



**GENERAL CONDITIONS OF PURCHASE**  
**THABB128.02**

Form No.	Rev. No.	Issue Date
THABB 128.02	0	02.07.2009

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## **ART. 1 DEFINITIONS**

- a) "Company" means ABB Limited, the company issuing the Purchase Order.
- b) "Goods" means the plant, equipment, materials, products, services, documentation and/or other items to be supplied to Company by Vendor in accordance with the Purchase Order.
- c) "Price" means the amount to be paid to Vendor for the Goods in accordance with the Purchase Order and change orders made in accordance with Article 4.
- d) "Prime Client" means the client of the Company.
- e) "Purchase Order" means the purchase order authorized by the Company and/or the contract concluded between Company and Vendor, for the supply of the Goods, inclusive of all attached documents, which shall include these General Conditions of Purchase.
- f) "Vendor" means the person, firm or company to whom the Purchase Order is issued.

## **ART. 2 DEFINITION OF SUPPLY**

- 2.1** Supplies, and/or services, shall be defined by all the documents forcing the order as stated in the Purchase Order and relevant attachments.

Such supplies and/or services shall be carried out and delivered completely and in conformity with the Purchase Order, good industry practices and applicable regulations and standards. Vendor shall also hold all necessary permits and comply with all requirements from public authorities for the preservation of the environment at all stages of production up to delivery of the Goods.

Should certain details or accessories, which under good industrial practices are necessary for the supply, not be stipulated in the Purchase Order, it is expressly acknowledged that it shall be the Vendor's responsibility to make in due time the necessary corrections and additions and to inform the Company thereof, without thereby being entitled to increasing the Price, unless said corrections and additions modify the original scope of supply.

Vendor shall search for errors or defects in Company's documentation and deliveries and shall notify Company without undue delay if errors or defects are identified.

### **2.2 DRAWINGS AND DOCUMENTS**

The drawings and technical documents, if applicable, shall be issued by the Vendor in strictly compliance with requirements stated in the Purchase Order and relevant attachments.

This documentation shall be freely used by the Company for, such as, but not limited to, maintenance, erection, servicing, adjustment, alteration of the supply. This documentation shall bear the Company reference numbers, including the Purchase Order number.

Material covered by this Purchase Order shall be supplied complete with all the technical documentation required for correct erection and assembly on site and correct start-up, commissioning, operation and maintenance. This technical documentation shall include, but is not limited to:

- a) Construction drawings of equipment, Order Number, and Tag Number shall be shown on each drawing;
- b) Assembly drawings and relevant details of machinery, instruments and special equipment;
- c) List covering all the individual components of machinery, instruments and special equipment. Such list shall show for each component a suitable reference number or symbol as to permit easy identification and future request of spare part at any time during the whole period of operation.
- d) Adequate operation and maintenance instructions.

The above-mentioned documentation shall not be limited to major machinery or equipment, but shall also include drawings, lists and instructions of all the parts delivered including those delivered by sub suppliers.

**ART. 3 ORDER ACCEPTANCE**

The Purchase Order shall be concluded only if the Vendor fully accepts these General Conditions of Purchase which are essential part of the Purchase Order.

Acceptance of the Purchase Order shall be certified by return to the Company, within seven (7) days of receipt thereof, of a copy of the Purchase Order and relevant attachments bearing the Vendor's signature as agreement to unconditional acceptance. Unless this is already mentioned in the Purchase Order, the Vendor shall confirm in writing upon receipt of the Purchase Order the exact place/s of execution of the Purchase Order. If Vendor fails to return the Purchase Order confirmation within the aforesaid seven (7) days, Purchase Order shall be deemed to have been accepted without comments and/or changes.

Company is entitled to terminate the Purchase Order if the Purchase Order confirmation is not in accordance with the Purchase Order or is not received within seven (7) days.

This provision shall not exempt the Vendor from promptly returning the signed copy of the Purchase Order to the Company.

**ART. 4 CHANGE ORDER**

**4.1** The Company is entitled at any time to issue a change order to the Vendor and may instruct the Vendor any of the following modification, provided that the change is feasible.

- a) Increase or decrease the quantity of the supply
- b) Gilt any part of the supply
- c) Vary the quality of the supply
- d) Vary the schedule of delivery of the supply

**4.2** Prior to issuance of a change order, Vendor shall, within ten (10) days after receipt of an inquiry from Company, prepare and send to Company an estimate describing the modified work, and inform about possible effects on price and/or delivery time. If Vendor does not prepare an estimate as prescribed, Vendor has thereby confirmed that the modification does not increase the price or the delivery time. The change order shall be mutually agreed by the Company, and upon such an agreement, formal written change order shall be issued by the Company.

Unless otherwise requested by the Company, the change order shall be implemented without undue delay, irrespective of whether or not the parties have agreed regarding the effect of the modification on the Purchase Order. Variations and/or modification to the Purchase Order without formal change order issued by the Company will not be recognised by the Company for whatsoever reason.

**4.3** Except as may be otherwise expressly provided in the change order, all Vendor's obligations under the Purchase Order, including, warranty and guarantees are applicable to the change orders.

**ART. 5 TERMINATION FOR DEFAULT**

**5.1** Should the Vendor fail to perform any of his obligations under the Purchase Order, or to deliver at the agreed time of delivery, or persistently fail to fulfil any of the conditions stated in the Purchase Order due to any reasons other than those provided in Article 23, then the Company may declare by notice to the Vendor he is in default. If the Vendor fails to promptly correct and/or to remedy the default in his contractual obligation, then the Company may immediately terminate the Purchase Order or a portion thereof.

