

**BAALBAKI GROUP SA (OFFSHORE) LTD  
GENERAL TERMS AND CONDITIONS OF SALE**

**1. Definitions:**

In this General Terms and Conditions of Sale, the following words will mean:

- **GTC:** Means the present General Terms and Conditions of sale.
- **Seller or BCI:** Baalbaki Group SA (Offshore) Ltd or any of its subsidiaries or affiliates.
- **PI:** Means the Proforma Invoice issued by BCI.
- **SO or AO:** Means Sales Order Acknowledgement/ Confirmation as accepted by BCI.
- **Invoice:** Means the final invoice issued by BCI.
- **Buyer or Customer:** Means the moral or physical person or (entity) who is the Buyer of the Products, as described in BCI's PI, SO or Invoices; and includes its assignees(s) or successors-in-title.
- **The Products:** Means the products which Buyer buys and BCI sells to the Buyer in accordance with these GTC and Proforma Invoice
- **PO:** Means the Purchase Order request sent by the Buyer to the Seller detailing the commodity ordered and other details relating to the shipment and transport.
- **Sales Contract or Sales Documents:** Mean collectively the GTC therein indicated, Proforma Invoice, Invoice, SO, Bills of lading and delivery orders which are deemed to be the only reference for the conclusion of the contract or the conditions of the contract.
- **Due Date of Payment:** Maturity date shown on the invoice issued by BCI before which the Buyer must have sent the value of the invoice to BCI's nominated bank account so that the funds would be collected by BCI by that date.
- **Local Currency:** Means the national currency of the Buyer's or Seller's country or any currency other than the US Dollars or Euro.

**2. Sale and Purchase:**

The performance of services by Seller or the commencement of work shall not obligate the Seller to any transaction in the absence of Seller's written acceptance of the applicable PO or issuance of an SO. Once accepted by the Seller, the Purchase Order shall be binding on Buyer and Buyer may not rescind, cancel, withdraw or terminate the Purchase Order for any reason whatsoever, unless otherwise agreed in writing by the Seller.

No additions hereto, subtractions therefrom or other modifications shall be binding upon the Seller without the Seller's explicit prior written consent thereto.

Subject to availability and upon the terms and conditions as set out herein, BCI will sell and deliver the quantities of the Products to the Buyer, and the Buyer agrees to purchase, pay for and take delivery of these quantities of the Products as set out in Sales Contract.

**3. Sales Operations:**

The sales documents govern all sales of Products made by BCI to the Buyer, including delivery of individual consignments. In the event of any conflicting provisions between the Sales Documents or other correspondence, the terms and conditions of the Invoice and then GTC

shall always prevail and take precedence and shall supersede any such conflicting terms and conditions.

Other than what is clearly expressed in the Sales Contracts, no conditions, warranties, guarantees, representations, verbal or written exchanges with the Buyer shall be of any force or effect.

BCI will not be bound by any standard or printed terms presented by the Buyer, unless expressly incorporated in the Sales Contract and signed by the Seller.

**4. Quality:**

The quality of the Products shall be as per the latest data sheet for the relevant products, and as may be attached to the Sales Document. BCI may at any time change or vary the specification and/or discontinue the production of such products without prior notice or warning to the Buyer. Unless otherwise agreed to in writing, BCI makes no representation as to the suitability of the Products to the particular purpose or application requested by the Buyer.

**5. Quantity:**

While BCI will make its best to deliver the full quantities purchased by the Buyer, and in such consignments and intervals as indicated in the Sales documents, such deliveries will be subject to availability and thus BCI will not be liable towards the Buyer in the event that actual deliveries differ from those set out in the Sales Contract.

In case the delivery of the Product is to be made in bulk, BCI reserves the right to deliver up to ten percent (10%) more or less ( $\pm$  10%) than the quantity ordered with appropriate adjustment in the total value of the consignment, and the quantity so delivered shall be deemed to be the quantity ordered.

**6. Price and Currency:**

The price shall be expressed in the contracted currency per kilogram ("Kg") or per unit or per cubic meter for the delivered Products and is exclusive of any value added tax, excise or levies of a similar nature unless mentioned clearly in the Sales Contract.

In case a PI, SO or any other Sales Document has been issued in a local currency and the local currency depreciates by 5% or more versus the US Dollars or Euro, prices will be re-negotiated for all non-delivered quantities according to the Sales Contract.

