

**Siemens Corporate Research, A Division of Siemens Corporation
Purchase Order - Terms and Conditions**

1. GOODS AND SERVICES

1.1 Supplier (Seller) agrees to perform and deliver the Services, and sell to Siemens Corporate Research, A Division of Siemens Corporation (“Siemens”) the items (including any Goods), which are described and listed in the attached Purchase Order upon the following terms and conditions.

Siemens may elect to treat (a) Seller’s failure to reject this Purchase Order or any or all of these terms and conditions, within 24 hours of Seller’s receipt of this Purchase Order, or (b) performance by Seller of any portion of this Purchase Order, as acknowledgment, confirmation and acceptance of these terms and conditions by Seller. Any terms and conditions proposed by Seller are deemed rejected by Siemens unless expressly agreed to otherwise to after receipt of such terms and conditions, by Siemens. No changes may be made to the terms and conditions of this Purchase Order except pursuant to express written agreement of Siemens with Seller.

Until Siemens receives such written acknowledgement from Seller of receipt of this Purchase Order and confirmation and acceptance of these terms and conditions by Seller, Siemens may elect to cancel, withdraw, modify or terminate this Purchase Order, without penalty, charge or any liability or obligation to Seller. Upon such cancellation, withdrawal, modification or termination, Services performed and items described in this Purchase Order which are shipped or delivered by Seller and received by Siemens may be rejected and items returned by Siemens to Seller, freight, insurance, handling and risk of damage or loss in the course of return to be borne by Seller

1.2 Without limiting the descriptions set forth in the Purchase Order, Goods and items to be delivered include any and all software, hardware described in the Purchase Order, software embedded in hardware, user documentation, accessories, and any enhancements, accessories, parts, modifications, updates, bug fixes or releases related thereto, with respect to software included in the Purchase Order, accompanying the Goods or items, described in product literature, manuals, and information directed to the customer or user, Seller’s catalog, advertisement or documentation, or otherwise included in or a part of the Goods or items by manufacturer or Seller.

1.3 All invoices and other documents referencing this Purchase Order are subject to the terms and conditions of this Purchase Order.

1.4 All notices, communications, emails, correspondence of Seller regarding the Purchase Order shall be addressed and sent to the person(s) named, and the addresses set forth, in the Purchase Order, in order to be effective.

1.5 Seller agrees that all items delivered or shipped shall be accompanied by documents describing the ship to name and address of Siemens, the destination, all contents, any unit price, quantity, discounts applicable, sales taxes, contract number, to enable Siemens upon receipt, to identify the items shipped or delivered with this Purchase Order or the applicable contract, Siemens Purchase Order number(s) applicable, and Seller’s contact information (telephone number, name and address) in the event of any irregularities, deficiencies, damage or loss to items delivered or shipped .

Special handling, lifting, unpacking, storage, and use instructions shall be included by Seller in the delivery and shipment as well as any relevant instructions regarding the delivery or shipment. Such instructions or notices may not and will not operate to modify the terms and conditions of the Purchase Order or any prior written agreement between Seller and Siemens.

1.6 Seller shall package all items and goods in accordance with good commercial practice, as acceptable to common carrier for shipment at the agreed upon shipping rate for the particular items or goods, in accordance with I.C.C. regulations and all applicable laws and regulations, and adequate to insure safe delivery and arrival of the items and goods at the named destination. If the Purchase Order specifies personal delivery or special arrangements for the delivery of the items, deliverables, or goods by the Seller, Seller shall make appropriate arrangements with Siemens to schedule the time, date, and personal delivery of the items or goods by the Seller at a time convenient for Siemens as well as Seller.

1.7 Unless otherwise agreed to or designated by Siemens, and subject to the rights which Siemens may have pursuant to these terms and conditions, title to the items, goods and deliverables, transfers to Siemens upon shipment or delivery to Siemens, as specified on Siemens Purchase Order.

Notwithstanding any terms or prior inspection, or payment, all items and goods delivered are subject to final inspection, review, and acceptance after delivery in full to and receipt by Siemens.

1.8 With respect to items, goods, or deliverables, damaged or lost in whole or in part prior to acceptance by Siemens, defective or deficient in content, materials or workmanship, and/or not in conformity with the applicable specifications and terms and conditions specified in the Purchase Order:

Siemens shall have the right to require correction or replacement of such items or goods at Seller's cost and expense, or Siemens may elect at its sole election, to accept such items or goods with an adjustment in price, or to reject and return the items or goods at Seller's cost and expense, for full credit and refund. All repairs, replacement, corrections to items or goods to be replaced, repaired, corrected, all reperformance or corrections with respect to Services, and any adjustments in price, shall be processed and carried out by Seller within five (5) days after election by and notice from Siemens to Seller.

With respect to Services to be delivered or performed, Siemens shall have the right to require reperformance of Services which are deficient, defective, incomplete, or not in accordance with the terms and conditions of the Purchase Order, at Seller's cost and expense. All Services shall be performed and reperformed, if applicable, in accordance with standards prevailing in the applicable industry and be free from errors, omissions, deficiencies, or defects.

