

Standard Terms & Conditions for Purchase Orders

1.0 Definitions

In these Terms & Conditions, (‘the Terms’) the following words shall have the following meanings

- 1.1 ‘Acceptance Conditions’ has the meaning given in clause 19.2;
- 1.2 ‘Buyer’ shall mean the Kentech entity identified in a Purchase Order;
- 1.3 ‘Delivery Date’ means the date specified in a Purchase Order
- 1.4 ‘Goods’ means those set out in a Purchase Order
- 1.5 ‘Services’ means those set out in a Purchase Order
- 1.6 ‘Price’ means the price set out in a Purchase Order
- 1.7 ‘Seller’ means the vendor identified in the Purchase Order
- 1.8 ‘Seller’s Provisions’ has the meaning given in clause 3.4.1;
- 1.9 ‘Requirements of the Buyer’ means the specification, standards and other stipulations set out in the Purchase Order, together with (where applicable) the Terms.

2.0 Orders

- 2.1 The Buyer orders, and the Seller agrees to sell to the Buyer, the Goods & Services at the Price for delivery by the Delivery Date.
- 2.2 The quantity and description of the Goods & Services are set out in the Purchase Order..

3.0 Conditions applicable

- 3.1 The sale of the Goods & Services by the Seller to the Buyer procured through a Purchase Order which incorporates these Terms (‘the Contract’) shall be governed solely, throughout the performance of the Contract and for as long as obligations subsist under or in connection with the Contract, by the express provisions of these Terms.
- 3.2 Subject to clause 3.7:
 - 3.2.1 no provision other than a provision that is expressly set out in these Terms shall become a term of the Contract; and
 - 3.2.2 no provision that is not expressly set out in the Contract shall in any manner govern or affect the Contract or any obligation arising under or in connection with the Contract.
- 3.3 Clause 3.2 shall apply regardless of:
 - 3.3.1 the way or the time at which the Seller purports to proffer or incorporate any such other provision(s) into the Contract; or
 - 3.3.2 whether the Seller invokes, proffers or seeks to bring into effect such other provision(s) by way of contract term or notice.
- 3.4 For the avoidance of doubt, and in accordance with this clause 3 generally:
 - 3.4.1 the reference to a provision that is not set out in the Contract includes (without limitation or other prejudice to the general meaning of such reference) any provision emanating from standard terms or conditions routinely proffered or employed by the Seller in the course of the Seller’s business or profession (‘Seller’s Provisions’) that the Seller invokes, proffers, or purports to bring into effect as governing the Contract; and
 - 3.4.2 the Seller acknowledges and agrees that the Buyer shall not be bound by any of the Seller’s Provisions.
- 3.5 The Seller’s acknowledgement of a Purchase Order, delivery of Goods, performance of Services or any positive act with respect to fulfilling the supply of the Goods or Services shall constitute the acceptance of the Contract by the Buyer for the purposes of this clause 3.

Standard Terms & Conditions for Purchase Orders

- 3.6 Acceptance of the Goods or Services by the Buyer shall not occur or be deemed to occur, and there shall not occur or be deemed to occur any binding expression of the Buyer's satisfaction with the Goods or Services, unless and until the requirements expressed in the Contract have been satisfied.
- 3.7 No purported variation of any of the provisions of the Contract, whether such purported variation purports to have been made or to be made before or after the conclusion of thereof, shall apply to or affect these Terms or any obligation arising under or in connection with these Terms nor become binding on the Buyer, unless and until the Buyer has agreed to it in writing and in terms that conform to clause 22.2
- 3.8 The rule of exclusion expressed in clause 3.7 applies (without limitation to its general scope) to any special terms and conditions that are agreed between the parties but not yet reduced to writing.

