

STANDARD CONDITIONS FOR THE SUPPLY AND DELIVERY OF ITEMS AND/OR SERVICES

1. DEFINITION

- 1.1 In these Conditions, the words are defined as follows:
- 'Company' means Tuas Power Ltd (Company Registration No. 199502116G) / Tuas Power Generation Pte Ltd (Company Registration No. 200909292D) / TP Utilities Pte Ltd (Company Registration No. 200920924G) / Tuas Power Supply Pte Ltd (Company Registration No. 200004985K) / TP Asset Management Pte Ltd (Company Registration No. 200505009R)* or subsidiaries of Tuas Power Ltd.
 - 'Vendor' means the successful party whose offer the Company has accepted and who has undertaken to supply the Items and/or to perform the Services.
 - 'Purchase Order' or 'Service Order' means the resultant order in any form issued by the Company to the Vendor and the standard conditions hereunder for the supply and delivery of Items and/or Services.
 - 'Service' or 'Services' means the work which the Vendor is required to provide.
 - 'Items' means all items including the related licenses which the Vendor is required to supply and deliver.
 - Words importing the singular include the plural and vice versa. Words denoting the masculine gender include the feminine gender and both shall include the neuter gender.

2. DELIVERY

- 2.1 The Vendor shall deliver the Items and/or perform the Services in accordance with the delivery date(s) specified, in the manner specified and at the place(s) specified in the Purchase Order or Service Order. In this regard, **TIME SHALL BE OF THE ESSENCE**.
- 2.2 Unless otherwise stated, all delivery shall be made on Monday to Friday except Public Holidays, between 9.00am to 5.00pm.
- 2.3 The Company reserves the right, at its discretion, to vary the delivery date and/or the place of delivery on due notification to the Vendor.
- 2.4 For delivery to the Company's stores, the Vendor shall stack and arrange the Items in proper manner at the place directed by the store's officer-in-charge.

3. LIQUIDATED DAMAGES

- 3.1 In the event of failure by the Vendor to supply and deliver any part of Items and/or Services by the delivery date specified in the Purchase Order or Service Order other than due to the circumstances provided for in Clause 17, the Company shall have the right:
- to cancel all or any such item of Items and/or Services from the Purchase Order or Service Order without compensation and obtain them from other sources and all increased costs thereby incurred shall be deducted from any money due or to become due to the Vendor under the Purchase Order or Service Order and shall be recoverable as damages; or
 - to require the Vendor to pay or allow the Company to deduct from any money due or to become due to the Vendor a sum, calculated at the rate of one (1) per cent of the total amount/ price of the Items and/or Services delayed per week or part thereof subject to a maximum of ten (10) per cent of the total amount / price of the Purchase Order or Service Order.

4. QUALITY

- 4.1 The Items and/or Services supplied shall conform in all respects to the specifications as set out in this Purchase Order or Service Order.
- 4.2 The Vendor hereby acknowledges that he/she knows the purpose the Items and/or Services are intended for and that the Items are of merchantable quality.

5. INSTALLATION

- 5.1 Where installation is required, the Vendor shall fully acquaint themselves with the structural, electrical, plumbing and other provisions pertinent to the Items and/or Services to be supplied.
- 5.2 The Vendor shall guarantee that on completion, the installation is free from any defects and is completely safe for operation.
- 5.3 The Vendor shall be responsible for and shall make good any damage to any building or any part thereof, inclusive of fixtures, fittings and furniture, caused by his servants, workmen or agents and shall leave the same in as good a state of repair as it was when the work commenced.

6. TESTING AND COMMISSIONING

- 6.1 Where testing and commissioning is required, the Vendor shall be suitably equipped with all necessary, calibrated test and measuring instruments and represented by competent staff who shall test and commission the Items and/or Services in the presence and to the satisfaction of authorised personnel appointed by and representing the Company.
- 6.2 The testing and commissioning shall include:
- visual inspection of the Items for damage, corrosion, short supply, wrong supply etc.;
 - visual inspection of installations for soundness, safety and neatness; and
 - complete and thorough performance and safety checkouts in accordance with the manufacturer's guidelines for acceptance testing and commissioning of the Items so as to verify safe and satisfactory operation in conformance with the manufacturer's specifications for each Item.

