

## **PURCHASE ORDER TERMS & CONDITIONS- ASIA**

Last revised September 22, 2011

### **1. GENERAL**

Seller shall supply the goods or services in accordance with these terms and conditions except where this Purchase Order is made under an agreement entered into between Buyer and Seller ("the Agreement") in which case any terms and conditions of the Agreement that conflict with these terms and conditions shall apply and take precedence over these terms and conditions. This Purchase Order is not an acceptance, confirmation or counteroffer to any previous proposal of Seller. Performance by Seller shall be considered acceptance of these terms and conditions, and no different or additional terms in any document of Seller are expressly objected to by Buyer and shall be of no force or effect. This Purchase Order constitutes the entire contract between the parties except where it is made under an Agreement. Where this Purchase Order constitutes the entire contract between the parties, the parties agree that GST/VAT, where applicable, shall be added to the price and shown as a separate item.

### **2. ACCEPTANCE OF ORDER**

Seller shall confirm in writing acceptance of any Purchase Order within 2 days of the date of Purchase Order. If Seller does not provide such confirmation Seller shall be deemed to have accepted the Purchase Order and these terms and conditions.

### **3. INVOICING & PAYMENT**

Seller shall promptly upon delivery of goods send a priced invoice to Buyer quoting the Purchase Order number/Buyer code number shown on the face hereof, any item numbers and such other information as Buyer requests from time to time. Seller acknowledges that invoices submitted to Buyer that do not clearly reference Buyer's corresponding purchase order number may be considered invalid by Buyer and may result in delayed payment. Seller further agrees that it will take no adverse action against Buyer for any invoices not paid resulting from Seller's failure to obtain purchase order numbers and clearly reference on the applicable invoice(s). Where GST/VAT is applicable, the priced invoice shall comply with the requirements for a tax invoice under GST/VAT legislation. Seller undertakes to reduce the price of the goods or services, where applicable, to pass on to Buyer the benefit of any reduction in costs resulting from the removal of any governmental tax, excise, duty or impost, or the provision of any rebate or credit, consequent upon the introduction of GST/VAT and the implementation of the tax reform program.

Buyer will pay Seller within ninety (90) days from the end of the month in which the invoice was received. Where Seller provides a discount for early payment, the discount period will be determined from the date of the invoice. Seller may increase prices of goods to Buyer upon not less than ninety (90) days' prior written notice.

Seller agrees that the pricing for goods offered to Buyer under this Purchase Order is equal to or better than the pricing offered to any other customer of Seller that purchases similar volumes. If Buyer or Seller discovers that this is not true at any time, Seller will immediately reduce the price of the goods retroactively and prospectively to Buyer so that Buyer receives the best price for similar volumes of goods offered by Seller.

#### **4. DELIVERY**

Time is of the essence of the contract. Goods or services shall be delivered or supplied to the place and on the date stated on the Purchase Order. If the goods or services are not received or supplied by the due date Buyer may cancel the Purchase Order in respect of all or part of the uncompleted work and make payment only for those goods or services received. If Seller is unable to supply on time for reasons beyond its control, Seller shall advise Buyer in writing before the delivery date of the cause. Buyer may, at its sole discretion, extend the delivery date. Goods delivered in error or not complying with the terms and conditions of the Purchase Order, shall be returned to Seller at Seller's expense. Title to the goods free of encumbrances and all other adverse interests shall pass to Buyer upon delivery.

Seller shall deliver the goods to the place designated for shipment by Buyer in the Order. Seller shall follow any shipping instructions provided by Buyer and shall properly and carefully package the goods to minimize the risk of damage in transit. Notwithstanding anything in the foregoing to the contrary, title to and risk of loss of the goods shall pass to Buyer only upon receipt of the same by Buyer, and any rightful rejection or revocation of any goods by Buyer shall immediately shift the risk of loss of such goods, wherever located, to Seller. Seller agrees that any contrary provisions of applicable law shall not apply to this Purchase Order.

#### **5. PACKAGING**

Prices shown on this Purchase Order include all wrapping, packing, cartons or crating and freight, unless otherwise stated on the order. Seller shall provide a delivery note with each individual delivery, quoting the Purchase Order number.

#### **6. SPECIFICATIONS**

Goods or services shall strictly comply with the specifications referred to in this Purchase Order or other correspondence between the parties. Buyer may inspect the goods, or carry out any tests called for in the specification, either during manufacture, before dispatch, or at the point of delivery. Inspection by of goods by Buyer shall not be considered a waiver of any warranty or product liability claims by Buyer. Seller will not make any changes in the raw materials, formulas, specifications or place of manufacture of goods without at least 120 days' prior written notice to Buyer. For any change that could affect performance of the goods, Seller shall complete any reasonable qualification process(es) of Buyer and address Buyer's concerns about the change.

