

1. DEFINITIONS

1.1 The definitions used in the SIDUL AÇUCARES, UNIPESSOAL, LDA. ("SIDUL") Purchase Conditions shall apply to these SIDUL Service Conditions and, in addition, the following words shall have the following meanings:

"**Contractor**" the Seller, (as defined by the SIDUL Purchase Conditions) or the Tenderer, as defined below, including, but not limited to, the Contractor's legal personal representatives, successors and assigns;

"**Contract Work**" the service to be performed by the Contractor under the Purchase Order;

"**Loaned plant**" the plant or equipment owned, rented or leased by the Purchaser and used by or on behalf of the Contractor for the Contract Work by agreement.

"**Regulations**" the Regulations and Special Safety Conditions for Contractors: issued by the Purchaser for any Site or Sites.

"**Site**" the Purchaser's site as defined in the Purchase Order or in the tender documents;

"**SIDUL Engineer**" the engineer nominated by the Purchaser or, if none is nominated, the Purchasing Manager;

"**SIDUL Service Conditions**" the SIDUL Conditions and Regulations of Service contained herein its;

"**Tenderer**" the tenderer whose tender has been accepted by the Purchaser;

2. GENERAL

2.1 These SIDUL Service Conditions together with the Regulations are supplementary to SIDUL Purchase Conditions and shall govern, where not provided for under the SIDUL Purchaser Conditions, the Contract Work performed by the Contractor.

2.2 The Contractor upon entering or working on the Site shall comply with these SIDUL Service Conditions and the Regulations, together with all other relevant Site rules, health and safety regulations and environmental and quality assurance policies as may be issued from time to time by the Purchaser.

2.3 The Contractor shall undertake the Contract Work in accordance with all relevant legislation, standards and codes of practice. The Contractor shall obtain all necessary licences, permits and approvals in connection therewith, and shall use suitable and proper equipment.

3. WORKING ARRANGEMENTS

3.1 The Contractor is deemed to have understood the nature and extent of the Contract Work and to have made all the necessary surveys, analyses and inspections of the Site and relevant business, and shall make no claim founded in its failure to do so. The Purchaser shall, on request of the Contractor, grant such access and provide such information as may be reasonable for its purpose.

3.2 During the Contract Work, and subject to a reasonable advance written notice being provided to the Purchaser, the Purchaser shall allow the Contractor and its employees, agents and sub-contractors, duly listed to the Purchaser, such access to the Site as is reasonable required for the purpose of the Contract Work and concurrently with the execution of work by others.

3.3 When requested, the Contractor shall nominate one or more competent representatives, whose name or names shall have previously been communicated in writing to the Purchaser by the Contractor, to superintend the carrying out of the Contract Work on Site. The said representative, or if more than one shall be nominated, then one of such representatives, shall be

present on the Site during working hours, and any orders or instructions which the Purchaser may give to such representative shall be deemed to have been given to the Contractor.

3.4 The Contractor shall provide labour returns to the SIDUL Engineer or designee in accordance with Site specific procedures.

4. CONTRACTOR'S EMPLOYEES, AGENTS & SUB-CONTRACTORS

4.1 The Contractor shall only use on Site such workmen or agents or sub-contractors as are suitable trained, skilled and experienced. The Purchaser shall have the right to require the Contractor to remove from the Site any person who is incompetent, unproductive, negligent or guilty of misconduct relating to its employment or who, for any other valid reason, should otherwise not be employed on the Site.

4.2 The Contractor shall not sub-let whole or part of the Contract Work to a sub-contractor without the previous written consent of the Purchaser. The Contractor shall be responsible for instructing its employees, agents and any sub-contractors approved by the Purchaser and making known to them the contents of these SIDUL Service Conditions and the Regulations

4.3 The Purchaser reserves the right to request any of the Contractors or sub-contractors to undergo a test of skills on the Site and if they fail such a test then they may be removed from the Site at the request of the Purchaser.

5. VARIATION OF CONTRACT WORK

5.1 The Contractor shall not vary any of the Contract Work, except as directed in writing by the Purchaser.

6. USE OF THE PURCHASER'S SERVICES

6.1 The Purchaser does not have any obligation to provide 'Loaned Plant' to the Contractor, unless specifically agreed.

6.2 The Purchaser shall have the right to withdraw Loaned Plant at any time with no liability being incurred by the Purchaser.

