



**PATENTES TALGO, S.L.U.**

**GENERAL TERMS AND CONDITIONS**  
**FOR SERVICES**  
**(EDITION - [07/2020])**

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## 1. **DEFINITIONS AND INTERPRETATIONS.**

### 1.1 Definitions:

For the purposes of these General Terms and Conditions for Services, the following expressions shall have the following meanings:

"**Applicable Laws**" means any relevant law, decree, legislation, regulation, standard, code, order, rules, ordinance, treaty or other requirement of general application in respect of the GTC including all the environmental legislation applicable to the performance of the Services under the relevant Contract/Purchase Order.

"**Bank Account**" means the Contractor's bank account specified by the Contractor in accordance these GTC and the Contract/Purchase Order.

"**Bank Guarantee**" shall have the meaning as ascribed in Clause 8 below.

"**Business Day**" means any day other than Saturdays, Sundays and bank holidays pursuant to the work schedule of Madrid city (Spain).

"**Change**" means any change, modification or amendment on the terms and conditions of the Contract/Purchase Order after its signing in the Services.

"**Change Order**" shall have the meaning as described in Clause 13.

"**Commencement Date**" means the date of the signature of these GTC.

"**Contract**" means the contract concluded between the Parties upon the acceptance of the Contractor's Quotation.

"**GTC**" means these General Terms and Conditions for Services and any annexure or amendments thereto which are applied to contracts and/or purchase orders for performing certain Services to Talgo.

"**Insurance Policy**" means each of the insurance policies specified under these GTC and the Contract/Purchase Order.

"**Intellectual Property Rights**" means all copyright, database rights, topography rights, design rights, trademarks, trade names, utility models, patents, domain names and any other intellectual or industrial property rights of a similar nature (whether or not registered) subsisting anywhere in the world in or associated with the Services.

"**Invoice**" means an official demand for payment issued by the Contractor in accordance with the provisions of these GTC, lists, describes and quantifies Services performed to Talgo. The Invoice becomes a document of title when paid in full by Talgo.

"**Party**" means a Party to the GTC.

"**Parties**" means Talgo jointly with the Contractor.

"**Price**" means the value for the Services to be performed by the Contractor, which will be fixed in the Contract/Purchase Order.

"**Purchase Order**" means an official written or electronic purchase order for the performing of the Services issued by Talgo to the Contractor.

"**Schedule**" means a timetable for the performance of the Services, as may be specified in writing by Talgo and forming part of the GTC and the Contract/Purchase Order.

"**Services**" means any services to be performed by the Contractor pursuant to and in accordance with the terms of the GTC and the Contract/Purchase Order.

"**RFQ**" means a request for quotation issued by Talgo for the purpose of inviting Contractors into a bidding process to bid on specific Services.

"**Specification**" means the quality, standard, requirement or specification of the Services as set out in these GTC and the Contract/Purchase Order thereto or any other quality, standard, requirement or specification of the Services to be performed agreed in writing between the Parties from time to time.

"**Contractor**" means any person, firm or company who accepts these GTC and the Contract/Purchase Order.

"**Contractor's Quotation**" means a formal statement issued by the Contractor specifying the price of the Services requested by Talgo under the RFQ.

"**Talgo**" means Patentes Talgo, S.L.U. a company with registered address in Las Matas, at Paseo del Tren Talgo nº 2, in Las Rozas, Madrid and recorded in the Commercial Registry of Madrid at Volume 20.063, Folio 84, Section 8ª, Page M-393.505, Inscription 3ª, with N.I.F. (Fiscal Identification Number) number B-84528553.

## **2. APPLICABILITY.**

- 2.1 These GTC apply to the contracting of Services by Talgo or the companies controlled by it, unless specified otherwise in writing.
- 2.2 Signature and acceptance of these GTC is an essential Talgo's requirement in order to be registered as TALGO qualified Contractor.
- 2.3 This GTC shall be considered as an integral part of any Contract/Purchase Order that Talgo and the Contractor may conclude.

## **3. SUBMISSION AND ACCEPTANCE OF THE CONTRACTOR'S QUOTATIONS.**

- 3.1. The Contractor shall submit its quotations in accordance with the RFQ issued by Talgo and Talgo reserves the right to accept or reject them. Under no circumstances, the Contractor will have the right to claim for any compensation if that Talgo rejects its Contractor's Quotation. The Contractor accepts that Talgo shall be entitled to request a RFQ to several Contractors for the same order and, finally, opts for (i) one of the different Contractor's quotations; (ii) neither of them; or (iii) accepting only part the conditions offered under Contractor's conditions.
- 3.2 Those Contractor's Quotations which are accepted by Talgo shall be formalized and executed by means of a Contract/Purchase Order.
- 3.3 Should the Contractor enters into any transaction before signing this GTC, the terms of this GTC will automatically apply to the Contractor by signing the relevant Contract/Purchase Order, taking into account that the reference to the GTC shall be included therein and being the GTC at complete disposal of the Contractor for its signing at any time (either before or after the signing of the Contract/Purchase Order).

