



# **CMS GENERAL TERMS AND CONDITIONS OF PURCHASE (CMS GTC of PURCHASE)**

## **CMS-L1-LEG-PRO-0045**

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**1.0 DEFINITIONS**

- 1.1 'PRODUCTS' shall mean the goods (materials, equipment, items, etc.) and services (works) which are to be provided by the SUPPLIER to the PURCHASER in accordance with the PURCHASE ORDER.
- 1.2 'PURCHASE ORDER' shall mean the contract formed by the acceptance of the PURCHASE ORDER and shall incorporate the written Terms and Conditions on the face of the PURCHASE ORDER document together with these General Terms and Conditions of Purchase (hereinafter the "**GTC**") (as may be amended by any Special Terms and Conditions of Purchase), technical specifications, data, drawings, schedules, supplements and Exhibits hereto (each of which is incorporated herein by reference).
- 1.3 'PURCHASER' shall mean "Caspian Marine Services Ltd" acting through its Azerbaijani branch, as named in the PURCHASE ORDER and includes its representatives, successors and assignees.
- 1.4 'SUPPLIER' shall mean the natural person or legal entity in the PURCHASE ORDER to supply the PRODUCTS and includes its legal personal representatives, successors and assignees.

**2.0 INTERPRETATION**

- 2.1 The PURCHASE ORDER shall be read and interpreted as a whole together with the GTC, and where a contradiction or ambiguity is discovered to exist between separate provisions of the PURCHASE ORDER, the PURCHASER shall resolve such conflict or ambiguity by application of the following order of precedence: (1) Any PURCHASE ORDER amendment signed by both the PURCHASER and the SUPPLIER; (2) Special Terms and Conditions of Purchase (if agreed, to be specified in the PURCHASE ORDER); (3) the GTC. The SUPPLIER shall notify the PURCHASER without undue delay if it considers any such conflict or ambiguity exists or where the SUPPLIER refers to such conflict of ambiguity in connection with performance or non-performance of the PURCHASE ORDER.
- 2.2 All instructions, notices, agreements, authorisations, approvals and acknowledgements shall be in writing in the English language. In the event any provision of the PURCHASE ORDER is found by any court or administrative body of competent jurisdiction to be invalid or unenforceable, the invalidity or unenforceability of such provision shall not affect the validity of the entire PURCHASE ORDER and all other provisions not affected by such invalidity or unenforceability shall remain in full force and effect.

**3.0 SUPPLIER ACCEPTANCE**

- 3.1 This GTC shall be deemed accepted by the SUPPLIER upon the first of the following (a) the SUPPLIER executes and returns the copy of the Exhibit A of this GTC; (b) the SUPPLIER executes and returns the copy of the PURCHASE ORDER; or (c) any performance of the SUPPLIER under the PURCHASE ORDER.
- 3.2 Any additional or different terms or conditions contained in any acknowledgment of the PURCHASE ORDER or any other previous or further documents of any form by the SUPPLIER shall be deemed rejected by the PURCHASER without need of further notice of objection and shall not be binding upon the PURCHASER.
- 3.3 Signatures to this GTC and any PURCHASE ORDER, transmitted by e-mail, facsimile or other electronic transmission shall be valid and effective to bind the party which has signed such document. Each party agrees to promptly deliver executed original hard copy of such document with its actual signature (and stamp, if applicable) to the other party, but a failure to do so shall not affect the enforceability of this GTC and any PURCHASE ORDER, it being expressly agreed that each party shall be bound by its own signature and stamp transmitted via e-mail, facsimile or other electronic transmission and shall accept the document with the signature and stamp of the other party transmitted via e-mail, facsimile or other electronic transmission.

**4.0 DELIVERY TERMS AND SCHEDULE COMMITMENT**

- 4.1 Delivery of the PRODUCT in accordance with the agreed delivery date(s) is an essential requirement of the PURCHASE ORDER.
- 4.2 The SUPPLIER shall perform the PURCHASE ORDER to meet the SUPPLIER's promised delivery date(s) as set forth in the PURCHASE ORDER and in accordance with the GTC. In the event that it becomes apparent that delivery or completion cannot be accomplished within the time specified in the PURCHASE ORDER or as agreed by the Parties, the SUPPLIER shall at its own cost take all necessary steps to expedite the progress of the PURCHASE ORDER, including but not limited to working additional shifts, overtime, providing additional manpower, equipment and air freighting to meet the delivery date(s) required by the PURCHASER.
- 4.3 If the PURCHASE ORDER, or any part thereof relates to services to be provided by the SUPPLIER, the following provisions shall also be applicable under this Article 4:
  - 4.3.1 The SUPPLIER shall appoint in writing a representative who shall have the authority to act in all matters affecting the PURCHASE ORDER. The SUPPLIER shall assign competent and qualified personnel for the performance of the SERVICES and shall not remove or re-assign such personnel without prior consent of the PURCHASER, which consent shall not be unreasonably withheld.
  - 4.3.2 The SUPPLIER shall immediately notify the PURCHASER of any accident or injury sustained by the SUPPLIER personnel during the performance of the SERVICES.
  - 4.3.3 the SUPPLIER shall provide adequate tools and tackles required for performing the site services specified in the purchase order.
  - 4.3.4 the PURCHASER shall have a right to appoint its representative authorized to act in all matters relating to the PURCHASE ORDER.
  - 4.3.5 the PURCHASER shall allow the SUPPLIER's access, subject to the PURCHASER's normal security control and safety procedures, to the PURCHASER's premises, including the worksite as required for due performance of services under the PURCHASE ORDER.
  - 4.3.6 the SUPPLIER shall prepare and submit periodic status/progress reports, the final report and the requisite certificates as required under the PURCHASE ORDER to the PURCHASER.
  - 4.3.7 Timesheets and/or an approved summary thereof shall be prepared and together with supporting documentation, shall be completed by the SUPPLIER and submitted to the PURCHASER with each invoice.

