



## Lenovo Standard Purchase Order – Terms & Conditions

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This Purchase Order ("PO") is issued by Lenovo PC HK Limited ("Lenovo") or one of its affiliates to Supplier.

**EXCLUSIVE TERMS:** This PO describes the exclusive terms and conditions under which Supplier will provide products or services to Lenovo provided, however, that additional terms and conditions may be attached by Lenovo to this PO, and the parties may also be governed by a written agreement referenced in this PO (e.g., a Lenovo Parts Procurement Agreement; or a Lenovo System Purchase Agreement). Such written agreements may refer to this PO as a Work Authorization. Unless Lenovo agrees in writing, Lenovo's rights under this PO may not be waived or modified, and no other document or communications are binding on Lenovo, including the Supplier's proposal, quotation, order acknowledgment, or invoice. Supplier is authorized to provide products and services under this PO only if Supplier agrees to the foregoing statement of exclusive terms.

**PRICE/TAXES:** If a price is not stated in this PO or otherwise agreed to by Lenovo in writing, the price will be Supplier's lowest prevailing market price. Supplier is responsible for and will pay all sales, use, and similar taxes. If Lenovo provides evidence of tax exemption or reduction, then Supplier will not invoice nor pay such exempt/reduced taxes unless the applicable taxing authority assesses such tax, at which time Supplier will invoice and Lenovo will pay any such due and owing tax.

"Epidemic Defects" means Products or Services that experience, are the subject of, or are subject to one or more of the following: (a) by part number, a one-half percent (0.5%) per month replacement rate in two (2) consecutive months, for the total population shipped in any, or all, Lenovo machine type(s), due to the same or similar defect; (b) by part number, a one-half percent (0.5%) per month replacement rate in two (2) consecutive months, for the total population of options shipped, due to the same or similar defect; (c) by part number, a one-half percent (0.5%) per month replacement rate in two (2) consecutive months, for the population shipped in Lenovo systems during any given calendar month, due to the same or similar defect; (d) a "critical situation" as declared by Lenovo for one or more of Lenovo's customers requiring replacement of Products or re-performance of the Services; (e) one or more safety concerns created by the Products or Services; or (f) failure of the Product or Service to meet its specifications or to otherwise satisfy a material term of this PO such that Lenovo's marketing and sale of products incorporating such Products or Services may reasonably be expected to expose Lenovo to claims by customers (e.g., deceptive trade practice claims).

**TERMS OF PAYMENT:** Upon Lenovo's request, Supplier will issue invoices electronically and also comply with any local country requirement for tangible invoice forms. Unless this PO states otherwise, payment will be due net sixty (60) days after Lenovo receives Supplier's valid invoice. Lenovo shall make a single monthly payment for all payable invoices that have become due. Supplier's invoice will list the quantity of products and/or services purchased, reference this PO number, and, if applicable, the Lenovo agreement under which the products and/or services are being purchased under.

**ACCEPTANCE:** Payment will not be deemed acceptance by Lenovo. All products or services are subject to inspection and may be accepted or rejected in accordance with the criteria specified in the relevant SOW or PO. Upon request from Lenovo or its customers, Supplier shall issue a refund, repair or replace any rejected products or re-perform any rejected services, as determined by Lenovo or its customers, without additional charge and in a timely manner.

**TERMINATION:** Lenovo may terminate this PO with or without cause at any time. If Lenovo terminates without cause, Lenovo will compensate Supplier for actual and reasonable expenses incurred for work in process before the termination, not to exceed the prices specified in this PO.

**IMPORTS:** Supplier is responsible for compliance with all requirements to import any products covered by this PO into any country and the payment of all associated duties, taxes and fees.



**PACKAGES/TRANSPORTATION:** Supplier will comply with all country of origin marking instructions, all instructions for exports to Lenovo, all packaging, labeling, and transportation routing requirements set out in this PO. The Instructions for Exports to Lenovo ("Exports to US") and Lenovo's Shipping Transportation Guidelines are incorporated by reference. Supplier will not use premium transportation unless expressly authorized by Lenovo. Supplier will not include more than one daily shipment for one destination on one bill of lading, and Supplier will not declare a value or purchase additional insurance on F.O.B. Origin shipments to Lenovo.

**LATE SHIPMENTS:** Time is of the essence. Lenovo requires timely delivery to build products to fill orders from customers. If Supplier fails to deliver on time, Lenovo may cancel Products or Services not yet delivered at no cost to Lenovo and purchase replacements elsewhere and Supplier will be liable for any difference in price that Lenovo must pay, as well as any actual and reasonable out-of-pocket costs Lenovo incurs to obtain the replacement parts. Supplier will promptly notify Lenovo if it is ever unable to make timely delivery. In addition to the foregoing, Lenovo may exercise all other remedies to which it is entitled at law, in equity, and in this PO.