## **4. ACCEPTANCE OF CONTRACT/PURCHASE ORDER.**

- 4.1 The Contractor must sign and return the specific Contract/Purchase Order issued by Talgo within ten (10) Business Days from its receipt. Otherwise, and provided that it has not been rejected by the Contractor in this same period of time, the Contract/Purchase Order shall be considered entirely accepted, and so the terms and conditions defined therein.
- 4.2 Contract/Purchase Order (and also this GTC) shall have to be authorized by a dully authorized representative of each Party.
- 4.3 Any terms and conditions proposed in Contractor's acceptance or in any acknowledgment, invoice, or other form of Contractor that add to, vary from, or conflict with these GTC herein are hereby rejected. Therefore, should the Contractor issues any document incorporating any general terms and conditions or any

contractual conditions on such documents, the Contractor expressly agrees, accepts and acknowledges that its general terms and conditions or any other conditions shall not apply to the transaction with Talgo and that this GTC shall always prevail any general term and condition or any other condition issued by the Contractor, even if those have been issued after signing this GTC.

## **5. NO MINIMUM ORDERS OR EXCLUSIVITY.**

- 5.1 Talgo shall not be obliged to any minimum order of services or any future order of services by signing this GTC.
- 5.2 Nothing herein is intended nor shall be construed as creating any exclusive arrangement with Talgo. These GTC and the Contract/Purchase Order shall not restrict Talgo from ordering similar Services from other entities or sources.

## **6. SPECIFICATIONS**

- 6.1 The Contract/Purchase Order shall include, at least but not limited to, the following information for its validity:
  - (a) the quality and description of the Services requested by Talgo;
- 6.2 The Contractor shall have the sole responsibility for complying with the Applicable Law concerning the performance of the Services.

## **7. PRICE INVOICING AND PAYMENT.**

- 7.1 The Price shall be firm and binding, not subject to adjustment, established for the entire performance of the Services, and it shall include all fees, expenses, duties, tariffs, insurance, risks and taxes (except VAT or any other applicable tax that may replace it in the future) associated with scope of the performance of the Services, unless otherwise agreed by the Parties in writing on the Contract/Purchase Order. Talgo shall not be required to pay any amount except for the Price.
- 7.2 All Invoices shall be issued in accordance with the Applicable Laws and including the reference to the Contract/Purchase Order. In any case, the VAT (or other applicable sales tax) shall be indicated. Invoices which do not comply with these formalities may be rejected by Talgo and the Contractor under no circumstances may bring any claim or action for delay in its payments. All the expenses in connection with the payments such as bank commissions shall be borne by the Contractor.
- 7.3 The Contractor shall send all original Invoices to the Talgo's address specified in the Contract/Purchase Order either hard copies or by electronic form, as Talgo may request.
- 7.4 The Contractor's undisputed Invoice will be paid within sixty (60) days from valid receipt of the Invoice by Talgo plus the number of days between the date of expiration of the above period of sixty (60) Business Days and the tenth day of the following month, unless otherwise agreed in the Contract/Purchase Order.
- 7.5 All the amounts shall be realized by the Customer by means of a confirming bank system.
- 7.6 The Contractor shall under no circumstances be able to transfer the credits (e.g. invoices), if any, against the Customer without the express prior written consent of the latter. Should the Contractor fail to comply with this obligation, the Talgo shall be entitled to apply to the Contractor a penalty equal to five (5%) percent of amount corresponding to the credit/invoice assigned/transfer by the Contractor to a third party in default of the commitments acquired herein.
- 7.7 The Customer shall be entitled to set-off any amount, claim, damage or penalty of the Contractor under this Contract/Purchase Order against the invoices or any other amounts that the Customer shall have to pay to the Contractor.

7.8. Payment by the Customer of any amount under this Contract/Purchase Order shall not relieve the Contractor of its responsibilities, obligations or commitments assumed herein.

## **8. BANK GUARANTEE.**

8.1 Talgo shall have the right to require to the Contractor a Bank Guarantee to ensure the fulfillment of the Contractor's obligations or advance payments under the relevant Contract/Purchase Order, pursuant to the conditions set forth in this clause 8.

8.2. The Bank Guarantee shall be granted by the Contractor as an unconditionally, irrevocable, jointly an several and on first demand guarantee, with express waiver of the "divisio", "orden" and "excusio" benefits ("*beneficios de orden, division y excusión*") issued by a major bank with developed operations in Spain and a minimum rating of BBB+ and upon a satisfactory terms for Talgo..

8.3. Should Talgo enforces, in whole or in part, the Bank Guarantee, the Contractor shall be obliged to provide to Talgo another Bank Guarantee in order to replace the Bank Guarantee enforced or to increase the Bank Guarantee up to the amount initially guaranteed. The Contractor shall comply with the obligations of this section 8.4 within five (5) days from the date of the enforcement of Talgo (in whole or in part) the relevant Bank Guarantee.

8.4. Talgo shall return the Bank Guarantees set out herein after a minimum deadline of two (2) months on which the guaranteed period has eventually expired.

