



#### General terms, order placement

1. These general terms and conditions of purchase shall govern all orders and/or contracts concluded by the purchaser for the purchase of goods, documentation, etc... and/or the performance of works and/or services.
2. The purchaser shall be provided with quotations free of charge. The supplier shall expressly indicate to the purchaser in the quotation any deviation from the documentation upon which the quotation is based.
3. Orders, contracts, agreements and changes shall only be binding where placed and/or confirmed by the purchaser in writing. Correspondence shall be exchanged with the respective members of the purchase department. Any agreement with other departments which vary from the agreed contractual terms are subject to the requisite purchase department having confirmed the same in writing.
4. The precedence of contractual documents is as followed : the order and/or contract, and its appendices (including the technical specifications), these general terms and conditions of purchase, the latest state of the art and the acknowledgement of receipt of the order and/or contract.
5. Any general terms and conditions of the supplier shall not apply, including where purchaser fails to expressly revoke the same in any individual case.
6. Orders and/or contracts are considered to have been accepted if the supplier does not object to them in writing within seven (7) calendar days of receipt. The purchaser is, however, also entitled to revoke the order and/or contract within seven (7) calendar days, if the supplier has not issued a written acceptance beforehand.
7. All modifications concerning the order and/or contract must be the subject of an amendment signed by the parties prior to being undertaken by the supplier.
8. The supplier shall treat the conclusion of any order and/or contract as confidential and shall not name the purchaser as a reference to a third party without having obtained the purchaser's prior written consent thereto.

#### Scope of performance, execution, changes

1. The scope to be performed by the supplier is set out in each individual order and/or contract including but not limited to the technical specification and legal requirements. Documents, reports, ideas, drafts, models, samples and all other results gained during performance are hereby deemed an integral part of the order and/or contract to be performed hereunder.
2. The supplier shall perform the order and/or contract with the utmost care and attention and in accordance with the latest state of the art, the safety regulations required by local authorities in the country where the order and/or contract is performed and trade associations in particular in accordance with the DIN – or ISO certification requirements insofar as order and/or contract to be performed by him or any expertise gained by the supplier during or prior to performance are subject to the same. The supplier guarantees compliance with statutory provisions, the agreed technical specification and any other guidelines.
3. The supplier shall compile drawings, technical specification, data and other documentation in accordance with the purchaser's requirements, provisions and guidelines or those of the purchaser's customer. In the event of any uncertainty the supplier is obliged to obtain all information required for performance of the order and/or contract prior to the commencement date. This shall apply in particular to the electronic information processing system and programs to be used.
4. The supplier undertakes to inform the purchaser as to any doubts he may have as to the manner in which the order and/or contract is to be performed, in writing without delay, and to propose changes which he considers necessary in order to comply with the order and/or contract, the agreed technical specification and legal requirements. The supplier shall bear all expenses incurred thereby. Any changes shall not be made by the supplier without the prior written agreement of the purchaser.

5. In the event of failure to comply with the safety and/or environmental protection rules in the execution of the order and/or contract, a penalty of one hundred (100) euros per infringement shall be payable by the supplier, after written notice by the purchaser. The purchaser retains the right to make further claims additional to those set out aforesaid. The penalty shall be setoff against any payment due to the supplier. The amount of this penalty is limited to the total amount of the order and/or contract. This clause does not release the supplier from its obligation to comply with the contractual provisions of the order and/or contract.
6. The supplier shall be solely responsible for the performance of the order and/or contract which is performed at his own risks.
7. The purchaser shall be entitled to request changes to orders and/or contracts where reasonable and provided that the purchaser has not fully performed his obligations. Any consequence thereof (e.g. price increase or reduction, change in delivery date, etc... ) shall be fairly and mutually resolved by the parties.

#### Service performed on site

1. Management of personnel on site

A purchaser's manager being on site (site means premises of the purchaser and/or sites of the purchaser's customer and/or premises of the purchaser's suppliers) does not release the supplier from its responsibility with regard to the performance of the order and/or contract entrusted to supplier. The supplier shall name a person with the required experience and who is sufficiently empowered to perform his duties, entrusting said person with the management of the work on site. The purchaser must be immediately informed by written prior to this person being replaced. The supplier must also provide the purchaser with a chart detailing the personnel chosen to work on the site, ensuring said chart is kept permanently updated. The purchaser shall be entitled to require the replacement of personnel posing a threat to safety. The supplier is liable for any accident, bodily harm or damage to property occurring as a result of its service.

