

## General Terms and Conditions of Equipment Purchase Agreement

### 1. Scope

1.1 The General Terms and Conditions of Equipment Purchase Agreement (hereinafter referred to as the “**Terms and Conditions**”) shall apply to any and all of the purchases between ARXADA and the Supplier as well as the relevant operations, including without limitation assembly, functional test, services, trial operation and maintenance (hereinafter referred to as the “**Purchased Equipment**” or “**Project**”), unless as otherwise set forth in a specific PO between the both Parties. **The Terms and Conditions** apply only to the purchase of equipment that are not subject to any other contract terms.

1.2 Unless as otherwise set forth in a specific PO between the both Parties, no such provisions as in conflict with the Terms and Conditions, or in excess of the scope of the Terms and Conditions (including any terms and conditions as proposed by the Supplier), shall be applicable to ARXADA unless ARXADA has expressly acknowledged its acceptance of the same in writing. The Terms and Conditions shall remain applicable to the Supplier even if ARXADA is aware of any inconsistency between the Supplier's terms and the Terms and Conditions, or if ARXADA has accepted the equipment from the Supplier.

### 2. PO Elements Relating to the Purchase of Equipment

2.1 The applicable clauses in the purchase of the equipment shall be included into the PO in sequence provided, however, that the validity of the PO shall be superior to the Terms and Conditions.

2.2 No PO shall have any binding force on ARXADA unless confirmed by ARXADA in either written or electronic form. The foregoing provision shall also be applicable to a variety of supplementary provisions as made to the PO.

2.3 The Supplier shall make confirmation of any PO issued by ARXADA either in writing or by email within five (5) workdays that of its receipt thereof and the PO, or Shipping Instruction so confirmed shall be affixed with the Supplier's official seal and mailed back to ARXADA. Unless in the case of any force majeure event or as otherwise set forth herein, the Supplier shall not refuse to confirm any PO. The PO shall take effect upon confirmation by the both Parties. In case of any delayed confirmation or return of the PO by the Supplier, the PO shall be deemed to have taken effect on the next day following the issuing date. Starting from ARXADA's successful issuance of the PO and the commencement of the Supplier's delivery, or partial delivery, of the equipment, the Supplier shall be deemed to have accepted any and all of the provisions set forth in the PO or Shipping Instruction, which shall have become validly effective regardless whether or not the Supplier has returned the counterpart affixed with a seal.

2.4 As for the purchased equipment, ARXADA shall be entitled to demand that the Supplier provide the relevant technical documents, such as the performance plans, operational diagrams, contours and installation guidance etc., and make corresponding amendments thereto. The extra costs as incurred by any such amendment shall be set forth in the PO or supplementary provisions as agreed by and between the both Parties. Any other amendment to the Project shall take no effect unless made in writing. ARXADA shall be entitled to delegate any and all of its rights and obligations under the PO to its subsidiaries or a third party from time to time.

### 3. Price

Any and all of the prices that appear in a PO shall be those as occurred in correspondence to the Project and be fixed (including the legal VAT). In particular, such prices shall include such cost and expenses as any authorization fees, Customs charges, taxes, duties, insurance premiums, packing cost, freight charges and other business expenses, and shall further cover any purchase-related services, such as assembly, functional test, commissioning, services, trial operation, maintenance and engineering etc.

### 4. Packaging, Shipment and Documentation

4.1 The trade terms as applied herein shall conform to Incoterms 2010. If no applicable trade terms has been specified in the PO by and between the both Parties, the domestic purchases shall be carried out according to the “DAP Destination” (as defined in the Incoterms 2010), while the international purchases shall be carried out according to the “DDP Destination” (as defined in the Incoterms 2010).

4.2 The packaging requirements and standards of the purchased equipment shall be definitely stipulated in the PO by the both Parties. If the both Parties fail to do so, the Supplier shall ensure that the solid enough packing materials shall be used and necessary protective measures be taken in line with the nature and characteristics of the purchased equipment against humidity, rain, mould, rust, corrosion, quake and other damages, while guarantee that the relevant packages shall be suitable for multiple handling, loading/unloading operations and long-distance transport, so as to ensure that the equipment shall be delivered safely to the designated destination without damage. The Supplier shall be held accountable for any losses as incurred by its improper packaging of the purchased equipment, unless as otherwise set forth in the PO.

