

PURCHASE ORDER TERMS AND CONDITIONS

1. **INTERPRETATION**
- 1.1 Subject to clause 1.2, these Terms and Conditions apply to all Purchase Orders for the supply of Goods and Services by the supplier, as specified in the Purchase Order ('Supplier'), and acquired by Bapcor Limited, Bapcor Logistics Services Pty Ltd and/or their Related Companies ('Bapcor').
- 1.2 The Terms and Conditions do not apply where there is a signed supply agreement in place between the Supplier and Bapcor.
2. **SUPPLY OF GOODS AND SERVICES**
- 2.1 The Supplier must supply the Goods and Services in accordance with the Agreement.
- 2.2 The Supplier must deliver the Goods and Services to the place and by the date specified in the Purchase Order, or if no date is specified, within a reasonable time.
- 2.3 If the Supplier does not deliver the Goods and Services in accordance with clause 2.2, Bapcor may cancel the Purchase Order without incurring any cost.
3. **PAYMENT AND INVOICING**
- 3.1 Bapcor will pay the Supplier the Price for the Goods and Services within the later of:
 - i. 62 days from the end of the month in which Bapcor receives an invoice (issued in accordance with clause 3.5); or
 - ii. where a Bill of Lading is applicable, 62 days from the end of the month in which the Bill of Lading is issuedsubject to:
 - iii. clause 3.3;
 - iv. applicable Laws which require Bapcor to pay on shorter terms, such as the Supplier being registered as a small business, in which case Bapcor will pay the Supplier within 30 days from date of the invoice in this instance, or in accordance with applicable Laws, whichever is the shorter
- 3.2 Unless the Purchase Order states otherwise, the Price includes all Related Costs.
- 3.3 If the Goods and Services are Defective or Bapcor determines that an amount is owing from the Supplier to Bapcor, Bapcor may (acting reasonably) assess the reduction in the Price and set off that amount from the Price.
- 3.4 If the Supplier disagrees with Bapcor's assessment in clause 3.3, it may raise a dispute in accordance with clause 13.
- 3.5 All invoices issued by the Supplier shall be required to:
 - i. be correctly addressed, and sent to the address on the Purchase Order;
 - ii. identify the Purchase Order number;
 - iii. be a valid tax invoice for GST purposes; and
 - iv. if the Supplier is not registered for GST, not impose GST.
 - v. be issued as follows:
 - a. in the case of delivery direct to Bapcor, on delivery to Bapcor's site; or
 - b. in case of Ex-Works delivery terms, on collection of Goods by or on behalf of Bapcor; or
 - c. otherwise in accordance with applicable export requirements, regulations or custom; or
 - d. any alternate invoice arrangements that may be accepted by Bapcor in writing;
4. **RISK AND TITLE**
- 4.1 Risk of loss, damage or destruction to the Goods and Services shall be borne by the Supplier until delivery.
- 4.2 Ownership of the Goods and Services (including the right to modify and assign) will pass to Bapcor free of any lien, encumbrance and any other third party rights over or to such Goods and Services or any part thereof on delivery of the Goods and Services to Bapcor.
5. **DEFECTIVE GOODS AND SERVICES**
- 5.1 If the Supplier delivers Goods and Services which are Defective, Bapcor may do any, or all of the following (in addition to rights under clause 2.3):
 - i. reject them, in which case the Supplier must accept them;
 - ii. return them to the Supplier at the Supplier's risk and expense;
 - iii. require the Supplier to collect them; or
 - iv. require the Supplier to replace them, free of charge.
6. **REPRESENTATIONS AND WARRANTIES**
- 6.1 The Supplier represents and warrants to Bapcor that:
 - i. it is authorised to enter into and perform the Agreement;
 - ii. it owns the Goods and Services;
 - iii. the Goods and Services do not infringe any Intellectual Property Rights;
 - iv. the Goods and Services are not Defective; and
 - v. in performing the Agreement, it will comply with all relevant Law.
7. **INTELLECTUAL PROPERTY**
- 7.1 Bapcor acknowledges that Intellectual Property Rights in the Goods and Services shall remain vested in the Supplier.
- 7.2 The Supplier grants to Bapcor a perpetual, irrevocable, royalty-free, world-wide and non-exclusive licence to use the Intellectual Property Rights in the Goods and Services for the purpose of marketing and selling the Goods and Services in Australia and New Zealand.
- 7.3 The Supplier must take all necessary steps to protect and register the Supplier's Intellectual Property Rights in Australia, New Zealand and any other jurisdiction in which the Supplier manufactures all or part of the Goods and Services.
- 7.4 The Supplier warrants that it is entitled to grant the licence in clause 7.2.
- 7.5 The Supplier must not use Bapcor's Intellectual Property Rights without Bapcor's express written consent.
8. **CONFIDENTIALITY**
- 8.1 Neither party shall be permitted to disclose any Confidential Information for a period of 5 years following supply of the Goods and Services, except as required by law or a regulatory authority, or with the consent of the other party.
9. **INSURANCE**
- 9.1 The Supplier must take out a policy of
 - i. public liability insurance; and
 - ii. product liability insurance,of not less than \$10 million, and maintain such policy for a period of not less than 2 years following supply of all Goods and Services under the Agreement.
- 9.2 The policy must cover the Supplier for any liability in connection with the Agreement and arising from:
 - i. personal injury or death; and
 - ii. loss or damage to property.
- 9.3 The Supplier shall provide to Bapcor on request certificates of currency as evidence that the required insurance cover is in place.
