

EMIRATES INVESTMENT AUTHORITY STANDARD TERMS AND CONDITIONS FOR THE PURCHASE OF GOODS/SERVICES

These terms and conditions apply to any purchase orders, releases or other means of ordering ("the Agreement") between the seller ("the Seller") and Emirates Investment Authority and any other entities which are or hereafter become subsidiaries of, or otherwise in its control ("the Buyer") relating to goods/services identified in the Purchase Order (individually "GOODS", including spares and consumables, "SERVICES" and collectively "GOODS/SERVICES").

Definitions: When used herein with initial capitalisations, whether in the singular or in the plural, the following terms shall have the following meanings:

"Acceptance" shall occur when the GOODS have been delivered and/or the SERVICES completed to the satisfaction of the Buyer and in accordance with the requirements of the Agreement and all the Deliverables have been provided by the Seller

"Affiliate" means a subsidiary or a holding company of a person or any other subsidiary of that holding company.

"Business Day" means a day (which is not a Friday or Saturday) on which banks are open for general commercial business in Abu Dhabi, United Arab Emirates.

"Contract Price" means the price set out in the Purchase Order.

"DDP" has the meaning given to it in the Incoterms 2010.

"Defect" means a fault, flaw, imperfection, deficiency, weakness, limitation, failing or obstruction in any of the GOODS/SERVICES or any work done or materials used or provided by the Seller under or in connection with this Agreement which would render such GOODS/SERVICES, non-compliant with the GOODS/SERVICES Specifications or the warranties.

"Deliverables" means the results to be achieved or the products to be provided upon completion of the GOODS/SERVICES. Specific project Deliverables are more particularly described in the Purchase Order.

"Effective Date" means the date first set forth in the Purchase Order.

"GOODS/SERVICES Specifications" means the minimum performance requirements in respect of GOODS/SERVICES set out in the Purchase Order.

"Good Industry Practice" means the highest applicable standards, practices, methods, equipment, specifications, codes and standards of performance and safety (as the same may change from time to time) generally used by a skilled and experienced supplier, equipment manufacturer or operator applying the standards generally adopted by such suppliers, equipment manufacturers or operators in relation to facilities of the same or substantially similar scale, nature and complexity as the Buyer's facility.

"Information" means any information concerning the Buyer, any of its Affiliates, or any of their employees, officers, directors, managers.

"Purchase Order" issued by the Buyer to the Seller for the purchase of GOODS/SERVICES.

"Site" means the Buyer's site at level 3, CI Tower, Bateen Street in Abu Dhabi.

"Warranty Period" has the meaning set forth in the Purchase Order.

TERMS

1. GOODS/SERVICES and Title.

- a) **GOODS/SERVICES.** The Seller hereby agrees to sell to the Buyer and the Buyer hereby agrees to purchase from the Seller the GOODS/SERVICES as applicable, according to the GOODS/SERVICES Specifications. **Title.** Title to the GOODS shall pass to the Buyer upon the Acceptance.
- b) **Packing and Delivery.** The GOODS shall be shipped and delivered DDP at the Site or such alternative Incoterm 2010 and delivery address as set out in the Purchase Order. The Seller shall, unless otherwise agreed in the Purchase Order, be responsible for packing, loading, transporting, receiving, unloading, storing and protecting all GOODS, including port clearance, inland transportation of imported materials from port of entry and of domestic goods from place of manufacture to the Site, and unloading of the materials and handling of materials for proper storage at the Site. The Seller shall indemnify and hold the Buyer harmless against and from all damages, losses and expenses (including legal fees and expenses) resulting from the transportation of the GOODS and shall negotiate and pay all claims arising from such transportation.

2. **Standard of Performance:** The Seller shall carry out its obligations under this Agreement in a proper workmanlike and careful manner in accordance with Good Industry Practice. Additionally, without limiting the foregoing, the Seller shall render the Services:

- (i) so as not to breach any legal or regulatory requirements, permits, or approvals;

- (ii) in compliance with any reasonable instructions, procedures or manuals provided by the Buyer; and
- (iv) so as not to impair, release, vitiate or otherwise prejudice any insurance, warranty or guarantee relating to the Buyer's facility (including any equipment used therein).

