

SCHNEIDER ELECTRIC (KENYA) LTD. (hereinafter referred to as SE)

GENERAL PROCUREMENT TERMS AND CONDITIONS

1. General provisions - Acceptance

The acceptance of the Order by the Supplier (hereinafter referred to as the "S") implies ipso facto acceptance of these General Terms of Procurement which are an integral part thereof and which govern the contractual relations between the parties, subject to the provisions of the specific terms of the Order, with the S. definitively waiving its own General Terms of Sale.

All the provisions of this Order shall be considered as having been definitively accepted by the Supplier ten (10) business days after its receipt, unless reservations are made within this timeframe, in writing, to the Buyer managing the Order, whose contact details appear on the first page of the Order.

It is hereby specified that SE's procurement commitment (i.e. the validity of the Order placed with the S.) is dependent on the latter's acceptance of all the provisions of the Order.

2. Delivery – Acceptance of delivery

The contractual delivery date is understood as being when the goods have arrived and been unloaded at the delivery address and date specified in the Order and it shall be accompanied by a copy of the delivery note, that shall indicate the effective delivery date, SE's order number, each material nomenclature, as well as its designation. The delivery date is an imperative and fundamental term of the Order. The effective delivery date is the date stamped by the receiving agent of the goods on the receipt slip (or delivery slip), duly signed by one of its authorised representatives.

No early deliveries may be made without SE's consent.

If an acceptance procedure is provided for under the specific terms of the Order expressly accepted by the parties, such procedure is the instrument by means of which, at the S.'s initiative, SE represents that it accepts (with or without

reservations) the supplies, works and/or services which are the subject matter of the Order (hereinafter referred to as the "Supply").

3. Lead-times – Liquidated Damages

In the event of delays in delivery or acceptance, which are not attributable to an event of force majeure or to SE's negligence, the S. shall owe liquidated damages calculated on the total amount of the delayed Supply at a rate of 1% per calendar week of delay up to a maximum of 5% of this amount. Over and above this maximum limit, SE reserves the right:

- to claim its actual loss from the S. and
- to unilaterally announce, at any time and as of right, total or partial termination of the Order for breach of the S. (without prejudice to any damages).

4. Modifications

At any time during performance, SE reserves the right to change the volumes and/or the nature of the Supply. In that case, SE and S shall negotiate, if applicable, the new contractual delivery / acceptance dates and the adjustment of economic conditions of the basic Order.

5. Transfer of risks

Notwithstanding any verification work or acceptance procedure in the S.'s premises, the transfer of risks takes place upon delivery of the Supply. If an acceptance procedure is provided for, the S. nevertheless continues to bear the inherent risks affecting the Supply until SE issues an acceptance statement without reservations.

In all cases, the Supply is transported at the S.'s risk.

6. Packaging and documentation

The Supply is delivered with the packaging required for its warehousing and due and proper preservation. Unless otherwise provided for, the packaging is not subject to a deposit but, if this were the case, it shall be returned at the S.'s expense.

The Supply is delivered together with the documentation required for its use, maintenance and upkeep.

7. Verification

The S. is responsible for verifying and certifying, under its responsibility, the compliance of the Supply with the conditions applicable to it under SE's specifications, with which the S. hereby represents that it is perfectly familiar. Under no circumstances shall the verification work carried-out by SE prior to, during or subsequent to delivery / acceptance discharge the S. from this obligation.

8. Shipping

At the same time as any shipping of the Supply, if SE requires it, the S. shall send to SE, by mail, a copy of the dispatch note mentioning the references and date of the Order, the number of parcels and an exact description of the shipped Supply. The original of this note shall accompany each shipment of parcels, together with the certificates of conformity and the verification reports.

9. Scrapping

SE may inform the S. of the scrapping of any Supply which is found to be non-compliant with the specifications of the Order. Any Supply having been scrapped shall be considered as not having been delivered / accepted and shall be taken-back by the S., at its expense, within the 48 business hours following receipt of the notice of scrapping. Otherwise, the Supply shall be sent back to the S. at its expense and risk. In case of scrapping, SE shall be entitled to request the S. to replace the Supply within the given time period or to unilaterally terminate the Order without prejudice to its rights accruing from the governing law.

10. Invoicing

Any invoice shall be sent in only one copy to the following invoicing address:

**Schneider Electric (Kenya) Ltd.
Mombasa Road
P.O Box 46345-00100
Nairobi, KENYA.**

and shall imperatively contain SE's references and those of the corresponding Order.

