



Gujarat Narmada Valley Fertilizers Co. Ltd

General Conditions of Purchase

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1.0 Definitions

- a. Purchaser : "Purchaser" means Gujarat Narmada Valley Fertilizers Co. Limited (GNFC) having its registered office at P.O. Narmadanagar, Dist : Bharuch, Gujarat, India, PINCODE : 392015. The term Purchaser includes successors and assigns of GNFC.
- b. Consultant : "Consultant" means any agency or agencies which is/are appointed as Consultant to GNFC and notified from time to time to all concerned.
- c. Vendor : "Vendor" means the person, firm, company or institution to which the purchase order is addressed. The term Vendor includes its successors and assigns, permitted by the purchaser.
- d. Goods : "Goods" means the articles; supplies, drawings, data, the other property and all services including design, delivery, installation, inspection, testing and commissioning specified or required to complete this purchase order.
- e. Purchase Order : "Purchase order" shall mean an order placed, if any, against present enquiry by the Purchaser on the Vendor with respect to the supply of goods.

2.0 Commercial Obligations

2.1 Prices and Price Escalation : Except in the event of any different agreement mentioned in the purchase order, prices are firm and fixed and not subject to increase notwithstanding any change in the cost of materials or of labour or any of other cost element which may take place while purchase order is being executed, even though it might be necessary for Vendor for any reasons whatsoever, to take longer than the scheduled delivery periods indicated in the purchase order.

2.2 Taxes, Duties & Statutory Levies

- a. Vendor shall specify in their offer, the details of taxes, duties which are recoverable from the Purchaser at actuals. All other taxes, duties are to Vendor's account. Vendor shall adjust taxes, duties, cess or levies wherever required, if Purchaser furnishes exemption certificate even retrospectively.
- b. Variations in the taxes and duties due to change in statute during contractual delivery period shall be to Purchaser's account. However, any increase in Taxes/Duties beyond contractual delivery period shall be to Vendor's account.
- c. Whenever prices are inclusive of taxes/duties, for any reduction in taxes/duties subsequent to placement of purchase order, Vendor shall pass on the benefit of such reduction to Purchaser.
- d. When claiming sales tax and excise duty, Vendor shall indicate **their** sales tax registration number and excise registration details.

2.3 Payment & Terms of Payment

a. Payment

- i. Payment will be made in accordance with applicable provisions of the purchase order. The time for payment of invoices or for accepting any discounts offered shall be counted only from the date of approval specified in the purchase order or from the date of receipt of Vendor's correct invoice(s) whichever is later.
- ii. Goods dispatched by VPP shall not be accepted.
- iii. Vendor shall send invoice in triplicate to Incharge, Invoice Verification Cell, Stores Dept. with an additional copy marked to and separately mailed to Authority issuing the Purchase Order. The invoice should bear the purchase order number and date, and must be complete in all respect to claim CENVAT and VAT Credits.
- iv. Bank Commission and other charges, if any, on forwarding of documents or for remittance, etc., will be to Vendor's account.
- v. Purchaser shall have right to adjust claim of either Purchaser or any of the Consultants against dues payable to the Vendor.

b. Terms of Payment : Unless and otherwise specifically agreed to in the purchase order, the Payment would be made as under :

For Supply and Delivery orders, 90% of the order price of goods despatched within 30 days of presentation of despatch documents including Materials Acceptance Certificate or Inspection Release Note and 10% of the order price of goods despatched within 30

days of receipt of goods at destination subject to inspection and acceptance and receipt of a Satisfactory Bank Guarantee as per purchase order for 10% of the basic order value (excluding taxes/duties) valid till the expiry of the guarantee period of the equipment /materials and as per specimen attached (Proforma No. 2)