4.0 Quality of the good and services to be supplied

- 4.1 The Seller warrants, represents, undertakes and guarantees that the Goods supplied under the Contract will:
 - 4.1.1 be free from defects, manifest or latent, in materials and workmanship;
 - 4.1.2 conform with the specifications, drawings, and descriptions given in quotations, estimates, brochures, sales, marketing and technical literature or material (in whatever format made available by the Seller) supplied by, or on behalf of, the Seller;
 - 4.1.3 be free from design defects;
 - 4.1.4 be new and suitable, in every aspect, for the purposes intended by the Buyer, of which the Seller acknowledges that it has been notified.
- 4.2 The Seller acknowledges and agrees that the approval by the Buyer of any designs provided by the Seller will not relieve the Seller of any of its obligations under this clause 4.
- 4.3 The Seller warrants, represents, undertakes and guarantees that Services supplied under the Contract will:
 - 4.3.1 performed with utmost skill, professionalism and diligence by appropriately qualified personnel
 - 4.3.2 be fit for the purpose specified in the Contract and if no purpose is specified, the ordinary purpose.
- 4.4 The Seller acknowledges and agrees that use by the Buyer of any Goods and Services provided by the Seller will not relieve the Seller of any of its obligations under this clause 4.

5.0 Description

- 5.1 The Seller acknowledges and agrees that words of description, definition and identification that the Seller has used, adopted or applied in relation to the Goods & Services are not solely for purposes of reference but instead:
 - 5.1.1 render the Contract a sale of goods by description;
 - 5.1.2 have been and continue to be relied on by the Buyer when entering into the Contract; and
 - 5.1.3 constitute an express undertaking on the part of the Seller that the Goods & Services in every way respect correspond with and conform to such words of description, definition and identification.

6 Sample

- 6.1 The Seller acknowledges and agrees that when a sample of the Goods has been shown to or inspected by the Buyer, the sale constitutes a sale by sample.

7 Price

- 7.1 The Price that the Buyer shall pay for the Goods & Services:
 - 7.1.1 shall, subject to clause 7.1.2, be that stated on the Purchase Order;
 - 7.1.2 shall not be varied without the prior written assent of the Buyer, signed by the Buyer or an authorised representative of the Buyer;
 - 7.1.3 shall not be (where different) as expressed in any quotation, estimate or documentation, or as given orally.

Standard Terms & Conditions for Purchase Orders

8 Payment

- 8.1 Payment for the Goods & Services shall be made within 60 days of delivery and acceptance.
- 8.2 The time appointed for payment shall not be of the essence of the Contract.
- 8.3 All amounts stated are exclusive of VAT and any other applicable taxes or levies, which shall be charged in addition at the rate in force at the date any payment is required from the Buyer.

9 Packaging

- 9.1 The Seller shall comply with such handling, packing, packaging and labelling instructions as the Buyer shall specify.

10 Cancellation

- 10.1 The Buyer shall have the right to cancel the order for the Goods or Services (or for any part of the Goods) which have not yet been delivered to the Buyer without liability.
- 10.2 The cancellation shall be made in writing.
- 10.3 Without prejudice to the generality of the previous provisions, the Buyer shall pay the Price (or where applicable, that part of the Price) for Goods & Services which have been delivered to the Buyer, or in respect of Services, properly performed by the Seller.

11 Delivery

- 11.1 The Goods shall be delivered carriage paid to the location specified by the Buyer in the Purchase Order or at the direction of the Buyer, by the Delivery Date or such date(s) as may be specified by the Buyer.
- 11.2 The Delivery Date or any other date and time agreed for delivery of the Goods or performance of Services shall be of the essence of the Contract.
- 11.3 The Seller shall not deliver the Goods in instalments unless the parties have agreed that the Seller may do so in writing. The Seller shall perform Services within the time indicated by the Buyer.
- 11.4 When the parties have agreed in accordance with clause 11.3 that the Seller shall deliver the Goods in instalments (or when the Buyer agrees to accept delivery of the Goods by way of instalments), any breach by the Seller concerning any instalment shall, without prejudice to the Buyer's other remedies, entitle the Buyer to terminate the Agreement and to claim damages.
- 11.5 With respect to Services, and pursuant to clause 11.3, when the time for performance has been indicated by the Buyer, any breach by the Seller concerning the time for performance shall, without prejudice to the Buyer's other remedies, entitle the Buyer to terminate the Agreement and to claim damages.

