

These terms and conditions apply to purchases Deliverables as specified in the attached Purchase Order ('PO') by PERNEC except where the Parties have entered into a separate written agreement specifying the terms and conditions which are to apply to such purchases ('Contract'), of which in the event of conflicts the terms and conditions of the Contract shall apply. The Supplier has read and understands these terms and conditions and agrees that by its performance of this PO shall constitute the Supplier's unconditional acceptance to this terms and conditions.

1. DEFINITIONS

'**Confidential Information**' means any information whether prior to or hereinafter disclosed by PERNEC to the Supplier in the performance of this PO including but not limited to any information which is designated in writing to be confidential or by its nature intended to be for knowledge of the Supplier or if orally given, is given in the circumstances of confidence;

'**Deliverables**' for the purpose of this PO means the materials, goods, items, products and/or services to be supplied by the Supplier in accordance with the terms and conditions of this PO;

'**Intellectual Property**' means all patents, utility models, petty patents, design patents, design rights (whether registered or unregistered), semiconductor topography rights, trademarks, service marks and copyright, and applications in any country of the world for any of the foregoing;

'**Parties/Party**' means PERNEC and the Supplier collectively and any of them respectively;

'**Quotation**' means an offer submitted by the Supplier to PERNEC;

'**Supplier**' means the person, firm or corporation or other entity accepting this PO for the work or services described on the face hereof;

'**PERNEC**' means PERNEC INTEGRATED NETWORK SYSTEMS SDN BHD (418964-H), or PERNEC entity as stated in the PO, as the case may be.

2. SUPPLY

The Supplier shall supply the Deliverables in strict accordance with the terms hereof for the consideration herein stated. Unless PERNEC expressly instructs otherwise, the Supplier will deliver the Deliverables in accordance with the packaging, shipping and delivery procedures to the delivery site set forth in this PO or if none are notified or specified, in a manner that ensures packaging, handling and safe delivery in accordance with industrial standard. Unless otherwise stated in the PO and where applicable to the purported Deliverables, the Supplier assumes responsibility for all shipping and delivery charges including, without limitation, customs, duties, costs, taxes and insurance. The Supplier shall deliver the Deliverables to the delivery site at the Supplier's own risk and shall bear the risk of loss, destruction or damage until the Deliverables are accepted by PERNEC.

3. INSPECTION & ACCEPTANCE

Where applicable, the Deliverables are subject to inspection and tests at any time by PERNEC or any person or agency designated by PERNEC notwithstanding that payment has already been made. Final inspection will be made upon delivery or completion of the Deliverables. PERNEC's payment to Supplier shall not be deemed as an acceptance by PERNEC and it shall not prejudice the right of PERNEC on rejection of such Deliverables in accordance with the terms herein contained.

4. REJECTION

If the Deliverables were found defective or is unsatisfactory upon inspection and fails to conform to the agreed specifications and/or scope of works or express or implied warranties, implied warranties, PERNEC shall, in addition to all other legal remedies at law, be entitled to reject the Deliverables and at its option, either require the Supplier to remedy such defect or refund to PERNEC any part of the amount previously paid for such Deliverables and reimburse PERNEC for any charges which may have been incurred by PERNEC in connection therewith, including, without limitation, transportation, handling, insurance, installation, removal and storage. Failure to inspect or failure to discover any defects shall in no way limit PERNEC's right to recover against the Supplier and to assert any legal remedies PERNEC may have.

5. DELAY

Time is of the essence in the performance of this PO and the Supplier shall immediately notify PERNEC of any delay or threatened delay in the Supplier's performance. PERNEC reserves the right to cancel all or any part of this PO for any delay of delivery. PERNEC may, at its option, cancel this PO or accept delayed delivery or performance from the Supplier without thereby waiving its right to demand strict compliance with the delivery or performance schedule as set forth in this PO with respect to all other deliveries or performances and without prejudice to PERNEC's right to recover damages for any delays under the laws including the liquidated damages as stipulated under Clause 15 of this PO.

