

General Terms & Conditions of Imagine Purchase Order

1. DEFINITIONS AND INTERPRETATIONS

- 1.1 In these Standard Purchase Order Terms and Conditions ("Terms"), unless inconsistent with the context or otherwise specified, the following definitions shall apply:
- 1.1.1 "**Applicable Laws**" mean all applicable laws, statutes, regulations from time to time in force in Brunei Darussalam;
 - 1.1.2 "**Business Day**" mean any day other than a Saturday and Sunday or a public holiday in Brunei Darussalam and any reference to a month or year shall mean a month or year reckoned according to Gregorian calendar unless specified otherwise;
 - 1.1.3 "**Standard Purchase Order Terms and Conditions ("Terms")**" means the terms and conditions of purchase set out in this document and any special terms and conditions agreed in writing by Imagine;
 - 1.1.4 "**Delivery Date**" means the date(s) upon which the Goods and/or Services shall be delivered as specified in the Purchase Order and no variations shall be permitted except with prior authorization from Imagine;
 - 1.1.5 "**Imagine**" represents the company known as Imagine Sdn Bhd, incorporated under the Companies Act (Cap. 39) of the laws of Brunei, with its official address at Level 6, RBA Plaza, Jalan Sultan, BS 8811, Bandar Seri Begawan, Brunei Darussalam;
 - 1.1.6 "**Goods**" mean the goods to be provided in accordance with the quantities and specification (including quality and performance) and other special requirements as stipulated in the Purchase Order;
 - 1.1.7 "**Purchase Order**" means the purchase order issued by Imagine to the Supplier for the purchase and sale of goods and/or provision of services as stipulated in the Purchase Order, to which this GCP are incorporated by reference.
 - 1.1.8 "**Services**" mean the services to be provided in accordance with the Purchase Order;
 - 1.1.9 "**Supplier**" means the person, persons, firm or company named in the Purchase Order to supply Goods hereinafter defined and shall include the Supplier's legal personal representatives, successors and assigns;

2. ACCEPTANCE

- 2.1 This Terms are non-negotiable and shall govern and form an integral part of the Purchase Order together with all of its attachment (if any). The Purchase Order shall apply to the Supplier as specified in the Purchase Order to Imagine.
- 2.2 These Terms shall only apply to transactions that do not have a written agreement duly executed by both parties. If there is such an agreement, the terms in the agreement shall be the terms that govern the transaction and relationship of the parties. In the absence of such a written agreement duly executed by both parties, then these Terms provides the Supplier with the guidelines and legal stipulations of the Purchase Order for the goods and/or services that are described on the face of the Purchase Order.
- 2.3 The Purchase Order shall become a binding contract subject to these Terms and shall be deemed to be accepted by the Supplier: (i) by acknowledgement of the Purchase Order; or (ii) by the Supplier's commencement of delivery or shipment of Goods; or (iii) by other conduct(s) by the Supplier or any of its representative reasonably demonstrating their acceptance of the Purchase Order, whichever occurs first.
- 2.4 Acceptance shall be from the time when a duly authorized employee or representative of Imagine accepts the Goods and/or Services, via delivery or collection, and where such Goods and/or Services are not defective or damaged in any way.
- 2.5 Where the Goods and/or Services do not comply with the requirements as stated in the Purchase Order, Imagine may at its sole and absolute discretion, be entitled to either reject such Goods and/or Services and purchase such Goods and/or Services from other sources on the Supplier's account, in which case, the Supplier shall be liable to pay to Imagine any difference between the price at which such Goods and/or Services have been purchased

and price calculated at the set rate set out in the Purchase Order or require the damage or breach be remedied by the Supplier.

- 2.6 Such acceptance shall be within a reasonable time of delivery or collection but shall be without prejudice to the Supplier's liability for any defect in, or damage to, or formality, or impediment to Imagine's proper use of the Goods and/or Services or any breach of the Purchase Order that is not identified by such duly authorized employee or representative of Imagine at the time of acceptance.

