

**GENERAL TERMS & CONDITIONS OF PURCHASE OF GOODS AND/OR SERVICES
(“GENERAL CONDITIONS”)**

These **GENERAL CONDITIONS** shall apply to every purchase order (the “PO”) issued by **KDDI (Thailand) Ltd.** (“KDDI”) to its Vendor and Vendor is deemed to have knowledge of and agrees that this **GENERAL CONDITIONS** are incorporated into each PO under which the Vendor supplies its goods and/or related services (hereinafter the “Ordered Items”) to KDDI. Vendor’s written acceptance, acknowledgment of this PO, or commencement of performance constitutes Vendor’s acceptance to this **GENERAL CONDITIONS**, and a contract between the Parties incorporating these **GENERAL CONDITIONS** shall come into existence (“Contract”). These **GENERAL CONDITIONS** shall apply and constitute as the Contract between both Parties. KDDI expressly objects to any additions, deletions or differences in the terms or conditions contained in Vendor’s quotation, proposal, acknowledgment or other document, whether or not such additions, deletions or differences materially alter this Contract unless such alterations are made in a writing executed by both Parties, which writing explicitly refers to and supersedes or supplements this Contract. (Vendor and KDDI are each referred to as a “Party” and collectively as the “Parties”.)

1. DEFINITIONS:

- 1.1. “Affiliates” means any company, firm or entity that directly or indirectly controls, or is controlled by, or is under common control with KDDI. For the purposes of this definition, “control” means, directly or indirectly, (i) possession of the power to direct or cause the direction of the management or affairs of an entity, (ii) the ownership of more than 50% of the voting rights of an entity, or (iii) the ownership of more than 50% of the issued share capital of an entity.
- 1.2. “Confidential Information” shall mean confidential or proprietary information (which includes but is not limited to information relating to financial position, assets and liabilities, pricing data, internal management and structure of an entity, employees list and data, customers and suppliers list, business plans, industrial and marketing plans, policies, promotions, know-how, systems, business strategies, databases, spreadsheets, software, development source and object codes, technology and manufacturing processes, correspondence, discussions, negotiations and agreements between the Parties, and all other information) disclosed by the disclosing party to the receiving party in connection with the PO, whether in tangible or intangible form, and whether or not marked as confidential.
- 1.3. “Deliverables” means all documents, products and materials developed and/or supplied by Vendor in accordance with the Specifications, or as otherwise supplied by Vendor to KDDI under or in connection with this PO.
- 1.4. “Force Majeure Event” means any circumstances beyond a Party’s reasonable control including but without limiting the generality of the foregoing, such circumstance as an act of God, perils of sea or air, fire, flood, a state of war, an act of the public enemy, a declaration of a state of emergency by the government, a circumstance seriously disrupting public safety, peace or good order of the applicable country, an act of terrorism, a quarantine restriction, an epidemic, any outbreak of disease, a strike or lockout (other than a strike or lockout involving a Party’s own employees), a riot, a war (declared or undeclared), a civil commotion, vandalism, sabotage, or malicious mischief and which occurs without the fault or the negligence of the Party seeking relief.
- 1.5. “Good Industry Practice” means the exercise of that degree of care, skill, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced operator seeking in good faith to comply with all relevant laws and engaged in the provision of the same type of services under similar circumstances and conditions as set out in this PO.
- 1.6. “Intellectual Property Rights” or “IPR” includes any and all inventions whether or not patentable, utility models, trademarks, component designs and manufacturing processes and any improvements or enhancements thereto, copyrights and moral rights, database rights, trademarks, trade secrets and know-how, in each case whether registered or unregistered, and also including identified technical and non-technical and business-related information such as specifications, computer programs, drawings or blueprints.
- 1.7. “Manufacturers’ Warranties” means the warranties given by any third-party manufacturer in relation to any goods provided by Vendor to KDDI.
- 1.8. “PO” means this purchase order or an order, or an offer to purchase, or a letter of purchase or notice of intention to proceed to purchase or the like in any form, referring to or including these **GENERAL CONDITIONS** and issued as an offer or acceptance of an offer.
- 1.9. “Specification(s)” means the specification(s) for the Ordered Items described in the PO, including any description, design, drawing(s) and/or technical data of the Ordered Items and details (if any) of their manufacture and performance.

