

**1.0 Subject of these General Conditions, Definitions & Interpretation**

1.01 STRABAG Oman L.L.C. (the “**CONTRACTOR**”) is a construction technology company, part of the STRABAG Group (www.strabag.com), that carries out construction works in the Sultanate of Oman. The purpose of these General Conditions of Agreement (the “**GENERAL CONDITIONS**”) is to define the standard terms upon which CONTRACTOR enters PURCHASE ORDERS with its suppliers and subcontractors in relation to a PROJECT. These GENERAL CONDITIONS constitute an integral and substantial part of a PURCHASE ORDER, whenever either expressly referred to in the PURCHASE ORDER or materially incorporated in the PURCHASE ORDER.

The following definitions shall be used for the purposes of interpreting the Purchase Order General Conditions of Agreement and any other Conditions noted within the PURCHASE ORDER generally -

“**EMPLOYER**” means the client of the CONTRACTOR for a PROJECT and its successors and assignees, including any successor operator of the PROJECT.

“**CONFIDENTIAL INFORMATION**” means any information regarding any aspect of the PROJECT or this PURCHASE ORDER.

“**GOODS**” means all goods and / or services specified in the PURCHASE ORDER.

“**GOVERNMENT**” means the Government of the Sultanate of Oman, including all ministries, the office of the Sultan, public bodies and entities, statutory authorities, companies owned by, controlled by or participated by a statutory authority, committees, associations, chambers of commerce, inspectorates, agencies, other entities of the Government of the Sultanate of Oman.

“**CONTRACTOR**” means STRABAG Oman LLC

“**PARTIES**” means the parties to the PURCHASE ORDER.

“**PROJECT**” means the project to which the GOODS are supplied, as directed by the CONTRACTOR.

“**PURCHASE ORDER**” means the main body of the purchase order, these GENERAL CONDITIONS and all appendices and schedules attached thereto.

“**SUPPLIER**” shall be the legal entity and his successors engaged to undertake the services described within this PURCHASE ORDER.

“**MAIN CONTRACT**” means the contract entered into between the CONTRACTOR and the EMPLOYER for the PROJECT. Unless stated otherwise in the PURCHASE ORDER, the MAIN CONTRACT is the “Standard Contract for Building and Civil Engineering Works” May 2019, Rev. 01 published by the Ministry of Finance and the Ministry of Legal Affairs of the Sultanate of Oman.

“**VAT**” means Value Added Tax as applicable from time to time to the supply of GOODS.

**2.0 Conditions**

2.01 These GENERAL CONDITIONS shall be the prevailing conditions governing the PURCHASE ORDER and they shall supersede all prior negotiations, representations or agreements previously made either written or oral. The PURCHASE ORDER constitutes the entire agreement between the Parties. Any other terms and conditions of purchase which may be contrary hereto, or deviating here from, shall not be deemed an integral part of the PURCHASE ORDER unless specifically agreed and expressly accepted by an authorized representative of the CONTRACTOR in writing.

2.02 Only the CONTRACTOR shall be entitled to make any alteration or amendment to the PURCHASE ORDER, which will only become valid if it is given expressly in writing by an authorised representative of the CONTRACTOR. Furthermore, any agreements entered into by telephone, general e-mail, communication or by word of mouth shall not be valid unless they are confirmed in writing by an authorised representative of the CONTRACTOR.

2.03 The SUPPLIER shall not assign in whole or in part any or all of its rights and/or obligations under the PURCHASE ORDER without first having received the CONTRACTOR's prior written consent (which shall not be unreasonably withheld).

2.04 No failure on the part of the CONTRACTOR at any time to enforce or require strict adherence to, and performance of, any of the terms and conditions of the PURCHASE ORDER shall constitute a waiver of such terms and conditions and/or affect or impair any of the rights of the CONTRACTOR at any time to avail itself of such remedies as it may have under the PURCHASE ORDER for each and every breach thereof.

2.05 The terms and conditions of the PURCHASE ORDER are without prejudice to the CONTRACTOR'S rights and remedies at law or otherwise.

**3.0 Language and Applicable Law**

3.01 The language of this PURCHASE ORDER shall be English, and all communications shall be given in English, or, where not in English, should include an English translation. In case of any conflict or discrepancy, the English language version shall prevail and take precedence.

3.02 The PURCHASE ORDER shall be governed, construed, enforced and interpreted in accordance with the Laws of the Sultanate of Oman.