8.5. The Contractor shall be obliged to extend the bank guarantees when such extension is required under the relevant Contract and, in any case, according to the terms and conditions agreed by the Parties in such Contract.

8.6. If the Contractor does not deliver to Talgo an enforceable evidence of the extension of the bank guarantee/s or a new bank guarantee under the same terms and conditions within ten (10) days before their expiration dates or the subsequent extensions of the expiration dates (as the case may be), Talgo shall be entitled to execute the bank guarantees.

8.7. Notwithstanding the provisions of section 8.6 above, if:

(a) the Contractor delivers to Talgo a new bank guarantee/s under the same terms, conditions and amounts of the executed bank guarantee/s, or;

(b) the Contractor has complied with its obligations secured by the bank guarantees under the Contract,

Talgo shall return to the Contractor the amounts corresponding to the executed bank guarantees, within the following ten (10) days from any of the events set forth under items (a) or (b) above, but, in any case, deducting the amounts corresponding to the relevant damages, penalties or compensations caused by the Contractor.

8.8. Notwithstanding Talgo's right to early terminate the relevant Contract/Purchase Order, if the Contractor does not grant the Bank Guarantee, Talgo shall be entitled to withdraw amounts from the invoice to be paid in an amount equal up to reach the amount which would have been guaranteed with the Bank Guarantees. If Contractor furnishes Talgo the said Bank Guarantees, Talgo shall pay to the Contractor the amounts withdrawn within the following five (5) days after the furnish of the Bank Guarantees in conformity with the terms and conditions set out herein.

## **9. MAIN CONDITIONS FOR THE SERVICES**

9.1. The Services shall be performed, in any case, considering the following essential conditions:

- 9.1.1 The Contractor shall be liable to obtain all the licenses, authorizations and permits required by the Applicable Laws to perform the Services in conformity with the conditions agreed upon by the Parties under this GTC and the Contract/Purchase Order.
- 9.1.2 The Services shall be performed in conformity with the information, documentation and instruction provided under the Contract/Purchase Order.
- 9.1.3 The Services shall be performed in conformity with the environmental requisites demanded in conformity with the Applicable Laws and the conditions agreed upon by the Parties in the Contract/Purchase Order.
- 9.1.4 If Talgo had to provide materials, components, data or any other element ("*Talgo Materials*") for the performance of the Services by the Contractor, the Contractor expressly acknowledge and accept that: (i) it will be absolutely liable for the maintenance and use of the Talgo Materials; (ii) Talgo is and will be the sole owner of the Talgo Materials; (iii) such materials, components, elements, etc..., (iv) Contractor shall have to bear all the costs and expenses of the Talgo Materials whilst is using them; (v) Talgo Materials shall be exclusively used for the purpose of performing the Services to Talgo; (vi) the Contractor shall be the sole liable to manage the using and operation of Talgo Materials in order to get the performance of the Services upon the conditions agreed by the Parties in this GTC and/or the Contract/Purchase Order; and (vii) Contractor shall return Talgo Materials to Talgo within five (days) from its request.
- 9.2. The Contractor acknowledges that these main conditions are absolutely essential to perform the Services pursuant to this GTC. Therefore, should the Contractor fails to comply with any of these obligations Talgo shall be entitled to early terminate the Contract and claim for the damages sustained.

## **10. BREACHING AND PENALTIES**

- 10.1. The Contractor failure to meet any of the standards and obligations arising from the Services provisions shall entitle Talgo to terminate the Contract and / or apply sanctions and penalties set forth therein.
- 10.2. In the event that penalties reach amounts of 10% of the Contract total amount, Talgo reserves the right to terminate the same, with enforcement of the Guarantee and if the claim for damages.
- 10.3. Talgo may apply such penalties subtracting the amount of the Contractor invoice or invoices pending payment by Talgo, whenever it may be required.
- 10.4. According to the provisions included in the Contract, and in general, the following sanctions are set due to non-compliance:
- Misdemeanor: 600 € per penalization.
  - Serious penalization: 2000 € per penalization.
  - Significant serious penalization: between 2.000 € and 10% of the annual contract value, depending on the damages caused to Talgo.
- 10.5. The aforementioned penalties shall be considered penalty clauses agreed freely between the Contract parties and shall be never replaced or discounted for compensation by the damages caused to Talgo resulting of any breach by the Contractor.

## **11. QUALITY COMMITMENT**

- 11.1 It is the sole responsibility of the Contractor the permanent control of the quality of Services to ensure the proper implementation thereof.
- 11.2 Monitoring and quality control must be formally documented so as to ensure traceability and audit. The Contractor warrants that prior to the signing of the Contract/Purchase Order has been made known to the terms and conditions of the quality system that adheres Talgo by signing the contract an committing to consider it strictly in the provision of the Services.

