



clean energy  
services and solution

# GENERAL CONDITIONS OF PURCHASE

of meeco América Latina S.A.

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# I. PERFORMANCE OF THE CONTRACT

1.1. Supplier shall supply the Equipment which means all goods, materials, plant, equipment and Services to be supplied by the Supplier under the Contract and shall ensure that the Equipment complies with the Contract. The Supplier which means the person, firm or company to whom the Purchase Order is addressed, and shall include the Supplier's personal representatives, successors and permitted assigns.

1.2. Contract means the agreement between *meeco AG* ("*meeco*" in the following) and the Supplier, including the Purchase Order, these General Conditions and any Special Conditions, for the supply of the Equipment or performance of the Services. Services mean the provision of any installation work or other activity undertaken by the Supplier on a Site. Site means a location stated in the Purchase Order to which the Equipment is to be delivered or where Services are to be provided. Without prejudice to *meeco's* rights including in respect of termination under this Contract, if the Supplier has not confirmed acceptance of *meeco's* order within eight (8) working days of its issue, *meeco* may cancel the order in whole or in part at no cost to *meeco*.

1.3. The Supplier shall be responsible for executing the Contract with all reasonable skill, care and diligence and in accordance with recognized industry standards, and any standards, specifications and codes specified by *meeco* in the Contract. Whilst on Site, the Supplier shall also comply with all regulations, statutory requirements, site safety rules and all directions of *meeco*, and is deemed to have allowed for such compliance within the Contract Price which means the sum or sum stated as the price in the Purchase Order.

1.4. The Supplier shall be responsible for the accuracy of any drawings, documentation and information supplied by it to *meeco*, and shall pay to *meeco* any extra costs occasioned by any discrepancies, errors or omissions therein.

1.5. The Equipment or Services supplied shall be of the quality and shall conform to the performance requirements stated in the Contract, or where not stated shall be fit for the purposes intended, and shall conform to all applicable laws and regulations, and any other requirements made known to the Supplier or reasonably inferred. Should no quality be specified, the Equipment or Services shall conform to European standards where applicable, and otherwise be of the best quality new materials and workmanship. Where applicable, the Equipment or Services must meet requirements of any EU directive and be supplied with supporting appropriate documentation.

1.6. If any of the Equipment or Services to be supplied under the Contract contains or uses any hazardous substances, or requires any special precautions to be taken to ensure safety in handling, transport, storage or use, then the Supplier shall, prior to Equipment delivery or commencement of Services, provide to *meeco* written details of the nature of those substances and the precautions to be taken. The Supplier shall ensure that before dispatch or commencement of Services, appropriate instructions and warnings are clearly and prominently marked on the Equipment and on any containers into which it is packed.

## II. INSPECTION, TESTING, ACCEPTANCE AND DELIVERY

2.1. The Supplier shall complete all agreed inspection and testing of the Equipment prior to dispatch or at *meeco's* premises, as required by *meeco*.

2.2. The Supplier shall deliver the Equipment by the Completion Date and to the place specified in the Purchase Order, or if not so specified, as requested by *meeco*. Completion Date means the date for delivery of the Equipment or completion of the Services as specified in the Purchase Order. Delivery shall be in accordance with the latest edition of INCOTERMS published from time to time by the International Chamber of Commerce, Paris, as stated on the Purchase Order, or if not stated, delivery shall be DDP INCOTERMS 2010. The Supplier warrants that the Equipment will not be subject to export or re-export restrictions, sanctions, embargoes or liens. Where Services are to be provided, they shall commence on the date stated in the Purchase Order and continue for the duration stated therein, or by the stated Completion Date.

2.3. When the Equipment has been delivered and installed in accordance with the Contract, and has passed all required inspection and testing, it will be accepted by *meeco*.

2.4. *meeco* or its nominated representatives shall have the right, on reasonable prior notice, to inspect the Equipment at any time prior to dispatch and if, in its reasonable opinion, any part of the Equipment is defective or otherwise does not conform with the Contract, *meeco* may reject it. The Supplier shall give *meeco* at least five (5) working days notice in writing of any test *meeco* requires to have witnessed.

