

# PURCHASE ORDER

## GENERAL TERMS AND CONDITIONS

The general terms and conditions below ("**Terms**") shall apply to the Purchase Order.

### 1. GENERAL TERMS AND CONDITIONS OF PURCHASE

These Terms and Conditions are applicable for the Goods and/or Services described in the Purchase Order. As Seller, you may accept the Purchase Order within 03 working days of its date of issuance (a) by signing and returning the Purchase Order, (b) by electronic acceptance via email or Buyer's system, or (c) by delivering the Goods to the specified delivery address or performing the Services.

The Purchase Order and these Terms embody the entire understanding between the Parties and may be amended only by a written agreement signed by both Parties that expressly refers to the Purchase Order. In case there has been a prior executed agreement between the Parties, the terms and conditions of such agreement shall prevail over the Terms herein. No terms or conditions endorsed upon or contained in Seller's quotation, acknowledgement or acceptance of order, specification or similar document shall form part of or replace the Terms and Seller waives any right which it otherwise might have to rely on such terms and conditions. Seller shall include the reference number of the Purchase Order and the name of Buyer's contact person in all documentation and correspondence relating to the Purchase Order.

### 2. DEFINITIONS

In these Terms, the following definitions shall apply:

"**Affiliate**" means any entity which controls, is controlled by, or is under common control with, the relevant party; and "control" and variants thereof means the ability, directly or indirectly, to direct the affairs of another by means of ownership, contract or otherwise.

"**Buyer**" means the Philip Morris International entity as shown on the front page of the Purchase Order.

"**Goods**" means the goods described in the Purchase Order.

"**Intellectual Property Rights**" means all rights in any country or jurisdiction in patents, inventions, trade secrets and other rights in know-how, copyrights (including any extensions or renewals), rights affording equivalent protection to copyright, rights in databases, registered designs, design rights, industrial designs and utility models, trademarks, trade names, business names, trade dress, logos, domain names and all registrations or applications to register any of the foregoing items.

"**Paragraph**" means a paragraph of these Terms.

"**Party**" means Buyer or Seller, collectively the "Parties".

**"Seller" or "Vendor"** means the seller or vendor of the Goods and/or Services identified on the front page of the Purchase Order.

**"Seller's Materials"** means all Seller's own proprietary methodologies, techniques, processes, inventions, innovations, concepts, know-how, branded products or components which are identified and notified as Seller's Materials to Buyer and that are not the results of Services performed under the Purchase Order nor constitute Work Product.

**"Seller Personnel"** means employees, agents and fulltime equivalent contractors of Seller, Seller's Affiliates and subcontractors.

**"Services"** means the services described in the Purchase Order.

**"Work Product"** means processed materials and/or ideas in final form, as specified in the Purchase Order, that may include without limitation, reports, surveys, drawings, designs, design files, sketches, concepts, photographs, processes, plans and recommendations prepared or developed by Seller's Personnel for, and submitted to Buyer through the provision of the Services. Work Product excludes Seller's Materials.

### **3. PURCHASE OF GOODS**

3.1 Seller warrants that (a) the Goods shall be free from any liens or encumbrances on title that could affect the right of Seller to transfer title of the Goods to Buyer; (b) the Goods shall meet all specifications, standards, procedures, methods or systems referenced in the Purchase Order; (c) the Goods shall be free from any defects in design, workmanship or materials; (d) the Goods shall be suitable for normal commercial use; (e) the Goods shall not infringe any Intellectual Property Rights; (f) the Goods shall be manufactured, packaged and labelled in accordance with the Purchase Order and all laws, regulations, and standards of the country or countries of manufacture, distribution, and intended use, including but not limited to, labour and employment, transport, data protection, environmental, competition and fair market practices laws, and, if applicable, laws and regulations governing the manufacture of tobacco products; (g) the Goods shall be suitable with any of its purpose, which is explicitly or implicitly notified to Seller by Buyer and (h) Seller shall always perform in the best interest of Buyer during the purchase of Goods under the Purchase Order.

3.2 Seller shall deliver the Goods and shall bear all costs of delivery, including freight, insurance, and suitable packaging. For any Goods that cross international borders for delivery, the Goods shall be sent Delivered Duty Paid (DDP) (INCOTERMS 2010), unless otherwise specified in the Purchase Order. Seller shall insure the Goods at Seller's expense until delivery. Subject to the provisions of Paragraph 3.3, title and risk of loss shall pass from Seller to Buyer upon delivery in accordance with these Terms.