**5.2** If the Vendor becomes insolvent or be adjudicated as bankrupt, or have an involuntary petition in bankruptcy filed against him, or makes an assignment for the benefit of his creditors, or files a petition for an arrangement composition, or compromise with his creditors under any applicable law, or have a trustee or other officer appointed to take charge of his assets, then the Company may declare the Vendor to be in default and immediately terminate all or any portion of the Purchase Order.

- 5.3** Without prejudice to any of his rights under the Purchase Order or at law, in the events specified in Articles 5.1 and 5.2, whether or not the Company exercise his right to termination, the Company shall be entitled to any or all of the following:
- 5.3.1 Replace Vendor in sub-supplier agreements, and to take over from Vendor documentation, rights, equipment, material and any other items as are necessary for the completion of the Goods, by himself or by third parties;
  - 5.3.2 Withhold any payment due from the Company to the Vendor;
  - 5.3.3 Deduct or offset with any Vendor's moneys or with any financial instruments in his hand, or otherwise due or to become due, to the Vendor; and
  - 5.3.4 Claim for compensation from the Vendor for any and all damages suffered by the Company as a result thereof or in connection therewith, including, but not limited to, additional costs and expenses.

**ART. 6 SUSPENSION**

- 6.1** The Company may, at his sole option, and with or without cause, decide to suspend at any time the performance of all or any portion of the supply by giving to the Vendor a written notice. Such suspension shall not in any way be understood as termination of the Purchase Order. Such notice of suspension shall designate the date and extent of the suspension, The Vendor shall have the obligation to use his best efforts to minimise and mitigate all costs and delays associated with any suspension.
- 6.2 COMPENSATION FOR SUSPENSION**  
Subject to Article 6.4 below, the Vendor shall, in case of suspension, be entitled to compensation from the Company as follows:
- 6.2.1 If the suspension continues for a period of up to sixty (60) days on cumulative basis, during term of the Purchase Order. Notwithstanding to the contrary, any or all costs and expenses incurred to Vendor due to such suspension shall be deemed to be included in the Price and as a result shall not be charged by the Vendor to Company.
  - 6.2.2 If the suspension exceeds the above sixty (60) days, the Vendor shall submit to the Company in writing the claims for costs directly incurred as a result of suspension, excluding any profit and overhead expenses, as soon as possible but in no event later than fifteen (15) days after his receipt of the notice to suspend. All claimed costs shall be duly supported by evidencing documentation.
  - 6.2.3 In no event, compensation by the Company to the Vendor for suspension under this Article 6 shall exceed ten (10) percent of the Price.
- 6.3** Vendor shall resume the suspended supply as soon as Company has so instructed by a written notification. If, however, the time necessary to resume the supply will affect Company's schedule under the Purchase Order, Company shall have the right to terminate the non-delivered part of the supply.
- 6.4** No compensation or extension of time shall be granted by the Company to the Vendor for any suspension that might result from the Vendor's default or:
- 6.4.1 Vendor's failure to comply with the Purchase Order provisions to ensure that the quality of the Supply is in accordance with requirements stated in the Purchase Order.
  - 6.4.2 Inspection and testing of the supply conducted by the Company in accordance with the Purchase Order.
- 6.5** Should the supply or a portion thereof be suspended by the Company, for reasons other than those referred to in Article 23 or of Vendor's default, for a period exceeding one hundred and eighty (180) days in the aggregate, either Vendor or the Company shall be entitled to terminate the Purchase Order upon giving fourteen (14) days notice in writing to the other. In such event, the Vendor shall be entitled to recover the amounts set up in Article 7 from the Company provided that the Vendor makes a written claim specifying the amounts claimed not later than sixty (60) days from the effective date of termination.

## **ART. 7 TERMINATION FOR CONVENIENCE**

- 7.1** Notwithstanding anything else in the Purchase Order or these General Conditions of Purchase to the contrary, the Company may, at his sole option, terminate the Purchase Order in whole, or in part, at any time, by fifteen (15) days prior written notice to the Vendor, whether or not the Vendor is in default. Such notice of termination shall specify termination is for the convenience of the Company and of the extent of the termination and the date upon which such termination becomes effective.
- 7.2** In the event of such termination the Vendor hereby waives any and all claims for damages, including, but not limited to, loss of anticipated profits. The Company shall pay the Vendor only in accordance with the provision of Article 7.4.
- 7.3** On the date the termination becomes effective, the Vendor shall:
- a) Hold and stop the manufacturing assembly of the supply to the extent specified in the notice of termination.
  - b) Place no further orders or procure any materials and/or services other than as may be necessary or required for completion of such portion of the supply under the Purchase Order that is not terminated.
  - c) Take all steps to resolve or settle outstanding liabilities and claims arising out of sub-orders prior approval by the Company.
  - d) Assist the Company as he may specifically request in writing, in the maintenance, protection or disposition of supply acquired by the Company.
  - e) Submit to the Company a certified bill of quantity of all items of supply terminated; and
  - f) Continue to complete in a time the part of the supply which has not been terminated.
- 7.4** The Vendor shall be entitled to the following payment ("Termination Payment"), provided that, the Vendor submit to the Company a written claim, with evidence document, no later than sixty (60) days from the effective date of termination
- a) The amounts due and not previously paid to the Vendor for the Supply completely performed in accordance with the Purchase Order prior to the effective date of termination; and
  - b) The reasonable and demonstrable direct costs incurred pursuant to Articles 7.3, which are approved by the Company.
- Acceptance by the Vendor of the Termination Payment shall constitute a full release by the Vendor of any claims against the Company or any other liability of the Company in connection with the Purchase Order as of the date the payment is made in full. Failure of the Vendor to submit the written claim within the prescribed sixty days' period shall be deemed as Vendor's waiver of his right to claim from the Company of the Termination Payment.
- 7.5** In settling the claim due to the Vendor pursuant to Article 7.4 above, all unliquidated advance and other payments made for the terminated portion of the Purchase Order and other sums due to the Company under the Purchase Order shall be deducted from any such amount due to the Vendor.
- 7.6** The Vendor agrees that he will use his best efforts to minimise and mitigate against the issues, damages, costs and expenses incurred as a result of termination of the whole or any part of the Purchase Order pursuant to this Article.

