

## GAIN's TERMS AND CONDITIONS FOR THE SALE OF GOODS 2015

### 1 INTERPRETATION

1.1 **Definitions.** In these Conditions the following definitions apply:

**Business Day:** a day (other than a Saturday, Sunday or public holiday) when banks in Switzerland are open for business.

**Conditions:** the terms and conditions set out in this document together with the annexes appended hereto (as amended from time to time) and any other terms and conditions set out in the Accepted Quotation together with the schedules thereto.

**Customer:** the person or firm who purchases the Goods from the Supplier.

**Force Majeure Event:** has the meaning given in clause 14.5.

**Fortified Foods:** Foods that the Customer intends to produce using the Goods from the Supplier.

**GAIN Procurement Facility:** An initiative launched by the Supplier with the objective of improving access to affordable, quality certified vitamin and mineral premix and other inputs used in food fortification. The initiative offers a central procurement and certification service to its customers where the goods are competitively sourced across a group of suppliers who have been pre-qualified in terms of their manufacturing standards.

**Goods:** the Goods referred to in Schedule 1 of the Accepted Quotation.

**Loss:** Goods that have expired, deteriorated, been damaged or are missing, whether due to poor stock rotation, handling, shrinkage, damage or theft.

**Parties** and each a **Party:** the Customer and the Supplier.

**Accepted Quotation:** the contract entered into between the Customer and the Supplier for the sale and purchase of the Goods in accordance with these Conditions.

**Supplier:** Global Alliance For Improved Nutrition (an independent foundation registered under the laws of Switzerland and having its registered office at Rue de Varembé 7, CH-1202 Geneva, Switzerland).

1.2 **Construction.** In these Conditions, the following rules apply:

A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).

A reference to the **Parties** or a **Party** includes its personal representatives, authorised agents, successors or permitted assigns.

Any phrase introduced by the terms **including, include, in particular** or any similar expression shall be construed as illustrative and shall not limit the sense

of the words preceding those terms.

A reference to **writing** or **written** includes faxes, letters and e-mails.

## 2 BASIS OF CONTRACT

- 2.1 These Conditions shall be incorporated into and shall supplement the terms of the Accepted Quotation and shall apply to the Accepted Quotation to the exclusion of any other terms that are implied by trade, custom, practice or course dealing.
- 2.2 The Accepted Quotation shall include the following information as agreed between the Parties:
- 2.2.1 the date on which the contract for the purchase of the Goods by the Customer from the Supplier is deemed effective (the "**Date of Issue**");
  - 2.2.2 the specific quotation number;
  - 2.2.3 details of the location to which the Goods are to be delivered and received by the Customer (the "**Delivery Location and Address**");
  - 2.2.4 the terms of delivery;
  - 2.2.5 the estimated delivery date (the "**Delivery Date**");
  - 2.2.6 the type and specifications of the Goods, as found at Schedule 1 to the Accepted Quotation, that shall be supplied by the Supplier to the Customer (the "**Specification**");
  - 2.2.7 the method of transportation of the Goods;
  - 2.2.8 the quantity of Goods;
  - 2.2.9 the total net price of the Goods per unit (the "**Unit Price**");
  - 2.2.10 the net price of the Goods and the currency in which the Goods shall be paid for by the Customer (the "**Net Price**");
  - 2.2.11 the cost of transporting the Goods necessary to bring the Goods to the Delivery Location and Address which includes all delivery costs, fees, duties and charges (the "**Transportation Costs**");
  - 2.2.12 the cost of insurance against the risk of loss of or damage to the Goods during carriage (the "**Insurance Costs**");
  - 2.2.13 the terms and conditions incorporated into the Accepted Quotation, which shall be these Conditions; and
  - 2.2.14 any terms and conditions incorporated into the Accepted Quotation in addition to these Conditions ("**Additional Conditions**").
- 2.3 The Customer is responsible for ensuring that any Goods supplied by the Supplier comply fully with all applicable statutory and regulatory requirements in

the Customer's country or the country where the Goods are to be consigned or used.

- 2.4 These Conditions shall only be deemed to come into existence on the Date of Issue, or to the extent that no Date of Issue is specified, on the date the Customer applies its signature to the Accepted Quotation.

