



## GENERAL CONDITIONS OF PURCHASE OF GOODS & SERVICES (INCLUDING SOFTWARE)

### 1. APPLICATION

- 1.1 These Conditions are incorporated into and form part of the Purchase Order. Any offer by the Seller and/or acceptance of a Purchase Order by the Seller shall be deemed to constitute an acceptance of and agreement to comply with these Conditions. For the avoidance of doubt, these Conditions shall apply to an order made verbally by the Purchaser and accepted by the Seller (as evidenced by the issuance of an invoice in respect of that order made verbally).
- 1.2 These Conditions shall supersede any other express or implied, written or oral terms, conditions, arrangements, customs or practices unless the Purchase Order specifically states otherwise. All terms, conditions, arrangements, customs or practices as aforesaid conflicting with these Conditions are hereby excluded and all terms and conditions of these Conditions shall prevail to the extent of such conflict. These Conditions shall prevail over differing or additional terms and conditions proposed by the Seller, including, without limitation, those contained in any offer or invoice.
- 1.3 These Conditions supersede the Seller's terms and conditions, which shall not have any effect. The Purchaser objects to any varying terms offered by the Seller in its sales order acknowledgement or any other document of the Seller. Such varying terms shall not form part of the Contract without the express written consent of the Purchaser signed by its authorised representative.

### 2. PRICES AND TAXES

- 2.1 All prices shall be as stated in the Contract. The prices are fixed and include delivery and all other charges, including, without limitation, costs of transport, insurance and packing. The prices shall not be adjusted save as provided for in these Conditions.
- 2.2 The Seller warrants that the price charged for the Products and/or Services is the lowest price charged by the Seller to

buyers of a class similar to the Purchaser purchasing in quantities and under circumstances comparable to those specified in the Purchase Order. Any price reduction in the Products and/or Services the same as covered by the Purchase Order made by the Seller after the placement of the Purchase Order and prior to the Purchaser's receipt of the Products and/or Services shall apply to the Purchase Order.

- 2.3 All prices is exclusive of any applicable goods and services tax ("GST") chargeable under the Goods and Services Tax Act (Chapter 117A of Singapore) which shall be added by the Seller at the rate and in the manner from time to time prescribed by law. The Purchaser shall only be responsible for GST provided the Seller has submitted appropriate information or documentation to allow the Purchaser to recover such taxes as appropriate. The Purchaser shall have no other or further liability to the Seller with respect to any tax, duty, levy or like imposition for which the Seller may be liable as a result of the supply of the Products and/or Services. If the Purchaser is required to withhold any tax or charge pursuant to any applicable law or regulation, the Purchaser shall be entitled to withhold and deduct such tax or charge from the price before payment to the Seller.

- 2.4 Upon delivery of the Products and/or Services in accordance with clause 6 herein, the Seller is required to mail his invoices to the Purchaser on the following day.

### 3. TERMS OF PAYMENT

- 3.1 Payment term shall be ninety (90) days from the date of receipt of the Seller's invoice or the date of completion of the delivery of the Products/completion of the delivery of the Services (whichever date is later), unless otherwise stated in the Purchase Order. Insofar as the Seller is required to provide material testing, test records or quality control documents or any other documentation, such shall be a part of the requirements of the



completeness of the delivery or performance. The Purchaser shall be entitled to set off or withhold any payments to a reasonable extent for reasons of deficiency. The period for payment shall commence after the complete rectification of any deficiency.

- 3.2 The Purchaser shall be entitled to set off against the price any sums owed to the Purchaser by the Seller.

#### **4. PURCHASE ORDERS AND VARIATIONS**

- 4.1 Without prejudice to Clause 15.1, the Purchaser may cancel the Purchase Order if the Seller has not confirmed acceptance of the Purchase Order in writing within 5 days of receipt of the Purchase Order.

- 4.2 The Purchase Order will be deemed to have been accepted unless the Seller notifies the Purchaser to the contrary in writing within a reasonable period after the Purchase Order is received by the Seller.

- 4.3 If the Seller's confirmation varies from the Purchase Order the Purchaser shall be bound thereby only if it agrees to such variation in writing and neither the acceptance of delivery of the Products and/or Services nor payments made shall constitute approval or agreement of any such variation.

