

GENERAL TERMS AND CONDITIONS

Unless specifically stated otherwise in the PURCHASE ORDER, the following clauses will form the terms and conditions of the PURCHASE ORDER.

[1] **DEFINITIONS**

- [a] GOODS shall mean both the material to be purchased as specified in the PURCHASE ORDER and any part thereof to be incorporated therein.
- [b] Delivery terms in the PURCHASE ORDER are as defined in "Incoterms 1980" or later revisions, published by the International Chamber Services S.A.R.L. in Paris, France.

[2] **DELIVERY TIME**

The time stipulated for delivery of the GOODS shall be of the essence of the PURCHASE ORDER. Without prejudice to BIDDER's obligation to deliver the GOODS on time, BIDDER shall give BUYER notice in writing immediately any delay is foreseen.

[3] **PAYMENT TERMS**

Payment will become due 45 days after delivery of GOODS (refer 1.b. above), or after receipt of BIDDER's invoice, whichever occurs last. Payment will be made in Ringgit Malaysia. However, where the PURCHASE ORDER is priced in a foreign currency, payment will be made at BUYER's option in that currency, or in Ringgit Malaysia using the Bank's selling rate for telegraphic transfer (TT) on the date of payment. If BUYER disputes any invoice in whole or in part, then BUYER will pay only the undisputed portion of the invoice, and will notify BIDDER of any such disputed item. The parties shall endeavour to settle any amount in dispute at the earliest possible date.

[4] **CHANGES**

BUYER reserves the right at any time to make changes in the PURCHASE ORDER or any part thereof. If such changes cause an increase in BIDDER's costs or an alteration in the delivery time, subject to audit by the BUYER if required, an equitable adjustment shall be made. Any claim by BIDDER for adjustment must be asserted in writing within twenty days from the date on which such change was advised and in default shall not be admissible.

[5] **LIABILITY**

- [a] BIDDER shall be liable for any loss or damage incurred by the BUYER and/or the agent, due to BIDDER or its suppliers non-compliance with the terms and conditions of the PURCHASE ORDER.
- [b] BIDDER shall, however, not be liable for any consequential loss or damage incurred by BUYER and/or the agent and/or bailee of the BUYER, unless such consequential loss or damage is due to wilful failure of BIDDER or its supplier(s).
- [c] BUYER may enforce in its own right any liability of BIDDER which is incurred by BUYER's agent and/or bailee.

[6] **GUARANTEE**

- [a] BIDDER warrants that all GOODS supplied under the terms of the PURCHASE ORDER are new, of good workmanship and are in accordance with the specifications.
- [b] BIDDER shall grant to BUYER the benefit of all guarantees or warranties that are given by BIDDER's suppliers, agents, representatives or contractors for GOODS supplied under the PURCHASE ORDER.
- [c] On notification from BUYER that GOODS are defective or do not meet specifications, BIDDER shall, at its own expense, collect the GOODS from BUYER's supply depot or any other designated collection area and deliver replacement GOODS to the same point. The provision of this clause shall apply to GOODS up to eighteen (18) months from the date of receipt of the GOODS, but terminate twelve (12) months after the GOODS have been put into commercial operation, whichever occurs earliest.

[7] **INSPECTION**

- [a] BIDDER shall ensure that BUYER has the opportunity to inspect the GOODS at any time, either at BIDDER's premises or at BIDDER's or wherever the GOODS may be at that time.
- [b] Neither such inspection nor failure of the buyer to carry out such inspection shall relieve the BIDDER of any obligation/liability under the PURCHASE ORDER.

[8] **FORCE MAJEURE**

- [a] Neither the BUYER nor the BIDDER shall be liable one to the other for any delay or failure to perform its obligations under the PURCHASE ORDER where and to the extent such delay or failure is caused by the inability of either party to fulfil its obligations under the PURCHASE ORDER due to Force Majeure.
- [b] Force Majeure shall include, but not be limited to:
Acts of god, wars (declared or undeclared), rebellion, insurrection, acts of terrorists, acts of governments or governmental bodies (including legislative bodies, courts and executive officers of agencies), strikes, boycotts, lockouts or other labour disturbances, unusually severe weather during the period in question, or any other similar matters beyond the control of or which could not have been reasonably foreseen and/or avoided by the party affected by same.
- [c] Notwithstanding the above, a strike or slow, obstructive or disruptive conduct or work by any of BIDDER's or supplier's employees shall not be deemed to be Force Majeure.
- [d] In the event of any such Force Majeure occurrence, the party claiming to be affected thereby shall promptly notify the other party, giving full particulars thereof, and shall use its best endeavours to remedy such failure of fulfillment with all reasonable dispatch. Either party shall have the right, during any period of Force Majeure, to mitigate its losses arising from the effects of such Force Majeure always provided that, upon the cessation of the Force Majeure, the affected party shall immediately resume its obligations under the PURCHASE ORDER. Such affected party shall continue to keep the other party fully advised of the progress being made in such efforts.
- [e] Under no circumstance shall be PURCHASE ORDER price be increased to include for the financial impact on either party of any Force Majeure occurrence.

[9] **PATENTS, COPYRIGHTS AND TRADEMARKS**

BIDDER shall protect, indemnify and hold harmless BUYER and the personnel of any of these, against any and all liability, loss or by reason of any claim, action or litigation in respect of any alleged or actual infringement of any patent, copyright or trademark, foreign or domestic, resultant from the use or resale of the GOODS.

[10] **LICENCES AND PERMITS**

If execution of the PURCHASE ORDER requires any licence or other permit to be issued in the country of shipment and/or of origin, the PURCHASE ORDER shall be conditional upon such licence or other permit being available at the relevant time.

[11] **PUBLICITY**

BIDDER shall obtain BUYER'S permission before disclosing by way of press release or otherwise to any third party anything that relates to the GOODS or the supply thereof, except is so far as necessary for the information of potential suppliers.

[12] **LIENS**

BIDDER shall hold harmless and indemnify BUYER from and against all liens, attachments, charges or claims by any person or company in connection with or arising out of the PURCHASE ORDER.

[13] **TERMINATION**

BUYER may at any time give written notice to BIDDER to terminate the PURCHASE ORDER forthwith and in such event BUYER shall pay and BIDDER shall accept, in settlement of all claims under the PURCHASE ORDER, such a sum as shall reasonably compensate BIDDER for work done and obligations assumed by it in performance of the PURCHASE ORDER prior to its termination and for all work reasonably done by it in giving effect to such termination. The value of any material paid for by BUYER but left in the hands of BIDDER shall be taken into account in calculating the said sum.

[14] **LANGUAGE**

The ruling language of the PURCHASE ORDER shall be English. All verbal and written communication between BUYER and BIDDER shall be conducted in that language.

[15] **GOVERNING LAW**

The governing law shall be the laws of Malaysia and BUYER and BIDDER agree to submit to the jurisdiction of the Malaysian courts.

[16] **ARBITRATION**

The parties hereby agree to refer every dispute or difference between them arising out of or in connection with the PURCHASE ORDER, to arbitration in accordance with the UNCITRAL Arbitration Rules. The place of arbitration shall be the Regional Centre for Commercial Arbitration, Kuala Lumpur, Malaysia. Three arbiters shall be appointed and in every case the arbiters shall give full written reasons of both law and fact for their decision. The arbitration shall be conducted in the English Language.