

1 Definitions

Act means the *Modern Slavery Act 2018* (Cth).
Consideration has the meaning given by the GST Law.
Fit and Proper Person means:
 (a) in the case of an individual, a person who:
 (i) has not been declared bankrupt or entered into a personal insolvency agreement with their creditors;
 (ii) a person who is not a direct competitor of a party to this Agreement;
 (iii) has not been convicted of a serious crime;
 (iv) has not been banned from managing corporations under any relevant law;
 (v) has not committed an act which would be reasonably be expected to bring a party to this Agreement into disrepute; or
 (b) in the case of a body corporate, a person:
 (i) which has not been the subject of an Insolvency Event; or
 (ii) which the key individual(s) associated with that body corporate would meet the requirements of a Fit and Proper Person for the purposes of paragraph (a) of this definition.

GST Law means the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).
Insolvency Event has the meaning given in clause 18.2(c).
Modern Slavery has the meaning given by the Act.
Non-Excludable Obligations has the meaning given in clause 14.1.
Orora Sites means the delivery locations specified in the Purchase Order or as otherwise notified by Orora to the Supplier from time to time.
Product Specifications means the specifications agreed between the parties from time to time.
Products means all goods, products and services (including but not limited to consultancies and maintenance) covered by the Purchase Order, including new materials, processed materials or fabricated products.
Purchase Order means any purchase order lodged by Orora with the Supplier for the purchase of Products.
Purchaser means the person, firm, partnership, company or other legal entity to which the Purchase Order is issued and includes its servants, agents and sub-contractors.
Tax Invoice has the meaning given by the GST Law.
Taxable Supply has the meaning given by the GST Law excluding the reference to section 84-5 of the GST Law.
Taxes means any present or future tax, withholding tax, levy, impost, duty, charge, assessment or fee of any nature (including interest, penalties and additions thereto) imposed by any government or other taxing authority in respect of any payment under this Agreement, but does not include GST.
Third Party means a person that is not a party or a related body corporate of a party.
Third Party Purchaser means a Third Party who is a Fit and Proper Person and who purchases all or substantially all of the business or assets of a party during the Term of this Agreement.

2 Entire Agreement

2.1 These Conditions of Purchase, the Purchase Order and any applicable Specifications agreed by the Parties, represent the entire agreement between the parties and the Supplier shall, by accepting the Purchase Order, be bound by these Conditions of Purchase. These Conditions of Purchase shall apply to the exclusion of all other terms and conditions, whether contained in the Supplier's invoice or conditions of sale or otherwise.

3 Pricing and costs

3.1 The purchase price of the Products payable by Orora shall be that specified in the Purchase Order and shall be fixed firm, and cannot be varied without prior written agreement between the parties.
 3.2 The purchase price specified in the Purchase Order shall be on a DDP basis (as defined in Incoterms 2010) unless otherwise agreed.
 3.3 Without limiting any of Orora's rights under this Agreement or under any law, in respect of any moneys due and payable by Orora to the Supplier for the Products, Orora is entitled to deduct from or set off against those moneys any bona fide claim which Orora may have against the Supplier or any of its related bodies corporate, whether as a result of a breach of this Agreement or otherwise.

4 Terms of Payment

4.1 The terms of payment unless otherwise stated on the Purchase Order are 62 days from the completion of the month of invoice.

5 GST and taxes

5.1 All Prices and other amounts specified in this Agreement or any Purchase Order, (other than in the calculation of Consideration) are exclusive of GST but inclusive of all other Taxes unless otherwise stated.
 5.2 If GST is payable on a Taxable Supply made in connection with this Agreement, the party providing the Consideration for that Taxable Supply must also pay the GST Amount as additional Consideration. This clause does not apply to the extent that the Consideration for the Taxable Supply is expressly agreed to be GST inclusive.
 5.3 No payment of any amount pursuant to clause 5.2 and no payment of the GST Amount where the Consideration for a Taxable Supply is expressly agreed to be GST inclusive, is required until the Supplier has provided a Tax Invoice or Adjustment Note as the case may be to Orora.
 5.4 Where the Supplier makes or gives Supplier Allowances and other Adjustment Events occur in respect of amounts paid or payable by Orora under these Condition of Purchase, the Supplier must promptly issue any Adjustment Notes that may be required under the GST law. If the amount of GST is reduced, the Supplier must refund to Orora any GST Orora has overpaid.

