

CMS IT SERVICES PVT LTD PURCHASE ORDER STANDARD TERMS & CONDITIONS (INDIA)

This is a Purchase Order between CMS IT SERVICES PVT LTD, hereinafter referred to as "CMSIT" and the vendor/supplier/ contractor/service provider identified on the face of this Purchase Order, hereinafter referred to as "Seller". CMSIT and Seller explicitly agree that the following standard terms and conditions of contract, including those detailed on the face of this Purchase Order, (collectively referred to as "the Agreement") shall apply to this Purchase Order.

1. Purchase Order Acceptance: Seller shall acknowledge in writing all terms and conditions and adhere to the commitment ('Order Acceptance') of the delivery schedule within twenty-four (24) hours from the receipt of Purchase Order via e-mail, post or courier. In the event of non-receipt of Order Acceptance by CMSIT within the above mentioned period, and/or the Seller fulfils the materials / services listed on this Purchase Order, the Purchase Order shall be deemed to have been accepted in all respects. The Seller shall not alter, amend or delete any of the terms and conditions included within this Order and the Seller expressly agrees that this Order takes precedence over any terms and conditions contained within any Seller quotation, proposal, order acknowledgement and / or other documentation (whether or not such alterations, amendments or deletions or differences materially alter this Purchase Order or not.) No change, modification revision or amendment of this Purchase Order shall be valid unless agreed in writing by an authorized representative of CMSIT

2. Delivery Terms: Time is of the essence, therefore Seller shall strictly ensure billing and delivery of the materials / services to be done on or before delivery by date specified in Purchase Order or as instructed by CMSIT in writing. Seller shall strictly confirm expected delivery date within 3 working days from date of order. The Seller's performance shall not be considered to be complete until the materials / services have been accepted by CMSIT. If the Seller delivers such work after the delivery date, CMSIT may reject such work. The Seller cannot deliver any hardware / software without a valid Purchase Order issued by CMSIT. Seller should ensure that there should not be any short/wrong shipment of any products/services/licenses/not working on arrival at site. Seller should ensure that the ordered materials should be securely packed as per prevailing standards to withstand hazards/unforeseen transit damages/pilferage in transit upto the destination and prices mentioned is inclusive of packing charge unless otherwise stated in the order. A copy of Invoice, Packing list and Airway bill to be faxed/ mailed (scan copy) to us immediately after the shipment is effected and one set of non-negotiable documents should be sent to us directly through courier. In event of incomplete documents resulting in delay in clearing and acceptance of goods or holding the goods, all charges will be to Seller accounts. Specifications and perform according to the requirements for the specified warranty period. In case of Software all updates, patches/bugs fixes and installation support should be provided to CMSIT without any additional cost. The Seller shall supply the latest version/edition of the Software unless otherwise agreed by CMSIT in writing. Payables will be effected by CMSIT only upon receipt and acceptance of the materials/services in the event if there are multiple purchase orders issued against single project seller has to fulfil all obligations with respect to the entire project for the payables to be effective. The Seller should give prior intimation for End of Life Products and should come-out with a clear Road-map on the future versions/products and support plan for End of Life Products and should come-out with a clear Road-map on the future. Versions/products and support plan for such end of life products till the completion of warranty / support period. The Seller warrants that the hardware and software supplied are non-infringing of any intellectual property rights of any 3rd party.

3. Prices: Prices mentioned are CIF (Cost Insurance and Freight) till our Bill To/SHIP Address until and otherwise CMSIT agrees with written confirmation. Seller hereby confirms the prices charged to CMSIT are the same or lower than the officially published list price for the materials /services and that such price is no higher than the price charged to any other similarly placed customers of Seller. All retail packages should specify MRP prices. In case of jumbo box containing individual retail packs both set of materials should specify MRP prices as per Standards of Weights & Measures Act.