3.3 Seller shall deliver the Goods at the time and place specified in the Purchase Order. In the event of late delivery, Buyer may cancel the Purchase Order with no obligation or liability to Seller except as provided in Paragraph 3.7, even if Buyer has already received the Goods. Alternatively, Buyer may allow Seller additional time to make delivery, without waiving any right to damages against Seller. Buyer reserves the right to claim damages and apply penalty from

Seller in the event of late delivery and in the event of any defect in performance by Seller hereunder that causes loss or expense to Buyer.

3.4 Buyer may refuse any Goods that Seller delivers in excess of the quantity stated in the Purchase Order within 14 days after their delivery.

3.5 Neither receipt of, nor payment for, the Goods by Buyer shall constitute Buyer's acceptance of the Goods or a waiver of any of its rights or imply (a) that the Goods meet Buyer's specifications or requirements; or (b) that Seller has fulfilled its obligations under Paragraph 3.1.

3.6 If the Goods are defective and/or otherwise not in compliance with Seller's warranties in Paragraph 3.1, without limiting any of Buyer's other legal rights, Buyer may reject the Goods in whole or in part, or require Seller to replace or repair some or all of the Goods at Seller's expense. Seller's warranties contained in Paragraph 3.1 shall be valid and enforceable until 12 months from the date of delivery of the Goods. Notice of breach of warranties contained in Paragraph 3.1 shall be given in writing within the 12 months warranty period.

3.7 If Buyer cancels the Purchase Order or rejects all or some of the Goods pursuant to these Terms, Buyer shall have no obligation to Seller other than to allow Seller to collect the rejected Goods at the time and place Buyer specifies to Seller. Buyer may claim from Seller reasonable storage and insurance expenses incurred from the time that the Goods were received until Seller collects the rejected Goods.

3.8 Buyer shall have the continuing right to inspect Seller's production facilities. If Buyer determines that the quality of the Goods in the course of production does not meet the standards set by the Purchase Order or if Buyer reasonably determines that Seller will not deliver the Goods on or before the date specified, Buyer may cancel the Purchase Order at any time in whole or in part, while retaining all legal rights against Seller.

3.9 To the extent that the use, distribution, resale or advertising of the Goods involves the use of any Intellectual Property Rights of Seller, Seller Personnel, or sub-contractors, or the manufacturer of the Goods, Buyer shall have a worldwide, royalty-free, and irrevocable right for such use of such Intellectual Property Rights in the Goods.

#### **4. PURCHASE OF SERVICES**

4.1 Seller shall provide the Services in a professional, workmanlike, and timely manner. Seller warrants that the Services shall (a) conform to all descriptions and specifications provided to Buyer by Seller; (b) reflect the level of skill, knowledge and judgment required, or reasonably expected, of suppliers of comparable services and Seller shall always perform in the best interest of Buyer during the provision of Services under the Purchase Order. During the time the Services are being provided, Seller shall give Buyer oral and written progress reports, as Buyer may from time to time request. In the

event that the Services are being provided on a time and materials basis, upon completion of the Services Seller shall submit for Buyer's acceptance a report specifying the number of hours worked and materials used. Seller shall present all Work Product in a form and manner acceptable to Buyer.

4.2 All actions taken by Seller in performing the Services shall comply with all applicable laws and regulations, as well as any policies and codes of business conduct of which Buyer notifies Seller.

4.3 When Seller's work involves the use of Buyer's computers and/or work stations or networks, Seller shall ensure that Seller Personnel comply with Buyer's policies and practices concerning access to and security of such computers, work stations and networks.

4.4 If the Services fails to comply with the provisions of the Purchase Order, Buyer may (without prejudice to any other rights it may have): (a) request Seller to perform, at Seller's sole expense, such corrective or additional Services as may be necessary to remedy such failure; (b) refuse to accept any subsequent performance of the Services which Seller attempts to make; (c) terminate the Purchase Order in whole or in part without liability to Buyer; (d) purchase substitute services from another supplier; (e) hold Seller accountable for any loss and additional costs incurred; and/or (f) have all sums previously paid by Buyer to Seller under the Purchase Order refunded by Seller.

4.5 Subject to these Terms, Buyer shall be the sole and exclusive owner, free and clear of any liens, claims or other encumbrances of the Work Product from the time of their delivery to Buyer.

