STANDARD TERMS AND CONDITIONS OF PROCUREMENT

BACKGROUND:

The purchase of Products and/or Services by Logicalis and its divisions, subsidiaries, and affiliates from a supplier are subject to these terms and conditions ("Agreement") regardless of other terms or conditions in any quotation or equivalent document ("Quotation") or otherwise from Supplier. Logicalis objects to such other terms. Preprinted terms and conditions on any document of Supplier and/or Logicalis' failure to object to conflict or additional terms will not change or add to the terms of this Agreement. This Agreement may only be modified in writing signed by authorized representatives of both Logicalis and Supplier. If the parties have a negotiated agreement for the relevant Products and/or Services, such terms shall govern and supercede this Agreement.

TERMS:

1.   SCOPE OF AGREEMENT

1.1.   Any order placed by Logicalis will be made with Logicalis' standard Order form. Supplier shall acknowledge and accept or reject Logicalis' Orders in writing within three (3) business days of receipt. All Orders will be deemed accepted by Supplier if Supplier does not provide a written notice of rejection within three (3) business days of the receipt of the Order. Any fulfilment or partial fulfilment of an Order will also be deemed as acceptance of such Order by Supplier. Logicalis may cancel any Order due to a mistake or clerical error within five (5) business days of playing such Order. Logicalis may change or cancel Orders or reschedule shipment dates for any Products if it notifies Supplier at least ten (10) business days prior to the latest confirmed ship date.

1.2.   If there is any inconsistency or conflict between a Quotation, Order, and this Agreement, the documents shall take precedence in the following decreasing order of precedence:

  1) Order;

  2) this Agreement;

  3) Quotation.

1.3.   This Agreement can only be amended in writing and signed by a duly authorised representative of each party.

2.   PRICE AND PAYMENT

2.1.   As full consideration for the delivery of the Products and performance of the Services, including (as applicable) the assignment of rights in any Work Product, Logicalis shall pay Supplier the amount specified in the Contract and Supplier shall invoice Logicalis for the Services and Products and at such intervals or times as set out in the Contract. Unless otherwise specified in the Contract, the stated price for the Products and Services includes all charges and fees payable by Logicalis (including shipping costs), including any taxes to be billed in accordance with the Applicable Laws.

2.2.   Should any payment under the Agreement be subject to any withholding tax, Logicalis will ensure (a) that such withholdings are made and remitted to the relevant government authority and (b) the net amount of the Charges with the necessary withholdings deducted shall be paid to Supplier, and the payment of (a) and (b) shall constitute full settlement of the sums owed for such payments.

2.3.   Unless otherwise stated in a Contract, all invoices issued to Logicalis are payable within sixty (60) days of the date of the invoice.

3.   DELIVERY AND DELAY

3.1. Supplier acknowledges that time is of the essence in the performance of its obligations under the Agreement. If Supplier believes that it may not be able to provide Logicalis with the Products or Services by the relevant due date set out in the Contract, as applicable, Supplier will:

3.1.1. promptly provide Logicalis with notice in writing, detailing: (i) the reasons for the anticipated delay; (ii) an estimate of the additional time that Supplier believes it will need to meet its obligations; (iii) details of (1) actions the Supplier intends to take to minimize the delay and (2) the Supplier recommendations of tasks to be done by Logicalis to minimize the delay (if any);

3.1.2. commit such additional resources at no additional cost to Logicalis (including suitably qualified and experienced personnel) in order to: (i) accelerate work to ensure provision of the delayed performance as soon as is reasonably possible; and (ii) reasonably ensure performance of all subsequent obligations on time.

3.2. Notwithstanding any other term in this Agreement, if Products or Services are more than 10 calendar days late for any reason other than a cause attributable to Logicalis or a Force Majeure Event, Logicalis may terminate the relevant Contract with immediate effect, with no liability to Supplier for the delayed Products or Services and Logicalis may procure similar substitute products or services from alternate suppliers. Supplier will provide a prorated refund of all payments made in advance to Supplier for the unexpired portion of the Contract and compensate Logicalis for any increased costs (if any) in procuring the substitute products or services from alternate suppliers.

3.3. Notwithstanding any other term in this Agreement, if any liquidated damages are chargeable by any customer of Logicalis that is attributable to the delay in provision of Services or delivery of Products by Supplier, Supplier shall fully indemnify Logicalis for any such liquidated damages imposed on Logicalis.

4. TERM AND TERMINATION

4.1. Each Contract shall be deemed to have commenced on the effective date set out in the applicable Quotation or Order (as the case may be), if no such effective date is specified, then the date of execution of the last party to such Contract, and continue in force until expiry or completion of all the obligations set out therein; or if terminated in accordance with this Agreement.