2. SUPPLY OF ORDERED ITEMS: Vendor shall supply the Ordered Items described in the Specifications and in accordance with reasonable directions and requirements of KDDI. In performing the services, the Vendor shall comply with all reasonable instructions given by KDDI. Time shall be of the essence and Vendor is to supply the Ordered Items by the time(s) stipulated (“Due Date”) in the Specifications and/or any instructions document(s) given by KDDI. In the event of short-delivered Ordered Items, Vendor shall immediately deliver the remaining of any short-delivered Ordered Items upon notification by KDDI.

3. VARIATIONS TO THE ORDERED ITEMS: Vendor shall not implement variations to the Ordered Items unless agreed in writing between the Parties. If any such variations affect the prices or delivery schedules or performance milestones, Vendor may make reasonable adjustments to the prices or delivery schedules or performance milestones, provided that KDDI gives prior written consent. Any adjustment shall be documented in writing and signed by authorized representatives from each Party. The Vendor shall not, without the prior written consent from KDDI, make any process or design changes affecting the Ordered Items.

4. PAYMENT AND INVOICING: KDDI will pay Vendor the fixed and firm price in accordance with the PO excluding all duties and taxes for which Vendor is liable, except for Value Added Tax (“VAT”). No variation from the price set out in the PO or in Specifications nor additional charges may be invoiced without the prior written consent of KDDI.

5. CANCELLATION OF PO: Should Vendor fail to supply the Ordered Items by the Due Date, as mutually extended in writing by the parties, KDDI shall in addition to any other remedies which it may have under these **GENERAL CONDITIONS** or otherwise have the right to cancel all or any of the PO(s), or any part of any PO(s) for the Ordered Items, without being liable therefore in damages and obtain the same from other sources and all increased costs incurred thereby shall be deducted from any monies due to or to become due to Vendor under this PO and/or shall be recoverable from Vendor as damages.

6. RISK AND TITLE: The risk and title in the Ordered Items shall pass to KDDI upon receipt by KDDI, its Affiliates and/or its customers at the destination specified in the PO and/or the Specifications. For deliveries with installations or commissioning and for services, the transfer of risk to KDDI occurs upon written acceptance by KDDI. Vendor acknowledges that the Ordered Items may be on-sold to an end-user by KDDI and warrants that KDDI will be able to supply the end-user with good title to the Ordered Items.

7. INSPECTION AND REJECTION OF ORDERED ITEMS:

- 7.1. The Vendor shall allow KDDI, its Affiliates and/or their customers to inspect the delivered and/or performed Ordered Items and/or Deliverables.
- 7.2. In the event that any delivered Ordered Items do not comply with the Specifications, KDDI shall have the right but not the obligation to return and/or reject the non-confirming Ordered Items and/or Deliverables upon written notification to Vendor and at Vendor’s expense.
- 7.3. In the case of goods, KDDI may, at its absolute discretion, require Vendor to collect the rejected Ordered Items from premises designated by KDDI, in which event Vendor shall do so at its own expense. Vendor shall replace such Ordered Items and/or re-perform the Deliverables immediately and, in any case, within the timeline stipulated by KDDI, and in accordance with the requirements of the Specifications, upon receipt of KDDI’s written notification.

8. REPLACE OR RETURN OF ORDERED ITEMS: The Ordered Items and Deliverables supplied under this PO shall conform in every respect, to the relevant quotation(s), Specification(s) and instruction(s) of KDDI. No changes in such documents shall be made without the prior written consent by KDDI.

Vendor shall replace, free of charge, each of the Ordered Items that are found to be defective, damaged or inferior in quality of workmanship, or found not to comply with the Specification(s) or instruction(s) of KDDI (the “Defective Goods”) immediately upon notification by KDDI. Otherwise, KDDI reserves the right to refuse to make payment to Vendor and return the Defective Goods at Vendor’s risk and expense. No interest shall be due on any amount unless agreed in writing by KDDI.

