

PURCHASE ORDER STANDARD TERMS AND CONDITIONS FOR THE SUPPLY OF GOODS AND SERVICES

The Purchase Order (defined below) and the following terms and conditions shall form the Agreement between the Supplier and BA Continuum India Private Limited ("BACI") unless a master agreement is in effect between Supplier and BACI or its Affiliates for the Services or Goods purchased, in which event such master agreement shall supersede these terms and conditions. If there is no master agreement, then in the event of any inconsistency between the Purchase Order and these terms and conditions, these terms and conditions shall take precedence.

1. Definitions

- 1.1 "Affiliate" means a business entity now or hereafter controlled by, controlling or under common control with a Party. Control exists when an entity owns or controls directly or indirectly 50% or more of the outstanding shares or securities representing the right to vote for the election of directors or other managing authority of another entity.
- 1.2 "Agreement" means the Purchase Order and these terms and conditions.
- 1.3 "BACI Materials" means all materials created and developed for or on behalf of BACI under the Agreement.
- 1.4 "Delivery Address" means the address for delivery of the Goods and/or Services set out on the Purchase Order or as otherwise agreed between the parties in writing.
- 1.5 "Delivery Date" means the date(s) for delivery of the Goods and/or Services set out on the Purchase Order or as otherwise agreed between the parties in writing.
- 1.6 "Goods" means the goods set out on the Purchase Order.
- 1.7 "GST Law" means the India Goods and Services Tax legislation and associated regulations, directives, orders, guidance and other regulatory issuances as implemented in and binding upon each Indian State and Union Territory.
- 1.8 "Intellectual Property Rights" means any and all patents, trademarks, trade names, service marks, copyrights, moral rights, rights in design, rights in databases, knowhow and all or any other intellectual property rights whether or not registered or capable of registration and whether subsisting in India or any other part of the world.
- 1.9 "Price" means the price of the Goods and/or Services as agreed by the parties and set out on the Purchase Order.
- 1.10 "Purchase Order" means the relevant purchase order issued by BACI.
- 1.11 "Services" means the services set out on the Purchase Order.
- 1.12 "Specification" means the specification for the Goods or Services (as appropriate) as set out on the Purchase Order or otherwise agreed between the parties in writing.
- 1.13 "Supplier" means the supplier whose details are set out on the Purchase Order.

2. Terms for the Supply of the Goods and Services

- 2.1 BACI orders and Supplier agrees to supply the Goods and/or Services on the terms and condition of the Agreement.
- 2.2 These terms and conditions shall be deemed incorporated into and made part of each submission
- 2.3 Each Purchase Order and these terms and conditions shall form a distinct and separate agreement. No variation of it shall be valid unless agreed in writing by the parties.
- 2.4 Delivery of the Goods and/or Services by the Supplier to BACI shall be deemed conclusive evidence of Supplier's acceptance of the Agreement.
- 2.5 Time of delivery of the Goods and Services shall be of the essence of the Agreement.
- 2.6 The Supplier agrees to provide reasonable assistance to enable BACI to use the Goods and/or Services to their best advantage.
- 2.7 Supplier expressly acknowledges and agrees that the rights of BACI set forth in this Agreement shall inure to all BACI Affiliates and such Affiliates may execute Purchase Orders and purchase/take Goods/Services hereunder. However, BACI shall have no liability nor shall it in any way be responsible for the failure of such entity to perform its obligations under a Purchase Order placed by it.

3. Purchase Order

- 3.1 BACI shall submit the Purchase Order in writing to the Supplier.
- 3.2 The Supplier shall within (2) days of the date of each Purchase Order respond to each Purchase Order confirming its interest on that Purchase Order and this shall constitute the acceptance of that Purchase Order for the supply of the Goods and/or Services.
- 3.3 BACI may modify or cancel any Purchase Order which has not been accepted in accordance with Section 3.2 above.
- 3.4 The Supplier acknowledges and agrees that, and shall inform its employees, agents and subcontractors if relevant, that any personal data furnished by Supplier to BACI, under this Agreement, may be passed to and accessed by BACI's Affiliates who may be located outside of India.