- 4.4 No variation to the Contract shall be binding unless agreed in writing and signed by the authorised representatives of the Purchaser and the Seller. For the avoidance of doubt, no terms proposed by the Purchaser in its Purchase Order or any other document of the Purchaser shall form part of the Contract without the express written consent and signature of the authorised representative of the Seller.

- 4.5 If at any time during the course of the Contract, the Purchaser wishes to vary the Products and/or the Services ordered, it shall notify the Seller and the Seller shall within reasonable period provide a written statement of the amount of the following by which such variation would increase or decrease:

- (a) the dates, timescales or milestones; and

- (b) the charges;

which have been agreed in the Contract, and such other information as the Purchaser may reasonably require.

- 4.6 The implementation of any variation to the Products and/or Services shall be subject to the agreement of the Parties. The Seller shall not undertake any such variations unless specifically instructed to do so by the Purchaser.

- 4.7 If any change directly affects the prices or delivery schedules of the Products and/or Services, an equitable adjustment may be made provided that such equitable adjustment is documented in writing and signed by authorised representatives of both Parties. If, after reasonable and good-faith efforts, the Parties are unable to agree upon the amount of the adjustment, the Purchaser may terminate, without any charge or liability, the Contract as to all the Products and/or Services affected.

- 4.8 The Seller shall not, without the prior written consent of the Purchaser, make any process or design changes affecting the Products.

#### **5. IMPORT/EXPORT REQUIREMENTS, CERTIFICATES OF ORIGIN, PROOF OF EXCISE DUTIES, EXPORT RESTRICTIONS**

- 5.1 The Seller shall comply with all applicable import and export requirements, and shall furnish to the Purchaser, upon request, information or documentation of the Seller's compliance.

- 5.2 Without limiting the generality of the foregoing, the Seller shall promptly make available any certificates of origin requested by the Purchaser with all necessary details completed and properly signed sufficient to satisfy the requirements of (a) the customs authorities of the country of receipt, and (b) any applicable export licensing regulations. This also applies to documents relevant to matters of excise duties which shall be paid by the Seller.

#### **6. DELIVERY AND DELAYS, MARKED PRODUCTS, TITLE AND RISK**

- 6.1 The Products and/or Services shall be delivered on the date ("**Delivery Date**")



and at the rates and places specified in the Contract. Delivery may be direct to the Purchaser's end user if so specified on the Purchase Order. The Purchaser may delay or alter such dates, rates and The Purchaser reserves the right to negotiate, as necessary, to amend its delivery schedules and destination at any time.

- 6.2 Products marked with any mark used or owned by the Purchaser or its customers shall not be disposed of to any third party or used by the Seller without the prior written consent of the Purchaser.
- 6.3 Delivery of the Products by the Seller shall be DDP (Delivered Duty Paid) at Seller's designated premises ("DDP Point") unless otherwise agreed in writing between the Parties. For purposes of these Conditions, DDP shall be construed in accordance with INCOTERMS 2000 of the International Chamber of Commerce.
- 6.4 Time of delivery is of the essence of the Contract. Failure to meet the Delivery Date specified in the Purchase Order shall constitute a breach of the Contract. The Seller shall give the Purchaser notice of any prospective failure to deliver the Products and/or Services by the Delivery Date. If only a portion of the Products or a part of the Services can be delivered on the Delivery Date, the Seller shall deliver the available Products and/or Services unless otherwise directed by the Purchaser. Partial delivery shall be deemed late delivery and be considered completed only when all the Products and/or Services are delivered.
- 6.5 If the Seller fails to deliver the Products and/or Services in accordance with the Contract, or fails to deliver by the Delivery Date, then the Seller shall pay to the Purchaser liquidated damages calculated at the rate of 0.5% of the price, of the respective Purchase Order for each day of delay starting from the date of default until the date the Products and/or Services are completely performed by the Seller. The Purchaser may, but shall not be bound to, deduct such liquidated damages, whether in whole or in part, from any moneys due from the Purchaser to the Seller under any Purchase Order.
- 6.6 Notwithstanding the above, if the Seller fails to deliver in accordance with the

Contract, or if the Seller notifies the Purchaser of a prospective failure to deliver by the Delivery Date, the Purchaser reserves the right to cancel the Contract or any part of it without charge or liability and reserves all rights in damages and otherwise arising including but not limited to the right to purchase substitute Products and/or Services elsewhere and to hold the Seller liable for any loss, expense or additional cost incurred thereby.

