

EY GDS India Purchase Order Terms & Conditions November 2019 v.1.0

The following terms apply as between the EY entity as set out in the Purchase Order ("EY") and Supplier. Save as set out in the paragraphs below, in the event of any conflict, ambiguity or inconsistency between the terms and conditions of this Purchase Order and any other document relating to this transaction, including any terms and conditions in any invoice, proposal, or other Supplier document, the terms and conditions of this Purchase Order shall govern.

For avoidance of doubt, the aforementioned terms and conditions shall only apply and be binding upon the parties to this Purchase Order where there is no mutually executed agreement in place between the parties to this Purchase Order to govern the purchase of the item/s or services described in it, prior to the issuance of the Purchase Order (in which case, the terms of such mutually executed agreement shall prevail over the terms of this Purchase Order).

The word "including" shall not limit the sense of the preceding words.

- 1. Scope of Goods and Services.** Supplier shall provide the goods ("Goods") or work products ("Work Products") or perform the services, together with any other incidental activities which are reasonably necessary in order to carry out the same (the "Services") at the times, price and at the locations ("Locations") and as otherwise set out in this Purchase Order for the benefit of EY during the term of this Purchase Order ("Term"). Upon placement of a Purchase Order by EY, any and all Goods and Work Products ordered, leased or purchased, whether tangible or intangible, shall be deemed identified. EY may reduce the amount of Goods, Work Products or Services ordered upon reasonable notice, and shall pay Supplier pro-rata for the reduced order at the rate specified herein, without penalty. Risk of loss shall pass to EY only upon delivery to EY. Orders not shipped on the date set out in the Purchase Order, or promised by Supplier, are subject to cancellation at EY's option. Supplier shall ship by the least expensive means possible, unless otherwise specified by EY. Supplier shall be responsible for clearing any debris created as a result of provision of the Services.
- 2. Supplier Personnel.** All personnel, including without limitation, contractors, used by the Supplier to provide Services to EY shall at all times remain the employees of the Supplier and Supplier shall have sole responsibility for its employees under applicable labour laws including as to remuneration, overtime, bonus, management, safety, insurance, health and safety. In no event shall EY have any liability for Supplier's employees providing the Services to EY and EY shall not have any liability for any claims made by any employee employed by Supplier in connection with the provision of Services under this PO. The Supplier shall be totally responsible for payment of wages/salaries for the Supplier's personnel so deployed at EY Locations and for compliance with all legal/statutory requirements as may be applicable/enforced from time to time, including Contract Labor Regulation and abolition Act, 1970, Employee State Insurance Act, 1948, Employees Provident Fund Act 1952, The Shops and Commercial Establishments Act and such other statutory requirements under any legislation of the state, which may be in force and applicable to EY and the Supplier. Supplier shall obtain separate Code Numbers under ESI and PF, as applicable, and furnish a copy of such communication from the appropriate authorities to EY. Supplier shall arrange to renew the said code as and when required. Supplier shall provide all proof of payment of PF/ESI on a monthly half yearly and annual basis (where applicable) to EY with specific references to those personnel stationed at EY Locations. The Supplier shall submit a declaration every month (in the format to be provided upon request), that all statutory payments (including but not limited to service Tax, PF/ESI etc) have been paid by Supplier and also a list of personnel covered under such statutory payments, along with the payment advice. EY shall be entitled to withhold payment under this Purchase Order until such time the above proof of payment of PF/ESI and required declaration is furnished to EY. The Supplier shall ensure that its team shall adhere to norms and policies (like employee conduct rules/ dress codes/ office decorum etc.) of EY during the Term. Safety and security of all persons deployed and materials placed by Supplier or its agents for the project will be at the risk and responsibility of Supplier.
- 3. Acceptance.** Performance by Supplier shall be deemed acceptance of all the terms and conditions set forth herein. All Goods, Work Products and/or Services received by EY will be subject to inspection, validation and rejection during the 30-day period following delivery, and rejected material, including overruns, will be returned at Supplier's risk, loss and expense, including transportation charges. Any and all Goods and Work Products (as applicable) shall be properly packaged and conform to the descriptions, quantity, price and specifications (if any) set out herein. Failure to reject the Goods, Work Products and/or Services within the 30-day period shall not be deemed an acceptance thereof. Payment by EY shall constitute neither acceptance of the Goods, Work Products and/or Services supplied hereunder, nor a waiver of EY's rights in respect of the same.

