

## GENERAL PURCHASING TERMS AND CONDITIONS

### ARTICLE 1 - PURPOSE AND SCOPE

1.1 The purpose of these IFP Energies nouvelles (hereinafter referred to as "IFPEN") General Purchasing Terms and Conditions (GPTC) is to define the general provisions which will govern any purchase of goods and/or services (hereinafter referred to as "Services") which are the subject of Contractor Consultations (Calls for Tenders) or Orders pertaining thereto.

1.2 Special conditions may amend these GPTC subject to the following cumulative conditions : (i) to be written, (ii) signed by duly authorised representatives of the Parties and (iii) to formally state that they are intended to overcome the GPTC. Any clause in the commercial proposal which contradicts these GPTC is considered to be null and void.

1.3 An Order shall be made up of all documents referred to in "IFPEN's order form" in the order of priority of documents as provided for in the special conditions, or in the absence of such an enumeration, in the following order:

- the special conditions,
- the request for proposal
- these General Purchasing Terms and Conditions,
- all other documents expressly referred to by the special conditions in the order in which they are listed,
- IFPEN's regulations applicable to the Contractor working on IFPEN's site,
- special requirements (quality assurance, safety etc.),
- Contractor's commercial proposal.

1.4 The Order shall be deemed to be accepted as of the date of acknowledgment of the Order. No commencement of performance of the Services may be made before said acknowledgment of the Order made without reservation or with accepted reservations. Any commencement of performance of the Services by the Contractor shall constitute acceptance of all the terms and conditions of the Order, including the GPTC, without reservation.

1.5 An Order accepted by the Contractor shall constitute a firm and final commitment to perform the Services and shall imply :

- acceptance of these GPTC and special conditions if they are not the subject of written reservations formally accepted by IFPEN,
- the exclusion of its own general terms and conditions of sale.

1.6 In the event of variation in the Services,

- Unless provided otherwise, these GPTC shall apply to any variation in the Services whatever form it may take;
- No modification to the Order requested by the Contractor shall be binding on IFPEN without IFPEN's written agreement.

### ARTICLE 2 - CAPACITY OF THE CONTRACTOR

2.1 The Contractor hereby represents that it has:

- sufficient technical skills and resources to provide the quality of Services in accordance with the Order and with best trade practices,
- sufficient financial capacity and human resources to provide the Services without risk of interruption,
- all authorisations, rights and approvals necessary to perform the Services.

2.2 The Contractor hereby represents:

- that it is in complete compliance with social and tax law and has paid the corresponding sums (taxes and contributions),
- that it guarantees and warrants the conduct of its personnel and the personnel of its subcontractor(s) if any, and particularly their respect for public order, common decency, and all laws and regulations in pursuance of these GPTC, and also compliance with IFPEN site regulations concerning health and safety and security.

The Contractor must give written notice to IFPEN without delay of any change occurring in the performance of the Services, including in particular the address of its registered offices, details relating to its company's capital and corporate form, and identification of the persons having powers to bind the Contractor.

2.3 In case of consortium of economic operators :  
- when each economic operator members of the consortium agrees to perform the Services assigned to it under the Order : this consortium is a joint-liability-only consortium.  
- when each economic operator group members is financially committed to the performance of the entire Order : this consortium is a joint-and-several liability consortium.

For the execution of the Order, all joint-liability-only consortium must change into a joint-and-several liability consortium

One of the members of the consortium, appointed in the Order as "the leader" represents all members towards IFPEN and coordinates the services of the members of the consortium.

### ARTICLE 3 - GENERAL PROVISIONS CONCERNING THE PERFORMANCE OF THE ORDER

#### 3.1 Obligations of IFPEN

IFPEN shall:

3.1.1 answer written requests for information from the Contractor as to the conditions of performance of the Order, and collaborate in good faith with the Contractor,

3.1.2 pay the Contractor the agreed price pursuant to the terms and conditions laid down in the Order,

3.1.3 under the conditions specified in the Order, allow to the Contractor's personnel, for the needs of implementing the Order, or to any third party designated by it (and approved by IFPEN), who has received authorisation from the head of the security department, free access to the facilities, premises and/or locations concerned, and take all steps necessary to allow the exercise of this right.

