

NUCLEUS CONNECT PURCHASE ORDER TERMS AND CONDITIONS (NCPO- 01/09)

1. DEFINITIONS

“Nucleus Connect” means the relevant Nucleus Connect entity purchasing the Goods and/or Services from the Supplier, and its successors and permitted assigns.

“Contract” means the formal written contract duly signed by Nucleus Connect and Supplier for the supply of the Goods and/or Services.

“Delivery Date” means the date(s) on which the Goods and/or Services are scheduled to be delivered to Nucleus Connect, as stated in the PO or notified by Nucleus Connect to Supplier.

“Force Majeure Event” means any event which is beyond the reasonable control of the Party claiming the Force Majeure Event, including without limitation, flood, fire, civil disturbance, riot, war, Act of God, strike or any action of any governmental, regulatory, judicial or legislative authority.

“Goods” means any equipment or systems including hardware and/or software, devices, accessories, parts, components and/or other tangible goods or commodities, as described in the PO.

“Intellectual Property Rights” means patent, copyright, industrial design right, trademarks, tradenames and/or any other intellectual property or proprietary right.

“PO” means (i) each set of written instructions in the form of a purchase order issued by Nucleus Connect to Supplier to supply the Goods and/or Services by the Delivery Date and (ii) the Terms and Conditions herein and any amendment thereof.

“Parties” means Nucleus Connect and the Supplier, collectively.

“Party” means Nucleus Connect or the Supplier, individually.

“Price” means the price (inclusive of any applicable goods and services tax) payable to Supplier for the supply of the Goods and/or Services, as stipulated in the PO.

“Services” means any works, including without limitation installation, integration, testing and/or commissioning of systems and/or equipment, maintenance, support and/or training, which Supplier is required to supply to Nucleus Connect, as described in the PO.

“Specifications” means the description and specifications of the Goods and/or Services and details (if any) of manufacture, functions and performance, as stipulated in the PO or notified by Nucleus Connect to Supplier.

“Supplier” means the person or entity to which the PO is addressed, including its successors and permitted assigns.

“Unauthorised Code” means (i) any software virus, Trojan Horse, worm, logic bomb or other software routine or hardware components designed to permit unauthorised access, to deny authorised use, to disable, erase, or otherwise harm software, hardware or data, or to perform any unauthorised actions and (ii) any software codes licensed under a licensing scheme that mandates that all derivative works thereof have to be distributed with the source codes of the derivative works or that the source codes of all derivative works have to be made readily available (e.g. GNU Public Licence).

“Warranty Period” means twelve (12) months from the date of receipt of the Goods and/or Services or such other period as may be mutually agreed upon in writing by Nucleus Connect and Supplier.

2. ACCEPTANCE

2.1 Supplier acknowledges its acceptance of the PO and agrees to be bound by the provisions in the PO. Supplier shall not make any amendment to the provisions of the PO without Nucleus Connect's written consent. No failure to exercise and no delay or omission by either Party in exercising any right, remedy or privilege under the provisions of the PO shall operate as a waiver of such right, remedy or privilege, or as a waiver of any preceding or subsequent breach or default on the part of the other Party.

2.2 Even if Supplier, upon receipt of the PO, fails to acknowledge the PO by return email, Supplier shall be deemed to have acknowledged its acceptance of the terms of the PO if Supplier continues to supply the Goods and/or Services to Nucleus Connect and/or invoices Nucleus Connect for the Goods and/or Services.

3. PRICE, INVOICING AND PAYMENT

3.1 The Price for the Goods and/or Services shall be payable in arrears within forty-five (45) days of the date of receipt of an original and correct invoice issued by Supplier, unless otherwise stipulated in the purchase order issued by Nucleus Connect to Supplier.

3.2 The Price shall be inclusive of all licence fees, installation, testing and all other fees and charges associated with the supply of the Goods and/or

Services. Unless otherwise specified, the Price shall be inclusive of all applicable taxes and duties, including without limitation, withholding taxes. Where the Price is quoted in a currency other than Singapore dollars, the Price shall be subject to such exchange rate(s) as may be reasonably determined by Nucleus Connect. All taxes and duties shall be stated separately on Supplier's invoice(s). Nucleus Connect shall not be liable to pay any sums whatsoever for the Goods and Services, including any unanticipated costs or expenses which may be incurred by Supplier, other than the Price stipulated in the PO.