9. WARRANTIES: Without prejudice to any other right or remedy available to KDDI, Vendor warrants, represents and undertake that:

- 9.1. It maintains and hold all necessary licenses, consents, permits, agreements and insurance required or necessary to lawfully provide the Ordered Items and Deliverables to KDDI;
- 9.2. The Deliverables will be performed by appropriately qualified and trained personnel with all reasonable care and skill in accordance with Good Industry Practice;
- 9.3. Use of the Ordered Items and/or any Deliverables by KDDI, its Affiliates and/or customers will not infringe any Intellectual Property Rights of any third party;
- 9.4. As far as it is able, Vendor shall obtain and hereby assigns to KDDI any and all standard warranties and indemnities available from any manufacturer, Vendor, or subcontractor of services or goods and materials provided in connection with the Contract.

10. DELAY DUE TO FORCE MAJEURE: Neither Party shall be deemed to be in breach of the **GENERAL CONDITIONS**, or otherwise be liable to the other, for any delay in performance or the non-performance of any of its obligations under the **GENERAL CONDITIONS** to the extent that the delay or non-performance is due to any Force Majeure Event. If a Party is wholly or partially unable to perform any of its obligations because of a Force Majeure Event, then it shall promptly notify the other Party of its inability to perform and the nature and the extent of the circumstances that amounts to a Force Majeure Event. In the occurrence of such a Force Majeure Event, the Parties agree to take best efforts to minimize the duration and mitigate the effect of the Force Majeure Event. In the event that the Parties agree to terminate the Contract, KDDI shall pay Vendor for all Ordered Items provided up to the date of the occurrence of the Force Majeure Event.

11. LIMITATION OF LIABILITY: Notwithstanding any other provision in these **GENERAL CONDITIONS**, in no circumstances shall KDDI be liable for any special, incidental, consequential, indirect, exemplary or punitive damages or losses, or for any loss of use, savings, business, contracts, goodwill, profits, revenue or reputation, regardless of the form of action, whether arising under contract, tort, statutory liability or otherwise, whether foreseeable or not and whether arising from any act or omission on the part of KDDI in respect of its obligations in the Contract or howsoever arising from the use of the Ordered Items or Deliverables.

12. INDEMNITY: Each party shall indemnify and hold harmless the other party and its agents, employees, officers, directors, successors and assigns, from and against any and all damages, liabilities, losses, expenses, costs or claims (including without limitation legal fees) directly caused by (a) the negligence or willful misconduct of the indemnifying party, or (b) the indemnifying party’s breach of any of its covenants, representations or warranties set forth herein.

13. INSURANCE: Vendor must maintain in effect statutory workers compensation insurance and public liability insurance, from a reputable insurance company, to cover any and all costs and expenses of whatsoever kind or nature which KDDI may suffer or incur as a result of or in connection with any claim, demand, action or proceeding brought by any party including any officer, employee or sub-contractor of Vendor.

14. INTELLECTUAL PROPERTY:

14.1. Where as a result of carrying out its obligations under this Contract in respect of work designed by the Vendor for which the Vendor is to be paid by KDDI, the Vendor generates data, know-how, proprietary technical data or any

Intellectual Property Rights (collectively, “Foreground IP”), then such Foreground IP shall vest in and be solely owned by KDDI as and when it is generated. The Vendor shall not disclose, release or sell to any persons or otherwise deal with the Foreground IP in any manner whatsoever, without the prior written consent of KDDI. Each Party shall do anything necessary (including executing agreements and documents) to give full effect to the provisions of this Clause 14. For the avoidance of doubt, nothing in this Contract shall affect either Party’s right to own any Intellectual Property Rights created prior to or independently of this Contract (“Background IP”).

