

XEBEC CLEAN ENERGY PTE LTD GENERAL TERMS AND CONDITIONS OF SALE

Shall constitute a part of Xebec Clean Energy (XCE) standard sale agreement

1.0 Definitions:

1.0.1 “Goods”:

All the agreed upon items and associated ancillary equipment that constitutes due fulfillment of this project.

1.0.2 “Supply”:

To organize, design, manufacture, purchase, expedite, assemble, and test all the “Goods” F.O.B., at XCE’s or its associated premises, in either fully assembled, partially assembled or fully dismantled form.

1.0.3 “Transport”:

To organize and provide suitable transport for the delivery of all the “Goods” from XCE’s premises to the Purchaser’s site.

1.0.4 “Inspection”:

To witness, by a Purchaser’s authorized representative, suitable “factory testing” at the XCE’s premises of all “Goods”.

1.0.5 “Installation”:

To set out, place in position, line up, and connect up all “Goods” to other installations or equipment, and to plant services provided, using the Purchaser’s installation team.

1.0.6 “Commissioning”:

To provide a certified XCE technician, or other such suitably qualified person, for the tuning of mechanical and electrical components and putting the “Goods” in operational mode to allow commercial and/or testing use.

2.1 Prices:

Unless otherwise specified by XCE, XCE’s price for the Goods shall remain in effect for two months after the date of XCE’s quotation or acceptance of the order for the Goods, whichever is delivered first, provided an unconditional, complete authorization for the immediate manufacture and shipment of Goods is received and accepted by XCE within such time period.

2.2 Delivery and Documentation:

All shipping dates are approximate and are based upon XCE's prompt receipt of all necessary information from the Purchaser to properly process the order. Unless otherwise specified by XCE, the Purchaser shall pay transportation and handling expenses. Delivery to carrier shall constitute passage of risk of loss to the Purchaser irrespective of arrangements for transportation or insurance charges.

2.3 Shortage:

The Purchaser must inspect Goods promptly upon receipt and must submit any claim for shortage within thirty days after receipt or any such claim shall be waived.

2.4 Cancellation by Purchaser:

If Purchaser cancels this agreement or refuses delivery of the Goods, the Purchaser shall be liable for and shall pay to XCE all expenses incurred or committed to by XCE prior to cancellation as if the Purchaser had accepted delivery of the finished Goods.

2.5 Force Majeure:

XCE shall not be liable for delays in performance or for non-performance due to acts of God, war, riot, fire, labour troubles, unavailability of materials, components, or labour, explosion, accident, storm, flood, earthquake, compliance with governmental requests, laws, regulations, orders or actions, or unforeseen circumstances or causes beyond XCE's reasonable control.

2.6 Operational and Process Performance Testing

Testing will be performed in the following steps:

2.6.1 Mechanical Inspection and Operational Test

(a) A Mechanical Checkout and Operational Test will be performed on the Goods at XCE or its appointed factories prior to shipment.

(b) No fluids processing will be performed during this step.

(c) Purchaser representatives will be invited to see this test. Their travel and living expenses will be at the Purchaser's charge.

(d) The test will be deemed successful if XCE's Quality Department ensures all components of the Goods are present, properly installed and operational according to the Scope of Supply in Section 1.2.

2.6.2 Process Performance Test

(a) A Process Performance Test will be performed at Purchaser's site under XCE representative's supervision following Goods installation, systems checkout and start-up to prove achievement of the guaranteed performance criteria.

(b) Purchaser will give fifteen (15) days of advance notice to the XCE representative of the Process Performance Test starting day. Such test starting date must be within ninety (90) days after delivery of the Goods. XCE will send qualified personnel to assist with the test. If the Purchaser fails to make the system available for Process Performance Test with ninety (90) days, the system will be deemed successfully complete and accepted by the Purchaser. The Purchaser will take over the Scope of Supply and the Purchaser will release XCE from Process Guarantee. If no process guarantee is provided with the final quotation, then the process acceptance is deemed complete upon start-up.

(c) Purchaser must provide all specified utilities and site requirements. Fluids, manpower, energy and analysis will be at Purchaser's charge. Analysis of the gas purity will be performed at a mutually acceptable test facility. Any flow measurement, purity analysis or other equipment required to accurately determine process performance will be at Purchaser's charge. The performance test will be subject to the accuracy limitations of those instruments. The Purchaser will provide calibration certificates and accuracy specifications for the instruments required, to the satisfaction of XCE, prior to the Performance Test.

(d) A twenty-four (24) hour or shorter mutually agreed test period of continuous operation test will be performed and all operating characteristics will be recorded and presented in report form to Purchaser. This test will be deemed successful if the process guarantees conditions specified in section 1 are met.

(e) If conditions exist at the site beyond parties' control that prevent the successful performance of the test, parties will mutually agree to a different test schedule.

(f) Upon completion of a successful Process Performance Test, both parties will sign a certificate of successful performance of the Process Performance Test; and the Purchaser will take over the Scope of Supply and the Purchaser will release XCE from Process Guarantee.

