

# General Conditions of Purchase of Machinery and Industrial Plants – Sedamyl Group

## 1. Definitions.

In these conditions the following words shall have the following meanings:

**“General Conditions of Purchase of Machinery and Industrial Plants” or “GCP”:** the present terms and conditions of the Sedamyl Group as set out in this document.

**“Supply” or “Supplies”:** all supplies of machinery and industrial plants provided by any Supplier to any company belonging to the Sedamyl Group, acting either in its own name as contracting party and/or on behalf of other companies within the Group.

**“Supplier” or “Seller”:** the individual, company or legal entity which accepts and/or performs the Buyer’s Purchase Order.

**“Buyer” or “Customer”:** any company belonging to the Sedamyl Group, acting either in its own name as contracting party and/or on behalf of other companies within the Sedamyl Group.

**“Purchase Order” or “PO”:** the purchase order issued by the Buyer, of which these GCP form an integral part, including any technical annexes, specifications, test plans and any other documents referred to therein.

**“Contract”:** the Purchase Order as accepted and/or performed by the Supplier.

**“Supplies”, “Machinery” and/or “Plants”:** the machinery and industrial plants forming the subject of the Supply.

**“Specifications”:** the technical specifications, drawings, layouts, P&IDs (piping and instrumentation diagrams), electrical and/or instrumentation diagrams, as well as capacity, consumption and performance requirements, together with all hygiene, health and safety standards specified by the Buyer in the Purchase Order.

## 2. Application of Terms.

These General Conditions of Purchase (“GCP”) shall exclusively govern all Purchase Orders issued by the Buyer and shall prevail over any general or special terms and conditions of the Supplier.

The express or implied acceptance of the Purchase Order shall constitute full acceptance of these GCP, as well as of all terms expressly set out in or attached to the Purchase Order.

In the event of any conflict or inconsistency between these GCP and any terms and conditions of the Supplier (including those referenced in order confirmations, delivery notes or invoices), these GCP shall prevail in all circumstances.

Any amendment to these GCP shall be effective only if expressly agreed in writing by both the Supplier and the Buyer.

### **3. Price and Payment Terms.**

The prices set out in the Purchase Order shall be fixed, firm and all-inclusive.

Any price revision or request for additional or extra costs by the Supplier shall be valid only if previously authorised in writing by the Buyer through a formal variation order.

Unless otherwise agreed in the Purchase Order, payments shall be made in accordance with the terms specified therein.

Payment shall be made within sixty (60) days from the end of the month of the date of a valid invoice, unless otherwise agreed in writing.

The Buyer shall be entitled to set off any amounts owed to the Supplier against any amounts due from the Supplier to the Buyer, whether or not such amounts are liquidated or disputed.

### **4. Financial Guarantees.**

The Supplier shall, upon request of the Buyer, provide first demand bank and/or insurance guarantees issued by leading financial institutions, as specified in the Purchase Order.

Such guarantees shall be payable upon first written demand by the Buyer, without objection or defence from the guarantor or the Supplier.

### **5. Delivery, Time for Delivery and Liquidated Damages.**

Delivery terms shall be specified in the Purchase Order in accordance with the applicable Incoterms® 2020. Delivery deadlines, including completion of installation and Site Acceptance Tests (SAT), shall be of the essence.

Each delivery shall be accompanied by a delivery note indicating the Purchase Order number and date, as well as contents and quantities.

The delivery period ("Lead Time") shall mean the period between acceptance of the Purchase Order and delivery of the goods. The Supplier acknowledges that strict compliance with the Lead Time is essential for the Buyer's production processes.

The Lead Time shall be confirmed upon order acceptance and may only be amended by mutual written agreement.

In the event of delay attributable to the Supplier in delivery, installation and/or completion of SAT, liquidated damages equal to three per cent (3%) of the Order value for each week (or part thereof) of delay shall apply, up to a maximum of twenty per cent (20%) of the Order value.

