



SUPPLY AGREEMENT

This agreement is executed in [•], dated as of [•], 201[•]

by and between

“X”, a company duly incorporated under the laws of Italy, having its registered office at [•], in [•], with a share capital of € [•] fully paid up, represented by [•], hereinafter referred to as the “Seller”.

and

“Y”, a company duly incorporated under the laws of [•], having its registered office in at [•], in [•], with a share capital of € [•] fully paid up, represented by [•], hereinafter referred to as the “Buyer”.

WHEREAS

- Seller manufactures and sells [•], as better described under Annex 1 hereto (the “Products”), in Italy and abroad;
- Buyer is willing to purchase the Products from Seller;
- the Parties wish to enter into an agreement for the supply of Products under the terms and conditions hereinafter contained.

NOW THEREFORE, the Parties agree as follows.

Art. 1

Definitions

“Agreement” shall mean this contract including all the attachment and annexes hereto.

“Effective Date” shall mean the date of signature of this Agreement.

“Party” shall mean Seller or Buyer, as the context requires and “Parties” shall be construed accordingly.

“Price” shall mean the price list for Products as detailed in Annex 2 hereto attached.

“Product” shall mean the products supplied hereunder, as described in Annex 1 hereto attached.

“Purchase Order” shall mean any order issued by Buyer and accepted by Seller pursuant to Article 3 hereunder. Purchase Orders agreed upon from time to time between Seller and Buyer shall constitute separate contracts that incorporate the terms and conditions of this Agreement by reference and shall be governed by this Agreement.

“Warranty Period” shall mean a period of [•] months/years from delivery of the relevant Products.

Art. 2

Subject Matter

Throughout the duration of this Agreement, Seller shall manufacture, supply and deliver to Buyer and Buyer shall purchase from the Seller and take delivery of such quantities of Products as ordered by Buyer, according to the terms and conditions set forth hereunder.

Art.3

Quantity and Scheduling

Each month, at least within the 20th day of the previous calendar month, Buyer shall communicate to Seller its rolling three months forecast starting with the forthcoming month, broken down by types and quantities of Products. Subject to Seller’s acceptance, the first month of each of such forecasts will constitute a firm and binding Purchase Order issued by Buyer and shall in addition set out the required dates of delivery and the types and quantities of Products to be delivered on each such dates. For the avoidance of doubts, the second and third month of the rolling three months’ forecast shall be provisional and non-binding.

Art. 4

Delivery, title and risk of loss

Delivery shall be [•] (Incoterms 2010). Title to Products shall pass to Buyer only upon payment in full of the sale price of Products. In the event of payment default by Buyer and save as provided under Clause 6 (Price, Payments and Invoices), Seller shall be entitled, without any formalities, including notice of default, to repossess all of the Products with respect to which title has not yet passed to Buyer, wherever said Products may be situated; in addition, Seller reserves the right to seek any other judicial remedies available to it in respect of the damages suffered and has the right to retain any part payment received for Products by way of penalty.

Art. 5

Warranty

Seller warrants that Products materially conform to the description hereto attached as Annex 1. Any claim regarding the quality of Products shall be made in writing and notified by Buyer to Seller within [•] days of the date of receipt by Buyer of the allegedly defective Products.

Products subject to a warranty claim shall be returned by Buyer to the nearest Seller's facility within a reasonable period following delivery, not to exceed [•] calendar days from delivery, transportation charges prepaid for the account of the Buyer. Seller's obligation and Buyer's sole remedy under this Clause is, at Seller's option, the repair or replacement of any non-conforming Products. The repaired or replaced Products shall be warranted by Seller for the remainder of the original Warranty Period or for three months, whichever is longer, free of charge and return-shipped to Buyer with transportation prepaid by Buyer. Seller shall not be responsible for any offshore transport costs.

Except as expressly set out in this Clause, any further or additional warranties whether express or implied (including without limitation any implied warranty as to merchantability, operability or fitness for purpose) are excluded to the extent permitted by law.

Art. 6

Price, Payments and Invoice

The Price of Products is set forth in the price list hereto attached as Annex 2. Company shall pay any invoices in the invoice currency(ies) within [•] calendar days from the date of invoice.

Without prejudice to any other rights of Seller, if Buyer fails to make payment in accordance with this Agreement, Buyer shall be liable to pay interest to Seller on the amounts unpaid until such payment is made. The interest rate shall be [•] % above the then current base-lending rate of the Bank of [•].

Buyer is responsible for any applicable taxes, including sales, use, customs, or excise tax, excluding only those taxes based upon the net income of Seller.

