

PROCUREMENT OF GOODS AND SERVICES
TERMS AND CONDITIONS

Between the Purchaser and the Supplier

1. Definitions

(a) In these Terms and Conditions, unless the context otherwise requires:

- (i) "Background IPR" means the Intellectual Property Rights owned by the Supplier relating to the Goods and/or Services before the Delivery Date.
- (ii) "Delivery Date" means the date specified in the Purchase Order for the Goods to be delivered and/or for the Services to be commenced.
- (iii) "Foreground IPR" means all Intellectual Property Rights resulting from delivery of the Goods and/or from the Services.
- (iv) "Goods" means the goods (whether specific or unascertained) and parts or units thereof to be supplied pursuant to the Purchase Order
- (v) "Intellectual Property Rights" means all trademarks, copyrights, patents and design rights (whether registered or not and all applications for any of the foregoing), and all rights of confidence in the know-how whensoever and howsoever arising for the full term thereof and all renewals and extensions thereof.
- (vi) "Purchase Order" means the purchase order attached to or issued together with these Terms and Conditions.
- (vii) "Purchaser" means the entity that issues the Purchase Order.
- (viii) "Purchaser's Affiliates" means: (i) an organisation, which directly or indirectly controls the Purchaser or (ii) an organisation which is directly or indirectly controlled by the Purchaser; or (iii) an organisation, which is controlled, directly or indirectly, by the ultimate parent company of the Purchaser. The term "control" as used herein means the possession of the power to direct or cause the direction of the management and the policies of an entity, whether through the ownership of a majority of the outstanding voting security or by contract or otherwise.
- (ix) "Results" means results that are to be achieved from the provision of the Services.
- (x) "Services" means the services which the Supplier is to provide pursuant to the Purchase Order.
- (xi) "Specifications" means the descriptions of the scope, manner and specifications relating to the Goods and/or Services set out in the Purchase Order.
- (xii) "Supplier" means the entity or person to whom the Purchase Order is addressed.
- (xiii) "Terms and Conditions" means these terms and conditions of purchase and all attachments, annexes and schedules hereto, if any.

(b) Words importing the singular shall include the plural and vice versa.

(c) The headings are for convenience only and not for the purposes of interpretation.

2. Effect of these Terms and Conditions

- (a) Written Acknowledgment or commencement of performance by the Supplier of this Purchase Order, whichever occurs first, shall constitute acceptance of this Purchase Order for the Goods and/or Services and all of the Terms and Conditions herein (this "Contract").
- (b) NO MODIFICATION OF THIS PURCHASE ORDER OR THESE TERMS AND CONDITIONS SHALL BE VALID UNLESS EXPRESSLY ACCEPTED IN WRITING BY THE PURCHASER'S AUTHORISED REPRESENTATIVE. ANY TERMS AND CONDITIONS SET OUT IN THE SUPPLIER'S QUOTATION, ORDER ACKNOWLEDGEMENT FORM, INVOICES OR ANY OTHER DOCUMENT FROM THE SUPPLIER SHALL BE DEEMED INVALID AND NON-BINDING ON THE PURCHASER.
- (c) If there is any outstanding information which has not been furnished by the Supplier, the Purchaser shall not be obliged to accept or purchase the relevant Goods and/or accept any Services ordered until such outstanding information has been furnished.
- (d) To the extent that there is any inconsistency or conflict between the terms of the Purchase Order and these Terms and Conditions, the terms in the Purchase Order shall prevail to the extent of such inconsistency or conflict.

3. Pricing

The price(s) to be charged for Goods supplied and/or Services provided shall be the price(s) set out in the Purchase Order. Such price(s) shall exclude the prevailing Goods and Services Tax chargeable for the Goods and/or Services under the Goods and Services Tax Act (Cap. 117A) ("GST"). The Purchaser shall reimburse the Supplier any prevailing GST charged on the Goods and/or Services. Any other taxes and all costs of packing, delivery, shipping, customs and insurance of Goods or other delivery costs shall be borne by the Supplier.