6. WARRANTY, REPAIR AND REPLACEMENTS

The Supplier will at the time of the delivery, provide PERNEC with written guarantee and warranties as per Supplier's Quotation for all the Deliverables delivered to PERNEC (including principal/manufacture warranty). The Supplier agrees to repair and/or replace any defective Deliverables within a period as determined by PERNEC at no cost to PERNEC. The Supplier shall ensure that any

replacement of defective Deliverables shall inter-operate seamlessly with any existing items. Such repair or replacement shall be completed within a period of time that shall be determined by PERNEC, failing which the Supplier shall be liable to pay liquidated damages as stipulated under Clause 15 of this PO and the Supplier shall continue to pay such sum until the Supplier repairs and deliver such Deliverables to the satisfaction of PERNEC.

7. PAYMENT

Payment will be made in accordance with the payment terms as set forth in the PO, upon the submission of the Supplier's invoice, written acceptance by PERNEC of the Deliverables and/or any other supporting documentation as required by PERNEC. PERNEC may at any time set-off any amounts the Supplier owes PERNEC against any amounts PERNEC owes to the Supplier or any of its affiliated companies.

8. SUPPLIER'S WARRANTY

The Supplier warrants that:

- it has the full power to enter into this PO and has the capacity to perform its obligations hereunder;
- the Deliverables shall conform to the agreed specification, scope of works and meet the functional and performance criteria set out therein, free from defect in design, materials, workmanship and installation, be new, be of good and merchantable quality and fit for its intended purpose;
- that the Deliverables furnished as a result of acceptance of this PO conforms to and complies with the current laws and/or regulations in relation to Occupational Safety and Health and any other existing laws and/or regulations; and
- the Deliverables do not and will not infringe the Intellectual Property Rights of any third party, right of publicity or privacy, or any other proprietary rights, whether contractual, statutory or common law and the Supplier agrees it will not use any PERNEC's Intellectual Property in any manner, including commercial advertising or as a business reference, without the expressed prior written consent of PERNEC.

9. INDEMNITY

The Supplier shall defend, indemnify, and hold PERNEC, its affiliated companies and their officers, directors, agents and employees harmless from and against any and all claims, liabilities, suits (including legal fees and other expenses of claims or suits), arising out of or in connection with: (i) PERNEC's use of the Deliverables (ii) PERNEC's use of information or materials provided by Supplier; (iii) damage to property or any injury or death together with incidental and consequential damages, which may be caused or be alleged to have been caused in whole or in part arising out of or resulting from the negligence, fault or omissions of the Supplier, its partners, directors, officers, employees, licensees, subcontractors or agents, or by any failure of the Deliverables or work or services under this PO.

10. INTELLECTUAL PROPERTY RIGHTS

(a) Unless otherwise agreed by the Parties, the Parties acknowledges that PERNEC shall own any and all of the Intellectual Property rights in relation to any Deliverables (inclusive but not limited to customization of the Deliverables which is dedicated to PERNEC), solutions, design and/or any other works derived under this PO. The Supplier shall not during or at any time after the expiry or termination of this PO in any way question or dispute the rights to, or ownership by PERNEC.

(b) The Supplier shall fully indemnify and keep indemnified PERNEC from and against all claims, allegations, demands, judgments, suits, actions, recoveries, liabilities, fines, losses, damages, costs and expenses ("Claim"), arising out of or related to any alleged infringement, violation or misappropriation of any third parties Intellectual Property rights due to PERNEC's purchase, use and/or possession of the Deliverables.

(c) If any Deliverables become, or are likely to become, the subject of a Claim of infringement, violation or misappropriation of Intellectual Property Rights, the Supplier will, in addition to its obligation to indemnify PERNEC as provided herein and to the other rights PERNEC may have under this PO or at law, in equity or otherwise, promptly take the following actions at no additional charge to PERNEC and in the listed order of priority:

- secure the right to continue using and possessing the Deliverables and any parts thereof;
- replace or modify such Deliverables to make it non-infringing, such that the replacement or modification will not degrade the performance or quality of the affected component of the Deliverables; or
- remove such Deliverables from the rest of the Deliverables and refund to PERNEC all fees and charges associated with such Deliverables.

