

## STANDARD TERMS AND CONDITIONS FOR THE SUPPLY OF SERVICES, GOODS, INSTALLATIONS AND MAINTENANCE

### 1. SCOPE AND APPLICABILITY

These Standard Terms and Conditions ("STC") shall govern the legal relations between the Supplier and Monaco Telecom SAM hereinafter referred to as "**Monaco Telecom**", in connection with services, goods, installations, and maintenance.

**1.1** These STC shall take precedence over any standard terms and conditions previously agreed and over the Supplier's standard terms.

**1.2** The Supplier shall be deemed to have agreed to these STC by its submission of a Proposal and/or the supply of the Objects of the Agreement.

### 2. DEFINITIONS

- a.) "Agreement" shall mean these STC and any hereto related documents duly signed by the parties or the acceptance of the Purchase Order, subject to these STC by the Supplier;
- b.) "Objects of the Agreement" shall mean the provision by the Supplier of goods and/or services, such as (but not necessarily limited to) installations and/or maintenance, in accordance with a Purchase Order by Monaco Telecom;
- c.) "Delivery Date" shall mean the date agreed for the supply of the Objects of the Agreement and stated in the Purchase Order;
- d.) "Proposal" shall mean the Supplier's response based on Monaco Telecom's request to provide quotation for the Objects of the Agreement described in Monaco Telecom's request;
- e.) "Purchase Order" shall mean a binding order in writing for the supply of the Objects of the Agreement accepted by Monaco Telecom.

### 3. ORDERING

A Purchase Order shall be valid only if duly signed by Monaco Telecom. The Supplier shall confirm its acceptance of the Purchase Order in writing within five (5) working days. In the event the Supplier fails to accept or to reject the Purchase Order in writing within five (5) working days, then such Purchase Order shall be deemed accepted by the Supplier.

Until Monaco Telecom issues a Purchase Order, it has no liability (including pre-contractual liability) to the Supplier for any damage suffered by the Supplier. Monaco Telecom is not obliged to state any reasons in the event of non-selection of the Supplier or of the non-ordering of Objects of the Agreement.

### 4. DELIVERY

**4.1** The Supplier shall deliver the Objects of the Agreement at the Delivery Date in the quantity and quality set forth in the Purchase Order, in conformity to Monaco Telecom's request or to the Supplier's specifications agreed prior to the issuance of the Purchase Order. The Objects of the Agreement shall be free of defects.

**4.2** The Supplier's delivery note shall state the number and date of the Purchase Order and include a description of the Objects of the Agreement, their quantity (total gross weight, where appropriate) and, if applicable, their dangerous-goods classification as required by law.

**4.3** The Objects of the Agreement shall be delivered to the address stated in the Purchase Order.

**4.4** If Monaco Telecom refuses to accept the Objects of the Agreement because of defects found, it shall not pay/be liable for the rejected Objects of the Agreement.

**4.5** Partial deliveries shall be permissible only subject to prior agreement in writing by Monaco Telecom. Monaco Telecom reserves the right to cancel a Purchase Order, in part or as a whole if a partial delivery is made without agreement in writing. Monaco Telecom shall not be liable for costs incurred by the Supplier in case of such cancellation notably but not necessarily limited to any such that may arise for the Supplier due to the return of such partial delivery.

### 5. DEFAULT

**5.1** The Delivery Date stated in the Purchase Order shall be binding and shall be deemed met if the Objects of the Agreement have been delivered at the agreed Delivery Date to the location as stated in the Purchase Order.

**5.2** If the Supplier does not meet the agreed Delivery Date as stated in the Purchase Order, then the Supplier shall be automatically deemed in default.

**5.3** If the Supplier is in default, Monaco Telecom may demand immediate compliance with the Agreement or cancel the Agreement without thereby affecting any of its legal rights. The Supplier shall in any case be liable for any damage that arises from its failure to deliver the Objects of the Agreement within the agreed Delivery Date. The Supplier shall pay Monaco Telecom liquidated damages of two percent (2%) of the value of the Purchase Order for each started weekday for

which it is in default, up to a total of twenty percent (20%). The payment of liquidated damages shall not be deemed to relieve the Supplier from its contractual duties or be offset against a claim for compensatory damages.

## **6. TESTING AND ACCEPTANCE**

**6.1** Upon receipt of the Objects of the Agreement, Monaco Telecom shall test them within a reasonable time and inform the Supplier forthwith of their acceptance or rejection, as the case may be.