2. Safety measures

The service performed on site must be organized in such a manner as to be jointly decided in due time with the purchaser's personnel including the employees in charge of safety issues. The supplier undertakes to draw up all documents related to safety and/or environment and to take all appropriate preventive measures in terms of safety and environment. The supplier shall comply with and, if necessary, draw up, in conjunction with the purchaser, the loading and/or unloading protocols, the prevention protocols, and/or the General Coordination Plans (GCP) concerning Health and Safety, and/or the special Health and Safety plans for the site. Furthermore, the supplier shall obtain full information from the purchaser regarding all dangers specific to the site and shall coordinate, with the purchaser, in respect of the application of the special safety measures required. The supplier shall include the coordination measures identified by the Health and Safety Coordinator (HSC) in the GCP and reviewed with the said coordinator during the joint inspection visit conducted before the service begins. This prior site visit shall be organized by the supplier at its own cost.

The supplier shall appoint a safety manager for the whole period during which it works on site.

3. Protection against fire and explosions

The supplier must comply with all instructions concerning the prevention of fires and explosions in force on the site.

It must inform the purchaser of all potential risks concerning hot spots, open flame, heat and sparks.

The work may only begin when the appropriate preventive measures have been implemented with a "hot-work permit" being issued beforehand.

4. Protection against other risks

The supplier shall ensure that its personnel and the workforce of its sub-contractors respect the safety instructions and use the identified protection equipment in accordance with dangers. In circumstances which pose a threat to the safety of the site or for any other major reason, the purchaser shall be entitled to refuse access to the site to the supplier and/or its sub-contractors



The supplier must comply with all safety instructions and/or procedures concerning prevention of risks in confined spaces, radiography, etc... on the site and satisfy the requirements in order to be permitted to work when its activities are concerned by this.

For this purpose, the supplier shall submit all documents required to obtain a permit and take all measures and use all means specified in this permit, at its own cost.

5. **Supplier's personnel**

The supplier represents and warrants that it shall carry out the work with personnel employed in a lawful manner, that it has made all necessary declarations, and that it regularly pays its taxes, contribution, allocations, etc.

The supplier shall provide the purchaser with a list including names of all persons that it intends to have working on the site. This list shall be kept permanently up to date.

The supplier must provide the purchaser, if it so requests, with written proof of registration of these persons with the mandatory social security system.

During the period the supplier works on site it shall observe and comply with the legal regulations in force, in particular in the event of employing foreign labour.

The supplier shall train its own personnel in an appropriate manner with regard to the regulatory requirements in force in the country where the order and/or contract is being executed and the mandatory safety instructions of the site.

The supplier shall hold the purchaser harmless against all consequences related to failure to satisfy these obligations, in particular any claims made by third parties including insurance. The purchaser is not liable for theft of any items and/or damage which might be caused to objects which the supplier and/or its personnel bring on the site.

**Non-conformity of goods and/or services**

1. If, after delivery of the order and/or contract, the good and/or service is found to be non-compliant with the order and/or contract, the purchaser shall inform the supplier of the non-conformity. The supplier undertakes to propose, within two (2) working days, by writing, to the purchaser, a corrective and preventive solution in order to rectify this non-conformity. Should the supplier fail to propose a solution within two (2) working days and approved by the purchaser, the non-compliant good and/or service shall be rendered compliant by the purchaser and/or a third party selected by the purchaser. All expenses related to this process shall be borne by the supplier without prejudice to the application of damages. This good and/or service will be covered by the supplier's warranty.
2. In such an event, if the good is non-compliant, it shall be rejected by the purchaser and the supplier shall take back this good immediately at his own cost. If the supplier fails to come immediately to remove the good, all expenses incurred, including but not limited to the expenses of storage, scrapping, etc... shall be met by the supplier. In any event, the non-compliant good shall not be stored more than three (3) months by the purchaser. After this period the purchaser shall be entitled to scrap the good at the supplier's cost.
3. At the discretion of the purchaser, the supplier shall a) replace the non-compliant good with a new compliant one and in accordance with the schedule requested by the purchaser, or b) send, within seven (7) calendar days, a credit note to the purchaser for the amount of the rejected good.
4. As a general rule, in the event of a non-compliant good and/or service, all expenses incurred by replacing and/or rendering the good and/or service compliant shall be met by the supplier. The purchaser shall be entitled to setoff these expenses when paying the order and/or contract.