3.3 Supplier shall submit invoices and all relevant supporting documents for payment in accordance with (i) the PO; or (ii) such milestones as may be agreed to by Nucleus Connect in writing. Supplier shall issue invoice(s) in duplicate and invoice(s) shall contain the PO number, the description of the Goods and/or Services and the Price. Payments shall be made by way of cheque, electronic transfer or such other means as Nucleus Connect may determine. Nucleus Connect shall be entitled to refuse payment on any invoice which contains material error(s) or is not submitted in accordance with the terms of the PO. Acceptance of and payments on invoices shall not constitute acceptance of the Goods and/or Services, and shall not be regarded as constituting acceptance by Nucleus Connect of or as evidence as to the validity or correctness of any such invoices or the Supplier's compliance with the PO. Nucleus Connect shall be entitled to deduct any moneys due to it from Supplier from any moneys due or which may become due from Nucleus Connect to Supplier under the PO or any other contracts between Supplier and Nucleus Connect.

4. DELIVERY

4.1 Supplier shall deliver the Goods and/or Services by the Delivery Date.

4.2 If Supplier fails to deliver the Goods and/or Services by the Delivery Date, Nucleus Connect shall, without prejudice to any other remedies which may be available to Nucleus Connect under the terms of the Contract or otherwise, have the right to:

- a) cancel the PO(s) for all or any of the Goods and/or Services without being liable in damages and obtain the same from alternative sources and any increased costs incurred thereby shall be deducted from any moneys due or which may become due to Supplier under the PO or any other contracts between Supplier and Nucleus Connect, or shall be recoverable as damages; and/or

- b) require Supplier to pay or allow Nucleus Connect to deduct from any moneys due or which may become due to Supplier as liquidated damages a sum to be calculated at the rate of 1% of the Price per day for every day of delay (including Saturdays, Sundays and public holidays) until the Goods and/or Services are duly delivered or performed. The Parties agree that the foregoing sum shall be a genuine pre-estimate of the loss to Nucleus Connect resulting from such delay in delivery.

5. TITLE AND RISK

5.1 Title to the Goods shall pass from Supplier to Nucleus Connect upon Nucleus Connect's receipt and acceptance of the Goods or payment for the Goods, whichever is the earlier, and the Goods shall be free from any claims or encumbrances whatsoever.

5.2 Risk of loss or damage to the Goods or parts thereof shall pass to:

- a) Nucleus Connect upon delivery of the Goods to Nucleus Connect; and
- b) Supplier during the time the Goods or any part thereof are in Supplier's possession for the purpose of replacement, rectification or repair pursuant to Clause 7.2.

6. INSPECTION AND TESTING/QUALITY OF GOODS

6.1 Before delivering or during manufacture, processing or storage of the Goods, Supplier shall carefully inspect and test the Goods ("Acceptance Test") and ensure that they conform in all respects to the Specifications. Supplier shall also furnish to Nucleus Connect a copy of Supplier's test sheet or Certificate of Conformity (COC), if any, which shall be certified by Supplier and Nucleus Connect's representative. All costs and expenses relating to the Acceptance Test shall be borne solely by Supplier.

6.2 Where the Goods comprise machinery or equipment, Supplier shall, if required by Nucleus Connect, give Nucleus Connect prior written notice of the Acceptance Test and Nucleus Connect shall be entitled to be represented at the Acceptance Test and have reasonable access to any premises on which the Goods are located and all such related facilities as may be reasonably required by Nucleus Connect.

6.3 For the purchase of Services, Supplier shall, if required by Nucleus Connect, perform the Acceptance Test in the presence of Nucleus Connect's authorized representative and Nucleus Connect's authorised representative shall conduct a joint inspection of the Services with Supplier. Nucleus Connect shall endorse on Supplier's

delivery order (or such other document as may be agreed between the Parties in writing) if the Services have been carried out and completed to Nucleus Connect's satisfaction.

- 6.4 Nucleus Connect shall not be obliged to accept any Goods and/or Services or any part thereof which have not satisfactorily passed the Acceptance Test under this Clause 6. If, following the receipt of the Goods and/or Services by Nucleus Connect, it is found that the Goods and/or Services or any part thereof do not conform with the Specifications, Nucleus Connect shall be entitled to reject all or such part of the Goods and/or Services and Supplier shall forthwith replace, make good or repair the same in accordance with Clauses 7.2 and 7.4 at no additional cost to Nucleus Connect.