2.4 Warranties – Guarantees

- a. It is a condition of the Purchase Order that the goods supplied shall give the required operational performance and shall be suitable for the use or service intended and be of the quality specified or of the best grade of their respective varieties if no quality is specified and shall conform to the specification, drawings, samples and other descriptions contained in the purchase order and any breach of this condition shall entitle the Purchaser, without prejudice to its any other rights, to treat the Purchase Order as repudiated.
- b. Vendor guarantees that all the machinery and equipment supplied by Vendor under the Purchase Order is brand new and first class material and workmanship. Any machinery or equipment or any part thereof found defective within 18 months from the date of commissioning of the machinery and equipment or 36 months from the date of acceptance of the supply of machinery and equipment whichever is earlier shall be replaced or satisfactorily repaired or rectified by the Vendor free of cost. The guarantee period for the replaced goods shall be atleast twelve months
- c. The goods, unless otherwise expressly stated herein, are ordered by Purchaser relying upon each and all the warranties and guarantees specified herein and implied by law or usage of trade. The Vendor shall be bound and liable by the said warranties and guarantees even if Vendor's quotation to Purchaser or acknowledgement or acceptance of this purchase order attempts to disclaim, the said warranties or guarantees or limits the Purchaser's remedies for breach thereof.
- d. Acceptance of goods by Purchaser, its Consultant or authorized representative shall not release Vendor from responsibilities arising out of the above mentioned guarantees and warranties.

2.5 Bank Guarantee : The Vendor shall furnish from any nationalized bank bank guarantees each representing 10% of the basic order value (excluding taxes/duties) as under :

- a. A bank guarantee towards security deposit within 15 (fifteen) days from the date of purchase order for faithful execution of the order. The bank Guarantee shall be as per specimen attached (Proforma No. 1)
- b. A bank guarantee towards Performance, Workmanship, Defects and Deficiencies as covered under Clause 2.4 in terms of Clause 2.3 (b) valid for entire warrantee period. The bank Guarantee shall be as per specimen attached (Proforma No. 2)

3.0 Delivery Obligations

3.1 Delivery Completion :

- a. Irrespective of whatever may be the terms of despatch or place of delivery mentioned in the Purchase Order and notwithstanding the fact whether any inspection of goods by Purchaser, its Consultants or their authorized representatives prior to their receipt at site was made or not, delivery of goods, shall be deemed to have been made only when goods are accepted by GNFC at its site specified in purchase order. The delivery of goods would be complete only when all the items included in the Purchase Order are supplied by Vendor as per the agreed terms contained herein.
- b. Wherever the Goods are delivered by Vendor's transport agent, the unloading at Purchaser's premises shall be done by Vendor's agent unless otherwise agreed to.
- c. Acceptance of the Goods does not limit the right of Purchaser in preferring any claim under the terms of the Purchase Order.

3.2 Delays

- a. **Adherence to Delivery Schedule :** The agreed period of delivery is the essence of the purchase order. The delivery dates are binding on the Vendor and no variation of scheduled delivery dates shall be permitted except with prior written authorization from the Purchaser.

In the event of delay on the part of Vendor, it will be at Purchaser's discretion either to reject the goods or to accept delivery at prices reduced pro-rata at the rate not exceeding 1/2% of total purchase value i.e. purchase order value inclusive of taxes, duties and all incidentals for delay of each week or part thereof. However, the total reduction on this account in no case shall exceed 5% of the total purchase order value.

- b. **Due to Force Majeure :** Delivery dates will be extended without the Vendor being subject to clause 3.1, & 3.2 (a) in the event of delays due to Force Majeure. Only the following will be considered as causes of force majeure conditions: acts of God like earthquakes, floods, storms, cyclone hurricane, etc.; acts of States, the direct and indirect consequence of wars (declared or undeclared), hostilities, act of terrorism, national emergencies, civil commotions and strikes (only those which exceed duration of ten continuous days) at Vendor's factory. The Vendor shall, within 2 days of occurrence of such events, inform the Purchaser and the Consultant by registered and detailed letter supported by documentary proof of the beginning and the end of all such impediments. It is understood that delivery dates will be extended only for the duration of the above mentioned impediments.