6 Purchase orders and delivery

6.1 To obtain supplies of the Products, Orora may issue a Purchase Order to the Supplier, setting out the quantity of the Products required, the time and date of delivery of the Products, and the Orora Site(s) to which the Products are to be delivered. The Products must be delivered by the Supplier in accordance with these Conditions of Purchase and the applicable Purchase Order.
 6.2 Orora will not be responsible for any order unless it is issued on a Purchase Order. No variation of a Purchase Order will be effective unless approved in writing by Orora. The number appearing on the Purchase Order must be quoted on all invoices, delivery dockets and parcels.
 6.3 Orora may, acting reasonably, vary the time, date or place of delivery specified in a Purchase Order by notice in writing to the Supplier prior to delivery within 48 hours' written notice.
 6.4 Time is of the essence in so far as it applies to all obligations of the Supplier under this Agreement. Without prejudice to any other rights which Orora may have pursuant to this Agreement, if any Products are not delivered within the delivery time specified in the relevant Purchase Order (or

such later date as agreed to by Orora, acting reasonably), then Orora may either:

- (a) refuse to accept such Products and terminate the Purchase Order in accordance with clause 19; or
 - (b) require the Supplier to deliver the Products by the most expeditious means, whereupon any additional delivery charges must be paid by the Supplier.
- 6.5 If any Products are not delivered to the Orora Sites specified by Orora (or otherwise agreed to between the parties), the Supplier will be responsible for any additional expense incurred in delivering them to their correct destination.
- 6.6 Orora is entitled to reject any Products that do not conform in any way whatsoever to the Purchase Order (**Defective Products**) by written notice to the Supplier within 21 days after receipt. The Supplier must (at its own cost) collect the Defective Products from Orora and, at Orora's sole option, either:
- (a) immediately replace the Defective Products with Products that conform with the requirements of this Agreement; or
 - (b) reimburse Orora the full purchase price for the Defective Products and any reasonable costs incurred by Orora in connection with the rejection of such Defective Products.
- 6.7 Without prejudice to Orora's rights under this Agreement, Orora may, in its absolute discretion, accept delivery of the Defective Products at a discounted price (as agreed between the parties).
- 6.8 Nothing in this clause 6 is deemed to affect in any way the liability of the Supplier to Orora under any other provisions of this Agreement in respect of the supply of Defective Products.

7 Inspection prior to dispatch

- 7.1 The Supplier must permit Orora to enter any premises at which it manufactures the Products, upon reasonable notice and during normal business hours, to inspect the Products prior to their dispatch. Orora may, acting reasonably, reject any work performed or Products that do not conform with a Purchase Order or Product Specifications and require that such products be reproduced or works reperformed at no additional cost to Orora. Any such inspection does not relieve the Supplier of any obligations contained in a Purchase Order, this Agreement or at law.

8 Title and risk

- 8.1 Without prejudice to any right of rejection or other rights which Orora has under this Agreement, title to and risk of loss in the Products will pass to Orora on delivery by the Supplier to the relevant Orora Site.

9 Sub-Contracting and Assignment

- 9.1 Subject to clause 20, the Supplier shall not assign its rights or obligations hereunder or sub-contract any work to be performed pursuant to the Purchase Order without the prior written consent of Orora.
- 9.2 Orora's consent to the Supplier sub-contracting any work to be performed pursuant to the Purchase Order shall not relieve the Supplier of its responsibility for the whole of the work to be performed pursuant to the Purchase Order or of any obligations contained in the Purchase Order or at law.

