

**1. DEFINITIONS**

- 1.1 The following expressions shall have the meaning given herein unless the context otherwise requires:
- 1.1.1 Acknowledgement of Acceptance: The copy of the Conditions signed by the Supplier and, if applicable, the Specific Terms signed by the Supplier, both as confirmation of their acceptance by the Supplier, which must be delivered by the Supplier to the Company before starting the provision of Services to the Company.
- 1.1.2 Agreement: The agreement for provision of Services between the Supplier and the Company, which is composed by the applicable Proposal, Purchase Order/s, the Acknowledgement of Acceptance, the Conditions and the Specific Terms.
- 1.1.3 Business Day: Each and every day of the week except for: (i) Saturdays and Sundays and (ii) days on which banks are not open to the public at the place of location of Company or the Supplier.
- 1.1.4 Conditions: These present Service general purchase terms & conditions provided by Company to the Supplier through <http://www.maxam.net/en/providers>.
- 1.1.5 Company: A company of the MAXAM Group that issues and delivers a Purchase Order.
- 1.1.6 MAXAM Group: The group of companies directly or indirectly controlled by MAXAMCorp Holding, S.L.
- 1.1.7 Parties: Company and the Supplier, jointly.
- 1.1.8 Party: Each of Company or the Supplier, individually.
- 1.1.9 Proposal: the request of proposal or the Services proposal arranged in relation to the provision of Services.
- 1.1.10 Purchase Order: A written order or request of Company issued to the Supplier for the provision of Services.
- 1.1.11 Services: Any and all works and/or services described in a Purchase Order that Company contracts under the Agreement.
- 1.1.12 Services Level: The level of Services which are referenced in the Proposal and/or in the Purchase Order. If a conflict exists between the Services Level referenced in the Proposal and in the Purchase Order, the Services Level referenced in the Purchase Order shall prevail

1.1.13 Specific Terms: Specific provision terms agreed in writing between the Parties which could be included as Annex to the Conditions on case by case basis.

1.1.14 Supplier: The Party to the Agreement who is the provider that delivers the Acknowledgment of Acceptance and provides the Services.

## 2. GENERAL

2.1 Except as otherwise provided in the Agreement, the Conditions shall apply to, and govern, any and all Purchase Orders and any other agreements between Company and the Supplier with respect to the provision of the Services by the Supplier to Company during the validity of the Agreement.

2.2 No amendment, variation or modification of the Agreement shall be valid or binding unless expressly agreed in writing and executed by authorised representatives of the Parties. If a conflict exists between the Conditions and the Specific Terms, the Specific Terms shall prevail.

2.3 Any term or condition inconsistent with, or different from, or in addition to, the Conditions being proposed, provided, referred to, submitted or otherwise used by the Supplier (as part of the Acknowledgement of Acceptance, offer or quotation, invoice or other instruments) or implied by law, trade custom, practice or course of dealing is hereby expressly rejected and shall not apply and be enforceable regardless the receipt of Supplier's documents containing such terms and conditions.

## 3. PURCHASE ORDERS

3.1 The Supplier shall acknowledge in writing acceptance or rejection of a Purchase Order within five (5) Business Days from the date of the issuance of the Purchase Order. Upon expiration of such a period without the Company receiving acceptance, the Purchase Order shall be deemed automatically revoked.

3.2 The Supplier consents that any offer of the Services shall not be binding to Company unless Company issues a Purchase Order and the Supplier issues the Acknowledgment of Acceptance.

## 4. GUARANTEE OF FAITHFUL COMPLIANCE

4.1 This Clause 4.1 must apply if: a) Supplier renders Services related to machinery, equipment and/or plants; b) when the amount of Services to be rendered by the Supplier is more than Euro one (1) million or equivalent based in the currency used in the country for which may applied this Agreement at the exchange rate applicable when the Agreement was in force; or c) Supplier renders Services related to civil works or foundation for construction of any type of plant or building dedicated to render Services to the end customer. To ensure full compliance with its obligations under the Agreement, and before the Acknowledgement of Acceptance is arranged, the Supplier shall provide the Company with a first demand bank guarantee for an amount equal to ten percent (10%) of the Agreement value or to one hundred percent (100%) of the Agreement in case a down payment has been required by the Supplier (the "Guarantee"), according to a form agreed between the parties, and issued by a first rated bank. The validity of the Guarantee

