

CONTRACT FOR THE SUPPLY OF MACHINERY PLANT

This agreement (from hereinafter the “Agreement”) is made and entered into as of the ... day of ..., ... by and between:

CAMAS s.p.a., a company having its registered office at via Mezzana No. 10, 25038, Rovato (BS), Italy, represented by, hereinafter referred to as the “Seller”;

And

....., a company having its registered office at, represented by, hereinafter referred to as the “Buyer”.

All of the foregoing are also hereinafter referred to collectively as the “Parties” and each and every one of them as a “Party”.

WHEREAS

- the Buyer desires to purchase from the Seller the machinery described in Annex 1 (hereinafter the “Machinery”), having the technical specifications set forth in said Annex 1 (hereinafter the “Offer”) and meeting the performance criteria also set forth in Annex 1 (hereinafter the “Performance Criteria”), subject to the terms and conditions set forth below; and
- the Seller, having the necessary skill, know-how and resources to design, manufacture, supply and install the Machinery, is willing to sell said Machinery to the Buyer;

NOW THEREFORE THE PARTIES AGREE AS FOLLOWS

1) Subject of the Agreement

1.1 The Buyer hereby agrees to purchase from the Seller, and the Seller hereby agrees to sell and provide to the Buyer, the Machinery having the Technical Specifications subject to the terms and conditions set forth herein. In case of discrepancies between the Offer sent to the Buyer by the Seller and this contract, the Offer shall supersede and prevail on the provisions of this contract, although sent prior to the signing of this contract.

1.2. The Seller shall supply the Buyer, free of charge, with the documentation relating to the Machinery. Said documentation shall be supplied to the Buyer according to the CE legislation.

1.3. The Buyer warrants that the Buyer purchases the Machinery for a lawful and legitimate civil use (only) and is the end user of the Machinery.

2) Changes in the Machinery and Technical Specifications

2.1 The Seller shall be entitled to make any changes which lead to improvements, provided that such changes do not affect the performance of the Machinery indicated in the Offer.

3) Delivery terms

3.1 The Machinery delivery shall be made by the Seller according to CPT Incoterms® 2010 Place of delivery is the Seller’s premises and place of destination is

3.2 The Buyer must pay all costs relating to the goods from the time they have been delivered from the named place of delivery, including all duties, taxes and other charges, as well as the costs of carrying out customs formalities payable upon import and/or export of the goods (if any) and the costs for their transportation through any country.

3.3 The Machinery shall be delivered to the Buyer within from the date in which the Down Payment provided for at Article 5.1 lett. a), the Letter of Credit provided for at Article 5.1 b) is issued and confirmed and all the relevant technical documentation and specifications have been received by the Seller. It is therefore intended between the Parties that no obligation shall be vested upon the Seller until all the above requirements are fully met.

4) Purchase Price

4.1 The Buyer shall pay to the Seller the price in the total amount of € (*) plus VAT where applicable (hereinafter the “Purchase Price”). The Offer shall indicate in details the inclusions and exclusions of the components from the Purchase Price.

5) Terms of Payment

5.1 Unless differently provided for in the Offer, payment of the Purchase Price shall be effected by the Buyer to the Seller in the invoice currency as follows:

a) 30% (thirty percent) of the total Purchase Price (hereinafter the “Down Payment”) shall be paid by the Buyer by wire transfer to the account in the Seller’s name at (bank name), account number, SWIFT code, immediately upon the signature of this Agreement by both Parties.

b) 70% (seventy percent) of the total Purchase Price shall be paid by the Buyer to the Seller by irrevocable letter of credit in compliance with Publication n. 600 of the International Chamber of Commerce, divisible and confirmed by a primary Italian bank satisfactory to the Seller (hereinafter, the “Letter of Credit). Said Letter of Credit shall be valid for at least twelve (12) months following the date of delivery of the Machinery as set forth in this Agreement and shall be payable at sight at the counters of said Italian bank as follows:

b.1) 40% (forty percent) of the total Purchase Price upon completion of the Factory Acceptance Test (F.A.T) at the Seller’s facility against presentation of: i) the Seller’s commercial invoice and ii) Factory Acceptance Test (F.A.T.);

b.2) 30% (thirty percent) of the total Purchase Price upon (i) delivery of the Machinery pursuant to CPT, attested by the handing over of the goods to the carrier and (ii) report of positive starting of the Machinery issued and signed by the appointed technician of the Seller.