**6.2** If Monaco Telecom finds any Object of the Agreement or part of the Objects of the Agreement to be defective, it shall set the Supplier a reasonable period of grace to make good the defect. The Supplier shall make good any such defect within the stipulated period at its sole charge the granting of a period of grace for making good defects shall not be deemed to relieve the Supplier of its liability to pay compensatory damages to Monaco Telecom.

**6.3** If within the stipulated period the Supplier fails to make good the defect or fails to do so in full, Monaco Telecom may at its sole discretion exercise the following rights:

- a) insist upon compliance with the Agreement, require compensation for the reduced value of the Objects of the Agreement, and claim compensatory damages; if Monaco Telecom so requires, the Supplier shall replace the defective Objects of the Agreement;
- b) refuse acceptance of the defective part(s) of the Objects of the Agreement and claim compensatory damages;
- c) withdraw from the Agreement and claim compensatory damages for the loss.

**6.4** If Monaco Telecom claims a reduction of the value in the Objects of the Agreement, it shall also have the right, at the Supplier's risk and charge. Either itself to make good or complete the Objects of the Agreement, or to transfer this task to a third party of its choice the Supplier shall assist Monaco Telecom therein and notably hand over all documents necessary for that purpose.

**6.5** If only part of the Objects of the Agreement supplied is defective. Monaco Telecom shall at its discretion accept only those parts that are free from defects.

**6.6** The Supplier shall make available free of charge to Monaco Telecom all documentation, such as (but not necessarily limited to) documents and copies relevant or belonging to the Objects of the Agreement or, as the case may be, to hand these over within five (5) days after (full or partial) delivery of the Objects of the Agreement.

## **7. TRANSFER OF TITLE AND RISK**

Title and risk shall pass to Monaco Telecom upon payment of the Objects of the Agreement.

## **8. CHANGES TO THE OBJECTS OF THE AGREEMENT**

**8.1** Changes to the Objects of the Agreement shall be valid only if mutually agreed and confirmed in writing by the parties. In response to a variation request by Monaco Telecom, the Supplier shall inform Monaco Telecom in writing within five (5) working days after receipt of said request whether the proposed changes are possible and what effects (notably on Delivery Dates and prices) they will have on the Objects of the Agreement.

## **9. PRICES**

**9.1** Except as may be otherwise agreed, the prices stated in the Agreement shall be deemed firm and binding.

**9.2** Any price change shall be mutually agreed and confirmed in writing. If the Supplier uses price lists and reduces these before the agreed Delivery Date for the Objects of the Agreement, the reduced prices shall also apply without specific agreement in writing.

**9.3** All prices specified in or referred to in this Agreement are DDP (Incoterms 2010), include all costs, expenses and are exclusive of any tax raised in Monaco (such as any sales, use, value added tax VAT), levies, exercise or other similar or equivalent taxes imposed on the supply of the Objects of the Agreement.

## **10. PERMITS AND REQUIRED CERTIFICATES**

The Supplier shall obtain at its own charge all necessary permits and required certificates.

## **11. ETHICS**

**11.1** The parties undertake to comply with and to require their subcontractors and any person under their control to comply with all applicable legislation and rules relating to ethical and responsible standards of behaviour including without limitation, those dealing with human rights, environmental protection, sustainable development, bribery and corruption ("the Rules").

**11.2** Monaco Telecom within the framework of its corporate responsibility wants to promote an improvement of the environmental performance of its products and services, to this end, the Supplier agrees to supply on request relative information, in particular concerning the energy consumption, its equipment manufacturing and logistics in order to assess and measure the CO2 impact, the composition of products and its packaging and/or other specific information. The Supplier agrees that Monaco Telecom will use part or whole of the above information for its customers.

**11.3** Monaco Telecom shall be entitled, by itself or through a nominated auditor, to audit the Supplier after a prior reasonable written notice in order to control the Supplier's conformity to the Rules.

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**11.4** In the event that a failure to comply with the Rules is detected, the Supplier shall upon Monaco Telecom's written notice immediately remedy such failure so that its conduct conforms to the Rules.

**11.5** Where the Supplier continues to be in material breach of this clause, within thirty (30) days following receipt of said notice, Monaco Telecom shall be entitled to enforce its right to terminate the Agreement with the Supplier with immediate effect.