4.6 All Work Product shall be Seller's original work, unless identified in writing as, and acknowledged to be, the work of Seller's sub-contractor or another identified third party. Seller represents and warrants that the Work Product shall not infringe any Intellectual Property Rights of any third party.

4.7 Seller hereby assigns, and shall procure that all relevant Seller Personnel and subcontractors assign, to Buyer all Intellectual Property Rights in Work Product and waives, and shall procure that all relevant Seller Personnel and sub-contractors waive, all moral rights relating to the Work Product it or they produce. Seller shall, and shall procure that all relevant Seller Personnel and sub-contractors shall, provide all assistance reasonably required to perfect Buyer's rights under this Paragraph including executing a certificate of acknowledgement of the foregoing assignment and such other documents as Buyer shall reasonably request in order to register, establish, maintain, perfect, assert or defend any Intellectual Property Rights in such Work Product and to assert its rights in any subject matter not subject to the foregoing Intellectual Property Rights.

4.8 Seller hereby grants to Buyer and its Affiliates a non-exclusive, sub-licensable, worldwide, irrevocable, assignable, royalty-free license to use, modify or add to the Seller's Materials (or any other proprietary rights or technology contained in or relating to Work Product) to the extent necessary to allow Buyer and its Affiliates to use, manufacture and/or develop the Work Product and to be able to fully benefit from the rights granted to it hereunder.

4.9 Seller acknowledges that the amounts payable by Buyer hereunder shall be good, valuable and complete consideration for the vesting of ownership in Buyer of the Work Product and the Intellectual Property Rights in the Work Product. Buyer shall retain exclusive ownership of the

Work Product and related Intellectual Property Rights after termination or expiration of the Purchase Order.

4.10 Seller shall perform the Services at the time and place specified in the Purchase Order. In the event of late performance, Buyer may cancel the Purchase Order with no obligation or liability to Seller, even if Seller has performed any part of the Services. Alternatively, Buyer may allow Seller additional time to make performance, without waiving any right to damages against Seller. Buyer reserves the right to claim damages and apply penalty from Seller in the event of late performance and in the event of any defect in performance by Seller hereunder that causes loss or expense to Buyer.

## **5. PROVISIONS APPLYING TO GOODS AND SERVICES**

5.1 Seller is providing the Goods and Services pursuant to the Purchase Order as an independent contractor. Nothing contained in the Purchase Order or these Terms shall be deemed or construed to create a relationship of principal and agent or any partnership or joint venture between Buyer and Seller and Seller Personnel.

5.2 If Seller uses any Intellectual Property Rights or materials belonging to Buyer or to any Affiliate of Buyer in connection with the Purchase Order, Seller may use such Intellectual Property Rights and materials only as Buyer expressly permits or approves. Seller agrees that it shall neither derive nor receive any rights to the Intellectual Property Rights or in the materials and may not without Buyer's prior written approval, manufacture, distribute or sell, or cause to be manufactured, distributed or sold, directly or indirectly, to anyone other than Buyer or its Affiliates, any goods, including the Goods, which display or incorporate any Intellectual Property Rights that belong to Buyer or any of its Affiliates. Seller shall return all materials supplied by Buyer to Seller upon demand or upon fulfillment of the Purchase Order.

5.3 If required by applicable law or regulations, Seller shall register and file reports with any governmental authorities in connection with the Goods or Services provided under the Purchase Order. Such reports shall be filed in a timely and accurate manner and at Seller's sole expense. Seller shall forward copies of all reports to Buyer immediately upon filing. Seller shall provide all necessary information and assistance to Buyer in a timely and accurate manner to enable Buyer to comply with any applicable filing and registration requirements. Seller shall secure and shall maintain all necessary insurance coverage, licenses, certifications and registrations required by law.

5.4 Seller shall obtain Buyer's prior written approval before subcontracting to third parties and shall fully disclose to Buyer the identity of any such sub-contractors. In contracting

with third parties to supply or manufacture Goods and/or Services under the Purchase Order, Seller shall ensure that warranties received by Seller extend to Buyer. If express warranties are not received by Seller for Goods and/or Services manufactured or supplied by a third party, Seller warrants such Goods and/or Services to the same extent set out in Paragraphs 3.1 and 4.1. Seller warrants that its contractual arrangements with permitted sub-contractors shall substantially reflect these Terms. Seller remains fully liable to Buyer for any Good and/or Services manufactured or supplied by a third party.