The application of liquidated damages shall not prejudice the Buyer's right to terminate the Contract and/or claim further damages.

Unagreed deliveries shall remain at the Supplier's risk and expense and may be rejected.

Receipt of Machinery and/or Plants shall not constitute acceptance, which shall only occur following successful completion of the Site Acceptance Test (SAT).

### **6. Transfer of Title and Risk.**

Title to the Machinery and Plants shall pass to the Buyer upon delivery to the agreed location or upon payment, if earlier, without prejudice to the Buyer's right to withhold payment in case of non-conformity.

The risk of loss of or damage to the Supplies shall remain with the Supplier until completion of the unloading operations at the Customer's premises and, with respect to installation and commissioning activities, until the execution of the positive Site Acceptance Test (SAT) report.

Any damage resulting from inadequate packaging or transport shall be borne by the Supplier.

Reservation of title: all components, spare parts, equipment and documentation paid for by the Buyer shall remain the exclusive property of the Buyer, even if held by the Supplier or its subcontractors.

The Supplier shall be obliged to store such items separately, clearly mark them as the Buyer's property, and return or deliver them upon the Buyer's first request.

In the event of loss or damage, the Supplier shall fully indemnify the Buyer for the value of the lost or damaged goods, as well as for any further direct loss suffered, without prejudice to the recovery of any greater loss.

## **7. Intellectual Property.**

All materials, equipment, tools, moulds, as well as copyright, design rights and any other intellectual property rights relating to drawings, specifications or information, in whatever form supplied by the Buyer to the Supplier or used by the Supplier for the manufacture of the machinery and plants forming the subject of the Supply, shall be and remain the exclusive property of the Buyer (the "Buyer's Property").

The Buyer's Property shall be kept by the Supplier with the utmost professional care, maintained in good working condition and returned to the Buyer upon first request or, in any event, upon completion of the Supply. Such property shall not be used by the Supplier for purposes other than the performance of the Contract, nor copied, modified or disclosed to any third party without the Buyer's prior written consent.

Unless otherwise agreed in writing by the Buyer, all technical and documentary information provided shall be used solely for purposes strictly related to the performance of the Supply.

Any drawings, specifications, configurations, software, adaptations or improvements developed by the Supplier on the basis of the Buyer's instructions or specifications shall be promptly notified to Sedamyl Group and shall be the exclusive property of the Buyer and deemed to be Confidential Information.

The Supplier warrants that the Supplies do not infringe any third-party intellectual property rights and shall indemnify and hold harmless the Buyer against any related claims.

## **8. Confidentiality**

The Supplier shall not take photographs of any equipment, plant or property of the Buyer without the Buyer's prior written consent. The Supplier undertakes to keep strictly confidential all commercial or technical know-how, specifications, inventions, processes, initiatives and any

confidential information relating to the Buyer's business or products disclosed to the Supplier or its agents. The Supplier shall disclose such confidential information solely to those of its employees, agents or subcontractors who need to know such information for the proper performance of the Supplier's obligations towards the Buyer and shall ensure that such employees, agents or subcontractors are subject to confidentiality obligations no less stringent than those set out herein.

The Supplier shall not advertise or otherwise make public the existence of any contractual relationship with the Buyer for the supply of the Goods and shall not use the Buyer's trademarks, trade names or logos in any advertising or promotional material without the Buyer's prior written consent.

## **9. Technical Specifications, Documentation and Regulatory Compliance**

The Supplies shall fully comply with the Specifications, drawings, layouts, P&IDs (piping and instrumentation diagrams), electrical and/or instrumentation diagrams, software and/or firmware, spare parts lists, performance requirements and any other technical requirements attached to the Purchase Order, as well as with all applicable laws and regulations, including those relating to CE marking, machinery safety and declarations of conformity for both machinery and installations.

