

**NEOM's Purchase Order Terms and Conditions for Goods, Software and / or Services****1. PURCHASE ORDER**

- a) By signing the PO, the Supplier agrees to provide the Goods, Software and / or Services and the Purchaser agrees to pay for the Goods, Software and / or Services in accordance with the PO and these PO Terms and Conditions.
- b) If the PO is not signed by the Supplier, any delivery of the Goods and / or the provision of the Software or Services by the Supplier shall constitute deemed acceptance by the Supplier of the PO and these PO Terms and Conditions. The Supplier hereby agrees that none of its standard, business or other terms (notwithstanding any delivery of such terms to the Purchaser) will be incorporated into this Purchase Order (whether by course of dealing or otherwise), and any such terms will not be binding on the Purchaser.
- c) If, before the date of signing of the PO (as set forth on the first page), the Supplier performs any of the Services, provides the Software and/or delivers the Goods, following written instruction to commence and proceed from the Purchaser, provision of those Services, Software and/or Goods will be governed by the PO and the PO Terms and Conditions.

**2. DEFINITIONS**

**"Appendix"** means each of Appendices A to C (inclusive) of the PO.

**"Affiliate"** with respect to a Party means a public, private, governmental or commercial company or other entity that Controls, is Controlled by, or is under common Control with, such Party and/or a shareholder of such Party.

**"Authority"** means any government, semi or local government, statutory, public or other authority or body having jurisdiction over the Purchaser and/or the Supplier and/or the goods and/or services (or anything in connection with any of them).

**"Business Day"** means any day on which banks are open in the Kingdom of Saudi Arabia and which is an official business day of the Purchaser.

**"Completion Date"** means the date(s) upon which performance of the Services shall be completed as specified in the PO.

**"Delivery Date"** means the date(s) upon which the Goods shall be delivered as specified in the PO.

**"Goods"** means the goods, including the Supplier Hardware, to be provided in accordance with the PO.

**"Heritage"** means any immovable, buried or submerged objects such as urban and rural ruins, burials, stone structures, rock art and inscriptions and any related architectural elements and movable objects such as pottery, metallic works, stone tools or bones.

**"IP Rights"** means all intellectual property rights including patents, rights to and in inventions, (whether patentable or not), copyright and neighboring and related rights, trademarks, service marks, logos, trade names and domain names, URLs, rights in get-up and trade dress, rights in goodwill or to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, know how, trade secrets and the designs contained within them and any other intellectual property rights, in each case, whether registered or unregistered and including all applications (or rights to apply) for, and renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which may now or in the future subsist in any part of the world.

**"PO Terms and Conditions"** means these terms and conditions as amended by any Special Conditions.

**"PO Value"** means the total value of the PO.

**"Purchaser"** means the company as defined in the PO and shall include that company's legal personal representatives, successors, and assigns.

**"Purchase Order"** or **"PO"** means the contract formed by the acceptance of the purchase order.

**"Services"** means the services, including Software Development Services, Platform Development Services, Consultancy Services, Managed Services, Integration Services, Software-as-a-Service, Support and Maintenance Services, Minor Works and Installation Services, Colocation Services, and/or Subscription Services (as the context requires), to be performed in accordance with the PO.

**"Software"** means the software, including the Licensed Software, Standard Software, Third Party Software and/or Bespoke Software (as the context requires), to be provided to the Purchaser in accordance with the PO.

**"Software Delivery Date"** means the date(s) upon which the Software shall be provided as specified in the PO.

**"Special Conditions"** means those conditions set out in **Appendix C**.

**"Start Date"** means the date upon which the Services or provision of the applicable Software license(s) shall commence, as specified in the PO.

**"Supplier"** means the person, persons, firm, or company named in the PO to supply the Goods, Software and / or perform the Services and shall include the Supplier's legal personal representatives, successors, and assigns.

**"Tax"** or **"Taxes"** means any tax, charge, impost, tariff, duty or fee of any kind charged, imposed or levied, directly or indirectly, by any governmental instrumentality, including any income tax, value added tax, sales tax, stamp duty, import duty, withholding tax (whether on income, dividends, interest payments, fees, equipment rentals or otherwise), tax on foreign currency loans or foreign exchange transactions, excise tax, real estate transactions tax, property tax, registration fee or license, water tax or environmental, energy or fuel tax, Zakat and including any interest, penalties or other additions thereon, whether levied by the government of the Kingdom of Saudi Arabia or any government or tax authority outside the Kingdom of Saudi Arabia.

**"Vulnerability"** means a weakness in the computational logic (such as code) found in software and hardware components that, when exploited, results in a negative impact to confidentiality, integrity, or availability.

**"ZATCA"** means the Zakat, Tax and Customs Authority and its ancestor and successor entities responsible for regulating and administering Tax in the Kingdom of Saudi Arabia.

# Purchase Order Terms and Conditions

**3. INTERPRETATION AND PRECEDENCE**

- a) All instructions, notices, agreements, authorizations, approvals, and acknowledgements shall be in writing. All such documentation together with all correspondence and other documents shall be in the English language.
- b) Any reference to statute, statutory provision, or statutory instrument shall include any re-enactment or amendment thereof for the time being in force.
- c) Unless the context otherwise requires, words importing the singular shall include the plural, and words importing the masculine gender shall include the feminine and neuter genders, and vice versa.
- d) Any reference to an Incoterm in a PO shall be a reference to the relevant term as set out in Incoterms 2020.
- e) If there is any inconsistency between the documents comprising this contract, the order of precedence to the extent of the inconsistency shall be (in order of priority): (i) the PO; (ii) the PO Terms and Conditions; and (iii) the Appendices.
- f) In relation to Clauses 4j)i) to and including s), 9, 10, 11, 12, 13, 23 and 29-39 each shall only apply as applicable and pursuant to the Goods, Services, and/or Software purchased under the relevant PO and any dispute with regard to which Clauses apply will be determined at the sole discretion of the Purchaser, acting reasonably.

**4. WARRANTIES**

The Supplier's warranties in this Clause 4 that it will not be interpreted as a limitation upon, but are in addition to, all other warranties and guarantees expressed in this PO, which will apply in all respects to the performance of the Supplier's obligations under this PO.

The Supplier represents, warrants, and undertakes that:

**Corporate Warranties**

- a) It is a company properly formed and incorporated, validly existing, and in good standing under the laws of the state, country or jurisdiction of its incorporation and has the corporate power to own its assets and carry on its business.
- b) It has the corporate power and all necessary authorizations to enter into, perform, and comply with its obligations under the PO.
- c) The obligations expressed to be assumed by the Supplier under the PO are legal, valid, binding, and enforceable to the extent permitted by law.
- d) It has not taken any corporate action nor have any other steps been taken or legal proceedings been started or (to the best of the Supplier's knowledge and belief) threatened against it for its winding-up, dissolution, bankruptcy, insolvency or re-organization or any analogous procedures or for the appointment of a receiver, administrator, administrative receiver, trustee, arbitration manager or similar official of it or of any or all of the assets or revenues of any of its shareholders, affiliates or sub-contractors.

**Non-Infringement Warranties**

- e) The IP Rights utilized, licensed, or granted in connection with the PO (including in the provision of any Software or the provision of the Services) do not and will not infringe any third party rights in either the Kingdom of Saudi Arabia or anywhere else in the world.
- f) Its entry into and performance of this contract (including the grant of any rights to any Software or Licensed Materials) does not and will not infringe or conflict with any applicable law, the constitutional documents of the Supplier, the rights of any third party, or cause it to be in breach of any obligations to a third party.
- g) It shall not enter into any contract or accept any obligation which is inconsistent or incompatible with the Supplier's obligations under this contract.
- h) Any deliverables provided by the Supplier under this PO, including the Platform or Software, system or telecommunications equipment: (i) shall be tested for any viruses and Vulnerabilities and any of the same that are identified shall be removed before delivery of such Platform, Software, system or telecommunications equipment to the Purchaser; (ii) shall not contain any open source software with copyleft terms without the Purchaser's prior written consent; and (iii) shall be free from defects.
- i) It will not introduce, or permit the introduction of, any viruses or Vulnerabilities into the Purchaser's IT environment, or the Purchaser's other network and information systems, while performing the Services (or providing the Software Licensed Materials, or the Platform).