10 Packaging, Storage & Hazardous Products

- 10.1 The Products shall be properly packed to avoid being damaged during delivery or loading and unloading. All packages shall be clearly marked with the Purchase Order number and the location of delivery.
- 10.2 All Products which are hazardous must be marked by the Supplier with international danger symbol(s) and display

the name of the material in English. Products classified as "Dangerous Goods" in accordance with the Australian Dangerous Goods (ADG) Code must be marked in accordance with that Code. Delivery and other documents must include disclosure of the hazard(s) and name the material in English. Products must be accompanied by emergency material in English in the form of written instructions, labels or markings and Material Safety Data Sheets.

- 10.3 All information held by or reasonably available to the Supplier regarding any potential hazards or special requirements known or believed to assist in the transport, packaging, storage, handling or use of the Products shall be immediately communicated to Orora.
- 10.4 The Products shall be packed, in the case of dangerous Products, to comply with the requirements of the ADG Code and marked accordingly with the relevant approvals. Such packaging shall also be marked with the appropriate information required by the ADG Code. In all other cases, the Products shall be packed in accordance with any packaging requirements or specifications communicated by Orora to the Supplier. Any proposed alteration to Orora's packaging requirements or specification shall be subject to Orora's prior approval.
- 10.5 Where required by Orora or at law, the Supplier shall provide all necessary Certificates of Conformance, Certificates of Analysis and Test Certificates together with the Code deliver pursuant to the Purchase Order.

11 Compliance with laws & policies

- 11.1 All employees, agents or sub-contractors of the Supplier required to attend an Orora Site must comply with all Orora policies that are implemented by Orora from time to time and comply with any reasonable written or oral instructions given by Orora Site management while attending an Orora Site.
- 11.2 The Supplier must comply with all applicable Federal, State and Local Government laws, rules, statutory and legal requirements and regulations relating to the safety, manufacture, production, importation, packaging, labelling, transportation, delivery, unloading, and sale of the Products and the nature, substance, quality, weight and measurement of the Products.
- 11.3 The Supplier must comply with all applicable laws, rules, industrial instruments and statutory and legal requirements and regulations relating to occupational health and safety and labour, including but not limited to the payment of minimum wages and entitlements.
- 11.4 The Supplier agrees to notify Orora immediately if the Supplier becomes aware that it has breached Orora's Code of Conduct and Ethics Policy or Orora's Supplier Code of Conduct and Ethics Policy, each available on Orora's website during the Term (as renewed or varied from time to time).
- 11.5 The Supplier is responsible for obtaining, at its own cost, any licence, concession, permit, approval, authority or consent required in relation to the safety, manufacture, production, importation, packaging, labelling, transportation, delivery, unloading, and sale of the Products.

12 Insurance

- 12.1 For the duration of this Agreement, the Supplier must arrange and maintain at its own expense Public and Product liability insurance for an amount not less than \$20 million for the Supplier's own risk and that of its own employees, agents and subcontractors including without limitation, workers' compensation.
- 12.2 Confirmation consisting of a certificate of currency shall be provided, on request, to Orora. The Supplier shall not at any

time do or suffer anything to be done whereby such insurance may be rendered void or voidable.