### 3 **THE SUPPLY OF THE GOODS**

- 3.1 The Supplier shall supply the Goods to the Customer in accordance with these Conditions.

### 4 **DELIVERY OF THE GOODS**

- 4.1 The terms of delivery as set out in the Accepted Quotation shall be based on the international sales terms published in 2010 by the International Chamber of Commerce, as may be subsequently revised (the "**Incoterms**").

- 4.2 Where there is a conflict between the terms of delivery as set out in the Accepted Quotation and the express provisions of these Conditions, the terms of delivery set out in the Accepted Quotation shall prevail.

- 4.3 The Supplier reserves the right to deliver the Goods conforming to the manufacturer's specification prevailing at the time of delivery provided always that any change in the Specification does not affect the Net Price, delivery, quantity, performance or inter-changeability of the Goods.

- 4.4 The Customer may request at any time prior to delivery that the delivery date, quantity or Specification of the Goods be revised, but any revision shall be at the sole discretion of the Supplier and must be confirmed in writing by the Parties.

- 4.5 The Supplier reserves the right to amend the Specification if required by any applicable statutory or regulatory requirements.

- 4.6 The Delivery Date is an estimate only and time of delivery is not of the essence.

- 4.7 Delivery of the Goods shall be completed upon the Customer accepting delivery of the Goods at the Delivery Location and Address. If the Customer fails to accept delivery of the Goods within 3 (three) Business Days of receiving notice that the Goods are ready for delivery, then:

- 4.7.1 delivery of the Goods shall be deemed to have been completed at 9.00 am on the 3<sup>rd</sup> (third) Business Day after the day on which the Customer received notice that the Goods were ready for delivery; and

- 4.7.2 the Supplier may store the Goods until the customer accepts delivery of the Goods, and charge the Customer for all related costs and expenses (including insurance).

- 4.8 If the Customer fails to accept delivery of the Goods within 10 (ten) Business Days of receiving notice that the Goods are ready for delivery, the Supplier may resell or otherwise dispose of part or all of the Goods, and:
- 4.8.1 if the Customer is yet to pay for the Goods, the Supplier shall keep the entire proceeds of the sale (if any), and after deducting reasonable storage, disposal and selling costs, charge the Customer for any shortfall below the Net Price of the Goods; or
  - 4.8.2 if the Customer has paid for the Goods, the Supplier shall, after deducting reasonable storage, disposal and selling costs, account to the Customer for any excess over the Net Price of the Goods.
- 4.9 Following acceptance of the delivery of the Goods, the Customer shall:
- 4.9.1 if required, contract with a clearing agent to arrange clearance and payment of any port handling charges, duties and taxes;
  - 4.9.2 arrange on-carriage as is necessary to the Customer's warehouse (or the warehouse of a third party nominated by the Customer) from the Delivery Location and Address;
  - 4.9.3 arrange for an import licence to be issued as is necessary;
  - 4.9.4 promptly check that the Goods conform with the terms set out in the Accepted Quotation, including, but not limited to, conformity to the Specification;
  - 4.9.5 notify the Supplier in writing within 7 (seven) Business Days of delivery of the Goods if the Goods are proven to not conform to the terms set out in the Accepted Quotation; and
  - 4.9.6 include in any notice under clause 4.9.5 full details of the extent to which the Goods are proven not to conform.
- 4.10 On receipt of a written notice under clause 4.9.5, the Supplier shall investigate the alleged non-conformity of the Goods and, if appropriate and at its option, procure such replacement Goods as is deemed necessary by the Supplier free of charge and as soon as reasonably practicable. These Conditions shall apply to any replacement Goods supplied by the Supplier.
- 4.11 If the Customer fails to provide the Supplier with a written notice in accordance with clause 4.9.5 above, or makes use of the Goods after giving such notice:
- 4.11.1 any Goods which do not conform to the terms agreed between the Parties shall count as Loss; and
  - 4.11.2 the Customer shall be deemed to have waived any and all rights to the replacement of such Goods and/or to bring any and all claims in respect of such Goods.

