

**SUPPLY AGREEMENT**  
**GENERAL CONDITIONS**  
**by ALCA TECHNOLOGY s.r.l.**  
(for UE-Swiss and UK)

**Purpose**

These General Conditions of Warranties and After sales assistance (hereinafter “Conditions”) are applicable to all the supplies provided by Alca Technology to the Buyer, together with the special provision drafted in specific orders.

**Contract**

“Contract” means the Order, developed by the Buyer on a regular offer submitted by Alca Technology and subscribed by Alca Technology for acceptance.

These Conditions applies, unless different agreement between the Parties, to all the supplies between:

**Alca Technology s.r.l.**, p.iva 02793000247, having its seat at Via Lago di Garda, 130 – 36015, Schio (VI), Italia, by means of ing. Fabrizio Anselmi, (hereinafter "Seller" or “Alca Technology”;  
and  
....., (hereinafter the “Buyer”)

**Generals**

- Alca Technology is a company of proven experience in planning and realization of vacuum chambers and plants for the application of thin films in industrial field, in ophthalmic and precision optics industry and in the field of functional and aesthetic coating (hereinafter the “Products”).
- The Buyer is interested in acquiring by the Seller the above mentioned Products, better described in the Orders and Order Confirmations, as stated hereinafter.

**1) Object of the Contract**

1.1 The specific contracts for the supply of the Products shall consist of single order and respective confirmation signed by the Supplier.

1.2 The Seller shall provide the Buyer with the documentation of the Product identified in the Order Confirmation. This documentation will be provided only in Italian language or in English language.

## **2) Planning**

2.1 The planning of the Product will be developed by Alca Technology, on the base of technical specifications outlined in the offer send to the Buyer.

2.2 The Buyer declares to be informed of and to authorizes the Supplier to cooperate with external Professional firm chosen by the Supplier. The Seller declares that this cooperation will not change the price of products.

2.3 Alca Techonogy will develop the planning basing on the technical data and information provided for by the Buyer. As a consequence of the above, no defect or non-conformities deriving by errors, inaccuracy or omissions of data or of information provided by the Buyer, shall be claimed against Alca Technology

2.4 The Buyer exempts Alca Technology by every liability pursuant to the incorporation or interconnection of the Products with other machines, production lines or deriving by the incompatibility of the Products with the structure, characteristics and networks of the building where the Products will be allocated.

2.5 All the projects and designs realized by Alca Technology shall be approved by the Buyer. With the approval of the project and designs, the Buyer exempts the Seller by every liability pursuant to every error in the project, calculation or design.

2.6 The project realized by Alca Technology, the know-how and technical knowledge related to the realization of the Product are property of Alca Technology. Alca Technology retains every patent and economical right with reference to the Products. All the documents (price lists, catalogues or similar documents, by paper or digital recording) concerning the Products are exclusive property of the Seller. It is strictly forbidden every representation of the above mentioned documentation, neither in part, unless previous authorization of Alca Technology.

2.7 The Seller forbids every non authorized use of its brand and trademark and of every other trademark printed on the Products or connected with the Products, and of every denomination or distinctive marks or drawing of the Products.

## **3) Delivery and execution**

3.1 The forecast of the deliveries is reported in the Order confirmation send by Alca Technology to the Buyer.

3.2 The Seller uses every best effort in order to comply with the delivery date reported in the forecast, nevertheless the Parties agree that the delivery dates are not to be referred as substantial and that the Seller will not incur in any responsibility in case of delay in the foreseen delivery.

Anyway, in case of delay the Seller shall promptly notify the Buyer.

**4) Prices**

4.1 The prices of the Products are listed in the Order confirmation.

4.2 The Buyer agrees that the prices could rise, as a consequence of the variation of raw material costs, in the maximum measure of 10% of the cost of raw material, and agrees to burden this variation without any consequence on the validity of this Agreement.

**5) Payment terms and effective date**

5.1 The payment terms are listed in the Order confirmation. The applicable currency will be specified in the invoice as per the bank details. The price will be considered as paid only once the amount will be irrevocably charged on the bank account of the Seller, in the stated terms.