2.5. All work required to enable the Equipment or Services to pass agreed inspection and testing, or otherwise necessary to ensure conformity with the Contract, shall be carried out promptly by the Supplier at its own expense.

2.6. *meeco* reserves the right for its representatives to carry out quality audits and expediting activities at the Supplier's or its sub-supplier's premises, at all reasonable times, during normal working hours, in respect of any part of the Contract requirements.

### III. EXTENSION OF TIME

3.1. If the Supplier is delayed in completing the Contract by any act or omission of *meeco*, then the Supplier shall promptly notify *meeco* of such delay. *meeco* shall grant the Supplier such extension of time as *meeco* considers reasonable.

3.2. *meeco* at its sole discretion may, by written notice to the Supplier, order the Supplier to suspend the supply of all or part of the Equipment or Services. Upon receipt of any such notice the Supplier shall promptly suspend further performance of the Purchase Order to the extent specified, and during the period of such suspension, shall properly care for and protect all work in progress and materials and supplies the Supplier has on hand for performance of the Purchase Order. The Supplier shall use its reasonable efforts to mitigate costs associated with suspension. If the Supplier believes that any suspension justifies modification of the Contract Price, then it shall notify *meeco* who will consider the request and in its discretion issue an amendment to the Purchase Order. *meeco* may at any time instruct the Supplier to recommence supply.

3.3. Either party will not be liable to the other for any delay in or failure to perform its obligations as a result of an event of Force Majeure. Force Majeure means any circumstance which could not have been contemplated by the party, not avoided and is beyond the reasonable control of the party claiming Force Majeure. The Supplier shall notify *meeco* immediately upon learning of an event of Force Majeure which may result in any delay. The parties shall take all reasonable measures to mitigate the effects of any such delay or failure, including suspension of the works by *meeco* as provided herein. If such delay or failure continues for ninety (90) days, *meeco* shall be entitled to terminate the Contract by notice in writing, in which event neither party shall have any claim against the other in respect of such delay or failure.

## IV. DELAYS IN COMPLETION

If the Supplier fails to complete the Contract by the Completion Date or such extended date as may be granted by *meeco*, *meeco* shall be entitled to deduct as liquidated damages for delay as stated in the Purchase Order, or if not stated, one and a half per cent (1.5 %) of the total Contract Price for every week's delay up to a maximum of fifteen (15 %) of the total Contract Price. If such failure continues, or is likely to continue, for more than (10) ten weeks from the Completion Date and *meeco* having notified the Supplier and notified a final delivery date, the Supplier is still unable to comply therewith then, *meeco* shall have the right to terminate the Contract by notice in writing, and to claim any extra costs directly or indirectly incurred in acquiring suitable replacement equipment for the Equipment, or having the Services carried out.

## V. PATENTS, DESIGNS AND COPYRIGHT

5.1. The Supplier warrants that neither the sale, nor the use of the Equipment, nor the performance of the obligations under this Contract, will infringe any Intellectual Property Rights. "Intellectual Property Rights" means all intellectual property whether registered or unregistered including, without limitation, patents, patentable inventions, trademarks, trade names, logos, know-how, copyrights, database rights, models, formulae, software, source codes, registered design, designs and trade secrets and all rights to use such intellectual property.

5.2. The Intellectual Property Rights in all plans, drawings, designs, specifications and all other documents provided by the Supplier (which shall not include any such documents provided to the Supplier by *meeco*) shall remain with the Supplier. The Supplier shall provide to *meeco* an irrevocable worldwide royalty-free perpetual license to use copies of such documents which are provided to *meeco* under the Contract for use in the operation, maintenance and repair of the Equipment and Services and the design of other works necessary for operation in association with the Equipment and Services. *meeco* is licensed to make further copies of such documents and to use the information contained therein for such purposes.