4. Taxation : GST as per HSN Code will be applicable as mentioned in Purchase Order as per GST Rule implemented from 1st July'2017 also Seller should take note of following points:

- Seller undertakes to submit all necessary information, documents and other evidences, like Copy of Seller's certificate of registration with GST Tax Authority, tax invoice (in original) in compliance with the GST law Specifically mentioning GSTN detail, Harmonized System of Nomenclature (HSN)/ Service Accounting Code (SAC) specified under the GST law for goods and services supplied and such other documents that may be required by CMS IT Services Private Limited to enable CMS IT Services Private Limited to claim the credit of GST charged to it by Supplier. For any adjustment in the course of business, if a debit or credit note is required to be issued, the same should be in compliance with the GST law.
- The CMS IT Services Private Limited would be entitled to Input Tax Credit ("ITC") only to the extent of the purchases reported by the Seller. In case, the outward supplies are not correctly and /or timely disclosed by the Seller in GSTR – 1, this may result in denial of ITC to the CMS IT Services Private Limited along with any interest and penal implications. Seller undertakes to remit applicable Goods and Service Tax ("GST") to the appropriate tax jurisdiction of the applicable taxing authority within the time specified in the applicable law. Seller should also ensure to make payment of GST against the GST TIN Number of the jurisdiction as provided to it by CMS IT Services Private Limited.
- In the event, Seller does not remit the GST as stated above, or remits the same to a jurisdiction not as per the GST TIN Number as provided by CMS IT Services Private Limited or claims that it has made the remittance, but the same is not reflected in the GSTN network of CMS IT Services Private Limited, then Seller shall become



liable to promptly, without delay or demur, reimburse to CMS IT Services Private Limited (i) all the GST payable for the Services, and/or (ii) the disallowed or unavailable credits which otherwise CMS IT Services Private Limited would be entitled under the applicable law if the GST was properly remitted by Supplier within the time period stated above (iii) the interest and penalties associated with such disallowed or unavailable credits and (iv) all other additional taxes or late charges that may be demanded by or may become payable to the taxing authority from CMS IT Services Private Limited. In such a situation, the CMS IT Services Private Limited would be entitled to recover the amount from the Seller either by holding their payment and/or by deducting from the balance payment and/or by raising a debit note on the Seller.

- d. In addition to the above, if any taxing or the government authority asserts that Seller should have deposited certain taxes with the taxing or the government authority, which Seller did not deposit, and/or disallows the credit of GST whether or not with interest and/or penalty, Seller hereby agrees to indemnify CMS IT Services Private Limited for such taxes and hold CMS IT Services Private Limited harmless on an after tax basis from and against any taxes, interest and penalties levied or asserted by the taxing or the government authority in connection therewith. Seller acknowledges and agrees that in the event any tax proceedings are initiated against CMS IT Services Private Limited, Seller shall fully co-operate with CMS IT Services Private Limited by furnishing all information on timely basis as may be required by CMS IT Services Private Limited from Seller, including but not limited to confirmation of booking/accrual of income.
- e. Seller acknowledges and agrees that adherence to compliances would be monitored by the taxing authorities and any defaults may result in blacklisting or special scrutiny of either of the Parties. Accordingly, in the event of continuing defaults from Seller, which results in any kind of adverse actions against CMS IT Services Private Limited including special scrutiny of the books of accounts of CMS IT Services Private Limited, then CMS IT Services Private Limited shall have the right to immediately terminate this Agreement for violation of law committed by Seller and the breach of this Agreement.

5. Invoicing : All invoices shall be forwarded to the correct billing address shown on the face of the Purchase Order and should carry CMSIT PO number , GST Number, Warranty Terms, Bill To/ Ship To Address, HSN Codes ,Tax Declaration, Service Category Code in Case of Service invoices must appear on all correspondences and related documents . All necessary documentation specified by CMSIT must accompany the invoice. Invoices containing the incorrect billing address, not showing the correct Purchase Order number or Warranty Terms or GST Number or Tax Declaration Or Service Category Code failing to include the correct supporting documentation will be returned to the Seller unpaid.

