

# STANDARD PURCHASE TERMS AND CONDITIONS

1. **AGREEMENT.** This purchase order ("PO"), plus documents referenced herein, if any, will constitute the entire agreement between Supplier and NCR with respect to the subject matter of this PO, superseding all other agreements or understandings of the parties with respect thereto except that if a master agreement covering the procurement of Products exists between the parties, the terms of that agreement will prevail over any inconsistent terms herein. NCR will be bound by this Purchase Order Agreement ("PO") when Supplier executes and returns an unmodified acknowledgment copy to NCR. Supplier will be bound by this PO when Supplier executes and returns the acknowledgment copy, or begins work on the Product (s), or ships or otherwise provides any of the Product(s) ordered under this PO. No agreement to modify this PO, nor add additional or different terms or prior offers by Supplier, will be binding on NCR unless agreed to in a writing signed by NCR. The invalidity in whole or in part of any provision hereof will not affect the validity of any other provision. The term "Product(s)" may include goods, services, hardware, software, parts, components, supplies, or any combination of these. Estimates or forecasts furnished by NCR will not constitute commitments to purchase. No failure by either party to insist upon strict compliance by the other party with any of the terms, provisions, or conditions of this PO, in any instance, will be construed as a waiver or relinquishment by such party of its right to insist upon strict compliance thereafter.

2. **PRICES, CHANGES, CHARGES.** Prices are payable by NCR 60 days after delivery the Product(s) and receipt by NCR of a correct invoice unless a shorter payment period is required by Applicable Law or if the parties have agreed on a different payment period as indicated on page one of this PO. Supplier will not invoice NCR at a price higher than last charged or quoted by Supplier for the same Product unless a higher price is authorized in writing by NCR. Any price reduction made by Supplier for a Product will be applied to the price of the Products on all POs placed by NCR for such Product for which the Product has not been delivered. Supplier represents that the prices charged under this PO are as good as or better than the best terms offered by Supplier to any commercial customer who has purchased the same or comparable products under similar (not exact) conditions and in similar (not exact) quantities. NCR reserves the right at any time to make changes to the specifications to which the Products are to conform, in the methods of shipment or packaging, or in the time or place of delivery. No charges will apply against NCR for taxes, import duties, transportation, packaging, packing, returnable containers, documentation, or media unless otherwise agreed. All sales, use, excise, or similar taxes to be paid by NCR must be itemized separately on invoices. Any payment made by NCR, including the final payment, will not prevent NCR from recovering any amount over-paid or wrongfully paid however such payments may have arisen including but not limited to amounts paid to Supplier by mistake of fact or law. NCR may deduct any amounts payable to Supplier under this PO from any monies which are due or which may become due to Supplier or may be recovered as a debt.

3. **TITLE, RISK OF LOSS.** For tangible Products, title and risk of loss will pass from Supplier to NCR upon delivery. Passing of title will not prejudice NCR's right to reject Products as set out herein.

4. **WARRANTY.** Supplier warrants that (a) it is free to enter into this PO and has no obligations or requirements under any other agreement contrary to any of the terms and conditions contained herein; (b) hardware will be new and unused on delivery; (c) for a period of 15 months (or longer period as offered by Supplier) after date of receipt by NCR: (i) Products furnished hereunder will be in full conformity with all specifications and other applicable documentation; (ii) hardware will be merchantable, and will be free from defects in material, workmanship and design; (d) software will contain no viruses or harmful code on delivery; and (e) Supplier will employ industry-standard technical practices, skills, care and judgment in its performance of any services pursuant to this PO. These warranties will be in addition to any standard warranties provided by Supplier for the Products, will survive inspection, test, acceptance, and payment, and will inure to the benefit of NCR, its successors, assigns, and customers (including but not limited to resellers and end users). NCR may, at its option, either return for full refund or credit, or require prompt correction, replacement or re-performance of defective or nonconforming Products, which right will be in addition to such other rights as NCR may have in law or equity. Return to Supplier of any defective or nonconforming hardware will be made at Supplier's expense. Corrected or replaced Products will be subject to this warranty to the same extent as Products originally delivered under this PO. For Products purchased for resale, Supplier acknowledges that NCR may make similar warranties to its resellers or end users in reliance upon the warranties in this PO. Supplier will defend, indemnify, and hold NCR harmless from and against any demand or claim made by any third party (including but not limited to NCR's resellers and end users) directly or indirectly alleging a Product's failure to

comply with the warranties in this PO.

