

Terms and Conditions

1. Definitions

- a. **"The Order"** - all the documents that constitute the agreement between the Company and the Supplier as follows, includes the order form, the General Terms and the various appendices.
- b. **"General Terms"** - the terms specified on the order and/or specified in the Company's website, <https://turbogenchp.com/>
- c. **"The Company"** – Turbogén CHP.
- d. **"The Supplier"** - any person and/or entity that enters a contract with the Company, to supply materials and/or products and/or services and/or work and/or knowledge.

2. Voidance of Previous Documents

- a. Upon signing an order by the parties, any document, agreement or memorandum that relate to the order and that were made prior to signing the order, whether they are oral or verbal, are voided. However, if the order states explicitly that a document remains valid, it shall remain valid after the order is signed. The order making is subject to these General Terms, which constitute an inseparable part thereof.
- b. In any event of contradiction, conflict or discrepancy between the provisions, plans or any other detail of the general terms and that stated in the particular order form or any other document that constitutes a part of the order or the order or document as said shall override the general terms, provided that they were approved and signed by an authorized representative of the Company.

3. Quality of the Items and the Kind of Service

- a. The items that are the subject of the order shall be supplied to the Company, and will be of the variety, quality, kind, measures, types of material, description and processing, all in accordance with that specified in the order, and unless otherwise specified, they will be of the highest quality of materials and of superb professional execution.

4. The Company Assets and the Supplier's Liability for Them

- a. Any raw and/or processed and/or leftover materials and/or chips that resulted from the processing of the material, as well as any equipment, instruments, raw materials, dies, including any goods or a part of such, including any specification and design, that the Company delivered to the Supplier or incurred the costs purchase thereof (hereinafter **"the Company Assets"**) are, and shall remain, owned exclusively by the Company and the Supplier may not use them for any other purpose but the execution of the order. The Supplier will store the Company Assets separately and in an appropriate manner that enables recognition thereof as Company property.
- b. The Supplier is liable toward the Company for the Company Assets, their proper maintenance and protection, and against any loss of Company Assets or harm to them (excluding ordinary, reasonable depreciation and wear that result from the use the Supplier was allowed to make of the Company Assets).

5. Company's Knowledge

- a. Any knowledge that the Company provided the Supplier with, or incurred the expenses of its purchase and/or obtainment, and any knowledge that was obtained through research or development paid for by the Company, or that the Company incurs expenses for, or knowledge that was obtained through the execution of this order or through funds paid by the Company within this order, will be owned exclusively by the Company, and the Supplier may not use it for any other purpose but to execute this order. The Supplier will store the information in a manner that will prevent it from being transferred to any other person, as well as prevent other people from using it.
- b. For the purpose of this order "knowledge" - copyrights, patents, designs, planning documents, work methods and instrument design, terminology of parts, software, directions and procedures that relate to development, manufacturing, assembly, examination and maintenance and any other written material that relates to or is involved in development, manufacturing, assembly, examination and maintenance. "Knowledge" also includes any ideas, methods and information that aren't common property, whether or not they are protected by patent laws, copyright laws or any other legislation, as well as the results of

the execution of the work (including but not limited to, examination and experiment reports, correction methods, etc). "Knowledge" also includes any document, illustration, software, magnetic, optic and other storage devices that are used to store classified information or any other instrument in which the "Knowledge" was written or described.

6. The Supplier's Liability Over Company's Knowledge and Confidentiality

- a. The Supplier is liable toward the Company to store the Company's Knowledge as specified in the above section 5 and to maintain it properly.
- b. The Supplier undertakes to keep the Company's Knowledge, as well as reports and documents that relate to the performance of this order, that it shall encounter while or due to performing the order, a secret, as said in the above section 5. The Supplier undertakes to not use such Knowledge or reports or documents as said, or any part thereof, for any other purpose than this order.
- c. The Supplier undertakes to inform all of his workers, including sub- contractors, of the above sub-sections (b), as well as the above section 5, and it is liable for their protection of confidentiality as said in this section.

7. Avoidance of Manufacturing Items of the Type in the Order

The Supplier undertakes not to manufacture and not to supply to any other person or entity, excluding the Company, items or parts of items of the type that is the subject of the order, unless it receives the Company's written permission in advance to do so, subject to the conditions it will agree upon with the Company. The Company will give the Supplier such permission, as per its request, regarding items manufacturing of which does not involve direct or indirect use of the Company Assets or Knowledge as specified in the above sections 4, 5, and 6, but the Company may not give such permission, according to its discretion.