**4.0 Rates, Prices and Terms of Payment**

4.01 Payment to the SUPPLIER shall be made in accordance with the terms set out in the PURCHASE ORDER.

4.02 If a quantity (but not a rate or price, which is always fixed in accordance with Clause 4.05 hereof) in the PURCHASE ORDER has been identified as “Fixed”, “Lump Sum” or “LS”, this shall mean that the quantity is not subject to changes and shall not be re-measured to take into account the actual quantities of GOODS supplied. The SUPPLIER bears the risk of the quantities identified in the PURCHASE ORDER, which shall not be subject to any amendment whatsoever.

4.03 If a quantity (but not a rate or price, which is always fixed in accordance with Clause 4.05 hereof) in the PURCHASE ORDER has been identified as “Actual”, “Re-measurable” or “Measurable”, then the SUPPLIER shall be paid based on actual GOODS supplied and delivered to CONTRACTOR in accordance with this PURCHASE ORDER.

4.04 All invoices shall identify the PURCHASE ORDER number and the date and location of delivery and include a copy of the delivery / consignment note issued with the GOODS (which must be signed / initialled by the CONTRACTOR's representative at the time of delivery), as detailed in Clause 6.04 hereof.

4.05 The prices and/or rates detailed within the PURCHASE ORDER are deemed to be fixed for the duration of the PROJECT, even in the event of extraordinary or unforeseen circumstances, and shall not be altered for any change in law (including for changes to VAT regulations and/or any other taxes) or change in the price of labour, materials or goods, unless explicitly stated otherwise in the PURCHASE ORDER. The prices and/or rates detailed within the PURCHASE ORDER are also inclusive of any costs of the SUPPLIER to comply with its obligations under these GENERAL CONDITIONS.

