

## GENERAL TERMS AND CONDITIONS OF PURCHASE

### 1. DEFINITIONS AND ORDER OF PRECEDENCE

- 1.1. These General Terms and Conditions of Purchase (hereinafter "GTCP") applies to all purchase orders (hereinafter "PO") issued by **ÇİMTAŞ GEMİ İNŞA SAN. VE TİC. A.Ş.** located at 'Kocaeli Serbest Bölgesi 102. Cadde No: 5 - 41090 Başiskele, Kocaeli, Türkiye' (hereinafter "Buyer"), for the supply of plant, equipment, machinery, material, goods and/or related service (hereinafter "Product") to be furnished by the person or entity (hereinafter "Seller") pursuant to the Purchase Order File (hereinafter "POF") consisting of the PO, this GTCP, specifications, drawings and any other document belonging or applying to the PO, being referred therein.
- 1.2. The Buyer and the Seller may hereinafter be called "Party" on their own and "Parties" together.
- 1.3. Unless otherwise is stated in the POF documents, the order of precedence shall be interpreted and prevail in the following order; still all POF documents shall be taken as mutually explanatory of one another and if a conflict is noticed between the documents the Seller must contact the Buyer.
  - 1.3.1. The PO
  - 1.3.2. Documents under the POF other than the PO
  - 1.3.3. This GTCP
- 1.4. Any acknowledgement and/or quotation of the Seller in any form, referring to or containing terms and conditions of the Seller are in no event applicable, unless the Buyer agrees thereto in writing, even where the Buyer may have not expressly objected to these terms and conditions or where the Buyer may have already accepted the delivery of the goods/services. Seller irrevocably agrees that this GTCP shall apply to all work performed under the relevant POF, regardless of whether any or all of the POF documents are signed by the Seller or not.

### 2. RESPONSIBILITIES OF THE SELLER

- 2.1. It is warranted by the Seller that all arrangements have been made and all necessary precautions have been taken to ensure that all Products are manufactured and/or delivered in a timely and safe manner, by qualified and efficient personnel and shall be of the highest quality.
- 2.2. It is warranted by the Seller that all the necessary expertise, facilities and equipment required to supply the Product are possessed. Seller shall not subcontract its responsibilities in whole or in part without the Buyer's prior written approval. The Seller remains liable at all times for any acts and/or omissions of any of its subcontractors.
- 2.3. The Seller shall provide a Performance Bond if such requirement is stated in the POF.

### 3. PACKING, DOCUMENTATION AND TRANSPORTATION

- 3.1. The Seller shall comply to the shipping, packing & marking, material handling and documentation instructions provided by the Buyer, but in any case in accordance with internationally accepted customary packing and anti-rust standards, suitable for the method of transportation specified by the Buyer. The Seller is responsible for any harm, damage or loss that may be caused during transport or storage due to insufficient packing of the Product. The delivery terms set out in the POF shall be interpreted in accordance with Incoterms in force at the date of formation of the PO.
- 3.2. The Seller shall furnish all the documentation as required under the POF and/or any applicable law. The Buyer may ask the Seller to provide the draft of the documentation in advance, for review and approval.

### 4. INSPECTION AND TESTS

- 4.1. The Buyer and/or any third party authorized by the Buyer shall be entitled to inspect and test the Product or witness the tests performed by the Seller upon timely notification. The Buyer shall be provided with free access to the relevant facilities of the Seller and/or its subcontractors.
- 4.2. The Buyer's and/or any third party's attendance or non-attendance at such inspection or test, does not relieve the Seller from any liability mentioned in the POF nor imply the Buyer's acceptance of the Product. The Buyer's final acceptance of the Product shall be subject to the placement of the Product in service.
- 4.3. The Buyer may, with a written notice to the Seller, send its own staff or any other third party to expedite the PO or to provide quality assurance advise. The Seller shall provide reasonable and free access to the plants of the Seller and/or its subcontractors and/or its suppliers.