- 6.7 The Seller shall ensure that all Products are marked in accordance with the provisions of the Contract and instructions of the Purchaser. Products shall be packed so as to reach places of delivery undamaged and in good condition. The Seller shall provide in respect of each consignment of Products a packaging note detailing the Purchase Order number, description, code number (if any) and the quantity of Products consigned. The information on the packaging note must tally with the Purchase Order.
- 6.8 Risk in and title to the Products shall pass to the Purchaser on delivery without prejudice to any right of rejection to which the Purchaser may be entitled under Clauses 6 and 10.
- 6.9 Clause 6.8 herein is without prejudice to Clause 8 in respect of any Software.
- 6.10 Any Issued Material will be at the Seller's risk whilst in its possession.

## **7. QUALITY AND COMPLIANCE, STATUTORY OBLIGATIONS**

- 7.1 All Services supplied shall be in full accordance with the terms of the Contract and shall be executed in a proper and skilful manner by properly qualified and experienced personnel and conform to the best industry standards.
- 7.2 This Clause 7 shall include and apply to any replacement, repaired, substituted or remedial Products and/or substituted or remedial Services provided by the Seller.
- 7.3 While on the Purchaser's, or its customer's, premises, the Seller shall abide by any written or verbal instructions in relation to safety and security issued by the Purchaser or its customer.



7.4 The Seller shall comply with all relevant statutes, rules and regulations and by-laws affecting its obligations and the performance of the Contract.

## 8. SOFTWARE LICENCES

8.1 If the Products and/or Services include Software, the Seller acknowledges that the Purchaser may sub-licence the same to its customers or end users.

8.2 The Seller permits the Purchaser to market and sub-licence the Software and any accompanying hardware either alone or as part of a package.

8.3 The Seller grants to the Purchaser a perpetual, worldwide, non-exclusive, royalty-free, transferable, irrevocable licence:

- (a) to use and allow others to use the Software;
- (b) to sublicense the right of use under (a) above to any related corporations, other distributors and end users;
- (c) to grant a licence to related corporations, and other distributors to sublicense the right of use to end users in accordance with (a) above;
- (d) to copy the Software for installation in hardware or to have such copied by related corporations or other distributors;
- (e) to market and resell the Software and any accompanying hardware either alone or as part of a package; and
- (f) to reproduce and distribute copies of the Software in any medium, with or without modifications.

8.4 If the Products include operating manuals and other related documentation, the Seller grants to the Purchaser a perpetual, worldwide, non-exclusive, royalty-free, irrevocable licence to use, reproduce, distribute and prepare derivative works in the Purchaser's name all documentation furnished by the Seller. The Purchaser may reproduce such documentation without the Seller's logo or other identification of source, subject to affixing copyright notices to all copies of documentation and the Seller hereby

waives and shall cause to be waived all applicable rights with respect to such documentation.

8.5 These rights with respect to the Software and documentation shall extend to:

- (a) third parties to use and reproduce the Products for the Purchaser's internal use; and
- (b) third party channels of distribution.

8.6 The Seller undertakes to supply the Purchaser with all updates of the Software and to allow the Purchaser to make copies of them to those of its customers who hold an original copy version.

8.7 The Seller shall provide the Purchaser with such technical advice, assistance, data and documentation, including source code where necessary, to enable the Purchaser to maintain the Software if it so wishes.

## 9. REPRESENTATIONS AND WARRANTIES

9.1 The Seller warrants that:

- (a) it has all necessary permits and licences to allow it to sell the Products and/or Services to the Purchaser, and that it has complied with all relevant laws, rules and regulations affecting its obligations and the performance of the Contract;
- (b) it has good title to the Products it is selling to the Purchaser and in the event that the Products are sold to an end user, it will supply the end user with good title;
- (c) it has good title to licence the Software to the Purchaser and the end user (as the case may be); and
- (d) it has inspected and tested the Products for compliance with the Contract prior to delivery and shall, if requested, supply the Purchaser with certificates of origin and/or testing. Such certificates must state the Purchase Order number together with any item numbers.

