



Labtest Hong Kong Limited
Terms and Conditions for the Supply of Goods and Services

1. General

- 1.1** These terms and conditions shall apply to the Purchase Order unless (i) the Purchase Order refers to a specific contract and/or terms in which case such specific contract and/or terms shall apply in conjunction with these terms and conditions and in the event of any conflicts between these terms and conditions and such specific contract and/or terms then the latter shall prevail and apply; or (ii) the Provider and the Buyer have agreed to any changes to these terms and conditions which are set out in the Purchase Order.
- 1.2** Any purchase by the Buyer shall be conditional upon acceptance of these terms and conditions by the Provider. If the Provider does not wish to accept these terms and conditions, then the Provider should not accept the Purchase Order, and should inform the Buyer immediately.

2. Definitions

'Buyer' shall mean Labtest Hong Kong Limited, whose details are identified on page 1 of the Purchase Order.

'Confidential Information' shall mean the proprietary and confidential data or information which is of tangible or intangible value and is not public information or is not generally known or available to competitors but is known only to the Party itself and those of its employees, independent contractors, consultants, customers or agents to whom it must be confided in order to apply it to the uses intended, including, without limitation, information regarding the parties' customers or prospective customers, marketing methods and business plans and the information contained in and terms of the Purchase Order.

'Goods' shall mean all or any of the items set out in the Purchase Order which are to be supplied to the Buyer by the Provider.

'Hong Kong' shall mean the Hong Kong Special Administrative Region of the People's Republic of China.

'Parties' shall mean the Buyer and the Provider.

'Party' shall mean either the Buyer or the Provider.

'Provider' shall mean the person, firm or company named as such on page 1 of the Purchase Order (or its successors in title).

'Purchase Order' shall mean any Purchase Order placed by the Buyer under which the Provider agrees to supply Goods and/or Services to the Buyer in accordance with these terms and conditions.

'Services' shall mean the Services to be performed by the Provider for the Buyer as described in the Purchase Order and anything created or produced as a result of the Services.

'Specification' shall mean the requirements to which the Goods and/or Services supplied shall conform as detailed in the Purchase Order.

3. Purchase Order

3.1 A Purchase Order that is computer-generated by the Buyer shall be deemed to be a valid document executed by the Buyer. A Purchase Order issued under this clause shall be valid for a period of 30 days from the date of the Purchase Order during which the Buyer may accept in accordance with clause 3.2 below.

3.2 A Purchase Order shall be deemed to have been accepted by the Provider by either (i) the Provider signing and returning a duplicate copy of such Purchase Order; or (ii) upon delivery by the Provider of the Goods and / or Services to the Buyer in accordance with the Purchase Order.

3.3 No Purchase Order which has been confirmed in writing by the Provider may be cancelled by the Provider unless such cancellation is agreed by the Buyer in writing.

3.4 The Buyer shall be entitled to amend or alter the terms specified in the Purchase Order including without limitation the date of delivery at the discretion of the Buyer.

3.5 The Buyer shall be entitled to cancel the Purchase Order provided that such cancellation is effected in writing and signed by an authorised person of the Buyer at least seven days prior to the date of delivery as set out in the Purchase Order.

4. Assignment and Sub-contracting

4.1 The Provider shall not assign, transfer, sublet or subcontract in whole or in part any of the Purchase Order without the prior written consent of the Buyer.

5. Intellectual Property

5.1 Intellectual property and other rights in the Goods and/or Services shall vest in the Party from whom the Goods and/or Services originate unless the Goods and/or Services are produced for the Buyer as bespoke. If the latter applies such rights shall vest in the Buyer upon their creation and the Provider shall do all such things and execute all such documents as the Buyer may require in order to perfect such vesting. The Provider shall ensure that it includes corresponding provisions in its contracts with its own sub-contractors and

- providers.
- 5.2** In the event of any breach of any such intellectual property rights the Provider shall indemnify the Buyer for all of its losses arising out of or in connection with such breach.
- 6. Confidentiality**
- 6.1** Subject to any applicable legislative requirements, any Confidential Information supplied by the Buyer to the Provider shall be kept confidential and shall only be used by the Provider for the performance of its obligations under the Purchase Order. Upon request, and in any event upon expiry or termination of the Purchase Order for whatever reason, the Provider shall either immediately destroy, or at the Buyer's written request, immediately return to the Buyer, any Confidential Information provided to it pursuant to the Purchase Order.
- 7. Price Variation**
- 7.1** The prices in the Purchase Order shall apply without variation to both the period and/or stated quantity of the Goods and/or Services as stated in the Purchase Order unless specifically otherwise agreed in writing by the Parties.
- 8. Liability**
- 8.1** The Provider shall not exclude or limit its liability for death or personal injury as a result of its negligence in performance of the Purchase Order.
- 8.2** The Provider's liability for any breach of the terms of the Purchase Order and these terms and conditions shall be unlimited unless otherwise agreed in writing by the Parties.
- 9. Documents**
- 9.1** All advice notes, invoices and packing notes issued by the Provider shall be clearly marked by the Provider with the Provider's name and address, the Purchase Order number, the item code, date of despatch, description of the Goods and/or Services, the address of their intended destination and the due delivery date.
- 10. Quality and Performance**
- 10.1** The Goods and/or Services shall conform with the Specification; be of sound design, materials and workmanship; be fit for the purpose for which they are procured by the Buyer and be capable of the required performance.
- 10.2** All Services performed under the Purchase Order must be executed by the Provider in a timely, efficient and professional manner to the appropriate prevailing standards and to the reasonable satisfaction of the Buyer.
- 11. Inspection and Testing**

11.1 Before dispatching the Goods or commencing provision of the Services the Provider shall, if appropriate, allow the Buyer to inspect and test the Goods and/or Services for compliance with the Specification and/or any other provisions of the Purchase Order.