### 5. DELIVERY AND DELAYS

- 5.1. Unless otherwise is stated in the POF, delivery shall mean both the delivery of the Product and full documentation specified in the POF. Delivery of the Product shall not be deemed to have occurred if the Product and the documents are not fully compliant with all the terms and conditions of the POF, unless the Buyer agrees otherwise in writing.
- 5.2. Time of delivery is of the essence and upon request of the Buyer the Seller shall provide the Buyer with complete and accurate real-time information regarding the progress on the production schedule. The Seller shall immediately notify the Buyer in writing if any delivery or performance is actually, potentially or anticipated to be delayed beyond its specified date.
- 5.3. The Seller shall not refrain from bearing the cost of reasonable corrective measures or improvements required by the Buyer in order to ensure timely delivery.

5.4. In case of delay beyond the delivery date specified in the POF, the Seller shall pay liquidated damages to the Buyer in the amount of two percent (2%) of the total PO price per week of delay and/or pro rata temporis for a part of a week with a cap of fifteen percent (15%) of the total PO value. The application of liquidated damages shall not release the Seller from any of its obligations and shall not be deemed a waiver of any right of the Buyer. The Buyer may still ask the Seller to incorporate all necessary actions to avoid any negative impact on the schedule of the project that the Product shall be used at, including but not limited to sending the Product by air freight at the Seller's expense.

## **6. PRICE AND PAYMENTS**

- 6.1. Unless otherwise is stated in the POF, all prices therein are firm and not subject to escalation for any reason. The price includes any and all applicable taxes, fees or duties levied at the named country of supply and/or packing, export and shipping charges and fees and all other expenses, excluding the VAT.
- 6.2. The Seller shall be entitled to invoice for the Product only when delivery in accordance with the POF has occurred. The Seller shall not be entitled to issue invoices for partial delivery or readiness, without the written consent of the Buyer.
- 6.3. The payments shall be made in accordance with the terms specified in the POF. The Buyer may at any time deduct or set-off any payment to the Seller by an amount of equal value of any claim that the Buyer may have for any reason against the Seller.
- 6.4. The Buyer is entitled to withhold payment to the Seller until the Seller has performed all of his obligations under the POF including keeping Buyer's project and goods free from liens arising out of the furnishing of the goods.

## **7. CHANGES**

- 7.1. The Buyer may at any time make changes in any part of the POF by a written notice to the Seller. The Seller shall advise in writing if such changes have an effect on the price, delivery schedule and/or other provision of the POF.

## **8. TITLE AND RISK**

- 8.1. The risk of loss of or damage to the Product shall pass to the Buyer as per the delivery term in the POF in accordance with Incoterms in force at the date of formation of the PO.
- 8.2. Unless otherwise is stated in the POF, the Product free from liens and other encumbrances, shall become the property of the Buyer at delivery, or if earlier upon payment to Seller of ninety percent (90%) or more of the price of the Product.

## **9. WARRANTIES**

- 9.1. The Seller warrants that the Products and their raw material conform to the requirements of the POF and will be new (not older than 10 (ten) years unless otherwise is confirmed by the Buyer in writing), free from any defect, of good design, material, workmanship and fit and safe for the purpose for which it is intended.
- 9.2. Unless otherwise is stated in the POF, the warranty period shall expire twenty-four (24) months from the date when the Product was put into commercial use or forty-eight (48) months from the delivery of the Product, whichever period expires earlier.
- 9.3. If any defect and/or nonconformity is discovered on the Product during the warranty period, in regard to the requirements of the POF, the Product shall be promptly repaired, replaced or the defect or nonconformity shall be remedied at the Seller's expense within the time frame advised by the Buyer. When the Seller fails to do so, the Buyer may choose to replace or repair the Product itself or through a third party at the Seller's expense and risk, or otherwise accept the defective Product with an equitable adjustment in the price.

## **10. FORCE MAJEURE**

- 10.1. If performance of any of the Parties, in whole or in part, is prevented or delayed due to a Force Majeure event (including but not limited to acts of God, declared or undeclared war, acts of governmental authorities, riot, revolution, civil commotion, fires or epidemic, but not including unforeseen difficulties in manufacture, difficulty in obtaining raw material or supplies (unless itself due to Force Majeure), shortage of labor, strike or non-performance by the Seller's subcontractors or suppliers) then the time for performance shall be modified accordingly, subject to the delayed Party promptly notifying the other Party within five (5) days after of the event with convincing evidence, taking all reasonable steps to reduce the resulting delay.
- 10.2. In the event that the delay due to Force Majeure exceeds sixty (60) days, the Buyer shall be entitled to terminate the PO without any obligation to pay any termination charge, by so notifying the Seller in writing.