5.5 Seller shall, and shall procure that Seller Personnel and sub-contractors shall, keep confidential all information disclosed to Seller in connection with the Purchase Order. Seller shall not disclose any confidential information to any third party nor refer to its business relationship with Buyer for promotional or advertising purposes without Buyer's prior written consent. The aforementioned obligations are enduring and are binding both prior to and after delivery of the Goods or performance of Services.

5.6 Seller represents that it has no and will not, during the performance of the Purchase Order, have conflict of interest that decrease Seller's capacity to provide the Goods and/or Services or arise improper relationship with respect to the Product and/or Services by Seller. Seller further represents and guarantees that itself, Seller Personnel, sub-contractor or whoever relating to Seller are not or will not be officer or employee of government body or any agency controlled by the Government or of any international public organization or one acting in official capacity to or on behalf of the parties mentioned formerly or authority of a political party or the nominee of political position, during the term of the Purchase Order.

5.7 In providing the Services and/or Goods pursuant to the Purchase Order, Seller shall not authorize, offer, promise or give any payments or anything else of value, through any means whatsoever, (i) to any government official or to any other person with the knowledge that all or any portion of the thing of value will be offered, promised or given to a government official for the purpose of influencing official action to obtain or retain business or secure any improper advantage, or to reward such an act, or (ii) to any person (whether or not a government official) to influence that person to act in breach of a duty of good faith, impartiality or trust, or to reward such an act. This includes a prohibition on offering or making "facilitation" payments. Facilitation payments are small payments to government officials to expedite or secure the performance of routine government action (actions that are ordinarily and commonly performed). Examples include payments to speed up issuing of legitimate visas; licenses or permits; and to connect telephones or other utility services. For the avoidance of doubt and without limiting the generality of the foregoing warranty, the Seller further warrants that it shall not make a gift or political contribution in cash or in kind to, nor shall it entertain, any government official or any other persons on behalf of Buyer without the prior written approval of Buyer, and that all such approved gifts, entertainment and contributions will be accurately recorded in its books and records and will not be reimbursed by Buyer without having received the necessary approvals from Buyer or any of its affiliates. For the purposes of this Article, a person shall be deemed to have "knowledge" with respect to conduct, circumstances or results if such

person is aware of (1) the existence of or (2) a high probability of the existence of such conduct, circumstances or results.

Any breach of this Paragraph 5.7 shall be considered a material breach which will entitle Buyer the right to terminate the Purchase Order immediately without any compensation whatsoever upon written notice to Seller.

5.8 Seller represents that neither it, nor any of its affiliates (nor any director, officer or to its knowledge, employee of it or any of its affiliates) nor any of its agents, is a person, or is owned

or controlled by a person that is (i) the subject of any Sanctions; (ii) engaged in any activities that could trigger a designation under the Sanctions administered by the relevant authorities or (iii) employs, uses, procures or subcontracts any workers or labour originating from or attributable to North Korea.

**Sanctions** means any economic or financial sanctions or trade embargoes implemented, administered or enforced by the U.S. Department of the Treasury's Office of Foreign Assets Control, the U.S. Departments of State or Commerce or any other US government authority, the United Nations Security Council, the European Union, Switzerland or other such Sanctions authority in a jurisdiction of relevance to the Purchase Order.

5.9 The rights and obligations of each Party may not be assigned, transferred or delegated to any other party without the prior written consent of the other Party (not to be unreasonably withheld); provided that Buyer may assign its rights hereunder to an Affiliate without the consent of or notice to Seller.

5.10 Seller shall indemnify Buyer and its Affiliates against any loss, damage, claims, costs, expenses, settlements, and judgments (including reasonable attorneys' fees) incurred by Buyer or any third party arising out of, or in connection with, any negligence, error, omission and/or wilful misconduct of Seller and/or Seller Personnel or Seller's failure to comply with its obligations or warranties in these Terms.

5.11 Seller shall at its own expense maintain employer's liability, third party liability, product liability and professional negligence insurance to cover its liabilities arising from the Purchase Order with an insurance company acceptable to Buyer and with limits of cover acceptable to Buyer. Seller shall on request provide Buyer with copies of the relevant certificates of insurance.