(g) In case the Goods fail to reach the guaranteed performance by reasons for which XCE is responsible, XCE's sole responsibility shall be, at its option either, (i) commence actions to carry out, on a best effort basis, at his own costs and within 1 (one) month after the Process Performance Test or such other time as the parties shall agree to, all remedial works that are necessary to achieve the guaranteed performance in a further Process Performance Test or (ii) refund the purchase price paid by Purchaser.

2.7 Warranty:

XCE warrants the Goods against defects in workmanship or materials under normal use for twelve months from date of commissioning or eighteen months from date of shipment, whichever is earlier. All replacements or repairs necessitated by inadequate preventive maintenance, or by normal wear and usage, or by fault of the Purchaser, or by unsuitable power sources or by attack or deterioration under unsuitable environmental conditions, or by abuse, accident, alteration, misuse, improper installation, modification, repair, storage or handling, or any other cause not the fault of XCE ("Non-warranty Repairs") are not covered by this Limited Warranty, and shall be at Purchaser's expense. All costs of dismantling, reinstallation and freight and the time and expenses of XCE's personnel for site travel and non-warranty repairs shall be borne by Purchaser unless accepted in writing by XCE. XCE's sole responsibility shall be, at its option, to repair or replace and install free of charge any parts or equipment found to be defective, up to a maximum of 50% of the purchase price, or refund the full purchase price paid by the Purchaser. Goods repaired and parts replaced during the warranty period shall be in warranty for the remainder of the original warranty period or ninety (90) days, whichever is longer. THE FOREGOING WARRANTIES AND REMEDIES ARE EXCLUSIVE AND EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES EXPRESSED OR IMPLIED; AND XCE MAKES NO REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, AS TO THE FITNESS OF A PARTICULAR PURPOSE OR MERCHANTABILITY OF THE GOODS.

2.7.1 Equipment Access

After providing reasonable notice to the Purchaser, XCE personnel must have access to the purchaser site to collect performance data and samples during the warranty period.

2.8 Limitation of Remedy and Liability:

XCE SHALL NOT BE LIABLE FOR DAMAGES CAUSED BY DELAY OR PERFORMANCE. THE SOLE AND EXCLUSIVE REMEDY FOR BREACH OF WARRANTY HEREUNDER SHALL BE LIMITED TO REPAIR, CORRECTION OR REPLACEMENT UNDER THE LIMITED WARRANTY CLAUSE IN SECTION 2.7. IN NO EVENT, REGARDLESS OF THE FORM OF THE CLAIM OR CAUSE OF ACTION (WHETHER BASED IN CONTRACT, INFRINGEMENT, NEGLIGENCE, STRICT LIABILITY, OTHER TORT OR OTHERWISE), SHALL XEBEC'S LIABILITY TO PURCHASER EXTEND TO INCLUDE INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES. THE TERM "CONSEQUENTIAL DAMAGES" SHALL INCLUDE, BUT NOT BE LIMITED TO, LOSS OF ANTICIPATED PROFITS, LOSS OF USE, LOSS OF REVENUE, AND COST OF CAPITAL.

2.9 Installation:

The Purchaser shall be responsible for receiving, storing, installing, and maintaining all Goods. XCE shall provide a quotation for services to assist the Purchaser in these functions

if requested. In order for the warranty to be valid, commissioning and start-up are to be performed by a XCE certified technician.

2.10 Product Support:

XCE's policy is that functionally interchangeable replacement parts will be available during the time a standard product is offered for sale. In addition, either repair capability, or functionally equivalent parts will be available for at least five years from the last date of product availability. No guarantee of parts availability, repair capability, or functionally equivalent goods is offered for goods manufactured by others and supplied with XCE's Goods.

2.11 Taxes and Duties:

XCE's prices do not include amounts for any duties or sales, use, excise, or similar taxes. The Purchaser shall pay, in addition to XCE's prices, the amount of any present or future such tax and duty applicable to the sale or use of the Goods or, in lieu of such payment, provide XCE with a tax exemption certificate and/or duty clearance acceptable to the appropriate authorities. The Purchaser covenants and agrees with XCE to indemnify XCE against all liabilities, claims, demands, actions, causes of action, damages, losses, costs or expenses (including legal fees and disbursements) suffered or incurred by Xebec by reason of or arising out of Purchaser's breach of this covenant.

2.12 Insurance:

The Purchaser shall provide and maintain insurance on the Goods in an amount not less than their full insurable value, with loss payable to XCE and the Purchaser, as their interests may appear, from the date that risk of loss passes to the Purchaser until such time as title passes to the Purchaser and the Purchaser pays the full purchase price to XCE.

2.13 Labeling:

Each of the Goods utilized by the Purchaser shall have a label affixed thereto identifying it as manufactured or developed by XCE and containing such proprietary, copyright, patent, trademark, design right, trade secret and all other proprietary rights, legends and alphanumeric codes as XCE considers appropriate. The Purchaser shall ensure that such label remains affixed to such Goods, shall replace such label if it is destroyed, removed or becomes unreadable and in no event shall the Purchaser claim that the Goods or any component thereof has been developed by the Purchaser.

