



# SAMAMAT FLOW CONTROL LLC

## GENERAL TERMS & CONDITIONS OF PURCHASE

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#### 1. DEFINITIONS:

Unless the context otherwise indicates or requires, the following words and expressions shall have the meaning ascribed to them below:

- a) **DELIVERY:** The handover of Goods, to the PURCHASER in compliance with the PO.
- b) **DELIVERY DATE(s):** The date(s) or period(s) as mentioned in the PO for Delivery of the Goods.
- c) **END-USER:** Final or ultimate user where the Goods and Services will be used on of any other country where products are delivered.
- d) **GOODS or SERVICES:** All such material indicated in the PO and/or Services related to the process of supply of Goods.
- e) **INCOTERMS:** Are a set of rules which define the responsibilities of sellers and buyers for the delivery of Goods under sales contracts.
- f) **INSPECTOR:** The representative of the End User/ or PURCHASER (if the inspection arrangement is with PURCHASER) who carries out an examination, measurement or witness testing of the characteristics of Goods or Services to determine their conformance with the PO or contract requirements.
- g) **NON-MATERIAL REQUIREMENTS (NMR):** Submission of documents, drawings, and technical data related to the Goods or Services mentioned in the PO.
- h) **ORDER PROGRESS REPORT:** Regular submission by Seller showing the progress of the Order.
- i) **PARTY:** Either the Purchaser or Seller and such parties may be collectively referred to as Parties.
- j) **PLANT:** Shall mean the PLANT of the SELLER processing/manufacturing the materials and spare parts which are forming part of the Goods.
- k) **PURCHASER:** SAMAMAT FLOW CONTROL LLC executing the PO, and includes its



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directors, officers, employees, agents, representatives, successors and assignees.

l) **PURCHASE ORDER (PO)**: means the contract, its description, terms and conditions executed by the PURCHASER and the SELLER for the supply of the Goods by the SELLER to the PURCHASER.

m) **PURCHASES**: Goods or Services procured by Purchaser from Seller.

n) **SELLER**: Who contracts to sell Goods or Services to Gerab National Enterprises L.L.C.

o) **SPECIAL PURCHASE CONDITIONS**: Those terms and conditions agreed in the PO.

p) **SUB- SELLER**: A supplier who provides Goods or Services to the SELLER who has an order from Purchaser

### 2. ACRONYMS:

- a) API : American Petroleum Institute
- b) ISO : International Standards Organization
- c) ITP : Inspection and Test Plan
- d) QMS : Quality Management System

### 3. SCOPE:

3.1 The scope of supply includes the Goods and Services requisition in the PO along with the NON-MATERIAL REQUIREMENTS (NMR's) as applicable which may include but not limited to the following;

- a) Facilitation of Inspection facilities
- b) ISO Certification/ API Certification
- c) QMS documentation
- d) Statutory Compliance Certificates such as EHS compliance certificate
- e) Prequalification documents such as approval with End Users, supply references and any other relevant documents etc.
- f) Code of Conduct/ Ethics



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3.2 This General Terms and Conditions of Purchase shall apply to all supplies and Services made to or rendered for SAMAMAT FLOW CONTROL LLC (SFC), associated companies and its affiliates.

3.3 This General Terms and Conditions of Purchase shall exclusively apply and shall supersede any other terms and conditions referred by "SELLER" in terms of any conflict or deviations.

#### **4. ACCEPTANCE:**

4.1 Purchases are governed by PO issued to the SELLER identified on the face of such PO including, without limitation, the General Terms and Conditions of Purchase.

4.2 The PO includes any terms, specifications, descriptions or other information on the face of form and the General Terms and Conditions of Purchase constitute a binding contract.

4.3 Acceptance by SELLER constitutes, whether acceptance is by acknowledgment, commencement of production or by commencement of shipments.

4.4 The SELLER shall ensure timely submission of Order Progress Report as specified in the PO terms and conditions that shall include but not limited to the following;

- a) Confirmation of raw material purchase to sub suppliers (copies of unpriced POs issued to sub-suppliers to be provided upon request).
- b) Firm production plan specifying each stage of production.

