Execution Excellence
A DIMENSION DATA COMPANY

GENERAL CONDITIONS OF PURCHASE

FOR MECHANICAL, ELECTRICAL, ELECTRONIC and RELATED PRODUCTS

REVISION 2009

A. PREAMBLE

1. **Scope and application of General Conditions of Purchase.**

These General terms and Conditions of Purchase shall govern the transaction described in Plessey's South Africa (Pty) Limited ("the Purchaser") order confirmation (Purchase order), The quotations shall be subject to these General Terms and Conditions of Purchase. Any Special Conditions shall be contained on the face of the Purchase order, and shall unless otherwise expressly stipulated in writing, replace the terms and conditions of the Seller's quotations.

2. **Priority of Documents**

These terms shall replace the Seller's terms and conditions, in the event of conflict between these conditions and the order confirmation, the terms of Plessey's order confirmation shall apply.

3. **Conclusion of the contract**

A Contract of Sale is only concluded and becomes effective upon issuance of Purchasers order confirmation (purchase order) to the seller upon the terms and conditions stated therein.

4. **Interpretation**

The object(s) to be supplied under these General Conditions of Purchase are hereinafter referred to as the Product.

B. PRODUCT INFORMATION

5. All information and data contained in the general product documentation , whether in electronic or any other form, are binding only to the extent that they are by reference expressly included in the contract, or by being recorded on the face of the Purchase Order

C. DRAWINGS AND DESCRIPTIONS

6. All drawings and technical documents relating to the Product or its manufacturer submitted by one party to the other, prior or subsequent to the information of the contract, shall remain the property of the submitting party.

   Drawings, technical documents or other technical information received by one party shall not, without the consent of the other party, be used for any other purpose than that for which they were provided. They may not, without the consent of the submitting party, otherwise be used or copied, reproduced, transmitted or communicated to a third party.

7. The Seller shall, not later than at the date of delivery, provide free of charge information and drawings which are necessary to permit the Purchaser to erect, commission, operate and maintain the Product. Such information and drawings shall be supplied in the number of copies agreed upon or at least one copy of each. The Seller shall not be obliged to provide manufacturing drawings for the Product or for spare parts.

D. ACCEPTANCE TESTS

8. The Seller agrees to carry out the requisite quality tests in order to demonstrate the quality and suitability of the product.

9. Acceptance tests provided for herein shall, unless otherwise agreed, be carried out at the place of manufacture during normal working hours. During production, manufacture, transport and construction (at the Site and elsewhere), be entitled at the Purchasers own cost to examine, inspect, measure and test the materials and workmanship, and to check the progress of manufacture of Plant and production and manufacture of Materials.

   If the contract does not specify the technical requirements, the tests shall be carried out in accordance with general practice in the appropriate branch of industry concerned in the country of manufacture.

10. The Seller shall notify the Purchaser in writing of the acceptance tests in sufficient time to permit the Purchaser to be represented at the tests. If the Purchaser is not represented, the test report shall be sent to the Purchaser and shall be accepted as accurate.

11. If the acceptance tests show the Product not to be in accordance with the contract, the Seller shall without delay remedy any deficiencies in order to ensure that the Product complies with the contract. New tests shall then be carried out at the Purchaser's request, unless the deficiency was insignificant.

12. The Seller shall bear all costs for acceptance tests carried out at the place of manufacture. The Purchaser shall however bear all travelling and living expenses for his representatives in connection with such tests.

13. **Samples**

The Seller shall submit on demand to the Purchaser the following samples of Materials, and relevant information, prior to using the Materials in/or for the Works:

a) Sellers standard samples of Materials and samples specified in the Contract, Any additional samples required by the Purchaser

b) Each sample shall be labeled as to origin and intended use in the Works.