**Goods, Software and Services Performance Warranties**

- j) All Goods supplied, Software provided and Services performed under the PO shall: (i) conform to the description or specification in the PO and comply with all applicable international codes, specifications, and standards, including those in the Kingdom of Saudi Arabia; (ii) be free of any lien, charge, or encumbrance; and (iii) as far as practicable, not impede or interfere with the Purchaser's operations or the Purchaser's premises.
- k) The Goods, Software and / or Services are fit for their intended purpose and will meet the Purchaser's requirements with regard to any quality or specifications, which are set out in the PO and **Appendix B**.
- l) The Goods, Software and / or Services shall meet any specific warranties which are set out in the Special Conditions and this PO.
- m) The Goods and Software shall be free from defects in design, material and workmanship, and remain so, for a period of 24 months from the date of the grant of the provision of the Software, or the Purchaser's acceptance or commissioning of the Goods, whichever is later, during which period the Supplier will at the Supplier's own cost, repair or replace any defective Goods or Software as to design, materials or workmanship as determined by the Purchaser acting reasonably and as notified to the Supplier. Title and risk in the Goods or any part thereof which do not comply with the requirements of the PO and which are rejected by the Purchaser shall re-vest in the Supplier on return to the Supplier.
- n) It: (i) is entitled to possession of the Goods; (ii) has title in the Goods free of any liens, charges and encumbrances of whatsoever kind; and (iii) has the right to sell the Goods.
- o) It will obtain and ensure that the Purchaser will have the benefit of all warranties specified in the PO, relevant to the Goods, Software and / or Services, and a warranty as to the enjoyment of quiet possession of the Goods.
- p) If the Purchaser, acting reasonably identifies any defect or inadequacy in the Goods, Software and / or Services (as applicable), then for a period of 24 months from the Completion Date, provision of the Software or delivery of the Goods (as applicable), the Supplier will at the Supplier's own cost make good any defect or inadequacy in the Services, Software or the Goods (as the case may be) as the Purchaser may notify to the Supplier.
- q) It will provide the Software and perform the Services: (i) exercising due care, skill, and judgment and using its best endeavors; (ii) in an efficient, professional, and cost effective manner in accordance with relevant professional principles and standards; (iii) utilizing



personnel who are appropriately trained, qualified, and experienced to perform them; (iv) in accordance with any local content requirements; and (v) in accordance with the PO and any directions made by the Purchaser at any time during the term of the PO.

- r) Any Software, Platform, system and telecommunications equipment shall, at all times, utilize the most current and stable patches and fixes available to protect against and address any Vulnerabilities and any updates and/or new patches and fixes shall be implemented promptly and without any delay.
- s) Any deliverables produced in the course of performing the Services (other than that involving Third Party Software) will be its original work, and will not be copied wholly or substantially from any other work or material.
- t) All information provided by it to the Purchaser in connection with this PO will be true and accurate in all respects.
- u) It will not make any statement, orally or in writing, publicly or privately, or do any act or otherwise conduct itself in such a manner as will or may, in the reasonable opinion of the Purchaser, disparage the Purchaser, its affiliates, representatives, officers, directors, employees, agents or contractors or its or their business, products or services.
- v) It, nor any person acting on its behalf, has made or offered, or proposes to make or offer any gift, promise or other advantage, whether directly or indirectly, including through affiliates or representatives, to or for the use of any public official, where such payment, gift, promise or advantage would violate: (i) any applicable law; (ii) the Anti-Bribery Law (promulgated pursuant to Royal Decree M/36 dated 29/12/1412H) and Royal Decree 4 of 1440 Approving the Anti-Bribery Law; (iii) the laws of the country of incorporation of such party; (iv) the principles described in the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions or the related documents and recommendations identified in that Convention; or (v) the principles described in the World Economic Forum's Partnering Against Corruption Principles for Countering Bribery set out in the World Economic Forum's 2005 publication 'Partnering Against Corruption Principles for Countering Bribery.'

## 5. INVOICES, PRICE, AND PAYMENT

- a) All prices in the PO shall be fixed as specified in the PO and Appendix A, unless otherwise stated in the PO.
- b) The Supplier must upload an invoice for the Goods, Software, and / or Services which complies with Clause 5c) to the Purchaser's nominated accounts payable system as notified to the Supplier by the Purchaser.
- c) An invoice must: (i) detail the PO number; and (ii) where any KSA VAT is chargeable, be compliant with applicable VAT legislation in the Kingdom of Saudi Arabia.
- d) If the Purchaser disputes any items on any invoice in whole or in part or if the invoice is prepared or submitted incorrectly in any respect then: (i) the Purchaser will notify the Supplier of the reasons and request the Supplier to issue a credit note for the unaccepted part or whole of the invoice as applicable; (ii) upon receipt of such credit note the Purchaser shall be obliged to pay the undisputed part of a disputed invoice; and (iii) on settlement of any dispute, the Supplier shall submit an invoice for sums due (excluding any sums already paid) and the Purchaser shall make the appropriate payment.
- e) Upon delivery of the Goods, provision of the Software and / or completion of the Services, payment for the Goods, Software and / or Services shall be made: (i) within 45 calendar days after the receipt of a valid invoice issued to the Purchaser; and (ii) by direct bank transfer to a bank nominated by the Supplier and acceptable to the Purchaser; and (iii) in the currency detailed in the PO. Payment for the Goods, Software and / or Services does not imply acceptance of the Goods, Software and / or Services by the Purchaser.
- f) The Purchaser shall have no obligation to pay any invoice (in whole or in part) for which it has not received a valid invoice which complies with Clause 5c) from the Supplier within six (6) months after the date on which the Services have been performed, the Software has been provided or Goods have been delivered or costs incurred to which such invoice relates (excluding any disputed invoices pursuant to Clause 5d)).
- g) If the Supplier incurs any charges by the Purchaser's bank as a result of any payments made by the Purchaser to the bank nominated by the Supplier pursuant to this PO and / or any intermediary, such charges will be borne by the Supplier.
- h) Notwithstanding any other provision of the PO, the Purchaser may set off or deduct from any amounts due to the Supplier, any amounts which are payable by the Supplier to the Purchaser.

## 6. VALUE ADDED TAX

Unless otherwise expressly stated in the PO, all prices or other sums payable under the PO are exclusive of VAT chargeable and/or levied in accordance with applicable VAT legislation in the Kingdom of Saudi Arabia.

Where the Kingdom of Saudi Arabia VAT is applicable, the relevant invoice must be in compliance with the Kingdom of Saudi Arabia Tax legislation and specific invoicing requirements or regulation applicable at the time of issuing the invoice.

## 7. TAXES, DUTIES, AND IMPOSTS

- a) The Supplier must pay all Taxes imposed or levied in the Kingdom of Saudi Arabia or overseas in connection with the Goods, Software and / or Services as may be applicable under the PO.
- b) Where any payment to the Supplier under the PO is subject to any withholding Tax, the Supplier authorizes the Purchaser to withhold and/ or deduct such applicable amount of Tax due from the payments due to the Supplier, and pay such applicable amount of Tax to the relevant tax authority, unless otherwise agreed.
- c) The PO will be inclusive of all applicable Taxes except for the Kingdom of Saudi Arabia VAT, if applicable.
- d) The Supplier undertakes to indemnify, defend and hold harmless the Purchaser and its Affiliates, officers, directors, employees, agents and contractors against all claims, liabilities, actions and costs (including all legal fees and costs on a full indemnity basis) arising in connection with any Taxes and fees under this PO.
- e) Any withholding Taxes applicable on the payments to be made to the Supplier under the PO, will be deducted at the time of the payment, from the gross amount of the payment being made to the Supplier, in accordance with the rate applicable

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on such payment under the applicable laws imposed or levied in the Kingdom of Saudi Arabia. For the avoidance of doubt, gross payment for withholding Taxes purposes includes the reimbursement of out-of-pocket expenses, if any, billed by the Supplier.