4.5 The SELLER shall be responsible for determining & complying with the requirements of the PO & applicable national and local codes, acts, legislation or regulations at the place of manufacturing. If SELLER discovers a discrepancy or ambiguity in the PO, it shall promptly provide PURCHASER a written notice thereof advising the discrepancy or ambiguity. PURCHASER shall issue a clarification as appropriate to remove the discrepancy or ambiguity.

4.6 If SELLER fails to identify discrepancy or ambiguity, SELLER shall accept PURCHASER's decisions thereon.



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### 5. PRICING:

- 5.1 In consideration of the SELLER's performance of obligations in accordance with the PO, the PURCHASER shall pay to the SELLER, the price as set forth in the PO.
- 5.2 The currency of amounts appearing on the PO is also the currency of Payment.
- 5.3 The PO price shall remain firm, fixed, inclusive of all taxes and duties (including VAT) and shall not be subject to any escalation during the performance of the PO unless specifically agreed to at the time of Purchase.

### 6. DELIVERY/PACKING/SHIPPING:

- 6.1 Schedule of Delivery shall be honored by the SELLER. Any changes shall be discussed and agreed in writing by the PURCHASER.
- 6.2 In the event of SELLER's failure to Deliver in accordance with the PO, PURCHASER reserves the right to cancel the PO, or any part thereof without charges thereof, without prejudice to its other rights, and SELLER agrees that PURCHASER may return part or all of any shipment so made and may charge SELLER with any loss or expense sustained as a result of such failure to deliver in accordance with the PO.
- 6.3 Any shipment made in advance of schedule is at PURCHASER's option to accept.

### 7. SHIIPPING MARKS:

SELLER shall package all shipments to permit safe transportation and handling as instructed in the PO. Each delivered shipment must be labelled and marked to identify contents as per the requirements specified in the PO.

### 8. EXTRA CHARGES:

Any extra charges incurred due to the failure of SELLER to follow instructions in executing the PO requirements will be billed back to SELLER.

### 9. PAYMENT TERMS:

- 9.1 The standard payment terms with SELLER will be 60 days credit from the date of acceptance of Goods in compliance with PO requirements unless otherwise explicitly



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agreed mutually between the parties in the PO.

9.2 The payment shall be made as per details provided by SELLER in the invoice. Any subsequent changes in the beneficiary, details shall be exclusively informed in writing to the PURCHASER.

9.3 Each invoice submitted by SELLER shall contain the PO number and should be delivered to the billing address specified in the PO. The payment period shall start from the date the Goods and/or Services are received by PURCHASER.

9.4 Advance payment if any as per agreed PO terms and conditions shall be made prior to receipt of Good and/or Services.

9.5 If at any time regulatory restrictions prevent the remittance of part or all payments owed by a Party hereunder, the Parties shall promptly negotiate in good faith the terms of payment under lawful means or methods.

### **10. TRADE TERMS:**

Latest Incoterms are applicable for the interpretation of trade terms used in the PO.

### **11. INSPECTION AND TESTING:**

11.1 All Goods and Services purchased under a given PO are subject to various level of inspection (by the PURCHASER or his representative) inclusive of raw material, production process, testing operations, final finished Goods or any other stage as stipulated by the PURCHASER based on the End User requirements for which the SELLER shall facilitate the access of his production facility/ premises to the PURCHASER or his representative.

11.2 The seller shall not proceed from one stage to another unless & other wise agreed in advance explicitly by the PURCHASER or his representative. Also, SELLER shall not commence production without compliance to the submittal of all applicable NMR documents specified in clause 3.1 that are required to be inspected by the PURCHASER's representative. Such documents shall be compiled on an on-going



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basis and shall be available for inspection by PURCHASER's personnel and/or by their nominated representative at the SELLER's premises. The said documents shall be in English language.

