

TERMS & CONDITIONS OF PCSB PURCHASE ORDER

Important

The Company requires goods for their operations, which ranges from pencils to complex telecommunication equipment. A significant sum of money is spent on goods and by ensuring that best purchasing principles and techniques are applied, purchasing activities can contribute to the Company's profitability.

This document described the general Terms and Conditions of Purchase which is applicable to all purchase of material made by Progresif Cellular Sdn Bhd, its agent, contractors and sub-contractors.

The Terms and Conditions contained in this document are without prejudice to the purchaser's rights and remedies at law or otherwise.

This document, Terms and Conditions of PCSB Purchase Order, form an integral part of all Progresif Cellular Sdn Bhd purchase orders contracts.

DEFINITIONS

“Company” means Progresif Cellular Sendirian Berhad with registered office address Unit 16-19, Block C, Simpang 493, Kampong Beribi, Jalan Gadong, Bandar Seri Begawan, BS1118, Negara Brunei Darussalam.

“Conditions” means the terms and conditions of purchase set out in this document and any special terms and conditions agreed in writing by the Company.

“Delivery Date” means the delivery date specified in the Purchase Order or the revised delivery date as agreed by the Company.

“Goods” means the articles in the form of materials or services which the Company agrees to buy from the Vendor.

“Purchase Order” means the document issued by the Company indicating the Goods required from the Vendor at the agreed price and quantity it is to be provided for.

“Vendor” means the person who sells or agrees to sell the Goods to the Company.

CONDITIONS APPLICABLE

These Conditions shall apply to all contracts for the purchase of Goods by the Company from the Vendor to the exclusion of all other terms and conditions including any terms or conditions which the Vendor may purport to apply under any sales offer or similar document. Vendor having read these conditions agree to have read and understood this prior to any supply of the Goods.

Dispatch or delivery of the Goods by the Vendor to the Company shall be deemed conclusive evidence of the Vendor's acceptance of these Conditions.

GOODS

The Goods shall be supplied strictly in accordance with the quantities and specification (including quality and performance) and other special requirements stipulated in the Purchase Order. No deviation therefrom is permitted without prior agreement or request in writing by the Company.

INSPECTION, TESTING AND REJECTION

All inspection and tests shall be made as required by the specification issued by the Company. The Company reserves the right at any time to inspect the materials to be used in the manufacture of the Goods and the finished Goods to be supplied under the Purchase Order but such inspection shall not relieve the Vendor of any obligation under the Purchase Order.

Failure by the Company to inspect the Goods shall not relieve the Vendor of any responsibility or liability with respect to such Goods.

The Company reserves the right to reject any Goods that do not comply with the requirements stated in the Purchase Order.

DELIVERY TIME

The Delivery Date stipulated for delivery of the Goods shall be adhered to and accepted by the Vendor, and treated as an essential and important condition of the Purchase Order.

In the event the Vendor foresees potential delays, the Vendor shall notify the Company at the earliest possible opportunity. The Company and the Vendor shall endeavour to agree to a mutually acceptable revised Delivery Date. However, in the event that the Company and the Vendor cannot agree on a new Delivery Date, the Company shall have the right to terminate the Purchase Order and recover from the Vendor all direct losses sustained as a result of the delay up to an amount not exceeding the value of the Purchase Order. Alternatively, the Company may appoint a step in contractor to carry out the work that was delayed and the Company shall recover from the Vendor or in the event it has not been paid, deduct the amount paid or owed to Vendor, for payment to the Step in contractor.

The Vendor may make partial deliveries of the Goods upon prior agreement in writing with the Company. Where the Company agrees for delivery of Goods by instalments, the Vendor shall promptly deliver sufficient Goods to the Company which correspondent to the Purchase Order and/or any other supporting document issued by the Company and agreed by Vendor in order to comply with the quantity required.

OWNERSHIP

The property in the materials to be used in the manufacture of the Goods and/or finished Goods shall pass to the Company on acceptable delivery of the Goods or on payment of the invoiced price, whichever is the earlier.

RISK

The Goods shall remain at the Vendor's risk until delivery is fully and satisfactorily effected as specified in the Purchase Order.

PAYMENT

Payment shall be made on the terms set out in the Purchase Order following the Company's receipt of the Vendor's undisputed invoice, the receipt not being earlier than the Delivery Date.

