

Terms and Conditions For The Sale Of Goods and/or Services

1 Definitions and interpretation

1.1 In these Conditions the following definitions apply:

<u>Affiliate</u>	any entity that directly or indirectly Controls, is Controlled by or is under common Control with, another entity;
<u>Business Day</u>	means a day other than a Friday, Saturday or public holiday;
<u>Conditions</u>	the Supplier's terms and conditions of sale set out in this document;
<u>Confidential Information</u>	means any commercial, financial or technical information, information relating to the Deliverables, plans, know-how or trade secrets which is obviously confidential or has been identified as such, or which is developed by the Customer in performing its obligations under, or otherwise pursuant to these conditions;
<u>Contract</u>	the Supplier's Quotation or the PO/LOA/Agreement or any other document mutually approved by both Parties for the sale and purchase of the Deliverables incorporating these Conditions;
<u>Customer</u>	the person who purchases the Deliverables from the Supplier as set out in the Contract;
<u>Deliverables</u>	the Goods or Services or both as the case may be;
<u>Force Majeure</u>	an event or sequence of events beyond any party's reasonable control preventing or delaying it from performing its obligations under the Contract [including strikes or other industrial disputes involving the Supplier's or its suppliers' workforce, but excluding the Customer's inability to pay or circumstances resulting in the Customer's inability to pay];
<u>Location</u>	the address of Goods' delivery & Services' performance as set out in the Contract;
<u>Specification</u>	the description/specification of the Deliverables set out or referred to in the Contract;
<u>Supplier</u>	means the Company issued the Quotation for the sale and purchase of the Deliverables;
<u>Supplier Personnel</u>	all employees, officers, staff, other workers, agents and consultants of the Supplier, its Affiliates and any of their subcontractors who are engaged in relation to the sale and purchase of the Deliverables.

1.2 In these Conditions, unless the context otherwise requires:

- 1.2.1 a reference to the Contract includes these Conditions, and their respective schedules, appendices and annexes (if any);
- 1.2.2 any clause, schedule or other headings in these Conditions are included for convenience only and shall have no effect on the interpretation of these Conditions;
- 1.2.3 a reference to a 'party' means either the Supplier or the Customer and includes that party's personal representatives, successors and permitted assigns;
- 1.2.4 a reference to a 'person' includes a natural person, corporate or unincorporated body (in each case whether or not having separate legal personality) and that person's personal representatives, successors and permitted assigns;
- 1.2.5 a reference to a 'company' includes any company, corporation or other body corporate, wherever and however incorporated or established;
- 1.2.6 a reference to a gender includes each other gender;
- 1.2.7 words in the singular include the plural and vice versa;
- 1.2.8 any words that follow 'include', 'includes', 'including', 'in particular' or any similar words and expressions shall be construed as illustrative only and shall not limit the sense of any word, phrase, term, definition or description preceding those words;
- 1.2.9 a reference to 'writing' or 'written' includes any method of reproducing words in a legible form (including email);

2 Application of these Conditions

- 2.1 These Conditions apply to and form part of the Contract between the Supplier and the Customer. They supersede any other terms and conditions endorsed on, delivered with, or contained in the Customer's purchase conditions, order, confirmation of order, specification or other document except to the extent that the Supplier otherwise agrees in writing.
- 2.2 No variation of these Conditions or to the Contract, shall be binding unless expressly agreed in writing and executed by both Parties.
- 2.3 The Supplier may accept or reject an Order at its discretion. An Order shall have no binding obligation to supply any Deliverables, until the later of:
 - 2.3.1 Supplier's written acceptance of the Order; or
 - 2.3.2 Supplier's receiving the Approved Material Submittals, the Down Payment and/or the L/C.

3 Price

- 3.1 The price for the Deliverables shall be as set out in Supplier's Quotation. The Prices are exclusive of VAT.
- 3.2 The Customer shall pay any applicable VAT to the Supplier on receipt of a valid VAT invoice.

4 Payment

- 4.1 The Supplier shall invoice the Customer for the Deliverables as per the Payment Terms agreed on in the Contract.
- 4.2 The Customer shall pay all invoices:
 - 4.2.1 in full without deduction or set-off, in cleared funds within 10 days of the date of each invoice; and
 - 4.2.2 to the bank account nominated by the Supplier.
- 4.3 Time of payment is of the essence. Where sums due are not paid in full by the due date:
 - 4.3.1 the Supplier may, without limiting its other rights, charge Customer a sum equivalent to 2% of the sums due per each day of delay as payment delay damages.
 - 4.3.2 The payment delay damages shall accrue on a daily basis, and apply from the due date for payment until actual payment in full.

