

ASRY'S GENERAL TERMS AND CONDITIONS FOR SUPPLY OF MATERIALS & SERVICES

1. Preamble

All orders by or on behalf of the Company for goods or materials or for the execution of works of services or any amendment or variation thereto are given or made subject to these General terms and conditions. The general terms and conditions shall supersede and prevail over any other terms and conditions stipulated or referred to by the Contractor or incorporated in any document issued by the Contractor. The General terms and conditions shall apply unless otherwise as varied by express Agreement in writing by both the parties.

2. Definitions

In these General Terms and Conditions the following words have the following meaning:

- “the Company”** means Arab Shipbuilding and Repair Yard Company or its successors and assignees.
- “the Contractor”** means any person, corporate body or firm to whom a Contract has been issued.
- “the Contract”** means the purchase order, Agreement, Letter of Intent together with these General terms and conditions and any amendments agreed thereto together with any specifications drawings or other documents which are attached or are referred to in the purchase order.
- “Controlled Material / Services”** means supplies/services which are controlled under international treaties / regulations such as ITAR (US Department of State International Traffic in Arms Regulations) and EAR (US Department of Commerce Export Administration Regulations), UK Export Control, Australian Customs Act or any other laws or regulations of any jurisdiction relating to import or export controls.
- “the Conditions of Purchase”** means the price named in the purchase order for the work/materials subject to such conditions thereto or deductions there from as may be made under the Contract.
- “the Work”** means all or any part of the delivery contained within the Contract whether in whole or in part with any services and /or personnel to be provided by the Contractor under the Contract.
- “the Completion Date”** means the date mentioned in the purchase order but where the Company extends the date specified which it is entitled to do within three (3) months of the date of Contract without incurring any additional cost, for period not exceeding three (3) months , the extended delivery shall be the completion for the purposes of the Contract.

3. Contract Formation

No contract exists between the Company and the Contractor until the Company notifies the Contractor in writing accepting the offer. Any such written acceptance by the Company is in respect of the work specified by the Contractor in his offer and agreed to by the Company at the time of or prior to the written acceptance and none other.

4. Time

All dates and periods of time referred to in any contract or Agreement to which the Standard terms apply shall be calculated in accordance with the Gregorian Calendar. Unless otherwise expressly stated hereinafter or specifically agreed in writing by the Company, time shall be the essence in relation to the performance of any of the rights, duties or obligations established by the standard terms.

5. Delivery & Performance

- a) The Contractor shall be obliged to complete its obligation under the contract by the completion time. If the Contractor fails to complete the obligations within the completion date, the Contractor shall be liable to pay the Company and the Company shall be entitled to demand, liquidated damages of one percent of the Contract price per week or part thereof, or as may be specified in the purchase order, for the period during which the obligation of the Contractor remains incomplete. However, such sum (s) shall not exceed 10% of the contract price unless otherwise expressly stated in the contract.
- b) In the case of execution of work or service contracts, the Contractor shall carry out the same in accordance with the contractor's usual practices, the regulations of the Kingdom of Bahrain authorities as applicable, the rules and regulations of the Classifications Society and generally in accordance with good shipbuilding and repair practice.
- c) In the case of execution of work or service contracts, the contractor shall not be entitled to Sub-contract any part of the work without notice to the Company unless otherwise agreed in writing between the Company and the Contractor.
- d) In case of supply of Controlled Materials, the Contractor shall ensure that the goods shall correspond with their description and applicable Goods Specifications, it is of approved quality and fit for the purpose made known by the Company, expressly or by implication, and it is free from defects in design, material and workmanship and remain so for stipulated period mentioned in the Purchase Order.
- e) The Contractor shall be responsible for obtaining all necessary licences, approvals and consents required by any applicable national government for technical data, technology, services, and/or products related to the work.
- f) The Contractor shall provide within its proposal, details of any limitations or restrictions applied to the technical data/technology, services and/or products related to the work.