13 Warranties

- 13.1 The Supplier warrants that all Products which it supplies to Orora under this Agreement will:
- (a) meet the Product Specifications and all other requirements set out in this Agreement or in a relevant Purchase Order;
 - (b) strictly conform to any description or sample of the Products provided to Orora by the Supplier;
 - (c) be of merchantable quality and fit for any purpose which Orora makes known to the Supplier (expressly or impliedly) or for which the Products are commonly supplied;
 - (d) be safe and free from defects in design, material and workmanship;
 - (e) be free from all security interests of third persons (and that the Supplier has clear title thereto);
 - (f) not infringe any Intellectual Property Rights of any third person, and the Supplier further warrants that the sale or use of the Products by Orora or any other person will not amount to such an infringement;
- 13.2 Where Orora agrees to accept non-conforming items in place of specified items, the Supplier will provide a negotiated discount as compensation for the non-conformance.
- 13.3 The Supplier warrants that it is presently in compliance, and will continue to comply with, Orora's Code of Conduct and Ethics Policy and Supplier Code of Conduct and Ethics Policy, each available on Orora's website during the Term (as renewed or varied from time to time).
- 13.4 The warranties set out in this clause 13 are in addition to any other warranties or guarantees contained in a Purchase Order or implied by law or provided by the Supplier.
- 13.5 Notwithstanding any other rights which Orora may have under this Agreement or at law, if the Supplier breaches any of the warranties set out in this clause 13, Orora may at its option:
- (a) require the Supplier to resupply the Products at the Supplier's cost (including all transport, delivery and other costs which may be incurred by Orora in storing and returning unsatisfactory Product to the Supplier) within a reasonable time; or
 - (b) terminate the relevant Purchase Order and require the repayment by the Supplier of any amounts which Orora may have made pursuant to that Purchase Order in respect of Products that have not yet been supplied.

14 Release and indemnity

- 14.1 If a supply to Orora is a supply of goods or services to a consumer within the meaning of the Australian Consumer Law (contained in Schedule 2 to the *Competition and Consumer Act 2010* (Cth) and any equivalent law), nothing contained in this Agreement excludes, restricts or modifies the application of any provision, the exercise of any right or remedy, or the imposition of any liability under the Australian Consumer Law (or any other law), the exclusion, restriction or modification of which would contravene that law or cause any term of this Agreement to be void (**Non-Excludable Obligations**).
- 14.2 In addition to any Non-Excludable Obligation, the Supplier hereby indemnifies, releases and holds Orora, its directors, officers, employees, related bodies corporate and agents harmless from and against all actions, claims, charges, costs (including those incurred by Orora resulting from a Product Recall), expenses (including legal fees), losses, damages and other liabilities whatsoever arising in connection with:

- (a) a breach of this Agreement by the Supplier;
- (b) any claim by a third party alleging infringement of any intellectual property rights in relation to the Products or any work to be performed pursuant to the Purchase Order;
- (c) a breach of any of the warranties set out in clause 13;
- (d) the Supplier's negligence;
- (e) any other conduct, act or omission by the Supplier in connection with:
 - (i) the manufacture, production, importation, packaging, labelling, transportation, delivery, unloading, or sale of the Products by the Supplier; or
 - (ii) the use, sale or supply of the Products by Orora or any customer of Orora,

except to the extent caused by any negligence or breach of this Agreement by Orora.

15 Confidentiality

- 15.1 Suppliers are to keep confidential volumes, prices and specifications developed specifically for Orora.

16 Force majeure

- 16.1 Neither the Supplier nor Orora shall be liable to the other for default or delay in performing its obligations under the Purchase Order caused by any occurrence beyond its reasonable control, including, without limitation, fire, strike, lock-out, industrial disturbance, riot, war, act of God and governmental order or regulation, provided that the party affected by such occurrence gives written notice thereof to the other party within 7 days of the commencement of that occurrence.

17 Intellectual property

- 17.1 Any intellectual property rights developed by Orora or on behalf of Orora in relation to the Products or as a result of any work to be performed pursuant to a Purchase Order shall belong to and be vested in Orora.

18 Termination

- 18.1 Either party must give the other party written notice of termination in accordance with the notice period set out in this clause 18.
- 18.2 Subject to clause 18.1, either party may terminate this Agreement if the other party:
- (a) commits a material breach of this Agreement, and fails to remedy the breach within 7 days of receiving written notice of the breach;
 - (b) fails to make a payment due and payable under this Agreement and fails to remedy the breach within 7 days of receiving written notice;
 - (c) becomes insolvent, stops or suspends (or threatens to stop or suspend) payment of all or a class of debts, has an administrator or controller appointed over its any of its assets, is wound-up or dissolved, or an application is made for it to be wound-up or dissolved (**Insolvency Event**), immediately upon written notice; and
 - (d) is subject to a change in control that results in the other party being controlled by a person that is not a Fit and Proper Person, immediately upon written notice.
- 18.3 Subject to clause 18.1, Orora may terminate the relevant Purchase Order:
- (a) if the Supplier breaches any of the warranties set out in clause 13, after 14 days of the Supplier receiving written notice from Orora; or