Art. 7

Indemnification and limitation of liability

Seller shall indemnify, defend and hold Buyer harmless against third party claims (including without limitation, the Parties' employees) for personal injury, death or loss or damage to property caused by Seller's negligence in the performance of its obligations hereunder, provided (i) Seller is entitled to exclusively control the defense against the claim; (ii) Seller is immediately notified of such claim and (iii) Buyer provides reasonable assistance in the defense of the claim and does not enter into any settlement or make any concession without the Seller's prior written approval.

In no event shall Seller have any liability under this Agreement or any Purchase Order for any special, incidental, punitive, exemplary, indirect or consequential damages, including but not limited to lost profits, loss of production, loss of revenues, interest, capital, financing, goodwill, use, business reputation, opportunity or productivity.

Seller's liability under this Agreement for any direct damages arising out of or in any way related to this Agreement (whether arising under tort, negligence, contract, warranty, strict liability or any other cause or combination of causes)

shall in no event exceed the specific price of the Products provided under the Purchase Order giving rise to such liability. Nothing in this Agreement shall exclude or limit the liability of either Party for death or personal injury caused by negligence.

Art. 8

Term and Termination

This Agreement shall be effective from the Effective Date until [•].

Either Party may terminate this Agreement or any outstanding Purchase Order if the other has materially breached any of its obligations and has not cured the breach within [•] days of receipt of a notice from the other Party notifying such breach.

Notwithstanding the provisions herein set forth, each Party shall have the right to terminate this Agreement, by notice in writing, at any time in the event of

- (i) any insolvency proceedings instituted by or against the other Party;
- (ii) a change of control affecting the other Party.

Art. 9

Force Majeure

Neither Party shall be liable for failure or delays in the performance of the obligations hereunder, caused by conditions beyond their reasonable control, such as acts of God, laws, rules, regulations or orders of any governmental authority, floods, fires, explosions, storms, earthquakes, acts of war (declared or undeclared), rebellion, insurrections, riot, sabotage, shortages of fuel, power, energy resources, and/or raw material, invasion, epidemic, quarantine, accident, strikes, lockouts, labour disputes, or any other comparable cause, provided notice thereof is given to the other Party as soon as practicable.

Art. 10

Confidentiality

Confidential Information shall mean any and all information in any form that each Party provides to each other in the course of the Agreement and that either (i) has

been marked as confidential; or (ii) is of such nature that a reasonable person would treat as confidential under like circumstances. Confidential Information does not include any information which (i) is already known to the other Party at the time of disclosure; (ii) is independently developed without the benefit of the other's Confidential Information; (iii) is received from a third party that is not under any confidentiality obligation towards the owner of the information; or (iv) has entered the public domain through no fault of the recipient.

Neither Party shall, except with respect to their employees, contractors or agents with a need to know for the purposes of this Agreement, disclose to any person any Confidential Information of the other Party without the other Party's prior written consent.

Art. 11

Assignment

Neither Party shall assign or transfer this Agreement or any Purchase Order hereunder without the other Party's express prior written consent, which shall not be unreasonably withheld.

Art. 12

Severability and Survivorship

If any provision or portion of this Agreement shall be adjudged invalid or unenforceable by a court of competent jurisdiction or by operation of any applicable law, that provision or portion of this Agreement shall be deemed omitted and the remaining provisions and portions shall remain in full force and effect.

Art. 13

Non-waiver

Failure by either Party to insist upon strict performance of any of the terms and conditions hereof or failure or delay to exercise any rights or remedies provided herein or by law or to properly notify the other in the event of breach shall not be

construed as a waiver of any provision of this Agreement or Purchase Order. No waiver by a Party of a right or default under this Agreement shall be effective unless in writing.

Art. 14

Independent Contractor

Nothing in this Agreement shall be deemed to constitute a partnership, joint venture, or fiduciary relationship between Buyer and Seller, nor shall anything in this Agreement be deemed to create an agency relationship between Buyer and Seller. Neither Buyer nor Seller shall be or become liable or bound by any representation, act or omission whatsoever of the other.

Art. 15

Governing Law and Disputes

This Agreement is governed by, and shall be construed in accordance with, the laws of [•]. In the event a dispute arises from this Agreement or any Purchase Order thereof, the Parties hereby submit to the exclusive jurisdiction of the Courts of [•].

Art. 16

Entire Agreement

This Agreement and its Annexes constitute the entire understanding of the Parties and supersede all previous agreements, statements and understandings from or between the Parties regarding the subject matter of this Agreement. This Agreement also supersedes any conflicting language contained in any applicable past or future Purchase Order regarding the subject matter of this Agreement.

This Agreement is executed by the duly authorised representatives of the Parties.

For and on behalf of [Supplier]

Signature [•]

Name and title [•]

Date [•]

For and on behalf of [Buyer]

Signature [•]

Name and title [•]

Date [•]



ANNEX 1 – PRODUCT DESCRIPTION



ANNEX 2 – PRICE LIST