6.3 The Contractor shall diligently apply all reasonable professional skills in using or in directing Purchaser's personnel or its employees or sub-contractors in the use of the Loaned Plant.

6.4 The Contractor shall be liable for all damage to the Loaned Plant, including but not limited to, loss by theft, due to negligence on the part of the Contractor, its personnel or agents or subcontractors.

6.5 The Purchaser shall be liable for any damage to the Loaned Plant caused by a defect in the Loaned Plant that the Contractor demonstrates as already existing at the commencement of the loan.

6.6 Where Loaned Plant is operated by the personnel of the Purchaser, the operator shall not become part of the Contractor's personnel but shall carry out with the Loaned Plant such work as he may be directed to do by the Contractor. The Contractor shall be the solely responsible for all damage caused by its misdirection or negligence.

7. FREE ISSUE MATERIALS

7.1 The Contractor shall be responsible and account for all materials issued free to him by the Purchaser for the Contract Work and shall properly declare the use thereof in accordance with the Purchaser's instructions.

- 7.2 The Contractor shall replace at its own cost all such materials which are lost, inefficiently used or become damaged for any reason.
- 7.3 The Contractor shall return to the Purchaser all such materials which are not used by the Contractor in the execution of the Contract Work.

8. WORKMANSHIP & MATERIALS

- 8.1 All workmanship and materials for the Contract Work shall be in accordance with the Specification. Where no standards are specified, the Contract Work shall comply with relevant legislation, national standards and codes of practice and the recommendations of relevant trade associations.
- 8.2 Where the Contract Work includes the Contractor's designs and/or materials selection, the Contractor warrants to the Purchaser that such designs and/or materials shall be fit and sufficient for the purpose intended.
- 8.3 The Contractor shall at all times comply with the quality assurance procedures instructed by the Purchaser.
- 8.4 Where so required by the Purchaser, drawings and other relevant data shall be issued to the SIDUL Engineer and will become the property of SIDUL.
- 8.5 The Contractor shall at its own expense, if so requested, submit samples of materials proposed to be used and those approved shall be kept by the Purchaser as the standard of quality for use in the works. Materials delivered to the Site shall not be inferior in any respect to the samples approved by the Purchaser and shall be in accordance with the Specification.
- 8.6 The Contractor shall be responsible for setting out the Contract Work accurately and for the correctness of all connections and alignment of all parts of the Contract Work. Upon completion of the Contract Work he shall remove all equipment and temporary works not forming part of the Contract Work and shall leave the Site in a condition satisfactory to the Purchaser.
- 8.7 The Contractor shall do everything necessary for the complete execution of the Contract Work and for the proper operation of the installation, whether or not these actions are mentioned in detail in the Specification or in the Purchase Order.
- 8.8 The Contract Work shall be subject to such tests as the Purchaser may direct on the Site. Subject to a reasonable advance written notice being provided by the Purchaser to the Contractor, such tests may also be conducted at the place of manufacture. The Contractor shall at its own expense provide such assistance, instruments, machines, labour and materials as may be required for such testing.
- 8.9 The Contractor shall not fill, cover, or in any way hide any part of the Contract Work until inspected and approved by the SIDUL Engineer. Such inspection or approval shall not be considered as final acceptance.
- 8.10 The Purchaser shall have the power to instruct the Contractor at the Contractor's expense to:
- remove from site any materials which in the opinion of the Purchaser are not in accordance with the Contract;
 - substitute proper and suitable material;
 - remove and properly re-execute any such work which in respect of materials or workmanship is not in the opinion of the Purchaser in accordance with the Contract;
- 8.11 The Purchaser shall be entitled to employ and pay other persons to carry out such instructions if the Contractor does not do so within seven days (or a shorter period, if so requested for safety or emergency reasons) after the request of the Purchaser and the Contractor shall be required to pay the cost thereof.
- 8.12 The indemnification period stated in Clause 5 of the SIDUL Purchase Conditions shall be applicable to all of the Contract Work.