Unless otherwise stated, the quoted prices will be for the quantity stated in the Sales Contract. In the even the Buyer requests an amendment in the quantity to be delivered, BCI may, at its own Discretion, adjust the price that had been agreed upon.

Prices are considered valid and accepted by the Buyer, if BCI receives a copy of the PI stamped and signed by the Buyer within the validity date or in case BCI sends to the Buyer its SO.

**7. Payment Terms:**

BCI will invoice the Buyer for and in respect of each individual consignment of delivered product. The full value of each delivery, as invoiced by BCI shall be payable, in the latest on Due Date of Payment, to BCI's nominated bank account as mentioned in the Sales Document, free of bank charges, deductions or withholdings of whatever kind or nature.

Notwithstanding any previous agreements or arrangements to the contrary, If, for whatever reason, the Buyer failed to settle a due amount on Due Date of Payment in respect of any delivery and if other consignments have been delivered but not settled, all such consignments shall become due and payable immediately.

Notwithstanding anything set out above, BCI reserves the right, in its sole discretion, to change the agreed upon payment terms and/or to cancel or change any credit arrangement or terms granted to the Buyer. BCI will be entitled to refrain from delivering the product as per the Sales Contract in case the Customer is either late in settling his dues, or has reached his credit limit as established or amended by BCI.

In case of default of payment by the Buyer, BCI is entitled to reclaim the products and to engage legal appropriate measures.

Unless otherwise expressly agreed to by the Seller in writing, terms of payment are cash to be paid at sight. Time of payment is of essence. Any invoice not paid within the Due Date of Payment gives the Seller the rights mentioned in article 13 of this GTC. The Buyer also agrees to indemnify The Seller for all collection costs on any delinquent accounts, including, without limitation, attorneys' fees and court costs. The inspection rights granted to the Buyer hereunder will not affect or alter the payment terms or the timing of the Buyer's payment obligations.

The Buyer does not have a right of set-off under any circumstance. On the other hand, the Seller has the right to set-off and compensate amounts due to the Buyer with amounts due from the latter.

The Seller may, at its sole discretion, request in its PI that the Buyer arranges to open an irrevocable letter of credit in favor of the Seller within 10 days of the Seller's PI. Such documentary credit should be made available with the bank nominated by the Seller and issued in accordance with the specimen text sent which forms an integral part of the Sales Documents. Any unauthorized amendment to the documentary credit may be a cause of nullity of the transaction unless the terms are remedied within 7 days of the receipt of such documentary credit by the Seller.

The Buyer acknowledges that the books, registers and records of the Seller are the only acceptable evidence and proof on the veracity of the due and outstanding amounts related to their relationship. The Buyer waives without any reservation all rights to object to any of these records. Thus, if the Buyer settles the value of any shipment (i) before maturity or (ii) before preceding shipments have been paid, the Buyer acknowledges that all outstanding unpaid shipments remain due and payable.

#### **8. Delivery:**

The Delivery terms of Products shall be as mentioned in the PI or SO.

If a delivery date or period is stated, this will be an approximate date only. Unless otherwise agreed, the time of delivery shall not be vital. In case delivery could not take place within the specified time, the delivery period shall be extended within a reasonable period.

The Buyer shall not be entitled to refuse to accept delivery and/or to return any consignment of the Product delivered by BCI, except in accordance with the terms and conditions hereof, or in the event of an express written agreement to the contrary.

In case of any technical claim, the Buyer shall inform the Seller for the latter to proceed with the verification of such claim. No products shall be returned without the prior written consent of the Seller.

Unless otherwise agreed in writing by the parties, deliveries of the Products shall be made EXW at the seller's named place as indicated in the PI or SO. The Buyer shall be responsible for and agrees to indemnify Seller for any loss, damage or destruction of the Products, as well as for any misuse by third parties who may possess or make use of the Products, after Seller's delivery of the same to the carrier. Any loss occasioned by damage or shrinkage in transit will be for the Buyer's account, and the Buyer shall file any damage or loss claims directly with the carrier. Unless otherwise agreed in writing by the parties, filling and

packaging, shipping documents, mode of transport, route and carrier designation shall be at the Seller's sole discretion. The Seller reserves the right to ship items in single or multiple shipments. Unless otherwise agreed in writing by the parties, all freight charges and insurance costs shall be the responsibility of the Buyer and will be invoiced as a separate line item to be paid by the latter.