Upon delivery, the Supplier shall provide the Buyer with all technical documentation relating to the machinery and plants, including documentation concerning operation, maintenance and safety, as well as manuals, drawings, CE declarations of conformity for machinery and declarations of conformity for the installations.

Failure to provide the above-mentioned technical documentation shall constitute a non-conformity for the purposes of Clause 17.2(a).

Any modification to design, materials, critical components, software or manufacturing processes shall be subject to the Buyer's prior written approval.

## **10. Factory Acceptance Test (FAT), Installation and Site Acceptance Test (SAT).**

### **Factory Acceptance Test (FAT)**

Prior to delivery of the Machinery, the Parties shall carry out at the Supplier's premises a factory acceptance test (Factory Acceptance Test, hereinafter the "FAT") in order to verify the functional compliance of the Machinery with the contractual Technical Specifications.

Upon completion of the FAT, a test report or certificate shall be prepared and signed by the Parties.

In the event of a successful outcome, the Machinery shall be deemed compliant with the performance requirements subject to the FAT.

In the event of an unsuccessful outcome, the Supplier shall, at its own cost and expense, carry out the necessary corrections and repeat the FAT within a reasonable timeframe. The time required to perform such corrective actions and repeat testing shall not give rise to any additional compensation or liquidated damages in favour of the Buyer.

## **Installation.**

The installation and commissioning of the Machinery shall be carried out jointly by the Supplier and the Buyer at the Customer's site, in accordance with the agreed technical specifications and the delivery and project layout. Each Party shall provide suitably qualified personnel to perform the activities falling within its respective scope and shall cooperate in good faith to ensure the proper execution of the works.

The Customer shall ensure that the area designated for installation is fully prepared, accessible and compliant with all applicable requirements relating to safety, electrical systems and environmental conditions. The Supplier shall supervise the installation activities and shall provide all necessary technical instructions, documentation and assistance to ensure proper assembly and commissioning.

## **Site Acceptance Test (SAT) and Make Good**

Upon completion of installation, the Parties shall carry out at the Buyer's premises a final site acceptance test (Site Acceptance Test, hereinafter the "SAT"), including testing under actual product conditions and the intended operating parameters.

Following completion of the SAT, a formal report shall be issued recording either: (a) acceptance without reservation; or (b) non-acceptance, specifying any identified non-conformities.

The SAT shall be deemed successfully completed and accepted without reservation only if, for the agreed continuous period, the guaranteed performance levels are achieved and maintained, and the Supply is verified as compliant with the Specifications and applicable laws and regulations.

In the event of non-acceptance, the Supplier shall, at its own cost and expense, remedy the non-conformities within fifteen (15) days from the date of the non-acceptance report (unless otherwise agreed in writing between the Parties) and shall subsequently repeat the relevant tests.

Successful completion of the SAT and execution of the corresponding acceptance report shall not in any way prejudice the Buyer's statutory rights in respect of latent defects, nor shall it exclude, limit or reduce the Supplier's liability for defects, non-conformities or malfunctions not detectable at that stage.

## **11. Garanzia post collaudo SAT. Warranty post SAT**

The warranty period shall be twenty-four (24) months commencing from the date of the SAT acceptance report or, if later, from the date of actual commissioning of the Machinery.

## **12. Defects, Latent Defects and Non-Conformity**

The Supplier warrants that the machinery subject to the Supply shall be free from defects, compliant with the Purchase Order, the Technical Specifications and all applicable laws and regulations, and fit for the purposes for which they are intended.

In the event of latent defects or non-conformities not detectable during the SAT, the Buyer shall be entitled to exercise all remedies available under applicable law, including, without limitation:

- termination of the Contract;
- return of all or part of the Supply;
- repair and/or replacement of non-conforming parts at the Supplier's cost and expense;
- reduction of the price, without prejudice to the right to claim damages.

Any latent defects shall be notified by the Buyer within thirty (30) days of discovery.