7. TITLE AND RISK

- 7.1 Title and the risk of loss or damage to the Items and/or Services shall pass from the Vendor to the Company upon delivery to the site in accordance with the terms and conditions of the Purchase Order or Service Order **PROVIDED ALWAYS THAT** should the Items be returned to the Vendor or the Services required for the purpose of upgrading, modification, replacement, rework or repair, then the risk of loss or damage to the Items and/or Services shall pass from the Company to the Vendor from the date the Items are collected or delivered back to the Vendor and/or Services are taken over by the Vendor thereof.

8. INSPECTION OF ITEMS IF REQUIRED BY THE COMPANY

- 8.1 Where inspection of any of the Items, whether completed or in the course of production, is required by the Company, the Vendor shall give the Company full and free access to his work as and when required for that purpose and shall give reasonable facilities as may be required thereof.

9. INDEMNITY

- 9.1 If in the course of manufacture, delivery, acceptance, installation, commissioning, use or operation of the Items and/or Services or any part or unit thereof, damage to property occurs or death or personal injury is caused by faulty workmanship on the part of the Vendor in the manufacture of the Items or any part or unit thereof or sub-standard materials used in the manufacture or defective design or howsoever arising directly or indirectly in connection with the Vendor's performance or failure to perform its obligations hereunder, the Vendor shall indemnify the Company against any claim arising therefrom and all expenses (including reasonable legal fees) incurred thereby.

10. INDEMNIFICATION OF THE COMPANY AGAINST CLAIMS BY THE VENDOR'S EMPLOYEES

- 10.1 In the event of any claim whatsoever against the Company including for this purpose every officer and department thereon at any time, by any workmen or employee employed by the Vendor in and for the performance of the Purchase Order or Service Order, the Vendor shall indemnify the Company, its officers or departments against such claim and any costs, charge and expenses in respect thereof.

11. ADEQUACY OF DESIGN

- 11.1 Notwithstanding any approval (whether verbally or in writing) given by the Company to any of the Vendor's proposals, designs and technical specifications relating to the performance and construction of the Items and Services, the Vendor agrees and declares that it shall remain solely responsible for the adequacy of the design, performance functions, reliability and construction of the Items and/or Services and for compliance with the specifications.

- 11.2 The Vendor shall utilise optimum and cost effective methods in the design and supply of the Items and/or Services rendered.

- 11.3 In the event of any inadequacy in the design of Items and/or Services, the Vendor shall, whenever it occurs, rectify immediately such inadequacy at the Vendor's own expense.

12. DESIGN RIGHTS

- 12.1 Where as a result of carrying out its obligations under the Service Order, work designed by the Vendor is to be paid by the Company and the Vendor generates proprietary technical data, then such data know-how and other information shall become the property of the Company as and when such is generated.

- 12.2 The Vendor shall not use any such proprietary technical data, know-how and other information compiled without the authorisation of the Company even in the event of termination of Purchase Order or Service Order pursuant to the Company's right to suspend or terminate the Purchase Order or Service Order.

13. REMEDIES FOR INFRINGEMENTS OF PATENT RIGHTS, INTELLECTUAL PROPERTY RIGHTS AND ROYALTIES

- 13.1 All royalties and fees whatsoever claimable by or payable to any person, firm, corporation or government for or in connection with any invention or patent rights, copy rights and trademarks used or required to be used in respect of the Items and/or Services or any part or unit thereof supplied under this Purchase Order or Service Order shall be deemed to be included in the total amount or price for the Items or Services.

- 13.2 In the event of the Company (including for this purpose, every staff of the Company thereof), being held liable for damages arising out of any claim at the time on account of patent rights and/or intellectual property rights which may be payable by virtue of the Company's acceptance, possession, purchase, use or distribution of the Items and/or Services or any part or unit thereof under this Purchase Order or Service Order, the Vendor shall indemnify the Company and its staff against all such claims and costs, charges and expenses in respect thereof.

