

## General Terms and Conditions of Purchase Services & Goods

v. 05.2022

**Purpose and definitions :** The purpose of these General Terms and Conditions of Purchase Services & Goods (hereinafter referred to as the "**Terms and Conditions**") is to define the terms and conditions according to which Vencorex (Thailand) Co., Ltd. (hereinafter referred to as the "**Purchaser**"), entrusts to the supplier or service provider, who accepts, (hereinafter referred to as the "**Seller**"), the supply of goods and equipment, including, in particular, industrial supplies and equipment, consumables, raw materials, finished or semi-finished products (hereinafter referred to as the "**Goods**"), and/or the performance of various works and/or services, including, in particular, the conception, design, maintenance, advice and engineering services (hereinafter referred to as the "**Services**").

The Seller and Purchaser agree to have solely the following documents governing the purchase and supply of Goods and/or Services, and which form the entire agreement between the parties (hereinafter the "**Contract**"):

1. the purchase order of the Purchaser, including any particular terms supplementing and/or modifying the Terms and Conditions as the case may be (hereinafter referred to as the "**Purchase Order**"),
2. these Terms and Conditions;
3. the technical specifications referred to or included in the Purchase Order or, otherwise, in the offer or commercial proposal of the Seller.

All above documents are intended to be complementary with each other. In the event of discrepancy or inconsistency between some provisions of those documents, their order of priority shall be the one indicated above, in descending order.

**Seller's Acceptance:** Any Purchase Order is deemed to be fully accepted by the Seller by (a) acknowledgment by the Seller of the Purchase Order, and/or (b) commencement of performance of the transaction.

**Goods & Services:** The Goods and Services shall be supplied or performed strictly in accordance with all specifications and special conditions or instructions stipulated into the Contract. No deviation is permitted without the Purchaser's prior written acceptance.

Goods purchased or Services provided hereunder are subject to inspection and written approval by Purchaser. Purchaser reserves the right to reject and refuse acceptance of all or parts of Goods or Services which are not in conformance with any instructions, specifications, drawings and data or Seller's warranties (express or implied). If there is any non-conformance of any Goods or Services, the Purchaser shall provide written notice detailing its claim to the Seller as soon as reasonably practicable, and the Seller shall remain liable and will take, on its account, all necessary measures in the shortest possible time to correct such non-conformance. Payment for any Goods or Services shall not be deemed acceptance thereof and is without prejudice to any and all claims Purchaser may have against Seller.

**Prices:** Prices, tariffs, costs, taxes, custom clearance, and rates detailed in the Purchase Order are fixed and shall not be subject to any change unless expressly accepted by the Purchaser in writing. The Purchaser shall not be responsible to pay for any additional amount beyond the Purchase Order. Prices are inclusive of all packing and boxing costs, if any. Chargeable packing cases will be returned for full credit.

**Taxes and Duties:** All prices, tariffs including import and export duties and rates quoted in the Purchase Order are inclusive of any and all taxes and duties but excluding Value Added Tax (VAT). Charges for VAT by the Seller must be in compliance with the VAT legislation. The Seller shall be solely liable for and pay any tax arising from income, gains and profits that the Seller will receive from the Purchaser or realized in connection with the Purchase Order. The Purchaser shall be entitled to

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withhold taxes from any payments due and payable to the Seller under the Purchase Order, and to remit such tax to the relevant Thai tax authority as and when required under the applicable law. The Seller shall also be responsible for the payment of official fees and stamp duties required under Thai law, if any. Notwithstanding the foregoing, the Purchaser and the Seller shall cooperate in good faith to receive exemptions from payment of taxes to the extent permitted under applicable laws.

**Packaging:** The Seller shall provide the Goods in proper packaging, in accordance with packaging standards, and suitable for any relevant specific mode of transport. Packaging is carried out under the full responsibility of the Seller. The Seller shall provide Safety Data Sheet, if required, and the complete reference of the Goods appearing on the Purchase Order, the quantity and the batch number shall be legibly marked on each package.