4. Price and Payment

- 4.1 Unless otherwise specified in the Purchase Order or otherwise agreed between the parties in writing, the Price of the Goods shall include: (i) secure a proper packing, storage, transport; and (ii) safe delivery to the Delivery Address on the Delivery Date.
- 4.2 Prices shall remain fixed unless otherwise notified in writing of any variation by the Supplier and agreed by BACI.
- 4.3 Unless otherwise set out in the Purchase Order or agreed between the parties in writing, BACI shall pay to the Supplier not earlier than 30 days after the later of:
 - a. BACI's receipt of accurate and comprehensive details of Supplier's bank account;
 - b. BACI's receipt of the Goods;
 - c. Completion of the Services to BACI's satisfaction; and
 - d. BACI's receipt of a valid, correct and undisputed invoice for the Goods and/or Services from Supplier quoting the Purchase Order number. Invoices shall include and list all applicable sales, use or excise taxes that are a statutory obligation of BACI as separate line items identifying each separate tax category and taxing authority on amounts payable by BACI to Supplier pursuant to the Agreement or any other agreement; or due to any offer which the Supplier may make from time to time.

- 4.4 Supplier agrees that BACI may set off against the Price any payments due to BACI from the Supplier under the Agreement or any other agreement; or due to any offer which the Supplier may make from time to time.
- 4.5 BACI may request from Supplier monthly statements.
- 4.6 If the Goods and/or Services are not delivered on the Delivery Date, BACI may reject the Goods and/or Services without any liability.
- 4.7 In the event any benefits or cost reductions accrue to Supplier due to reduction in tax rates and/or increase in the admissible input tax credit as a result of the GST Law, then Supplier shall pass such benefit or cost reduction to BACI by way of a reduction in pricing charged to BACI. Supplier shall issue to BACI a valid tax invoice for any taxable supply in accordance with the GST Law. In the event of such an adjustment, Supplier shall issue to BACI a credit note/debit note in accordance with the GST Law. Supplier shall fulfill all compliance requirements as required under, and within the time limits specified in, the GST Law. In case of breach, noncompliance or violation of any of these GST Law contract provisions by Supplier which do or are expected to have an impact on the benefits accruing to BACI under the GST Law, then BACI shall be entitled to recover the amount of such benefits from Supplier along with any applicable interest and penalties.
- 4.8 Supplier shall agree to defend, indemnify and hold harmless BACI and its Affiliates, employees, officers, directors, shareholders, successors and permitted assigns from and against any losses, expenses, damages, costs and liabilities, including reasonable attorneys' fees and expenses incurred in investigation, defense or settlement claim arising from Supplier's breach, negligence or intentional misconduct in the performance of its obligations under the GST Law or under the Agreement or any governing law or regulation relating to the GST Law. Additionally, BACI shall be entitled to recover its own losses, expenses, damages, costs and liabilities (including without limitation interest and penalties) resulting from any such breach, negligence or intentional misconduct, including any instance in which Supplier has collected applicable goods and services taxes from BACI and not deposited the same with the Revenue Government as the result of which BACI loses credits under the GST Law.

5. Delivery, Title and Risk

- 5.1 The Goods shall be securely and properly packed by Supplier.
- 5.2 Supplier shall deliver the Goods and/or supply the Services to the Delivery Address on the Delivery Date(s).
- 5.3 On delivery, the Supplier shall ensure that the Goods are signed by a duly authorised member of BACI.
- 5.4 Title of the Goods shall pass to BACI on delivery of the Goods.
- 5.5 The Supplier shall deliver the Goods with such documentation as is necessary to enable BACI to use the Goods safely and effectively.