4.2. Logicalis may terminate any Contract by giving at least thirty (30) days prior written notice to Supplier. Supplier shall cease performing the applicable Services and providing the applicable Products on the date of termination specified in such notice.

4.3. Either Party have the right to terminate a Contract if:

4.3.1. the other party commits a material breach of any of its obligations under the Contract and have not remedied such breach within 14 days after receiving written notice from the non-defaulting party requiring it to do so;

4.3.2. the other party enters into liquidation or become insolvent or makes an arrangement with its creditors, or shall have a receiver appointed of all or any of its undertakings or assets, or if a court shall make an order that such party be placed under judicial management.

4.4. Logicalis may, without liability for any resulting loss, additionally terminate any Contract in its entirety and cease performance or implementation of any payment or other obligation under any Contract without notice if Logicalis reasonably determines that the Agreement would expose Logicalis (or any Affiliate of Logicalis) to any sanction, liability, prohibition, penalty, or restriction under any Applicable Laws. Logicalis' termination rights herein shall apply notwithstanding any alleged or actual claim of a Force Majeure Event by Supplier.

4.5. Upon expiration or termination of any Contract, and in all cases subject to any terms governing the application of Transition Periods, (a) each party will be released from all obligations to the other arising after the date of expiration or termination, except for those which are either expressed to survive its expiration or termination, or which it is contemplated by their nature or context that they are to survive, and (b) Logicalis will be liable to Supplier only for those Services

satisfactorily performed and accepted and those conforming Products delivered to and accepted by Logicalis through to the date of termination.

4.6. Unless more specific provisions are set out in any Contract, Logicalis may, at any time prior to the expiration or termination of any Contract, provide notice to Supplier that it requires Supplier to extend the Services (or portion thereof), at the same rates, terms, and conditions, for a reasonable period of up to six (6) months from the previously scheduled date of expiration or Termination ("**Transition Period**"). During the Transition Period, Supplier will, in addition to the continuation of the relevant Services (or portion thereof), provide reasonable transition assistance at no additional cost to Logicalis, including the handover of (a) any information or documentation relating to system configurations, settings or designs, (b) Logicalis' data or any data of a customer of Logicalis.

5. WARRANTIES

5.1. Supplier represents and warrants that all Products provided will be (a) new and will not be used or refurbished, unless expressly agreed by Logicalis in writing, (b) free from defects in design, materials and workmanship and will conform to all applicable specifications for a minimum period of twenty-four (24) months (or such longer time as may be specified in writing between the parties) from the date of delivery to Logicalis, (c) be free of and clear of all liens, security interests or other encumbrances and Supplier has good title to the Products, (d) not infringe or misappropriate any third party's intellectual property rights and (e) not contain any code or other component designed to disrupt, disable, harm, erase or permit unauthorised access to Logicalis' data or systems or the data or systems of Logicalis' customers, or which includes or implements any worms, Trojan horses, viruses or other harmful code.

5.2. Supplier hereby agrees that it will make spare parts available to Logicalis for a period of seven (7) years from the date of shipment at Supplier's current price, less applicable discounts.

5.3. Supplier acknowledges that all Products purchased will be subject to all written and oral express warranties made by Supplier's suppliers and manufacturers. All warranties will be construed as conditions as well as warranties and will not be exclusive. All warranties and service guarantees will run to, and be enforceable by, both Logicalis and to its customers. If Logicalis identifies a warranty problem with the Products during the warranty period, Logicalis will promptly notify Supplier of such problems and will return the Products to Supplier, at Supplier's expense. Within fourteen (14) calendar days of receipt of the returned Products, Supplier will, at Logicalis' option, either replace or repair the Products, or credit Logicalis account for the same. Replacement and repaired Products will be warranted for the remainder of the warranty period of twelve (12) months, whichever is longer.

5.4. Supplier represents and warrants that (a) all Services will be completed in a professional, workmanlike manner, with the degree of skill and care that is required by current, good and sound professional procedures, and conforming to any applicable occupational health and safety standards, (b) the Services will be completed in accordance with applicable specifications and will be correct and appropriate for the purposes contemplated in the relevant Contract and (c) the performance of the services will not conflict with, or be prohibited in any way by, any other agreement or statutory restriction to which Supplier is bound or infringe or misappropriate any third party's intellectual property rights.

5.5. Supplier represents and warrants that all Supplier Personnel assigned to any projects pursuant to any Contract have been subject to an industry standard background check or the equivalent including (a) verification of identity, employment history and academic credentials, (b) check for criminal violations and (c) all other relevant checks permissible under Applicable Laws.

