

STANDARD PROCUREMENT TERMS AND CONDITIONS (MATERIALS & SERVICES)



These terms and conditions (the "Standard Procurement Terms") shall apply to the procurement of all goods, equipment, materials and services ("Work") in the Kingdom of Saudi Arabia ("KSA") or outside of the KSA by Advanced Petrochemical Company, except as may be qualified or specifically amended or excluded by any Special Terms in a Purchase Order ("PO").

1. The Parties

In these Standard Procurement Terms and any PO:

"ADVANCED" shall mean Advanced Petrochemical Company, a Saudi joint stock company incorporated and existing under the laws of the Kingdom of Saudi Arabia and having its registered address at P.O. Box 7215, Dammam 31462, Kingdom of Saudi Arabia; and

"Vendor" means the entity or party with whom ADVANCED places a PO and includes its successors and permitted sub-contractor and assigns.

2. The Purchase Order

2.1 All agreements for the supply and/or performance of Work by Vendor shall be entered into and confirmed by ADVANCED by means of the issuance of an official written PO which will be sent to Vendor, whereby these Standard PO Terms shall be incorporated by reference in the PO.

2.2 ADVANCED may send the PO by registered mail or fax to the contact address nominated by Vendor and receipt thereof by Vendor shall be deemed to be three (3) days after the date of the PO dispatch whether Vendor has acknowledged receipt or not, which date shall be the effective date of the PO (the "Effective Date").

2.3 The PO and any attachments thereto together with these Standard PO Terms shall constitute the entire agreement between ADVANCED and Vendor (jointly referred to as the "Parties") in respect of the Work (collectively referred to as the "Purchase Agreement"). No other conditions, warranties, guarantees, representations or verbal or written exchanges with the Vendor shall be of any force or effect unless ADVANCED amends it in writing. Without prejudice to the generality of the foregoing, ADVANCED will not be bound by any standard or printed terms presented by Vendor in any quotation or other document, unless expressly incorporated by the PO.

2.4 When used in a PO, any Incoterms mode/term shall have the meaning set out in the ICC Incoterms 2010 and the meaning of and responsibilities/obligations under the particular term shall be deemed to be incorporated into the Purchase Agreement by such reference.

2.5 In the event of any conflicting provisions in any applicable document the Special Terms of the PO and then the terms hereof shall always prevail and take precedence.

3. Scope of Work

3.1 Vendor shall perform, deliver or provide, conduct and complete Work of the nature, the quantity and quality as set out in the PO in conformance with these terms and conditions.

3.2 Vendor may not change the Specifications, material or manufacturing processes of any part of the Work without the prior written consent of ADVANCED.

3.3 Prior to shipment of any material or the completion of any services that forms part of the Work, ADVANCED may request changes in respect to the Work, including but not limited to changes in the mode of delivery, increase or decrease in the quantity. In that case such changes and the agreed cost and time changes will be recorded in a written amendment of the PO (a "Change Order").

4. Price and Payment terms

4.1 The price basis and currency payable in respect of the delivery and/or completion of the Work shall be set out in the PO ("the Price").

4.2 Subject to the provisions of sub-Clause 4.5 below (Zakat/Income Tax), and unless otherwise stated, the price set out in the PO will be all-inclusive and fixed lump sum or a fixed unit price or costs-plus for the Work, delivered and/or completed to ADVANCED as per the agreed terms. The Price cannot be varied without the express prior consent of ADVANCED given by means of a written Change Order.

4.3 Unless otherwise stated in a PO, payment for the Work delivered, and/or performed and accepted by ADVANCED shall be made *within sixty days (60)* following receipt by the Finance Department in ADVANCED of the Vendor's invoice, provided that the invoice fully complies with the requirements as set out in clause 4.9 below and the relevant PO (the "payment terms").

The approved invoice will be paid by ADVANCED on the basis of ADVANCED's weekly payment schedule. This means that a payment which becomes due, shall be paid by ADVANCED on the next weekly payment date which is foreseen in ADVANCED's weekly payment

schedule. The actual payment date could thus be more than 60 days after receipt of the Vendor's invoice.