5. **Epidemic Failures.** NCR may notify Supplier that an Epidemic Failure has occurred (where "Epidemic Failure" means the failure of at least two percent of the hardware in any Lot, and "Lot" means a specific quantity of hardware that is (i) produced under uniform conditions and series of operations, or (ii) produced according to a single manufacturing order or design, or (iii) otherwise affected by a common root cause of failure). Such notice will include a description of the nature of the failure and other supporting data, which may include data supplied by NCR's distributors, resellers, subcontractors or customers. NCR will establish a field retrofit order ("FRO") that sets out the detailed plan to remedy an Epidemic Failure or a safety/ hazard situation, including at end-user sites, in plants and in warehouses, if applicable. The plan generally will include a process and repair method for deploying and implementing the repair and or replacement of all affected hardware in the Lot(s) and the estimated costs to deploy the fix dependent on the quantity of affected Product. Supplier will be responsible for all costs of implementing the FRO (whether inside or outside of the warranty period) including (a) replacement parts, materials, sub-assemblies or supplies; (b) technical support labor costs in handling customer calls; (c) on-site service labor in replacing all hardware within the Lot(s); and (d) all packaging, shipping and handling costs to and from the customer and warehouse locations and Supplier's repair facility. The FRO will be applicable for all hardware within the relevant Lot(s) unless and to the extent Supplier can establish that specific hardware within the Lot(s) are not affected by the root cause. In addition to the foregoing, Supplier will, at NCR's option, appoint a senior level representative to coordinate a root-cause analysis and cooperate with NCR in the development of the FRO.

6. **DELIVERY.** Unless otherwise or agreed in writing between NCR and Supplier, all shipped Products supplied under this PO will be delivered FCA (Supplier's location) (Incoterms 2010). Non-shipped Products are delivered when they are tendered to NCR (for example when they are delivered by hand or when Supplier makes them available to NCR). Services are delivered when performed. Unless otherwise provided in this PO, no delivery required hereunder will be made more than 7-days prior to the applicable delivery date, and NCR may return earlier deliveries at Supplier's risk and expense, or charge Supplier any additional costs sustained because of the same. If delivery of Products is not accomplished at the time or times indicated in this PO, NCR reserves the right, without liability and in addition to its other rights and remedies, to terminate this PO by notice effective immediately upon receipt by Supplier, and to arrange for completion of performance and/or to purchase substitute products elsewhere and charge Supplier with any loss incurred. No provision of this PO for the delivery of Products in installments will be construed as making Supplier's obligation severable.

7. **NCR FURNISHED PROPERTY.** "NCR Tools" are tools, equipment, or other property furnished to Supplier by NCR. Supplier shall be responsible for maintaining the Tools in good order and condition (normal wear and tear excepted) and for all operating costs of the Tools during the period the Tools are on issue to it. No charge will be made by NCR for the Tools, but during the period it is on issue to Supplier, Supplier shall be responsible to the full replacement value for all loss or damage incurred and will keep the Tools insured at Supplier's expense against any loss or damage, and in an amount equal to the replacement cost thereof, with loss payable to NCR. All Tools shall be marked as belonging to NCR. No Tools shall be altered or modified without the prior written permission of NCR. Supplier will not sell, assign, charge or permit any lien to be created over or encumbering the Tools nor sub-contract their use without the prior written authorization of NCR. Supplier will not use the Tools other than for the manufacture of Products to be supplied to NCR. If Supplier's operation is subject to a labor dispute, adjudged bankrupt, or has a receiver appointed, NCR reserves the right to enter the premises where the Tools are located, and to take possession thereof. Either party may request the withdrawal of the Tools by providing the other party with prior 60 days prior written notice. During that 60 day notice period NCR shall provide Supplier with instructions for the disposition of the Tools. Supplier shall be responsible for the disposition of all Tools (in good order and condition) and any transportation charges incurred will be at Supplier's expense.