- 4.06 To the extent that the goods and services provided under this Agreement are, or may become subject to, VAT, the SUPPLIER shall be solely responsible for proper preparation of its invoices in compliance with the relevant laws and regulations, including proper application of any VAT exemption or zero-rated VAT, as may be applicable. Payment of VAT to the SUPPLIER shall not be processed and released by CONTRACTOR until it has received a properly prepared and valid VAT invoice, in compliance with the said laws and regulations.
- 4.07 The CONTRACTOR shall have no liability in any way whatsoever to the SUPPLIER in respect of any error or failure by the SUPPLIER in relation to VAT and shall have full recourse against the SUPPLIER for any costs incurred as a direct result of such error or failure. The SUPPLIER shall not have any recourse against the CONTRACTOR in any way whatsoever for any error or failure in relation to VAT, including without limit:
- (i) where the SUPPLIER is subject to VAT ruling(s), determination, announcement or generally accepted practice in connection with the supply of GOODS;
  - (ii) where the SUPPLIER has assumed that it can recover input VAT and (for whatever reason) this assumption is subsequently held to be incurred or invalid; or
  - (iii) where the SUPPLIER's treatment of VAT in respect of any claim for payment under the PURCHASE ORDER is subsequently held to be incorrect or invalid.
- 4.08 Except as provided otherwise in the PURCHASE ORDER, or these GENERAL CONDITIONS, all rates and prices contained within the PURCHASE ORDER shall be deemed to include any imposed duty, tax, excise, custom from any Government or statutory authority, as the case may be, applied at the point of origin and of delivery of the GOODS supplied.
- 4.09 Unless otherwise stated in the PURCHASE ORDER, all rates and prices shall be deemed to include the delivery of the GOODS free of charge to the delivery address or place of delivery notified / desired by the CONTRACTOR, duty paid, including appropriate packaging.
- 4.10 The SUPPLIER shall supply packaging and containers of all kinds free of charge to the CONTRACTOR, however where they are to be returned to the SUPPLIER they shall be returned using the same vehicle provided for the delivery at no cost to the CONTRACTOR. Notwithstanding this the CONTRACTOR shall not be liable for any costs or charges resulting from damaged packaging and/or containers returned.
- 4.11 Any payment made to the SUPPLIER shall not be deemed to signify acceptance by the CONTRACTOR that the GOODS are defect free and therefore the CONTRACTOR shall be entitled to notify of defects to the GOODS supplied at any time during the PROJECT.
- 5.0 Manufacture / Provision of GOODS**
- 5.01 The SUPPLIER shall comply with any instructions given by the CONTRACTOR with respect to providing any necessary drawings, documents, calculations or the like which may be required from time to time to demonstrate that the GOODS supplied / to be supplied comply with the specified requirements detailed in the PURCHASE ORDER, including its appendices.
- 5.02 The SUPPLIER shall thoroughly check any drawings, specifications or documents contained within the PURCHASE ORDER prior to the commencement of any design or manufacture and shall immediately inform the CONTRACTOR of any omission, discrepancy, ambiguity, inconsistency or shortage therein. If the SUPPLIER fails to undertake the required check and latterly finds omissions, discrepancies, ambiguities, inconsistencies or shortages then the SUPPLIER shall be responsible for any time delay caused by such breach of obligation and shall be required to comply with the original delivery schedule contained within the PURCHASE ORDER.
- 5.03 The SUPPLIER shall complete the design (to the extent, if any, that he is expressly responsible for so doing), manufacturing and delivery of the GOODS as stipulated by this PURCHASE ORDER. The GOODS to be supplied under this PURCHASE ORDER are a portion of the obligations to be carried out by the CONTRACTOR under the MAIN CONTRACT. SUPPLIER acknowledges that any breach of this PURCHASE ORDER may result in the CONTRACTOR breaching the MAIN CONTRACT and may lead to termination for default and/or claim for damages or breach of contract. Accordingly, SUPPLIER acknowledges that the costs, losses, expenses and liabilities of the CONTRACTOR arising in relation to such breach are an appropriate component of CONTRACTOR's damages in any claim against SUPPLIER for breach of this PURCHASE ORDER.
- 5.04 The SUPPLIER shall assume and perform all of the CONTRACTOR's obligations in relation to the provision of the GOODS detailed within the PURCHASE ORDER to the reasonable satisfaction of the CONTRACTOR.
- 6.0 Delivery of GOODS**
- 6.01 Time of delivery of the GOODS is of the essence of the PURCHASE ORDER and therefore the SUPPLIER shall supply all GOODS on or before the scheduled delivery date detailed in the PURCHASE ORDER.
- 6.02 Delivery dates stated in the PURCHASE ORDER shall be binding unless the CONTRACTOR expressly consents to or requests any revised date. Should the CONTRACTOR consent to a revised date then the SUPPLIER shall not be deemed to have been released from any obligation(s) to comply with the terms of the PURCHASE ORDER and furthermore it will not act as an automatic waiver to any penalty agreed to be imposed for late delivery which may be detailed elsewhere in the PURCHASE ORDER.
- 6.03 Where the SUPPLIER notifies that any delivery for which he is responsible for, is scheduled or likely to be later than the agreed delivery date noted in the PURCHASE ORDER, the SUPPLIER shall make arrangements to have the GOODS shipped / transported by express means to ensure compliance with the delivery date stipulated in the PURCHASE ORDER: in such case all related costs shall be borne by the SUPPLIER.
- 6.04 Each delivery shall be substantiated using a delivery / consignment note which shall be handed over to the CONTRACTOR's representative at the site of the PROJECT or any such other nominated delivery location prior to offloading. The delivery / consignment note shall be uniquely numbered and contain details of the date of delivery, the PURCHASE ORDER number and a detailed list of GOODS provided. For machinery and equipment, the inventory numbers listed in the PURCHASE ORDER shall be detailed.
- 6.05 Where the SUPPLIER is responsible for shipping the GOODS, then the SUPPLIER shall provide all relevant logistical information to the CONTRACTOR's nominated logistics manager and the SUPPLIER will be required to dispatch the GOODS duty, insurance & legalization paid and they shall be shipped in accordance with any shipping Instructions contained within the PURCHASE ORDER or communicated by CONTRACTOR from time to time.
- 6.06 Where the shipping mode is detailed in the PURCHASE ORDER, the SUPPLIER shall ship the GOODS with the forwarder named in the PURCHASE ORDER.
- 6.07 The SUPPLIER is required to immediately notify in writing to the CONTRACTOR any delay in delivery, irrespective of the reason. The SUPPLIER shall state the exact reason(s) for the delay to delivery and the anticipated duration of such delay even if such delay in delivery may not (any longer) be attributable to SUPPLIER.
- 6.08 The acceptance by the CONTRACTOR of partial or early deliveries shall be at the sole discretion of the CONTRACTOR, provided however that any additional costs incurred by the CONTRACTOR therefrom shall be borne by the SUPPLIER, which will be deducted from payments due to be paid to the SUPPLIER.
- 6.09 The SUPPLIER shall use the means of access and egress to the worksite and / or any nominated lay-down or storage area as designated by the CONTRACTOR from time to time as the case may be.