14. **Inspection**

The Purchaser's Personnel or agents shall at all reasonable times:

a) Have full access to all parts of the Site and to all places from which natural Materials are being obtained and
b) During production, manufacture, transport and construction (at the Site and elsewhere), be entitled at the Purchasers own cost to examine, inspect, measure and test the materials and workmanship, and to check the progress of manufacture of Plant and production and manufacture of Materials

The Purchaser shall give the Purchaser's Personnel full opportunity to carry out these activities, including providing access, facilities, permission and safety equipment. No such activity shall relieve the Purchaser for any obligation or responsibility.

E. DELIVERY. PASSING OF RISK

15. Any agreed trade term shall be construed in accordance with the INCOTERMS in force at the formation of the contract. If no trade term is specifically agreed, the delivery shall be Ex works (EXW).

If, in the case of delivery Ex works, the Seller, at the request of the Purchaser, undertakes to send the Product to its destination, the risk will pass not later than when the Product is handed over to the first carrier.

Partial shipments shall be permitted unless otherwise agreed.

F. DELIVERY AND DELAY

16. The parties shall specify a date of delivery in the order confirmation,
17. Such date referred to above shall start to run as soon as the contract is entered into,
18. If the Seller fails to deliver such product on the specified date the Purchaser shall be entitled to the payment of liquidated damages on the third day of notifying the Seller that it is in delay. Liquidated damages shall be limited to 10% (ten percent) of the Purchase order value. Damages shall be calculated at 1 % (one percent) for every day
19. If delivery has still not been made after the (10) tenth days of the delay, the Purchaser may terminate the agreement without notice to the Seller.
20. Payment of liquidated damages shall not preclude the Seller from complying with its obligations in terms of this agreement and shall not preclude the Purchaser from claiming any further damages due to breach of contract by the Seller

F. PRICE and PAYMENT

Price and payment terms shall appear on the face of the Purchase Order, in the absence of any such reference on the purchase order, Payment terms shall be that the Seller shall be paid sixty (60) days from date of Statement.

G. TRANSFER OF TITLE

21. The Product ownership shall pass to the Seller on whichever is the earlier of the following times

    a. When it is delivered to site or

    b. When the Seller is entitled to payment of the values of the product in question.

H. LIABILITY FOR DEFECTS

22. The Seller shall remedy any defect or nonconformity (hereinafter termed defect(s)} resulting from faulty design, materials or workmanship, whether such defect is latent or patent.

23. The Seller's liability is limited to defects which appear within a period of seven years from date of delivery or any such other period as may be specified on the Purchase order.

24. When a defect in a part of the Product has been remedied, the Seller shall be liable for defects in the repaired or replaced part under the same terms and conditions as those applicable to the original Product.

25. The Seller shall make arrangements to remedy the defect within 48 (forty eight) hours of being notified by the Purchaser of the defect, and shall remedy the defect without undue delay and at his own cost

26. Repair shall be carried out at the place where the Product is located unless the Seller deems it appropriate that the defective part or the Product is returned to him for repair or replacement.

27. The Seller is obliged to carry out dismantling and re-installation of the part if this requires special knowledge. If such special knowledge is not required, the Seller has fulfilled his

obligations in respect of the defect when he delivers to the Purchaser a duly repaired or replaced part.

28. Unless otherwise agreed, necessary transport of the Product and/or parts thereof to and from the Seller in connection with remedying of defects for which the Seller is liable shall be at the risk and expense of the Seller. The Purchaser shall follow the Seller's instructions regarding such transport.

29. Where the defect has not been successfully remedied, the purchaser at its sole election,

a) Claim a reduction of the purchase price in proportion to the reduced value of the Product, or

b) Terminate the contract by notice in writing to the Seller. The Purchaser is then entitled to compensation for the loss he has suffered.

30. notwithstanding anything to the contrary contained herein, and for the avoidance of doubt,

all workmanship shall be guaranteed for a period of 24 (twenty four) months

30.1 The Seller's liability shall not be liable for normal wear and tear or deterioration of the product.

I. FORCE MAJEURE

31. In this Clause "Force Majeure" means exceptional event or circumstance:
    a) Which is beyond a Party's control
    b) Which such party could not reasonably have provided against before entering into the Contract
    c) Which, having arisen, such Party could not reasonably have avoided or overcome and
    d) Which is not substantially attributable to the other Party.