## **ART. 8 ASSIGNMENT AND SUB-ORDERS**

- 8.1 Assignment**  
Vendor may not assign Purchase Order or any part thereof, or conclude any sub-orders without the prior written consent of Company. The use of hired manpower, and minor purchases do not require Company's consent.
- Company may assign, wholly or in part, his rights and obligations under this Purchase Order to a third party.

## **8.2 Sub-Orders**

- 8.2.1 Unless sub-suppliers selected are already approved by the Company, the Vendor shall be required by the Company to have a written approval of his sub-suppliers by the Company.
- 8.2.2 Should a sub-supplier used by the Vendor have not been approved by the Company, the Company shall be entitled to terminate the Purchase Order pursuant to Article 5.
- 8.2.3 The Vendor shall retain full responsibility and liability for his supply and in particular for the progress of his sub-orders.
- 8.2.4 The Company shall be entitled to follow up sub-orders and sub-suppliers. It shall be the Vendor's responsibility to make the necessary arrangements to allow the Company to have access at all times to the sub-suppliers' premises.

## **ART. 9 PRICES**

Prices are understood as inclusive of all applicable taxes, firm and not subject to revisions, unless otherwise specified in the Purchase Order.

Prices shall cover any and all of Vendor obligations under the Purchase Order, including, but not limited to:

- a) The payment of any tax, fee or charges applicable in the country of origin of the Goods.
- b) The costs of all auxiliary equipment, defined in the Purchase Order.
- c) All the expenses incurred by the Vendor due to inspection and tests of equipment witnessed by Company, the third Party' Inspection or any other authorised party, at Vendor's premises.
- d) The supply of drawings, manuals, mechanical catalogues or other documents for approval and in final issue to the supplied according to the Purchase Order instruction.

## **ART. 10 INVOICING**

### **10.1 Invoicing**

Invoices shall be issued for any consignment. The invoice shall be prepared and issued in complete conformity with the terms of the Purchase Order and as condition precedent for Company to make payment to the Vendor, Vendor's invoice shall, as a minimum, contain the following:

- a) Invoice date
- b) Payment date
- c) Invoice number
- d) Invoice reference which identifies Company's Purchase Order number and the name of a reference-person (first and last name) of Company
- e) Legal name and address of Company
- f) Invoice address: correct invoice address for Company
- g) Shipping address: address to which the Goods are sent
- h) Postal address: address to which information such as order acknowledgement is sent
- i) Legal name and address of the Vendor
- j) Payment terms
- k) Currency
- l) Total amount invoiced
- m) Tax or VAT amount
- n) Organization number
- o) Tax or VAT number for both Vendor and Company
- p) Specification of Goods supplied

Any invoice issued not in compliance with above requirements and terms indicated in the Purchase Order , the payment concerned shall be delayed on day to day basis until Vendor has fulfil his obligations under the Purchase Order.

- 10.2** Company or his representative shall be entitled to audit all documentation concerning reimbursable work. This right lies with Company for the duration of the Purchase Order and for up to two (2) years following expiration or prior termination of the Purchase Order

**ART. 11**     **PAYMENT**

- 11.1** The terms of payment shall be as specified and agreed in the Purchase Order. Unless otherwise agreed, payment shall be made sixty (60) days from receipt of a correct invoice.
- 11.2** No payment shall be released until Vendor has strictly complied with all provisions and requirements stated in the Purchase Order. Company is also entitled to withhold disputed parts of the invoice.
- 11.3** Liquidated Damages may be deducted from payment due to Vendor's failure to meet delivery dates as stated in the Purchase Order.
- 11.4** The Company shall be entitled to postpone the payments by a number of days equal to the delay in the execution of the Purchase Order due to Vendor's failure to respect the contractual obligations.
- 11.5** The Company shall be entitled to retain against warranties a percentage of the amount of the Purchase Order as specified therein; such retention shall be payable at the end of the warranty period, provided that the Vendor has fulfilled all his obligations. The retention may be paid at provisional acceptance against a bank guarantee issued for an equivalent in amount.
- 11.6** The guarantees mentioned in Article 11.5 shall be issued by a first class financial institution and shall be enforceable on first demand (issuance as per herein attached form.)
- 11.7** Payment conditions will be further tied to the supply of the contractual documents and be in line with the invoicing and payment terms stated in the Purchase Order.