**Right of inspection**

The supplier undertakes to grant access to the purchaser, its customer or any other organization named by the purchaser, to the supplier's business premises at any time during normal working hours upon advance notice and to provide him with an insight into any documentation which is relevant to the order and/or contract. All documentation which is relevant to any order and/or contract and which is not surrendered to the purchaser shall be retained for a period of five (5) years after

the end of the order and/or contract. The supplier shall ensure that the purchaser, its customer or any other organization named by the purchaser, shall be entitled to the same rights of inspection vis-à-vis the supplier's sub-suppliers.

**Deliveries**

1. All deliveries must contain a delivery slip bearing at the very least the order and/or contract number. Each delivery slip must only concern a single order, even in the event of grouped deliveries.
2. In the event of handling, transport and/or storage operations before delivering the order and/or contract, the supplier must use packing materials, protection and wedges suited to the type of supply, the method of handling, transport and storage conditions. The packaging must ensure that the supply is not damaged in any way and facilitate unpacking. The supplier may be held liable if it is proved not to be the case.
3. In accordance with the 2010 Incoterm referred to in the order and/or contract, the supplier shall obtain at its own cost and risk, all documents and/or export authorizations required and forward them to purchaser if requested to do so by the purchaser. All expenses and/or consequences relating to the documents and information being forwarded late and/or containing errors or being incomplete shall be passed on to the supplier.
4. Respecting the quantities specified on the order and/or contract by the purchaser is a substantial condition of the order and/or contract. Partial or over-delivery is only possible if the purchaser issues its prior written agreement.

**Performance deadlines and delay**

1. The period of execution of the order and/or contract is set by the special terms and conditions of the order and/or contract. Respecting the execution deadline by the supplier is a substantial condition of the order and/or contract and the choice of supplier by the purchaser. With regard to deliveries, the supplier shall choose the means of transport in such a manner as to respect the contractual delivery time of the order and/or contract.
2. All expenses required to respect the delivery time of the order and/or contract shall be borne by the supplier.
3. Any early delivery is only possible if the purchaser issues its prior written agreement.
4. In the event of a delay, and unless otherwise specified, late delivery fees shall where the supplier fails to comply with the delivery time, a contractual penalty shall be applied by the purchaser, without setting a grace period and without prior notice, at the rate of 0.5% of the order and/or contract value per commenced week of default but not more than 5% of the agreed price. The purchaser retains the right to make further claims additional to those set out aforesaid. The penalty shall be setoff against any payments due to the supplier. This clause does not release the supplier from its obligation to comply with the contractual provisions of the order and/or contract. The purchaser shall not forfeit his right to claim the contractual penalty where he unconditionally accepts the works late. In addition the purchaser shall have the option of claiming a replacement delivery and/or damages in lieu of performance due to non-performance or poor performance of the supplier. The purchaser reserves the right to terminate the order and/or contract, wholly or partially, when the penalty maximum is reached, without formal notification being required.
5. In case of delay of services performed on site, the penalty shall also apply in the event of failure by the supplier to comply with the site access conditions and/or procedure forwarded by the purchaser.
6. As soon as the supplier becomes aware that contractual deadlines cannot be kept, he shall inform by written the purchaser without delay. The purchaser's statutory rights shall not be affected by such notification.

**EC compliance for the products**

1. Only in this clause the notion of "product" refers to the supply of goods and/or services.
2. Unless otherwise expressly specified, the product must be compliant with the relevant European Decisions, Directives and European Regulations, which are applicable to them. In this



respect, the supplier must deliver the order and/or contract in compliance with the above texts along in addition to sending the documents specified by said texts, such as declarations, certificates, instructions, material safety data sheets.

#### **Proof of origin**

1. For all goods, suppliers with its registered office in the European Union must present, on the day of delivery at the latest, a long-term declaration, or if this is not possible, a separate declaration for each batch of goods sent in accordance with the provisions of the EC 1207/2001 regulation of 11 June 2001. Suppliers with their registered office located outside the European Union must provide proof of preferential origin (EUR.1, EUR-MED, Declaration on an invoice, etc.) in accordance with the applicable preferential regimes. If goods are not of preferential origin or if the preferential origin derogates from the non-preferential origin, the supplier undertakes, to declare the non-preferential origin and, if requested, provide a certificate of origin issued by the competent authority. The country of origin must be clearly indicated. In the event of unions or groups of countries, the individual country or origin must be indicated. The documents proving that the origin is compliant with this paragraph shall not give rise to an additional invoice being issued to the purchaser by the supplier.
2. The supplier undertakes to declare the actual weight and the number of items in accordance with the combined nomenclature of the European Union or the Harmonized System Code.
3. The supplier undertakes to inform the purchaser in writing if the good is subject to export restrictions. Information is required, when this concerns a dual-purpose good in accordance with regulation EC 428/2009 of 5 May 2009, or a good which is subject to a prohibition in respect of exporting or re-exporting, those subjected to approval in accordance with special provisions, e.g. embargo regulations of the European Union, the US Export Administration Regulations (EAR), or the International Traffic in Arms Regulations (ITAR).