5.12 Penalty for late delivery under Paragraph 3.3 or late performance under Paragraph 4.10 shall be as follows: (a) for every day of the late delivery and/or performance, Seller shall be imposed on 0.5% penalty of the Goods and/or Service price, with the maximum penalty to the extent that the relevant laws permit; (b) if the delay is more than 30 calendar days consecutively, the Purchase Order can be nullified unilaterally by Buyer upon written notice to Seller without obligation to Buyer for compensation whatsoever and without prejudice to Seller's obligation to pay penalty set out in Paragraph 5.12(a); and (c) in case all or part of payment have been made to Seller, then Seller shall repay any or all payment without deduction within 3 working days as of the notice delivery

date by Buyer to Seller with respect to the nullification. In addition to requiring Seller to perform obligations stated in this Paragraph 5.12, Buyer shall have the right to request Seller to compensate for any damages incurred by Buyer caused by Seller's late delivery or late performance.

5.13 If Seller determines that it cannot deliver the Goods or perform the Services on the delivery or performance date specified in the Purchase Order due to events of force majeure, including without limitation: natural disasters having widespread and significant consequences not reasonably foreseeable, war, riot, civil commotion, malicious damage, in compliance with applicable law or regulation; Seller shall immediately notify Buyer. Buyer, without liability to

Seller, may at its discretion extend the time for delivery or performance, require Seller to use best efforts to secure substitute Goods or Services, or cancel the Purchase Order in whole or in part and source the Goods or Services from an alternative provider.

5.14 Seller shall promptly deliver to Buyer an invoice for the Goods or Services after their delivery or performance to the address indicated by Buyer in the Purchase Order. Unless otherwise specified in the Purchase Order, Buyer shall pay Seller for the Goods or Services or any other amount under the Purchase Order in Vietnam dong or another currency as appropriate within 60 days (or another timeline as agreed between the Parties) from the date of Buyer's receipt of the relevant undisputed invoice to its satisfaction by bank transfer provided that the invoice accurately details the relevant Goods and/or Services and is in compliance with Buyer's requirements for invoicing. Should Seller fail to fulfil its obligations arising from the Purchase Order, Buyer reserves the right to suspend payment in whole or in part.

5.15 Seller shall be responsible for all taxes, charges, levies, assessments and other fees of any kind which may be imposed by a governmental or other authority on the Goods and/or Services. In the event that any value added tax (VAT), goods and services tax (GST) or withholding taxes are applicable to or imposed on the fee due and payable under the Purchase Order, Seller agrees that such fee is exclusive of VAT/GST and that Buyer is entitled to withhold taxes at source from such fee in either case at the then applicable rate and in accordance with applicable local laws.

In case Buyer is required to pay any tax on behalf of Seller, Buyer shall do so and deduct an amount equivalent to the tax amount from the payment payable to Seller.

5.16 Seller shall keep and maintain full and accurate book keeping, notes on accounts, reports and other data for period of 2 years upon the expiration or termination of the Purchase Order. Buyer is entitled to by itself or appoint an internal auditor and/or independent auditor to perform inspection during normal working hours to all records and documents related to the performance of the Purchase Order. Buyer may exercise its right to perform inspection twice a year during the term of the Purchase Order and 12 months after the expiration or termination of the Purchase Order.

5.17 To find out about how Philip Morris International use information about Seller, Seller may refer to the Business Partner and Other Stakeholder Privacy Notice provided at

the link <https://pmiprivacy.com/en/business-partner>.

Seller shall comply with:

- In the role of Supplier as defined therein, the Data Protection Exhibit provided at <https://www.pmi.com/markets/vietnam/en/about-us/overview>;
- The Seller shall commit in doing business in line with internationally-recognized principles on human rights, environmental management, business integrity, and anti-corruption which set out at the following [responsible-sourcing-principles.pdf \(pmi.com\)](#); and
- All principles and practices of Buyer as informed to Seller from time to time.

The above Data Protection Exhibit, Responsible Sourcing Principles as may be amended from time to time and promptly informed to the Seller, constitutes an integral part of these General Terms and Conditions.

5.18 The Purchase Order, these Terms, and all commercial relations between the Parties in connection with the Purchase Order shall be governed by and construed in accordance with the laws of Vietnam, without regard to its conflicts of laws. The Parties expressly agree that any disputes arising in connection with the Purchase Order, these Terms and all commercial relations in connection with the Purchase Order, shall be submitted to the jurisdiction of the ordinary courts of Vietnam.

5.19 The Purchase Order shall be made in 2 originals in English. Each party shall retain 1 English original with equal value.