4.4 In the event that ADVANCED agrees in the PO to pay a portion of the price in advance, such payments shall be made against an unconditional and irrevocable guarantee by a KSA bank or financial institution acceptable to ADVANCED, in the format approved by ADVANCED.

4.5 In the event and to the extent that ADVANCED may be held responsible for any amount of taxes due by the Vendor inside the KSA, such as for withholding tax, ADVANCED shall be entitled to deduct this from any amount due to Vendor.

4.6 Payments in the currency mentioned in the PO shall be made by direct bank transfer to a bank account nominated by Vendor, or other means set out in the PO.

4.7 All bank transfer charges inside of the KSA shall be for ADVANCED account, and all bank transfer charges outside of the KSA shall be for Vendor's account.

4.8 ADVANCED will have the right of set-off and may deduct all costs or amounts for which Vendor is liable in terms of these Standard Procurement Terms from any payment due to Vendor, including from a retention amount.

4.9 All invoices (in duplicate) shall include at least the following information: PO number, description of Work, quantities, and shall be duly supported by documentary proof of the delivery/completion and acceptance of the Work. Invoices shall be addressed to or delivered to ADVANCED's address and the Finance Department as set out in the invoice instruction in the PO.

5. Value Added Tax

5.1 Value Added Tax ("VAT") shall mean value added tax or similar charge as may be imposed by KSA VAT Law and Implementation Regulations ("KSA VAT Law") as issued by General Authority for Zakat and Tax from time to time.

5.2 ADVANCED and Vendor agree that should KSA VAT Law require that VAT be imposed on amounts that Vendor may invoice to ADVANCED, then ADVANCED shall pay such VAT. Such VAT shall be included by Vendor in its invoices to ADVANCED and such VAT shall be separately identified in the invoices so that the amount of VAT invoiced is expressly identified. ADVANCED has the right to require (i) clarification of any VAT invoiced to ADVANCED and (ii) further supporting documentation for any VAT invoiced to ADVANCED including without limitation customs documentation where VAT is applicable. If necessary or beneficial for VAT compliance purposes, ADVANCED may require that Vendor (i) provide to ADVANCED separate VAT or tax invoices, (ii) further break out, separate or identify amounts invoiced to ADVANCED or (iii) issue invoices to ADVANCED in a different form or format.

5.3 Vendor will include its VAT registration number and VAT registration number of ADVANCED (300451736600003) on all invoices submitted to ADVANCED. If the Vendor fails to do so, then without limit to any other right or remedy that ADVANCED may have under this PO or applicable law, ADVANCED may reject the invoice. No payments will be made to Vendor until a proper invoice with this information and other requirements as prescribed under KSA VAT Law is submitted to ADVANCED.

5.4 Vendor will, in a timely manner, provide to ADVANCED valid and proper invoices (including without limitation VAT or tax invoices) or other documentation evidencing VAT chargeable to ADVANCED or otherwise related to VAT. Without limit to any other right or remedy that ADVANCED may have under this PO or applicable law, Vendor acknowledges that if it fails to provide such valid and proper invoices or other documentation or fails to do so in a timely manner, ADVANCED may withhold payments to Vendor until ADVANCED receives the valid or proper invoice or other documentation.

5.5 If required by KSA VAT Law, Vendor will register for VAT compliance purposes with the applicable governmental authorities and will provide ADVANCED evidence of such registration. Without limit to any other right or remedy that ADVANCED may have under this PO or applicable law, Vendor acknowledges that if it fails to provide valid VAT registrations, ADVANCED may suspend or terminate this PO and may withhold payments to Vendor.

5.6 Certain materials, services and other items supplied and/or provided to ADVANCED may be subject to zero-rated VAT (i.e., a VAT rate of zero) or be VAT exempt as provided by KSA VAT Law. In this regard, if the materials, services or other items are eligible for zero-rating for VAT or an exemption from VAT under the KSA VAT Law, Vendor shall use best efforts to (i) meet such zero-rating or exemption conditions and (ii) qualify the materials, services or other item as zero-rated VAT or VAT exempt.