8. Right of Supervision and to Receive Information

- a. Representatives that will be authorized by the Company, shall be permitted to supervise the performance of the Supplier's undertakings according to the order, and within that capacity to examine the planning, the processes of manufacturing and works, the level of planning and working, the quality of the materials and the rate of performing the order by it at each and every stage of performance thereof. The Supplier undertakes to allow the Company's representatives to perform the aforementioned supervision and examination, and to assist them in any way they shall require in doing so, including allowing the Company representatives to enter any location in which the Company assets are present, and to any location from which any materials and equipment that relate to the performance of this order are brought. The Supplier, if required to do so, shall provide the Company, to that end, with a suitable location in the plant's territory, that shall feature the suitable equipment and conditions that the Company representatives shall require to allow them to properly perform the supervision and inspection.
- b. The satisfaction of the right of supervision as said in sub-section (a), as well as the exercise of the Company and its representatives' authorities according to the provisions of this section, shall not make the Company liable or obligated in any manner, nor exempt the Supplier from any liability or obligation.
- c. Without derogating from that said in the above sub-section (a), the Supplier undertakes to enable any agent that was authorized by the Company, and such includes a client of the Company or an authorizing agent or a reviewing agent, to visit any location in which works that relate to this order are performed, and to make examinations in order to make sure that the order is executed properly.
- d. The Company may, at any stage, demand that the Supplier report to it on the progress of work or manufacturing.
- e. The Supplier shall make sure that the provisions of this section shall be satisfied, *mutatis mutandis*, in its contracts with its sub-contractors, by the sub-contractors as well.

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9. The Supplier's Liability for Discrepancies

The Supplier is liable for any fault, discrepancy or other flaw in the planning, the ordered items or the work or service that were ordered, or in any part thereof, that result from execution, materials, planning or work or jobs, that are faulty or defective or that do not meet the required level or from incompatibility thereof with the above section 3, or to the required quality or properties for the use, specifications or samples such are designated for.

10. The Delivery of the Items, Quality Paperwork and the Invoice

- a. The Supplier will deliver at its expense and responsibility the items that were ordered, at the location of delivery, and will perform the work or service at the decided location, at the time and according to the working procedures that are customary at the Company. Also, the Supplier will provide the Company with a copy of the invoice, upon finishing the delivery of the items or the performance of the work according to the order, in the phrasing required by the Company, for the items or work or service in the order, as well as a certificate that confirms the delivery of the items or the performance of the work or the service, and the quality paperwork as determined in the order. For the purpose of counting the days as determined in the terms of this order, the days will be counted starting on the day in which the proper invoice and its appendices was delivered to the Company's purchase department. For the avoidance of doubt, in case the goods or the service or the work that the Company received were not joined with a copy of a proper invoice and/or quality paperwork and/or the reports as said above, the goods or the service or the work will be considered as if they were not supplied, until the missing documents are delivered.
- b. The two following things in aggregate will constitute as proof of payment: (1) a certificate, signed by a Company authorized representative, of the reception of the items or work or service, that confirms reception thereof along with the document specified in the above sub-section (a); (2) Invoice (original) that matches the order details.
- c. The certificate signed by the authorized representative as said in the above sub-section (b) is only a temporary certificate. Nothing stated in this certificate shall be interpreted as admittance by the Company that the Supplier fulfilled the terms of the order, or as derogating from the Company's rights, reliefs it has at its disposal, or its ability to examine the items, the work or the service at a later time and raising any claim regarding discrepancy or any other claim regarding a breach of the order or its terms, in any manner.

11. Reliefs Due to Violation and Duty of Notification Regarding an Expected Breach

- a. The Company may cancel the entire order or part thereof in any event in which the Supplier made a fundamental breach of any of the obligations assigned to it by this order. That said in this sub-section does not derogate from the Company's ability to cancel the order due to a non-fundamental breach, as said in section 7(b) in the Contracts Law (Remedies for Breach of Contract), 5731-1970.
- b. A delay in supplying shall be considered a fundamental breach, if the delay period exceeds the shorter of the following two periods: 4 months or a third of the determined period for the supply of the items, the work or the service. For the avoidance of doubt, it is hereby stressed that a delay in the supply of one of the rates or amounts of the determined rates or amounts shall be considered a fundamental breach of the entire order. That said in this sub-section shall not be interpreted as ruling out the possibility of other fundamental breaches.
- c. Should it become evident to the Supplier that a delay in the supply is expected, or that another breach of the conditions of this order is expected, it must inform the Company of this in writing, immediately. In case a delay in the supply is expected, the Supplier must state the reasons for the delay, as well as the expected supply date, in its message. A message such as that stated in this sub-section shall be considered a message of an expected breach, and the Company may be entitled to all the reliefs due to such, as stated in this order and in accordance with any law.

