

## 1. PURPOSE

1.1 These General Terms and Conditions (GTC) form part of every Purchase Order (PO) issued by Ambatovy Minerals S.A and/or Dynatec Minerals SA, hereinafter referred to separately or jointly, as appropriate, as AMSA/DMSA or AMBATOVOY.

1.2 These GTC govern the contractual relationship between AMBATOVOY and its Suppliers. Subject to specific terms in the PO or any amendment in writing, the GTC supersede Supplier's own GTC as well all previous negotiations, representations, undertakings and agreements hereto made between AMBATOVOY and the Supplier.

1.3 The terms of any offer or quotation by a Supplier are to be final, accurate and exhaustive. Any offer or quotation is free of charge. The offer or quotation drawn up by the Supplier only commit the latter until it has been expressly accepted by AMBATOVOY by issuing a PO.

1.4 PO issued by AMBATOVOY is valid if sent by mail, fax or e-mail and will be binding and considered as accepted:

(i) upon receipt of the Supplier's acknowledgement of the PO sent to the attention of AMBATOVOY's buyer, whether by mail, fax or e-mail,

(ii) If acknowledgement or indication of non acceptance of the PO is not received within five (5) working days of issue of such PO,

(iii) upon Supplier's commencement of such performance or acceptance of payment.

1.5 Additional or differing terms, conditions or limitations of liability proposed by Supplier, whether in its own GTC, a quote, acceptance or delivery document shall have no effect unless accepted in writing by AMBATOVOY. In particular, any limitation of liability or disclaimer of warranty other than those expressly set out herein is expressly rejected.

1.6 If the Supplier, its employees or subcontractors are to come or work on Site, provisions of Annexure 1 "Conditions applicable on Site" apply.

## 2. DEFINITIONS

2.1 Unless otherwise implied by usage or context, the following Terms shall have the described meaning:

a. **Contract** means the PO, these GTC, and any particular or additional conditions or documents appended hereto.

b. **Goods or Services** means those Goods or Services identified in this Contract, which may be changed from time to time by the mutual written agreement of the parties.

c. **Purchase Order (PO)** means electronic and/or paper document issued through AMBATOVOY procurement software program by which an Order is confirmed and by extension the Order.

d. **Site** means all of the industrial and mining sites of AMBATOVOY including the mine, plant, port, accommodation camps, and other related facilities in Madagascar as well as its premises in Antananarivo.

e. **Supplier** means the party identified as the Seller (vendor or provider) in this Contract.

f. **SDS (Safety Data Sheet)** means a document that provides information on properties of the material covered by this Contract compliant with the "Globally Harmonized System"

g. **BSC (Cargo Tracking Note)** means an on-line tracking note system for all cargos imported in Madagascar (<https://bscmg.sgs.com/default.aspx>).

## 3. PRICE

3.1 Unless otherwise specified, the prices established by the PO are firm fixed prices. Supplier warrants that any unit prices charged do not exceed the unit prices charged by Supplier to other customers in substantially similar transactions.

3.2 Unless provided otherwise in the PO, title in the Goods shall pass to Ambatovy at the time risk is transferred to Ambatovy pursuant to the applicable Incoterms.

3.3 The Supplier is responsible for all taxes, whether in Madagascar or elsewhere, payable as a result of the Contract. AMBATOVOY may withhold or deduct from any amounts payable hereunder any amounts it is required to remit to the Government of Madagascar or any other applicable authority as taxes, including, without limitation, the TFT and/or VAT, as applicable.

3.4 In the event Supplier is liable to AMBATOVOY for any amounts, whether pursuant to the Contract or otherwise, AMBATOVOY may, at its election, set-off such amounts against any amounts payable to Supplier under the Contract.

## 4. SCHEDULE, DELIVERY AND NOTICE OF DELAY

4.1 Supplier shall strictly adhere to all PO schedules. Time is and shall remain of the essence in the performance of the Contract. Supplier shall notify AMBATOVOY in writing immediately of any actual or potential delay to the performance of the PO. Such notice shall include a revised schedule and shall not constitute a waiver to AMBATOVOY's rights and remedies hereunder.