## **12. CHANGE ORDER PROCEDURE.**

- 12.1. Any changes shall exclusively be subject to the procedure defined in this Clause, irrespective of whether such Change is:
- (a) necessary due to a change in the Applicable Laws, rules or regulations after signing this GTC and/or Contract/Purchase Order or
  - (b) requested in writing by either the Talgo.
- 12.2. Any Changes shall only become binding on the Parties following due execution by the Parties of a Change Order. Therefore, the scope of the Services shall not be modified or altered, unless and until Talgo instructs or approves such modification or alteration as a Change.
- 12.3. The Change Order procedure shall have the following steps:
- (a) submission of a written request for a Change by Talgo to the Contractor;
  - (b) Change Order Proposal and submission thereof to Talgo within 10 business days after receipt of the Change Order Proposal by the Contractor, stating, inter alia, the potential effects on the performance of the Contract/Purchase Order, especially the effect on the total Contract/Purchase Order Price and characteristics of the Services;
  - (c) agreement on the Change by the Parties within 10 Business Days after receipt of the Change Order Proposal by Talgo;
  - (d) signing of the Change Order by the Parties;
  - (e) signing of an additional amendment to the Contract/Purchase Order (as the case may be);
  - (f) implementation of Change Order.
- 12.4. Each Party bears its own costs relating to the Change Order procedure;

## **13. TAXES.**

- 13.1 The Contractor shall be liable for all taxes, levies and charges rates arising from or needed to perform the Services, except for those mandatory taxes that shall have to be paid by Talgo in accordance with the Applicable Law.

## **14. INSURANCE.**

- 14.1. To fulfill the responsibilities under the CONTRACT in respect to TALGO and/or in respect to third parties, the SUPPLIER and its subcontractors, etc. if any, shall contract, at its sole costs and expense, at least the following insurance policies and coverages as follows, provided that the policies will not contain any exclusion, endorsement or alteration that could affect the obligations assumed under the CONTRACT.

### 14.2.1. Insurance policies:

- i. Liability insurance for personal and / or materials damages, and / or for the economic damages and the consequences thereof. The Liability insurance must include at least, the following guarantees: General Liability, Employers Liability, Cross Liability, Product liability and/or finished works, Works in third parties facilities, and Defense/Legal costs.  
The indemnity limit per occurrence of the liability insurance shall amount to the sum required in the corresponding Purchase Order, Particular Conditions, or any other purchase agreement.



- ii. Property damages Insurance (PDI) and Erection all risk insurance (EAR), covering its own goods or under control or custody such as designs, installations, equipments, machinery and materials, etc.
- iii. Only if applicable:
  - o Marine Cargo (Transportation) insurance,
  - o Professional Indemnity insurance
  - o Environmental liability insurance (including the damage to TALGO's facilities).
- iv. Any other insurance required by Law or in accordance with Good Industry Practice.

14.2.2. Policy conditions:

- i. These Policies will act as "Primary Policies" and always in the first instance against any other insurance that could be applicable and shall include TALGO, its Staff as additional insured therein, without losing their status as third party. The insurance policies shall include by the insurers a waiver of all rights of subrogation against TALGO, its Staff, Customers and Contractors.
- ii. The Insurance policies shall be subscribed and maintained with reputable insurers of recognized standing and prestige, which shall meet at least a rating of Aa2, AA, or AA as published by the risk agencies Moody's, Standard & Poors or Fitch, respectively
- iii. In case of a claim, any dispute arising in the payment of compensation, both by application of deductions or any other reason, between the SUPPLIER and its insurers shall be responsibility of the SUPPLIER and will not prejudice TALGO.

14.2.3. Evidence of Cover:

- i. The SUPPLIER shall have to deliver to the CUSTOMER at the time of the CONTRACT signature a certificate in Spanish or English of the liability insurance issued by the corresponding insurance company which shall have to reflect, at least the following: (i) the existence and validity of the Policy, (ii) the total amount insured and limits, (iii) the identity of the policyholder and if any, the additional insured, and the beneficiaries (iv) the risks covered under the Policy.
- ii. The SUPPLIER shall maintain the abovementioned coverages until completion of all its obligations under this CONTRACT. The policies can be contracted in an annual basis and one month before the completion of the annual policy period, the SUPPLIER must prove to TALGO with a certificate in Spanish or English issued by the insurance company, the renewal of the insurance policies.
- iii. The limits of indemnity and the guarantees required under this clause in any way imply a limitation of liability of the SUPPLIER.

**15. LIABILITY.**

- 15.1. The Contractor shall fully and unreservedly indemnify and hold Talgo harmless from and against any and all losses, costs, damages, expenses (including reasonable lawyer's fees), harmful effects which Talgo may incur as well as claims by third parties in respect of any loss or injury occurring as a result of (i) any breach of any provisions or rules during the performance of the Services (ii) breach of any representations and warranties provided by the Contractor under this document, specially, those set out in clause 20 below or those provided in the relevant Contract/Purchase Order, (iii) negligence or wilfull misconduct; (iv) the infringement of third party's rights (e.g. intellectual property rights), (v) infringement of any applicable law, regulation or order, or (vi) any other fault or ommssion by the Contractor in performing this GTC or the Contract/Purchase Order.