Force Majeure may include, but is not limited to, exceptional events or circumstances of the kind listed below, so long as conditions (a) to (d) above are satisfied:

i) War, hostilities (whether war to be declared or not) invasions, act of foreign enemies.

ii) Rebellion, terrorism, revolution, insurrection, military or usurped power, or civil war.

iii) Riot, commotion, disorder, strike or lockout.

32. The party claiming to be affected by Force Majeure shall notify the other party in writing without delay on the intervention and on the cessation of such circumstance.

If Force Majeure prevents the Purchaser from fulfilling his obligations, he shall compensate the Seller for expenses incurred in securing and protecting the Product.

33. Regardless of what might otherwise follow from these General Conditions, either party shall be entitled to terminate the contract by notice in writing to the other party if performance of the contract is suspended under for more than six months.

J. DISPUTES AND APPLICABLE LAW

34. All disputes arising out of or in connection with the contract shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce.

35.1 Disputes shall be adjudicated by a Dispute Adjudication Board (DAB) which DAB shall consist of one or more arbitrators appointed by the Chairman of the Association of Arbitrators. This appointment shall be final and conclusive.

35.2 The arbitrator shall have full power to open up, review and revise any certificate, determination, instruction, opinion or valuation of Plessey South Africa (Pty) Ltd and any decision of the Contractor, relevant to the dispute. Nothing shall disqualify

Plessey South Africa (Pty) Ltd from being called as a witness and giving evidence before the arbitrator on any matter whatsoever relevant to the dispute.

35.3 If at any time the parties so agree, they may jointly refer a matter to the DAB for it to give its opinion.

35.4 Neither party shall consult the DAB on any matter without the agreement of the other party.

35.5 The arbitration may be commenced prior to or after the completion of the works. The obligations of the parties, Plessey South Africa (Pty) Ltd and the DAB shall not be altered by reason of any arbitration being conducted during the process of the works.

35.6 Save to the extent otherwise expressly agreed by the parties in writing:

I. The arbitration proceedings shall be held at Johannesburg, Republic of South Africa and shall be conducted under the Standard Procedure Rules of the Association of Arbitrators (Southern Africa)

II. The arbitration proceedings shall be conducted as expeditiously as possible but the time periods provided for in S 23(a) of the Arbitration Act 42 of 1965 shall not apply thereto

III. The arbitrator shall be entitled to *mero motu* raise and decide matters mutatis mutandis as if the dispute was being heard before a judge in the High Court of South Africa (Transvaal Provincial Division)

IV. The award of the Arbitrator shall be final and binding and

V. Subject to appeal only in terms of the Rules.

35.7 The appointment of the arbitrator may be terminated by mutual agreement of both parties, but not by Plessey South Africa (Pty) Ltd or the contractor acting alone.