- d. In any event of a delay in supply, the Supplier shall pay the liquidated damages, at a sum of 0.5% of the worth of the order, for each day of the delay, as pre-determined repair fees. This payment does not prejudice the Company's right to reject and/or refuse to accept the subject of the order or part thereof.
- e. In case the Company cancels the order, in whole or in part, due to a breach by the Supplier, the Company may order from another Supplier, at the Supplier's expense, items or work or services of a similar nature to the subjects of the order, or other items or another work or service, that the Company deems to be appropriate substitutes thereof, and to charge the Supplier for the entire difference between the cost of the items or work or service according to this order (calculated on the basis of the linkage and appreciation provisions of the order or its appendices, to the date in which the payment to the other Supplier was made) and the cost of the items or work or services the Company purchases from a different Supplier.
- f. In case the Company cancels any order due to a breach by the Supplier, the Supplier shall return to the Company any sum it received from it on account of this order (in case of a breach due to non-delivery of a part of the items or work or service, the Supplier shall return to the Company the relative part of this sum). The returned sum shall be linked to the price of the items, work or service (in accordance with the linkage and appreciation provisions of the order or its appendices), and shall bear interest at the rate of the Ministry of Finance's Accountant General customary arrears interest, starting at the date it was given to the Supplier and until it is actually returned to the Company.
- g. In any event in which the Supplier did not provide to the Company the ordered items or work or service, in whole or in part, or in which the items or work or service it provided were returned to it due to a discrepancy, or due to a breach of the Supplier's obligation, in whole or in part (including in the event the order is cancelled as a result), the Supplier shall pay to the Company pre-determined, liquidated damages, at a sum of 20% (twenty percent) of the price stated in the order, on the day of payment of damages (to be calculated for this date based on the linkage and appreciation provisions of the order or its appendices), for the items or work or service that were not supplied or returned as said. Damages according to this sub-section will be an addition to any payment owed to the Company according to sub-sections (d), (e) and (f), and they do not derogate from any additional relief that the Company has at its disposal according to this order and/or any law. In case the raw material, used to manufacture the items that are the subject of the order, was supplied to the Supplier by the Company, the Supplier shall pay the Company, should one of the events specified in this section occur, and in addition to all that is said in it, the price of the raw material it received from the Company as well.
- h. The Company shall notify the Supplier of discrepancy in the items, work and service that were supplied, within 6 (six) months of the date it learned of the discrepancy. The Company may not rely on a discrepancy unless it notified of it within 3 (three) years of the day the item, work or service that the discrepancy relates to was supplied to it. This limitation shall not apply and the Company may rely on a discrepancy in the items, work or service, even if such notice as said was not given within a period of 3 (three) years, if the discrepancy may not have been discovered in a reasonable examination. The provisions of sections 13, 14, and 15 of the Sales Law 5725-1968, and the provisions of section 3 of the Contractorship Agreement, 5734-1974, shall not apply to this agreement. Also, no other provision that obliges the Company to examine the goods or the work or the service or to inform of any flaw or discrepancy in them shall apply to Company. Also, no provision that limits the Company's rights in case of non-examination or non-notification as said shall apply to the Company.
- i. Without prejudicing any other right of the Company according to this order or according to any law, the Supplier undertakes to repair, as per the Company's demand, any fault, impairment, discrepancy or any other flaw as said in the above section 9 at its expense, and to compensate the Company for the entire extent of the damage or the loss that were caused or that will be caused to it due to one or more of the above stated factors.

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Should the Supplier not perform the repair as said in this sub-section, within reasonable time as stated by the Company in the message to the Supplier, the Company may, at its discretion, perform the repair itself or through another supplier, and the Supplier will be obligated to return all the expenses of the repair and the losses caused due to it to the Company.

- j. Without derogating from all that is said in this section, in any event of a breach of any obligation by the Supplier, whether or not the order was cancelled by the Company due to it, the Supplier undertakes to indemnify the Company for any fine and/or expense that the Company will be obligated to pay to its clients and that result from the Supplier's breach.
- k. That said in this section does not derogate from any right of the Company towards the Supplier according to this order or according to any law.

