

1 DEFINITIONS

In these terms and conditions unless the context otherwise requires, the following definitions will apply:

Australian Standards means any Australian Standard (as amended or replaced) issued by Standards Australia applying directly or indirectly to the Goods;

Confidential Information means information of or supplied by Multiworks, that:

- (a) is by its nature confidential;
- (b) is designated by Multiworks as confidential or
- (c) the supplier knows or ought to know is confidential,

And includes information:

- (d) comprised or relating to any Intellectual Property Rights of Multiworks;
- (e) that is of actual or potential commercial value to Multiworks; or
- (f) relates to clients or other suppliers of Multiworks.

Contract means the legally binding contract between the Supplier and Multiworks constituted by the documents specified in clause 2.1.

Defective Goods means Goods which are not in conformity with the Purchase Order or are otherwise defective in design, performance, workmanship or makeup or not fit for purpose;

Delivery means the physical receipt of possession and control of the Goods from the Supplier by Multiworks, or an agent nominated by Multiworks (whether by way of Supplier Delivery or Multiworks Pick-Up), in satisfaction of the Supplier's obligations under the Purchase Order, and Deliver and Delivered have corresponding meanings;

Delivery Date means the date specified in the Purchase Order as the date by which the Supplier must deliver the Goods to the Delivery Place (for Supplier Delivery) or make the Goods available for pick-up by Multiworks (for Multiworks Pick-Up) (as applicable)

GST means the goods and services tax imposed by the GST Legislation.

GST Legislation means *A New Tax system (Goods and Services Tax) Act 1999* (Cth)

Goods means the products or services described in the Purchase Order and all other things which can reasonably be inferred from the description of the Goods in the Purchase Order;

Insolvent Event means any one of the following circumstances where the Supplier:

- a) is (or states that it is) an insolvent under administration or insolvent (each defined under the Corporations Act 2001 (Cth));
- b) is in liquidation, provisional liquidation, under administration or wound up or has had a controller appointed to its property;
- c) is subject to any arrangement, assignment, moratorium or composition, protected from creditors under statute or dissolved;
- d) has an application or order has been made, resolution passed, proposal put forward, or any other action is taken which is preparatory to or could result in any of (a), (b) or (c) above;
- e) is the subject of an event described in section 459C(2)(b) or section 585 of the *Corporations Act 2001* (Cth); or
- f) something having a substantially similar effect to (a) to (e) happens under the law of any jurisdiction in relation to the Supplier which Multiworks reasonably believes may prejudice the Supplier's ability to supply Goods or to pass title in Goods to Multiworks;

Intellectual Property Rights means all present and future rights conferred by statute, common law or equity in or in relation to copyright, trademarks, designs, patents, inventions and other results of intellectual activity in any field whether or not registrable, registered or patentable.

Multiworks means the party identified as such in the Purchase Order.

Multiworks Pick-up means that Multiworks or its nominated agent is responsible for taking Delivery of the Goods from the Supplier as specified in the Purchase Order;

Place of Delivery means the place specified by Multiworks in the Purchase Order;

Place of Pick-up means the place specified by Multiworks in the Purchase Order;

Price means the rates or measures contained in the Purchase Order

Purchase Order means the written notice from Multiworks to the Supplier specifying the Goods and identified by a unique identifier

Supplier means the party identified as such in the Purchase Order

Supplier Delivery means that the Supplier is responsible for Delivery of the Goods to Multiworks at the Place of Delivery as specified in the Details;

Variation means:

- a) the inclusion of other goods as Goods to be supplied by the Supplier under the Purchase Order;
- b) a change in the character or quality of the Goods to be supplied under the Purchase Order; or
- c) an increase or decrease in the quantity of Goods to be supplied under the Purchase Order.

2 FORMATION OF CONTRACT

2.1 The following constitute the entire agreement between Multiworks and the Supplier:

- (a) the Order;
- (b) these Purchase Order Terms and Conditions;
- (c) the supplier's quote or offer, if any, to the extent that it was accepted under the Order; and
- (d) any other document, in whole or part, forming part of the Contract as agreed in writing between Multiworks and the Supplier.

2.2 The order of priority of the documents referred to in clause 2.1 shall be from (a) to (d), both inclusive.

2.3 These Purchase Order Terms and Conditions supersede all prior agreements and terms between Multiworks and the Supplier.