- 13.3 In the event that any such infringement occurs or may occur, the Vendor shall at his own expense:

- procure for the Company the right to continue accepting, possessing, purchasing, distributing or using the Items and/or Services, or
- modify or amend the Items and/or Services or infringing part thereof so that the same becomes non-infringing without affecting the capacity and performance of the Items and/or Services, or
- replace the Items and/or Services or infringing part thereof by other Items and/or Services or part thereof of identical capability and performance.

14. WARRANTY

- 14.1 The Vendor shall provide a twelve (12) months warranty period unless otherwise stated, commencing from the date of delivery or successful completion of commissioning of the Items and/or Services during which period the Vendor shall within three (3) days after notification replace with original parts and/or repair free of charge the Items and/or Services or any part(s) thereof (including accessories) found defective by reason of design, materials and/or workmanship.

- 14.2 The warranty period shall be extended for the period the Item or Service is out of service during the warranty period which shall be computed from the date of notification by the Company to the Vendor that the Item is out of service and/or the Service is out of order until the date of replacement or rectification.

- 14.3 Where applicable, the Vendor shall guarantee that spare parts and consumables for the Items supplied will be available for a period of at least one (1) year from the date of commissioning of the Item and shall further undertake to locally supply or make available these parts/consumables for the stipulated period.

15. PRICE AND PAYMENT

- 15.1 The price payable to the Vendor under the Purchase Order or Service Order for the supply of the Items and/or Services shall be on an all-in firm price basis and shall, unless otherwise agreed in writing, include all costs and expenses to be incurred up to delivery including but not limited to transportation costs, customs duties, taxes (including Goods and Services Tax in Singapore (GST)), levies, governmental or licence fees, insurances, royalties, labour charges and costs of materials. All payment of Goods and Services Tax, if applicable, shall be in Singapore Dollars.

- 15.2 The Company shall within thirty (30) days of the delivery and acceptance of the Items or performance of the Services, pay for the same upon presentation by the Vendor of the commercial invoice(s), delivery note(s) and such other documents as may be required by the Company:

- PROVIDED** that such payment shall not affect the Company's right to reject any of the Items and/or Services or the Vendor's responsibility to replace defective or damaged Items and/or for unsatisfactory Services in which case, the Company, in addition to any other rights which it may have under warranties or otherwise, may at its option require the Vendor to refund the Company any part of the price thereby paid for such Items and/or Services together with transportation and other charges; or to require the Items and/or Services to be replaced, failing which the Company shall have the right to purchase replacements from alternative sources or to make good any damage in any manner it deems necessary and all costs thereby incurred shall be recoverable as a debt due from the Vendor.

- 15.3 Notwithstanding clause 15.2 above, full payment will not be made until the Items and/or Services have been successfully commissioned or accepted in accordance with clause 6 above.

- 15.4 The Company shall be entitled at all times to set-off any amount owing at any time from the Vendor to the Company or any of its affiliated companies against any amount payable by the Company or its affiliated companies to the Vendor.

16. ASSIGNMENT

- 16.1 The Vendor shall not transfer or assign the Purchase Order or Service Order or any part, share or interest therein without the prior written consent of the Company.

- 16.2 The Company is entitled to transfer or assign the Contract or any part of the share, benefit or interest to any parties at any time without the prior consent of the Vendor.

17. FORCE MAJEURE

- 17.1 The Vendor shall not be liable for any failure to comply with his obligations under this Purchase Order or Service Order where such failure is caused by an Act of God or Force Majeure or any riot, civil commotion, strike, lockout or other labour disturbance, or by any fire, war, acts of foreign enemies or perils of the sea or other perils (other than delays caused by sub-contractors) beyond the control of the Vendor. The Vendor shall notify the Company in writing of the said failure within fourteen (14) days of the commencement of the event relied upon by the Vendor for its failure to comply with its obligations.