12. Cancellation of the Order by the Company

The Company may, at its discretion, and at any time it sees fit, cancel the order in whole or in part, by notifying the Supplier in writing. In such a case the following provisions shall apply:

- a. The Company shall pay the relative part of the price stated in the order for these items or work or service that were supplied to it according to the order prior to the cancellation, or, if a separate price was stated in the order for each item, or work or service, the same price stated in the order for the items, work or service that were supplied.
- b. If the Supplier possesses, on the day it received the cancellation message in accordance with this section, items or a work or a service that were finished or completed, which he had to supply according to this order, he must deliver them immediately to the Company, and the Company shall pay for them according to that said in sub-section (a).
- c. For items, or for a work or a service that were not supplied due to a cancellation of the order as said in this section, the Company shall pay the reasonable direct costs that the Supplier actually incurred, until the time of receiving the cancellation message, due to its obligation to supply them to the Company, provided only that the such costs shall be proven to the Company by the Supplier. If, following the investment of the costs in this section, the Supplier purchased any asset or right, the asset or right will be transferred to the Company. "Costs" in this section, include reasonable obligations that the Supplier undertook due to the order, provided only that the Supplier made maximum effort to minimize such obligations and mitigate the damages it incurred. The payment according to this sub-section shall not exceed the lower of the two: 1) the linked price that was determined in the order for the items or for the work or service that were not supplied, which will be calculated according to the ratio of the direct costs the Supplier actually incurred due to its obligation to supply them, as specified in this sub-section, and the total of direct costs that it would have incurred if the order regarding them was executed, and in addition, percent of the resulting sum, at the rate of the applicable VAT rate.
- d. The Company may retain payments owed to the Supplier according to this section until it receives the assets and property that the Supplier is obligated to transfer to it, as specified in the following section 13.
- e. For the avoidance of doubt, it is hereby stressed that the Supplier shall not be entitled to any additional compensation or payment due to the cancellation of the order according to this section, excluding the payments it specifies.
- f. The Supplier shall return to the Company any payment it shall receive on account of items or of a work or a service that were not supplied due to cancellation of the order according to this section.

13. Returning Company Assets and Company's Knowledge

Should an order be executed or cancelled, according to any provision of the order or of the law, the Supplier shall return to the Company, as per the Company's demand, immediately after finishing the execution or immediately after the cancellation as

said, as the case may be, all the Company Assets, not including Assets that were used in the equipment, items, work or service that the Company was supplied with. The return shall take place at the location specified in the above section 10, and in accordance with that said in that section. Also, in such a case, the Supplier shall transfer all the Company's Knowledge to the Company.

14. Fixed Prices

The prices established in the order are agreed upon and fixed in advance, and no increment shall be paid for them (not including increment for linkage or for appreciation, if such were established in the order or in its appendices). Without derogating from the above, it is stressed that such an increment shall not be paid for a delay in the payment of the consideration by the Company that results from non-delivery of invoice by the Supplier in the stated date in section 10 of the general ordering terms and/or non-delivery at the stated date in the order. Without derogating from the generality of that said in this section, the provision regarding non-payment of increment shall apply also to taxes, levies, compulsory payments, depreciations and appreciations.

15. Offset

- a. The Company may offset any sum owed to it by the Supplier, including expenses and costs that the Company incurred due to non-supplying the invoice and its accompanying documents, according to sections 10.a. and 10.b. of the general ordering terms, in the date stated in them, or that the Company is owed to by Supplier in virtue of any other contract, or according to any law, from the sums that the Supplier is entitled to according to this agreement.
- b. The Company may retain funds that the Supplier may be entitled to, that may be found in the Company's funds, provided that the Supplier does not satisfy its obligations according to this contract or any other contract. No linkage and/or any interest of any sort shall be paid due to such retaining of moneys.

16. Prohibition of Transfer of Order

- a. The Supplier may not transfer the order in whole or in part, directly or indirectly, to another person or entity without the Company's written consent, given in advance. Such consent, if given, shall not create any direct conflict between the Company and the other supplier, unless the Company agreed to it explicitly. In any event, the Supplier shall always remain liable towards the Company to perform the order and satisfy all that is stated in it, together with the other supplier.
- b. The Supplier is prohibited from transferring a right it was granted or an obligation it was assigned according to this order, in whole or in part, unless the Company gave its advance consent, in writing.
- c. The Supplier exempts the Company of any liability toward it and/or the assignee, if for some reason the assignment was not performed.

17. Waiver

No waiver, avoidance of action or extension granted to any party by the other may be viewed as a waiver of the rights of the granting party according to any law or the order, unless that party waived such rights explicitly and in writing. It is stressed that such a waiver shall be held valid, if and only if it is made by the authorized representatives who signed the order or on by their substitutes.

18. The Applicable Law and Local Jurisdiction

The Israeli law shall apply to the provisions, performance and interpretation of this order, and the Magistrate's Court of Tel Aviv or the District Court of Tel Aviv (as the case may be) shall have the exclusive jurisdiction to discuss any conflict and/or dispute and/or claim that may be arise or made in relation to this order.

19. Messages

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Any message that relates to the order shall be given in writing and delivered by hand or by registered mail, in accordance with the addresses stated in the order. Messages on the Company's behalf (including messages according to the above sections 12 and 14) shall be held valid only if they are signed by the person who signed the order or the person who, at that time, has the same function.