

## PURCHASE ORDER TERMS AND CONDITIONS

### 1. SUPPLY OF GOODS AND/OR SERVICES

- 1.1 In consideration of payment of the Price by the Company, the Contractor must supply to the Company the Goods and/or perform the Services in accordance with the Purchase Order (which includes these Purchase Order Terms and Conditions).
- 1.2 To the extent the Contractor's terms and conditions are supplied with the Goods or Services (including as printed on consignment notes or other documents), those terms and conditions will be of no legal effect and will not constitute part of this Purchase Order (even if any of representative of the Company signs those terms and conditions or annexes the terms and conditions to this Purchase Order).
- 1.3 Where this Purchase Order relates to Goods and/or Services the subject of a contract between the Contractor and the Company, the terms of that contract apply to the extent of any inconsistency with these Purchase Order Terms and Conditions.
- 1.4 The Contractor must, in supplying the Goods or performing the Services:
- (a) not interfere with the Company's activities or the activities of any other person at the Delivery Address;
  - (b) be aware of and comply with and ensure that the Contractor's employees, agents and contractors are aware of and comply with:
    - (i) all applicable Laws;
    - (ii) all Site Standards and Procedures, to the extent that they are applicable to the supply of the Goods or the performance of the Services by the Contractor; and
    - (iii) all lawful directions and orders given by the Company's representative or any person authorised by Law to give directions to the Contractor;
  - (c) ensure that the Contractor's employees, agents and contractors entering the Company's premises perform in a safe manner and are properly qualified for, and skilled in, the performance of their tasks and are of such character as not to prejudice:
    - (i) safe working practices;
    - (ii) safety and care of property; and
    - (iii) continuity of work;
  - (d) provide all such information and assistance as the Company reasonably requires in connection with any statutory or HSEC investigation in connection with the supply of the Goods or the performance of the Services;
  - (e) on request by the Company, provide to the Company and its employees, agents and consultants any information and assistance required to identify, evaluate, implement and report on any matter required by Law, including:
    - (i) producing written reports;
    - (ii) recommending efficiency opportunities;

- (iii) collecting data; and
- (iv) monitoring or metering,

in respect of any thing used, produced or created in connection with the performance of the Contractor's obligations under this Contract.

## **2. DELIVERY**

- 2.1 The Contractor must deliver the Goods to the Delivery Address by the Delivery Date.
- 2.2 The Contractor must ensure that the Goods are suitably packed to avoid damage in transit or in storage.
- 2.3 Packages must be marked with the Purchase Order number, item number, destination, contents, quantity, date and method of dispatch and weight of each package.

## **3. TIME FOR PERFORMANCE**

The Contractor must perform the Services by the date specified in the Purchase Order.

## **4. TITLE AND RISK**

- 4.1 Title in the Goods passes to the Company upon payment of the Price.
- 4.2 Risk in the Goods passes to the Company when the Goods are delivered to the Delivery Address.

## **5. PRICE**

- 5.1 The Company must pay the Contractor the Price for the Goods and/or Services.
- 5.2 The Price is inclusive of all costs incurred by the Contractor in the supply of the Goods and/or performance of the Services including all charges for packing, insurance and delivery of the goods and the cost of any items used or supplied in the performance of the Services.
- 5.3 The Price is inclusive of all taxes and duties, except GST.

## **6. GST**

- 6.1 If GST is imposed on any supply made by the Contractor under or in connection with this Purchase Order, the Contractor may recover from the Company, in addition to the Price, an amount equal to the GST payable in respect of that Supply.
- 6.2 The Contractor must first provide the Company with a valid tax invoice before the Company will pay the GST amount to the Contractor.

## **7. INVOICING**

- 7.1 Upon delivery of the Goods and/or completion of the Services, the Contractor must provide to the Company:
  - (a) where the Contractor has entered into an RCTI Agreement with the Company, a Contractor Reference Document; or
  - (b) a valid tax invoice,

which must include the information set out in clause 7.3.