7. WARRANTY

- 7.1 Supplier guarantees the Goods and/or Services against any defect in manufacture or any defect arising out of design, material or workmanship, or any failure or malfunction due to quality or materials, workmanship, design, assembly or installation, during the Warranty Period.
- 7.2 During the Warranty Period, Nucleus Connect may, by way of notice, reject the Goods and/or Services if the same is defective or malfunctioning ("Rejected Goods and/or Services"). Supplier shall, at its own expense, replace the Rejected Goods and/or Services or if Nucleus Connect so agrees, make good or repair the same within fourteen (14) days of Nucleus Connect's notice.
- 7.3 The Rejected Goods and/or Services or any part thereof so replaced, made good or repaired shall be subject to the warranty under Clause 7.1 for the remaining Warranty Period.
- 7.4 If Supplier fails to replace, make good or repair the Rejected Goods and/or Services within the stipulated time, Nucleus Connect reserves the right to:
- cancel the PO(s) for all or any of the Rejected Goods and/or Services without being liable in damages;
 - procure the same from alternative sources and recover any increased costs thereby incurred from the Supplier; and
 - any money paid by Nucleus Connect to Supplier in respect of the Rejected Goods and/or Services or any part thereof that was not replaced, made good or repaired by Supplier shall be refunded by Supplier to Nucleus Connect, or shall be recoverable as damages.

8. PACKING/AIRFREIGHT/SHIPPING INSTRUCTIONS

- 8.1 Supplier shall, without additional cost to Nucleus Connect, ensure that the Goods to be supplied are

adequately packed and secured so that they are able to withstand and be protected against damage including damage from rough handling and remain intact and undamaged during their transportation or transit from Supplier's factory or premises until they reach their destination. Supplier shall comply with any other requirements on packing which may be explicitly specified in the purchase order(s) issued by Nucleus Connect.

- 8.2 Supplier hereby acknowledges that the cost of all necessary packing materials (which will be considered non-returnable) and labour for the packing have been provided for and included in the Price.
- 8.3 On ICC Incoterms 2000 - Groups C & D, Supplier shall arrange for main carriage, insurance and clearance according to the terms of the PO.
- 8.4 On ICC Incoterms 2000 – Group E & F, Nucleus Connect will designate a forwarding agent and/or a shipping line. Supplier shall not deliver the Goods without Nucleus Connect's prior written consent on the shipment mode.
- 8.5 Supplier must notify Nucleus Connect by facsimile or email the following information (at a minimum), at least fourteen (14) days prior to the date on which the Goods are ready for shipment:
- Order number;
 - Expected shipment date;
 - place of loading or port of departure; and
 - Cargo dimensions, weight and value.
- 8.6 Immediately after loading, Supplier shall forward the following documents by registered airmail directly to Nucleus Connect:
- one (1) set of the Original Bill of Lading for sea shipment or Airway bill for air shipment; and
 - two (2) sets of the complete shipping documents (such as Invoice, Packing Lists, Inspection documents, etc).
- 8.7 One copy of the detailed Packing List shall be enclosed in each package to be shipped, providing details on net and gross weight, outer dimensions of the package, purchase order number, part numbers, description and quantities of the Goods.
- 8.8 Supplier shall, upon notification of Nucleus Connect, promptly replace any item of the Goods found to have been damaged due to inadequate packing without any additional cost to Nucleus Connect.

9. EXPORT LICENCE

- 9.1 If an export licence is required for export of the Goods ordered, it shall be the responsibility of Supplier to obtain or procure such licence in a timely manner to facilitate the export of the Goods. Supplier is entirely and solely responsible if it is subsequently discovered that the appropriate licence was not obtained/inadequately applied for.

The failure of Supplier to obtain all the necessary licences, permits and/or other governmental authorisations required will not constitute a Force Majeure Event and Nucleus Connect shall in such an event, have the right to exercise its rights and remedies set out in Clause 4 in the case of delay in the delivery of the Goods or Services and/or to terminate the PO according to Clause 13 without being liable in damages.

9.2 Supplier shall comply with all applicable legislation and regulations in performing the PO. Supplier shall obtain all necessary licences, consents and permits for the performance of the PO at Supplier's own expense.