15.2. The remedies set forth herein are cumulative and shall not preclude any other remedy available to Talgo at law or in this GTC or the Contract/Purchase Order.

## **16. TERMINATION.**

16.1 Talgo reserves the right, at any time, to terminate these GTC and the Contract/Purchase Order for the convenience of Talgo.

16.2 In case of termination for Talgo's convenience, Contractor shall submit a final invoice within ten (10) Business Days of the early termination notice as submitted by Talgo. Talgo shall pay the Contractor a percentage of the total Price of the Contract/Purchase Order as agreed by the Parties according to the Services already performed prior to the early termination effective date.

16.3 Notwithstanding the abovementioned, Talgo shall notify the early termination for the convenience of Talgo to the Contractor with a prior written notice of, at least, five (5) Business Days.

16.4 Talgo will be entitled to terminate these GTC and the Contract/Purchase Order for default in the following circumstances:

- (a) If the Contractor fails to comply with any of its employment, confidentiality, intellectual and industrial property, tax, social security, environmental, safety regulations, social security obligations, and any other obligations required by the Applicable Law.
- (b) If the Contractor fails to provide to Talgo with the Bank Guarantee set forth on Clause 8 hereinabove within the following five (5) Business Days from the Talgo's request.
- (c) Any other material breach of the Contractor's obligations under these GTC and/or the Contract/Order.

16.5 In the event that the Contractor incur in any Contractor's event of default of these GTC, the Customer shall be entitled to (i) collect any outstanding debt, (ii) claim for reimbursement of any payments realized under the Contract/Purchase Order, and (iii) claim for any damages sustained to the Customer as a result of the Contractor's breach, provided, however, that the Contractor does not remedy the Contractor's event of default within thirty (30) from the receipt of the Customer Termination Notice.

## **17. INTELLECTUAL AND INDUSTRIAL PROPERTY**

17.1 The Contractor hereby represents and warrants that it is the owner or has the right and will maintain the right on any the Intellectual Property Rights required for the implementation of the Services.

17.2. The Contractor expresses and warrants to Talgo that all the Rights exist and are valid, committing to take any actions required to maintain the existence and validity of them until the termination of the obligations contained in the Contract.

17.3. The Contractor represents and warrants Talgo that the Services are performed free of any rights of third parties that may prevent or limit the Services.

17.3 In the event of any claim, proceeding or suit by a third party against Talgo alleging an infringement of any Intellectual Property Right connected with the execution of its obligations under the GTC and/or the Contract/Purchase Order, the Contractor shall defend, indemnify and hold harmless Talgo in that matter against any and all claims of third parties. Therefore, it is understood and accepted that the Contractor shall reimburse Talgo with an amount equal to any cost, expense or legal fees incurred by Talgo, and shall indemnify Talgo against any liability in relation to a breach of Intellectual Property Rights.

17.4 The Contractor shall have to provide Talgo all documents and information (technical or not) required to perform the Services if (i) Talgo early terminates this GTC and/or the Contract/Purchase Order as a result of

Supplier's default of its obligations or (ii) Supplier ceases, for any circumstance, to perform the Services. Parties acknowledge that the access to such Intellectual Property Rights are justified based on the necessity to allow Talgo to comply with its commitments with its final clients or in the frame of any project.

17.5. The Contractor shall under no circumstances use any Talgo's trademark, image, logo, symbol, brands, etc., in any manner not exclusively and absolutely necessary to comply with its obligations under this GTC and/or the Contract/Purchase Order.

## 18. CONFIDENTIALITY

18.1 The following information shall be considered as confidential information, unless otherwise agreed upon by the Parties in writing (hereinafter "**Confidential Information**"):

- a) This GTC and the Contract/Purchase Order, all information provided (whether in oral, written or any other form) to the Contractor by Talgo (or by a third party on behalf of Talgo) or information to which the Contractor has access or would become aware of during the course of meetings or conversations between the Parties or with respect to representatives or consultants, or in the course of research and negotiations, including by way of example only and not limited to, information related to business, clients, providers, operations, financial statements, estimates, forecasts, procedures, methods, transactions, business plans, "know how", assets, debts, commitments, contracts, computing programs, documents, data, plans, specifications, Goods, employees, executives or any other aspect related to TALGO, its subsidiaries, affiliates and persons associated with them.
- b) All the analyses, compilations, studies and other documents prepared or carried out in the execution of this GTC and/or the Contract/Purchase Order.