6. Warranties and Representations

- 6.1 The Supplier warrants and represents to BACI that:
- a. the Goods shall be:
 - i. of merchantable quality; and
 - ii. fit for the purposes; and
 - iii. in accordance with the Specifications; and
 - iv. of first class materials, workmanship and design; and
 - b. the Services shall be supplied in accordance with the Specifications.
 - c. the Supplier, its employees,, agents and sub-contractors will carry out all of Supplier's obligations under the Agreement with all reasonable skill and care, in a timely and professional manner, and using appropriately skilled and experienced personnel;
 - d. the Supplier shall meet all timelines agreed between the parties under the Agreement;
 - e. the Supplier shall maintain sufficient trained and experienced staff to supply the Goods and/or Services under the terms of the Agreement;
 - f. the Supplier has and shall have the rights and powers to enter into and perform all of its obligations under the Agreement; and that its proposed activities hereunder do not and shall not infringe any laws, regulatory requirements or the rights of any third party;
 - g. the Supplier holds and shall hold any and all necessary licenses required under and has otherwise complied and shall comply in all respects with the requirements of all applicable statutes, laws, regulations, requirements and codes of practice applicable under and it holds and shall hold any third party licenses or authorities granted to it to enable it to enter into and perform the Agreement; and
 - h. Supplier's performance under the Agreement including the Goods/Services provided hereunder, will comply with all applicable and then-current laws, ordinances, rules, regulations, conventions, and standards of each and all locations where the Goods/Services are to be delivered, or Supplier's performance is to occur, or that relate in any way to the, licensing, certification, or approval of Services, including, without limitation, the requisite license / registrations under the provisions of the Contract Labour (Regulation & Abolition) Act, 1970, Employee Provident Fund Act, 1952, Employee State Insurance Act, 1948, Workmen's Compensation Act, 1923, and those related to, wages, hours and conditions of employment, occupational safety, discrimination, sexual harassment, immigration, subcontractor selection, and minority owned businesses as applicable to the Supplier. Further, Supplier hereby agrees that on request by BACI, it shall furnish to BACI proof of payment of wages, provident fund, employee state insurance (as applicable) in respect of the Supplier's representative along with relevant returns and proof of having filed relevant individual forms for such representatives. In the event it appears to BACI that Supplier has not made the aforesaid payments, BACI shall have the right to deduct the same from invoices submitted by the Supplier.
- 6.2 Where the Goods or any part of them are manufactured by a third party the Supplier shall, in addition to the Supplier obligations in the Agreement, pass on to BACI the benefit of any guarantee, condition and warranty granted by the manufacturer in relation to such Goods; and the Supplier shall use its best efforts to pass on to BACI any servicing agreement that the Supplier received from the manufacturer in respect of such Goods.

7. Defects

- 7.1 BACI shall be entitled to reject any of the Goods delivered which are not in accordance with the Specifications and shall not

be deemed to have accepted any Goods until such reasonable time to inspect them following the delivery.

7.2 If later, any of the Goods are found to be defective or do not comply with any of the warranties or representations set out in Section 6.1 above ("**Defective Goods**"), BACI may, at its option:

- a. reject all the Defective Goods or any part of them without any liability; and/or
- b. require the Supplier to replace such Defective Goods; and/or
- c. require the Supplier to repair such Defective Goods.

Supplier shall replace or repair the Defective Goods within 7 days from the date of BACI notification or such other time period as the parties may agree in writing.

7.3 If any of the events set out in Section 7.2 above happen, the Supplier shall, at Supplier cost and expense:

- a. collect the Defective Goods from BACI and from the Delivery Address; and
- b. return the replacement or repaired Goods to BACI to the Delivery Address;

7.4 If any of the Services are not supplied in accordance with the Agreement particularly with the Specification, BACI shall without any liability reject and terminate the Services or any part of them.

7.5 In the event that BACI rejects the Defective Goods pursuant to Section 7.2 (a) above or the Services pursuant to Section 7.4 above, the Supplier shall immediately refund any payments made by BACI in respect of such Defective Goods or Services.

8. Intellectual Property Rights

8.1 The Supplier warrants that Supplier's performance of the Agreement and BACI's use of the Goods, Services and/or any materials resulting from it, do not and will not infringe Intellectual Property Rights or of any third party's right.

8.2 Where applicable, the Supplier shall:

- a. assign to BACI with full title guarantee all existing and future copyright and design right comprised in BACI Materials; and
- b. agree to assign to BACI, with full title guarantee, at BACI's request, any other Intellectual Property Rights (other than copyright and design right) in BACI Materials, in India and throughout the world for the whole term of the Intellectual Property Rights, including any extensions or renewals of such Intellectual Property Rights and all statutory or common law rights attached to it.

9. Indemnity and Insurance

9.1 The Supplier shall indemnify BACI and keep BACI fully and effectively indemnified on demand against any and all claims, liability, direct losses, damages, costs (including legal costs) or expenses which BACI may incur in as a result of the Supplier breach of any of Supplier's obligations or warranties under the Agreement or by any negligent act or omission or willful misconduct of Supplier's employees, its agents or sub-contractors.

9.2 The Supplier shall, at its own expense, secure and maintain in full force and effect, the following minimum insurance coverages, and other coverages which may be reasonable and customary for Supplier's industry, with an insurance company satisfactory and acceptable to BACI.

- a. Public Liability £2,000,000 equivalent to Indian Rupee (any one occurrence)
- b. Products Liability £1,000,000 equivalent to Indian Rupee (any one period of insurance)
- c. Employer's Liability £5,000,000 equivalent to Indian Rupee (any one occurrence)

The Supplier shall furnish to BACI the certificates or cover notes providing sufficient evidence of compliance with this Section.