- g) The Contractor shall provide within its proposal, details of any technical data/technology, services and/or products related to the work that may be subject to export control under the United States export control laws and regulations such as ITAR and EAR.
- h) The Contractor shall comply with all applicable statutory and regulatory requirements relating to the manufacture, labelling, packaging, storage, handling and delivery of goods.
- i) The Contractor shall ensure that packaging of all Controlled Material subject to controls under ITAR / EAR includes a clearly legible label stating “Contents subject to ITAR / EAR controls”.
- j) The Contractor providing “Controlled Material / Services” should ensure to maintain all the licences, permissions, authorisations, consents and permits needed to carry out its obligations in respect of the supply / services as stipulated under ITAR and EAR to the extent applicable.
- k) The Contractor shall ensure that the Materials supplied and/or Services provided are in compliance with the legal obligations with regard to the Environmental Regulations of the Kingdom of Bahrain. To the extent applicable, a copy of the Approval Certificate issued by the Supreme Council of Environment to legally import Chemical Materials will be provided by the Contractor prior to delivery of the Chemical Materials.
- l) The Company shall have the right to inspect and test the goods at any time before delivery. If following such inspection or testing the Company considers that the goods do not conform or unlikely to comply with the requirement, the Company shall inform the Contractor and the Contractor shall take immediate remedial action necessary to ensure compliance.
- m) Notwithstanding any such inspections or testing, the Contractor shall remain fully responsible for the goods and any such inspections or testing shall not reduce or affect the obligations of the Contractor, and the Company shall have the right to conduct further inspections and tests after the Contractor has carried out its remedial actions.

6. Discrepancies and Documents

- a) The weights, dimensions, capacities, prices, performance ratings and other data included in catalogues, prospectuses, circulars, advertisements, illustrated matter and price lists constitute an approximate guide. These data shall not be binding save to the extent that they are by reference expressly stated in the Contract.
- b) The documents forming the contract are explanatory, but in the event of any conflict, contradiction or ambiguity between these conditions of contract and any other documents then these conditions of contract shall prevail. If the Contractor is aware of these contradictions, ambiguities or conflicts in any of the documents, he is responsible for promptly contacting the Company to seek direction before delivery or execution of the work. Failure to do so will preclude the Contractor from claiming that the delivery or completion was delayed by such conflicts, ambiguities or contradictions.

7. Confidential Information

- a) Any drawings or technical documents intended for use as per the Contract submitted to the Contractor by the Company prior or subsequent to the formation of Contract will remain the exclusive property of the Company. They may not, without consent, be utilised otherwise than for the contract by the Contractor or copied, reproduced, transmitted or communicated to third party unless there is a specific Agreement in writing from the Company .
- b) The Contractor will not disclose away details of the work to any person or persons except those engaged in its performance, and only to that extent required for that particular portion of the work in which he is engaged. The Contractor will not release any information concerning details of work to the press or news agencies without ASRY's prior written approval.

8. Amendments

The Company shall not be liable to pay for or be responsible for any amendments to the order, unless the Company confirms the same in writing and agrees to:

- a) any consequential amendments to or abatement from the Contract quantity or price; and /or.
- b) any consequential postponement of the delivery date or completion date; and/or.
- c) any other consequential adjustment of the Contract arising from such amendment.

9. Inspection and Right of Access

The Company, their Customers or, their Customer's representatives shall be entitled to a right of access to the Contractor's and his subcontractor's premises at all reasonable times for the purposes of checking progress, carrying out or witnessing tests and /or auditing procedures. Reasonable assistance will be given to the Contractor by the Company for inspection and right of access to the Company's premises where the contract so requires.

10. Terms of payment

The Contract price shall be paid at the time or times and on the terms specified in the order unless otherwise expressly agreed in writing. Under no circumstances will the final payment be made until the complete delivery of materials and/or completion of the jobs including required documents has been satisfactorily accepted by the Company. Bank Guarantee will be required for a minimum of 10% of the contract Value for all payments by L/C. Advance payment shall be made against submission of Bank Guarantee for equivalent amount valid through the Contract.