- 6.10 The SUPPLIER shall comply with all statutory obligations and any other obligations imposed by the CONTRACTOR, EMPLOYER and / or the GOVERNMENT which may be current at the date of delivery.
- 6.11 The SUPPLIER shall at his own cost and risk obtain of all required permits, gate passes, licenses, certificates and every other authorisation necessary for the delivery of the GOODS.
- 6.12 The CONTRACTOR shall be responsible for identifying the location of deposition of the GOODS and the safe off-loading of same.

**7.0 Inspection, Testing and Quality of GOODS generally**

- 7.01 The SUPPLIER shall provide the GOODS in compliance with the specified requirements contained within the PURCHASE ORDER and they shall be free from any defects or imperfections.
- 7.02 The quantity, quality and description of the GOODS shall comply in all respects with the specification, drawings, samples and patterns specified in the PURCHASE ORDER.
- 7.03 The GOODS supplied shall comprise of materials which are new and unused, of correct design and workmanship, and are of sound and acceptable quality and they shall be fit for the purpose for which they are intended for. In the event that the GOODS fail to meet these requirements then the SUPPLIER shall provide a complete replacement free of charge to the CONTRACTOR as soon as practically possible.
- 7.04 The SUPPLIER shall not use any materials generally recognised as being deleterious or which are considered generally to be avoided.
- 7.05 The GOODS shall comply with the latest edition of the appropriate Local and/or International Standards as of the date the GOODS are delivered on Site, whichever is applicable to the PROJECT the GOODS are intended for. In the event that an ambiguity or inconsistency exists in or between these specifications then the most onerous requirement shall represent the minimum requirement to be provided and the SUPPLIER shall be deemed to have allowed for this within the rates and prices in the PURCHASE ORDER.
- 7.06 The CONTRACTOR reserves the right to engage a third party to remedy any defect or deficiency in the GOODS provided by the SUPPLIER and deduct the cost incurred from any amount due to the SUPPLIER, subject to the CONTRACTOR having given written notice to the SUPPLIER advising of the defect and giving the opportunity to inspect and repair the defect within a reasonable time (such reasonable time must reflect the impact that the defect has upon the performance of the PROJECT).
- 7.07 The SUPPLIER shall carry out all appropriate tests as may be required or could reasonably be inferred from the PURCHASE ORDER or such other tests as may be required to confirm conformance with the standards to be achieved pursuant to Clause 7.05 above – the CONTRACTOR shall not be under any obligation to test or inspect the GOODS before or on delivery to confirm compliance / conformance with the said standards.
- 7.08 The SUPPLIER shall provide all appropriate certified test certificates, records and inspection reports and the like as may be deemed necessary by the CONTRACTOR to confirm compliance with the requirements detailed within the PURCHASE ORDER. The SUPPLIER shall at all times comply with the CONTRACTOR's quality assurance and quality control policies, as may be amended from time to time, and the procedures and all regulations and directions contained therein.
- 7.09 The CONTRACTOR shall be entitled to enter upon the place of manufacture of the GOODS at any time and inspect the manufacturing process and at his sole discretion shall have the right to reject any part which he reasonably considers to be non-compliant with the terms of the PURCHASE ORDER. In case the place of manufacture is property of third parties, the SUPPLIER shall take all actions to ensure that the CONTRACTOR can timely inspect such premises.
- 7.10 The CONTRACTOR shall be entitled to inspect any test being undertaken relative to the GOODS being supplied and in this respect the SUPPLIER shall give seven (7) clear days prior written notification of the SUPPLIERS intention to undertake such test. Such inspection made by the CONTRACTOR shall not relieve the SUPPLIER of his obligation to comply with the obligations set out in the PURCHASE ORDER.

**8.0 Warranty**

- 8.01 The SUPPLIER warrants that the GOODS supplied shall be free from any design, workmanship or material defect.
- 8.02 The SUPPLIER shall guarantee the GOODS supplied against every defect in design and/or manufacture and to this extent shall provide the CONTRACTOR with the relevant Guarantee(s) / Warranty(s) detailed in the PURCHASE ORDER.
- 8.03 Save where the CONTRACTOR has used the GOODS negligently, incorrectly or inappropriately, the SUPPLIER shall take-up, remove and replace as soon as reasonably practicable any GOODS found to have a defect, error or failure prior to the expiry of the above noted Warranty Period free of charge (except in the case of an emergency which may result in harm to life or property, where they shall be replaced within 24 hours). In case of any resulting loss or damage of any kind to the PROJECT or the CONTRACTOR, any costs so incurred by the CONTRACTOR shall be reimbursed by the SUPPLIER to the CONTRACTOR within twenty one (21) days of the CONTRACTOR having presented documentary evidence of the said costs or damages.
- 8.04 Any Warranty defined in this PURCHASE ORDER is in addition and without prejudice to any warranty or guarantee that the CONTRACTOR may have under the applicable laws and regulations.