9.3 The Supplier shall furnish BACI with renewal certificates so long as the Agreement is in effect.

9.4 The number of claims during the period of insurance shall not be limited.

10. Confidentiality

10.1 Each party ("**Receiving Party**") undertakes:

- a. to keep confidential all information (written or oral) concerning the business and affairs of the other party ("**Disclosing Party**") that the Receiving Party has obtained or received as a result of the discussions leading up to or the entering into, or obtains or receives in performance of, the Agreement (the "**Information**");
- b. not to disclose the Information in whole or in part to any other person without the Disclosing Party's written consent, save to those of the Receiving Party's employees, agents and sub-contractors involved in the performance of the Receiving Party's obligations under the Agreement on a confidential and need-to-know basis; and
- c. to use the Information solely in connection with the performance of the Receiving Party's obligations under the Agreement and not for the Receiving Party's own or the benefit of any third party.

10.2 The confidentiality obligations in Section 10.1 above will not extend to Information which the Receiving Party can prove to the Disclosing Party's reasonable satisfaction:

- a. has ceased to be secret without default of the Receiving Party's part; or
- b. was already in the Receiving Party's possession prior to disclosure by the Disclosing Party; or
- c. has been received from a third party who did not acquire it in confidence; or
- d. is required to be disclosed by court, government jury or other regulatory body, but only to the extent required by law, provided that the Receiving Party gives the Disclosing Party written notice as soon as practicable of such requirement.

10.3 Manufacture, production or packaging of the Goods to be delivered to BACI shall not be permitted to any person other than the authorised employees or subcontractors of the Supplier.

10.4 Neither party shall issue any media releases, public announcements or public disclosures relating to the Agreement or use the name or logo of the other party including, without limitation, in promotional or marketing material or on a list of customers;

unless required by legal, accounting or regulatory requirements beyond the reasonable control of the releasing party.

11. Termination of the Agreement

- 11.1 Either party may by written notice terminate the Agreement if:
- a. the other party is in material breach of the Agreement and fails to remedy such breach within five (5) days from the date of notification of such breach from the non-defaulting party; or
 - b. a party is declared insolvent; or
 - c. a trustee, receiver, administrative receiver, or similar officer is appointed in respect of all or any part of the business or assets of the other party; or
 - d. a petition is presented or a meeting is convened for the purpose of considering a resolution or other steps are taken for the winding up of the other party or for the making of an administration order (otherwise than for the purpose of an amalgamation or reconstruction); or
 - e. any similar or analogous event occurs in relation to the other party in this or any other jurisdiction.
- 11.2 BACI shall have the right to terminate the Agreement if:
- a. Supplier undergoes a change of control; or
 - b. Supplier transfers all, or substantially all, of its assets; or
 - c. the association with the Supplier is considered to be adverse to BACI's business or interests.
 - d. in providing Goods/Services hereunder, Supplier violates any applicable law or regulation, or causes BACI to be in material violation of any law or regulation;
 - e. Supplier attempts to assign this Agreement in breach of the Agreement; and
 - f. Supplier either (i) merges with another entity (ii) suffers a transfer involving fifty percent (50%) or more of any class of its voting securities or (iii) transfers all, or substantially all, of its assets; or
 - g. if Supplier's rating (as per the rating system announced by the government for GST Law compliance) is downgraded (i) to a level where Supplier is "blacklisted" as provided under the GST Law by the applicable taxing authorities or (ii) below a level acceptable to BACI in its sole discretion due to Supplier's noncompliance or its actual or alleged act, failure to act, error, or omission in the performance of its obligations under the GST Law.
- 11.3 Upon such termination:
- a. BACI shall pay the Supplier all sums due and payable to the Supplier under the Agreement at the date of termination, unless the Agreement is terminated by reason of Supplier default or breach;
 - b. The Supplier shall immediately refund to BACI any advance payments made by BACI which have not been utilised for any of the Services or for Goods not delivered to BACI.
- 11.4 Upon termination or expiration of the Agreement, Supplier shall immediately return any documents or material property of BACI in Supplier's possession, as BACI may direct. Failure to do so, BACI shall be entitled to access Supplier's premises to recover such property.
- 11.5 Sections 6, 8, 9 and 10 of this Agreement shall survive the termination of the Agreement or any part of it.
- 11.6 Any termination of the Agreement is without prejudice to any other rights or remedies a party may be entitled to under the Agreement or at Law. It does not affect any accrued rights or liabilities of either party or any provision which is expressly or by implication intended to come into force on, or continue in force after termination.
- 11.7 Notwithstanding the above BACI can terminate this Agreement or any Purchase Order under this Agreement for its convenience, without cause, at any time without further charge or expense upon at least thirty (30) calendar days prior written notice to Supplier. Termination of one Purchase Order shall not cause a termination of this Agreement or any other Purchase Order, unless otherwise specified by BACI.