The Company reserves the right to dispute and/or delay payment to the Vendor, or the Vendor's agents, for items where the delivery is late or where quantities are not complete

or items not fully in accordance with specification (including quality and performance), or when required documents e.g. certification, warranty is missing or if the Goods are damaged or in a deteriorated state.

COMPANY'S RIGHT OF SET-OFF

The Company may set-off against the price due from the Vendor whether under this contract of sale or otherwise any lawful set-off or counterclaim to which the Company may at any time be entitled.

INTELLECTUAL PROPERTY

The Vendor shall protect, indemnify and hold harmless the Company against any and all liability loss or expense by reason of any claim action or litigation in respect of any alleged or actual infringement of any patent, copyright, trademark, foreign or domestic, resulting from the use or resale of the Goods the subject matter of the Purchase Order or any part thereof.

In the event that specification and design of the Goods or for any of the Goods have been provided by the Company, the copyright, design right or other intellectual property in them shall remain the property of the Company. The Vendor is not authorized to use, reprint, distribute or disclose to any third party without the prior written consent of the Company.

LICENCES AND PERMITS

The Vendor shall be responsible for ensuring that all statutory licenses consents or permits required for the purpose of performance of the Purchase Order have been obtained legally and remain valid, in full force and effect.

INJURY AND DAMAGE

The Vendor shall indemnify the Company in respect of all damage or injury to any person or to any property and against all actions, suits, claims, demands, costs, charges and expenses arising in connection therewith caused by:

(a) the negligence of the Vendor, his sub-Vendors or servants while they are on the Company's premises for any purpose connected with the contract and in the absence of a contract, the performance of the award letter/purchase order; or

(b) due want of merchantable quality or lack of fitness for purpose of the Goods or defective design of the Goods (other than the design made, furnished or specified by the Company and for which the Vendor has disclaimed responsibility in writing within one month after receipt of the purchase instructions), defective materials or defective workmanship; or

(c) the failure by the Vendor to supply the Goods within the time and of the quality required under the contract and in the

absence of a contract, the within the terms stated under the award letter or purchase order.

GUARANTEE

The Vendor warrants that the Goods will at the time of delivery correspond to the description given by the Company in the Purchase Order.

Unless otherwise agreed in the Purchase Order, the Vendor shall with all possible speed make good all defects or shortcoming which may arise from defective design, materials or workmanship or from any act or omission of the Vendor that, under the conditions provided for in the Purchase Order and under proper use, may appear in the Goods within a period of 18 months after delivery of the Goods

to the Company or within 12 months of the Goods first being used by the Company, whichever is the earlier.

The said period of time shall be extended by any period(s) equal to the period(s) that the Goods are out of use because of such a defect. Any part of the Goods repaired or replaced shall be guaranteed under this clause for 12 months from repair or replacement.

All costs attributable to making good any defects shall be for the Vendor's account.

This guarantee is in addition to the Company's legal rights and does not replace or limit them.

HAZARDOUS MATERIALS

The Vendor shall advise the Company of any hazard inherent in the material ordered and provide information, in respect of safety, environmental and health hazards, including without limitation toxicity, flammability, reactivity and corrosiveness, together with handling and storage requirements, action to be taken in case of fire or spillage, and health precautions to be observed. Where applicable the Poisons Act (Cap 114) Infectious Diseases Order 2003, Arms and Explosive Act (Cap 58), Intoxicating Substances Act (Cap 161) and/or International Maritime Dangerous Goods code and the UN number are to be referred to specified.

The Vendor shall conform to accepted international standards of marking and labelling each package of dangerous Goods and each over pack containing dangerous Goods.

PACKING

Goods must be properly packed and packages must be sufficiently strong to withstand rough handling from the Vendor's point(s) of issue, and while in transit, stowage and storage, to final delivery to the Company (including local transportation and delivery & any trans-shipment/storage in

Negara Brunei Darussalam), and to prevent any deterioration or damage to the Goods. Packing list to be included in each box or individual unit of packaging. The Company reserves the right to reject any consignment that fails due to inadequate and poor packaging.