All information contained in specifications and technical data provided by Buyer to assist Seller in providing quotations or satisfying this Purchase Order is strictly confidential and is provided on the basis that it is the property of Buyer and must not be copied or provided to a third party without Buyer's written consent; and it is to be used for no other reason than for preparing the quotation or satisfying this Purchase Order, and is to be returned on completion of this work.

#### **7. ROYALTIES/PATENTS**

Goods or services are for the use of or re-sale by Buyer or its associated companies, and may be incorporated in any products. In no event shall Seller make any claim for royalties or other additional compensation by reason of such use, re-sale or manufacture. Seller agrees to defend, protect and hold harmless Buyer, its successors, assigns, customers and users of Buyer's products from and against any claim arising by reason of the use of the goods including all claims for actual or alleged infringement of any letters patent, trademarks, copyright, design, confidential information or similar protection.

#### **8. TERMINATION & REMEDIES**

Buyer may terminate this Purchase Order in whole or in part by written notice to Seller, for any or no reason, including but not limited to, (a) Seller's failure to timely deliver conforming goods or services, (b) any material adverse change in Seller or its business, or (c) Seller's insolvency. Upon termination, Seller shall be entitled only to compensation for conforming goods already produced or conforming services provided and a reasonable sum for Seller's out-of-pocket costs incurred due to termination, unless termination is for cause, in which case, no amount shall be payable to Seller for termination costs.

Seller shall be deemed to be in default hereunder if it violates any of the terms hereof or fails to timely perform any of its covenants, duties or obligations hereunder, or if it performs or fails to perform any other act, whether pursuant to the Purchase Order or otherwise, which gives Buyer reasonable grounds to feel insecure with respect to Seller's future performance hereunder.

Upon any default by Seller hereunder, Buyer may exercise any or all of the following rights and remedies, in addition to such other rights and remedies as may be provided hereunder or under applicable law: (i) Reject or revoke acceptance of any or all of the goods or services, whether or not such goods or services are defective and whether or not the condition of delivery thereof otherwise relates to, pertains to, concerns or gives rise to such event of default; and/or (ii) Terminate any further deliveries under this Purchase Order and claim any damages due to such breach. Buyer's rights under these terms and conditions are in addition to all other rights and remedies available to Buyer at law or equity.

#### **9. WARRANTIES**

Seller warrants that the goods and services conform to the relevant specifications, are fit and

sufficient for the intended purpose and any other purpose made known to Seller, are of merchantable quality and will be free from any defect in materials and workmanship for a period of at least twelve months. Any defective goods shall be returned by Buyer to Seller at Seller's cost, and shall be repaired or replaced and redelivered at Seller's expense. Seller shall also be liable for Buyer's foreseeable damages caused by the defective goods.

**10. HOLD HARMLESS**

If in carrying out or purporting to carry out, any of its obligations arising out of or in connection with this Purchase Order, Seller whether by its officers, employees or agents causes any property loss, damage or bodily injury (including death) of whatsoever kind or nature, the Seller shall protect, defend and hold harmless Buyer and its officers, agents or employees from such property loss, damage or bodily injury (including death).

**11. SUB-CONTRACTORS**

Sub-contracting any part of this Purchase Order shall not relieve Seller from responsibility for the whole of the work included in the Purchase Order.

**12. GOVERNING LAW**

This Purchase Order is governed by the laws of Singapore, and the parties agree that any dispute arising from or related to this Purchase Order shall be submitted to Singapore International Arbitration Center ("SIAC") for arbitration which shall be conducted in accordance with the SIAC's arbitration rules in effect at the time of applying for arbitration. The arbitral award is final and binding upon both parties. The parties each submit to the exclusive personal jurisdiction of SIAC and waive any claim that SIAC is an inconvenient forum or otherwise is not proper for any such dispute or claim.

**13. SETOFF RIGHT**

Buyer shall have the right to set off any claim it may have against any amounts owed to Seller.

**14. COMPLIANCE WITH LAWS**

Seller warrants that all goods and services have been manufactured and provided in compliance with all applicable laws, including but not limited to, labor, environmental, safety, health, labeling and tax laws.

**15. MISCELLANEOUS**

No modification or waiver of the terms or conditions of this Purchase Order shall be effective unless in a writing signed by the party against whom enforcement is sought. If any provision of this Purchase Order is held unenforceable by SIAC, that provision shall be deemed to have been

removed without affecting any of the remaining provisions.