shall reach at least to the end of the Services warranty period. When due to exceptional circumstances the Supplier did not create or deliver the Guarantee as described above, and if so agreed by the Company, it shall do so within fifteen (15) calendar days after the Acknowledgement of Acceptance, but in no case a down payment will be released until a compliant guarantee is received. Otherwise, the Agreement shall expressly accept that the Company draw the amount of the 10% Guarantee from any bill the Supplier shall charge to this effect. In the event that the Guarantee was subject to partial or complete implementation and the Supplier did not draw the amount implemented within no more than such fifteen (15) calendar days, the Company shall be entitled to retain the amounts of the corresponding invoices to payment by the Supplier until the amount of the Guarantee is restored to its original amount, or terminate the Agreement unilaterally.

## **5. QUALITY TESTS AND INSPECTIONS**

- 5.1 The Supplier shall continuously monitor the quality of Services to guarantee that the Services meet the Services Level. The Supplier shall use a quality assurance system corresponding with or equivalent to ISO 9001 and the Supplier should allow the Company to make an audit in relation thereto where required.
- 5.2 The Supplier shall, at its own account and expense, perform all tests, inspection, examination or verification of the Services required in accordance with administrative rules or standards usually applied in the good professional industry practice in order to verify compliance of the Services with all agreed Services Level. The Supplier shall provide Company reasonable advance notice of readiness for such testing, inspection, examination or verification and shall permit Company's representatives to be present at and witness such testing, inspection, examination or verification, if so requested by Company. If during quality control carried out by Supplier, it is found a non-fulfilment in respect of the Services Level, the Supplier shall demand the Company an extension request on the provision. It will be sent by written notice by the Supplier to the Company for approval.
- 5.3 The Supplier shall (and subject to Clause 20.2 cause its subcontractors' to) provide Company with access to its premises and records relating to the provision of the Services at reasonable times upon Company's reasonable advance notice, for the purpose of inspection, examination or verification of such premises and records, as well as all materials and processes used in or relating to the Services.
- 5.4 The Services shall not be deemed accepted until Company have had reasonable time to inspect and/or test such Services following their provision. The making or failure to make an inspection, examination or test of, or payment for, or acceptance of, the Services shall in no way relieve the Supplier from its obligation to conform to all requirements of the Agreement and shall in no way impair Company's right to reject or revoke acceptance of the non-conforming Services, or to avail Company of any other remedies to which Company may be entitled, notwithstanding its knowledge of the non-conformity, its substantiality or the ease of its discovery.
- 5.5 Company may reject or revoke acceptance of the Services for defects or non-conformance revealed by inspection or test or, if such defect or non-conformance is latent and may not be detected upon reasonable inspection, then upon use or

further inspection after provision even though such Services may have previously been inspected and accepted.

## 6. RECEPTION

- 6.1 The Services shall require the Company reception for its proper provision. This reception, depending on the content of the Agreement, may be temporary or permanent, by tasks, in stages, or upon the termination of the Services, and may consist of one or more of the following actions:
- 6.1.1 At Source: The Services reception shall be required at source when the Agreement includes the implementation or development of any stage or wholly outside the Company facilities. When the Supplier has the Services or part the same prepared for delivery, it must provide a written notice to the person designated by the Company for its reception.
- 6.1.2 At Destination: The Supplier shall indicate, by the appropriate document to the person designated by the Company, the provision of part or the entire Services through a document by the Supplier, elaborated to record that supply, either by actual reception or sample receipt.
- 6.2 In case of rejection by the Company of the Services rendered by the Supplier or of part thereof, the Services shall be considered as not made available to the Company, being any delay on the deadlines agreed in the Agreement due to this reason the Supplier solely responsibility.
- 6.3 If the Services required the delivery divided into implementation stages, the rejection equals to the non-performance, and this shall require the Supplier to perform the delivery again, once the required corrections are performed to meet the requirements included in the Agreement, regardless of applicable penalties and any delays that may occur for this reason on the final delivery of all the Services under the Agreement still being its own responsibility. If the Services involves the delivery of material, the rejections will be available to the Supplier who, according to the Company instructions, shall correct the defects that led to the rejection, then starting a new process of reception.
- 6.4 The timing of provision is of the essence. Provision dates included by the Company in the Purchase Order and provision times given by the Company to the Supplier for provision of the Services shall be firm and binding and constitute an essential part of the Agreement. The Supplier shall not provide before the provision date without authorization of the Company by written notice and, in such case, the Supplier shall compensate the Company because of the expenses caused due to the authorized early provision. The authorized early provision does not change the mechanism nor the payment periods foreseen for the provision on date.
- 6.5 Without prejudice to any other rights or remedies available to Company at law or in equity, if the Services are not provided on the due date, and do not meet the Services Level and/or any of the standards and obligations arising from the Agreement, the Company can terminate the Agreement and/or apply sanctions/penalties set forth herein. In the event that applicable penalties reach amounts of fifteen percent (15%) of the Agreement total amount, the Company reserves the right to terminate the same, with enforcement of the Guarantee and