## **11. TERMINATION**

### **11.1. Termination for Default**

- 11.1.1. The Buyer may terminate the whole or part of the PO by written notice but without liability to the Seller, if the Seller (a) fails to perform its obligations and it has failed to remedy within twentyone (21) days after the notification; (b) is unable to provide adequate assurances that delivery in accordance with the POF will occur in three (3) weeks after the delivery date stated in the POF; (c) becomes bankrupt or insolvent, makes an assignment in favor of creditors, has a receiver or administrator appointed, commences winding up or similar proceedings or ceases or threatens to cease to carry on business or becomes unable to pay its debts as they fall due.

11.1.2. Upon such termination, the Seller accepts to return any payments previously made by the Buyer and their relevant interest. In addition, the Buyer may reject all or part of the Products, and/or complete the work in whole or in part itself or through any third party, having the Seller pay all costs and other expenses incurred by the Buyer in excess of the price in the PO. In such event, all obligations of the Buyer to make payments shall forthwith cease and be cancelled.

#### **11.2. Termination for Convenience**

11.2.1. The Buyer may terminate the whole or part of the PO, for convenience, by written notice to the Seller. Upon receipt of such notice, the Seller shall immediately discontinue work to the extent specified in the notice, place no further orders and promptly make reasonable effort to obtain cancellation on terms satisfactory to the Buyer of all orders to subcontractors and/or suppliers.

11.2.2. Upon such termination, the Seller shall be entitled to an amount to cover its direct costs incurred or committed by it prior to termination, provided that such amounts be properly established with supporting documents as required by the buyer and do not exceed, in aggregate the PO price.

### **12. INDEMNITY & INSURANCE**

12.1. To the extent permitted by the law, the Seller shall indemnify, hold harmless and defend the Buyer, its affiliates, representatives, employees, agents from and against all liability to any third party including its employees, subcontractors or agents, for personal injuries or death and for loss of or damage to any personal property resulting from any act or omission of the Seller or any defect in the Product supplied by the Seller under the POF.

12.2. The Seller shall maintain, for the duration of the PO and the warranty period, all insurances at the minimum value as required by the applicable legislation and so as to cover the Seller's liabilities under the PO. Those insurances shall be including but not limited to Workmen's Compensation Insurance, Third Party Liability Insurance and General Product liability Insurance. The insurances shall be procured from reputable and substantial insurers satisfactory to the Buyer and the Buyer shall be named as additional insureds (to the extent the Seller has assumed liabilities under this PO). All insurances required under this Article 12 shall be endorsed to provide that underwriters waive any rights of recourse, including in particular subrogation rights against the Buyer (to the extent the Seller has assumed liabilities under this PO).

### **13. CONFIDENTIALITY AND INTELLECTUAL PROPERTY**

13.1. Whether written or not, all information and know-how including drawings, specifications and other data furnished through the Buyer to the Seller shall be treated confidential, shall be used exclusively to perform the PO, shall not be used, disclosed or reproduced in whole or in part for any other purpose, and shall remain the property of the Buyer at all times.

13.2. The Seller warrants that the Product, and any other material or information provided by or on behalf of the Seller does not infringe any intellectual property right of a third party, and the seller will defend, indemnify and hold harmless the Buyer and Buyer's customers from and against all claims and liabilities based on alleged or actual infringement thereof. In case of infringement, the Buyer, at its option, may require the Seller to (a) procure at the Seller's expense the necessary rights, (b) to modify or replace the Product or part such that it no longer infringes, or (c) to refund the PO price, with interest, upon the Buyer's return of the infringing Product.