**ART. 12**     **DELIVERY IN TIME**

- 12.1** Time is of the essence of the Purchase Order. The Vendor shall deliver the Goods within the contractual delivery time stipulated in the Purchase Order.
- 12.2** Within two (2) weeks of the Purchase Order date, the Vendor shall issue for Company's approval the general schedule defining all main steps of manufacturing, testing, shipment, commissioning, showing the dates of supply of the required documents.
- 12.3** If the delivery of the Goods is delayed and such delay is attributable to any reasons for which the Vendor is responsible, the Company shall have the right to claim from the Vendor for liquidated damages at the rate of, unless otherwise specified in the Purchase Order, zero point three percent (0.3%) of the Price for each day of delay.

Stipulation of such liquidated damages shall not prevent the Company from terminating the Purchase Order as provided in Article 5.

- 12.4** When a delivery time overrun is foreseeable, the Vendor shall immediately notify the Company in writing of the extent of and the reasons for such overrun, and pointing out the remedial actions to be undertaken by Vendor.

The Company shall be entitled, according to the Purchase Order, to take all required steps to protect his interests, at the Vendor's expenses, including termination of the Purchase Order pursuant to Article 5.

- 12.5** Pursuant to the termination clause in Article 5, the Company shall be entitled to terminate the Purchase Order when the Vendor has:
- a) Failed to commence execution of the Purchase Order on the scheduled date.
  - b) Interrupted execution of the Purchase Order.
  - c) Failure to complete the Purchase Order within the contractual schedule.

- 12.6** Unless otherwise specified in the Purchase Order, delivery date shall mean the date on which the Goods shall be delivered at the contractual delivery place according to the Incoterms (latest issue.) On such date the Company must have received all valid documents required for export and/or import purposes. Such documents shall include at least packing lists and proforma invoices.

## **ART. 13**     **QUALITY CONTROL**

### **13.1**     **INSPECTIONS AND TESTS**

- 13.1.1 At Company's request, the Vendor shall consign all documents related to the organisation of his Control and Quality department (quality manuals, time schedules of quality controls etc.) and those of his sub-suppliers approved by the Company.
- 13.1.2 The Vendor shall bear the expenses, if not otherwise indicated in the Purchase Order, relating to:
- a) Chemical analyses, mill certificates destructive and non-destructive tests, hydraulic tests, and acceptance trials and test made according to the provisions of the Purchase Order.
  - b) Establishment of welding procedures and approval thereof by qualified agencies.
  - c) The tests and records required by any statutory or approved organisation that would have authority to control the equipment and/or the services called for by the Purchase Order.
  - d) All the costs relevant to the facilities made available to the Company and/or Prime Client and/or to any appointed independent inspection agencies, for the performance of any and all required inspections and tests to be performed for the acceptance of the supply as defined in the Purchase Order. However, the Company shall be responsible for travelling and accommodation expenses of his own representatives in relation to such inspections and tests.
- 13.1.3 Once the Purchase Order is placed, the Vendor shall:
- a) Advise in writing the Company of the exact places of manufacture of the equipment and materials, if not already established.
  - b) Inform the Company of the progress of the supply (manufacturing and control schedules) by monthly progress report which shall state at least status of documentation, manufacturing and procurement progress and items critical.
  - c) Allow the Company's and/or Prime Client representative, including the independent inspection agency, if any, to inspect, at any time during, the supply and methods of manufacture thereof-
- 13.1.4 The inspection and control operations shall be governed by, at least, following rules:
- a) During manufacturing of equipment and material, the Company shall be entitled to have the progress of manufacturing. The Company shall be advised forthwith of any change in the schedule.
  - b) The Vendor shall inform the Company at least thirty (30) working days in advance of the exact place and date of testing and/or inspection, if not otherwise stipulated in the Purchase Order.
  - c) The Vendor shall not be entitled to request for a delay in delivery for inspection testing operations.
  - d) The Company shall be entitled to charge the Vendor for the travelling and living expenses of his inspectors and/or of his appointed representatives, if they will be forced to inspect/test again the Goods, because the equipment and material were not ready and/or in conformity and/or the supply was incomplete and/or the equipment defective, during first inspection called by Vendor.
  - e) The Vendor shall at his sole expense assign all necessary personnel and equipment to the Company inspectors or appointed representatives for the purpose of control operations, and to provide the results of his own inspections and tests.
  - f) The inspection and testing shall in no way release the Vendor from his contractual liability nor relieve the Vendor of any of his responsibilities for carrying out all testing and inspection as defined in the Purchase Order or as required by any applicable

codes, specifications and/or standards or as required by provisions for the fulfilment of the warranty. The test shall not imply approval of the supplies, neither relieve Vendor contractual obligations nor prevent the right stated in the Purchase Order of the Company.

- g) Company's and/or Prime Client's representatives and/or an independent inspection agency appointed by the Company shall have the right according to their judgement to condemn and/or to reject those materials and equipment which during tests and inspections fail to comply with the requirements of the Purchase Order.
- h) All tests including those on equipment manufactured by approved Vendor's sub-suppliers, if any, shall be witnessed by Vendor and/or Company authorised inspectors.
- i) The tests results shall be compiled by the Vendor and forwarded to the Company, along with the test certificates which might have been issued by any required official testing institution or other organisation having authority for the equipment, materials or services to be supplied under this Purchase Order.

13.1.5 Testing procedures and testing check lists shall be prepared by the Vendor and submitted to the Company for comments and approval.

### **13.2 QUALITY ASSURANCE AND ENVIRONMENTAL MANAGEMENT**

13.2.1 A quality assurance system according to the ISO 9000 series or a corresponding system shall have been established by Vendor.