3.1.4 communicated to the personnel acting on behalf of the Contractor's, IFPEN's health and safety rules and internal regulations applicable to its premises or facilities, whenever available to such personnel.

#### 3.2 Obligations of the Contractor

3.2.1 The Contractor undertakes to properly complete performance of the Services in compliance with the provisions of the Order in terms of quantity, quality, performances and deadlines, the Contractor being bound by an "obligation de résultat" (this means that he has a strict obligation to achieve these specified requirements) ; and to warrant that the Services will be fit for their intended use and will satisfy standards and regulations in force.

3.2.2 The Contractor undertakes to determine and implement the human resources and material resources necessary for proper performance of the Order. The Contractor undertakes to provide a competent and suitable team, in order to comply with the quality requirements and the deadlines defined by the Parties.

3.2.3 The Contractor undertakes to communicate to IFPEN all information regarding its personnel, material and equipment used to perform the Services. In accordance with Law No. 91,1383 of 31 December 1991, and Articles L.8222-1 et seq. of the French "Code du Travail", the Contractor shall provide IFPEN with a certified true copy of a certificate established in less than a year, as a proof of compliance with social declarations, and a sworn certificate on its own letter-headed paper signed by a duly authorised representative of the Contractor certifying that the Services will be provided only by employees who are properly employed with respect to Articles L.8231-1, L.8241-1, L.8241-2, L.8221-1, L.8221-2, L.8221-3, L.8221-5, L.5221-11, L.5221-8, L.8251-1 of the French "Code du Travail". The payment of any sum due for the Services shall be subject to and conditional upon the provision of all the aforementioned documents to IFPEN.

3.2.4 The Contractor's personnel shall remain under all circumstances subject to its hierarchical and disciplinary authority. The Contractor shall therefore, in its capacity as employer, ensure the administrative, accounting, and social law management of its employees involved in the performance of the Services. The Contractor shall be liable for its personnel in all circumstances and for any cause whatsoever. The Contractor shall in particular assume responsibility for any industrial accident suffered by its employees or any accident in travel to and from work as may be caused by or at the time of performance of the Services, and shall ensure that compulsory medical checkups are undertaken. The Contractor shall be liable for any accidents caused by its personnel, and for any damage caused in the performance of Services.

3.2.5 In the event of absence, for any reason whatsoever (holidays, training, illness, etc), of one or more persons assigned by the Contractor for the performance of the Services, the Contractor shall immediately take all steps necessary to ensure the continuity of the Services under those conditions laid down in the Order.

3.2.6 It shall be for the Contractor, in its capacity as professional in the trade, to verify the accuracy of IFPEN's requests and to advise it as needed to ensure adequacy of the Services with the objectives pursued by IFPEN. Moreover, the Contractor shall request any and all further details and/or clarifications from IFPEN in the event that the Contractor considers the Information provided as ambiguous, in order to ensure that it contains no error or omission which may give rise to an incorrect or incomplete performance of the Services and in particular, to make any and all observations which appear to it to be appropriate on

any document provided by IFPEN. That failing, no claim, reservation or exception may later be invoked by the Contractor.

3.2.7 The Contractor undertakes to request and check all documents or technical information necessary for the performance of its obligations.

3.2.8 The Contractor shall be in charge for obtaining all authorisations from third parties, including in particular from the holders of intellectual property rights which need to be used or applied in the framework of the performance of the Services. The Contractor shall indemnify IFPEN and hold it harmless against any and all claims, disputes and claims of ownership by third parties in this respect as may arise during or after performance of the Order. The Contractor shall indemnify IFPEN for all consequences suffered by it due to a failure to obtain such authorisations by the Contractor.

3.2.9 The Contractor hereby warrants the deliverables/results of the Services meet all technical requirements and shall proceed with any work in order to fulfil these requirements in accordance with the conditions set forth in article(s) 7.2. and/or 10.

3.2.10 The Contractor shall appoint a representative authorised to take all measures concerning the performance of Services and to attend coordination meetings.

3.2.11 The Contractor undertakes to take all steps and precautions in order to allow any control of performance undertaken by IFPEN which are necessary to ensure proper performance of the Services.

3.2.12 The Contractor shall indemnify IFPEN and hold it harmless against all legal actions/proceedings, including in particular concerning any claim in case of intellectual property infringement brought by any third party due to use of the Services or the related results.