#### **REACH regulations**

1. The supplier undertakes to respect and/or have respected the REACH (Registration, Evaluation, Authorization and Restriction of Chemicals) European regulations related to the registering, evaluation and authorization of chemical substances, as well as the prohibitions and restrictions applicable to the latter.
2. If, due to the REACH regulations and its requirements, a modification must be made to the order, the supplier shall immediately inform the purchaser and must propose a replacement solution to the purchaser in order to respect the order and/or contract deadline.
3. If the supplied good contains a regulated substance in a concentration above a limit of 0.1% weight by weight, the supplier shall provide the purchaser with all necessary and sufficient information for a safety use of the good, including but not limited to the name of this substance.

#### **Transport of hazardous goods**

1. The purchaser presumes that the supplier has the knowledge concerning the potential danger which its good might represent while being transported, packed, stored etc. In order to guarantee the safety and execution of the order and/or contract within the contractual time period, the supplier shall verify, at the latest before starting to execute the order and/or contract, whether the goods specified in said order and/or contract are considered to be hazardous goods (e.g. paint, adhesives, chemical products or flammable products, oxidants, explosive products, combustible products, toxic products, radioactive products, caustic products or products liable to boil, etc...). If this proves to be the case, the supplier shall immediately send the purchaser all necessary information, including, at least, the Material Safety Data Sheets (MSDS) and technical sheets which include recommendations in the event of an accident. These documents will be provided by the supplier to the purchaser in French and English language, in electronic format, at the latest before starting to execute the order and/or contract.
2. The supplier must immediately communicate any modifications concerning the MSDS and recommendations in the event of accidents. These modifications must highlight each new version of the documents.

3. The process of declaring, marking and packing the goods must always be compliant with the latest edition of the national and international regulations in force (e.g. ADR, RID, IMDG-Code, IATA-DGR, ADNR, Code du travail, etc...) and shall be sent with the specific declarations for hazardous goods, duly signed by the Supplier including, in particular, the nature and quantity of each delivery batch.
4. The alternative or additional regulations of the country of destination – provided that this country is mentioned in the order and/or contract – must also be respected by the supplier.
5. If the goods are considered to be hazardous, the supplier must draw up the legal documents required for their transportation, and, in accordance with Incoterms 2010 mentioned in the order and/or contract, provide these documents to the carrier with copy to the purchaser before shipping.
6. The supplier undertakes to ensure that its personnel is trained in accordance with the hazardous goods transport regulations and undertakes to dispose of a safety advisor if that is applicable to the supplier.

#### **Prices**

1. The supplier shall only send its invoice when goods/services and their related documentation, have been executed and/or delivered in accordance with the order and/or contract and the technical specification, and have been accepted by the purchaser. Otherwise the purchaser shall withhold payments until the order and/or contract has been executed in a compliant manner.
2. Prices for goods are fixed prices and cannot be revised. Prices for services are lump sum and cannot be revised.
3. The agreed prices are CPT Saint-Nazaire in accordance with the Incoterms 2010, unless otherwise specified in the order and/or contract. Prices are exclusive of VAT and in Euros, unless otherwise specified in the order and/or contract.
4. The purchaser reserves the right to accept over or short deliveries.
5. Payment will be remitted according to the payment conditions defined in the order and/or contract. The payment term shall commence upon the occurrence of the latest of the following :
  - Supply or acceptance of performance,
  - Receipt of invoice,
  - The delivery date specified in the order and/or contract.
6. Where premature deliveries are accepted, the due date is based on the agreed delivery date.
7. Unless otherwise specified in the order and/or contract, the original version of the invoice is raised in the name of the purchaser and sent to the purchaser's Account Department at the following address : MAN Diesel & Turbo France SAS - Service Comptabilité Fournisseurs – Site de Saint-Nazaire - Avenue de Chatonay - Porte 7 - 44615 Saint Nazaire Cedex France. The invoice must mention the order and/or contract number ; any invoices not complying with this condition may not be paid by the purchaser.
8. Payment will be made by bank transfer.
9. Payments by the purchaser do not signify acceptance of the statement of account and take place subject to the reservation of checking the bill. The purchaser shall be entitled to setoff sums payable against monies owed by the supplier, including all claims which the supplier has against him against all claims to which he is entitled against the supplier. In case of defective deliveries, the purchaser shall be entitled to withhold payment pro rata to the value until the defective goods/services have been replaced and/or reworked by the supplier.