10. INTELLECTUAL PROPERTY RIGHTS

Supplier shall indemnify Nucleus Connect and all of its directors, employees, agents and representatives ("Indemnified Person") against any and all losses, damages, costs, expenses and liabilities which any Indemnified Person may incur in respect of any claim or action that the Goods and/or Services and/or Nucleus Connect's acceptance or use of the Goods and/or Services infringe any Intellectual Property Right of any third Party, constitute the tort of passing off or damage the goodwill or reputation of any third party.

11. WARRANTIES & REPRESENTATIONS BY SUPPLIER

11.1 Supplier warrants and represents that:

- a) its title to the Goods is free and unencumbered, and that it has the right to sell, supply and grant Nucleus Connect title to and quiet possession of the same;
- b) the Goods and Services conform with the Specifications, and are of satisfactory quality and fit for the purpose for which they are purchased;
- c) it shall perform the Services (i) with reasonable care and skill and (ii) according to the Specifications;
- d) the media upon which any software constituting the Goods (or any part thereof) is stored shall be free from Unauthorised Code and defects in materials, design and/or workmanship;
- e) insofar as the Goods and/or Services comprise software, such software is free of all Unauthorised Code;
- f) no part of the Goods and/or Services and no acceptance, distribution, use or possession by Nucleus Connect of any of the Goods and/or Services or any part thereof shall infringe the Intellectual Property Rights or other rights or interests of any third party or result in any other liability to any Indemnified Person;

- g) it shall obtain and maintain all applicable licenses, permits, consents and/or authorisations for the purposes of performing the PO; and
- h) it shall comply with all applicable laws and regulations in performing the PO.

12. FORCE MAJEURE

12.1 If the performance of the PO or any part thereof by either Party is prevented, hindered or delayed by reason of a Force Majeure Event, then that Party shall be excused from such performance to the extent that it is necessarily prevented, hindered or delayed by the Force Majeure Event provided that the affected Party has given written notice of the Force Majeure Event to the other Party.

12.2 If the Force Majeure Event continues for more than sixty (60) days, either Party may at its option give written notice to terminate the PO forthwith.

13. TERMINATION

13.1 Nucleus Connect shall be entitled to immediately cancel or terminate the PO if:

- a) Supplier is in material breach of any provisions of the PO and, where such breach is capable of remedy, it has not remedied the breach within seven (7) days of written notice by Nucleus Connect requiring it to do so;
- b) Supplier commits a material breach of any provisions of the PO and such breach is not capable of remedy;
- c) Supplier ceases or threatens to cease trading or enters into liquidation (voluntary or involuntary) or has a receiver, trustee, judicial manager or such similar officer appointed over any of its assets or businesses; or
- d) Supplier enters into any composition or arrangement for the benefit of its creditors or becomes insolvent or fails to comply forthwith with any judgment made against it.

13.2 Nucleus Connect may also give reasonable notice to Supplier to cancel/terminate this PO at any time before the delivery of the Goods and/or Services without any liability to Supplier.

13.3 If Nucleus Connect cancels or terminates the PO pursuant to Clause 13, Nucleus Connect shall be entitled to recover (on a pro rata basis, if applicable) any moneys paid by Nucleus Connect to Supplier for any Goods and Services which have not been delivered or performed by Supplier.

13.4 The rights of cancellation or termination provided in this Clause 13 are in addition to any other rights and remedies permitted by operation of law or in equity or under any other provision of the PO or any Contract.

14. INDEMNITY AND LIABILITY

- 14.1 If Supplier breaches any provision of the PO or causes damage to any property or personal injury any person in the course of performing its obligations under the PO, it shall indemnify Nucleus Connect against any and all losses, damages, costs, expenses or liabilities incurred thereby.
- 14.2 In no event shall Nucleus Connect's liability for damages, losses, costs or expenses suffered or incurred by Supplier arising under or in connection with the PO (whether in contract, tort, misrepresentation, negligence, strict liability in tort or by statute or otherwise) be greater than the total Price.
- 14.3 In no event shall Nucleus Connect be liable for any consequential, incidental, indirect, special or punitive damages, losses, costs or expenses, or any lost profits, revenue, business or anticipated savings suffered or incurred by Supplier in connection with the PO.
- 14.4 The limitations and exclusions of liability herein shall not apply to any liability Nucleus Connect may have in respect of any death or personal injury resulting from its negligence.
- 14.5 The exclusions and limitations of liability herein shall apply to the fullest extent permitted by law.