**5.0 PRICES AND PAYMENTS**

- 5.1 Prices shall include all charges and expenses in connection with the packing of the PRODUCTS and their carriage to the delivery point in accordance with the delivery terms specified in the PURCHASE ORDER. Invoices shall be submitted in accordance with Exhibit B "Invoicing Instructions".
- 5.2 Unless otherwise agreed between the Parties, prices are firm and fixed and shall not be subject to exchange rate variation or escalation for any reason whatsoever.
- 5.3 All taxes, customs and import duties arising out of the sale of the PRODUCTS are deemed to be included in the prices and shall be borne by the SUPPLIER. PURCHASER may withhold from payments any amounts representing the SUPPLIER's withholding taxes, provided that PURCHASER has advised the SUPPLIER in advance of any such withholding requirements applicable to the PURCHASE ORDER.

- 5.4 The SUPPLIER shall, except as otherwise stated in the PURCHASE ORDER, be paid within thirty (30) days after final delivery of all required PRODUCTS to the satisfaction of the PURCHASER and submission of a correct invoice together with all necessary shipping documents and other documentation as required under the PURCHASE ORDER or by a competent regulatory state body or court. In order for the PURCHASER to proceed with due payment, the SUPPLIER shall ensure timely submission of invoices together with documents confirming proper delivery, including the act of acceptance, delivery note, timesheets, the final service report, etc., as applicable to the type of the PRODUCTS ordered.
- 5.5 Payment may be withheld fully or partially if in the PURCHASER's reasonable opinion that the SUPPLIER has not performed in accordance with the terms of the PURCHASE ORDER and the PURCHASER shall give a written notice thereof to the SUPPLIER.
- 5.6 If required by the PURCHASER, the SUPPLIER shall submit a written instrument, whether in the form of a letter of credit, bank guarantee or performance bond, within 30 days from the PURCHASE ORDER issue date, in a format and by a bank or surety acceptable to the PURCHASER, for ten percent (10%) of the PURCHASE ORDER value, which may be reduced to five percent (5%) of the PURCHASE ORDER value upon the PURCHASER's acceptance of the PRODUCTS; such instrument to remain valid until the expiration of the Warranty Period.
- 5.7 The PURCHASER shall not be liable for any delays in payments under the PURCHASE ORDER caused by legislative, regulatory or technical matters related to the SUPPLIER's bank. The SUPPLIER shall notify the PURCHASER in advance of any specific issues regarding the transfer of payment that need to be addressed specifically in parallel with submitting the payment documents to the PURCHASER.

**6.0 TERMINATION FOR CONVENIENCE**

- 6.1 The PURCHASE ORDER may be terminated at any time by the PURCHASER at its convenience in whole or in part. Any such termination shall be effected by delivery to the SUPPLIER of a notice of termination specifying the extent to which the PURCHASE ORDER is terminated, and the date upon which such termination becomes effective. Upon receipt of any such notice, the SUPPLIER shall, unless the notice requires otherwise, (i) immediately discontinue provision of the PRODUCTS on the date and to the extent specified in the notice; (ii) place no further orders for materials other than that may be required for completion of a non-terminated portion of the PURCHASE ORDER; and (iii) make every reasonable effort to obtain cancellation on terms satisfactory to the PURCHASER of all previously placed orders to its sub-suppliers.
- 6.2 Payments will not be made for the PRODUCTS of the SUPPLIER's standard manufacture which have the potential for resale and which were not delivered to PURCHASER prior to date of notice of termination. For the PRODUCTS which are not of standard manufacture, the PURCHASER will pay, if so requested within thirty (30) days after notice of termination, an equitable adjustment to include: (i) all amounts due to the SUPPLIER for the PRODUCTS completed in accordance with the PURCHASE ORDER prior to such notice; and (ii) a reasonable amount for any part of the PRODUCTS then in production (excluding the PRODUCTS constituting the SUPPLIER's standard stock).
- 6.3 The total sum to be paid to the SUPPLIER shall not exceed the total value of the PURCHASE ORDER as reduced by the amount of payments already made by SUPPLIER.