## 5 **PRICE**

- 5.1 The Net Price for the Goods as agreed between the Customer and the Supplier shall be set out in the Accepted Quotation.
- 5.2 The Supplier may, by giving notice to the Customer at any time before delivery, increase the Net Price of the Goods to reflect any increase in the costs of the Goods that is due to:
- 5.2.1 any factor beyond the Supplier's control (including any applicable statutory or regulatory requirements, foreign exchange fluctuations, increases in taxes and duties, an increase in labour, materials and other manufacturing costs); and
  - 5.2.2 any request by the Customer to change the Delivery Date, quantity, type or Specification of the Goods.
- 5.3 The Net Price of the Goods shall be exclusive of:
- 5.3.1 the cost of the inspection and testing of the Goods prior to delivery. The Party responsible for these costs shall be determined by the Incoterm governing delivery. To the extent that the Incoterm is silent in respect of allocating these costs (or part thereof), these costs shall be for the Customer's account;
  - 5.3.2 the Transportation Costs. The Party responsible for these costs shall be determined by the Incoterm governing delivery. To the extent that the relevant Incoterm is silent in respect of allocating these costs (or part thereof), these costs shall be for the Customer's account;
  - 5.3.3 the Insurance Costs. The Party responsible for these costs shall be determined by the Incoterm governing delivery. To the extent that the relevant Incoterm is silent in respect of allocating these costs (or part thereof), these costs shall be for the Customer's account;
  - 5.3.4 all costs occurring after the Goods have been delivered or deemed delivered in accordance with clause 4.7 above, including (i) the cost of contracting with a clearing agent to arrange clearance and payment of any port handling charges, duties and taxes, (ii) the cost of arranging on-carriage as is necessary to the Customer's warehouse (or the warehouse of a third party nominated by the Customer) from the Delivery Location and Address, and (iii) the cost of arranging for an import licence to be issued if required. These costs shall be for the Customer's account; and
  - 5.3.5 any amounts in respect of value added tax (VAT). The Customer shall, on receipt of a valid VAT invoice from the Supplier, pay to the Supplier such additional amounts in respect of VAT as are chargeable on the supply of the Goods.

## 6 PAYMENT

- 6.1 The Supplier may invoice the Customer for the Goods on or at any time after dispatch of the Goods.
- 6.2 The Customer shall pay the invoice in full and in cleared funds within the time specified in the 'Payment Terms' section of the invoice. Payment should be made to the bank account nominated in the invoice by the Supplier. Time of payment is of the essence.
- 6.3 If the Customer disputes any invoice, the Customer shall notify the Supplier in writing within 10 (ten) Business Days of the date of the Invoice. If the Customer fails to notify the Supplier within this time, it shall be deemed to accept both the amount of and the terms specified in the invoice.
- 6.4 If the Supplier receives notice in writing that the Customer disputes the invoice within 10 (ten) Business Days of the date of the invoice, the Parties shall negotiate in good faith to resolve the dispute promptly. Whilst the dispute is on-going, the Supplier may cease or suspend all further delivery of goods under any and all accepted quotations entered into by the Parties.
- 6.5 If the Parties have not resolved the dispute within 30 (thirty) Business Days of the Customer giving notice to the Supplier and the sum due still remains outstanding, the Supplier may assert its rights under and act in accordance with clause 9 below and seek any other remedy as may be necessary.
- 6.6 The Customer shall pay the amounts due under all invoices, including the final invoice referred to at clause 9.1.2 below, without any set-off, counterclaim, deduction or withholding (except for any deduction or withholding required by law). The Supplier may at any time, without limiting any other rights or remedies it may have, set off any amount owing to it by the Customer against any amount payable by the Supplier to the Customer.

## 7 RISK

- 7.1 Risk in the Goods shall pass to the Customer when the Goods are delivered or deemed delivered in accordance with clause 4.7 above.
- 7.2 Once delivered or deemed delivered, the Customer shall be solely responsible for the Goods and liable for any and all Loss and any and all costs incurred in respect of the same.