11. Guarantee and Defects Liability

Notwithstanding anything done or omitted to be done on the part of the Company which would otherwise constitute or be deemed to constitute acceptance of the specification, design, goods, materials, works or services and without prejudice to any other right of the Company, if any fault of design, materials or workmanship shall occur within a period of twelve (12) months after the goods or materials have been delivered and/or works/ services have been completed and if notice thereof is given by the Company as soon as reasonably practicable, the defective design, goods, materials and /or services, shall at the option of the Company, either be replaced or the defective workmanship or services made good at the expense of the Contractor at any place directed by the Company. Any goods or materials replaced or services made good shall be guaranteed for a further period of twelve (12) months.

12. Quality, Environmental, Health, Safety and Security Management System

The Company is certified with Quality Management System ISO 9001:2015, Environmental Management System ISO 14001:2015, Occupational Health & Safety Management System ISO 45001:2018, Supply Chain Security Management System ISO 28000:2007, Maritime Port Facility Security Assessment & Security Plan ISO 20858:2007, Information Security Management System ISO 27001:2013, Ship Recycling Management System ISO 30000:2009, American Society of Mechanical Engineers (ASME) and American Petroleum Institute (API) Specification Q1, 9th Edition, June 2013. The Contractor is required to apply and follow ASRY QEHS & all SPs and SOPs (to the extent applicable) whilst carrying out their activities as provided in the contract.

13. Transfer of rights

- a) In the case of contracts for supply of goods and materials, the time at which the rights and risk shall pass shall be fixed in accordance with the International Rules for the Interpretation of Trade Terms (Incoterms) of the International Chamber of Commerce in force at the date of the formation of the Contract.
- b) For Works or Services Contract the following shall apply:
 - where the Contract price is payable by instalments and the first instalment has been paid, the property in all goods, materials and work in progress shall vest in the Company, upon being used for or appropriated to the Contract and the Contractor shall place identifying marks to this effect on goods, materials and work in question.
 - where the contract price is not payable by instalments property in such goods, materials and work in progress shall pass to the Company on whichever shall first occur (a) their delivery to the Company (b) payment of Purchase price.

Notwithstanding any such passing of the property the Contractor shall remain responsible for all risks in the goods.

14. Indemnity

The Contractor shall indemnify the Company in respect of:

- a) Any and all losses, damages or expenses suffered by the Company in consequence of any negligence or breach of statutory or other duty on the part of the Contractor, his subcontractor or agent or any servant or any one of them in any way arising out of or connected with the performance of the Contract or any defect or incorrect assembly of any goods or works supplied or executed under or for the purpose of performing the contract notwithstanding the same may have been inspected and/or accepted by the Company.

- b) All claims made against the Company by any third party including any servant or personal representatives or dependants of any servant of the Company for any such negligence or breach of duty or defect or incorrectness as aforesaid.
- c) The adoption of any Insurance cover for any specific sum in respect of the foregoing para 14 (a) and 14 (b) in no way limits the liability of the Contractor under the Contract.

15. Rights of Termination

Termination of the contract, from whatever cause arising, shall be without prejudice to the rights of the parties accrued under the Contract up to the time of termination.

The Company reserves the right to terminate the Contract without notice under the following circumstances:

- a) In the event the Contractor continuously fails to fulfil his obligations under the Contract.
- b) In the event the Contractor becoming insolvent or otherwise unable to obtain the necessary materials, labour or services required to fulfil the obligations under the Contract.
- c) In the event Contractor's workforce engage in strikes, lockouts or go slows, or cause wilful damage or engage in political activities.

Should any of the situations mentioned in the above arise, the Company reserves the right to take any measures necessary to avoid or minimise any loss caused by such situation. Any additional costs or loss of revenue will be deducted from sums due to the Contractor. This, however, does not limit ASRY's right to compensation.

