

**DATWYLER IT INFRA PTE. LTD.**  
**GENERAL TERMS AND CONDITIONS OF PURCHASE**

**1 DEFINITIONS**

- 1.1 Throughout this Contract, unless the context otherwise requires, the following definitions shall apply:
- (a) "Company" shall mean Datwyler IT Infra Pte. Ltd. and includes any officer or other person authorized by Datwyler IT Infra Pte. Ltd. to act on its behalf
  - (b) "Contract" shall mean the purchase order and its annexes issued by the Company to the Supplier (including any documents which are referred to therein) and the General Terms and Conditions of Purchase herein
  - (c) "Contract Amount" shall mean the amount payable to the Supplier under the Contract for the supply of the Products and Services.
  - (d) "Supplier" shall mean the person(s) or persons, partnership, firm or company to whom the Company has issued a purchase order to supply the Products and Services and shall include his or their heirs, executors, administrators, assigns, successors and duly appointed representative,
  - (e) "Products and Services" shall mean such products and services which the Supplier is required to supply under the Contract

**2 CONFIDENTIALITY**

- 2.1 The Supplier agrees that in the course of this Contract it may have access to or become privy to information owned and kept by the Company (including but not limited to technical, financial and marketing information, trade secrets, customer lists, training materials, intellectual property etc) and hereby undertakes to keep the confidentiality of such information and to prevent its disclosure to or use by any third party without the prior written and express consent of the Company. The Supplier further agrees not to disclose, advertise or publish in any manner the existence or the terms of, or any transactions carried out pursuant to this Contract without the prior written and express consent of the Company. This duty of confidentiality shall survive the termination of this Contract without limit as to time.

**3 RESTRAINT AND NON-SOLICITATION**

- 3.1 For the duration of the term, existence and/or operation of this Contract and for a period of two (2) years thereafter, the Supplier agrees:
- (a) not to solicit or encourage, directly or indirectly, any person who is at the time of solicitation an employee of the Company to leave the employment of the Company; or
  - (b) hire or attempt to hire, directly or indirectly, any such employee of the Company without the prior written and express consent of the Company.

**4 SPECIFICATION AND WARRANTIES**

- 4.1 The Supplier shall supply and deliver to the Company all of the Products and Services set out in the Contract.
- 4.2 The Products and Services shall be of the description and quality set out in this Contract and in the absence of any such specification shall be the best of their respective kind, complying with the appropriate standards.
- 4.3 The Products and Services shall in all cases be:-
- (a) free from any defects in design workmanship or materials and in compliance with any sample model drawing or technical specification furnished by the Company to the Supplier;
  - (b) to the reasonable satisfaction of the Company; and
  - (c) fit for the particular purpose for which they are required by the Company, knowledge of which use and purpose the Supplier expressly admits.
- 4.4 The Supplier shall be fully responsible for the adequacy, integrity, suitability and practicality of the design and/or constitution of the Products and Services and shall ensure that the Products and Services are fit for their intended purpose.
- 4.5 The Supplier shall be deemed to have full knowledge of the purpose(s) for which the Products and Services are required for use by the Company and all the relevant specifications and standards applicable to the Products and Services and shall ensure that the Products and Services comply with such specifications and standards in every respect.
- 4.6 Where any documentation provided by the Supplier defines any performance characteristics of the Products and Services, then this shall additionally be satisfied.
- 4.7 Where appropriate, the Supplier will furnish instruction and maintenance manuals and installation information, together with any relevant advice on the handling and storage of the Products and Services. Such information shall be provided on or before the delivery / performance date.
- 4.8 The Supplier shall furnish such samples, specifications, drawings or other document arising in connection with the Products and Services as the Company may reasonably require.

**5 COMPLIANCE**

- 5.1 The Supplier shall fully comply with all laws, rules, ordinances and regulations applicable to and affecting the manufacture, sale, shipment and delivery/performance of the Products and Services and shall indemnify the Company against all costs, losses and expenses incurred in consequence of any breach of the same
- 5.2 All Suppliers shall adhere strictly to and comply with the Company's Code of Conduct in respect of Vendor policy from time to time in force if so made available to the Supplier by the Company.

**6 INSPECTION AND TESTING**

- 6.1 The Company may at any time require that inspection tests and procedures are to be carried out by the Supplier at the Supplier's cost in order to demonstrate compliance with Clause 4.
- 6.2 If requested by the Company to do so, the Supplier shall at its cost carry out such tests and quality control procedures as may be necessary to ensure that the Products and Services comply with Clause 4 and shall provide the Company with copies of the results of all such tests.
- 6.3 The Company and any party authorised by the Company shall at all reasonable times have access to the premises of the Supplier and his subcontractors and suppliers in order to monitor progress, carry out inspections and witness tests.