3.2.13 Shipping and transport conditions shall be subject to special conditions to the Order. That failing, the Contractor shall be in charge of shipping, packaging, handling and insurance of all goods/material shipped to the place specified by IFPEN in the Order.

3.2.14 Any reference to IFPEN in the Contractor's advertising shall be subject to IFPEN's prior written approval.

3.2.15 The Contractor undertakes to comply with the environmental and local regulations, and with internal regulation applicable on IFPEN's premises (including health and safety rules). Except as otherwise provided, the Contractor has to evacuate any industrial waste at its own cost without extra charge for IFPEN, these costs being deemed as included in the Order's price.

3.2.16 The Contractor undertakes to inform IFPEN of any element used in the framework of the Service which is subject to export control regulations.

### ARTICLE 4 - FINANCIAL PROVISIONS

4.1 Unless provided otherwise in the Order's special conditions, the prices mentioned therein are in Euros. The prices stated in the Order are prices excluding VAT, and are fix, firm, all-inclusive and non-revisable, unless it is expressly provided in the special conditions that payment is made "à l'attachement" (for time spent). Except in specific cases, VAT shall be added to the price in accordance with regulations in force.

4.2 The prices stated in the Order shall cover complete performance of the Services, compliance with contractual provisions, and include all travel expenses, accommodation costs and meals, all taxes other than VAT, any customs duties and any technical and banking guarantee costs. More generally, and except as otherwise provided in the Order, prices include full delivery costs at the location specified in the Order (Delivered Duty Paid - Incoterms® 2010). The special conditions may provide for price revision (escalator clause) according to one or more revision formulae based on the variation of a specified index chosen among those which are regularly published.

IFPEN reserves the right to request that the Contractor provides collateral (security deposit, bank guarantee payable on first demand) or withhold portion of the Order price to guarantee performance of the Services.

4.3 The Contractor shall be deemed to have foreseen, in determining the price, those risks specific to its profession, and to the nature of the Services.

No addition to the price may be invoiced without IFPEN's prior written agreement.

4.4 Orders may not, as a general rule, give rise to any payment of advances, down-payments nor deposits.

4.5 If the special conditions so provide, an advance may be paid on the date of signature subject to presentation of the corresponding invoice in the terms defined in this present Article 4.

In the event of failure by the Contractor to fulfil its obligations, as provided for in the Order, especially in the event of failure to meet the delivery date fixed in the Order, IFPEN may request the cancellation/termination of the Order in accordance with article 18.1, and the amount of any advance payment paid by IFPEN shall be immediately and fully reimbursed plus interest at 3 times the official interest rate to IFPEN.

4.6 Where payment is linked to the performance of stage of Services, the payment of the corresponding invoice shall be subordinated to the effective and complete performance of that stage, in accordance with the conditions laid down for each stage.

4.7 Invoices shall be issued in triplicate by the Contractor according to the frequency and periods laid down in the Order or, in the absence of such provisions, after complete performance of the Services.

Invoices must state the reference number of the Order and shall be sent to the billing address mentioned in the Order.

4.8 Invoices shall be paid at due date subject to (i) dispute as to the progress of the Services undertaken in conformity with the performance schedule, (ii) acceptance of the Services according to those terms laid down in the Order. IFPEN may retain payment until the complete discharge of reservations. In this event, IFPEN shall inform the Contractor in writing on receipt of the Services.

4.9 Invoices shall be paid by wire transfer sixty (60) days from the date of receipt by IFPEN of the request for payment, subject to presentation of the corresponding invoices which must imperatively contain the Order No., and shall where necessary include all supporting documentation.

4.10 In case of late payment, and in the absence of dispute or opposition on the part of IFPEN against the invoice concerned, the Contractor shall be entitled to :

- late-payment interests at the refinancing interest rate applied by the European Central Bank to its most recent main refinancing operation carried out before the first calendar day of the half-year in question, plus eight (8) percentage points; the late-payment interests run from the day following the expiration date of the deadline of payment of the considered invoice until the date of payment of principal included; the late-payment interests are calculated on the amount all taxes included,
- a compensation for recovery charges fixed at forty ( 40 ) euros.

The interests on arrears and the fixed compensation for recovery charges above-mentioned are to be paid within forty five ( 45 ) days following the payment of principal.