**9.0 Health, Safety, Security and Environment (HSSE).**

- 9.01 Hazardous GOODS must be marked by the SUPPLIER with International Danger Symbol(s) and display the name of the material in English.
- 9.02 The transportation of hazardous GOODS shall comply at all times with International laws and regulations, and the applicable law of the Sultanate of Oman and the documentation of these GOODS must include a declaration of the hazard and the name of the material must be written in English and Arabic.
- 9.03 Hazardous GOODS being transported must be accompanied by emergency information in the form of a Material Safety Data Sheet (MSDS). This information must be written in English and/or Arabic and should contain as a minimum instructions, labels and markings detailing the materials and their potential hazard.
- 9.04 During transportation of hazardous GOODS, the SUPPLIER should ensure, where appropriate, that emergency equipment is carried with the GOODS to minimise the impact of any hazard arising from any incident.
- 9.05 The SUPPLIER shall at all times comply with the requirements of the CONTRACTOR'S and / or EMPLOYER'S policy and procedures with regard to Health, Safety, Security and Environment (HSSE) matters (details of which are available upon request). The SUPPLIER shall be aware of all requirements with regard to HSSE, including but not limited to, any special requirements in respect of prevention of the spread of COVID-19 (Coronavirus), relating to the supply of GOODS and the PROJECT, transportation and accommodation, and shall comply with all these requirements at all times.
- 9.06 The SUPPLIER must comply with the requirements of all Statutory Rules and Regulations that may be in force during the course of the PROJECT, or any other which may be imposed or introduced from time to time by the CONTRACTOR, EMPLOYER or the GOVERNMENT in respect of Security, Safety, Health and Welfare, Machinery, Electricity, or any other issue which may affect the performance of any works being undertaken relative to the PURCHASE ORDER.
- 9.07 The SUPPLIER shall observe and comply with the rules and regulations issued from time to time by the GOVERNMENT.
- 9.08 Where any of the HSSE rules conflict, the SUPPLIER shall comply with the rule providing the highest level of safety at all times.

## **10.0 Secrecy, Data Protection, Intellectual property rights, Audit rights**

- 10.01 Any drawings, designs, illustrations, computations, and other documents made, produced or provided in connection with this PURCHASE ORDER shall be considered to be CONFIDENTIAL INFORMATION and they shall remain the property of the CONTRACTOR.
- 10.02 The SUPPLIER shall be required to keep strictly confidential all illustrations, drawings, computations, photographs as well as any other documents and information received in connection with the PROJECT ("**Confidential Information**"). The SUPPLIER and its employees, directors and agents, shall not publish, permit to be published or advertise any particular related to this PURCHASE ORDER or the PROJECT without the CONTRACTOR's prior written consent. Such obligation to keep confidential, secret and not to publish the Confidential Information shall continue to apply beyond the termination of this PURCHASE ORDER, however it shall not apply if and to the extent that the Confidential Information shall have become generally known to the public other than through a breach of this PURCHASE ORDER.
- 10.03 The SUPPLIER represents and warrants that it has property and title to all documents and information supplied to the CONTRACTOR through this PURCHASE ORDER. The SUPPLIER shall hold the CONTRACTOR and the EMPLOYER harmless from and fully indemnified against any claim, demand, action, costs, expenses or proceedings (including all costs and legal fees) brought or initiated against the CONTRACTOR by any third party for infringement of copyright, intellectual property right, patent right or royalty fee or any such other commercial protective rights which may prevent such rights being irrevocably transferred to the CONTRACTOR or the EMPLOYER.
- 10.04 Any products manufactured in accordance with documents drawn up by the SUPPLIER, CONTRACTOR or EMPLOYER, may be used by the SUPPLIER for testing purposes only, however they shall not be offered or delivered to third parties. The same shall also apply mutatis mutandis to the SUPPLIER'S standard products modified in accordance with any specification, drawing or document contained within this PURCHASE ORDER.
- 10.05 The SUPPLIER hereby transfers to the CONTRACTOR the copyright and all other intellectual property rights in all drawings, reports, specifications, calculations and other information and documents which have been or shall be prepared or provided by or on behalf of the SUPPLIER in the course of performing all the services to be provided by him hereunder. To the extent that the SUPPLIER procures documents from others, he shall, unless previously agreed otherwise, ensure that the copyright in such documents is also assigned to and vested in the CONTRACTOR or the EMPLOYER, as the case may be.