8. **CONFIDENTIALITY.** "Confidential Information" is information first disclosed by the disclosing party to the receiving party which is related to business conducted by the parties under this PO (the "Authorized Purpose") and which is: (a) clearly designated, labeled, or marked as confidential or its equivalent at the time of disclosure; or (b) of a nature such that the receiving party knows or should know it to be confidential. Confidential Information does not include information that is: (a) lawfully possessed or known by receiving party prior to receipt from the disclosing party; (b) becomes publicly available through no act or omission of the receiving party; (c) furnished to the receiving party by a third party without known use or

disclosure restrictions; or (d) independently developed by the receiving party without breach of this PO. The receiving party will (a) not use Confidential Information other than for the Authorized Purpose; (b) exercise the same degree of care in protecting Confidential Information as it uses to protect its own confidential information of a similar nature, but in no event less than reasonable care; (c) not disclose Confidential Information to any person, except to those of its affiliates and its and their employees and contractors who (i) have a legitimate need to know, and (ii) are obligated to protect any disclosed Confidential Information under terms no less protective than those contained in this PO. A disclosure by the receiving party required pursuant to any judicial or governmental proceeding will not be a breach of this PO if, to the extent permitted under the circumstances, the receiving party has first given the disclosing party notice and opportunity to protect its Confidential Information by protective order or other means. Neither party will publicize or otherwise advertise the existence of this Agreement without the prior written consent of the other party, except if required by law or order of court of competent jurisdiction, and then only after providing the other party with prior written notice and opportunity to object.

**9. RIGHTS IN DEVELOPMENTS.** If this PO is for or includes Product development services, Supplier (a) will disclose and assign on demand, and does hereby assign, to NCR all of its right, title and interest in any and all ideas, inventions (whether patentable or not), improvements, discoveries, works of authorship, derivative works, programs, source code, object code, techniques, methods, processes, documentation, and other information and materials, in tangible or intangible form, (collectively, "Developments") that it (including but not limited to any of its employees or agents) may create or assist in creating in the provision of the development services Product, including but not limited to all of its intellectual property rights (including but not limited to patent, copyright, trademark, trade secret, or other intellectual property rights; collectively, "Intellectual Property Rights") in, covering, or embodied by Developments, and (b) will do all acts and execute all instruments which NCR may reasonably request in relation thereto. Supplier represents and warrants that it has caused, or will, prior to the initiation of any development services Product, cause, each person (including but not limited to each of its employees and agents) utilized for or otherwise associated with the Product development services to enter into a written agreement under which such person (a) will disclose and assign on demand, and does hereby assign, to Supplier or NCR all of their right, title and interest in any and all Developments that they may create or assist in creating in the provision of the development services Product, including but not limited to all their Intellectual Property Rights in, covering, or embodied by such Developments, and (b) will do all acts and execute all instruments which Supplier or NCR may reasonably request in relation thereto. All information and material relating to the development services Product (including the fact of their provision, and all Developments), is, and will be regarded by Supplier (including but not limited to by each of its employees and agents) as, the Confidential Information of NCR.

**10. LICENSE GRANTED.** Supplier grants NCR a perpetual, worldwide, non-exclusive, non-transferable license to use any software Product or software component of a Product ("Software") as an end user. If the Software is for re-sale, Supplier grants NCR a royalty-free, perpetual, worldwide, non-exclusive, non-transferable license to distribute and re-sell it either directly or indirectly by (a) transferring the package to its customer without altering the package or its contents, in which case Supplier will license the software directly to the end user subject to the license terms it provided in the package; or (b) licensing the software to its customers pursuant to its standard terms and conditions. Supplier grants to NCR a perpetual worldwide non-exclusive license to use Supplier's trademarks and trade names on or in connection with the Software. Supplier warrants that the Software does not incorporate any "open source" component whose license terms would, with respect to any portion of the Software, require NCR to: (a) disclose or distribute it in source code form; (b) license it for the purpose of making derivative works; or (c) distribute it at no charge.