- f) With respect to any applicable Taxes (including, but not limited to Zakat, or withholding Tax, in each case as applicable), the relevant invoice must be in compliance with the Kingdom of Saudi Arabia Tax legislation and specific invoicing requirements or regulation applicable at the time of issuing the invoice.
- g) Where the Supplier is required by this PO to reimburse or indemnify the Purchaser for any actual cost or expense, the Supplier will reimburse or indemnify (as the case may be) the Purchaser for the full amount of the cost or expense, including any VAT on that amount.
- h) If the Purchaser makes any payment under the PO in respect of which it is required to apply applicable withholding Taxes, the Purchaser will furnish to the Supplier a withholding tax certificate or other evidence of such withheld Taxes, upon written request by the Supplier, evidencing that such Taxes have been withheld and paid. Where the Supplier requires the withholding tax certificate to be attested by the ZATCA, the Supplier will use reasonable endeavors to assist the Supplier to have the certificate attested by the ZATCA provided that the Supplier will reimburse the Purchaser for all the professional charges and other related cost incurred by the Purchaser to secure such attestation.
- i) Where withholding Taxes are applicable, any payment being made by the Purchaser to the Supplier under the PO that is subject to tax relief under the provisions of an applicable double tax treaty, the Purchaser will apply withholding Tax in accordance with the rate applicable on such payment under the laws imposed or levied in the Kingdom of Saudi Arabia, unless the Supplier provides to the Purchaser a confirmation and/or pre-approval from the ZATCA via an official communication channel and/or an official ruling request to the effect that the income derived by the Supplier under the Agreement is not subject to Tax (or subject to zero rate or a reduced rate of tax) in the Kingdom of Saudi Arabia under the provision of the applicable double tax treaty.
- j) Where Tax relief applies, the Purchaser will only apply such relief, where the application of such relief does not expose the Purchaser to any risk, at the Purchaser's sole discretion. Where the Purchaser agrees to apply such relief (e.g., under a tax treaty, or another legally binding instrument) and the application of such relief causes the Purchaser to incur additional costs, the Supplier will reimburse the Purchaser for such costs.
- k) The Supplier agrees and acknowledges that the Purchaser will be entitled, without prior consent from the Supplier, to disclose any information relating to the PO to the ZATCA, following a request from the ZATCA to do so. However, should the Supplier be required to disclose information pertaining to the Purchaser or this PO to the ZATCA, the Supplier must obtain the Purchaser's prior written consent before disclosing any information to the ZATCA.

## 8. LAWS AND REGULATIONS

The Supplier must, at its own cost:

- a) obtain all approvals for the performance of the PO and comply with all legislative requirements in relation to the Goods, Software and / or Services; and
- b) provide all permits, certificates, and licenses which may be required for the performance of the PO at the Purchaser's reasonable request or as may otherwise be required in order for the Parties to comply with their obligations in accordance with the relevant Incoterm specified in the PO.

## 9. PACKING, TRANSPORT AND DELIVERY OF GOODS

- a) All Goods must be packed, clearly marked, and transported in accordance with the PO or, if not specified in the PO, in accordance with industry best practices.
- b) The Supplier will deliver or make the Goods available to the Purchaser at the delivery address specified in the PO during Business Hours and on the Delivery Date (except as specified in the PO).
- c) Except as specified in the PO, the Supplier shall not deliver the Goods in instalments.
- d) If the Supplier is unable to deliver the Goods on the Delivery Date, the Supplier shall notify the Purchaser at the earliest possible opportunity and the Purchaser and the Supplier shall endeavor to agree a mutually acceptable revised Delivery Date. If the Purchaser and the Supplier do not agree a revised Delivery Date, the Purchaser shall have the right to terminate the PO and recover from the Supplier the losses sustained as a result of the delay up to an amount not to exceed 200% of the PO Value.

## 10. TITLE AND RISK OF GOODS

- a) Risk in the Goods passes (subject to Clauses 4m) and 23c), as applicable) from the Supplier to the Purchaser when the Goods are delivered to the Purchaser at the delivery address or, if applicable, on successful completion of installation or as may otherwise be required in accordance with the Incoterm specified in the PO.
- b) Title in the Goods passes (subject to Clauses 4m) and 23c), as applicable) from the Supplier to the Purchaser on the earlier of payment of the price or the delivery of the Goods to the Purchaser at the delivery address or, if applicable, on successful completion of installation.

## 11. QUANTITY OF GOODS

Without limiting the Purchaser's rights in Clause 9d), the Purchaser shall only be liable for payment to the Supplier for the quantity of Goods described in the PO and which are accepted by the Purchaser in accordance with the PO.

## 12. INSPECTION, TESTING AND ACCEPTANCE

- a) Upon the Purchaser's reasonable prior notice, the Supplier will allow the Purchaser to expedite, inspect and test the Goods during the manufacture at the Supplier's premises (to the extent that the Supplier, acting reasonably, can procure such access). Any expediting, inspection, testing or any failure to do so shall in no way relieve the Supplier of its obligations as specified in the PO.
- b) The Purchaser may inspect and / or test all Goods received, Software provided, and/or Services completed by the Supplier within 30 Business Days of the Delivery Date and / or Completion Date, as applicable (the "Testing Period").
- c) Acceptance shall be from the time when a duly authorized employee or representative of the Purchaser accepts the Goods delivered or Software provided, and / or the Services performed and confirms that such Goods, Software and / or Services are not defective or inadequate in any way and comply with the PO.



- d) If a defect or inadequacy in the Goods, Software and/or Services or any breach of the PO is identified by the Purchaser during the Testing Period, the Purchaser shall be deemed not to have accepted the Goods, Software and/or Services until such time as such defect, inadequacy or breach is remedied by the Supplier.
- e) The Supplier must, upon receiving notice from the Purchaser regarding any defect or inadequacy, replace, correct, make good any defect or have workmanship re-performed on any inadequacy in the Goods, Software and / or Services at no cost to the Purchaser within 28 days of the date of the notice.
- f) If the Supplier does not make good the defective or inadequate Goods, Software and/or Services within 28 days of receiving notice from the Purchaser, the Purchaser may, at its election:
- carry out any required rectification, modification, and / or re-performance of the Goods, Software and / or Services on the Supplier's behalf and the cost of such repair or replacement will be a debt due and payable on demand by the Supplier to the Purchaser; or
  - require the Supplier to collect, or otherwise arrange the return of, such Goods at the Supplier's risk and expense. If the Supplier fails to collect rejected Goods within a further 14 days, the Purchaser may charge the Supplier storage and handling costs and / or sell or dispose of the rejected Goods. The Purchaser will account to the Supplier for the proceeds of sale (if any) after deducting the purchase price paid for the Goods, handling and storage costs and the Purchaser's costs and expenses in connection with the sale of such Goods.
- g) Acceptance of the Goods, Software and/or Services shall be without prejudice to the Supplier's liability for any defect or inadequacy in the Goods, Software and/or Services or any breach of the PO which is not identified by such duly authorized employee or representative of the Purchaser at the time of acceptance.

### 13. SPARES

The Supplier shall give sufficient notice to the Purchaser if it intends to cease the supply of Goods, component parts or replacements, to enable the Purchaser to purchase such Goods, component parts or replacements.

### 14. INDEMNITY AND LIMITATION OF LIABILITY

- a) The Supplier shall indemnify, defend and hold harmless the Purchaser and its affiliates, representatives, officers, employees, agents, and contractors against all claims, liabilities, actions, loss, damage or cost (including all legal fees and costs on a full indemnity basis) arising out of or in connection with:
- breach by the Supplier of its obligations under the PO;
  - any non-compliance with or breach of any law;
  - claims brought by third parties;
  - misrepresentation, negligence, fraud, or willful misconduct by the Supplier;
  - damage to property;
  - injury or death of all persons and otherwise; and
  - any infringement of alleged infringement of IP Rights of a third party.
- This indemnity is reduced proportionately to the extent to which the loss is caused or contributed to by the Purchaser.
- b) Subject to Clause 14(c) and the maximum extent permitted by law, neither party shall be liable for any indirect, exemplary, punitive or consequential loss or damage whether arising under claims in contract or at law.
- c) Save with respect to:
- any matter for which an indemnity is given pursuant to Clause 14(a)(iv)-(vii);
  - the Supplier's breach of Clauses 4v), 15, 26c) or 26d);
  - any personal injury or damage to property; and / or
  - any claim relating to gross negligence, misrepresentation, fraud or willful misconduct,

the Supplier's liability in connection with this PO will not exceed 200% of the PO Value.

- d) Except to the extent determined to have resulted from the Purchaser's gross negligence, misrepresentation, fraudulent behaviour or willful misconduct, the Purchaser's liability in connection with this PO will not exceed 200% of the PO Value.

### 15. INTELLECTUAL PROPERTY

- a) All IP Rights belonging to a party (or which it uses under a license from a third party) prior to the date of the PO or developed by a party independently of the PO ("Background IP") shall remain vested in that party (or the relevant third party licensor).
- b) Immediately upon creation or performance, all rights, title, interest, property, and IP Rights in:
- any works and services (including deliverables);
  - all documents, data, records, logs, drawings, specifications, processes, schedules, computer programs, object code, source code, network designs, notes, sketches, findings, interim and final reports, inventions, improvements, modifications, discoveries, tools, scripts and all other related documents (whether machine readable or not); and
  - any items arising from or created, produced or developed by the Supplier (whether alone or jointly with others) under or in connection with the PO, and any equipment installed by the Supplier as part of the Services,
- and in each case, excluding the Goods and the Licensed Software, Third Party Software and Standard Software (collectively, the "Materials") shall vest in and remain the exclusive property of the Purchaser.
- c) The Supplier irrevocably and unconditionally assigns and transfers to the Purchaser, and shall procure that its agents and contractors assign and transfer to the Purchaser, all rights, title, interest, property, and IP Rights in and to the Materials.
- d) The Supplier unconditionally waives (and shall procure its agents and contractors to waive) in favor of the Purchaser any IP Rights it has or may have at law or otherwise to the Materials.

