

KALA LIMITED
GENERAL CONDITIONS OF PURCHASE

FOR MATERIAL PURCHASE BY KALA LIMITED

1. COMPLETE AGREEMENT

- (a) The Purchase Order Form and these General Conditions of Purchase Together with all instructions, Documents, Specifications, and Drawings (if any) referred to therein shall, with the Suppliers written acceptance of the Order, constitute the complete agreement (hereinafter called “the Purchase Order”) between the Supplier and the Purchaser. No agreement or understanding varying or extending the same will be binding unless covered by an “Amendment to Purchase Order” form signed by duly authorised representative of the Purchaser.
- (b) All goods, equipment, plant, material, commodity, work, repairs, services or Other thing or any part thereof to be supplied under the Purchase Order shall Hereinafter be referred to as “the material”.
- (c) The material is to be supplied in a new and unused condition and suitably Painted, protected, packed and marked for shipment as specified.
- (d) If any material shown on the Drawings is omitted from the Specification or Vice versa, it is understood that, notwithstanding such omission, the Supplier will be called upon to provide such material and will be deemed to have included it in the quoted price.

2. SUB-CONTRACTING AND ASSIGNMENT- No part or detail of the Purchase Order shall be sub-contracted or assigned without the prior written consent of the Purchaser. Applications for permission to sub-contract shall include in tabular form particulars of each item it is desired to sub-contract with the name and address of the sub-contractors proposed against each item. Copies of all sub-orders are to be supplied in triplicate to the Purchaser immediately they are placed and the Supplier shall notify the Purchaser when material on such sub-orders is ready for inspection. Permission to sub-contract any portion of the Purchase Order shall not relieve the Supplier of its responsibilities under the Purchase Order for the whole of the material included therein.

3. CHANGES- The Purchaser reserves the right at any time to make changes in the Purchase Order or any part thereof. If such changes cause an increase or decrease in the consideration due or in the time required for performance an equitable adjustment shall be made. Any claim by the Supplier for adjustment must be asserted in writing twenty days from the date of receipt of an amendment to the Purchase Order and in default shall not be admissible.

4. **DRAWINGS-** Where necessary the Supplier will be required to supply drawings For approval before putting work in hand. Requirements of such drawings will be notified by means of a standard Drawing Request Form attached to the Purchase Order. No deviations from or modifications to the Purchaser's designs, general or detail are to be made without the written approval of the Purchaser. Notwithstanding its approval of the Supplier's drawings, the Purchaser does not undertake the checking of, or responsibility for, the accuracy of any such drawings. In the event of any inconsistency or inaccuracy in the Purchaser's drawings or if, in the opinion of the Supplier, any details should be modified, the Supplier is to notify the Purchaser immediately in writing.
5. **INSPECTION AND TEST –**
 - (a) The whole of the material shall be subject to inspection of the Purchaser's behalf During manufacture and before despatch, and also to such tests as are called for in the Purchase Order.
 - (b) All work is to be laid out as far as may be necessary in the opinion of the Purchaser's Inspecting Engineer to check the general accuracy of the work and to satisfy him that all work has been completed as far as practicable in the Supplier's Works and can be readily erected or installed.
 - (c) Inspection and testing is carried out on behalf of the Purchaser as a safeguard and in Its own interests and the Supplier is not relieved of its responsibility and liability under the terms of the Purchase Order notwithstanding that such inspection and testing has been carried out on behalf of the Purchaser.
6. **PROTECTION, PACKING, MARKING AND DESPATCHING**

Protection, packing, marking and despatching is to be in accordance with the Attached instruction.
7. **SUPPLIER LIABILITY AS BAILEE FOR PURCHASER'S PROPERTY -** If Under the Purchase Order the Supplier or its sub-contractors or suppliers are called upon to receive or process material owned by the Purchaser or a third party, the Supplier's responsibility shall be to take proper care of such material or procure such care to be taken and to indemnify the Purchaser or the third party for loss or damage thereto arising from the Supplier's negligence or the negligence of its servants, agents, sub-contractors or suppliers. For the propose of this clause the Purchaser shall be deemed to contract for itself and as trustee for any such third party.
8. **PROPERTY -** The property and risk in the material will pass to the Purchaser at The time the material is placed on board ship if ordered on an F.O.B., C & F. or C.I.F. basis: and at the time of leaving the Supplier's Works/Warehouse if on an Ex Works basis, and at the time of delivery in accordance with the Purchaser's instructions where on any other basis.
9. **DELIVERY -** The stipulations as to time of delivery are of the essence of the Purchase Order and the whole of the material shall be completed and delivered within the period stated therein.