Each invoice relates to only a single Order and shall include the description of the Supply invoiced, and the unitary prices and volumes delivered, unless provided for the contrary.

Schneider Electric (Kenya) Ltd.

Mombasa Road, P.O. Box 46345 Nairobi Kenya. Tel: +254 703 069000 / 730 169000,

www.schneider-electric.com/ke

SE reserves the right to suspend payment of any invoice which fails to comply with regulatory provisions and/or those of this article. Any disagreement by SE as regards the volume or quality of the delivered Supply or the invoiced price, shall lead to the issuing of either a debit note or an invoice of SE to the S. The S. shall have fifteen (15) days as from the issuing of the debit note or the invoice to challenge the latter.

11. Prices and terms of payment

Standard Payment Terms: **60 days after invoicing**

Unless otherwise provided in the Order, the prices mentioned in the Order are firm and non-revisable and are understood as being carriage paid and inclusive of packaging expenses.

Debit notes issued by SE shall be automatically deducted from payments subject to SE having received the corresponding invoice.

12. Assignment or subrogation of the receivables, rights and/or obligations under the Order

The S. undertakes not to assign or transfer the whole or part of its receivable, rights and/or obligations under the Order without SE's prior and written authorization.

Should the S. have signed a factoring contract, all its invoices shall be paid to the factoring company with which it concluded the contract, subject to SE prior authorization.

13. Moulds, tools, test resources (hereinafter referred to as the "Equipment")

Plans, gauges, moulds, shell moulds, models and samples (hereinafter referred to as the "Equipment"), delivered by SE to the S. to perform the Order become the exclusive property of SE and may be used, kept and safe kept in an appropriate way, following orders given, where applicable, by SE. The S. shall immediately notify SE about any fact or circumstance that may affect the state and preservation of the "Equipment" and may be responsible for the lost, destruction, disappearance and damages to it. To that end it shall contract and be up to date with all the payment of insurance premiums and policies with a reputable insurance company that covers

mentioned responsibilities, and provide at SE request, a copy of the said policy and of the premium payment receipt.

SE can remove, replace, examine and check the "Equipment" when it considers it necessary.

The S. shall state in any case that deposited "Equipment" is the exclusive property of SE, and shall immediately notify SE about any fact, circumstance, obstacle, seizure or retention that may affect to it.

The S. undertakes to neither manufacture nor supply for third parties goods produced with SE "Equipment". Furthermore, the S. undertakes to keep it as confidential.

14. Contractual warranty

14.1 Operational warranty

The S. undertakes to warranty SE against any design, manufacturing and/or material defect affecting the Supply for twenty-four (24) months as from the last of the following dates: the order acceptance, the delivery, the start-up or the definitive receipt. As a result, were SE or its own customer to notice a defect / malfunctioning affecting the Supply, the S. undertakes to rectify, repair or replace the Supply in its environment at its expense (including any staff travel, dismantling / reassembly expenses) so that the latter operates in full compliance with the provisions of the Order and the use for which it is intended.

Should the S. be called upon to honour its warranty, but fails to timely and properly correct such defect or malfunctioning, SE reserves the right to intervene or to have any third party intervene instead of the S. at the latter's expense.

Any service furnished and/or any item replaced / rectified / repaired under this warranty are themselves guaranteed for twenty-four (24) months under the abovementioned conditions. Only the items / services with a normal lifecycle of less than twenty-four (24) consecutive months are excluded from the scope of this operational warranty.

14.2 Supply of spare parts

The S. shall deliver all spare parts for ten (10) years as from delivery / acceptance of the Supply.

15. Intellectual property

Any study (its results and its various constituent elements such as the drawing, diagram, model, prototype, etc.) carried-out by or for the S. pursuant to meeting the Order is the exclusive property of SE.

Consequently, the S. undertakes not to use / exploit (or allow a third party to do so) said study results / items for purposes other than meeting the Order.

If specific software is supplied under the Order, its acceptance implies *ipso facto* the S.'s assignment to SE of the exclusive rights of use / exploitation / commercialisation of said software. The S. also undertakes to provide SE, at its 1st request, with the source and object code of said software as well as the associated documentation.

The S. holds SE totally harmless in respect of any action or lawsuit instituted by third parties based on a claim relating to the intellectual property rights covering the Supply delivered under the Order. Pursuant to such proceedings, and independently of any other penalty, all the procedural expenses (included lawyers' fees) and damages which SE may be ordered to pay, shall be fully assumed by the S.