**Delivery time:** The date and time agreed in the Purchase Order for delivery of the Goods or performance of the Services is the essence of the Contract. Prior to delivery, the Seller shall inform the Purchaser's authorized representative, on each delivery, of at least the number of days provided in the corresponding Purchase Order. In case of delayed delivery or absence of delivery, the Purchaser shall have the sole and absolute right to cancel the Purchase Order in addition to its other rights or remedies, and the Seller shall be entitled to no indemnity nor compensation as a result of the cancellation.

**Trade terms:** The application and interpretation of the trade terms in this Contract shall be according to Incoterms® ICC version 2020.

**Purchaser's Rules and Regulations on Safety, Health and Environment (SHE):** Compliance with the Purchaser's SHE requirements is an essential condition of the Purchase Order. Failure by the Seller or the Seller's personnel to adhere or respect the Purchaser's SHE rules and regulations will constitute a cause of termination of the agreement, without prejudice to the other rights of the Purchaser. In that case, the Seller shall be entitled to no indemnity nor compensation as a result of the termination.

**Intellectual Property Rights:** The Seller shall ensure that the Services performed, or the Goods supplied to the Purchaser under the Purchase Order do not, in whole or in part, infringe any other person's intellectual property rights. The Seller shall indemnify, hold harmless and defend the Purchaser from and against any and all liabilities, damages, claims or suits based upon actual or alleged infringement of any patent, copyright, trademark, license or similar right resulting from the use, by Purchaser, of the supplied of Goods or of the results of the provided Services (except where any claimed infringement is due to the Purchaser's design). In addition to, and not in lieu of, the Seller's indemnity obligations above, in the event Goods or Services are held to be infringing, the Seller shall, at the Seller's own expense and at the Purchaser's option, either procure for the Purchaser the right to continue using said Goods or Services or replace or modify them so that they become non-infringing, or refund in full the purchase price paid therefore by the Purchaser, provided that any replacement or modification shall be of equivalent quality and shall not affect the performance attained prior thereto by the Goods nor the plant in which the Goods are utilized or installed or on which the Services have been performed.

The price paid for the Goods or the Services includes the provision to the Purchaser of any and all documentation accompanying said Goods or Services, and necessary to a full use and benefit by the Purchaser of such Goods or Services. The Purchaser shall have full ownership of such documentation and of all intellectual property rights resulting therefrom and shall be entitled to use them with complete freedom. Consequently, the Seller undertakes to assign to the Purchaser, as and when due payments are made, all documentation accompanying the Goods and/or Services and its intellectual property rights contained therein.

**Ownership Title and Transfer of Risks:** The ownership title of the Goods shall be transferred from the Seller to the Purchaser upon written acceptance granted by the Purchaser. The Seller shall be liable for any out-of-pocket expenses (such as freight on Goods supplied in replacement of Goods originally delivered) incurred directly or indirectly by the Purchaser, due to wrongful or faulty delivery.

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or otherwise caused by or in consequence of non-compliance with the Purchaser's conditions and instructions. Any Goods refused by the Purchaser shall remain the property of the Seller, who shall be required to retake possession of them at the Seller's costs and risks. The risks of loss or damage associated with the Goods purchased shall be transferred to the Purchaser on the date of their complete and accepted delivery.

**Liability:** The Seller shall be solely liable for any direct and indirect damage resulting from the non-observance of its obligations arising from the performance of the Contract, the non-observance of regulations in force or any other harmful event which may be attributable to the Seller, whether these failures were caused by the Seller or by the employees for which it is responsible, and arising from:

- (a) injury, including fatal injury and disease, to any person in the employment of the Purchaser;
- (b) loss of or damage to the property of the Purchaser and any of the Purchaser's employees, representatives or agents; or
- (c) loss of or damage to the property of, or injury, including fatal injury and disease, to third parties, howsoever and whatsoever arising, from negligence or breach of duty by the Seller, the Seller's employees, or the Seller's agents or sub-contractors, which has caused or contributed to such injury, loss or damage.