36. The contract shall be governed by the substantive law of South Africa

TERMS AND CONDITIONS OF PURCHASE

1. PRICE AND DELIVERY TO OUR MIDRAND WAREHOUSE UNDERTAKEN AS DETAILED ON ORDER.
2. ORDER AND DELIVERY ADDRESS. It is essential that the above order number be quoted in full and the delivery address be stated on all Advice Notes, Packing slips, Delivery Notes, Invoices, Bill of Loading, Waybills, Consignment Notes, Correspondance in connection herewith and Packages.
3. PACKING SLIPS shall be enclosed in all consignments showing ORDER NUMBER, ITEM NUMBER, PART NUMBERS, PART NAME AND QUANTITY.
4. INSURANCE. See clause 23.2.
5. This order must have its separate Advice Notes, Delivery notes and invoices. No other goods may appear thereon.
6. TERMS. as arranged.
7. The acceptance of this Order constitutes acceptance of the following terms and conditions (except that any conflicting special terms and conditions endorsed on the face of this Order shall prevail) and shall have precedence over any terms and conditions of sale offered by you.
8. No goods will be paid for by us, or any variation of this Order recognised, unless Ordered or varied on our official printed Order form, duly signed. Substitutes of better quality may be considered at the same price quoted on Order provided our written agreement has been obtained.
9. Where goods of great bulk or value (identified by us as such at the time the Order is placed) are sent ahead of stipulated date, we, at our discretion, are entitled to return such items to you at your risk and expense or alternatively to store at your risk and expense on our site or elsewhere. You must ensure before shipping ahead of schedule that our written consent is obtained, failing which we shall be entitled to act under this clause.
10. The agreed delivery dates must be maintained by you subject only to "force majeure". Default due to any other cause will be your responsibility and for your expense and you shall be obliged to use airfreight, passenger train or express goods to ensure that the agreed delivery dates are maintained. You indemnify us against all losses and damages, direct or indirect, which we may suffer in the event of default.
11. Quantity is to be exact on individual items or within a plus/minus 2% weight variance in the case of bulk supplies unless a minus tolerance only is declared by us, or unless prior written agreement has been received by you or such supply is in terms of your written quotation against our enquiry. This Clause is intended to prevent redundancy due to oversupplies, hence it is in your interest not to exceed requested quantities unless authorised by us in writing.
12. No charge shall be made for wrapping, packing cartons, boxing, crating or cartage unless authority for such charge is expressly incorporated herein. All articles shall be suitably packed or otherwise prepared for shipment so as to secure freedom from loss or damage in transit and the lowest transport and insurance rates and in accordance with the carrier's requirements.
13. We reserve the right to reject and return at you expense the whole or part of any materials or goods which are faulty in design, quality or construction or which do not come up to sample or standard specified, notwithstanding that we may have accepted delivery into our or our agents store or paid for same. Inspection of goods and materials by us shall be made within a reasonable time after delivery irrespective of the date of payment for same. Rejected goods will be held at your risk and expense, and you shall refund the purchase price and all charges incurred by us in respect of such goods, before they are released. If required by us, rejected goods shall be replaced by you immediately upon receipt of notification of rejection.
14. In the event of Order being placed on "price to be agreed basis" quotations must be submitted AND OUR OFFICIAL AMENDMENT CONFIRMING THE PRICE MUST BE IN YOUR POSSESSION BEFORE THE GOODS ARE DELIVERED OR INVOICED.
15. Ownership of and risk in the goods shall pass to us upon signed clean receipt or other acceptance of ownership being given in writing subject to Clause 7. We will at all times protect your interests by declaring any damage on waybills, consignment notes, or delivery notes received for our signature and implement claims against carrier on your behalf.
16. Advice Notes must be sent on the day that the goods are despatched, and priced invoices three days thereafter. Invoices will not be passed for payment unless our Order number and the advice note number are shown. We decline responsibility for goods sent without advice note and/or invoices. Invoices must state address at which the goods were delivered. Each Order must have its separate advice notes, delivery notes and invoices and no other goods may appear thereon.
17. Our terms and conditions of payment are 30 days of date of statement (provided that a VAT invoice has been sent if you are a registered vendor), or as otherwise agreed in writing.
18. In the event that the goods Ordered are to be manufactured by you the following provisions shall apply:
    - 18.1 You will be held responsible for loss or damage however occurring to our property in your possession.
    - 18.2 You shall not be entitled to subcontract the whole or part of this Order without our prior written authority.
    - 18.3 Our duly accredited representatives shall be allowed to inspect materials ordered at any stage of manufacture.
    - 18.4 Notwithstanding anything to the contrary contained in these terms and conditions, we shall be entitled to terminate this manufacturing Order at any time by giving one month's notice in writing to you to that effect. In the event of such notice being given:
    - 18.4.1 we shall be entitled to direct you to cease manufacture wholly or partially at the expiration of the said notice and/or to require you as soon as may be reasonably practicable after receipt of the notice of termination.
    - 18.4.1.1 to take such step as will ensure that the production rate of the articles specified in the Order is reduced as rapidly as possible.
    - 18.4.1.2 as far as possible consistent with 18.4.1.1 above to concentrate work on the completion of parts already in semi-manufactured state.
    - 18.4.1.3 to terminate on the best possible terms such Orders for materials and parts bought-out in a semi-manufactured or wholly manufactured state, as have not been completed, observing in this connection the requirement of (1) and (2) above so far as this may be possible.
    - 18.4.2 In the event of having reasonable performed all the provisions of the Order binding upon you down to the date of the notice.
    - 18.4.2.1 we shall take over from you at the cost price thereof plus a reasonable allowance for handling charges all materials and bought-out components in your possession at the termination of the notice properly provided by or supplied to you for the performance of the Order and unused owing to the exercise of the power of termination unless you shall, with our concurrence, elect to retain such materials and components.
    - 18.4.2.2 we shall indemnify you against such commitments, liabilities or expenditure which in our opinion have been reasonably and properly incurred by you in connection with the Order to the extent to which such commitments liabilities or expenditure are in our opinion of no value to you by reason of the termination of the Order.
    - 18.4.2.3 unless you shall with our concurrence, elect to retain such articles, we shall take over from you all articles in course of manufacture at the expiration of the notice which shall not be directed to complete as aforesaid, and will pay a fair and reasonable price therefore.
    - 18.4.3 You will prepare and deliver to us within an agreed period, or in default of agreement within such period as we may specify, a list of all unused and undamaged materials, bought-out components and articles in course of manufacture liable to be taken over by or previously belonging to us and shall deliver such materials and things in accordance with our directions and we shall pay your fare and reasonable delivery charges incurred in complying with such directions.
    - 18.4.4 If in any particular cases hardship to you should arise from the operation of this condition, it shall be open to you to refer the circumstances to us and, on being satisfied that such hardship exists, we shall make such allowance, if any, as in our opinion is reasonable.
    - 18.4.5 Any dispute under this condition shall be referred to an arbitrator or arbitrators, selected by us from a panel of arbitrators to be agreed upon mutually or in default of agreement to be appointed by the President of the Law Society of the Cape of Good Hope.
    - 18.4.6 You will manufacture the goods as an independent contractor; this Order implies no appointment as our agent or employee.
19. All information supplied in connection with this Order is confidential and is not to be disclosed or used otherwise than for the purpose of this Order.
20. You hereby indemnify us and our customers against all losses, claims, costs, expenses and damages which we or they may sustain or for which we or they may be liable by reason of the use or disposal of the goods subject of this Order constitute an infringement of alleged infringement of any patent or registered design. Should we receive notice that this Order constitutes an alleged infringement of a patent or registered design, we shall be entitled to cancel the Order.
21. We shall be entitled to cancel this Order without prejudice to our right to claim damages from you if you:
    - 21.1 are liquidated or sequestrated, whether provisionally of finally, or are placed under judicial management or commit an act of insolvency or enter into a compromise with your creditors or cease to conduct business; or
    - 21.2 fail to meet any delivery date stipulated in these terms and conditions; or
    - 21.3 breach any of the terms and conditions of this Order and fail to remedy such breach within 7 days of written notice calling upon you to do so.
22. These terms and conditions do not derogate from our statutory and Common law rights and are in addition to these rights, and not in substitution of them.
23. Local Suppliers
    - 23.1 You hereby consent to the jurisdiction of the magistrates court in respect of any claim arising out of this Order, notwithstanding that the amount of the claim exceeds the jurisdiction of such court; provided that we shall not be obliged to institute any action in such court.
    - 23.2 Should you require protection of insurance cover on goods in transit to us, it is essential that you arrange same for your account.
24. Overseas Suppliers

    Notwithstanding anything to the contrary herein, if you are an overseas supplier:
    - 24.1 This Order shall be governed by South Africa law and you hereby consent to the jurisdiction of the Cape of Good Hope Provincial Division or the Supreme Court of South Africa in respect of any claim arising hereunder.
    - 24.2 The terms of this Order shall be FCA as per Incoterms 1990 of the International Chamber of Commerce, unless we have agreed otherwise in writing.