### **13. Liability and Indemnity.**

The Supplier shall be liable for any damage, loss, cost or expense incurred by the Buyer or by any third party as a result of:

- defects, non-conformities or malfunctions of the Machinery;
- delays or any breach of the Technical Specifications, applicable laws and regulations, or contractual obligations.

The Supplier shall indemnify and hold harmless the Buyer against any and all claims, actions, penalties or demands brought by third parties arising out of or in connection with the Supplies, including all legal costs and expenses incurred by the Buyer.

In the event of a total or partial shutdown of the plant attributable to defects in the Machinery or delays in carrying out remedial works (make-good), the Supplier shall pay to the Buyer liquidated damages calculated on a daily basis, equal to the value of the lost production for each day of downtime, without prejudice to the Buyer's right to recover any greater loss.

### **14. Insurance, Health and Safety and Site Access**

The Supplier shall maintain adequate insurance coverage in respect of its liabilities towards third parties, its employees and product liability, with limits appropriate to the nature and scope of the Supplies.

Any personnel of the Supplier operating at the Buyer's premises shall comply with the Buyer's rules and procedures relating to health, safety, environment and food hygiene, as well as with any instructions issued by the Buyer.

### **15. Legal Compliance, Dangerous Goods and Packaging.**

The Supplier shall comply with all applicable laws and regulations relating to the Supplies, including those concerning machinery, industrial plants, environmental protection, occupational health and safety, transport of goods and, where applicable, dangerous goods.

The packaging, labelling and transport of the Supplies shall be appropriate to ensure their integrity and safety until delivery to the Buyer.

### **16. Variations and Suspension.**

The Buyer may request the Supplier to make changes to the scope, Specifications, timing and methods of execution of the Supplies. Any corresponding adjustments to price and/or delivery terms shall be effective only if agreed in writing between the Parties.

The Buyer may suspend the performance of the Purchase Order at any time by giving written notice to the Supplier. In such event, the Buyer shall pay the Supplier only the fair value of the activities

properly performed up to the date of suspension or termination, excluding any compensation for loss of profit.

## **17. Termination and Cancellation.**

### **17.1 Termination without cause**

The Buyer may, at any time and without cause, terminate the Order, in whole or in part, by providing written notice to the Supplier.

In the event of such termination, the Buyer shall pay the Supplier only for documented, non-recoverable costs directly attributable to the activities properly performed up to the date of receipt of the termination notice, excluding any further compensation, loss of profit or damages.

It is understood that where the termination results from the Supplier's failure to comply with delivery schedules, technical specifications, or any other material obligation under the Order, the Purchaser shall be entitled to terminate the Order without any liability or cost and without prejudice to any other rights or remedies available to the Purchaser, including the right to recover damages.

### **17.2 Termination for Cause**

The Buyer shall be entitled, at any time, to terminate the Contract by written notice to the Supplier in the following circumstances:

- (a) the Supplier fails to perform its contractual obligations and does not remedy such breach within fourteen (14) days of notice from the Buyer;
- (b) any enforcement action or measure affecting the Supplier's assets is commenced;
- (c) insolvency or bankruptcy proceedings are initiated against the Supplier, or the Supplier enters into any arrangement with its creditors, or goes into liquidation (other than for the purpose of a bona fide reorganisation or merger), or any similar proceedings are commenced;
- (d) the Supplier ceases or threatens to cease carrying on its business; or
- (e) the Supplier's financial position deteriorates to such an extent that, in the Buyer's reasonable opinion, its ability to perform its obligations under the Contract is jeopardised;
- (f) in the circumstances set out in Clause 20.