3.3 Delay and Non-Conformance

- a. If the specified delivery schedule is not adhered to or progress of manufacture of supply of the items is not satisfactory, or is not in accordance with progress schedule, the Purchaser has a right to:
- hire for period of delay from elsewhere goods which in Purchaser's opinion would meet the same purpose as the goods which are delayed and Vendor shall be liable without any limitation for payment of the hire and other installation, removal, charges; etc or
 - cancel the Purchase order in whole or in part without liability for cancellation charges. In such an event, Purchaser may procure from elsewhere goods which, in Purchaser's opinion, would meet the same purpose as the goods for which purchase order was placed and subsequently cancelled and Vendor shall be liable without any limitation for the payment of difference between the cost of such substitution and the price set forth in the purchase order for goods involved; or
 - hire the substitute goods vide (i) above for such period as it thinks fit and if the ordered goods continue to remain undelivered thereafter, cancel the purchase order in part or in full vide (ii) above.
- b. In the event of rejection of non-conforming goods, Vendor shall be allowed, without any extension of delivery time, to correct the non-conformities. Should however, Vendor fail to do so within the stipulated time, Purchaser may cancel the purchase order of the non-conforming goods and retain the same right with respect to substitution as are set out in the preceding paragraph (3.3a) and in addition, recover actual expense incurred by Purchaser in installing and removing the non-conforming goods. Alternatively, Purchaser may at its option have or cause the non-conformity goods to be corrected at Vendor's risk and expense.
- c. If Vendor fails to perform any of its obligations, the Purchaser shall be entitled to all remedies provided by law and recover all damages caused to the Purchaser by delay or non supply of the goods or supply of non-conforming goods and to obtain adequate compensation thereof, from the Vendor.
- d. Purchaser shall have the right to claim damages for use of defective or sub-standard goods supplied by the Vendor irrespective of the fact whether goods were inspected prior to receipt by the Purchaser or not.

- 3.4 Deferment of Despatch Date and Storage :** The Purchaser shall have at its own discretion the right to ask Vendor to defer despatch of goods by a period not exceeding

30 days. The care and storage of the goods during this period shall vest with the Vendor and all expenses in this regards shall be borne by the Vendor.

3.5 Despatch Instructions

- a. Unless otherwise specified in the Purchase order, the materials shall be despatched by Road and the despatch documents along with original copy of invoice will be sent directly to Invoice Verification Cell of Stores Dept. A copy of invoice and despatch documents shall be sent to the Authority issuing the Purchase Order.
- b. For exciseable goods, the transporter copy of excise invoice shall be invariably sent along with the consignment failing which payment equivalent to excise duty charged shall be deducted from the payment of vendor's invoice or from the other payment due and payable to Vendor.
- c. For availing VAT Credit by the Purchaser, Vendor shall send VATable invoice, whenever applicable.
- d. Vendor shall follow despatch and shipping instructions given in the Purchase Order.

3.6 Inspection

- a. Purchaser, its Consultant and their authorized representatives, shall have the right to inspect, test, expedite and get inspected, tested and expedited the goods at the works of the Vendor or its sub vendors at any time during manufacture and prior to shipment and to inspect, within a reasonable time after arrival of goods at the ultimate destination and during and after erection, testing and commissioning. The goods shall not be deemed accepted even after the said inspection, until testing and commissioning. Failure to make an inspection of or payment for goods, shall in no way impair Purchaser's right to reject non-conforming goods or to avail itself of any other remedies to which Purchaser may be entitled notwithstanding Purchaser's knowledge of the non-conformity, its substantiality or the cause and/or time of its discovery.
- b. The Vendor will permit Purchaser's inspectors, Consultant and their authorized representatives free access during normal working hours to its works, godown, storage or loading spot, etc. and will give them assistance to perform their tasks, including free use of all necessary testing and control instruments. The Vendor shall ensure that the same facilities shall be provided to purchaser by them or by its sub vendors. All expenses relevant to the performance of the tests and connected to compilation of test reports, etc. will be borne by the Vendor/its Sub-Vendor, unless purchase order stipulates specifically to the contrary.
- c. Rejection of Goods Supplied
 - i. All goods rejected by the Purchaser after receipt at the destination shall be removed by the Vendor at their expense and risk within a reasonable time allowed by the Purchaser not exceeding 30 days with effect from the date on which Vendor receives communication from Purchaser rejecting the goods.
 - ii. During the time that the rejected goods lie with the Purchaser awaiting removal by the Vendor, it will lie at the Vendor's risk.
 - iii. In the event of failure of Vendor to remove the rejected goods within the time allowed, the Purchaser shall have the right to dispose off the same at the Vendor's risk and cost and appropriate the net sale proceeds thereof towards loss/ damage suffered by Purchaser.
 - iv. It shall be option of the Purchaser to allow Vendor to replace the rejected goods or to cancel the purchase order for the rejected goods. The Purchaser shall be entitled for the recovery of liquidated damages.