6. Inspection and Conformance: The materials/services should be strictly in accordance with CMSIT's requirements and specifications. In case if requirement End Customer ORDER/TENDER/RFP/RFQ and should be technically compatible. Any revision or modification thereof must have prior written approval of CMSIT. Materials / services not as per CMSIT and in Back to Back Order if not as specifications of End Customer ORDER/TENDER/RFP/RFQ shall be treated as defective. Seller shall provide complete information of the materials / services being supplied. This shall include information relating to features, platform compatibility and conformance to specifications, changes in product / process definition and cost involved for the additional features. Seller shall provide Certificate of Conformity/ User Manuals / Test Reports and any other documentation as requested by CMSIT with the shipment, as required. Seller shall inform CMSIT on any non-conformity in the products / services already supplied to CMSIT, if noticed after shipment /delivery. In such a case, Seller shall make arrangements for CMSIT approval of such non-conforming products / services, failing which Seller shall provide free replacement(s) or re-perform the services at no cost to CMSIT, as the case may be. CMSIT reserves the right to inspect the material at any stage of the manufacturing process and / or to review the service being provided and Seller shall allow free access to CMSIT, the authorized representatives of CMSIT and / or CMSIT's customers where the materials / services are direct, and / or representatives of statutory bodies and extend all facilities and assistance in carrying out the inspection / review. No inspection / review made prior to the final acceptance or testing shall relieve the Seller from meeting the requirements of this Purchase Order.

7. Material Rejections: All rejected/defective materials will be stored by at Seller's risk for a period of Seven (7) days from the date of intimation to Seller by e-mail/fax/telephone/courier/post and Seller shall promptly arrange for the collection and removal of the same at its cost. In case the rejected/defective material is not collected by seller within this time, CMSIT shall be entitled to dispose of them and remit the proceeds therefrom to Seller after retaining any disposal costs, incurred by CMSIT, together with freight handling and any other charges that CMSIT incurs.

8. Maintaining and Supplying Spares: Seller hereby warrants that it shall ensure supply of spares including their equivalents for the main equipment and other accessories under the Purchase Order for a period of fifteen (15) years, unless otherwise specified, from the date of supply of the main equipment. In the event of any proposed discontinuance of manufacture of the spares and/ or their equivalents required for the equipment, Seller shall provide at least twelve (12) months' notice to CMSIT to enable it to place order for life-time spares of the equipment.

9. Payment Terms: Payment terms will be the terms agreed upon on the Purchase order, subject to acceptance of the materials / services specified in the Purchase Order .

10. Warranty Terms: Seller should abide warranty terms those set forth on the face of the Purchase Order . Seller should also furnish warranty term in their Invoice. This warranty is the exclusive warranty no other warranties or representations,



express or implied by operation of law or otherwise or fitness for a particular purpose. Seller should ensure under no circumstances CMSIT shall be liable for any penalties, compensation either from the Vendor or from any other party/entity directly or indirectly affected due to non fulfilment of warranty services supplied here under. Also Materials / equipment / accessories supplied under the Purchase Order shall be guaranteed by Seller against any defect or deficiency in material, design, manufacture or as otherwise detailed within the Purchase Order. In case if Products are found to be not working on Arrival at site then seller should arrange to get the whole equipment replaced with an equivalent or higher model at no extra cost to CMSIT.

11. Compliance to Anti-bribery Policy: Seller and each of its directors, officers, employees, agents or other representatives represents and warrants that it will not in connection with its obligations under this Purchase Order or any other agreement with

CMSIT, give, offer, promise to offer, or authorize the offer, directly or indirectly (proxy bribing), anything of value (such as money, shares, goods or service, gifts or entertainment) to government officials, government customers, potential government

customers or foreign government officials including officials of any public international organizations or officials of any political party either in India or abroad ("Officials") with an;

a) Intent to influence any act or decision in his or her capacity.

b) Induce the official to do or omit to do any act in violation of his or her lawful duty to obtain any improper advantage

12. Statutory Compliances: Seller shall provide all necessary documentation / respective government approvals and necessary formalities, including, but not limited, to sealing of containers to ensure that the supply transaction is fully compliant with the law

before effecting supply to CMSIT. CMSIT will neither be responsible nor will entertain any claim on account of Seller's non-adherence to compliance/ documentation/ approvals. Seller shall obtain CMSIT's prior written consent for any deviations in this regard. CMSIT shall provide reasonable assistance to enable Seller to obtain necessary approvals prior to the shipment if so affected. In the event of provision or deployment of personnel, the Seller shall be responsible for ensuring that the necessary permissions/approvals are obtained from any competent statutory bodies or agencies - for example labour authorities - before accepting the Purchase Order.