4.11 No payment shall be made until the Contractor has provided IFPEN with those documents referred to in the Order and in Article 3.2.3.

4.12 Contractor located in another Country of the European Union (EU) or in a Country outside the EU: subject to any Treaty between France and said other Country providing for reduction or exoneration, then compensation of any nature paid by IFPEN for the use or licensing of authors' rights/copyright, patents or software will be subject to a withholding tax pursuant to French legislation in force. Where the Contractor does not attach to its invoice those documents prescribed by Treaty in order to attest to its Country of actual residence, the Contractor will not be able to invoke the favourable provisions of said Treaty.

4.13 If Contractor is a natural person located in France, doing business as a sole trader / independent professional: in accordance with legislation in force, the Contractor shall provide IFPEN with substantiation of his/her affiliation to the social security bodies pertaining to his/her sector of activity, and the corresponding registration number shall imperatively be stated on his/her invoice. In the event that the Contractor benefits from special rules exonerating him/her from applying VAT to invoices for his/her services, the provision of the General Tax Code authorising such exoneration must be expressly stated on the invoice.

#### **ARTICLE 5 - DEADLINES - PERFORMANCE SCHEDULE - LATE PERFORMANCE PENALTIES**

5.1 The Contractor shall provide to IFPEN, within the deadline(s) fixed in the Order, the Services, batch(es) or sub-batch(es) of the Services, in accordance with the specifications of the Order in terms of quantity, quality and performances, the Contractor being bound by a strict obligation to achieve these specified requirements. All deadlines are binding. Time is of the essence in the performance by Contractor of the Order

5.2 Except in the event of Force Majeure, IFPEN may apply late performance penalties in the event of failure to comply with the contractual binding deadlines, without prejudice to its right to terminate the Order and have the Services performed by third parties, all additional costs being borne by the Contractor.

5.3 The amount of such penalties shall be defined in the special conditions. Failing that, the Contractor shall incur penalties equal to 1 % per day of delay compared to the contractual schedule, calculated on

the basis of the total amount of the Order excluding VAT, limited to fifteen per cent (15%) of the total amount of the Order excluding VAT. Penalties shall apply seven (7) business days following receipt by the Contractor of a formal notice of breach which has remained without effect during the abovementioned delay, without any other judicial formality necessary.

5.4 Penalties shall be due upon presentation of an invoice. Payment may be made, at IFPEN's discretion, by set-off against the sums due to the Contractor.

5.5 Penalties associated to a binding delay have a character "moratoire" within the meaning of Article 1229 para.2 of the French "Code civil". Accordingly, in the event of failure to comply with a binding delay, the Contractor shall remain fully liable for the completion of the Services associated with the agreed delay and shall not be deemed to be discharged of its obligations under the Order by paying said penalty.

5.6 Notwithstanding penalties, the Contractor shall remain fully liable to IFPEN for the consequences of late performance attributable to it. The application of this Article shall not limit IFPEN's right to claim damages.

5.7 In addition, IFPEN may terminate the Order in case of delay, in the conditions defined in Article 18 below.

#### **ARTICLE 6 - VARIATIONS TO THE SERVICES**

6.1 IFPEN reserves the right, during performance of the Services, to make any extensions which it may consider useful or necessary. The Contractor undertakes to perform all additional Services ordered by IFPEN and which will be valued on the basis of the price elements specified in the Order.

6.2 In a general manner, the Contractor must notify IFPEN of any event, which it becomes aware of, which is likely to disturb the schedule of the Services whatever the cause of this event (caused by IFPEN, by any third party, by the Contractor or as a result of Force Majeure).

#### **ARTICLE 7 - ACCEPTANCE**

7.1 The Contractor shall use all measures, tools and means as necessary to ensure conformity of Services with the Order. The verification of conformity which may be made by IFPEN shall not release the Contractor from its liability, in particular as to the quality, quantity and performances requirements of the Services.

7.2 In the event of Services performed by Contractor which do not conform to the Order's requirements, IFPEN may refuse acceptance in the event of partial failure to reach said requirements, a supply which does not conform to drawings, plans, standards, specifications, contractual document or best trade practice, or where the performance levels have not been achieved. IFPEN's acceptance of the Order may be subject to reservations where IFPEN observes that minor parts of the Services have not been completed. The Contractor's invoice shall only be paid up to the value of the accepted Services. The Contractor must fully remedy, at its own expense, any defect in the goods/deliverables and proceed with all work necessary for the discharge of reservations concerning the Services within those deadlines fixed by IFPEN.

