Telespazio S.p.a.

PURCHASE ORDER

Terms and conditions for the supply of goods and services

10 January 2017

In these terms and conditions (Conditions or General Conditions) capitalised terms are as defined where first used or otherwise in clause 22.

1. BASIS OF CONTRACT

1.1 The purchase order (Order) accompanying these Conditions constitutes an offer by Telespazio S.p.a. (Company or Telespazio) to purchase Goods and/or Services from the supplier named thereon (Supplier) subject to and in accordance with these Conditions and any specific terms set out in the Order. In the event of any conflict between the Conditions and a specific term set out in the Order, a specific term shall take precedence over these Conditions. The Order shall be deemed to be accepted by means of returning a copy (including the attachments) thereto duly signed by the Supplier, within fifteen (15) calendar days from issue thereof by the Company. Once such term has lapsed in vain, the Company reserves the right to cancel or consider the late acceptance by the Supplier as valid and effective, at which point and on which date a contract (the Contract) shall come into existence. Orders issued by an agreed electronic method shall be deemed received on the date sent.

1.2 These Conditions apply to the Contract and exclude any other terms that the Supplier seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

1.3 All of the Conditions apply to the supply of both Goods and Services except where the application to one or the other is specified.

2. SUPPLY OF GOODS

2.1 The Supplier shall ensure that the Goods:

(a) correspond with their description and conform with the Goods Specification;

(b) are of satisfactory quality and fit for any purpose held out by the Supplier or made known to the Supplier by the Company, expressly or by implication, and the Supplier relies on the Supplier's skill and judgment;

(c) are free from defects in design, materials and workmanship;

(d) comply with all applicable statutory and regulatory requirements and international carriage codes relating to the manufacture, labelling (including CE marking), packaging, storage, handling and delivery, by whatever means, of the Goods. Where the Goods are, or incorporate, dangerous goods or chemicals, the Supplier shall diligently comply with its obligations hereunder and promptly provide all material safety data sheets and SVHC declarations as required; and

(e) are free of second hand, counterfeit and/or replica parts.

2.2 Save for any latent defects, the Company shall only be able to bring a claim for any defects in materials and workmanship before the expiry of the latter of: (i) twenty four (24) months from the date of delivery of the Company; (ii) twelve (12) months from acceptance of the Goods by the Company’s customer (if applicable); and (iii) any other period stated in the Order.

2.3 The Supplier shall ensure that at all times it has and maintains all the licences, permissions, authorisations, consents and permits that it needs to carry out its obligations under the Contract in respect of the Goods.

3. DELIVERY OF GOODS

3.1 The Supplier shall ensure that:

(a) the Goods are properly classified, labelled and packaged in compliance with the European Union (EU) Directive 94/62/EC and any modification or amendment to it and secured in such manner as to enable them to reach their destination in good condition. Any packaging materials and/or their return to the Supplier shall be at the cost and risk of the Supplier;

(b) each delivery of the Goods is accompanied by a delivery note which shows the date of the Order, the Order number (if any), the type and quantity of the Goods (including any Company issued tooling number as applicable), and special storage instructions (if any), together with a Certificate of Conformity.

3.2 The Supplier shall deliver the Goods strictly in accordance with the Goods Specification on the date specified in the Order (or, if no such date is specified, then within 30 days of the date of the Order), and, unless otherwise instructed by the Company, during the Company’s normal hours of business on a Business Day. Save when stated in the Order, delivery shall be DAP Incoterms (ed. 2010). Deliveries prior to the date specified in the Order are not accepted.

3.3 The Supplier shall deliver the quantity of Goods ordered strictly in accordance with the Order, failing which the Company may reject the Goods and any rejected Goods shall be returned at the Supplier’s risk and expense.

3.4 Title and risk of the Goods shall pass to the Company on completion of delivery in accordance with the requirements of the Contract.

4. SUPPLY OF SERVICES

4.1 The Supplier shall, at its own risk, for the duration of this Contract provide the Services to the Company in accordance with the terms of the Contract.

4.2 The Supplier shall meet any performance dates for the Services specified in the Order or notified to the Supplier by the Company.

4.3 In providing the Services, the Supplier shall:

(a) co-operate with the Company in all matters relating to the Services, and comply (at no additional cost) with all reasonable instructions of the Company;

(b) perform the Services with the best care, skill and diligence in accordance with best practice in the Supplier’s industry, profession or trade;

(c) use personnel who are suitably skilled and experienced to perform tasks assigned to them, and in sufficient number to ensure that the Supplier’s obligations are fulfilled in accordance with the Contract;

(d) ensure that the Services and Deliverables conform with the Service Specification, and that the Deliverables shall be fit for any purpose expressly or implicitly made known to the Supplier by the Company;

(e) save as agreed with the Company in writing, provide all equipment, tools and such other items as is required to provide the Services; and

(f) use the best quality goods, materials, standards and techniques, and ensure that the Deliverables, and all Goods and/or Services supplied and used in the Services transferred to the Company, will be free from defects in workmanship, installation and design;

(g) obtain and at all times maintain all necessary licences and consents and comply with all applicable laws and regulations; and

(h) not do or omit to do anything which will or may cause the Company to lose any licence, authority, consent or permission upon which it relies for the purpose of carrying on its business or the performance of the Goods under the Contract.

