

PURCHASE ORDER

GENERAL TERMS AND CONDITIONS

1. DEFINITIONS:

Buyer means the KYB-Conmat Pvt. Ltd. (KCPL) as specified in the Purchase Order.

Confidential Information shall have the meaning as specified in clause 13 below.

Delivery Date means the date when the goods are delivered to KCPL.

Purchase Order means an order for goods / services to be provided by the Supplier and the corresponding fees to be paid by the Buyer issued by Buyer subject to these terms and conditions.

Supplier means the company as specified in the Purchase Order.

2. SCOPE:

2.1 This Purchase Order shall constitute the contract ("order").

2.2. No verbal agreements amending the terms of this order are valid unless both the Purchaser and the Supplier duly confirm them in writing.

3. PRICES AND TAXES:

3.1 The prices governing this order shall for all purposes, remain firm unless otherwise agreed to specifically in writing by Buyer and shall be inclusive of packing and free delivery at Buyer warehouse/godown /works or any.

3.2 For deliveries involving installation, commissioning or services the transfer of risk occurs on acceptance and for deliveries not involving installation or commissioning, the transfer of risk shall be upon receipt by Buyer at the designated place of receipt.

3.3 For pricing ex works or ex warehouse of the Supplier, transport shall in each case be at the lowest possible cost, insofar as Buyer has not requested a particular method of delivery. Any supplementary costs arising from non-conformity with the transport requirements shall be borne by the Supplier. Where the price is quoted free to the recipient, Buyer may also determine the method of transportation. Any supplementary costs arising from the need to meet the delivery deadline by way of expedited delivery shall be borne by the Supplier.

4. DELIVERY:

Delivery time is the essence of this order and must be strictly adhered to. If the Supplier fails to deliver the goods in time, the Buyer may, at its sole discretion:

- (i) treat the order as cancelled at any time and recover any loss or damage from the Supplier;
- (ii) purchase the goods ordered or any part thereof from other sources on the Supplier's account, in which case, the Supplier shall be liable to pay the Purchaser not only the difference between the price at which such goods have been actually purchased and the price calculated at the rate set out in this order, but also any other loss or damage the Purchaser may suffer;
- (iii) without prejudice to above provision Purchaser may accept late delivery, subject to a deduction in payment of 0.5% of the total order price for every week or part thereof of the

delay, towards liquidated damages, subject to maximum deduction of 5% of the order

5. ORDER AND CONFIRMATION OF ORDER

5.1 Supplier shall provide order acceptance within 3 days of receipt of Purchase Order unless it will be considered as deemed accepted and no changes thereafter will be accepted without Buyer written confirmation.

5.2 Any amendments or additions or alterations to the order shall only be effective if Buyer confirms such in writing.

6. EXAMINATION/REJECTION OF GOODS:

6.1 All materials duly processed and supplied against the order should conform to latest Indian Standards, it should be new, merchantable quality, fit for their intended purpose and should be in line with "Quality Assurance Plan", if any, which has to be approved in advance by Buyer. All such materials will be subject to inspection and approval by Buyer, either at the Supplier's premises and/or at the place of delivery indicated by Buyer.

6.2 The Buyer reserves the rights to inspect the material at any stage during manufacture or supply and reject such portion thereof as may be found defective or not in conformity with the specification or not fit for their intended purpose without invalidating the remainder of the order, if so desired by the Buyer. All rejected material shall be removed by the Supplier at its own costs within 15 days from the date of rejection note / intimation /Challan posted by Buyer to the Supplier. In case of any failure due to any reasons to remove the goods/material Buyer shall have all rights to remove the defective materials/goods from the Buyer's/its customer's premises and discard it.

7. WARRANTY:

7.1. The said good/services processed and delivered by the Supplier shall be made out of good quality bought out components/materials, as acceptable to Buyer and it should have standard/excellent workmanship and fit for their intended purpose.

7.2. If deficiency is identified before or during the Guarantee Period the Supplier must at its own expense and at the discretion of Buyer either repair the deficiency or provide reperformance of the Services or replacement of delivery.

7.3. Should the Supplier fail to rectify (i. e. repair or replacement) any deficiency within a reasonable time period set by Buyer, Buyer is entitled to: cancel the order in whole or in part without being subject to any liability for damages; or demand a reduction in price; or undertake itself any repair at the expense of the Supplier or re-performance of services or replacement of deliveries or arrange for such to be done; and claim damages in lieu of performance.

7.4. If the Supplier provides subsequent performance or repairs, the warranty periods shall begin to run again from the date of repair or replacement of the defective goods or services.

8. BILLS / CHALLANS:

8.1. The bills for supplies must be submitted in triplicate duly bearing the Supplier's sale tax registration numbers, supported with the required forms as specified in the order and showing the description

of material, quantity, Purchase Order no. Supplier code number, challan no. and date , GRN number with date, Excise duty gate pass number with date, and value wherever applicable.

8.2. The bill must be accompanied by the Supplier's challan duly receipted by the Buyer/consignee.

Challan accompanying the goods/services should indicate the Purchase Order no. and date, gate pass number, date and value etc. wherever applicable.

9. EXCESS SUPPLY:

The specific quantity ordered shall not be changed without Buyer written consent. Any loss or damage which Buyer may suffer on account of excess/short supply, if any will be to the Supplier's account in full. Quantum of allowable excess/short supplies shall be agreed in the order. However, Buyer reserves the right to vary the quantity upto +/-10% of the ordered quantity, without any Price implication.

10. PAYMENT:

10.1. Payment of service/processing charges for goods delivered, provided they are not rejected by Buyer/consignee shall be made as per the terms stated in the order. Bills should be submitted within 3 days from the date of delivery. Buyer shall at all point of time have all rights to deduct from any unpaid bills, debit notes falling due in case any goods/services are rejected on line and/or any claims for deductions are raised on the Supplier.