3 SUPPLY

3.1 The Supplier agrees to supply the Goods at or by the time specified in the Purchase Order or the Supplier's quote or offer, if any, to the extent it was accepted under the Purchase Order. If no time was specified, the Supplier agrees to supply the Goods within a reasonable time having regard to normal commercial practice.

3.2 Goods must not be supplied prior to receipt of a Multiworks Purchase Order.

3.3 The Supplier must supply and Deliver the Goods to Multiworks at the Place of Delivery or Place of Pick-up (as applicable) by the Delivery Date for the Price.

3.4 The Supplier acknowledges that it has read all documents and other information provided by Multiworks relating to the supply of the Goods and has fully satisfied itself of all conditions, risks, contingencies and other circumstances which might affect the supply of the Goods including all site conditions at the Place of Delivery or Place of Pick-up (as applicable), and to have made due allowance for these in the Price.

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3.5 All Goods supplied by the Supplier to Multiworks are supplied under these Purchase Order Terms and Conditions unless a separate written signed contract is entered into by Multiworks and Supplier which expressly excludes these Purchase Order Terms and Conditions.

3.6 Unless and until accepted by the Seller, the Purchaser Order will lapse after a period of 1 month or as specified in the Purchase Order.

4 WARRANTIES

4.1 The Supplier represents and warrants that when the Goods are supplied to Multiworks that they will:

- (a) be of merchantable quality, made from new material, and in good order and condition;
- (b) be delivered in a good, proper and workmanlike manner to the satisfaction of Multiworks and in the highest standards of the respective trades using industry best practice and other in accordance with the requirements of the Purchase Order.
- (c) comply in all respects with the Purchase Order, including any specifications or other requirements included with the Purchase Order;
- (d) be fit for the purpose made known to the Supplier by Multiworks or, if none was made known to the Supplier, be fit for the purpose:
 - (i) for which goods of that kind are ordinarily used;
 - (ii) which should reasonably have been inferred by the Supplier having regard to the nature of the Goods, the Purchase Order and any communications with Multiworks;
- (e) comply with all applicable Australian Standards or where there is no applicable Australian Standard then all applicable International Standards;
- (f) comply with the provisions of any current law or legislation applicable to them;
- (g) be free from defects for:
 - (i) a minimum of 2 years from the date the Goods are put into service; or
 - (ii) the period specified in the Purchase Order, whichever is longer.

4.2 The warranties in clause 4.1 are in addition to any warranties which are or may be implied under any current legislation applicable to the Goods that has not been expressly excluded in this Purchase Order.

4.3 Any Goods which in the opinion of Multiworks do not comply with the warranties in clause 4.1 shall be removed at the Supplier's expense in such time as fixed by Multiworks and if not removed in that time, Multiworks shall not thereafter be responsible for the care and custody of such Goods.

5 PRICE AND PAYMENT

5.1 The Price is fixed and will not be subject to adjustment for rise and fall, exchange rate variations or any changes in general or market specific economic conditions.

5.2 Except as expressly provided in the Purchase Order, the Price includes all taxes, duties, levies and fees (including GST) which are payable in relation to the supply and delivery of the Goods. The Supplier must pay such taxes, duties, levies and fees.

5.3 The Price will not be varied for any reason except where expressly agreed in writing, signed by an authorised representative of Multiworks.

5.4 Payment is not evidence of the value of the Goods or an admission of liability or that the Goods are satisfactory but is a payment on account only.

6 INVOICING

6.1 Upon Delivery of the Goods, the Supplier must invoice Multiworks for the Goods. The Supplier must not invoice Multiworks for

Goods which have not been delivered. If GST is payable and included in the Price, the invoice must be in the form of a valid tax invoice. All invoices must be itemised and be in a form which clearly indicates any GST component already paid by the Supplier for which Multiworks is entitled to claim an input credit.

6.2 The Supplier shall adhere to the below invoicing requirements.

- (a) All invoices issued by the Supplier under this Purchase Order must be sent electronically in pdf format to Multiworks at accounts@multiworks.com.au.
- (b) Tax invoices must be submitted as individual attachments, ensuring that a separate invoice references each purchase order. Invoices must include the supplier ABN, quote a valid Purchase Order number and be received by our accounts team by the 25th of the payment month.
- (c) The Seller must provide supporting information, delivery dockets, signed labour or plant timesheets or any other substantiation or documentation as otherwise requested.
- (d) Monthly Statements of Account are to be sent by the 3rd of the payment month for reconciliation.