4. Purpose for which Goods and/or Services are Required

- (a) The Supplier is deemed to have full knowledge of the purpose for which Goods and /or Services are required by the Purchaser (including but not limited to the Results) (the "Purpose") and acknowledges that the Purchaser relies on the Supplier's skill and judgement in supplying the Goods and/or the Services.
- (b) The Supplier shall provide the Purchaser with all instructions relating to the use or handling of Goods and shall where such Goods are poisonous, hazardous, explosive, dangerous or otherwise have to be handled with care, provide relevant warnings relating to the same.

5. Warranties

The Supplier warrants each of the following:

- (a) The Supplier shall provide the Goods and/or the Services (in the quantity and to the Specifications) for the consideration stated in the Purchase Order. The Goods and/or Services shall be suitable for the Purpose, be provided with all due care and diligence and conform in all respects to the Specifications to the satisfaction of the Purchaser;
- (b) In providing the Goods, the Supplier further warrants that:
 - (i) All the Goods shall be (i) of good workmanship, (ii) free from all defects in design, materials, manufacturing or operation (including malfunctions), (iii) of merchantable and satisfactory quality, (iv) fit and sufficient for the Purpose, (v) conform to the Specifications, (vi) be compatible with the designated operating, storage or other usage environment for Goods, and (vii) free of all liens and encumbrances
 - (ii) Any software necessary for the operation of any Goods shall be embedded therein, or provided to the Purchaser together with all instruction manuals, user guides and other information, materials or documentation relating to the operation and use of such software ("User Information"). The price of the Goods shall be deemed to include the price of the relevant software and the User Information; (c) In providing the Services, the Supplier further warrants that: (i) the Services shall be suitable for the Purpose;
 - (iii) the Services shall be provided with all due care, skill, accuracy and diligence;
 - (iv) the Services shall conform in all respects to the Specifications to the satisfaction of the Purchaser;
 - (v) the Supplier shall use appropriate materials of high quality fit and sufficient for the Purpose, and be free from all defects in design, manufacturing or operation;
 - (vi) the Supplier shall employ appropriate techniques and standards in compliance with the highest standards of relevant industry practice; (vi) the Supplier shall engage personnel of suitable training and experience.
- (c) The Supplier warrants that all information, descriptions, specifications, drawings and data published or otherwise given in relation to the Goods and/or Services are true and accurate.
- (d) If the Supplier uses any materials for the performance of Services, the Supplier shall, at the Purchaser's request, furnish samples of such materials for its inspection and approval and shall use only materials that correspond with approved samples;
- (e) The Supplier shall replace any personnel who deliver the Goods and/or perform the Services at the request of the Purchaser if the Purchaser decides that such personnel is unsuitable. All personnel of the Supplier who deliver the Goods and/or perform the Services are to comply with all security measures, rules or regulations imposed by the Purchaser failing which the Purchaser may request such personnel to leave its premises;
- (f) The Supplier shall ensure performance of this Contract shall not, and shall warrant that the use of any Goods (if Goods are purchased under this Contract) shall not, infringe the Intellectual Property Rights of any third party and the Supplier shall obtain, without charge to the Purchaser, all licences or consents necessary for the performance of this Contract and the proper use of the Goods by the Purchaser (if Goods are purchased under this Contract);.
- (g) The Supplier shall not be allowed to make any changes to the Contract unless the Supplier's proposed changes have been accepted in writing in advance by the Purchaser's authorised representative. The Purchaser may, at any time, by written notice to the Supplier, order work suspensions or changes in quantities, Specifications, methods of delivery or other aspects of the Contract. Such changes shall be mutually agreed in writing as an amendment to the Contract or in a new purchase order signed by both parties; and
- (h) The Supplier shall ensure the Goods and/or Services shall be supplied and performed in compliance with the Workplace Safety and Health Act (Cap.354A), the associated regulations and any other applicable health and safety legislation (collectively "Health and Safety Laws"), and that it shall execute any documents

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required by the Purchaser to confirm such compliance with the Health and Safety Laws, and/or otherwise demonstrate to the satisfaction of the Purchaser that it has complied with the Health and Safety Laws.

