

## PURCHASE ORDER TERMS

### 1. Definitions

1.1 In these Terms unless the context requires otherwise:

**Agreement** is defined in clause 2.2.1;

**Defective** means Goods or Services that do not comply with the requirements of the Agreement, or which are damaged, deficient, faulty, inadequate, or incomplete, and

**Defect** shall have a corresponding meaning;

**Delivery Address** means the place for delivery specified on the Purchase Order;

**Delivery Date** means the delivery date specified on the Purchase Order;

**Goods** means the goods, if any, described on the Purchase Order (including any part of the goods);

**GST** has the meaning given to it in the GST Law;

**GST Law** means *A New Tax System (Goods and Services Tax) Act 1999* (Cth);

**Intellectual Property Rights** means all copyright and analogous rights, rights in relation to inventions and patents, registered and unregistered trademarks and service marks, registered designs, confidential information, know-how, circuit layouts, and all other rights throughout the world resulting from intellectual activity in the industrial, scientific or artistic fields, including all rights in all applications to register these rights, and all renewals and extensions of these rights;

**IOR** means the IOR entity identified in the Purchase Order, being IOR Pty Ltd ABN 36 009 653 070, IOR Supply and Trading Pty Ltd ABN 66 155 097 242, or a Related Body Corporate of either of these entities;

**Laws** means all acts, regulations, by-laws, orders, awards, common law and equity, Australian Standards, codes of practice, and any authority requirements, consents, certificates, licences, permits, approvals and guidelines with which the Supplier is legally required to comply;

**Personnel** means directors, employees, agents, contractors, and subcontractors;

**Purchase Order** means the purchase order issued by IOR being a request for the Supplier to supply the Goods and perform the Services;

**Price** means the price set out in the Purchase Order which is exclusive of GST but inclusive of all other costs and charges;

**RCTI Agreement** means an agreement entered into between the Supplier and IOR pursuant to which the parties have agreed that IOR will issue Recipient Created Tax Invoices in respect of the Supply;

**Recipient Created Tax Invoice** has the meaning prescribed in the GST Law;

**Related Body Corporate** has the same meaning given to it in the *Corporations Act 2001* (Cth);

**Services** means the services, if any, described on the Purchase Order (including any part of the services);

**Site Standards and Procedures** means any guidelines, rules, requirements, or site-specific conditions which IOR has made available to the Supplier in advance;

**Supplier** means the party identified in the Purchase Order;

**Supplier Reference Document** means a delivery document, dispatch note, time sheet, claim form or such other document which evidences the supply of the Goods or performance of Services;

**Supply** means all obligations of the Supplier to supply the Goods and perform the Services (and any incidental work reasonably necessary) in accordance with the Agreement;

**Terms** means these purchase order terms; and

**Warranty Period** means the period of 24 months commencing on the date of delivery of the Goods and 12 months from the date on which the Services are performed.

### 2. Agreement

2.1. Where a contract for the Supply has been agreed and executed by IOR and the Supplier, then that contract will apply to the Supply and these Terms will not apply.

2.2. Where a contract for the Supply has not been agreed and executed by IOR and the Supplier, then:

2.2.1. the Purchase Order and these Terms constitute the entire agreement between the parties for the Supply (**Agreement**);

2.2.2. by accepting the Purchase Order or providing the Supply, the Supplier agrees that the Agreement prevails over and supersedes any prior agreement, representation, understanding or quotation in relation to the Supply;

2.2.3. the Supplier's terms and conditions (including, without limitation, those provided on any Supplier Reference Document, invoice or other document issued by or on behalf of the Supplier in

connection with the Supply) will be of no legal effect and will not form part of or vary the Agreement (even if a representative of IOR signs those terms and conditions or annexes them to the Purchase Order); and

2.2.4. if there is any inconsistency between the Purchase Order and these Terms, the Purchase Order will take precedence to the extent necessary to resolve the inconsistency.

2.3. Clauses 2.2.1 and 2.2.2 do not apply to any prior misrepresentation made by either party, whether written or oral.

### **3. Supply**

3.1. In consideration of payment of the Price by IOR, the Supplier must supply the Goods and perform the Services in accordance with the Agreement.

3.2. In supplying the Goods and performing the Services, the Supplier must ensure that its Personnel:

3.2.1. are appropriately qualified and adequately trained and experienced to carry out the work safely and professionally;

3.2.2. only use plant, equipment, and machinery that has been appropriately maintained and inspected from time to time;

3.2.3. work diligently and reliably and do not interfere with IOR's activities or the activities of any other person at the Delivery Address; and

3.2.4. promptly provide such information and assistance as IOR reasonably requires to identify, evaluate, implement, and report on any matter required by Law.

3.3. The Supplier must be aware of and comply with and ensure that its Personnel are aware of and comply with:

3.3.1. all applicable Laws including without limitation all modern slavery Laws, and the Supplier must take reasonable steps to ensure that there is no modern slavery or human trafficking in the Supplier's supply chains or business operations;

3.3.2. their obligations to protect their systems, assets, data and customers from cyber security threats (and the Supplier must promptly report to IOR all such threats which may impact IOR or the Supply);

3.3.3. all Site Standards and Procedures to the extent that they are applicable to the Supply; and

3.3.4. all lawful and reasonable directions given by IOR or its Personnel.

3.4. Upon request by IOR, the Supplier must promptly provide IOR with copies of all qualifications, training records, consents, certificates, licences, permits and approvals required to provide the Supply safely and lawfully.

