

# SIEMENS

## Siemens Vietnam - Conditions of Purchase

Dated: 15<sup>th</sup> November 2019

### 1. Order and Confirmation of Order

- 1.1 Siemens may cancel the order/ contract if the Supplier<sup>1</sup> has not confirmed acceptance of the order (confirmation) in writing within two weeks of receipt.
- 1.2 Any alterations, amendments or additions to the order shall only become a part of the Contract if Siemens accepts such in writing. In particular, Siemens is bound by the general terms and conditions of the Supplier only if Siemens agrees explicitly to such in writing. The acceptance of deliveries or services as well as payments does not constitute such agreement.
- 1.3 Any provisions in other documents provided by the Supplier (such as but not limited to specifications, data sheets, technical documentation, advertising materials, order confirmations and/or shipping documents) regarding legal terms, liability, restriction of use, restriction of application and/or restriction of suitability, or any other provision that changes the provisions of these Conditions of Purchase shall not be applicable.

### 2. Rights of Use

- 2.1 The Supplier hereby grants Siemens the following non-exclusive, transferable, worldwide and perpetual rights to use the deliveries and services including related documentation, to integrate them into other products and to distribute them and other rights, where applicable, specified in Annex 2: Special Conditions for Purchase of Software attached hereto.
- 2.2 Should the order involve production with special requirements in terms of a work contract, Siemens shall in case of a design or development order have the unlimited right to the intellectual property and the exclusive use of all related design and development results. The designs and developments shall not be made available to any third party in whole or in part without the express written approval of Siemens, nor shall such be used for any own or other purpose.

### 3. Term and Penalty for Breach

- 3.1 For the purposes of establishing the timeliness of delivery the relevant point in time is the date of receipt of the delivery according to Incoterms® 2010 or at the place of destination designated by Siemens (for local purchases), and for deliveries involving installation, erection, commissioning or assembly as well as for services (including rectification) the relevant point in time shall be the date of acceptance by Siemens.
- 3.2 If any delay in delivery or performance or rectification is anticipated, Siemens shall be notified immediately, and its decision sought. In order to conform with delivery or performance deadlines the Supplier shall in good time undertake all suitable measures (e.g. shift work, overtime, any necessary expedited transport) in order to avoid any delay. The costs for such measures shall be borne by the Supplier.
- 3.3 In the event of non-compliance with the agreed delivery or performance deadlines, Siemens may, without setting any further deadline, waive the right to performance and terminate the contract without any cost and liability consequences for Siemens. Siemens reserves the right to claim damages as permitted by law.
- 3.4 If the agreed deadlines are exceeded, Siemens may demand a penalty to the amount of 0.3 % for each commenced day of delay, but not exceeding 8 % of the value of the breached contractual obligation portion. The payment of a penalty by the Supplier shall not affect any other contractual or legal rights based on late delivery or performance and shall not release the Supplier from any of its contractual or legal obligations arising from the order. Siemens may, but shall not be bound to, deduct such penalty, whether in whole or in part, from any payment due from Siemens to the Supplier under any Contract. The Supplier shall compensate for any and all direct losses or damages caused to Siemens by such failure to deliver the Goods or Services as agreed in the Contract.

- 3.5 In case of postponed or subsequently agreed delivery or performance deadlines the agreed penalty shall apply accordingly.
- 3.6 The penalty is due irrespective of whether or not Siemens expressly reserves the right to claim the delay penalty upon acceptance of the delayed delivery.

### 4. Deliveries and Services of the Supplier

- 4.1 Unless agreed otherwise, DDP (named place of destination) Incoterms® 2010 shall apply, if (a) the seat of the Supplier and the named place of destination are within the same country. If (a) is not fulfilled, the DAP (named place of destination) Incoterms® 2010 shall apply, unless agreed otherwise.
- 4.2 The Supplier warrants that deliveries and services will be in accordance with the contract and in perfect condition, free of any defect of title or deficiency, produced with raw materials free of any defect and fully functional without limitation and fit for the intended purpose. This shall include in particular compliance with official and legal provisions and safety regulations of the countries of production, destination as well as the country of Siemens. The Supplier guarantees that deliveries and services at the time of transfer of risk are in accordance with the current state of the art. Siemens may return any defective goods to the Supplier at the Supplier's cost and demand replacement in accordance with the order. Siemens may alter the Delivery Date, scope and places of delivery upon giving the Supplier reasonable notice in writing of such delay or alteration.
- 4.3 Any services of the Supplier shall be provided with the greatest care with the use of qualified and trained personnel.
- 4.4 Deliveries and services of the Supplier and sub-suppliers shall be subject to Siemens's quality assurance system in accordance with ISO9001 / EN29001. Siemens's suppliers and sub-suppliers shall be assessed accordingly.