the claim for damages. The Company may apply such penalties subtracting the amount of the Supplier invoice or invoices pending of payment by the Company, whenever it may be required. According to the provisions included in the Agreement or in the Specific Terms, and in general, the following sanctions/penalties are set due to non-compliance:

- a) Misdemeanor: Equivalent to one percent (1%) of the annual Agreement value per penalization.
- b) Serious penalization: Equivalent to three percent (3%) of the annual Agreement value per penalization.
- c) Significant serious penalization: between three point one percent (3.1%) and fifteen percent (15%) of the annual Agreement value, depending on the damages caused to the Company.

The aforementioned penalties shall be considered penalty clauses agreed freely between the Parties and shall be never replaced or discounted for compensation by the damages caused to the Company resulting of any breach by the Supplier.

- 6.6 Without prejudice to any other rights or remedies available to Company at law or in equity, upon failure by the Supplier to provide the agreed Services, Company is entitled to (i) reject the Services or subsequent attempted provision thereof, or (ii) demand performance, rescind or terminate the Agreement, in whole or in part, without any liability for Company.
- 6.7 All Services carried out by Supplier pursuant to the Agreement shall be carried out by competent appropriately qualified and trained personnel to the highest standard of the relevant industry.

## **7. PRICE AND PAYMENT**

- 7.1 The prices of the Services (and any option or rate incorporated herein) shall be fixed and are not subject to escalation throughout the Agreement's validity regardless of any changes in currency rates, revenue laws, treasury regulations or tariffs, increases in the appraisal of the value of the Services by the customs authorities of any country or other variables. Exceptionally, the prices may be readjusted, if the Parties agree in writing on the criteria, formula and procedure to be applied in order to do adjust the price.
- 7.2 The prices are exclusive of any sales, use, excise, value-added, or other similar tax applicable to the Services provided pursuant to this Agreement. The Supplier shall be responsible for the payment of all other taxes, duties, levies, imposts or other charges relating to or arising out of the Agreement and the provision of Services by the Supplier to Company hereunder. If and to the extent that Company pays any taxes, duties, levies, imposts or other charges payable by the Supplier, the Supplier shall reimburse such payment promptly upon request. Upon the request of Company, the Supplier shall provide all reasonable assistance to cause the benefit of any credit, rebate, drawback or other recovery, to which Company is entitled to be passed along to Company.
- 7.3 The prices include any applicable withholding tax, and the amount received by Supplier after deduction of any applicable withholding tax shall be final. Supplier

shall have no right to request any additional payment(s) to compensate for the tax withheld on the prices. The obligation to withhold any tax shall be the exclusive responsibility of the Company. Company shall timely pay the tax withheld to the relevant governmental authority.

In order to apply any tax exemption, reduced withholding tax rate, or other similar tax benefit, Supplier shall provide Company with a tax residence certificate issued by the relevant governmental authority of the country of tax residence for the purposes of applying the relevant tax treaty. If this certificate is not provided by Supplier on time to the Company, then the Company will apply the withholding tax rate applicable according to the local applicable legislation of its country of residence and not the beneficial reduced tax rate or exemption

- 7.4 The price of the provided Services shall be paid by the Company to the Supplier according to the legislation/regulation defined in each country subject to the receipt of a valid invoice.
- 7.5 Invoices of the Supplier shall comply the applicable legislation of the country in which invoice is issued and with Company's reasonable requirements, must be accompanied with relevant supporting documents and must include the Purchase Order number. If the Supplier invokes the application of an agreement for avoiding double taxation according to Clause 7.3. above, the Supplier shall provide Company with a corresponding tax residence certificate along with the invoice or promptly thereafter.