**7.0 TERMINATION FOR CAUSE**

- 7.1 The PURCHASER may terminate the PURCHASE ORDER in whole or in part:
- 7.1.1 If the SUPPLIER fails to make delivery of the PRODUCTS within the time specified in the PURCHASE ORDER;
- 7.1.2 If the SUPPLIER delivers nonconforming PRODUCTS or fails to meet the quality standards or other requirements set out in the PURCHASE ORDER;

7.1.3 If the SUPPLIER makes a material representation which is false or misleading;

7.1.4 If the SUPPLIER violates applicable laws or the SUPPLIER fails to comply with the requirements of "CMS Code of Conduct" and "UK Bribery Act 2010";

7.1.5 If the SUPPLIER becomes bankrupt or insolvent or have a receiving order made against them or entered into the process of liquidation.

7.1.6 The SUPPLIER is in material breach of the provisions of this GTC.

7.2 In the event of the foregoing (other than Articles 7.1.4 - 7.1.5 and 7.1.6 where the PURCHASER has the right to terminate immediately), the PURCHASER shall provide the SUPPLIER with written notice of the nature of the failure and the PURCHASER'S intention to terminate. In the event the SUPPLIER does not rectify the issue within five (5) days of such notice, the PURCHASER may with immediate effect terminate the PURCHASE ORDER.

7.3 In the event the PURCHASER terminates the PURCHASE ORDER in whole or in part as provided in Article 7.2, the PURCHASER may procure the PRODUCTS similar to those so terminated and the SUPPLIER shall be liable to the PURCHASER for any additional costs for such similar PRODUCTS; provided, that the SUPPLIER shall continue the performance of any unterminated part of the PURCHASE ORDER.

## **8.0 SUSPENSION**

8.1 The PURCHASER may, for its convenience, at any time suspend performance of the services or provision of the PRODUCTS under the PURCHASE ORDER or any part thereof by giving the SUPPLIER written notice specifying the services to be suspended and the effective date of such suspension. The SUPPLIER shall cease all activity on the suspended PRODUCTS on the effective date of suspension. The PURCHASER may at any time direct the SUPPLIER to resume all or any part of the suspended PRODUCTS by giving notice to the SUPPLIER specifying the part of the PRODUCTS to be resumed and the effective date of the resumption. Such suspension shall not exceed thirty (30) days, unless otherwise agreed between the Parties.

## **9.0 SHIPPING AND DELIVERY**

9.1 Delivery terms and responsibility for freight charges shall be indicated in the section of "Delivery Terms" of the PURCHASE ORDER.

9.2 The SUPPLIER shall properly mark and segregate the PRODUCTS. Each loose item shall be indelibly marked with a country of origin marking as well as marked or tagged with the PURCHASE ORDER number and item number. The SUPPLIER shall effect any special marking specified in the PURCHASE ORDER.

9.3 The SUPPLIER shall ensure that the PRODUCTS are properly packed, secured and labeled in accordance with generally accepted good industry practice and to meet the PURCHASER'S requirements specified in the PURCHASE ORDER.

9.4 All shipments must include two (2) original commercial invoices and two (2) legible packing lists. The invoice shall include each item's description, country of origin, HTS code (if required), a unit and a total value per item. Each original invoice shall be signed and stamped by an authorized company representative. The packing list shall include the description of each item, including serial numbers or other form of positive identification. All packages, shipments, correspondence, documents, and invoices must show the PURCHASER'S designated company name, number of the PURCHASE ORDER and the item number where applicable.

9.5 The SUPPLIER shall notify the PURCHASER in writing of any actual or anticipated delays immediately upon discovery. Such notice shall include an estimated period of delay, cause, and corrective actions to be taken. Notwithstanding the foregoing, the SUPPLIER shall be



solely responsible for and bear all expenses in relation to the expediting activities covering its operations and that of its suppliers.

- 9.6 As it may be necessary for the performance of the SERVICES, the SUPPLIER shall, at its cost, procure and maintain all permits, visas, licenses and other governmental authorizations which are necessary for the performance of the SERVICES by its employees, agents, directors etc. in the Republic of Azerbaijan. The SUPPLIER shall indemnify the PURCHASER from all liabilities and losses of whatsoever incurred or suffered by the PURCHASER as the result of non-compliance with this Clause.

**1.0 QUALITY ASSURANCE, INSPECTION & TESTING**

- 1.1 The SUPPLIER shall implement and maintain a Quality Control / Quality Assurance System which accords and complies with the principles and guidelines of ISO 9001.
- 1.2 The SUPPLIER shall implement and maintain quality assurance programs in providing the PRODUCTS that comply with other applicable technical codes and practices. Such programs shall be available for review and subsequent acceptance / rejection by the PURCHASER.
- 1.3 The SUPPLIER shall ensure that the PURCHASER has the opportunity to inspect, test, and/or witness testing of the PRODUCTS wherever they may be located. As required by the PURCHASER, the SUPPLIER shall supply schedules, progress reports and un-priced copies of the SUPPLIER's purchase orders. The PURCHASER shall have the right to reject any PRODUCTS which are defective or do not pass any such test. Inspection, testing, and/or witnessing testing of the PRODUCTS by the PURCHASER and/or the PURCHASER's customer shall not relieve the SUPPLIER of any warranty or liability under the PURCHASE ORDER. The SUPPLIER shall be responsible for the quality requirements applicable to the PRODUCTS provided to the PURCHASER by sub-contractors or vendors of such SUPPLIER.
- 1.4 The SUPPLIER shall provide all reasonable assistance, at its own cost and expense, to the PURCHASER and/or the PURCHASER's customers in relation to inspection and audit requirements at the SUPPLIER's premises, including the provision of invitation letters, assistance with visa requirements, access to facilities etc.