The Parties hereby agree that all bank fees of the bank issuing the Letter of Credit shall be borne by the Buyer and all bank fees of the bank confirming the Letter of Credit shall be borne by the Buyer. The Letter of Credit shall provide that upon the occurrence of a Force Majeure Event as defined at

Article 13 its validity be extended for a further period equal to the suspension period according to Article 13.1.

6) Payment Terms and Guarantees

6.1 The Payment of the Purchase Price shall be deemed made to the Seller only at the time when the sum in question has been unconditionally credited to the bank account of the Seller.

6.2 Should the Buyer fail to provide the Letter of Credit containing all the requirements listed in Article 5 lett. b) within thirty (30) days following the date of signature of this Agreement by both Parties, then the Seller shall be entitled, in its sole discretion and without incurring any liability for damages:

a) to terminate this Agreement and to retain the Down Payment and to claim further damages, if any; or

b) to postpone delivery until such time as the Letter of Credit is issued and confirmed pursuant to Article 5 lett. b) or – as an alternative - the full Purchase Price has been paid by the Buyer.

7) Entry into Force. Delivery Term

7.1 This Agreement shall enter into force at the moment of its signature by both Parties, provided that the Down Payment and all the relevant technical documentation and specifications have been received by the Seller, and the Letter of Credit as per Article 5 lett. b) has been issued and confirmed.

8) Title to the Machinery

8.1 Title to the Machinery shall pass to the Buyer only upon payment in full of the Purchase Price of the Machinery. Until such time, the Machinery shall be kept labelled as property of the Seller.

8.2 The Buyer shall not:

i) deliver to third parties,

ii) give as security, or

iii) in any way dispose of the Machinery subject to retention of title by Seller.

9) Factory Acceptance Test (F.A.T.)

9.1 The Factory Acceptance Test (F.A.T.) shall be run at the Seller's premises, before the Machinery is delivered to the Buyer. The F.A.T. form is set forth in Annex 2 hereto. The Seller shall provide the Buyer with notice in writing at least 15 (fifteen) days prior to the date on which the Machinery shall be ready for the F.A.T.

9.2 If the F.A.T. reveals that the Machinery does not meet the Performance Criteria or otherwise does not comply with this Agreement, the Seller will promptly begin to correct any such non-compliance at the Seller's expense and again notify the Buyer in compliance with Article 9.1 above.

As soon as the Machinery has passed the F.A.T., the Buyer shall provide the Seller with a F.A.T. Certificate (set forth in Annex 2.1 hereto), in which the date on which the F.A.T. of the Machinery has been completed and passed shall be certified.

10. Starting of the Machinery

10.1 Following delivery of the Machinery, the Seller shall send its personnel (in the number of persons and for the period of time he deems sufficient) to the site of installation of the Machinery, in order to assemble it. Such activity of installation and assembling shall be performed by the Seller under the terms and conditions indicated in the Offer.

10.2 The Buyer shall provide any materials, labors, services and facilities that are necessary for the assembly of the Machinery.

10.3 After installation the Seller shall start the Machinery and upon completion of such starting the Seller (in person of the appointed technician) shall issue a starting report attesting the execution of the starting procedure of the Machinery (Annex 3).

11) After-sale Warranty

11.1 The Seller warrants to the Buyer that, for a period of 12 months from the date of completion of the starting of the Machinery, the Machinery shall be free from defects in materials and workmanship (hereinafter the "After-sale Warranty").

11.2 The Seller shall repair or replace, in its sole discretion, any defective parts covered by the After-sale Warranty. In a separate document sent to the Buyer prior to the conclusion of the contract, the Seller shall indicate the spare parts that are suggested to be ordered by the Buyer and delivered together with the Machinery. The Seller shall indicate besides any single component the lead time necessary to have that spare part be delivered by its suppliers or be manufactured and delivered to the Buyer, so that the Buyer may evaluate which spare parts to order as to avoid downtimes in case of breakage. In any case the Seller shall provide spare parts to the Buyer subject to their availability and in the time necessary to source them and have them delivered by its suppliers.

11.3 Save as differently provided for in the Offer, the Warranty shall include the spare parts and shipment of the same to the Buyer only, with the exclusion of the manpower and any other additional cost. The defected component must be delivered to the Seller at Buyer charge.

Once received and analyzed, the component could be repaired or substituted according to the Seller experience.

11.4 The After-Sale Warranty is expressly limited to manufacturing defects and shall not extend to defects resulting from other causes, including defects caused in whole or in part by damage in transit, by improper use, handling or maintenance of the Machinery or by ordinary wear and tear. This Warranty is exclusive and in lieu of any other warranty, whether written, oral or implied.