4.2 In case the Supplier does not respect the delivery date agreed into the PO, AMBATOVOY can either decide to:

- immediately terminate the PO without compensation to the Supplier and without prejudice to damages that might be claimed by AMBATOVOY;

- arrange a transport by air at the Suppliers' costs;

- agree on a new delivery date. In this case, liquidated damages for delay will be incurred by the Supplier from the date of the initial planned delivery date at a daily rate of 0,5 % capped to 15 % of the agreed price.

If Goods are delivered after the PO is terminated, they will be made available to the Supplier during thirty (30) calendar days. If the Goods are not collected by the Supplier during this period, AMBATOVOY can remove the Goods from its facilities and have them stored by a third party, at the Supplier's costs.

## 5. SHIPPING INSTRUCTIONS FOR GOODS

5.1 **New Materials:** Unless otherwise agreed between the parties, all Goods to be delivered shall consist of new materials.

Document:	SCM-PUR-006	Rev:6	Date	25 Nov. 2019	Page:	1 de / of 7
-----------	-------------	-------	------	--------------	-------	-------------

**5.2 Packaging:** Goods covered by the PO shall be properly packaged by the Supplier in accordance with AMBATOVOY Instructions set-out in the document [\(Packaging labelling shipping instructions.pdf\)](#).

Unless otherwise specifically provided on the PO, price or prices of the Goods include all costs of packaging.

Shipments not in compliance with the required standards might be returned to the Supplier. All costs associated with returned shipments will be borne by the Supplier, or will be charged back.

**5.3 Freight charges:** Freight and express charges must be "FCA" as per Incoterm 2010®, unless otherwise instructed by AMBATOVOY.

**5.4 Shipping documents:** Goods cannot be received or accepted by AMBATOVOY until all required documents, properly executed, have been received. The required documents may differ depending on the origin and method of transport. Supplier are required to refer to AMBATOVOY Instructions set-out in the "*Packaging, Labelling and Shipping Instructions*" document (see above 5.2).

A copy of the required documents must be emailed to AMBATOVOY's contact indicated on the PO not later than the day of shipment.

**5.5 Routing:** Shipment must be made via the route and method specified on the PO. Additional costs resulting from any difference hereto will be charged back to Supplier.

**5.6 Combining shipments:** Where feasible, deliveries made at the same time against more than one PO must be combined in one shipment.

**5.7 Customs clearance formalities:** Unless otherwise specified in writing in the PO, the Supplier shall be the Exporter of Record and shall obtain at its own risk and expense any export license or export permits, or other official authorization, and carry out all export customs clearance formalities for the export of the merchandise from the country of export.

## 6. HAZARDOUS GOODS AND MATERIALS

6.1 All hazardous materials must be properly identified, labelled, packaged, marked, prepared and shipped in accordance with all applicable national and international regulation for dangerous goods transportation as appropriate and with AMBATOVOY Instructions set-out in the "*Packaging, Labelling and Shipping Instructions*" document (see above 5.2).

6.2 The Supplier is liable for all damages resulting from negligence in the handling of hazardous materials, whether from failure to comply with legal regulations and/or industry standards.

6.3 The Supplier shall provide AMBATOVOY a SDS for each hazardous product, prior to shipment in English and French language.

## 7. INSPECTION, ACCEPTANCE AND QUALITY

7.1 Supplier shall provide written lot traceability to ensure the source for all items sold under the PO.

7.2 AMBATOVOY's final acceptance of Goods or Services is subject to AMBATOVOY's final inspection within sixty (60) days after receipt at AMBATOVOY's facility or such other place as may be designated by AMBATOVOY, notwithstanding any payment or prior test or inspection. Final inspection and acceptance by AMBATOVOY does not

relieve Supplier from its obligation to supply Goods that meet all specifications, or from any warranties or guarantees provided in the Contract.

7.3 if so specified in the Contract, Supplier and its sub-contractors shall establish and maintain a quality control and inspection program.