If Company is obliged to withhold any taxes from its payments to the Supplier, Company shall, at the Supplier's request, deliver to the Supplier a certificate of withholding, stating the taxes withheld and the sums paid as mentioned in Clause 7.3. above at the time at which, according to the legislation of the Company's country of residence, this certificate must be issued by the relevant Government Authority.

## **8. WARRANTY AND REMEDIES**

- 8.1 In addition to an without limiting the specific Services warranties and guarantees set forth in the Agreement, the Supplier represents, warrants and agrees that (a) Services shall conform to Services Level; (b) the Services shall be of the quality included in the Services Level ; (c) the Services do not, will not, infringe any patent, copyright, design right, trade mark and/or any other intellectual or industrial property right (whether registered or unregistered) of any third person, and that at the date of the Agreement the Supplier is not aware of any action which has been commenced against the Supplier in relation to any infringement or alleged or threatened infringement of any intellectual or industrial property right nor have the Supplier received any notice to the effect that any such action may be commenced; (d) there are no pending or threatened suits, claims, or actions of any type with respect to the Services; and (e) all applicable laws of each jurisdiction in which the Services are provided shall be complied. The foregoing representations and warranties shall survive any inspection, acceptance or payment by Company for a period of twenty-four (24) months as from provision. THE FOREGOING WARRANTIES AND THE WARRANTIES AND GUARANTEES SET FORTH IN THE AGREEMENT ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED.

- 8.2 Company shall notify in writing the Supplier of any claim with respect to any breach of the warranties set forth above within thirty (30) Business Days after the defect arises and is discovered by Company and in any event within the warranty period included in section 8.1 above.
- 8.3 Without prejudice to any other right or remedy available to Company at law or in equity, upon the receipt of the notice under section 8.2 above, the Supplier shall, at the election and at no cost to Company (including but not limited to travelling, accommodation, labour) and within the period specified by the Company in the notice under section 8.2 above: correct any non-compliant Services. If the Supplier fails to make the necessary correction within the above-mentioned period, Company may arrange for such correction (on its own or through a third party) at the Supplier's risk and cost. Any costs and expenses incurred by Company in connection with the foregoing shall be due and payable by the Supplier immediately.
- 8.4 Warranties set forth in section 8.1 shall apply afresh to the corrected Services for a twenty-four (24) month period.
- 8.5 All representations and warranties of the Agreement shall survive the expiration or termination of the Agreement to the full extent necessary for their enforcement and for the protection of the Party in whose favour they operate.

## **9. OBLIGATIONS OF SUPPLIER**

- 9.1 The relations between the Supplier and the Company shall be that of provider and independent contractor. Nothing contained in the Agreement shall be construed as creating a joint venture, partnership, agency, employment or franchise among the Parties or establishing the Supplier as Company's representative or agent for any purpose. No Party shall have the power to control the activities or operations of the other Party, nor shall any Party have the authority to make any commitment, whether expressly or by implication, on behalf of the other Party or bind the other Party without such Party's prior written consent therefore. No Party shall hold itself out as having authority or relationship in contravention of this section.
- 9.2 The Parties acknowledge that the Supplier is an independent person with a separate legal status from Company. All persons furnished by the Supplier for the performance of the Agreement are solely Supplier's employees, and the Supplier shall be solely responsible and liable for payment of all wages and its employees' unemployment, social security and other payroll taxes, including contributions from the Supplier when required by applicable law. The Supplier shall defend, indemnify and hold Company harmless for and against any employment related claims, actions, damages, losses, costs or liabilities incurred by Company as a result of a breach of Supplier's obligations herein.
- 9.3 If engaged for the performance of the Agreement, Supplier's personnel shall be appropriately qualified, competent, trained and skilled to the highest standard of the relevant industry to perform the Agreement. Company may object to any of Supplier's personnel engaged on or off Company's premises that, in the reasonable opinion of Company, are lacking appropriate skills or qualifications, engaged in misconduct or are incompetent or negligent. The Supplier shall, at its own cost,

replace such personnel upon receipt of Company's notice with suitably qualified, competent, skilled and approved personnel.

