

## Lincoln Electric India - P.O TERMS & CONDITIONS

### Scope

1. This Purchase Order shall constitute the contract ("order")
2. No verbal agreements amending the terms of this order are valid unless both the parties confirm them in writing.

### General

3. Each Delivery Challan / Invoice should relate one to one purchase order and must clearly mention LE India Purchase Order Number, Part No, Part Description of the product as per the LE India purchase order and quantity with invoice (in triplicate), inspection report / self-certification, as applicable, failure to comply with these instructions may result into delay in receipt of the product(s) and ultimate settlement of supplier's Bills. The GST mentioned on the purchase order is based on the data provided by the supplier. Hence it is responsibility of the supplier to ensure and verify the details pertaining to Material and rates of GST are accurate and complete in all respects. Supplier shall indemnify LE India and its affiliates from any claims, liabilities, fines, penalties and losses arising out of non-submission of accurate and complete details.
4. Order Acknowledgement must receive with 2 days from the date of order and in the event of non-receipt thereof within the stipulated period, it will treated as acceptance of the order.
5. All drawings, samples, technical data, confidential information etc. given to supplier by LE India shall be kept as secret & confidential and shall not be used in any manner contrary and prejudicial to the interest of LE India and same shall be returned to LE India as and when demanded. The supplier shall not make or cause to be made any reproduction of LE India drawings/technical data/information and/or use or cause to be used in any manner, whatsoever, such data/information etc. supplied to the supplier, except in relation to supplies to be effected to LE India under the purchase order. Failure to comply with this condition shall lead to the cancellation of the order and shall also make the supplier liable for breach of trust and other legal actions, as may be deemed fit by LE India. This section shall survive the early termination or expiry of the purchase order.
6. The products and parts manufactured by the suppliers from the specific data if any, furnished by LE India, must not be manufactured/sold or divulged by the supplier for/to any other party *except with written consent of LE India*. The supplier shall manufacture the ordered quantity of the products and parts as per the schedule supplied to the supplier from time to time and no excess quantity shall be manufactured if the supplier manufactures excess quantity than the order, the supplier shall inform the same to LE India immediately and shall preserve such excess quantity for ultimate sale to LE India on its demand, if any, or alternatively the supplier will destroy the products of manufactured by him but on no account the supplier shall sell the goods to any other party *except with written consent of LE India*. The same condition applies for supplies rejected by LE India products and parts thereof similar to those manufactured by LE India should neither be manufactured or marketed by the supplier to any other party nor the supplier shall cause them to be manufactured or sold by anyone else.
7. Terms and conditions stated in purchase order will be final and binding and any variance thereto shall be effective only in written consent of LE India to the variance.
8. LE India reserves the right and without it being disputed by the supplier, to cancel and terminate the contract, reduce quantities or vary the delivery schedules upon the happening of anyone or more of the following events, viz. intervention or control by the Government authorities; any other cause or causes beyond the control of LE India whereby LE India is unable to effectively use the products of this purchase order;

strike/stoppage by suspension of products, go slow, lock out; or any other similar causes, attributable to man-made/natural cause or case arising due to 'force-majeure' reasons. Force Majeure will not include late delivery of products or services caused due to delay/suspension or interruption of the part of sub-contractor.

9. Any dispute or difference whatsoever arising between the parties out of or relating to the construction, meaning, scope, operation or effect of this purchase order or the validity or the breach thereof shall be settled by arbitration in accordance with the provisions of the Arbitration and Conciliation Act, 1996 (as amended) and the award made in pursuance thereof shall be binding on the parties. The venue of arbitration shall be at Chennai.
10. Any dispute or issue relating to this purchase order or any transaction made pursuant thereto shall be subject to the jurisdiction of courts at Chennai.

#### **Quality Assurance:**

11. The supplier shall be subjected to the supply Quality assurance which entails free access, to inspectors or authorized representatives of LE India for the purpose of inspecting facilities, infrastructure, tools, fixtures, raw materials and manner of manufacture at the site of the supplier. The product should be properly processed and packed in a manner so as to avoid any kind of damage and/or formation of rust during transportation or storage. The product should be marked and tagged with identification labels.
12. The supplies should be made on self-certification basis by the supplier along with Metallurgical Reports, Inspection Reports & Test Certificates as applicable. However, if LE India find the quality of the product supplied by the supplier not to the satisfaction of LE India or received damaged or broken condition which can't be consumed by LE India shall inform the supplier accordingly and it is obligatory on the part of the supplier to lift the material within 7 days of the intimation thereof, failing which, the material shall be destroyed by LE India at its discretion without incurring any liability, whatsoever.
13. LE India will not accept supplies made without enclosing the aforesaid documents, as applicable (refer point 3).

#### **Dispatch**

14. Documents complete in all respects with invoice (Duplicate for transporter), where applicable, must be forwarded to LE India. It will be sole responsibility of supplier to supply to LE India.
15. Demurrage, Penalties etc. becoming leviable on account of delay in delivery, dispatch of Railway receipt, goods receipts or any other shipping dispatch documents or for any other reason, for which LE India is not responsible, will be to supplier's account and recoverable from supplier.
16. In case of damaged/broken cases or short received cases, the supplier will assist LE India in all respects in finalizing claims, third party claims etc.