In the event that the Contractor is unable to ensure the proper compliance with this clause, IFPEN may have the Services performed by another company at the Contractor's expenses and without the Contractor being entitled to any opposition against this decision. All corresponding costs and outlay shall be invoiced to the Contractor and/or deducted from sums due to it by IFPEN. The Contractor assumes liability for all damages and/or loss caused as a consequence of its failure to observe any of the provisions of this article.

#### **ARTICLE 8 - FORCE MAJEURE**

8.1 Neither of the parties shall be held liable for any delay, failure to perform or any other breach of any term or condition of the Order, provided that such failure is the result of an event of Force Majeure. An event of Force Majeure is an event which, within the meaning of Article 1148 of the French "Code civil", is irresistible, unforeseeable, unavoidable, beyond the control of a Party and not occasioned by the fault or negligence of that Party. Strikes and labour disputes concerning the personnel of the Contractor or the personnel of its subcontractors shall not be deemed to be events of Force Majeure.

8.2 Where a Party is affected by a force majeure event, it must inform the other Party immediately as soon as such an event occurs, by any available means of communication, and shall describe the consequences which are at the origin of the event of force majeure.

8.3 The Contractor shall in all circumstances make all efforts to reduce the interruption/delays of the performance of the Services due to an event of force majeure. In the event of suspension of the Order due to such an event of force majeure, IFPEN reserves the right to request services from another service provider/supplier for the duration of the event of force majeure.

8.4 In case of force majeure, the affected obligations of the Parties shall be suspended throughout the duration of the event of force majeure and the Parties shall resume performance of these obligations once the force majeure event has ended.

8.5 In the event of interruption of the Services due to force majeure for a period which exceeds fifteen (15) days, IFPEN may give notice to the Contractor, by registered letter with acknowledgment of receipt, of the immediate termination of the Order, without any indemnification whatsoever being owed. Consequences of termination without breach of article 18.2 shall apply.

#### **ARTICLE 9 - LIABILITY**

9.1 The Contractor shall be liable for the timely and proper performance of the Service and all its contractual obligations in compliance with the terms of the Order and with all applicable laws and regulations, including IFPEN's internal regulations and with the specific working conditions applicable at the site(s) on which work is performed.

9.2 The Contractor undertakes to assume all of the consequences of any loss, damage and injury of any nature caused to itself, its personnel, its subcontractor or the personnel of its subcontractor, or including IFPEN and its personnel, or any third party, or to any of their property, in the performance of the Services or due to any omission, inadequacy or error by the Contractor, its personnel or its subcontractor or personnel of its subcontractor for the performance of the Services.

#### **ARTICLE 10 - TECHNICAL WARRANTY**

In addition to legal guarantees, the Contractor shall offer, without additional charge, a technical warranty for a period of twelve (12) months following the date of acceptance without reservation of the Services by IFPEN. During this period, the Contractor undertakes to remedy in their entirety to all anomalies leading to failure to comply with the technical requirements of the Order, as well as any error, bad workmanship, apparent or hidden defect, or defective operation appearing during this period. The Contractor must at its own expense rectify all parts of the Services necessary to eliminate the aforementioned incidents in order to bring the Services up to standard, and provide all of the corresponding documentation.

All costs for replacement, labor, transport and any other cost arising from the implementation of this warranty shall be borne by the Contractor. This technical warranty is included in the price specified in the Order.

The duration of this Technical warranty shall be automatically extended by the same period of time as any period of unavailability of the covered Services/deliverables.

#### **ARTICLE 11 - INSURANCE**

11.1 The Contractor shall provide and thereafter maintain insurance against all risks and liabilities under the Order, throughout the duration of the Order. In the event of failure to accomplish this formality, the Contractor shall bear all financial consequences of this failure.

11.2 Upon IFPEN's request, the Contractor shall send to IFPEN all relevant certificates of insurance policies covering general civil and professional liability with a reputedly solvent insurance company, dated less than six (6) months old, containing a statement as to the types of coverage provided, their amounts and their deductibles. The Contractor shall take all necessary steps to insure itself against all risks.

