

TERMS AND CONDITIONS OF SALE

The following terms and conditions shall apply to all transactions for the sale and/or grant of licence of any Products and Services (including software) by Fujitsu to Buyer.

1. DEFINITION

- 1.1 **"Buyer"** means the person to whom this Quotation is addressed.
- 1.2 **"Confidential Information"** means any information regarding the business affairs, developments, trade secrets, know-how, personnel, customers, suppliers, specifications, drawings, designs, descriptions, operational and testing information, technical information and data, and all other information of a confidential nature furnished by Fujitsu in connection with the Products and/or Services.
- 1.3 **"Contract"** shall have the meaning defined in Clause 3
- 1.4 **"Force Majeure Event"** means circumstances beyond the reasonable control of a party affected, including, but not limited to, refusal or evocation of license, industrial dispute, impossibility of obtaining materials, strikes by employees of a third party, fires, wars, acts of God, governmental controls,
- 1.5 **"Fujitsu"** means Fujitsu company which has issued this Quotation.
- 1.6 **"Intellectual Property Rights"** means any patents, trade marks, service marks, registered designs, applications for any of the foregoing, copyright, design rights, database rights, know-how, confidential information, trade and business and/or domain names and any other similar protected rights (whether registered or unregistered) in any country.
- 1.7 **"Maintenance Terms"** means Fujitsu conditions of contract governing maintenance services of Fujitsu products and software to be separately executed by Buyer and Fujitsu
- 1.8 **"Price"** means the price of the Products and Services set out in this Quotation.
- 1.9 **"Product(s)"** means the products defined in the Quotation to be supplied by Fujitsu.
- 1.10 **"Quotation"** means this quotation and any attachments to it or other items referred to in it but excludes any other printed terms or conditions of sale or purchase or other form of documents.
- 1.11 **"Sale Terms"** means these terms and conditions.
- 1.12 **"Service(s)"** means any Product-related service(s), including, but not limited to, customizing, installation, commissioning, maintenance, technical support, consulting and training.

2. PRICES

Prices for the Products and Services shall be subject to change by Fujitsu without notice, and orders for future delivery will be billed according to the price in effect at the time of delivery. Unless otherwise stated, the Quotation shall be valid only for fourteen (14) calendar days from the date of issue.

3. FORMATION OF CONTRACT

- 3.1 A contract between Buyer and Fujitsu on the Sale Terms shall be formed upon Buyer signing and returning the Quotation to Fujitsu, or by issuing a purchase order pursuant to this Quotation, or by accepting delivery, or by using the Products and Services supplied, whichever is the earliest ("Contract"). If any purchase order purports to provide terms which vary or is in conflict with the Sale Terms, Fujitsu reserves the right not to accept the purchase order.
- 3.2 Employees of Fujitsu are not authorized to enter into oral collateral agreements or to give verbal guarantees beyond this Contract.
- 3.3 If a transaction includes maintenance of Fujitsu products and software (and unless otherwise stated in the Quotation), the Maintenance Terms will also be applicable. If there is inconsistency or conflict between the Sale Terms and Maintenance Terms, the latter shall prevail. Notwithstanding the aforesaid, if Fujitsu and Buyer have entered into an applicable master agreement (which is in force) or any specific agreement, the Sale Terms and Maintenance Terms shall not apply.

4. PAYMENT

Fujitsu shall submit its invoice to Buyer according to the payment terms specified in the Quotation or otherwise agreed in respect of the transaction. Unless otherwise expressly stated in the Quotation, Fujitsu shall be entitled to invoice Buyer upon delivery of the Products and Services, whether in whole or in part. Buyer shall pay the amount under each invoice without any counter claims, set offs or deductions, within thirty (30) days from the date of the invoice. Buyer shall be liable to pay interest on all invoiced sums which remain unpaid after their due date at the rate of 1.5% (or the highest rate permitted under law) for each month (or part thereof) of delay till payment.

5. TAXES

All Prices are exclusive of any taxes, fees and duties or other amounts, however designated, and including without limitation goods and services, value added and withholding taxes and/or use taxes which are levied or based upon such charges, or upon these Sale Terms or upon any payment therefor (herein "Taxes"). All such Taxes related to any Product and Service purchased or licensed pursuant to this Agreement shall be to the account of and paid by Buyer (except for taxes based on Fujitsu's income) unless Buyer shall present an exemption certificate acceptable to the taxing authorities.

6. CANCELLATION

Buyer shall not cancel any Contract without the consent of Fujitsu which if given shall be deemed to be on the express condition that Buyer shall reimburse Fujitsu against all loss, damage, claims or actions arising out of such cancellation. Buyer may request for a change or variation to any Product and Service ordered from Fujitsu hereunder prior to their delivery date, provided that such change or variation shall become effective and binding only upon written acceptance of Fujitsu. For the avoidance of

doubt, there shall be strictly no cancellation of any Contract after delivery of the Products and Services.