11.3 All Goods provided by SELLER will be (as applicable) subject to inspection and acceptance by PURCHASER within a reasonable time after receipt by PURCHASER at the location designated in the PO, irrespective of prior payment.

11.4 Inspection by third party does not relieve the SELLER of his obligation of compliance with contractual requirements. Neither does such inspection relieve the SELLER from guarantees as to material, apparatus, workmanship or performance, or both.

11.5 The SELLER shall afford the Inspector the right of access and free entry to any areas of the SELLER or Sub-Seller premises where storage, work, or test of any material, component, or equipment is being performed to fulfill PO requirements. Unrestricted opportunity shall be provided to the Inspector to verify conformance of these materials, components and equipment with the direct PO requirements.

11.6 In the absence of inspection at SELLER's premises, SELLER shall submit the Mill Test Certificates to the PURCHASER for review and acceptance at least 10 (working) days in advance of shipment from Plant or to the destination.

11.7 Inspection documentation shall be compiled on an ongoing basis and shall be available for inspection by Purchaser's personnel and/or by their nominated representative at the SELLER's premises. All documentation shall be traceable, legible and in compliance with PO and applicable specifications specified there in. Quality system records / material test certificates, base material certificates, inspection and test reports and corresponding documents should be in English language only.

### **12. DOCUMENTATION:**

12.1 The PO includes in particular, the following documents as prioritized;



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- a) The PO.
- b) Special Terms and Conditions of Purchase.
- c) General Terms and Conditions of Purchase.
- d) The material requisition and specification
- e) The packing, marking, shipping and invoicing instructions.

12.2 The above documents from 14.1.a to 14.1.e complement one another and shall be reciprocally interpreted within the framework of the PO as a whole. In the event of ambiguities, discrepancies or contradictions between documents, the same shall be notified to the PURCHASER, who shall settle the matter.

12.3 PURCHASER or its client's acceptance of SELLER's drawings or data with or without comments does not relieve the SELLER of the responsibility of complying with all terms, conditions, codes, standards, requirements of applicable specifications provided at the time of inquiry and confirmation to comply by the SELLER.

12.4 SELLER documents shall be submitted on or before the dates stated on PO or in consideration with the contractual delivery date of product. The time needed for getting 'approval' or 'rejection' of the submitted document from the client / End User will not entitle SELLER to consider it as a cause to ask for modifications to the deadlines or to any other contractual obligation. Delay by PURCHASER in returning the documents shall have no impact on the schedule, unless the SELLER has expressly notified in writing that delay in approval of SELLER's documents will affect critical phases of supply after a certain date indicating the consequences.

### 13. WARRANTIES:

13.1 Unless otherwise agreed to in writing by the parties, SELLER expressly warrants that all Goods and/or Services provided to PURCHASER conform to the terms and conditions of the PO and shall be warranted for a period of 18 months from the date of provisional acceptance certificate by PURCHASER or 24 months



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from the date of delivery of last part of the Goods, whichever is earlier. SELLER expressly warrants that such Goods ordered strictly conform to the terms and conditions and specifications agreed in the PO.

13.2 SELLER further expressly warrants that all Goods and/or Services provided by SELLER in connection with the PO will be merchantable, of good material and workmanship, free from defect, and not subject to any security interest or other lien. These warranties shall survive acceptance and payment and shall run to PURCHASER, its successors, assigns, customers and the users of the Goods and/or Services ordered herein.

13.3 PURCHASER shall not be deemed to have waived any warranty by reason of receipt of or payment for said Goods. PURCHASER's acceptance of Goods shall not be deemed to waive any warranty as to any defects or unfitness not in fact discovered in PURCHASER's inspection and test.

13.4 If the PURCHASER gives to the SELLER a notice of any defect of non-conformity in Goods provided to PURCHASER by the SELLER, within the agreed warranty period, the SELLER shall at no cost to the PURCHASER, furnish replacement, repair thereof or refund purchase price at the option of PURCHASER within a duration of 15 days from the receipt of notice from PURCHASER.