- 9.4 The Supplier shall, and shall cause all its employees or subcontractors to, hold and keep in good standing in each applicable jurisdiction all licenses, permits, authorizations and registrations required to be held by the Supplier or its employees or subcontractors in order to provide the Services to Company and comply with all applicable laws in each jurisdiction relating to the provision of the Services. The Supplier shall, and shall cause all its employees or subcontractors to, comply with Company's policies regarding safety and the rules concerning hours of work and arrival to and departure from the Company's premises.
- 9.5 Without limiting the generality of the foregoing, the Supplier when performing the Agreement shall:
- 9.5.1 comply with: (a) all applicable laws and governmental requirements relating to the occupational health and safety, security, quality and environmental protection rules in force from time to time; (b) Company's relevant occupational health and safety, security, quality and environmental policies, standards and requirements provided by Company to the Supplier through <http://www.maxam.net/en/providers>; and (c) any other special occupational health and safety, security, quality and environment requirements included in the Agreement;
  - 9.5.2 hold and keep in good standing in each applicable jurisdiction all licenses, permits, authorizations and registrations required to be held by the Supplier under applicable laws in order to provide Services to Company, and comply with all laws in each applicable jurisdiction relating to the provision of Services;
  - 9.5.3 follow the principles of the United Nations Global Compact in the performance of its activities under the Agreement.
  - 9.5.4 substantially comply with the ethical rules and principles contained in the code of ethics in force in the Company provided by the Company to the Supplier through <http://www.maxam.net/en/providers>.
- 9.6 The Supplier shall not make, directly or indirectly, in connection with the Agreement, any offer, payment, loan, bribe, facilitating payment or gift of anything of value to any government official, any officer or employee of a government or any department, agency or instrumentality thereof, or of a public international organization, or any person acting in an official capacity or on behalf of any of the foregoing, or to any political party, any political party official or candidate (the "**Government Official**") to an immediate relative of a Government Official, or to any other person while knowing or having reasons to suspect that any part of such offer, payment, loan, bribe, facilitating payment or gift will be given or promised to a Government Official, if the offer, payment, loan, bribe, facilitating payment or gift would: (i) violate any law; (ii) be contrary to or in violation of the principles set forth in the United Nations Convention Against Corruption, the UK Bribery Act 2010, the U.S. Foreign Corrupt Practices Act, or any other applicable anti-corruption law; or (iii) cause any of the Parties or any of their respective parent or affiliated companies (or any of their respective officers, directors, employees or agents) to be



in violation of the applicable anti-corruption law. The Supplier shall immediately notify Company if any Government Official is, or purports to become, a director or officer of, or to acquire ownership of any beneficial interest in the Supplier or in the Supplier's related parties. Promptly following Company's request in writing, the Supplier agrees to provide a written certification as to whether the Supplier is in compliance with this clause.

- 9.7 The Supplier shall comply with any applicable data protection legislation as amended from time to time. The Supplier has developed, implemented, and will maintain effective information security policies and procedures that include administrative, technical and physical safeguards designed to 1) ensure the security and confidentiality of confidential information provided hereunder, 2) protect against anticipated threats or hazards to the security or integrity of such confidential information, 3) protect against unauthorized access or use of such confidential information, and (4) ensure the proper disposal of confidential information provided hereunder. All Supplier's personnel handling such confidential information provided hereunder have been appropriately trained in the implementation of information security policies and procedures. The Supplier regularly audits and reviews its information security policies and procedures to ensure their continued effectiveness and determine whether adjustments are necessary in light of circumstances including, without limitation, changes in technology, customer information systems or threats or hazards to confidential information provided hereunder.