7.4 At any time prior to delivery AMBATOVOY's representatives shall have the right of access, on a non-interference basis, to any area of Supplier's or sub-contractor's premises where any part of the work is being performed. Supplier shall, without additional costs to AMBATOVOY, provide all reasonable in-plant accommodations, facilities, and assistance for the safety and convenience of AMBATOVOY and its representatives in the performance of their duties. At AMBATOVOY's request, Supplier shall send, without any additional costs to AMBATOVOY, representatives to discuss and review the progress of the work and any other matters pertaining to the PO.

7.5 Supplier shall keep and maintain inspection, test and related records, which shall be available to AMBATOVOY or its representatives. Supplier shall allow copies to be made and shall furnish all information required by AMBATOVOY or its representatives. Supplier shall furnish to AMBATOVOY written progress reports relating to the PO as required by AMBATOVOY from time to time.

7.6 If any non-compliance was revealed, costs relating to the controls and tests carried out by Ambatovy, shall be borne by the SUPPLIER. Otherwise, these costs shall be borne by AMBATOVOY.

7.7 The approval by AMBATOVOY of any drawings, calculations or specifications, shall not relieve the Supplier from any responsibility therefore.

## 8. NON-CONFORMING GOODS OR SERVICES

8.1 If the Supplier delivers non-conforming Goods or Services, AMBATOVOY may, at its option and sole discretion perform one or more of the following remediation action:

- (i) Return the Goods for refund or credit;
- (ii) Require Supplier to promptly correct or replace the Goods or Services;
- (iii) Correct the non-conformance;
- (iv) Obtain conforming Goods or Services from another source.

AMBATOVOY's remediation option will be without prejudice to any other rights to which AMBATOVOY may be entitled under the Contract.

8.2 AMBATOVOY shall specify the reason for any return or rejection of non-conforming Goods or Services and/or shall describe the action taken. All costs associated with (i) to (iv) above will be at the Supplier's expense and risk and Supplier shall be liable for any increase in costs, including procurement costs, attributable to AMBATOVOY's rejection of the non-conforming Goods or Services.

8.3 If requested by AMBATOVOY, Supplier shall prepare and forward technical reports on any rejected item on the same day repair or replacement shipment is made to AMBATOVOY or within fourteen (14) days of receipt of request from AMBATOVOY. Such reports shall contain specific and contributory cause of failure, recommended corrective action, parts used in the repair and all other pertinent data contributing to improving product reliability.

Document:	SCM-PUR-006	Rev:6	Date	11 Oct. 2019	Page:	2 de / of 7
-----------	-------------	-------	------	--------------	-------	-------------

**9. INVOICES AND PAYMENT TERMS**

9.1 Once the Good delivered or the Services performed, the Supplier shall send to the address specified in each PO a detailed invoice per shipment (in three (3) original copies for Malagasy companies and in PDF format for foreign companies) complying with the applicable rules.

Invoices shall provide at a minimum:

- the PO number,
- the part number if any,
- the description of the Goods and/or Services,
- the unit price,
- the quantity,
- the total value stated in the applicable currency,
- applicable VAT and other taxes,
- Supplier sales tax numbers,
- packing slip number,
- number of packages, articles or containers shipped and.
- the waybill number and date.

9.2 Unless provided otherwise in the PO, payment shall be made within forty-five (45) days following the later of: (i) the delivery date or (ii) receipt of a correct invoice as detailed above.

9.3 Errors on, or omissions in an invoice, or lack of supporting documentation, required by terms of the PO, will be cause for withholding payment without losing any applicable discount. AMBATOYV may also withhold payment for shortfalls and/or non-conforming Goods or Services.

**10. CHANGES**

AMBATOYV shall have the right to make changes within the PO (notably with respect to quantity, design, method of shipment, place of delivery, or delivery schedule). Such changes shall be effective and binding only if evidenced by a PO modification or other formal notification issued by AMBATOYV. If such a change results in a material increase or decrease in the cost of, or time required for, performance of this order, an equitable adjustment shall be made in the PO price and/or delivery schedule. Any claim for such adjustment shall be deemed waived by Supplier, unless asserted in writing within five (5) days of receipt of the PO modification or other formal notification. Nothing in this clause shall relieve Supplier from proceeding without delay in the performance of the PO as changed.