## **11.0 Title, Ownership, Lien**

- 11.01 If full payment for the GOODS is made to the SUPPLIER prior to delivery, ownership shall pass to the CONTRACTOR upon receipt of payment by the SUPPLIER. If payment for the GOODS is not done in full prior to delivery, then ownership shall pass to the CONTRACTOR upon delivery of the GOODS or any part of it at the place of delivery that has been identified by the CONTRACTOR. Ownership of the GOODS shall pass to the CONTRACTOR without any limitation, constraint or encumbrance. The SUPPLIER shall mark the GOODS as being the property of the CONTRACTOR, but the SUPPLIER shall remain responsible for the safe keeping, safe delivery and insurance of the GOODS and they shall be delivered by the SUPPLIER to the CONTRACTOR in a condition which ensures that the GOODS comply in all respects with specified requirements of the PURCHASE ORDER.
- 11.02 The SUPPLIER represents and warrants that all GOODS of which the CONTRACTOR become owner through this PURCHASE ORDER are free of any lien, charge, claim, constraint, pledge, encumbrance or limitation. The SUPPLIER shall hold harmless and indemnify the CONTRACTOR from and against all liens, attachments, charges or claims from any third party or persons alleging to be entitled to make such claims in connection with or arising out of this PURCHASE ORDER. The CONTRACTOR shall have the right to withhold the amount of such lien, attachment, charge or claim from any payment to the SUPPLIER until removal of such claim by the third party.
- 11.03 All equipment, materials, supplies etc forming part of the GOODS to be provided by the SUPPLIER shall become the property of the CONTRACTOR following payment in accordance with this PURCHASE ORDER and therefore the SUPPLIER shall ensure that all items provided which form part of the GOODS shall be free from all liens and / or retention of title claims from any third party.

## **12.0 Variation / Cancellation**

- 12.01 The SUPPLIER shall not vary any of the GOODS except as expressly directed by the CONTRACTOR's representative in writing.
- 12.02 The CONTRACTOR reserves the right to modify the quantity, quality or any other aspect of the GOODS, provided that such modification is expressly notified to the SUPPLIER.
- 12.03 Should the CONTRACTOR exercise its right to modify the GOODS with respect to quantity only, then the rates and prices contained within the PURCHASE ORDER shall not change irrespective of whether the variance results in an increase or decrease to the original quantity. No variation which results in a net reduction of the PURCHASE ORDER value or scope shall entitle the SUPPLIER to any claim in respect of loss of profit, revenue, business, goodwill, to indirect or consequential loss or damage, nor to any change in the rates or prices for the remaining GOODS.

## **13.0 Liquidated Damages**

- 13.01 Without prejudice to any other provision in the PURCHASE ORDER and without limitation to the SUPPLIERS responsibility, should the actual delivery of GOODS be later than that stipulated in the PURCHASE ORDER, then the CONTRACTOR shall be entitled to deduct and/or retain from any sum due or subsequently becoming due to the SUPPLIER liquidated damages at the rate of 0.1% (unless otherwise stated in the PURCHASE ORDER), of the value of the entire PURCHASE ORDER per day of delay. This shall be limited to a maximum deduction of 10% of the value of the PURCHASE ORDER (unless otherwise stated in the PURCHASE ORDER). Any acceptance of late delivery shall not constitute any waiver of statutory and contractual claims based on such late delivery. This shall be without prejudice to any other rights that the CONTRACTOR may have under the terms of this PURCHASE ORDER, or at law.

## **14.0 Set-off**

- 14.01 The CONTRACTOR shall have the right to recover, offset against, deduct and/or withhold from any sum due or from bonds and guarantees any amount that may be due to the SUPPLIER as may be necessary to compensate and protect the CONTRACTOR against any extra costs, expenses, losses and/or damages incurred or apparent to be incurred by the CONTRACTOR due to any fault, delay, failure or default of the SUPPLIER.

## **15.0 Force Majeure**

- 15.01 For the purposes of this PURCHASE ORDER, Force Majeure means an exceptional event or circumstance: (i) which is beyond a PARTY's control, (ii) which such PARTY could not reasonably have provided against before entering into the PURCHASE ORDER, (iii) which, having arisen, such PARTY could not reasonably have avoided or overcome, and (iv) which is no substantially attributable to the other PARTY. Under no circumstances shall the SUPPLIER be entitled to relief for Force Majeure unless the CONTRACTOR has obtained a corresponding entitlement under the MAIN CONTRACT.
- 15.02 Should a PARTY be entitled to Force Majeure relief, then neither PARTY shall be liable or deemed to be in default provided that the PARTY notifying the other of the event does so as soon as reasonably practicable and in any case within 14 (fourteen) days after the PARTY becomes aware, or should have become aware, of the relevant event or circumstance constituting Force Majeure. The PARTY giving notice shall also identify the obligations that he is prevented from carrying out. Thereafter the notifying PARTY must minimise

the effects of such Force Majeure event and they shall advise the other PARTY of the likely effect that this matter may have upon the performance of the PURCHASE ORDER.

- 15.03 The CONTRACTOR shall be empowered to discharge wholly or in part, the obligation to accept a delivery ordered and to that extent the CONTRACTOR shall be entitled to terminate the PURCHASE ORDER in the event of it being no longer possible for the CONTRACTOR (taking economic aspects into consideration) to utilise such delivery because of a delay or any other matter caused by a Force Majeure. The SUPPLIER shall not be entitled to any additional cost, reimbursement or indemnification that arises out of a Force Majeure event and/or the termination of the PURCHASE ORDER.

#### **16.0 Suspension / Termination of PURCHASE ORDER**

- 16.01 Should the EMPLOYER give notice to the CONTRACTOR to suspend the MAIN CONTRACT in whole or in part as a result of some default on the part of the CONTRACTOR or SUPPLIER, or in the event that suspension is necessary for the proper execution or safety of the Main Works, or persons, then all deliveries and other activities related to the PURCHASE ORDER shall similarly be suspended upon notice from the CONTRACTOR to the SUPPLIER.

- 16.02 The CONTRACTOR shall be entitled to terminate the PURCHASE ORDER at any time provided any such notice is given by the CONTRACTOR to the SUPPLIER in writing. Should the CONTRACTOR exercise this right, and to the extent it is not because of a default on the part of the SUPPLIER, then he shall be liable to pay to the SUPPLIER a fair and reasonable price for the GOODS (which in the first instance shall be assessed with reference to any rates and prices in the PURCHASE ORDER) in progress at the time of termination which comply with the specified requirements of the PURCHASE ORDER, excluding any reimbursement or indemnification for loss of profit, loss of opportunity, loss of contract and any other indirect or special damages and costs – Provided always that the sum payable shall not exceed the value of the PURCHASE ORDER or any expressly varied sum properly instructed pursuant to these terms and conditions.

- 16.03 The CONTRACTOR shall be entitled to terminate this PURCHASE ORDER in the event of the SUPPLIER being deemed by law unable to pay its debts as they fall due or having become bankrupt or have a receiving order made against him, or shall present its petition in bankruptcy or shall make an arrangement with or assignment in favour of its creditors, or (being a corporation) shall go into liquidation (other than a voluntary liquidation for the purposes of amalgamation or reconstruction), or if the SUPPLIER shall purport to assign this PURCHASE ORDER, or shall have an execution levied on its goods, or has repudiated the PURCHASE ORDER, or without reasonable excuse, fails to commence or to proceed with the deliverables required by the PURCHASE ORDER with due diligence after being required in writing so to do by the CONTRACTOR.

- 16.04 The CONTRACTOR shall be entitled to terminate this PURCHASE ORDER in the event of the SUPPLIER offering or granting benefits of any kind whatsoever to any employee or agent of the CONTRACTOR, or to a third party in the interests of such employee or agent, who shall have been entrusted with preparing, concluding or implementing this PURCHASE ORDER.

- 16.05 CONTRACTOR and SUPPLIER hereby agree that a termination notice served in accordance with these GENERAL CONDITIONS shall be valid and in full effect without the need to obtain any judicial order or arbitral award.

#### **17.0 Product Liability; Indemnification; Liability Insurance Cover**

- 17.01 Where the SUPPLIER is responsible for design in relation to the provision of any GOODS, then the SUPPLIER shall effect proper Professional Indemnity insurance with a recognised international broker / insurer for all the Design. Such insurance shall be for not less than USD \$5,000,000 (Five million US Dollars), or as otherwise agreed in writing, for each and every claim related to each and every incident or claim and the SUPPLIER shall ensure that such policy either covers or is effected by subcontractors, consultants and subconsultants of any tier who may be engaged by the SUPPLIER.

- 17.02 The SUPPLIER hereby undertakes to maintain product-liability insurance in an amount equal to the full replacement value of the GOODS, however this shall not relieve the SUPPLIER of any responsibility to indemnify the CONTRACTOR against any consequential costs of any kind which he may incur due to any failure or default of the GOODS.