7. DELIVERY AND RISK OF LOSS

All delivery dates are estimates only. In no circumstances shall Fujitsu be liable to compensate Buyer in damages or otherwise for non-delivery or late delivery of the Products and Services or any loss suffered by Buyer, whether or not Fujitsu has been advised of the possibility of such losses. Should Fujitsu be prevented from or hindered in the delivery the Products and Services or any part thereof due to a Force Majeure Event, the time of delivery shall be extended until the operation of the cause preventing or hindering delivery has ceased. Fujitsu shall be entitled to deliver the Products and Services in one or more consignments unless otherwise expressly agreed. Risk of loss or damage in the Products and Services shall pass to Buyer when the Products and Services are delivered to, accepted or deemed accepted by Buyer.

8. STORAGE

In the event that the shipment or delivery of the Products is delayed for reasons attributable to Buyer, Fujitsu shall, at its sole discretion, have the right to place the Products in an appropriate storage location upon written notification to Buyer. Buyer shall pay all handling, insurance, storage charges and all incidental charges relating thereto, and shall assume the risk of loss or damage to such Products. Nothing herein shall affect Fujitsu's right to invoice for the Products, and the Products placed in storage shall be deemed to have been delivered to and accepted by Buyer.

9. SPECIALIST SERVICES

Where the service comprises implementation, training, program and other specialist services, Fujitsu will assign personnel with appropriate skills and experience to perform the service. Buyer will make available appropriate personnel and resources and prompt access to such information and facilities as Fujitsu may reasonably require to carry out the services. Fujitsu will be entitled to make reasonable additional charges in the event of any extension of or modification or delay in the provision of any services other than as a result of the default of Fujitsu. Fujitsu shall employ reasonable care and skill in the performance of the services and take all reasonable and practical steps to avoid or ameliorate any default on its part in carrying out the same, but it will not be liable for any claim whatever or however arising whether in contract, tort or otherwise for any delay in the services save where such exclusion of liability shall be prohibited by law.

10. CLAIMS

Claims for shortages in Products and Services shall be deemed waived and released by Buyer unless made in writing within five (5) days after Buyer's receipt of the said Products and Services. No claims will be considered for goods altered, defaced or upon which any additional operation has been performed and no claims will be allowed for labor, rework, transportation or other expense incurred by Buyer, without prior written approval of Fujitsu. Warranty for the Products shall be as specified by the manufacturer of the Products. Fujitsu shall at its sole discretion repair or replace any of the Products that: (a) the Customer has notified Fujitsu does not comply with the manufacturer's warranty during the applicable warranty period; and (b) Fujitsu has confirmed to be defective. Replacement Product shall carry the remaining warranty of the original Product.

11. LIMITATION OF LIABILITY

Except for death or personal injury caused by Fujitsu's negligence, Fujitsu's aggregate liability for any and all claims arising out of or in connection with each Contract for breach of contract, breach of warranty, breach of statutory duty or negligence (or other tort) is limited to direct damages suffered by Buyer up to a maximum of the total price paid by Buyer for the Products and Services in that particular Contract in respect of which the claim arose. Provided that under no circumstances shall Fujitsu be liable for loss of production, loss from business interruption, loss of data, loss of profits, loss of anticipated savings, loss of goodwill or any indirect, incidental, special or consequential damages, losses or expense, even if Fujitsu has been advised of the possibility of such damages. Fujitsu does not warrant or guarantee the technical advice given by it in connection with the installation or the use of the Products and Services sold hereunder and no warranty or guarantee as to merchantability or fitness of the Products and Services for any purpose is made unless the same is specifically set forth in writing and signed by the authorized representatives of both parties, but in such case such warranty or guarantee is limited as above provided.

12. WARRANTY

The warranty and remedies set out herein are exclusive and made expressly in lieu of all other warranties, expressed, implied or otherwise, including warranties of merchantability and fitness for a particular purpose. Fujitsu does not assume or authorize any other person to assume for it any other liability in connection with its Products and Services.

13. COPYRIGHT AND PATENT

If any Product shall be manufactured or sold by Fujitsu to meet Buyer's particular specifications or requirements, Buyer agrees to defend, protect and save harmless Fujitsu against all suits at law or in equity which may be brought against Fujitsu, and fully indemnify Fujitsu against all damages, claims and demands, for actual or alleged infringement of any third party's copyright or patent because of the manufacture or sale of the Product covered thereby.

14. REVOCATION OF CREDIT

Fujitsu reserves the rights at any time to revoke any credit extended to Buyer because of Buyer's failure to pay for any Products and Services when due or for any other reason deemed good and sufficient by Fujitsu, and in such event all subsequent shipments shall be paid for on delivery.

15. EXPORT CONTROL

15.1 The parties acknowledge that the Products and Services, their respective documentation and other materials supplied under this Contract may be subject to export control laws and regulations of the United States, Singapore and other countries. Each party must at its cost obtain all consents and licences as may be required of them from time to time under local laws and regulations and under the laws and regulations of any other country, including but not limited to the U.S. Export Administration Regulations that may affect or regulate such export.