12. Audit

- 12.1 The Supplier shall maintain, at its own cost, financial records for a period of 7 years or as otherwise required by law. BACI shall be entitled at its own discretion to conduct at least one audit per calendar year of the Supplier's systems and procedures insofar as they relate to the supply of the Goods and Services. Such Supplier records referenced above may be inspected, audited and copied by BACI, its Representatives or by state agencies having jurisdiction over BACI, during normal business hours and at such reasonable times as BACI and Supplier may determine.

13. Review

- 13.1 BACI may request to Supplier to meet on a quarterly basis to review Supplier's performance of its obligations under this Agreement. Both BACI and the Supplier shall ensure that a senior representative attends each meeting on their behalf.

14. Micro, Small and Medium Enterprises Development Act, 2006

- 14.1 Supplier hereby agrees to take the full responsibility of notifying BACI if Supplier is qualified or gets qualified during the Term of this Agreement as a micro, small or medium enterprise as defined under the Micro, Small and Medium Enterprises Development Act, 2006 ("**MSME Act**"). To comply with the above requirement, Supplier is required to notify BACI in writing within fifteen (15) days of applying or getting covered under the ambit of the MSME Act as mentioned above. Supplier further acknowledges that in the event it fails to comply with the aforementioned requirement, BACI shall assume that the Supplier does not fall under the ambit of the MSME Act to the extent provided above.

15. General

- 15.1 All notices required to be given under the Agreement will be in writing and will be sent at the address(es) set out on the Purchase order or to such other address(es) as the recipient may designate by notice given in accordance with this section.
- 15.2 Any such notice may be delivered by hand, first class pre- paid letter or facsimile transmission and will be deemed to have been received: (a) by hand – upon delivery; (b) by first class post – 48 hours after the date of mailing; (c) by facsimile transmission – immediately upon transmission provided a confirmatory copy is sent by first class pre-paid post by the end of the next business day.
- 15.3 The Supplier may not assign, transfer, change or dispose any of the rights or obligations under the Agreement to any third

party without BACI's prior written consent. No such assignment, transfer, sub-contract or disposal even if consented to, shall relieve the Supplier of Supplier's obligations under the Agreement. The Supplier shall procure that any permitted sub-contractor enters into a confidentiality agreement as BACI shall require.

- 15.4 If any part, term, provision or clause of the Agreement proves to be invalid or unenforceable, the validity or enforceability of the remaining parts, terms, provisions and clauses will not be affected. The rights and obligations of the parties will be construed as if the Agreement did not contain the particular invalid or unenforceable part, term, provision or clause.
- 15.5 No delay or failure by either party to exercise any of its powers, rights or remedies under the Agreement will operate as a waiver of them, or any single or partial exercise of any such powers, rights or remedies preclude any other or further exercise of them. Any waiver to be effective must be in writing.
- 15.6 The Agreement contains all the terms which the parties have agreed and supersedes all provisions, contracts, arrangements, representations (other than fraudulent misrepresentations) or understandings between the parties whether written, arising from custom or oral in relation to the transactions provided for the Agreement.
- 15.7 Nothing in the Agreement shall constitute, or be deemed to constitute, a partnership between the parties nor shall it constitute, or be deemed to constitute, a party the agent of the other party for any purpose.
- 15.8 The Agreement is governed by and shall be constructed in accordance with the laws of India. The parties agree to submit to the exclusive jurisdiction of the Mumbai Courts, and waive any objection to venue with respect to actions brought in such courts.
- 15.9 Supplier's personnel are not eligible to participate in any of the employee benefit or similar programs of BACI. Supplier shall inform all of its personnel providing Services pursuant to this Agreement that they will not be considered employees of BACI for any purpose, and that BACI shall not be liable to any of them as an employer for any claims or causes of action arising out of or relating to their assignment.
- 15.10 Neither Party shall be liable to the other for any special, indirect, incidental, consequential, punitive or exemplary damages, including, but not limited to, lost profits, even if such Party alleged to be liable has knowledge of the possibility of such damages, provided, however, that the limitations set forth in this Section shall not apply to or in any way limit the indemnity obligations, Section entitled "Confidentiality", or Supplier's gross negligence or willful misconduct.