- 17.2 In any of the events mentioned in sub-clause 17.1, the Vendor shall for the duration of such event, be relieved of any obligation under this Purchase Order or Service Order as is affected by such event:

- PROVIDED** that the provisions of the Purchase Order or Service Order shall remain in force with regard to all other obligations under the Purchase Order or Service Order which are not affected by such event; and

- PROVIDED** further that the Vendor shall, should the Company in writing so require, resume his full obligations under the Purchase Order or Service Order upon the cessation of such event.

- 17.3 If any of the events mentioned in sub-clause 17.1 above shall last for more than fourteen (14) days, the Company shall have the right to terminate the Purchase Order or Service Order without being liable therefor in damages. The Vendor shall within fourteen (14) days of the expiration of the notification period refund any excess advance payment to the Company after deducting the cost of delivered Items at prices stated in the Purchase Order or Service Order.

18. SUSPENSION OR TERMINATION

- 18.1 If the Vendor is in default in the performance of this Purchase Order or Service Order, or fails to fulfill any obligation under this Purchase Order or Service Order, the Company shall have the right to terminate this Purchase Order or Service Order thirty (30) days after notification to the Vendor of its default or failure without being liable therefor in damages.

- 18.2 In the event of termination under sub-clause 18.1 above, the Vendor shall refund and repay to the Company any advance payment received from the Company without prejudice to the Company's right to claim compensation for increased costs in obtaining the Items and/or Services from other sources.

- 18.3 The Company may at any time by notice in writing summarily determine this Purchase Order or Service Order, or any unperformed balance of this Purchase Order or Service Order without compensation to the Vendor in any of the following events:

- if the Vendor, being an individual or, where the Vendor is a firm, any partner in that firm shall at any time become bankrupt, or shall have a receiving order or administration order made against him, or shall make any composition or arrangement with or for the benefit of his creditors, or shall make any conveyance or assignment for the benefit of his creditors; or

- if the Vendor, being a company shall pass a resolution or the Court shall make an order that the company shall be wound up (otherwise than for the purposes of amalgamation or reconstruction), or if a receiver or manager on behalf of a creditor shall be appointed or if circumstances shall arise which entitle the Court or a creditor to appoint a receiver or manager or which entitle any Court to make a winding order; or

- if the Vendor is insolvent or unable to pay his debts as they fall due.

- PROVIDED ALWAYS THAT** such determination shall not prejudice or affect any right of action or remedy which shall have accrued or shall accrue thereafter to the Company.

- 18.4 Any termination under sub-clause 18.3 above shall discharge the parties from any liability for further performance of the Purchase Order or Service Order and the Company shall be repaid forthwith any sum previously paid under this Purchase Order or Service Order (whether paid by way of a deposit or otherwise) and to recover from the Vendor the amount of any loss or damage sustained or incurred by the Company as a consequence of such termination.

19. VARIATION OF PURCHASE / SERVICE ORDER

- 19.1 Subject to clause 2.3, no variation of the Purchase Order or Service Order shall apply hereto unless such variation shall have first been expressly accepted in writing by both parties.

20. APPROVALS

- 20.1 The Vendor shall at its own cost and expense, apply for and maintain all necessary approvals, licences and permits from the relevant governmental authorities and comply with the conditions of all such approvals, licences and permits and all applicable laws, rules and regulations whatsoever so as to enable the Vendor to fulfill its obligations hereunder.

21. APPLICABLE LAW

- 21.1 The Purchase Order or Service Order shall be deemed to be made in Singapore and shall be subject to, governed by and interpreted in accordance with the Laws of Republic of Singapore for every purpose. The parties hereby submit to the non-exclusive jurisdiction of the courts in Singapore in respect of any claims or dispute under or arising from the Purchase Order or Service Order.

22. LANGUAGE

- 22.1 All business relating to this Purchase Order or Service Order, both written and verbal, shall be conducted in the English Language.

23. RELIANCE CLAUSE

- 23.1 The Vendor accepts that the Company, inter alia, relies on the skill and judgement of the Vendor in the design, description, manufacturing, quality, reliability, function and performance of the Items to be provided and on the judgement and skill of the Vendor for any and all of the Services to be performed.