## 10. CONFIDENTIALITY

- 10.1 All information supplied by a Party to the other in relation with or pursuant to the Agreement, which is of a proprietary or confidential nature including information on Company's Services, customers, procedures, know-how, trade secrets and/or any other information related to Company's intellectual or industrial property or business, shall be treated as confidential and shall not be disclosed to any third party nor to the other Party's own employees or subcontractors except an employee or a subcontractor of the other Party involved in the performance of the Agreement may have access to confidential information to perform its duties, *provided that* such employee or subcontractor agree in writing to treat such information as confidential in terms no less stringent than those hereunder.
- 10.2 Upon Company's request, the Supplier shall return any drawings, descriptions, specifications, models, constructions, schedules, technical documents and any other business documents provided by Company in connection with the provision of Services.
- 10.3 The Parties' confidentiality obligations hereunder shall survive the termination of the Agreement.

## 11. INTELLECTUAL OR INDUSTRIAL PROPERTY RIGHTS

- 11.1 Nothing in the Agreement shall be construed as granting to the Supplier any right, licence or otherwise, whether express or implied, on any intellectual or industrial property rights, including without limitation, copyrights, design, trade secrets, trademarks know-how, patent rights, records, data input and output to and from Company, its affiliates, agents, employees and/or sub-contractors.

- 11.2 The Supplier shall obtain, at no cost to Company, all necessary licenses and consents to use, or assignments of, any intellectual or industrial property of a third party, and shall not breach the terms of such licenses or assignments. The Supplier shall defend, indemnify and hold Company harmless against all actions, claims, damages, losses, liabilities, costs, or the like in connection with the alleged or actual infringement of intellectual or industrial property rights, provided that: (i) Company shall without undue delay inform the Supplier in writing of any claim made by reasons of alleged infringement of intellectual or industrial property rights; and (ii) the Supplier shall have full authority to defend or settle the claim. In the event that the Supplier fails to promptly act against such claims or actions, Company shall be entitled to take appropriate action, and the Supplier shall reimburse Company for any reasonable expenses in doing so.
- 11.3 If the Services become subject to actions or claims of infringement of an intellectual or industrial property right, the Supplier shall replace the Services in such a manner that the infringement terminates. The replacement of the Services shall not result in decrease or reduction of functionality or of fitness for the purpose of the Services.

## 12. LOANED MATERIALS

- 12.1 All tools, materials and other goods or documents that Company makes available to the Supplier (the “**Loaned Materials**”) shall remain the absolute property of Company and shall be returned to Company immediately upon termination of the Agreement together with any copies or reproductions thereof and any other outcome resulting from the use of the Loaned Materials. The Supplier shall store the Loaned Materials with the care of a good custodian, separately from its own materials and marked as property of Company. The Supplier shall only use the Loaned Materials for the purpose of the Agreement, exclusively for the benefit of Company, and always in accordance with Company’s recommendations of use.

## 13. SUSPENSION

- 13.1 If Company deems it necessary, it may suspend the Agreement (in whole or in part) for any cause by sending a written notice to the Supplier explaining the cause for the suspension and the estimated duration of suspension. Thereafter, the Supplier shall immediately stop a corresponding provision of the Services.

## 15. TERMINATION

- 15.1 Save as otherwise provided for in the Conditions, any Party may terminate the Agreement, by a written notice, with immediate effect and without any further obligation or liability, if the other Party causes a breach of its obligations under the Agreement which is not remedied by such breaching Party within twenty (20) Business Days from the date of the breaching Party’s receipt of a written notice of breach sent by the non-breaching Party.
- 15.2 Company may terminate the Agreement, by a written notice, with immediate effect and without any liability in the event of a change of ownership or control of the Supplier, merger, split-off or any other process involving the transfer of all or part of Supplier’s assets and liabilities to a third party.