13. Non-Disclosure: The Seller will, at all times, maintain the confidentiality regarding the contents of this Purchase Order and any specifications, documents, prototypes and any business, technical or financial information that is, at the time of disclosure, designated in writing as confidential (hereinafter the "Confidential Information"). Seller represents and warrants that it shall follow all policies and procedures that may be specified by CMSIT including, but not limited, to security, access and confidentiality policies. Seller further agrees that it will not make use of, disseminate, or in any way disclose any Confidential Information of CMSIT to any person, firm or business, except to the extent necessary for any services or discussions with the authorized representatives of CMSIT and any purpose CMSIT may hereafter authorize in writing. Furthermore, the existence of any business discussions, negotiations or agreements in progress between the parties shall not be released to any form of public media without the written approval of CMSIT. Seller agrees that it shall treat all Confidential Information of CMSIT with the same degree of care as it accords to its own Confidential Information and represents that it will exercise reasonable care to protect its own Confidential Information, which includes at a minimum, limiting access of Confidential Information solely to its authorized personnel. Seller shall not publicise, or disclose the presence of this agreement nor use in any manner the name, trade mark or logo of CMSIT without the prior written consent of CMSIT. Upon request by CMS IT the Seller shall promptly return all such confidential information to CMS IT made at any time during or after completion of Seller's performance pursuant to the services rendered. The obligations of Confidentiality under this Agreement shall survive the expiry or termination of this Agreement.

14. No Assignment: The Purchase Order shall inure to the benefit of and be binding upon the respective successors and permitted assigns of CMSIT and Seller. The Purchase Order shall not be assigned in whole or in part by Seller without prior written consent of CMSIT. CMSIT shall have the right to assign this Purchase Order upon advance written notice to Seller.

15. Insurance Clause: Insurance: Seller will secure and maintain insurance providing coverage for liabilities to third parties for bodily injury (personal injury) and damage to property in amounts sufficient to protect CMSIT in the event of such injury or damage, and will be in compliance with any and all laws, regulations or orders addressing the liabilities of an employer to its employees for injuries and disease suffered in connection with employment. Seller further will maintain such additional types and limits of insurance as is customary for a company of similar size and similar operations to Seller in the jurisdiction or jurisdictions in which Seller's operations take place.

16. Intellectual Property: Seller shall warrant and shall be deemed to have warranted that all materials and services supplied against the Purchase Order are free of infringement of any patent, copyright, design, or trademark or any other intellectual property right (collectively "IPR"), and shall at all times indemnify CMSIT against all claims of IPR infringement, which may be made in respect of the materials and or services supplied. Seller warrants the originality of all hardware or software supplied by Seller. In the event that CMSIT suffers any loss, expenses or damage due to a claim or alleged claim of infringement, Seller shall



make good such loss CMSIT's legal costs of defending such claim. Each Party owns, and will continue to own all right, title and interest in and to any inventions, know how, works in any media, software, information, trade secrets, materials, property or proprietary interest that it owned prior to this Agreement, or that it created or acquired independently of its obligations pursuant to this Agreement (collectively, "Retained Rights"). All Retained Rights not expressly transferred or licensed herein are reserved to the respective owner.

17. Liquidation Clause: In the event Seller dissolves or goes into bankruptcy or causes to be wound up except for reconstruction purposes or carries on its business under a Receiver, the representatives of or any receiver or liquidator or any person in whom the contract may be vested shall forthwith issue notice thereof in writing to CMSIT and shall remain liable for the successful performance of the Agreement and nothing aforesaid shall be deemed to relieve Seller or its successor of its obligations under the Purchase Order under any circumstances.

18. Indemnity Clause: (1) Additionally, the Seller shall indemnify, save and hold harmless CMSIT, its subsidiaries and affiliates, officers, directors and employees, against any and all claims, losses, penalties and expenses, including court costs and reasonable attorney fees, resulting from any breach of this warranty by the Seller. CMSIT shall have the right to terminate this Agreement with immediate effect, without any liability whatsoever, if Seller is in breach of this warranty.