PUBLICITY

The Vendor shall obtain the Company's permission before disclosing by way of press release or otherwise to any third party, anything that relates to the Goods or the supply thereof, except insofar as necessary for the information of the Vendor's suppliers.

TERMINATION

The Company may at any time give written notice to the Vendor to terminate the Purchase Order forthwith and in such event the Company shall arrange to pay and the Vendor will accept, in settlement of all claims under the Purchase Order, such a sum as shall reasonably compensate the Vendor for all work done and obligations assumed by it in performance of the Purchase Order prior to its termination and for all work reasonably done by it giving effect to such termination. The value of any material, that are still in vendor's possession and has not been processed, shall be deducted in calculating such sum.

DELIVERY TERMS

Delivery terms in the Purchase Order are as defined in the latest edition of 'INCOTERMS', issued by the Headquarters of the International Chamber of Commerce in Paris, France.

SUPPLY INSTRUCTIONS

The Vendor shall comply with all instructions given by the Company concerning marking of the Goods, packages for shipment, method of dispatch and necessary documentation.

APPLICABLE LAW

The Purchase Order shall be governed by the laws of Brunei Darussalam. The parties agree to submit any dispute under or in connection with the Purchase Order, which cannot be resolved by agreement or negotiation, to the jurisdiction of the Brunei Courts.

APPLICABLE LANGUAGE

All correspondence, documentation and discussion with respect to the Purchase Order shall be in the English language unless specifically requested otherwise by the Company.

NON EXCLUSIVITY

Unless otherwise specified, the purchase order and/or contract is non-exclusive and the Company reserves the right to engage

other Vendors to perform similar or identical work or supply. The Vendor shall afford such other Vendors adequate opportunity to carry out their order/contract and shall accomplish the work or supply in cooperation with those Vendors and the Company.

DEFECTS CORRECTIONS

The Vendor will repair, replace or rectify any of the Goods (or any replacement) that are defective. The Vendor's obligation shall apply only when the Goods are used in accordance with the Vendor's specification or if no such specification exists, used in accordance with their ordinary purpose. The Vendor's obligation shall cease 18 months from delivery or 12 months from the date of installation of the Goods, whichever is earlier. Title and risk in the Goods or any part thereof which does not comply with the requirements of the Purchase Order and which the Company rejects shall re-vest in the Vendor on return to the Vendor.

GOODS DAMAGED OR LOST IN TRANSIT

The Vendor upon receiving notice to that effect from the Company shall repair or replace free of charge Goods damaged or lost in transit and due delivery of the Goods shall not be deemed to have taken place until replacement or repaired Goods have been delivered by the Vendor to the Company. The Company reserves the right to hold such damaged Goods at the Vendor's risk or to return them at the risk and expense of the Vendor.

INSURANCE

The Company and the Vendor shall maintain levels of insurance sufficient to cover their respective liabilities and obligations under the Purchase Order and at law.

VARIATIONS

Any variation of these Conditions (including any special terms and conditions agreed between the parties) shall be inapplicable unless agreed in writing by the Company. Any variation to the Purchase Order shall be inapplicable unless agreed in writing by both the Company and the Vendor.

WAIVER

No waiver or forbearance by the Buyer (whether express or implied) in enforcing any of its rights under this contract shall prejudice its right to do so in the future.

SEVERANCE

Any provision of this contract which is or may be void or unenforceable shall to the extent of such invalidity or unenforceability be deemed severable and shall not affect any other provision of this purchase order and/or contract.

FORCE MAJEURE

Neither the Company nor the Vendor shall be responsible for any failure to fulfil any term or condition of the Purchase Order if and to the extent that fulfilment has been delayed or temporarily prevented by a force majeure occurrence, as hereunder defined, which has been notified in accordance with this Clause and which is beyond the control and without the fault or negligence of the party affected and which, by the exercise of reasonable diligence, the said party is unable to provide against.