1.9 All items and goods shall be shipped and delivered as per the delivery dates and instructions specified by Siemens on the Purchase Order. Unless agreed to by Siemens in writing, partial or installment deliveries of items, goods, or Services, are non-conforming if they are not in accordance with the terms specified in the Purchase Order, and Siemens shall not be obligated to accept early, late, partial, installment or other non-conforming deliveries.

1.10 If Seller is in material default or breach under any other purchase order of Siemens, or shall consent to the appointment of a receiver, trustee, liquidator, custodian or similar official with respect to a substantial part or all of its business or property, or if Seller's credit rating is materially downgraded, or if Seller is unable to pay or perform its obligations generally as they become due, or if Seller shall make a general assignment or agreement for the benefit of its creditors, or if any lien is placed, or any order, judgment or decree shall be entered in any proceeding by any court with respect to a substantial part or all of its business or property, or any insolvency proceedings are contemplated or occur with respect to Seller, then for any one or more of such instances, Siemens may elect to rescind and cancel this Purchase Order upon delivery of written notice to Seller.

2. SUPPORT.

2.1 At no charge to Siemens, Seller will provide to Siemens all customer/user support in the same manner as it provides support to its other customers. Seller will provide upon request its customer support telephone number and address. In addition, Seller will promptly provide Siemens with names and addresses of all Seller's reps and locations, and copies of all warranties with respect to the items, goods and services, including third party's (including any subcontractor or supplier) warranties, and assist Siemens in any enforcement of rights and remedies under such reps and warranties whether they extend to Seller or Siemens or otherwise. Seller will promptly extend and transfer to Siemens all available rights, remedies and warranties which may be asserted against the manufacturer or supplier of the goods or any subcontractor to Seller, and cooperate with Siemens in the handling of such claim by providing all such information regarding the goods and manufacturer or supplier as Seller may have.

2.2 Seller will provide Siemens with any information which Seller may have regarding repair, replacement, maintenance re-performance, and support services available with respect to the items, goods and Services.

3. REPRESENTATIONS AND WARRANTIES.

3.1 Seller warrants that: (a) Siemens acquires good and clear title to the items and goods, free and clear of liens and encumbrances whatsoever; (b) To the best knowledge and information of Seller, the items and goods delivered do not infringe any patents, copyrights, trademarks or proprietary rights of any third party, (c) there are no violations of law or regulations, third party claims, or any other claims or disputes pending or anticipated with respect to the items or goods which would restrict, affect or pertain to Siemens or any recipient's possession, use or enjoyment thereof, (d) Seller has full right and ability, has all rights and licenses, has complied with all applicable laws, and is empowered to accept and agree to the terms and conditions of this Purchase Order and to carry out its obligations under this Purchase Order and to grant the rights and licenses

set forth or provided for in this Purchase Order, (d) Seller's compliance with the terms and conditions of this Purchase Order including sale and transfer of the items and goods do not violate any federal, state or local laws, regulations or ordinances.

3.2 Seller warrants that all goods delivered are new (not previously used, reconditioned or refurbished), all items and goods are in good order and are not in need of correction, repair or replacement with respect to any part thereof whether due to deficiency, errors, omissions, defects, or otherwise, and hardware or third party software are in their original sealed packaging from the manufacturer of such hardware or software. Seller further warrants that all items and goods will perform in accordance with the applicable specifications, terms and conditions of this Purchase Order, and related documentation, and if any items or goods fail to so perform, Siemens may at any time within six (6) months after delivery and receipt of the items or goods by Siemens under the Purchase Order, return the same to Seller for correction, repair, replacement (as applicable) at Seller's cost and expense or refund.

3.3 Seller shall, at its own expense, in accordance with the request of Siemens, promptly correct, repair or replace the goods and deliverables in the event of any breach of any representation or warranty (express or implied) , at Seller's risk, cost and expense. All products which cannot be repaired or replaced as per the option of Siemens and these terms and conditions, may at the election of Siemens, be returned to Seller and any and all monies invoiced to and paid by Siemens for the same shall be promptly refunded to Siemens by Seller. All adjustments and repairs to goods and deliverables shall be warranted against defects, errors, omissions, deficiencies, for six months unless agreed otherwise in writing by Siemens. All replacements and reperformance shall at minimum meet and be subject to all warranties applicable to the goods and Services described in the original Purchase Order.

4. INDEMNIFICATION

Seller shall upon request and notice from Siemens, defend, indemnify and hold Siemens and its affiliates and their respective officers, directors, employees, customers, agents, successors and assigns from and against any and all claims or proceedings, and any and all losses, damages, liabilities, settlements, judgments or awards, costs and expenses (including reasonable attorneys fees and costs) incurred, resulting from or arising out of the negligence, intentional wrongdoing, default or breach (including unexcused delay), or willful misconduct of Seller or its officers, directors, employees, agents, successors and assigns. Siemens will provide Seller with such information as Siemens may have regarding such claim or proceedings and Seller and Seller's legal counsel shall promptly assume the handling thereof. Seller will deliver regular monthly reports updating Siemens on the status of such claims and proceedings.