#### **Spare parts**

1. The supplier shall guarantee the availability of replacement parts, spare parts and wearing parts with equivalent functionality to the initial supply for a period of minimum twenty (20) years after serial production or thirty (30) years from delivery to the purchaser.
2. The supplier shall manage obsolescence risks. As soon as a risk is identified, the supplier shall inform the purchaser by written and suggest several technical and financial solutions



enabling the consequences of the obsolescence to be restricted.

**Provision of materials, tooling**

1. Any materials and/or tools provided by the purchaser shall remain the purchaser's property and shall be marked, administered and stored separately by the supplier free of charge. Such materials and/or tools shall only be used for the order and/or contract placed by the purchaser. Where such materials and/or tools are lost or destroyed or the value of such materials and/or tools diminished the supplier shall replace the same and shall take out insurance coverage for this purpose at his own cost. The same shall apply in case of surrender of the order and/or contract related to the materials and/or tools which have been invoiced or loaned by the purchaser. The supplier shall not move the materials and/or tools to another location without the prior written agreement of the purchaser.
2. Where the materials and/or tools are processed or re-formed the purchaser shall become owner of the new or re-formed material and/or tool upon its creation. The supplier shall safeguard the new or re-formed material and/or tool for the purchaser with the care of a reasonable businessman. Any retention of title of any kind regarding the order and/or contract performed and exercised by the supplier is hereby excluded.
3. Title to ancillary models, tools, models, forms, etc (hereinafter referred to as tools) which are required for performance of the orders and/or contracts shall pass to the purchaser upon their creation. Tools are thereby to be regarded in the same way as orders and/or contracts placed by the purchaser. The purchaser shall be entitled at its discretion to demand the surrender of the tools or to have the tools scrapped by the supplier on behalf of the purchaser free of charge. The scrapping of tools shall be subject to the written consent of the purchaser.

**Sub-Performance**

1. Any sub-contracting of the order and/or contract to third parties is only permitted where the purchaser has previously consented thereto in writing. Where the supplier is culpably in breach of the aforesaid the purchaser shall be entitled to terminate the order and/or contract with immediate effect. In such circumstances the supplier shall not be entitled to any compensation of any kind.
2. The supplier shall provide the purchaser upon request, the list of its sub-suppliers and/or sub-contractors specifying the origin and source of the delivered supplies.

**Transfer of title and risk**

1. Title shall be transferred to the purchaser from the Supplier when the Parties have agreed on the item and the price, even though the item has not yet been delivered or the price paid.
2. Unless otherwise specified in the order and/or contract, the transfer of risks shall pass CPT Saint-Nazaire in accordance with the Incoterms 2010.

**Warranty**

1. Where the parties fail to agree a limitation period in which warranty claims are to be made, the supplier warrants that the order and/or contract performed by him hereunder shall be free of any defect for a period of 36 months from the date of acceptance of the completed order either by the purchaser or the purchaser's end customer but in any event for a period of not more than 48 months after delivery of the completed order and/or contract to the purchaser. The purchaser shall notify the supplier of any defect immediately as soon as such defect has been determined during normal business operation. The supplier thereby waives to this extent any objection that notification of a defect has been made late. Notification shall suspend the limitation period for warranty claims until the defect has been remedied in full. Defects in goods and/or services shall become time-barred in accordance with the statutory provisions.
2. The purchaser shall have the option to make a claim under the statutory warranty provisions as well as demand that the defect be remedied or a replacement be supplied. Where the supplier remedies the defect or supplies a replacement, the supplier shall be under an obligation to remedy the defects at his own cost, without delay and free to the goods and/or services destination or to render performance anew. The supplier shall

bear all expenses incurred thereby including any necessary travel expenses.

3. In urgent cases, e.g. where there is a risk of delay and/or in cases in which the purchaser's own performance obligations require immediate improvement, the purchaser shall be entitled to carry out such improvement itself or through a third party for the account of the supplier without having set the supplier a deadline to carry out the same. The aforesaid shall also apply where the supplier delivers late. The supplier shall bear all expenses incurred thereby.
4. In all other circumstances the statutory provisions shall apply additionally.