4.3 In case of any product that demands special storage conditions, the Supplier shall keep ARXADA informed of the specific storage conditions and have the relevant product stored under such conditions.

4.4 The Supplier shall indemnify and hold ARXADA harmless against any and all losses, costs and expenses as incurred by its failure of delivering the purchased equipment according to the PO.

4.5 The Supplier shall have ARXADA's PO Number as well as such other particulars as the gross weight, net weight and dimensions etc. clearly indicated in any and all of the shipping documents and delivery notice.

4.6 ARXADA shall not make any payment settlement as per the invoice amount unless the Supplier has provided ARXADA with a total and complete set of the shipping documents, acceptance forms and other relevant documents and certificates as set forth in the PO.

4.7 The Supplier shall assume responsibility for the entire carriage of the goods unless as otherwise set forth in the PO.

### 5. Venue of Performance and Transfer of Risks

5.1 The venue of performance shall be the place expressly designated by ARXADA in the PO.

5.2 The benefits and risks of the overall Project shall be transferred to ARXADA upon delivery at the venue of performance.

### 6. Delivery Date, Delayed Delivery, Force Majeure and Default Penalty

6.1 Unless as otherwise set forth in the PO, the date of delivery as mutually agreed shall be a fixed date and the purchased equipment shall be delivered by such date or within such period of time as mutually agreed to hereunder. The Supplier shall be deemed to have delayed a delivery if it failed to deliver the equipment by such date or within such period of time as mutually agreed to hereunder and, in which case, no alternative date of delivery shall be set forth and, unless the Supplier has requested that ARXADA provide the necessary documents or parts within a reasonable and appropriate period of time by reference to the PO and ARXADA has failed to provide the same, the Supplier may thereby accordingly extend the period of delivery, and the period of extension shall be subject to ARXADA's confirmation.

6.2 The Supplier shall be held accountable for any losses as incurred by its failure of meeting such deadline as set forth in the PO. ARXADA shall not be deemed to have waived its right to claim any default penalty even if it has accepted any delayed delivery by the Supplier under the Project.

6.3 In the event of any force majeure event, such as the act of God, strike or terrorism attack etc., ARXADA shall be entitled to cancel the PO either completely or partially. And, in the event of any damages to the purchased equipment and relevant service quality due to any such reason as mentioned above, ARXADA shall be entitled to cancel the PO on account of its commercial interest.

6.4 If the Supplier fails to meet the deadline as set forth in the PO, or cancels the Contract at its sole discretion, it shall pay a default penalty to ARXADA, which shall be no lower than 30% of the actual losses as suffered by ARXADA due to the Supplier's default hereof, unless as otherwise set forth in the PO. ARXADA shall not be deemed to have waived its right to claim any default penalty even if it has accepted any delayed delivery by the Supplier under the Project. Even if ARXADA has accepted the default penalty, the Supplier shall remain obliged to fulfil any other obligations under the PO. ARXADA hereby reserves the right to demand further compensation for any extra losses.

6.5 Within [insert time] prior to the agreed date of delivery, the Supplier shall keep ARXADA properly informed of the fulfilment of delivery of the purchased equipment. ARXADA hereby specifically reserves the right to refuse to accept any such purchased equipment as delivered earlier than the agreed date of delivery, and such refusal shall not constitute a late acceptance.

6.6 Unless as otherwise set forth herein, ARXADA shall particularly reserve the right to refuse to accept or warehouse any such equipment as unapproved by ARXADA, or less or more than what is set forth in the PO and, in which case, the Supplier shall be held accountable for the corresponding costs and expenses as well as the risks of damages and losses of equipment hence incurred.

6.7 Unless as otherwise set forth in the PO, upon discovery of any inconsistency between the purchased equipment and the PO in terms of the quantity and/or quality, ARXADA shall keep the Supplier notified thereof in no delay and the Supplier shall offer maintenance and/or replacement free of charge. In the event of any material quality discrepancy of the purchased equipment rendering it impossible for ARXADA to attain its intended purpose of purchase, ARXADA shall be entitled to cancel the PO and request that the Supplier assume the corresponding default responsibility.

## 7. Payment Terms

7.1 ARXADA shall not make any payment settlement as per the preceding provisions unless and until the Supplier has fully and completely fulfilled any and all of its obligations under the Terms and Conditions, the POs and any supplementary provisions made by and between the both Parties.