6. CONFIDENTIAL INFORMATION

6.1. The Parties agree that Confidential Information exchanged shall be kept confidential and shall not be disclosed or given to any third party during and after the expiry or termination of this Agreement without the prior written consent of the disclosing Party. The aforementioned undertaking does not apply to information:

(a) already known or independently obtained by the receiving Party;

(b) publicly known or becomes publicly known through no breach of this Agreement; or

(c)   required to be disclosed pursuant to a lawful order of a court or government agency or regulation of a stock exchange, provided the receiving Party provides the disclosing Party with written notice of such order prior to disclosure and within such time as to allow the disclosing Party reasonable opportunity to oppose such disclosure before a court or agency of competent jurisdiction.

6.2.   The Parties shall use or permit to use Confidential Information solely in connection with this Agreement or any Contract and not for its own or any third party benefit provided that the Parties shall be entitled to disclose Confidential Information to those of its employees (under equivalent confidentiality undertakings), if any, to whom and to the extent such disclosure is reasonably necessary for the purposes of this Agreement or any Contract.

7.   INSURANCE

7.1.   Subject to any additional or more specific insurance requirements set out in a Contract, Supplier must, for the term of the Contract and for a period of three (3) years after expiration or termination, maintain (at its own expense) insurance policies with reputable insurers which (a) are compliant with Applicable Laws, including workers compensation, disability or similar legislation and (b) provide coverage consistent with acceptable best practices in respect of the risks arising from Supplier's performance of the Contract. Supplier will ensure such coverage extends to Logicalis' property under the care, custody or control of supplier or Supplier Personnel, if applicable.

7.2.   Supplier will provide to Logicalis with certificates of insurance or evidence of coverage consistent with this clause upon Logicalis' request.

7.3.   Supplier will not do or omit to do anything which might invalidate or adversely affect the insurance Supplier is obligated to maintain under the Agreement and in the event any such policies become subject to (or are likely to become subject to) cancellation or any other material change, Supplier will provide Logicalis with no less than thirty (30) days prior written notice.

7.4.   In no event will Supplier seek contribution from Logicalis' own insurance and the lack of insurance coverage shall not reduce or limit Supplier's indemnification obligations set out in the Agreement.

7.5.   For the avoidance of doubt, Supplier's non-compliance with this clause will constitute a material breach of the Agreement.

8.   INTELLECTUAL PROPERTY

8.1.   To the extent permissible under Applicable Laws, Work Product or Deliverables will be considered work made for hire and all Work Product and Deliverables will at all times be and remain the sole and exclusive property of Logicalis. To the extent, if any, that Logicalis does not own full rights, title and interest in and to the Work Product or Deliverables, Supplier hereby agrees to irrevocably assign and transfer to Logicalis and does hereby assign and transfer to Logicalis all of its worldwide right, title and interest in and to the Work Product including all associated Intellectual Property rights. Logicalis shall have the sole right to determine the treatment of any Work Product, including the right to keep it as trade secret, file patent applications on it, to use and disclose it without prior patent application, to file registrations for copyright or trademark in its own name or to follow any other procedure it deems appropriate.

8.2.   Supplier agrees to (a) disclose promptly in writing to Logicalis all Work Product in its possession, b) to assist Logicalis in every reasonable way, to secure, perfect, register, apply for, maintain and defend for Logicalis' benefit all Intellectual Property rights and all other proprietary rights or statutory protections in and to the Work Product and Deliverables as Logicalis deems appropriate, and (c) to otherwise treat all Work Product and Deliverables as Logicalis' Confidential Information.

8.3.   To the extent, if any, that this clause does not provide Logicalis with full ownership, right, title and interest in and to the Work Product or Deliverables, Supplier hereby grants Logicalis a perpetual, irrevocable, fully paid, royalty-free, worldwide license to reproduce, create derivative works from, distribute, publicly display, publicly perform, use, make, have made, offer for sale, sell or otherwise dispose of, and import the Work Product, with the right to sublicense each and every right,

9.   INFRINGEMENT AND INDEMNITY

9.1. Supplier will indemnify, defend, and hold Logicalis and its Affiliates (including Logicalis and its Affiliates' respective officers, directors, agents and employees) harmless from and against all third party claims and associated liabilities, damages, losses, expenses (including attorneys' fees) and cost of suit arising, directly or indirectly, out of or in any way connected with:

9.1.1. any breach by Supplier of Applicable Laws;

9.1.2. any breach by Supplier of this Agreement or a Contract;

9.1.3. any claim based on the death or bodily injury to a person or destruction or damage to property arising out of Supplier's acts or omissions relating to a Contract;

9.1.4. any claim for any taxes, wages, or benefits brought about by any Supplier Personnel or any authority on behalf of Supplier Personnel; and

9.1.5. any claim by a third party alleging that the Products, Services, Work Product (including any related products or processes provided in connection therewith), or Logicalis' use of any of the foregoing, infringe any Intellectual Property.