**Supplier's liability**

1. The supplier is liable, during the whole period of executing the order and/or contract, for all the harm and damage caused to existing structures or installations in addition to the goods belonging to the purchaser and/or third parties, including the damage caused by the supplier during the performance of services on public or private installations (e.g. pipework).
2. If the supplier realizes that he has caused damage during the execution of the order and/or contract, he must immediately inform the purchaser.
3. The supplier shall ensure that he is in possession of all items (documents, data, materials, tools, etc.) which he will require for the execution of the order and/or contract. Failing this, the supplier shall not be able to make a claim against the purchaser.
4. Any approval of documents of the supplier by the purchaser and/or any payment of invoices by the purchaser shall not affect the liability of the supplier with regard to the order and/or contract.

**Liability in the event of nuclear damage resulting from a nuclear incident/accident**

1. In the event of nuclear damage resulting from a nuclear incident/accident the rules of the Paris Convention of 29/07/1960 and of the Brussels Supplementary Convention of 31/01/1963 are applicable.
2. In cases not covered by the Paris Convention and the Brussels Convention, the liability rules as defined in article "Supplier's liability" shall apply.

**Liability in the event of environmental damage**

1. Within the framework of the execution of the order and/or contract, the supplier must respect the legislation concerning environmental protection in all the locations where it works, in particular in its own premises, in the purchaser's premises and those of the customers of the purchaser.
2. The supplier and its sub-contractors shall be held liable for any damage caused to the purchaser and/or third parties, as a result of failing to respect any legislation concerning environmental protection. The supplier shall hold the purchaser harmless against any third party claims in this respect.
3. If the supplier and/or its sub-contractors observe harm to the environment suspected and/or proven, due to its actions, in the location where the order and/or contract is being performed it undertakes to immediately inform the purchaser and take the appropriate measures.
4. Nevertheless, the supplier and/or its sub-contractors shall be responsible for implementing the necessary emergency measures.
5. All expenses resulting from this harm to the environment shall be borne by the supplier.

**Non disclosure**

1. The supplier undertakes to treat all non obvious commercial and technical details of which he becomes aware during contractual relations as trade secrets and to safeguard the same against unauthorized access, loss or use. Any drawings, models, stencils, samples and other similar objects provided by the purchaser or manufactured at the purchaser's cost shall remain the property of the purchaser and any access thereto or surrender thereof shall not be permitted to unauthorized third parties unless the purchaser has consented thereto in writing. Any reproduction of such objects is only permitted to the extent





required for performance and permitted under copyright laws. Any documents surrendered to the supplier are upon completion of the services to be returned to the purchaser without demand and without disclosure or are to be safely destroyed in consultation with the purchaser. The supplier shall not retain or store any copies, duplicates etc unless he is under a statutory obligation to do so. Notwithstanding any other claim to which he may be entitled the purchaser shall be entitled to demand the surrender of the aforesaid as soon as the supplier is in breach of any of the obligations set out above.

2. The supplier shall mark all confidential documents received from the purchaser or of which he becomes aware during the contractual relations and store the same separately. At the request of the purchaser the supplier shall surrender all confidential documents and objects without delay. The exercise of any right of retention is hereby excluded.
3. Employees and sub-suppliers of the supplier shall be subject to the non-disclosure obligations set out above.
4. Except where otherwise agreed the non-disclosure obligations set out aforesaid shall remain in force for a period of five (5) years after performance of the order and/or contract.

#### **Intellectual property**

1. Unless otherwise agreed, the supplier undertakes not to inform a third party and/or to use for its own purposes and/or for the purposes of a third party, without the prior written agreement of the purchaser, any files and/or documents that the purchaser gives it and/or that it might draw or have drawn up exclusively for the purchaser and which are the exclusive property of the purchaser.
2. The documents provided by the purchaser to the supplier and/or drawn up by the supplier on the basis of the purchaser's data shall only be reproduced, communicated or used for the requirements of executing the order and/or contract and they may not be used, copied or forwarded to third parties without the prior written agreement of the purchaser. The supplier shall compensate the purchaser for any harm suffered as a result of it failing to comply with this rule.
3. After delivery of the order and/or contract, the purchaser is entitled to freely use, in the same format and/or modified, the documents and information sent by the supplier and to make them accessible to third parties, in particular the customers of the purchaser.
4. The supplier represents and warrants that it validly possesses all the rights, patents, licenses, accreditation, know-how, copyright, trademarks, drawings, models, etc. contained in and/or the goods and/or services provided to the purchaser and grant to the purchaser, if necessary, a free, irrevocable, non-exclusive license without limits in respect of both area concerning intellectual property rights, according to the intended use of the goods and/or services provided to the purchaser.
5. If, in spite of the previous paragraph, intellectual property rights are infringed by a third party, industrial secrets are violated and/or unfair trading practices are implemented, the supplier must, at its own cost :
  - a) hold the purchaser harmless against any claims and/or claims made by third parties ;
  - b) compensate the purchaser for any damage suffered and/or opportunity loss (e.g. indirect damage, opportunity loss, economic loss, harm occurring from operations being interrupted, damage resulting from no longer using the delivered goods and/or services, complaints from the purchaser's customers, etc.) ;
  - c) take all measures necessary to obtain the required intellectual property rights or, at least, obtain a license so that the purchaser can obtain and/or conserve the enjoyment of the goods and/or services provided to the purchaser, or should it prove necessary, exchange the delivered goods and/or services, for similar goods and/or services not subject to third-party intellectual property rights, in which case all the resulting expenses shall be borne by the supplier.
6. The supplier shall hold the purchaser harmless against any third-party infringement actions and/or any other legal action taken by a third-party concerning intellectual property. The supplier shall bear all expenses which result from this legal