#### 14. QUALITY:

14.1 The SELLER shall maintain & operate a QMS (quality management system) which meets the requirements of latest ISO 9001 at all time during execution of order. SELLER shall ensure that all its sub SELLER operate & maintain a quality a quality management system, which meets the requirements of ISO 9001.

14.2 At the time of transfer of the risk, all Goods provided by the SELLER must meet the agreed specifications; terms and conditions specified in the PO.

#### 15. TERMINATION:

15.1 PURCHASER may terminate any PO in writing to SELLER specifying the extent





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and date of termination in whole or in part at any time for convenience and accordingly will reimburse the SELLER for only those reasonable and verifiable costs incurred directly in the performance of the PO to the date of termination.

PURCHASER shall not be liable for any consequential or indirect damages arising out of termination.

15.2 In no event shall PURCHASER's obligations to SELLER, as a consequence of termination, exceed the aggregate purchase price of the cancelled items. Upon payment, PURCHASER shall have no further obligation to SELLER of any kind.

15.3 In case of delays beyond agreed schedule or moderate to major level defects in the Goods sold to PURCHASER, the whole or part of the PO (as applicable) shall stand cancelled.

15.4 In the event of any proceeding by or against SELLER in bankruptcy or insolvency or for appointment of a receiver or trustee or an assignment for the benefit of creditors, PURCHASER may, in addition to any other right or remedy provided herein or by law, terminate all or any part of this PO without incurring any liability on account of such termination.

15.5 In the event that PURCHASER terminates the PO in whole or in part, PURCHASER may purchase from others, upon such terms and in such manner as PURCHASER may deem appropriate, similar Goods to those so terminated. SELLER shall be liable to PURCHASER for any direct costs incurred by PURCHASER in procuring substitute Goods.

#### **16. DELAY PENALTY AND LIQUIDATED DAMAGES:**

If the SELLER fails to deliver the Goods or part thereof in accordance with the relevant delivery dates or any time extension thereto as may be granted by the PURCHASER in accordance with the provisions of the PO, then without prejudice to the PURCHASER's other rights and remedies under the PO or at law, the SELLER shall become liable to pay the PURCHASER the delay penalty and liquidated damages



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as mentioned below:

- a) In case the delivery is not made in line with the instructed Delivery Date in the PO and upon crossing the agreed grace period in the PO, the delay penalty for any delay shall be calculated at a rate of one (1%) percent of the undelivered portion of the PO price for every week subject to a maximum limit of ten (10%) percent of the total PO value.
- b) In case of delay beyond the agreed schedule or nonperformance as reasonably judged by the PURCHASER, the SELLER shall have to make good the losses incurred by PURCHASER. The SELLER shall be liable for the amounts of liquidated damages calculated and communicated to be a genuine estimate of the losses incurred by the PURCHASER.
- c) For the purpose of calculating delay penalty, the actual Date of Delivery against each line item shall be considered based on the freight terms agreed in the PO.
- d) Upon agreement during the negotiations, the SELLER shall issue a PBG (performance bond guarantee for 10% value of the PO) in order to guarantee the SELLER's obligation under the terms of the PO. In the event that any of such obligations are not fulfilled, SAMAMAT Flow Control LLC shall be entitled to execute the totality or a portion of the same

#### **17. GENERAL INDEMNITY:**

- 17.1 SELLER agrees to defend and save harmless PURCHASER, its employees, agents, affiliates, successors, assigns, customers or users of the Goods and/or Services ordered herein, against all consequential damages, claims or demands and all suits at law or in equity arising out of or related to any actual or alleged injury to any person, including death, damage to any property, defect in any Goods or any other damage or loss alleged to have resulted from the Goods and/or Services hereby ordered or resulting from or relating to any actual or alleged breach of any of SELLER's obligations as specified in PO or other acts, including acts of omission, of



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SELLER, its officers, agents, employees, or Sub Supplier and upon notification of any such suit or claim to SELLER, the SELLER shall defend the same at SELLER's expense as to all costs, fees, and damages, and shall be responsible for all reasonable attorney fees incurred by PURCHASER.