**2.0 DANGEROUS GOODS**

- 2.1 In the performance of the PURCHASE ORDER, the SUPPLIER shall comply with all applicable laws and regulations relating to environmental law, toxic or hazardous materials and occupational health and safety.
- 2.2 If the PURCHASE ORDER calls for the delivery by the SUPPLIER of any dangerous goods, chemical substance or mixture, the SUPPLIER shall promptly provide a Material Safety Data Sheet. All dangerous goods shall be packed and labeled according to local and international regulations for the transport of dangerous goods. Each package shall have a product label which is current, accurate and complete, which includes a statement of the PRODUCTS hazards and precautions for safe use. Copies of the material safety data sheet shall include the PURCHASE ORDER number, shipping location, and shall be sent to the shipping location identified in the PURCHASE ORDER.

**3.0 WARRANTY**

- 3.1 The SUPPLIER represents and warrants that the PRODUCTS described in the PURCHASE ORDER are fit for purpose, merchantable, free from all defects in design, workmanship and material, and are in strict accordance with any plans or specifications provided by the PURCHASER and/or the SUPPLIER. The SUPPLIER further represents, warrants and guarantees that all PRODUCTS shall be new and of best quality and fully in conformity with the PURCHASE ORDER unless otherwise agreed in writing.

- 3.2 With respect to the services forming part of the PRODUCTS under the PURCHASE ORDER, the SUPPLIER further warrants that it shall provide qualified, competent and experienced personnel to perform such services in a timely manner upon the request of the PURCHASER. The SUPPLIER shall, at its own expense, replace any personnel whom the PURCHASER reasonably believes to be unsuitable, unqualified, medically or physically unfit to perform such services.
- 3.3 If at any time within twelve (12) months (unless otherwise agreed in the PURCHASE ORDER) after the PURCHASER's acceptance of the PRODUCTS, any representation, warranty or guarantee set forth herein is found to have been breached, the SUPPLIER, shall repair or replace at the SUPPLIER's sole cost and risk any PRODUCTS or workmanship (or replaced/repared PRODUCTS and/or workmanship) which do not comply with the PURCHASE ORDER. PURCHASER may take reasonable measures to notify any such breach as quickly as practical; however, failure to do so shall in no way relieve the SUPPLIER of its responsibility during the term of the PURCHASE ORDER and the said twelve (12) months period, to promptly make such repair or replacement as required.
- 3.4 Should the SUPPLIER fail to proceed with, or complete, such repair or replacement, the PURCHASER, after advising the SUPPLIER in writing, shall have the right to perform itself or have performed by third parties the necessary remedy. All the costs thereof shall be borne by the SUPPLIER on the basis of "documented costs + 12%", such costs to include the average cost of man hours of the PURCHASER's personnel. The PURCHASER shall invoice the SUPPLIER for such costs or deduct them from funds still due to the SUPPLIER.
- 3.5 Title and risk to the PRODUCTS or any part thereof which do not comply with the PURCHASE ORDER and which are rejected by the PURCHASER shall remain with the SUPPLIER.
- 3.6 All costs and damages in connection with defective or non-complying PRODUCTS shipped or delivered by the SUPPLIER or relating to the return thereof shall be borne by the SUPPLIER.
- 3.7 Any inspection, test, acceptance, or use of the PRODUCTS furnished hereunder shall not diminish or limit the SUPPLIER's warranty obligations.
- 3.8 The PURCHASER expressly reserves the right to assign the SUPPLIER's warranty to any third party.
- 3.9 The warranty period pursuant to Article 11.2 shall be adjusted and extended by a duration equal to any periods of loss of use of the PRODUCTS to permit the performance of any repair or replacement under the foregoing warranty obligations. If any part of the PRODUCTS undergoes repair or replacement such part shall be warranted for a further period of twelve (12) months.
- 3.10 All of SUPPLIERs representations, warranties and guarantees contained in the PURCHASE ORDER or this GTC are in addition to such warranties or remedies as may exist under law and all expressed or implied warranties shall be deemed to be material and shall survive delivery or the termination of the PURCHASE ORDER in whole or in part.
- 4.0 CHANGES**
- 4.1 The PURCHASER may direct changes in writing at any time, including but not limited to changes to specifications, quantities, schedule and method of shipment or place of delivery. If any such change causes an increase or decrease in the cost of or timing required to provide the PRODUCTS, an equitable adjustment may be made in the price or delivery schedule, or both, and the PURCHASE ORDER shall be modified by a written change order executed by both the PURCHASER and the SUPPLIER.
- 4.2 Any request by the SUPPLIER for adjustment under this Article must be asserted within ten (10) days from the date of receipt by the SUPPLIER of the notification of change. However,



nothing herein shall excuse the SUPPLIER from proceeding with the PURCHASE ORDER as changed.