10. **INDEMNITY**
- 10.1 The Supplier indemnifies Bapcor from, and against, any Loss arising as a result of or in connection with:
 - i. the Supplier's breach of the Agreement;
 - ii. Defective Goods and Services;
 - iii. personal injury or death;
 - iv. any wilful, unlawful or negligent act by the Supplier or that of its employees, agents or contractors; and
 - v. damage to property.
- 10.2 The Supplier's liability under clause 10.1 shall be reduced to the extent that any Loss is caused by Bapcor's wilful misconduct or negligence, or that of Bapcor's employees or agents.
11. **PRODUCT RECALL**
- 11.1 If a Product Recall is initiated, the Supplier must, in respect of the Goods and Services subject to the Product Recall:
 - i. provide all necessary assistance to enable Bapcor to return the Goods and Services to the Supplier;
 - ii. pay for the cost of all advertising, freight and any other costs incidental to the Product Recall, including Bapcor's internal costs; and
 - iii. refund to Bapcor the Price paid for the Goods and Services affected by the Product Recall.
12. **SUPPLIER CONDUCT RELATING TO THE SUPPLY OF GOODS AND SERVICES**
- 12.1 All employees of the Supplier entering a Bapcor facility in connection with this Agreement shall comply with all applicable Laws, including any of Bapcor's environment, health and safety rules.
- 12.2 The Supplier shall take reasonable steps to ensure that there is no modern slavery in Supplier's supply chains (including any supply chain of contractors and/or subcontractors engaged by the Supplier), or in any part of their business, and the Supplier shall not utilise child, slave, prisoner or any other form of forced or involuntary labour, or engage in abusive employment or corrupt business practices, in the supply of Goods or Services under this Agreement
- 12.3 The Supplier must comply with the terms of Bapcor's Environment, Social and Governance (ESG), Ethical Supply Chain and Procurement, Human Rights and related policies as may be adopted and updated by Bapcor from time to time.
13. **DISPUTES**
- 13.1 If a dispute arises between the parties, either party may provide the other party with written notice containing the details of a dispute ('Dispute Notice').
- 13.2 If a party receives a Dispute Notice, it must nominate a senior representative with authority to settle the dispute.
- 13.3 Within 14 days of receiving the Dispute Notice, the senior representatives must meet, in good faith, to settle the dispute.
- 13.4 If, after complying with clause 13.3, the dispute is not resolved, either party may immediately commence legal proceedings.
- 13.5 Nothing in this clause 13 prevents a party from seeking interlocutory relief.
- 13.6 If a dispute arises, the parties must continue to perform their obligations under the Agreement.
14. **TERMINATION**
- 14.1 If the Supplier breaches a material obligation under the Agreement, Bapcor may immediately terminate the Agreement and, subject to clause 2.3, will only be liable to pay the Supplier for the Goods and Services supplied in accordance with the Agreement.
- 14.2 If Bapcor breaches clause 3, the Supplier must comply with clause 13.
- 14.3 If either party becomes Insolvent, the other party may, by notice in writing, immediately terminate the Agreement.
15. **GENERAL**
- 15.1 Clauses 7, 8, 10 and this clause 15.1 survive termination of the Agreement.
- 15.2 The Agreement cannot be amended except in writing signed by both parties.
- 15.3 Bapcor's rights under the Agreement can only be waived by Bapcor in writing.
- 15.4 If a term of the Agreement is held to be unenforceable, that term may be severed from the Agreement without affecting the enforceability of the remaining terms.
- 15.5 The Agreement is governed by the Laws of Victoria (for supply into Australia) and by the Laws of New Zealand (for supply into New Zealand).
16. **DEFINITIONS**
- Agreement** means the Purchase Order and the Terms and Conditions.
- Confidential Information** means information, that is not otherwise publicly available, relating to the other party which has come into the party's possession as a result of or in connection with the Agreement.
- Defective** means the Goods and Services that do not comply with the Purchase Order, these Terms and Conditions or Law, are not new or of acceptable quality, design, workmanship or performance or are defective in any other way and/or are the subject of a Product Recall.
- Dispute Notice** means a written notice containing the details of a dispute.
- Goods and Services** means the goods and/or services specified in the Purchase Order (as the case may be).
- Insolvent** means a party becomes or is presumed insolvent (as that term is defined under the Corporations Act 2001 (Cth) or the Companies Act 1993 (NZ)), or is wound up, in liquidation, in provisional liquidation or under administration.
- Intellectual Property Rights** means any intellectual property rights including, without limitation, copyright (including future copyrights), patent, trade mark, and design, whether or not registered or registrable and any right to apply for the grant or registration of the same.
- Law** means common law, principle of equity and legislation, regulation, order, direction, and practice notes of a relevant jurisdiction in connection with the supply of the Goods or Services under the Agreement.
- Loss** means any direct or indirect loss, damage, cost, charge or expense (including legal costs on an indemnity basis), claims, demands, allegations, suits, actions and proceedings of any nature and howsoever arising (whether under common law, equity, statute or otherwise).
- Product Recall** means a recall in respect of the Goods and Services which is required by Law or by an authority, or because Bapcor withdraws the Goods and Services from sale because, in Bapcor's opinion, there are safety or quality concerns.
- Price** means the price for the Goods and/or Services specified in the Purchase Order.
- Purchase Order** means the purchase order issued by Bapcor to the Supplier to supply the Goods and Services.
- Related Companies** has the same meaning as related bodies corporate (as that term is defined in the Corporations Act 2001 (Cth) or the Companies Act 1993 (NZ)).
- Related Costs** means costs of packaging, packing, insurance, freight and taxes (other than GST).
- Terms and Conditions** means these terms and condition