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- 6. Inspection / Quality Plan**
- Without prejudice to Clauses 10 (Passing of Title and Risk), 11 (Acceptance of Works) and 12 (Quality and Warranty) below, ADVANCED shall be entitled to inspect and/or test (or arrange for independent inspection/testing) the Work at Vendor facilities prior to and/or at delivery/completion in order to ensure that they conform to the Specifications. In the event that the inspection shows that Work do not conform to the Specifications or requirements of the PO, ADVANCED shall be entitled to reject the delivery and cancel the Purchase Agreement forthwith.
- Quality Plan : Advanced shall inspect and/ or test the materials supplied by Vendor based on the specifications provided in the Purchase Order. Supplied materials shall meet the specifications as indicated, otherwise, it will be considered as rejected.
- 7. Packing and Documentation**
- 7.1 The price shall include and the Work will be suitably packed and (if applicable) protected against corrosion and weather as is customary for the type of goods and mode of delivery.
- 7.2 Vendor shall furnish ADVANCED with all the required and customary certificates, test data, manuals, certificates and technical information and documentation relating to the Work including, without limitation, certificates of origin, weight certificates, material test certificates, NDT, pressure test, etc. as specified in the PO.
- 8. Shipping and Transportation**
- In the event that Vendor will be responsible to transport or ship or arrange the shipment of the Works (or part thereof), ADVANCED standard Shipping Terms referred to in the PO shall apply and Vendor shall be obliged to execute such instructions fully and diligently.
- 9. Delivery and Late delivery**
- 9.1 The mode of delivery and the completion date/schedule will be specified in the PO and will be firm and Vendor shall be obliged to timely deliver the Work to the delivery point.
- 9.2 Unless otherwise agreed, the time of delivery of materials and/or completion of services shall be of the essence, and Vendor undertakes to deliver/complete the Work strictly within the agreed time. Vendor shall be obliged to notify ADVANCED in writing if it is anticipated that the delivery of any Work or any other scheduled activity shall be later than the schedule set out in the PO.
- 9.3 Should Vendor fail to deliver or perform the Work according to the agreed date(s) and/or schedule set out in the PO, ADVANCED may in its sole discretion, with or without prior notice to the Vendor:
- extend the time by means of a Change Order;
 - cancel the PO or part of the Work and procure other goods or services of similar description from other suppliers; or
 - allow Vendor to proceed and claim from Vendor, as liquidated and genuine pre-estimate of damages that it will suffer as a result of such a breach, an amount equal to 1% (one percent) of the PO value for every week up to maximum of 5 % of total PO Value (or part thereof) that the Work are delayed beyond the PO delivery date; and/or
 - claim from Vendor the damages actually suffered (including the amount by which the cost of replacements exceeds the Price) and to the extent allowed under the law, in lieu of the agreed liquidated damages provided for above.
- 10. Passing of Title and Risk**
- 10.1 The title and ownership in the material forming part of the Work shall pass to ADVANCED on delivery. However, the risk of damage or loss will remain vested in Vendor until such time that the completed Work has been accepted by or on behalf of ADVANCED, as provided for in Clause 11.
- 10.2 Vendor represents and warrants that it has the right to sell the goods and that, upon delivery, the rightful title in and to the goods will be passed to ADVANCED free from any encumbrance or charge, in order that ADVANCED will have the full benefit of and enjoy quiet possession of the goods.
- 11. Acceptance of Works**
- 11.1 ADVANCED shall not be deemed to have accepted the Work until such time as ADVANCED notify Vendor in writing. Any acceptance will be without prejudice to any of ADVANCED rights under the Purchase Agreement and/or in law.
- 11.2 Notwithstanding the fact that the Work may have passed the inspection provided for in Clause 6 above, ADVANCED will have the right to reject any consignment or part of the Works within forty five (45) days of delivery where it is determined that the Work are defective or do not conform to the requirements of the PO ("Rejected Work").