**5.0 INDEMNITY**

The SUPPLIER shall defend, indemnify and hold the PURCHASER, its parent and subsidiary companies and all of their directors, employees, agents, contractors and subcontractors (the "PURCHASER GROUP") harmless from and against any loss or liability, including legal expenses, arising out of any claims, demands, damages, losses, lawsuits, expenses or costs arising out of or in connection with any damage to, or loss of, property and equipment owned or leased by the SUPPLIER, its parent, affiliated and subsidiary companies and its and all of their officers, directors, employees, agents, representatives, suppliers, contractors and subcontractors ("the "SUPPLIER GROUP") and/or arising out of or in connection with injury to or death of any member of the SUPPLIER GROUP, in any way sustained or alleged to have been sustained in connection with or by reason of the performance of the PURCHASE ORDER, even if arising out of the sole, contributory or concurrent negligence or fault, strict liability or breach of duty (statutory or otherwise) of the PURCHASER GROUP.

**6.0 SUPPLIER INSURANCE**

6.1 Upon submission of an official request from the PURCHASER, the SUPPLIER shall provide and maintain the statutory insurances as required under the applicable legislation and any insurances required by the PURCHASER as specified in the PURCHASE ORDER or contract.

**7.0 FORCE MAJEURE**

7.1 Either party shall be entitled to suspend performance of his obligations under the PURCHASE ORDER to the extent that such performance is impeded or made unreasonably onerous by Force Majeure, meaning any of the following circumstances: industrial disputes and any other circumstance beyond the control of the parties such as fire, war, extensive military mobilization, insurrection, requisition, seizure, embargo, restrictions in the use of power, currency and export restrictions, epidemics, natural disasters, extreme natural events, terrorist acts and defects or delays in deliveries by sub-contractors caused by any such circumstance referred to in this Article. A circumstance referred to in this Article whether occurring prior to or after the formation of the PURCHASE ORDER shall give a right to suspension only if its effect on the performance of the PURCHASE ORDER could not be foreseen at the time of the formation of the PURCHASE ORDER.

7.2 The party claiming to be affected by Force Majeure shall notify the other party in writing within seven (7) calendar days on the intervention and on the cessation of such circumstance and provide a document issued by a competent authority, at the earliest practical possibility, confirming occurrence of such Force Majeure event. If a party fails to give such notice, the other party shall be entitled to compensation for any additional costs which he incurs and which he could have avoided had he received such notice.

7.3 Neither the SUPPLIER nor the PURCHASER shall be responsible for any failure to fulfil any term or condition of the PURCHASE ORDER Within five (5) days of the commencement of any force majeure event, the affected party shall provide the other party with written notice of the cause and extent thereof and the steps, if any, taken by the affected party to remedy or mitigate the delay, as well as, in the event of the SUPPLIER, a request for a schedule extension for the estimated duration thereof.

7.4 If within a reasonable time after a force majeure occurrence that has caused the SUPPLIER to suspend or delay performance of the PURCHASE ORDER, the SUPPLIER has failed to take such action as the SUPPLIER could lawfully initiate to remove or relieve either the occurrence or its direct or indirect effects, the PURCHASER may, in its sole discretion and

after notice to the SUPPLIER, initiate such measures, as are designed to remove or relieve such occurrence or its direct or indirect effects. Alternatively, the PURCHASER, in its sole discretion, may decide to terminate the PURCHASE ORDER.

**8.0 PATENTS AND INTELLECTUAL PROPERTY RIGHTS**

8.1 The SUPPLIER shall defend, indemnify and hold harmless the PURCHASER's customer against any and all liability, loss or expense arising out of any claim, action or litigation in respect of any alleged or actual infringement of any patent, copyright, proprietary or trademark, foreign or domestic or any other intellectual property right resulting from the use or resale of the PRODUCTS or any part thereof or arising out of or in connection with the SUPPLIER'S performance of its obligations under the PURCHASE ORDER.

8.2 The SUPPLIER, in the furnishing of the PRODUCTS, shall have all intellectual property rights which may subsist in the PRODUCTS. The SUPPLIER hereby grants to the PURCHASER a permanent, irrevocable, royalty-free license to any and all such intellectual property rights that may subsist in the PRODUCTS for use in connection with the operation, maintenance, repair, alteration or modification of the PRODUCTS.

8.3 The SUPPLIER shall provide, prior to delivery, valid license agreements for all software provided in relation to the PRODUCTS under the PURCHASE ORDER.