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4. **Warranties.** Supplier represents, warrants and undertakes to EY that: (1) the Goods, Work Products and/or Services shall at all times comply with EY's specifications, if any, and applicable law (including without limitation STIP/SEZ regulations); (2) it shall remedy all defects in and Works Products or Services identified by EY during the agreed defect liability period (and where no defect liability period has been agreed, such period shall be 12 months from date of completed performance); (3) the Services and the use by EY and the EY Network Members of the Goods and Work Product and/or any other materials provided by Supplier shall not infringe the intellectual property rights or other rights of any third party; (4) Supplier shall perform its obligations under this Purchase Order professionally and competently and in a good and workmanlike manner, consistent with the highest applicable industry practices; (5) Supplier shall obtain all consents, clearances, permissions and licenses necessary to carry out all of its obligations under this Purchase Order; (6) in the event Supplier is not the manufacturer of the Goods and or Work Products, all warranties provided by the manufacturer shall pass through to EY for its benefit; and (7) Supplier shall provide any Goods, Work Products and/or Services in accordance with the requirements set out in this Purchase Order and in compliance with any EY codes or policies as notified to Supplier by or on behalf of EY from time to time and using personnel with knowledge and experience which is sufficient for the tasks assigned to them. Any of Supplier's disclaimers, any limitation of liability and/or any reduction of any applicable statute of limitations shall be deemed of no effect unless explicitly set out in this Purchase Order. In the event of non-conformance with any of the above warranties, Supplier will correct any such non-conformance and, if unable to do so promptly, shall (at EY's sole option) replace the Goods and/or Work Product or re-perform the non-conforming Services (as relevant) or promptly refund any fees paid by EY. Any Goods and/or Work Products supplied in excess and not require pursuant to this Purchase Order shall be taken back by Supplier at no cost to EY.
5. **Pricing and Invoices.** Where Services are provided on a day-rate basis, Supplier shall on request provide timesheets and breakdowns of time spent, and shall charge on the basis of an 8 hour day, and apply pro-rata for periods of less than 8 hours. EY's Purchase Order number, charge code or requisitioner's name, date and description of the Goods, Work Products and/or Services (if any) shall appear on all invoices, packages and (where relevant) shipping papers. Any shipments shall be prepaid and accompanied by a packing slip. All amounts set out in the Purchase Order are inclusive of local applicable taxes, which shall be calculated at the rate and in the manner prescribed by applicable law and shall include receipt of a valid applicable tax invoice (or equivalent). All invoices must be submitted as originals and must be a valid GST or other equivalent tax invoice (as required by applicable legislation) showing the relevant tax registration numbers, breakdown of the tax structure, value payable at the prevailing rate and a clear description of the relevant Goods, Work Products and/or Services. The Supplier acknowledges that where a transaction is to be reported on the GST network, the GST liability must be discharged by the Supplier within the stipulated time. In case of defaults by Supplier due to non/ delayed reporting in the GST network and/ or non/delayed discharge of applicable GST liability, EY shall be entitled to recover such GST amount, along with applicable interest and penalty from the Supplier. In case of imports, Supplier shall be required to submit the original Tax Residency Certificate and Permanent Establishment declaration in the specified format with the invoice. In the absence of the above documentation, higher TDS shall be deducted from the invoice and the vendor shall not dispute the same. Invoices will be payable by EY by electronic bank transfer within 60 days of receipt of a correct, undisputed and properly due invoice. EY shall retain 5% of charges due under an invoice in respect of all Services relating to real estate for the duration of the agreed defects liability period (and where no defect liability period is specified, such period shall be 12 months). EY shall not be liable for any amounts not explicitly set out in this Purchase Order or any penalties or interest due on any taxes. For the avoidance of doubt, EY shall not be liable for any taxes based upon the Supplier's net income or any tax payments and filings in relation to the Supplier's own employees or sub-contractors it may use in the provision of services under this Agreement. EY may, without limiting its other rights or remedies, set off any amount owing to it by Supplier against any amount payable by EY to Supplier under this Purchase Order.
6. **Reporting.** Quality, status and other reasonably requested reports, including corrective action details, shall be submitted to EY promptly in writing upon request.
7. **Indemnification.** Supplier shall indemnify, defend, save, and hold EY, its affiliates and their partners, directors, employees, and agents (the "Indemnified Parties") harmless from and against any and all losses, damages, liabilities, costs and expenses (including reasonable legal fees) suffered by the Indemnified Parties as a result of any claim or demand by a third party in connection with or arising out of the performance, non-performance, breach or alleged breach of this Purchase Order by Supplier, its agents, employees, directors, affiliates or subcontractors, including any act of the shipper, defects in the Goods, Work Products and/or Services provided to EY, any misappropriation or infringement of any copyright, patent, trademark, trade secret or other proprietary right of EY or any third party and any wilful misconduct or negligence on the part of Supplier.

