

TERMS AND CONDITIONS OF PURCHASE

Applicable to Purchase Orders Issued for
Goods and/or Services

1. GENERAL

1.1 All offers and agreements, including Purchase Orders shall be subject exclusively to the following Terms and Conditions of Purchase and the acceptance and execution of orders shall also be subject exclusively to these Terms and Conditions of Purchase.

1.2 Any conflicting or additional Terms and Conditions of Purchase on the part of the Supplier shall be non-binding on TransACT Victoria even if they do not expressly conflict with these Terms and Conditions. The acceptance of our purchase order by the Supplier always implies the acknowledgment of our Terms and Conditions of Purchase.

1.3 The Supplier warrants that the goods are:

- (a) free from defects in materials and workmanship;
- (b) of merchantable quality, and fit for the purpose for which they are sold; and
- (c) fit for TransACT Victoria's purposes, to the extent those purposes have been made known to the Supplier by TransACT Victoria.

1.4 TransACT Victoria may inspect the goods at any time prior to acceptance of them and reject any goods not found to be in accordance with the Purchase Order, and or the contract.

1.5 Orders shall be deemed to have been accepted on the basis of these Terms and Conditions of Purchase if the Supplier furnishes TransACT Victoria with a written confirmation or upon delivery of the goods.

1.6 TransACT Victoria reserves Intellectual Property rights and the proprietary rights and copyright for all documentation such as offers, drawings, illustrations and the like made available to the Supplier or other interested parties. Such documentation may only be used for the contractually determined purpose and shall only be made available to third parties with TransACT Victoria's express consent. These documents shall be returned without delay on demand by TransACT Victoria.

1.7 Any variation to the Terms and Conditions of Purchase must be in writing and signed by TransACT Victoria.

2. DELIVERY AND TRANSFER OF RISK

2.1 Delivery shall always be made at the Supplier's expense and risk.

3. PRICE

3.1 Unless otherwise indicated, all prices in this agreement are exclusive of all taxes, duties and levies of all kinds, including any goods and services tax.

4. PAYMENT

4.1 All invoices rendered to TransACT Victoria by the Supplier will be Tax Invoices (as defined by the Australian Taxation Office) and include TransACT Victoria's Purchase Order Number and the name of the Purchaser.

4.2 All Tax invoices rendered to TransACT Victoria by the Supplier will be paid by TransACT Victoria 30 days after the receipt of the invoice.

4.3 TransACT Victoria does not accept any charges or interest penalties for late payment.

4.4 Payment of invoices is on account only and does not indicate any acceptance of the goods.

5. LIABILITY

5.1 To the extent permitted by law, all terms, conditions, warranties and representations, express or implied, by statute or otherwise, as to the description, merchantable quality or fitness for purpose of goods supplied to TransACT Victoria are included.

5.2 In the event that TransACT Victoria becomes liable for any payment, cost, damage or expense (including legal costs and expenses on a solicitor and own client basis) arising with respect to the supply of goods or services under these Terms and Conditions of Purchase, the directors of TransACT Victoria (despite TransACT Victoria being insolvent) shall not be held personally liable under any circumstances, so far as the law permits, and for this purpose the Supplier indemnifies the directors of TransACT Victoria for all payments, costs, damages or expenses (including legal costs and expenses on a solicitor own client basis).

6. GOVERNING LAW AND JURISDICTION

6.1 This agreement is governed by the laws of the Australian Capital Territory.

6.2 TransACT Victoria and the Supplier irrevocably and unconditionally submit to the non-exclusive jurisdiction of the courts of Australian Capital Territory and courts of appeal from those courts. Each party waives any right it has to object to an action being brought in those courts.

7 INDEMNITY

7.1 The Supplier agrees to indemnify TransACT Victoria and its officers, employees, agents and contractors from and against any claim, loss, expense or liability (excluding consequential losses and special damages) arising as a result of any:

- (a) deliberate or negligent act or omission of the Supplier or its employees, agents or subcontractors;
- (b) non-execution of an order by the Supplier;
- (c) poor performance by the Supplier; or
- (d) defect or deficiency in the goods.

7.2 The Supplier's liability to indemnify those indemnified under clause 7.1 will be reduced proportionally to the extent that any act or omission of those indemnified contributed to the loss.

7.3 The indemnity referred to in subclause 7.1 shall survive the expiration or termination of these Terms and Conditions of Purchase.

8. SEVERABILITY

8.1 Each provision and each part of these Terms and Conditions will, unless the context otherwise necessarily requires it, be read and construed as a separate and severable provision or part. If any provision or part of these Terms and Conditions are void or otherwise unenforceable for any reason then that provision or part (as the case may be) will be severed and the remainder will be read and construed as if the severable provision or part had never existed.

9. DEFINITIONS

"Intellectual Property" means any intellectual or industrial property whether protected by statute, at common law or in equity, including without limitation any patent, invention, copyright, design (whether or not registrable), trade secret, moral right, circuit layout design or right in relation to circuit layouts, right to confidential information, technical information, processes, techniques and know-how, but excluding registered and unregistered trade marks, trade names, logos and get up (and copyright subsisting in such trade marks, logos and get-up).

"Purchase Orders" means the description of the goods to be delivered to TransACT Victoria by the Supplier.

"Supplier" means the individual or corporation supplying the goods to TransACT Victoria, and where the context permits, includes the Supplier's successor and permitted assigns.

"Terms and Conditions" means this document and the Purchase Order.

"TransACT Victoria" means TransACT Victoria Communications Pty Limited.

TransACT Victoria Communications Pty Limited
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