If the Seller does not receive adequate written shipping instructions from the Buyer within reasonable time before delivery is to occur, the Seller may, at Buyer's expense, arrange for shipping of the Goods, whereupon the Seller shall inform the Buyer of the shipping arrangements made. If a delay in delivery is requested by the Buyer, the Seller will store the Goods free of charge up to Fifteen (15) days; thereafter storage shall be at the expense of the Buyer. All delivery terms used in this document and all deliveries are to be made and interpreted in accordance with INCOTERMS 2010, Publication No. 715, as issued by the International Chamber of Commerce in Paris.

The Seller's delivery or shipping dates are approximate only and represent an estimated delivery or shipment date. Shipment dates are contingent on prompt receipt by the Seller of all necessary shipping information. The Seller shall not be held responsible for failure to meet estimated shipping dates, and in no event shall the Seller be liable for any consequential loss, cost, damage or expense incurred by the Buyer.

#### **9. Transfer of Title and Risk:**

Unless otherwise expressly agreed upon, the risk of the purchased quantity shall be transferred to the Buyer upon delivery of the products to the Buyer or to the carrier at the place designated by the Seller. The risk of loss or damage to the Products passes to the Buyer once received by the latter or if the latter refuses to accept delivery of the Products without legitimate reason and contrary to the terms of the GTC.

Title to the Products shipped to the Buyer shall remain with the Seller as security until full payment for such Products is made by the Buyer. The Buyer shall indemnify the Seller for all losses, liabilities, expenses, costs and damages relating to or arising from the Products prior to the transfer of title.

#### **10. Warranty:**

BCI warrants that it has good and valid title to the products sold and delivered to Customers and warrants Products shall conform to the relevant specification referred to in Article 4 above.

Without prejudice to the provisions of Article 11 below, if the Buyer claims at the time of receipt of the Products that the Products do not comply with the required specifications and the Seller agrees to the claim, the Seller has the option to either fix the Products or return and credit the Buyer's account with the value of the non-complying products.

BCI shall be under no liability in respect of any defect or non-conformities of the Product arising from wear and tear, misuse or alteration of the Products or any other act or omission or any willful damage, negligence, subjection to normal conditions, failure to follow BCI's instructions (whether oral or in writing), on the part of the Buyer, its employees or agents, or any third party.

The warranties, obligations and liabilities as well as the rights of the Buyer are set forth in the Sales Contract only and thereby replaces any other warranties, obligations liabilities and rights. Except as expressly stated above, BCI makes no further warranties of merchantability, fitness or suitability of the Product for any particular purpose, whether express or implied by any statutory provision or the common law.

### **11. Inspection and Acceptance:**

The Buyer is entitled to inspect each and every consignment of the Product upon delivery, and the Buyer shall forthwith give BCI a notice in writing of any suspected shortage, damage and/or non-conformity to the specification; such notice shall detail the basics of the claim and must be accompanied by acceptable evidence supporting such allegations.

Should the Buyer fail to give such notice within a period of seven (7) working days from the date of receipt of the Products as evidenced by the delivery documents, the delivered Product shall be regarded as accepted in good order and shall conclusively be deemed to be in all respects conforming to the contractual quantity and quality and to be free from any defect.

Full or partial settlement or acceptance of delivery of products without notifying the carrier and the Seller of any damages or shortages in accordance with this section shall constitute acceptance of such products.

### **12. Liabilities and Indemnity:**

The Buyer shall be fully responsible for making its own determination by performing tests and analysis as to the suitability and safety of the Product for its particular use or application. The Buyer shall also be responsible to ensure that the Product is stored properly and used in suitable applications; accordingly, the Seller shall in no way be responsible for any problems resulting from storage, application or use of the Products or for any damages, direct, indirect or consequential, whether the Buyer's claim is contractual, tort or in any other form, regardless of the Seller's Product instructions. The Buyer shall be responsible to ensure compliance with the applicable safety, environmental or other statutory regulations.

BCI shall not be liable for any loss suffered by the Buyer (including without limitation loss of profit or indirect or special loss), or for any costs, expenses or other claims whatsoever which arise out of or in connection with representations, implied warranties, other terms, or any duty at common law or under statute relating to the supply of the Products for their use or resale by the Buyer.

