

HEVATECH SAS

GENERAL TERMS AND CONDITIONS OF PURCHASE – SERVICES & EQUIPMENT

ARTICLE 1. PURPOSE AND DEFINITIONS

1.1 The present General Terms and Conditions of Purchase (the "GTC") define the terms and conditions which shall govern the supply of goods and/or services pursuant to orders issued by HEVATECH.

1.2 The following terms shall have herein the following meaning:

- "Purchase Order" shall mean the written purchase order concluded between HEVATECH and the Supplier concerning the performance of the Supply and containing all the obligations agreed upon between the Parties,
- "Supply" shall mean the scope of supply and/or services to be provided by the Supplier pursuant to the Purchase Order, and may include, but is not limited to, equipment, materials, and spare or replacement parts (hereinafter "Equipment") and/or advice and consultancy services, technical services, engineering services and studies, maintenance works, IT services, computer program development and installation, and onsite services (hereinafter "Services"),
- "Purchaser" shall mean HEVATECH SAS,
- "Supplier" shall mean the Party providing the Supply,
- "Party" means HEVATECH or the Supplier individually; "Parties" mean HEVATECH and the Supplier collectively,
- "Subcontractor" shall mean any vendor, subcontractor, or supplier who is hired by Supplier to provide part of the Supply.

ARTICLE 2. CONTRACT DOCUMENTS

2.1 The Purchase Order is made up and composed by the specific purchase order signed by the Parties, the present General Terms and Conditions, as well as any document incorporated therein by reference.

2.2 For the purposes of interpretation and in case of discrepancy, contradiction and/or ambiguities between the contractual documents, the priority of the documents forming the Purchase Order shall be in accordance with the following sequence:

- 1) The purchase order signed by the Parties;
- 2) Its appendices (in their numbered list);
- 3) These present General Terms and Conditions;
- 4) Any other document incorporated in the Order by reference.

2.3 The Order constitutes the whole agreement between the Parties and supersedes all previous understandings, commitments or agreements between the Parties relating to the Supply.

2.4 Any modifications, change or addition to the terms and conditions of the Purchase Order has to be formalized through an amendment to the Purchase Order duly signed by both Parties.

2.5 No document issued by the Supplier shall be binding upon HEVATECH or apply to the Purchase Order unless expressly stated herein.

ARTICLE 3. CHANGES

3.1 During performance of the Order, HEVATECH may alter the content of or the conditions attached to the Supply (the "Change"). In such cases, the Parties shall agree upon appropriate adjustments in the time schedule or compensation, and other affected provisions of the Purchase Order reasonably reflecting the Change. The Change shall be formalized through a written amendment as per clause 2.4 above.

3.2 Notwithstanding anything else to the contrary, if such agreement cannot be reached before the said Change has to be implemented, the Supplier shall, upon HEVATECH's instruction and pending such agreement, implement the proposed Change.

3.3 In the event of changes in rules and/ regulations or codes applicable to the Order, the Supplier shall inform HEVATECH forthwith and shall comply with such new rules and regulations or codes, except if otherwise instructed by HEVATECH.

ARTICLE 4. CONDITIONS FOR PERFORMANCE OF THE ORDER

4.1 The Supply as completed by the Supplier shall be wholly in accordance with the terms and conditions of the Purchase Order and fit for the purpose for which it is intended.

4.2 The Supplier shall carry out and complete the Supply in accordance with the terms and conditions of the Purchase Order and further warrants and undertakes that it has exercised and that it will continue to exercise all reasonable skill, care and diligence to be expected of an appropriately qualified and competent person having experience in the provision of services of a similar type, nature and complexity to the Supply.

4.3 The Supplier acknowledges and warrants that it will fully comply with any rules and regulations, codes, standards and norms which are issued by any authority or any other competent organization and which are linked to its activity in performing the Purchase Order, such as but not limited to, all rules pertaining to health and safety, compliance of which forms an integral part of its contractual obligations, as well as the REACH European Regulation (Regulation CE N°1907/2006) (the "Regulation"). Regarding the implementation of REACH, the Supplier hereby undertakes to have the products (substances, mixtures and articles) supplied or used under the Purchase Order comply with the provisions of the Regulation and to provide the Buyer with evidence of such compliance.