**WARRANTIES:** Supplier warrants that: (i) it has the right to enter into this PO and it will comply, at its own expense, with any law (including environmental and anti-corruption laws) or other obligation that may affect its ability to perform under this PO; (ii) no claim, lien, or action exists or is threatened against Supplier that may affect Lenovo's rights under this PO; (iii) products and services specified in this PO do not infringe any privacy, intellectual property, moral or other right of a third party; (iv) products specified in this PO are of merchantable quality, are free from defects in materials and design, and otherwise will conform to the warranties, specifications and requirements in this PO including without limitation 41A7731 ("Baseline Environmental Requirements for Materials, Parts and Products for Lenovo Hardware Products") and 41A7733 ("Lenovo RoHS Engineering Specification"); (v) products specified in this PO are safe for their intended use; (vi) products specified in this PO do not contain harmful code, will not engage in electronic self-help, and are euro-ready to the extent that they may interact with monetary data (meaning they are capable of correctly processing monetary data in the euro denomination and euro currency formatting conventions, including the euro sign); (vii) the products are not made with ozone depleting substances (including but not limited to halons, chlorofluorocarbons, hydrochlorofluorocarbons, methyl chloroform and carbon tetrachloride) and supplier will provide required documentation to demonstrate compliance to this requirement; (viii) products are new and do not contain used or reconditioned parts; (ix) it will comply with all applicable data privacy laws and will otherwise protect information that may identify an individual ("Personal Data"), and will not use, disclose, or transfer across borders any Personal Data processed for Lenovo, except as necessary to perform under this PO, and will comply with Lenovo's requests to access, correct, or destroy such Personal Data; (x) it understands and will comply fully with all applicable laws, including export and import laws and Supplier will (among other things) secure all necessary clearances, licenses, and exemptions, and it will make all required filings and disclosures relating to the transfer of technology, software, or commodities; (xi) Supplier will not export, directly or indirectly, any technology, software or commodity of U.S. origin or having U.S. content to countries (or nationals of those countries wherever located) listed in U.S. Export Administration Regulations, as modified from time to time, unless authorized by appropriate government license or regulations; (xii) Supplier shall obtain and maintain all relevant licenses and Product certifications for Lenovo and its subsidiaries to sell and for Lenovo and its customers to use the products worldwide, and Supplier shall pay all fees required; (xiii) Supplier shall maintain comprehensive general liability insurance sufficient to cover all claims that might arise from Supplier's activities under this PO; (xiv) Supplier was awarded this business because it is an expert fully competent in all aspects of providing the products and services under this PO, and Supplier will not deny any obligation to Lenovo on grounds that Lenovo recommended reviewed, or assisted with any aspect of this PO, and Supplier acknowledges Lenovo's reliance upon Supplier's expertise; (xv) if Supplier describes the product or service in its own marketing materials, then Supplier warrants such descriptions are true, and Lenovo and its customers may rely on such claims in creating their own marketing materials for the products and services; (xvi) Supplier maintains and fully implements documented quality and environmental management systems that meets ISO 9000:2000 and ISO 14001 standards, respectively, and both systems are accredited from an approved registrar. Supplier's design, development, manufacture and support processes all comply with these ISO standards and Supplier will maintain compliance as these standards evolve. Supplier will demonstrate compliance with these standards to Lenovo and third parties, and will provide copies of relevant paperwork, upon request. (xvii) Supplier shall verify that any encryption



technologies are: (a) covered by a valid export license from the U.S. Department of Commerce Export Administration; handled only at locations and pursuant to control procedures approved by Lenovo; and (b) ship directly from the approved location only to approved and lawful destinations; (xviii) Supplier complies with all laws relating to security including the FAA emergency directive on security procedures dated August 9, 1996. Supplier represents that it shall not include any explosive, hazardous, incendiary and/or destructive materials in any products transported under this PO; (xix) products do not include any open source code; and (xx) Supplier shall comply with Lenovo's Supplier Code of Conduct which can be found at [www.lenovo.com/us/en/pdf/social\\_responsibility/Supplier\\_Code\\_of\\_Conduct.pdf](http://www.lenovo.com/us/en/pdf/social_responsibility/Supplier_Code_of_Conduct.pdf). Supplier is expected to be familiar with Lenovo's Sustainability, Environmental, and other Compliance related policies, programs, and requirements which can be found online at [www.lenovo.com/us/en/social\\_responsibility/environment/](http://www.lenovo.com/us/en/social_responsibility/environment/) and [www.lenovo.com/us/en/compliance](http://www.lenovo.com/us/en/compliance)

**REMEDIES FOR BREACH OF WARRANTY:** If Products or Services do not conform with the warranties in this PO, in addition to other remedies available at law, equity, and/or in this PO, Supplier will repair or replace Products (at the latest revision level) or re-perform Services, or credit or refund the Price of Products or Services, such remedy at Lenovo's discretion.