## **12. INVOICING, PAYMENTS**

**12.1** Except as may be otherwise agreed in writing by the parties, the Supplier shall not invoice Monaco Telecom for the Objects of the Agreement before their completed delivery and their final acceptance by Monaco Telecom.

**12.2** All invoices shall be addressed to:

Monaco Telecom  
Accounting Department  
4/6 Avenue Albert II  
98000 MONACO

**12.3** All invoices shall contain the following details: number and date of the Purchase Order, Objects of the Agreement supplied, component designation and drawing number (If applicable), description, quantity, and weight.

**12.4** Payment by Monaco Telecom shall be made in euros (EUR) within sixty (60) days after it has received the correctly compiled invoice. Monaco Telecom shall notify the Supplier forthwith if an invoice is incorrect.

**12.5** Payment by Monaco Telecom shall not be deemed acknowledgment that the Objects of the Agreement are in accordance with the Agreement and/or free from defects.

## **13. WARRANTY**

**13.1** The Supplier warrants that the Objects of the Agreement possess the promised properties and characteristics, and contain no defect that reduces their value or impairs their suitability for the Intended use. In particular, this provision requires that the Objects of the Agreement are state-of-the-art and comply with the technical documents as regards design, materials, workmanship, quality and other specifications that Monaco Telecom is entitled to assume in good faith to be obvious to the Supplier, even if not expressly stipulated or agreed. Furthermore, the Supplier shall warrant that the Objects of the Agreement comply with the legal requirements and applicable industrial standards at the place of performance. The Supplier hereby warrants that it will keep spare parts available for Monaco Telecom for at least ten (10) years after acceptance.

**13.2** Except as may be otherwise agreed in writing or if the law requires a longer warranty period, the period of warranty shall be twenty four (24) calendar months from the date of final acceptance. For maliciously concealed defects, the warranty period shall be ten (10) years. Defects shall be notified to the Supplier within Sixty (60) days of their discovery.

**13.3** The warranty period shall be deemed to recommence afresh for spare-part deliveries, maintenance, servicing and for the making good of defects under warranty.

## **14. LIABILITY**

**14.1** The Supplier shall be liable for any damage and for any fault due to any defect in the Objects of the Agreement. The Supplier shall obtain an insurance cover of at least two million euros (EUR 2 M). Monaco Telecom may at any time demand proof of such insurance.

**14.2** The Supplier shall be liable for any act of commission and/or omission by any helper, supplier, subcontractor mandatory and/or other third party it may engage for its performance of the Agreement, as for its own such acts.

**14.3** The Supplier's liability for death and personal injury shall be unlimited.

## **15. PROPRIETARY RIGHTS IN THE OBJECTS OF THE AGREEMENT AND RIGHTS OF USE**

**15.1** By its payment of the price of the Objects of the Agreement, Monaco Telecom shall acquire all proprietary rights in the Objects of the Agreement. The Supplier shall ensure through written agreements that all proprietary rights, including those of the Supplier's in-house or external employees and/or of any third party engaged for its performance of the Agreement are likewise transferred to Monaco Telecom. If this is not possible, the Supplier shall bring this circumstance to the notice of Monaco Telecom when it submits its offer or in any event not later than before the signature of the Agreement or the acceptance of the Purchase Order by the Supplier.

**15.2** Monaco Telecom shall have absolute freedom as to whether, when and/or how it uses the Objects of the Agreement for processing and whether it does so in conjunction with other rights or integrates or incorporates them in other rights.

**15.3** The Supplier hereby expressly waives its right to be named as author or creator. The Supplier shall ensure through written agreements that all its in-house or external employees and/or any third party engaged for its performance of the Agreement likewise waive this right. If this is not possible, the Supplier shall bring this circumstance to the notice of Monaco Telecom when it submits its offer or in any event not later than before the signature of the Agreement or the acceptance of the Purchase Order by the Supplier.

## **16. INFRINGEMENT OF THIRD-PARTY PROPERTY RIGHTS**

**16.1** The Supplier shall, at its sole charge, defend any claim against Monaco Telecom on account of the infringement of patents and intellectual property rights, notably copyright, that may be raised in connection with the Objects of the Agreement supplied by the Supplier. Monaco Telecom shall notify the Supplier forthwith as regards any such claim and, as far as possible, shall grant the Supplier authority to conduct and settle any such litigation itself. The Supplier shall bear the costs and the damages judged payable by Monaco Telecom by final and un-appealable judgment and any other costs that may arise in connection with such infringement of property rights.