7.2 The Supplier shall assume the guaranteeing responsibility for any distinct or potential defects in the Project prior to the payment of the final instalment. If no total amount of guarantee is set forth in the PO, the value guaranteed or jointly guaranteed shall amount up to minimum 10% of the total value of the PO.

## 8. Provisions on the participation of subcontractors: Admission and Responsibility

8.1 In principle, the Supplier shall fulfil the PO by itself. No sub-contractor shall be participated in the Project without prior written consent by ARXADA. ARXADA shall be entitled to demand at any given time that specific sub-contractor(s) be participated in the Project. Nevertheless, the technical as well as commercial responsibilities assumed by the Supplier to ARXADA shall remain unchanged regardless whether or not the Supplier may or must engage a sub-contractor.

8.2 The Supplier shall be held accountable equally for its sub-contractors' deeds as if they were performed by the Supplier itself. The foregoing provision shall also apply to those sub-contractors to be engaged as recommended or requested by ARXADA.

## 9. Construction Workers' Lien and Payment Settlement to the Sub-Contractors

9.1 In order to avoid causing any sub-contractor's construction workers to exercise their lien on the purchased equipment, ARXADA shall be entitled to request, at any time, that the Supplier deliver sufficient guarantee to ARXADA, especially in the case of any sub-contractor to be worked together with for the first time ever. ARXADA may even request that the Supplier furnish an irrevocable bank guarantee depending on the actual conditions.

9.2 In failure of the Supplier to have provided ARXADA with the sufficient guarantee as set forth in Clause 9.1, ARXADA shall be entitled to withhold a corresponding amount of the Contract Value pro rata as duly payable by ARXADA to the Supplier in consideration of the sub-contractors' credit status.

9.3 In the course of fulfilling the Project, if the Supplier is unable to prove that it has made the payment of the Contract Value fully to its sub-contractors, ARXADA shall be entitled to directly make such payment either completely or partially as duly payable by the Supplier to the sub-contractors, with the equal amount so paid to set off the corresponding portion of the Contract Value to be duly payable by ARXADA to the Supplier. Moreover, ARXADA shall be entitled to withdraw any disputed amount.

## 10. Acceptance Inspections and Guarantees

10.1 During the fulfilment of the Project, the Supplier shall engage the well-trained and qualified technicians and always work carefully and prudently.

10.2 The Supplier shall refer to and comply with Supplier Code of Conduct as updated by ARXADA from time to time.

10.3 ARXADA shall be entitled to partially or completely cancel the PO prematurely in the case that the Project remains unfulfilled or fulfilled less satisfactorily, or of any failure of abiding by the agreed conditions, or of any failure of the Supplier to have accomplished the Project by the set deadline due to its gross negligence. Under general circumstances, ARXADA will grant the Supplier a reasonable period for remedying before partially or completely cancelling the PO prematurely.

10.4 Warranty Period: Unless as otherwise set forth in the PO, the Supplier shall assume such general warranty obligations as set forth below: (I) the warranty period shall be twelve (12) months starting from the date of ARXADA's acceptance of the purchased equipment if no installation/ start-up is involved in the Project; or (II) the warranty period shall be twelve (12) months starting from the date of successful start-up by ARXADA after installation by the Supplier, or authorization by the competent authorizing agency if installation/ start-up is involved in the Project. Such start-up or authorized start-up shall be confirmed in writing by ARXADA, with the Supplier to be notified thereof accordingly. In case of delayed start-up or failure of getting the desired start-up authorization due to ARXADA's negligence, the warranty period shall be eighteen (18) months starting from the date of ARXADA's acceptance of the purchased equipment. During the warranty period, ARXADA must keep the Supplier forthwith notified of any equipment defect occurred. Under any circumstances, the warranty period shall be extended by eighteen (18) months accordingly so as to meet the needs in investigating and fixing of any defect.

Upon expiration of the warranty period, ARXADA shall be entitled to demand that the Supplier assist in providing maintenance services upon awareness of any defects in the Project. Both Parties may hold separate discussions with regards to the repair and maintenance of equipment under such circumstances. Meanwhile, ARXADA shall be entitled to file a complaint about any defect as discovered at the competent authorities. ARXADA shall keep the Supplier informed in writing in a timely manner of any such potential defects as discovered after the end of the Project and expiration of the warranty period. Both Parties may hold separate discussions with regards to the repair and maintenance of equipment under such circumstances.