For the purposes of sub-clause (a), material breaches shall include, by way of example and without limitation:

- delay in delivery of the Machinery exceeding thirty (30) days from the contractual delivery date;
- delivery of Machinery not compliant with the Technical Specifications or applicable laws and regulations;
  - failure to successfully complete the Site Acceptance Test (SAT) within thirty (30) days from initial commissioning due to causes attributable to the Supplier;
  - failure to remedy defects or malfunctions within a reasonable period specified by the Buyer during the warranty period;
  - failure to issue, renew or maintain the bank and/or insurance guarantees required under the Contract.

Termination of the Contract for any reason shall not affect any rights and obligations of the Buyer accrued prior to termination.

The provisions set out in Clauses 1, 7 (Intellectual Property), 8 (Confidentiality) and 24 (Data Protection), as well as any provisions which by their nature are intended to survive termination, shall remain valid and enforceable notwithstanding termination of the Contract.

### **17.3 Effects of Termination.**

In the event of termination (whether for convenience or for cause), the Supplier shall:

- immediately cease all activities related to the Purchase Order;
- make available to the Buyer, upon request, the Machinery (including any partially completed items) and any technical documentation already produced, against payment of the amounts due in accordance with this clause;
- cooperate in good faith to facilitate any replacement of the Supplier by third-party suppliers.

The following provisions shall expressly survive and remain in full force and effect following termination of the Contract:

all clauses relating to warranty of the Machinery, liability for defects, confidentiality, intellectual property rights, bank and/or insurance guarantees, as well as any other provision which, by its nature, is intended to survive termination.

### **18. Assignment and Subcontracting.**

The Supplier shall not assign, transfer or subcontract this Contract, in whole or in part, without the Buyer's prior written consent.

Any change in the Supplier's corporate structure, including, without limitation, any change of name, merger, demerger, contribution in kind, acquisition by a third party, transfer of the business or any part thereof, or any transaction resulting in a direct or indirect change of control of the Supplier, shall be deemed equivalent to an assignment of the Contract and shall require the Buyer's prior written consent.

The Supplier undertakes to notify the Buyer in writing of any such transaction prior to its effectiveness. In the absence of the Buyer's consent, the Buyer shall be entitled to terminate the Contract with immediate effect, without the Supplier being entitled to claim any compensation or damages of any kind.

In any event, even where the Buyer grants its consent, the Supplier shall remain jointly and severally liable with any assignee, transferee or subcontractor for the full and proper performance of all contractual obligations.

### **19. Force Majeure.**

Either Party shall be entitled to defer the date of delivery or payment, to cancel the Contract or to reduce the volume of the Goods ordered where performance is prevented or delayed by an event of force majeure, provided that such force majeure event is promptly notified in writing to the other Party.

Force majeure shall mean any extraordinary, unforeseeable event beyond the reasonable control of the Parties which prevents or renders impossible the timely performance of contractual obligations, including, by way of example and without limitation: declared or undeclared wars, armed conflicts, hostilities, invasion, military mobilisation, acts of terrorism, riots, civil commotion, sabotage, natural

disasters, fires, epidemics and pandemics, acts of national or supranational authorities, international sanctions or embargoes, closure of ports or logistical corridors, general or sectoral strikes not attributable to the Supplier, significant disruptions to global supply chains or to the supply of energy and raw materials, and banking or insurance restrictions.

The Party invoking force majeure shall notify the other Party in writing within five (5) working days of the occurrence of such event, specifying its nature, expected duration and the effects on the performance of the Contract.

Performance of the affected obligations shall be suspended for the duration of the force majeure event, without liability for the other Party, and the time for performance of the relevant obligations shall be extended for a period equal to the duration of such suspension, unless otherwise agreed in writing between the Parties.

Where a force majeure event continues, or is reasonably expected to continue, for more than sixty (60) consecutive days, either Party shall be entitled to terminate the Contract, in whole or in part, by written notice to the other Party, without liability for penalties. In such case, the Buyer shall be entitled to the reimbursement of any amounts paid for Supplies not performed, without prejudice to the right to recover any further loss not covered by the exemption from liability for obligations rendered objectively impossible.