6.3 Multiworks will pay the Supplier the Price for Goods delivered and invoiced within 30 days of the end of the month in which the invoice for those Goods is received at accounts@multiworks.com.au, provided that within that period no credit is sought by Multiworks in respect of Goods subject of the invoice. In the event a credit is sought on a particular invoice, Multiworks will pay the Price, less the amount of credit due, upon receiving the relevant credit note from the Supplier or the credit request being otherwise determined. Other payment terms will not be made unless a prior written arrangement is made with a Multiworks Director.

7 VARIATION

7.1 Multiworks may direct the Supplier by a notice in writing to perform a Variation.

7.2 Within 10 business days of Multiworks issuing a notice under clause 7.1, the Supplier must advise Multiworks how much the Variation will cost and the timeframe for it to be performed.

7.3 If Multiworks accepts the terms of the Variation proposed by the Supplier in accordance with clause 7.2, the Supplier must proceed with the Variation.

8 GENERAL DELIVERY OBLIGATIONS

8.1 Multiworks may refuse to accept Delivery at any time if the Goods do not comply with this Purchase Order.

8.2 The Supplier is to provide detailed delivery dockets with every Delivery. The Supplier acknowledges that failure to comply with the delivery docket requirements may delay or preclude acceptance and payment for the Goods.

8.3 Multiworks may, at any time, and for any reason whatsoever, by notice in writing to the Supplier extend the time for completion of Delivery of the Goods (but is not required to do so for the benefit of the Supplier).

8.4 If the Supplier reasonably believes that the Goods (or part thereof) will not be delivered by the Delivery Date, the Supplier must give Multiworks immediate notice of that fact.

8.5 The Supplier must take all reasonable steps to minimise the effect of any delay on the supply of Goods. If the Supplier gives notice under clause 8.4 Multiworks may at its absolute discretion:

- (a) extend the time for Delivery of the Goods, by notifying the Supplier of a later Delivery Date (but is not required to do so for the benefit of the Supplier);
- (b) refuse to take Delivery of the Goods; or
- (c) cancel the relevant Purchase Order(s) without liability to Multiworks.

9 DELIVERY OF GOODS BY SUPPLIER

9.1 This clause 9 applies if the Supplier is responsible for Delivery to the Place of Delivery (Supplier Delivery).

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9.2 The Supplier must deliver the Goods to the Place of Delivery by the Delivery Date and during the Delivery Hours

9.3 The cost of delivery of the Goods to the Place of Delivery (including all transport costs and reasonably appropriate insurance cover), and all packing, loading and unloading is included in the Price for the Goods.

9.4 If the Goods are not delivered to the Place of Delivery by the Delivery Date, the Supplier will be in breach of this Purchase Order and:

- (a) the Supplier must pay, as a debt immediately due and payable, liquidated damages at the rates specified in the Purchase Orders, from the Delivery Date to the date of Delivery of the Goods;
- (b) where liquidated damages are not specified in the Purchase Order or are unenforceable for any reason, the Supplier will be liable to Multiworks for all reasonable loss, cost, expense and damage suffered by Multiworks arising out of or in connection with such breach;
- (c) Multiworks may, without prejudice to its other rights, terminate the whole or part of the relevant Purchase Order(s).

9.5 The Supplier must comply with all safety, quality and environmental requirements of Multiworks relating to the Supplier's conduct at the Place of Delivery and otherwise comply with all laws and regulations relating to health, safety and the environment.

10 PICK UP OF GOODS BY MULTIWORKS

10.1 This clause 10 applies if the Supplier is responsible for making the Goods available for collection at the Place of Pick-up (Multiworks Pick-up).

10.2 The Supplier must make the Goods available for Multiworks (or its nominated agent) to collect at the Place of Pick-up by the Delivery Date

10.3 If the Goods are not made available for collection at Place of Pick-up by the Delivery Date, the Supplier will be in breach of this Purchase Order and:

- (a) the Supplier must pay, as a debt immediately due and payable, liquidated damages at the rates specified in the Purchase Order, from the Delivery Date to the date of Delivery of the Goods; and
- (b) where liquidated damages are not specified in the Purchase Order or are unenforceable for any reason, the Supplier will be liable to Multiworks for all loss, cost, expense and damage suffered by Multiworks arising out of or in connection with such breach;
- (c) Multiworks may, without prejudice to its other rights, termination the whole or part of the relevant Purchase Order(s).