14.2. In relation to Background IP owned by the Vendor which is provided by the Vendor under this Contract, Vendor hereby grants to KDDI a non-exclusive, assignable, transferable, sublicensable, perpetual, irrevocable, fully paid-up right and licence with no geographical restrictions to (whether by itself or on its behalf) use, execute, display, perform, possess, modify and create derivative works from the Background IP solely and exclusively for the purposes intended under this Contract

14.3. In relation to Background IP which is not owned by the Vendor but which is provided by the Vendor under this Contract (“Non-Vendor Background IP”), the Vendor shall grant to or procure for KDDI, a licence for such Non-Vendor Background IP on terms substantially similar to Clause 14.2 above.

15. CONFIDENTIAL INFORMATION:

15.1. The receiving party of the Confidential Information shall not without prior written consent of the disclosing party, copy or disclose such Confidential Information to any person or use for any purpose any Confidential Information obtained by it in connection with the Contract, but may disclose Confidential Information to its employees or agents, on a ‘need-to-know’ basis, for the purpose of performing parties’ obligations within the scope of the Contract.

15.2. The foregoing restrictions on the Confidential Information shall not apply to information that are (a) publicly available; (b) independently developed and lawfully obtained by the receiving party; (c) directly or indirectly obtained from the disclosing party without restriction against subsequent use, duplication or disclosure; and (d) required to be disclosed pursuant to applicable laws and/or regulations the directions of governmental or regulatory authorities or by court order.

15.3. Upon termination, expiration or completion of the Contract, the receiving party shall, at the request of the disclosing party, return or destroy all Confidential Information supplied and belonging to the disclosing party, except for any Confidential Information that is required to retain pursuant to applicable laws and/or regulations and/or its internal documentation retention policies. The confidentiality obligations in this clause 15 shall survive the termination and expiration of the Contract.

16. DATA PROTECTION: Parties undertake to fully comply with the requirements of the Personal Data Protection Act of Thailand (“PDPA”), for the time being in force in Thailand and includes any rules or regulations made thereunder and shall take all necessary actions to comply with and observe the provisions of the PDPA in respect of collecting, using, disclosing and/or processing any such personal data, if necessary. Vendor shall ensure that any individual contacting or interacting with KDDI on behalf of Vendor regarding the Services can be contacted via and will exclusively use business address, business email address, business telephone number and/or business fax number.

17. EXPORT CONTROL: Parties acknowledge that certain Ordered Items and technical information (“Controlled Items”) provided in the PO and Specifications are subject to export control laws, restrictions, regulations and orders (“Export Control Laws”), as enforced by the applicable regulatory authorities, such as Thailand Customs and other foreign agencies or authorities. Parties agrees to comply with all applicable Export Control Laws and shall not export, transfer or transmit for the purpose of re-export any such Controlled Items to any prohibited or embargoed country, or to any denied, blocked, or designated person or entity, as listed in any such Export Control Laws. Each Party shall be responsible for obtaining any applicable Export Control Laws license to export, re-export or import the concerned Controlled Items, as may be required.

18. ANTI-CORRUPTION:

18.1. Parties represent and warrant that:

- (a) each shall comply with all applicable laws, statutes, regulations, decrees and/or official order and codes relating to anti-bribery and anti-corruption including but not limited to Singapore Prevention of Corruption Act (Cap. 241), U.S. Foreign Corrupt Practices Act, UK Bribery Act, laws prohibiting corrupt payments, antitrust laws, laws on prevention of unfair competition or economic espionage, or similar laws of any other country or jurisdiction which are applicable to the PO;
- (b) each has not and shall not offer, pay, give, or promise to pay or give, directly or indirectly (including through a third party or intermediary) any payment or gift of any money or thing of value to any government official, government employee (or employee of any company owned in part by a government), political party, political party official, or candidate for any government or political office, or another person or entity, in order to influence or induce an action to secure improper advantage in relation to the contemplated PO between the parties.

18.2. Failure by either Party to comply with this provision shall be deemed as breach of this **GENERAL CONDITIONS** and Parties have the right to terminate this Contract without any liability. This clause is without prejudice to the terminating party’s other rights or remedies.