- 6.4 The exercise by the Company of any right under this Clause 6 shall not relieve the Supplier from his obligations under the terms of this Contract.

**7 PRICE AND TERMS OF PAYMENT**

- 7.1 The Company shall pay for the Products and Services at the amount set out in this Contract or such other price as shall be ascertained from the terms of this Contract.
- 7.2 Unless otherwise stated, the prices set out in this Contract shall be deemed to be inclusive of all delivery/performance costs including, without limitation, all applicable customs duties, packaging, marking, handling, freight and delivery, insurance, Goods and Services Tax and all applicable costs and charges.
- 7.3 Any invoice rendered by the Supplier of an amount other than set out in this Contract shall not be payable unless such changed price has been previously accepted by the Company in writing by the issuance of an appropriate amendment to this Contract. In any other case, the prices set out in this Contract shall prevail.
- 7.4 Invoices shall be submitted by the Supplier as directed in this Contract, together with adequate proof of delivery/performance of the Products and Services.
- 7.5 The Company may exercise a right of set-off against any sums due under this Contract of any sum considered to be due from the Supplier to the Company under this or any other contract or purchase order issued by the Company to the Supplier.
- 7.6 Notwithstanding any other term of this Contract, the Company shall have the right to withhold payment of any sum otherwise due in respect of any part of the Products and Services until such time as any Products and Services, warranty or other materials or documentation required in respect thereof has been furnished by the Supplier.

**8 CHANGES**

- 8.1 The Company shall have the right to order changes at any time in the quantity, specifications, drawings, requirements and time for delivery of performance or any part thereof. The Supplier shall comply with all written orders issued by the Company in such regard. Should any such order cause an increase or decrease in the price per unit of the Products and Services or of the time for performance of any duty or warranty, the price and/or time shall be equitably and accordingly adjusted, provided that any claim by the Supplier for an increase in the price per unit shall be submitted to the Company in writing within seven (7) days of the date of the Company's written order, failing which any such claim shall be barred as being unreasonably distant from the date of the change. No such requested increase shall be binding on the Company unless and until accepted by issue of an appropriate amendment to this Contract.

**9 DELIVERY AND TITLE**

- 9.1 It is of the essence of this Contract that delivery/performance of the Products and Services is made at the place and by the time provided by this Contract or if not so provided then at such place and/or by such time as shall be notified by the Company to the Supplier. Except where so instructed in writing by the Company, delivery of the Products and Services to any third party, including a carrier, shall not in itself be deemed to be delivery of the Products and Services to the Company.
- 9.2 The Products and Services shall be packed and marked in a proper manner and in accordance with any relevant specifications and standards and/or in accordance with any instructions of the Company
- 9.3 The Supplier warrants that it is fully vested with the right to sell and deliver the Products and Services.
- 9.4 The ownership of the Products and Services and the risk of loss or damage therein shall pass from the Supplier to the Company on written acceptance of the Products and Services by the Company. However, if delivery / performance is carried out in instalments, ownership of each such instalment shall pass from the Supplier to the Company on written acceptance of the instalment by the Company but risk of loss or damage to each such instalment shall remain with the Supplier until completion of delivery to and acceptance of all the Products and Services by the Company.
- 9.5 Where payment is made by the Company in advance of delivery/performance then property in all Products and Services in respect of which payment is made shall immediately vest in the Company, but risk of loss or damage shall remain with the Supplier until completion of delivery/performance of the Products and Services.
- 9.6 If the Products and Services are damaged on delivery or have been lost in transit, Supplier shall, upon receiving notice from the Company to that effect, repair or replace free of charge such Products and Services damaged or lost in transit and due delivery of the Products and Services shall not be deemed to have taken place until replacement or repaired Products and Services have been delivered by Supplier to the Company. The Company reserves the right to hold such damaged Products and Services at the Supplier's risk or to return them to the risk of Supplier.

**10 SUB-LETTING AND ASSIGNMENT**

- 10.1 The Supplier shall not sublet any part of the supply of the Products and Services nor assign any obligation under this Contract without the prior written consent of the Company.
- 10.2 The Supplier shall not assign the right to receive monies under this Contract to any person without prior written consent of the Company and any assignment made in contravention of this Clause shall not bind the Company.

**11 PROPERTY RIGHTS**

- 11.1 The Supplier shall indemnify the Company against all costs losses and expense incurred by the Company through infringement or breach of any patent copyright trademark or any like property right arising out of the supply or use of the Products and Services, and shall at its own expense defend or assist in the defense of any suit action or claim which may be brought against the Company or those using the Products and Services by reason of any such alleged infringement or breach.
- 11.2 The Supplier agrees and warrants that the copyright of any catalogue manual or other literature ("data") which may be furnished to the Company with the Products and Services shall not be deemed to be infringed by publication or reproduction of the whole or any extract from such data in connection with the maintenance or disposal by re-sale or other means of the Products and Services. The Supplier shall indemnify the Company against all costs, losses and expenses howsoever incurred in consequence of any alleged infringement of copyright in any such data.