### 5. Transfer of Risk and Title

- 5.1 The Supplier warrants that it sells the goods to Siemens free from all liens and encumbrances and with full title guarantee.
- 5.2 The Supplier warrants that it will comply with applicable laws and regulations in delivering the goods and services, including without limitation all import, export, environmental and data privacy laws and regulations; and any goods or data sent to Siemens shall (a) contain no hidden files; (b) not alter, damage, or erase any data or computer programs without control of a person operating the computing equipment on which it resides; (c) contain no key, node lock, time-out, scrambling device, or other function, whether implemented by electronic, mechanical or other means, which restricts or may restrict use or access to any programs or data; and (d) not contain harmful code.
- 5.3 Any third-party products sold by the Supplier may carry their own warranties and Supplier shall pass through to Siemens any and all such warranties to the fullest extent. Exercise of such warranty shall be directly between Supplier and the third-party provider.
- 5.4 All warranties mentioned above are in addition to and not to the exclusion of any warranty or service guarantee stated in the Contract, offered by the Supplier or implied or required by applicable law.
- 5.5 For deliveries involving installation, erection, commissioning or assembly as well as services, risk shall transfer to Siemens on acceptance and for deliveries not involving services risk shall transfer to Siemens according to Incoterms® 2010 or upon receipt by Siemens at the place of destination designated by Siemens.
- 5.6 Unless specifically agreed otherwise in the Contract, for deliveries involving installation, erection, commissioning or assembly as well as services, title of the goods and services shall

<sup>1</sup> For the purpose of this Conditions for Purchase, Supplier means the person, firm or company, who receives the contract/ order from Siemens and confirms to sell, supply Goods/Services according to the terms and conditions specified in the contract/ order and this Conditions for Purchase.

transfer to Siemens as soon as provided and for deliveries not involving services, title of the goods shall transfer to Siemens upon receipt by Siemens at the place of destination/delivery according to Incoterms © 2010 designated by Siemens.

## **6. Packing and Dispatch**

6.1 Unless otherwise agreed, the costs for adequate packaging shall be borne by the Supplier. The packing shall be environmentally friendly and shall ensure protection against any damage, soiling and moisture during transport and storage.

6.2 In case transportation costs are borne by Siemens, notice of readiness for dispatch shall be given together with the information set out in section 6.3 hereunder. On Siemens's request, a Siemens routing order tool must be used by the Supplier. Transport shall be at the lowest possible cost, insofar as Siemens has not requested a particular method of delivery or the conclusion of the contract for carriage by Siemens. Any supplementary costs arising from non-conformity with the transport requirements, including any costs arising from the Supplier not having used the Siemens routing order, shall be borne by the Supplier. In case DAP/DDP (place of destination) Incoterms © 2010 is agreed, Siemens may also determine the method of transportation.

6.3 Each delivery shall include a packing note or delivery note with details of the contents as well as the complete order number.

6.4 As far as Siemens and the Supplier agree that the Supplier orders the transport of deliveries containing dangerous goods for account of Siemens, the Supplier is responsible to transfer the necessary legally required dangerous goods data to the freight forwarder nominated by Siemens when placing the transport order. The Supplier is in these cases also responsible for packing, marking, labeling etc. in compliance with the regulation to the mode(s) of transport used.

6.5 If Siemens informs the Supplier that following the initial transport another transport with a different mode of transport is scheduled, the Supplier will also follow the relevant legal requirements concerning dangerous goods with regard to such on-going transport.

## **7. Payment, Invoices**

7.1 Unless specifically agreed otherwise in the Contract, all prices are fixed and include delivery and all other charges, including but without limitation to costs of transport, insurance and packing, taxes, levies and fees attributed and/or attributable to the Supplier as the result of the supply of the deliveries and/or services.

If and to the extent required by applicable law, taking into account applicable double taxation agreements, Siemens shall deduct withholding tax from the payments to the Supplier and pay it to the tax authorities in the Supplier's name and on the Supplier's behalf. Where applicable, it is the Supplier's responsibility to ensure that the formal requirements for a tax exemption or tax reduction under an applicable double taxation agreement are met.

The Supplier, in relation to the performance of this Contract, shall be responsible for (i) declaration and finalization of personal income tax of its employees, including foreign delegates, in accordance with the prevailing Vietnam tax regulations and (ii) upon Siemens' request, providing Siemens with relevant information of such a foreign delegate in accordance with the prevailing tax regulations.

7.2 The Supplier warrants that the price charged and the terms and conditions applied for the deliveries and/or services under the Contract is not less preferable than any price charged by the Supplier to buyers of a class similar to Siemens purchasing in quantities and under circumstances comparable to those specified in the Contract. All more preferable prices or services conditions applied to the same or relevant to deliveries and/or services under the Contract, shall apply to the relevant Contract accordingly latest prior to delivery or services acceptance by Siemens.

7.3 Unless otherwise agreed, payments are to be made:

- within 14 days and a deduction of 3% discount, or
- within 30 days and a deduction of 2% discount, or
- within 90 days net.

7.4 The order number as well as the number of each individual item shall be detailed in invoices. Insofar as any such details are omitted, invoices shall not be payable. Copies of invoices shall be marked as duplicates.

7.5 The period for payment shall commence as soon as any delivery or service is completed and a correctly issued invoice is received. Is the Supplier required to provide material testing, test records or quality control documents or any other documentation, such shall be a part of the requirements of the completeness of the delivery and services. A discount shall also be allowed for should Siemens set off or withhold any payments to a reasonable extent because of any deficiency in the delivery or service; the period for payment shall commence after the complete rectification of any deficiency.