11.5 Any claim relating to defects in the Machinery must be made to the Seller in writing within 8 (eight) days following the discovery of said defect and, in any case, shall be deemed waived if not made on or before the later of the following two deadlines:

- i) twelve (12) months following the date of delivery of the Machinery, and
- ii) the expiration of the Warranty Period.

12) Limitation of Liability

12.1 In no event shall the Seller be liable for loss of profit, damages and direct or indirect losses of any kind claimed by the Buyer, including machine-stops, failure to produce, downtimes or loss of production. The Seller's total liability arising out of and/or relating to this Agreement shall be limited to the Purchase Price only.

12.2 The Seller is responsible for the compliance of the Machinery with the legislative requirements in force in the country of the Seller. The Buyer alone shall be responsible for informing the Seller, upon placing the purchase order, of any and all laws, regulations and safety standards required in the country where the Machinery shall be installed in order to allow the Seller to comply with such laws, regulations and standards in relation to the Machinery to be delivered. The Buyer shall also ensure that, after delivery and erection, the Machinery complies with the laws, regulations and safety standards of the country in which the Machinery is finally assembled, and shall hold the Seller harmless from any claims arising out of any failure of the Buyer either to inform the Seller upon placing the order, or any failure to ensure the compliance of the Machinery with the laws, regulations and standards of the place of installation of the Machinery after delivery and erection.

13) Force Majeure

13.1 The Seller shall not be responsible to the Buyer for any failure to perform, which is caused by occurrences beyond the Seller's reasonable control ("Force Majeure Event"), including, but not limited to late delivery or non-delivery of materials by suppliers, suspension of or difficulties in transportation, strikes, lock-outs, labor disputes of any kind, fires, accidents, earthquakes, tornados and other natural events, riots, war (whether declared or undeclared), uprisings, delay of carriers, government seizures, embargos, laws or regulations of any political sub-division or agency (including government controlled export credit agency), or any government. During the persistence of the Force Majeure Event the Seller shall be exempt from performing its obligations and all terms (including the delivery term) are suspended.

13.2 If the Force Majeure Event continues for more than twelve (12) months, without the parties being able to develop an alternative satisfactory arrangement, either Party shall be entitled to terminate this Agreement upon written notice to the other Party. In this case, the Seller is entitled to retain the portion/s of the Purchase Price already paid by the Buyer.

14) Right of Withdrawal

14.1. Either Party may withdraw from the contract pursuant to article 1373 § 3 of the Civil Code subject to the following provisions:

14.1.1. If the withdrawal is exercised by the Buyer, it is subject to the condition precedent of the payment by the Buyer of the full amount of the Machinery built until the communication of withdrawal (deducted the Down Payment, if any) plus a penalty of 10% of such amount according to Article 1373 § 3 of the Civil Code;

14.1.2. If the withdrawal is exercised by the Seller, the Seller shall return to the Buyer the amounts paid prior to the communication of withdrawal, plus a penalty of 10% of such amount according to Article 1373 § 3 of the Civil Code;

15) Governing Law

15.1 This Agreement shall be governed by and in accordance with the laws of Italy.

16) Resolution of Disputes. Jurisdiction

(in caso di contratto stipulato con cliente situato in Unione Europea): 16.1 The Courts of Brescia, Italy, shall have exclusive jurisdiction over all disputes arising out between the Parties. Notwithstanding the above, should either Party seek urgent judicial relief against the other Party by means of interim measures or any equivalent legal remedies, such Party shall be entitled to apply for such relief to any Court having jurisdiction thereon.

(in caso di contratto stipulato con clienti extra UE): 16.1 All disputes arising out of or in connection with this Agreement, or its validity, shall be finally settled by arbitration in accordance with the Rules of Arbitration of the International Chamber of Commerce by one arbitrator.

16.2 Language of arbitration shall be English and seat of arbitration shall be Paris.

17) Miscellaneous

17.1 The recital of following Annexes constitute an integral part of this Agreement:

Annex 1: Offer

Annex 2: Factory Acceptance Test (F.A.T.) Form

Annex 3: Technical assistance report

17.2 Any amendments to this Agreement shall be valid only if made in writing, signed by the duly authorized representatives of both Parties.

17.3 The invalidity or enforceability of any provision of this Agreement shall not affect the validity and/or enforceability of the remainder of the Agreement.

BUYER

By: _____

Title: _____

SELLER

By: _____

Title: _____