9. CONTRACTOR'S DEFAULT

- 9.1 The Purchaser may give the Contractor seven days written notice (or shorter period if requested for safety or emergency reasons) to make good the following default or breach, if the Contractor:
- is not executing the Contract Work in accordance with or as specified in the SIDUL Service Conditions and/or the Purchase Order or,
 - is not proceeding fast enough to ensure the completion of the Contract Work by the time stipulated in the Contract or that such time has already expired, or
 - has refused to carry out a reasonable instruction of the Purchaser for the execution of the Contract Work.
- 9.2 Should the Contractor fail to comply with a notice given in accordance with sub-Clause 9.1, the Purchaser may, at the expense of the Contractor and without prejudice to any of its other rights:
- terminate the Contract, and perform itself such of the Contract Work as the Contractor has failed to, or
 - take the Contract Work wholly or in part out of the Contractor's hands and re-contract it to any other person, or
 - make such modifications, substitutions or addition to the Contract Work as he considers necessary to ensure the satisfactory execution thereof.
- 9.3 In the event of repeated breaches of these SIDUL Service Conditions, or general misconduct by any employee, agent or sub-contractor of the Contractor, the Purchaser shall reserve the right to terminate the engagement of the Contractor and to cancel the Purchase Order.

10. TIME FOR COMPLETION

- 10.1 The Contractor shall make no delivery nor commence the Contract Work on Site before obtaining a valid Purchase Order Number issued by the SIDUL Purchasing Department.
- 10.2 The Contractor shall within 7 days of a request to do so, submit to the Purchaser for its approval, a detailed and binding plan showing how it proposes to carry out the Contract Work. The Contractor shall also give written details of its arrangements for carrying out the Contract Work and of any temporary works in particular, a description of erection methods and erection equipment and the numbers and qualification of its erection labour. The submission of such program for the approval of the Purchaser or the giving of such details shall not relieve the Contractor of any of its duties or responsibilities under the Contract.
- 10.3 Without prejudice to any other right of the Purchaser, should the Contractor fail to complete the Contract Work by the date stated in the Purchase Order (or by extension thereto confirmed in an amendment order), the Purchaser shall be entitled to recover liquidated damages from the Contractor at the rate of 3% percent of the Contract Price for each week of delay
- 10.4 The Purchaser may give written notice to the Contractor to suspend the Contract Work or any part thereof and the Contractor shall during such suspension properly protect and secure the Contract Work. The extra cost (if any) to the Contractor in respect of the Purchaser's instructions under this condition shall be paid by the Purchaser unless such suspension is:
- otherwise provided for in the Contract, or
 - necessary for the proper execution of the Contract Work due to weather conditions or by the Contractor's default, or
 - necessary for the safety of the Contract Work or any part thereof.

10.5 The Purchaser shall be liable for such extra costs in so far as they are reasonable, provided that the Contractor shall not be entitled to recover any such extra cost unless it makes a written claim within 28 days of the Purchaser's notice, or they result from breach or negligence by the Contractor.

11. LIABILITY FOR DAMAGE OR INJURY

11.1 The Contractor shall take every practicable precaution not to damage or injure any property or persons. The Contractor shall satisfy all claims founded in any such damage or injury which arise out of or in consequence of any operations under the Contract, due to negligence on the part of the Contractor, its personnel or agents or subcontractors, whether such claims are made by the Purchaser or by a third party against the Purchaser or directly to the Contractor ("Claim").

11.2 The Contractor shall indemnify the Purchaser in accordance with clause 5 of the SIDUL Purchase Conditions.

11.3 The Contractor shall give immediate notice to the Purchaser in the event of any accident or damage whether or not likely to form the subject of a Claim and shall give all the information and assistance in respect thereof that the Purchaser or the Purchaser's insurers may require. The Contractor shall not negotiate, pay, settle, admit or repudiate any claim without their written consent, and shall permit the Purchaser or the Purchaser's insurers to take proceedings in the name of the Contractor to recover compensation or secure an indemnity from any third party in respect of any such matters. Notwithstanding the foregoing, the Contractor shall also give notice to its own insurer in case such accident or damage may be covered by the Contractor's insurance policies.

11.4 The Contractor shall at its own expense and in its own name arrange for and maintain in force all insurances set out in clause 8 of the SIDUL Purchase Conditions and as otherwise necessary or required by Law, for the Contract Work including but not limited to Professional Indemnity. The Contractor's price shall be deemed to include the cost of all such insurances and the Contractor will be responsible for the payment of all deductible amounts under all insurance.

11.5 The Contractor shall produce to the Purchaser, when requested, the current valid policies of insurance as required by these conditions together with satisfactory evidence of payment of premiums for the period in force.