3. DELIVERY OF GOODS AND/OR SERVICES

- 3.1 The Supplier agrees to supply and deliver the Goods and/or Services to Imagine, as applicable, on the terms set out in these Terms.
- 3.2 Time is of the essence with respect to delivery of the Goods and/or Services. The Goods and/or Services shall be delivered on the Delivery Date as stipulated on the Purchase Order. In the event of any delay in the Supplier in carrying out its obligations in accordance with the Purchase Order, the Supplier shall pay liquidated damages of delay of a sum equal to 0.1% of the Total Fees (as set out in the Purchase Order) for each day of such delay and pro rate for parts of a day up to a maximum of 10% to Imagine for the delay during the period beginning on the date the obligation should have been completed in accordance with the terms of the Purchase Order and ending on the date on which the obligation is actually completed. Payment of such liquidated damages shall not relieve the Vendor from carrying out its obligations in accordance with the Purchase Order.
- 3.3 The Supplier may make partial deliveries of the Goods and/or Services upon prior agreement in writing with Imagine. Where Imagine agrees for delivery of Goods and/or Services by instalments, the Supplier shall promptly deliver sufficient Goods and/or Services to Imagine in compliance with the quantity as stated in the Purchase Order.
- 3.4 In the event that the Supplier is unable to deliver the Goods and/or Services on the Delivery Date, the Supplier shall notify Imagine immediately. Imagine and the Supplier shall endeavor to agree to a mutually acceptable revised Delivery Date.
- 3.5 In the event that Imagine and the Supplier cannot agree on a new Delivery Date, Imagine shall have the right to terminate the Purchase Order and recover from the Supplier all direct losses sustained as a result of the delay up to an amount not exceeding the value of Purchase Order.
- 3.6 (Shipping) The Supplier will:
- (i) ensure that the Goods are suitably packed to avoid damage in transit or in storage, marked and delivered or shipped in accordance with Imagine's requirements and all applicable laws or regulations; and (ii) not to charge Imagine for any costs relating to handling, packaging, storage or transportation (including duties, taxes, fees, etc.) unless otherwise expressly stated in the Purchase Order. The Supplier shall include in the Purchase Order, any bill of lading or other shipping receipts the correct classification of the Goods delivered or shipped as required by Imagine and/or the relevant authorities

4. WARRANTY

- 4.1 In general, the Supplier warrants that;
- (i) Goods and/or Services specified in the Purchase Order do not infringe any patent, trademark, copyright or other intellectual property right of a third party;
 - (ii) Goods and/or Services specified in the Purchase Order are new, unused, not secondhand and do not contain anything used or reconditioned, unless Imagine agrees otherwise in writing;
 - (iii) It has been disclosed to Imagine in writing the existence of any third-party code including without limitation open source code, that is included in or is provided in connection with the Goods and/or Services and the Supplier are in compliance with all licensing agreements applicable to such third party code; and
 - (iv) these warranties shall survive inspection, acceptance, and payment.

5. RISK AND TITLE

- 5.1 Risk in, and title to, the Goods and/or Services shall pass from the Supplier to Imagine upon acceptance in accordance with Imagine's requirements under the Purchase Order. The Goods and/or Services shall remain at the Supplier's risk until delivery is fully and satisfactorily effected as specified in the Purchase Order.

6. PAYMENT

- 6.1 Upon satisfactory delivery of the Goods and/or Services, Imagine shall pay the Supplier all undisputed amounts of a properly issued invoice according to the payment terms set out in the Purchase Order.
- 6.2 All payments shall be made within forty-five (45) days of the date of submission of invoice & Services Entry Sheet (SES) by the Supplier to Imagine upon completion of each delivery of Goods and/or Services.
- 6.3 The Payment is firm and fixed and shall not be subject to any increases except those increases agreed by Imagine in writing in accordance with this Purchase Order.
- 6.4 Any payment made by Imagine will not affect any claims or rights it may have against the Supplier. Payment will not amount to an admission by Imagine that the Supplier has satisfactorily performed its obligations under this Purchase Order.
- 6.5 Imagine reserves the rights to dispute and/or delay payment to the Supplier, for Goods and/or Services where the delivery is late or where quantities are not complete or not fully in accordance with specification (including quality and performance) or when required documents e.g certification is missing or if the Goods are damaged or in a deteriorated state.
- 6.6 Imagine shall notify the Supplier in writing within seven (7) calendar days from the date of invoice identifying the amount which is in dispute and providing written justification thereof, failing which the invoice shall be deemed accepted by Imagine. Imagine and the Supplier shall work cooperatively to resolve any billing dispute and each Party shall provide the other with copies of any records justifying amounts claimed to be owed.

