

# STANDARD PURCHASE TERMS AND CONDITIONS

1. **AGREEMENT.** NCR will be bound by this Purchase Order Agreement (PO) when Supplier executes and returns an unamended 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 or service(s), or ships any of the Product ordered under this PO. This PO, plus an applicable master agreement between the parties and 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. No agreement to modify this PO, nor add or differ terms or prior offers by Supplier, will be binding upon NCR unless agreed to in a writing signed by NCR. The invalidity in whole or in part of any other provision hereof will not affect the validity of any other provision. The term "Product(s)" refers to the deliverables covered by this PO, and therefore may include goods, services, hardware, software, parts, components, supplies, or any combination of these. Estimates or forecasts furnished by NCR will not constitute commitments. 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 either party of the other party's right to insist upon strict compliance thereafter.

2. **PRICES, CHANGES, CHARGES.** Prices are payable by NCR 60-days (or unless otherwise agreed in writing and referenced on page one of this PO) after receipt by NCR of a correct invoice and goods or services. NCR will not be invoiced 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. No price increases or extra charges, and/or extensions of time, will be binding upon NCR unless authorized in writing by NCR. Any price reduction made by Supplier with respect to the Product ordered, subsequent to the placement of the PO by NCR, and prior to NCR's receipt of the Product, will apply to this PO. Supplier represents that the prices charged under this PO are the lowest prices charged by Supplier to buyers of a class similar to NCR purchasing in quantities and under circumstances comparable to those specified herein. 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, and media unless otherwise agreed. All sales, use, excise, or similar taxes to be paid by NCR must be itemized separately hereon and on invoices. Any payment made by NCR hereunder, 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 those paid to Supplier by mistake of fact or law. NCR may deduct any amounts payable to Supplier under this clause from any monies in NCR's possession which are due or which may become due to Supplier or may be recovered as a debt.

3. **TITLE & RISK OF LOSS.** Title, risk of loss and damage will pass from Supplier to NCR upon delivery by Supplier to NCR's selected common carrier or, if the carrier is paid by Supplier, when delivered to NCR's representative at the applicable delivery point in accordance with the terms of this PO. Passing of property will not prejudice NCR's right to reject Product as set out herein.

4. **SPECIFICATIONS & INSPECTIONS.** Products will comply with the information and specifications submitted to Supplier by NCR, including but not limited to markings, labels, warnings, patterns, samples, drawing functionality and operating environment requirements. Products will at all times be subject to inspection and test by NCR, and NCR may reject Products which do not conform to the specifications. If rejected after delivery, rejected Products will be returned to Supplier at Supplier's risk and expense. If services are rejected Supplier will perform such work as necessary to provide the services required. Payment for any Product will not constitute acceptance thereof, and if any Product is rejected after payment, NCR will be entitled to return the same for full refund or, in the case of services, to reject the work and receive restitution. These buyer's remedies are in addition to any remedies available at law. No substitutions of materials or accessories may be made without NCR's written approval. Shipments must be packaged according to specifications, and otherwise so as to permit efficient handling, provide adequate protection, and comply with requirements of carrier. Damage resulting from improper packaging will be charged to Supplier.

5. **WARRANTY.** Supplier warrants for a minimum period of one (1) year (or longer period as offered by Supplier) after date of receipt, that the Products furnished hereunder will be in full conformity with all specifications and/or other descriptions and will be new when delivered, merchantable, and of good quality material and workmanship, free from defects. If the Product is software, it will contain no viruses or harmful code, and if it relies on or generates data that is date dependent, any calculations performed or information provided will be accurate. These warranties will be in addition to any warranties of broader scope and service warranties and guarantees of Supplier, will survive inspection, test, acceptance, and payment, and will run to NCR, its successors, assigns, and customers. NCR may, at its option, either return for full refund or credit, or require prompt correction or replacement 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 products will be made at Supplier's expense and no replacements of defective or nonconforming products will be made unless specified by NCR. Products required to be corrected or replaced will be subject to this warranty and Section 4 above to the same extent as products originally delivered under this Agreement. If applicable, Supplier warrants the Products will meet or exceed the failure rate and/or reliability requirements set forth in the applicable specifications. A failure rate of 2% or higher for any cause or group of causes of NCR's population or lot of a particular Product will be deemed an epidemic failure. Claims for non-compliance will be established from NCR's service records for the Product. In the event of non-compliance, Supplier will (a) correct the cause on all Products to be shipped thereafter and (b) repair or replace all affected Products shipped within the previous 48 months or pay NCR its costs of remedying the non-compliance. If the Product is for resale, Supplier acknowledges that NCR may make similar warranties to its resellers or end users in reliance upon the foregoing. Supplier agrees to 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 these warranties.