9.2. If an infringement of Intellectual Property claim is made or appears likely to be made in connection with any Products, Services, or Work Product (including any related products or processes provided in connection therewith), Supplier will, in addition to Supplier's indemnifications obligations set out in this clause, at Logicalis' option, either (a) procure for Logicalis the right to continue to use the affected Products, Services or Work Product, (b) modify the affected Products, Services or Work Product so that it is no longer infringing, or (c) replace it with a non-infringing Product, Service or Work Product of substantially similar function. If the parties determine that none of these options is commercially reasonable, the applicable Contract will be terminated and Logicalis will be refunded all amounts paid for the infringing Products, Services or Work Products.

10. LIABILITY

10.1. Neither party excludes or limits liability to the other party for:

10.1.1. death or personal injury due to negligence;

10.1.2. fraudulent misrepresentation; or

10.1.3. any other liability which may not be excluded by law.

10.2. Subject to clause 10.1, Logicalis will not be liable for any loss of profits, revenues, business, goodwill, anticipated savings, data or any special, indirect, consequential or economic loss, howsoever arising (in negligence or otherwise), in relation to or otherwise in connection with the Product or Service, this Agreement, any Contract or any act or omission by Logicalis.

11. COMPLIANCE WITH LAWS

11.1. Supplier agrees to abide by all applicable data protection laws applicable to it, as may be amended from time to time, in the performance of its obligations under this Agreement or a relevant Contract, and further undertakes not to use, collect or disclose any personal data except for the purpose of performing its obligations under this Agreement or such Contract. In the event that Supplier breaches any of the provisions of the applicable data protection laws or its undertaking herein, it shall indemnify and hold harmless the Logicalis from any loss, damage, expense and regulatory penalties that the Logicalis may incur or suffer in connection with such breach.

11.2. The Parties shall comply with all international anti-bribery laws as applicable. Neither Party nor any of its agents or employees may offer, pay, promise or authorize any direct or indirect payments of anything of value for the purpose of obtaining business to any third party or a government official (including any person holding an executive, legislative, judicial or administrative office, whether elected or appointed, or any official or employee of any public international organization, such as the United Nations or World Bank, or any person acting in any official capacity for or on behalf of such government, public enterprise or state-owned business), any political party or party official, any political candidate or any person or entity whom such Party knows or has reason to believe will give part of the payments to any of the previously mentioned categories of people.

11.3. The Products and other software or components of the Products, which Supplier may provide or make available pursuant to this Agreement, may be subject to export control and economic sanctions laws and other foreign trade controls. Supplier warrants that the performance of its obligations in this Agreement, including the supply of Products, shall comply with applicable laws relating to foreign export controls, economic sanctions, and other trade controls. Supplier agrees to defend and indemnify Logicalis for any breach of this provision.

12. FORCE MAJEURE

12.1. A Party shall not be liable for any delay or failure to perform any of its obligations under this Agreement due to any Force Majeure Event, which means war, revolution, invasion, insurrection (rebellion), riots, tribal or ethnic violence or unrest, acts of terrorism, sabotage or other civil disorders, acts of God, strikes or other labour disputes, acts or omissions to act, beyond the control of and not brought about by the acts or omissions of a Party.

12.2. The Party, whose fulfilment of its obligations under this Agreement is or may be affected by a Force Majeure Event, shall notify the other Party in writing promptly after becoming aware of such event. The Parties shall in good faith attempt to find a solution consistent with this Agreement or the relevant Contract. If such a solution cannot be found within thirty (30) days after the occurrence of the first Force Majeure Event, either Party shall be entitled to terminate this Agreement.

13. GENERAL

13.1. This Agreement shall not be assigned or transferred to another party in whole or in part except with prior written consent of the Parties to this Agreement.

13.2. Logicalis and its authorised representatives will have a right, both during the term of the Contract and up to twenty-four (24) months after termination or expiry, to audit Supplier's records relating to the Contract to verify compliance with the Agreement, including the accuracy of Supplier's charges. At a minimum, seven (7) years of written records relating to the performance and charges under the Contract must be maintained by the Supplier.