## 8 TITLE

- 8.1 Title to the Goods shall not pass to the Customer until all monies owing by the Customer in respect of the Goods have been paid in full (in cash or cleared funds) and received by the Supplier.
- 8.2 Following delivery or deemed delivery of the Goods and until title to the Goods has passed to the Customer, the Customer shall:
- 8.2.1 without limiting clause 14.14 below, take out an insurance policy for and against all risks associated with the Goods:

- (a) for the Net Price of the Goods from the date the Goods are delivered or deemed delivered in accordance with clause 4.7 above;
- (b) with an insurer that is reasonably acceptable to the Supplier;
- (c) on behalf of both the Customer and the Supplier; and
- (d) with an aggregate annual limit of not less than the value of the Goods.

8.2.2 allow the Supplier to inspect both the Goods and the insurance policy in respect of the Goods.

## 9 BREACH OF THESE CONDITIONS

9.1 In the event that the Customer (i) fails to pay for the Goods pursuant to clause 6 of these Conditions, (ii) commits a breach of any other obligation under these Conditions and fails to cure such breach within 60 (sixty) Business Days of receipt of a written request from the Supplier to do so, (iii) ceases to carry on all or a substantial part of its business or its normal operations, is wound up, enters into reorganisation, liquidation, or arrangement proceedings or has a receiver, administrator, liquidator or other similar officer appointed over or in respect of all or any part of its assets or undertaking, (iv) enters into a financial situation which in the Supplier's opinion places the Customer's capability to adequately fulfil its obligations under the these Conditions in jeopardy; (v) is subject to the action of a creditor or encumbrancer whereby the whole or any part of its assets are attached or taken possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against the same, and such attachment or process is not discharged within 14 (fourteen) Business days; or (vi) fails to perform an obligation where performance has been delayed by more than 30 (thirty) Business Days due to any Force Majeure Event(s), as defined in clause 14.5 below ((i), (ii), (iii), (iv), (v) and (vi) together referred to as the "**Breach**" below):

9.1.1 the Supplier shall have the right to issue a demand for the return to the Supplier (or to a third party as directed by the Supplier) of all materials, any Intellectual Property and any Confidential Information, howsoever stored or supplied in connection with an Accepted Quotation (including all copies) and the Customer shall comply with this demand promptly and no later than within 7 (seven) Business Days of the date of the demand;

9.1.2 the Supplier shall have the right to issue a final invoice to the Customer for the full amount of the Goods delivered and not paid for as at the date of the Breach together with (i) any costs and expenditure incurred by the Supplier arising from the Breach, and (ii) interest that has accrued on the overdue amount since the date of the Breach at a rate of 4% per annum above the Bank of England's Bank rate, US Federal Reserve's federal funds rate, the European Central Bank's variable rate or the equivalent official rate as determined by the appropriate central bank for other currencies, and the Customer shall make full payment to the Supplier within 30 (thirty) Business Days of the date of the invoice. This interest shall continue to accrue on a

daily basis from the date of the final invoice until actual payment of the overdue amount, whether before or after judgement;

9.1.3 the Supplier shall have the right to enter the premises and the warehouses of the Customer or of any third party where the Goods are stored and recover all unpaid Goods in the Customer's control or possession and/or require the Customer to promptly return any unpaid Goods in its control or possession to the Supplier (or to a third party as directed by the Supplier) by such date as directed by the Supplier; and

9.1.4 The Supplier shall have the right to indefinitely cease or suspend all further delivery of goods under any and all accepted quotations entered into by the Parties.

## 10 INTELLECTUAL PROPERTY, CONFIDENTIALITY AND COMMUNICATIONS

10.1 Each Party shall retain ownership and/or control of its name and logo and any concepts, know-how, tools, frameworks and intellectual property ("**Intellectual Property**") which are proprietary to it or which are developed outside of the Accepted Quotation.

10.2 Except as otherwise stated in the these Conditions, nothing in these Conditions shall grant a Party any right, title or interest in the Intellectual Property of the other Party.

10.3 Each Party shall at all times keep strictly confidential and shall not disclose the terms of the Accepted Quotation nor any confidential information which it may acquire in the course of the performance of the Accepted Quotation or in relation to the activities or affairs of the other Party ("**Confidential Information**"). This clause does not apply to information that is (i) already in the public domain, or (ii) that is required to be disclosed by law.