17.2 Indemnity shall survive the Delivery and acceptance of any material and shall apply without regard to whether the claim, damage, liability or expense is based on breach of contract, breach of warranty, negligence or other tort. PURCHASER may set off any amount owed to it by SELLER against any sum payable hereunder by PURCHASER to SELLER.

### 18. FORCE MAJEURE:

18.1 **Effect of Force Majeure:** If either Party is rendered unable, wholly or in part, by force majeure to perform its obligations, it is agreed that performance of such obligations by such Party, so far as they are affected by force majeure, shall be excused from the inception of any such inability until it is corrected, but for no longer period. The Party claiming an inability to perform shall, immediately after the occurrence of the force majeure event, notify the other Party in writing of the nature, date of inception and expected duration of the force majeure event and the extent to which it will prevent the Party giving such notice from performing its obligations under this Contract. The Party claiming inability to perform must do all it can to minimize the delay caused in production as a result of the occurrence of an event of force majeure.

18.2 **Events of Force Majeure:** The term "force majeure" shall mean any of the following acts, events, circumstances which renders a Party or its Sub Seller unable to perform its obligations and the cause of which and the inability to perform is not caused by any act or omission of the Party asserting force majeure pursuant: war, hostilities (whether or not war has been declared), civil commotion, riot, insurrection, public demonstration, sabotage, acts of vandalism, fire, flood,



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earthquake, deadly epidemic, explosion, aircraft crashes or things falling from aircraft, release of ionizing radiation or contamination by radioactivity, blockades, any strike, lock-out or other industrial trade dispute (not involving solely the employees of the Party claiming force majeure or its Sub Seller(s)).

- 18.3 The following are specifically excluded as force majeure and shall not constitute a basis for claims for production schedule extensions or costs, or both;
- 1) Late performance by a Sub Seller caused by a shortage of supervisors or labor, inefficiencies, or similar occurrences;
  - 2) Late delivery of SELLERs Goods by Sub Seller and caused by congestion at a manufacturer's plant or elsewhere, an oversold condition of the market, inefficiencies, or similar occurrences; or
  - 3) Any inability to obtain visas or renewal of visas for expatriate workers.
  - 4) Events or circumstances involving a previous or existing condition as at or before the Delivery Date.
  - 5) Changes in market conditions.

**19. CONFIDENTIAL DATA:**

If SELLER acquires knowledge of any PURCHASER'S Confidential Information in the transaction or otherwise, it agrees to keep such information confidential. "Confidential Information" includes, but is not limited to, all information, whether written or oral, in any form, including, without limitation, information relating to research, development, products, specifications, drawings, blueprints, nomenclature, samples, models, methods of manufacture, trade secrets, business plans or practices, customers, vendors, finances, personnel data, work product, and other material information considered proprietary by PURCHASER relating to the current or anticipated business or affairs of PURCHASER which is disclosed directly or indirectly to SELLER. SELLER agrees not to copy, alter, or directly or indirectly disclose any Confidential Information. Additionally, SELLER agrees to



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limit its internal distribution of the Confidential Information to SELLER's employees who have a need to know such Confidential Information, and to take steps to ensure that the dissemination is limited. In no event will SELLER use less than the degree of care and means that it uses to protect its own information of like kind, but in any event not less than reasonable care to protect the unauthorized use of the PURCHASER's Confidential Information. SELLER further agrees not to use the Confidential Information except in the course of performing or fulfilling the PO and will not use such Confidential Information for its own benefit or for the benefit of any third party. All Confidential Information is and shall remain the property of PURCHASER. Upon PURCHASER's written request, SELLER shall return, transfer or assign to PURCHASER all confidential information and all copies thereof.

### **20. INSURANCE:**

In connection with the purchase of products manufactured by the SELLER, the SELLER shall furnish evidence of product liability insurance coverage in amounts satisfactory to the PURCHASER.