- (b) if any Products are not delivered within the delivery time in accordance with clause 6.4, after 14 days of the Supplier receiving written notice from Orora.
- 18.4 Subject to clause 18.1, Orora may terminate this Agreement if the Supplier fails to:
- (a) comply with clause 19, after 14 days of receiving written notice from Orora; or
 - (b) remediate and cease instances of Modern Slavery in its supply chains or any part of its business at its expense and with no consequence to Orora, to the satisfaction of Orora, acting reasonably, immediately upon written notice from Orora.

19 Anti-slavery

- 19.1 The Supplier must take all reasonable steps to ensure there is no Modern Slavery in its operations and supply chain, or that of its sub-contractors and suppliers, including by:
- (a) establishing appropriate systems and processes to ensure any risks or occurrences of Modern Slavery in its supply chains or any part of its business are identified, assessed and addressed;
 - (b) preparing and providing to Orora an annual report each year (or more regularly if required by Orora) documenting the steps taken to identify and address risks or occurrences of Modern Slavery in its supply chains, or in any part of its business;
 - (c) notifying Orora as soon as reasonably practicable after it becomes aware of, or reasonably suspects, Modern Slavery in its supply chains or any part of its business; and
 - (d) within such reasonable timeframes as are agreed with Orora, undertaking, at its own cost, remediation actions to address and cease (to Orora's satisfaction) any instances of Modern Slavery in its supply chains or any part of its business.
- 19.2 The Supplier must provide all reasonable assistance (including the provision of information and access to documents) that Orora reasonably requires to enable Orora to comply with its obligations under the Act.
- 19.3 The Supplier authorises Orora to conduct its own due diligence of the Supplier's business and supply chains for the purpose of ensuring any risks or occurrences of Modern Slavery in the Supplier's supply chains, or any part of the Supplier's business, are identified, assessed and addressed at the Supplier's expense. For this purpose, the Supplier:
- (a) will undertake at its expense and will procure its suppliers and sub-contractors within its business and/or supply chain at its or their expense to undertake any assurance assessments Orora requires to identify and mitigate potential human rights and environmental issues that may directly or indirectly impact Orora's operations;
 - (b) will provide access to all relevant documents;
 - (c) authorises Orora to enter and inspect any of the Supplier's premises (and the premises of its sub-contractors and agents) during normal working hours upon giving reasonable notice to the Supplier; and
 - (d) will take all reasonable steps to facilitate access to the records, operations, premises and sites of suppliers within the Supplier's supply chains.

20 Assignment

- 20.1 Neither party may sub-contract, assign or novate any of its rights or obligations under this Agreement other than in accordance with this clause 20.

- 20.2 Subject to clause 20.3, either party may sub-contract, assign or novate any of its rights or obligations under this Agreement to:
- (a) any Third Party Purchaser of all or substantially all of its assets;
 - (b) a related body corporate of the party in connection with a genuine corporate reorganisation of the party;
 - (c) any Third Party with the written consent of the other party, such consent not to be unreasonably withheld.

- 20.3 Neither party may sub-contract, assign or novate any of its rights or obligations under clause 20.2(a) where to do so would, or would be likely to result in a material conflict of interest or material financial, operational or reputational risk to or for the other party.

21 General

- 21.1 No failure to exercise nor any delay in exercising any right, power or remedy by a party under this Agreement operates as a waiver. A single or partial exercise of any right, power or remedy does not preclude any other or further exercise of that or any other right, power or remedy. A waiver is not valid or binding on the party granting that waiver unless made in writing.
- 21.2 This Agreement is governed by the laws of Victoria, Australia and each party will submit to the non-exclusive jurisdiction of courts exercising jurisdiction there in connection with all matters concerning this Agreement.