10.4 The Customer shall not advertise or publicise its association with the Supplier, nor may the name, emblem, or logo of the Supplier or of the GAIN Procurement Facility be used, published or otherwise exploited without the Supplier's prior written approval.

## 11 REPRESENTATIONS AND WARRANTIES

11.1 The Customer represents and warrants that:

11.1.1 it has full right, power and authority to enter into the Accepted Quotation and to perform its obligations under the Accepted Quotation and has not entered into any arrangement which in any way conflicts with these Conditions or inhibits, restricts or impairs its ability to perform its obligations under the Accepted Quotation;

11.1.2 its execution, delivery and performance of the Accepted Quotation have been duly authorized by all requisite corporate action;

11.1.3 the Accepted Quotation has been duly executed and delivered by it and is a valid and binding obligation on it, enforceable against it in accordance with its terms;



- 11.1.4 the execution of the Accepted Quotation and the performance of its obligations do not and will not violate any agreement to which it is a party or by which it is bound;
- 11.1.5 it will undertake its responsibilities and obligations under the Accepted Quotation with due diligence and in compliance with the approved process as agreed in these Conditions, and execute them in a workmanlike manner, in accordance with the practices and professional standards used by internationally recognised leaders and applicable acts, laws, by-laws, rules and regulations;
- 11.1.6 it shall use adequate numbers of qualified individuals with suitable training, education, experience and skills to provide or procure for the obligations under the Accepted Quotation;
- 11.1.7 it shall use reasonable efforts to perform its responsibilities under the Accepted Quotation in a manner that does not infringe, or constitute an infringement or misappropriation of intellectual property rights or proprietary rights of any third party;
- 11.1.8 to the best of its knowledge, it has not violated and will not violate any applicable acts, laws, by-laws, rules and regulations applicable to the provisions of these Conditions;
- 11.1.9 it will not use the Supplier's name and logo or that of the GAIN Procurement Facility without the express permission of the Supplier. At no time, will such logos or names be used in a manner that is harmful to the reputation of the Supplier or otherwise affects the ownership of the Supplier's Intellectual Property, subject to any licence expressly granted by the Supplier; and
- 11.1.10 it is not entitled to claim for itself or for any of its assets, immunity from suit, execution, attachment or other proceedings in any jurisdiction in connection with the Accepted Quotation. To the extent it may have any such claim for immunity in any relevant jurisdiction, it agrees to waive such claim, to the fullest extent permitted by law.

## 12 **ACKNOWLEDGMENTS, LIABILITIES AND INDEMNITIES**

- 12.1 The liability of the Supplier, its agents, contractors, officers, directors and employees and any related funding agencies (the "**Indemnified Parties**") under or in connection with the Accepted Quotation, whether arising in contract, tort (including negligence) or restitution, or for breach of statutory duty or misrepresentation, or otherwise, shall in no circumstances exceed the lesser of (a) the Net Price of the Goods as set out in the Accepted Quotation, or (b) Euro 100,000, and the Customer shall fully indemnify and hold harmless the Indemnified Parties from and against any and all damages, costs, losses, fees, expenses, liabilities, charges, claims, suites, actions, judgments and any other expenses whatsoever, (including reasonable legal and attorney fees) exceeding such sum.
- 12.2 The Indemnified Parties shall not be liable to the Customer or to any third party for any loss including lost revenue, damages, penalties or other costs suffered

due to (a) late delivery of the Goods, (b) an absence of stock where the Supplier is unable or chooses not to procure adequate levels of Goods to meet the Customer's requirements, or (c) a Force Majeure Event(s), as defined in 14.5 below.