7. TAXES AND DUTIES

- 7.1 The Supplier shall be entirely liable and responsible for all taxes, duties, levies and/or fines imposed or payable for or in respect of the Purchase Order or in connection with any transaction(s) forming the subject matter of the Purchase Order occurring or imposed within or outside Brunei Darussalam.
- 7.2 All applicable taxes arising out of transactions contemplated by the Purchase Order will be borne by the Supplier except as otherwise specified by the parties in writing.

8. COMPANY'S RIGHTS OF SET-OFF

- 8.1 Imagine shall be entitled at all times to set off any amount owed at any time by the Supplier or any of its affiliates to Imagine against any amount payable at any time by the Supplier in connection with these Terms.

9. INTELLECTUAL PROPERTY

- 9.1 Intellectual Property ("IP") resulting from or is otherwise created or generated specifically and exclusively pursuant to or for the purpose of the performance of this Agreement ("Foreground IP") shall vest and be the absolute property of Imagine and shall be delivered to Imagine in accordance with the terms of this Agreement, upon termination of this Agreement or upon earlier request of Imagine, and the Supplier shall have no claim for further payment or additional compensation as a result of the exercise by Imagine of its full rights or ownership of the documents and materials hereunder. The Supplier shall cause all suppliers to assign to Imagine any documents or materials prepared by them, and in the event the Supplier fails to secure such assignment, the Supplier shall indemnify Imagine for all damages suffered thereby.

The Supplier shall protect, indemnify and hold harmless Imagine against any and all liability loss or expense by reason of any claim action or litigation in respect of any alleged or actual infringement of any patent, copyright,

trademark, foreign or domestic, resulting from the use or resale of the Goods and/or Services the subject matter of the Purchase Order or any part thereof.

- 9.2 Where any specification and design of the Goods and/or Services or any of the Goods and/or Services have been provided by Imagine the copyright, design right or other intellectual property in them shall remain the property of Imagine.

10. LICENCES AND PERMITS

- 10.1 The Supplier shall be responsible for ensuring that all statutory licences consents or permits required for the purpose of performance of the Purchase Order have been obtained and remain in full force and effect.

11. HAZARDOUS MATERIALS

- 11.1 The Supplier shall ensure the Goods and/or Services satisfy the requirements of all applicable laws and regulations and, to the extent that they contain toxic, corrosive or hazardous materials.
- 11.2 Goods and/or Services supplied under the Purchase Order, which are contaminated beyond use, at the time of delivery, shall be regenerated or disposed by the Supplier. The title and risk of the contaminated Goods and/or Services will remain with the Supplier, who will bear all expenses for the said processes.
- 11.3 In the event that Imagine contaminates the Goods and/or Services, Imagine will be liable for the processes of regeneration or disposal.

12. INSURANCE

- 12.1 The Supplier shall insure its employees engaged in the performance of this Agreement with Workmen's Compensation Insurance within the statutory limits prescribed by the Workmen's Compensation Act, Cap.74 against injury sustained by them in the course of carrying out their duties in pursuance of it and unless such injury shall be due to the act neglect or default of Imagine or any person for whom Imagine is responsible, the Supplier will indemnify Imagine against all actions claims and demands in respect of such injury.