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11.3 The properly in any design and in all documents, drawings and data related thereto if any and in all inventions and patents arising from work done or information obtained by the Supplier in connection with this Contract, if any, shall belong to the Company absolutely. The Supplier shall at the Company's request and cost complete and procure completion of all documentation which may be necessary to obtain patent and any similar protection in the Company's name.

11.4 The property in anything or in any loaned or free issued material supplied by the Company to the Supplier in connection with this Contract shall not be vested in the Supplier but shall be at the Supplier's risk and shall be insured by the Supplier at his expense to the full replacement value thereof.

**12 INDEMNITIES AND INSURANCES**

12.1 The Supplier shall indemnify the Company against any liability incurred by the Company to any person (including any claim made by any third party in connection with any injury or damage to persons or property arising out of the performance of or any failure by the Supplier to comply with the terms of this Contract) and against all claims, damages, costs and expenses made against or incurred by the Company by reason of any negligence, default or breach by the Supplier of this Contract ,

12.2 The Supplier shall indemnify the Company against any claim whatsoever arising out of or in connection with the operation of any warranty furnished in respect of the Products and Services.

12.3 Without prejudice to the indemnity at Clause 12.1, the Supplier shall secure and maintain such insurances as are necessary to cover the liability of the Supplier and of any subcontractor against any liability, damage, loss, expense, cost, claim or proceedings under any legislation or rule of law in respect of personal injury to or the death of any person employed by the Supplier or by such subcontractor arising out of or in connection with the execution and completion of the Products and Services and whether arising on or off the site. The Supplier shall furnish a copy of the relevant policy and of the related premium receipt within fourteen (14) days of the date of this Contract to the Company, if so requested by the Company.

**13 DEFAULT**

13.1 If the Supplier fails to comply with any terms of this Contract then, without prejudice to any other rights and remedies the Company may possess, the Company may take any one or more of the following actions:

- (a) Suspend payment for the Products and Services until such time the Supplier remedies the non-compliance. Should the Supplier refuses or fails to comply within 30 days of a written request to do so, the Company may retain the Products and Services without any obligation to pay for them;
- (b) reject and return the Products and Services to the Supplier at the Supplier's expense. In such event the rejected Products and Services shall remain at the sole risk of the Supplier. Upon receiving notice of rejection from the Company, the Supplier shall remove the rejected Products and Services within such reasonable time as may be specified by the Company, failing which the rejected Products and Services shall be removed and/or disposed of by the Company and the Supplier shall be liable for any loss, expense or damage thereby incurred or suffered by the Company;
- (c) require the Supplier at the Supplier's expense to repair and/or replace the Products and Services so that they comply with the requirements of this Contract;
- (d) repair and/or replace the Products and Services at the Supplier's expense;
- (e) by notice in writing to the Supplier and without incurring any obligation to make further or any payment to the Supplier cancel this Contract or any part of it;
- (f) recover from the Supplier such damages as the Company may have incurred in consequence of the Supplier's failure.

**14 RIGHT OF CANCELLATION**

14.1 The Company shall have the right to cancel this Contract in whole or in part at any time and without cause by written notice to the Supplier and the Supplier shall immediately cease work on or delivery of the Products and Services or such part on receipt of such notice. Provided that the Supplier is not in breach of any duty or warranty under this Contract, the Company shall pay to the Supplier the value of the Products and Services manufactured or delivered by him up to the date of notice (having regard to the prices entered in this Contract). Provided further that if the Products and Services are stock goods rather than specially manufactured goods, the Company shall only pay to the Supplier its reasonable restocking costs. The payment of such costs to the Supplier as aforesaid shall be the Company's sole liability in respect of any such cancellation. In no event shall the Company pay the Supplier or be liable to the Supplier for loss of any anticipated profits or consequential or incidental damage.

14.2 If the Supplier abandons the Contract or is in breach of any of the terms set out herein or fails to comply with any notice or order by the Company, then the Company may issue a notice in writing ("Notice of Default") to the Supplier specifying the default. If the Supplier fails to rectify the default upon receipt of the Notice of Default within seven (7) days, the Company may, without prejudice to other rights or remedies available to it under general law, terminate the Contract by notice in writing. .

14.3 Should the Supplier become bankrupt or insolvent or enter into any agreement of composition or deed of arrangement with his creditors or being a company, a winding up order is applied for or made or a receiver or manager of the Supplier's assets or undertakings is appointed or possession taken or execution levied by creditors or debenture holders or under a floating charge or if a judicial manager is appointed, the Company shall be entitled to give notice in writing of termination of this Contract without prejudice to other rights or remedies available to the Company under general law. .