5. OBSOLETE GOODS

5.1 The Supplier must notify the Company in writing without delay of any actual or potential obsolescence issues it identifies that are not included in the Goods description or to which the Company has not otherwise been made aware by the Supplier.

5.2 The Supplier shall deliver the Goods free from defects, installation and design; and ensure that the Deliverables, and all Goods and/or Services supplied and used in the Services transferred to the Company, will be free from defects in workmanship, installation and design;

6. WORKING AT SUPPLIER’S OR COMPANY’S PREMISES

6.1 The Supplier accepts (and shall procure that any work carried out by their sub-contractors) that the Supplier shall comply with the Company’s premises and any visit by any of the Supplier’s employees, agents and sub-contractors to the Company premises and any visit by any of the Supplier’s employees, agents and sub-contractors to the Goods and/or Services that the Supplier shall comply with the conditions of the Supplier’s premises and any visit by any of the Supplier’s employees, agents and sub-contractors to the Goods and/or Services that the Supplier shall comply with (including any Company issued tooling number as applicable) and all Company Materials which occurs whilst it is in the Supplier’s possession, custody or control. The Company may at any time on request have the right to have refunded all sums where the Company has paid in advance for Goods and/or Services that have not been delivered by the Supplier;

6.2 The obligations under Clause 6.1(b) and (c) shall also apply to the Supplier’s premises (or any premises at which the Supplier operates and its subcontractor’s premises) in respect of work carried out for or on behalf of the Company;

6.3 The Supplier shall allow the Company’s authorised representatives, the Company’s customers and/or regulators, to, at all reasonable times, to have access to the Supplier’s premises (or to arrange access to other relevant premises) and to all relevant technical information for the purpose of auditing all aspects of the Supplier’s performance of (and compliance with) a Contract, including inspecting and testing the Goods and/or the performance of the Services, but any such inspection or test shall be subject to the prior written consent of the Company and/or the Services by the Company.

6.4 The Supplier and sub-contractors shall fulfil or give to the Company all the Health and Safety documentation required by the Legislative Decree n. 81/2008 or the additional documentation required by the Company.

6.5 The Supplier and sub-contractors shall only access restricted areas and/or use Company machinery or tools when permitted by the Company.

7. COMPANY MATERIALS

7.1 In supplying the Goods and/or Services, the Supplier shall hold all equipment or items of whatever kind including but not limited to raw materials, samples, jigs, tooling, drawings, patterns, specifications and/or data supplied by the Company in connection with the Contract (Company Materials) in safe custody at its own risk, adequately insure the Company Materials as the property of the Company, as well as the Company issued tooling number as applicable and any other such equipment or items, and adequately maintain the Company Materials in good condition and in accordance with any instructions or manuals. Where the Supplier does not comply with the Company’s (fair wear and tear excepted), clearly mark the Company Materials as the property of the Company (including any Company issued tooling number as applicable) and not dispose or use the Company Materials other than in accordance with the Company’s written instructions or authorisation, and, at the Company’s written instruction, return the Company Materials to the Supplier’s risk and expense. The Supplier shall indemnify the Company against all loss or damage to any Company Materials which occurs whilst it is in the Supplier’s possession, custody or control. The Company may at any time on request have the right to inspect any Company Materials. All Company Materials are the exclusive property of the Company.

8. COMPANY REMEDIES

8.1 If the Supplier is in breach of any terms of the Contract, the Supplier shall, without limiting its other rights or remedies, have one or more of the following rights:

(a) to terminate the Contract in accordance with clause 16;

(b) to accept any subsequent performance of the Services and/or delivery of the Goods;

(c) to recover from the Supplier any costs incurred by the Company in obtaining substitute goods and/or services from a third party;

(d) to have refunded all sums where the Company has paid in advance for Goods and/or Services that have not been delivered by the Supplier;
4.1. The Supplier shall provide the Company with reasonable access at reasonable times to the Company’s premises for the purpose of providing the Services and to obtain such information as the Supplier may reasonably request for the provision of the Services and the Company considers reasonably necessary for the provision of the Services.