**11. SUSPENSION**

11.1 AMBATOYV may at any time, by written notice to Supplier, require the Supplier to suspend or cancel all or part of the PO. Upon receipt of a suspension or cancellation request, the Supplier shall promptly comply with its terms and take all reasonable steps to minimize the incurrence of costs incurred by the suspension or cancellation.

11.2 The Supplier must immediately resume the Order upon receipt of notice ordering it to resume provision of the Order thus suspended, in accordance with the instructions of the said notice.

Supplier may, if the suspension has resulted in a change in the schedule or the cost of performance, submit a claim to AMBATOYV.

11.3 In case of suspension, and notwithstanding anything to the contrary, the Supplier may not claim damages of any sort due to such cancel and in in no event shall such claim include nor will AMBATOYV be liable for any loss or damage for loss of anticipated profit, economic, incidental,

indirect, consequential, or punitive damages because of any suspension or delay.

**12. FORCE MAJEURE**

12.1 Subject to clause 12.2, only the following events shall constitute Force Majeure under this Contract:

- (i) Acts of God or of a public enemy;
- (ii) Acts of Government;
- (iii) Fires;
- (iv) Floods;
- (v) Epidemics;
- (vi) Quarantine restrictions;
- (vii) Strikes;
- (viii) Freight embargoes;
- (ix) Exceptionally severe weather.

12.2 In each case, the failure to perform must be entirely beyond the control and without the fault or negligence of the party claiming Force Majeure. Each party shall give the other immediate notice of any event that such party claims is a Force Majeure condition that would prevent such party from performing its obligations hereunder, and of the cessation of the condition. A party's notice under this section shall include the party's good faith estimate of the likely duration of the Force Majeure condition.

12.3 If the force majeure event continues over an interrupted period of fifteen (15) calendar days from the date on which an event of force majeure occurred, each party may cancel the PO affected by such event, by notice to the other party, without any legal formality being necessary.

**13. CANCELLATION**

13.1 AMBATOYV, by giving written notice to the Supplier, may cancel for convenience, all or part of the PO. Upon a cancellation notice being given, the Supplier shall cease the PO in accordance with and to the extent specified in such notice and limit and minimize costs incurred.

13.2 In case of cancellation for convenience the Supplier may ask for a compensation. Such compensation will not exceed either the total price of the cancelled PO or the sum of the amounts defined hereafter:

- (i) All finished work, whether completed before receiving the cancellation notice or completed thereafter pursuant to such notice, shall be paid for, based on mutual agreement, in accordance with the PO price.
- (ii) In respect of work not completed before receiving such notice and not completed thereafter pursuant to such notice, the Supplier shall be entitled to be reimbursed the actual and proven cost to the Supplier of such incomplete work incurred to the date of receiving the cancellation notice and to receive in addition an amount representing a fair and reasonable profit in respect of work done thereon as agreed by the parties.
- (iii) Notwithstanding the foregoing, no payment shall be made in respect to work which has been or may be rejected after inspection as not complying with the requirements of the Contract.
- (iv) The Supplier may not claim damages of any sort due to such cancellation and in no event shall such claim include nor will AMBATOYV be liable for any loss or damage for loss of anticipated profit, economic, incidental, indirect, consequential, or punitive damages for any reason whatsoever.
- (v) Upon a cancellation notice being given, AMBATOYV shall have all rights and obligations accruing to it by law

Document:	SCM-PUR-006	Rev:6	Date	11 Oct. 2019	Page:	3 de / of 7
-----------	-------------	-------	------	--------------	-------	-------------

and in equity, including AMBATOYV's rights to title and possession of the Goods and materials paid for. The Supplier shall deliver these Goods and materials upon AMBATOYV's request, on the delivery date and to the place of delivery in accordance with the Incoterms® indicated on the PO.

13.3 Notwithstanding anything to the contrary AMBATOYV shall have the right without any notice and compensation to cancel a PO in case of breach of its obligations by the Supplier.

**14. COMPLIANCE WITH LAWS AND REGULATIONS**

Supplier represents and warrants that it will comply with all applicable local and national laws and regulations pertaining to its performance of its obligations under the Contract.