- 12.3 The Indemnified Parties shall not be liable for any demurrage or detention charges incurred in respect of any delivery of Goods and the Customer shall indemnify the Indemnified Parties against any such demurrage and detention charges.
- 12.4 All express or implied conditions, representations and warranties, including without limitation any implied warranties or conditions as to fitness for purpose, are excluded to the fullest extent permitted by law.
- 12.5 If the Customer contracts with third parties and these contracts are entered into by the Customer for the purpose of the Accepted Quotation or in any way relate to the performance of the Accepted Quotation, the Customer shall:
- 12.5.1 be solely liable for the proper performance of all of their obligations under the Accepted Quotation;
  - 12.5.2 be solely liable for all actions of the third parties which render the Customer in breach of its obligations under the Accepted Quotation;
  - 12.5.3 ensure that any third party contracts contain a provision whereby the third party or third parties agree to exempt the Indemnified Parties from any liability under those contracts; and
  - 12.5.4 ensure that the terms of any third party contracts are in compliance with these Conditions.
- 12.6 The Customer shall fully indemnify and hold harmless the Indemnified Parties from and against any and all damages, costs, losses, fees, expenses, liabilities, charges, claims, suites, actions, judgments and any other expenses whatsoever, (including reasonable legal and attorney fees) arising out of, or in any way connected with:
- 12.6.1 any late delivery of the Goods;
  - 12.6.2 any acts or omissions of the Customer in relation to, or arising out of, the rights or obligations of the Accepted Quotation;
  - 12.6.3 any Loss after the Goods are delivered or are deemed delivered in accordance with clause 4.7 above.
  - 12.6.4 any defects in the Goods, which arise as a result of the Supplier complying with the Specification;
  - 12.6.5 any and all alterations made to the Goods by the Customer and/or the Supplier for whatever purpose including for the purpose of complying with applicable statutory or regulatory requirements;
  - 12.6.6 the distribution, supply, delivery and/or storage of the Goods under the Customer's control or possession or for which the Customer is responsible;

- 12.6.7 the Fortified Foods and/or the production process used to create the Fortified Foods;
  - 12.6.8 any actual or alleged infringement of a third party's intellectual property rights arising out of or in connection to the Supplier's use of the Specification;
  - 12.6.9 loss of or damage to property for which the Customer is responsible;
  - 12.6.10 personal injury or death; or
  - 12.6.11 the Breach or any other breach of these Conditions by the Customer.
- 12.7 Neither Party will be liable to the other Party for any lost profits or any indirect, consequential, incidental, punitive or special damages suffered in connection with the Accepted Quotation.
- 12.8 If the Customer can prove that the Goods do not conform with the terms agreed between the Parties or the Supplier fails to deliver the Goods, the Supplier's liability shall be limited to the costs and expenses incurred by the Supplier in obtaining replacement goods of similar description and quality in the cheapest market available, less the Net Price of the Goods.

### 13 GOVERNING LAW AND JURISDICTION

- 13.1 The Parties agree that any disputes between the Parties shall in the first instance be resolved in good faith by the designated representatives of the Parties. If the matter remains unresolved, clause 13.2 below shall apply.
- 13.2 The Accepted Quotation and any non-contractual obligations arising out of, relating to or having any connection with the Accepted Quotation, its performance or any breach thereof, are governed by Swiss law. Any dispute, claim, difference or controversy arising out of, relating to or having any connection with the Accepted Quotation, including any dispute involving any non-contractual obligations or any question regarding the Accepted Quotation's existence, its validity, interpretation, performance, termination, or any breach thereof, shall unless settled amicably by direct negotiation under clause 13.1 be referred to and finally resolved exclusively by arbitration at the request of either Party, under the Swiss rules of International Arbitration of the Swiss Chambers of Commerce. The legal place of arbitration shall be Geneva, Switzerland. The language of the arbitral proceedings shall be English. All documents submitted in connection with the proceedings shall be in English or if in another language, accompanied by an English translation.

### 14 GENERAL PROVISIONS

- 14.1 **Non-exclusivity:** The Parties understand and agree that each Party may enter into and/or carry on activities similar to the Accepted Quotation in the same country or other parts of the world, independently or in partnership with each other or with different partners, provided that such activities do not violate these Conditions. Without limiting the preceding provisions of this clause [14.1], the

Customer agrees that it is not the sole recipient of the Goods and other third parties may from time to time procure goods from the Supplier and distribute them in the same country as the Customer or any other country or worldwide.