24. ACCESS

- 24.1 The Vendor shall ensure that all employees or agents at all times while on the Company's premises, comply in every respect with such rules and regulations as may be prescribed by the Company from time to time

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pertaining to the entry by and presence and conduct of such personnel while on its premises. The Company may deny such person entry to the premises if he fails to comply with such rules and regulations.

25. NOTICES

25.1 Any notice or other communication sent by the Company shall be in writing and shall be deemed to be properly sent under registered mail cover to the Vendor's address as specified in this Purchase Order or Service Order.

25.2 Any notice or other communication sent by the Vendor to the Company shall be deemed to be properly sent under registered mail cover to the Company's address below:

Tuas Power Ltd / Tuas Power Generation Pte Ltd / TP Utilities Pte Ltd / Tuas Power Supply Pte Ltd / TP Asset Management Pte Ltd and subsidiaries of Tuas Power Ltd *

111 Somerset Road
#11-09
Singapore 238164

26. WAIVER

26.1 In the event the Company should waive any of its rights under this Purchase Order or Service Order, the Company has waived only on the particular occasion and the Company reserves its right to exert its rights on any subsequent occasion.

27. EMPLOYMENT OF FOREIGN WORKERS

27.1 Prior to the commencement of any Service(s) on the Company's premises, the Vendor shall comply with all requirements under and shall ensure that any foreign workers employed by the Vendor shall possess valid work permit(s) as required by, the Employment of Foreign Manpower Act and Immigration Act.

27.2 The Vendor shall ensure that its foreign workers carry with them valid work permit(s) at all time while at work on the Company's premises.

27.3 The Company reserves the right to terminate any Service(s) without being liable therefor in damages if the Company finds that any of the Vendor's foreign workers is not in possession of a valid work permit whilst on the Company's premises. The Vendor shall indemnify the Company against all claims, or losses or damages incurred by the Company arising out of the breach of this Clause 27 by the Vendor.

28. THIRD PARTIES

28.1 A person who is not party to this Purchase Order or Service Order shall not have any right under the Contracts (Rights of Third Parties) Act to enforce any provision of this Purchase Order or Service Order.

29. CONFIDENTIALITY

29.1 Except with the prior written consent of the Company, the Vendor shall not disclose any terms of this Purchase Order or Service Order, information or specifications issued or furnished by or on behalf of the Company in connection therewith or with the Company, to any person other than a person employed or engaged by the Vendor in carrying out the terms of this Purchase Order or Service Order.

30. COMPANY'S TERMS & CONDITIONS PREVAIL

30.1 The terms and conditions herein shall supersede any standard terms and conditions of the Vendor.

31. PERSONAL DATA PROTECTION

31.1 The Vendor shall comply with the Personal Data Protection Act ("PDPA") and the Vendor will take such action to ensure that the Company will be in compliance with PDPA. Without limiting the foregoing, the Vendor shall:

(i) process all and any personal data ("Personal Data") given by the Company or on behalf of the Company pursuant to this Contract for the purposes of performing this Contract only;

(ii) at all times comply with the PDPA, including to:

- a. implement appropriate security measures to protect Personal Data against unauthorised or unlawful processing, access, collection, use, disclosure, copying, modification, disposal or similar risks, and against accidental loss, destruction, damage, alteration or disclosure; and
- b. cease retention of all documents and materials which contain Personal Data, or remove the means by which Personal Data can be associated with particular individuals, as soon as the Personal Data is no longer required for the purposes of performing this Contract; and

(iii) obtain prior written consent from the Company before transferring any Personal Data outside of Singapore, or to any third parties.

The Vendor, for itself and on behalf of its employees, its contractors and agents and their respective employees (collectively "Representatives"), consents to the collection, usage, storage, process and disclosure by the Company of any Personal Data relating to the Vendor or its Representatives for the purpose of this Purchase Order or Service Order and in connection with any other purpose relating to the business of the Company and its related parties.

*Delete where applicable.

w.e.f. 01 Sep 2019