(2) If a third party enjoins or interferes with CMS IT's work, then in addition to the Supplier's obligations under section 16 (2), Supplier will use its best efforts to (i) obtain any licenses necessary to permit CMS IT to continue to use of the work; or (ii) replace or modify the work as necessary to permit CMS IT to continue to use of the work or if (i) and (ii) are not commercially reasonable then (iii) promptly refund to CMS IT the amount paid for any work for which a third party enjoins or interferes with CMS IT use of the work.

19. Imported Products: If any of the products are imported into any other country by the Seller, Seller will be responsible for all legal, regulatory and administrative requirements associated with any importation and the payment of all associated duties, taxes and fees. If CMSIT is the Importer of Record, Seller will be responsible for supplying information to facilitate the import, which includes a proper Commercial invoice with (i) ship to bill to information; (ii) bill from information; (iii) description of goods; (iv) classification of goods; (v) Country of Origin of goods; (vi) fair market value of goods; and (vii) weights and dimensions of goods.

20. Notices : All notices, requests and other communications under the Purchase Order must be in writing by registered post or delivered by hand to the party to whom such notice is required or permitted to be given. If mailed, any such notice will be considered to have been given three (3) business days after it was mailed, as evidenced by the post mark. If delivered by hand, any such notice will be considered to have been given when received by the party to whom the notice is given, as evidenced by the written and dated receipt of the receiving party. The mailing address for notice to either party will be the address as given in the front sheet of the Purchase Order. Either party may change its mailing address by written notice to the other party.

21. Termination Clause:

a) Termination for Convenience: CMSIT may terminate this agreement in whole or in part, with or without cause at any time by providing 2 days' written notice to Seller or as otherwise specified within the Purchase Order. If a Purchase Order is so terminate CMSIT shall make payment to Seller only for that portion of any Purchase Order actually delivered and accepted prior to the date of termination. Under no circumstances shall CMSIT be liable for other damages whatsoever, including loss of profit or anticipated profit due on account of such termination. Notwithstanding any partial termination of any Purchase Order, Seller shall continue to perform and complete those parts of any Purchase Order not so terminated.

b) Termination for Default: CMSIT may, by written notice of default to Seller, terminate the whole or any part of any Purchase Order in any one of the following circumstances: i) Seller fails to make delivery of the materials or to perform the services within the time specified herein or any extension thereof; or ii) Seller fails to perform any of the other provisions of the Purchase Order or so fails to make progress as to endanger performance of the Purchase Order in accordance with its terms, and does not cure such failure within a period of ten (10) days (or such longer period as CMSIT may authorize in writing) after receipt of notice from the CMSIT specifying such failure; (iii) Seller becomes insolvent or the subject of proceedings under any law relating to bankruptcy or the relief of debtors or admits in writing its inability to pay its debts as they become due; or iv) Seller fails to provide CMSIT adequate assurance of due performance by Seller.

c) Blacklisted or Suspended by Public Financial Institution(Embargo Listing):

"In the event, the Company becomes aware of (i) any suspension or blacklisting orders passed; and/or (ii) any penalties levied, against the Seller by a Public Financial Institution, a globally recognized commercial body or other similar institution or agency or a government/regulatory body in any country for any reason whatsoever, then, the Company shall have the right to take appropriate action against the seller including without limitation issuing show cause notice or forthwith terminating the PO or all/any contracts with the seller. The seller agrees to cooperate with the Company in all investigations that the Company undertakes and/or provide the Company with all documents reasonably required by the Company, in this respect." If any Purchase Order is so terminated, CMSIT may procure or otherwise obtain, upon such terms and in such manner as CMSIT may deem appropriate, materials and / or services similar to those terminated. Seller, subject to the exceptions set forth below, shall be liable to CMSIT for any additional costs of incurred in procuring such similar materials and / or services. Seller shall transfer title and deliver to CMSIT, in the manner and to the extent requested in writing by CMSIT at or after termination, such complete articles partially completed articles, property, materials, parts, tools, dies, patterns, jigs, fixtures, plans, drawings, information and contract rights as Seller has produced or acquired for the performance of the terminated part of any Purchase Order and CMSIT will pay Seller the contract price for completed articles to and accepted



by CMSIT and the fair value of the other property of Seller so requested and delivered. Seller shall continue performance of the Purchase Orders to the extent not terminated. CMSIT shall have no obligations to Seller in respect to the terminated part of any Purchase Order except as provided herein.