18.2. The Contractor agrees and undertakes to keep, with the strictest of confidentiality, the Confidential Information to which it has access or could gain access to in the future as a result of the execution of this GTC and/or the Contract/Purchase Order. Consequently, the Contractor undertakes not to disclose, wholly or partially, to any person (natural or legal), agency or entity any class of Confidential Information. In particular, it undertakes:

- a) To use the Confidential Information solely and exclusively for the purposes for which it was received and intended;
- b) To keep the Confidential Information in a secure manner, with the strictest of confidentiality, and ensure that it is only available to those employees who must use it to develop the related works and only under the circumstances for which they need to know it;
- c) Not to copy, reproduce or use the Confidential Information for purposes other than those undertaken for the fulfillment of the obligations assumed by the parties and in the event that the Confidential Information is submitted for review, no portion of it shall be withdrawn or removed from the location provided for its review;
- d) Not to transmit to third parties, professionals or other consultants and employees all or part of the Confidential Information that is not strictly necessary to carry out the work (if this entails revealing Confidential Information to other persons who have not been previously authorized by the parties, then they must obtain written consent before the Confidential Information is transmitted);
- e) To take all actions necessary to enable all persons to whom the Confidential Information is revealed pursuant to the previous paragraphs, so that they know and accept all of the terms and conditions of the present agreement, without prejudice to that which the Contractor shall respond to unlimited damages that for Talgo, its subsidiaries, affiliates and/or persons connected with them, may be generated as a consequence of breach of the commitments contained herein by any of the aforementioned persons. Written acknowledgement of the abovementioned terms must be obtained by all recipients and shall be available for review by Talgo;
- f) To immediately return Talgo, at its request, all Confidential Information provided to it and all copies of said Confidential Information which may have been made, as well as to immediately destroy

and/or eliminate, at the request of Talgo, all Confidential Information stored/filed in manual, electronic, digital or any other form, confirmed in writing to Talgo that the required return and/or destruction has been carried out in a timely manner as well as identification of those individuals who have had access to such information.

18.3. These commitments obligations shall not apply to Confidential Information that:

- a) Is or has been made publicly known for any reason other than breach of the obligations set forth in this stipulation;
- b) Is independently received from a third party entitled to freely transmit such Confidential Information and without restrictions as to confidentiality or use;
- c) Was in the possession of the Parties prior to its receipt, with the right to freely transmit such Confidential Information and without restrictions as to confidentiality or use (such possession must be evidenced by prior written records already existing at the time the Confidential Information was disclosed); or
- d) Communications, if any, that the Contractor must make to the competent authorities, Courts and Tribunals as a result of compliance with legal obligation or in connection with any dispute between the parties. However, such communications (i) are limited to the extents necessary to fulfill said obligations, (ii) must have been previously notified to Talgo, and (iii) where possible, the Parties must have agreed with sufficient advance notice to the content of the disclosure.

18.4. The Contractor shall have to compensate Talgo for any legal damages that may arise as a result of failure to comply with any obligations and/or commitments assumed by the Contractor in this clause 18.

18.5. The Parties acknowledge that failure to comply with agreed upon confidentiality obligations may constitute a violation of Unfair Competition Law 3/1991, of January 10, 1991 (Ley 3/1991, de 10 de Enero, de Competencia Desleal).

## **19. FORCE MAJEURE**

19.1 Neither Party shall be liable to the other Party, or be deemed to be in breach of the GTC and/or the Contract/Purchase Order, by reason of any delay in performing, or failure to perform, any of its obligations under the GTC and/or the Contract/Purchase Order if the delay or failure was beyond that Party's reasonable control as a result of a force majeure event as defined in article 1105 of Spanish Civil Code and the Court's criteria.

19.2 A Party claiming to be unable to perform its obligations under the GTC and/or the Contract/Purchase Order (either on time or at all) in any of the circumstances set out in Clause 19 of the GTC shall notify the other Party of the nature and extent of the circumstances in question as soon as practicable.

19.3 This Clause 19 of the GTC shall cease to apply when such circumstances have ceased to have effect on the performance of the GTC and the Party affected shall give notice to the other Party that the circumstances have ceased.

19.4 If any circumstance relied on by either Party for the purposes of this Clause 19 of the GTC continues for more than one (1) month, Talgo shall be exclusively entitled to terminate the GTC and the Contract/Purchase Order by giving one (1) month's notice, furthermore, Talgo will not be obliged to pay or satisfy any compensation to the Contractor as a result of such early termination.

## **20. REPRESENTATIONS AND WARRANTIES.**

20.1. Contractor represents and warrants to Talgo that:

- 20.1.1. this GTC and any Contract Purchase/Contract has been (or shall be) duly authorized, executed and delivered by the Contractor and constitutes the legal, valid and binding obligation of it;

