

TERMS & CONDITIONS

The following are the Terms and Conditions (“**Terms**”) that govern the transaction(s) between the Supplier named in this PO (“**Supplier**”) and any of the entities listed within KANEKA COMPANIES IN MALAYSIA hereinafter referred to simply as (“**KANEKA**”) for the **GOODS AND/OR SERVICES** (may be referred to collectively as (“the **Product(s)**”)) that is/are described on the face of this Purchase Order form. This Purchase Order or (“**PO**”) between KANEKA and the Supplier is subject to and includes the following Terms. Unless expressly provided to the contrary on the face of this PO, the Terms and face of PO shall form the entire agreement between parties and cannot be varied unless consent from KANEKA is obtained. Any order forms, acceptances or other documents used/relied by Supplier in connection with the purchase of the Products, notwithstanding any provisions therein contained to the contrary, shall be governed by the provisions of this PO, and any terms thereof which are inconsistent, different from, or in addition to the provisions of this PO shall be deemed null and void.

1. OFFER AND ACCEPTANCE:

KANEKA shall place an order for the Product(s) from time to time with the Supplier and shall issue this PO to the Supplier. The PO, before accepted constitutes an offer to the Supplier. The Supplier shall thereafter send a notice to KANEKA accepting the PO by returning duplicate copy of PO/email/fax OR a notice rejecting the PO by email within a time agreed mutually. A PO once confirmed and accepted by the Supplier shall form a contract which is effective between the parties and the Terms shall apply (hereinafter referred to as “**Purchase Contract**”) at the time when the Supplier sends an acceptance notice to KANEKA. For the avoidance of doubt, KANEKA shall reserve its right to cancel/revoke/vary the PO at any time before acceptance and KANEKA’s decision shall be final.

2. CANCELLATION/VARIATION/TERMINATION:

For delivery of GOODS, KANEKA reserves the right to vary/amend/cancel any Purchase Contract by giving not less than ten (10) working days’ written notice to the Supplier before the scheduled Date of Delivery (means date of arrival at the intended address of destination as specified in PO). If there are disputes, parties shall amicably negotiate a resolution in good faith. Notwithstanding that, KANEKA reserves the right to terminate all or any part of the undelivered portion of the Purchase Contract if the Supplier fails for any reason to make delivery as specified by the relevant Purchase Contract (except where the failure is due to an event not within the control of the parties such as an event of force majeure).

3. DELIVERY & DEFAULT:

The Supplier shall deliver the Product or perform the service ordered within the specified time stated and in accordance with the requirements or design or specifications/scope of work as the case may be as listed on the face of the PO or any other document agreed and accepted by both parties; failing which KANEKA shall have the right to terminate the PO/Purchase Contract and refuse to take any delivery or further delivery or at its discretion to return any partially delivered goods to the Supplier, unless prior written consent for extension of time or any other special considerations have been given by KANEKA.

4. PACKAGING & SHIPPING (GOODS):

Where applicable, all goods must be packaged in the manner specified by KANEKA and shipped in the manner and by the route and carrier designated by KANEKA. If KANEKA does not specify the way the goods must be packaged, Supplier shall package the goods to avoid any damage in transit. If KANEKA does not specify the manner of shipment, route, or carrier, Supplier shall ship the goods at the lowest possible transportation rates, consistent with Supplier’s obligation to meet the delivery schedule set forth in this PO.

5. PAYMENT TERMS & PRICE:

Payment shall be based on the terms stated in the PO (if any) or from the date of invoice or delivery order whichever is later. Prices shall exclude taxes however packaging cost, value added taxes, duties, if applicable, shall be clearly stipulated in the Supplier’s invoice/quotation for KANEKA to review. Obligations to bear the cost of shipment, delivery, and insurance, if any, shall be in accordance with the delivery terms agreed upon. No amendment to the price stated in the PO/Purchase Contract/agreed invoice shall be made unless prior consent to the amendment has been given in writing by KANEKA. The Supplier is under an obligation to prepare and issue the Supplier’s billings and/or invoices to KANEKA in a timely manner as time is the essence of the Purchase Contract. The Supplier shall pro-actively notify KANEKA of any long pending overdue payment(s). KANEKA reserves its rights not to entertain any invoices/billings from the Supplier if issuance of the same is only carried out by the Supplier 6 months after the applicable Date of Delivery.