10. **PAYMENT** – Payment will normally be made by the end of the month following the month of delivery, but may be made earlier if discounts are offered herefor.
11. **RIGHT TO REJECT** – Neither the acceptance of delivery by the Purchaser, Nor the resale of the material by the Purchaser, shall prejudice the Purchaser's right to reject if it should be found on examination that the material is not in accordance with the Purchase Order, or if, as a result of the material not being in accordance therewith it is rejected under any contract of resale made by the Purchaser.
12. **REJECTED MATERIALS** - The Supplier shall pay all expenses incurred by the Purchaser and any subsequent purchaser of the material in connection with any material rejected as not being in accordance with the Purchase Order. If on request the Supplier does not make prompt arrangements for the disposal of any rejected material the Purchaser may itself dispose or authorise another to dispose of the same as agent for the Supplier.
13. **SUPPLIER'S DEFAULT** –
- (a) If the Supplier shall neglect to execute the Purchase Order with due diligence and Expedition, or shall refuse or neglect to comply with any reasonable instructions given in writing by the Purchaser in connection with the Purchase Order, or shall contravene any of the provisions thereof, the Purchaser may give seven days notice in writing to the Supplier to make good the failure, neglect or contravention complained of, and should the Supplier fail to comply with such notice within seven days from the date of service thereof in the case of failure, neglect or contravention capable of being made good within that time or otherwise such time as may be reasonably necessary for making it good, then and in such case the Purchaser shall be at liberty to take possession of any partially completed material and to employ other workmen, and forthwith to execute such part of the Purchase Order as the Supplier may have neglected to do, or otherwise make good the failure, neglect or contravention complained of, or, if the Purchaser shall think fit, it shall be lawful for the Purchaser, without prejudice to any other rights it may have under the Purchase Order, to take the Purchase Order wholly or in part out of the Supplier's hands and arrange with any other person or persons to complete the Purchase Order or any part thereof, and the Purchaser shall be entitled to retain and apply any balance which may otherwise be due on the Purchase Order by the Purchaser to the Supplier, or such part thereof as may be necessary, for the payment of the cost of executing the said part of the Purchase Order or of completing the Purchase Order as the case may be.
 - (b) If the cost of completing the Purchase Order or executing a part thereof as aforesaid shall exceed the balance due to the Supplier, the Supplier shall pay such excess.
 - (c) In the case of a Purchase Order for the purchase of material by instalments, default by the Supplier in the delivery of any instalment may at the option of the Purchaser be treated as a repudiation of the Purchase Order.

14. **PATENT RIGHTS AND INFRINGEMENTS** – The Supplier warrants and Guarantees that the material described in the Purchase Order and the sale or use of it will not infringe any patent owned or controlled by others and agrees to defend, indemnify and hold harmless the Purchaser and its affiliates and any person to whom it may resell against any action, litigation, claim or demand, costs or expenses, arising from or incurred by reason of any infringement or alleged infringement of any letters patent, trade mark or name copyright, or other protected rights, foreign or domestic, resulting from the use or sale of any material supplied or resulting from any arrangement system or method of using, fixing or working used by Supplier. The prices specified in the Purchase Order are inclusive of all costs and expenses incurred by the Supplier including but not limited to all royalties, taxes, charges and other dues, payment of which shall be made by the Supplier. In the event of any claim being made or action brought against the Purchaser in respect of any such matters as aforesaid the Supplier will, if requested by the Purchaser, but at Supplier's sole expense, conduct all negotiations for the settlement of the same, or any litigation that may arise therefrom.
15. **GUARANTEE** –
- (a) Notwithstanding the right of inspection or acceptance by the Purchaser of the Material described in the Purchase Order or any other terms and conditions provided therein, the Supplier guarantees that all material furnished is free from all defects in design, materials and workmanship and that the material fully complies with specifications, and when not specified, the material is suitable and fit for the use intended for it. The material covered by the Purchase Order is purchased from the Supplier in reliance on the aforementioned guarantee of the Supplier.
 - (b) Any defects which shall develop within one year of the material being put into use, Or within fifteen months from the date of delivery, whichever period ends the earlier, shall be promptly remedied by the Supplier free of charge to the Purchaser and all expenses, inclusive of transportation, and insurance if any, for such repairs or replacement shall be borne by the Supplier. This guarantee shall be in addition to, and not in substitution for, any conditions or warranty implied by law, or any other provision or indemnity herein contained.
16. **NON-WAIVER** - The failure of the Purchaser to insist upon strict performance Of any of the terms and conditions of the Purchase Order shall not be deemed a waiver of any rights or remedies that it shall have and shall not be deemed a waiver of any subsequent default of such terms and conditions. The despatch or receiving of any material under the Purchase Order shall not be deemed a waiver of rights for any prior failure to comply with any of the provisions of the Purchase Order.
17. **DAMAGES** - The Supplier acknowledges that the Purchaser is buying for resale And shall be responsible to the Purchaser for, and shall indemnify the Purchaser against any claims made upon the Purchaser by subsequent purchasers as a result of, or arising from, a breach of the Purchase Order by the Supplier.

18. **TERMINATION** – The Purchaser may at any time give written notice to the Supplier to terminate the Purchase Order forthwith and in such event the Purchaser shall pay and the Supplier shall accept, in settlement of all claims under the Purchase Order, such a sum as shall reasonably compensate the Supplier for all work done and obligations assumed by it in performance of the Purchase Order prior to its termination and for all work reasonably done by it in giving effect to such termination. The value of any material paid for by the Purchaser but left in the hands of the Supplier shall be taken into account in calculating the said sum.
19. **ARBITRATION** – If any dispute arises between the Purchaser and the Supplier as to the meaning, fulfillment or effect of the Purchase Order, the matter shall be referred to, and settled by, an arbitrator to be agreed upon by the parties or, failing agreement, to be nominated on the application of either party by the President for the time being of the Law Society, London and any such reference shall be deemed to be a submission to arbitration within the meaning of the English Arbitration Act, 1950 or any statutory modification or re-enactment thereof for the time being in force. The award of the arbitrator shall be final and binding upon both parties.
20. **GOVERING LAW** - The laws of England shall govern the Purchase Order which shall be constructed accordingly. All laws and regulations required to be incorporated in an order of this character are hereby incorporated by inference.
21. **GENERAL TERMS GIVE WAY TO SPECIAL** - In the event of there being a conflict between any of these General Conditions and any terms set out elsewhere in the Purchase Order such other term shall prevail.