5.3. Unless agreed otherwise in writing by authorized representatives of both parties, notwithstanding clause 5.2, in the event the Purchase Order requires the purchase of any software then,

- i. all Intellectual Property Rights created and/or owned by the Supplier prior to the date of this Contract in relation to the Equipment or Services shall remain the exclusive property of the Supplier;
- ii. the Supplier shall license such Intellectual Property Rights to *meeco* on an irrevocable worldwide royalty-free perpetual basis to the extent necessary to enable *meeco* to use, sell, develop, exploit (both commercially and otherwise), operate, maintain, repair or otherwise supply and deal in the Equipment or the Services (including any modification, alteration or extension of the same);

and

- iii. all Intellectual Property Rights created and/or developed during the course of this Contract and/or in connection with the Equipment or Services shall be owned exclusively by *meeco*. The Supplier agrees to assign to *meeco* on demand these Intellectual Property Rights at no cost to *meeco*.

## VI. SUBCONTRACTING AND ASSIGNMENT

6.1. The Supplier shall not subcontract the Contract or any part thereof without the prior written approval of *meeco*, which approval shall not be unreasonably withheld or delayed. Approval to subcontract shall not relieve the Supplier from any of its obligations under the Contract, or impose any liability upon *meeco* to a sub-supplier. Any failure to perform by a sub-supplier of the Supplier shall not constitute an event of Force Majeure.

6.2. The Supplier shall not assign or transfer the Contract without the prior written approval of *meeco*, which approval shall be at *meeco's* absolute discretion.



## VII. LIABILITIES, INDEMNITIES AND INSURANCE

7.1. The Supplier shall fully indemnify *meeco* against any and all losses, claims, proceedings, costs, expenses (including legal costs) damages or other liabilities whatsoever resulting from:

- i. any personal injury (including death) to any person;
- ii. any loss of or damage to any property;
- iii. the performance or non-performance of the Contract;
- iv. any breach of any legal and regulatory requirement in connection with the Contract;
- v. any breach of confidentiality;
- vi. any breach of bribery and corruption laws;
- vii. any infringement or misappropriation of Intellectual Property Rights under clause 6.1;

and/or

- viii. any third party claim in tort or otherwise; to the extent that the same arises out of the act, omission, default or negligence of the Supplier, his agents or sub-suppliers.

7.2. The Supplier must hold and keep current, the following insurance policies and in the amounts stated below:

- i. Employer's liability insurance, fully compliant with any legislation applicable to the performance of this Contract;

and

- ii. Public and Products liability insurance with a minimum liability of not less than six million Euro (€ 6'000'000.00), for any one event. The Supplier will, when requested by *meeco*, provide to *meeco* a copy of the insurance policies required by the Contract, together with evidence of payment of the premiums for such insurance.

7.3. To the maximum extent permitted at law, and notwithstanding anything contained in this Contract to the contrary, *meeco* shall not be liable to the Supplier for any special, economic or consequential damages or losses, in each case whether direct or indirect, whether arising in contract, tort, negligence, warranty or otherwise, including but not limited to loss of revenue, loss of contracts or loss of profit.

7.4. To the maximum extent permitted at law, and notwithstanding anything contained in this Contract to the contrary, *meeco's* total liability to the Supplier, whether arising in contract, tort, negligence, warranty or otherwise, shall not exceed the Contract Price (including any agreed amendment thereto).

## VIII. TERMS OF PAYMENT

8.1. The Contract Price is firm and shall include all applicable taxes, customs, fees, duties and delivery, in accordance with INCOTERMS as stated on the Purchase Order or if not stated, in accordance with clause 1.3, but shall exclude VAT which, if applicable, shall be added at the prevailing rate to any payment. The Contract Price shall become due for invoicing when the Equipment or Services are accepted by *meeco* in accordance with the Contract. Unless agreed otherwise in writing, payment will be made within twenty working (20) days of receipt by *meeco* of a valid invoice from the Supplier.