4.4 The Supplier shall be responsible for obtaining and maintaining any license of permit required to enable it to perform the Supply.

4.5 In its professional capacity, the Supplier has a duty to advise, inform and make proposals to HEVATECH at any time, taking into the consideration the most recent state-of-the-art standards and/or reasonably foreseeable improvements.

4.6 The Supplier has the duty to inform HEVATECH of any event which may impact the performance of the Supply, including, but not limited to any delay or difficulties in performing the Order, as soon as such event occurs, but not later than five (5) after Supplier's knowledge. The Supplier shall take the necessary corrective actions.

4.7 The Supplier has a duty to request that HEVATECH provide him with any information and answer to any questions it deems necessary to provide the Services.

4.8 In accordance with the French Labour Code, the Supplier will have to deliver at the signature of the Purchase Order, and at least every six months, the documents giving evidence that the Supplier's services will be performed by employees regularly employed in accordance with the applicable legislation.

ARTICLE 5. TIME SCHEDULE – LIQUIDATED DAMAGES

5.1 The Supply shall be performed in accordance with the timescales set out in the Purchase Order. Unless otherwise stipulated, time is of the essence.

5.2 In case of delay for reasons attributable to the Supplier, the Supplier shall pay to HEVATECH liquidated damages for delay as stipulated in the Purchase Order.

5.3 The obligations of the Supplier to pay such liquidated damages shall in no way relieve the Supplier of his obligation to duly complete the Supply or of any other of his obligations and liabilities under the Purchase Order.

ARTICLE 6. FORCE MAJEURE

6.1 Neither HEVATECH nor the Supplier shall be liable for failure to meet contractual obligations under the Purchase Order due to Force Majeure.

6.2 Force Majeure event shall mean unforeseeable events and are outside the control of the Parties or against which the Parties could not have reasonably made provision, such as but not limited to general strikes or lockouts, blockade, war (whether declared or not), mobilization, revolutions or riots, natural disasters and acts of God.

6.3 The Party involved in a case of Force Majeure shall take reasonable steps to limit or minimize the consequences of such an event. The Parties shall endeavor to continue to perform their obligations as far as reasonably practicable and shall cooperate to prevent delays and minimize additional costs or any other consequences.

6.4 The Party who wishes to plead Force Majeure is under obligation to inform the other Party without delay but in no case later than five (5) days after knowing of the event.

ARTICLE 7. CONTRACT PRICE – TAXES AND DUTIES - PAYMENT

7.1 In consideration of the Supply performed by the Supplier, HEVATECH shall pay to the Supplier the prices as specified in the Purchase Order. Such price is deemed to be fixed and firm, except as otherwise provided in the Purchase Order.

7.2 The Purchase Order price is exclusive of value added tax or sales and use tax that shall be charged in addition to the price. The Purchase Order price is inclusive of any other taxes, levies, duties, charges including but not limited to customs and import duties, individual or corporate income tax, stamp duties, tax of any nature, present and future, which may be levied, or withheld on the Supplier by the authorities in connection with the Purchase Order.

7.3 Invoices shall be issued on the dates stipulated in the Purchase Order, as long as they have been reached. HEVATECH is entitled to reject any invoice which do not comply with the legal requirements and/or with the provisions of the Purchase Order. Such invoice shall be deemed null and void.

7.4 Payment is made by HEVATECH by bank transfer within thirty (30) days after the date of issuance of the correct invoice.

7.5 In case of late payment within the responsibility of HEVATECH, the penalties applicable shall be equal to three (3) times the French legal interest rate of interest per day of delay.

ARTICLE 8. ASSIGNMENT – SUBCONTRACTING

8.1 Neither the Purchase Order nor any right or obligation hereunder may be assigned, in whole or in part, by the Supplier without the prior written consent of HEVATECH. Any purported assignment without such prior written consent shall be void. Should HEVATECH grants its approval, the Supplier remains personally liable for the proper performance of the Supply.

8.2 HEVATECH may assign, pledge, sub-contract or transfer the Purchase Order or any of its rights and obligations hereunder at its convenience and without the consent of the Supplier.