2.14 Milestone Payments:

Unless otherwise provided in XCE's written quotation, the Purchaser shall make periodic milestone payments. Invoices shall be issued by XCE and paid by the Purchaser based upon the following Milestones: Milestone 1: 40% of price upon receipt of purchase order by XCE. Milestone 2: 40% of price upon submittal of Preliminary Drawings. Milestone 3: 15% of price upon notice of readiness to ship. Milestone 4: 5% after commissioning and start up or 60 days after shipment, whichever comes first. All payments are non-refundable and due within 15 days of the invoice date. An interest charge of 2% per month will be assessed on late payments.

2.15 Purchaser Supplied Data:

To the extent that XCE has relied upon any specifications, information, representation of operating conditions or other data supplied in writing by the Purchaser to XCE in the selection or design of the Goods and the preparation of XCE's quotation, and in the event that actual operating conditions or other conditions differ from those represented by the Purchaser and relied upon by XCE, any warranties or other provisions contained herein which are affected by such conditions shall be null and void, unless otherwise mutually agreed upon in writing.

2.16 Storage:

The Purchaser agrees to pay XCE a storage charge of 1% of the total purchase price per month, or prorated portion thereof for a part of a month, for Goods not authorized for shipment by the Purchaser within fourteen (14) days following either the specified delivery date or the date the Purchaser is notified that same are ready for shipment, whichever is later.

2.17 Title

(a) Purchaser agrees to grant to XCE such security interests in the Goods and to execute such other documents as may be desirable for XCE to obtain a perfected first ranking charge over the Goods as security for the payment of all monies owing to XCE by the Purchaser and performance of all obligations of the Purchaser under this agreement.

(b) It will be a default if the Purchaser fails to make any payment due under this Agreement or any other agreement between the Purchaser and XCE when due.

(c) Until XCE has been paid in full for the Goods in accordance with this Agreement, title to the Goods shall remain exclusively in XCE.

(d) Purchaser acknowledges receipt of a copy of this Agreement and waives all rights to receive from XCE a copy of any financing statement, financing change statement, or verification statement filed at any time at the Personal Property Registry or other similar registry in respect of this Agreement.

(e) In the event of default of this Agreement or in the payment of any sums due to XCE as aforesaid, XCE may exercise any and all remedies afforded to secured parties by Part 5 of the Personal Property Security Act or other similar statutes, including seizure of the Goods.

2.18 Proprietary Rights

(a) XCE shall defend at its own expense any legal proceeding brought against the Purchaser and pay those damages finally awarded against the Purchaser in such proceeding, to the extent that it is based on a claim that the Goods in the form delivered to the Purchaser constitutes an infringement of any valid patent trademark, copyright, trade secret or other third-party proprietary right held under the law of the country in which the Site is located. The Purchaser shall notify XCE promptly in writing of any claim of infringement.

(b) XCE shall have no liability or obligation to the Purchaser hereunder with respect to any patent, trademark, copyright, trade secret or other third-party proprietary right infringement or claims thereof based upon (i) unauthorized modifications of the Goods, (ii) any claim of patent, trademark, copyright, trade secret or other third-party proprietary right infringement in which the Purchaser or any affiliate or purchaser of Purchaser has an interest or license.

(c) In the event that any of the Goods is held to constitute infringement or the use thereof is enjoined, XCE may at its option and at its own expense, as the exclusive remedy to the Purchaser therefore, either, (i) procure for the Purchaser the right to continue using such Goods, or (ii) replace such Goods with non-infringing Goods of equivalent quality and performance or, (iii) modify such Goods so that it is non-infringing, or (iv) accept return of such Goods.

(d) The foregoing states the entire liability of XCE with respect to infringement of patents, trademarks, copyrights, trade secrets, or other third-party proprietary rights by any Goods delivered under this Agreement.

(e) The sale acceptance of the any Goods to the Purchaser by XCE shall not confer on the Purchaser a license under any patent, trademark, copyright, trade secret or other proprietary rights of XCE, and shall not confer on the Purchaser a license to reproduce, redesign, modify, create derivative works from, reverse engineer, disassemble or reverse assemble the Goods.

2.19 General Provisions:

(a) These terms and conditions, and the documents to which they are attached, constitute the entire agreement between the parties regarding the sale and purchase of the Goods and/or services to be performed and no other promises or agreements shall be of any force or effect unless mutually agreed upon in writing.

(b) In the case of contradictory terms or conditions of sale between this document and the attached documents which constitute the entire agreement, the terms or conditions of the attached documents shall take priority.

(c) These terms shall be binding upon and shall accrue to the benefit of the parties hereto and their respective assigns and successors in interest; provided, however, neither party may assign this agreement, or any of its interests herein, without the prior written consent of the other party.

(d) No action, regardless of form, may be brought by either party more than two (2) years after the cause of the action has accrued.

(e) The laws of Singapore shall govern the validity, interpretation, and performance of this agreement. Singapore Courts shall adjudicate all disputes, and all judgments shall be binding and final.

(f) Purchaser represents and warrants that Goods supplied hereunder are not to be used in nuclear applications, including, without limitation, any nuclear power generation facility.