action. If the purchaser suffers any harm whatsoever, the purchaser is entitled to claim in particular :

- a) reimbursement of sums paid ;
- b) reimbursement of legal fees ;
- c) the payment of damages in respect of the harm suffered.

#### **Industrial property**

1. Unless otherwise agreed, the supplier shall not forward to anybody whatsoever, or use for its own purposes or those of a third party, without the prior written agreement of the purchaser, any files, document or tools which the purchaser has forwarded to the supplier or which the latter has created exclusively for the purchaser and which are the exclusive property of the purchaser. On request, the supplier undertakes to immediately return, without any costs, all files, documents, models, tools, equipment, etc... which have been made available by the purchaser.
2. The purchaser shall benefit, within the framework of the execution of the order and/or contract, from a license which is free of charge, indefinite, exclusive and assignable for industrial, commercial or research purposes, on registered inventions, patents, drawings, trademarks and models in addition to all other industrial property rights resulting from the execution of the order and/or contract.
3. In the event that an intellectual or industrial property right is registered in the sole name of the supplier or where the supplier utilizes during performance of the order and/or contract intellectual or industrial property rights which accrued prior to and independent of the order and/or contract performed the supplier hereby grants to the purchaser and its affiliated companies within the meaning of any company that, directly or indirectly, controls, is controlled by or is under common control of the purchaser, where "control" means the possession, directly or indirectly, of an ownership interest exceeding 50% of the voting securities a non-exclusive, irrevocable, transferable license unlimited in terms of duration, territory and content to use the industrial property rights relating thereto free of charge and to reproduce, disseminate, distribute, alter and process the same.
4. The purchaser shall have an optional right to obtain industrial property right protection in relation to all inventions which were founded by the supplier or supplier's employees alone or in conjunction with employees of the purchaser during the course of performance. The supplier shall safeguard the purchaser's right to exercise the option by offering to the purchaser in writing to transfer free of charge all inventions registered or of which he became aware during performance not later than two (2) months after notification. Where the purchaser has no interest in obtaining sole ownership of the property rights in its own name the parties shall either agree to jointly register the invention or the purchaser shall declare in writing his consent for the supplier to register the invention in his sole name.
5. Where the supplier uses sub-suppliers the supplier shall ensure that the same rights shall be at the disposal of the purchaser and its affiliated companies within the meaning as already defined in 3. of this clause.

#### **Data exchange, process and access to electronic data**

The purchaser shall remain the exclusive owner of any data conveyed to the supplier. The supplier shall be granted a non-exclusive, limited, non-transferable license to use the same for the purpose of performing the required order and/or contract. Where during the performance of the order and/or contract, data provided by the purchaser is changed, added to or processed in any other way, the purchaser shall have title to the changed data upon its creation and to any industrial and/or intellectual property rights contained therein. The supplier shall safeguard the data provided by the purchaser including changed or processed data from any access which has not been expressly authorized by the purchaser and shall evidence appropriate measures of protection where so requested by the purchaser. Where the supplier is given access to the purchaser's computer network system during performance of the order and/or contract, the supplier shall only use his own user name or such user name as has been allocated to the supplier by the purchaser in writing and shall process and transfer data in accordance with the purchaser's instructions.