7.6 All payment settled by Siemens for the deliveries and/or services will be made via the following bank accounts:

- Account owner : Siemens Limited Company
- Account number: 1008333-05-0
- At : Deutsche Bank AG – Ho Chi Minh City branch

For Siemens Limited - Binh Duong Branch, the payment shall be settled under authorization arrangement via Siemens Limited with the above bank account.

7.7 Payment does not constitute an acknowledgement that the corresponding deliveries or services were provided in accordance with the contract (in particular in relation to quantity or quality). Any rights of Siemens to claim shall therefore remain unaffected also after payment for the deliveries or services.

7.8 Default in payment by Siemens shall require a demand notice subsequent to the amount being due.

## **8. Inspections**

8.1 The Supplier shall inspect the delivery for quantity and quality before dispatch, and, if requested, supply Siemens with certificates of origin and/or testing. Such certificates must state the contract number together with any item numbers.

8.2 The delivery shall be inspected by Siemens as soon as possible after receipt at the named place of destination on the basis of random samples in relation to the type of delivery as well as quantity and any externally recognizable transportation damage or other obvious deficiencies. Siemens also reserves the right (but shall not be obliged) to inspect or test the goods or the services at any stage before delivery and the Supplier shall give rights of access to premises and such facilities as Siemens may reasonably require for such inspection. If following inspection or testing the Siemens considers that the goods do not conform with the Contract, Siemens can reject to receive the goods.

8.3 Testing, inspection and acceptance by Siemens or end user shall not be deemed a waiver of the Supplier's obligations under the Contract.

## **9. Warranty**

9.1 All claims in relation to termination, rescission, price reduction, rectification or replacement and damages as permitted by the applicable laws shall be reserved. A right to claim rectification shall also exist in case of any purchase agreements. Rectification or replacement shall be carried out by the Supplier at the choice of Siemens. The Supplier shall be liable for any and all costs, expenses and damages resulting directly to Siemens by way of deficient deliveries or services regardless of fault.

9.2 Until proved to the contrary, during the entire warranty period it shall be assumed that any deficiency existed at the time of the transfer of risk.

9.3 Siemens reserves the right to retain any payment in whole or in part until, (i) the Supplier has completely fulfilled its duty to rectify the deficiency or the replacement delivery in accordance with the Contract, or (ii) the parties have agreed on other alternative measures, such as but not limited to termination, price reduction or damages in a binding manner.

9.4 From the time of notification of a deficiency, the Supplier shall bear the risk for deficient deliveries. The Supplier shall, additionally – independently of the issue of fault – bear the costs incurred to remove, disassemble, return, reassemble, re-install, re-construct, re-inspect and retest of deficient deliveries as well as all other costs (including internal costs), expenses and damage of Siemens in connection with the complaint and rectification of the deficiency.

9.5 Should the Supplier fail to rectify (i.e. repair or replacement) within a reasonable time set by the Customer, the Customer is entitled, at the expense of the Supplier, to undertake any rectification or replacement itself or arrange for a third party to do so. Any deficiency in deliveries or services detected at the

- time of acceptance, inspection or commissioning may be rectified by the Customer itself or it may arrange for such to be rectified by third parties immediately at the expense of the Supplier without the need to set a further deadline if the Supplier delivered or provided such in delay. The same shall apply if the Customer has a particular interest in immediate rectification or replacement delivery in case of urgency or in order to avoid delay itself.
- 9.6 The warranty period shall be three years from Delivery Date of goods or Acceptance Date of services, unless a longer warranty period is given by law.
- 9.7 For deliveries not involving installation, erection, commissioning, assembly the warranty period begins to run with receipt at the place of destination named by Siemens. For deliveries involving installation, erection, commissioning or assembly as well as for services the warranty period begins to run with acceptance by Siemens. Upon delivery to locations where Siemens is operating outside its premises, the warranty period begins by acceptance by the end customer, in no case later than one year after the transfer of risk.
- 9.8 In case the Supplier has redelivered or rectified in terms of the warranty, the warranty period shall start anew. The warranty period shall extend for the period during which the deliveries cannot be used to the full extent as a result of deficiencies.
- 9.9 Warranty claims shall expire one year after expiry of the warranty period set out in this section.
- 9.10 Any further or additional legal claims are reserved.
- 9.11 Inspections, directions or instructions by Siemens or by any person acting on behalf of Siemens shall not limit the right to claim under the contract, in particular with regard to deficiencies. In case the Supplier does not regard the inspections, directions or instructions as being reasonable or has other reservations against such, the Supplier shall notify Siemens of such without delay in writing and make suggestions for improvement.
- 10. Liability for Intellectual Property Right Infringements**
- 10.1 The Supplier guarantees that no intellectual property rights, including but not limited to copyright, constitute a hindrance for any use.
- 10.2 In the event that any third party makes any claims against Siemens or an end customer of Siemens in relation to intellectual property rights, Siemens shall inform the Supplier of such. The Supplier shall indemnify Siemens against all costs (in particular including lawyers and court costs) and justified claims of third parties in connection with intellectual property rights.
- 10.3 In addition Siemens may demand that the Supplier at its own expense and without delay either (i) obtains a right of use from the party in control of the intellectual property right or, (ii) changes those parts of delivery infringing the intellectual property rights or exchanges such for parts which do not infringe the intellectual property rights.
- 10.4 The right of Siemens to enforce any further legal claims shall not be affected hereby.
- 10.5 Any claims for defects as to title shall expire in ten years or the longer period given by law.
- 11. Subcontracting to Third Parties, Novation**
- 11.1 Subcontracting to third parties shall not take place without the prior written consent of Siemens and entitles Siemens to cancel in whole or in part and claim damages. Upon demand the Supplier shall make available to Siemens a list of the subcontractors used in connection with its deliveries and services.
- 11.2 Notwithstanding the above, Siemens may, in its sole discretion, transfer, assign, or novate the contract/order or any part of it to an affiliated company ("Affiliate"), being any legal entity ("Company") which directly or indirectly is controlled by Siemens, controls Siemens or is controlled by a Company which directly or indirectly controls Siemens. Siemens shall further be entitled to assign the whole contract/ order or a part of it to any third party, in the event of a sale or other transfer of the business or a part of the business of Siemens to a third party. The Supplier shall be bound by such novation or assignment. The Supplier agrees to be a party to any novation or assignment if so requested by Siemens and to execute all relevant documents in connection therewith.