19. TERMINATION:

19.1. Termination for cause: Without limiting its other rights or remedies, KDDI may terminate the Contract with immediate effect by giving written notice to the Vendor if:

- (a) the Vendor commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within twenty (20) days of that party being notified in writing to do so;
- (b) the Vendor takes any step or action in connection with its entering administration, provisional liquidation, judicial management or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction;
- (c) the Vendor suspends, threatens to suspend, ceases or threatens to cease to carry on all or a substantial part of its business;
- (d) the Vendor’s financial position deteriorates to such an extent that in KDDI’s opinion the Vendor’s capability to adequately fulfil its obligations under the Contract has been placed in jeopardy.

19.2. Termination for convenience: Notwithstanding any other provision of this Contract to the contrary, KDDI may, by written notice stating the extent and effective date, before the end of the term, terminate this Contract without cause, for any or no reason, in whole or in part, at any time.

19.3. Upon termination of the Contract for any reason: (a) KDDI shall pay Vendor for Ordered Items performed before the date of termination, provided KDDI has accepted the Ordered Items and Deliverables; (b) KDDI is not liable to pay for any work including any services performed after termination; and (c) in no event shall KDDI be liable for any loss of profits on the order or portion thereof so terminated.

19.4. Termination of the Contract shall not affect any of the Parties’ rights and remedies that have accrued as at termination, including the right to claim damages in respect of any breach of the Contract that existed at or before the date of termination.

20. SEVERABILITY: Notwithstanding that the whole or any part of any provision of these **GENERAL CONDITIONS** may prove to be illegal or unenforceable, the other provisions of these **GENERAL CONDITIONS** and the remainder of the provision in question shall remain in full force and effect.

21. ENTIRE AGREEMENT: The Contract, together with these **GENERAL CONDITIONS** shall constitute the entire agreement between the Parties and supersede and extinguish all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter. These **GENERAL CONDITIONS** apply to the Contract to the exclusion of any other terms that the Vendor seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

22. WAIVER: No forbearance, delay or indulgence by either Party in enforcing the provisions of the Contract shall prejudice or restrict the rights of that Party nor shall any waiver of its rights in relation to a breach of the Contract operate as a waiver of any subsequent breach and no right, power or remedy given to or reserved to either party under the Contract is exclusive of any other right, power or remedy available to that Party and each such right, power or remedy shall be cumulative.

23. AMENDMENTS: No addition to, variation or modification of the Contract or these **GENERAL CONDITIONS** shall be effective unless it is in writing and signed by an authorized representative of each Party.

24. ASSIGNMENT: Neither Party shall assign, delegate or otherwise transfer all or any part of the rights and/or obligation under the Contract or these **GENERAL CONDITIONS** without the prior written consent of the other Party.

25. NOTICES: Notices given under the Contract, or these **GENERAL CONDITIONS** must be in writing and shall be effective when delivered to and duly received by the other Party’s relevant officer at the address stated on the applicable PO.

26. GOVERNING LAW: The Contract including these **GENERAL CONDITIONS** shall be governed by and construed according to the laws of Thailand, without regard to conflict of laws principles.

27. DISPUTE RESOLUTION: Any dispute controversy or claim arising out of or in connection with the Contract including these **GENERAL CONDITIONS**, including any question regarding its existence, validity or termination, shall be referred to and finally resolved by arbitration in accordance with the Rules of Arbitration of the International Chambers of Commerce for the time being in force, which rules are deemed to be incorporated by reference in this clause. The seat of arbitration and legal place shall be Bangkok, Thailand. The Tribunal shall consist of one (1) or more arbitrators, whose appointment shall be in accordance with the said Rules. Arbitration proceedings (including but not limited to any arbitral award rendered) shall be in English. The award shall be final and binding on the Parties, and judgment upon any award may be entered and enforced in any court having jurisdiction.

28. CONTRACTS (RIGHTS OF THIRD PARTIES): Nothing herein confers or purports to confer on any third party any benefit or any right to enforce any provision or clause of the Contract including these **GENERAL CONDITIONS**.