### **21. DISPUTE RESOLUTION/ GOVERNING LAW:**

21.1 Any disputes between the Parties arising out of or in connection with the PO or the performance thereof shall be amicably settled in good faith. If the matter is not resolved, either Party may, by written notice, cause the matter to be referred to a meeting of appropriate senior management of the Parties; such meetings to be held within thirty (30) days following the receipt of the written notice.

21.2 If the matter is not resolved within thirty (30) days of the initial meeting of senior management of the Parties, either Party may by written notice to the other Party, refer the dispute to Dubai Courts.

21.3 All disputes arising out of or in connection with the present contract shall be finally settled through court. The legal place of court proceedings shall be at Dubai, United Arab Emirates. The decision by the court shall be binding and final to both



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parties.

### **22. ASSIGNMENTS AND SUBCONTRACTING:**

SELLER shall not assign & subcontract the PO or any part thereof, without the prior written consent of PURCHASER. Any such consent shall not relieve the SELLER from its liabilities and obligations under the PO and the SELLER shall be liable for his own acts and omissions of all its Sub Seller. SELLER shall require that no assignees divulge any information concerning the PO except to those persons necessarily concerned with the transaction and are under full operational and quality system of the SELLER.

### **23. WAIVER:**

Failure of SELLER to insist upon strict performance of any of the terms and conditions of this PO, or to exercise any right or privilege contained herein, or the waiver of any breach of the terms or conditions of this PO shall not be construed as thereafter waiving any such terms, conditions, rights or privileges, and the same shall continue and remain in force and effect as if no waiver had occurred.

### **24. SEVERABILITY:**

If any term or other provision of this contract is invalid, illegal or incapable of being enforced by any law of public policy, all other conditions & provisions of the PO shall nevertheless remain in full force and effect so long as the economic & legal substance of the transactions completed thereby is not affected in any adverse manner to either Party hereto. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the parties hereto shall negotiate in good faith to modify the PO so as to affect the original intent of the parties hereto as closely as possible in an acceptable manner, to the end that the transactions contemplated in the contract may be fulfilled to the extent possible.



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#### **25. CONFLICTS OF INTEREST, ANTI-CORRUPTION NORMS, FRAUD AND COMPETITION LAW:**

25.1 The SELLER shall take all appropriate steps to ensure that neither it nor any employee, servant, agent, supplier or Sub Seller is placed in a position where there is or may be an actual conflict, or a potential conflict, between the pecuniary or personal interests of the SELLER or such persons and the duties owed to the PURCHASER under the provisions of the PO. The SELLER shall disclose to the PURCHASER full particulars of any such conflict of interest which may arise.

25.2 SELLER shall comply with internationally recognized anti-corruption norms; acts, statues, rules, regulations, policies etc. mandated to be complied with.

25.3 The SELLER shall safeguard the PURCHASER's funding of the PO against fraud generally and, in particular, fraud on the part of the staff, or the SELLER's directors. The SELLER shall notify the PURCHASER immediately if it has reason to suspect that any fraud has occurred or is occurring or is likely to occur.

25.4 The SELLER warrants that it has engaged in no price fixing, bid rigging, illegal price information exchange agreement or other arrangement in breach of any competition laws relevant to the PO or arrangements between the Parties.

#### **26. AUDITS:**

To verify SELLERS's compliance with the PO and these General Terms and conditions of Purchase, SELLER shall maintain and preserve documentation and data (including electronic data stored in computer system) pertaining to purchase. SELLER shall permit PURCHASER to audit SELLER's records including all books, papers, documents and another information that may have an effect on or be related to the PO and to examine same and interview SELLER's personnel as necessary for PURCHASER to monitor and /or verify the accuracy and propriety of the prices under the PO and these General Terms and Conditions of Purchase. SELLER shall cooperate fully with PURCHASER in conducting any such audits. All audits will be



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conducted in accordance with generally accepted auditing standards and during normal business hours. PURCHASER'S right to audit remains in effect for a period of three (3) years after termination, cancellation or completed performance of the PO.