**9.0 LIENS AND CLAIMS**

9.1 The SUPPLIER shall not create or allow or do any act, deed or thing which could result in the creation of a lien on the PURCHASER or the PRODUCTS. The SUPPLIER expressly waives all rights under contract, law and equity to lien or otherwise encumber such property and shall indemnify and hold harmless the PURCHASER from any liens, claims, assertions, demands, debts, fines and the like arising out of the actual or alleged failure by the SUPPLIER or the PURCHASER to pay legal debts or otherwise discharge its obligations properly and promptly.

9.2 Upon request, the SUPPLIER shall promptly execute such forms of certification or acknowledgement or waiver as the PURCHASER may require from time-to-time to confirm the SUPPLIER's compliance with this Article.

**10.0 ASSIGNMENT AND SUBCONTRACTING**

10.1 The SUPPLIER shall not assign the PURCHASE ORDER or any part thereof without the written consent of the PURCHASER.

10.2 The PURCHASER reserves the right, at the sole discretion of the PURCHASER, to assign the PURCHASE ORDER to any parent, subsidiary and/or affiliated company of the PURCHASER or to a customer of the PURCHASER.

**11.0 INDEPENDENT CONTRACTOR**

The SUPPLIER shall at all times remain an independent contractor and neither the SUPPLIER nor the SUPPLIER's employees, agents or representatives shall be deemed to be employees, agents or representatives of PURCHASER or any third party.

**12.0 COMPLIANCE WITH LAWS**

12.1 In performance of the PURCHASE ORDER, the SUPPLIER shall comply with all applicable laws, rules and regulations in any jurisdiction where the PRODUCTS or parts therefore are manufactured and/or delivered, in connection with any PRODUCTS, materials and workmanship provided by the SUPPLIER, so long as any such law, rule or regulation is not contrary to any law, rule or regulation of the Republic of Azerbaijan.

12.2 The SUPPLIER certifies that the PRODUCTS have been produced or furnished in full and complete compliance with all applicable state and local laws and regulations and amendments thereto.

12.3 The SUPPLIER shall defend, indemnify and hold the PURCHASER and its affiliates, related and subsidiary companies and its and their employees, agents, contractors and subcontractors harmless from and against any claim or proceedings resulting from any non-compliance herewith.

**13.0 ETHICS, COMPLIANCE AND ANTI-CORRUPTION UNDERTAKINGS**

13.1 The SUPPLIER agrees to perform any work in accordance with the PURCHASER's Code of Conduct (available at [www.caspmarine.com](http://www.caspmarine.com)) and with the following policy:

13.1.1 Wherever located, the SUPPLIER is expected to conduct its operations in a lawful manner and in a manner that is consistent with the highest ethical standards prevailing in the business communities which it operates. Books and records shall be kept in a complete and accurate manner. The maintenance of the highest reputation for integrity is essential and is not under any circumstances to be sacrificed for the sake of results.

13.1.2 The SUPPLIER hereby represents, warrants and covenants that it will not, directly or indirectly, in connection with the PURCHASE ORDER and the business resulting there from, offer, pay or promise to pay or authorize the giving of money or anything of value to any employee, director, agent or representative of the PURCHASER or a government official, to any officer or employee of a public international organization, to any political party or official thereof or to any person while knowing or being aware of a high probability that all or a portion of such money or thing of value will be offered, given or promised, directly or indirectly for the purpose of:

13.1.2.1 influencing any act or decision of such official, officer, employee, director, agent, representative, political party, party official or person in his or its official capacity, including a decision to fail to perform his or its official functions; or

13.1.2.2 inducing such official, officer, employee, director, agent, representative, political party or person to use his or its influence with the government or instrumentality thereof or organization to affect or influence any act or decision of such government or instrumentality or organization or to obtain an improper advantage in order to assist the SUPPLIER in obtaining or retaining business for or with a directing business to the PURCHASER or any other person in relation to the PURCHASE ORDER.

13.2 The SUPPLIER shall ensure that its contracts with its subcontractors contain provisions which are in conformity with and no less stringent than these provisions.

13.3 Any breach by the SUPPLIER of this provision shall be considered a material breach of the PURCHASE ORDER. The PURCHASER's remedies in the event of such breach include immediate termination of the PURCHASE ORDER, as well as other remedies provided in the PURCHASE ORDER or available at law.

14.0 The SUPPLIER expressly refers to CMS' Code of Conduct, which applies within CMS and may be viewed at the following web address: [www.caspmarine.com](http://www.caspmarine.com).

15.0 The PURCHASER expects the SUPPLIER to support compliance with the regulations and principles expressed in the PURCHASER's Code of Conduct and, in particular, to commit itself to supporting and implementing the principles on human rights, labour relations, the environment and complies and will comply with all anti-bribery, corruption, anti-money laundering laws, rules and regulations, including but not limited to Bribery Act 2010 of the United Kingdom and applicable legislative documents of the Republic of Azerbaijan.

16.0 During the term of the present GTC and for a period of six (6) years thereafter, the PURCHASER or its duly authorised representatives shall have the right to audit at all reasonable

times and, upon request, take copies of all of the SUPPLIER's records (including data stored on computers), books, personnel records, accounts, correspondence, memoranda, receipts, vouchers and other papers of every kind relating to:

- a) all charges invoiced by the SUPPLIER to the PURCHASER; and
- b) any provision of this GTC under which the SUPPLIER has obligations to perform and which is capable of being verified by audit.