### **14. COMPLIANCE**

14.1. The Seller warrants that the Product and related work are strictly in compliance with all applicable laws and regulations, including HSE (Health, Safety & Environment) relating to the manufacture, sale and/or delivery of the Product in the country of manufacture and in the country of intermediate and/or final delivery; and the Product, together with its packaging, do not include arsenic, asbestos, lead or any other hazardous substances restricted by law or by good international engineering practice; and the Product shall be delivered complete with all instructions, warnings and other necessary data for safe and proper operation.

14.2. The Seller shall adhere to applicable legal requirements in their business relationship with the Buyer and shall maintain company policies which comply with lawful and ethical business practices.

14.3. The Seller shall comply with all applicable international and local laws, ordinances and regulations regarding bribery of public officials and private sector employees, including without limitation, all provisions of the United States Foreign Corrupt Practices Act and any amendments thereto and the principles of the World Economic Forum's Partnering Against Corruption Principles for Countering Briber. Accordingly, the Seller warrants that it will/ has not directly or indirectly pay/paid any commissions, fees or grant/granted any rebates to any third party, employees of the Buyer or the Buyer's customers, or made any gifts, entertainment or any other non-monetary favors or any other arrangements in violation of applicable laws.

14.4. The Seller is to comply with all applicable United States export and import laws and regulations, including the international sanctions programs. The Seller warrants not to take part in transactions with restricted parties (such as known or suspected terrorists, money launderers and drug traffickers) that are published by governments and international organizations.

14.5. The parties agree to comply with all applicable Personal Data Protection Laws, the relevant procedures and principles, the relevant regulatory procedures, and accept, declare, and undertake that they will provide and operate personal data accordingly.

**15. CONSEQUENTIAL LOSS**

15.1. Neither Party shall be liable to the other for loss of production, loss of use, loss of goodwill or reputation, loss of savings or profit, loss of revenue, loss of contract, or any other indirect, incidental, or consequential loss or damage suffered by the other Party. The foregoing is without prejudice to the Seller's liability to pay applicable liquidated damages.

**16. ARBITRATION**

16.1. The Parties shall do their best to resolve by negotiation any and all disputes between the Buyer and the Seller arising or related to the POF or breach thereof. Any disputes not settled by negotiation arising from or related to the POF including but not limited to any question regarding its existence, validity, interpretation or termination, shall be resolved by arbitration in accordance with the arbitration Rules of International Chamber of Commerce. The seat of the arbitration shall be in London, UK, being conducted in English language, unless otherwise is agreed on.

**17. GOVERNING LAW**

17.1. The POF has been negotiated by both Parties and has been issued by the Buyer and shall be interpreted under and governed by the laws of England and Wales, without reference to its rules concerning conflict of law. The application of the United Nations Convention on Contracts for the International Sale of Goods is hereby expressly excluded.

**18. ASSIGNMENT**

18.1. The Seller shall not assign or transfer the PO in whole or in part, to any third party without prior written approval of the Buyer. Notwithstanding the foregoing, in no event does any approval by the Buyer relieve the Seller of any of its obligations under the GTCP or the POF.

18.2. The Buyer may assign the PO in whole or in part to its customer or to any affiliate or subsidiary upon written notice to the Seller.

**19. NO WAIVER AND SURVIVAL OF OBLIGATIONS**

19.1. No waiver by either Party of any breach shall operate as a waiver of any other or further breach, whether of a similar or different character.

19.2. Any obligations, which by nature extend beyond the expiration or termination of the PO, shall survive such expiration or termination.

**20. LANGUAGE AND NATURE OF NOTICES AND COMMUNICATIONS**

20.1. The language of all communications and documentation relating to the POF shall be in English unless otherwise is agreed on by both Parties.

20.2. Any notice to be given by either Party under the POF shall be in writing and delivered by hand or sent by courier, post or facsimile to the respective address stated in the POF. Any such notice shall be deemed to have been given on the date of delivery or refusal to accept delivery if delivered by hand, or on the first business day in the receiving Party's country if delivered by facsimile, or on the date of delivery if sent by courier.

20.3. Communications dealing with day-to-day business may be made by electronic mail.

**21. PUBLICITY**

21.1. The Seller shall not issue any news release nor permit any publicity or advertisement concerning the PO without the Buyer's prior written approval.