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- e) If any IP Rights in the Materials do not vest in the Purchaser under this Clause, the Supplier shall (and shall procure that its agents and contractors shall):
- do everything reasonably necessary or requested by the Purchaser either during the term of the PO, or after the expiry or termination of the PO, to enable the Purchaser to own the IP Rights in the Materials including: (A) formally assigning those rights to the Purchaser; (B) assisting the Purchaser to obtain those rights; and / or (C) transferring (as applicable) registration of those rights to the Purchaser; and
  - not, and not purport to, encumber, sell, license, or do anything which would otherwise be contrary to the Purchaser's ownership of such IP Rights.
- f) Until such time as the IP Rights in the Materials have fully vested in the Purchaser in accordance with this Clause, the Supplier grants (and shall procure that its agents and contractors grant) to the Purchaser an exclusive, irrevocable, royalty-free and otherwise unrestricted license to use such IP Rights including the right for the Purchaser to sub-license such license.
- g) The Supplier grants (and will procure that its Affiliates, officers, directors, employees, agents, contractors and sub-contractors grant) to the Purchaser a non-exclusive, worldwide, fully-paid, perpetual irrevocable, royalty-free and otherwise non-transferable licence to use any Background IP to the extent required to permit the Purchaser to fully exploit the Materials commercially or otherwise from time to time. Notwithstanding the foregoing, the Purchaser will be granted the right to sub-licence such licence within its own organization, including Affiliates.
- h) After the IP Rights in the Materials are owned by the Purchaser, the Supplier shall have the non-exclusive, non-transferable, irrevocable, non-sublicensable and royalty-free right during the term to use the Materials solely in connection with its performance of its obligations under the PO.
- The Supplier acknowledges and agrees that: (i) all materials, equipment and tools, drawings, specifications and data provided by the Purchaser to the Supplier under or in connection with the PO shall remain the sole and exclusive property of the Purchaser; and (ii) the Purchaser shall grant to the Supplier a limited, non-transferable, revocable, non-sublicensable and royalty-free right during the term to use the Materials solely in connection with its performance of its obligations under the PO.
  - The Supplier shall not use any of the Purchaser's trademarks, brands or logos for any purpose without the Purchaser's prior written consent.
  - If the Purchaser has given its consent to use the Purchaser's trademarks, brands or logos, the Supplier shall use those trademarks, brands and logos strictly in accordance with the terms of the Purchaser's consent and its applicable policies, guidance, and instructions.
  - The obligations in this Clause shall survive the expiry or termination of the PO for any reason.

### 16. INSURANCE

If the provision of the Goods, Software and/or Services includes installation and / or on-site management, the Supplier shall affect and maintain, at its own expense, the following insurances:

- a) Workers compensation insurance for an amount not less than the statutory amount to cover all claims or liabilities for any accident or injury. This insurance shall include an indemnity extension and waiver of subrogation in favor of the Purchaser;
- b) Motor vehicle third party liability insurance for an amount not less than SAR 15,000,000 for any one occurrence for loss of or damage to third party property resulting from an accident covering all motor vehicles which are owned or controlled by the Supplier used in connection with the PO;
- c) Third party liability insurance, providing coverage for cross liability, for an amount not less than the corresponding amount specified in Table 1 covering liability to any third party for death, bodily injury, loss of, and damage to property arising out of any act or omission in relation to the PO;

Table 1

PO Value	SAR 0 - 400.000	SAR 400.000 - 4.000.000	SAR 4.000.000 - 5.000.000	SAR -
Third Party Liability Policy Limit	SAR 1.000.000 per occurrence and SAR 1.000.000 in the aggregate	SAR 2.000.000 per occurrence and SAR 4.000.000 in the aggregate	SAR 3.000.000 per occurrence and SAR 6.000.000 in the aggregate	

- d) Professional indemnity insurance for an amount not less than the corresponding amount specified in Table 2 below and for protection from claims arising out of or in connection with the performance of the Services caused by negligent error, omission or acts for which the insured is liable; and

Table 2

PO Value	SAR 0 - 400.000	SAR 400.000 - 4.000.000	SAR 4.000.000 - 5.000.000	SAR -
Professional Indemnity Policy Limit	SAR 1.000.000 per occurrence and in the aggregate	SAR 2.000.000 per occurrence and in the aggregate	SAR 5.000.000 per occurrence and in the aggregate	

- e) Any other insurance policy that is deemed compulsory by law or necessary in relation to the PO, including such insurance as may be required in order for the Supplier to comply with its obligations in accordance with the relevant Incoterm specified in the PO.

### 17. CANCELLATION

- a) The Purchaser may cancel the PO at any time by giving the Supplier not less than 14 days' written notice.





- b) If the PO covers standard stock Goods, the Purchaser will pay for those Goods which are shipped prior to the cancellation.
- c) If the PO covers Goods manufactured to the Purchaser's specification or specification prepared by the Supplier for the Purchaser, upon receipt of notice of cancellation, the Supplier shall cease manufacture, supply or work in accordance with the notice and shall immediately do everything possible to mitigate any costs incurred from such cancellation.
- d) Provided that the Supplier is not in default under the PO and such Goods have been delivered to the Purchaser at the delivery address and conform and comply in all other respects with the requirements of the PO, the Purchaser will pay the Supplier the costs incurred prior to cancellation, the PO Value of the manufactured Goods, Software and / or Services provided and / or supplied at the date of the cancellation in accordance with the terms of this PO and cost of materials for which the Supplier is legally bound to pay.

## 18. SUSPENSION

- a) At any time and for any reason, the Purchaser may give the Supplier written notice suspending (in whole or in part) the performance of the Services under this PO.
- b) Unless the suspension is directly or indirectly due to a breach of this PO by the Supplier, and only if more than 30 days have passed since the suspension started, the Purchaser will pay to the Supplier any reasonable direct costs arising from the suspension which are incurred and duly documented by the Supplier in the course of performing its obligations under this PO up to and including the effective date of the suspension.

## 19. PERSONNEL

- a) The Supplier will ensure that where its personnel, or the personnel of its sub-contractors:
  - (i) Are required to enter or use any Purchaser site for the purpose of the delivery of Goods or Software or performance of the Services, it will ensure that such personnel comply with all the Purchaser's policies and procedures in force from time to time that apply to individuals present on the site and comply with such other reasonable instructions as detailed by the Purchaser; and
  - (ii) Who have access to the Purchaser's IT systems will: (i) comply with any applicable IT policies of the Purchaser as notified to the Supplier; (ii) not upload to, access, view, copy, download or delete from, such systems any information or data in any format save to the extent reasonably necessary for the proper performance of the Services; and (iii) not cause or introduce any material defects or viruses to such systems.
- b) The Supplier will provide sufficient numbers of personnel to properly and diligently complete the Services (and will be responsible for the selection, hiring, supervision, transportation and payment of remuneration and associated benefits (including the withholding and remitting of all relevant Taxes) of such personnel) who, where required by the Purchaser, will be fluent in English, and suitably qualified, experienced and competent to carry out the roles assigned to them.
- c) The Supplier will at all times be responsible and liable for the welfare and all acts or omissions of its personnel and those of its sub-contractors.
- d) The Supplier will take all reasonable steps to undertake basic screening of all its personnel (and may use a third-party service provider to carry out such checks), including checks on: (i) criminal record; (ii) financial records and credit report; (iii) academic qualifications (e.g. university, grades, dates); (iv) employment including: (A) position(s) held, duration, dates; (B) full details of the three most recent previous employers; and (C) employment references; and (v) social media or other online presence.