**12. Provided Material, Information**

- 12.1 The Supplier is obliged to examine components such as, e.g. raw material provided by Siemens or provided by the Supplier's suppliers, manufacturers or other third parties at the time of receipt of such components as to whether these components show any obvious or hidden defects. In case any defects are discovered in the course of such inspections, the Supplier shall immediately inform its suppliers or – in case the components are provided by Siemens – inform Siemens.
- 12.2 Material and information provided by Siemens remains the property of Siemens and are to be stored, labeled as property of Siemens and administered separately at no expense to Siemens. Its use is limited to the orders of Siemens only. The Supplier shall supply replacements in the event of reduction in value or loss. This also applies to the transfer of allocated material.
- 12.3 Any processing or transformation of the material and information shall take place for Siemens. Siemens shall immediately become owner of the new or transformed product. Should this be impossible for legal reasons, Siemens and the Supplier hereby agree that Siemens shall be the owner of the new product at all times during the processing or transformation. The Supplier shall keep the new product safe for Siemens at no extra cost to Siemens and in so doing shall exercise the duty of care of a merchant.

**13. Tools, Patterns, Samples, Confidentiality**

- 13.1 Any tools, patterns, samples, models, profiles, drawings, specification, printing templates, gauges and other material provided by Siemens, as well as any materials derived there from, shall remain the property of Siemens and shall not be made available to any third party nor used for any other purpose than contractually agreed, except with the prior written consent of Siemens. Such materials shall be protected against unauthorized access or use and shall be labeled as the property of Siemens. Notwithstanding any other rights, Siemens may demand the immediate return of such materials if the Supplier breaches its contractual obligations.
- 13.2 Siemens is not responsible for the content of any information, data, drawings, specifications and materials which it makes available to the Supplier in connection with the order. The Supplier shall have a responsibility to check that it is up to date and correct and, if this should not be the case or in case of any possible contradictions, the Supplier shall inform Siemens of such without delay in writing and shall seek clarification as to how to proceed. Any incorrectness shall not affect the responsibility of the Supplier in relation to its scope of deliveries and services.
- 13.3 The Supplier shall treat as confidential and shall not make available to third parties any data, drawings, specifications, materials, knowledge or findings, documents, terms of reference, business processes or other information that it receives from or about Siemens in the context of performing the deliveries and services, as well as the conclusion of the contract and any results, with regard to third parties – and shall keep the same confidential beyond the term of the contract – for as long as and insofar as such information has not become publicly known by legal means or Siemens has not consented in writing to its transfer in the individual case. The Supplier shall use this information exclusively for the purpose of performing the deliveries and services. The Supplier shall make Information available only to those employees who need the Information for the fulfillment of their duties and shall ensure that such employees are also subject to a duty to treat such information as confidential. Insofar as Siemens agrees to any subcontracting to third parties, such shall be made subject to a corresponding duty in writing.

**14. Product Liability**

- 14.1 If Siemens is made subject to any claims by third parties based on domestic or foreign product liability law in connection with deliveries by the Supplier, Siemens shall notify the Supplier of such. The Supplier shall indemnify Siemens against all justified claims of third parties as well as the costs (including in particular lawyers and litigation costs), provided such are caused by a deficiency in the deliveries from the Supplier. The Supplier shall support Siemens in the dispute with the injured.
- 14.2 In addition, the Supplier shall reimburse Siemens for all costs caused thereby as a result of measures Siemens must take in

