

TASMANIAN NETWORKS PTY LTD

ABN 24 167 357 299

**GENERAL TERMS AND CONDITIONS FOR THE
SUPPLY OF GOODS AND SERVICES BY PURCHASE
ORDER**

1. ORDER OF PRECEDENCE

This Agreement between the parties is constituted by the following documents set out in their order of precedence,

- (a) any prior written contract in respect of the Goods and Services executed by the parties;
- (b) where there is no written contract, such final specifications, drawings, or other descriptions furnished prior to the issuing of the relevant Purchase Order; and
- (c) this Purchase Order, collectively known as the "Contract".

2. SUPPLY

2.1 The Supplier will:

- (a) provide the Services by any dates specified in this Purchase Order;
- (b) provide the Services in a proper, timely and efficient manner using that standard of care, skill, diligence, prudence and foresight that would reasonably be expected from a prudent, expert and experienced provider of services that are similar to the Services;
- (c) ensure the highest quality of work; and
- (d) act in good faith and in the best interests of TasNetworks.

2.2 The Supplier will supply the Goods free of Defects and in accordance with the Contract.

3. CANCELLATION

3.1 TasNetworks may cancel the Services or the supply of the Goods at any time by giving written notice to the Supplier who must, on receipt, immediately cease all work and take appropriate action to mitigate any loss or prevent further costs being incurred.

3.2 TasNetworks must pay all reasonable amounts due in accordance with this Contract for all work performed by the Supplier up until cancellation (but not including any loss of prospective profits).

4. FAILURE TO PERFORM

4.1 Without limiting any other available remedy, if the Supplier fails to provide any of the Services or Goods in accordance with the Contract, TasNetworks will not be required to pay for those Services or Goods (until they are provided correctly) and may require the Supplier to remedy any Defect or re-perform the Services within the time specified in a notice.

4.2 If the Defect referred to in sub-clause 4.1 is not capable of being remedied or the Services are not capable of being re-performed, or the Supplier fails within the time period specified to remedy the Defect or re-perform the Services, TasNetworks may either have the Services remedied or re-performed by a third party or do so itself. In either case, the Supplier must pay the reasonable costs incurred by TasNetworks in doing so.

5. WARRANTIES

The Supplier warrants to TasNetworks that:

5.1 **(Purpose)** where TasNetworks has, either expressly or by implication, made known to the Supplier any particular purpose for which the Services or Goods are required, the Services will be performed and the Goods will be provided in such a way as to achieve that result;

5.2 **(Conflict)** it and its employees, agents and contractors do not hold any office or possess any property, are not engaged in any business or activity and do not have any obligations whereby duties or interests are or might be created in conflict with or might appear to be created in conflict with its obligations under the Contract;

5.3 **(IP)** it is entitled to use and deal with any Intellectual Property Rights which may be used by it in connection with the Services and Goods; and

5.4 **(Goods)** the Goods:

- (a) are new and fit for the purpose stated in the Specification (or if no purpose is stated, the purpose for which the Goods would ordinarily be used);
- (b) conform in all respects with the Specification;
- (c) are free from defects (including defects in installation); and
- (d) are of merchantable quality and comply with all laws.

5.5 The Supplier must obtain, where provided for in the Specification, for TasNetworks to have the benefit of any manufacturer's warranties.

6. INSPECTION

TasNetworks may witness tests or carry out an inspection on the Goods. Upon request, the Supplier must make arrangements for TasNetworks to have access to any relevant premises for inspection and testing purposes at any reasonable time.

7. DELIVERY

7.1 The Supplier is responsible for delivery to the location specified in the Purchase Order by the Due Date at a time that may be specified by TasNetworks.

7.2 Goods must be suitably packed to avoid damage while in storage or transit.

7.3 All correspondence and packaging containing delivered Goods must be clearly marked with the TasNetworks Order Number.

7.4 A signed delivery docket will not be construed as an acceptance by TasNetworks of the Goods.

7.5 TasNetworks may within 60 days of delivery, notify the Supplier that the Goods are defective. TasNetworks may then hold such Goods to the Supplier's order and at the Supplier's risk and return those Goods at the Supplier's cost.

7.6 In addition to any other remedy, TasNetworks may offset any reasonable costs arising from the supply of defective Goods from other sums owed to the Supplier.

7.7 Apart from those Goods subject to a defects notice issued under clause 4.5, risk passes to TasNetworks upon delivery and title passes upon payment.

8. PAYMENT

8.1 The Supplier will, within 30 days of receipt of a delivery docket signed by TasNetworks, forward an invoice in a form satisfactory to TasNetworks to the address stated on the Purchase Order.