**Insurance:** Unless otherwise agreed under the Contract, the Seller shall take out insurance policies covering the Seller's civil and professional liability in respect of the Seller's obligations defined in the Purchase Order. These policies shall be taken out for amounts that are appropriate in view of the purpose of the Purchase Order. The Seller shall provide, at the first request of the Purchaser, insurance certificates attesting the coverage of the corresponding risks. These certificates shall indicate the amount and scope of the insurance as well as the period of validity and shall specify that the related premiums have been paid. The Seller undertakes to maintain these insurance policies at the Seller's own cost in effect for as long as it shall have obligations under this Terms and Conditions or the Purchase Order.

**Warranty:** The Seller warrants that all Goods and/or Services delivered hereunder (i) shall be of new and first quality material, best workmanship and free from defects, (ii) shall conform to specifications, drawings, samples or other descriptions furnished by the Purchaser to the Seller and (iii) shall be fit for the purposes for which they are purchased. The Seller further warrants that Services furnished hereunder shall conform to the Purchaser's specifications and shall be performed in a skilled and workmanlike manner. Goods or Services found to be defective in material or workmanship or which do not comply with specifications within eighteen (18) months from the date of shipment (or performance) or twelve months (12) from the date same are put into service, whichever date occurs last, shall, at the Purchaser's option, be corrected or repaired in place by the Seller, or be replaced at the Purchaser's facilities by the Seller, or be returned to the Seller at the Seller's expense (including transportation and handling costs) for full refund.

With respect to hazardous/dangerous Goods, the Seller shall ensure that shipped Goods must comply with all applicable laws, rules and regulations.

In the event Goods are chemical raw materials and fail to conform to specifications, samples, or are unfit for the purpose for which they were purchased, within sixty (60) days from the date of delivery, at the Purchaser's option, the Seller shall replace such Goods with conforming Goods at the Seller's expense (including transportation and handling costs); or such Goods shall be returned to Seller at the Seller's expense (including transportation and handling costs) for full refund. This warranty shall survive any inspection, delivery or acceptance of Goods or Services, or the payment for same by the Purchaser.

**Indemnification:** the Seller shall indemnify and hold harmless the Purchaser, its directors, officer, employees, agents, successors, assigns, customers and users of its Goods and Services, from and against any and all losses, expenses, costs (incl. recall costs) damages, claim, dispute and liabilities (including incidental and consequential damages, Court costs and attorney's fees) arising out of or related to any actual or alleged breach of any warranties or other terms contained herein. The Seller shall handle and use best efforts to resolve such claim or dispute, at the Seller's sole expense, and

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shall compensate for any damages incurred by the Purchaser.

**Invoicing Instructions:** Each of the Seller's invoice shall include the Purchase Order reference number and title and shall be forwarded together with full documentary evidence of acceptance of Services performed and/or Goods delivered to the Purchaser.

**Payment Terms:** Unless otherwise stated in the Purchase Order, the Seller's invoices will be paid by the Purchaser within 30 days after receipt of an original undisputed invoice. The Purchaser will issue cheque every Tuesday, the Seller can collect check through the Bank as specified below. If the payment date is a non-business day, payment shall be made on the following business day.

- Standard Chartered Bank (Thai) PCL (Sathorn Branch)  
PICK PLACE, 900/31 SV City Tower 12, LG Floor, Room no. 4/2-6,  
Tel. 02-1147 630
- Bank of Ayudhya Public Company Limited. (Thai) PCL (Rayong Branch) 125/11 Sukhumvit Tha Pradu Muang rayong Rayong 21000  
Tel. 0-3861-1534, 0-3861-2648, 0-3861-2846.

**Seller Located Outside Thailand:** Unless otherwise specified in the Purchase Order, the payment will be done by Telegraphic Transfer (TT).

**Return of unused Goods:** The Purchaser is entitled to return the unused Goods, which are as new and in original condition to the Seller. Notice of return of such Goods shall be made by the Purchaser in writing and the Seller shall accept the return and refund the Purchaser with the price of the returned Goods less the delivery charges as soon as reasonably practicable.

**Audit:** The Seller shall maintain true and correct records in connection with the performance of the Contract and all transactions related thereto and shall retain all such records for the maximum period of time as required by applicable law after performance of the Purchase Order. The Purchaser may make an audit or have audits carried out by any auditing firm or representatives appointed by the Purchaser, in connection with the supply of Goods or performance of Services and all transactions related to the Purchase Order. The Seller shall assist the Purchaser in making the above audits.