In the event the Supplier breaches any of the foregoing warranties, the Supplier shall, at the Purchaser's option, repair or replace the Goods (where applicable), remedy the breach or fully refund the amount paid therefor within 7 days of the Purchaser's request for the same. If Goods are purchased under this Contract, the Supplier will bear all risks and costs in relation to the repair or replacement of the relevant Goods. This obligation shall subsist for a period of at least 12 months commencing from the Delivery Date (if Goods are purchased under this Contract) or Completion Date (if Services are purchased under this Contract), or if the Services are not completed, for a period of at least 12 months commencing from the Delivery Date. The Supplier will bear all risks and costs in relation to the foregoing. The Purchaser's remedies herein do not derogate from the Purchaser's ability to terminate the Contract pursuant to Clause 14.

6. Time of Delivery of the Goods and/or Provision of the Services

- (a) Goods ordered shall be delivered to the delivery location(s) stated in the Purchase Orders (the "place of delivery") on or before the Delivery Date in the manner stated in the Purchase Order. Unless delivery by instalments is expressly stated in the Purchase Order, there shall be deemed to be a single and indivisible Contract.
- (b) The Purchaser shall be entitled to a reasonable opportunity of inspecting and examining the Goods to ascertain whether they conform to the Specifications and shall be entitled, if the Purchaser so requires, to subject the Goods to an acceptance or other applicable test (or a series of such tests) ("Tests") for the purposes of verifying that the Goods meet the Specifications. Any such inspection, examination and Tests may be conducted by the Purchaser within a period of 30 days from the Delivery Date.
- (c) Without prejudice to any other rights of the Purchaser, the Purchaser may reject any Goods or part thereof which fail to conform to the Specifications at any time.
- (d) Services shall be provided at the delivery location stated in the Purchase Order on the Delivery Date and for the period (the "Supply Period") set out therein.
- (e) Unless otherwise provided in the Purchase Order, the Services shall be deemed to have been duly completed on the date of certification by the Purchaser of the completion of the Services (the "Completion Date").

7. Compliance with Laws

- (a) The Supplier shall comply with all applicable laws, regulations, industry standards (if any) and other requirements in providing Services, and if Goods are purchased pursuant to this Contract, in relation to the manufacture, packaging, packing and delivery of the Goods. The Supplier shall also obtain and maintain all authorisations, licences and/or permits necessary for the performance of this Contract.
- (b) If the Goods supplied are, or the provision of Services would expose the Supplier's employees on the Purchaser's premises to, chemicals, biomedical products, reagents, biological materials or other similar products, the Supplier shall ensure compliance with, and ensure that such employees comply with all applicable legislation in Singapore, including but not limited to the legislation listed in Annex A, as well as the Purchaser's rules, regulations, policies and other measures relating thereto.
- (c) If, in the course of or as a result of the provision of Services, the Purchaser is or may be liable for the infringement of the Intellectual Property Rights of a third party, the Supplier shall promptly and at its own cost obtain all necessary licences or consents in respect of such rights for the continued provision or use of Services. If the Supplier is unable to do so, it shall remove all infringing items, matter or the affected portion thereof and fully refund the price of Services or affected part thereof (on a proportionate basis) to the Purchaser.

8. Invoicing and Payment

The Purchaser shall have a credit term of a minimum of 30 days from the date of receipt of the Supplier's invoice in which to render payment for Goods supplied. Unless otherwise agreed, all payments will be made electronically (not by cash or cheques, but by electronic payment methods such as GIRO and telegraphic transfer) in Singapore Dollars, and the Supplier shall provide the necessary electronic banking details before payment is made. All costs and expenses incurred in connection with any payment shall be borne by the Supplier provided that each Party shall bear charges and expenses imposed by its own bank in relation to any payments to be made or received by it under this Purchase Order. For clarity, the Supplier shall be fully responsible for all charges and expenses imposed (i) by its receiving bank for any payments made by the Purchaser to the Supplier; and (ii) for any charges and expenses imposed by the Supplier's remitting bank for any payments by the Supplier to the Purchaser pursuant to this Purchase Order. If instructed by the Purchaser, the Supplier shall submit its invoices to the Institute through such electronic invoicing system designated by the Purchaser. The Contractor shall also submit to the Institute such other supporting documents, through such means and in such format, as may be specified by the Purchaser for the purposes of making payment.