**16.2** If Monaco Telecom is prevented by final and un-appealable judgment from using the Objects of the Agreement, the Supplier shall, as Monaco Telecom may choose at its sole discretion, obtain for Monaco Telecom the right to continue their use, exchange and replacement, or so modify the Objects of the Agreement as to avoid infringement of property rights; or take back the Objects of the Agreement and credit or reimburse Monaco Telecom the price of the Objects of the Agreement or licence fee less normal depreciation.

## **17. CONFIDENTIALITY**

**17.1** Both parties, their employees and their third parties shall treat as confidential all information communicated by the disclosing party. Except as set forth in clause 17.2, such Information shall not be disclosed to any unauthorized third party. The duty to secrecy shall begin upon the initiation of the contractual negotiations and continue in effect for three (3) years after the termination of the contractual relations. The duty to secrecy shall not apply if there is a legal duty of disclosure

**17.2** The following Information shall not be deemed confidential:

- a) Information in the public domain unless passed on without proper authority; or
- b) Information passed on by a third party not subject to a duty to secrecy.

**17.3** Disclosure of information to any third party shall be permissible only with the prior written consent of the parties.

**17.4** The parties agree that the receiving party may disclose information to its subsidiaries, its parent companies and/or any of the latter's (directly or indirectly controlled) companies if such companies are bound by a comparable obligation of non-disclosure.

**17.5** The receiving party shall store all confidential information in a safe place and protect it against unauthorized access, damage and/or loss.

**17.6** The receiving party shall inform the disclosing party forthwith if it becomes aware of unauthorized disclosure of confidential information and shall make every possible effort to have it returned and prevent its further disclosure.

**17.7** Upon termination of the contractual relations, the receiving party shall at its own charge destroy all confidential information made available by the disclosing party.

**17.8** The Supplier and Monaco Telecom agree that no press release or other public announcement related to the Agreement concluded between them and the purchase of the Objects of the Agreement hereunder, written or oral, shall be published, except as required by applicable law or by a competent public authority.

**17.9** Breach of the duty to secrecy shall be a ground for liquidated damages of fifty thousand euros (EUR 50'000). The payment of liquidated damages shall not relieve the receiving party of its duty to secrecy and of its liability for compensatory damages payable to the disclosing party. Liquidated damages shall not be offset against compensatory damages.

## **18. DATA PROTECTION**

In case, the Supplier will have access to or process any Monaco Telecom data including personal data, the Supplier shall ensure that itself and all persons involved in fulfilling these STC will at all times fully comply with the applicable data protection laws and regulations. The details of Suppliers obligations with regard to processing of the personal data are governed by a separate Data Processing Agreement between the parties which is hereby incorporated by reference and supplements the present STC. Supplier hereby acknowledges to have taken notice and accept the terms under the Data Processing Agreement.

## **19. USE OF MONACO TELECOM LOGO OR NAME**

The use or exploitation by the Supplier of the Monaco Telecom name and/or logo in any manner or form shall be subject to the prior agreement in writing by Monaco Telecom. Except as may be otherwise expressly specified, the application of these STC shall not in any manner be deemed to mean that the Supplier acquires any right in the intellectual property of Monaco Telecom or in any such for which Monaco Telecom possesses a licence.

## **20. MISCELLANEOUS**

**20.1** Neither party shall without the prior agreement in writing by the other party assign any rights and/or duties under the Agreement.



**20.2** In processing a Purchase Order, the Supplier shall strictly observe all relevant accident-prevention and safety regulations, and shall carry out the directives and instructions by Monaco Telecom as regards access to the Monaco Telecom sites.

**20.3** The Supplier shall at its own sole costs obtain all work permits and local official permits necessary to ensure the performance of its contractual duties. The Supplier shall likewise perform all its duties arising from taxation and insurance legislation, and any other required by law or regulation.

#### **21. APPLICABLE LAW**

**21.1** Monaco law shall apply exclusively to any dispute on the interpretation and/or Implementation of the Agreement. The legal venue shall be the courts of Monaco.

**21.2** The provisions of the Vienna Treaty (United Nations Convention on Contracts for International Trade of 11 April 1980) shall not apply hereto.