# PURCHASE ORDER - GENERAL TERMS & CONDITIONS

## 1. Definitions:

"Buyer" means the company issuing the Purchase Order (P.O.) and also includes successors in the company's Interests in the Goods.

"Seller" means the person, firm, or company to whom the P.O. is issued, his assignees (Including sub-suppliers), or successors.

"Goods" means the articles, materials, supplies, drawings, manuals, documents, data, spare parts, and services (such as but not limited to: advice, design, installation, supervision, Inspection, testing, commissioning, and assistance) to be delivered, furnished and rendered respectively by Seller according to the P.O.

"P.O." means the purchase order letter together with the documents and purchase conditions mentioned therein.
“Incoterms” published by the International Chamber of Commerce (ICC) which define the responsibilities of sellers and buyers for the delivery of goods under sales contracts.

“Day” or “Week” means a calendar day or week unless otherwise specified.

The Gregorian calendar shall be followed for the purpose of the Purchase Order.

## 2. Language/communication:

All correspondence, invoicing, documentation, certificates, etc. shall be in English language.

## 3. P.O. Confirmation:

Seller shall confirm the P.O. within three (3) working days from receipt of the P.O. by returning a copy thereof, signed by the Seller, to Buyer. Absence of Seller's confirmation, unless rejection has been notified as provided in Clause 4, shall not affect the agreement, which thereafter shall be deemed to have been confirmed by Seller.

## 4. Agreement:

The P.O. as issued and signed by Buyer constitutes the agreement between Buyer and Seller. No change, omission or addition, or any standard sales condition of Seller, shall be valid unless agreed to specifically by Buyer in writing.

If, and insofar as the P.O. refers to any document or condition of Seller, such document or condition shall apply only to the extent stipulated or implied in the P.O. and provided it does not conflict with any of the contents of the P.O. Seller shall be bound to the contents of the P.O., unless



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within eight (8) calendar days from receipt thereof and before the commencement of performance thereof, Seller not having already confirmed the P.O. in writing, will reject the P.O. by notice in writing, directed to Buyer, fully specifying Seller's objections.

## 5. Discrepancies, errors, omissions:

The documents together forming the P.O. shall be interpreted, as being mutually explanatory. However, if and insofar as any discrepancy exists in any applicable document the order of precedence shall be: the P.O. followed by any Special Terms, then by these General Terms and Conditions and then by the Specifications and finally by any other documents in most recent date sequence. Should any error, inconsistency, or omission be apparent in any P.O document or should Seller is uncertain about any of the contents of the P.O., or should Seller needs any further information or clarification, Seller shall forthwith inform Buyer in writing and shall proceed with performance as then directed by Buyer in writing.

## 6. Delivery terms:

Delivery terms used in the P.O. shall be interpreted according to incoterms (latest edition), including adaptations and supplements, issued by the International Chamber of Commerce. Notwithstanding the terms and conditions stated in the incoterms the cost for the documentation as required in the P.O. is for Seller's account, unless agreed otherwise.

## 7. Inspection and tests:

### 7.1 General:

Inspection and testing shall be as described in the P.O. or subsequently agreed between Buyer and Seller.

Seller shall give to Buyer's personnel and agents all information they may require for the said purpose. Such inspection and any subsequent information, given to Seller, on the results thereof or the omission of such inspection and/or such information shall not diminish Seller's obligations under the P.O.

Seller shall advise Buyer, at least eight (8) calendar days before Goods are ready for inspection when these Goods can be inspected on Seller's premises. Seller shall allow to Buyer's authorized personnel and agents free access, during normal working time to Seller's premises for such inspections as Buyer may deem useful for the purpose of checking on the due performance of the P.O. by Seller.

### 7.2 Standards:

If in the P.O. reference is made to internationally accepted material or quality standards such as, but not limited to, B.S., ASTM, DIN, etc. then these standards shall be available in Seller's production premises and shall be shown to Buyer's inspector on request.

### 7.3 Seller's Quality Control and Pre-inspection:

Seller shall be present at pre-inspection meetings regarding Quality Control if so required by Buyer and shall submit factory Test and inspection procedures (QC.plan) for Buyer's approval.



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Prior to inviting Buyer to inspect the Goods, Seller shall pre-inspect same to ensure that the Goods are in accordance with the requirements of the P.O.

**7.4 Testing:**

Unless otherwise provided in the P.O. tests shall be performed by Seller prior to dispatch and Seller shall give Buyer due to prior notice thereof. Seller shall furnish all facilities, tools, and consumables necessary to perform the tests and shall perform these tests in the presence of Buyer's personnel or agents as witnesses unless Buyer waives his right of presence in writing. Such waiver by Buyer shall not confirm acceptance by Buyer to Seller nor relieve Seller from any of his obligations under the P.O. Seller shall furnish to Buyer copies of test reports.