**11. INTELLECTUAL PROPERTY INFRINGEMENT.** At its expense, Supplier will defend, indemnify, and hold harmless NCR and its affiliates, and their agents, assigns, distributors, resellers, customers and end users (each an "Indemnitee") from and against all costs, expenses, damages and losses arising out of or relating to any actual or threatened claim, suit or proceeding brought against any Indemnitee alleging that any Product or its use infringes any patent, copyright, trade secret or other intellectual property right (each a "Claim"). Supplier will defend at its expense the suit or proceeding with litigation counsel selected in consultation with NCR. Without limiting the foregoing obligations, Supplier will pay all costs and damages finally awarded with respect to, and/or pay all amounts in settlement of, any Claim. Supplier will not enter into any settlement, consent judgment or stipulated motion that requires any Indemnitee to admit any liability or wrongdoing or pay any amount without the Indemnitee's prior written approval. The foregoing obligations will not apply to any Claim caused by i) the combination of the Product with other products, processes or services not furnished by Supplier, unless the combination is contemplated by Supplier's documentation for the Product or the combination is

necessary for the Product to perform as intended, or ii) modifications to the Product not made by Supplier or with Supplier's consent, if such Claim would not have arisen but for such modification. The Indemnitees will give Supplier (1) written notice of the Claim; (2) reasonably requested information that the Indemnitees possess necessary for the defense of the Claim; (3) reasonable cooperation and assistance necessary for the defense of the Claim; and (4) subject to the limitations above, sole authority to defend or settle the Claim.

**12. LIABILITY.** In no event will NCR be liable to Supplier for any special, indirect, incidental or consequential damages, or for loss of profits, revenue or data, whether in an action in contract, tort, product liability, statute or otherwise, even if advised of the possibility of those damages.

**13. ASSIGNMENT & SUBCONTRACTS.** Supplier will not assign this PO or any rights or obligations hereunder, nor will Supplier subcontract with any other party for the furnishing of any completed or substantially completed Products or services described in this PO without NCR's express written consent, and in such event Supplier will remain fully liable for subcontractor's work, and any subcontractor approved by NCR will be required by Supplier to agree in writing to perform in accordance with the terms of this PO and to permit NCR to exercise all rights under this PO as if the subcontractor had executed this PO.

**14. COMPLIANCE.** Supplier will conduct business ethically and comply with the NCR Supplier Code of Conduct available at this site: <http://www.ncr.com/company/suppliers/manuals-forms-and-templates>. In connection with providing Products under this PO, Supplier will, at its expense, and will cause its agents, employees and subcontractors to comply with all applicable federal, state, local and foreign laws, rules, acts, orders and regulations, including but not limited to laws pertaining to anti-bribery, anti-corruption, employment, import and export compliance, antitrust, environmental health, safety and electronic/product and waste take-back ("Applicable Law"). Supplier will identify and procure all required permits, certificates, licenses, insurance, approvals and inspections; and will submit all reports, certifications, and other documents as required, including information related to the proper and safe handling of the Products. Should Supplier's services hereunder require Supplier to perform, support, or handle any importation of any item into the U.S., Supplier will cooperate with NCR to address the recommendations of U.S. Customs relative to its Customs-Trade Partnership Against Terrorism (C-TPAT) program and comply with its requirements. Supplier shall, upon request, provide such information to NCR as is reasonably necessary for NCR to satisfy any reporting or similar obligations required by Applicable Law, including, without limitation, NCR's obligations under the Dodd-Frank Wall Street Reform and Consumer Protection Act with respect to disclosure regarding its use of conflict minerals. To the extent permitted by Applicable Law, Supplier will utilize standard industry practices to ensure fitness of employment if Supplier is required to perform any work or services at an NCR or NCR customer location, such as but not limited to: a) criminal background checks with positive outcome, b) credit checks, c) driving records, or d) drug test.. Supplier will not employ any person performing work on NCR related Products that fail or would fail to meet the foregoing fitness criteria, and should any objectionable, unskilled, or unfit person be employed by Supplier, Supplier will, upon request of NCR, cause such person to be removed from providing the services hereunder. Any provision which is required to be a part of this PO by virtue of any law is incorporated herein by reference. . Supplier and its employees, agents and contractors will adhere to NCR's site security rules when visiting NCR premises.

**15. GOVERNMENT CONTRACT PROVISIONS.** If this PO is being placed in fulfillment of an NCR contract with a federal, state, or local government entity, all provisions required by such contract to be included herein are hereby incorporated by reference with the same force and effect as if they were included in full text. Without limiting the foregoing, the following clauses will be deemed included in this order: 48 CFR 52.222-26, Equal Opportunity; 48 CFR 52.222-35, Affirmative Action for Disabled Veterans and Veterans of the Vietnam Era, and 48 CFR 52.222-36, Affirmative Action for Workers with Disabilities. In connection therewith, the term "Supplier" will be substituted for "Contractor" unless the context otherwise requires.