- order to prevent any risk, such as but not limited to warnings or precautionary recall actions of a defective product. Any costs for the determination of the risk (in particular expert costs) as well as internal administration and processing costs of Siemens shall be borne by the Supplier if the Supplier does not itself provide the proof of cause.
- 15. Assignment of Claims, Set-off**  
Any assignment of claims existing in relation to Siemens as well as any set-off of counterclaims is only allowed with the prior written approval of Siemens.
- 16. Right to Terminate**
- 16.1 In addition to any rights provided by law to withdraw from or terminate a contract, Siemens may terminate the contract in whole or in part without liability to the Supplier by giving notice to the Supplier at any time in case: (a) the Supplier is in delay with its delivery or services and/or delay with the rectification, remediation of deficiencies to the deliveries and services and such delay – despite a corresponding demand notice by Siemens – persists for more than 2 weeks after receipt of such demand notice or within other time period set by Siemens, or in case (b) that the adherence to the contract by Siemens cannot reasonably be expected from Siemens because of a reason attributable to the Supplier and taking into consideration the circumstances in the individual case as well both parties' interests. This might, in particular, apply in case of an actual or possible deterioration of the Supplier's financial situation thus threatening the due fulfillment of the Supplier's obligations under the contract.
- 16.2 Furthermore, Siemens shall, at its own discretion, be entitled to terminate the Contract or the order as a whole or partially by giving notice to the Supplier at any time prior to delivery.
- 16.3 In case of a termination by Siemens, Siemens may continue to utilize existing facilities, deliveries and services already performed by the Supplier in exchange for reasonable payment. In case of termination under Clause 16.1, Siemens reserves all rights to claim for damages and to hold the Supplier liable for any loss, expense or additional cost incurred thereby.
- 17. Force Majeure**
- 17.1 A Party will not be liable to the other for any delay in or failure to perform its obligations as a result of any cause beyond its reasonable control, including acts of God, acts of terrorism, acts of war or threat thereof, power failure resulting from fires, explosions and other acts of God, infectious diseases or epidemics. The Supplier shall notify Siemens immediately upon learning of any event which may result in any delay and possible consequence for performance of the contract.
- 17.2 If such event lasts for more than 03 months, either Party shall be entitled to terminate one or whole part of the contract. In such event, no Party shall have any claim against the other.
- 18. Code of Conduct for Siemens Suppliers, Security in the Supply Chain**
- 18.1 The Supplier is obliged to comply with the laws of the applicable legal system(s). In particular, the Supplier shall not engage, actively or passively, nor directly or indirectly in any form of bribery, in any violation of basic human rights of employees or any child labor. Moreover, the Supplier shall be responsible for the health and safety of its employees, shall act in accordance with the applicable environmental laws. The Supplier shall take adequate measures to avoid the deployment of so-called conflict minerals and to create transparency over the origin of raw materials and shall use best efforts to promote this Code of Conduct among its suppliers.
- 18.2 The Supplier shall provide necessary organizational instructions and take measures, particularly with regard to the following security: premises security, packaging and transport, business partner, personnel and information in order to guarantee the security in the supply chain according to the requirements of respective internationally recognized initiatives based on the WCO SAFE Framework of Standards (e.g. AEO, C-TPAT). The Supplier shall protect the deliveries and services provided to Siemens or provided to third parties designated by Siemens against unauthorized access and manipulation. The Supplier shall only deploy reliable personnel for those deliveries and services and shall obligate any of its suppliers to take equivalent security measures.
- 18.3 Supplier shall comply with the principles and requirements of the "Code of Conduct for Siemens' Suppliers and Third-Party Intermediaries" attached hereto as Annex 1 (hereinafter the "**Code of Conduct**"). Furthermore, Supplier shall use best efforts to forward the contents of the Code of Conduct to its suppliers and to convince them to meet the principles and requirements of this Code of Conduct.
- 18.4 Supplier shall provide Siemens upon request with a written self-assessment as required by Siemens within – unless otherwise agreed – reasonable time from such request.
- 18.5 Supplier shall maintain complete and accurate records of and supporting documentation for Supplier's compliance with the Code of Conduct. Supplier agrees to provide such documentation and other information as reasonably requested by Siemens to verify Supplier's compliance with the Code of Conduct.
- 18.6 Supplier shall inform Siemens immediately in the event of its non-compliance with the Clause 18.1 above. Should either allegations of the Supplier's non-compliance with the above Clause 18.1 or other claims which threaten to endanger Siemens' reputation become public, e.g. by way of media coverage, Supplier shall provide a written statement, immediately upon Siemens' request, concerning Supplier's non-compliance or the allegations made.
- 18.7 Upon Siemens' request, Siemens and its authorized agents and representatives and/ or a third party appointed by Siemens shall be entitled to conduct unannounced inspections (audits) at Supplier's premises to review the compliance with the above Clause 18.1 and specifically including health and safety management system and to identify measures for improvement. The Supplier shall reasonably cooperate in any audit conducted. In addition to other action, Siemens may deem reasonable, Siemens shall be entitled to access, review relevant records and documentation of Supplier and interview Supplier's employees with regard to Supplier's compliance with the Code of Conduct. Supplier shall reasonably assist and support Siemens' conduct of the audit. Siemens may exercise the rights under this paragraph during the term of the Contract and for a period of three (3) years thereafter. If an audit reveals substantial non-compliance, Supplier shall – in addition to any other rights Siemens may have – bear all audit expenses. If an audit is conducted due to a severe incident or the detection of continuous or repeated non-compliance, the Supplier shall bear all audit expenses.
- 18.8 In addition to other rights and remedies Siemens may have, Siemens may terminate the contract in case of breach of these obligations by the Supplier. However, provided that the Supplier's breach of contract is capable of remedy, Siemens's right to terminate is subject to the proviso that such breach has not been remedied by the Supplier within a reasonable grace period set by Siemens.
- 19. Product Conformity, Product Related Environmental Protection, Dangerous Goods, Occupational Health and Safety**
- 19.1 Should the Supplier deliver products to which product related statutory and legal requirements apply in view of their further marketing in the European Economic Area or to which corresponding requirements apply regarding other countries notified by Siemens to the Supplier, then the Supplier must ensure compliance of the products with these requirements at the time of transfer of risk. Furthermore, the Supplier shall ensure that all documents and information which are necessary to provide the proof of conformity of products with the respective requirements can be furnished immediately to Siemens upon request.
- 19.2 Should the delivery contain goods set out in the so-called "List of Declarable Substances", ([www.bomcheck.net/suppliers/restricted-and-declarable-substances](http://www.bomcheck.net/suppliers/restricted-and-declarable-substances)) applicable at the time of the order or which are subject to statutorily-imposed substance restrictions and/or information requirements (e.g. REACH, RoHS), the Supplier shall declare such substances and provide information as requested in the web database BOMCheck ([www.bomcheck.net](http://www.bomcheck.net)) no later than the date of first delivery. With respect to statutorily imposed substance restrictions the foregoing shall only apply with respect to laws applicable at the registered seat of the Supplier or Siemens or at the designated place of destination requested by Siemens.