**15. ETHICAL STANDARDS OF CONDUCT – ANTI-CORRUPTION**

15.1 Supplier shall neither receive nor give any gifts or gratuities in connection with this PO or any other. The Supplier represents and warrants that, in all of its activities in connection with this PO, it will at all times comply with all applicable anti-corruption regulations, laws and legislation.

15.2 Supplier's employees are required to conduct company business with integrity and maintain a high standard of conduct in all business-related activities. Supplier shall not participate in any unethical conduct during performance of the Contract.

**16. CONFIDENTIALITY**

16.1 All plans, drawings, specifications and other information including, without limitation, business pricing or market information, patterns, dies and other tools supplied by AMBATOYV or paid for by AMBATOYV during the performance of the PO and any information derived therefrom, shall be kept secret and confidential by Supplier and shall not be disclosed to any third party, without prior written consent from AMBATOYV or made use of by Supplier, except for the purpose of executing the work hereunder. All such plans, drawings, specifications and other information, patterns, dies, and other tools will remain the property of AMBATOYV and any and all copies thereof will be returned by Supplier to AMBATOYV at the end of the PO or earlier upon request.

16.2 The Supplier undertakes to ensure that the above provisions are respected by its employees, its subcontractors and their employees, and retains full liability.

**17. INTELLECTUAL PROPERTY**

17.1 All specifications, information, data, drawings, software and other items supplied to AMBATOYV shall be disclosed to AMBATOYV without any restrictive rights on a non-proprietary basis.

17.2 Supplier warrants that the sale, offering for sale, use, or incorporation into manufactured Goods and materials (including software) of all machines, parts, components, services, devices, material, and rights furnished or licensed under the PO which are not of AMBATOYV's design, composition, or manufacture does not and will not infringe any valid patent, copyright, trade mark, or other proprietary or intellectual property rights.

17.3 Any work, writing, idea, discovery, improvement, invention (whether patentable or not), trade secret or

intellectual property of any kind first made or conceived by Supplier in the performance of the PO or which is derived from the use of information supplied by AMBATOYV shall be the exclusive property of AMBATOYV. Supplier shall disclose promptly, in writing, all such works, writings, ideas, discoveries, improvements, inventions, trade secrets or intellectual property to AMBATOYV, and shall execute all necessary documents to perfect AMBATOYV's title thereto and to obtain and maintain effective protection thereof. Any work produced under this Contract shall be assigned to, and shall be, the exclusive property of AMBATOYV.

17.4 Supplier hereby grants to AMBATOYV, and to its subcontractors and customers, in connection with the use, offer for sale, or sale of products provided to or work being performed for AMBATOYV, an irrevocable, perpetual, non-exclusive, paid-up world-wide license under any and all intellectual property (whether domestic or foreign), including patents, copyrights, industrial designs and/or mask works owned or controlled by Supplier at any time or licensed to Supplier, provided such a sublicense does not infringe any provisions of the licenses to the Supplier.

**18. QUALIFICATIONS**

18.1 Any Goods must meet the requirements of the specification and/or standard (such as AMSE, ASTM, CSA) specified.

18.2 The Supplier shall ensure each of the Supplier's personnel is, and will remain, competent and efficient and that such personnel has, and shall have, the qualifications, training, and expertise necessary for him to perform his assigned duties and any applicable laws, regulations and customary practices.

**19. GOODS WARRANTY**

19.1 Supplier warrants the Goods against defects in title, workmanship, materials and/or design and that the Goods are designed to fit the intended purpose of the purchase, to the extent that such materials and/or design have not been supplied by AMBATOYV. Supplier hereby accepts that the warranty may be extended by AMBATOYV to its customers.

19.2 The warranty as to workmanship and/or design shall remain in effect for the length of time stated in the Contract, or if not so stated, shall remain in effect for twelve (12) months after the later of the delivery date or the date Goods were accepted by AMBATOYV.

19.3 The Supplier guarantees the availability of spares parts of the Goods sold for a period of ten (10) years at a minimum. The Supplier guarantees that all spare parts sold during this period shall conform to all of the requirements of the Contract including the quality characteristics and performances attributes, as well as guarantee technical assistance as required by AMBATOYV.