- 20.1.2. it has (and shall be) full capacity and authority to enter into and perform its obligations under the GTC or the Contract/Purchase Order;
- 20.1.3. in the shareholding of the Contractor is not either a public administration officer, or person having a position in a public company (state owned) or private company which manages public services;
- 20.1.4. in the shareholding or in any of the administration bodies of the Contractor, there are not neither any relative of a public administration officer, or any person that holds a position in a private company which manages public services;
- 20.1.5. the Contractor and its partners and directors and managers comply with the applicable tax regulations and do not violate in the development of its activity rule or any behaviour regulated by international law to prevent money-laundering and terrorism prevention.
- 20.1.6. the directors appointed in the Contractor exercise their duties according to the applicable legislation and act at any time following their own criteria, diligence and professional expertise;
- 20.1.7. none of the shareholders or partners, directors or managers of the Contractor have been convicted for crimes related to corruption in business, money laundering or bribery or would incurred in any contradiction or inconsistency with the representations and warranties herein;
- 20.1.8. the Contractor has sufficient human and technical resources for the development of its company purpose and to comply with the obligations assumed with Talgo in this GTC or a Contract/Purchase Order does not represent a different or anomalous activity in regard to its ordinary activity;
- 20.1.9. the Contractor does not develop different activities from those reflected in its By-laws and comply with the applicable tax legislation in all aspects, especially on the income derived in the ordinary course of its activity;
- 20.1.10. there are not any company belonging to the Contractor's group, or linked or related to it, which may represent an exception to the above representations and warranties;
- 20.1.11. the Contractor shall use all reasonable skill, care, diligence and good faith in the performance of its obligations under this GTC and/or Contract/Purchase Order;
- 20.1.12. there is no pending or threatened litigation or claim which would materially impair its ability to perform its obligations under the GTC or a Contract/Purchase Order;
- 20.1.13. the performance of its obligations under this GTC and/or a Contract/Purchase Order will not result in the breach of any term or provision of, or constitute a default under, any judgment, decree, indenture, mortgage or other agreement or instrument which the Contractor is party or by which the Contractor is bound, nor will such performance conflict with any charter, by-law or similar provision applicable to the Contractor, and there are no conflicts or violations of any applicable laws, which would in each case materially affect the Contractor's right or ability to comply with the terms of the GTC and/or a Contract/Purchase Order;
- 20.1.14. the Contractor represents and warrants to Talgo that it has all the licenses, authorizations, and permits needed and legally required to perform the Services;
- 20.1.15. The Contractor warrants that, for entering into this GTC and for entering into any Contract/Purchase Order, has not done offer, pay, promise or authorise the payment of any money, gift or other thing of value or undue advantage, whether directly or indirectly, to (i) any person or firm employed by or acting for or on behalf of Talgo, or (ii) any government official or any political party or candidate for political office, for the purpose of inducing or rewarding any action from Talgo or official favourable to Talgo in connection with the GTC and Contract/Purchase Order;

- 20.1.16. no proceedings or other steps have been taken and not discharged (nor, to the best of its knowledge, are threatened) for the winding up of the Contractor or for its dissolution or for the appointment of a receiver, administrative receiver, liquidator, manager, administrator or similar officer in relation to any of the Contractor's assets or revenue;
- 20.1.17. at the signature of this GTC and at the signature of a Contract/Purchase Order, all information, statements and representations contained herein are or shall be true, accurate and not misleading, and Contractor shall promptly advise Talgo of any fact, matter, or circumstance of which it may become aware during the term of this GTC and/or Contract/Purchase Order that would render any such information, statement or representation to be false or misleading;
- 20.2 If the Contractor, or anyone acting on its behalf, does any of the prohibited acts or commits any offence under Applicable Laws, in particular, regarding the GTC and/or the Contract/Purchase, Talgo shall be entitled to terminate this GTC and the Contracts/Purchases Order and recover from the Contractor any and all damages and loss sustained in consequence of any breach of the obligations assumed herein whether or not the Contract/Purchase Order has been terminated.

## **21. REQUIREMENTS AND PREVENTION OF OCCUPATIONAL HAZARDS.**

- 21.1. The Contractor, in its capacity as the sole employer with respect to its labor force, shall be obliged to fulfill all of the obligations imposed on it or its personnel by the Applicable Laws and the application of conventional norms, in every moment of the validity of a Contract/Purchase Order, on issues regarding labor relations, Social Security and Health and Safety in the workplace.
- 21.2. Talgo shall be entitled to obtain from the Contractor, in writing, an official certification from the Social Security Administration or the relevant competent authority showing that it is up to date on its Social Security (or legal employment) contribution payments. Moreover, the Contractor shall furnish to Talgo, if requested on a monthly basis, evidence of the Contractor's compliance with its employer obligations regarding salary payments, taxes and Social Security contributions.
- 21.3. The Contractor is obliged to comply with its obligations under the applicable Prevention of Occupational Hazards rules and consistent standards according to the scope and obligations of the Contract/Purchase Order, providing the documentation required by the Prevention Service of Talgo, if any, with respect to the general and specific risks of the job.
- 21.4. Furthermore, the Contractor is required to attend any coordination meetings on the Prevention of Occupational Hazards convened by Talgo in compliance with the Applicable Laws on the Prevention of Occupational Hazard.
- 21.5. The Contractor shall exercise, in exclusive form, the management authority and control of all activities performed by its personnel, as the sole employer responsible.

## **22. DATA PROTECTION.**

- 22.1. In compliance with the provisions laid down in REGULATION (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016, on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and Organic Law n° 3/2018, of 5 December 2018 on Protection of Personal Data the Customer informs the Supplier that their personal data, as well as any other data of possible third parties -for example, his employees- that the Supplier provides as contact details will be processed by PATENTES TALGO as well as its subsidiaries or Fundacion Talgo, in order to facilitate management of the provision of the agreed services, as well as any other service contracted subsequently.