8.3 The Supplier shall be entitled to sub-contract part of the performance of the Supply, subject to the prior written consent of HEVATECH. The Supplier shall be responsible for any acts or omissions of its sub-contractors as if they were the Supplier's own acts or omissions. The Supplier shall apply appropriate conditions in the subcontracts in order that the Supplier can fully comply with the Purchase Order.

ARTICLE 9. TRANSFER OF RISK AND TITLE – DELIVERY – ACCEPTANCE

9.1 The Supplier undertakes to deliver the Supply at the place and on the time stipulated in the Order (the "Delivery"). Except as otherwise stated, Delivery shall be made DDP (Incoterms 2010) – HEVATECH, Saint-Paul-Trois-Châteaux site. Risk and Title to the Supply shall be transferred to HEVATECH upon Delivery. The Supplier shall ensure that the Supply is free from any lien, claim, charge or encumbrance of any kind.

9.2 HEVATECH acquires ownership of the documents (including but not limited to plan, drawing, technical specification, documents and results generated during or for the purpose of the Purchase Order), whatever their nature or support which have been produced and/or issued pursuant to the Purchase Order, immediately upon their production or issuance.

9.3 After Delivery and within a reasonable time, HEVATECH shall proceed with the acceptance procedure consisting in all the operations through which HEVATECH checks the conformity of the Supply with the technical specifications of the Order.

9.4 Once the acceptance procedure has been fulfilled and except in the event stipulated under article 9.5., HEVATECH shall issue an acceptance certificate, together with a punch list of all items to be rectified or completed. The Supplier shall promptly correct, at its costs and risks, the defects listed in the aforesaid punch list within the conditions and time limit mentioned in the acceptance certificate.

9.5 Any defect preventing HEVATECH from using the Supply according to the conditions and performance stipulated in the Purchase Order may entitle HEVATECH to refuse and reject the Supply, in whole or in part, and/or to terminate the Purchase Order at Supplier's default.

ARTICLE 10. WARRANTIES

10.1 The Supplier guarantees that all parts of his Supply as well as the associated documentation are of the kind and quality described in the Order, suitable for its intended purpose and free from any defect or failure in engineering, design, materials and workmanship.

Warranty with respect to Equipment

10.2 The Supplier warrants that all Equipment furnished hereunder shall comply with the technical specifications defined in the Purchase Order.

10.3 This warranty shall be for a period of three (3) years from the date of Delivery of the Equipment.

10.4 If within the warranty period, any part of the Equipment hereunder is shown to be defective under this warranty and HEVATECH gives notification thereof in writing, the Supplier shall correct any such defect, at its own expense and risk, either by repairing the defective part, or by making available a repaired or replacement part, upon HEVATECH instruction.

Warranty with respect to Services

10.5 Services which Supplier provides hereunder shall be performed according to the technical specifications of the Purchase Order and in a professional manner consistent with the standards of quality and care typical within the industry, at the time of performance, for similar work.

10.6 This warranty shall expire twelve (12) months after the date of performance of the Services or the relevant part thereof.

10.7 Within such warranty period, the Supplier shall promptly repeat, at its own expense and risk, any defective Services, upon written notification of HEVATECH and according to its instruction.

10.8 In case of repair or reperformance, the warranty period of the repaired/reperformed item (Equipment and/or Services) shall be extended by a period of twelve (12) months, provided, however, that in any case, the total duration of the warranty period, as extended, shall not be longer than three (3) years from Delivery.

ARTICLE 11. CONFIDENTIALITY

11.1 For the purpose of the present Article:

- "Disclosing Party" shall mean the Party who discloses Information to the other Party;
- "Information" shall mean in a non-exhaustive way any document, process, formula, sample, data, drawing, design, know-how, software, technology, trade secret or invention, prototypes or tools, as well as all quality control, marketing, financial or business information which will be provided by the Disclosing Party to the Receiving Party;
- "Receiving Party" shall mean the Party who receives Information from the other Party.

11.2 The Receiving Party undertakes to maintain strictly confidential and not to disclose or pass on to any third parties by any means whatsoever any Information, without a prior written consent of the Disclosing Party.

11.3 The Receiving Party shall take all the necessary measures to preserve the confidential nature of the Information. These measures may not be less than those taken by the Receiving Party to protect its own confidential information.