22. Severability: In the event of any of these terms, conditions or provisions hereof is held to be invalid, unlawful or unenforceable such term, condition or provision shall, to that extent, be severed from the remaining terms, conditions and provisions which shall continue to be valid to the fullest extent permitted by law and both parties agree to replace any invalid provision with a valid provision which most closely approximates the intent and economic effect of the invalidated provision.

23. Limitation of Liability: Notwithstanding anything to the contrary, the total liability of CMSIT under the Purchase Order shall not exceed the total amount paid to Seller for materials / services under the Purchase Order under which the liability arises. Neither party shall have any liability whatsoever of any nature, for indirect, consequential, punitive or speculative damages including, but not limited, to loss of profits, revenue, reputation or goodwill.

24. Blacklisting Declaration:

Seller represents and warrants to CMSIT that as on date of signing of this Purchase Order, it is neither blacklisted/ debarred nor under a declaration of ineligibility by Central / any State Government or Government or Semi- Government Organization/ Department or Institution and PSU's in India and abroad. Seller further undertakes to duly inform CMSIT in the event if it is blacklisted subsequent to execution of this Purchase Order. Seller shall indemnify, save and hold harmless CMSIT, its subsidiaries and affiliates, officers, directors and employees, against any and all losses, penalties and expense including court costs and reasonable attorney fees resulting from any breach of this warranty by Seller. CMSIT shall have the right to cancel this Purchase Order with immediate effect, without any liability whatsoever, if Seller is in breach of this warranty.

25. Survival Clause: The sections pertaining to Liability, Indemnity, warranty and any other sections which by its nature extend beyond the expiration or termination of the Purchase Order shall survive upon expiration or termination of the PO.

26. Non Solicitation: Seller will not, during the term of this Purchase Order and for a period of one (1) year thereafter, either directly or indirectly, solicit, recruit, employ or hire the employees of CMSIT.

27. Compliance with Laws:

Vendor represents and warrants that it will comply with all applicable laws and regulations pertaining to its performance of its obligations under this Purchase Order. Vendor's failure to comply with the applicable laws shall be a material breach of this Purchase Order and CMS IT shall terminate this Purchase Order without any liability to the Vendor.

28. Force Majeure Clause: No failure or omission by Seller or CMSIT to carry out or observe any of the conditions or obligations to be performed hereunder shall, except as expressly agreed to the contrary herein, give rise to any claim against the other party or be deemed to be in breach of this Agreement if such a failure or omission arises from a cause reasonably beyond the control of the party claiming a Force Majeure event or Force Majeure. In the event such incidence continues beyond 15 days then the parties may mutually decide on continuity of relationship and may on mutual Agreement terminate the "Supply" without any liability and obligations on the other side except for the payments due (if any) for the Supply till the time of Force Majeure event.

29. Terms and Conditions Binding: The above terms and conditions are binding upon parties on all transactions regarding the subject matter hereof and shall supersede all prior correspondences whether communicated in writing and /or verbally unless there is a valid agreement in place between the Parties and said agreement is referenced on the face of this Purchase Order. Parties may, however, modify the above terms in the respective Purchase Order by the mutual written agreement of the authorized representatives of CMSIT and Seller.

30. Governing Law : The Governing law of the contract will be the laws of India. All disputes, differences of opinion and controversies arising between the Parties out of this PO shall be resolved amicably, failing which they shall be finally settled by a sole arbitrator mutually appointed within 15 days by the Parties herein. The Arbitration shall be conducted in accordance with the Arbitration and Conciliation Act, 1996 or any amendment thereof for the time being in force. The award of the arbitrator shall be a reasoned award and shall be final and binding on the Parties. The arbitration proceedings shall be conducted at a mutually decided venue at Mumbai and the award shall be rendered in English Language. During the pendency of any arbitration proceedings, the Parties shall continue to perform their respective obligation under this PO. Both of Parties shall bear their respective Arbitration cost. Notwithstanding the forgoing, the parties will be free to pursue injunctive relief and restraining orders relating to the parties' proprietary rights and confidentiality obligations as stated above in the competent Courts.. The governing law of the contract will be the laws of India and courts at Mumbai shall have exclusive jurisdiction.