**Late Performance Penalties:** The completion periods or delivery date mentioned in the Purchase Order or in any other document are imperative. Except as may be otherwise agreed in writing between the parties, if the Seller fails to respect the dates of delivery of the Goods and/or performance of the Services, except for reasons exclusively attributable to the Purchaser or in case of Force Majeure, the Purchaser shall be entitled to apply late-performance penalties, on the sole basis of the failure to comply with the delivery date or completion periods, without requiring prior formal notice.

The penalties applicable in the event of a delay in the delivery of the Product or the provision of the Services shall be calculated at the rate of one percent (1%) of the total price, excluding tax, of the Purchase Order per day of delay. The cumulated penalties may not exceed the total price, excluding tax, of the Purchase Order. The penalties shall be the subject of an invoice.

By express agreement, penalties shall be applicable without prejudice to any other rights and remedies of the Purchaser under the Purchase Order resulting from the delay.

**Set Off** : the Purchaser shall be entitled to offset any sums owed to the Seller against any amount for which the Seller is liable under the Purchase Order.

**Termination:** In the event of a partial or total failure by the Seller to fulfil any of the Seller's obligations under this Terms and Conditions or the Purchase Order, and, in particular, in the event of non-observance of delivery periods, after a formal notice has been given by any means and has remained without effect at the end of a period of seven (7) calendar days, the Purchaser shall be entitled, without prejudice to any damages, rights, remedies which it may claim, to terminate automatically Purchase Order in whole or in part without judicial authorisation. In that case, the Seller shall be entitled to no indemnity nor compensation as a result of the termination.



**Confidentiality:** All documents provided or sent by the Purchaser remain confidential and the property of the Purchaser. They may not be revealed or communicated, in whole or in part, directly or indirectly, in any form and on any medium, to any third parties for whatever reason by the Seller, before, during and after the fulfilment of each related Purchase Order, without the prior written consent of the Purchaser. They shall be returned to the Purchaser on first request. In the event the documents or information cannot be returned, the Seller shall immediately dispose of such documents or information at the Seller's sole expense. The Seller shall not make copies of any document communicated by the Purchaser or obtained within the framework of the negotiation and relationship maintained with the Purchaser.

The Seller undertakes not to use information received, whether for the Seller's own account and/or for the benefit of third parties, for purposes other than to manufacture the Goods or provide the Service for which it was chosen by the Purchaser. The Seller shall not develop and manufacture for the Seller's own account or for that of third parties, in whole or in part, the articles described in the technical dossiers or other documents provided by the Purchaser.

The Seller shall take all appropriate measures to prevent the members of the Seller's personnel who may have had access to confidential information from revealing all or part of the same during their period of employment and after leaving the service of the Seller, and in this respect, the Seller shall ensure they sign a confidentiality undertaking that reiterates the terms of this clause and shall provide proof of this fact at the simple request of the Purchaser.

In the event of authorization, the Seller shall comply with the forms of publicity and other conditions that have been specified to it.

**Personal Data:** With regards to personal data, as defined in the Personal Data Protection Act B.E. 2562 (2019) (hereinafter referred to as the "PDPA"), the Purchaser and the Seller shall process the personal data received from and shared with the other party in accordance with all requirements prescribed under the PDPA. The Purchaser and the Seller agree that they are each an independent data controller with regard to the personal data involved in the transaction. Except for the case that the Seller is required to process any personal data on behalf of the Purchaser, both parties shall discuss in good faith in order to enter into a separate data processing agreement. For additional information on how the Purchaser processes the personal data, please refer to the Vencorex Data Protection Policy available at [www.vencorex.com](http://www.vencorex.com).