9.2 The Seller further warrants that all Products and/or Services supplied shall, as the case may be:



- (a) conform with the quantity, quality, specifications, description and any other particulars contained in the Contract;
  - (b) conform with any sample, design criteria, drawing, description and specification furnished by the Purchaser and other requirements described or referenced in the Purchase Order;
  - (c) comply with the performance specifications in the Contract, be new and do not contain any used or reconditioned parts or materials unless otherwise specified or approved by the Purchaser; and
  - (d) be of satisfactory quality, merchantable and fit for any intended use expressly or impliedly made known to the Seller and free from all defects, liens, encumbrances and other claims against title.
- 9.3 No deviation may be made by the Seller in any respect from any drawings or specifications furnished by the Purchaser without the Purchaser's consent thereto in writing. In any drawings or specifications do not cover fully any materials or manufacturing process necessary to execute the Purchase Order the Seller must obtain the purchaser's instructions in writing before purchasing any such materials or apply any process.
- 9.4 Without prejudice to the Purchaser's rights under the Contract and at law, the Seller warrants that the Products and/or Services against defects for the longer of either (i) the Seller's normal warranty period; or (ii) a period of twelve (12) months (or as otherwise stated in the Contract) from the date of delivery of the Products, or the completion of any of the Services, or, where applicable, the commissioning date, or from the date of delivery of the defective Products repaired or replaced under Clause 10 herein.
- 9.5 Clauses 7 and 9 shall include and apply to any replacement, repaired, substituted or remedial Products and/or Services provided by the Seller.
- 9.6 Breach of any of the warranties in this Clause 9 shall, without prejudice to any other rights of the Purchaser, entitle the Purchaser to terminate the Contract and claim damages, loss, costs and expenses from the Seller (including, without

limitation, legal costs on an indemnity basis).

- 9.7 The Seller shall fully indemnify and hold harmless the Purchaser and all its assigns, subcontractors and customers from and against all claims, liabilities, actions, demands, damages, costs and expenses (including, without limitation, legal costs on an indemnity basis) of any kind or nature arising from, in connection with or related in any way to any breach or alleged breach of any of the warranties made by the Seller under the Contract.

## 10. INSPECTION AND REJECTION

- 10.1 If the Products and/or Services do not comply with the Contract the Purchaser shall within a reasonable time give notice of rejection to the Seller and without prejudice to any of its other rights the Purchaser may at its discretion require the Seller to comply with the Contract by expeditiously replacing or repairing as appropriate any rejected Products and righting or remedying any rejected Services. The rejected Products shall be returned to the Seller at its own risk and expense. All Services found to be defective, non-conforming or failing to meet any of the Seller's warranties shall be completely re-performed at the Seller's cost and expense. In urgent cases or if the Seller is in default with its obligation to repair defects, the Purchaser shall be entitled at the Seller's cost and expense to take the necessary steps to repair such defects itself or to entrust a third party to do so. The Purchaser shall inform the Seller before such steps are taken. If prior notification is not possible, steps necessary to avert damage may in urgent cases be taken without any notification and in these cases, the Purchaser shall notify the Seller as soon as possible afterwards. The Seller's warranty obligations remain unaffected, except where defects are attributable to the steps taken by the Purchaser or a third party.
- 10.2 Unless otherwise specified or approved by the Purchaser, the Seller shall remove the Purchaser's name and any of the Purchaser's trademarks, trade names, insignia, part numbers, symbols or decorative designs from all Products rejected or returned by the Purchaser or not sold or delivered to the Purchaser.