## 20. PURCHASER SUPPLIED INFORMATION

- a) Any information, documentation, data, and IP Rights (including information stored or transmitted into a computer, database or any other device by electronic means) supplied or made available to the Supplier by or on behalf of the Purchaser at any time (whether or not contained in this PO) ("Purchaser Supplied Information") is provided only for the Supplier's convenience and will not be relied upon by the Supplier for any purpose.
- b) The Purchaser does not assume any responsibility or duty of care with respect to the Purchaser Supplied Information.
- c) The Supplier will: (i) only use the Purchaser Supplied Information for the purpose of performing the Services, providing the Software or providing the Goods; (ii) make its own assessment on any Purchaser Supplied Information received, which will not relieve, alter, limit or change the Supplier's obligations under the PO; (iii) not be entitled to any claim arising out of or in connection with the inaccuracy, incompleteness or inadequacy of the Purchaser Supplied Information or the non-provision of any other information by the Purchaser; and (iv) not obtain any IP Rights in the Purchaser Supplied Information and waives any claim to any such IP Rights.

## 21. TERMINATION FOR DEFAULT AND INSOLVENCY

- a) If the Supplier fails to comply with any condition of the PO or fails to deliver the Goods by the Delivery Date, provide the Software by the Software Delivery Date and / or provide the Services by the Completion Date, the Purchaser may give notice to the Supplier that, unless the failure is remedied within a period of 14 days after receipt of the notice, the Purchaser may terminate the PO with immediate effect by written notice to the Supplier.
- b) The Purchaser may terminate the PO with immediate effect by written notice to the Supplier if the Supplier becomes or is deemed to be insolvent or bankrupt or enters into liquidation, whether voluntary or compulsory (other than for solvent reconstruction), passes a resolution for its winding up, has a receiver, manager or administrator, trustee or similar officer appointed over the whole or any part of its assets, makes any composition or arrangement with its creditors or takes or suffers any similar action in consequence of its debt.
- c) If the PO is terminated pursuant to Clause 21a) or b), the parties' rights, remedies, and liabilities will be the same as they would have been under the law governing the PO had the Supplier repudiated the Purchaser Order and the Purchaser elected to treat the PO as at an end and recover damages, which election the Purchaser hereby makes.

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## 22. NOTICES

Any notices must be: (a) in writing; (b) signed by or on behalf of the party providing the notice; (c) sent by prepaid post, courier, or email to the recipient's address set out in the PO; and (d) will be deemed to have been received by the recipient (in the case of post and courier) on the date shown on the receipt issued by the courier and (in the case of email) on the date and time the email is sent. The Purchaser's address for notices shall be the invoice address.

## 23. HAZARDOUS MATERIALS

To the extent that the Goods contain toxic, corrosive or hazardous materials the Supplier will ensure that a notice to that effect accompanies each consignment of the Goods, together with appropriate care and handling instructions; and where such Goods are contaminated beyond use at the time of delivery (determined at the Purchaser's reasonable discretion):

- a) the Supplier shall regenerate or dispose of the contaminated Goods;
- b) resupply to the Purchaser the non-contaminated Goods; and
- c) the title and risk of the contaminated Goods will remain with the Supplier, who will bear all expenses for performing said processes (detailed in Clause 23a) and b)).

## 24. HEALTH, SAFETY, AND ENVIRONMENTAL AND HERITAGE POLICIES AND STANDARDS

- a) All Goods, Software or Services designed, supplied, constructed, and / or provided by the Supplier pursuant to a PO must comply with all relevant environmental and health and safety requirements, Heritage policies, legislative requirements, standards, regulations, and industry codes of practice, including those in the Kingdom of Saudi Arabia.
- b) The Supplier agrees that on each occasion that it uncovers or otherwise encounters a Heritage object in the course of its performance of the Services, provision of the Software and/or delivery of the Goods under the PO, it shall immediately cease performing the Services, providing the Software or delivering the Goods and notify the Purchaser.

## 25. LOCAL CONTENT

The Supplier will, wherever possible using best endeavors, give preference to the Kingdom of Saudi Arabia's local suppliers, manufacturers, and contractors where price, quality, delivery, and service are equal to or better than that obtainable elsewhere. The Purchaser may request evidence of compliance with this obligation and the Supplier must provide such evidence within 5 Business Days of receipt of the request.

## 26. MISCELLANEOUS

- a) The terms of the PO can only be amended or varied in a written document signed by both parties.
- b) The Supplier shall not novate, assign, sub-contract or transfer the PO (in whole or in part) or any obligations thereunder without the Purchaser's prior written consent.
- c) The Purchaser and the Supplier shall keep the terms and existence of the PO and any information which either party learns about the other in strict confidence and will not disclose the same to any third party without the prior written consent of the other party.
- d) The Supplier: (i) will, at all times, comply with all of the Purchaser's confidentiality, social media and non-disparagement, policies, directives, and requirements applicable to consultants, service providers, and contractors; (ii) will not advertise, publish, disseminate or communicate to any person, in any public forum, any defamatory, false, derogatory, disparaging, negative or adverse remarks, comments, or statements in spoken, printed, electronic, or any other form or medium, relating directly or indirectly to, or do anything which has or may have any negative impact on the reputation of, the Purchaser, including its affiliates, businesses, or any of its employees, officers, or directors and its existing and prospective customers, suppliers, investors, and other associated third parties, now or in the future; and (iii) will procure that its directors, officers, employees, personnel and consultants are aware of and will comply with the obligations under Clauses 26c) and d), including mandating relevant provisions no less onerous than under Clauses 26c) and d) in any engagement or employment contract with any personnel.
- e) The Supplier will maintain complete and accurate books and records in connection with the performance of the Services or provision of the Software for such periods as required by applicable law or best industry practice, but in all cases not less than 7 years after expiry or termination of the PO. All such books and records will be available for inspection by the Purchaser at all times at Purchaser's reasonable request and the Purchaser will be entitled to take copies of all or any part of such books and records.
- f) No party to the PO may rely on the words or conduct of any other party as a waiver of any right and the Purchaser can only waive its rights under or in connection with the PO by a written document signed by the Purchaser.
- g) This PO is governed by and construed in accordance with the laws of Kingdom of Saudi Arabia. All disputes or disagreements arising out of or in connection with the formation, performance, interpretation, nullification, termination or invalidation of the PO or any other related dispute or disagreement shall be resolved by means of the courts of the Kingdom of Saudi Arabia.
- h) The Supplier provides all Goods, Software and / or Services under and in relation to the PO as an independent contractor, dealing at arm's length, and not as an agent, representative or employee of the Purchaser.
- i) Nothing in the PO shall constitute the parties as partners, joint ventures, co-owners or as the agent, employee or representative of the other or empower either party to act for, bind or otherwise create or assume any obligation on behalf of the other and neither party shall hold itself out as having authority to do the same.
- j) The Supplier will promptly do all further acts and execute and deliver all further documents (in a form and content reasonably satisfactory to the Purchaser) required by law or reasonably requested by the Purchaser in order to give effect to this PO.
- k) Unless stated otherwise, no third party shall have the benefit of any rights under the PO.
- l) Any provision of the PO which is prohibited or unenforceable is ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions or affecting the validity or enforceability of such provisions.
- m) The PO may be executed in any number of counterparts and by the parties on separate counterparts. Each counterpart constitutes an original of the PO and all together constitutes one agreement.
- n) This PO contains the entire agreement between the parties regarding its subject matter and supersedes any prior agreement, understanding or arrangement between them,



whether oral or in writing. The parties shall not be bound by or be liable for any statement, representation, promise, inducement, solicitation or understanding of any kind or nature not set out in this PO.

- o) The Purchaser may novate, assign, sub-contract or transfer, or permit to be taken as security the whole or any part of this PO, or any benefit, or interest in the PO (in whole or in part) or any obligations thereunder without the consent of the Supplier.

## 27. DATA PROTECTION AND INFORMATION SECURITY

- a) The Supplier acknowledges that in respect of any personal data that the Supplier processes on the Purchaser's behalf in the course of providing the Goods and/or Services that the Purchaser is the data controller and the Supplier is the data processor of such personal data.
- b) Personal data, controller, processor and all other relevant terms with respect to the protection of personal data shall have the meanings as set out in: (i) any Kingdom of Saudi Arabia legislation relating to the personal data and all other legislation and regulatory requirements in force from time to time which apply to a party relating to the use of personal data (including the privacy of electronic communications) (the "Data Protection Legislation"); and if not defined in the Data Protection Legislation then such term(s) shall have the meaning as set out in: (ii) the Council of Europe Convention 108+ as amended and updated from time to time.
- c) The: (i) nature and purpose of the processing of personal data by the Supplier is the provision of the Goods and/or Services pursuant to this PO; (ii) categories of data subjects and types of personal data are those relevant to this PO and the Goods and/or Services; and (iii) duration of processing will be for the length of this PO until it expires or is terminated.
- d) The Supplier will: (i) only process personal data in accordance with the Purchaser's written instructions (and immediately inform the Purchaser if an instruction infringes Data Protection Legislation); and (ii) not transfer personal data outside of the Kingdom of Saudi Arabia except with the prior written consent of the Purchaser and, where granted, enter into such suitable agreement(s) and adopt any necessary measures to ensure an adequate level of protection of the personal data as required by the Purchaser.
- e) The Supplier will (and will ensure that its affiliates and sub-contractors will): (i) have in place appropriate technical and organizational measures to protect against any personal data breach, having regard to the state of technological development and the cost of implementing any such measures; (ii) notify the Purchaser promptly on becoming aware of a personal data breach; (iii) assist the Purchaser in responding to any requests from a data subject and in ensuring compliance with breach notifications, impact assessments, and any requests or consultations with regulatory authorities; and (iv) at the expiry or termination of this PO delete or return all personal data to the Purchaser.