9. COMPANY’S OBLIGATIONS

9.1. The Company agrees to the Supplier that the Company will provide with reasonable access at reasonable times to the Company’s premises for the purpose of providing the Services and to obtain such information as the Supplier may reasonably request for the provision of the Services and the Company considers reasonably necessary for the provision of the Services.

10. CHARGES AND PAYMENT

10.1. The price for the Goods and/or the charges for the Services (deemed to include every cost and expense directly or indirectly incurred by the Supplier in connection therewith) shall be the amount set out in the Order, exclusive of value added tax. No extra charges shall be made unless agreed in writing and signed by the Company.

10.2. In respect of Goods, save as otherwise agreed, the Supplier shall invoice the Company on or at any time after completion of delivery. In respect of Services, the Supplier shall invoice the Company on completion of the Services. Each invoice shall include such supporting information (i.e. shipping documents for Goods and a certificate of acceptance for Services) required by the Company to verify the accuracy of the invoice, including but not limited to the relevant Order number. The invoices shall be sent in unmodifiable pdf format to the e-mail address territori@telespazio.com and/or telespazio.sfc.ad@pec.it.

10.3. In consideration of the supply of the Goods and/or Services by the Supplier strictly in accordance with the Order, the Company shall pay the invoiced amounts within 90 days of the date of invoice by the Supplier. In case of supply of Services, all invoices shall be payable only if accompanied by DURC (Documento Unico di Registro Contabile) required by Italian law or any other equivalent certification of labour compliance and/or export licences and/or consents required by the law, valid and effective at the date of invoice.

10.4. Payments shall only be made in favour of the Supplier (and therefore cannot be made to bank accounts of any individual or legal person other than the Supplier) and in the country where the activities are performed or where the Supplier has its tax residence or registered office.

10.5. The Supplier shall maintain complete and accurate records of the time spent and materials used by the Supplier in providing the Services. The Supplier consents to the Company disclosing copies of all Orders and Supplier’s invoices to the Company’s customer where required by law and the Supplier shall ensure that this right is procured from its suppliers in connection with the Order.

10.6. For any delayed invoices, the Company shall be entitled to suspend payment by way of a penalty as per article 1382 of the Italian Civil Code, up to a maximum of 14 per cent. Such penalty shall be charged for the delay in delivery and is not in substitution of the remedy in clause 8.1.5 above. The Company shall not impose such penalty provided the delay in delivery does not exceed seven (7) calendar days.

11. INTELLECTUAL PROPERTY RIGHTS

11.1. In respect of the Goods and any goods that are transferred to the Company as part of the Services under this Contract, the Supplier undertakes to the Company that it has full and unencumbered title to all such items, and that at the date of delivery of such items to the Company, the Supplier does not have any free insurance, and will indemnify the Supplier in respect of all claims arising from such termination. In no case will the Supplier be entitled to any compensation for goods that had been completed. The Company reserves the right to recover any completed part of the Goods and/or Services and any relevant documentation related thereto.

11.2. The Supplier shall, promptly at the Company’s request, (a) provide the Company with full and accurate details of: (i) all authorised third parties (to include the end user) and their role; (ii) the Goods and/or Services, part or item export classification number; (iii) the country of origin; (iv) the country of manufacture; (v) export licence number; and (vi) export license date of issue. The Company may withhold all further payments under this Order until the Supplier has fully complied with its obligations under this clause 15.1.

11.3. If the Supplier is not able to deliver the Goods and/or Services on the agreed delivery date as a result of non-availability of any export licences and/or consents the Supplier shall use its best endeavours to secure all such licences and consents with no further delay and shall indemnify the Company against all liabilities, costs, expenses, damages and losses incurred as a result of such a delay.

16. TERMINATION

16.1. Without limiting its other rights or remedies, the Company may terminate the Contract in whole or in part at any time with immediate effect by giving written notice to the Supplier, whereupon the Supplier shall discontinue all work on the Contract so terminated and shall immediately cause all Goods and/or Services to be returned to the Company or to any other party to which the Goods and/or Services may be delivered by way of a penalty as per article 1382 of the Italian Civil Code, up to a maximum of 14 per cent. Such penalty shall be charged for the delay in delivery and is not in substitution of the remedy in clause 8.1.5 above. The Company shall not impose such penalty provided the delay in delivery does not exceed seven (7) calendar days.

16.2. Subject to clause 16.3, the Company shall pay the Supplier for all work in progress on the Goods at the time of termination and/or for any Services already performed, but shall be entitled to retain an amount suitable to cover any liabilities that may arise under or in connection with the Contract, and shall, on the Company’s request, produce the insurance certificate.