12 Non-delivery

- 12.1 If the Seller fails to deliver the Goods by the Delivery Date or times specified by the Buyer or agreed by the parties, the Buyer shall (without prejudice to clause 13 and to all or any other rights and remedies to which the Buyer may be entitled) be entitled at the Buyer's sole discretion:
 - 12.1.1 to terminate the Agreement; and/or
 - 12.1.2 to buy the same or similar Goods from a seller other than the Seller; and/or
 - 12.1.3 to recover from the Seller all costs and losses resulting to the Buyer in consequence of a purchase falling within clause 12.1 including (without prejudice to the generality of these) the amount by which the price paid by the Buyer to acquire goods from another seller exceeds the Price payable under the Contract.

13 Consequential loss

- 13.1 Without prejudice to clause 12 and to all other rights and remedies that the Buyer has, the Seller shall in addition be liable to the Buyer for all direct, indirect and consequential losses arising from any breach by the Seller of the provisions of the Contract.

Standard Terms & Conditions for Purchase Orders

14 Property

14.1 The property in the Goods shall pass to the Buyer:

- 14.1.1 when the Goods are unconditionally appropriated to the contract by either party, or by or with the consent of either party; or
- 14.1.2 on delivery to the Buyer; whichever of those events is the first to occur.

15 Guarantee of title

The Seller undertakes that:

- 15.1 the Seller has at the time of conclusion of the Contract full, clear and unencumbered title to the Goods, and the clear and unencumbered right, power and authority to sell, transfer and deliver all of the Goods to the Buyer;
- 15.2 at the date of delivery of any of the Goods, the Seller shall hold such title and right in relation to the Goods as is mentioned in clause 15.1; and
- 15.3 from the date appointed by the Contract as the date on which property in the Goods shall be transferred to the Buyer, the Buyer shall acquire a valid, unqualified and unencumbered title to the Goods and shall enjoy quiet possession of the Goods.

16 Risk

The Goods & Services will be at the Seller's risk until:

- 16.1 the Goods & Services are delivered to the Buyer or performed to the satisfaction of the Buyer or are delivered at the Buyer's direction; and
- 16.2 the Buyer has, in the manner and on the terms prescribed by clause 19, accepted the Goods and Services as conforming in every respect with the provisions and the specifications of the Contract.

17 Deterioration in the Goods

17.1 Without prejudice to the generality of the previous provisions, the Seller accepts the risk of deterioration of the Goods when such risk is necessarily incident to the course of transit.

18 Insurance

18.1 The Seller shall have in place a contract of insurance over the Goods until the Buyer has, in the manner and on the terms prescribed by clause 19, accepted the Goods as conforming in every respect with the provisions and the specifications of the Contract.

18.2 The Seller shall on the request of the Buyer assign to the Buyer the benefit of the contract of insurance referred to in clause 18.1.

18.3 The Seller shall also possess the following insurances for the duration of the Contract:

- 18.3.1 Employers Liability and/or (where the jurisdiction of where Scope is to be supplied or under which the employees employed requires the same) Worker's Compensation insurance covering personal injury to or death of the employees of Contractor engaged in the performance of Scope to the minimum value required by any applicable legislation including extended cover (where required) for working offshore but in any case up to a minimum level of one million (US\$ 1,000,000) United States dollars per occurrence;
- 18.3.2 General Third Party Liability insurance (including coverage for sudden and accidental pollution) for any incident or series of incidents covering the operations of Contractor in the performance of the Purchase Contract, in an amount not less than five million (US\$ 5,000,000) United States dollars per occurrence;

Standard Terms & Conditions for Purchase Orders

19 Acceptance of the Goods & Services

- 19.1 The Buyer shall not have accepted, or be deemed to have accepted, the Goods until the Acceptance Conditions are fulfilled.
- 19.2 The 'Acceptance Conditions' are:
 - 19.2.1 that the Goods have been delivered to the location specified; and
 - 19.2.2 that the Buyer has notified the Seller in writing that the Goods are in complete compliance with the provisions and the specifications of the Contract.
- 19.3 The Buyer may, notwithstanding that the Acceptance Conditions have been fulfilled, nonetheless reject the Goods and make a claim for damages if the Buyer (exercising reasonable diligence and observation) discovers within a reasonable period, but in no case more than 24 months date of delivery, of a notice given under clause 19.2.2 that the Goods are not in complete compliance with the provisions and the specifications of the Contract.