11.4 If disclosure of such Information is required for the performance of the Purchase Order and HEVATECH agrees in writing to such disclosure, the Supplier undertakes to ensure that the recipients of such information sign a confidentiality undertaking identical to that contained herein.

11.5 The Supplier shall not publish any information regarding the Purchase Order and the Supply without the written approval of HEVATECH.

11.6 Nothing contained in the present Article shall be considered as granting or conferring any rights of the Disclosing Party on the information.

11.7 In the event of authorized disclosure to third party, the Receiving Party shall obtain from such third party a written agreement, agreeable to the Disclosing Party, to treat the disclosed Information as confidential.

11.8 The present article shall not apply to any Information in respect of which the Receiving Party shall be able to prove that :

- (a) it possessed it prior to the date on which it was supplied by the Disclosing Party, or
- (b) this Information was in the public domain prior to the date on which it was supplied by the Disclosing Party, or that it subsequently entered the public domain in such a way that no blame may be attached to the Receiving Party, or
- (c) it received the Information from a third party authorized to disclose it without any obligation of secrecy being involved and without breach of this Agreement, or
- (d) the disclosures were required by law or a court order provided the Receiving Party uses reasonable efforts to limit disclosure and to obtain confidential treatment or a protective order and has allowed the Disclosing Party to participate in the proceeding, or
- (e) the Information was independently developed by or for the Receiving Party without use of the Disclosing Party's Information.

11.9 This article 11 shall survive any expiry or termination of the Purchase Order and shall remain in force even after the termination of the Purchase Order as long as the Information have not been publicly disclosed otherwise than by the fault or negligence of one Party.

ARTICLE 12. INTELLECTUAL PROPERTY RIGHTS

12.1 For the purpose of the present Article:

- "Intellectual Property Rights" shall mean any and all intellectual property rights anywhere in the world (including domain names, patents, design rights, copyrights including rights in computer software and databases (including database rights), rights in source code, topography rights, trademarks, trade names, logos, trade secrets and know-how, and any applications or the right to make applications for any of the above) existing now or at any time in the future and whether registered, registerable or not.
- "Results" shall mean all designs, products, goods, materials, reports, software, calculations, models, prototypes, drawings, computer programmes, data and any other information or materials in any form created by or on behalf of the Supplier in or pursuant to the performance of the Supply.

12.2 Title to all Intellectual Property Rights in the Results and/or created as a result of the Supply shall vest to HEVATECH and the Supplier hereby assigns all its presents and future right, title and interest in and to each such Intellectual Property Right free from all liens, charges and encumbrances. At the request of HEVATECH, the Supplier shall execute promptly any documents reasonably required to give effect to such vesting in HEVATECH and to assist HEVATECH in enforcing such rights.

12.3 Title to all Intellectual Property Rights created by either Party prior to or outside of the performance of the Supply and the Purchase Order ("Background IPR") remains the property of such Party. The Supplier hereby grants HEVATECH an irrevocable non-exclusive royalty free license, with right to sub-license, to its Background IPR for all purposes associated with the Supply, including the use, maintenance, modification and improvement of the Results.

12.4 Where Intellectual Property Rights required for the Supply are owned by a third party ("Third Party IPR"), the Supplier shall procure that said third party grants to HEVATECH an irrevocable non-exclusive license to use such Third Party IPR for all purposes associated with the Supply, including the use, maintenance, modification and improvement of the Results. The Supplier is responsible for the payment of all fees, royalties and other charges that may be payable in connection with Third Party IPR.

12.5 The Supplier warrants that the use of its intellectual property rights and/or know-how will not infringe the rights of any third party.

ARTICLE 13. LIABILITY – INDEMNITY – INSURANCE

13.1 The Supplier is liable, as provided by law, for any damage or loss to property, bodily injury, loss of property of property and/or consequential damages to HEVATECH or any third parties, arising out of or in connection with the Purchase Order and caused or contributed to by the negligence of the Supplier, its staff, its representatives and/or its subcontractors.