Should additional tests, not provided in the P.O. or QC plan approved by Buyer, be required by Buyer, then Seller shall have these tests performed, and Buyer shall pay to Seller the reasonable cost thereof, as shall be agreed upon between the parties to the P.O. unless these additional tests show that the Goods do not comply with the requirements of this P .O. in which event the cost of such additional tests shall be borne by Seller.

**7 .5 Rejection:**

|Goods shall then be replaced or repaired by Seller at his own expense. These replacements or repairs shall be subject to re-inspection and/or re-testing as aforesaid. Buyer shall be entitled to claim and Seller shall be obliged to pay all direct costs to Buyer associated with the re-inspection/testing.

**7.6 Approval:**

On satisfactory completion of inspection and testing Buyer shall confirm by means of a release note that the Goods have been inspected and tested in accordance with the agreed procedures and standards and that they are released for dispatch from Seller's premises. No Goods will be dispatched from Seller's premises prior to Issue of the relevant Buyer's release notes unless Buyer has waived same; the issue of the release note or waiver shall not relieve Seller of any of his obligations under the P.O.

Approval by Buyer of any document, drawing, or procedure provided by Seller to Buyer does not relieve Seller of any responsibility for the design, quality or
performance of the Goods delivered under the P.O.

**8. Delivery time:**

Seller is to execute deliveries to Buyer in accordance with the provisions in the P.O. subject to Clause 10 hereinafter. In case Seller foresees for whatever reason any delay in delivery then Seller shall notify Buyer immediately in writing. Buyer shall be allowed to postpone shipment of the Goods beyond the date specified in the P.O. In this event Seller shall store these goods at Seller's risk and Buyer shall pay to Seller the reasonable cost of the use of storage space.



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## 9. Non-fulfilment:

Seller shall comply with Buyer's instructions given as part of or pursuant to the P.O. In case of non-fulfillment by Seller of any obligation under the P.O. subject to Clause 10 hereinafter, or Seller or the manufacturer of the Goods becoming
bankrupt or being placed under judicial management, then Buyer shall be entitled, without any prior notice or summons to wholly or partially terminate the P.O. forthwith by notice in writing to Seller and/or to claim from Seller compensation for damage according to the law.
The said termination shall not entitle Seller to any compensation and it shall not affect the parties' mutual rights and liabilities in respect of the Goods already delivered by Seller.

## 10. Force Majeure:

Force Majeure means any event or circumstance which is but not limited to:

1. Beyond the control of a Party
2. Which such Party could not reasonably have provided against before entering into the contract.
3. Which having arisen, such Party could not reasonably have avoided or overcome.
4. Which is not substantially attributable to the other Party.

Force Majeure may include but is not limited to:
(i) riot, war, invasion, the act of foreign enemies, hostilities (whether war be declared or not) acts of terrorism, civil war, rebellion, revolution, the insurrection of military or usurped power, requisition or compulsory acquisition by any governmental or competent authority.
(ii) ionizing radiation or contamination, radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel, radioactive toxic explosive or other hazardous properties of any explosive assembly or nuclear component
(iii) pressure waves caused by aircraft or other aerial devices traveling at sonic or supersonic speeds
(iv) earthquakes, floods, fires, or other physical natural disasters, but excluding weather conditions regardless of severity.
(v) strikes at the national level or industrial disputes at a national level, or strike or industrial disputes by labor not employed by the affected party, its subcontractors, or its suppliers and which affect an essential portion of the works but excluding any industrial dispute which is specific to the performance of the works or this contract.

If performance of the obligations under the P.O. is prevented by any circumstances of Force Majeure then neither party shall be considered to be in default or in breach of his obligation under the P.O.

If either party considers that any circumstances of Force Majeure have occurred which may affect the performance of his obligations he shall promptly notify the other party within eight (8) calendar days of the circumstances becoming known to either party.



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Should Force Majeure result in delays to Sellers delivery time under the P.O. then Buyer shall extend the delivery time
Upon the occurrence of any circumstances of Force Majeure Seller shall endeavor to continue to perform his obligations under the P.O. so far as reasonably practicable. Seller shall notify Buyer of the steps he proposes to take including any reasonable alternative means for performance which is not prevented by Force Majeure for Buyer's approval.
If circumstances of Force Majeure have occurred continuously for a period of thirty (30) calendar days then, the Buyer shall be entitled to serve upon Seller eight (8) calendar days' notice to terminate the P.O. in whole or in part.

