

GENERAL TERMS AND CONDITIONS (INDIRECT PROCUREMENT)

1. PURCHASE ORDER AND DELIVERY

- 1.1. These terms and conditions apply where there is no express contract between Elders and the Supplier for the supply of goods or services to Elders. Where there is an express contract, that other contract applies to the exclusion of these terms and conditions.
- 1.2. Subject to clause 1.4, the Supplier agrees to supply and Elders agrees to accept the supply of the goods or services (collectively, **Products**) listed in this **Purchase Order**.
- 1.3. If the Purchase Order does not specify a quantity or value of Products to be purchased by Elders, then Elders will not be bound to purchase any specific or minimum quantity or value of Products. The Supplier must only invoice Elders for the quantity of Products actually supplied to Elders in response to a request from Elders.
- 1.4. Elders may withdraw the Purchase Order at any time prior to its acceptance by the Supplier.
- 1.5. The Supplier accepts a Purchase Order as soon as the first of the following occurs:
 - 1.5.1 the Supplier tells Elders that it accepts the Purchase Order; or
 - 1.5.2 the Supplier delivers the Products the subject of the Purchase Order.
- 1.6. A Purchase Order which has been accepted by the Supplier can only be varied by mutual agreement.
- 1.7. The Supplier must deliver the ordered Products to the delivery location specified in the Purchase Order on the delivery date (or earlier with Elders' prior written consent).
- 1.8. If the Supplier cannot deliver the Products by the stipulated delivery date, Elders may elect, at its discretion, whether to place the ordered Products on back order for delivery on a later delivery date or cancel the Purchase Order and receive a full refund of any amounts paid.
- 1.9. Each Delivery must be accompanied by:
 - 1.9.1 delivery dockets marked with the Purchase Order number, a description of the Products, the quantity of Products, the Supplier's details including name, address, telephone number and facsimile number, the address of the delivery point and any other address to which the ordered Products are to be supplied or charged, and the dispatch date and the dispatch number;
 - 1.9.2 a copy of the packing list (within each package of the ordered Products); and
 - 1.9.3 any other document that is required to be provided under any law or pursuant to a reasonable direction by Elders.
- 1.10. Elders may reject any ordered Products if Elders (acting reasonably) considers any of the warranties in these terms and conditions are untrue or have been breached, or if the delivered Products do not conform with this Purchase Order. Elders' acceptance of the ordered Products will not waive, limit or prejudice any rights, powers or remedies Elders may have as a result of a breach of any of the warranties, any law.

2. TITLE AND RISK

- 2.1. Risk in the ordered Products will pass from the Supplier to Elders on delivery of the ordered Products.
- 2.2. Title to the ordered Products will pass from the Supplier to Elders on payment of the purchase price for those ordered Products.

3. PURCHASE PRICE AND INVOICING

- 3.1. Elders will pay the purchase price for the ordered Products prior to the due date specified on the Supplier's tax invoice. The purchase price will be in line with any agreed pricing between Elders and the Supplier or, if there is no agreed pricing, in accordance with the Supplier's advertised prices for the Products.
- 3.2. The supplier must issue invoices to the location advised by Elders, which may be an email address or, where agreed with the supplier, a web-based link.
- 3.3. Where the Supplier offers Elders a rebate or discount on its purchases, and that rebate or discount is capable of calculation by Elders, Elders may (in its discretion) elect to set off that rebate or discount against amounts otherwise owed by Elders.
- 3.4. The Supplier must reference this Purchase Order number on its Invoice. Failure to do this may result in extra time required to resolve and may cause payment delays. Elders will not be liable for any interest or other costs where it is late in paying an invoice because of the Supplier's failure to comply with this clause.

4. GST

- 4.1. If GST is payable by the Supplier on a supply of ordered Products to Elders, then, to the extent that the consideration is expressed as an amount of money (**the monetary consideration**) for that supply and is not stated to include an amount in respect of GST, the Supplier may increase the monetary consideration by the applicable amount of GST and Elders must pay that increased amount at the same time and to the same extent as any part of the monetary consideration that is payable to the supplier in respect of the supply.
- 4.2. If an amount paid to the Supplier on account of GST under this clause is greater than the GST actually payable by the Supplier, and Elders is liable to pay an amount of GST to the Commissioner on account of over claimed input tax credits, the Supplier indemnifies Elders to the extent of input tax credits over claimed.
- 4.3. Elders is not obliged to pay any GST to the Supplier unless a valid tax invoice has been issued.