13.2.2 Company has signed the ICC charter on sustainable development and has established an environmental management system according to ISO 14001. This also makes demands on Vendor for a continuous improvement of the environment. Vendor is expected, should he fail to have a corresponding system, to show a conscious attitude to environmental management by complying with requirements for the environment and arranging for continuous improvements in his operations. Vendor shall, in the same way as Company, ensure compliance with recommendations from interested parties.

13.2.3 Company reserves the right to approve and carry out audits of the quality assurance and environmental management system of Vendor or any of his sub-suppliers. Vendor shall provide any necessary assistance in this respect.

## **ART. 14 CONSIGNMENT INSTRUCTION**

### **14.1 SHIPMENT**

14.1.1 The Vendor shall arrange to consign the supply only after satisfactory technical acceptance thereof, and upon receipt of a release note for shipment issued one by the Company.

14.1.2 If the supply will be dispatched without the Company having the opportunity to carry out technical acceptance and/or issuance of release note, the Vendor shall incur the risk, at the Company's sole discretion, of having the unaccepted supply returned at his own expenses or to bear the charge for the acceptance carried out by the Company and costs related, such as, but not limited to, clearing, storage, duties, inland transportation, etc.

### **14.2 WEIGHT AND DIMENSIONS OF SUPPLY**

Provisional packing shall be delivered to the Company within fifteen (15) days of receipt of the Purchase Order. Before shipment, the Vendor shall specify, to the Company the net weight of the supply and the gross weight (packing included) per item or set of items, and the dimensions of each package to be shipped as stipulated in the shipping instructions.

## 14.3 PROTECTION - PACKING - MARKING

In addition to the relevant specification, the following shall apply as a minimum requirement:

### 14.3.1 Protection

- a) The supply shall be shipped with a protection sufficient to protect it from damage during transportation handling and storage.
- b) The opening of valves fittings, pumps and pressure vessels shall be carefully blanked to prevent instruction of dust or foreign matters and damage.
- c) All machined or polished external surfaces shall be carefully protected against weather and impacts.
- d) External joint faces not covered by flanges or counter-flanges shall be protected by firmly attached or plastic blinds.
- e) Protection shall further comply with any and all instructions stated in the General Specification relevant to the concerned equipment and the S.E.I. standards.

### 14.3.2 Packing

- a) The packing shall be of a sea worthy type, if not otherwise indicated in the Purchase Order.
- b) Packing shall be done according to the customary standards of industrial packers, under the Vendor's responsibility (S.E.I. standards). The strength of packages shall be adapted to the means and methods of transportation and to the number of handling operations and transit-shipment expected, as well as to the climate in places of transit and final destination and to a storage time not exceeding twelve (12) months on site.
- c) Consignment by containers shall be returned to the Vendor, paid on delivery, under his responsibility.
- d) The supplies, even if purchased Ex-works shall not be accepted if not properly packed.
- e) The costs of packing, loading and stowing in cants are included in the Price of the supply stated in the Purchase Order.

### 14.3.3 Marking

The marking of the Goods shall comply with the instructions given in the shipping instructions. The marking will be in at least four (4) sides of each package in readable manner. However, if applicable, Vendor shall mark the Goods in conformity with the applicable EU directives and any national rules relating to marking. If CE marking is required, Vendor shall attach a manufacturer's declaration of conformity or a certificate of conformity.

### 14.3.4 Vendor failure

The Vendor shall bear all direct and indirect consequences of defective, insufficient or unsuitable protection, packing or marking of the supply, such as, but not limited to:

- a) Bad or ineffective packing or corrosion as a result of not proper protection during transportation and storage not exceeding twelve (12) months in total from delivery date.
- b) Corrosion as a result of failure to indicate storage recommendations.
- c) Damage during loading or unloading when Company herein instructions were not followed by the Vendor.

### 14.3.5 Inspection of Packing and Marking

The Vendor shall obtain from the Company or from his representative an inspection certificate certifying that the packing and marking has been checked and found adequate. Such certificate shall in no way relieve the Vendor from his responsibility and liability under Article 14.

#### **14.4** SHIPPING DOCUMENTS

- 14.4.1 The Vendor shall prepare all documents required for transportation, shipment and for customs clearance on export in the country of destination and obtain any and all necessary certificates which might be required by customs authorities in any concerned country.
- 14.4.2 When supplies are shipped, the Vendor shall, in due time, be handed certificates of delivery or bills of lading indicating the weights and dimensions of packages, packing lists and all other documents required for the export and import formalities. All documents shall bear the references prescribed by the Purchase Order.
- 14.4.3 Hazardous supplies  
In the case of a supply classified as hazardous by national or international regulations, the Vendor shall on his own initiative send to the Company a duly filled in regulation form enabling the supply to be classified on the proper nomenclature.
- 14.4.4 Trade terms  
For the interpretation of trade terms reference shall be made to Incoterms (latest issue.)

#### **ART. 15** ACCEPTANCE OF SUPPLIES

- 15.1** Any delivery of supplies and/or related service shall be accepted by the Company and/or his representative and/or an official institution according to the Purchase Order.

This operation different from the inspections and tests carried out during execution of the Purchase Order, shall consist in a provisional acceptance followed by a final acceptance.

- 15.2** The purpose of provisional acceptance is to check the overall conformity of the supply (quantity, qualities. performance etc.) against the terms of the Purchase Order.

This implies prior delivery to consign to the Company the documents prescribed in the Purchase Order (such as drawings, technical documents certification etc.)