BCI shall not be liable for any direct or indirect damage claimed by the Buyer due to delivery delays. Such claimed delays shall not lead to cancellation or modification of the order or delays in payments.

BCI's maximum liability pursuant to any sale shall at all times and under any circumstance be limited to the purchase value of the Products concerned as evidenced by the Invoice, and the Buyer hereby waives and releases BCI from and against any direct or indirect or consequential losses whatsoever, whether due to delays in the delivery, the non-conformity of the Product or otherwise.

### **13. Default:**

If the Buyer fails to make any payment to BCI on the Due Date of Payment then, without prejudice to any other right or remedy available to BCI, BCI shall be entitled to:

- a. Cancel the Sales Contract or part thereof or suspend any further deliveries to the Buyer; and/or
- b. Appropriate any payment made by the Buyer (even if it relates to another contract between the Buyer and BCI); and/or
- c. Charge the Buyer a commission (both before and after any judgment) on the unpaid amount, at the rate of 1.5% per month of delay, until payment is made in full (a part of a month being treated as full month for the purpose of calculating penalties).

It shall be deemed that the Buyer is in default in one of the following situations:

- a. The Buyer fails to perform or observe any of its obligations disclosed in the Sales Contract or the GTC; and/or
- b. The Buyer premises becomes subject to apposition of administration stamps order or makes any voluntary arrangement with its creditors or (being an individual or firm) becomes bankrupt or (being a moral entity) goes into liquidation; and/or
- c. The Buyer recognizes to be in an encumbrance situation, or a receiver is appointed on any of the properties or assets of the Buyer; and/or
- d. The Buyer ceases, or threatens to cease, to carry on business; and/or
- e. BCI reasonably apprehends that any of the events mentioned above is about to occur in relation to the Buyer and notifies the Buyer accordingly.

### **14. Force Majeure:**

BCI shall not be liable to the Buyer or be deemed to be in breach of the GTC for any delay in delivery or in performing any of its obligations in relation to the Products, if the delay or failure was due to any cause beyond BCI's reasonable control. Following shall be regarded as causes beyond the BCI's reasonable control:

Any act of God, explosion, flood, tempest, fire, accident, breakdown of plants or machinery, interruption of the supply of feedstock, raw material or transportation, war or threat of war, sabotage, insurrection, civil disturbance or requisition, acts, restrictions, regulations, by-laws, prohibitions or measures of any kind on the part of any governmental, parliamentary or local authority, import or export prohibitions or embargoes; and/or strikes, lock-outs or other industrial actions or trade disputes (whether involving employees of the BCI or of a third party), or material adverse change in the economic or political environment in any country or countries where BCI or the Buyer has operations

### **15. General Provisions:**

Any notice or correspondence between the parties shall be in writing and shall be sent to the parties addresses as set out in the Sales Documents.

The Sales Documents will be construed as an agreement between the parties and BCI shall not be responsible or held liable for any verbal or written representations.

No variation to the present GTC shall be accepted or be binding unless agreed in writing between the Buyer and the Seller with specific reference to the current GTC.

The delay or failure by BCI to exercise or pursue any of its rights and remedies hereunder shall not be deemed a waiver of any such right.

If any of these conditions are held by a competent authority to be invalid or unenforceable the validity of all the other provisions of these conditions shall not be affected and remain still valid.

The present GTC has been written in Arabic language and translated to other languages. In the event of inconsistency between the texts of different languages, the terms of the Arabic language shall prevail.

### **16. Confidentiality & Intellectual Property Rights:**

The Buyer will treat and keep as confidential the terms under which the products are supplied and all information relating to the business and/or products of BCI except for information which is in the public domain.

The Buyer undertakes not to use or authorize any other person to use any of the intellectual Property of BCI including its trade-name, trademark, emblem or symbol without BCI's written consent.

**17. Disputes:**

The parties shall make all reasonable efforts to settle in an amicable way any dispute that might arise between them or among them in connection with this GTC or the carrying out of the transactions. Should

either party consider it is not possible to reach an amicable settlement, then the dispute shall be subject to the Emirati law and shall be referred to the competent courts in Sharjah, UAE or to any other competent court in UAE as determined by the Seller.

The Seller shall be entitled to refer to Arbitration in accordance with the rules of Conciliation and Arbitration of the International Chamber of Commerce and to submit such Arbitration in any country as per the Laws chosen by the Seller.