**Force Majeure:** Any delay or failure of either the Purchaser or the Seller to perform the Seller's obligations hereunder shall be excused to the extent that it is caused by any event or occurrence beyond the reasonable control of the party and without its fault or negligence, for example: acts of God, actions by any governmental authority, fires, floods, windstorms, explosions, riots, natural disasters, wars or court injunction or order. During the period of such delay or failure to perform by either party, such affected party shall provide the other party with prompt written notice of such delay (including a description of the cause of the event or circumstances, an estimate of the duration of the delay and a statement regarding the remedial steps that are being undertaken to resume performance and the affected party's interim allocation plans, if any, for the performance of its obligations during the delay). If the delay lasts more than thirty (30) days or the affected party does not provide adequate assurance that the delay will cease within thirty (30) days, the other party may immediately cancel the Purchase Order without liability.

**Entire Contract:** This Contract constitutes the entire agreement between the Purchaser and the Seller concerning the Goods and/or Services described herein. No amendment, supplement, addition or modification of this Contract shall be effective or binding unless made in writing and signed by an authorized representative of the Purchaser.

**Assignment:** Neither the Purchaser nor the Seller may transfer or assign its rights and obligations under this Contract without a prior written consent of the other party. If the Purchaser gives such consent to the Seller, it shall not, in any way, release the Seller from any of its obligations under this Contract. Furthermore, the Seller shall be obligated to require any assignees and contractors to observe and perform the obligations of the Seller under this Contract. Notwithstanding the foregoing, without the consent of the Seller, (a) the Purchaser may transfer or assign its rights and

obligations hereunder in whole or in part, provided such entity shall be bound by the term hereof, and (b) the Purchaser may transfer or assign its rights and obligations hereunder in whole or in part pursuant to any merger, consolidation or otherwise by operation of law. The Purchase Order will be binding upon and will inure to the benefit of the proper successors and assigns.

**Governing Law:** This Contract shall be exclusively governed by the law of the Kingdom of Thailand. All disputes arising between the Seller and the Purchaser in connection with this Terms and Conditions or any Purchase Order shall be exclusively and finally settled in accordance with Thai law by the Courts of Thailand. The United Nations Convention on contracts for the international sale of goods will not, for any purpose, govern or apply to this Terms and Conditions or the Purchase Order or any transactions, performance or disputes hereunder.

**Anti-Corruption:** The Purchaser is an ethical company that attaches special importance to fighting fraud and bribery, and that expects any person or company in a business or commercial relationship with the Purchaser to adhere to the principles of Vencorex's Code of Conduct and Supplier's Code of Conduct available at [www.vencorex.com](http://www.vencorex.com) and to scrupulously respect and abide by existing laws and regulations.

The Seller and the Seller's employees, owners, directors, officers, agents, sub-contractors and, more generally, any person working or acting on the Seller's behalf, shall, in the exercise of the rights and obligations under this Terms and Conditions or the Purchase Order(s), comply in all respects with applicable international, European and national legislative and regulatory provisions dealing with bribery and influence peddling (as any of the foregoing may be amended from time to time), notably the United States Foreign Corrupt Practices Act of 1977, the French "Sapin 2" law n° 2016-1691 of 2016, and the Act Supplementing the Constitution Relating to the Prevention and Suppression of Corruption B.E. 2561 (2018) (all such applicable legislative and regulatory provisions being hereinafter referred to as "Applicable Law"), and shall not engage in any illegal or unethical practices.

The Seller undertakes to respect, and ensure that any subcontractors comply with, the provisions of the Applicable Law. If the Seller or any of the Seller's employees, owners, directors, officers, agents, sub-contractors or, more generally, any person working or acting on the Seller's behalf, fails to fulfill the abovementioned obligation, the Purchaser shall have the right, at the Purchaser's discretion, to suspend the Purchase Order and/or terminate it without notice or compensation, without prejudice to any and all damages and other remedies to which the Purchaser may be entitled due to such a breach. The Seller acknowledges being informed that any act of corruption or influence peddling or any suspicious situation, which may have serious consequences for the activities of the Purchaser or which may seriously impacts the Purchaser responsibility and/or the Purchaser's reputation, may be reported via the whistleblowing procedure available on the Purchaser's website at [www.vencorex.com](http://www.vencorex.com).

**English Language:** The Parties have expressly agreed that these Terms and Conditions will be valid in English language only.

Updated 05/2022



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