Final acceptance shall take place at the end of the warranty period. The final acceptance shall not release the Vendor from his statutory liabilities.

- 15.3** Each of such acceptances shall normally entitle the Vendor to request an acceptance certificate (Provisional Acceptance Certificate (PAC) in the case of provisional acceptance and Final Acceptance Certificate (FAC) in the case of final acceptance) signed by the Company and/or Company appointed representative.

- 15.4** Should the supply not be in conformity with any stipulation of the Purchase Order, without prejudice to Company's any other rights, the Company shall be entitled to:

- a) Require conformity of the supply or a Price reduction in regard to all or part thereof;
- b) Require replacement of the same; or
- c) Terminate the Purchase Order pursuant to Article 5.

The Vendor shall conform, replace or remove the supply at his sole cost and risk, as promptly as possible and without any right to claim compensation of any kind for whatsoever reason.

- 15.5** The foregoing provisions shall not affect the assessment on the Vendor of other obligations provided in the Purchase Order, including Liquidated Damages for delay.

#### **ART. 16** WARRANTY AND GUARANTEE

- 16.1** Vendor warrants that the Goods shall be in strict conformity with the Purchase Order, good industry practice, fit for its intended purpose and free from defects with regard to the quality of the materials and/or workmanship and/or engineering design whatever applicable. Vendor also warrants that materials and equipment used are new.

During the warranty period, Vendor shall, immediately or later if Company has reasonable cause to so require, replace, modify, adjust or repair at his sole expenses all defective parts. All related expenses shall be borne by Vendor, including, without limitation:

- New equipment/material supply to replace the defective part;
- Transportation of such equipment/material to the site (including customs duties, if any);
- Personnel needed for repairs including associated expenses (such as transportation and accommodation); and
- Tools and erection equipment if not available at site.

If the Vendor fails to promptly comply with his obligations, the Company shall have the right, upon giving Vendor seven (7) days prior notice, to carry out the required repairs, correction, modification, adjustment and/or replacement at Vendor's expense, without prejudice to any damages and without any risks thereby affecting the guarantee for which the Vendor is responsible.

- 16.2** Unless otherwise specified in the Purchase Order, the warranty period shall be twenty-four (24) months from the date of putting into operation of the Goods at the site or Company's acceptance thereof, whichever is the earlier. The replaced, repaired, modified, adjusted or reconstructed parts shall have a renewed warranty period of twenty-four (24) months from the completion of such replacement, repair or reconstruction. Furthermore, the warranty period for the parts which are out of normal operation, as a result of repair, replacement or reconstruction shall be extended by a period equal to the period during which they have been out of normal operation.
- 16.3** At the expiration of the last warranty period and the fulfilment by Vendor of his obligations related thereto, Company shall issue to Vendor a Final Acceptance Certificate (FAC).
- 16.4** The Vendor shall also be bound by the terms and conditions of any performance guarantees contained or defined in the Purchase Order as well as by the legal warranty against latent defects.
- 16.5** For at least ten (10) years from delivery, the Vendor guarantees that all spare parts needed for proper operation of the supplies will be available.
- 16.6** Performance guarantee, if applicable and expressly required in the Purchase Order, shall be issued as per model herein attached.

**ART. 17 TRANSFER OF RISK AND TITLE**

Unless otherwise provided in the Purchase Order,

- 17.1** Vendor shall mark and keep the Goods, as well as materials and equipment belonging to Company stored at the place of production, separate from items belonging to Vendor or a third party.
- 17.2** The risk of the Goods shall be transferred from the Vendor to the Company, in accordance with the provisions of the latest edition of the INCOTERMS.
- 17.3** The Goods shall become the property of Company at the first occurring of the following; gradually as parts of the Goods are identified, marked or separated, or when Company has paid for the Goods. However, this transfer of title shall not be construed as an acceptance of the Goods and shall not affect the Vendor's obligations and liabilities under the Purchase Order and the Company's rights and remedies in respect thereof.
- 17.4** Vendor is not entitled to retain the whole or part of the Goods as security for claims on Company, notwithstanding any dispute in respect of Vendor's compensation.

**ART. 18**    **LIABILITY AND INSURANCE**

**18.1**    **LIABILITY**

18.1.1 The Vendor is entirely responsible for all materials and equipment which are to be incorporated in the supply until delivery and/or installation and the end of warranty period as per the provision stated in the Purchase Order.

18.1.2 The Vendor shall be responsible for and shall indemnify, defend and save harmless Company and his representatives from and against any and all claims, demands and causes brought by any and all persons, including without limitation, Vendor's officers, agents, employees, representative or sub-suppliers or any third parties, and against any and all judgements in respect thereto on account of bodily injury or death, or on account of property damage, or destruction resulting from act(s) or omissions of the Vendor, his officers, employees, agents, representatives or sub-suppliers when such act(s) or omission(s) are in connection with or by reason of the performance of this Purchase Order.

18.1.3 Vendor's responsibility for damage to or destruction of property and injury to or death of persons as set forth in 18.1.2 above, includes act(s) or omission(s) of any employee of Company while such employee is acting under the direction or control of the Vendor or his sub-suppliers.

18.1.4 In addition, Vendor shall be liable to Company for any loss of or damage to property of Company resulting from Vendor performance of this Purchase Order. Vendor shall indemnify Company against all claims, demands and expenses arising out of physical loss or damage to property and equipment, or injury or death of personnel of Company during their performance of the services herein.