16. Confidentiality - Publicity

Any information, regardless of its nature (technical or commercial) or its support medium, exchanged between the Parties, or to which either party may have access in the context of the Order, shall be considered by the recipient party as being strictly confidential and exclusively reserved for the purpose of performing the Order, to the exclusion of any and all other use.

Moreover, and unless it has SE's express and prior agreement, the S. undertakes not to mention its business relationship with SE to third parties, nor to exhibit the whole of or part of the Supply manufactured from technical documents or specifications owned by SE.

17. Insurance

At SE's first request and in any case within ten (10) days as from acceptance of the Order, the S. undertakes to provide it with a copy of its insurance policies and/or any certificate to be issued by its insurance companies, and to take-out with the latter, at S.'s expense, any additional insurance cover which SE may consider to be reasonably necessary in light of the risks relating to performance of the Order.

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18. Termination

SE may unilaterally and automatically terminate the Order without the S. being entitled to claim any indemnity whatsoever in this respect, in the following cases:

- Fifteen (15) days after seeking a formal notice left unremedied that the S. breached any of its obligations under the Order.
- with immediate effect in the event of:
 - Court-ordered, or out-of-court dissolution or liquidation,
 - an event of force majeure, the consequences of which last for more than six (6) weeks,
 - the contractual delivery times being overrun, if such cause the maximum amount of penalties to be reached,
 - scrapping in accordance with the provisions of article 9 hereinabove.

19. Disputes – Governing law

19.1. The Order between SE and the S. is governed by the law of the Republic of KENYA to the exclusion of the provisions of the Vienna Convention of April 11th, 1980 on the international sale of goods.

19.2. The parties shall use their best endeavours to negotiate and procure an amicable resolution of any dispute arising in connection with this Agreement and such dispute shall be resolved within fourteen (14) clear days from the date the dispute arose.

20. Sustainable development

20.1. The S. undertakes to comply with the following principles:

- The OECD's guidelines on sustainable development, which may be consulted on the following website:

<https://www.oecd.org/greengrowth/47445613.pdf>

- The ten principles of the United Nations Global Compact on human rights, labour standards, the environment and anti-corruption, which may be consulted on the following website:

<https://www.unglobalcompact.org/what-is-gc/mission/principles>

- The rules defined in the ISO 14001 standard.

- Furthermore, the S. is informed that energy performance of the Supply has

been considered as part of the selection criteria used by SE (ISO 50001 Standard).

20.2. In order to enable use of the Supply in total safety, the S.:

- undertakes to comply with all the national legislation and regulations applicable at the delivery address specified in the Order.

- further undertakes to ensure that none of its Supply contains one or more of the hazardous substances referred to in the European Directive 2011/65/EU of 8 June 2011 in its annex II,

- and, generally, finally undertakes to systematically comply with the legislation and regulations relating to the ban on, or restriction of, the use of certain products or substances which are effective when the Order is placed, both in the European Union and in other countries, if such is specified in the Order and/or the specifications, or which may become applicable up to the delivery date of the Supply.

Within forty-five (45) days of receipt of a request from SE, which may be accompanied by a list which SE may have sent to it and, otherwise, on the basis of the effective lists of restricted substances, the S. shall advise SE of the presence of such substances in its Supply.

At SE's first request, the S. shall provide it with all supporting documents required during the legal timeframe for conserving documents.

20.3. The S. shall compensate SE for all costs, damages and losses borne by SE and/or for which it is found liable under third-party claims, owing to the S.'s failure to comply with any of the provisions of this Article 20.

20.4. Moreover, should the S. decide to change the composition of the Supply, it shall advise SE thereof at least nine (9) months prior to the date when such change becomes effective.

21. Management of Supply / Process changes

The S. shall inform SE in writing of any decision to stop marketing the Supply or any major changes made to the Supply or to its manufacturing process and, in particular, any changes affecting the processes, including any material changes in its or its sub-contractors' IT Processes, the procurement of critical components,

the Supply's design, the location of the plant(s), provided such changes impact or may impact on the Supply's technical specifications, compliance with standards, lifecycle, reliability or quality. The S. shall inform SE in writing nine (9) months prior to the marketing end date or the date scheduled for the implementation of any major change. SE reserves the right to refuse any major change. All major changes remain under the full responsibility of the S. The S. shall repay to SE all the costs borne by the latter during, or in the context of, the reclassification of the Supply and/or component affected by the major change.

The Supplier hereby accepts and acknowledges all the aforementioned General Terms and Conditions:

Supplier: _____

Name: _____

Title: _____

Signature: _____

Date: _____

Stamp: _____

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