5.2 In case of delay in the payment, the Seller has the right to interrupt every pending delivery with reference to this or other agreement.

5.2 The Seller declares that every variation of the bank details reported in the invoice shall be communicated by certifier electronic e-mail and confirmed by telephone. Every payment to different bank details, received by the Buyer in ways different by the above described communication, will not set the Buyer free by its payment obligation.

5.3 This Contract will be effective from the date of the Order confirmation of the Supplier, unless should the Buyer pay any advance amount, in this case the Contract will be effective at the payment date.

**6) Product and software property**

6.1 Unless different law provisions, the ownership of the Products will pass to the Buyer once paid the entire price to the Seller. Until that moment the Product shall be labelled as property of the Seller.

6.2 Until the full payment of the price, the Buyer: i) shall not give the Products as a guarantee or ii) shall not consign the Products to third parties.

6.3 In case the Buyer fails the above mentioned obligations, the Seller has the right to take immediate possession of the Product, without any formality, for the part not still in property of the Buyer, wherever the Product should be located. Moreover, the Seller has the right to claim every suitable action in order to obtain the refund of the damages.

6.4 The software installed in the Products it is in the property of the Seller that gives to the Buyer a licence exclusively limited to the use of the Product. It is excluded every sublicense or

reproduction right.

**7) Inspections, testing**

7.1 An acceptance test will be performed in the facilities of the Seller, before the delivery of the Product or, whether differently decided by the Parties, after the placement of the Product in the facilities of the Buyer. This Acceptance test shall be reported at the presence of the Parties.

If the tests are performed in the seller site, the Seller shall communicate the Buyer the date in which the Product will be ready for the Acceptance test with 7 days of notice. If the Buyer decides not to be present at the Acceptance test, this will be done in absence of the Buyer.

If the tests are performed in the Buyer site, the Acceptance test shall be w 10 days from the delivery or from acceptance test shall be performed. If the Buyer will not provide for the acceptance test within the above mentioned term, the Product will be considered accepted, compliant with all the technical specifications and defect free.

7.2 Whenever the Acceptance test would give negative outcome, the Seller shall remedy the non-conformity and set a new Acceptance test. When the Acceptance test gives positive outcome, the Parties draft and sign a written report.

7.3 With the sign of the Acceptance test, the Product is considered by the Parties compliant with the Technical Specifications and defect-free.

**8) Warranty - contestations**

8.1 The Seller guarantees that: 1) unless otherwise provided by art. 6 and 7, the property of the Product will pass to the Buyer free of any burden, pledge or other juridical burdens and that ii) for 24 months by the positive Acceptance test, the Product will be free by concealed defects of material or production. Every concealed defect that should emerge during this guarantee period shall be emended by the Seller without prejudice or costs for the Buyer, pursuant to the present clause.

8.2 With reference to the welded parts made by vacuum chambers, pressure vessels or other products meant to be integrated in Product by the Client, the conventional guarantee is stated in 2 (two) years with reference to the break of the welds that can determinate loss of vacuum. For avoidance of doubts the utilization of the products in corrosive environment unsuitable for the material and the utilization of the products in working conditions unpredictable in the planning.

8.3 Any contestations raised by the Buyer will never cause the termination of the single order but, in discretion of the Seller, the Seller could repair or replace the defective part, if covered by the guarantee. In case of contestations, the Seller will decide if provide the Buyer with spare parts or whether repair the Product in the plants of the Buyer or in its bases. Should the defective materials used by the Seller in the creation of the Product provided by third parties, in case these materials should be covered by guarantee given by the relative producers, the Seller will grant the Buyer the same guarantees.

8.4 The Seller will verify case by case the defective part in order to understand if there is a defect and if the responsibility of the defect is due to the Seller. In every case the costs due to the delivery and return of the defective products, and the travelling expenses for the employee of the Seller (in case the reparation occurred in the bases of the Buyer) shall be charged on the Buyer.