- 19.3 Should the delivery contain goods which are classified as dangerous goods according to international regulations, the Supplier shall inform Siemens hereof in a form agreed upon between the Supplier and Siemens, but in no case later than the date of order confirmation. The requirements concerning dangerous goods in section 6.4 to 6.6 shall remain unaffected.
- 19.4 The Supplier is obliged to comply with all legal requirements regarding the health and safety of the personnel employed by the Supplier. It must ensure that the health and safety of its personnel as well as indirect sub-contractors employed to perform the deliveries and services are protected.
- 20. Cybersecurity**
- 20.1 Supplier shall take appropriate organizational and technical measures to ensure the confidentiality, authenticity, integrity and availability of Supplier Operations as well as products and services. These measures shall be consistent with good industry practice and shall include an appropriate information security management system consistent with standards such as ISO/IEC 27001 or IEC 62443 (to the extent applicable).
- 20.2 "Supplier Operations" means all assets, processes and systems (including information systems), data (including Siemens data), personnel, and sites, used or processed by Supplier from time to time in the performance of this Agreement.
- 20.3 Should products or services contain software, firmware, or chipsets:
- 20.3.1 Supplier shall implement appropriate standards, processes and methods to prevent, identify, evaluate and repair any vulnerabilities, malicious code, and security incidents in products and services which shall be consistent with good industry practice and standards such as ISO/IEC 27001 or IEC 62443 (to the extent applicable);
- 20.3.2 Supplier shall continue to support and provide services to repair, update, upgrade and maintain products and services including the provision of patches to Siemens remedying vulnerabilities for the reasonable lifetime of the products and services;
- 20.3.3 Supplier shall provide to Siemens a bill of materials identifying all third-party software components contained in the products. Third-party software shall be up to date at the time of delivery to Siemens;
- 20.3.4 Supplier shall grant to Siemens the right, but Siemens shall not be obliged, to test or have tested products for malicious code and vulnerabilities at any time, and shall adequately support Siemens;
- 20.3.5 Supplier shall provide Siemens a contact for all information security related issues (available during business hours).
- 20.4 Supplier shall promptly report to Siemens all relevant information security incidents occurred or suspected and vulnerabilities discovered in any Supplier Operations, services and products, if and to the extent Siemens is or is likely to be materially affected.
- 20.5 Supplier shall take appropriate measures to achieve that its subcontractors and suppliers shall, within a reasonable time, be bound by obligations similar to the provisions of this section 19.
- 20.6 Upon Siemens's request, Supplier shall provide written evidence of its compliance with this section 19 including generally accepted audit reports (e.g. SSAE-16 SOC 2 Type II).