6. **DELIVERY.** Supplier will meet the specified delivery or performance date(s) of this PO with the time(s) of delivery being of the essence. Any delay will be excused only if (i) such delay is due to strike, fire, windstorm, riot, act of God or public enemy, or other unforeseeable causes beyond the control and without fault or negligence of Supplier and if (ii) Supplier will have notified NCR in writing of the existence of such cause within 5-days after the commencement of the delay, giving pertinent information concerning such cause. 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. Shipments sent C.O.D. without NCR's written consent will not be accepted and will be at Supplier's risk. NCR will not be liable to pay storage costs for any Products unless storage is requested by with the costs agreed to in writing by NCR.

7. **NCR FURNISHED PROPERTY.** "NCR Tools" are defined as tools, equipment, or other property furnished to Supplier by NCR. "Non-Unique Tools" are either general tools or special tools made to produce and which have application only to produce the Products. "Unique Tools" are tools which have application only to Supplier's method of operation which may be either general or special. NCR Tools will remain the property of NCR. Unless otherwise agreed, Non-Unique Tools which are specifically paid for by NCR, whether itemized separately or included in the price of any Product and are for use in the performance of this PO, will remain NCR's property. Unless otherwise previously agreed in writing, other Non-Unique Tools and Unique Tools will be the property of Supplier, but any such tools will be subject to use by NCR in the event Supplier is unable to make deliveries due to a cause set forth in Section 6. Any property owned by NCR will be used only in filling the order set forth in this PO and any similar orders from NCR, will be held at Supplier's risk, and will be kept insured by Supplier at its expense while in its custody and control in an amount equal to the replacement cost thereof, with loss payable to NCR. When so instructed by NCR, Supplier will deliver any property owned or subject to use by NCR to NCR (or to any other person NCR may designate) in good condition, ordinary wear and tear excepted, and such property will be subject to repossession or removal by NCR upon NCR's instructions.

8. **CONFIDENTIALITY.** Unless otherwise agreed, all information related to operating methods, know-how, and financial and business information given to Supplier by NCR or otherwise acquired will be in confidence. Supplier will take all reasonable precautions to prevent any such information from being divulged to any person for any purpose other than to perform this PO, including having recipients acknowledge the confidential status of such information and agreeing to like restrictions on divulging such information. These confidentiality obligations will survive termination of this PO and will continue for 3-years thereafter. Information presently in the public domain, or which is rightfully received by Supplier from a third party, or information which both NCR and Supplier agree in writing may be disclosed, will not be considered confidential. Supplier will not disclose to NCR any information that it deems to be confidential, and it is understood that no information received by NCR, including without limitation manuals, drawings and documents, will be deemed confidential. Supplier agrees that any legend or other notice on or pertaining to any information or materials supplied by it that is inconsistent with the preceding sentence will create no obligation on the part of NCR. Supplier will not, without first obtaining NCR's consent in writing, advertise or disclose the fact that Supplier has furnished Product to NCR under this PO, nor make public use of NCR's trade name, trade mark or other designation of NCR or its affiliates.

9. **RIGHTS IN DEVELOPMENT.** If the PO is for Product, software or product development services, Supplier will disclose and assign on demand, and it does hereby assign to NCR, any and all inventions, improvements, or developments, each whether patentable or not, which it may make or assist in making in the course of such development. Supplier assigns, and agrees hereafter, to assign to NCR all patents, copyrights, and applications for patents or copyrights, in connection with any such invention, improvement, or development, and to do all acts and to execute all instruments which NCR may request. Supplier will cause every appropriate person employed by or associated with it to enter into an agreement under which such person will disclose and assign to Supplier or NCR all inventions and execute all papers and do all acts deemed necessary by Supplier or NCR relative to assignment of intellectual property, including but not limited to copyrights and patents. In addition, all information, ideas, results, trademarks/names and data developed by Supplier as a result of developmental work contemplated by this section will be transmitted by Supplier only to NCR and will become the exclusive property of NCR, and will likewise be regarded by Supplier as confidential for the same period and subject to the terms provided in Section 8. Supplier hereby warrants that 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.

