

Solar Turbines West Africa

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GENERAL PURCHASING TERMS AND CONDITIONS

TABLE OF CONTENTS

A.	SCOPE AND CONTRACTUAL LANGUAGE	1
B.	ORDER AND PERFORMANCE OF THE ORDER.....	1
C.	TRANSFER OF OWNERSHIP AND RISKS	1
D.	PRICE	1
E.	INVOICING AND PAYMENT	2
F.	PERFORMANCE	2
G.	WARRANTY	2
H.	LIABILITY.....	3
I.	INSURANCE	3
J.	COMPLIANCE WITH LAWS AND REGULATIONS	3
K.	SUBCONTRACTING	4
L.	LIQUIDATED DAMAGES, SUSPENSION AND TERMINATION.....	4
M.	FORCE MAJEURE.....	5
N.	CONFIDENTIALITY AND USE OF PROVIDED INFORMATION	5
O.	HARDSHIP.....	5
P.	APPLICABLE LAW AND JURISDICTION	5

A. SCOPE AND CONTRACTUAL LANGUAGE

These General Purchasing Terms and Conditions (the “GPTCs”), negotiated and approved by and between the Parties, shall govern all the contractual relations between SOLAR TURBINES WEST AFRICA (“Solar”) and their suppliers (the “Supplier”) within the context of product supply (the “Goods”) or service (the “Service”) provision orders (collectively, the “Supply” or “Supplies”). Any exemption to these GPTCs shall be subject to a prior written agreement by and between Solar and the Supplier (also separately referred to as a “Party” and collectively as “Parties”).

The Parties hereby acknowledge that if any provision stipulated in the Supplier’s documents conflicts with these GPTCs, said provision shall be deemed unwritten. Furthermore, the Parties hereby acknowledge that only the technical part of the Supplier’s proposal applies.

The Parties hereby acknowledge that the execution of this document or any other document incorporating these GPTCs as well as any commercial negotiations between them shall not entail any exclusive or preferential right for the Supplier or any commitment regarding volume from Solar, unless expressly provided otherwise.

Contractual documents such as purchase orders, delivery programmes (etc.) as well as changes made to said documents

may be exchanged by mail, fax, email or any other electronic communication means provided, however, that any such changes must be agreed to in writing by the Parties..

B. ORDER AND PERFORMANCE OF THE ORDER

The purpose, characteristics and performance conditions of the Supply shall be set out in the purchase order and/or the documents appended thereto (collectively, “Purchase Order”).

The Supplier shall be deemed to have unconditionally accepted the Order unless it informs Solar of its refusal on the date of receipt of the Purchase Order.

Any change to the Purchase Order has to be agreed in writing by Solar and the Supplier.

Delivery times, types of supplies and quantities stipulated shall be essential and mandatory conditions of the Purchase Order. Should the Supplier fail to comply with these provisions without any prior written approval from Solar, the Supplier may have to bear any additional costs and to repair any damage resulting therefrom.

Unless otherwise provided, the Supplies shall be transported at the Supplier’s risks. Any delivery shall come with a packing list including the number and the date of the Purchase Order, the reference, quantity and description of the delivered Supplies. The Supplier shall also transmit a proof of delivery or a readiness for shipment notification of the Goods to Solar. Solar reserves the right to refuse any Supplies which do not comply with the instructions, specifications, drawings, data or required warranty (either express, automatic or legal) and to request the replacement thereof. The refused Supplies shall be returned to the Supplier at its expense and risks.

C. TRANSFER OF OWNERSHIP AND RISKS

Unless otherwise stipulated by the Parties, ownership and risks shall be transferred upon delivery of the Supplies at the place stipulated in the Purchase Order.

No Supplier’s title retention clause shall be enforceable against Solar unless expressly accepted in writing.

D. PRICE

The prices mentioned on Solar’s Purchase Order shall be total, firm, and may not be revised, unless agreed by the Buyer in written form.

Partial payment of an invoice does not imply that the Supplies meet the requirements of the Purchase Order and Solar reserves the right to make claims at any time.

Prices shall be expressed in currency set out in the Purchase Order.

Any agreed change to the Purchase Order shall be treated separately in one separate variation Purchase Order with one payment or credit at the completion of the Purchase Order

E. INVOICING AND PAYMENT

The following data shall be mentioned in invoices:

- **Supplier's** corporate name and any other mandatory legal information,
- correct VAT number of Supplier,
- correct VAT number of Solar purchasing entity,
- appropriate tax exemption wording whenever applicable,
- invoice number and date,
- Purchase Order number and date,
- project reference number and project manager's name,
- product references, descriptions, quantities and unit price,
- total amount before tax, any taxes, the total amount including tax and the currency, and
- all specific information mentioned in the corresponding Purchase Order.

The invoice shall be addressed to the correct **Solar's** legal entity mentioned into the corresponding Purchase Order and shall be transmitted to the "Accounts Payable" department in electronic form to following address e-mail: EAMEAccountsPayable@solarturbines.com, with a copy to the project manager. Unless otherwise provided by a special clause mentioned in the Purchase Order or in any contractual document executed by the Parties, the whole amount shall be invoiced by the **Supplier** after delivery of the Purchase Order. Unless otherwise specified on Purchase Order, **Solar** shall pay all valid invoices received from the **Supplier** within 60 days upon receipt.

Any invoice non-compliant with the above mentioned requirements shall be considered as invalid by **Solar**. In that case, the **Supplier** shall proceed with the corrections and submit a compliant invoice to **Solar**. Payment will be delayed accordingly.

F. PERFORMANCE

The Supplier agrees to comply with all statutory and regulatory provisions, in particular labour law and the regulations pertaining to the employment of foreign workers. The Supplier also agrees to comply with all applicable regulations against illegal employment.

The Supplier's staff required to work on Solar's sites shall remain under the full authority of the Supplier which shall be solely responsible for its personnel's work and behaviour.

The Supplier shall provide its personnel with all the appropriate resources required for the full performance of its mission. Under no circumstance may the Supplier's personnel use Solar's equipment unless under an express written

exemption.

The Supplier acknowledges that it has received a copy of the rules to be complied with by service providers working on Solar's site or any other site designated by Solar as well as the site safety instructions. The Supplier agrees to comply with said rules and instructions and to have them complied with by its staff.

The Supplier agrees to keep Solar informed of any changes applicable to said Supplier (legal form, shareholding, registered office, banking data, etc.).

G. WARRANTY

The **Supplier**, in addition to any express or implied warranties of additional scope given to **Solar** by the **Supplier** or implied by law, hereby warrants that Supply will be in full conformity with **Solar's** instructions, specifications, drawings and data, and are new, of excellent quality and will be free from defects in design (to the extent that the **Supplier** furnishes the design), materials, manufacturing and workmanship and are suited to their intended to use.

The **Supplier** agrees to develop, maintain and engage its personnel and any person under its responsibility in its drive to continuously improve its competitiveness, quality, procurement securing and the services incumbent upon it. The **Supplier** shall be kept informed of any changes to said procedures and agrees to inform **Solar** immediately in writing, should it fail to comply with said procedures. **Solar** reserves the right to check that the **Supplier** complies with the procedure at any time, without the **Supplier** being released from its obligations and liabilities.

In the event a defect is found on the Supplies, visible or not upon delivery, the **Supplier** agrees to replace them immediately at its expense or to correct the defect (whenever possible). The **Supplier** shall also bear the costs incurred before the defect is observed and directly resulting therefrom, notwithstanding the compensation of any damage suffered by **Solar**, in compliance with the provisions of the Belgian Civil Code. Should the Supply be rejected during an inspection due to the **Supplier's** fault, the cost of all additional inspections on the rejected Supply will also be charged to the **Supplier**.

The **Supplier** agrees that this warranty shall also be applicable after acceptance of the Supply by **Solar**. The **Supplier** shall be responsible for every claim for compensation in respect of damage or injury that is based on a breach of the foregoing warranty, and, at **Solar's** option, Supplier shall handle any such claims or shall provide all reasonable assistance to **Solar** in **Solar's** handling of such claims.

H. LIABILITY

The **Supplier** shall be solely liable for any faults/defects of the Supplies. Should the **Supplier** fail to do so, **Solar** reserves the right to replace, repair and modify the Supplies at the **Supplier**'s entire expense.

Similarly, the **Supplier** shall hold **Solar** harmless from any poor workmanship claim and agrees to cover any harmful consequences for **Solar** and/or third parties.

The **Supplier** shall immediately inform **Solar** of any defect that it discovers in its Supplies so as to limit the harmful consequences of said defects.

I. INSURANCE

The **Supplier** shall be insured so as to be covered should any action for compensation be taken against it further to any damage (especially bodily harm), including death and/or any material and/or consequential damage. Said insurance policies shall include the applicable minimum legal warranties and shall cover the risks stated below up to the following minimum amounts:

(i) Worker's Compensation and Employers' Liability Insurance providing benefits as required by applicable law with a minimum limit of EUR 1,000,000;-per occurrence or limits set by applicable law, whichever is greater.

(ii) Commercial General Liability Insurance (Occurrence Coverage) including products, completed operations, and Contractor's contingent liability for subcontractors and agents with a minimum combined single limit of liability of EUR 2,000,000;-per occurrence for bodily injury or death and property damage.

(iii) Business Automobile Liability Insurance (Occurrence Coverage) for owned, non-owned, and hired automotive equipment with a minimum combined single limit of liability set by applicable law; and

(iv) If the Supply include design and/or engineering or other professional services, Contractor shall maintain Errors or Omissions Liability and Professional Liability Insurance with a minimum limit of EUR 2,000,000;-each occurrence, and any other specialty policies with appropriate coverage limits as requested by Solar.

The **Supplier** shall prove that it holds said insurance policies upon receipt of the Purchase Order or at any time upon request from **Solar**. Upon request, the **Supplier** shall transmit to **Solar** a valid insurance certificate stating the type and term of the warranty as well as the deductibles.

J. COMPLIANCE WITH LAWS AND REGULATIONS

1. The **Supplier** hereby makes the following undertakings:

(i) The Goods shall be manufactured, stored,

transported and sold in compliance with the legislation in force in the country where they are manufactured, stored, transited, delivered and installed, in particular as regards health, safety, environmental protection and applicable labour laws, rules and regulations;

(ii) The Service shall be provided in compliance with the applicable laws, rules and regulations in force in the country of delivery.

2. In particular, the **Supplier** represents that it also complies with the REACH Regulation (Registration, Evaluation, Authorization and restriction of Chemicals) regulation and more generally with any health, safety and environmental laws, rules, regulations, directives, ordinances, orders, or statutes. Furthermore, the **Supplier** shall, whenever required by law, provide **Solar** with a certificate of compliance of the Supplies delivered within the scope of any Purchase Order with Belgian health, safety and environmental laws and regulations.
3. If applicable and if requested by Solar, the **Supplier** shall disclose to **Solar** any Goods the **Supplier** delivered to **Solar** that contain tin, tantalum, tungsten, gold, or other materials that may be designated as a conflict mineral by the U.S. government ("Conflict Minerals"). The **Supplier** shall have a supply chain policy for Conflict Minerals and shall undertake (1) a reasonable inquiry into the country of origin of Conflict Minerals incorporated into Goods it provides **Solar**; (2) due diligence of its supply chain, as necessary, to determine (i) if Conflict Minerals incorporated into Goods it provides **Solar** are sourced from the Democratic Republic of the Congo or adjoining countries and if so, (ii) whether such Conflict Minerals directly or indirectly support conflict in these countries, and (3) risk assessment and mitigation actions as may be necessary to implement the reasonable country of origin inquiry and due diligence procedures. The **Supplier** agrees to provide to **Solar** all supporting information and documentation substantially in the format requested by **Solar**, including, but not limited to, supply chain data necessary or desirable for **Solar** to comply with its obligations under Section 1502 of the Dodd-Frank Wall Street Reform and Consumer Protection Act and its implementing regulations.
4. The **Supplier** also represents that it complies with the provisions of all applicable laws and regulation from which liability may accrue to **Solar** for any violation thereof, including but not limited to, applicable wood packing regulations of the country of destination, Environmental Requirements, Product Regulations,

Export Regulations such as without limitation the Fair Labor Standards Act of 1938, the U.S. Foreign Corrupt Practices Act, the U.S. Export Administration Regulations, the International Traffic in Arms Regulations, the sanctions regulations administered by the U.S. Treasury Department Office of Foreign Assets Control, and the Sarbanes-Oxley Act, all as amended.

5. The Supplier represents and warrants that neither it nor any of its directors, officers, employees, or representatives have engaged or will engage in Bribery in connection with its performance under these GPTCs or any other agreement with Caterpillar Inc., its affiliates, or their respective directors, officers, employees, representatives, agents, successors, and assigns ("Caterpillar"). Bribery means the offering, promising, giving, or authorizing of any payment or transfer of anything of value, directly or indirectly through third parties, to any person for the purpose of influencing any act or decision of such person or securing an improper advantage to assist Caterpillar in obtaining, retaining or conducting business.

To the extent Caterpillar permits the use of subcontractors under these GPTCs, the Supplier agrees it (1) will instruct such subcontractors neither to engage in nor to tolerate any act of Bribery, (2) will not use such subcontractors as a conduit for Bribery, and (3) will ensure that such subcontractor complies with this provision in the same manner as the Supplier is required to comply.

The Supplier agrees that a violation of this provision shall constitute a material breach of these GPTCs and that Caterpillar may, in its discretion, either suspend the Purchase Order or terminate it. The Supplier agrees to indemnify, defend, and hold harmless Caterpillar against all demands, liabilities, fines, penalties, losses, and damages (including costs, investigation and litigation expenses and counsel fees incurred in connection therewith) arising out of or related to the Supplier's obligations under this provision.

Upon Caterpillar's request, the Supplier shall at its expense provide to Caterpillar in a timely manner complete and accurate information requested through due diligence questionnaires and periodic compliance certifications. If Caterpillar has reason to believe that the Supplier is not in compliance with this Clause, Caterpillar has the right to inquire, or to have Caterpillar's authorized representatives conduct inquiries, to ascertain the extent of the Supplier's non-compliance with this provision, and the Supplier agrees to cooperate and provide all documentation and information related to this Purchase Order or any other agreement with Caterpillar that is reasonably requested by Caterpillar in connection with such inquiries.

In the event the Supplier becomes the subject of an enforcement action or receives an information request from any government entity for Bribery relating to the Supplier's

performance under this Purchase Order or any other agreement with Caterpillar, the Supplier shall provide to Caterpillar written notice not later than ten (10) business days following such enforcement action or information request, or the earliest date thereafter if prohibited from earlier disclosure by applicable law.

6. The Supplier shall comply with all applicable employment, social security, salary and tax obligations, including but not limited to the obligations imposed on an employer in the area of safety and welfare at work, the guarantee of a minimum wage and payment of the wage for its employees and those of the Supplier's subcontractors, employment or accommodation of foreign workers.

The Supplier shall also ensure that all social security contributions and all applicable taxes, such as VAT and payroll withholding tax, are regularly paid.

The Supplier shall indemnify, defend and hold harmless Solar, its agents, affiliates, officers and directors from and against all claims of third parties (including public authorities) with respect to any breach.

Where an alleged non-compliance involves a notification from a public authority to Solar in relation to social security dues from the Supplier towards such public authorities, Solar shall request the Supplier to correct the situation within a remedy period of seven (7) days after written notice by Solar. Where the Supplier fails to become compliant within said seven (7) days, Solar shall have the right to terminate the agreement established by the Purchase Order.

K. SUBCONTRACTING

The **Supplier** agrees to comply with all legal provisions related to subcontracting and to obtain **Solar's** prior written approval concerning subcontractor selection and payment conditions before commissioning any subcontractor. **Solar** reserves the right to refuse or reject any of the **Supplier's** subcontractors.

The **Supplier** shall be liable for all the services provided by its subcontractors and shall ensure that they comply with the obligations that it has undertaken with **Solar**. The **Supplier** shall also remain liable for the Supply.

L. LIQUIDATED DAMAGES, SUSPENSION AND TERMINATION

Should the **Supplier** fail to perform or to comply with its obligations (including but not limited to late delivery of Supplies and late submittal of any documentation requested in the Purchase Order), **Solar** may, after sending a formal notice to provide explanations on the situation, take the following measures by registered letter with acknowledgment of receipt:

(i) Suspend the performance of the Supplies in progress:

- call on another service provider at the defaulting **Supplier's** expense and risks; and/or
- apply liquidated damages of 1% of the amount of the total Purchase Order per late week, without said liquidated damages exceeding 5 % of the amount before tax of the concerned Purchase Order, notwithstanding any action taken by **Solar** for the compensation of its entire loss.

(ii) Terminate the whole or part of the Purchase Order. Said termination shall take effect upon receipt of **Solar's** termination letter, unless **Solar** has provided a notice period. The termination shall be understood without prejudice to any damages which **Solar** might claim.

Solar may at any time terminate or cancel all or any part of undelivered Supplies. The **Supplier** agrees that its sole remedy as a consequence of any such termination or cancellation is the reimbursement by **Solar** of the reasonable costs of materials and labour actually and directly incurred by the **Supplier** on the Supplies terminated or cancelled by **Solar** prior to the **Supplier's** knowledge of such termination or cancellation.

M. FORCE MAJEURE

Events considered as unforeseeable, irresistible and uncontrollable under applicable Belgian Law shall be considered as cases of Force Majeure. The Party which suffers such an event shall notify the other party thereof by registered letter with acknowledgment of receipt within eight days as from the occurrence of the event, and shall immediately take all measures to remedy the situation. The Party's obligations shall then be suspended.

Should the event last longer than one month, either party shall be free to terminate the agreement by registered letter with acknowledgment of receipt after eight days.

N. CONFIDENTIALITY AND USE OF PROVIDED INFORMATION

All plans, drawings, designs, and specifications supplied by **Solar** to the **Supplier** shall remain the property of **Solar**.

The Supplier agrees to keep all the information obtained from **Solar** confidential and to refrain from disclosing said information. The **Supplier** shall only transmit information to its employees who need to be knowledgeable thereof. Said information shall include but not be limited to any information transmitted by **Solar** or information (general, specific, economic or technical information) of which the **Supplier** becomes knowledgeable during visits, meetings and exchanges with **Solar** including any drawings, specifications, manufacturing methods, transmitted verbally

or on any support whatsoever.

Should a court demand that the **Supplier** disclose any information, the **Supplier** shall request **Solar's** prior approval.

Furthermore, the **Supplier** agrees to use the information transmitted by **Solar** in **Solar's** sole interest, i.e. not to use said information on its own behalf or on behalf of third parties.

The **Supplier** acknowledges that it has a mere right to use the confidential information transmitted by **Solar** and under no circumstances any intellectual property rights. In fact, information shall remain **Solar's** exclusive property.

Said information shall be kept confidential throughout the term of the relationship established between the **Supplier** and **Solar** and for 5 (five) years after the end of said relationship.

In the event of claim, action for infringement, legal or other proceedings against **Solar** pertaining to the Supplies, the **Supplier** accepts to pay the costs incurred by **Solar** for its defence and to compensate **Solar** for any damage or loss suffered due to said action for infringement, legal actions and any type of claims. This guarantee shall extend to **Solar's** subsidiaries and customers.

Moreover, the Supplier shall refrain from disclosing its relationship with **Solar** and, more generally, the CATERPILLAR GROUP, even for commercial reference purposes without prior express approval from **Solar**. The **Supplier** shall also refrain from disclosing the **Solar** trade name as well as its trademarks, logos and, more generally, any element on which **Solar** or the CATERPILLAR GROUP has an intellectual and/or industrial property right, without **Solar's** prior express approval.

O. HARDSHIP

Either Party shall be entitled to request the revision of the agreement should a change in economic, legal, regulatory or technical circumstances that was unforeseeable when the contract was being entered into, undermine the economic conditions of the agreement and make the fulfilment thereof economically unbearable.

In this case, the Parties shall meet immediately in Purchase Order to decide upon the necessary adaptations, which shall be enacted in an amendment. Should it be impossible to arrive at a new agreement within three weeks as from the first meeting of the Parties, either Party shall be authorised to terminate its commitment without compensation, with a one-month notice period. These GPTCs shall remain applicable during said notice period.

P. APPLICABLE LAW AND JURISDICTION

Any dispute concerning the construction, performance or termination of the respective commitments made by the

Supplier or **Solar**, the purchasing agreement or these GPTCs shall be brought before the Court of Charleroi (Belgium). Disputes shall not be brought before any other courts, irrespective of the place of delivery and method of payment agreed upon by and between the parties, even in the event of warranty claim, incidental claim or multiple defendants.

These GPTCs and any Purchase Order shall be governed by and construed under the laws of Belgium.

The United Nations Convention on Contracts for the International Sale of Goods, the United Nations Convention on the Limitation Period in the International Sale of Goods of 1974 and Protocol of 1988 (amending the Limitation Period Convention) shall not be applicable to any transaction pursuant to these GPTCs.