6. WARRANTY/GUARANTEE:

Supplier warrants that (a) the Product(s) is/are free from encumbrances, (b) all services are performed in a manner acceptable in the industry and in accordance with accepted standards in the relevant field, the goods sold are free from all defects, are fit for the particular purposes for which they are acquired, and are provided in strict accordance with the specifications or other specified requirements (including performance specifications/scope) approved or by KANEKA, (c) the goods sold are of merchantable quality. Supplier shall replace or remedy, at KANEKA’s option and at Supplier’s cost, defects of any

goods not conforming to these warranties. All warranties of Supplier herein or that are implied by law shall survive any inspection, delivery, acceptance, or payment by KANEKA. Any attempt by Supplier to limit, disclaim, or restrict these warranties or any remedies entitled by law to KANEKA, by acknowledgment or otherwise, in accepting or performing this PO, will be null, void, and ineffective without KANEKA’s written consent.

7. COMPLIANCE:

The Supplier must ensure that all materials and the items used for assembly or manufacturing the Product(s) comply with laws & regulations as may be required by the government or other authorities having jurisdiction and otherwise meet accepted industry standards for environmental, occupational safety and health standards. If the Supplier is required to perform works on KANEKA’s premises, the Supplier shall strictly observe all safety, health, environmental and quality rules, and regulations set by KANEKA.

8. BUSINESS ETHICS:

The Supplier warrants to Kaneka that its operations and its Affiliates are, have been conducted, and will at all times hereinafter be conducted in compliance with applicable financial record keeping and reporting statutory requirements, money laundering statutes, competition law (and the rules, guidelines and regulations thereunder) and any related or similar rules, regulations or guidelines, issued, administered or enforced by any governmental agency in or outside of Malaysia having jurisdiction over the Supplier and/or any of its Affiliates. Supplier confirms that it has read and understood Kaneka Malaysia’s Code of Conduct, as well as any applicable anti-bribery law, including but not limited to, the Malaysian Anti-Corruption Commission Act 2009, the United Kingdom Bribery Act 2010 and U.S. Foreign Corrupt Practices Act of 1977.

9. OTHERS:

CONFIDENTIALITY: The Supplier shall not divulge and will use its best endeavours to prevent the communication or disclosure to any third party of any trade secret or confidential information concerning the business of KANEKA.

INDEMNITY: The Supplier shall defend, hold harmless, and indemnify KANEKA from and against all proceedings (including all claims made by third parties against KANEKA) for costs, expenses, liabilities, injury, loss or damages arising out of any defect in the Product and/or the breach and/or negligence of the Supplier and/or failure in the performance by the Supplier of the Terms.

INSURANCE: In the absence of an agreed INCOTERM, the Supplier shall, at its own costs and expense obtain and keep in force adequate insurance coverage in accordance with the work requirements against any risks.

SEVERABILITY & NON-ASSIGNMENT: If any provision in the Terms shall be held or deemed to be unenforceable, it shall not affect any other provision(s) contained in this PO. Assignment of this PO/Purchase Contract or any interest in it or any payment due or to become due under it, without the written consent of KANEKA, will be void.

JURISDICTION & LAWS: The Parties hereby agree to submit to the jurisdiction of the civil Courts in Malaysia or courts located in the jurisdiction at KANEKA’s discretion. The PO/Purchase Contract hereunder shall be governed by and construed in accordance with the laws of Malaysia or at the discretion of KANEKA. The Uniform Law on the International Sale of Goods and the Formation of Contracts for the International Sale of Goods shall not apply to this contract.

FORCE MAJEURE (FM): Is an event beyond the control of both Parties. Any party initiating FM shall promptly give written notice to the other Party of such Force Majeure, specifying the nature of the Force Majeure and expected duration. Parties shall negotiate and discuss moving forward.

COMMERCIAL REQUIREMENTS: (issued by KANEKA): Any terms contained in bidding documents, work proposals and purchasing/delivery specifications if applicable (which are not specifically excluded by KANEKA) shall form part of the Purchase Contract and shall be legally binding on Supplier.

ELECTRONIC SIGNATURE: Parties agree that their electronic transmitted signatures shall have the same effect as manually/physical transmitted signatures.