17.0 In this regard, PURCHASER shall not generally be entitled to investigate the make-up of rates and lump sums included in the GTC, except to the extent necessary for the proper evaluation of any variations.

18.0 The SUPPLIER shall co-operate fully with the PURCHASER and/or its representatives in the carrying out of any audit required by the PURCHASER. The PURCHASER will conduct any audit in a manner, which will keep any inconvenience to the SUPPLIER to a reasonable minimum.

19.0 The SUPPLIER shall conduct its business in a manner that respects the rights and dignity of all people as per the legislation of Azerbaijan and ratified international conventions, including without limitation:

- (a) not employing, engaging or otherwise using forced labor, trafficked labor or exploitative child labor;
- (b) nor engaging in or condoning abusive or inhumane treatment of workers;
- (c) providing workers with written employment contracts under which they will work in a language understandable to the workers;
- (d) not requiring workers to pay any illegal charges or fees under any pretext in consideration for employment or applying deductions from the workers' remuneration as collateral for continued service;
- (e) not withholding travel or other identity documents or otherwise unreasonably inhibiting the free movement of any workers (directly or indirectly);
- (f) providing access to effective grievance mechanisms, providing equal opportunities, avoiding retaliation or discrimination and respecting freedom of association of workers, in each case within the relevant national legal framework; and
- (g) mitigating or avoiding adverse human rights impacts to communities arising from the Supplier's activities to the extent practicable.

20.0 Notwithstanding any provisions contained in this GTC, failure to comply with the Clause No. 23.0-28.0 by the SUPPLIER or any member of its organization will constitute a material default, which shall entitle the PURCHASER to terminate this GTC with immediate effect without incurring any liability or costs whatsoever.

## **21.0 CONFIDENTIALITY**

21.1 The SUPPLIER shall not, during the term of the PURCHASE ORDER or afterwards, without the prior written consent of the PURCHASER, either;

- (i) make any publicity releases or announcements concerning the Confidential Information (as defined below);
- (ii) disclose (whether in full or part or in extract or summary form) receipt or existence of the Confidential Information to any third party;
- (iii) disclose, share, publish or allow any person to do so at any time, any information in any form whatsoever received from the PURCHASER under the PURCHASE ORDER or GTC and under all the corresponding documents which shall be signed by the parties in future and in the course of performance of the PURCHASE ORDER.

21.2 The above obligation of confidentiality shall not extend to the Confidential Information which:  
(a) were known to the SUPPLIER prior to receiving such Confidential Information from the PURCHASER;

(b) is disclosed to the SUPPLIER by a third party under no obligation of confidence to the PURCHASER and having a right to disclose such information; or

(c) is or shall become part of the public domain through no fault of the SUPPLIER.

For the purpose of this GTC, the "**Confidential Information**" shall mean information, including trade secrets, business activities, suppliers or customers of the PURCHASER that includes but is not limited to know-how, patents, pricing and cost information, computer programs and software, existing or potential customers and purchasers, confidential information related to any customer, products, documentation, operations of the PURCHASER and other information related to the PURCHASER that is not generally publicly known.

21.3 The SUPPLIER agrees that the SUPPLIER to obtain prior approval from the PURCHASER of the text of any announcement or publication concerning the PURCHASE ORDER that the SUPPLIER or its subcontractors wish to release for publication.

21.4 The SUPPLIER agrees to treat information which the SUPPLIER acquires from the PURCHASER as confidential and shall not disclose such information to any third parties except as may be required for the performance of the PURCHASE ORDER. The SUPPLIER agrees to enter into a specific confidentiality agreement if so requested by the PURCHASER.

## **22.0 SPARE PARTS**

22.1 The SUPPLIER agrees that, in the event the SUPPLIER discontinues manufacture of the PRODUCTS or part thereof, it shall stock sufficient spare parts to effectively maintain the PRODUCTS for the life of the PRODUCTS. The SUPPLIER shall advise the PURCHASER in writing prior to commencement of manufacture or filling the PURCHASER's order of the PRODUCTS of any planned discontinuation of such PRODUCTS.

## **23.0 TITLE**

23.1 The SUPPLIER warrants good title to all materials used in the PRODUCTS, free and clear of all liens, claims and encumbrances. Title to the PRODUCTS shall pass to the PURCHASER when (a) the PRODUCTS are delivered to designated delivery point or as otherwise identified in the PURCHASE ORDER or (b) the PRODUCTS are shipped by the SUPPLIER (in cases when the PURCHASER is responsible for transportation in accordance with the PURCHASE ORDER) or (c) materials are paid for; whichever of the foregoing occurs first.

23.2 Any portion of the PRODUCTS or material components thereof, with respect to which title has passed to the PURCHASER but which remains in the care and custody of the SUPPLIER shall be clearly identified in a manner acceptable to the PURCHASER as being the property of the PURCHASER and shall be segregated from the SUPPLIER's property. Notwithstanding the transfer of title, the SUPPLIER shall be responsible for safeguarding, maintaining and for risk of loss or damage to the PRODUCTS until acceptance by the PURCHASER.