5. WARRANTIES AND REMEDIES

- 5.1. The Supplier warrants as at the date of acceptance of the Purchase Order and again at delivery that:
 - 5.1.1 the Supplier is the legal and beneficial owner of the ordered Products and has the right to sell the ordered Products to Elders free from all mortgages, charges, encumbrances, liens and other third party rights and claims;
 - 5.1.2 the ordered Products are new, free from defects or contamination, of merchantable quality and fit for the purposes for which the ordered Products would ordinarily be used;
 - 5.1.3 the ordered Products conform with the Supplier's specifications and any particular specifications agreed in writing between Elders and the Supplier;
 - 5.1.4 the ordered Products conform with any description and any sample provided to Elders by or on behalf of the Supplier;
 - 5.1.5 the sale of the ordered Products to Elders will not infringe any law and the Supplier has all licences required by Law to sell and deliver the ordered Products to Elders; and
 - 5.1.6 the ordered Products and the use or operation of the ordered Products for the purpose for which the

ordered Products would ordinarily be used and any purpose agreed between Elders and the Supplier will not infringe the intellectual property rights of any person.

5.2. If the Supplier breaches any Warranties in respect of any ordered Products or Elders rejects any ordered Products under clause 1.10 then at Elders' discretion and upon demand from Elders the Supplier must at the Supplier's cost and expense and within reasonable time:

5.2.1 repair or modify those ordered Products to Elders' reasonable satisfaction;

5.2.2 replace those ordered Products; or

5.2.3 refund any amount paid by Elders to the Supplier in relation to those ordered Products.

5.3. Nothing in clause 5.2 limits Elders' other rights, powers or remedies against the Supplier, including to recover any loss or damage suffered as a result of any wilful or negligent act or omission of the Supplier.

6. CONFIDENTIALITY

Subject to clause **Error! Reference source not found.**, a party must keep confidential the terms of the Purchase Order, any negotiations and information relating to the Purchase Order and any other information passing between Elders and the Supplier (together, "**information**"), unless the information is in the public domain (other than by reason of a breach of this clause). However, a party may disclose information to an officer, employee, agent or representative, Related Body Corporate (as that term is defined in the Corporations Act 2001), professional adviser, insurer or financier, provided in each case that the recipient has a need to know the information. A party may also disclose information where required by law, by order of a court or under the rules of a securities exchange on which the party or its ultimate holding company is listed.

7. FORCE MAJEURE

Neither party is liable for the failure to perform their obligations under these terms and conditions to the extent and for so long as their performance is prevented or delayed because of an act of God (including lightning, storm, flood, fire, earthquake, explosion, cyclone, tidal wave, landslide, or adverse weather conditions), an act of public enemy, war, sabotage, blockage, revolution, riot, insurrection or civil commotion, or disruption to the supply of power, gas or water, provided in each case the event is not

caused by and must be beyond the control of the party whose performance is adversely affected by the event.

8. GOVERNING LAW

These terms and conditions are governed by the laws of South Australia. The courts of South Australia or the Federal Court of Australia (Adelaide Registry) have non-exclusive jurisdiction in connection with the Contract.

9. MISCELLANEOUS

9.1. If a provision of these terms and conditions would, but for this clause, be unenforceable the provision must be read down to the extent necessary to avoid that result or, if the provision cannot be read down to that extent, it must be severed without affecting the validity and enforceability of the remainder of these terms and conditions.

9.2. No rule of construction applies to the disadvantage of a party because that party put forward these terms and conditions or any portion of them.

9.3. Words defined in the GST Law have the same meaning in clauses concerning GST.

9.4. If a person is a member of a GST group, references to GST for which the person is liable and to input tax credits to which the person is entitled include GST for which the representative member of the GST group is liable and input tax credits to which the representative member is entitled.

9.5. References to GST extend to any notional liability of any person for GST and to any amount which is treated as GST under the GST Law, and references to an input tax credit extend to any notional input tax credit to which any person is entitled.

9.6. A reference to a document or legislation includes a reference to that document or legislation as varied, amended, novated or replaced from time to time.

9.7. No party may disclose information of the kind referred to in s.275(1) of the Personal Property Securities Act 2009 (PPSA) (except where required by s.275(7) of the PPSA). The parties agree not to authorise the disclosure of such information.

9.8. Nothing in sections 120, 126, 128 or Division 6 of Part 4.3 of the PPSA applies to this Contract or any security under this Contract.