Vendor shall be solely responsible for and shall indemnify Company against all claims, demands and expenses arising out of physical loss or damage, to equipment, or injury or death of personnel of Company during the performance of the services herein. Vendor shall maintain and shall insure that any of his sub-supplier maintains insurance policies to cover these liabilities.

**18.2**    **INSURANCE**

Vendor shall provide and maintain insurance policies in accordance with the applicable Incoterms, insurance to cover the liability possibly incurred as a result of the Purchase Order and any other insurance agreed between the Parties or required by law.

If requested, Vendor shall submit insurance certificates to Company. Company shall be covered by the insurance as co-insured, and Vendor's insurance company shall waive his right of subrogation against Company.

**ART. 19**    **PERSONNEL**

**19.1** When required by the Company, the Vendor shall provide all personnel that may be required for the supervision of the erection and/or of the commissioning of the equipment/material covered by this Purchase Order in the number, under the conditions, and for the time mutually agreed upon.

**19.2** In the event that Vendor's personnel are required to work overseas, the Vendor shall be entirely responsible for obtaining any and all visas, customs clearance or other documents and necessary authorisations in respect of his personnel and equipment. Any delay or loss resulting from or in connection with the Vendor's failure to obtain the necessary authorisation shall be for his account without prejudice to any other remedies which the Company may have under this Purchase Order.

**ART. 20**    **PROPRIETARY AND PATENT RIGHTS**

**20.1** Documentation and computer programs placed at Vendor's disposal by Company or which have been developed mainly on the basis of such information, is the property of Company and

shall not be used for other purposes than to execute the Purchase Order. On Company's request, Vendor shall return such documentation and computer programs to Company.

- 20.2** Any inventions made by Vendor during the execution of the Purchase Order shall be the property of Vendor. Company shall, nevertheless, have the proprietary right to inventions which mainly are based on technical information received by Vendor from Company. Vendor shall notify Company of any such invention, and give Company the assistance necessary for Company to patent the invention. Company shall pay to Vendor all reasonable expenses incurred by Vendor in connection with such patenting.
- 20.3** Vendor shall give Company an irrevocable, royalty free, non-exclusive right to use all inventions which Vendor becomes in control of to the extent necessary for the production, operation, maintenance or repair of the Goods.
- 20.4** It is Vendor's duty to ensure that there is no conflict between the Goods or its application and the rights of any third party. The Vendor shall indemnify and hold the Company free and harmless from and against all claims or actions from any holder of proprietary or patent rights (such as, but not limited to, patent, trademark, design, and pattern) in connection with the execution or use of the supply.
- 20.5** The Vendor shall indemnify the Company from all expenses and/or damages incurred in connection with his failure of his obligation under the first paragraph, including, without limitation, damages awarded by a judgement for infringement, including lawyers and patent counsel fee, damages paid for infringement, the cost of replacement or modification for remedy of the infringement and damages for interruption of use of the infringing supply.

#### **ART. 21 CONFIDENTIALITY**

Each party shall keep secret all information received from the other party in connection with the Purchase Order. Company shall, nevertheless, be entitled to transfer such information to a third party to the extent necessary in connection with the production, use and inspection of the Goods.

Vendor shall not publish information regarding the Purchase Order without the Company's prior written approval. Such approval shall not be unreasonably withheld. On Company's request, Vendor shall return all drawings, calculations and other documentation to Company.

Vendor may not use the Goods for his marketing without the written consent of Company.

#### **ART. 22 EXPORT CONTROL**

- 22.1** Vendor shall comply with any export/re-export regulations in force in Vendor's country or the country of origin.
- 22.2** Vendor shall notify Company if the Goods are subject to export restrictions and, at the request of Company, give a written statement as to which export restrictions apply and whether a (re-) export licence is required for the country of destination in question.
- 22.3** Vendor shall indemnify Company for any breach of export controls regulations in Vendor's country or the country of origin caused by Vendor's circumstances or by insufficient information from Vendor.

#### **ART. 23 FORCE MAJEURE**

- 23.1** Neither party shall be considered to be in default in the performance of his obligations under the Purchase Order to the extent that performance of any such obligations is delayed or hindered by Force Majeure.

A Force Majeure occurrence shall mean an occurrence beyond the reasonable control and without the fault or negligence of the party affected and which by the exercise of reasonable diligence the said party is unable to prevent or provide against, including and limited to, war (declared or undeclared), insurrection, acts of hostility by local communities, riots, acts or orders of government or governmental bodies (including legislative bodies), boycotts and acts of god.

A Force Majeure occurrence shall not include the following:

- a) Breakdown of any item, equipment, engine, plant or machinery used by the Vendor or any sub-supplier.
- b) Contractual commitments made by the Vendor to any third party, which limits the ability of the Vendor to perform the supply and/or services,
- c) Inclement Weather
- d) Strikes
- e) Delay in or failure of delivery or performance of any of sub-supplier of the Vendor

**23.2** In the event of any such Force Majeure occurrence, the party claiming to be affected thereby shall promptly notify the other, giving full particulars thereof, and shall use his best endeavours to remedy such failure of fulfilment with all reasonable dispatch. During this time, the affected party shall continue to keep the other party fully advised of the progress being made in such efforts. Failing such remedy, the parties hereto shall consult together with a view to determining mutually acceptance measures to overcome the difficulties arising therefrom. If, however, the Force Majeure situation lasts more than ninety (90) days, either party may terminate the Purchase Order forthwith. In such case, Company may require the Goods to be delivered in its existing condition at the time of termination against payment of a proportionate share of the Price.