11.3 In the event of insufficient insurance coverage, before any commencement of performance of the Services, IFPEN may demand that the Contractor increase its insurance policies to a higher amount without additional charge.

#### **ARTICLE 12 - LABOUR PROTECTION - SAFETY**

12.1 The health and safety of personnel form an integral part of proper performance of the Services. The Contractor must have all technical authorisations, standards certification and administrative authorisation necessary for both itself and its personnel for complete performance of the Services and must substantiate the same to IFPEN upon IFPEN's request. The Contractor shall be responsible, throughout the duration of the Services and in the framework of laws and regulations relating to the protection of labour, and IFPEN's particular instructions, for taking all necessary safety measures considering the nature of the Services, and for proceeding with those medical inspections and check-ups as are compulsory for certain activities.

12.2 Where the Contractor's personnel is present in IFPEN's premises, the performance of the Services shall be subject to the provisions of the French "Code du travail" regarding health and safety requirements applicable to works undertaken in an establishment by an external contractor. The Contractor's personnel must comply with health and safety rules and with IFPEN's internal regulations.

12.3 No work may begin in the framework of the Services without an accident prevention plan as provided for in Article R.4512-7 of the French "Code du travail", or a work authorisation.

#### **ARTICLE 13 - EQUIPMENT AND MATERIAL MADE AVAILABLE TO THE CONTRACTOR**

13.1 Only equipment belonging to the Contractor shall be used for the performance of the Services. Unless provided otherwise in the Order, the Contractor shall be responsible for the conservation, maintenance and use of any equipment provided by IFPEN to the Contractor in the framework of the Order. The Contractor shall provide

IFPEN with conformity certificates, especially for *Crane and hoisting equipment*.

13.2 The equipment made available by IFPEN shall remain IFPEN's property notwithstanding the transfer of risks to the Contractor which shall bear all costs for repair or replacement in the event of damage and deterioration which does not arise from the nature of such equipment. This equipment shall be deemed to be in perfect condition when provided to the Contractor unless stated otherwise by a cross-examination/inventory by and between the parties.

13.3 Except for damage and deterioration arising from the very nature of said equipment, the Contractor shall return the equipment in its original condition at IFPEN's first demand, or upon completion of the Services.

#### **ARTICLE 14 - DOCUMENTATION**

14.1 The Contractor is deemed to have examined all documents forming the Order, including these GPTC, and to have assessed, subject to its sole responsibility, all risks and difficulties in performance.

14.2 The documentation provided by IFPEN to the Contractor shall remain IFPEN's exclusive property and must be returned upon IFPEN's request, or upon completion of the Services.

#### **ARTICLE 15 - ASSIGNMENT - SUBCONTRACTING**

15.1 The Contractor may not assign all or part of its obligations under the Order without the prior written agreement of IFPEN. Any change in direct or indirect control over the share capital of the Contractor shall be deemed equivalent to an assignment of the Order.

15.2 Where a capital transfer, contribution or assignment is concluded without authorisation of IFPEN, the Contractor shall remain personally liable both towards IFPEN and towards third parties. Moreover, IFPEN reserves the right to apply the provisions of Article 18.1.

15.3 In accordance with Article 3 of French Law No. 75-1334 of 31 December 1975, where the Contractor wish to subcontract to one or more subcontractors the performance of parts of the Services, it must at the time of the offer and throughout the duration of the Services, have each subcontractor approved by IFPEN and obtain IFPEN's approval on the payment terms for each subcontractor involved.

15.4 Where the Contractor subcontracts part of its obligations under the Order, it shall remain fully liable even for that part which is subject to the subcontract in accordance with Articles 9 and 11.

15.5 The Contractor must ensure that its subcontractors comply with the rules and instructions applicable to IFPEN's personnel concerning discipline and safety. Subcontractors must also sign the accident prevention plan when appropriate, and work authorisations must be given by IFPEN to each subcontractor. The Contractor hereby guarantees and warrants to IFPEN compliance with these rules by its subcontractors.