3.7 Packing

- a. Goods shall be securely packed to withstand all hazards in transit and upto destination. Each equipment shall be painted, greased and or provided with suitable protective coating as required to prevent rust, corrosion or damage
- b. All attachments to the main equipment shall be packed in wooden cases with adequate protection inside the case to avoid any displacement/damage during transit. As far as possible, such attachments should be sent along with the main

equipment inside the main packing. All parts shall be adequately treated with protective compound.

- c. For materials to be despatched by Rail, the packing shall conform to the internal and external packing methods and standards laid down in IRCA goods tariff and general rules prescribed as per the Indian Railway Act for various types of cargoes.
- d. Cases and crates should be marked atleast on one side mentioning the name of consignee, name of consigner, purchase order no., item nos., gross and tare weight, serial no. of package, etc. The letters should not be less than 75 mm size. If required, additional marking such as handle with care, top to be shown by arrow or other additional indications for protection and safe handling shall be added.
- e. Each package shall contain two copies of the packing slip, containing atleast information about purchase order no. and date, item numbers, description of goods, quantities in case, etc. to enable purchaser to verify the goods on its arrival at destination.
- f. In case of short receipt of any goods in any apparently undamaged package, Vendor shall on receipt of information from Purchaser, immediately supply short receipted goods to Purchaser at no extra cost to the Purchaser.
- g. Vendor shall be held liable for all damages or breakages to the goods due to the defective or insufficient packing.

3.8 Transit Insurance : Purchaser shall insure the goods in transit under a general policy and issue necessary instructions to Insurance Company for risk cover on receipt of despatch instructions by fax/e-Mail from Vendor.

- Vendor shall quote rate(s) excluding transit insurance.
- Vendor shall send advance intimation to Purchaser about despatch of goods to take care of transit insurance

3.9 Weights and Measurement : All weights and measurements recorded by Purchaser on receipt of the goods at Plant site of the purchaser shall be treated as final and binding to the Vendor and shall not be open to any dispute or question by the Vendor.

3.10 Substitution and Wrong Supplies

- a. Unauthorized substitution or materials delivered in error or of the wrong description or quality or supplied in excess of the quantity ordered or rejected goods shall be taken back by the Vendor at its expense within 30 days after due notification to Vendor. Vendor shall bear responsibility and shall bear, among other relevant charges including transportation expenses both ways.
- b. The Purchaser shall in no way be responsible for any theft, deterioration, damage or loss to the rejected goods under any circumstances whatsoever.

4.0 Vendor's Other Covenants and Obligations

4.1 Materials Issued by Purchaser

- a. For items to be supplied by the Purchaser free of cost, the deduction to be made from the total price for each item is shown in the purchase order. The accounts of quantities of such material issued by the Purchaser shall be properly maintained by Vendor and furnished to the Purchaser, whenever required by it. Unused materials or scrap from material supplied by the Purchaser to Vendor shall be returned by the Vendor to the Purchaser or if the Purchaser so directs, the Vendor may dispose off the same by sale or otherwise on such terms and conditions as the Purchaser may stipulate and the Vendor shall pay to Purchaser the sale proceeds of the material so disposed off by sale deducting there from expenses incurred by the Vendor on such sale, the quantum of such deduction shall be mutually agreed upon between the Purchaser and Vendor prior to such sale.
- b. The material issued free of cost by the Purchaser shall be the property of the Purchaser and shall not be hypothecated or disposed off by Vendor.

- c. Vendor shall at its cost maintain the materials issued by the Purchaser and keep them in safe custody. Vendor shall reimburse the Purchaser for any loss or damage to materials issued to the Vendor by the Purchaser.
- d. During the custody of material issued free of cost by the Purchaser with them, Vendor shall arrange insurance coverage of the same.

4.2 Technical Information : All drawings, specifications and details furnished by the Purchaser to the Vendor shall be the property of the Purchaser and shall be returned by the Vendor to the Purchaser on demand. The Vendor shall not make any use of drawings and specifications for any purpose at any time except for the purpose of Purchaser. Vendor shall not disclose the technical information furnished to or gained by the Vendor under or by virtue of or as a result of the implementation of this purchase order to any person, firm, body or corporate authority and shall use all endeavour to ensure that the technical information is kept "CONFIDENTIAL". The technical information imported and supplied to the Vendor by the Purchaser shall at all times remain absolute property of the Purchaser and the same shall be returned to the Purchaser when the delivery is complete. Vendor shall not copy the technical information received from the Purchaser or the Consultant.