It is expressly agreed that economic, financial or organisational difficulties of the Party invoking force majeure, as well as ordinary market or cost fluctuations falling within the normal commercial risk of the Contract, shall not constitute force majeure events.

## **20. Hardship.**

In the event that, after the conclusion of the Contract, extraordinary and unforeseeable events occur, other than force majeure, which materially alter the economic balance of the Contract or render the performance of obligations excessively onerous for either Party – including, by way of example and without limitation: international crises, armed conflicts, international sanctions or counter-sanctions, embargoes, significant and unforeseeable increases in the cost of energy or raw materials, substantial fluctuations in exchange rates or transport costs, or material changes in applicable laws – the affected Party may request in writing the commencement of a renegotiation process.

The Parties shall negotiate in good faith, within thirty (30) days of receipt of such request, the economic and/or timing terms of the Contract, with the sole objective of restoring a fair balance between the Parties' obligations, taking into account the Buyer's overriding need to ensure continuity and predictability of supply.

If no written agreement is reached within forty-five (45) days from the commencement of such renegotiation, the Buyer shall be entitled, at its sole discretion, to:

- terminate the Contract, in whole or in part, upon fifteen (15) days' written notice; or
- terminate the Contract on the grounds of excessive onerousness, by written notice, with the right to the reimbursement of any amounts already paid for Supplies not performed and to compensation for damages suffered, within the limits permitted by applicable mandatory law.

## **21. Relationship of the Parties.**

The Buyer and the Supplier are independent parties, and nothing in this Contract or in any Purchase Order issued hereunder shall be construed as creating any partnership, agency or legal representation between them for any purpose whatsoever.

Neither Party shall have the authority to assume, create or incur any obligation or liability on behalf of, or in the name of, the other Party.

## **22. Data Protection.**

The Buyer, acting as data controller, hereby informs the Supplier that any personal data provided in the context of the contractual relationship shall be processed in accordance with Regulation (EU) 2016/679 ("GDPR") for purposes related to the management of the commercial relationship, performance of the Contract, compliance with legal obligations and, where necessary, the pursuit of the Buyer's legitimate interests in protecting its rights.

The data shall be processed by electronic means and may be disclosed to third parties acting as data processors. The data shall be retained for the period necessary for the management of the contractual relationship and, in any event, for no longer than ten (10) years following its termination, unless a longer retention period is required by law.

Data subjects may exercise the rights set out in Articles 15–22 of the GDPR (including the right of access, rectification, erasure, restriction, objection, data portability and the right to lodge a complaint with the competent supervisory authority) by contacting the Buyer at the following address: [contactgdpr@sedamyl.com](mailto:contactgdpr@sedamyl.com).

## **23. General Provisions.**

This Contract shall be governed by and construed in accordance with the laws of Italy.

If any provision of this Contract is held to be invalid, illegal or unenforceable, such provision shall, to the extent required, be deemed severed and the validity and enforceability of the remaining provisions shall not be affected. The Parties shall replace any such invalid provision with a valid one which most closely reflects the original intent and economic effect of the replaced provision.

No failure or delay by the Buyer in exercising any right or remedy, or in enforcing any obligation of the Supplier, shall be deemed a waiver thereof, nor shall it prevent the Buyer from exercising such right, remedy or enforcement subsequently.

The terms of this Contract shall be binding only upon the Parties hereto and shall not confer any benefit upon any third party, unless otherwise expressly provided.

The Parties shall use their best endeavours to resolve amicably any disputes (including non-contractual disputes) arising out of or in connection with the interpretation, performance or termination of the Contract.

If an amicable settlement cannot be reached, all disputes arising between the Parties in connection with the application or interpretation of this Contract or these General Conditions of Purchase (including non-contractual disputes) shall be subject to the exclusive jurisdiction of the Court of Cuneo, without prejudice to the Buyer's right to bring proceedings before any other court having jurisdiction.

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