**16. TERMINATION.** NCR may terminate this PO in whole or in part at any time upon NCR's written notification to Supplier as follows: 1) at NCR's convenience, and in such case the extent of NCR's liability will be: a) if the Product is services, to pay the portion of the contract price as the work completed bears to the whole, b) if the Product is software, then at no cost; or c) if the Product is hardware, to pay the cost of the existing "finished goods" inventory, but no more than required to fulfill the next delivery schedule within the thirty (30) days following the date of termination, plus the existing "work-in-progress" inventories required to fulfill an additional thirty (30) days of deliveries, except that there will be no liability for inventories in either category which is readily usable or resaleable. "Finished goods" will mean goods that have passed final acceptance test and are waiting delivery. "Work-in-progress" will mean material in varying stages of completion with some degree of labor applied and/or individual piece parts and/or raw material in a stage of completion no more than necessary to meet delivery schedules. 2) for cause,

relative to any default by Supplier involving: a) Supplier's failure to develop Product, deliver the Product, and/or render the services specified herein within the time designated herein, or b) failure of Products previously purchased by NCR of the same kind as in this PO to meet their warranty. With respect to any such failure, except a delivery failure as described in Section 6, NCR's right to terminate will be conditioned upon Supplier's failure within 10-days after receipt of NCR's notification, to provide a remedy satisfactory to NCR to cure such failure or noncompliance. 3) in the event Supplier becomes insolvent and/or the subject of any proceedings under law for the relief of debtors, or bankrupt, or makes assignments for the benefit of creditors. In the event of termination by NCR due to Supplier's default or reason pursuant to 16.2 or 16.3, NCR will have no liability to Supplier as a result of such termination. In the event of termination for any reason, NCR may further notify Supplier that all right, title, and interest in and to all or any portion of materials acquired by Supplier for the performance of this PO, work-in-progress, and/or completed Products specified in such notice, will pass immediately to NCR upon payment therefor. If so, Supplier grants NCR the right to enter the premises where such property (and/or any NCR property described in Section 7 hereof) may be located, and take possession thereof. Terms under this PO, which, by their nature would continue beyond termination or expiration of this PO, will survive.

**17. PRODUCT LIABILITY & INSURANCE.** Supplier will defend, indemnify and hold harmless NCR from and against all liability resulting from any and all claims by third parties for loss, damage or injury (including death) caused by any Product to the extent not caused by misuse, abuse or other fault directly attributable to NCR or its customer, provided that Supplier is notified by NCR of all such claims within a reasonable period of time following NCR's initial actual knowledge of the claims, and provided further that Supplier is given sole authority to defend the

claims. Supplier will maintain at all times relevant to this PO, and at its expense, all insurance required by law, including, without limitation, workers' compensation, and such other insurance, including, without limitation, general liability and automobile insurance, which is necessary or prudent to adequately protect Supplier and NCR from harm, injury (including death) or damage in connection with this indemnification.

**18. FORCE MAJEURE.** Neither party will be liable for failure to fulfill its obligations due to causes beyond its reasonable control and without its fault or negligence. A party must (a) use best efforts to promptly notify the other in advance of conditions which will result in a delay or failure of performances; (b) use best efforts to avoid or remove the conditions; and (c) immediately continue performance when the conditions are removed.

**18. DISPUTES AND GOVERNING LAW.** For POs issued by NCR for delivery of goods, services or licensed materials in the United States, or for delivery outside the United States by a supplier located in the United States, the parties irrevocably consent to the jurisdiction and venue of the federal and state courts for New York County in the State of New York for any dispute arising out of or related to this PO. Both parties hereby waive any right to a jury trial for all disputes between them, and agree that any dispute shall be tried to the court without a jury. This Agreement, the transactions occurring under it, and the relationships created by it are governed by and shall be construed pursuant to the laws of the State of New York, without reference to principles of conflicts of law that would result in the application of any other state's laws. For POs issued by NCR for all other delivery of goods, services or licensed materials outside the United States, the laws of the country where the NCR office issuing this PO is located shall govern, and disputes arising out of or related to this PO shall be filed in a court having jurisdiction in that country.