- 14.2 **Notices:** Any formal notice required to be given under these Conditions shall be transmitted in writing by prepaid registered mail and shall be addressed to the contact persons as provided in the Accepted Quotation. Other correspondence regarding the operations or the implementation of the Accepted Quotation shall be sent by email to the email addresses provided in the Accepted Quotation.
- 14.2.1 Notices or other communications shall be deemed to have been duly given or made under this Agreement: (a) if sent by prepaid registered mail, on the 5<sup>th</sup> (fifth) Business Day after the date of posting; and (b) if sent by email, on the next Business Day following transmission.
- 14.2.2 The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.
- 14.3 **Entire Agreement:** These Conditions constitute the entire agreement and supersedes any prior oral or written agreements or communications between the Parties. Each Party agrees that in entering the Accepted Quotation it does not rely on, and will have no remedy in respect of any statement, representation, warranty or understanding (whether negligently or innocently made) of any person (whether party to the Accepted Quotation or not) other than expressly set out in these Conditions.
- 14.4 **Amendment:** No modification of or change in these Conditions or waiver of any of its provisions or additional contractual provisions shall be valid or enforceable unless previously approved in writing by the Parties either within the "Additional Conditions" section of the Accepted Quotation or in the form of an amendment to the Accepted Quotation duly signed by the Parties.
- 14.5 **Force Majeure:** Delays in or failure of performance by a Party under the Accepted Quotation shall not constitute a default under the Accepted Quotation or give rise to any claim for damages if and to the extent caused by occurrences beyond the control of the Party affected, including, but not limited to, decrees of Government, acts of God, strikes or other concerted acts of workers, inability to procure materials or labour, fires, floods, explosions, riots, war, rebellion, sabotage and atomic or nuclear incidents ("**Force Majeure Event(s)**").
- 14.6 **Independence of the Parties:** The Accepted Quotation shall in no way be construed as creating the relationship of principal and agent, of partnership in law or of joint venture as between the Parties. A Party may not bind the other Party in contracts with third parties nor make promises and/or representations on behalf of the other Party without the signed written consent of the other Party. Employees and agents of one Party are not for any purpose employees or agents of the other Party. No Party owes the other Party or any third party any compensation for performing the actions contemplated by the Accepted Quotation, except as expressly stated in the Accepted Quotation.
- 14.7 **Conflict of Interest:** If any Party to the Accepted Quotation has knowledge or becomes aware of any actual, apparent or potential conflict between the

financial interests of any person affiliated with such Party, or the other Party to the Accepted Quotation, and that Party's duties with respect to the Accepted Quotation, the Party shall immediately disclose the actual, apparent or potential conflict of interest directly to the other Party.

- 14.8 **Anti-Corruption:** Neither Party may offer a third person nor seek, accept or be promised directly or indirectly for itself or for another person or entity any gift or benefit that would or could be construed as an illegal or corrupt practice.
- 14.9 **No Waiver:** No delay in exercising any right or remedy under the Accepted Quotation will be construed as a waiver of such right or remedy. The rights and remedies provided in these Conditions are cumulative and are not exclusive of any rights or remedies provided by law.
- 14.10 **Further Assurance:** Each Party shall promptly do all such acts or things or enter into any documentation reasonably required to assist the other Party in fulfilling its obligations under and to give effect to the provisions of the Accepted Quotation.
- 14.11 **Assignment:** No Party may assign, sublicense or otherwise dispose of any of its rights or obligations under the Accepted Quotation without the prior written consent of the other Party. These Conditions are binding on and inure to the benefit of each Party, its successors and assigns.
- 14.12 **Third Party Rights:** An entity that is not a party to the Accepted Quotation shall not have any rights to enforce these Conditions.
- 14.13 **Invalidity, Illegality & Unenforceability:** If any provision of these Conditions is determined to be invalid, illegal or unenforceable, such provision shall not affect the validity, legality or enforceability of these Conditions but shall be severed from these Conditions and the remaining provisions of these Conditions shall continue in full force and effect.
- 14.14 **Insurance:** Unless otherwise stated in these Conditions, each Party is solely responsible for effecting and maintaining at all times all necessary and appropriate insurances as may be prudent or as may be required including at law in connection with the performance of the Accepted Quotation with a reputable insurance underwriter, including appropriate insurances covering accident and illness, social schemes and taxes that may be required for it or its staff and/or associates according to applicable national law.