## 28. SPECIAL CONDITIONS

Any further special conditions are as attached and set out in the Special Conditions.

## 29. SOFTWARE LICENSING

If the Purchaser acquires from the Supplier a license for: (i) any computer programs in whatever form, and any updates, upgrades, fixes, improvements, or modifications that the Supplier makes available ("Licensed Software"); or (ii) any materials and documentation in hard copy or electronic format to assist the user of the Licensed Software ("Licensed Materials"), each as detailed in the PO, then:

- a) Notwithstanding the provisions of Clause 15, the Supplier grants to the Purchaser (and all affiliates) a non-exclusive, irrevocable, world-wide, perpetual right and license to use (and copy as required for its internal distribution and installation) the Licensed Software (including any new versions or modifications as available) and Licensed Materials;
- b) The Purchaser will: (i) not reverse-engineer, decompile or disassemble the object code in any manner other than to ensure the interoperability of the Licensed Software with the Purchaser's software and systems; and (ii) ensure that the maximum number of users authorized by the Purchaser to use the Licensed Software does not exceed the number of subscriptions detailed in the PO;
- c) Within 5 Business Days of the date of the PO (or as otherwise detailed in the PO), make available to the Purchaser the Licensed Software and Licensed Materials (in object code, by download, or by way of other mutually agreed format);
- d) Without limiting the Supplier's warranties in Clause 4, the Supplier represents, warrants, and undertakes that Licensed Software will: (i) perform in accordance with any applicable specifications and its latest release; and (ii) operate successfully on the operating platform specified in any applicable specifications;
- e) If the Licensed Software contains any: (i) defects, deviations, failures, or other errors notified by the Purchaser to the Supplier, the Supplier will promptly correct such errors; or (ii) virus or vulnerabilities the Supplier will provide all necessary assistance to minimize any effects and promptly take steps to remove the virus or vulnerability; and
- f) No more than once a year during the term of the PO, the Supplier (or the Supplier's nominated auditor) will be permitted to audit the Services to verify that the Purchaser's use does not exceed the number of licenses detailed in the PO and if such audit identifies an underpayment of charges then the Purchaser shall pay the Supplier an equal amount to such underpayment.

## 30. SOFTWARE DEVELOPMENT SERVICES

If the Services detailed in the PO consist of or include software development services ("Software Development Services"), then:

- a) The Supplier will: (i) (A) provide software programs proprietary to third parties with or without modification ("Third Party Software") under the license terms provided by the relevant third party; (B) provide software programs proprietary to the Supplier ("Standard Software"); and (C) develop such software programs and make such modifications in accordance with the requirements detailed in the PO ("Bespoke Software"), together being "Supplier Software"; (ii) provide in a timely manner such up-to-date documentation to enable the proper use and maintenance of the Supplier Software; and (iii) deliver and install Supplier Software at any sites nominated by the Purchaser ("Site") by such date detailed in the PO or otherwise agreed between the parties;
- b) For the avoidance of doubt, IP Rights in the Bespoke Software and any tools or know-how developed and methods invented by the Supplier in the course of, or as a result of, providing the Bespoke Software vest in the Purchaser and the

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provisions of Clause 15 apply in relation to such IP Rights; and

- c) Immediately after acceptance, the Supplier must deliver to the Purchaser in a machine readable format the source code of the Bespoke Software (in the language in which the software was written, together with all related flow charts and technical documentation, of a sufficient level to enable the Purchaser to understand, develop and maintain the Bespoke Software).

## 31. PLATFORM DEVELOPMENT SERVICES

If the Services detailed in the PO consist of or include services for the development of a platform ("Platform") for the Purchaser ("Platform Development Services"), then:

- a) The Supplier will: (i) supply all items of computer and other equipment or hardware (including cabling and documentation required for the installation of such hardware) ("Supplier Hardware"); (ii) provide all Supplier Software (including such up-to-date documentation to enable the proper use and maintenance of the Supplier Software); (iii) plan and design the system consisting of the Supplier Hardware, Supplier Software and documentation (including any new releases of the Supplier Software in which faults have been remediated or new versions of the Supplier Software which provide additional or improved functionality or improvement) in accordance with the requirements of the PO; (iv) install, implement, and configure the Supplier Hardware and the Supplier Software at any Sites by such date detailed in the PO or otherwise agreed between the parties; and (v) if required by the Purchaser as detailed in the PO: (A) host the Platform on defined infrastructure provided by the Supplier; (B) provide training regarding the Platform; and (C) provide the Purchaser with disaster resources and business continuity services;
- b) For the avoidance of doubt, IP Rights in the Bespoke Software and Platform and any tools or know-how developed and methods invented by the Supplier in the course of, or as a result of, providing the Bespoke Software or Platform vest in the Purchaser and the provisions of Clause 15 apply in relation to such IP Rights; and
- c) Immediately after acceptance, the Supplier must deliver to the Purchaser in a machine readable format the source code of the Bespoke Software (in the language in which the software was written, together with all related flow charts and technical documentation, of a sufficient level to enable the Purchaser to understand, develop and maintain the Bespoke Software and Platform).

## 32. MANAGED SERVICES

If the Services detailed in the PO consist of or include managed services ("Managed Services"), then:

- a) The Supplier: (i) acknowledges that it has had the opportunity to conduct sufficient due diligence (and has received sufficient information) in relation to the Purchaser's requirements for the Managed Services to establish that it can provide the Managed Services in accordance with the terms of the PO; and (ii) will be responsible for specifying in sufficient detail to the Purchaser any information or documentation reasonably required for the purposes of providing the Managed Services and the Purchaser will provide such information or documentation so far as it is available to the Purchaser;
- b) If the Purchaser details any minimum standards for service performance in the PO ("Service Level") which the Supplier fails to meet ("Service Failure") then: (i) if the Supplier has reasonable grounds to believe that there will be or is likely to be a Service Failure it will promptly notify the Purchaser and will take all measures necessary to prevent a Service Failure from occurring; (ii) if the Service Failure occurs, the Purchaser may send a notice to the Supplier obliging it to remedy the Service Failure within a specified time; and (iii) if the Supplier fails to remedy the Service Failure within the specified time, the Purchaser may exercise its rights at Clause 32c);
- c) Notwithstanding any other provision of the PO, the Purchaser may, by notice in writing to the Supplier, either itself or by a third party nominated by the Purchaser, take over management of the Managed Services if there is or is reasonably likely to be a Service Failure or breach of the PO by the Supplier which is likely to have a material adverse effect on the Purchaser or the Purchaser's ability to receive the Managed Services in which case: (i) the Supplier will cooperate fully with, and provide all reasonable assistance to, the Purchaser (including access to such management records, systems and other information relating to the Managed Services; (ii) the Purchaser will not be liable for any payments to the Supplier for the Managed Services in which the Purchaser exercises this step-in right; and (iii) the Supplier will be liable to pay any additional costs incurred by the Purchaser (acting reasonably) as a result of exercising this step-in right; and a) The Purchaser may, at any time before expiry or termination of the PO, request by way of notice the Supplier to offer reasonable assistance in transitioning the Managed Services to the Purchaser or any entity with which the Purchaser contracts (or proposes to contract) to provide services similar to the Managed Services upon expiry or termination of the PO ("Replacement Supplier") in which case: (i) the Supplier will provide such assistance as detailed in the notice; and (ii) promptly produce a list of any third party contracts (including any licenses for third party software) that the Supplier reasonably considers necessary to enable transition of the Managed Services (and co-operate to procure the novation or assignment of such contracts).