- 11.3 Unless the Parties otherwise agree on the rectification thereof, the Rejected Work will be returned to Vendor at its sole cost and risk. Where Vendor has already been paid (fully or partly) for such Rejected Work, the Vendor shall forthwith replace the Rejected Work and issue a credit note in respect thereof.
- 11.4 In the event that ADVANCED in its sole discretion elects to accept and correct any Rejected Work, the Vendor shall be liable for and promptly reimburse ADVANCED for all reasonable cost and expenses actually incurred by ADVANCED in connection with the correction or repair of the Rejected Work.
- 12. Quality and Warranty**
- 12.1 The Work shall conform in all respects to the quality requirements and specifications set out in the PO, and if not specified, to the normal and customary specifications or quality of such goods, or in the case of services in accordance with accepted industry practices and any applicable professional standards and codes (the "Specifications"). Vendor may not change the Specifications, material or manufacturing processes without the prior written consent of ADVANCED.
- 12.2 Vendor warrants and guarantees that the Work will be free from faulty design, defects (whether patent or latent), in material and workmanship (fair wear and tear excluded), and fit for the intended purpose for a period of at least eighteen (18) months after acceptance or twelve (12) months from use, installation or commissioning (whichever is the latest) ("Warranty Period").
- 12.3 If any such defects or failure is discovered or occur within the Warranty Period, ADVANCED shall notify Vendor accordingly, and Vendor shall promptly, and at his sole cost and risk repair or replace or otherwise make good any and all Work which are found to be defective. In addition, Vendor shall compensate ADVANCED for all costs and expenses reasonably incurred or suffered in connection with the defect and the repairs or replacement of the Works (or part thereof) under the warranty.
- 12.4 The repairs/replacement Works will carry the same warranty as from the date of accepting the replacement.
- 12.5 This warranty is additional to, and without prejudice to, any further or specific terms of warranties offered by Vendor or applicable in respect of the Work.
- 13. Compliance to Laws and Ethics**
- 13.1 In the performance of any Purchase Agreement, Vendor shall take all reasonable steps to ensure full compliance with all laws and regulations of the KSA as well as any other applicable laws or international obligations.
- 13.2 ADVANCED subscribes to high health, safety and environmental standards and during the execution of any PO, Vendor shall be obliged to strictly conform to all applicable standards and regulations.
- 13.3 To the extent that the Work includes hazardous materials, Vendor shall provide ADVANCED with all information and data sheets as may be required under the applicable occupational health and safety laws and regulations of the KSA and international regulations.
- 13.4 ADVANCED conducts its business in a highly ethical manner, and Vendor shall take all necessary steps and precautions to prevent their employees or representative from making, offering and/or receiving any gifts (other than promotional material of a nominal value) fee, rebate and/or any other consideration or advantage of any nature to any employee or representative of ADVANCED, which could in any way influence ADVANCED employee to act (or refrain from acting) in a manner which may give Vendor an unfair advantage.
- 13.5 Vendor shall promptly notify ADVANCED if and when any of its employees or representatives may obtain any interest (whether directly or indirectly) by way of a shareholding, partnership or in any other form of association in the Vendor, its affiliates or sub-contractor.
- 13.6 Any breach of any of the above provisions shall entitle ADVANCED, without prejudice to any other rights or remedies it may have under these Standard PO Terms or the law, to cancel the PO immediately without prior notice to Vendor.
- 14. Confidentiality**
- Vendor shall at all times during the execution of a Purchase Agreement and thereafter, treat and keep the details of the PO and all information received from ADVANCED in connection thereto, confidential and agree not to disclose such to any third parties without ADVANCED prior written consent. These obligations will survive the completion or early termination of the Purchase Agreement