- 10.3 Any reference to "Seller" in this clause includes any subcontractor of the Seller permitted under Clause 16.1. Where the Seller repairs or replaces Products or provides remedial Services under these clauses, the Conditions shall apply to the repaired or replaced Products and/or the remedial or remedied Services.
- 10.4 The Purchaser reserves the right (but shall not be obliged to) at reasonable times to inspect or test the Products and/or Services at any stage before delivery and the Seller shall give rights of access to premises and such facilities as the Purchaser may reasonably require for such inspection.
- 10.5 Testing, inspection and acceptance by the Purchaser or end user shall not be deemed a waiver of the Seller's obligations under Clause 7 and Clause 10 herein.
- 11. TOOLS, PATTERNS, SAMPLES, CONFIDENTIAL INFORMATION**
- 11.1 All Issued Material shall be and remain the property of the Purchaser (even if charged for). The Issued Material shall not be passed on to third parties or used for purposes other than those specified in the Contract. The Seller shall indemnify and compensate the Purchaser and all its assigns, subcontractors and customers from and against any claims, liabilities, actions, demands, damages, loss, costs and expenses (including, without limitation, legal costs on an indemnity basis) suffered as a result of a breach of this and other Conditions herein.
- 11.2 The Seller hereby undertakes to maintain the Issued Material in good order and condition and to keep it separate from the Seller's property and to identify it as the property of the Purchaser. The Seller shall not use the Issued Material it except in respect of contracts with the Purchaser. It is the Seller's responsibility to replace any material that is lost, partly damaged or wholly destroyed while in his possession.
- 11.3 The Contract, Issued Material and any other information supplied by the Purchaser are confidential. Use of the Issued Material and any such information is permitted solely for the purpose of carrying out the Contract. The Seller shall not, without the prior written consent of the Purchaser, copy or disclose them to anyone other than those employees or agents of the Seller who need to know and only if these parties are bound to the Purchaser by substantially similar confidentiality provisions.
- 11.4 The Seller shall not without the Purchaser's written consent advertise or otherwise make known that the Seller supplies or has supplied Products and/or Services to the Purchaser.
- 11.5 The confidentiality obligations shall remain applicable and in full force indefinitely notwithstanding the termination or expiration of the Contract.
- 12. INTELLECTUAL PROPERTY RIGHTS**
- 12.1 The Seller warrants that the Products (including the Software if applicable) and/or the Services do not violate or infringe any Intellectual Property Rights of a third party.
- 12.2 The Seller shall fully indemnify the Purchaser and its assigns, subcontractors and customers from and against any claims, liabilities, actions, demands, damages, loss, costs and expenses (including, without limitation, legal costs on an indemnity basis) in respect of any alleged or actual infringement by any of the Products and/or Services of any Intellectual Property Rights of a third party and the Seller shall at its own costs and expenses defend or settle all such claims or actions or proceedings brought or threatened to be brought against the Purchaser.
- 12.3 Without prejudice to any of the foregoing, if any of the Products (including the Software if applicable) and/or Services is held or claimed to infringe any Intellectual Property Rights of a third party, the Seller shall at its own cost and expense use its best efforts to procure the right for the Purchaser to continue using or receiving the infringing Product and/or Software or Services. If the Seller is unable to do so, then the Seller undertakes at its own costs and expenses to:
- (a) replace or modify the infringing Product and/or Software, or remedy the Services expeditiously so that it is no longer infringing; or



- (b) if the Seller is unable to replace or modify the infringing Product and/or Software or remedy the Services, refund in full all payments made by the Purchaser for the infringing Product and/or Software or the Services and reimburse the Purchaser upon demand for all additional loss, costs and expenses incurred by the Purchaser in purchasing any substitute Products (including the Software if applicable) or and/or Services.

12.4 The Purchaser shall own all Intellectual Property Rights arising from modifications and customisations of the Products (including the Software if applicable) and/or the Services, made by Seller for the Purchaser, or by the Purchaser itself. The Purchaser reserves all its rights in drawings and in goods produced according to its instructions as well as in any processes developed by it.

12.5 All Intellectual Property Rights in the works carried out under the Contract is hereby assigned and shall vest in the Purchaser absolutely. This includes any copyright or design rights which will vest in and become the property of the Purchaser as and when such rights come into existence.

### 13. INDEMNITY

13.1 The Seller shall fully indemnify the Purchaser and its assigns, subcontractors and customers from and against any claims, liabilities, actions, demands, damages, loss, costs and expenses (including, without limitation, legal costs on an indemnity basis):

- (a) sustained by the Purchaser and its assigns, subcontractors and customers or for which the Purchaser and its assigns, subcontractors and customers may be liable as a result of the Seller's breach of or failure to perform its obligations under the Contract; and
- (b) resulting from death, injury, loss or damage to persons or property caused or contributed by the negligence, act, default or omission of the Seller, its employees, sub-suppliers (if permitted) or agents.

13.2 The Seller accepts liability for all other claims, liabilities, actions, demands, loss, damage, costs and expenses (including, without limitation, legal costs on an indemnity basis) incurred by the

Purchaser and its assigns, subcontractors and customers and which is attributable to negligence, act, default or omission on the part of the Seller, its employees, subcontractors (if permitted under clause 16.1) or agents or resulting from or in connection with the furnishing of the Products and/or Services by the Seller or otherwise arises or results from a breach of the Contract.