4.3 Vendor's Drawing, Data and Documents Requirements : The submission by the Vendor to the Purchaser of drawing, data and documentations as laid down in the purchase order is an integral part of the purchase order. The quantities and time limits of submitting these documentations by the Vendor will be as specified in the purchase order. These quantities and time limits must be respected failing which the order will not be deemed to have been duly executed for all purposes. The submission by the Vendor to the Purchaser or the Consultant of any design, drawing, data and documentation or acceptance thereof by the Purchaser or Consultant shall not relieve Vendor of his responsibility and obligation to execute of this purchase order.

4.4 Vendor's Liability

- a. The Vendor's workmen or employees shall under no circumstances be deemed to be Purchaser's employees and the Vendor shall hold itself responsible for any claim or claims which its workman or employees or their heirs, dependents or representative may have or make for damages or compensation for anything done or omitted to be done in course of carrying out the work covered by/under the purchase order, whether arising on Purchaser's premises or elsewhere and agrees to indemnify Purchaser against all and any such claim or claims, if made, against Purchaser and all Cost (as between attorney and client) of proceedings, suits or action which Purchaser may incur or sustain in respect of the same. The Vendor shall also be responsible for compliance of all existing laws in force in respect of its workmen and employees.
- b. Vendor shall protect, indemnify and keep the Purchaser, its Consultant or authorized representatives harmless and absolved at all times from and against any/all liability for payment of the amounts or any liens claimed by the third party in connection with the purchase order. In case, Vendor fails to pay or otherwise discharge such lien or claim thereof, Purchaser shall have the right to deduct or retain any amount necessary to discharge such lien or claim out of any payment due or which may become due from Purchaser to the Vendor.

4.5 Import Licence : All the necessary licences for supply of indigenous items ordered shall be Vendor's responsibility unless otherwise specifically agreed to by Purchaser.

4.6 Erection Personnel : Vendor shall depute necessary engineers to the plant site as and when required by the Purchaser. Purchaser shall reimburse to the Vendor for services of these engineers at the agreed rates. The Vendor shall be responsible for insurance coverage of erection personnel deputed.

4.7 Report : Vendor shall submit regularly to Purchaser progress reports covering status of different activities viz engineering, procurement of materials, manufacturing, fabrication, construction, etc. so as to reach the Purchaser in the first week of next month.

5.0 Legal Obligations

5.1 Complete Agreement

- a. The Purchase Order with all its attachments including these Terms and Conditions constitute sole and the entire agreement between the parties hereto.
- b. Vendor's quotations are incorporated in and made a part of the Purchase Order only to the extent of specifying the nature and description of Goods ordered, and then only to the extent that such items are consistent with the terms of Purchase Order. No other terms or conditions of Vendor's offer shall be binding upon Purchaser unless accepted by it in writing.

5.2 Revisions, Changes and Cancellations

- a. The Purchaser may in writing, make any revisions or changes in the Purchase Order including additions to or deletion from the quantities originally ordered, in the specifications or drawings. The Vendor shall carry out such revisions / changes and be bound by such revised quantity, terms and conditions to the extent applicable as if the said revisions were incorporated in the initial order. If any such revisions / changes affect the contract price or delivery, the same shall be subject to adjustment of price / delivery, wherever required on a very reasonable basis by mutual agreement. In case of dispute; the Purchaser's/Consultant's decision shall be final and binding upon the Vendor.
- b. For non-adherence to any terms and conditions of the Purchase Order by Vendor, Purchaser may at any time terminate the order in part or in full by a written communication. In such event, Purchaser shall have the right to buy at its option from the Vendor, the cancelled goods and components whether complete or incomplete, after due inspection and verification of the same, paying for them a reasonable price arrived at by mutual agreement. In case no mutual agreement is reached within a reasonable time, the matter shall be referred to a Consultant and the decision of Consultant shall be final and binding on both Purchaser and Vendor. In absence of any Consultant, Purchaser's decision shall be final and binding.
- c. Vendor may claim for adjustment within fifteen (15) days from the date when the revision, change or cancellation is communicated.
- d. Vendor shall not be entitled for any compensation, whatsoever for revision, changes, variations or cancellations, except when specifically agreed to by the Purchaser in writing.