(d) In the event that PERNEC is served with a warning or demand letter and/or legal proceedings are instituted against PERNEC, alleging that the Deliverables or any parts thereof or PERNEC's purchase, use and/or possession of the Deliverables infringe the Intellectual Property rights of a third party, PERNEC, at its sole discretion, may, in addition to its rights hereunder, terminate this PO at any time without any penalty, liability or further obligation and PERNEC may pursue all remedies available under the PO or at law for the Supplier/s breach of the PO.

11. CANCELLATION/TERMINATION

This PO will remain in effect until such PO or the Contract is either terminated, cancelled or all the Deliverables are delivered and accepted by PERNEC. In addition to any other rights and remedies it has, PERNEC reserves the right to cancel this PO or any portion thereof at any time for no reason or any reason whatsoever or for default by the Supplier by providing a written notice to Supplier.

12. TERMINATION ON CORRUPTION, UNLAWFUL OR ILLEGAL ACTIVITIES

(a) Without prejudice to any other rights of the Parties, if either Party, its personnel, servants or employees is/are convicted by a court of law for corruption or unlawful or illegal activities in relation to this PO, the non-defaulting Party shall be entitled to terminate this PO at any time, by giving a written notice of a minimum thirty (30) days prior to the effective date of the termination.

(b) Upon such termination, subject to the limitation of liability clause, the non-defaulting Party shall be entitled to all direct losses, costs, damages and expenses (including any solicitor and/or auditor costs and expenses) incurred by the non-defaulting Party arising from such termination.

13. LIMITATION OF LIABILITY

PERNEC shall not be liable whether based on contract, warranty, negligence or other legal or equitable grounds for any economic loss and loss of interest, profits, contracts, business or revenue or any consequential, indirect, incidental, special, punitive and/or exemplary damages suffered by the Supplier arising out of or in relation to this PO. This clause shall remain in force notwithstanding the termination or expiry of this PO.

14. CONFIDENTIALITY

The Supplier, his employees, agents and representatives shall treat this PO and everything in connection to or arising out of this PO as private and confidential. No disclosure shall be made by the Supplier to any third party without the prior written consent of PERNEC. The Supplier shall not to use the Confidential Information other than for the purposes of this PO; and at all times comply with the Personal Data Protection Act 2010. Supplier will not, in any manner, advertise or publish that Supplier has contracted to furnish PERNEC the Deliverables covered by this PO or use any trademarks or trade names of PERNEC in Supplier's advertising or promotional materials unless PERNEC consents in writing.

15. LIQUIDATED DAMAGES

(a) In the event that Supplier fails to deliver/perform any of the Deliverables, or any other task or achieve any milestone hereunder in accordance with the delivery or performance schedule and in full conformance with all the requirements of the PO, Supplier shall pay to PERNEC, as liquidated damages at the rate of one percent (1%) of the value of the Deliverables which have yet to be delivered to PERNEC ("Undelivered Items/Services") per day or part thereof up to a maximum of PO value of such Deliverables or liquidated damages imposed by PERNEC's customer due to failure by the Supplier to deliver/perform any of the Deliverables, whichever is higher.

(b) Such liquidated damages shall be immediately payable by Supplier upon PERNEC's demand. PERNEC may, at its option, deduct such liquidated damages from payments due by PERNEC to Supplier.

(c) PERNEC's rights and remedies under this clause are in addition to all of its other rights and remedies available under this PO or at law or in equity shall not relieve the Supplier from its obligation to complete the Deliverables or from any other of his obligations, duties, responsibilities and liabilities under this PO.

16. INSURANCE

Supplier shall purchase and maintain the appropriate insurances to cover any and all costs and expenses of whatsoever kind or nature for the performance of this PO or which PERNEC may suffer or incur as a result of or in connection with any claim, action or proceeding brought by any party including any officer, employee or sub-contractors of the Supplier at Supplier's own cost.