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- 15. Intellectual Property**
- 15.1 Vendor represents that the delivery to and use of Work by ADVANCED will not in any way infringe or contribute to the infringement on any third parties patent, design, trademark, copyrights or any other form of intellectual property, whether registered or not.
- 15.2 Vendor indemnifies and undertakes to hold ADVANCED, its affiliates, directors and employees free and harmless from and against any demand or claim by any party, cost and expense incurred (including legal costs) in connection with such legal action in any jurisdiction in relation to an alleged infringement of intellectual property rights flowing from the delivery and/or use of the Work.
- 15.3 In addition, Vendor shall immediately upon allegations of an infringement of intellectual property rights, remove the relevant Work and, at its sole costs and risk, promptly replace it with other Work.
- 16. Liabilities and Indemnity**
- 16.1 Vendor executes the PO for its own benefit and risk and shall be solely liable for, and hereby indemnifies ADVANCED, its affiliates, shareholders, Directors and employees from and against any and all damages, claims, suits, action or demands made in connection with or arising out of the execution, delivery and/or use of the Work, and/or:
- any breach of any representation, warranty or covenant made by the Vendor in this Purchase Agreement;
 - any negligence or willful misconduct of Vendor, its agents or sub-contractors;
 - any third party claim relating to the obligations of Vendor under the Purchase Agreement; and
 - Vendor's ownership, control or operation of its business.
- 16.2 Vendor shall furthermore solely be responsible for all equipment, material and persons used in the execution of the PO. In addition, the Vendor indemnifies ADVANCED and shall hold it for ever harmless and free from and against all costs, expenses, demands and claims in respect of or flowing from a loss of or damage to the property of Vendor and in respect of injury or death of any employee or representative of Vendor, as a result or in connection with the Work.
- 16.3 Notwithstanding the above, it is agreed that neither party shall under any circumstances be liable towards the other for consequential damages, including but not limited to loss of use, or loss of profit.
- 17. Insurance**
- 17.1 General:
- In all cases Vendor shall, as a minimum and as a condition precedent to the entering into force of the Purchase Agreement, take out and maintain for the term of the Purchase Agreement valid insurances adequately covering all aspects of the Works, as set out here below and such other insurances as may be required by the law applicable to the country or location where the Services are being performed or the Goods are being provided.
 - Vendor and its sub-contractors shall not commence the shipment of any goods, equipment or materials or commence any services or work until the insurance specified in this Clause 17 is effected and in force.
 - If any of Vendor's responsibilities under this Purchase Agreement are sub-contracted or assigned to a third party, Vendor shall require each such third party to procure, carry and maintain similar insurance as required hereunder, including for such third party's employees and agents, unless such employees and/or agents, as the case may be, are covered under Vendor's insurance.
- 17.2 Marine Cargo Insurance:
- In the event that Vendor is responsible for insuring the Works during the delivery, Vendor shall procure customary "all risk" marine cargo insurance as per Incoterms which shall include coverage for inland transportation covering loss of or damage to equipment, materials, and other supplies, including chemicals, for a value of 110% of the CIF value of the consignment, covering the Works during the complete delivery from warehouse to warehouse.
- 17.3 Workmen Compensation:
- Vendor shall procure, maintain and carry, world-wide - twenty four (24) hour insurance(s) for his workmen having terms and coverage as customary and as required by the laws which may be applicable to such workmen including all of its employees, sub-contractors and agents engaged in providing any goods and/or services under this Purchase Agreement. Such insurances(s) shall include overseas travelers' personal accident insurance and/or similar statutory social insurance.
- 17.4 Comprehensive General Liability insurance:
- Vendor shall procure, maintain and carry Comprehensive general liability (CGL) insurance providing coverage for damage due to bodily injury (including death at any time resulting there from) and personal injury sustained by any person and for loss of or damage to property caused by any occurrence or accident arising out of any operations in connection with the execution of this PO.
- 17.5 Third Party Motor Liability Insurance:
- Vendor shall procure, maintain and carry Third Party Motor Liability Insurance covering owned, non-owned and hired, leased, or rented automotive equipment and vehicles under Vendor's care, custody or control against injury, death, or property damage.
- 17.6 All risk construction (CAR) insurance:
- In the event of constructions on site and if required by the PO, the Vendor will in addition to the above be responsible to take out and maintain all risk construction (CAR) insurance in respect of the works for a cover equal to the amount not less than 110% of the total PO value.
- 18. Force Majeure**
- 18.1 Subject to the below provisions, neither party shall be liable for the non- or late performance of any of its obligations where such were caused by Force Majeure.
- 18.2 For purposes hereof "Force Majeure" shall mean an unforeseen and uncontrollable act or occurrence which has the effect of preventing a party from performing its obligations and/or from performing such obligation timely. These acts or occurrence shall mean, without limitation, strikes, blockages, earthquakes, sabotage, fires, floods or other acts of God or acts of Government enacted after the Effective Date.
- 18.3 In the event that a party experiences a Force Majeure, it shall promptly, but not later than seven (7) days of becoming aware of such occurrence, notify the other in writing of the full detail, nature and anticipated duration and effect of the Force Majeure.
- 18.4 The party experiencing the Force Majeure event shall use its best efforts to remove the Force Majeure in the shortest time, and to minimize the negative effect of such on its performance under the PO.
- 18.5 Where the period of delay due to Force Majeure exceeds six (6) months, ADVANCED shall be entitled in its sole discretion to terminate the PO.
- 19. Breach and Cancellation**
- 19.1 If Vendor is not executing the PO in accordance with its terms, and/or is in breach of any provision of the Purchase Agreement and/or in the event of any other failure or default and/or if Vendor becomes insolvent, ADVANCED shall give Vendor written notice to remedy such failure or default. Failure by Vendor to remedy the failure or default within a period of seven (7) days of the date of the notice, will entitle ADVANCED, without prejudice to any other rights and remedies it may have, to cancel the Purchase Agreement.
- 19.2 In the event of a cancellation of the PO by ADVANCED under the terms hereof, Vendor shall not be entitled to claim for any compensation or damages other than reasonable compensation for that portion of the services or Work performed or delivered and accepted by ADVANCED prior to the date of cancellation.
- 20. Relationship**
- Vendor is and shall at all times be an independent contractor and nothing in this Purchase Agreement is intended or shall be construed as or shall operate to create partnership, joint venture of any kind between the parties or to constitute either party the agent or employee of the other.
- 21. Miscellaneous**
- 21.1 Vendor shall be responsible for all acts and omissions of any sub-supplier nominated by Vendor, including due payment of all such sub-suppliers charges in rendering the Work.
- 21.2 In the event any provision hereof should be declared invalid or unenforceable, it shall be severed from the Purchase Agreement, and such provision shall not affect the validity or enforceability of the remaining provisions hereof.
- 21.3 No Party shall be deemed to have waived any provision, breach, or remedy of or under the agreement, unless such waiver is specifically given in writing with reference to the Purchase Agreement signed by such Party. No waiver or breach of the Purchase Agreement shall be construed as a continuing waiver of any other or continuing breach of this Agreement.