13.2 The Supplier shall indemnify, defend and hold harmless HEVATECH against any and all liabilities arising out of any claim or cause of action in respect of injury to or sickness, disease or death of any person or loss of or damage to any property of any third party arising out of or in connection with the Purchase Order caused or contributed to by the negligence of the Supplier and shall, at its own cost and on HEVATECH's request, defend HEVATECH in any proceedings involving the same.

13.3 The Supplier shall subscribe and maintain in effect the necessary insurance policies in order to cover any liability arising out of or in connection with the Purchase Order.

ARTICLE 14. TERMINATION

Termination for Supplier's default

14.1 In case of failure by the Supplier to fulfil any of its obligations under the Purchase Order, HEVATECH may, at its option, suspend the payment of any amount due until the Supplier has remedied such failure and/or terminate the Purchase Order by written notification of termination if the Supplier has not remedied such failure within fifteen (15) days after receipt of a written notification of default, without prejudice to liquidated damages and any other damages which HEVATECH may claim to the Supplier as a compensation for the damages suffered.

Termination for convenience

14.2 HEVATECH shall be entitled to terminate the Purchase Order in whole or in part at any time for convenience and/or whatever reason by giving notice of such termination to the Supplier. The termination shall take effect one (1) month after receipt of the termination notice by the Supplier. At the date of termination, the Supplier shall immediately cease all terminated work and hand over materials, equipment, systems etc., part of the Supply already performed by the Supplier. HEVATECH shall in such case pay to the Supplier, after mutual agreement, the actual and evidenced direct costs incurred by the Supplier in the performance of the Purchase Order and in giving effect to the termination, less the amount of any sums already paid by HEVATECH under the Purchase Order.

14.3 The provisions stated in articles 10, 11 and 12 shall survive after expiration or termination of the Purchase Order, for whatever reasons.

ARTICLE 15. LAW AND LANGUAGE

15.1 The Purchase Order shall be governed by and construed in accordance with the laws of France, to the exclusion of any rules of conflict of law incompatible with this choice of law.

15.2 The language for communications shall be the English language, and all Results, correspondence and any other information shall be in English.

ARTICLE 16. DISPUTE RESOLUTION

16.1 Should a dispute arise in connection with this Purchase Order, it shall be settled, if possible, by amicable negotiation of the Parties.

16.2 The Parties may at any time, without prejudice to any other proceedings, seek to settle any dispute arising out of or in connection with the Purchase Order in accordance with the ICC Alternative Dispute Resolution ("ADR") Rules.

16.3 In the event the Parties are unable to resolve any dispute by amicable negotiation pursuant to clause 16.1, or by referral to ADR pursuant to clause 16.2, within thirty (30) days from notification by one Party to the other, such dispute shall be finally settled by the competent courts of Paris (France).

16.4 Performance of the Purchase Order shall continue with due diligence during negotiations for amicable settlement of dispute and during any courts proceedings, provided that performance of that part of the Supply in dispute shall only continue if, and in the manner, HEVATECH so directs.

ARTICLE 17. MISCELLANEOUS

17.1 Nothing in the Purchase Order is intended to or shall operate to create a partnership or joint venture of any kind between the Parties and neither Party shall have authority to act in the name of, or on behalf of or otherwise to bind the other in any way.

17.2 Titles used in the headings of Articles and Clauses in these GTC are intended solely to facilitate use of the GTC and the Purchase Order and are not intended for and shall not be used to construe the substance of any provision in the GTC and/or the Purchase Order.

17.3 If any provision of the Purchase Order is or becomes invalid or unenforceable, the remaining provisions of the Purchase Order shall not be affected. Any provision of a Purchase Order which is prohibited or unenforceable in any jurisdiction shall, only as to such jurisdiction, be ineffective only to the extent of the prohibition or unenforceability. The Parties shall cooperate to negotiate mutually acceptable terms or replace any invalid or unenforceable provision.

17.4 No consent or waiver, express or implied, by either Party to or of any breach or default by the other Party of or in its obligations hereunder shall be deemed or construed to be a consent or waiver to or of any other breach or default by such other Party in the performance of the same or any other obligations of such other Party hereunder. The giving of consent by a Party in any one instance shall not limit or waive the necessity to obtain such Party's consent in any future instance. No waiver of any rights under the Purchase Order shall be binding unless it is in writing signed by the Party waiving such rights.