#### **Delivery**

17. 17.1. Delivery time is the essence of this order and must be strictly adhered to. If the Supplier fails to deliver the goods in time, the Purchaser may, at its sole discretion.
  - a) Treat the order as cancelled at any time and recover any loss or damage from the Supplier
  - b) Purchase the goods ordered or any part thereof from other sources on the Supplier's account

- c) Purchaser may accept late delivery, subject to a deduction in payment of 0.5% of the total order price for 1<sup>st</sup> Week , 1% of the total order price for every week or part thereof of the delay, towards liquidated damages, subject to maximum deduction of 10% of the order price.

17.2. For the purpose of establishing the timeliness for deliveries involving installation, commissioning or rectification services, the relevant point in time shall be the date of acceptance.

### **Packing**

- 18. Goods processed and supplied against order must be properly packed and dispatched conforming to special instructions, if any, given for safe transport by road/rail/air/Sea to the specified destination.
- 19. In case of dangerous goods, the Supplier shall submit details of MSDS / packing and transportation plan to Purchaser for confirmation prior to shipment.

### **Payment Terms**

- 20. All payments shall be due and payable by LE India as mentioned in PO if any payment is made at any other place, the same shall not be construed as a waiver of the stipulation that all payment are due and payable by LE India as mentioned in PO.
- 21. Subject to the proper settlement of the transaction invoiced and to the provision of clauses 13 & 23 herein, suppliers bill will be paid by LE India as per the terms & conditions of the purchase order after the valid receipt of the supplies in its plants as mentioned in PO.

### **Rejection**

- 22. The sample/product rejected for any reason, by the authorized representative of LE India, will have to be accepted by the supplier for free replacement or scrapping on his account and the decision of LE India in this respect will be final and binding.
- 23. Should any products be rejected by LE India due to defect or inferior quality and whose decision in this regard shall be final and binding, LE India reserves the right to buy its requirements in the open market or the rejected component and recover the loss, if any, from the supplier and in which instance, the conditions contained in clause 21 herein become in-operative.

### **Warranty**

- 24. In the event of failure on the part of the supplier to replace the defective product, LE India reserves the right to resort to risk purchase of the component to supplier's account without any further reference to him and no claim will be entertained by LE India.

### **Material Reconciliation**

- 25. Monthly returns (in duplicate) indicating the following details should be sent by the supplier to LE India, latest by 5<sup>th</sup> of the following month. a. Opening & Closing balance of LE India material lying with supplier. b. Receipt (Quoting LE India's SDV No. & Date) and dispatches (quoting the supplier challan/invoice number & date) of each material dispatched the supplier during the month.

### **Indemnification**

- 26. (1) The supplier agrees to fully and effectively indemnify LE India and keep LE India at all times fully and effectively indemnified from and against all actions, proceedings, claims, demands, costs (including without prejudice to the generality and the legal and other professional costs expenses, and damages, however arising, directly or

indirectly as a result of any breach or non-performance by the supplier of any of the undertaking or obligations under the agreement.

(2) All consignment shall accompany by E-Way bill.

(3) Supplier will be held responsible for any loss on a/c of the products seized by any authorities. Representations and warranties.

27. 27.1. The supplier warrants that :

a) In case of Goods

- I. They match the description in the purchase order.
- II. They are new, of merchantable quality and free from defect or fault.
- III. They must be fit for their intended purpose.
- IV. Workmanship and material used by the supplier, and products supplied pursuant other issuance of purchase order, will be in strict accordance with drawings, specifications, samples and relevant applicable standards and codes and will be suitable for the purpose expressed or implied in the purchase order.
- V. LE India will have the full benefit of any manufacturer's warranties; and
- VI. The products and their use by LE India will not infringe any patent, trade mark, copyright, industrial design or other industrial property right and the supplier agrees to indemnify LE India against all cost and liabilities resulting from any infringement or alleged infringement;

27.2. These obligations shall survive the term or termination of the purchase order for a period of 2 years and shall be enforceable at any time in law or equity.

### **Termination**

28. LE India may by giving thirty (30) days advance notice to the supplier, terminate this purchase order, and

- I. The supplier is only entitled to payment of the products shipped prior to termination
- II. Shall discontinue all product delivery and related services pursuant to the purchase order.
- III. Immediately take all possible action to mitigate any loss incurred by it as a result of the termination and take all other action as reasonably required by LE India in relation to the termination.
- IV. The supplier is not entitled to payment for any anticipated revenues or lost profits.

### **No Sub-Contracting**

29. No portion of the purchase order shall be assigned, subcontracted or delegated by the supplier without prior written consent of LE India. Any unauthorized assignment, sub-contracting or delegation shall be void. Notwithstanding any permitted assignment, sub-contracting or delegation, the supplier shall remain liable for the performance of the supplier's obligation under the purchase order unless otherwise agree to in writing by LE India. The purchase order may be freely assigned by LE India without the written consent of the supplier.

### **Independent Contractor**

30. The supplier will be an independent contractor and shall not be considered an employee, partner or agent of LE India for any purpose whatsoever.

### **Compliance**

31. a. supplier represents and warrants that in the performance of its obligations under this purchase order, It shall comply with all applicable Central, State and local laws, ordinance, rules and regulations.

b. upon request from LE India, supplier will promptly provide LE India with a statement of origin for the product.

c. supplier will at all time refrain from engaging in any illegal, unfair or deceptive trade practices or unethical business practices. Supplier shall at its expense obtain any and all permits, licenses, authorizations, and/or certificates that may be required in any jurisdiction or by any regulatory or administrative agency in connection with its activities.

**Right to Audit**

32. LE India shall have the right, at any reasonable time, to send its authorized representatives to examine all of the supplier's documents and materials relating to supplier's obligations.