13.3. During the term of this Agreement and for a period of one (1) year after, the Parties agree not to hire, recruit, solicit or otherwise employ any employee of the other involved under this Agreement or any Contract, unless such hiring is initiated by a public recruitment process or advertisement.

13.4. This Agreement is not intended to constitute, create, give effect to or to otherwise contemplate a joint venture or partnership between the Parties. Nothing in this Agreement grants any Party any right to make commitments of any kind for/or on behalf of another Party without the prior written consent of the said Party. Each Party to this Agreement is deemed to be independent and one Party's employees shall not be deemed to be employees of the other Party.

13.5. The delay or failure of either Party to exercise any of its rights shall not constitute or be deemed a waiver or forfeiture of such rights.

13.6. The headings and sub-headings in this Agreement are inserted merely for convenience of reference and shall be ignored in the interpretation and construction of any of the provisions contained in this Agreement.

13.7. Subject to the provisions of this Agreement, a Contract contains the entire agreement between the Parties, and supersedes any prior or contemporaneous oral or written agreements, commitments, understandings, or communications between the Parties.

13.8. If any provision of this Agreement is found to be invalid or unenforceable under applicable law, the remainder clauses in this Agreement will remain valid, binding and enforceable on and against the Parties to the fullest extent allowed by applicable law.

13.9. This Agreement shall be governed by and construed in accordance with the laws of Singapore and the Parties hereby irrevocably submit to the exclusive jurisdiction of the courts of Singapore.

14. DEFINITIONS

In this agreement unless the context shall otherwise require the following words and expressions shall have the following meanings:

Affiliate	Means an entity that directly or indirectly controls, is controlled by, or is under common control with a Party. For purposes herein, "control" means ownership, directly or indirectly, of more than fifty percent (50%) of the voting shares or other equity interest in an entity.
Applicable Laws	Means any court judgement or statute, by-law, directive, treaty, regulation, rule or policy issued by a regulatory authority which is applicable to the general business operations of a party and: (a) in the case of Supplier, is applicable to Supplier's license, delivery, provisioning and billing of the Products or Services; and (b) in the case of Logicalis, is applicable to Logicalis's receipt, use of, payment, license, sub-license or resale of the Products or Services (as applicable based on the nature of the Supplier engagement).
Confidential Information	Means this Agreement, Contract and all other information in whatever form (including oral) disclosed by one Party to the other which relates to the disclosing party's operations, software, market opportunities, customers, business affairs, financials or contractual arrangements, or otherwise is information which a reasonable person would consider to be confidential because of its nature.
Contract	Means a valid binding agreement between Logicalis and Supplier incorporating the terms of a Order or Quotation (as the case may be), and this Agreement.
Charges	The charges payable by Logicalis as set out in a Contract.
Deliverables	any output of the Services to be provided by Supplier to Logicalis as specified in a Contract.
Equipment	Any hardware device or its accessories listed in a Contract.
Force Majeure Event	Shall have the same meaning as defined in clause 10.
Intellectual Property	Shall have the same meaning as defined in clause 7.
Logicalis	Means any of Logicalis Singapore Pte Ltd, Logicalis Hong Kong Limited, Logicalis Shanghai Limited, Logicalis Singapore Pte Ltd (Taiwan Branch), Logicalis Malaysia Sdn Bhd, and/or Logicalis Vietnam Company Limited, as may be applicable.
Order	Means any purchase order, document, or other communication of Logicalis to Supplier setting out the Charges and any terms, in addition to this Agreement, for the purchase of Products and/or Services by Logicalis to be fulfilled by Supplier.
Product(s)	Means collectively the Equipment and Software.
Quotation	A written document issued by Supplier to quote for the sale of Products and/or Services to Logicalis.
Service(s)	The services that Supplier is to provide to Logicalis in accordance with any Contract, including any license to use.
Software	Any operating system, applications, or other computer software and their applicable licenses installed on the Equipment or otherwise supplied by Supplier.
Specifications	Means the technical requirements and functional description of any Product(s) or Service(s).

Supplier Personnel	Means Supplier's directors, officers, employees, agents, contractors, or subcontractors.
Work Product	Means all intellectual property and other materials uniquely created or developed for Logicalis under a Contract, including any and all software, software features, computer files, reports, documents, marketing assets, plans, drawings, specifications, records, forms, templates, methodologies, processes, technologies, designs, charts, flow charts, user interfaces, templates, menus, buttons, icons, tools, data, algorithms, ideas, concepts, know-how and methods or other manifestations of efforts of Supplier, regardless of their form and including drafts.

By signing below the Parties agree that they have read, understood and accept all the terms and conditions of this Agreement.