#### **ARTICLE 16 - INTELLECTUAL PROPERTY**

16.1 The results or the deliverables of the Services, whether patentable or not, such as, for example, any invention, improvements, software, developments, modifications, reports and other specific documents established or developed by the Contractor in the framework of the Services, in any form whatsoever, shall become the property of IFPEN as of their creation. IFPEN may freely dispose of these results/deliverables for any use whatsoever without consulting the Contractor and without the Contractor being entitled to oppose the same.

In case of results protected under copyright : the assignment above mentioned includes all rights to use, reproduce, communicate, display, translate, adapt, modify, reformulate and any other alteration as well as the rights of commercialize, distribute and to sublicense to third parties in any way whatsoever, with or without royalties, and the right to proceed in its own name to all formalities for obtaining and protecting these rights. This assignment is granted for the duration of protection by copyright and shall be worldwide.

In case of software development, the source and the object code of said software as well as the associated documentation shall be delivered to IFPEN .

16.2 The Contractor shall inform in writing IFPEN of all intellectual property rights held by third parties (including any open-source software) that would be necessary for the execution of the Order and use the results. The Contractor undertakes to obtain any and all assignments of the rights of any third parties (including from subcontractors) who contribute to performance of the Services, and undertakes to provide, upon IFPEN's request, copy of all agreements obtained for the above purpose.

16.3 All fees, royalties and charges relating to intellectual property rights necessary for the performance of the Order and the use of the results are deemed included in the price of the Order.

16.4 As a consequence of such assignment, all intellectual property rights pertaining to the results of the Services shall belong to IFPEN. IFPEN may proceed in its own name with any and all formalities with a view to preserving its rights. In case of patentable results, the

Contractor shall provide assistance to IFPEN in order to file for patents applications, at IFPEN's costs, defend and maintain in force such patents and undertakes that each employee identified as inventor provides all signature and performs all the necessary formalities for ensuring filing and maintenance of the patents.

16.5 In the event of use of pre-existing information belonging to the Contractor for the performance of the Services, the Contractor hereby grants to IFPEN, included in the price of the Order, an irrevocable licence for any patent and/or authors' rights and/or any other intellectual property rights such as to allow IFPEN to make all use, implement, reproduce by any means, display, perform, translate, adapt and distribute all or part of the pre-existing information as integrated into the results of the Services or necessary for the use of said results.

16.6 IFPEN shall not owe any payment towards the Contractor's personnel who contribute to creating the results, including their inventions. The Contractor undertakes to take all necessary measures with respect to its personnel.

16.7 The Contractor undertakes not to reproduce, publish, distribute, translate, adapt or use, in any manner whatsoever, the results of the Services forming the subject-matter of the Order.

#### **ARTICLE 17 - CONFIDENTIALITY**

17.1 The Contractor undertakes to apply, and to have its personnel and any subcontractors apply, the most absolute professional secrecy regarding any information communicated to it for the purposes of the Services or which it may become aware of in the performance of the Services, as well as the results of the Services, whatever the nature of the information concerned (economic, scientific, legal, technical, etc.) and whatever its form.

17.2 These provisions shall not apply to information which:

- at the time of disclosure was already in the Contractor's possession provided that it can provide written evidence of such prior personal possession,
- at the time of disclosure, is public knowledge or becomes so at a later date without fault on the part of the Contractor,
- has been disclosed by a third party who may lawfully proceed with such disclosure.

17.3 Consequently, the Contractor shall not reproduce, communicate or use the corresponding information for itself or on behalf of any third party, in any form whatsoever, other than for the purposes of the Order and with all necessary precautions. It undertakes to return all documents or other physical media containing IFPEN's information to IFPEN at any time upon IFPEN's written request.

17.4 This confidentiality obligation shall survive the termination or expiry of the Order, whatever the cause, for a period of ten (10) years.

17.5 Any Confidential Information (and copies thereof) disclosed by IFPEN to the Contractor shall remain, subject to third parties rights, the sole property of IFPEN.

17.6 The Contractor shall not, without IFPEN's prior written consent, in any manner advertise or publish, or permit to be published, the fact that it has supplied or has contracted to supply IFPEN with any of the Services, Any reference by Contractor to IFPEN's name for advertising or communication purposes shall be subject to IFPEN's prior written approval.