For such non-conforming Products, but not as a condition to Lenovo's right to redeem its warranties, Supplier will issue to Lenovo a return material authorization ("RMA") within two (2) days of Lenovo's notice. Lenovo may return Products which do not conform to the warranties in this PO from any Lenovo location to the nearest authorized Supplier location at Supplier's cost and Supplier will, at Supplier's cost, return any repaired or replaced Product in a timely manner, and in no event in excess of the TAT agreed by both Parties.

**REMEDIES FOR EPIDEMIC DEFECTS:** If Lenovo recalls Product or takes other corrective action due to an Epidemic Defect, Supplier shall, at Lenovo's request, and at Supplier's expense: (i) sort, screen, repair, and/or replace Products held by Lenovo, Lenovo's Affiliates, Lenovo customers, distributors, and service providers; (ii) implement corrective actions that are suggested by Supplier and approved by Lenovo, or those directed by Lenovo; (iii) accept the return of affected Products for a full refund, regardless of whether the Products are individually determined to be defective at the time of their return; and (iv) reimburse Lenovo and Lenovo's Affiliates for the actual and reasonable costs incurred in connection with the recall or other corrective action, including without limitation, Lenovo's costs in retaining third parties to perform some or all of these responsibilities. Supplier will commence such performance within five (5) calendar days of Lenovo's notice to Supplier of an Epidemic Defect.

**INTELLECTUAL PROPERTY AND OTHER INDEMNIFICATIONS:** Supplier grants Lenovo all rights and licenses necessary for Lenovo (including Lenovo's affiliates and customers), to use, market, distribute, sell and service the products or services specified in the PO and to exercise the rights granted under this PO. Supplier agrees to defend, hold harmless, and indemnify Lenovo, its affiliates, directors, customers, distributors, and service providers from any and all claims arising out of, or pertaining to, the purchase of Supplier products or services, and to reimburse Lenovo, its affiliates, directors, customers, distributors, and service providers for the actual expenses they incur defending and settling such claims, including any third party claims for personal injury or tangible property damage, any third party claim of intellectual property infringement. If an infringement claim is made, Supplier will, at its own expense: (i) obtain for Lenovo, its subsidiaries, affiliates, directors, customers, distributors, and service providers the rights granted under this PO; (ii) modify the products or services so they are non-infringing and remain in compliance with this PO; or (iii) replace the products or services with non-infringing ones that comply with this PO. Lenovo may return non-conforming products (including infringing products) and cancel non-conforming services for a full refund at Supplier's expense.

**LIMITATION OF LIABILITY:** To the extent permitted by local law, the cumulative liability of Lenovo, its parents, subsidiaries, affiliates, and other related legal entities shall not exceed the purchase price agreed to by Lenovo for the conforming products and services delivered under this PO as the maximum measure of Supplier's actual damages, and Lenovo, its parents, subsidiaries, affiliates, and other related legal entities shall not be liable for any lost revenues, lost profits, incidental, indirect, consequential, special or punitive damages.



**ASSIGNMENT:** Supplier may not assign its rights nor subcontract its duties without Lenovo's written consent. Any unauthorized assignment is void. Lenovo may assign this PO to an Affiliate after notification to Supplier.

**EXCHANGE OF INFORMATION:** All information exchanged between the parties will be non confidential, unless covered by a separate written confidentiality agreement between the parties. Supplier will obtain agreement from its employees and other entities allowing Lenovo to receive and use information Supplier may provide to Lenovo about these employees or entities if that information is governed by privacy laws or other non-disclosure requirements.

**APPLICABLE LAWS:** This PO is governed by the laws of New York, The parties agree that any action to enforce any provision of this PO or arising out of or based upon this PO shall be brought in a state or federal court of competent jurisdiction in the State of New York.

**GENERAL:** Any reproduction of this PO by reliable means will be considered an original. The United Nations Convention on Contracts for the International Sale of Goods does not apply. The parties expressly waive any right to a jury trial regarding disputes related to this PO.

The following Federal Acquisition Regulations ("FAR") provisions are incorporated herein and made a part hereof: Utilization of Small Business Concerns (FAR 52.219-8); Small Business Subcontracting Plan (FAR 52.219-9); Equal Opportunity (FAR 52.222-26); Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (FAR 52.222-35); and Affirmative Action for Workers with Disabilities (FAR 52.222-36); Combating Trafficking in Persons (FAR 52.222-50). In each provision, "Contractor" shall mean "Supplier" and "Contracting Officer" and "Government" shall mean "Lenovo or the U.S. Government" as necessary to fulfill the intent of this provision for the purposes of a subcontract under a U.S. Government prime contract issued to Lenovo. These provisions have the same force and effect as if they were stated in their full text.

October 2016