3. Warranties:

- a) The Seller hereby warrants that the GOODS and each of its constituent parts shall be: i. designed, engineered and procured with all the skill and care expected in accordance with Good Industry Practice; be free from Defects in material, manufacturing workmanship, and title; ii. as at the date of Acceptance, be fit for the purposes for which they are intended, including an operational life free from Defects for such usual period as is customary for the GOODS; iii. comprise equipment which is new and unused, be designed, engineered, constructed, completed, tested and delivered in accordance with the terms of this Agreement (including the technical specifications) so as to achieve the GOODS/SERVICES Specifications and comply with all applicable laws; iv. conform and operate in accordance to the GOODS/SERVICES Specifications and any other specifications set out in any drawings or other design documentation provided by the Seller to the Buyer and v. be capable of being operated at the Site to the GOODS/SERVICES Specifications and in accordance with Good Industry Practice.
- b) Once title of the GOODS passes to the Buyer, the Seller warrants that the Buyer will hold title to the GOODS free and clear of all liens, claims, security interests, or other encumbrances of any kind.
- c) The Seller further warrants that the GOODS/SERVICES and any applicable Deliverables under this Agreement shall not infringe the Intellectual Property Rights of any third party. The Seller shall indemnify and hold the Buyer harmless from and against any costs, claims, demands, damages and expenses of whatever nature awarded against, or incurred or paid by, the Buyer arising out of, or in connection with, any claim that the receipt of or use of the GOODS/SERVICES or any applicable Deliverables infringes the Intellectual Property Rights of any third party.

4. **Contract Price:** The Buyer shall pay the Seller the Contract Price as set forth and in accordance with the payment terms set out in the Purchase Order and, in consideration, the Seller shall perform its obligations under this Agreement. The Contract Price is the Seller's full compensation for the performance of its obligations under this Agreement and is fully inclusive of all costs, expenses and liabilities relating to fulfilling its obligations under this Agreement.

5. Insurance

The Seller shall promptly procure and maintain in force, commencing from the Effective Date and at its sole expense during the term of this Agreement all insurances required to adequately protect the risks under this Agreement and under all applicable law in the UAE, having regard to the type and nature of the Equipment, including where applicable, product liability insurance, health insurance and workmen's compensation insurance for the Seller's personnel. Upon the Effective Date, the Seller shall provide the Buyer insurance certificates evidencing the existence of all insurance policies. In each case, the insurance coverage for each category of insurance shall be no less than the amount required by any applicable law in the UAE. If the Seller fails to provide or maintain any of the insurances required under this Section 5 (*Insurance*), the Buyer (or any Affiliate of the Buyer) may procure and maintain in force at the Seller's expense during the term of this Agreement the relevant insurances.

6. Indemnities of the Seller

The Seller shall defend, indemnify and hold harmless the Buyer and its Affiliates, and their employees, officers, directors, managers and professional advisers against all claims (including all third-party claims for bodily injury, death and property loss), liability, loss and expense (including legal fees in connection therewith) arising out of this Agreement and the obligations to be performed hereunder, to the extent caused by the negligent acts, omissions or defaults of the Seller or the Seller's personnel whether partial or otherwise.

7. **Invoices:** The Seller shall send invoices to the Buyer for all payments due hereunder after the applicable Deliverables have been accepted by the Buyer. The Seller shall provide such information on invoices as may be requested by the Buyer, including, without limitation, a description of the items charged for in the invoice. Invoices shall be submitted to the Buyer by mail to Emirates Investment Authority, P.O. Box 3235, Abu Dhabi, United Arab Emirates, or by email to Ayeda.AIBraiki@eia.gov.ae and a copy to: Duaa.AIAttar@eia.gov.ae The Buyer shall pay invoices at the address of the Seller stated in the invoice within 60 days of receipt. No payment made by the Buyer shall be considered as acceptance of satisfactory performance of the Seller's obligations or as acceptance