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8. **Limitation of liability.** EY shall not be liable under or in connection with this Purchase Order, whether in contract, tort (including negligence or breach of statutory duty) or otherwise, for any: (i) loss of profits, loss of revenue, business, goodwill or of anticipated savings (in each case whether direct or indirect); and/or (ii) any indirect, incidental, consequential, punitive or special damages, whether or not EY was advised, knew, or should have known of the likelihood of such damages. The total aggregate liability of EY arising out of or in connection with this Purchase Order, whether in contract, tort (including negligence or breach of statutory duty) or otherwise, shall be limited in relation to events occurring in any calendar year to the charges for the Goods, Work Products and/or Services paid or payable by EY under this Purchase Order in such calendar year. Notwithstanding any other provision of this Purchase Order, Supplier's recourse with respect to any matter (including any obligation of EY hereunder) shall be limited solely to the assets of EY, and Supplier shall have no recourse against, and shall bring no claim against: (i) any other EY Network Member, nor (ii) individual partner, director, employee, or agent of EY or of any EY Network Member. Neither party shall be liable for any delay or failure to perform if such delay or failure arises from any act of God, civil disobedience, epidemic, war, insurrection or other circumstances beyond a party's reasonable control.
9. **Assignment and Sub-contracting.** Neither this Purchase Order nor any interest herein may be assigned, delegated, transferred or otherwise dealt with by Supplier without the prior written consent of EY. EY may assign any or all of its rights hereunder to any EY Network Member. As used in this Purchase Order, the term "EY Network Member" means any one of the network of entities comprising Ernst & Young Global Limited, EY Global Finance, Inc., EYGN Limited, EYGM Limited, EYGS LLP, EYGI B.V., EY Global Finance, Inc., and their members and any entity controlled by any such entity, under common control with any such entity, or controlling such entity, or any corporation, partnership or other business organisation that is a member firm or a subsidiary of the entity, or which is directly or indirectly a majority owned or controlled subsidiary of the entity, together with any partner, director, employee or agent of any such entity. For the purposes of this Purchase Order, "control" means: (a) ownership, either directly or indirectly, of equity securities entitling either such entity to exercise in the aggregate of at least 50% of the voting power of such entity in question; or (b) possession, either directly or indirectly, of the power to direct or cause the direction of the management and policies of such entity in question, whether through ownership of securities, by contract or otherwise. Supplier shall not sub-contract provision of the Services without EY's prior written consent and Supplier shall remain liable for performance of any such sub-contracted obligations and any acts or omissions of its sub-contractors.
10. **Compliance.** Supplier warrants that its performance of this Purchase Order and all actions in connection therewith shall comply with all applicable laws and regulations, including those relating to anti-bribery and corruption, including where applicable, the EXIM regulations and data privacy, and Supplier shall not do, or omit to do, any act that will cause EY to be in breach of any such laws or regulations.
11. **Cancellation/Termination.** EY may terminate this Purchase Order in whole or in part, with or without cause, at any time and without liability, upon written notice to Supplier. In the event of any termination, Supplier shall promptly refund to EY any fees paid for Goods, Work Products and/or Services that have not been provided as at the effective date of termination, and no further fees shall be due from EY in respect of the Goods, Work Products and/or Services. Termination or expiry of this Purchase Order for any reason shall not affect the accrued rights and obligations of the parties at the date of termination or expiry (as applicable).
12. **Jurisdiction and Dispute Resolution.** Disputes or differences arising out of this Purchase Order, including any disputes with regard to interpretation of any of the clauses of this Purchase Order, shall be referred to a sole arbitrator mutually agreed by the parties, as per the provisions of the Arbitration and Conciliation Act 1996. The arbitration shall be held in Bangalore. This Purchase Order shall be governed by, and construed in accordance with, the laws of India, and any dispute arising in connection with this Purchase Order shall be subject to the exclusive jurisdiction of the courts in Bangalore, to which EY and Supplier hereby submit.
13. **Binding Effect.** Performance by Supplier shall be deemed acceptance of all the terms and conditions set forth herein. Any alterations, modifications or additions made to this Purchase Order will be deemed of no effect unless expressly accepted in writing and signed by an EY Representative.
14. **No Use of Name.** Supplier shall not use, or permit the use of, the name, trade name, service marks, trademarks, or logo of EY or of any EY Network Member in any form of publicity, press release, advertisement, or otherwise without EY's prior written consent.