13. INJURY AND DAMAGE

- 13.1 The Supplier shall indemnify Imagine in respect of all damage or injury to any person or to any property and against all actions, suits, claims, demands, costs, charges and expenses arising in connection therewith caused by:
- (a) the negligence of the Supplier, his sub-Vendors or servants while they are on Imagine's premises for any purpose connected with the Purchase Order; or
 - (b) due want of merchantable quality or lack of fitness for purpose of the Goods or defective design of the Goods (other than the design made, furnished or specified by Imagine and for which the Supplier has disclaimed responsibility in writing within one month after receipt of the purchase instructions), defective materials or defective workmanship; or
 - (c) the failure by the Supplier to supply the Goods and/or Services within the time and of the quality required under the Purchase Order.

14. PUBLICITY

- 14.1 The Supplier shall obtain Imagine's permission before disclosing by way of press release or otherwise to any third party, anything that relates to the Goods and/or Services or the supply thereof, except insofar as necessary for the information of the Supplier's suppliers.

15. NON-EXCLUSIVITY

- 15.1 The Purchase Order is non-exclusive and Imagine reserves the right to engage other suppliers to acquire similar, identical or like goods or execute additional agreements with other entities.

16. CONFIDENTIALITY

- 16.1 Each party agrees to keep in strict confidence to its employees on a need to know basis and not to disclose to any third party any material, document or information obtained from the other party or relating to this Agreement in strict confidence and shall not, save with the prior written consent of the other party, disclose or otherwise use the material, document or information for any purpose other than for the performance of the requirements of this Agreement.
- 16.2 The Supplier will use Imagine's information solely for the purpose of supplying Goods and/or Services to Imagine. Goods and/or Services manufactured based on Imagine's information may not be used for the Supplier's own use or sold by the Supplier to third parties without prior express written consent from Imagine.

17. LIABILITY

- 17.1 In no event shall either Party be liable for any direct, special, incidental, consequential or punitive damages or for any lost profits arising out of or relating to the Goods and/or Services.
- 17.2 In no event shall the aggregate liability of the Supplier, its affiliated and its sub-suppliers (whether based on any action or claim in contract, tort or otherwise) to Imagine or its affiliates arising out of or relating to any Goods and/or Services exceed the fees the amount equal to one hundred percent (100%) of the Purchase Order's price.

18. CANCELLATION/TERMINATION

- 18.1 Either party may cancel the Purchase Order if the other party commits a breach of its terms and does not remedy the breach within one (1) month of being requested to do so by the non-breaching party.
- 18.2 Imagine can cancel the Purchase Order forthwith by written notice to the Supplier if:
- 18.2.1 the Supplier becomes insolvent;
 - 18.2.2 legal proceedings alleging insolvency are brought against the Supplier;
 - 18.2.3 the Supplier enters into a composition or similar arrangement with its creditors; or
 - 18.2.4 the Supplier fails to comply with Clause 15 "Confidentiality".
- 18.4 Imagine shall also have the right to cancel the Purchase Order for convenience at any time giving written notice to the Supplier and without having to assign any reason for doing so and the Supplier shall have no claim for any damages or compensation save that if the Supplier is owed money for the work rendered under the Purchase Order or associated expenses incurred prior to the date of cancellation, the Supplier shall provide Imagine with a final invoice specifying the performance and Imagine shall pay such amount as agreed between parties within thirty (30) days upon the receipt of the original invoice and supporting documents relating to the expenses incurred by the Supplier. The value of any material, payment for which has been arranged by Imagine, left in the hands of the Supplier shall be deducted in calculating the sum of the final invoice.
- 18.5 Cancellation of the Purchase Order shall not affect any right or liabilities of either of the Parties accrued to term up to the date of cancellation.

19. FORCE MAJEURE

- 19.1 Force Majeure means all events beyond the control of the party claiming Force Majeure which cannot be foreseen or if foreseeable; are unavoidable, which occur after the execution of this Purchase Order which prevent or hinder the performance of that Party's obligations under this Purchase Order (or any of them), including but not limited to:
- 19.1.1 acts of God;
 - 19.1.2 war, hostilities, riot, acts of terrorism, insurrection or civil commotion, malicious damage, blockades, embargoes, strikes, lockouts and industrial disputes affecting performance; and
 - 19.1.3 flood, fire, rainstorms and other natural physical disasters, plague or other epidemics.
- 19.2 If a Force Majeure prevents or hinders performance by the parties of their obligations under this Purchase Order (or any of them), the party so affected shall:
- 19.2.1 not be held liable for delay or failure in performing such obligations for so long as the Force Majeure continues to affect and/or prevent performance; and
 - 19.2.2 forthwith notify the other (giving full details thereof) and within seven (7) business days from the date of such notice, the parties shall meet to determine by agreement the consequences. If no agreement is reached within a further period of fourteen (14) business days and if the circumstances of Force Majeure continues, either party shall have the right to terminate this Purchase Order by giving written notice to the effect to the other.