16.3. The Company shall, upon the termination of the Contract, be entitled to receive full payment for all Goods and/or Services and any relevant documentation related thereto.
The supplier suspends or ceases, or threatens to suspend, or cease, to carry on all or a substantial part of its business, and in such circumstances the Company shall have the right to recover any costs, charges, or expenses incurred, including those sustained to procure the Goods and/or Services elsewhere in addition to any further damages or losses that the Company may suffer as a consequence of such termination. Termination of the Contract, however, shall not affect any of the parties’ rights and remedies that have accrued up to that point.

16.4 Clauses which expressly or by implication survive termination of the Contract shall continue in full force and effect. This section is limited to clause 12 (Indemnity) and clause 14 (Confidentiality).

16.5 On termination of the Contract for any reason, the Supplier shall deliver to the Company, immediately upon request, all Deliverables whether or not then complete, and return all Company Materials. Until they have been returned or delivered, the Supplier shall be solely responsible for their safe keeping and will not use them for any purpose not connected with this Contract.

17. ETHICAL CONDUCT AND ANTI-BRIBERY COMPLIANCE

17.1 The Supplier shall:
(a) comply with the Company’s Codes of Ethics and Anti-corruption Code and Company’s Corporate Governance, Management and Control Manual pursuant to Legislative Decree 8th June 2011 n. 231 (“Law 231/2001”) in force from time to time, available on the Supplier’s website, regarding on which the Supplier declares its thorough knowledge and acceptance;
(b) comply with all applicable laws, statutes and regulations relating to anti-bribery and anti-corruption including but not limited to Law 231/2001 as amended from time to time;
(c) not engage in any activity, practice or conduct which would constitute an offence;
(d) promptly report to the Company any request or demand including but not limited to any bribe or other financial or other advantage of any kind received by the Supplier in connection with the Contract; and
(e) be compliant with any anti-mafia normative.

17.2 The Supplier shall ensure that any person associated with it who is performing services or providing goods in connection with the Contract does so only on the basis of a written contract which imposes on and secures from such person terms and conditions that are no less restrictive than those imposed on the Supplier in this clause 17.

17.3 The Company shall be entitled to suspend a Contract where it reasonably suspects a breach of clause 17 until the matter is resolved to the Company’s satisfaction.

18. OFFSET OBLIGATIONS

At the Company’s request, the Supplier shall use its reasonable endeavours to support the Company in fulfilling its Offset Obligations and shall grant to the Company the full benefit of all applicable offset credit in relation with the Order.

19. COMPLIANCE WITH LAWS AND RULES

In its performance of the Contract the Supplier shall comply with:
(a) all applicable laws and regulations including, but not limited to, the Relevant Regulations as may apply. The obligation contained in this clause 19 is in addition to all other Conditions requiring the Supplier to comply with applicable laws; and
(b) the Company’s Quality Requirements for Suppliers as may be in force from time to time and
(c) Law 136/2010, if the final Customer is an Italian public entity. In this case the parties undertake to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the Contract.

20. A reference to a statute or statutory provision in the Contract constitutes a reference to the provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision.

20.1 The Company may, but the Supplier may not assign, transfer, mortgage, charge, subcontract, declare a trust with or otherwise invest in a foreign country.

20.2 A waiver of any right or remedy under the Contract or law is only effective if given in writing and shall not be deemed a waiver of an action or an admission of guilt. No failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent the exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy. Nothing in the Contract is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, nor constitute either party the agent of the other for any purpose. Neither party shall have authority to act as agent for, or to bind, the other party in any way.

20.3 A party is not a party to the Contract shall not have any rights to enforce its terms. Except as set out in these Conditions, no variation of the Contract, including the introduction of any additional terms and conditions, shall be effective unless it is agreed in writing and signed by the Company.

21. GOVERNING LAW AND JURISDICTION

The Contract, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed, and interpreted by, and construed in accordance with the laws of Italy and each party irrevocably submits to the exclusive jurisdiction of the court of Rome, Italy.

22. DEFINITIONS

Business Day: a day other than a Saturday, Sunday or public holiday in Italy. Certificate of Conformance: a certificate signed on behalf of the Supplier by an appropriately qualified representative confirming that the Goods supplied conform to the Goods Specification. Delivery: the delivery of the Goods (or any part of them or any repairs or replacements thereto) set out in the Order. Goods Specification: the specification for the Goods, including any related plans and drawings, as set out in the Order. Intellectual Property Rights: patents, rights to inventions, copyright and related rights, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim prior rights, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist in the future in any part of the world.

Offset Obligation: a contractual obligation imposed on the Company that requires the Company to purchase or facilitate the purchase of goods and/or services from and/or otherwise invest in a foreign country.


Service: the services, including without limitation any Deliverables, to be provided by the Supplier under the Contract as set out in the Service Specification. Service Specification: the description or specification for Services as stated in the Order.

SVHC: a substance of very high concern as defined in Regulation (EC) No. 1907/2006 (REACH).


For the Supplier: