION**

- 27.1 The Contractor shall suspend the works or delay the delivery of the Work, bearing the full relevant expenses and charges, if Modula submits a justified written request (e.g. due to a rescheduling of Modula's final customer's programs and time schedule).
- 27.2 During the work suspension period, the Contractor remains responsible of the good conservation of the Work and must therefore ensure a perfect maintenance.
- 27.3 Modula shall ask for the resumption of the works or part of the works by giving the Contractor a written communication. The works must be resumed within the date reasonably set by Modula.



## Clause 28 DISCONTINUATION

- 28.1 Modula shall have the right, at its own absolute discretion, to discontinue the Contract at any time by giving the Contractor a written notice.
- 28.2 Discontinuation takes effect from the reception date of Modula's notice by the Contractor.
- 28.3 In this case, the Contractor shall be entitled to the payment of the works completed before the discontinuation notice at a price proportionate to the part of the Work actually completed as against the global price agreed upon for the entire Work and to the refunding of out-of-pocket expenses borne for the uncompleted part of the Work that must be documented. The Contractor shall be entitled to a higher compensation relevant to modifications of the Work only if they comply with the provisions of paragraph 15.7 above and if the Contractor submits the relevant documentation to support his request.
- 28.4 The advance payments that the Contractor may have already received in excess to the amount calculated in compliance with the previous paragraph must be immediately returned to Modula.
- 28.5 The part of the Work and all the materials not yet used by the Contractor but destined to the Work, shall become the property of Modula upon their payment.
- 28.6 Upon Modula's notice of discontinuity, the Contractor shall immediately cease any activity related to the Work and reduce to the minimum any cost or expense relevant to it. Within 30 (thirty) days from Modula's notice, the Contractor shall also submit Modula the detailed costs and expenses borne for the Work.

## Clause 29 TERMINATION

- 29.1 If the Contractor fails to exactly fulfil its obligations set forth in the Contract or in the present General Conditions of Works, Modula shall have the right to serve a written notice upon the Contractor by means of a registered letter with acknowledgement of receipt requiring to remedy such breach within no less than five (5) days. On the expiry of such term without the Contractor having remedied his breach the Contract shall be terminated forthwith.
- 29.2 In addition to what is agreed in other parts of these General Conditions of Works the Contract shall be automatically terminated according to the provisions of article 1456 of the Italian Civil Code by means of a simple written notice from Modula to this effect, in the event the Contractor fails to comply with his obligations under the following clauses and paragraphs of the present General Conditions of Works, namely clause 5 (Technical specifications), 6 (Contractor's Specific Obligations), 7 (Subcontracting), 8 (Technical information and industrial property), 13 (Reliability, quality and checks), 24 (Prohibition to suspend the works for the Contractor) and 37 (Organisational Model).
- 29.3 The Contract shall be terminated forthwith in accordance with the provisions of article 1353 of the Italian Civil Code without the need for any notification if there be filed against the Contractor proceedings in bankruptcy or if there be commenced other insolvency proceedings, sequestrations or seizures , or civil or criminal sentence pronounced against the Contractor's legal representatives that may affect his reputation or may hamper his activities, as well as in the event of the merger, winding-up or assignment by the Contractor of his activity/assets or any change in its corporate composition or in its ultimate ownership, except that in these last cases Modula may, subject to its having been previously informed, give its written consent to the continuation of the Contract. The Contractor undertakes to provide Modula with timely information concerning the occurrence of any of the above-mentioned events. The prior termination of any contractual relationship as a consequence of any of the circumstances envisaged in this paragraph shall not result in any liability of Modula towards the Contractor.
- 29.4 In case events, fact of circumstances occur that could show or evidence the possible inability or inadequacy of the Contractor to perform the Contract and to fulfill its obligations arising thereto (e.g. lack or delayed payments to employees, social security institutions, tax authorities, contractors, banks, overdue bills, enforcement procedures, foreclosure, withdrawal of licenses or authorizations, commencement of voluntary

liquidation procedures, etc.) Modula shall have the right to serve a written notice upon the Contractor requiring the Contractor to remedy such events, breach or situations (where such cases are capable of remedy) within no more than ten days of the date of the notice. On the expiry of such period without the Contractor having remedied the complains, Modula shall be entitled but not obliged to terminate the Contract at any time thereafter.

29.5 In the event of termination of the Contract as a result of the Contractor's breach of its obligations, in compliance with the provisions of the present General Conditions of Works or of the Contract or of the law, Modula will remain the owner of the part of the Work already completed by the Contractor and of the materials relevant to the Work already ordered by the Contractor at the time of termination, valued according to the Contract and of the relevant orders. The Contractor must immediately repay all amounts received from Modula as a total or partial payment of the unperformed part of the Works and of the materials not retained and acquired by Modula, increased by the weighted average of the three-month EURIBOR in force during the relevant term plus 4 basic points. Moreover the Contractor shall pay to Modula an amount equal to ten per cent (10%) of the price for the entire Work as a penalty/liquidated damages without prejudice to Modula's right to claim damages for any greater loss and to complete or have the Work completed (including the relevant documentation) by other contractors at Contractor's risks and expenses. The Contractor shall immediately deliver to Modula that portion of the Works already performed at the time of termination including all relevant materials.

29.6 As an alternative to paragraph 29.5 above, Modula shall have the right to release or return the Contractor that part of the Work and of the materials, that are not retained and acquired by Modula, the Contractor must immediately repay all amounts received from Modula as a total or partial payment of the Works returned to the Contractor, increased by the weighted average of the three-month EURIBOR in force during the relevant term plus 4 basic points. Moreover the Contractor shall pay to Modula an amount equal to ten per cent (10%) of the price for the entire Work as a penalty/liquidated damages without prejudice to Modula's right to claim damages for any greater loss. For the sake of clarity the part of the Work and the materials that Modula decides to return to the Contractor shall become Contractor's property and Contractor must take delivery of such goods within fifteen days of the date of Modula's notice. After such fifteen-day period all costs of storage shall be borne by the Contractor. In addition Modula shall have the right to proceed in accordance with the applicable Law including the judicial request to authorize the sale of the goods. In this latter case the sale's proceeds, less relevant expenses, shall be deposited and treated in accordance with the Law.

#### **Clause 30 NO ASSIGNMENT OF THE CONTRACT AND RELEVANT CREDITS**

30.1 The Contractor shall not be entitled to assign whether wholly or in part the Contract and/or its execution and/or credits arising therefrom unless previously authorized to do so by Modula in writing.

30.2 The Contractor expressly agrees that Modula may transfer the Contract with the Contractor to other companies within the Modula group pursuant to and for the effects of art. 1406 of the Italian Civil Code. "Companies within the Modula group" are defined as those companies directly or indirectly controlled by Modula S.p.A., where the concept of "control" is that established in art. 2359 of the Italian Civil Code.

#### **Clause 31 ADVERTISING**

Any advertising that makes reference to the supplies made to Modula must be authorised in advance by Modula in writing, on a case-by-case basis. In such cases, the Contractor agrees to comply with the form of advertising and all the other conditions that will be specified.

#### **Clause 32 TOLERANCE**

During the performance of the Contract, the tolerance of one of the parties with regard to the non-compliant behaviour of the other party with regard to one or more provisions contained in these General Conditions, or in the Contract, does not imply the waiver of the assertion of its rights at any time

### Clause 33 INVALIDITY

- 33.1 The provisions contained in these General Conditions are correlated with each other and indivisible.
- 33.2 If any individual clause contained in these General Conditions is void or invalid, this will not result in the other clauses or the Order becoming void or invalid. The parties agree to negotiate in good faith a replacement clause that maintains the balance of the Contract.

### Clause 34 NOTICES

All written communications between the parties must be sent, in the Italian language, to their respective registered offices at the time of signing the Contract or to any domicile elected for this purpose; failure to do this will result in the communication being deemed ineffective. In addition, all changes of domicile must be communicated to the other party in writing by registered letter with proof of receipt. This without prejudice to the right of the parties, in the situation envisaged in article 4.2 above, to make all communications relating to the Contract in the other ways agreed.

### Clause 35 APPLICABLE LAW AND COMPETENT JURISDICTION

- 35.1 The Order and the Contract shall be governed by Italian law.
- 35.2 The Modena Court will have exclusive jurisdiction over all disputes between Modula and the Contractor deriving from or connected with the interpretation and performance of the Order or the Contract, with the exclusion of all other competing jurisdictions.

### Clause 36 INFORMATION PROVIDED PURSUANT TO REGULATION (UE) 679/2016 (GDPR) AND D.LGS. N. 196/2003 "PRIVACY CODE"

- 36.1 In accordance with Regulation (UE) 679/2016 (GDPR) about the protection of personal data, the "privacy code" and any following modification, the parties acknowledge that no personal data will be processed according to the Contract.
- 36.2. If the Contractor becomes aware of any personal data he will refrain to do any activities about processing of personal data and he shall promptly inform Modula that as "owner of the data" will perform all the necessary steps required by the applicable law.
- 36.3. With respect to the processing of personal data concerning to representatives or agents, these data will be treated by the parties, in accordance with the GDPR 2016/2017 and the Italian Privacy Code.
- 36.4. These data will be used only for the purpose of performing the contract and the legal obligations.

### Clause 37 ORGANISATIONAL MODEL PURSUANT TO THE ITALIAN D.LGS 231/2001

- 37.1 The Contractor declares to be aware of the fact that Modula adopts the "**Organisational Model**" pursuant to the Italian D.lgs. 231/2001 and following amendments ("**Model**") and to have read the Ethical Code of Conduct ("**Code**") available on the web site ([www.modula.eu](http://www.modula.eu)) that constitutes integral part of the Model. The Contractor accepts the Code and agrees to behave according to the law and to the principles of the Code. The Contractor agrees to immediately inform the Modula Supervisory Board ("**Organismo di Vigilanza**") should he become aware of any behavior that could constitute a breach of the Code by the employees or representative of Modula.
- 37.2 Any breach of the obligations mentioned above shall constitute a serious breach of the Contract and Modula shall have the right to terminate the Contract with immediate effect according to the provisions of art. 1456 of the Italian Civil Code.

*This document contains an informal English translation of Modula's Condizioni Generali di Appalto. Therefore the Italian text is the only valid document. Should any discrepancy arise between the Italian version and the English one, the Italian version shall prevail.*

WE HAVE TAKEN NOTE AND HEREBY EXPRESS OUR ACCEPTANCE OF THE GENERAL CONDITIONS OF WORKS SET OUT ABOVE

THE CONTRACTOR

Stamp and signature

In particular, having read over their contents, we specifically approve in accordance with article 1341 of the Italian Civil Code the following clauses and paragraphs of the said General Conditions of Works: 2 (contractual documents, priority order and essential character of the terms), 3.3 (prohibition to take exceptions), 4 (conclusion of the Contract), 5 (technical specifications), 6 (Contractor's specific obligations with particular regard to the termination clause), 7 (subcontracting), 8 (technical information and industrial property with particular though not limited regard to the waiver of uncommunicated patents and to the obligation of the Contractor of holding Modula harmless against claims), 9 (insurance), 11 (representation of the Contractor), 13 (reliability, quality and checks), 14 (work in process inspections), 15 (design responsibility and property - work modifications with particular through not limited regard to the Contractor's compensation), 16 (materials used for the execution of the Work), 17 (completion, verification and taking-over tests - penalties with particular through not limited regard to the termination clause and to the prohibition for the Contractor to take exception), 18 (delivery terms and modalities), 19 (transfer of risk), 20 (warranties, with particular though not limited regard to the consequences of the existence of faults and defects in the Work), 21 (transfer of warranties), 24 (prohibition to suspend the works for the Contractor), 25 (price with particular through not limited regard to the prohibition for the Contractor to take exceptions), 26 (Payments with particular though not limited regard to Modula's authority to carry out offsets, suspensions and deductions), 27 (work suspension), 28 (discontinuation of Modula and compensation for the Contractor), 29 (termination with particular though not limited regard to termination clauses and conditions and to the option of purchase of the part of the Work already performed), 30 (no assignment of the Contract and relevant credits), 31 (advertising), 35 (applicable law and competent jurisdiction), 37 (Organizational model).

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