14.4 Upon termination of the Contract under Clause 14.2 or 14.3, the Company shall be entitled to damages on the same basis as if the Supplier had wrongfully repudiated the Contract.

14.5 Should the Company's contract with any other party (including its buyer or end-user) for which the Products and Services are meant for is terminated for any reason whatsoever, the Company shall be entitled forthwith to terminate this Contract. Unless the termination of the Company's contract with the other party was caused by or contributed to by any default of breach of contract by the Supplier (in which event the Supplier shall be liable to the Company on the same basis as in Clause 14.4), the

Supplier shall be entitled to payment for work done and materials supplied by him based on the prices and/or rates set out in the Contract.

14.6 Neither the termination nor the expiry of the Contract shall affect accrued rights of the parties, and all provisions that, in order to give effect to their meaning, need to survive its termination or expiry shall remain in full force and effect thereafter. Notwithstanding anything herein to the contrary, the following clauses shall survive the termination of this Contract: Clause 2 (Confidentiality), Clause 3 (Restraint and Non-Solicitation) and Clause 11 (Properly Rights).

**15 TERMS**

15.1 The Supplier shall be deemed to have entered into an agreement with the Company for the provision of the Products and Services as detailed within this Contract.

15.2 Notwithstanding any reference in this Contract to any quotation estimate or other document issued by the Supplier ("quotation"), no such quotation shall be deemed to be incorporated in this Contract, save

- (a) to the extent (if any) that such quotation is reproduced in full in this Contract; or
- (b) to such extent (if any) as may otherwise expressly be provided in this Contract.

15.3 This Contract, including (subject to Clause 15.1 hereof) such other documentation (if any) as are expressly incorporated herein by reference, is acknowledged by the Company and the Supplier as the complete and exclusive statement of all the terms of their contract in respect of the supply of the Products and Services to the Company.

15.4 The Supplier acknowledges and agrees that the terms and conditions of the Company (in particular the terms and conditions herein (the "General Terms")) shall apply to any and all agreements entered into between the Supplier and the Company in relation to the provision of Products and Services by the Supplier to the Company to the exclusion of any other terms and conditions (whether originating from the Supplier or not) which the Company may have been in receipt of irrespective of the time of such receipt and whether or not the Company is made aware of such terms and conditions or not.

**16 REMEDIES AND WAIVERS**

16.1 No remedy conferred by any provision under this Agreement is intended to be exclusive of any other remedy which is otherwise available at law, in equity, by statute or otherwise, and each and every other remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law, in equity, by statute or otherwise. The election of any one or more such remedies by any of the parties hereto shall not constitute a waiver by such party of the right to pursue any other available remedies.

16.2 No failure or delay by any Party in exercising any right, power or discretion hereunder shall impair such right, power or discretion or operate as a waiver thereof, nor shall any single or partial exercise of any right, power or discretion preclude any further exercise thereof of the exercise of any such right, power or discretion or the exercise of any other right power or discretion. The rights, powers and remedies provided herein are cumulative and do not exclude any other rights, powers or remedies provided by law.

**17 ENTIRE AGREEMENT AND AMENDMENTS**

17.1 This Contract embodies all the terms and conditions agreed upon amongst the Parties as to the subject matter of this Contract and supercedes and cancels in all respects all previous quotations, agreements and undertakings, representations, warranties, assurances and arrangements of any nature, if any, amongst the Parties with respect to the subject matter hereof, whether such be written or oral. None of the provisions herein may be varied or amended except by the written agreement of the Parties signed by or on behalf of each of the Parties.

**18 NOTICES**

18.1 Any notices or other information required or authorised by this Agreement to be given by either party to the other may be given by hand or sent (by pre-paid post, facsimile transmission or comparable means of communication) to the other party to the last known address of such party as may be notified by the party concerned in writing from time to time.

**19 GOVERNING LAW AND JURISDICTION**

19.1 This Agreement shall be governed by and construed in accordance with the laws of Singapore.

19.2 Any dispute arising out of or in connection with this Contract, including any question regarding its existence, validity or termination, shall be referred to and finally resolved by arbitration administered by the Singapore International Arbitration Centre ("SIAC") in accordance with the Arbitration Rules of the Singapore International Arbitration Centre ("SIAC Rules") for the time being in force, which rules are deemed to be incorporated by reference in this clause. The seat of the arbitration shall be Singapore. The Tribunal shall consist of one arbitrator. The language of the arbitration shall be English.

**20 SEVERABILITY**

20.1 If any provision of this Agreement is held by any competent authority to be invalid or unenforceable in whole or in part, the validity of the other provisions of this Agreement and the remainder of the provision in question (if any) shall not be affected.

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