20 Indemnities

- 20.1 The Seller shall indemnify and keep indemnified the Buyer against all claims, costs and expenses which the Buyer may suffer or incur following, and which may arise directly or indirectly from, the Seller's breach of any of the Seller's obligations under the Contract.
- 20.2 The Seller will be responsible for and will release, indemnify, defend and hold harmless the Buyer from and against all claims, losses, damages, costs (including legal fees), expenses and liabilities in respect of:
 - 20.2.1 loss of or damage to the property of the Seller whether owned or leased by the Seller and, without limiting the foregoing, loss of or damage to property of the Buyer for which the Seller has risk of loss and/or damage under the Contract; and
 - 20.2.2 personal injury including death or disease to any person employed or engaged by the Seller; arising from or relating to the performance of the Purchase Contract; and
 - 20.2.3 all claims that may be brought against the Seller under law providing for strict liability of the Buyer for acts or omissions of the Seller.

21 Termination

- 21.1 Without prejudice to any other right or remedy to which either the Buyer might be entitled, the Buyer may, in the events specified in clause 21.2, terminate the Contract at any time by notice in writing to the Seller, such notice to take effect as specified in the notice.
- 21.2 The events specified in clause 21.1 occur when:
 - 21.2.1 The Seller is in breach of the Contract, and in the case of a breach capable of remedy within 10 days, the breach is not remedied within 10 days of the Seller receiving notice specifying the breach and requiring it to be remedied; or
 - 21.2.2 The Seller becomes insolvent, or an order is made or a resolution is passed for the winding up of the Seller (other than voluntarily for the purpose of solvent amalgamation or reconstruction), or an administrator or administrative receiver is appointed in respect of the whole or any part of the Seller assets or business, or the Seller makes any composition with its creditors, or the Seller takes or suffers any similar or analogous action in consequence of debt.
 - 21.2.3 A breach of the Sellers warranties and undertakings contained in clause 23.



Standard Terms & Conditions for Purchase Orders

22 Defenses and variations

- 22.1 Force majeure
 - 22.1.1 Neither party shall owe or incur any liability under or in connection with, or be deemed to be in breach of, the Contract by reason of any delays in, or revisions to, or failures in performance of the Contract that result from circumstances beyond the reasonable control of that party.
 - 22.1.2 The party affected by the circumstances referred to in clause 22.1.1 shall promptly notify the other party in writing when the occurrence of any circumstance referred to in clause 22.1.1 causes, or can reasonably be expected to cause or to threaten to cause, a delay, revision or failure in performance; and when any such circumstance ceases to do so. If such circumstances continue for a continuous period of more than 60 days, either party may terminate the Contract by written notice to the other party.
- 22.2 Amendments
 - 22.2.1 The Contract may be amended only by formal amendment in writing signed by duly authorised representatives of the parties.
- 22.3 Waiver
 - 22.3.1 No inaction, omission, failure or delay by the Buyer in exercising or securing the enforcement or validity of any right, power, privilege or demand arising under or in connection with the Contract, and no single or partial exercise of any such right, power, privilege or demand, shall impair the existence, operation, content, effect and enforcement of the said right, power, privilege or demand, or operate as a waiver of it.
 - 22.3.2 The rights and remedies provided in the Contract are cumulative and (subject to clause 22.4.1) not exclusive of any rights and remedies provided by law.
- 22.4 No agency or partnership
 - 22.4.1 The Contract shall not constitute or imply any partnership, joint venture, agency, fiduciary relationship or other relationship between the parties, other than, and except as provided for in, the contractual relationship expressly provided for in the Contract.
 - 22.4.2 Neither party shall have, nor shall either party represent that it has, any authority to make any commitments on the other party's behalf.
- 22.5 Co-operation
 - 22.5.1 Each party to the Contract shall, at the reasonable request of the other party and at that other party's expense, perform or abstain from any act the performance of or abstention from which can reasonably be regarded as necessary to effect or facilitate the observance, implementation, clarification or enforcement of the provisions of the Contract.