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21.4 Vendor shall not be entitled to sub-contract, transfer and/or assign any part of the Work or its obligations under the Purchase Agreement, without the prior written consent of ADVANCED and in the event that Vendor does so assign, transfer or subcontract without the written consent, such act shall be void.

22. Governing law and Jurisdiction

22.1 The Purchase Agreement is governed by and shall be construed in accordance with the laws of the KSA without giving effect to its conflict of laws provisions.

22.2 In the event that a dispute arises between the Parties regarding the existence, interpretation and/or the execution hereof, the Parties shall attempt to resolve such in an amicable manner.

22.3 In the event that a dispute remains unresolved for a period of thirty (30) days or more, either Party shall be entitled to refer the dispute to be settled in accordance with the Arbitration Regulations and the Implementation Rules of the KSA and the venue shall be in Jubail, KSA. Unless otherwise agreed, the proceedings will be conducted in the Arabic language.

23. Cyber Security

23.1 Local Vendors/Service providers shall share communication procedures in case of cybersecurity incidents.

23.2 All IT managed services for Local Vendors/Service providers shall be completely present inside the Kingdom of Saudi Arabia.

RESPONSIBLE CARE REQUIREMENTS

Advanced Petrochemical Company is part of the Responsible Care Partnership Program through being a signatory to the ACC Responsible Care® Guiding Principles. We would like to share “Advanced” Environment, Health, Safety, Security, Quality and Responsible Care® Policy and other relevant EHSS considerations for your information and strict compliance.

1. “Advanced” Responsible Care Policy
2. Royal Commission Environmental Regulation-2010
3. Saudi Labour Law
4. King Abdulaziz City of science and Technology Regulations
5. Advanced EHSS Procedures
 - a. General EHSS Rules
 - b. Personal Protective Equipment
 - c. Waste Management
 - d. Safe Work Permit procedure

All the above procedures are available on request in the Procurement& Contracts department or Safety section for reference. Applicable procedures for each activity will be delivered to the contractor before commencement of the work by the owner department.

All the transporters are requested to follow Saudi Traffic regulations and shall comply with the special requirements of RCER and/or KACST requirements for transporting hazardous chemicals, hazardous wastes and radiations sources/wastes.

It is also mandatory to follow NFPA labeling system for transportation of hazardous chemicals/wastes.