- of substandard or Non-conforming GOODS/SERVICES or as relieving the Seller from its full responsibility under this Agreement.
8. **Confidentiality:**
Except to the extent set out in this Section 8 (*Confidentiality*), the Seller shall, from the execution of this Agreement: (a) treat the Information as confidential and keep it in secure custody (in such manner as is appropriate depending upon the form in which such materials are stored and the nature of the Information contained in those materials); (b) not disclose the Information to any other person without the Buyer's prior written consent; and (c) promptly notify the Buyer if it suspects or becomes aware of any unauthorised access, copying, use or disclosure in any form of any of the Information. This Section 8 (*Confidentiality*) shall not apply to any Information which, at the time it is received or obtained by the Seller or the Seller's personnel (as applicable) (a) is publicly available other than by reason of a breach of this Agreement by the Seller or any of the Seller's personnel; (b) the Seller or the Seller's personnel (as applicable) are required to disclose pursuant to any applicable law or stock exchange rule or court of competent jurisdiction; or (c) is disclosed with the prior written consent of the Buyer. The obligations under this section 8 (*Confidentiality*) shall continue and survive the termination of this Agreement.
 9. **Intellectual Property:**
All intellectual property rights the Seller creates or develops or has created or developed in connection with performing Services ("**IP Material**") shall vest in the Buyer. In furtherance thereof, the Seller agrees to execute any additional documents necessary, appropriate or desirable in the Buyer's discretion to give the Buyer the full benefit of this Section 9 (*Intellectual Property/Work Product*) To the extent that exclusive title and/or ownership rights in such intellectual property rights may not originally vest in the Seller as contemplated herein, the Seller hereby irrevocably assigns to the Buyer all right title and interest and ownership rights in any intellectual property rights subsisting in the IP Material, including the right to sue for past infringement, and will cause its personnel to irrevocably assign to the Buyer all such rights in such IP Material. The rights and obligations under this Section 9 (*Intellectual Property*) shall be continuing and shall survive the expiration or termination of this Agreement by either party for any reason.
 10. **Third Parties:**
The Seller may not delegate, assign or sub-contract the performance of any of its obligations under this Agreement without the prior written consent of the Buyer. All Affiliates of the Buyer have the right to obtain and use the Equipment. The Buyer may assign any benefits or obligations under this Agreement to any Affiliate. The assignor under such assignment by the Buyer shall remain liable under this Agreement.
 11. **Applicable Law, Venue:** This Agreement and any non-contractual obligations arising out of or in connection with it shall be governed by and construed in accordance with the laws of the United Arab Emirates. Each of the parties irrevocably agrees that the commercial courts of Abu Dhabi are to have exclusive jurisdiction to settle any dispute which may arise out of or in connection with this letter and that accordingly any proceedings arising out of or in connection with this Agreement shall be brought in such courts.
 12. **Remedies for Non-Conforming Services:** GOODS/SERVICES are "Non-conforming" when particular GOODS/SERVICES do not meet the requirements of this Agreement, the warranties set forth herein, or other applicable express or implied warranties. The Buyer may require the Seller to, at the Seller's expense, promptly replace Non-conforming GOODS/SERVICES or the Buyer, at its option, may, acting reasonably, determine a reduction in the Contract Price and require the Seller to refund such amount or may withhold such amount from the Contract Price to be paid to the Seller, as the case may be. The Seller's failure to perform as required hereunder shall, at the Buyer's option, subject the Seller to performance reviews, disqualify the Seller from consideration for additional Buyer contracts, and constitute cause for termination of this Agreement in accordance with Section 17.
 13. **Defects**
The Seller shall notify the Buyer in writing as soon as it becomes aware of the existence of a Defect or any consequent physical damage to the GOODS at any time on or before the expiry date of the Warranty Period. The Seller shall make good by replacement, repair and/or modification with all possible speed at its own expense, any Defects in the GOODS/SERVICES that arose during the Warranty Period and which, by the occurrence of such Defect, would render any of the warranties untrue. The Warranty Period in relation to those repairs, replacements and/or modifications shall recommence on the date on which the Seller completes any such remedial work.