9. Delay

Time shall be of the essence for the performance of this Contract.

10. Indemnity

The Supplier shall indemnify and hold the Purchaser and Purchaser's Affiliates (and their officers, agents and employees) harmless from and against all claims, costs (including attorneys' fees), expenses, losses, damages, liabilities, liens, obligations, causes of action, or suits suffered by the Purchaser and Purchaser's Affiliates and which arise from or are connected in any way with any act or omission, wilful default or misconduct of the Supplier or a breach of this Contract by the Supplier.

11. Cancellation of Purchase Order

The Purchaser may cancel the Purchase Order at any time before the period of 7 days prior to the Delivery Date without any further obligation or liability to the Supplier.

12. Gifts, Inducements and Rewards

The Purchaser may terminate this Contract and recover any loss incurred thereby from the Supplier if the Supplier has or may be deemed to have committed, abetted or attempted to commit an offence under Chapter IX of the Penal Code (Cap. 224) or the Prevention of Corruption Act (Cap. 241).

13. Applicable Law

- (a) This Contract shall be governed by the laws of Singapore and the parties submit to the non-exclusive jurisdiction of the Singapore courts.
- (b) The application of the United Nations Convention on Contracts for the International Sale of Goods 1980 to the Purchase Orders and these Terms and Conditions is hereby excluded.

14. Termination

- (a) The Purchaser may, at any time, by written notice terminate the Contract in its entirety, or any portion thereof without liability to the Supplier:
 - (i) before the Supplier's acknowledgment of the Purchase Order pursuant to Clause 1 above;
 - (ii) if the Supplier commits or threatens to commit any breach of this Contract and if such breach is remediable, fails to remedy the same within 7 days after notice to remedy the same from the Purchaser;
 - (iii) if the Supplier unreasonably withholds its consent to changes made pursuant to Clause 5(g) above;
 - (iv) upon issuing 30 days' written notice to the Supplier and payment of the Supplier's reasonable non-cancellable expenses up to the date of such notice of termination; and
 - (v) if the Supplier suspends or discontinues its business or sells or otherwise disposes of all or a substantial part of its assets or makes an arrangement with its creditors, is subject to a judicial management order, is insolvent or goes into liquidation (otherwise than for the purpose of a reconstruction or amalgamation).
- (b) Upon the termination of this Contract:
 - (i) the Purchaser may engage other suppliers to obtain the Goods or complete the Services. The Supplier shall indemnify the Purchaser for all additional costs incurred thereby;
 - (ii) the Purchaser may withhold payment of monies payable to the Supplier until all Goods and/or Services have been received and/or completed and the damages payable to the Purchaser arising from termination are quantified. If the aggregate amount of such damages exceeds the monies payable to the Supplier for the Goods and/or Services, such excess amount shall constitute a debt by the Supplier to the Purchaser; and (iii) any termination shall not affect the accrued rights of the Purchaser prior to the termination.

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15. Intellectual Property Rights

Unless otherwise stated in the Purchase Order:

(a) all Background IPR shall remain the property of the Supplier; and (b) all Foreground IPR shall be owned by the Purchaser. The Supplier shall, at its own cost, do all things reasonably requested by the Purchaser to enable the Purchaser to further assure its rights in the Foreground IPR arising from the Services and/or its use of the Goods.

16. Confidentiality

Any proprietary information which is provided by the Purchaser to the Supplier in connection with this Contract shall not be used, exploited or divulged save for the fulfilment of this Contract or with the prior written consent of the Purchaser. This clause shall survive the termination of the relationship between the Purchaser and the Supplier and the fulfilment of the Contract.