8.2. Payment against invoice or use of the Equipment or Services shall not be deemed of themselves to constitute acceptance by *meeco*, nor relieve the Supplier from liability in respect of any obligations under the Contract.

8.3. No additional sums shall be payable in respect of variations to the Contract, unless to the extent that the same are the subject of a Purchase Order amendment confirmed in writing by an authorized representative of *meeco*.

8.4. If *meeco* fails to make payment in accordance with this Contract, the Supplier shall be entitled to simple interest calculated at the rate of two per cent (2 %) per annum above the interest rate of the EURIBOR for the period until the relevant payment is made.

8.5. Without prejudice to any other right or remedy, *meeco* will be entitled to set-off any amount due from the Supplier, against any sums payable to the Supplier or recover any such amount as a debt.

## IX. OWNERSHIP AND RISK

9.1. All risk in the Equipment or Services will remain with the Supplier until delivery to, or acceptance by, *meeco* in accordance with the Contract, whichever is later. Without prejudice to *meeco*'s obligations for payment, property in the Equipment or Services shall pass to *meeco* upon the earlier of allocation to the Contract, delivery, performance, or payment of any part of the Contract Price.

9.2. All tools, materials, drawings, specifications and other data or information provided by *meeco* shall remain at all times *meeco*'s property, and *meeco* reserves the right of access to collect the same from the Supplier during normal working hours of business, and the Supplier will return this property to *meeco* undamaged on completion of the Services or delivery of the Equipment.

## X. WARRANTY

10.1. The Supplier shall promptly rectify at its own expense, and to *meeco's* satisfaction, any defect in or damage to the Equipment or Services or to any portion thereof, which may become apparent during a period of twelve months after the Equipment or Services is put into commercial operation or twenty-four months from date of delivery / completion, whichever is the later (hereinafter referred to as "the Warranty Period"), which results from:

- i. defective materials, workmanship or design (other than a design furnished or specified by *meeco* and for which the Supplier has disclaimed responsibility in writing within a reasonable time after receipt of *meeco's* instructions);
- ii. any act or omission of the Supplier during the Warranty Period

10.2. The Supplier shall indemnify *meeco* in respect of all losses, costs including legal costs and expenses incurred by *meeco* in remedying any defect in the Equipment or Services, and for any extra costs and expenses either incurred by *meeco*, or claimed by a third party against *meeco* (whether in contract, tort (including negligence), warranty, strict liability or otherwise), by reason of the supply of such defective Equipment or Services, including (without limitation) all costs associated with the identification, removal and reinstallation of defective Equipment or Services, and the loss of beneficial use of any works or installation of which they form part.

## XI. BOND OR GUARANTEE

If so stated in the Purchase Order, the Supplier shall provide on execution of the Contract, and maintain throughout its operation, a performance bond with a surety in a form approved by *meeco* in the sum stated in the Purchase Order, or a parent company guarantee in a form approved by *meeco*. In such case, the provision and maintenance of such bond or guarantee will be a condition precedent to any payment or any further payment by *meeco* to the Supplier, notwithstanding any provisions to the contrary in this Contract.

## XII. CONFIDENTIALITY

The Supplier will keep all information communicated to the Supplier in connection with the Contract, or otherwise concerning *meeco's* business, secret and confidential, and will not use the same except for the purposes of performing the Contract. This clause applies for the duration of the Contract and for a duration of two years thereafter.

## XIII. TERMINATION

13.1. *meeco* reserves the right to terminate the Contract, in whole or in part, by written notice to the Supplier, if the Supplier:

i. fails to comply with any of its material obligations under the Contract;

or

ii. becomes insolvent, or makes an arrangement with its creditors, or has a receiver or administrative receiver appointed, or commences liquidation.