10. **LICENSE GRANTED.** If the Product or any part of it is for software to be provided to NCR for its internal use, Supplier grants to NCR a perpetual, worldwide, non-exclusive, non-transferable license to use the software. If software is for re-sale, Supplier grants to NCR a royalty-free, perpetual, worldwide, non-exclusive, non-transferable license to distribute, re-sell the software, in which case if the software package includes a "break the seal" license agreement, NCR may directly or indirectly transfer the package to its customer without altering the package or its contents and the license agreement will be between Supplier or Supplier's licensor and the end user. If the software does not contain a "break the seal" license agreement or if NCR opens the package for installation of the software prior to resale, NCR will license 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 copies made under this license. Supplier agrees to take such reasonable necessary steps to preserve copyrights to the software and related documents.

11. **INDEMNIFICATION FOR INFRINGEMENT.** Supplier will promptly investigate and defend, at its own expense, all claims, allegations, suits, actions, or proceedings in which NCR, or its subsidiaries, agents, their successors, assigns, distributors, dealers, customers or other users of NCR's or its subsidiaries' equipment, software, supplies, or services are made defendants or claimed potential defendants for any infringement, claimed or alleged inducement of infringement, or unauthorized or unlawful use of any patent, copyright, or trademark, whether registered or issued, or trade secret, mask work, or proprietary data, or other information resulting from the manufacture, sale, use, or lease, or other disposition of any Product purchased under this PO, except to the extent specific product design is provided to Supplier by NCR. Supplier further agrees to pay and discharge any and all judgments or decrees which may be rendered in any such suits or proceedings against any such defendants. Supplier will have the right to settle any such suits, actions, or proceedings on terms and conditions of Supplier's own selection consistent with these terms. If Supplier fails to promptly investigate and defend or settle as provided herein, then NCR will, following notification to Supplier, have the right to then take sole control of the defense of any said claim, allegation, suit, action, or proceeding and all negotiations for its settlement or compromise, and Supplier agrees to pay, as they become due, all of the costs, expenses, and reasonable attorneys' fees incurred and judgments or decrees which may be rendered. Supplier will include substantially similar indemnification terms in its contracts with its suppliers of the items or components which are included with or make up the Products, and Supplier agrees to enforce such terms on its behalf and for the benefit of NCR.

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 other law, 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 WITH LAWS.** In connection with providing Products under this PO, at its expense Supplier and its agents, employees and subcontractors will comply with all applicable national, local and foreign laws, rules, acts, orders and regulations, including but not limited to laws pertaining to employment, import and export compliance, anti-trust, environmental health, safety and electronic/product and waste take-back (e.g., in Europe - WEEE and RoHS directives). 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. To the extent permitted by local law, in compliance with the provisions of all applicable national, and/or local laws, regulations, rules and orders, Supplier will utilize standard industry practices, such as but not limited to: a) criminal background checks with positive outcome, b) credit checks, c) driving records, d) drug test, e) polygraph tests or f) written integrity tests, to ensure fitness of employment when Supplier is performing services at a NCR or NCR customer location. Supplier will not employ any person performing work on NCR related products or services 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 will conduct business ethically, follow generally accepted accounting practices, and will promote policies and practices requiring its employees, agents and contractors to conduct themselves in accordance with the requirements of this paragraph. 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 any national 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.

16. **TERMINATION NOTICE.** Supplier 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 software or services, to pay the portion of the contract price as the work completed bears to the whole, or b) 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 resalable. "Finished goods" will mean goods that have passed final acceptance test and are awaiting delivery. "Work-in-progress" will mean material in varying stages of completion with such 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) Supplier's failure to make progress in the performance of its obligations under this PO. With respect to any such default, 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 fault 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 thereof. Under these circumstances, Supplier grants NCR the right to enter upon 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 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 notification of the claims, and provided further that Supplier is given full control over any negotiation, arbitration, or litigation concerning the claims. Supplier will maintain during the execution of 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. **GOVERNING LAW.** This PO agreement shall be interpreted and enforced in accordance with the applicable laws of the country and locality wherein the NCR office issuing this PO is located. Any claim or action must be brought within two years (or as otherwise allowed by law) after the cause of action accrues.