If the sale, delivery, transfer, import, manufacture, support, distribution, possession or use of any of the goods or deliverables is enjoined or becomes unlawful or subject to threat of or any third party claim or legal proceedings, Seller shall promptly notify Siemens and provide Siemens with such information as Seller may have regarding the same.

Seller shall not include and deliver any goods, items, deliverables, or Services, to Siemens, where Seller has information or knowledge that the same may infringe the intellectual property rights or violate the proprietary rights of any third party if transferred to or by or used by Siemens. Seller shall defend, indemnify and hold Siemens harmless from any claims, actions, costs, expenses, damages or losses, including reasonable attorneys fees and costs incurred, in the event of any breach of this provision.

5. COMPLIANCE WITH LAWS

5.1 Seller shall comply with all import or export or re-export laws and regulations applicable with respect to the Purchase Order and obtain any and all licenses or permits in advance. Upon request of Siemens, Seller will provide regulatory information which Seller may have to Siemens with respect to the goods, including country of origin, Buy America, NAFTA, US Federal Communications Commission regulations, or other regulations applicable to the goods.

5.2 Siemens Corporate Research, A Division of Siemens Corporation, is an equal employment opportunity employer and is a federal contractor. Consequently, the parties agree that, to the extent applicable, they will comply with Executive Order 11246, the Vietnam Era Veterans Readjustment Assistance Act of 1974 and Section 503 of the Vocational Rehabilitation Act of 1973 and also agree that these laws are incorporated herein by this reference.

6. GENERAL

6.1 Any and all notices required or permitted to be given to Siemens or Seller with respect to the Purchase Order shall be in writing and personally delivered, or sent by first class Post Office mail service, or next business day courier delivery service, all postage and delivery charges prepaid, to the applicable addresses set forth in the Purchase Order or as specified from time to time by Seller to Siemens, or Siemens to Seller.

6.2 The rights and obligations hereunder and with respect to performance of the Purchase Order may not be subcontracted, delegated, assigned or transferred by Seller in whole or in part including by operation of law, without the prior written consent of Siemens, and in any case and regardless of any consent, shall not operate to release Seller from any or all liability or obligation hereunder with respect to performance hereof or thereof.

This Purchase Order and any claim, dispute, controversy, or action related hereto shall be governed, interpreted, and construed in accordance with and under the laws of the State of New York, without regard to any conflicts of laws provisions which may apply or exist. All actions and legal proceedings with respect to the same shall be brought exclusively in the courts situated in the State of New York, New York City, and the courts situated therein shall have exclusive jurisdiction; each of the parties hereby submits itself to the exclusive jurisdiction and venue of such courts for the purpose of any such action. The United Nations Convention on the Sale of Goods shall not be applicable to this Purchase Order or any claim, dispute, controversy or action related hereto.

6.3 No failure or delay by any party in exercising any right, power or privilege hereunder shall operate as a waiver thereof nor shall any single or partial waiver thereof include any other right, power or privilege.

6.4 In the event that any provision of this Purchase Order shall be unenforceable as void or invalid and/or contrary to public policy or applicable law or in any jurisdiction, such provision shall be deemed excluded to the extent of such unenforceability or invalidity, and the remainder of the terms and conditions of this Purchase Order shall remain in full force and effect and be enforceable.

6.5 The parties are independent contractors and unless expressly agreed otherwise in writing by the parties with respect to this Purchase Order, no other relationship is intended including without limitation any partnership, joint venture, agency, employer/employee, fiduciary, master/servant relationship.

6.6 If at any time, Siemens provides Seller with any information marked CONFIDENTIAL or SIEMENS PROPRIETARY, Seller agrees to receive and maintain the same in strict confidence for ten years after receipt thereof, and shall not duplicate, copy, make available, or disclose the same to any third party whomsoever without the prior written consent of Siemens. Seller shall limit disclosure of such information to those full time employees of Seller who need to know the same to perform this Purchase Order, and shall notify and require all its employees, officers, and agents having access thereto to maintain the confidentiality thereof and restrict all use thereof as provided herein.

6.7 NOTWITHSTANDING ANYTHING TO THE CONTRARY, AND SUBJECT TO APPLICABLE LAWS, SIEMENS AND ITS PARENT, SUBSIDIARIES AND AFFILIATES, AND THEIR RESPECTIVE EMPLOYEES, OFFICERS OR AGENTS, SHALL HAVE NO LIABILITY FOR INDIRECT, INCIDENTAL, CONSEQUENTIAL OR SPECIAL DAMAGES INCLUDING LOST PROFITS, LOST BUSINESS OPPORTUNITIES, LOSS OF GOOD WILL, WHETHER BASED ON CONTRACT, STRICT LIABILITY, TORT OR ANY OTHER THEORY OR FORM OF ACTION, AND REGARDLESS OF WHETHER IT HAS BEEN ADVISED OF THE POSSIBILITY OF THE SAME.

6.8 In no event shall the total aggregate liability of Siemens relating to this Purchase Order, exceed the following sum: total price agreed to be paid for the item, goods, and Services delivered in accordance with the terms of this Purchase Order by Seller.