## 33. SUPPORT AND MAINTENANCE SERVICES

If the Services detailed in the PO include or are accompanied by Licensed Software, Bespoke Software and/or a Platform, and the Purchaser requires the maintenance activities in respect of same ("Support and Maintenance Services") then the Supplier will provide the Support and Maintenance services to the Purchaser at no extra cost (or at such cost as otherwise agreed by the parties in the PO). The Support and Maintenance Services will: (i) detect and correct any defects, deviations, failures or other errors; (ii) provide the Purchaser with access to any updates, upgrades, fixes, improvements, or modifications which are made commercially available by the Supplier; (iii) respond to enquiries made by the Purchaser regarding the Services; and (iv) comply with any service levels detailed in the PO.

## 34. CONSULTANCY SERVICES

If the Services detailed in the PO include services for the provision of consultants or consultancy services ("Consultancy Services") then:

- a) The Supplier will: (i) ensure that such personnel the Supplier uses for the performance of the Consultancy Services: (A) comply with all applicable labor laws and regulations and maintain appropriate labor and immigration permits; and (B) are promptly removed and replaced by the Supplier (or at the Purchaser's request) if such person fails to maintain discipline and good order; (ii) adopt employment terms and conditions no less favorable than local norms; (iii) comply with all local immigration and work permitting requirements and laws relating to the employment of local labor and expatriate



personnel; (iv) have due regard to all recognized festivals, days of rest and religious or other customs in the Kingdom of Saudi Arabia; and (v) provide or procure the provision of all relevant training for such personnel;

- b) If applicable to the Consultancy Services, the Supplier: (i) will ensure that the completed Services comply with any technical standards, building, construction and environmental laws of the Kingdom of Saudi Arabia; and (ii) acknowledges that it may be providing advice and recommendations to the Purchaser which the Purchaser may elect not to follow but the Supplier will be responsible pursuant to the PO Terms and Conditions for any loss incurred by the Purchaser as a result of the Purchaser following the Supplier's advice and recommendations; and
- c) The Supplier will comply with any further requirements regarding: (i) any project(s), deliverable(s), or Material-specific plan(s), performance milestone(s) or schedule(s); and (ii) undertake any further acceptance processes beyond that at Clause 12, each as detailed in the PO.

### 35. INTEGRATION SERVICES

If the Services detailed in the PO consist of or include the provision of a Platform, Software, Supplier Hardware or other system which requires integration with the Purchaser's systems, platforms, hardware, software, or otherwise ("Integration Services"), then:

- a) Before delivery of any Supplier Software, Third Party Software, Standard Software, and/or Supplier Hardware, the Supplier will: (i) provide all cabling and other equipment needed for the installation of any Supplier Hardware at any Sites by such date detailed in the PO or otherwise agreed between the parties; (ii) carry out reasonable tests to ensure that such software and hardware is in an operable condition and capable of meeting the requirements and specifications detailed under the PO; (iii) carry out such further pre-installation tests as required by the Purchaser and agreed to by the Supplier; (iv) develop an implementation plan detailing the time schedule and sequence of events for the installation and testing of the Platform, Software, or other system; and (v) undertake any further acceptance testing, beyond that at Clause 12, as detailed in the PO; and
- b) For the avoidance of doubt, any IP Rights, tools or know-how developed and methods invented by the Supplier in the course of, or as a result of, providing the Integration Services vest in the Purchaser and the provisions of Clause 15 apply in relation to such IP Rights.

### 36. SOFTWARE-AS-A-SERVICE

If the Services detailed in the PO consist of or include provision of Licensed Software as a service ("Software-as-a-Service"), then:

- a) In relation to Clause 29, only the following provisions shall apply: a), b), d), and e);
- b) Within 5 Business Days of the date of the PO (or as otherwise detailed in the PO), make available to the Purchaser the Licensed Software and Licensed Materials via such web address(es) as detailed in the PO or any other website(s) notified to the Purchaser by the Supplier from time to time;
- c) The Supplier will: (i) ensure that during the term of the PO, it shall use commercially reasonable endeavors to make the Software-as-a-Service available 24 hours a day, 7 days a week except for planned maintenance notified to the Purchaser in advance or any unscheduled maintenance which the Supplier will use reasonable endeavors to provide prior notice; and (ii) unless otherwise detailed in the PO, if the availability of the Software-as-a-Service falls below 99.5% per month, the Purchaser may terminate this agreement immediately on notice to the Supplier; and
- d) The Supplier will have in place sufficient measures and policies in place to:
  - (i) protect the security of its network and information systems from risks including system failures, human error and malicious activity by which the Software-as-a-Service are provided; (ii) detect, promptly respond to and mitigate any anomalous events, including reporting incidents, unauthorized access or activities, and identifying weaknesses, regarding the Software-as-a-Service ("Incident"); (iii) undertake such tests and audits of the Supplier's network and information systems to reveal any weaknesses regarding the Software-as-a-Service; (iv) ensure business continuity and disaster recovery for the provision of the Software-as-a-Service in the event of an Incident; and (v) provide such Incident reporting to the Purchaser as requested by the Purchaser.

### 37. MINOR WORKS AND INSTALLATION SERVICES

If the Services detailed in the PO consist of or include the provision of minor works or installation services ("Minor Works and Installation Services"), then:

- a) The Supplier must, in performing the Minor Works and Installation Services use (i) proper and tradesman-like workmanship and (ii) materials which are suitable, new, free from defects and fit for their intended purpose;
- b) Without limiting the warranties in Clause 4, the Supplier warrants that it (i) will perform the Minor Works and Installation Services with the professional skill, care and diligence expected of a qualified, professional contractor experienced in performing similar works; and (ii) is registered and licensed to perform the Minor Works and Installation Services as required by law;
- c) The Purchaser may, from time to time, and in its sole discretion, direct the Supplier in writing to add to, omit from or vary the Minor Works and Installation Services. The parties must agree a reasonable change to the PO Value (or the basis for calculating such a change) for the addition, omission or variation. Unless the Purchaser directs otherwise in writing, the Supplier must not commence performing the Purchaser's direction until such agreement is reached;
- d) The Supplier must: (i) promptly provide any information requested by the Purchaser regarding the performance of the Minor Works and Installation Services, including the progress of the Minor Works and Installation Services and the Goods, work methods, resources, materials or equipment used or proposed to be used in performing the Minor Works and Installation Services; (ii) give the Purchaser at least 5 Business Days' notice before delivering any Goods or equipment to the Purchaser's site or premises as specified by the Purchaser in the PO Form or by other notice ("Site"); (iii) during the performance of the Minor Works and Installation Services, clean up and remove all rubbish from the Site daily. Upon completion of the Minor Works and Installation Services, the Supplier must leave the Site in a clean and tidy condition; and (iv) not delay, interfere with or disrupt other works and activities being carried out on the Site, except to the extent necessary to perform the Minor Works and Installation Services;
- e) The Purchaser may, at any time before the Purchaser accepts the Minor Works and Installation Services under Clause 12 and during the 24 month period from the

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Completion Date, direct the Supplier to rectify any defect, non-compliance or omission in the Minor Works and Installation Services at no cost to the Purchaser;

- f) Upon receipt of direction under Clause 37e), the Supplier must rectify the defect, non-compliance or omission within a reasonable time. The Supplier must carry out any rectification work at times and in a manner which causes as little inconvenience to the owners and users of the Site as is reasonably possible;
- g) If the Purchaser's direction under Clause 37e) specifies reasonable dates by which the Supplier must commence and complete the rectification work, the Supplier must do so by those dates;
- h) If the Supplier does not commence and complete the rectification work in accordance with Clause 37g), the Purchaser may, after giving the Supplier prior notice, have the rectification work carried out and the costs and expenses incurred by the Purchaser in doing so will be a debt due and payable from the Supplier to the Purchaser;
- i) The Purchaser's rights under this Clause 37 are in addition to its other rights under the PO and at law;
- j) The Supplier is responsible for the care of the Minor Works and Installation Services (including temporary works, construction equipment, unfixed plant or equipment and items entrusted to the Supplier by the purchaser) from the commencement of the Minor Works and Installation Services until the Minor Works and Installation Services are completed and handed over to, and accepted by, the Purchaser in accordance with the PO; and
- k) The Supplier must provide all things and take all measures necessary to protect people, property and the environment and avoid nuisance or unnecessary interference to people and vehicles on or around the Site.