15.2 Each party releases, defends, indemnifies and holds the other party (collectively hereafter, "**Indemnitees**") harmless against all actions, claims and demands (including legal fees and other cost of defending or settling any action, claim or demand) which may be instituted against the Indemnitees arising out of a breach of this Clause by that party or the negligence of that party, its agents, employees or of any other person for whose acts or omissions that party is vicariously liable.

16. Audit

16.1 Buyer must maintain records and supporting documentation of all financial and non-financial transactions under this Contract and compliance with the obligations of Clauses 15 herein sufficient to permit a complete audit in accordance with this clause for a period of seven years, or longer if required by law.

16.2 Buyer must, at no additional cost to Fujitsu, at Fujitsu's request, provide to Fujitsu and its internal and external auditors, inspectors, regulators and other agents or representatives, access at reasonable times and on reasonable notice to Buyer's premises, Buyer environment (including systems and networks), Buyer personnel and all materials relating to this Contract.

17. Intellectual Property Rights

With the exception of any pre-existing Intellectual Property Rights or any open source software, all Intellectual Property Rights in any material created in the performance of its obligations under this Purchase Order vests in, or is hereby transferred or assigned to, Fujitsu immediately upon creation.

18. INSOLVENCY

If a petition in bankruptcy shall be filed by or against Buyer or should Buyer take advantage of any insolvency law or proceedings under any insolvency law are threatened against Buyer, then in any of those events, Fujitsu shall have the option to cancel this Contract or any part of the Products and Services not delivered.

19. NOTICES

Any communications in connection with this purchase may be made by fax, letter, or electronic mail. Faxed communications will be deemed to have been received by a party to this Contract upon transmission to a fax number notified in advance of transmission by that party with the receipt of the appropriate transmission contact report. Communications by letter will be deemed to have received by a party with seven (7) days of posting (by air mail) or upon delivery (if delivered personally) to the address notified in advance of posting or delivery by that party. Electronic mail communications will be deemed to have been received by a Party upon transmission to an electronic mail address notified in advance of transmission by that Party with the receipt of the appropriate delivery report.

20. Applicable Law

This Contract shall be governed by and construed according to the laws of Singapore.

21. Dispute Settlement

In relation to any dispute arising out of or in connection with this Contract, including any question regarding its existence, validity, breach or termination, each of the parties irrevocably submits to the jurisdiction of the Singapore courts and waives any objection to proceedings in such courts on the grounds of venue or on the grounds that the proceedings have been brought in an inconvenient forum.

22. Entire Agreement

This Contract constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior undertakings, agreements, representations and warranties, unless this Contract is issued pursuant to a master or framework agreement in which case the latter shall prevail.

23. Severability

If any provisions of this Contract (or part of any provision) is found by any court or other authority of competent jurisdiction to be invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed not to form part of this Agreement, and the validity and enforceability of the other provisions of this Contract shall not be affected.

24. Modifications

No amendments or additions to these Sale Terms is binding unless made in writing and signed by duly authorized representatives of each party.

25. Confidentiality; Publicity

Any Confidential Information which one party has disclosed or may hereafter disclose ("**Disclosing Party**") to the other party in connection with the Products or Services covered by this Contract and which is designated as confidential by explicit identification or from the context of disclosure shall be deemed to be confidential or proprietary information and shall only be disclosed to those of its employees, advisors, contractors or subcontractors who have a need to know and are under obligations of confidentiality and shall not otherwise be disclosed to any third party without Disclosing Party's prior written consent. Buyer shall not, without obtaining Fujitsu's consent, in any manner, advertise or publish the fact that the Products or Services ordered hereunder have been contracted for or furnished by Buyer to Fujitsu

26. Assignment

Buyer may not assign, delegate or transfer all or any part of its right or obligations under this Contract without the prior written consent of Fujitsu.

27. Force Majeure

If a party ("**Affected Party**") is unable to perform its obligations because of Force Majeure Event, it shall promptly notify the other party of its inability to perform and the nature and extent of the Force Majeure Event, and the Affected Party's obligation to perform those obligations affected by the Force Majeure Event will be suspended for the duration of the Force Majeure Event. If the Force Majeure Event continues for more than thirty days, the Affected Party may at its election, by notice to the other party, modify or cancel this Contract without being liable in damages or otherwise.

28. Termination

28.1 Fujitsu may, at its option and without any cost or liability, terminate this Contract by giving Buyer not less than fifteen days prior written notice without assigning any reason.

28.2 The expiration or termination of this Contract shall not affect or prejudice any provision of these Terms and Conditions which are expressly or by implication intended to continue in effect after such expiration or termination.

29. Survival

Notwithstanding anything to the contrary in these Sale Terms, the expiration or termination of this Contract shall not affect or prejudice any provisions of these Sale Terms which are expressly or by implication intended to continue in effect after such expiration or termination.