For the purposes of this Purchase Order only the following occurrences shall be force majeure:

- (a) Riot, war, invasion, act of foreign enemies, hostilities (whether war be declared or not), acts of terrorism, civil war, rebellion, revolution, insurrection of military or usurped power;
- (b) Ionising radiations or contamination by radio-activity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel or radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof;
- (c) Pressure waves caused by aircraft or other aerial devices travelling at sonic or supersonic speeds;
- (d) Earthquake, fire, explosion and/or other natural physical disaster, but excluding weather conditions as such, regardless of severity;
- (e) Strikes at a national or regional level or industrial disputes at a national or regional level, or strikes or industrial disputes by laborers not employed by the affected party its sub-contractors or its suppliers and which affect a substantial or essential portion of the Goods;
- (f) Maritime or aviation disasters;
- (g) Changes to any general or local Statute, Ordinance, Decree, or other Law, or any regulation or bye-law of any local or other duly constituted authority or the introduction of any such Statute, Ordinance, Decree, Law, regulation or bye-law.

THESE CONDITIONS, AS ADDED TO OR MODIFIED BY THOSE STATED IN OUR PURCHASE ORDER, SHALL BE THE ONLY CONDITIONS OF THE PURCHASE ORDER AND ANY VARIATIONS OR ADDITIONS THERETO SHALL BE AGREED IN WRITING BY THE COMPANY AND VENDOR.

ORDER CONFIRMATION

The receipt of this order shall be acknowledged by the Vendor within two weeks of its receipt.

INVOICES AND PAYMENT

In order to ensure that invoices are processed and paid within the agreed term, the Vendor shall observe the following procedures:

Only original invoices are accepted for payment. If the original invoice is lost in transit or mislaid, a 'certified true copy' of such invoice, signed by an authorised signatory of the Vendor, shall be submitted.

All original invoices shall be addressed to Finance, Progresif Cellular Sendirian Berhad Head Office Unit 16-19, Block C, Simpang 493, Kampong Beribi, Jalan Gadong, Bandar Seri Begawan, BS1118, Negara Brunei Darussalam.

Payment will become due (providing Goods are in accordance with Clause 3), within 30 days after receipt of Vendor's invoice.

Invoice must show the following details:

Purchase Order and order item reference or the agreement number, country of origin, total amount payable in figures and words, number of packages with dimensions and weights.

All charges and costs must be fully detailed per item. Where applicable, any agreed additional charges are to be identified and itemised individually, for example any costs covering: packing, insurance, import duty and transportation/delivery all to be stated separately in invoice.

TRANSPORTATION & SHIPPING (Sea, Air and Land)

The Company will specify the required terms of delivery in accordance with prevailing INCOTERMS.

Where required, as part of the Purchase Order specification, the Company will advise the Vendor of the company nominated as clearing and forwarding agent and related delivery instructions.

The Vendor is required to provide sufficient documentation so those Goods can be correctly imported and processed through customs without delay.

Documentation should be delivered in advance of the Goods by means of courier to Procurement Department, Progresif Cellular Sdn Bhd.

In other cases the Vendor is responsible for appointment of its own freight forwarder and clearing agent for clearing customs and for final delivery to the Company. For example, where the Company stipulates delivery terms of DDP Delivered Duty Paid,

the Vendor is responsible for all freight costs, all importation charges/duties, and taxes or any other surcharges.

SEAFREIGHT

The Company shall require the following: One original of the Vendor's invoice with an original signature and three copies of invoice, plus one original bill of lading and one copy of itemised packing list. All to be sent by courier, in advance of Goods arrival, to Procurement Department, Progresif Cellular Sdn Bhd.

AIR SHIPMENTS

The Company shall require the following: One original airway bill, plus one copy of airway bill, together with one original of Vendor's invoice (with an original signature and vendor company's stamp), plus one copy of invoice and one itemised packing list. All these documents to accompany the Goods on all flights into Bandar Seri Begawan Airport, Negara Brunei Darussalam.

TRANSHIPMENT in Negara Brunei Darussalam

Depending on specified terms of delivery (INCOTERMS), the Vendor may be responsible for transshipment (including customs formalities) and organisation of delivery to the Company's specified point of delivery in Negara Brunei Darussalam. The Goods shall be delivered with one copy of invoice and one itemised packing list.

LAND

For local Purchase Orders where Vendor supplies the Goods, e.g. directly from his warehouse, the Vendor is fully responsible for transportation and packing so to ensure no damage or deterioration. The Goods shall be delivered with one original itemised packing list to the store or location as specified on the Purchase Order by the Company.

All the above terms and conditions are without prejudice to the Company's rights and remedies at law or otherwise.