17. GENERAL TERMS

17.1 Supplier's Code of Conduct. The code of conduct for PERNEC's Supplier and any other policy issued by PERNEC from time to time shall apply to this PO to the extent applicable.

17.2 Covenant on Anti-Compete. (a) The Parties shall co-operate in order to ensure that their respective performance under this PO does not bring about any

anti-competitive prohibition within the meaning as provided under the Competition Act 2010 or the Communications and Multimedia Act 1998 or any rules or regulations made in pursuant thereto, as the case may be; (b) If any provision of this PO is deemed unenforceable due to any anti-competitive restriction pursuant to the operation of the Competition Act 2010 or the Communications and Multimedia Act 1998 or any rules or regulations made in pursuant thereto, the Parties shall in good faith consult with each other to agree an alternative provision which achieves a result as similar as possible to the result which would have been achieved by the provision deemed unenforceable. (c) Notwithstanding clauses 17.2(a) and 17.2(b) as aforesaid, in any event, if PERNEC has any reason to believe that the Supplier has infringed any of the prohibitions set forth under the Competition Act 2010, PERNEC shall have the absolute right to suspend the services and/or terminate/cancel this PO or have available to it any other remedies available at law or in equity or otherwise.

17.3 Amendment/Variation. The provisions contained in this PO maybe amended, varied, modified, supplemented or adjusted by PERNEC by written notification.

17.4 Assignment. This PO shall not be assigned or novated or sub-contracted in whole or in part by the Supplier without the written approval from PERNEC.

17.5 Waiver. Failure of PERNEC to enforce at any time or for any period of time any of the provisions hereof shall not be construed to be a waiver of such provisions or of the right of PERNEC to thereafter enforce each and every such provision.

17.6 Severability. If any provision of this PO is held by a court or other competent authority to be unlawful, void or unenforceable such provision shall be deemed to be severed and shall be of no force and it shall not affect the other provision and this PO shall remain in full force and effect as if such provision had not originally been contained in this PO. In the event of any such severance the Parties shall negotiate in good faith in order to agree the terms of a mutually acceptable and satisfactory alternative provision in place of the provision so severed.

17.7 Successors Bound. This PO shall be binding upon each of the Parties and their respective successors in title and permitted assigns.

17.8 Force Majeure. Neither Party shall be liable to the other for failure to perform any of its obligations under this PO due to the event of Force Majeure. Force Majeure herein means causes or events which are beyond the reasonable control of the Party claiming Force Majeure, which causes or events could not have been avoided or prevented by such Party's reasonable foresight, planning and implementation and which cause said Party's performance hereunder to be hindered, prevented or delayed. Either Party which is unable, in whole or in part, to carry out its obligations under this PO due to Force Majeure shall promptly give written notice to that effect to the other Party stating in reasonable detail the circumstances of Force Majeure and shall diligently use all reasonable efforts to remove the cause or event of such Force Majeure, and shall resume performance of any suspended obligation immediately after the subsidence of Force Majeure. If an event of Force Majeure exceeds (30) thirty days, PERNEC shall have the right to terminate this PO with no obligations to the Supplier except to pay for any Deliverables accepted prior to the event of Force Majeure occurring.

17.9 Governing Law. This PO shall be construed in accordance with and governed by the laws of the Malaysia.

17.10 Stamp Duty. The stamp duties, if any payable in respect of this PO shall be borne and paid by the Supplier.

17.11 Entire Agreement. Save and except if the Parties have entered into a Contract to govern their relationship, this PO embodies the entire agreement between PERNEC and the Supplier relating to the subject matter hereof and supersedes all prior agreements and arrangements between the Parties and there are no promises, terms, conditions or obligations, oral or written expressed or implied other than those contained herein. Nothing herein contained shall be construed as implying that the Supplier shall have or may expect exclusivity in whatever manners.