13.2. If *meeco* terminates the Contract under clause 4, clause 13.1 or clause 21.3, then:

i. *meeco* may immediately draw upon any performance bond or parent company guarantee issued in its favor by the Supplier;

ii. *meeco* shall as soon as practicable after termination, value the Equipment provided by the Supplier up to the date of termination, and deduct therefrom any additional costs incurred by *meeco* in procuring the Equipment from another supplier;

and

iii. the Supplier shall indemnify *meeco* in respect of all losses, costs and expenses incurred by *meeco* as a result of termination, and *meeco* shall be entitled to deduct such amounts from any payment due to the Supplier from *meeco*, or recover such from the Supplier as a debt.

13.3. If *meeco* terminates the Contract, then all tools, materials, drawings, specifications and other data or information provided by *meeco* shall be returned to *meeco* together with any Equipment (whether complete or otherwise) as may still be required by *meeco* following termination. All such items shall be suitably packed for return or delivery in accordance with *meeco*'s instructions, or if not so returned, *meeco* may enter the Supplier's premises to recover the same.

13.4. *meeco* may terminate the Contract for convenience, subject to providing written notice to the Supplier. Thereafter, *meeco* shall pay to the Supplier, in accordance with the terms of payment stated herein, the relevant amounts due for all Equipment satisfactorily delivered, or Services completed, up to the date of such termination, and any costs of materials or other goods ordered for which the Supplier is legally liable to accept delivery. Such items shall become the property of *meeco* when paid for and the Supplier shall place the items at *meeco*'s disposal. The Supplier shall use its best efforts to mitigate costs associated with such termination.

## XIV. SEVERANCE AND INVALIDITY

If any term or provision in this Contract shall, in whole or part, be held to any extent to be invalid, illegal or unenforceable under any enactment or rule of law, that term or provision or part shall to that extent be deemed not to form part of this Contract, and the enforceability of the remainder of this Contract shall not be affected. If any provision proves to be invalid, illegal or unenforceable, the parties shall replace the invalid, illegal or unenforceable provision by a valid new one having an effect as close as possible to the invalid, illegal or unenforceable provision.



## XV. ENTIRE AGREEMENT

15.1. The Contract and any associated Purchase Order issued by *meeco* constitutes the entire agreement between the parties for the Equipment or Services, and supersedes all representations or agreements relating thereto prior to the date of issue of the relevant Purchase Order, provided always that nothing in the Contract excludes liability for fraud or fraudulent misrepresentation.

15.2. The terms and conditions of the Contract do not derogate any of *meeco's* statutory or common law rights, and are in addition to those rights and not in substitution for them.

15.3. Any alteration to this Contract must be confirmed in writing by an authorized representative of *meeco* in the form of a Purchase Order in order to be effective. In writing includes signatures per fax, e-mail and/or scan or any other electronic form. In the event of any inconsistency between these General Conditions and any Special Conditions, the latter shall prevail. In the event of any conflict or ambiguity between any other documents forming part of the Contract the Supplier shall refer the conflict to *meeco* as soon as it becomes apparent. *meeco* shall decide within five (5) working days which provision shall prevail at no cost to *meeco* or delay to the Completion Date.

15.4. The Supplier agrees that the Supplier's standard terms of business will not apply to the supply of the Equipment or Services under the Contract. Signing and returning any order acknowledgement form to the Supplier shall not be deemed to constitute agreement by *meeco* to alternative terms or conditions.

## XVI. WAIVER

Any failure or delay by any party to exercise a right, power or remedy will not operate as a waiver of such, nor will any partial exercise preclude any further exercise of the same, or of some other right, power or remedy.

## XVII. NOTICES

Any notice to be given under the Contract by either party shall be in writing, and sent by either post or electronic mail to the other party at the address provided under this Contract, or such other address as may be specified by the parties by notice to the other. In proving service it shall be sufficient to show that the envelope containing the notice was properly addressed and posted, or that the transmission was duly dispatched and acknowledged as the case may be.