17. Assignment

The Supplier may not charge, assign, subcontract or otherwise transfer any of its rights, benefits or obligations hereunder in whole or in part without the prior written consent of the Purchaser. The Purchaser may, at any time, assign or otherwise transfer its rights, benefits or obligations under this Contract.

18. No Third Party Rights

Save for Purchaser's Affiliates, a person who is not party hereto shall have no right under the Contracts (Rights of Third Parties) Act (Cap. 53B) to enforce any of the terms herein.

19. Passing of Title and Risk

Title to and risk in Goods shall pass to the Purchaser upon the delivery to and receipt of the Goods by the Purchaser. If payment is made for Goods prior to delivery, title to the Goods shall pass to the Purchaser on the date of such payment.

20. Insurance

The Supplier shall effect and maintain such insurances as are necessary:

- (a) to cover the liability of the Supplier in respect of personal injuries or deaths arising out of, in the course of or in connection with the delivery of the Goods and/or the provision of the Services;
- (b) in respect of damage to property arising out of, in the course of or in connection with the delivery of the Goods and/or the provision of the Services; and (c) in respect of the Supplier's liabilities under the Work Injury Compensation Act (Cap. 354).

Such insurances shall be taken out with an insurer of good standing and repute and for period(s) and on such terms as the Purchaser may require (including a term naming the Purchaser and/or Purchaser's Affiliates as a Beneficiary). In default of production of a satisfactory policy, premium receipt or current certificate of insurance from such insurer, the Purchaser may itself insure against the above risks and recover the costs thereof from the Supplier and/or deduct such costs from any sums due to the Supplier.

21. Withholding Taxes

In the event that withholding taxes are imposed by the Singapore government on any payments made under this Contract, the Supplier shall bear all such withholding taxes and the Purchaser shall deduct such taxes from payments due to the Supplier and forward the balance to the Supplier without any obligation to gross up such payment or pay the Supplier any amount so withheld. If the Supplier requests, the Purchaser shall submit to the Supplier evidence of payment of such withholding tax as soon as possible.

22. Export Control Requirements

The Supplier shall inform the Purchaser immediately whether there is a requirement for the Purchaser to furnish end-user certificates or statements or to enter into separate agreement(s) with the Supplier to satisfy export requirements of the Supplier's or any foreign government. In the event of such requirement and the Purchaser is unable to comply with the same, the Purchaser shall have the right to cancel the Purchase Order without any further obligation or liability to the Supplier.

23. Term Contracts

Where a Purchase Order (the "First Purchase Order") includes supply of Goods and/or Services for a term:

- (a) the price(s) to be charged for Goods and/or Services supplied during the term shall be the price(s) set out in the First Purchase Order;
- (b) the Purchaser may issue subsequent Purchase Orders during the term from time to time (and the Supplier shall accept such Purchase Orders) for the supply of Goods and/or Services at the price set out the First Purchase Order, and the First Purchase Order and all subsequent Purchase Orders shall constitute the Contract; and (c) this Contract shall come into force on the date of the First Purchase Order and shall continue in force for the term agreed to in the First Purchase Order.

24. Personal Data

- (a) The Supplier shall comply with all applicable data protection laws and regulations, including the Personal Data Protection Act 2012 ("PDPA"), the regulations under the PDPA and the guidelines issued by the Personal Data Protection Commission ("PDPC") (collectively the "Data Standards").
- (b) The Supplier shall collect, use, and disclose personal data only in connection with and for the purpose of the provision of Goods and/or Services to the Purchaser and only in accordance with the Data Standards. The Supplier must comply with the Data Standards and shall not do or permit anything to be done which might breach the Data Standards or cause the Purchaser to breach the Data Standards.
- (c) The Supplier shall not transfer any personal data out of Singapore without obtaining the prior written consent of the Purchaser. Where such personal data is transferred out of Singapore, the Supplier shall ensure that such data is accorded a level of protection which is at least comparable to the Data Standards, by first entering into a data transfer agreement with the offshore third-party.
- (d) Where there has been a breach of the Data Standards, the Supplier shall notify the Purchaser immediately, and implement measures required by the Purchaser to remedy any such breach at the Supplier's own cost.