11 RISK AND TITLE

11.1 The Supplier warrants that it has unencumbered ownership of, and title to, the Goods and the Goods are free of any liens, charges and encumbrances.

11.2 Unencumbered title and risk in the Goods will pass to Multiworks on Delivery of the Goods.

12 ACCEPTANCE OR REJECTION OF GOODS

12.1 Multiworks is not obliged to accept early Delivery of the Goods. If Multiworks does not accept early Delivery of the Goods, the Supplier must, at its cost, hold the Goods in store until the Delivery Date. Multiworks is not obliged to accept any Goods in excess of the quantity specified in this Purchase Order.

12.2 If Multiworks or any of its representatives signs a delivery docket or other document required by the Supplier to acknowledge delivery, Multiworks will not be taken to have accepted the Goods as being in accordance with this Purchase Order (whether as to quality or quantity). This applies notwithstanding any terms and conditions appearing on any such acknowledgment of delivery.

12.3 The Supplier must deliver to Multiworks all applicable ITP's, material safety data sheets (MSDS) and Operation and Maintenance Documents applicable to the Goods.

13 RETURN OF GOODS

13.1 If, within a reasonable time of Delivery, it is apparent to Multiworks that the Goods or any part of the Goods do not conform with the Purchase Order, Multiworks may return those Goods to the Supplier.

13.2 If Multiworks exercises its power under clause 13.1, then without limiting Multiworks rights under the Purchase Order or otherwise at law, the Supplier must:

- (a) where an invoice has been Issued in relation to returned Goods, but the invoice in question is unpaid, issue a credit note in respect of the invoice in question;
- (b) where Multiworks has paid for the returned Goods, repay any amounts paid by Multiworks for the Goods so returned; and
- (c) pay Multiworks any reasonable costs incurred, or losses suffered by Multiworks in connection with the delivery or return of those Goods.

13.3 If Multiworks determines that any Goods are no longer required for any reason, are excess to its requirements or with Goods supplied by the Supplier on a regular basis, Multiworks is overstocked, then Multiworks may return such excess Goods to the Supplier and the Supplier will credit Multiworks' account the invoiced cost of such Goods, provided that:

- (a) Multiworks pays the cost of return freight;
- (b) the Goods are unmarked and returned in original packaging; and
- (c) the Supplier has a reasonable prospect of selling the returned Goods.

14 DEFECTIVE GOODS

14.1 If the Goods are or become defective in any way, Multiworks may (without limiting Multiworks rights under the Purchase Order (or otherwise at law) in its absolute discretion, by notice to the Supplier:

- (a) require the Supplier to replace or repair the Defective Goods at the Supplier's cost and within a reasonable period (including if necessary, uninstalling or removing the Defective Goods);
- (b) replace or repair the Defective Goods or engage a third party to replace or repair the Defective Goods and in either case, the cost of doing so will be a debt immediately due and payable by the Supplier to Multiworks
- (c) uninstall or remove the Defective Goods or engage a third party to uninstall or remove the Defective Goods and in either case, the cost of doing so will be a debt immediately due and payable by the Supplier to Multiworks;
- (d) reject and/or return the Defective Goods and will be entitled to a full refund of any amounts paid for the Defective Goods and will be entitled to cancel that part of the Purchase Order without cost to Multiworks.

15 OCCUPATIONAL HEALTH, SAFETY & ENVIRONMENT

15.1 The Supplier must comply with all health, safety and environmental (HSE) requirements of Multiworks relating to the Supplier's conduct at the Place of Delivery and otherwise comply with all laws and regulations relating to health, safety and the environment.

15.2 Multiworks, at its absolute discretion, may remove, reject or suspend the Suppliers contractors, employees or agents should they not comply to the HSE requirements. This includes the adherence to PPE requirements.