- 7.2 The Company will, as soon as practicable after approval of the Contractor Reference Document by the Company, generate a Recipient Created Tax Invoice.
- 7.3 A Contractor Reference Document and any invoice must include the following details:
- (a) a reference to this Purchase Order and the relevant Contract (if any) including the line item numbers on the Purchase Order and the Contract number;
  - (b) a detailed description of the delivered Goods or performed Services, including the date of delivery and/or period of Services in respect of which the Contractor Reference Document or invoice relates and the relevant quantity;
  - (c) an individual reference number for the Company to quote with remittance of payment;
  - (d) the Price relating to the Goods and/or Services, broken down to reflect the same Price components on the Purchase Order;
  - (e) the amount of any applicable GST;
  - (f) Company operation and Site; and
  - (g) Company contact name.
- 7.4 If the Company requests, the Contractor must provide the Company with all relevant records to calculate and verify the amount set out in any Contractor Reference Document or any Invoice.
- 7.5 The Company is not obliged to approve a Contractor Reference Document or any invoice submitted in accordance with clause 7.1(b), and may withhold approval and/or money due to the Contractor under this Contract if the Goods or Services (or any part of them) are Defective.
- 7.6 Subject to clause 7.5, the Company will pay all Recipient Created Tax Invoices and all invoices that comply with clause 7.3 within 30 days of their generation or receipt (as the case may be), except where the Company disputes the Contractor Reference Document or invoice, in which case:
- (a) the Company may withhold payment pending resolution of the dispute; and
  - (b) if the resolution of the dispute determines that the Company must pay an amount to the Contractor, the Company must pay that amount upon resolution of that dispute.
- 7.7 The Company may reduce any payment due to the Contractor under this Contract by any amount which the Contractor must pay the Company, including costs, charges, damages and expenses and any debts owed by the Contractor to the Company on any account whatsoever. This does not limit the Company's right to recover those amounts in other ways.
- 8. QUALITY**
- 8.1 The Goods and/or Services must match the description referred to in the Purchase Order.
- 8.2 If the Contractor gave the Company a sample of the Goods or a demonstration of the Services, the Goods and/or Services must be of the same nature and quality as the sample or demonstration given.

- 8.3 The Goods and/or Services must be fit for the purpose for which goods and/or services of the same kind are commonly supplied or bought and for any other purpose the Company specifies.
- 8.4 The Goods must be of merchantable quality and, unless otherwise specified in the Purchase Order, must be new.

## 9. WARRANTY PERIOD

- 9.1 If, during the Warranty Period, any of the Goods or Services are found to be Defective, the Company may:
- (a) return the Defective Goods to the Contractor;
  - (b) reject the Defective Services ;
  - (c) repair or make good the Defective Goods; or
  - (d) re-perform or make good the Defective Services.
- 9.2 The Contractor must:
- (a) repair or replace the Defective Goods;
  - (b) re-perform or make good the Defective Services; or
  - (c) reimburse the Company for any expenses incurred in repairing, reperforming or making good (as the case may be) any Defective Goods or Services,

at the Contractor's cost, if requested to do so by the Company.

## 10. DEFINITIONS

**Company** means the BHP Billiton entity named in the Purchaser Order.

**Contractor** means the party identified as such in the Purchase Order.

**Contractor Reference Document** means a delivery document, dispatch note, time sheet, claim form or such other document which evidences the delivery of Goods or performance of Services.

**Defective** means Goods and/or Services (or any aspect of them) which are not in accordance with the Purchase Order or which are damaged, deficient, faulty, inadequate or incomplete.

**Delivery Address** means the place for delivery specified on the Purchase Order.

**Delivery Date** means the delivery date specified on the Purchase Order.

**Goods** means the goods, if any, described on the Purchase Order.

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

**HSEC** means health, safety, environment and community.

**Law** means:

- (a) Commonwealth, State and local government legislation including regulations, by-laws, orders, awards and proclamations;
- (b) common law and equity;
- (c) Authority requirements and consents, certificates, licences, permits and approvals (including conditions in respect of those consents, certificates, licences, permits and approvals); and
- (d) guidelines of Authorities with which the Contractor is legally required to comply.

**Purchase Order** means the purchase order for Goods and/or Services issued by the Company to the Contractor from time to time containing, amongst other things, a description of the Goods and/or Services.

**Price** means the price set out in the Purchase Order which is exclusive of GST, but is inclusive of all other costs and charges.

**RCTI Agreement** means an agreement in the form provided by the Company and entered into between the Contractor and the Company or a related entity of the Company pursuant to which the parties have agreed that the Company will issue Recipient Created Tax Invoices in respect of all Goods and Services provided by the Contractor.

**Recipient Created Tax Invoice** has the meaning prescribed in the *A New Tax System (Goods and Services Tax) Act 1999 (Cth)*.

**Services** means the services, if any, described on the Purchase Order.

**Site Standards and Procedures** means:

- (a) BHP Billiton Sustainability Policy and Management Standards;
- (b) BHP Billiton Guide to Business Conduct;
- (c) BHP Billiton Fatal Risk Control Protocols, and

any other guidelines, rules, requirements or Site specific conditions which the Company makes available to the Contractor from time to time.

**Warranty Period** means the period of 24 months commencing on the date of delivery of the Goods and/or 12 months from the date on which the Service is performed.