23 Ethics & Compliance

- 23.1 The Buyer has a zero-tolerance policy towards bribery and corruption. This zero-tolerance policy extends to all companies and individuals who provide goods or services to the Buyer. The Seller warrants that, in connection with the Contract, the Seller (i) has complied and will comply with all anti-bribery and corruption, anti-money laundering laws, rules, and regulations (including, but not limited to, Bribery Act 2010 of the United Kingdom, Foreign Corrupt Practices Act 1977 of the United States of America, and the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions) applicable to the Seller or Buyer, and (ii) will not, directly or indirectly, make or allow facilitation payments, and (iii) will not, offer, give or agree to give any person whatsoever, or solicit, accept or agree to accept from any person, either directly or indirectly, anything of value in order to obtain, influence, induce or reward any improper advantage (the "Anti-Corruption Obligation").
- 23.2 The Seller agrees it shall on an on-going basis, and subject to any applicable data privacy law and the attorney-client or work product privileges, unless expressly prohibited by law:
 - 23.2.1 immediately disclose in writing to the Buyer details of any potential breach or alleged breach of the Anti-Corruption Obligation; and
 - 23.2.2 on reasonable request, use best endeavours to co-operate with the Buyer to ensure and monitor compliance with the Anti-Corruption Obligation, which shall include promptly responding in reasonable detail to any notice from the Buyer reasonably connected to the Anti-Corruption Obligation and making any relevant books, records, or personnel relating to the CONTRACT and CONTRACTOR'S compliance with the Anti-Corruption Obligation available for review by the Buyer.

Standard Terms & Conditions for Purchase Orders

23 Ethics & Compliance (cont'd)

- 23.3 The Seller shall throughout the term of the Contract:
- 23.3.1 institute and maintain policies and procedures which are reasonably expected to ensure compliance with all applicable laws and the Anti-Corruption Obligation, including the maintenance of complete and accurate books and records and an effective system of internal accounting controls;
 - 23.3.2 maintain at its normal place of business, throughout the term of the Contract and for at least six (6) years following its expiration or termination, detailed books, records and accounts which accurately and fairly reflect all transactions and payments made by the Buyer in connection with the Contract;
 - 23.3.3 make clear, in its dealings connected to the Contract, that it is required to act, and is acting, in accordance with the Anti-Corruption Obligation; and
 - 23.3.4 on reasonable notice, and subject to any applicable data privacy law, legal privilege, or express legal prohibition, permit the Buyer or its duly appointed third party representatives to access, review, inspect and make copies of the Seller's books, records and accounts in order to audit the Seller's compliance with the Anti-Corruption Obligation.
- 23.4 The Seller represents, warrants, and covenants that except as otherwise disclosed in writing to the Buyer, as of the date of the Contract
- 23.4.1 none of its directors, officers, employees, contractors or other service providers in connection with this contract is a public official; and
 - 23.4.2 no public official will have a direct or indirect interest in the Contract or have any legal or beneficial interest in any payments made by the buyer under the Contract; and
 - 23.4.3 it shall promptly notify the Buyer in writing of any change in the foregoing.
- 23.5 The Seller further agrees and undertakes that:
- 23.5.1 it shall conduct appropriate anti-corruption and other due diligence prior to appointing or engaging such third party providers to ensure that they are duly qualified to perform the tasks for which they have been engaged, that they are of good reputation, and that they would present no corruption-related or other compliance risk or liability to the Buyer;
 - 23.5.2 it shall cause all such third-party providers to agree, in writing, to compliance with laws and Anti-Corruption Obligations sufficient to satisfy a best practices compliance program, and where consistent with such program, materially equivalent as those set forth in this clause.