**Supplier's corporate responsibility**

1. The supplier shall observe and comply with the principles stipulated in the MAN Code of Conduct for Suppliers & Business Partners (handed out to the supplier and/or that can be downloaded from the internet under the following link : [http://www.man.eu/man/media/content\\_medien/doc/global\\_corporate\\_website\\_1/unternehmen\\_1/MAN\\_Code\\_of\\_Conduct\\_Suppliers\\_and\\_Business\\_Partners\\_EN.pdf](http://www.man.eu/man/media/content_medien/doc/global_corporate_website_1/unternehmen_1/MAN_Code_of_Conduct_Suppliers_and_Business_Partners_EN.pdf)).
2. If the supplier engages third parties to fulfill its duties, it shall ensure that any third party complies with the MAN Code of Conduct for Suppliers & Business Partners.
3. If the supplier and/or its sub-suppliers do not comply with the principles stipulated in the MAN Code of Conduct for Suppliers & Business Partners, purchaser has the right to terminate the order and/or contract for good cause with immediate effect.

**Data protection**

In application of articles 39 and 40 of French law No. 78-17 of 6 January 1978, on privacy, data protection and freedom of information, the supplier is entitled to access and correct its data, by sending a letter to the following address : MAN Diesel & Turbo France SAS - Service CIL - Avenue de Chatonay - Porte 7 - 44615 Saint-Nazaire - France or an e-mail to the Service CIL of MAN Diesel & Turbo France SAS : [cil-france@mandieselturbo.com](mailto:cil-france@mandieselturbo.com).

**Insurance**

1. The supplier is obliged to take out a product liability and recall campaign cost liability insurance and a third party liability insurance with a coverage for personal injury, damage to property and pecuniary loss in the amount of at least Euro 5 million per case, to maintain these insurances during the ongoing order and/or contract without any disruption and provide evidence to purchaser at all times, if so requested.
2. In case that an insured event occurs, purchaser and supplier are obliged to provide each other with information on all circumstances and events associated with the insured event.

**Force majeure**

1. Force majeure is defined as any event, irrespective of the location in which it occurs, which is unforeseeable, inevitable and beyond the control of the Party concerned by said event, such as acts of god, strikes, unrest or measures imposed by authorities.
2. The party being the victim of an event of force majeure shall inform the other party within ten (10) calendar days after this event occurs. The parties undertake to provide each other, without delay, with the necessary information which may reasonably be expected, and to adapt their obligation, in good faith, to the circumstances having changed.
3. In the event of force majeure the obligations of the party which is the victim of said event are suspended during the whole period of the event of force majeure, and shall resume upon the event of force majeure ending. This party may not be held liable for failure to satisfy its obligations, if this failure results from an event of force majeure.
4. Should the event of force majeure last more than thirty (30) consecutive calendar days, the purchaser may notify the supplier, by means of a registered letter with acknowledgement of receipt, of the immediate termination of the order and/or contract, without any compensation being due.

**Suspension of the order**

The purchaser reserves the right to suspend all or part of the execution of the order and/or contract at all times.

**Termination**

1. If the purchaser terminates the order and/or contract for good cause (for example termination of the agreement between the purchaser and its own customer), any goods and/or services completed by the supplier until receipt of such notice of termination shall be delivered and/or performed to the purchaser and will be only reimbursed according to the order and/or contract to the extent completed and delivered and/or performed. Any goods and/or services not completed by the supplier until receipt of such termination notice can be taken over by the purchaser against reimbursement of supplier's direct and proven cost for such goods/services, but no more

than the part of the price as per the order and/or contract representing such non-completed goods and/or services.

2. Where the supplier becomes the subject of insolvency proceedings or of an out-of-court settlement, and/or where the supplier fails to satisfy its contractual obligations and not remedies its failure even though it has received formal notification from the purchaser, the purchaser shall be entitled to terminate the order and/or contract with immediate effect. In which event the provisions of sub-paragraph1 aforesaid shall apply.

**Miscellaneous**

1. Place of fulfillment for services or supplies by the supplier shall be the delivery address defined in the order and/or contract; for payments by the purchaser, the purchaser's headquarters.
2. In the event that individual contractual provisions are ineffective, then the remaining provisions shall remain in effect. Parties are obligated to replace the ineffective provision with one that approximates the intention of its predecessor to the extent possible.
3. The order and/or contract and these terms and conditions shall be in all aspects construed in accordance with and governed by the French law, however, excluding the rules of conflicts of law and excluding the Convention of the United Nations of 11.4.1980 on Contracts for the International Sale of Goods.
4. If a dispute cannot be settled by the parties themselves, the dispute shall be finally decided by arbitration in accordance with the Rules of Conciliation and Arbitration of the International Chamber of Commerce in Paris (ICC), by three arbitrators, appointed under such Rules. The arbitration proceedings shall take place in Paris, France, in French language.