10.2. Insofar as the Supplier is required to provide material testing, test records or quality control documents or any other documentation, such shall be a part of the requirements of the completeness of the delivery or performance.

11. SECRECY:

11.1. If for the contractual work/goods/services Buyer furnishes the Supplier with any drawings, dies, discs, documents etc. or these are made by the Supplier himself, the same shall be kept strictly confidential by the Supplier and shall be used by it only for the contractual work.

11.2. On demand by Buyer at any time or on completion of the contractual work, , the Buyer's drawings, dies etc. shall be returned forthwith by the Supplier to Buyer. The Supplier shall under no circumstances, allow the drawings, dies, etc. made for the contractual work to be used by a third party. The Supplier shall also not make supplies of the articles made with the help of these drawings, dies, etc. to any party other than Buyer.

12. GUARANTEE:

The Supplier shall be bound to repair/replace free of cost any materials/goods/assets/services processed and supplied by him, which become defective due to faulty design, material or workmanship or any other reason within 12 months from the date of completion of final installation & commissioning or 18 months from the date of delivery whichever is earlier. In all such cases the to and fro freight and insurance charges will be to the Supplier's account.

13. NON-PERFORMANCE:

13.1. Buyer reserves the right to cancel this order or any portion thereof if supplies do not conform to the specifications and/or if deliveries are not made as stipulated. The decision of Buyer as to whether the supplies conform to the specifications and, or deliveries are made as stipulated, shall be final and binding on the Supplier.

13.2. In addition, Buyer shall have the right to purchase/avail the goods/services ordered or any part thereof from other sources on the Supplier's account, in which case the Supplier shall be liable to pay Buyer not only the difference between the price at which such goods have been actually purchased and the price calculated at the rate set out in this order, but also any other loss or damage Buyer may suffer.

14. SUBCONTRACTING TO THIRD PARTIES:

Subcontracting/assigning to third parties shall not take place either in whole or in part without the prior written consent of the Buyer, which the Buyer may grant or deny as per its discretion and violation of same shall entitle the Purchaser to cancel this order in whole or in part and claim damages.

15. PROVIDED MATERIAL

15.1. Material provided by Buyer remains the property of Buyer and is to be stored, labelled and administered separately at no cost to Buyer. Their use is limited to the orders of Buyer only. The Supplier shall supply replacements in the event of reduction of value or loss, for which Supplier is responsible, even in the event of simple negligence. This also applies to the transfer of allocated material.

15.2. Any processing or transformation of the material shall take place for the Buyer. Buyer shall immediately become owner of the new or transformed product. Should this be impossible for legal reasons, Buyer and Supplier hereby agree that Buyer shall be the owner of the new product at all times during the processing or transformation. The Supplier shall keep the new product safe for the Purchaser at no extra cost and in so doing exercise the duty of care of a merchant.

16. RIGHT OF ENTRY

Buyer shall have right to enter Supplier place of processing or any other premises at any time, with or without any prior intimation. It has also been agreed upon that in the event of failure on Suppliers part to process the said product as per Buyer's requirement for whatever reasons, the Supplier shall unconditionally allow Buyer to enter the premises for getting the unfinished job completed either by the Purchaser or any other party at Suppliers end.

17. DISPUTE RESOLUTION

All disputes arising out of or in connection with this order, including any question regarding its existence, validity or Termination, shall, unless amicably settled between the parties, be finally settled by arbitration. The parties shall mutually agree and appoint a sole arbitrator. Notwithstanding to what is stated above, if the parties cannot mutually agree on arbitrator within 4(four) weeks from the date of invocation of arbitration, then the Arbitrator shall be appointed in accordance with rule of Arbitration and Conciliation Act 1996. The arbitration proceedings shall be conducted as per the Arbitration and Conciliation Act 1996, and any modifications thereto and re-enactments thereof. The seat of arbitration shall be Vadodara. The language to be used in arbitration proceedings shall be English. Each party submits to the jurisdiction of courts of Vadodara for the purposes only of compelling compliance with the above arbitration provisions and for enforcement of any arbitration award made in accordance with the above provision.

18. **APPLICABLE LAW:**

All sums payable by Buyer to the Supplier or by the Supplier to Buyer under this order shall be due and payable at the Buyer's office. This order shall be governed by and construed in accordance with the laws of India.

19. **FORCE MAJEURE**

Buyer shall be under no liability for failure to accept the deliveries of goods, if such acts of failure are due to any act of God, fire, earthquake, floods, or any natural calamities or transportation embargoes, civil commotion, riots, violence, acts of terrorists, state enemies, or any other similar reasons or circumstances beyond the control of the Purchaser. Such occurrences shall be informed in writing by the Supplier.

20. **CHANGE IN LAW**

Any additional cost or benefit impacting the contract price resulting from a "Change in Law", towards leviable taxes, including eligible credits, in respect of goods and services to be supplied under the Contract, then the Parties agree to an adjustment to the contract price to reflect the financial impact of such "Change in Law". "Change in law" means occurrence of any of the following event after submission of bid and during the performance of the contract,

- a) The enactment of any new Indian law;
- b) The repeal, modification or re-enactment of any existing Indian Law;
- c) The commencement of any Indian Law, which has not entered into effect until the date of award of contract;
- d) A change in the interpretation or application of any Indian law, by a judgment of a court of record which has become final, conclusive and binding, as compared to such interpretation or application by a Court of record prior to the date of Bid/Award of contract; or
- e) Any change in the rates of any of the taxes that have a direct effect on the agreement."