 14. **Disputes:** If the Buyer disputes any item in any application for payment, either in whole or in part, then only the undisputed part of such application of payment shall be paid by the Buyer. The Buyer shall notify the Seller of any such disputed item and both Parties shall use all reasonable endeavours to settle any such disputed item. The Buyer shall notify the Seller in writing whether there is a dispute item in any application for payment.
 15. **Severability, Waiver, Survival:** Any invalidity, in whole or in part, of any provision of this Agreement shall not affect the validity of any other of its provisions. No term or provision hereof shall be deemed waived and no breach excused unless such waiver or consent shall be in writing and signed by the party claimed to have waived or consented. Failure to exercise a right or remedy at law or granted hereunder shall not be deemed a waiver of such right or remedy. Failure to claim default hereunder shall not waive any default. Termination of this Agreement shall not release either party from their respective obligations hereunder with regard to products or services already delivered or performed, including, without limitation, obligations of payment, warranty, intellectual property rights, and from the confidentiality and indemnity provisions hereof.
 16. **Buyer Termination:** The Buyer shall be entitled to terminate this Agreement immediately upon the occurrence of the following events: (a) the Seller becomes insolvent or an event occurs which has a similar effect or (b) there is material breach of this Agreement by the Seller (including, for the avoidance of doubt, failure by the Seller to remedy a Defect or damage which deprives the Buyer of substantially the whole benefit, or major part, of the GOODS/SERVICES). The Buyer may, at any time, give fourteen (14) days' notice to the Seller to terminate this Agreement.
 17. **Seller Termination:** If the Seller has not received payment after sixty (60) days from the date that a payment is due under this Agreement, and only if such payment has not been disputed in writing by the Buyer, the Seller may terminate this Agreement after it has served a notice of termination to the Buyer and the Buyer has not made the relevant payment within thirty (30) days of receiving such notice.
 18. **Notices:** Any notices, consents, requests, approvals or other documents ("**Notices**") to be given under this Agreement must be given in writing and shall be delivered by hand or sent by recorded post, facsimile or email (such facsimile or email notice to be succeeded by a hard copy posted within 12 hours of the transmission by facsimile or email) to the party at the address, facsimile number or email address of that party set out in the Purchase Order.
 19. **Money Laundering:** The Seller represents and warrants that the operations of the Seller are and have been conducted at all times in compliance with the applicable money laundering statutes of the UAE, the rules and regulations thereunder and any related or similar rules, regulations or guidelines, issued, administered or enforced by any applicable governmental agency in the UAE (collectively, the "**Money Laundering Laws**") and no action, suit or proceeding by or before any court or governmental agency, authority or body or any arbitrator involving the Seller with respect to the Money Laundering Laws is pending or, to the best of the Seller's knowledge, information and belief, threatened.
 20. **Corrupt Practices:** The Seller agrees that it will not, directly or indirectly, receive from, or give or offer to give to any person connected with the Buyer or Supplier, or to other contractors or suppliers, or to government officials or any other persons anything of material value which would be regarded as an improper inducement to any party. Any breach of this obligation shall constitute a material breach of the Agreement.
 21. **Miscellaneous:** This Agreement, including all documents referred to herein and attached hereto, constitutes the entire agreement of the parties on the specific subject matter hereof and supersedes all prior representations, understandings and agreements between the parties with respect to such subject matter and the Seller represents and warrants that (i) this Agreement prevails over any other general terms and conditions of trade, including but not limited to the Seller's general terms and conditions and has been reviewed and accepted by the Seller and (ii) performance against this Agreement constitutes the Seller's unconditional acceptance of the Agreement. This Agreement expressly limits acceptance to the terms of this offer and the Buyer hereby objects to any different or additional terms contained in any response to this Agreement and the related Purchase Order. Any amendments to this Agreement must be in a writing signed by both parties.