- 21. Export Control and Foreign Trade Data Regulations**
- The Supplier shall comply with all applicable export control, customs and foreign trade regulations ("Foreign Trade Regulations"). The Supplier shall advise Siemens in writing within two weeks of receipt of the order - and in case of any changes without undue delay - of any information and data required by Siemens to comply with all Foreign Trade Regulations in case of export and import as well as re-export, including without limitation:
- All applicable export list numbers, including the Export Control Classification Number according to the U.S. Commerce Control List (ECCN); and
  - The statistical commodity code according to the current commodity classification for foreign trade statistics and the HS (Harmonized System) coding; and
- The country of origin (non-preferential origin) and - upon request of Siemens - Supplier's declaration of preferential origin (in case of European and/or ASEAN suppliers) or preferential certificates (in case of non-European and/or non-ASEAN suppliers)
- The Supplier shall be liable for any expenses and/or damages incurred by Siemens due to any breach of the obligations above.
- 22. Reservation Clause**
- Siemens shall not be obligated to fulfill the Contract if such fulfillment is prevented by any impediments arising out of national and international foreign trade or customs requirements or any embargos or other sanctions.
- 23. Mention as Reference Customer**
- Only upon Siemens's prior written approval, the Supplier shall mention Siemens as reference customer and/or make reference to products or services which the Supplier has developed for Siemens.
- 24. Dispute Settlement and Applicable Law**
- 24.1 Unless otherwise specified in the Contract, any disputes or discrepancies in connection with the Contract, which cannot be settled amicably between the Parties within 30 days from its occurrence, either Party shall be entitled to bring such dispute to the Vietnam International Arbitration Center for settlement according to its Rules. The seat of arbitration shall be Hanoi, Vietnam; the language to be used in the arbitration proceedings shall be English. The arbitration fees for settling disputes shall be borne by the losing party.
- 24.2 The contractual relationship shall be subject to the laws of Vietnam without reference to its conflicts of law principles. The United Nations Convention on Contracts for the International Sale of Goods of 11 April 1980 shall not apply.
- 24.3 This General Conditions of Purchase of Goods and Services and any documents attached to, including but not limited to the Code of Conduct, and the Special Conditions for Purchase of Software (where applicable) shall form integral parts of the Contract.
- 24.4 Where the Contract is concluded in both English and Vietnamese and in case of inconsistency between English and Vietnamese version, English version shall prevail. The language to be used in the arbitration proceedings shall be English.

## ANNEX 1 - Siemens Group Code of Conduct for Suppliers and Third Party Intermediaries („Code of Conduct“)

This Code of Conduct defines the basic requirements placed on the suppliers and third party intermediaries of the Siemens Group concerning their responsibilities towards their stakeholders and the environment. The supplier and/or third party intermediary declares herewith to:

### 1. Legal Compliance

Comply with the laws and regulations of the applicable legal systems.

### 2. Human Rights and Labor Practices

To ensure respect of all internationally proclaimed human rights by avoiding causation of and complicity in any human rights violations, heightened attention shall be paid to ensuring respect of human rights of specifically vulnerable rights holders or groups of rights holders such as women, children or migrant workers, or of (indigenous) communities.

#### • Prohibition of Forced Labor

- Neither use nor contribute to slavery, servitude, forced or compulsory labor and human trafficking.

#### • Prohibition of Child Labor

- Employ no workers under the age of 15 or, in those countries subject to the developing country exception of the ILO Convention 138, employ no workers under the age of 14.  
- Employ no workers under the age of 18 for hazardous work according to ILO Convention 182.

#### • Non-Discrimination and Respect for Employees

- Promote equal opportunities and treatment of employees, irrespective of skin color, race, nationality, ethnicity, political affiliation, social background, disabilities, gender, sexual identity and orientation, marital status, religious conviction, or age.  
- Refuse to tolerate any unacceptable treatment of individuals such as mental cruelty, sexual harassment or discrimination including gestures, language and physical contact, that is sexual, coercive, threatening, abusive or exploitative.

#### • Working Hours, Wages & Benefits for Employees

- Recognize the legal rights of workers to form or join existing trade unions and to engage in collective bargaining; neither disadvantage nor prefer members of employee organizations or trade unions.  
- Adhere to all applicable working-hours regulations globally.  
- Pay fair wages for labor and adhere to all applicable wage and compensation laws globally.  
- In the event of cross-border personnel deployment adhere to all applicable legal requirements, especially with regard to minimum wages.

### 3. Health & Safety of Employees

- Act in accordance with the applicable statutory and international standards regarding occupational health and safety and provide safe working conditions.
- Provide training to ensure employees are educated in health & safety issues.
- Establish a reasonable occupational health & safety management system<sup>1</sup>.

### 4. Grievance Mechanism

Provide access to a protected mechanism for their employees to report possible violations of the principles of this Code of Conduct.

### 5. Environmental Protection

- Act in accordance with the applicable statutory and international standards regarding the environment. Minimize environmental pollution and make continuous improvements in environmental protection.
- Establish a reasonable environmental management system<sup>1</sup>.

### 6. Fair Operating Practices

#### • Anti-Corruption and Bribery

- Tolerate no form of and do not engage directly or indirectly in any form of corruption or bribery and do not grant, offer or promise anything of value to a government official or to a counterparty in the private sector to influence official action or obtain an improper advantage. This includes to renounce from giving or accepting improper facilitation payments.

#### • Fair Competition, Anti-Trust Laws and Intellectual Property Rights

- Act in accordance with national and international competition laws and do not participate in price fixing, market or customer allocation, market sharing or bid rigging with competitors.  
- Respect the intellectual property rights of others.

#### • Conflicts of Interest

- Avoid and/or disclose internally and to Siemens all conflicts of interest that may influence business relationships, and to avoid already the appearance thereof.

#### • Anti-Money Laundering, Terrorism Financing

- Not directly or indirectly facilitate money laundering or terrorism financing.