**23.3** In the event of any such Force Majeure occurrence, each party shall bear the loss of any of their own property so damaged or lost which shall include the property of their employees, agents and servants as well as that of any sub-supplier.

**ART. 24**     **CHANGE IN VENDOR'S SITUATION**

The Vendor shall inform the Company forthwith of any major change in the structure, control or management of his organisation. If such a change is reputed by the Company, liable to impair the proper execution of the Purchase Order, the Company shall be entitled to demand securities or guarantees, or to terminate the Purchase Order pursuant to Article 5.

**ART. 25**     **WAIVER**

No failure on the part of Company at any time or from time to time to enforce or to require the strict adherence and performance of any of the terms or conditions of the Purchase Order shall constitute a waiver of such terms and conditions and/or affect or impair such terms or conditions in any way or Company's rights at any time to avail any remedies as it may be necessary for each and every breach of such terms and conditions.

**ART. 26**     **APPLICABLE LAW**

The laws of Thailand shall govern this Purchase Order. The Parties expressly waive the application of the United Nations Convention on Contracts for International Sale of Goods.

**ART. 27**     **ARBITRATION**

All disputes arising out of this Purchase Order shall be settled in an amicable way between both parties hereto. Should this not be possible within thirty (30) days from the commencement of such a settlement, both parties hereto will put this matter before arbitration under the rules and procedures of the Thai Arbitration Act B.E. 2545. The Arbitration shall be conducted in the English Language. Place of Arbitration shall be Bangkok, Thailand. The decision of the arbitration committee shall be final and binding upon both parties hereto.

**ART. 28**     **LANGUAGE**

All the documents issued under the Purchase Order shall be written in English language.

If some documents are already written in the original language of the Vendor, these documents shall be translated into English Language.

Any document not in accordance with the above requirements shall be rejected and the Vendor will be requested to put such document in accordance with the said prescription and to supply it again without charge to the Company.

**ART. 29**    **ENTIRE AGREEMENT**

The Purchase Order and the terms, conditions, annexures and stipulation herein contained constitute the entire agreement between the parties and supersedes all previous agreement relating to this Purchase Order and all previous correspondence, negotiations, offer, explanations, understanding statements shall be considered void and null.

**ART. 30**    **PO DOCUMENT**

Subject to the order of precedence set forth in the Purchase Order, all documents, including Purchase Order itself, Company's requisition and its attachments, and these General Conditions of Purchase, forming the Purchase Order are intended to be correlative, complementary, and mutually explanatory.

**ART. 31**    **BRIBERY AND CORRUPTION**

- 31.1 Vendor hereby warrants that he will not, directly or indirectly, and he has no knowledge that other persons will, directly or indirectly, make any payment, gift or other commitment to his customers, to government officials or to agents, directors and employees of Company or any other party in a manner contrary to applicable laws (including but not limited to the U.S. Foreign Corrupt Practices Act and, where applicable, legislation enacted by member States and signatories implementing the OECD Convention Combating Bribery of Foreign Officials) and shall comply with all relevant laws, regulations, ordinances and rules regarding bribery and corruption.
- 31.2 Nothing in this Purchase Order shall render Company liable to reimburse Vendor for any such consideration given or promised.
- 31.3 Vendor's material violation of any of the obligations contained in Article 31.1 above may be considered by Company to be a material breach of this Purchase Order and shall entitle Company to terminate this Purchase Order with immediate effect and without prejudice to any further right or remedies on the part of Company under this Purchase Order or applicable law. Vendor shall indemnify the Company for all liabilities, damages, costs or expenses incurred as a result of any such violation of the above mentioned obligations and termination of this Purchase Order.
- 31.4 Vendor herewith acknowledges and confirms that he has received a copy of Company's Code of Conduct and if not received, the same can be accessed online ([www.abb.com/ethics](http://www.abb.com/ethics), click on "Compliance Training"). Vendor agrees to perform his contractual obligations under this Purchase Order with substantially similar standards of ethical behavior.
- 31.5 Company has established the following reporting channels where Vendor and his employees may report suspected violations of applicable laws, policies or standards of conduct:

Web portal: [www.abb.com/ethics](http://www.abb.com/ethics)  
Telephone: number specified on the above Web portal  
Mail: address specified on the above Web portal

**MODEL OF GUARANTEE**

Performance Guarantee in favour of "Company".

WHEREAS ..... (Name of Vendor) (hereinafter called "the Vendor") has undertaken, in pursuance of Company's Purchase Order number..... dated ..... (hereinafter called the "Purchase Order"), to supply (Description of goods and/or services).

AND WHEREAS, it has been stipulated by you in the said Purchase Order that the Vendor shall furnish you with a Bank Guarantee by a first class Bank for the sum specified therein as security for compliance with the Vendor's performance obligations in accordance with the Purchase Order.

AND WHEREAS, we have agreed to give the Vendor a guarantee:

THEREFORE WE hereby affirm that we are Guarantors and responsible to you, on behalf of the Vendor, up to a total of (Amount of the Guarantee in Words and Figures) and we undertake to pay you upon your first written demand declaring the Vendor to be in default under the Purchase Order and without cavil or argument, any sum or sums within the limits of (Amount of Guarantee) as aforesaid, without your needing to prove and to show grounds or reasons for your demand or the sum specified to prove or to show grounds or reasons for your demand or the sum specified therein.

This Guarantee is valid until the remittance of the final acceptance certificate duly issued by the Company.

Signature and Seal of the Guarantors

Date:

Address: