



TOCO General Conditions of Contract - Plant and Equipment Hire

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A. GENERAL

A1. Definitions

"AFFILIATE" shall mean any subsidiary or parent or holding company of any company or any other subsidiary of such parent or holding company.

"CLIENT" shall mean the party to which the COMPANY has entered into a separate contractual relationship for which the requirements of the PO are destined.

"COMMENCEMENT DATE" The commencement date from which the hire rate is applicable shall be the date after the date the Plant and Equipment (P&E) is delivered to the COMPANY and has been inspected, tested and is certified by COMPANY as being compliant with all relevant COMPANY regulations applicable to the specific SERVICE.

"COMPANY" shall mean the person, persons, firm or company named in the PO to procure SERVICES hereinafter defined and shall include the COMPANY's legal personal representatives, successors and assigns.

"COMPANY GROUP" shall mean the COMPANY, its AFFILIATES and its and their respective directors, officers and employees (including agency personnel), but shall not include any member of the CONTRACTOR GROUP.

"COMPLETION DATE" means the date by which the supply or SERVICE has concluded.

"DELIVERY DATE" shall mean the date(s) upon which the SERVICES shall be delivered as specified in the PO.

"LOCAL LAW" means the laws of the country in which the COMPANY is located as derived from the COMPANY address in the PURCHASE ORDER.

"PO" shall mean the Purchase Order and the contract formed by the acceptance of the PO shall incorporate these Terms & Conditions (Conditions), or as may be amended by any additional conditions referenced in the PO or attached to it.

"SERVICES" shall mean the provision of P&E specified in the PO and includes all fuel, tools, supporting equipment as required in performance of this SERVICE or as defined within the PO.

"SUPPLIER" shall mean the person, persons, firm or company named in the PO to supply SERVICES hereinafter defined and shall include the CONTRACTOR's legal personal representatives, successors and assigns.

"SUPPLIER GROUP" shall mean the SUPPLIER, its subcontractors, its and their AFFILIATES, its and their respective directors, officers and employees (including agency personnel), but shall not include any member of the COMPANY GROUP.

A2. Interpretation

All instructions, notices, agreements, authorisations, approvals and acknowledgements shall be in writing. All such documentation together with all correspondence and other documents shall be in the English language.

Nevertheless, if for any reason, it is considered necessary by the COMPANY to give an instruction to the SUPPLIER orally in the first instance, the SUPPLIER shall comply with such instruction.

Each of COMPANY and SUPPLIER as aforesaid being referred to hereinafter as a "Party" and collectively as the "Parties".

Any reference to statute, statutory provision or statutory instrument shall include any re-enactment or amendment thereof for the time being in force.



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Unless the context otherwise requires, words importing the singular shall include the plural, and words importing the masculine gender shall include the feminine and neuter genders, and vice versa.

The PO is placed by COMPANY only on these Conditions. Any provision of the SUPPLIERS quotation or acceptance that conflicts with or are in addition to these Conditions shall be excluded unless otherwise agreed by COMPANY in writing. The rights given to SUPPLIER by these Conditions shall be in addition to any rights given by the general law and not in substitution thereof.

Where so indicated in the PO quantities are merely estimates and do not indicate a firm commitment by the COMPANY for the procurement of these quantities.

A3. Invalidity and Severability

If any provision of the PO shall be found by any court or administrative body of competent jurisdiction to be invalid or unenforceable, the invalidity or unenforceability shall not affect the other provisions of the PO and all provisions not affected by such invalidity or unenforceability shall remain in full force and effect. The COMPANY and the SUPPLIER agree to attempt to substitute, for any invalid or unenforceable provision, a valid or enforceable provision which achieves to the greatest possible extent, the economic, legal and commercial objectives of the invalid or unenforceable provision.

A4. Entire Agreement

The PO together with any documents referred to on the face thereof constitute the entire agreement between the Parties regarding the subject matter set forth in the PO and supersedes all previous undertakings. Modification to the requirements or terms and conditions of the PO shall only be valid if given in writing by COMPANY. Any subsequent oral agreement which seeks to vary the requirements or terms and conditions of the PO shall be of no effect unless and until confirmed in writing by COMPANY.

In the event of any ambiguity or conflict between any documents or sections of the PO, the order of precedence shall be as follows:

CLIENT contract referred in PO

PO Signature document

Attachment 1. Additional Conditions under Clause D13

Attachment 2. General Conditions of Contract for Plant and Equipment Hire

Attachment 3. Order Scope

Attachment 4. Schedule

A5. Acceptance

The SUPPLIERS acknowledgement of receipt of the PO or commencement of SERVICES whichever occurs first, shall be deemed to be acceptance by the SUPPLIER of all the requirements and the terms and conditions contained in this PO.

B. THE SUPPLIER'S COMMITMENT TO THE COMPANY

B1. Terms

The SUPPLIER will supply the SERVICES to the COMPANY on the terms set out in the PO.

B2. Delivery and Commencement Date

The SUPPLIER will deliver or make the P&E available to the COMPANY at the place specified in the PO, on the DELIVERY DATE.



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If the SUPPLIER is unable to deliver the P&E on the DELIVERY DATE the SUPPLIER shall notify the COMPANY at the earliest possible opportunity. The COMPANY and the SUPPLIER shall endeavour to agree a mutually acceptable revised DELIVERY DATE. However, if the COMPANY and the SUPPLIER cannot agree, the COMPANY shall have the right to terminate the PO and recover from the SUPPLIER the direct losses sustained as a result of the delay up to an amount not to exceed the value of the PO.

When making delivery of the P&E to COMPANY premises, the SUPPLIER shall do so in a safe, prudent and responsible manner consistent with its duty of care to its personnel, or those of its delivery agent, and shall obey all COMPANY site safety instructions without exception.

The COMMENCEMENT DATE from which the hire rate is applicable shall be defined and governed as per the PO and after the inspection and certification of the P&E by COMPANY. Inspection will be carried out within a reasonable time and the date of approval is recorded on the compliance certificate. Any item of P&E rejected shall be replaced by SUPPLIER in the shortest possible time, in any event no later than three (3) working days from the date after inspection of the P&E.

B3. Return of P&E

The SUPPLIER shall remove each item of P&E at the end of the latest rental period of the SERVICE (if P&E SERVICE term has been extended via amendment to the PO).

B4. Time and Trip Readings

Where rental of P&E is based on running time, e.g. Compressors, Welding Machines and the like (hourly/daily rate), and vehicles where the rental is based on per trip, then invoices for such equipment shall reflect (attach copies) the number of trips and beginning and end dates of that rental period.

B5. Estimated Usage

Notwithstanding any estimated P&E usage indicated in COMPANY request for quotation in respect of this PO, COMPANY does not guarantee any minimum or maximum rental period for any P&E(s) provided by SUPPLIER in terms of this PO.

B6. Inclusive Price

The price which the COMPANY has agreed to pay for the SERVICES is set out in the PO and is exclusive of VAT (but subject to it as applicable) but includes all other taxes, duties, fees or any other fiscal charges as may be applicable.

B7. Out of Service

The SUPPLIER shall not be entitled to receive rent for periods of time that P&E are out of service due to being in disrepair.

B8. Access

The SUPPLIER will allow the COMPANY to inspect and test the P&E at the SUPPLIERS premises on reasonable prior notice. Any inspection or testing or any failure to do so shall in no way relieve the SUPPLIER of its obligations as specified in the PO.

B9. Documentation

The SUPPLIER will provide to the COMPANY by any due date, all documentation, certificates or other information in the specified format and quantities as detailed in the PO.



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B10. Health, Safety & Environmental (HSE) Compliance

The SUPPLIER shall comply with any project specific HSE requirements in the event of any supply or on site activities to be performed by SUPPLIER as well as strict compliance with any local legislative requirements pertaining to HSE in performance of the PO.

B11. Patent Indemnity

The SUPPLIER shall save, indemnify, defend and hold harmless the COMPANY GROUP from all claims, losses, damages, costs (including legal costs), expenses, and liabilities of every kind and nature for, or arising out of, any alleged infringement of any patent or proprietary or protected right arising out of or in connection with the performance of the obligations of the SUPPLIER under the PO except where such infringement necessarily arises from the job specification and/or the COMPANY'S instructions.

B12. Spares

The SUPPLIER shall give sufficient notice to the COMPANY of its intention to cease supply or manufacture of spares, component parts or replacements, impeding the COMPANY'S ability to avail the SERVICE of the PO.

B13. Warranty

The SUPPLIER expressly warrants that all P&E's provided for performance of the PO is of sufficient capacity and power rating to perform the requirements of the PO and repairs undertaken and any replaced items as part of repair and maintenance obligations forming part of the Services provided under the PO will conform to all manufacturers specifications and standards, and shall be free from defects in materials, workmanship and design, and shall be safe and fit for the purpose for which such items are normally used, or for the particular purpose specified by COMPANY. The Warranty shall extend to COMPANY, its successors, assigns, clients and the CLIENT. At no cost to COMPANY, SUPPLIER shall promptly replace any item that breaks down or is unreliable within twenty four (24) hours of notification by COMPANY of such unacceptable performance. If the SUPPLIER fails to replace or repair non-conforming items promptly (within 48 hours or such other time period agreed with COMPANY), COMPANY may, after reasonable written notice to the SUPPLIER, arrange for replacement and charge the SUPPLIER for all the costs and expenses incurred by COMPANY.

B14. Taxation

- (a) The SUPPLIER shall assume full and exclusive liability for payment of all taxes, (including Value Added Tax [VAT] and all requirement mandated by the Oman Tax Authority and RD 121/2020) duties, levies, fiscal contributions, income tax, stamp duty, withholding tax and other taxes (including personal income tax) as may be imposed on the SUPPLIER in the Sultanate of Oman, or in any other country in connection with the services. It will be the SUPPLIER'S sole responsibility to investigate and establish its liability for all taxes, duties levies, charges and the like which may be applicable to this PO.
- (b) The SUPPLIER shall indemnify, defend and hold harmless COMPANY from and against any and all claims, demands, judgments and expenses (including legal expenses) with respect to any of the above taxes, duties, levies, fiscal contributions and other charges.

B15. Maintenance and Repairs

The SUPPLIER shall ensure and be responsible for:

- (a) Six (6) months maintenance records of all P&E supplied by the DELIVERY DATE in accordance with Clause B2.



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- (b) The performance and costs of the maintenance and repair of the P&E identified in the PO.
- (c) Where COMPANY carries out maintenance and repair works on behalf of the SUPPLIER, both parties must agree in writing on the associated costs of the repairs prior to the commencement, conditional to the extent that COMPANY does such maintenance or repairs as agreed by the parties, COMPANY will be entitled to reimbursement of the actual cost of all parts together with all labour hours reasonably spent on the repair at cost plus 20%.
- (d) No changes are to be made to the vehicle, driver or equipment without prior written approval.

C. THE COMPANY'S COMMITMENT TO THE SUPPLIER

C1. Terms

The COMPANY will procure the SERVICES from the SUPPLIER on the terms set out in the PO.

C2. Price Payment

The COMPANY will pay for the SERVICES against the SUPPLIERS invoice in the amounts specified in the PO within 90 days of receipt of the SUPPLIERS proper and correct invoice, the receipt not being earlier than the delivery unless otherwise stated in the PO.

If the COMPANY disputes any items on any invoice in whole or in part or if the invoice is prepared or submitted incorrectly in any respect, the COMPANY shall notify the SUPPLIER of the reasons and request the SUPPLIER to issue a credit note for the unaccepted part or whole of the invoice as applicable. Upon receipt of such credit note the COMPANY shall be obliged to pay the undisputed part of a disputed invoice.

On settlement of any dispute, the SUPPLIER shall submit an invoice for sums due and the COMPANY shall make the appropriate payment in accordance herewith.

C3. Termination for Convenience

The COMPANY may at any time give written notice to the SUPPLIER to terminate the PO forthwith and in such event the COMPANY shall pay, and the SUPPLIER shall accept in settlement of all claims under the PO, such verifiable sums as shall reasonably compensate it for all SERVICES provided and obligations assumed by it in performance of the PO prior to its termination.

D. OUR COMMITMENTS TO EACH OTHER

D1. Indemnity Arrangements

- (a) The SUPPLIER shall be responsible for and shall save, indemnify, defend and hold harmless the COMPANY GROUP from and against all claims, losses, damages, costs (including legal costs) expenses and liabilities in respect of:
 - (i) loss of or damage to property of the SUPPLIER GROUP whether owned, hired, leased or otherwise provided by the SUPPLIER GROUP arising from, relating to or in connection with the performance or non-performance of the PO; and
 - (ii) personal injury including death or disease to any person employed by the SUPPLIER GROUP arising from, relating to or in connection with the performance or non-performance of the PO; and
 - (iii) subject to any other express provisions of the PO, personal injury including death or disease or loss of or damage to the property of any third party to the extent that any such injury, loss or damage is caused by the negligence or breach of duty (whether statutory or otherwise) of the SUPPLIER



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GROUP. For the purposes of this Clause "third party" shall mean any party, which is not a member of the COMPANY GROUP or the SUPPLIER GROUP.

- (b) The COMPANY shall be responsible for and shall save, indemnify, defend and hold harmless the SUPPLIER GROUP from and against all claims, losses, damages, costs (including legal costs) expenses and liabilities in respect of:
- (i) loss of or damage to property of the COMPANY GROUP whether owned by the COMPANY GROUP, or leased or otherwise obtained under arrangements with financial institutions by the COMPANY GROUP arising from, relating to or in connection with the performance or non-performance of the PO, but excluding the GOODS prior to delivery; and
 - (ii) personal injury including death or disease to any person employed by the COMPANY GROUP arising from, relating to or in connection with the performance or non-performance of the PO; and (c) subject to any other express provisions of the PO, personal injury including death or disease or loss of or damage to the property of any third party to the extent that any such injury, loss or damage is caused by the negligence or breach of duty (whether statutory or otherwise) of the COMPANY GROUP. For the purposes of this Clause "third party" shall mean any party which is not a member of the SUPPLIER GROUP or the COMPANY GROUP.
- (c) All exclusions and indemnities given under this Clause D1 (save for those under Clauses D1.(a).(iii), D1.(b).(ii) and Clause D2 shall apply irrespective of cause and notwithstanding the negligence or breach of duty (whether statutory or otherwise) of the indemnified party or any other entity or party and shall apply irrespective of any claim in tort, under contract or otherwise at law.
- (d) If either party becomes aware of any incident likely to give rise to a claim under the above indemnities it shall notify the other and both parties shall co-operate fully in investigating the incident.

D2. Consequential Loss

For the purposes of this Clause the expression "Consequential Loss" shall mean loss and/or deferral of production, loss of product, loss of use, loss of revenue, profit or anticipated profit (if any), in any case whether direct or indirect and whether or not are foreseeable at the date of the PO.

Notwithstanding any provision to the contrary elsewhere in the PO and except to the extent of any agreed liquidated damages (including without limitation any predetermined termination fees) provided for in the PO, the COMPANY shall save, indemnify, defend and hold harmless the SUPPLIER GROUP from the COMPANY GROUP's own Consequential Loss and the SUPPLIER shall save, indemnify, defend and hold harmless the COMPANY GROUP from the SUPPLIER GROUP's own Consequential Loss, arising from, relating to or in connection with the performance or non-performance of the PO.

D3. Insurance

The Contractor shall, at its own expense, take out and maintain the following insurance:

Adequate insurance to cover any of the SUPPLIER's liabilities arising from the performance of the PO howsoever caused, including any and all insurance, which may be required by Sultanate of Oman Law for or with respect to the SUPPLIER's personnel and comprehensive insurance for motor vehicles and equipment (owned, non-owned or hired units) employed by the SUPPLIER or any Subcontractor in connection with the performance of this PO. The insurance policy shall include but not limited to 3rd party coverage, bodily injury / death, property damage, total loss, theft, Storm, Tempest and Flood (STF).

The SUPPLIER shall (when so requested by COMPANY) provide COMPANY with evidence, issued by their insurers,



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confirming that the insurance required under this PO is in full force and effect.

D4. Confidentiality

The COMPANY and the SUPPLIER shall keep the PO and any information, which either party learn about the other in strict confidence and will not disclose the same to any third party without the prior written consent of the other party.

D5. Variations

With reasonable prior notice, the COMPANY and the SUPPLIER shall discuss variations to the PO and agree with each other resulting changes to any of the details shown in the PO.

D6. Force Majeure

Neither the COMPANY nor the SUPPLIER shall be responsible for any failure to fulfil any term or condition of the PO if and to the extent that fulfilment has been delayed or temporarily prevented by a force majeure occurrence, as hereunder defined, which has been notified in accordance with this Clause D6 and which is beyond the control and without the fault or negligence of the party affected and which, by the exercise of reasonable diligence, the said party is unable to provide against.

For the purposes of the PO only the following occurrences shall be force majeure:

- (a) Riot, war, invasion, act of foreign enemies, hostilities (whether war be declared or not), acts of terrorism, civil war, rebellion, revolution, insurrection of military or usurped power;
- (b) Ionising radiations or contamination by radio-activity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel or radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof;
- (c) Pressure waves caused by aircraft or other aerial devices travelling at sonic or supersonic speeds;
- (d) Earthquake, flood, fire, explosion and/or other natural physical disaster, but excluding weather conditions as such, regardless of severity;
- (e) Strikes at a national or regional level or industrial disputes at a national or regional level, or strikes or industrial disputes by labour not employed by the affected party its sub-contractors or its suppliers and which affect a substantial or essential portion of the GOODS;
- (f) Maritime or aviation disasters;

D7. Audit and Record Keeping

During the course of the SERVICE and for a period ending 2 years after the COMPLETION DATE, the COMPANY or its duly authorised representative shall have the right to audit at all reasonable times and, upon request, take copies of all of the SUPPLIER's records (howsoever stored), books, personnel records, accounts, correspondence, memoranda, receipts, vouchers and other papers of every kind relating but not limited to:

- (a) all P&E repair and maintenance records;
- (b) driver competency, training and certification;
- (c) all invoiced charges made by the SUPPLIER on the COMPANY; and
- (d) any provision of this PO under which the SUPPLIER has obligations the performance of which is capable of being verified by audit.



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The SUPPLIER shall co-operate fully with the COMPANY and/or its representatives in the carrying out of any audit required by the COMPANY. The COMPANY will conduct any audit in a manner which will keep to a reasonable minimum any inconvenience to the SUPPLIER.

The SUPPLIER shall obtain equivalent rights of audit to those specified above from all sub-suppliers and will cause such rights to extend to the COMPANY.

The PARTIES shall keep all documents and data, howsoever stored, related to this PO for a period of 6 years after the SCHEDULED COMPLETION DATE.

D8. Set Off

The COMPANY shall have the right to set off against any money due, or becoming due to the SUPPLIER, the amount of any counter claim arising out of the PO, or any other PO with the SUPPLIER.

D9. Transfer

Neither the COMPANY nor the SUPPLIER shall at any time sub-contract or assign any part of their respective rights or obligations under the PO to any other person, without first obtaining the other party's prior consent which shall not unreasonably be withheld or delayed.

D10. Dispute Resolution

If either party is dissatisfied with the performance of the other in relation to the SERVICES or the PO, the parties shall meet as soon as possible in good faith with each other to try to resolve the matter in an amicable way.

If no agreement is reached the parties may attempt to settle the dispute by a form of Alternative Dispute Resolution to be agreed between the parties.

In the absence of any agreement being reached on a particular dispute either party may take appropriate action in the LOCAL LAW Courts to resolve the dispute at any time.

D11. Cancellation

The COMPANY may terminate the PO in the event that the SUPPLIER:

- (a) is in breach of a condition of the PO; or
- (b) becomes bankrupt or makes a composition or arrangement with its creditors or a winding-up order being made or (except for the purposes of amalgamation or reconstruction) a resolution for its voluntary winding-up being passed or a provisional Liquidator, Receiver, Administrator or Manager of its business or undertaking being appointed or presenting a petition or having a petition presented applying for an administration order to be made pursuant to insolvency, or possession being taken by or on behalf of the holders of any debenture secured by a Floating Charge of any property comprised in or subject to the Floating Charge, or any equivalent act or thing being done or suffered under any applicable law.

In the event of such cancellation, Company shall without prejudice to any other rights or remedies have no liability in connection with charges for the cancelled SERVICES and shall have the right to charge the SUPPLIER any additional costs which COMPANY may incur in obtaining alternative SERVICES and to charge the SUPPLIER for any additional costs which COMPANY may incur in connection with delays or any other associated costs for which COMPANY may become liable.



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D12. Law and Language

The PO, and any non-contractual rights and obligations arising out of or in connection with it and its subject matter, shall be governed and construed in accordance with LOCAL LAW. The PO, and any non-contractual rights and obligations arising out of or in connection with it and its subject matter and subject to the provisions of Clause D9, shall be subject to the exclusive jurisdiction of LOCAL LAW Courts.

The ruling language of the PO shall be the English Language.

D13. Additional Conditions

- (a) The SUPPLIER and the COMPANY agree that any special or other conditions set out in or appended to the PO will be treated as an integral part of the PO and that any special or other conditions shall, in the event of any conflict or ambiguity arising, take precedence over any General Terms and Conditions.
- (b) The SUPPLIER and the COMPANY also agree that the terms and conditions of any CLIENT contract referred to in the PO will also be treated as an integral part of the PO and that in the event of any conflict or ambiguity arising, shall take precedence over any applicable General or Special Terms and Conditions.
- (c) SUPPLIER hereby confirms its no-objection to any compliance, risk and/or sanction review which may be conducted by COMPANY from time to time, using a third party. Such review may also include SUPPLIER's principals and shall at all times remain confidential.