## 16. INDEMNITY

- 16.1 The Supplier shall indemnify, defend, and hold Company, its officers, directors, employees, partners, joint ventures, members and agents (as applicable, a **"Company Indemnitee"**) harmless against any claim, suit, proceeding or liability (including reasonable lawyers' fees) against a Company Indemnitee arising out of or relating in any way to (a) a breach by the Supplier or any its subcontractors of any of the Supplier's obligations or representations under the Agreement not timely remedied; (b) an allegation that the Services, or any part thereof, furnished hereunder constitutes an infringement of any intellectual or industrial property rights, including without limitation, patent, copyright or trademark; or (c) accidents, occurrences, injuries or losses to or for any persons or property due to or resulting from, in whole or part, the design, preparation, manufacture, processing, treatment, construction, completion, provision of the Services by the Supplier or any its subcontractors.
- 16.2 Company agrees to indemnify, defend and hold the Supplier, its officers, directors, employees, partners, members, and agents (as applicable, a **"Supplier Indemnitee"**) harmless against any claim, suit, proceeding or liability (including reasonable lawyers' fees) against a Supplier Indemnitee arising out of or relating in any way to a breach by Company of any of its obligations or representations under the Agreement not timely remedied.
- 16.3 The Company Indemnitee or Supplier Indemnitee (as applicable, the **"Indemnified Party"**) shall give the other Party (the **"Indemnifying Party"**) prompt written notice of any claim made pursuant to the foregoing indemnifications (as applicable, a **"Claim"**), including any or expect to lead a Claim. The Indemnifying Party shall have the responsibility of contesting, defending, litigating, settling or satisfying any Claim made against the Indemnified Party. The Indemnified Party shall have the right to be represented by separate counsel at the Indemnified Party's expense in connection with any such Claim. The Indemnifying Party shall not settle any such Claim without the Indemnified Party's prior written consent, which consent shall not be unreasonably withheld.

## 17. INSURANCE

- 17.1 Without prejudice to its responsibility under the Purchase Order and/or Agreement, which shall not be limited by this clause, the Supplier shall subscribe and maintain at Supplier's expense and during the Purchase Order with companies of renowned financial solvency, the insurances listed herein below. The amounts of such insurances will not be lower than those mandatory as per the current laws and will be fixed in euros per occurrence in the Specific Terms:
- 17.1.1 Third Party Liability Insurance including, among others, employer's liability, products and post-works liability, professional liability and accidental pollution and contamination liability.
- 17.1.2 Workmen's Compensation Insurance to comply with all applicable laws.
- 17.1.3 Property Damage Insurance for Supplier's equipment, with a limit no lower than its replacement value.

- 17.1.4 Construction All Risk insurance when the service contracted is regards to the construction of any facility.
- 17.1.5 Automobile Liability Insurance if automobiles and automotive equipment are used by Supplier for the performance of the services.
- 17.1.6 If necessary, Transport insurance for goods and/or equipment under the scope of the service, as per the Specific Terms and the International Commercial Terms agreed.
- 17.1.7 Any other compulsory insurance.
- 17.2 Supplier shall, prior to the beginning of the execution of the Purchase Order, furnish to the Company a certificate of insurance subscribed. This certificate shall be included in the Purchase Order as an appendix. Failure to deliver this certificate shall entitle Company to terminate the Purchase Order due to cause attributable to the Supplier. The Company may at any time request the Supplier to deliver the policies, as well as receipts or proof of having fully paid the relevant premiums. The Supplier is bound to deliver all the foregoing within a maximum period of fifteen (15) calendar days.
- 17.3 All insurance referred to in Clause 17.1 shall include a provision whereby the insurers agree to waive their rights of subrogation against the Company and shall be primary to any other insurance that the Company may subscribe.
- 17.4 The Supplier, on its own exclusive responsibility, shall oblige its subcontractors to comply with the Supplier's liability cover and insurance requirements. Such measures shall not exempt the Supplier from its liability towards the Company.
- 17.5 As soon as either Party is aware of any circumstance which may give rise to a claim under the insurance policies referred to in this clause, shall give written notice of such circumstance to the other Party and the incident shall be noticed to the insurance company.
- 17.6 Supplier is bound to notify the Company in writing of any incident affecting the validity and conditions of the insurance subscribed.
- 17.7 In any case, the Company shall never be responsible for limits, deductibles or limitations in the terms and conditions of the Supplier's policies.

## **18. SECURITIES**

- 18.1 If the Parties agree on advance payments, the Supplier shall provide an advance payment refund guarantee to Company in the form and substance satisfactory to Company from a reputable financial institution.

## **19. NO MINIMUM VOLUMEN OR EXCLUSIVITY**

Nothing in the Agreement shall be construed as obligating Company to request or acquire any specified volume or minimum level from the Supplier. The Agreement is not evidence of, nor does it create, any exclusive relations between Company and the Supplier in respect of the provision of the Services or any other aspect of it. For the avoidance of doubt, Company shall have the right to obtain the Services from persons

other than the Supplier to the extent and for the purposes set forth in the Agreement. No territorial protection or rights are given or intended to be given to the Supplier under the Agreement.