24 Integrity, continuity, exclusivity and enforcement

- 24.1 Entire agreement
- 24.1.1 The Contract contains the whole agreement between the parties and supersedes and replaces any prior written or oral agreements, representations or understandings between them relating to the Goods. The parties confirm that they have not entered into the Contract on the basis of any representation that is not expressly incorporated into the Contract
 - 24.1.2 Nothing in the Contract excludes or restricts the liability of any party for fraud or bad faith.
- 24.2 Severance
- 24.2.1 If any provision of the Contract is prohibited by law, or is determined by any court of law or other binding adjudicatory authority or conceded by the parties to be unlawful, void or unenforceable, the provision:
 - 24.2.1.1 shall, to the extent required and as far as possible, be severed from the Contract and rendered ineffective without modifying the remaining provisions of the Contract; and
 - 24.2.1.2 shall not in any way affect any other provisions of the Contract or the validity or enforcement of the Contract generally.
- 24.3 Assignment
- 24.3.1 Subject to clause 24.3.2, neither party may assign, delegate, sub-contract, mortgage, charge or otherwise transfer any or all of its rights and obligations under the Contract without the prior written agreement of the other party.
 - 24.3.2 A party may, however, assign and transfer all its rights and obligations under the Contract to any person to which it transfers all of its business, provided that the assignee undertakes in writing to the other party to be bound by the obligations of the assignor under this Contract.



Standard Terms & Conditions for Purchase Orders

24 Integrity, continuity, exclusivity and enforcement (cont'd)

24.4 Announcements

- 24.4.1 Neither party shall issue or make any public announcement or disclose any information regarding the Contract, unless before such public announcement or disclosure it furnishes the other party with a copy of such announcement or information and obtains the approval of the other party to its terms.
- 24.4.2 Notwithstanding clause 24.4.1, neither party shall be prohibited from issuing or making any public announcement or disclosing any information if it is necessary to do so to comply with any applicable law or with the regulations of a recognised stock exchange or any other competent financial authority.

24.5 Interpretation

In the Contract, unless the context otherwise requires:

- 24.5.1 words importing any gender include every gender;
- 24.5.2 words importing the singular number include the plural number and vice versa;
- 24.5.3 words importing persons include firms, companies and corporations and vice versa;
- 24.5.4 references to numbered clauses and schedules are references to the relevant clause in or schedule to the Contract;
- 24.5.5 any obligation on any party not to do or omit to do anything is to include an obligation not to allow that thing to be done or omitted to be done;
- 24.5.6 the headings to the clauses, schedules and paragraphs of the Contract are not to affect the interpretation;
- 24.5.7 any reference to an enactment includes reference to that enactment as amended or replaced from time to time and to any subordinate legislation or byelaw made under that enactment;
- 24.5.8 where the word 'including' is used in the Contract, it shall be understood as meaning 'including without limitation';

24.6 Notices

- 24.6.1 Any notice to be given under the Contract shall be in writing and shall be sent by email (confirmed by first-class mail or air mail), to the address of the relevant party set out in the Contract, or to such other address as that party may from time to time notify to the other party in accordance with this clause
- 24.6.2 Notices shall be deemed to have been received, when the email first appears in any email system that can reasonably be assumed to be used by the recipient and when the sender can confirm delivery.
- 24.6.3 In proving the giving of a notice, it shall be sufficient to prove that the notice was confirmed or acknowledged.

24.7 Law and jurisdiction

- 24.7.1 In the event of a dispute arising out of or relating to the Contract, including any question regarding its existence, validity or termination, the parties shall first seek settlement of that dispute by mediation in accordance with the Mediation Rules of the DIFC LCIA Arbitration Centre, which Rules are deemed to be incorporated by reference into this clause.
- 24.7.2 If the dispute is not settled by mediation within 60 days of the commencement of the mediation, or such further period as the parties shall agree in writing, the dispute shall be referred to and finally resolved by arbitration under the Arbitration Rules of the DIFC-LCIA Arbitration Centre, which Rules are deemed to be incorporated by reference into this clause.
 - 24.7.2.1 The language to be used in the mediation and in the arbitration shall be English.
 - 24.7.2.2 The governing law of the Contract shall be the substantive law of England & Wales.
- 24.7.3 In any arbitration commenced pursuant to this clause,
 - 24.7.3.1 the number of arbitrators shall be one; and
 - 24.7.3.2 the seat, or legal place, of arbitration shall be London

24.8 Third parties

- 24.8.1 For the purposes of the Contracts (Rights of Third Parties) Act 1999, the Contract is not intended to, and does not, confer on any person who is not a party to the Contract:
 - 24.8.1.1 any right to enforce any of its provisions; or
 - 24.8.1.2 any right to avail itself of any defence expressed in the Contract