### **4. Intellectual Property Rights**

4.1. The Supplier retains its Intellectual Property Rights that exist prior to the Agreement or are developed other than in the performance of the Agreement (**Background IP**).

4.2. The Supplier grants IOR a perpetual, irrevocable, non-exclusive, royalty-free, worldwide licence to use the Supplier's Background IP to the extent necessary for IOR to enjoy the benefit of the Supply.

4.3. Where the Supply is customised for IOR's requirements, the Supplier assigns to IOR all Intellectual Property Rights that the Supplier creates or discovers in providing the customised Supply to IOR from the date of creation.

4.4. The Supplier warrants that it has the right to grant the licence set out in clause 4.2 and assign the rights set out in clause 4.3 and that doing so will not infringe the Intellectual Property Rights of any person.

### **5. Delivery and Performance**

5.1. The Supplier must deliver the Goods to the Delivery Address by the Delivery Date and perform the Services by the date specified in the Purchase Order.

5.2. The Supplier must ensure that the Goods are securely packed and marked as required by IOR to prevent damage and unauthorised tampering and allow proper storage and stock control.

### **6. Title and Risk**

6.1. The Supplier warrants it has title to and is authorised to supply the Goods, and the Goods will be free from all security interests when delivered to IOR.

6.2. Title in the Goods passes to IOR upon the earlier of payment of the Price for the Goods by IOR or delivery of the Goods to IOR. Risk in the Goods passes to IOR when the Goods are delivered to the Delivery Address.

### **7. Insurance**

7.1. The Supplier must effect and maintain any insurances reasonably required by IOR in relation to the provision of the Supply including without limitation public liability insurance and professional liability insurance.

7.2. Upon request by IOR, the Supplier must promptly provide IOR with certificates of currency evidencing its insurance.

## **8. Price**

- 8.1. IOR must pay the Supplier the Price for the Supply.
- 8.2. The Price is inclusive of all taxes and duties (except GST) and all costs incurred by the Supplier in providing the Supply, including all charges for packing, insurance and delivery of the Goods and the cost of any items used or supplied in the performance of the Services.
- 8.3. If GST is imposed on any supply made by the Supplier under the Agreement, the Supplier may recover from IOR, in addition to the Price, an amount equal to the GST payable in respect of that Supply. The Supplier must first provide IOR with a valid tax invoice before IOR will pay the GST amount to the Supplier.

## **9. Invoicing**

- 9.1. Upon delivery of the Goods and completion of the Services, the Supplier must provide to IOR:
- 9.1.1. a valid tax invoice; or
- 9.1.2. where the Supplier has entered a RCTI Agreement with IOR, a Supplier Reference Document; which must include:
- 9.1.3. a reference to the Purchase Order including the line item numbers on the Purchase Order;
- 9.1.4. a detailed description of the Supply, including the date of delivery of Goods and period of Services;
- 9.1.5. the Price, broken down to reflect the same Price components on the Purchase Order; and
- 9.1.6. the amount of any applicable GST.
- 9.2. Upon request by IOR, the Supplier must promptly provide IOR with all relevant records to verify the amount set out in any Supplier Reference Document or invoice.
- 9.3. IOR will generate a Recipient Created Tax Invoice upon receipt of a Supplier Reference Document that complies with clause 9.1.
- 9.4. IOR must pay all invoices within 30 days of their generation or receipt (as the case may be), provided that IOR may withhold payment due to the Supplier if:
- 9.4.1. the Supply (or any part of the Supply) suffers from a material Defect or Defects, including any Defect that, if known to IOR at the time it ordered the Supply, it would not have proceeded with the order;
- 9.4.2. the invoice does not comply with clause 9.1; or

- 9.4.3. IOR disputes the invoice, in which case IOR must pay any undisputed portion of the invoice and, if the resolution of the dispute determines that IOR must pay an amount to the Supplier, IOR must pay that amount upon resolution of that dispute.

## **10. Quality**

- 10.1. The Supply must:
- 10.1.1. match the description in the Purchase Order;
- 10.1.2. be of the same nature and quality as any sample of the Goods or demonstration of the Services provided by the Supplier to IOR; and
- 10.1.3. be fit for its intended purpose or for any other purpose specified by IOR in the Purchase Order.
- 10.2. The Goods must be of merchantable quality and new (unless otherwise specified in the Purchase Order).

## **11. Warranty**

- 11.1. If, during the Warranty Period, the Supply or any part of the Supply is found to be Defective, IOR may:
- 11.1.1. (if Goods), return the Defective Goods to the Supplier and require their prompt repair or replacement at the Supplier's cost or a refund; and
- 11.1.2. (if Services), reject the Defective Services and require their re-performance at no additional cost to IOR or a refund.
- 11.2. The Supplier must ensure that IOR has the full benefit of any manufacturer's warranties for Goods.

## **12. Termination**

- 12.1. IOR may immediately terminate the Agreement by giving the Supplier written notice if:
- 12.1.1. the Supplier breaches a material term of the Agreement that is not capable of remedy; or
- 12.1.2. the Supplier fails to remedy any breach of the Agreement capable of remedy within 7 days of receiving a notice to remedy the breach from IOR.
- 12.2. If IOR terminates the Agreement in accordance with clause 12.1, the Supplier must cease providing the Supply and use all reasonable endeavours to mitigate the Supplier's costs and expenses.

## **13. Governing Law**

These Terms are governed by the laws of the State or Territory from which the Purchase Order was issued. The parties agree to submit to the non-exclusive jurisdiction of the courts of the State or Territory from which the Purchase Order was issued.