16 INSURANCE AND INDEMNITY

16.1 Unless Multiworks expressly agrees otherwise in writing, the

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Supplier must procure and maintain the following Insurances:

- (a) **Public and products liability insurance** written on an occurrence basis with a limit of indemnity of not less than \$20,000,000 for each and every occurrence and, in the case of product liability, no less than \$20,000,000 in the aggregate during any 12 month period of insurance which covers the liability of the Supplier in respect of bodily injury to any third party, third party property damage and advertising liability.
- (b) **Motor vehicle insurance**, covering all mechanically propelled vehicles that are registered, or capable of being registered, for road use and are at any time used in connection with the Purchase Order;
- (c) **Workers compensation insurance** as required by law in each of the States or territories the Goods are being provided.

16.2 The Supplier indemnifies Multiworks against any action, liability, costs, damages or expenses suffered or incurred by Multiworks as a consequence of any action or omission by the Supplier, its contractors, employees or agents, including supply of Defective Goods.

17 CONFIDENTIALITY

- 17.1 Without the prior written consent of Multiworks, the Purchase Order must be treated as confidential and must not be disclosed to any person, unless required by law, or be used for advertisement, display or publication.
- 17.2 The Supplier will and will ensure that its employees, subcontractors and agents shall treat as Confidential Information and not disclose it, any information provided, or available to the Supplier as a consequence of entering this agreement.
- 17.3 All tools, patterns, materials, drawings, specifications and other data provided by Multiworks in connection with the Purchase Order:
 - (a) remain the property of Multiworks (except that the Supplier is responsible for making good any damage done to them while they are in the possession of the Supplier);
 - (b) must be used solely for the purpose of the Purchase Order;
 - (c) must not be passed to or divulged to any third party except with the express consent of Multiworks in writing; and
 - (d) must be returned by the Supplier to Multiworks on completion of this Purchase Order.

18 INTELLECTUAL PROPERTY RIGHTS

- 18.1 The Supplier warrants that it has all Intellectual Property Rights necessary to supply the Goods in accordance with the Agreement and indemnifies Multiworks against any Loss suffered or incurred by Multiworks as a consequence of any claim by a third party that it has a right to any property or Intellectual Property Right in the Goods.
- 18.2 The Supplier grants Multiworks a perpetual, non-transferable, royalty-free license of any Intellectual Property Rights required in order to use, consume or sell the Goods in the manner reasonably intended by Multiworks at the Date of the Purchase Order.

19 TERMINATION

- 19.1 Multiworks may suspend all or part of the supply of the Goods at any time for any period of time by giving notice to the Supplier. The Supplier must comply with the notice and recommence supply when notified by Multiworks. The Supplier will not be entitled to any additional payment arising as a result of the suspension.
- 19.2 Multiworks may terminate the Purchase Order immediately by notice in writing to the Supplier if the Supplier:
 - (a) commits a material breach of the Purchase Order and does not remedy the breach within 10 business days of being required to do so by Multiworks (or any longer

period as the parties may agree in writing); or

- (b) commits an Insolvent Event.

19.3 Multiworks may terminate the Purchase Order at any time and for any reason by giving notice in writing to the Supplier. Subject to any rights Multiworks may have of set off or deduction, upon termination Multiworks only obligation will be to pay the Supplier for Goods which have been Delivered in accordance with the Purchase Order prior to the date of termination.

20 GENERAL

- 20.1 No waiver by Multiworks of a breach of the Purchase Order by the Supplier constitutes a waiver for any subsequent or continuing breach by the Supplier.
- 20.2 The Order and these Terms and Conditions shall be construed in accordance with the laws of Victoria and Multiworks and Seller submit to the exclusive jurisdiction of the courts of Victoria in Melbourne.
- 20.3 If any provision or part of any provision, of the Purchase Order is invalid or otherwise unenforceable that provision or that part of the provision will be severed from the Purchase Order and the remainder of the Purchase Order will continue to be effective and valid notwithstanding such severance.
- 20.4 The Supplier must not, without the prior written approval of Multiworks, assign, subcontract or deal with its interest under the Purchase Order to a third party. Any such approval will not relieve the Supplier of its obligations under this Purchase Order.
- 20.5 If any part of the Contract is determined to be invalid, unlawful or unenforceable for any reason then that part, to the extent of the invalidity, unenforceability or unlawfulness, will be severed from the rest of the Contract and the remaining terms and conditions will continue to be valid and enforceable to the fullest extent permitted by law.
- 20.6 No rule of construction will apply to a clause to the disadvantage of a party merely because that party put forward the clause or would otherwise benefit from it.
- 20.7 The Supplier must do all things reasonably required by Multiworks to give effect to the Contract.