## 20. PUBLICITY/USE OF COMPANY DISTINCTIVE SIGNS

- 20.1 The Supplier shall not advertise or publish any information related to the Agreement or relations between Company and the Supplier without Company's prior written consent.
- 20.2 The Supplier shall not have the right, without Company's prior written consent, to use trademarks, logos or any other distinctive signs (the "**Distinctive Signs**") of Company or the MAXAM Group. If Company gives such consent, the Supplier shall always comply with instructions of Company when using the Distinctive Signs.

## 21. ASSIGNMENT/INVOLVEMENT OF THIRD PARTIES

- 21.1 The Agreement may not be assigned by any Party without the prior written consent of the other Party; *provided, however, that* no such consent shall be required if such assignment is to a person that is (a) the acquirer of substantially all of the assets of the assigning Party; or (b) an entity that controls, is controlled by, or is under common control with, the assigning Party.
- 21.2 The Supplier shall not have the right to subcontract the performance of its obligations under the Agreement without the prior written consent of Company. If Company gives its consent, the Supplier shall remain jointly and severally responsible and liable for performance of the Agreement for the actions and omissions of a subcontractor.

## 22. MISCELLANEOUS

- 22.1 Each Party represents and warrants to the other that the execution and delivery of the Agreement (a) has been duly authorized by all necessary procedures; (b) does not violate any provision of the Party's governing documents or any laws applicable to the Party; or (c) does not result in the breach of any contract by which such Party is bound.
- 22.2 The failure of any Party to enforce any provision of the Agreement shall not be construed as a waiver of such provisions and shall not affect the right of such Party thereafter to enforce each and every provision of the Agreement in accordance with its terms.
- 22.3 If any provision of the Agreement is declared null, invalid or unenforceable by a competent court or authority, the Agreement in whole shall remain in force except for the part declared null, invalid or unenforceable. Each Party shall consult and use its best efforts to agree upon a valid and enforceable provision, which shall be a reasonable substitute for such null, invalid or unenforceable provision in accordance with the original intention and purpose of the Parties.
- 22.4 A Party shall not be liable for any delay or failure to perform its obligations under the Agreement by reason of natural disasters (earth-quakes, landslides, cyclones, floods, fires, lighting, tidal waves, volcanic eruptions and other similar natural events or occurrences), accidents, fires, explosions, war, civil commotions, riots, or

acts of government beyond the control of such Party that cannot be overcome by due diligence (“**Force Majeure**”) to the extent that the performance by such Party is delayed or prevented by the Force Majeure and for the time the Force Majeure event persists, provided, concerning those events or occurrences which are reasonably foreseeable, that these are not caused or contributed to by the negligence of the Supplier or by the Supplier’s breach of the Agreement. The Party affected by Force Majeure shall promptly and in no event later than five (5) calendar days after occurrence of the Force Majeure event, notify in writing the other Party to whom performance is owed, specifying the obligation or part thereof that the Party cannot perform, fully describing the event of Force Majeure, estimating the time during which the Force Majeure will continue and specifying the measures proposed to be adopted by it to remedy or abate the Force Majeure. The Party that is prevented from carrying out its obligations under the Agreement as a result of Force Majeure shall take its best efforts to remedy and abate the effects of the Force Majeure for the other Party to whom performance is owed and resume performance of its obligations as soon as possible after the Force Majeure event ceases. Should the event of Force Majeure not cease within two (2) months from the date of its occurrence, either Party shall be entitled to terminate the Agreement by written notice to the other Party.

### **23. CHOICE OF LAW AND JURISDICTION**

- 23.1 Any matters relating to the execution, validity, interpretation and performance of the Agreement shall be governed by applicable law of Company’s place of incorporation. The UN Convention on Contracts for the International Sale of Goods of 1980 shall not be applicable herein.
- 23.2 The Parties shall attempt, in good faith, to promptly resolve by negotiation any dispute arising out of or relating to the Agreement within ten (10) Business Days from the date on which the aggrieved Party notifies in writing to the other Party of the existence of the dispute. If the dispute has not been solved at such negotiations, the Parties hereby irrevocably agree to submit the dispute to a court of the city where Company has its place of incorporation.