5.3 Sales Conditions : With Vendor's acceptance of provisions of purchase order, Vendor waives and considers void all of its sales conditions.

5.4 Non-Waiver :

- i. Failure of Purchaser to insist upon strict performance of any of the terms and conditions hereof
- or
- ii. Failure or delay in exercising any rights or remedies provided herein or by law
- or
- iii. Failure to properly notify Vendor in the event of breach or the acceptance of or payment for any goods hereunder or approval of decision

shall not relieve Vendor of any of the warranties or obligations under the purchase order and the same shall not be deemed as a waiver of any of the right of Purchaser to insist upon strict performance hereof or of any of its rights or remedies towards such goods regardless when shipped, received or accepted, nor shall any purported oral modification or rescission of this purchase order by Purchaser operate as a waiver of the terms thereof.

5.5 Vendor's Failure to Comply with Instruction : Any loss or additional expenditure that Purchaser may be required to incur on account of Vendor's failure to comply with any of the conditions contained in the purchase order shall be recovered from Vendor.

5.6 Infringement of Patents, etc. : Vendor shall warrant that sale or use of goods supplied under the purchase order whether designed and manufactured so as to

comply with Purchaser's specifications or otherwise shall be free of any claim, whether rightful or otherwise, of any person, by way of infringement of any patent, copy-right, trademark or industrial design or the like, and shall hold Purchaser harmless and indemnify Purchaser and its Consultant and their authorized representatives at its own cost from any and all such claims and legal proceedings.

Purchaser makes no warranty that the production, sale or use of the goods designed and manufactured so as to comply with Purchaser's specification will not give rise to the claim whether rightful or otherwise, of any third person by way of infringement of any patent, copy-right, trademark or industrial design or the like and in no event shall Purchaser or its Consultant be liable to Vendor for indemnification in the event of any action being brought against Vendor in connection with any such claim.

5.7 Compliance of Regulations

- a. Vendor warrants that all goods and services supplied and/or provided under the purchase order are produced, supplied, despatched, delivered and furnished in strict compliance with all applicable laws, regulations, labour agreements, working conditions and technical codes and standards applicable from time to time. Vendor shall execute and deliver such documents as may be required to effect or to evidence such compliance. All laws and regulations required to be incorporated in agreements of this character are hereby deemed to be incorporated by this reference.
- b. The Purchaser, its Consultant and their authorized representatives disown any responsibility for the irregularity, contravention or infringement or any statutory regulations in the manufacture or supply of goods covered by this purchase order.

5.8 Non-Assignment : Any assignment by Vendor of its rights and/or obligations under this purchase order in any manner or any hypothecation by Vendor of materials of construction/manufacture supplied by the Purchaser in whole or in part by operation of law or otherwise without the prior written consent of Purchaser shall be void. Any such consent shall not relieve the Vendor from its obligations under this purchase order.

5.9 Governing Laws, Jurisdiction and Arbitration :

- a. The governing substantive law(s) shall be Indian Laws.
- b. All the causes of action relating to purchase order if any, will be deemed to have arisen within the jurisdiction of the courts at Bharuch, Gujarat state, India only.
- c. Any dispute or difference whatsoever arising either during the execution of purchase order or afterwards between Vendor and Purchaser out of or relating to the construction, meaning, scope, operation or effect of purchase order or the validity or the breach thereof save and except those covered under cl. 5.2 (a) above shall be settled by arbitration in accordance with the Rules of Arbitration of the Indian Council of Arbitration (ICA) and the award made in pursuance thereof shall be final and binding on the parties.

The Arbitration proceedings shall be conducted in English and the venue of all proceedings shall be as decided by ICA or at such location as the parties may mutually decide.

The parties specifically agree to "Fast Track Arbitration", in accordance with Rule 44 of the Rules of Arbitration of ICA."

6.0 Conflict Among Purchase Order and GCP Terms & Conditions: In case of any conflict between these (printed) general conditions of purchase and the special (typed) conditions agreed to for a particular purchaser order, the later shall prevail to the extent applicable.

7.0 Correspondence : All communications and documents pertaining to the purchase order to be addressed to authority signing the purchase order and to be sent at the address printed on the purchase order and the same shall be in English language only.