8.5 As a consequence of the substitution of parts of the products, a new 12 months guarantee period will start from the installation, only with reference to the new parts. Should the Seller not be compliant with the post selling obligations, the only responsibility of the Seller shall consist in refunding the cost of the substitution of the defective part, without other compensations.

8.6 The Buyer declares to understand and accepts that the post selling guarantee given by the Seller is only due to production defects and that the guarantee doesn't cover defects deriving by other causes, including the defects deriving by the transport of the products, use, manipulation, incorrect maintenance, by every work or modification to the Product done by the Buyer or by third parties, without the written consent of the Seller or deriving by the normal use of the Product. Moreover, the guarantee does not cover works, reparations or replacements done by the Buyer or third parties, without the previous written consent of the Seller.

8.7 Every defective notice of the Product shall be notified to the Seller within 8 days by the discovery, after that terms the guarantee lapses automatically.

8.8 Should the Buyer rise a contestation with reference to a single delivery, the Buyer shall in any case regularly pay every amount due to the Seller and shall in any case accept the remaining part of products acquired with the same or with other orders.

## **9) Technical assistance**

9.1 If required by the Buyer, the Seller will grant technical assistance with reference to the Product and the software by means of remote assistance, at the current price charged for the service and, if necessary, by physical assistance. In this last case, all the travel and accommodation expenses, reasonably charged by the employees of the Seller, shall be burden by the Buyer.

9.2 The Technical assistance will be taken in charge within 3 days by the notice and the date of

the service will be decided with the Buyer.

9.3 The Buyer declares to be understand and accepts that the technical assistance for the software could be performed by a third part company, appointed by the Seller.

## **10) Limitation of liability**

10.1 All the declaration, guarantees and responsibilities of the Seller are established and defined in this Agreement. With the exception of legislative provisions, the Seller shall have no other responsibility with reference to the Product. In any case the Seller shall never be considered as responsible for loss of profit, indirect damages, direct or indirect losses of any kind, (included personal injury and damages to things) for every loss or damage deriving by information given by the Buyer. The Parties agrees that the general responsibility of the Seller deriving by the execution of this Agreement (included every responsibility for reimbursement of the price) will be, in every case, limited to the amount of the price of the defective Product or of the defective replaced part.

10.2 The Product will be designed and realized pursuant to the legislation of the Country of the Seller at the date of subscription of this Agreement, having regard to the standards required by the Buyer. The Seller doesn't release any declaration or warranty pursuant to the compliance of the Product with laws, security legislation or technical legislation of the Country where the Product will be installed and used. It is a burden and responsibility of the Buyer verify the compliance of the Product to the laws and technical legislations of the destination Country. The Buyer will keep indemnified and hold harmless the Seller by every claim, consequence or expenses deriving by or connected with the violation of the applicable law or of the technical legislation applicable in the Country of destination of the Products.

10.3 Alca Technology will never be considered liable for any damages deriving by mistakes in the project or designs provided by the Buyer. Above these documents the Buyer, unless expressly required in written form, will never ensure any verification.

10.4 Likewise, should the Seller be charged of the full or part of the Product planning, the Seller will never be considered liable for damages of defects deriving by errors or lacks in the communications of data and information provided for by the Buyer.

## **11) Taxes and authorizations**

11.1 All the taxes, border duties and expenses due to the Authorities of the Country of the Buyer in connection or as a consequence of the deliveries of the Products, will be burden by the Buyer. The Seller will make best effort to obtain every authorization required by the Authorities of its

Country with reference to this contract.

11.2 All the taxes, border duties and expenses due to the Authorities of other Countries but the Country of the Seller, included the Authorities of the destination Country (excluded income taxes of the Seller), will be burden by the Buyer. The Buyer shall obtain every authorization required by the Country of destination.

## **12) Subcontracting**

The Buyer authorizes the Seller to subcontract all or part of the workshop, planning, design and assistance performances of this Agreement.

## **13) Contract release**

13.1 The Buyer shall not release or transfer any rights and obligations deriving by this contract or by the orders to third parties, without previous written consent of the Seller.