15. CONFIDENTIALITY

- 15.1 Except with Nucleus Connect's prior written consent, Supplier shall keep confidential and not disclose any of the provisions of the PO, or any information, specifications, plans, drawings and/or documents issued or furnished by or on behalf of Nucleus Connect in connection with the Goods and Services (collectively, the "Information") to any person, other than Supplier's employees or agents who need to know the Information for the purposes of performing the Supplier's obligations under the PO. Supplier shall use the Information for the sole purpose of performing the PO.
- 15.2 Supplier bears no responsibility for safeguarding Information that is public knowledge or already known to Supplier at the time of disclosure or subsequently comes lawfully into the possession of Supplier from a third party or is disclosed in compliance with law, a requirement of a governmental agency, stock exchange or pursuant to a court/arbitral order.
- 15.3 All specifications, plans, drawings and documents supplied by Nucleus Connect to Supplier shall at all times remain the property of Nucleus Connect and must not be reproduced, copied or distributed without Nucleus Connect's prior written consent.
- 15.4 The Supplier's confidentiality obligations herein shall, unless terminated by written agreement

between the Parties, continue in full force and effect indefinitely.

16. TIME OF ESSENCE

Time shall be of the essence for the purposes of the PO. Supplier shall notify Nucleus Connect immediately of any changes or events that are likely to have an impact on the delivery of the Goods and/or Services, or the Supplier's performance of any of its other obligations under the PO.

17. SEVERABILITY

If any provision of the PO is determined to be invalid or unenforceable, such provision shall be deleted from the PO and the remaining provisions shall continue in full force and effect.

18. ASSIGNMENT

Except with Nucleus Connect's prior written consent, Supplier shall not assign and/or transfer any of its rights and/or obligations under the PO to any third party. Nucleus Connect shall be entitled to assign and/or transfer any or all of its rights and/or obligations under the PO to any third party without Supplier's consent.

19. EFFECT OF PO AND ORDER OF PRECEDENCE

The provisions of the PO shall exclusively govern Supplier's supply of the Goods and/or Services to Nucleus Connect, until and unless Nucleus Connect and Supplier enter into a Contract. If Nucleus Connect and Supplier have entered into a Contract, and in the event of any conflict or inconsistency between the provisions of the PO and the provisions of the Contract, the Parties agree that the provisions of the Contract shall prevail and supersede the provisions of the PO. In the event of any conflict or inconsistency between the terms and conditions herein, and the provisions of the purchase order issued by Nucleus Connect to the Supplier, the latter shall prevail.

20. AMENDMENTS

- 20.1 Nucleus Connect may from time to time change any of the terms and conditions herein and will notify Supplier of any such changes through written notice, electronic mail, Nucleus Connect's website or such other form as Nucleus Connect may deem appropriate. Supplier agrees that the display of the revised terms and conditions on Nucleus Connect website shall constitute sufficient notice of the changes and Supplier's continued supply of the goods and/or services shall constitute acceptance of these terms and conditions and any changes thereto.

21. NOTICES

21.1 Any notice, demand, request or communication (“Notice”) required to be served by one Party upon the other Party under the PO must be in writing and shall be sufficiently served if forwarded to the other Party by registered post or by facsimile to its address or facsimile number set out in the purchase order, or to its last known place of business or facsimile number.

21.2 Any Notice so given shall be deemed received:

- a) in the case of registered post, upon written acknowledgement of receipt by the receiving Party; and
- b) in the case of facsimile, upon successful transmission. To this end, an activity report indicating that the correct number of pages was transmitted to the correct facsimile number shall be sufficient evidence that such Notice was received.

22. RELATIONSHIP OF THE PARTIES

The Parties acknowledge that nothing in the PO constitutes a relationship of employer and employee, principal and agent, partnership or joint venture between Nucleus Connect and Supplier. Supplier acknowledges that it does not have the authority to enter into binding agreements of any nature or make any representations or warranties on Nucleus Connect’s behalf and agrees not to misrepresent any such authority to any third party.

23. NO THIRD PARTY RIGHTS

A person who is not a party to the PO shall have no right to enforce or rely on any provision of the PO pursuant to the Contracts (Rights of Third Parties) Act (Cap. 53B). No consent of any third party is required for the variation or rescission of the PO.

24. GOVERNING LAW AND JURISDICTION

The provisions of the PO shall be subject to, governed by and interpreted in accordance with Singapore laws. The Parties irrevocably submit to the exclusive jurisdiction of the Singapore courts.