19.4 Repairs and replacement parts are guaranteed under the same Terms and Conditions as the original Goods and for a new period equal to that of the Contract.

19.5 If any Goods fail to comply in any respect of the warranty set forth above, AMBATOYV shall have the option to either:

- (i) Require Supplier to, and Supplier agrees to promptly make all repairs, modifications or replacements (the "Corrections") necessary to enable such Goods to comply in all respects with said warranty or;

Document: SCM-PUR-006	Rev:6	Date 11 Oct. 2019	Page: 4 de / of 7
-----------------------	-------	-------------------	-------------------

(ii) Make or have a third party make all Corrections necessary to enable such Goods to comply in all respects with said warranty and recover the cost of such Corrections from Supplier.

19.6 In addition to the actual cost of any Correction, Supplier shall be responsible for all direct labour costs incurred in any actual removal and reinstallation of the defective Goods. Transportation and insurance costs for Goods corrected pursuant to the provisions of this warranty shall also be at Supplier's expense.

19.7 That portion of any Goods to which a Correction has been made by Supplier under this warranty, shall be warranted by Supplier for the unexpired portion of the warranty, remaining at the time of such repair, as stated in the PO or if not stated, twelve (12) months after the date of such Correction whichever period is greater. The warranty herein on Supplier's Goods that have been corrected by AMBATOVOY or a third party as referred to above shall remain in effect as if Supplier's product was repaired and corrected by Supplier provided, however, that Supplier shall not be held liable for defect or failures attributable to misuse, negligence or improper correction by AMBATOVOY or such other third party.

19.8 Supplier hereby acknowledges that AMBATOVOY does not waive or accept any disclaimer of any such warranties.

## 20. SERVICES WARRANTY

20.1 Unless stated otherwise in the documents accompanying these Terms and Conditions, Supplier shall warrant all Services against defects in performance for a period of twelve (12) months following delivery.

20.2 Supplier warrants that it has and will maintain sufficient trained personnel to promptly and efficiently execute the Services contemplated under this PO. Supplier further warrants that the Services shall be performed to at least the standard of performance reasonably expected of similar service providers.

## 21. INDEMNIFICATION

21.1 Supplier shall indemnify, hold harmless, and at AMBATOVOY's request, defend AMBATOVOY, its officers, directors, customers, agents and employees, against all claims, liabilities, damages, losses and expenses, including attorney's fees and cost of suit arising out of or in any way connected with the Goods or Services provided under the PO, including, without limitation:

- (i) The breach of any warranty contained herein;
- (ii) Any claim based on the death or bodily injury to any person, destruction or damage to property, or contamination of the environment and any associated clean up costs;
- (iii) Any claim based on the negligence, omissions or wilful misconduct of Supplier or any of Supplier's agents, subcontractors, employees or anyone acting on behalf of Supplier; and
- (iv) Any claim by a third party against AMBATOVOY alleging that the Goods or Services (including but not limited to software), the results of such Services, or any other products or processes provided under the PO, infringe a patent, copyright, trademark, trade secret or other proprietary right of a third party, whether such are provided alone or in combination with other products, software or processes. Supplier shall not settle any such suit or claim without AMBATOVOY's prior written approval. Supplier agrees to pay or reimburse all costs that may be incurred

by AMBATOVOY in enforcing this indemnity, including attorney's fees.

21.2 Should AMBATOVOY's use, or use by its distributors, subcontractors or customers, of any Goods or Services purchased from Supplier be enjoined, be threatened by injunction, or be the subject of any legal proceeding, Supplier shall, at its sole cost and expense, either:

- (i) Substitute fully equivalent non-infringing Goods or Services;
- (ii) Modify the Goods or Services so that they no longer infringe but remain fully equivalent in functionality;
- (iii) Obtain for AMBATOVOY, its distributors, subcontractors or customers the right to continue using the Goods or Services; or,
- (iv) If none of the foregoing is possible, refund all amounts paid for the infringing Goods or Services.

21.3 Supplier shall without limitation as to time, defend, indemnify and hold AMBATOVOY harmless from all liens which may be asserted against property covered hereunder and from all claims for injury to persons or property arising out of or related to such property unless the same are caused solely and directly by AMBATOVOY's negligence.