8.2 Subject to clause 8.3, TasNetworks will pay the Contract Sum due under this Purchase Order within 30 days of receipt of an acceptable tax invoice. Payment will be on account only and does not constitute an acknowledgment that the Goods and Services are supplied in accordance with the Contract.

8.3 If TasNetworks disputes the invoiced amount, it must pay the undisputed amount (if any) and notify the Supplier of the amount it believes is due for payment. The parties will endeavour to resolve any such dispute.

8.4 TasNetworks is allowed to use or sell the Goods before payment is made.

- 9. STANDARDS**
- 9.1 The Supplier must comply with the law and is to obtain any consents, licences, or customs documentation as may be required for supply of the Goods and Services.
- 9.2 The Supplier must comply with TasNetworks' reasonable health and safety or environmental directions.
- 10. INDEMNITY**
- 10.1 The Supplier indemnifies TasNetworks and each of its employees and agents against damages, loss, claim, expense, or cost (on a solicitor and own client basis) which any of them suffers as a direct result of any failure to provide the Services or Goods in accordance with the Contract or any other breach of the Contract.
- 11. INSURANCE**
- 11.1 The Supplier must obtain and maintain insurance coverage at all relevant times sufficient to cover any loss or costs that may be incurred and for which the Supplier is liable in connection with the provision of the Services and Goods including professional indemnity, workers compensation insurance (for the maximum amount required by law), public liability insurance (for not less than \$20,000,000) and, if applicable, products liability insurance (for not less than \$20,000,000).
- 11.2 On request, the Supplier must provide TasNetworks with evidence of the currency of any insurance it is required to obtain.
- 12. INTELLECTUAL PROPERTY**
- 12.1 The Supplier warrants that it has provided TasNetworks with an irrevocable, royalty free, non-exclusive, transferable, perpetual licence to exercise all the rights of the owner of the Intellectual Property Rights associated with the Goods and Services, for any business purpose of TasNetworks.
- 12.2 The Supplier indemnifies TasNetworks against any damages, costs or claims, including legal costs on a solicitor and own client basis, arising from the infringement of any Intellectual Property Right in relation to the Goods or Services.
- 13. GST**
- 13.1 Terms used in this clause have the same meanings given to them in the GST Act.
- 13.2 Unless otherwise expressly stated, all prices or other sums payable or consideration to be provided under or in accordance with the Purchase Order or the Contract are exclusive of GST.
- 13.3 If GST is imposed on any supply made under or in accordance with the Contract, the recipient of the taxable supply must pay to the supplier an additional amount equal to the GST payable on or for the taxable supply subject to the recipient receiving a valid tax invoice in respect of the supply at or before the time of payment. Payment of the additional amount will be made at the same time as payment for the taxable supply is required to be made.
- 14. MISCELLANEOUS**
- 14.1 This Contract is governed by the laws of the State of Tasmania.
- 14.2 Clauses 5, 10, and 12 survive the termination of this Contract.
- 14.3 The Contract may only be varied by agreement in writing.
- 14.4 The Supplier will treat as confidential any information or documents that the Supplier should reasonably have known was confidential, including (without limitation), pricing details, customer information, technical data and contract documents.
- 14.5 The Supplier must not sub-contract to any third person any of its obligations in relation to the

Goods or Services without the prior written consent of TasNetworks (which may be given or withheld in its absolute discretion). The Supplier will be liable for all acts and omissions of a sub-contractor as though they were the actions of the Supplier itself.

- 14.6 Time is of the essence in relation to the provision of the Services and delivery of the Goods.

15. DEFINITIONS

Contract Sum means, unless otherwise agreed in writing, (a) the amount shown on the Purchase Order as the "Order Total";

(b) inclusive of all costs incurred by the Supplier;

(c) exclusive of GST;

(d) expressed in Australian Dollars.

Defect means any part or aspect of the Goods which is not in compliance with the requirements of the Contract or is otherwise unfit for the intended purpose.

Due Date means the date for the delivery of the Goods or provision of the Services as specified in the Purchase Order.

Goods means the goods (or any of them) specified in the Purchase Order.

GST has the meaning given to that term under *A New Tax System (Goods and Services Tax) Act 1999 (Cth)*.

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

Intellectual Property Right means any patent, trademark, copyright, or other protected right.

Order Number means the unique number created by TasNetworks to identify a Purchase Order.

Purchase Order means the document headed as such describing the Services and Goods to be supplied which includes these General Terms and Conditions, whether they are attached or not.

TasNetworks means Tasmanian Networks Pty Ltd (ABN 24 167 357 299) of 1-7 Maria Street, Lenah Valley, Tasmania.

Services means the services (or any of them) specified in the Purchase Order.

Supplier means the person named as the supplier of the Goods in the Purchase Order.