If so terminated in this respect Seller shall be paid for all Goods properly delivered and in accordance with the terms of the P.O. Seller shall also be entitled to be reimbursed for all substantiated and reasonable net costs and expenses incurred by Seller due to such termination of the P.O. or part thereof. Such provision shall also apply in circumstances where Buyer's Client (or his delegated representative} is prevented from performing any of his duties by reason of Force Majeure which shall affect Seller's performance.

## 11. Revision Orders:

Seller shall adhere to such revisions to the PO, whether by way of addition, modification, or omission as may be ordered through a written Revision Order, issued by Buyer to Seller.
The value of such revisions shall be determined by reference to the rates and prices (if any) specified in the PO for the like or in analogous orders, but if there are no such rates or prices, or if items are not applicable, then such value shall be such as is fair and reasonable in all circumstances. Seller shall submit all information and documentation that the Buyer deems necessary for the verification of the variation.

## 12. Quality and Warranties:

Seller warrants the Goods to be in conformity with the specifications, drawings, samples and other descriptions or instructions contained in or given pursuant to the P.O. or, failing such specifications, of the best qualities in their respective kind; to Buyer's or Buyer's Client's approval. Goods shall be free of any liens and defects in quality, workmanship, and materials and suitable for use and/or operation as indicated in the P.O.

If at any time before the expiry of the defects liability period, referred to in Clause 13 hereof, any of the Goods or a component part thereof is deemed by Buyer to be defective, and if Buyer so notifies Seller in writing, Seller immediately upon such notice shall repair and/or replace the defective Goods and/or component part thereof. Such repair or replacement shall be affected at Seller's cost, subject to Seller's right to claim compensation therefore if and insofar as Seller proves that the defect either is non-existent or is caused by any occurrence beyond Seller's warranty as aforesaid.
If Seller does not immediately repair and/or replace as aforesaid, Buyer shall be entitled to have the repair and/or replacement performed by third parties and Seller shall refund the cost of such

repair and/or replacement to Buyer on the latter's demand, subject to Seller's right to claim repayment of the amount refunded if and insofar as Seller, under the preceding paragraph, would have been entitled to compensation of cost should repair and/or replacement have been effected by Seller. Such repair and/or replacement by third parties shall not relieve Seller of any of his obligations under the P.O.

Seller shall not be liable for defects found after the expiry of the defects liability period, referred to in Clause 13 hereof, unless these defects and/or damages are proven to be an inherent fault, a willful act, or by the gross negligence of Seller or any of his agents, servants or employees.

## 13. Defects Liability Period:

The defects liability period, subject to extension as expire at the time specified in the P.O. or, if such time is not specified in the P.O., when eighteen months have elapsed after acceptance of the Goods by Buyer in accordance with the delivery terms, or when twelve (12) months have elapsed after handing over of the goods by Buyer to his Client or twelve (12) months after putting the Goods into continuous operation or use, whichever constitutes the longer period.

The duration of the defects liability period of the Goods, not usable during a certain period of time as a consequence of a defect, etc., as referred to in Clause 12 hereof, shall be extended by that period during which the Goods were not usable unless Seller In respect of the Goods or components repaired or replaced is entitled to compensation or repayment as provided in Clause 12 hereof.

In respect of the Goods or components thereof repaired or replaced as provided in Clause 12 hereof, the defects liability period shall be extended to the extent as required to prevent that, by operation of the first sub-clause of this Clause 13, it would expire before twelve months have elapsed from the day on which the repair or replacement has been duly performed.

## 14. Loss and/or damage:

The Goods shall remain at the risk and sole responsibility of Seller until such time as the Goods are received and signed for by Buyer's authorized representative in accordance with the delivery terms in the P.O.
Seller shall bear all costs whatsoever arising from, or the respect of, all losses, damage, and/or destruction to the Goods and shall be responsible for, and shall make any and all claims, in respect of such losses, damage, and/or destruction.

## 15. Spare Parts:

Seller warrants that spare parts, for the Goods delivered, will remain available and will be quoted for and delivered at short notice by Seller, if and insofar as Buyer will order these spare parts from Seller.



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## 16. Insurance:

16.1 General:
Seller shall have obtained or will obtain a proper general liability Insurance (including product-liability Insurance for the Goods), valid at least two years after delivery of each of the Goods.