10.5 Within the scope of warranty, ARXADA may, at its option, demand (I) cancellation of the PO; (II) reduction of the purchase price; or (III) free fixing and delivery by the Supplier.

10.6 In particular, ARXADA reserves the right to seek any further claim by law against any and all losses as actually incurred.

## 11. Working Requirements on the Supplier at ARXADA's Sites

Any and all of the working staff dispatched by the Supplier to ARXADA's sites in China must hold the valid employment permits issued by the competent Chinese authorities and abide by the rules and regulations as adopted by ARXADA. Prior to the commencement of the Project, ARXADA shall make available such rules and regulations to the Supplier and the relevant working staff must abide by them strictly.

## 12. Drawings, Test Certificate, Instruction Manual, Quality and Documentation

12.1 The Supplier shall remain responsible for the Project even if ARXADA has approved the operational drawings submitted by the Supplier. The Supplier shall work out the specific Operational Plans, Test Certificate, Maintenance and Operation Procedures as well as the List of Parts, which shall be submitted to ARXADA in the requested number of copies together with the PO in such language as requested by ARXADA.

12.2 The Supplier shall work out the quality records for any and all of the purchased equipment, including such definite descriptions about the operating time and executing mode, with which the Supplier guarantees a flawless project as well as the responsible Party. Such records shall be retained by the Supplier for ten (10) years, with at least one (1) copy thereof to be submitted to ARXADA for storage.

## 13. Confidentiality

13.1 All the records, data, drawings, models, patents, copyrights or other information provided to the Supplier by ARXADA for the execution of the PO shall be used by the Supplier solely and exclusively for the purpose of fulfilling the PO and without the written permission of ARXADA, the Supplier shall not use the aforesaid document or information for any other purpose, nor duplicate or make the same available to any third party



**13.2** Each Party hereby undertakes to keep in confidence any and all information not disclosed as relating to the equipment purchase hereunder and the Project. The Supplier shall guarantee that the relevant third parties (such as the sub-contractors) as participated in the Project shall

also strictly abide by such confidentiality obligations. The information, over which the Parties may have disputes, shall also be considered as the confidential information.

**13.3** Advertising and publications relating to contractually specific services, including but not limited to the name, marks, trademarks or other information of ARXADA, require the written approval of ARXADA, and ARXADA grants no license or other rights to Supplier to use any and all properties or information of ARXADA outside the Purpose herein.

**13.4** The obligations as set forth in this Section shall remain validly in force for a period of fifteen (15) years upon nullification or cancellation of the PO and completion of the equipment purchase.

#### **14. Reservation Clause**

Should any provision of the Terms and Conditions be rendered invalid, the validity of remaining provisions hereof as well as of the PO to be executed hereunder shall not be effected by it. Such invalid provision (s) shall be substituted with the provision (s) as mutually agreed to by and between the both Parties or legally stipulated provided, however, that the substitute provision (s) shall achieve the original commercial purpose to the utmost extent.

#### **15. Applicable Law and Jurisdiction**

**15.1** The Terms and Conditions as well as the relevant PO shall be governed solely and exclusively by the Chinese laws. The Supplier shall abide by the legal regulations and instructions as promulgated by the local governmental administrative authorities having competent jurisdiction over the Project site. Both Parties hereby expressly waive to apply to any provision of the *United Nations Convention on the Contracts of International Sales of Goods*.

**15.2** Any dispute arising herefrom or relating to the issuing, interpretation and fulfilment of the PO shall be resolved through mutual discussions by and between the both Parties with their utmost efforts. Unless as otherwise agreed to, if no resolution is worked out through such mutual and amicable discussions, either Party shall be entitled to file such dispute for litigation at [the district People's Court having competent jurisdiction over ARXADA's residence].

#### **16. General Provisions**

**16.1** The Terms and Conditions, the specific PO, together with any other supplementary provisions made and entered into, by and between the both Parties shall constitute the entire agreement relating to the equipment purchase as specified in the PO.

**16.2** No waiver hereof or amendment hereto shall have any binding force unless made in writing and executed by the duly authorized representative for and on behalf of ARXADA.

**16.3** Unless as otherwise notified by ARXADA in writing, the Terms and Conditions shall remain validly in force and shall be applicable to any and all of the Purchase Orders to be executed by and between the both Parties during such valid period.