20. ASSIGNMENT AND OTHER DEALINGS

- 20.1 The Supplier shall not, without the written consent of Imagine, assign or transfer the Purchase Order or the benefits or obligations or any part thereof to any other person, including any right of the Supplier to assign, either absolutely or by way of charge, any monies due or to become due to it, or which may become payable to it under the Purchase Order. The Supplier shall be responsible for the acts, defaults, neglects, or omissions of any assignee, their agents, servants, or workmen as fully as if they were the acts, defaults, neglects or omissions of the Supplier, its agents, servants or workmen.

21. INDEMNIFICATION

- 21.1 The Supplier shall indemnify Imagine and keep Imagine fully and effectively indemnified on demand against any loss of or damage to any property or injury to or death of any person caused by any negligent act or omission or breach of this Agreement by the Supplier, its employees, agents or sub-contractors.

22. GIFTS

- 22.1 Imagine shall be entitled to terminate the Purchase Order and recover from the Supplier the amount of any loss resulting from such cancellation and all sums paid to the Supplier, if the Supplier shall have offered or given or agreed to give to any person any gift consideration or gratification of any kind as an inducement or reward for doing or forbearing to do or for having done or forborne to do any action in relation to the obtaining or execution of the Purchase Order with Imagine, or for showing or forbearing to show favour or disfavour to any person in relation to the Purchase Order or any other agreement with Imagine or the like acts shall have been done by any person employed by the Supplier or acting on its behalf (with or without the knowledge of the Supplier), or if, in relation to the Purchase Order or any other agreement with Imagine, the Supplier or any person employed by the Supplier or acting on its behalf shall have committed or abetted to commit an offence under the Prevention of Corruption Act (Chapter 131 of the Laws of Brunei) or Sections 161 to 165 or 213 to 215 of the Penal Code (Chapter 22 of the Laws of Brunei).

23. VARIATION

- 23.1 No variation of the Purchase Order shall be effective unless it is in writing and signed by both parties and/or their duly authorized representatives. Email correspondence in this case is not considered as valid unless there is a follow up written and signed documentation for authorized representative.

24. WAIVER OF REMEDIES

- 24.1 No delay or failure by any party to exercise any of its powers, rights or remedies under the Purchase Order shall operate as a waiver hereof, nor shall any single or partial exercise of any such powers, rights or remedies preclude any other or further exercise of them thereof. Without limiting the foregoing, no waiver by any party of any breach of any provision hereof shall be deemed to be a waiver of any subsequent breach of that or any other provision hereof. Any waiver by any party must be in writing and signed by such party to be effective.

25. SEVERABILITY

- 25.1 If any part of these Terms is found by a court of competent jurisdiction or other competent authority to be invalid, unlawful or unenforceable, then such part shall be deemed severed from the remainder of these Terms which shall continue to be valid and enforceable to the fullest extent permitted by law.

26. GOVERNING LAW / APPLICABLE LAW

- 26.1 The validity, construction and performance of the Purchase Order shall be governed by and construed with the laws of Brunei Darussalam.
- 26.2 The parties agree to their best endeavours to resolve the dispute amicably. Failing which, to submit any dispute which cannot be resolved by agreement or negotiation, to the exclusive jurisdiction of the courts of Brunei Darussalam.

27. COMPLIANCE WITH LAWS

- 27.1 In performing its obligations under the Purchase Order, the Supplier shall comply with the Applicable Laws and the Supplier will inform Imagine as soon as it becomes aware of any changes in the Applicable Laws.