- 17.03 The SUPPLIER shall also be responsible for the full replacement of the GOODS in case of loss or damage during transportation from the place of manufacture to the place of delivery noted in the PURCHASE ORDER.

- 17.04 The SUPPLIER shall be liable for and indemnify the CONTRACTOR against any liability, loss claim or proceedings whatsoever arising under any law current during the life of the PURCHASE ORDER which is enacted by the GOVERNMENT or any other relevant Government or Statutory Authority (whether located at the point of origin or at the any stage during transportation of the GOODS) in respect of personal injury to or death of any person whomsoever or in respect of any injury or damage whatsoever to any property real or personal arising out of or in the course of or caused by the carrying out by the SUPPLIER of his supply or as a result of the GOODS supplied by the SUPPLIER unless the aforesaid is due to any act or neglect of the CONTRACTOR and his servants or agents.

- 17.05 The SUPPLIER shall take out and maintain such insurances as are necessary to cover the liability of the SUPPLIER in respect of personal injury to or death of any person whomsoever who is engaged in providing the GOODS for or on behalf of the SUPPLIER. These insurances must extend to include a general principals indemnity clause.

- 17.06 Any limitation, monetary or otherwise, in such policy(s) shall not be construed as a limitation on the SUPPLIERS liability and the SUPPLIER shall notwithstanding such limitation remain liable in full for the matters and to the extent not covered by the policy(s).

- 17.07 The SUPPLIER hereby undertakes to take out and maintain such other insurance's as are required by the Law of the Sultanate of Oman or any other location of manufacture or transportation.

- 17.08 The SUPPLIER shall provide the CONTRACTOR, before any GOODS are supplied or services undertaken, with a copy of all current relevant insurance certificates.

- 17.09 The SUPPLIER shall not be entitled to benefit from any element of the CONTRACTOR's and / or the EMPLOYER'S insurance policies.

#### **18.0 Code of Conduct**

- 18.01 The CONTRACTOR's Code of Conduct can be found on the Strabag Group website ([www.strabag.com](http://www.strabag.com)), by searching through the following path: STRATEGY > > SUPPLY CHAIN > > SUPPLIER CODE OF CONDUCT.

The SUPPLIER confirms having read it before accepting this PURCHASE ORDER. The CONTRACTOR's Code of Conduct form an integral and essential part of the PURCHASE ORDER and shall be complied with by the SUPPLIER. The SUPPLIER acknowledges that the Contractor has the right to immediately terminate this PURCHASE ORDER in case of violations by the SUPPLIER of the CONTRACTOR's Code of Conduct.

#### **19.0 Settlement of Disputes**

- 19.01 In the first instance, dispute(s), including concerning the existence, validity, termination or enforceability of the PURCHASE ORDER, shall be referred in writing to the General Manager/Director of each PARTY to negotiate a final settlement of the dispute(s).

- 19.02 In the event that the General Managers/Directors are unable to negotiate a final settlement of any dispute(s) within 30 calendar days from when the dispute has been referred to them in writing, then the dispute(s) shall be referred to and finally settled under the Rules of Arbitration of the International Chamber of Commerce (the "Rules").

- 19.03 With respect to any dispute(s) having an aggregate value of 300,000 OMR (one hundred thousand Omani Rials) or less (calculated based on the amounts claimed in arbitration), the arbitration shall be conducted by a sole arbitrator. If the PARTIES fail to appoint the

sole arbitrator within 30 (thirty) calendar days from the date a Request for Arbitration has been received by the other PARTY, the sole arbitrator shall be appointed by the International Court of Arbitration of the International Chamber of Commerce. All other dispute(s) shall be conducted by three arbitrators and the arbitrators appointed in accordance with the Rules.

19.04 The Arbitration proceedings shall be held in the English language and the seat of arbitration shall be Muscat, Oman. The physical location of the arbitration shall be mutually agreed between the PARTIES. Should the PARTIES be unable to reach agreement on the physical location, then the Arbitrator(s) shall define a location by taking into account any relevant circumstance.

19.04 The PARTIES hereby agree that the Arbitral award shall be final and binding.

19.06 In case of a dispute, the SUPPLIER shall continue to comply with his obligations arising out of the PURCHASE ORDER and perform all works diligently. The submission of a dispute to resolution under this Clause 19 shall not constitute a valid reason for suspending or halting the obligations arising out of the PURCHASE ORDER.