#### • Data Privacy

- Process personal data confidentially and responsibly, respect everyone's privacy and ensure that personal data is effectively protected and used only for legitimate purposes.

#### • Export Control and Customs

- Comply with the applicable export control and customs regulations.

### 7. Responsible Minerals Sourcing

- Take reasonable efforts to avoid in its products the use of raw materials which originate from Conflict-Affected and High-Risk Areas and contribute to human rights abuses, corruption, the financing of armed groups or similar negative effects.

### 8. Supply Chain

- Use reasonable efforts to make its suppliers comply with the principles of this Code of Conduct.  
- Comply with the principles of non-discrimination with regard to supplier selection and treatment.

## ANNEX 2 - SPECIAL CONDITIONS FOR PURCHASE OF SOFTWARE

### I. Software License

If the deliveries and/or services include Software, the Supplier acknowledges that Siemens may be on-selling the same to its customers or end-users and warrant that it has good title to license the Software.

The Supplier permits Siemens to market and resell the Software and any accompanying hardware either alone or as part of a package.

The Supplier grants to Siemens a perpetual, worldwide, non-exclusive, no-charge, royalty-free, transferable, irrevocable license:

- 1.1. to install, launch, test and operate Software and its related documentation;
- 1.2. to sublicense the right of use under section 1.1 above to any company, partnership or other legal entity which directly or indirectly controls, is controlled by or is under common control with Siemens (hereinafter referred to as "Affiliates") to contracted third parties, to distributors and to end customers;
- 1.3. to license to Affiliates and distributors the right to sublicense the right of use under section 1.1 above to end customers;
- 1.4. to use the Software for integration into other products and to copy the Software, or to allow Affiliates, contracted third parties or distributors to use and copy the Software; to market and resell the Software and any accompanying hardware wither alone or as part of a package;
- 1.5. to distribute, sell, hire out, lease and make ready for download or make publicly available the Software, e.g. in the context of Application Service Providing or in other contexts, and to copy the Software to the extent required, always provided that the number of licenses being used at any one time does not exceed the number of licenses purchased;
- 1.6. to sublicense the right of use under section 1.5 above to Affiliates, contracted third parties and distributors.
- 1.7. In addition to the rights granted in section 1.1 to 1.6 above, Siemens, Affiliates and distributors are authorized to allow end customers to transfer the respective licenses.
- 1.8. All sublicenses granted by Siemens must contain appropriate protection for the intellectual property rights of the Supplier in the Software, containing the same contractual provisions as used by Siemens to protect its own intellectual property rights.
- 1.9. If the deliveries include documentation, the Supplier grants to Siemens a perpetual, worldwide, no-charge, royalty-free, irrevocable license to use, reproduce, distribute and prepare derivative works in Siemens's name all documentation furnished by the Supplier. Siemens may reproduce such documentation without the Supplier's logo or other identification of source, subject to affixing copyright notices to all copies of documentation and the Supplier hereby waives and shall cause to be waived all applicable rights with respect to such documentation. These rights with

respect to the Software and documentation shall extend to:

- third parties to use and reproduce the deliveries for Siemens's internal use; and
  - third party channels of distribution.
- 1.10. The Supplier undertakes to supply Siemens with all updates of the Software and to allow Siemens to copy them to those of its customers who hold an original copy version. The Supplier shall provide Siemens with such technical advice, assistance, data and documentation, including source code where necessary, to enable Siemens to maintain the Software if it so wishes.

### II. Open Source Components

- 2.1. The Supplier shall, in good time but at the latest by the time of order confirmation, inform Siemens in writing whether the deliveries and services contain Open Source Components. In the context of this provision, "Open Source Components" means any software, hardware or other information that is provided royalty-free by the respective licensor to any user on the basis of a license with the right to modify and/or to distribute (e.g. the GNU General Public License (GPL), the GNU Lesser GPL (LGPL), or the MIT License). Should the deliveries and services by the Supplier contain Open Source Components, the Supplier shall comply with all applicable open source license terms and shall grant all those rights to Siemens and provide all information which Siemens needs in order to comply himself with the applicable license terms. In particular, the Supplier must deliver to Siemens promptly after the order is confirmed the following:
- A schedule of all Open Source Components used, indicating the relevant license, its version and including a copy of the complete text of such license and including a reference to copyright and/or authorship. Such schedule must have an understandable structure and contain a table of contents.
  - The complete source code of the relevant open source software, including scripts and information regarding its generating environment in so far as the applicable open source conditions require this.
- 2.2. The Supplier shall, in good time but at the latest by the time of order confirmation, inform Siemes in writing whether any open source licenses used by Supplier might be subject to a Copyleft Effect, which could affect the products of Siemens. In the context of this provision, "Copyleft Effect" means that the provision of the open source license requires that certain of the Supplier's products, as well as any products derived from such products, may only be redistributed in accordance with the terms of the open source license, e.g. only if the source code is disclosed. In case any open source licenses used by Supplier would be subject to a Copyleft Effect, Siemens shall be entitled to cancel the order within two weeks of receipt of such information without any cost and liability consequences for Siemens.