### 14. FORCE MAJEURE

14.1 A Party will not be liable to the other for any delay in or failure to perform its obligations as a result of any cause beyond its reasonable control, including acts of God, acts of terrorism, acts of war or threat thereof, fire, flood, explosion or power failure, infectious diseases, epidemics or government action. If any such delay is caused by the delay of a subcontractor of the Seller (permitted under Clause 16.2), and is beyond the control and without the fault or negligence of both the Seller and such permitted subcontractor, the Seller shall incur no liability for such delay unless the Products to be furnished by such permitted subcontractor were obtainable from other sources in sufficient time to meet the required delivery hereunder. The Seller shall notify the Purchaser immediately upon learning of any event which may result in any delay.

14.2 If such delay or failure continues for at least one (1) month, the Parties shall be entitled to forthwith terminate the Contract by notice in writing in which event, no Party shall have any claim against the other in respect of such force majeure.

### 15. TERMINATION

15.1 The Contract may be terminated forthwith by either Party:

- (a) if the other party commits any breach of the Contract which is not remedied within thirty (30) days of receiving written notice from the first-mentioned Party specifying the nature of the breach; or
- (b) if the other Party is unable to pay its debts or enters into liquidation (other than for the purpose of effecting a reconstruction or amalgamation) whether compulsorily or voluntarily or compounds with or convenes a meeting of its creditors or has a receiver or judicial manager appointed



of all or any part of its assets or takes or suffers any similar action in consequence of a debt, or ceases for any reason to carry on business.

- 15.2 The Purchaser shall be entitled to cancel the Purchase Order in respect of all or part only of the Products and/or Services by giving notice to the Seller at any time prior to delivery, in which event the Purchaser shall pay a fair and reasonable sum for and accept delivery of all finished Products manufactured by the Seller and Services properly rendered at the date of cancellation.
- 15.3 The Purchase Order may be cancelled by the Purchaser in the event of the Seller at any time failing or being unable to comply with any of the terms, conditions or warranties contained therein.
- 15.4 Termination of the Contract shall not discharge either Party from any existing obligation accrued due on or prior to the date of termination.
- 15.5 For the avoidance of doubt, any termination or cancellation of the Contract shall not affect the continuance in force of Software licences granted to the Purchaser or its customers.
- 15.6 In the event that the Purchaser terminates the Contract in whole or in part as provided in Clauses 15.1, and 15.3 above, the Purchaser may procure, upon such terms and in such manner as the Purchaser deems appropriate, replacement Products and/or Services and the Seller shall reimburse the Purchaser upon demand for all additional loss, cost and expense incurred by the Purchaser in purchasing such substitute Products and/or Services.
- 15.7 The rights and remedies granted to the Purchaser pursuant to the Contract are in addition to, and shall not limit or affect, any other rights or remedies available at law or in equity.
- 15.8 In the case of any unforeseen contingency causing stoppage or delay in production the Purchaser reserves the right at its option to suspend, modify or cancel the Purchase Order.

## 16. MISCELLANEOUS

- 16.1 The Seller shall not subcontract or assign

the whole or any part of the Contract, or any claims for any debt owed by the Purchaser to the Seller under the Contract unless the Purchaser gives its written consent, such consent to be signed by its authorised representatives, to such assignment or subcontract. If the Purchaser gives its written consent, the Seller is not relieved of any of its obligations under the Contract. The Purchaser may attach conditions to the giving of its consent. Any attempted delegation or assignment otherwise shall be void.

- 16.2 If the Products and/or Services supplied under the Contract require the Purchaser to have any permit or licence from any governmental or other regulatory authority, the Contract shall be deemed conditional upon such permit or licence being granted at the required time.
- 16.3 Without prejudice to Clause 9.1, the Seller shall comply with all applicable laws, rules regulations and requirements and shall obtain at its own costs and expense, all necessary permits and licences, and shall furnish to the Purchaser, upon request, information or documentation of the Seller's compliance, as well as any other information or documentation required to enable the Purchaser to comply with any laws, rules, regulations and requirements applicable to its receipt and use of any Products and/or Services.
- 16.4 If any provision of these Conditions is held by any competent authority to be invalid or unenforceable in whole or in part, such provision shall be construed, limited or, if necessary, severed to the extent necessary to eliminate such invalidity or unenforceability and the validity of the other provisions of these Conditions and the remainder of the provision in question shall not be affected thereby but shall remain in full force and effect.
- 16.5 Waiver by the Purchaser of any specific default or defaults by the Seller or failure by the Purchaser to cancel the Purchase Order or any part thereof when right of cancellation arises shall not constitute waiver by the Purchaser or any rights of the Purchaser under any of the terms and conditions of the Purchase Order arising through any further or subsequent default by the Vendor whether giving rise to a





right of cancellation or a claim for damage.