## 22. INSURANCE

22.1 Supplier will secure and maintain at its sole expense insurance providing coverage for liabilities to third parties for bodily injury (personal injury) and damage to property in amounts sufficient to protect AMBATOVOY in the event of such injury or damage and with a minimum limit of two million US\$.

22.2 Supplier will be in compliance with any and all laws and regulations addressing the liabilities of an employer to its employees for injuries and disease suffered in connection with employment.

22.3 Supplier further will maintain such additional types and limits of insurance as is customary for a company of similar size and similar operations to Supplier in the jurisdiction or jurisdictions in which Supplier's operations take place, notably an automotive insurance.

22.4 Such insurance policies will be in written with reputable and solvent insurers. Certificates of insurance evidencing the required coverage and limits and insurance policies shall be furnished to AMBATOVOY at the first request.

## 23. RELEASE OF INFORMATION

23.1 Supplier shall not publish any information developed under the PO, nor disclose, confirm, or deny any details about the existence or subject matter of the PO, or use AMBATOVOY's name in connection with Supplier's sales promotion or publicity without prior written approval from AMBATOVOY.

## 24. DISPUTES

24.1 The provisions of the Contract shall be interpreted in accordance with the laws of Madagascar and in accordance with its fair meaning and not strictly against either party. Pending final resolution of a dispute hereunder, Supplier shall proceed diligently with the performance of the PO and in accordance with all the Terms and Conditions contained herein and with AMBATOVOY's direction thereof. AMBATOVOY and Supplier shall each bear its own costs of processing any dispute hereunder.

Document:	SCM-PUR-006	Rev:6	Date	11 Oct. 2019	Page:	5 de / of 7
-----------	-------------	-------	------	--------------	-------	-------------

24.2 Any disagreement shall, if the parties are unable to settle the matter by mutual agreement, be determined by arbitration conducted in accordance with the Rules of Arbitration of the London Court of International Arbitration (United Kingdom) by one or more arbitrators appointed in accordance with the said Rules. The language of the arbitration shall be English. The award or decision of the arbitrators shall be final and binding upon the parties and non-appealable.

**25. ASSIGNMENTS AND SUBCONTRACTING**

Supplier shall not assign the PO or sublet any of the work contained in the PO, without the prior written consent of AMBATOVOY, other than to the extent which subletting is necessary for the purpose of obtaining raw material, parts and processes, for which Supplier is not equipped and which are portions of the work normally sublet in carrying out similar contracts. The consent obtained shall not be deemed to have relieved Supplier of its obligations to comply fully with the requirements hereof.

**26. INDEPENDENT CONTRACTOR STATUS**

Supplier is, and shall remain an independent contractor during the performance of the Contract.

**27. SURVIVAL**

All of the provisions of these Terms and Conditions shall survive the termination (whether for convenience or default), suspension or completion of the PO unless they are clearly intended to apply only during the term of the PO.

**28. AUDIT RIGHTS**

AMBATOVOY reserves the right to audit Supplier's records to assure compliance with the terms of the Contract. Supplier shall make available all data reasonably requested by AMBATOVOY.

**29. NON-SOLICITATION OF EMPLOYEES OR REPRESENTATIVES**

AMBATOVOY and the Supplier agree that they shall not, during the term of the PO, or for a period of six (6) months thereafter, solicit the personnel of the other Party related to the work identified herein without the prior written consent of the other Party.

---

**ANNEXURE 1. CONDITIONS APPLICABLE ON SITE**

**A.1.** All employees of the Supplier required to work on the AMBATOVOY's premises or Site must have undergone AMBATOVOY's Health and Safety Training less than one (1) year prior to the start of work. If not, they will have to undergo this training before commencing work on the premises or site. More specifically, the Supplier's employees must commit to the following:

- (i) Zero harm policy through continuous efforts to manage health and safety risks;
- (ii) Know and strictly comply with all health and safety regulations and procedures. Report perceived health and safety hazards immediately;
- (iii) To work at the Ambatovy Worksites, it is mandatory to wear the minimum PPE (Personal Protection Equipment): Helmet, safety goggles, safety colored vest with reflective

bands, safety shoes, shirt with long sleeves and work type trousers;

(iv) Observe designated smoking areas. Project accommodations, offices, workshops, and vehicles are non-smoking areas.