#### **ARTICLE 18 - RESCISSION - TERMINATION**

##### **18.1 For Contractor's default**

18.1.1 In the event that the Contractor does not comply with its contractual obligations, including in particular failure to comply with bidding delay, IFPEN may give the Contractor written notice of such breach or non-compliance at any time thereafter, by registered letter with acknowledgment of receipt, summoning compliance with the terms of the Order within thirty (30) business days following the date of said notice of default.

If the Contractor has not remedied his breach within the aforementioned delay, IFPEN may rescind or terminate the Order, in whole or in part, for default of the Contractor, without formality or delay, and may entrust a third party with the continuation of the Services at the Contractor's expense.

If IFPEN chooses to rescind or terminate the Order, such rescission or termination, will be notified by IFPEN to the Contractor, without delay and without formalities, by written notice with acknowledgement of receipt. Termination will be effective upon receipt by the Contractor of said notification or on the day of its first presentation to the Contractor.

18.1.2 If the Contractor is in serious breach of its obligations under the Order, IFPEN may rescind or terminate the Order, in whole or in part without delay. Serious breach of the Contractor shall be understood to mean:

- failure to comply with safety rules and labour protection,
- subcontracting or assignment of all or part of the Services without prior authorisation of IFPEN,
- failure to comply with its confidentiality obligations,
- lack of insurance coverage.

In such cases, rescission or termination will be notified by IFPEN to the Contractor, without delay and without formalities, by written notice with

acknowledgement of receipt. Termination will be effective upon receipt by the Contractor of said notification or on the day of its first presentation to the Contractor

##### **18.2 Consequences of termination**

Whatever the circumstances of termination of the Order, those provisions which due to their nature will survive termination of the Services shall remain in force, including in particular those obligations laid down in Articles 10, 16 and 17 of these general terms and conditions.

Within a period of two (2) working days following the effective date of the termination, the Contractor must return all of the equipment and/or documentation made available to it by IFPEN in the framework of the Order.

Upon termination of the Order, IFPEN shall establish a termination account listing the sums in debit and in credit with regard to the Contractor's work performed under the Order. In no case shall the Contractor receive, as for this termination account, and excluding default interest, an amount greater than that which would have been due in case of complete and proper execution of the Order.

The Contractor shall not claim any indemnity in case of termination of the Order because of its breach or its failure in the performance of its obligations under the Order.

Where the Services are remunerated *"à l'attachement"* (for time spent), no indemnification shall be owed to the Contractor as a consequence of early termination. IFPEN shall pay for those parts of the Services which have been effectively completed on the basis of the contractual rate and of the activity report duly signed by IFPEN.

Where Services are remunerated by an all-inclusive price or lump sum, IFPEN shall pay the Contractor the amount corresponding to the parts of the Services which have effectively been completed at the effective date of termination, or on a pro rata temporis basis.

18.3 In the event of breach by the Contractor, any costs, including costs to have the Services performed by a third party, supplementary costs and penalties borne by IFPEN as a consequence of such breach, shall be deducted from and/or invoiced to the Contractor.

The Contractor undertakes, without charge, to communicate to IFPEN or the third party appointed by it, and inform them of, any and all files, information, and know-how necessary for the continuation of the Services by IFPEN or by a third party appointed by it under the best conditions.

18.4 The implementation of this Article shall not limit IFPEN's right to claim for damages.

#### **ARTICLE 19 - MISCELLANEOUS**

19.1 Any failure, delay or concession by either Party in the exercise of its rights or any part thereof under the Order shall not be construed as a waiver of such rights or affect the validity of the Order or any part thereof, nor shall it prejudice the rights of the Parties to enforce their rights at a subsequent time and the obligations of both Parties shall continue in full force and effect.

19.2 In the event that any Article, term, condition or provision of the Order or any part thereof is prohibited by, or is unlawful under, or is unenforceable under, any applicable law actually applied by any court of competent jurisdiction, the remaining Articles, terms, conditions and provisions shall remain in full force and effect .

19.3 Notification by registered letter with acknowledgement of receipt shall be deemed to have been sent on the date appearing on the post office stamp.

#### **ARTICLE 20 - GOVERNING LAW - DISPUTES**

Any dispute arising with respect to the Order shall be settled in accordance with French Law and shall be brought before the French *Tribunal de Commerce* [Commercial Court] of Nanterre, including in the event of multiple defendants.

XXXXXXXXXX