23.3 All technical data, standards, specifications, drawings and the like furnished to the SUPPLIER are and shall continue to be the property of the PURCHASER.

23.4 Except for such data and records considered proprietary by the SUPPLIER and which are identified as such by the SUPPLIER, all data and records developed by the SUPPLIER under the PURCHASE ORDER shall at all times be the property of the PURCHASER.

## **24.0 SAFETY**

24.1 The PURCHASER is committed to the fundamental requirement that persons performing work related to the PURCHASE ORDER have a safe environment in which to perform their assigned work and requires the SUPPLIER to manage activities and supervise its employees



in a manner that will ensure that work is performed as a minimum in accordance with industry standard safety procedures.

**25.0 NOTICES**

All notices and other communications in connection with the PURCHASE ORDER shall be in writing and delivered by post, telefax, electronic mail or by hand to an authorized representative of the party to whom such notice is directed at the address specified in the PURCHASE ORDER or such other address as notified by the other party in writing. Any notices served shall, unless otherwise specified herein, be deemed effective upon actual receipt by the receiving party and shall be acknowledged within seventy two (72) hours of the time and date of receipt.

**26.0 CONSEQUENTIAL DAMAGES**

Notwithstanding anything to the contrary contained herein, in no event shall PURCHASER be liable to the SUPPLIER and the SUPPLIER hereby releases and indemnifies the PURCHASER in relation to special, incidental, indirect, punitive or consequential damages, including but not limited to loss of revenue, loss of any contract or other business opportunity, losses resulting from failure to meet other contractual commitments or deadlines, downtime of facilities or vessels or loss of business and loss of use, irrespective of the cause and notwithstanding the negligence of the indemnified parties or any other party or entity and shall apply irrespective of any claim in tort, under contract or otherwise at law.

**27.0 GOVERNING LAW & ARBITRATION**

27.1 The PURCHASE ORDER shall be governed by and construed in accordance with the Laws of the Republic of Azerbaijan for local deliveries (i.e., within the territory of the Republic of Azerbaijan) or Laws of England and Wales for international deliveries (i.e., outside the territory of the Republic of Azerbaijan) (unless otherwise agreed in the PURCHASE ORDER).

27.2 Any and all disputes, controversies or differences which may arise between the parties hereto, out of or in relation to or in connection with the PURCHASE ORDER or breach thereof, which cannot be settled amicably by the parties hereto, shall be referred to and settled by:

- (i) respective courts of the Republic of Azerbaijan - applicable for local purchases only; or
- (ii) arbitration to be held in London, England, in accordance with the rules of the London Court of International Arbitration (LCIA) as at present in force - applicable for international purchases only. The language of arbitration shall be English. The award rendered by the arbitrator(s) shall be final and binding upon the parties hereto.

EXHIBIT A  
GENERAL TERMS AND CONDITIONS OF PURCHASE (GTC of PURCHASE)  
ACKNOWLEDGMENT AND ACCEPTANCE FORM

**The SUPPLIER'S ACCEPTANCE of the GTC:**

We hereby agree to and accept this GENERAL TERMS AND CONDITIONS OF PURCHASE by returning a copy of this page signed by an authorized representative and stamped (if applicable) and the copy or original GTC with each page initialed by authorized representative, along with the executed PURCHASE ORDER.

The authorized representative of SUPPLIER accepts and agrees to furnish the PRODUCTS specified in full accordance with PURCHASE ORDER and the GTC.

Signature: \_\_\_\_\_

Name and Last name: \_\_\_\_\_

Title/Position: \_\_\_\_\_

(Authorized Representative)

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

**EXHIBIT B**  
**(Invoicing Instructions)**

The SUPPLIER shall submit invoices in **one original and one copy, each complete with all supporting documentation** to the following address:

**<<Originator to insert PURCHASER legal entity and address to be inserted>>**

**Attention: CMS Accounts Payable Supervisor**

**Reference: Purchase Order Number << the SUPPLIER to Insert >>.**

All Invoices must include the following information:

- a) Invoice Number & Date
- b) Payment Due Date
- c) P.O. Number;
- d) P.O. item number(s), quantity unit, and complete description;
- e) Net unit prices and extensions;
- f) Currency
- g) Bank Name, Bank Address, Bank Account No., Bank Routing
- h) Invoices shall be complete with copies of supporting documentation as required by the Purchase Order.
- i) the SUPPLIERS contact details for invoice queries

**EXHIBIT C  
FORM OF QUALIFICATIONS TO THE GENERAL TERMS AND CONDITIONS OF  
PURCHASE (GTC of PURCHASE)**

<b>No.</b>	<b>Reference to Clause</b>	<b>Original Wording of the Clause</b>	<b>Qualifation/Comment</b>	<b>Reason(s)/ Substantiation</b>

**Revision Summary**

<b>Revision number</b>	<b>DCR №</b>	<b>Revision Date</b>