## XVIII. RELATIONSHIP

18.1. Nothing in this Contract shall be deemed to constitute either party as a partner, agent, joint venturer or employee of or with the other party. Each party is an independent entity retaining complete control over and complete responsibility for its own operations and employees. Neither party shall have the right or authority to assume or create any obligations or commitments on the other party's behalf.

18.2. Nothing in the Contract shall be construed as establishing the Supplier, or any employee of the Supplier, as an employee of *meeeco*. The Supplier shall therefore be responsible for all Income Tax liabilities and National Insurance payments due in respect of all fees and payments received under the Contract. The Supplier shall indemnify *meeeco* in respect of any claims that may be made against *meeeco* by relevant authorities in respect of Income Tax or National Insurance contributions relating to the Services.

## XIX. BRIBERY AND CORRUPTION

19.1. The Supplier hereby warrants that it will not, directly or indirectly, and it has no knowledge that other persons will, directly or indirectly, make any payment, gift or other commitment to its customers, to government officials or to agents, directors and employees of *meeco* or any other party in a manner contrary to applicable laws, and shall comply with all relevant laws, regulations, ordinances and rules regarding bribery and corruption.

19.2. Nothing in this Contract shall render *meeco* liable to reimburse the Supplier for any such consideration given or promised.

19.3. The Supplier's breach of any of the obligations contained in this Clause maybe considered by *meeco* to be a material breach of this Contract and shall entitle *meeco* to terminate this Contract with immediate effect and without prejudice to any further right or remedies on the part of *meeco* under this Contract or applicable law.

19.4. The Supplier shall acquaint itself and comply with *meeco's* Supplier Code of Conduct as displayed on *meeco's* website ([www.meeco.net](http://www.meeco.net)) as may be updated or modified from time to time. The Supplier agrees to perform its contractual obligations under this Contract with substantially similar standards of ethical behavior.

## XX. DISPUTE RESOLUTION

20.1. If any dispute or difference arises in relation to any matter under the Contract, it may be referred by either party to senior management of the Supplier and *meeco*, who will meet to discuss the matter within thirty (30) working days of the date of its referral (or as soon as reasonably practicable) with a view to resolving the relevant dispute or difference.

20.2. In the event that no settlement is reached under clause 19.1 to any matter under the Contract such dispute or difference shall be referred to one or more arbitrators under the Rules of Conciliation and Arbitration of the International Chamber of Commerce. The place of arbitration shall be Zurich/Switzerland the language of the arbitration proceedings shall be English, and the arbitration award shall be final and binding on the parties.

## XXI. LAW AND REGULATIONS

21.1. The Contract shall in all respects be construed and operate in accordance with German law. For any matter that cannot be resolved as per clause 21.3. the courts of Dresden/Germany have exclusive jurisdiction however *meeco* is entitled to sue the Supplier at his place of registration,

21.2. References to any legislation in this Contract shall include any modification or re-enactment of that legislation or any legislation substituted therefore and all legislation, orders, regulations and statutory instruments issued under that legislation.

21.3. Any provisions which by their nature are intended to survive the termination, completion or expiration of this Contract shall continue as valid and enforceable obligations of the parties, notwithstanding any such termination, completion or expiration.



## CORE BUSINESS

- Developing and implementing clean energy business strategies and governmental programs.
- Creating and financing bankable renewable energy projects.
- Providing management services to ensure on-going operational and financial success.

## OUR MISSION

### ABOUT The meeco Group

Our mission is to serve the world with clean, sustainable and affordable energy. Being on the forefront of creating and developing highly customised solar power generation and storage solutions, we contribute to a greener and cleaner environment.

By keeping the financial profitability in mind, we consider it our commitment to reduce carbon emissions worldwide. With our long-lasting experience in the field of renewable energy investments we develop flexible and tailor-made clean energy solutions while providing attractive returns on investment for our clients and partners. Via our regional offices and joint venture companies we already delivered 450 MW across three continents.

### CONTACT

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Other meeco Group webpages  
[communication.meeco.net](http://communication.meeco.net)  
[industrialclimbing.net](http://industrialclimbing.net)

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