### 16.2 The Goods:
Seller shall insure the Goods against all risks up to the point of delivery in accordance with the delivery terms of the P.O.
Buyer may request proof that the above-mentioned Insurances are affected to Buyer by Seller and obtained from reputable Insurance Company acceptable to Buyer. If Seller fails to produce evidence of Insurance cover as stated in (16.1) and/or (16.2), then Buyer may effect and keep in force such insurance. Premium paid by Buyer for this purpose shall be deducted from any payments due to Seller.

## 17. Payments:
Payments for the Goods shall be made in the manner and at the times as specified in the P.O. provided that Buyer shall be under no obligation to pay any amount, unless invoices are in the form, and contain such documentation, as required by the P.O., and provided that Buyer shall be allowed to withhold payments, which otherwise would have become due, if and for as long as Seller fails to fulfill any obligation under the P. O.

## 18. Industrial property rights, secrecy:

Designs, drawings, and other documents or information furnished by Seller to Buyer shall be deemed to become Buyer's property. Seller shall indemnify and hold harmless Buyer against any liability, loss, or expense caused to Buyer, by any claim, action or lawsuit in connection with any alleged or actual infringement upon any patent, copyright, trademark, or other protected right, resulting from the manufacture, delivery, repair, modification, or use of the Goods or parts thereof. All royalty expenses arising from the use of such patents, trademarks, copyrights, or other protected rights shall be payable by Seller.
Designs, drawings and other documents or information furnished by Buyer to Seller shall be deemed to remain Buyer's property and the contents thereof unless already being in the public domain or already being Seller's lawful possession without restriction on disclosure -shall be treated by Seller as confidential and Seller shall ensure that the said contents are not disclosed by Seller, his personnel and agents unless and to the extent as required for the proper performance of Seller's obligations under the P.O.

Information on the Goods and their use, which Seller might wish to give to third parties by way of publication, orally, in writing, in pictures or films, shall require Buyer's prior approval in writing.

## 19. No assignment, non-waivers, title to goods:
Any assignment of the P.O. or of any rights hereunder in any manner, in whole or in part, by operation of law or otherwise, shall require Buyer's prior consent in writing. Any subletting of

Seller's Goods outside his own premises shall be notified in writing beforehand to Buyer for his approval. Failure of Buyer to insist upon strict performance of any term or condition of the P.O., or failure of Buyer, or delay in exercising any rights or remedies or to properly notify Seller of the breach, or acceptance of, or payments for goods, or approval of the design, drawings, or documents shall not release Seller of any of his obligations hereunder and shall not be deemed a waiver of Buyer's rights and remedies herein.

The Goods, or any part thereof, shall, at any stage of production and when stored, be identified separately from other similar goods as the property of Buyer and may not be intermingled with such other goods. All Goods furnished by the Buyer or on behalf of the Buyer and intended to be incorporated in Seller's product shall remain property of Buyer.

## 20. Law and Settlement of disputes:

The agreement contained in and resulting from the P.O. shall be governed by the laws of the Kingdom of Saudi Arabia. Any dispute, controversy or claim arising out of, or relating to this agreement or agreements resulting therefrom, or the breach, termination or invalidity thereof, shall be finally settled by arbitration in accordance with the Arbitration Rules of the Kingdom of Saudi as at present in force, which Rules form an integral part of this agreement. The appointing authority shall be the Saudi Arabian Institute of Arbitration, the procedural law shall be the law of the Kingdom of Saudi Arabia, the language of the arbitral proceedings shall be English, and the number of arbitrators shall be three. The arbitration shall take place in the Kingdom of Saudi Arabia.

The arbitration may be commenced prior to or after completion of the delivery of Goods by Seller provided that the obligations of Buyer's Client, Buyer, and Seller shall not be altered by reason of the arbitration being conducted during the progress of Seller's delivery period.

## 21. Taxes and Duties:

The Supplier shall assume liability for and shall fully indemnify the Buyer against all taxes, duties, fees, and other similar charges levied or assessed under the laws of the Kingdom of Saudi Arabia against the Supplier and his Suppliers arising from or related to the performance of the Purchase Order if the Supplier is from the Kingdom of Saudi Arabia, including the following:
a) all income or other corporate taxes levied or assessed on the profits of the Supplier and his Suppliers,
b) all income or other taxes levied or assessed on the employees of the Supplier and his Suppliers,
c) all other taxes existing at the date of signature of the Purchase Order levied or assessed on the Supplier and his Suppliers,
d) all health and social security charges (including GOSI) payable in respect of the employees of the Supplier and his Suppliers,
e) all custom duties, imports, and charges payable in respect of any Constructional Plant, Materials and Equipment, supplies, and spare parts imported into Saudi Arabia to satisfy the requirement of the PO.



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