### 38. COLOCATION

If the Services detailed in the PO include services for the provision of colocation services ("Colocation Services") then:

- a) For the purposes of this Clause 38: "Cross-Connect" means any physical connect that does not exist in the Data Centre which connects the Purchaser Equipment and/or Supplier Equipment and/or third party equipment in the Data Centre; "Data Centre" means the Supplier's data centre site at which the Supplier will provide the Colocation Services; "Data Centre Ancillaries" means any power bars, cabling, racks, cabinets and any other equipment and/or hardware necessary to connect the Purchaser Colocation Site to the Purchaser Equipment and/or the Supplier Equipment and otherwise for the Purchaser to receive the benefit of any of the Colocation Services; "Data Centre Infrastructure" means all the infrastructure used in connection with the Data Centre to provide the Colocation Services; "Meet Me Room" means an area in the Data Centre designated for the Purchaser and third parties to interconnect with each other; "Purchaser Colocation Site" means the area of the Data Centre that the Supplier provides for the Purchaser's exclusive use and for which the Supplier will perform the Colocation Services; "Purchaser Equipment" means equipment, software, hardware, materials, and tools as required by the Purchaser; "Structured Cabling" means a matrix of physical connections which connect Purchaser Equipment to the Purchaser Colocation Site; "Structured Link" means a dedicated physical connection which connects Purchaser Equipment and/or Supplier Equipment in the Purchaser Colocation Site to a Meet Me Room; "Supplier Equipment" means the equipment, hardware, and other tangible items provided by the Supplier or accessed by the Purchaser to enable the Purchaser to utilize the Colocation Services;
- b) The Supplier will grant the Purchaser a right to use the Colocation Services and occupy the Purchaser Colocation Site for the period specified in the PO to: (i) install and locate the Purchaser Equipment in the Data Centre and Purchaser Colocation Site; (ii) use any Purchaser Equipment and Data Centre Ancillaries; (iii) connect both in and out of the Data Centre and Purchaser Colocation Site including by using Cross-Connects, Data Centre Ancillaries, Data Centre Infrastructure,

Structured Cabling, and Structured Links; and (iv) use the Meet Me Room on a non-exclusive basis in connection with receipt of the Colocation Services, in all cases subject to Purchaser's compliance with the Supplier's acceptable use policy as specified in the PO;

- c) The Supplier will: (i) provide the Purchaser with the Purchaser Colocation Site and the Purchaser will have the right to: (A) install, operate, maintain and otherwise use the Purchaser Equipment in the Purchaser Colocation Site; (B) operate any antenna installed at the Data Centre provided for the Purchaser's use; (C) use the Data Centre Infrastructure to facilitate the use of the Colocation Services and Purchaser Colocation Site; and (D) use the dedicated electrical power, telecommunications, data network capacity, and any such other requirements in order for the Purchaser Equipment to function; and (ii) provide such Colocation Services as detailed in the PO which will include, as applicable, the provision of power, cooling and environment management, lighting, security, all operations and maintenance, management of the Data Centre, incident assistance, business continuity and disaster recovery, and such additional and/or ancillary services as required by the Purchaser as detailed in the PO;
- d) The Supplier shall not: (i) allow any third party to access, or connect in or out of, the Purchaser Colocation Site; (ii) access the Purchaser Colocation Site except: (A) where such access is required by the Supplier's personnel in order to operate and maintain the Purchaser Colocation Site or Data Centre; (B) in order to undertake, subject to the Supplier providing reasonable prior notice to the Purchaser, scheduled maintenance or emergency maintenance; (C) where required under applicable law; or (D) with the Purchaser's prior written consent; or (iii) require the Purchaser to relocate Purchaser Equipment installed in the Purchaser Colocation Site unless the Supplier provides at least 2 months' written notice, bears all costs of such relocation, consults with the Purchaser regarding the timetable of such relocation, and provides a substantially similar area as the Purchaser Colocation Site which causes the minimum disruption to the Purchaser's operations;
- e) Without limiting the warranties in Clause 4, the Supplier warrants that it will (i) maintain all Data Centre Infrastructure, Supplier Equipment, Data Centre Ancillaries, and any other hardware, software, equipment and/or network infrastructure required for or used to provide the Colocation Services; (ii) maintain a carrier neutral policy for the Data Centre for the term of the PO; (iii) allow the Purchaser to connect Purchaser Equipment with telecommunications providers within the Data Centre, Purchaser Colocation Site, and/or the Purchaser's connections in the Meet Me Room; (iv) not restrict the Purchaser's ability to place Purchaser Equipment in the Purchaser Colocation Site or the Purchaser's access to the Purchaser Colocation Site; and (v) the Data Centre and Purchaser Colocation Site will conform in all material respects with the specifications detailed in the PO;
- f) Without limiting the termination rights under Clause 21, if any, or all, of the Purchaser Colocation Site or an area of the Data Centre necessary for access to, or use of, the Purchaser Colocation Site is materially damaged which renders the Purchaser Colocation Site inaccessible or unusable, and such damage is not repaired and restored such that the Purchaser can use and access the Purchaser Colocation Site to the





Purchaser's reasonable satisfaction, the Purchaser may terminate the PO in whole or in part by giving the Supplier 45 days' written notice;

- g) The Supplier shall provide the Colocation Services in accordance with any applicable service levels as detailed in the PO, including in relation to the elements of the Colocation Services specified in Table 3.

Table 3

Colocation Services	Service Level
Access to the Purchaser Colocation Space.	Continuous, uninterrupted access to the Purchaser Colocation Space.
Availability of, and access to, any network connections.	Uptime of at least 99.9%.
Provision of power to the Purchaser Colocation Space.	Continuous, uninterrupted power availability of at least 99.9%, to the power levels as specified in the PO.
Provision of ventilation and air conditioning to the Purchaser Colocation Space in order to control the temperature.	Temperature to be controlled to the levels as specified in the PO.
Provision of ventilation and air conditioning to the Purchaser Colocation Space in order to control the humidity.	Humidity to be controlled to the levels as specified in the PO.
Provision of ventilation and air conditioning to the Purchaser Colocation Space in order to control the humidity.	Humidity to be controlled to the levels as specified in the PO.

### 39. SUBSCRIPTION SERVICES

If the Services detailed in the PO consists of the provision of documents, materials, or other content ("**Subscription Materials**") to the Purchaser by the Supplier online by way of a subscription model ("**Subscription Services**"), then:

- a) Notwithstanding the provisions of Clause 15, the Supplier grants to the Purchaser (and all affiliates) a non-exclusive, irrevocable (during the term of the PO), world-wide, right and license to permit those employees, agents, and contractors of the Purchaser (or its affiliates) who are authorized by the Purchaser or the relevant affiliate ("**Authorized Users**"), subject to the remainder of this Clause 39, to: (i) access and use the Subscription Services; and (ii) access, use, share, and copy for its internal business operations the Subscription Materials for the term of the PO.
- b) The number of Authorized Users shall be specified in the PO ("**User Subscriptions**");
- c) The Purchaser undertakes to use reasonable endeavors to ensure that: (A) the maximum number of Authorized Users shall not exceed the number of User Subscriptions; (B) any User Subscription will not be used by more than 1 individual Authorized User unless it has been reassigned (such reassignment at Purchaser's sole discretion); and (C) it, all affiliates, and Authorized Users comply with the Supplier's access and acceptable use terms which apply to the Subscription Services and Subscription Materials which are made known to the Purchaser from time to time and which are subject to the PO Terms and Conditions.
- d) The Supplier (or the Supplier's nominated auditor) may no more than once a year during the term of the PO, audit the Subscription Services to verify that the Purchaser's use of the Subscription Services does not exceed the number of User Subscriptions and, if such audit identifies an underpayment of charges, then the Purchaser shall pay the Supplier an equal amount to such underpayment.
- e) The Purchaser may, from time to time during the term of the PO, purchase additional User Subscriptions in excess of the number set out in the PO ("**Additional User Subscriptions**") for which, notwithstanding Clause 26a): (A) the Purchaser shall notify the Supplier in writing of the request for, and number of, Additional User Subscriptions; (B) the Supplier shall activate the Additional User Subscriptions within 3 days of the Purchaser's request pursuant to Clause 39b)(iii)(A); and (C) the Purchaser shall pay the Supplier for Additional User Subscriptions in accordance with Clause 5 with the applicable charges pro-rated from the date of activation by the Supplier of the Additional User Subscriptions.
- f) Without limiting any other of the Supplier's warranties in Clause 4, Clause 4p) will not apply and the Supplier represents, warrants, and undertakes that for the term of the PO the Supplier will, on written notice from the Purchaser and at its own cost, make good any defect or inadequacy in the Services.
- g) Notwithstanding Clause 1 the Purchaser hereby agrees that the Supplier may incorporate its terms and conditions by reference for the Subscription Services provided that: (i) such terms and conditions are detailed as Special Conditions pursuant to Clause 28; and (ii) in the event of an inconsistency between the Special Conditions and the Purchase Terms and Conditions, the Purchase Order Terms and Conditions shall prevail.