11.2 If in the Buyer's reasonable opinion, the Goods and/or Services do not comply with the Specification, the Buyer shall inform the Provider in writing either of the Buyer's intention to reject the Goods or of the remedial steps which must be undertaken by the Provider to ensure compliance with the Specification.

12. Delivery

12.1 The Provider shall deliver the Goods and/or Services as per the Purchase Order or otherwise as instructed by the Buyer from time to time.

12.2 The Buyer will allow the Provider access to its premises as reasonably necessary for the delivery of the Goods and/or Services. The Buyer may refuse admission to the Provider's personnel or require such personnel to leave its premises at any time and shall not be obliged to give the Provider any reasons therefor.

12.3 The Provider shall indemnify and hold harmless the Buyer at all times against any and all actions, claims, proceedings, costs (including legal costs incurred by the Buyer in defending any such actions, claims or proceedings), liability, losses and damages whatsoever which may be brought or commenced against the Buyer by any person arising out of or in connection with the late delivery of or any defects in the Goods and/or the performance of the Services by the Provider.

13. Extension of Time, Rescheduling or Cancellation

13.1 If, for any cause beyond the reasonable control of the Provider, delivery of the Goods and/or performance of the Services, is delayed, then unless time is of the essence the time for delivery or performance (as the case may be) may be rescheduled by the Buyer. The Buyer shall have the sole discretion to accept or decline the Provider's delivery of the Goods or Services if the same is delayed for any reasons other than the aforesaid. In case the Buyer accepts the Provider's delay in the supply of Goods or Services the Provider shall be responsible for any additional costs incurred in such delay.

13.2 Notification of any anticipated or actual delay must be immediately communicated to the Buyer by the Provider specifying the reasons therefor.

13.3 If in the reasonable opinion of the Buyer it is inappropriate to reschedule delivery of the Goods and/or performance of the Services then the Buyer may cancel the Purchase Order without incurring any liability or costs for such cancellation.

14. Risk and Title

14.1 Risk and title in the Goods shall, unless otherwise agreed in writing between the Parties, only pass to the Buyer upon acceptance of the Goods when delivered to the place and address specified in the Purchase Order.

15. Damage or Loss in Transit

15.1 Any Goods being lost or damaged in transit shall be restored or replaced by the Provider at the Provider's expense and to the Buyer's satisfaction.

15.2 Delivery shall not be deemed to have taken place until restoration has taken place to the satisfaction of the Buyer or replacement Goods have been accepted by the Buyer.

16. Rejection

16.1 Unless otherwise agreed in writing between the Parties, if at any time within three months from the date of delivery, having regard to the nature of the Goods or Services, the Goods and/or Services fail to comply with the Purchase Order, the Buyer may, by written notice to the Provider reject the whole or any part of the Goods and/or Services. The Buyer may then (without prejudice to its other rights and remedies) accept replacement Goods and or re-performed Services from the Provider at the Provider's expense.

17. Terms of Payment

17.1 The Buyer agrees to pay the Provider the total price for the Goods and/or Services which is stated in the Purchase Order (or otherwise agreed in writing between the Parties) within 60 days from the date of receipt of an invoice from the Provider in respect of such Goods and/or Services from the Provider.

17.2 Unless otherwise requested by the Provider in writing, the Buyer shall be entitled to settle the Provider's invoice in any manner as it deems appropriate at its sole discretion.

18. Set Off

18.1 The Buyer shall be entitled to set off against any sums due to the Provider under the Purchase Order any sums which become payable by the Provider to the Buyer in relation to the Purchase Order or any other contract between the Parties.

19. Compliance

19.1 The Provider and its personnel shall at all times comply with all applicable laws, including statutes, regulations and bye-laws of local or other competent authorities.

20. Anti-Bribery

20.1 The Provider shall not do anything, or omit to do anything, which may be considered to be an inducement to any employee of the Buyer in entering into the Purchase Order. Any such inducement shall be deemed to be a breach of the Purchase Order and these conditions and shall be considered as incapable of being remedied. The Provider shall at all times perform its obligations under the Purchase Order and these conditions in compliance with the Buyer's anti-bribery policy from time to time and with the Prevention of Bribery Ordinance (Chapter 201 of the Laws of Hong Kong) and all other relevant rules and regulations in Hong Kong.

21. Entire Agreement

21.1 These terms and conditions and the Purchase Order shall (unless expressly agreed otherwise in writing by the Parties) comprise the entire terms and conditions of the contract in relation to the subject matter of the Purchase Order (subject to clause 1.1) and the Provider's terms and conditions of contracting are expressly excluded. The Purchase Order and these terms and conditions shall therefore take priority over any other arrangements, communications (whether verbal or written), or any other documents (including, but not limited to, other purchase orders, or other terms and conditions) except if the Purchase Order is displaced pursuant to an overriding contract pertaining to the Goods and/or Services either, issued by, or referred to, by the Buyer.

22. No Agency

22.1 The Purchase Order and these terms and conditions shall not create a partnership between the Buyer and the Provider, or make one of the Parties the agent of the other for any purpose.

23. Publicity

23.1 The Provider shall not, without the prior written consent of the Buyer, advertise or disclose to any third party that it is providing Goods and/or Services to the Buyer.

24. Governing Law

24.1 The Purchase Order and these terms and conditions shall be governed by and construed in accordance with the laws of Hong Kong.

24.2 The Parties agree that the Courts of Hong Kong shall have non-exclusive jurisdiction to hear and determine any suit, action or proceedings and to settle any disputes, which may arise out of or in connection with the Purchase Order these terms and conditions and, for such purposes, irrevocably submits to the jurisdiction of such Courts.