(v) Strictly comply with safe driving rules, including posted speed limits, when vehicles are on Project property.

AMBATOVOY has the right to deny access to the Site to any Supplier employees or subcontractors' employee in case of non compliance with these rules or with Ambatovy internal regulations and procedures applicable on Site. In this case, the Supplier shall assume all the consequences notably in term of delay and will take any measure necessary to comply with the Contract.

**A.2.** Travel to and within Madagascar by the Supplier's expatriate employees, agents and other representatives and those of any subcontractor in connection with the PO shall be subject to the following conditions:

a. **Visas:** It is the responsibility of the Supplier to obtain Madagascar visas for his representatives. AMBATOVOY shall have no liability for the refusal of the Government of Madagascar to issue a visa to any person.

b. **Hand-carry working equipment or tools (temporary import):** Unless otherwise instructed, Personnel bringing equipment and tools should make out an inventory and proforma invoice in three (3) copies detailing the items and bearing the mention "TEMPORARY IMPORT". Ongoing through Customs, they should ask Customs to stamp the documents. The same document will need to be presented to Customs on leaving Madagascar.

**A.3.** Supplier's employees shall commit to the Ambatovy Code of Conduct which includes the following:

- (i) Illegal drugs, alcohol, and unauthorized weapons of any type are strictly banned from the work site.
- (ii) Reporting to work under the influence of alcohol or drugs is strictly forbidden.
- (iii) Know and strictly comply with the environmental and social policies and procedures.
- (iv) Respect for the culture and people of Madagascar should be apparent in all behaviour.
- (v) Maintain ethical standards and practices in the conduct of Project business and in relations with all stakeholders.
- (vi) Respect and comply will all laws of the country as well as all Ambatovy policies.
- (vii) Reject all forms of discrimination and harassment. Fighting or any form of violence will not be tolerated.
- (viii) Reject all forms of bribery.

**A.4.** Access to the Site is only granted as per the dates given on the PO. On Site the Supplier or its employees are not permitted to have activity other than those defined in the PO. At the end of the PO or in case of employee's departure the Supplier must immediately send back the access badge. Failing to do that the cost of the badges will be charged back.

**A.5.** When the Supplier and AMBATOVOY's employees or of other contractors are working in the same area, Supplier and its employees must not interfere with the respective works. Supplier must take into account any delays or interruptions resulting from these interferences and the

Document: SCM-PUR-006	Rev:6	Date 11 Oct. 2019	Page: 6 de / of 7
-----------------------	-------	-------------------	-------------------

Supplier can be required, at no cost, to review its schedule to minimize the interference.

**A.6.** When the Supplier is authorised to use a dedicated work area on Site it will be kept clean and in good conditions. At the end of the works the Supplier has to return the area in the same condition as it has been delivered.

**A.7.** AMBATO VY has a medical center on Site, operated by a medical and paramedical team provided by an independent contractor.

Access to the medical center is permitted to the employees of the Supplier having access to the Site.

The Supplier will have to bear the costs resulting from medical transportation from the medical center and notably in relation to a medical evacuation outside Madagascar.

The Supplier shall reimburse any medical treatment or examinations outside the medical center that would be provided to its employees or its subcontractors' employees,

First aid on Site will be provided in first place by the medical and paramedical team and as the case may be by AMBATO VY own Emergency Response Team (ERT). The Supplier agree that the medical and paramedical team and the ERT may administer first aid treatment to its employees its subcontractors' employees or carry out emergency intervention on its equipment's.

AMBATO VY will have no responsibility in this respect. The Supplier discharges Ambatovy from liability and will indemnify and holds harmless Ambatovy, its officers, employees, and representatives from and against all claims proceedings, loss or damages for this service.

Document:	SCM-PUR-006	Rev:6	Date	11 Oct. 2019	Page:	7 de / of 7
-----------	-------------	-------	------	--------------	-------	-------------