- 16.6 The Contract is the entire agreement between the Parties and may not be changed unless agreed in writing and signed by properly authorised representatives of both Parties.
- 16.7 Neither Party may assign, delegate, sub-contract, mortgage, charge or otherwise transfer any or all of its rights and obligations under this Contract without the prior written consent of the other Party.
- 16.8 All notices must be in writing, signed by the authorised representatives of both parties and sent to the address or fax number set out in the Contract. They may be delivered by hand, or by prepaid registered post or by facsimile and shall be deemed to have been served:
- (a) if by hand, at time of delivery;
  - (b) if by prepaid registered post, three (3) working days after posting; or
  - (c) if by facsimile, on the date printed on the facsimile transmission report produced by the sender's machine.
- 16.9 The Parties do not intend that any term of the Contract should be enforceable, by virtue of the Contracts (Rights of Third Parties) Act (Chapter 53B of Singapore) or otherwise, by any person who is not a party to the Contract.
- 16.10 The Contract shall be governed by and construed in accordance with the laws of Singapore. The Parties submit themselves to the exclusive jurisdiction of the Singapore courts.
- 16.11 Any reference in the Contract to a statutory provision shall include that provision and any regulations made in pursuance thereof as from time to time modified or re-enacted, whether before, on or after the date of the Contract, so far as such modification or re-enactment applies or is capable of applying to any transaction entered into prior to completion of the Contract and (so far as liability thereunder may exist or can arise) shall include also any past statutory provision or regulation (as from time to time modified or re-enacted) which such provision or regulation has directly or indirectly replaced.

- 16.12 The headings in these Conditions are inserted for convenience only and shall be ignored in construing these Conditions. Unless the context otherwise requires, words (including words defined in the Contract) denoting the singular number only shall include the plural and vice versa. The words "**written**" and "**in writing**" include any means of visible reproduction.

## 17. DEFINITIONS

- 17.1 "**Conditions**" means these terms and conditions for the purchase of Products and/or Services which are incorporated into and form part of the Purchase Order.

- 17.2 "**Contract**" means the contract between the Seller and the Purchaser for the supply of the Products and/or Services comprising:

- (a) the Seller's offer (subject to the provisions of Clause 1) and acceptance thereof by the Purchaser by way of the Purchase Order; or
- (b) the Purchase Order and (subject to the provisions of Clause 1) the Seller's acceptance thereof;

together with these Conditions, and the documents (if any) incorporated by express reference on the face of the Purchase Order and the documents (if any) referred to in Clauses 2 and 3.

- 17.3 "**Intellectual Property Rights**" means any trademark or service mark, pending trademark or service mark application, patent, pending patent application, know-how, registered and unregistered design, design rights, copyright, trade secrets, licences relating to any of the above or other similar industrial or commercial right.

- 17.4 "**Issued Material**" means without limitation samples, drawings, standard sheets, printing-copies, theories, models, profiles, tools, molds or other tooling, material, equipment, goods or articles or any property supplied or issued by the Purchaser to the Seller to be used in fulfilment of the Seller's obligations.

- 17.5 "**Party**" means the Seller or the Purchaser and "**Parties**" means both of them.



- 17.6 **“Products”** means the products, goods or items which are the subject of the Contract and which may (without limitation) comprise or include Software.
- 17.7 **“Purchaser”** means the SWTS company who places the order by way of the Purchase Order.
- 17.8 **“Purchase Order”** means the purchase order (in the Purchaser's standard form) signed by an authorised representative together with these Conditions or, where an order is made verbally, an order to purchase the Products and/or the Services and accepted by the Seller (as evidenced by the issuance of an invoice in respect of that order made verbally).
- 17.9 **“Seller”** means the person, firm or company referred to on the face of the Purchase Order with whom the Contract is made by the Purchaser.
- 17.10 **“Services”** means work and/or other services which are the subject of the Contract and which may (without limitation) comprise, include or relate to Software.
- 17.11 **“Software”** means the software and firmware items which are comprised or included in or related to the Products and/or Services.