16. Arbitration

Any disputes or differences arising out of or in relation with the meaning, interpretation, performance or any other matter related to the Contract shall be referred to arbitration by one arbitrator nominated in accordance with the provision of the Law of Civil Procedure in force from time to time in the Kingdom of Bahrain.

17. Waiver

Failure of either party at any time to enforce, or any indulgence given in relation to any of the provisions of the Contract shall not be construed as waiver by such party of such provisions or in any way affect the validity of the contract or any part thereof or the rights of the parties to enforce the same thereafter.

18. Laws Applicable

The Laws of the Kingdom of Bahrain shall be the Laws of the Contract and the Courts of the Kingdom of Bahrain shall have the sole jurisdiction on all matters pertaining thereto.

19. Zero tolerance for bribery and corruption.

The Contractor fully understands that the Company is very particular in following and maintaining strict anti-corruption and anti-bribery policy with all its dealings with its customers, suppliers and contractors and hence requires the Contractor to declare and maintain zero-tolerance for bribery and corruption while dealing with the Company. By entering into this Contract with the Company, the Contractor expressly declares that:-

- a) He has not offered, promised and will not offer, promise or give any undue advantage to any of Company's employee/s to make the employee/s act or refrain from acting in relation to the performance of his/her/their duty/duties in order to obtain or retain business or other improper advantage in the conduct of business.
- b) He shall ensure compliance with all governing anti-corruption laws and regulations prevailing in the Kingdom of Bahrain.
- c) He will not take part in or seek to influence any decision in circumstances that could give rise to an actual or perceived conflict of interest.

The Contractor fully understands Company's intention to combat with bribery and corruption in its true spirit and in the event of any fraudulent transactions or attempted bribery of Company's staff, the Contractor fully authorizes the Company to take any measures as it may deem fit to rectify the situation, including but not limited to, termination of the Contract and forfeit all outstanding dues from the Company to the Contractor with immediate effect.

20. Compliance with Law on Combating Trafficking in Persons

- (i) The Contractor, all his employees, agents and subcontractors, including but not limited to employees hired by the Contractor **shall** ensure compliance with all applicable labour and employment laws, rules and regulations including Bahraini Law on Combating Trafficking in Persons No. (1) of 2008 of Human Trafficking Law.
- (ii) Further, the Contractor, all his employees, agents and subcontractors, including but not limited to employees hired by the Contractor **shall not**:
 - a) Engage in severe forms of trafficking in persons;
 - b) Procure commercial sex acts;
 - c) Use forced labour;
 - d) Destroy, conceal, confiscate, or otherwise deny access by an employee to the employee's identity or immigration documents, such as passports or drivers' licenses, regardless of issuing authority;

- e) Use misleading or fraudulent practices during the recruitment of employees as failing to disclose basic information or making material misrepresentations during the recruitment of employees regarding the key terms and conditions of employment, including wages and fringe benefits, the location of work, the living conditions, housing and any significant cost to be charged to the employee;
- f) Charge employees recruitment fees;
- g) Provide or arrange accommodation that fails to meet safety standards or if required by law or contract, fail to provide an employment contract, recruitment agreement, or other required work document in writing.

21. Force Majeure

- a) It is agreed that in the event either party being rendered unable wholly or in part by Force Majeure to carry out its obligations under this contract, then by giving notice and full particulars of such Force Majeure in writing to the other party within seven calendar days from the occurrence of the cause relied on, the obligations of the other party giving such notice so far it is affected by such Force Majeure shall be suspended during the duration of such occurrence, but for no longer period, and such case shall as far as possible be remedied with all dispatch. The time for delivery shall be extended accordingly. In the event Force Majeure continues beyond thirty (30) consecutive days, either party may terminate this contract.
- b) The terms “Force Majeure” herein shall mean Acts of God, strikes, lockouts or other industrial disturbances, acts of public enemies, wars, insurrections, riots epidemics, earthquakes, floods, orders issued by any Government and any other causes not within the control of either party, which by the exercise of due diligence such party shall not have been able to avoid or overcome.