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15. **Additional Representations and Undertakings.** Supplier represents and warrants, on and as of the date of this Purchase Order, that: (1) entering into this type of agreement is in the ordinary course of the Supplier's business with customers such as EY; (2) the Goods, Work Products and/or Services are being offered for purchase at market rates or otherwise in accordance with Supplier's internal pricing policies and practices; (3) during the Term of this Purchase Order, the Supplier and none of the individuals with significant responsibility for providing services to EY shall be a partner, executive officer, member of the Board of Directors, or a direct or indirect substantial equity owner (or otherwise with control), of any audit client of an EY Network Member. For the purposes of this clause, a person or entity shall be deemed a "substantial equity owner" of an entity if he or it (i) is a general partner in such entity, if such entity is a limited partnership; (ii) holds a 5% or more direct or indirect equity interest in (or the power, by contract or other relationship, to direct the affairs or management of) such entity, if such entity is publicly-traded; (iii) holds a 20% or more direct or indirect equity interest in (or the power, by contract or other relationship, to direct the affairs or management of) such entity, if such entity is privately-held; and (4) the aggregate amounts contemplated to be paid by EY to Supplier under this Purchase Order, and under all other agreements between EY and Supplier in effect within any fiscal year period, shall not exceed 7% of the Supplier's total revenues during such period.
16. **Insurance.** Supplier shall maintain in effect throughout the Term such insurance, issued by a nationally recognised insurance company of sound financial status, as is sufficient to cover all liabilities to which it may be subject in relation to this Purchase Order, including Contractors' All Risk (CAR) Policy, FLEXA cover and Workmen's Compensation (WC) policy. The CAR policy shall include third party liability and cover must be in place for the appropriate number of workers covering the entire Term, including any extension period, if any. EY must be included as co-insured. In addition, the WC policy needs to be in place for the appropriate number of workers covering the entire Term. The interest of EY as principal must be noted on all policies where required by the relevant legislation. Insurances are required prior to commencement of the work at any Location. A copy of the CAR policy & WC policy certificates evidencing the required coverage should be provided to EY by Supplier upon EY's request.
17. **Confidential Information.** The parties may, from time to time during the Term, provide to one another confidential information, including any information identified as confidential or proprietary, or which ought reasonably under the circumstances to be treated as confidential and/or proprietary, such as this Purchase Order, and information relating to a party's (which in the case of EY includes the EY Network Members') business, operations, products, customers, clients, services or methodologies (collectively, "Confidential Information"). Confidential Information shall not include information that: (1) is or becomes part of the public domain through no act or omission of the receiving party; (2) was in the receiving party's lawful possession prior to initial disclosure by the disclosing party; (3) is lawfully disclosed to the receiving party by a third party without restriction on disclosure; (4) is independently developed by the receiving party; or (5) is properly disclosed pursuant to a statutory obligation, the order of a court of competent jurisdiction or that of a competent regulated body, provided that (to the extent not prohibited from doing so under applicable law) prior written notice of such required disclosure is furnished to the disclosing party as soon as practicable in order to afford it an opportunity to seek a protective order. During the Term, and for a period of five (5) years following the expiration or termination for any reason of this Purchase Order, each party shall hold all Confidential Information relating to the other in confidence and shall treat such Confidential Information with the same degree of care that it uses to protect its own confidential information, which shall be no less than a reasonable degree of care. Supplier shall not, at any time during or after the Term, use any Confidential Information received from EY for any purpose other than carrying out its obligations under this Purchase Order. Upon EY's request, and upon the expiration or termination for any reason of this Purchase Order, Supplier shall promptly return to EY or, if so directed by EY, destroy all EY Confidential Information (in every form and medium), and certify such return or destruction in writing. Notwithstanding the foregoing, unless prohibited by law, Supplier understands and agrees that EY may disclose Supplier Confidential Information received from Supplier to other EY Network Member, and EY Network Member persons and third parties providing services on its behalf who may collect, use, transfer, store or otherwise process it in the various jurisdictions in which they operate for purposes related to the provision of the services, to comply with regulatory requirements, to check conflicts, for quality, risk management, or financial accounting purposes and/or for the provision of other administrative support services. EYG Services shall be responsible to Supplier for maintaining the confidentiality of Supplier Confidential Information.
18. **Data Protection.** Each party shall comply with its obligations under any relevant data protection legislation and neither party shall do any act that puts the other party in breach of such legislation. In this section, "data protection laws" means all laws and regulations governing or related to the access to, transfer of, storage of or breach of data that can be used to identify and individual.

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19. **Survival and Severance.** Clauses 4,7,8,12, 17 and this Section 18 shall continue in full force and effect following the termination or expiry of this Purchase Order for any reason, together with any terms which by implication should survive. If any provision of this Purchase Order or any part thereof is determined to void or unenforceable by any court or body of competent jurisdiction or by virtue of any legislation to which it is subject or by virtue of any other reason whatsoever, it will be void or unenforceable to that extent only and the validity and enforceability of any of the other provisions or the remainder of any such provision will not be affected.