25. Use Of Name

The Supplier shall not use the name, trademark or logo of the Purchaser or its Affiliates or any variation thereof in any marketing or other promotional materials without the prior consent of the Purchaser.

26. PW Mark

The Supplier shall comply with the Progressive Wage Mark Requirements as set out in Annex B

Annex A

The non-exhaustive list of legislation referred to in clause 7(b) is as follows:-

1. Environmental Protection and Management Act (Cap 94A)
2. Environmental Public Health Act (Cap. 95)
3. Arms and Explosives Act (Cap.13)
4. Biological Agents and Toxins Act (Cap. 24A)
5. Fire Safety Act (Cap. 109A)

Annex B

A. COMPLIANCE WITH PROGRESSIVE WAGE MARK REQUIREMENTS

A.1 Subject to Clauses A.2 and A.3, throughout the duration of the Contract, a Supplier who is PW Mark-Eligible must:

- (a) maintain a valid Progressive Wage Mark or Progressive Wage Mark Plus issued by the relevant authority (individually and collectively, "PW Mark");
- (b) notify the Purchaser of any change to the PW Mark accreditation status of the Supplier within one month after the change; and

A.2 If at the date of the issuance of the Purchase Order, the Supplier who is PW Mark-Eligible has neither obtained nor applied for the PW Mark, the Purchaser shall have the right to exempt the Supplier from compliance with Clause A.1(a) for such period of time as determined by the Purchaser.

A.3 If at the time of issuance of the Purchase Order, the Supplier who is PW Mark Eligible has applied for but has yet to successfully obtain the PW Mark, the Supplier must:

- (a) be exempted from compliance with Clause A.1(a) during the period where the initial application for the PW Mark is being processed by the relevant authority. The Purchaser may extend the period of exemption by one or more consecutive periods as determined by the Purchaser; and
- (b) notify the Purchaser of the outcome of the Supplier's application(s) for the PW Mark within one month after the date of receipt of the outcome of the application, and provide the Purchaser with the e-Certificate as proof of the successful application (if any).

A.4 If a Supplier who is not initially PW Mark-Eligible becomes PW Mark-Eligible at any point in time during the period of the Contract, the Supplier must comply with all the following:

- (a) notify the Purchaser on its eligibility for the PW Mark within one month after the first day of employment of the relevant Local Resident Worker(s) covered by the Sectoral Progressive Wages and/or Occupational Progressive Wages;
- (b) apply for a PW Mark by the end of the third month of employment of the relevant Local Resident Worker(s) referred to in Clause A.4(a);
- (c) provide the Purchaser with proof of its application for a PW Mark within one month after the date of submission of the application
- (d) notify the Purchaser of the outcome of the Supplier's application for PW Mark within one month after the date of receipt of the outcome of the application, and provide the Purchaser with the e-Certificate as proof of the successful application (if any); and
- (e) maintain a valid PW Mark for the remaining duration of the Contract

A.5 The Purchaser shall have the right to terminate the Contract by giving one month's prior written notice to the Supplier if the Supplier fails to comply with any of the provisions in the Clauses A.1, A.3(b) or A.4 in which event the consequences of Clause 14(b) shall apply.

A.6 For the purposes of this Clause A, unless the context otherwise requires –

"PW Mark-Eligible" in relation to an employer, means an employer who is eligible to apply for a Progressive Wage Mark or Progressive Wage Mark Plus as the employer employs at least a Local Resident Worker covered by the prevailing Sectoral Progressive Wages or Occupational Progressive Wages.

"Local Resident Worker" means an employee who is a Singapore Citizen or Permanent Resident.

"Sectoral Progressive Wages" mean the progressive wage structure implemented for specified sectors under the Progressive Wage Model.

"Occupational Progressive Wages" mean the progressive wage structure implemented for specified occupations under the Progressive Wage Model.