13.2 This provision applies also to the release and to other credit disposals (by means of collection mandate, warranties releases, and soon) realized in order to pursue or realize, directly or indirectly, the effect of the release.

## **14) Hardship**

14.1 The Parties shall not be considered responsible for breaches of the contract, included delays or failing in the delivery, due to events out of the reasonable control of the Party, included the delay or failing in the delivery of materials by suppliers, discontinuation or the supply, difficulties in transport, strikes, lockout, labour disputes of every kind, fire, accidents, earthquakes and other natural forces, insurrections, war (declared or not), social disruption, delay of the shippers, confiscations , embargo, law or regalement by every local authorities or administrative authority (included the public credit insurances for the export) or governmental authority.

14.2 Once occurred one of the above mentioned events, as soon as the relative effects on the capacity of the Party to carry out its duties will be known, the Party shall give written communication to the other of the event and of the consequences of the event. Once the event should terminate, the Party shall give written communication of the cessation of the hardship event to the other Party.

14.3 Should the Party not communicate in written form the hardship event and its termination, this Party shall be considered in breach of its contractual obligations and therefore liable for every damage and losses that could be avoided in case of prompt communication.

14.4 In case the hardship event continues for more than 12 months, every Party could withdrawal

from the Contract by means of written communication. If the Buyer decides to withdrawal from the contract for this reason, the Seller shall retain the price paid by the Buyer as partial contribution for the burden expenses.

14.5 Whether, during the execution of this contract: i) the execution of the obligations of the Seller should began overly onerous due to an unavoidable and unpredictable event not depending by the Seller or not avoidable with a reasonable behaviour of the Seller, and, if ii) the Seller could not reasonably avoid or overcome the event or its consequences, the Parties, within 30 days after the written communication by the Seller to the Buyer, shall negotiate different contractual conditions in order to mitigate the effects of this supervening excessive onerousness. Should the Parties not be able to reach an agreement, the Seller shall withdrawal from the contract and retain the price paid by the Buyer as partial contribution for the burden expenses.

#### **15) Applicable law**

15.1 The interpretation and execution of this contract are subjected to the law of Italy and to the UN Convention on the International Sale of Goods of Vienna.

15.2 Any dispute arising by of with reference to this Contract, that cannot be resolved by means of the interpretation of this contract, shall be subjected to the jurisdiction of the Court of Vicenza.

#### **16) Communications**

Without prejudice to other provisions of this Contract, all the communications shall be made in written form and send by means of certified electronic e-mail or registered letter with advise of receipt to the above mentioned addresses or to other addresses communicated by the Parties in written form.

#### **17) Confidential information**

17.1 Every information communicated by one Party to the other, pursuant to the planning, realization, development of the Product, financial planning, forecast and other documents or material classified as Confidential, shall be managed by the receiving Party as confidential information, therefore the receiving Party shall use every reasonable measure in order to grant that its employees use the due attention. Every confidential information shall be used by the receiving Party and by its employees only if strictly necessary in order to perform this contract and all the documents and the other materials shall be promptly returned to the disclosing Party, otherwise has to be destroyed, as a choice of the disclosing Party communicated in written form and, in any



case, after the termination of this Contract.

**18) General provisions**

18.1 Without prejudice to other provisions of this Contract, the Parties shall not release any obligation or right deriving by this contract without previous written agreement with the other Party.

18.2 This Contract disciplines all the obligations of the Parties with reference to its object and invalidates and replaces every other previous agreement, in oral or written form, and every previous correspondence between the Parties with reference to the object of the Contract.

18.3 Every modification of this Supply Agreement shall be valid only if reported in the Order of the Buyer and confirmed in written form by the Seller.

18.4 Should any clause of this Contract be considered as invalid or not relevant, this will not cause the invalidity of the Contract or of the other clauses of the Contract.

Pursuant to artt. 1341 e 1342 of Italian Civil Code, the Buyer declares to understand and to accept the following clauses: 3, 4, 5, 6, 8, 10, 11, 12, 15