- 22.2. The Customer also informs the Supplier of the possibility of exercising the rights of access, rectification, cancellation, limitation and objection by sending a written request to the Data Protection Officer (DPO) of PATENTES TALGO SLU, by e-mail to [protecciondedatos@talgo.com](mailto:protecciondedatos@talgo.com), attaching copy of the personal ID.
- 22.3. Should the Supplier needs, at any time, to access personal data for which the Customer is responsible, a Processor Contract shall be signed in advance.
- 22.4. Should the Supplier not need to access, at any time, personal data for which the Customer is responsible, the Supplier undertakes to ensure that their personnel, placed at disposal by virtue of the contracted supply, will not access, at any time, personal data belonging to the Customer or process any type of personal data when performing their duties. Notwithstanding the foregoing, the Supplier will be obliged to maintain the secrecy of any data their personnel may have come to know in connection with the contracted supply.
- 22.5. In this respect, the Supplier shall be fully responsible for any access to and/or processing of personal data on the part of their personnel, undertaking to indemnify and hold the Customer harmless from any damage, loss, expense (including, but not limited to, lawyers' fees), civil liability, penalties or fines the latter may incur as a consequence of non-fulfilment of the obligations provided for in the previous paragraph.
- 22.6. The Supplier shall comply with Talgo's Information Security Policy, for which it will be provided the applicable documentation, being the Supplier responsible of notification of any incident that could affect the confidentiality, integrity or availability of information of Talgo.

### **23. NOTICES.**

- 23.1 All notices related to this GTC and Contracts/Purchases Order shall be sent to addresses specified in each Contract/Purchase Order in or during the execution of the Purchase Order.
- 23.2. All notices and other communications under the specific Contract/Purchase Order shall be deemed to have been given the same day of each receipt, if sent by courier, postage prepaid, mail or fax/bureau fax (with electronic evidence of transmission) and the following day if received by email.

### **24. EFFECTIVE DATE.**

- 24.1 These GTC shall be effective from the Contractor's signature date set forth below.

### **25. MISCELLANEOUS.**

- 25.1 **Waiver.** No waiver of any provision of the GTC shall constitute a waiver or precedent in respect of that or any other provision at any other time or by any other Party.
- 25.2 **Entire agreement.** Without prejudice to the Contract/Purchase Order, these GTC contains the entire agreement between the Parties and supersedes any prior agreement whether written or oral.
- 25.3 **Subcontracting.** The Contractor does not have the right to subcontract, assign or transfer any or all of its rights or obligations under the GTC and/or Contract/Purchase Order to any third party without the prior written consent of Talgo.
- 25.4 **Transfer or assignmen.** Talgo shall be entitled to transfer and/or assign the GTC to any of its affiliates as defined in article 42 of the Code of Commerce.
- 25.5 **Severability.** If any provision of the GTC is or becomes invalid that shall not affect the validity of any other provision of the GTC. The invalid provision shall be replaced by a lawful provision having a valid proximate economic effect.

- 25.6 **Amendments.** Any amendment to the GTC shall only be valid and binding upon the Parties if concluded in writing and signed by an authorized representative of each of the Parties and formally expressed as constituting an amendment hereto.
- 25.7. **Precedence.** In the event of any conflict between the GTC and the Contract/Purchase Order, the provisions of these GTC shall prevail, except where the provisions of the Contract/Purchase Order expressly state that it is to prevail over the GTC and is signed by the authorized representatives of the Parties.
- 25.8. **Code of Ethics and Conduct and Contractor’s Manual.** The Contractor expressly acknowledge that it is familiar with the Code of Ethics and Conduct and Contractor’s Manual of Talgo published on [www.talgo.com/es](http://www.talgo.com/es) and it assumes the firm and irrevocable commitment to comply with and respect its terms and conditions as an essential Contractor’s obligation under this GTC and/or a Contract/Purchase Order. Talgo shall be entitled to early terminate the GTC and any Contract/Purchase Order should the Contractor breaches Talgo’s Code of Ethic and Conduct and/or the Contractor’s Manual.
- 25.9. **Announcements.** The Contractor shall not make any public announcement or communicate any information to third parties concerning the subject matter of the GTC without the prior approval of Talgo.

**26. APPLICABLE LAW & SETTLEMENT OF DISPUTES.**

- 26.1. This GTC shall be governed, interpreted and applied in accordance with Spanish Applicable Laws.
- 26.2. Any controversy which may arise between the parties with regard to validity, effectiveness, interpretation and enforcement of this GTC shall be submitted, with a waiver of any venue to which they may be entitled, to the jurisdiction of the competent courts of the city of Madrid.

**IN WITNESS WHEREOF**, the Parties have caused these GTC to be executed by their duly authorized representatives as a legally binding contract in 2 (two) originals on the day and year first written below, each Party receiving 1 (one) original.

**First Party:**  
**Patentes Talgo, S.L.U.**

**Second Party:**

CIF : \_\_\_\_\_

CIF : \_\_\_\_\_

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_