5 Delivery and performance

- 5.1 The Goods shall be delivered by the Supplier to the Location on the date(s) specified in the Contract. The Goods shall be deemed delivered by the Supplier only on arrival of the Goods at the Location. However: In the event that Customer is unable to accept delivery of the Goods and the Supplier is required to hold the same in its Warehouse beyond Two (2) working, Goods are deemed delivered, and accordingly, Customer shall inspect the Goods at Supplier's warehouse and release the payment against delivery; in addition, a storage fee equal to 0.20% of the Goods' value/day will be invoiced by Supplier to the Customer for every day beyond the above-said two (2) working days. Storage fees shall be paid by the Customer in full prior to the new delivery date being scheduled.
- 5.2 The Supplier may deliver or perform the Deliverables in instalments. Any delay in performance or defect in an instalment shall not entitle the customer to cancel any other instalment.
- 5.3 The Supplier shall use its reasonable endeavours to meet estimated dates for delivery and performance, but any such dates are approximate only.
- 5.4 The Supplier shall not be liable for any delay or failure of performance caused by the Customer's failure to: (i) make the Location available, (ii) prepare the Location in accordance with the Supplier's instructions OR as required for the Deliverables, or (iii) release the Down Payment or any other due payments & issuing the L/C for the remaining Contract value; Or by Force Majeure.
- 5.5 In the event of project delay or any acts of prevention for any reasons not attributed to Supplier which prevent the latter from fulfilling its obligations, and the delay exceeds 1 month, Customer shall pay the full value of the delivered Goods (or deemed delivered as per Clause 5.1 above) as per the Contract BOQ prices. In addition, the Supplier will have the right to claim and the Customer shall pay monthly Project Management & Coordination charges as priced in the Contract BOQ for every month or part thereof for the whole period from the completion date stated in the Contract until the actual Completion of the Works.

6 Title & Risk

- 6.1 Title to the Goods shall pass to the Customer once the Supplier has received payment in full and cleared funds for the Goods.
- 6.2 Risk in the Goods shall pass to the Customer on Delivery.

7 Warranty

- 7.1 The Supplier warrants that, for a period as stated in the Supplier's Quotation from delivery date (the **Warranty Period**), the Deliverables shall:
 - 7.1.1 conform in all material respects to any sample, their description & the approved material submittal;
 - 7.1.2 be free from material defects in design, material and workmanship;
- 7.2 The Customer warrants that it has provided the Supplier with all relevant, full and accurate information as to the Customer's business and needs.
- 7.3 The Supplier shall, at its option, correct, repair, remedy, re-perform, replace or refund the Deliverables that do not comply with clause 7.1, provided that the Customer:
 - 7.3.1 serves a written notice on Supplier not later than 3 Business Days from delivery or performance in the case of defects discoverable by a physical inspection, or within a reasonable period of time from delivery or performance in the case of latent defects;
 - 7.3.2 such notice specifies that some or all of the Deliverables do not comply with clause 7.1 and identifying in sufficient detail the nature and extent of the defects; and
 - 7.3.3 gives Supplier a reasonable opportunity to examine the claim of the defective Deliverables.
- 7.4 Except as set out in this clause 7:
 - 7.4.1 the Supplier gives no warranty and makes no representations in relation to the Deliverables;
 - 7.4.2 the Supplier shall have no liability for their failure to comply with the warranty in clause 7.1, and all warranties and conditions, whether expressed or implied by statute, laws or otherwise are excluded to the extent permitted.

8 Indemnity & Liability

- 8.1 The Customer shall indemnify, and keep indemnified, the Supplier from and against any losses, damages, liability, costs (including legal fees) and expenses incurred by the Supplier as a result of or in connection with the Customer's breach of any of the Customer's obligations under the Contract.
- 8.2 The extent of the parties' liability under or in connection with the Contract (regardless of whether such liability arises in tort, contract or in any other way and whether or not caused by negligence or misrepresentation) shall be as set out in this clause 8.
- 8.3 Subject to clause 8.4, the Supplier's total liability shall not exceed the 10% of the Contract Value. However, the Supplier shall not be liable for consequential, indirect or special losses, including, loss of profit, loss or corruption of data, loss of use, loss of production, loss of contract, loss of opportunity, loss of savings/discount/rebate (whether actual or anticipated), harm to reputation or loss of goodwill ...etc.
- 8.4 Notwithstanding any other provision of the Contract, the liability of the parties shall not be limited in any way in respect of the following:
 - 8.4.1 death or personal injury caused by negligence;
 - 8.4.2 fraud or fraudulent misrepresentation;
 - 8.4.3 any other losses which cannot be excluded or limited by applicable law;
 - 8.4.4 any losses caused by wilful misconduct.

9 Confidentiality and announcements

The Customer shall keep confidential all Confidential Information of the Supplier & of any Affiliate of the Supplier and shall only use the same as required to perform the Contract.

10 Force Majeure

- 10.1 A Party is not liable if delayed in or prevented from performing its obligations due to Force Majeure.
- 10.2 If, due to Force Majeure, a party:
 - 10.2.1 is or shall be unable to perform a material obligation; or
 - 10.2.2 is delayed in or prevented from performing its obligations for more than 90 days;The parties shall, within 30 days, renegotiate the Contract to achieve, as nearly as possible, the original commercial intent.

11 Termination

- 11.1 The Supplier may terminate the Contract at any time, without prejudicing its other rights and indemnities, by giving notice in writing to the Customer if:
 - 11.1.1 the Customer commits a material breach of the Contract.
 - 11.1.2 the Customer has failed to pay any amount due under the Contract on the due date; or
- 11.2 The Customer may terminate the Contract by giving notice in writing to the Customer if the Supplier commits a material breach of the Contract which is capable of being remedied and such breach is not remedied within 30 days of receiving written notice of such breach from the Customer.
- 11.3 Termination or expiry of the Contract shall not affect any accrued rights and liabilities of the Supplier at any time up to the date of termination.

12 Dispute resolution and Applicable Laws

- 12.1 Any dispute arising between the parties out of or in connection with the Contract shall be dealt with in accordance with the provisions of this clause 12.
- 12.2 The parties shall use all reasonable endeavours to reach an amicable resolution. However, If the dispute has not been resolved within 14 days of the first notice of dispute, then the matter shall be referred to the competent Qatari Court to be resolved in accordance with the Qatar Applicable Laws.

13 Entire agreement

The parties agree that the Contract (incorporating these Conditions and the Appendices) constitutes the entire agreement between them and supersedes all previous agreements, understandings and arrangements between them, whether in writing or oral in respect of its subject matter.

14 Variation

- 14.1 No variation of the Contract shall be valid or effective unless it is in writing, refers to the Contract and these Conditions and is duly signed or executed by, or on behalf of, the Supplier.
- 14.2 Cancellation of, or changes in any deliverables by Customer shall not be effective without Customer's notice thereof received, agreed to, and confirmed in writing by Supplier. If Supplier, in its absolute discretion, approves Customer's cancellation/changes of an order, Customer shall be responsible for paying Supplier for costs incurred due to the said cancellation or changes, in addition, Customer agrees to pay the Supplier 5% of the cancelled Goods' value as cancellation charge which represents a mutually agreed pre-estimated damages including all expenditures made and committed. Supplier's prior written consent must be obtained before Customer cancels/returns any Goods, and when so cancelled/returned will be subject to a handling charge and transportation costs payable by Customer.

15 Assignment

The Customer may not assign, subcontract or encumber any right or obligation under the Contract, in whole or in part, without Supplier's written consent, such consent not to be unreasonably withheld or delayed.

16 Set off

The Customer shall pay all sums that it owes to the Supplier under the Contract without any set-off, counterclaim, deduction or withholding of any kind, save as may be required by law.

17 Severance

- 17.1 If any provision of the Contract (or part of any provision) is or becomes illegal, invalid or unenforceable, the legality, validity and enforceability of any other provision of the Contract shall not be affected.
- 17.2 In such Cases, the parties shall negotiate in good faith in order to agree the terms of a mutually acceptable alternative provision.

18 Waiver

No failure, delay or omission by the Supplier in exercising any right, power or remedy provided by law or under the Contract shall operate as a waiver of that right, power or remedy, nor shall it preclude or restrict any future exercise of that or any other right, power or remedy.

19 Conflicts within Contract

If there is a conflict between the terms contained in the Conditions and the terms of the Order, schedules, appendices or annexes to the Contract, the terms of the Conditions shall prevail.