# The Australian Broadcasting Corporation Purchase Order Terms and Conditions ("Terms and Conditions")

. **Interpretation:** The following definitions apply to these terms and conditions:

**Delivery** Address means the address specified in the Purchase Order.

**Delivery** Date means the date for delivery specified in the Purchase Order.

Goods means the goods specified in the Purchase Order.

**Price** means the Net Unit Price specified in the Purchase Order and is firm in the currency stated in the Purchase Order and not subject to any exchange rate variation.

**Purchase** Order means the purchase order attached to this document and includes these terms and conditions.

**Services** means the services specified in the Purchase Order or any necessary services to install or ensure Goods (if any) perform in accordance with the warranties in clause 9.

#### Specifications means:

- (a) Any description of, or representation about the Goods provided to the ABC or referred to in the Purchase Order; and
- (b) The Supplier's or manufacturers' published specifications for the Goods.

Supplier means the supplier specified in the Purchase Order.

Warranty Period means, unless a longer period is specified in the Purchase Order, the period of 12 months commencing on the date of delivery or acceptance of the Goods, whichever is earlier, or 12 months commencing the date on which the last Service was performed.

#### 2. Price & Invoices

- 2.1. In consideration of the provision of Goods and Services or Goods or Services under this Purchase Order, the ABC agrees to pay to the Supplier the Price specified in the Purchase Order.
- 2.2. Unless otherwise specified in the Purchase Order, the Price is free in store to the Delivery Address and includes packing.
- 2.3. The ABC agrees to pay the Price within 30 days of the end of the month in which a correctly rendered invoice is received by the ABC (ie. 30 days commercial).
- 2.4. The Supplier may only invoice the ABC once the Goods and Services or Goods or Services the subject of the Purchase Order have been delivered to the ABC, or in the case of Services, performed by the Supplier.
- 2.5. The Supplier is liable for all transport costs associated with delivery of any Goods and performance of any Services to the ABC and any return of the Goods or resupply of the Services by the ABC to the Supplier.

### Delivery

- 3.1. The Supplier must deliver the Goods to the Delivery Address by the Delivery Date.
- 3.2. The Supplier must ensure that the Goods are packed in a manner that avoids injury and damage in transit or storage.
- 3.3. The Supplier must ensure that all packages are marked with a packing slip clearly stating the Purchase Order number, Delivery Address, contents, quantity, date, weight of each package and a description of the Goods.
- 3.4. On Delivery of the Goods or Services the Supplier must supply the ABC with:
  - All user documentation containing sufficient information in a form usable by the ABC to enable it to operate, make full use of, and maintain the Goods; and
  - (b) Any other documentation specified in the Purchase Order or usually supplied with the Goods or Services.

## 4. Environment

- 4.1. All goods must meet or exceed:
  - (a) applicable ISO 14001 or ISO 1402 standards (to the EPEAT(Silver) level or equivalent rating) as defined by those standards:
  - (b) ENERGY STAR standards; and
  - c) the requirements of the National Environmental Protection (Used Packaging Materials) Measure and the Material Packaging Covenants.

## 5. Acceptance

- 5.1. The ABC may test the Goods after delivery to determine whether the Goods comply with the Specifications. The ABC will accept the Goods if they comply with the Specifications.
- 5.2. If the Goods do not comply with the Specifications, the provisions of clause 9.2 will apply. Acknowledgement of delivery or payment by the ABC does not constitute acceptance of the Goods by the ABC.

#### 6. Title and Risk

- 6.1. Title in the Goods passes to the ABC upon payment.
- 6.2. Risk in the Goods passes to the ABC when the Goods are delivered to the Delivery Address and delivery has been acknowledged by the ABC.
- 6.3. The ABC will notify the Supplier if any Goods are found to be damaged when unpacked by the ABC. In that event, the provisions of clause 9.2 will apply.
- 6.4. The ABC does not accept any responsibility for damage to any Goods in transit to or from the ABC.
- 7. Cancellation & Change to Purchase Order
- 7.1. The ABC may cancel the Purchase Order by giving reasonable notice to the Supplier.
- 7.2. The ABC may amend the Goods or Services or the quantity of any Goods or Services by notifying the Supplier 16. before the relevant Delivery Date or if the Supplier fails to supply any Goods or Services on the Delivery Date. If the Supplier has already incurred expense in arranging for the order or delivery of any Goods and Services specified in the Purchase Order the supplier may request the ABC to pay its reasonable expenses.
- 8. **ĠST**
- 8.1. If GST is imposed on any supply made by the Supplier under or in connection with this Purchase Order, the Supplier may recover from the ABC, in addition to the Price, an amount equal to the GST payable in respect

of that Supply, provided that the Supplier has delivered a valid Tax invoice to the ABC.

- Warrantv
- 9.1. The Supplier warrants:
  - (a) That all Goods:
    - (i) Are new and in good condition;
    - (ii) Comply with all relevant Australian standards and industry codes;
    - (iii) Are free from defects in design, materials and workmanship;
    - (iv) Are of good and merchantable quality and fit for their intended purposes; and
    - (v) Comply with the Specifications.
  - b) For Services, that the Supplier will, and will ensure that any employees, agents and contractors;
    - (i) Provide the Services with the degree of skill, care and diligencethat would be expected of a skilled professional experienced in providing the same or similar services:
    - (ii) Comply with all reasonable directions of ABC personnel and
    - (iii) Comply with all applicable laws and ABC policies (as notified to the Supplier by ABC from time to time), relevant Australian standards and industry codes; and
- (c) That the Goods and Services and their use and supply will not breach any obligation of confidence or infringe any intellectual property rights of any person or entity.
- During the Warranty Period if any of the Goods or Services fail to comply with any warranties in this clause 9, the Supplier mus t, without prejudice to any other rights of the ABC, promptly and at the option of the ABC:
  - (a) Remedy that failure without any cost to the ABC(including by replacing the Goods or resupplying the Service if necessary):
  - (b) Provide to the ABC a full refund of the Price paid for the Goods or Services; or
  - (c) Deduct in accordance with the ABC's directions the Price paid for the Goods or Services from any other amounts owing to the Supplier.

#### 10. Indemnity

- 10.1. The Supplier indemnifies the ABC against all losses and damages (on a full indemnity basis and whether incurred by or awarded against the ABC) that the ABC may sustain or incur as a result, whether directly or indirectly, of:
  - (a) A claim that the Goods or Services or their use or supply breaches any obligation of confidence or infringes the intellectual property rights of any person;
  - (b) A claim, demand, suit, action or proceeding by a third party arising from an act or omission of the Supplier in connection with the Purchase Order whether negligent or not; or
  - c) Without limiting clause 10.1(b) any act or omission of the Supplier in connection with the Purchase Order resulting in or contributing to:
    - (i) Claims by any third party against the ABC in respect of personal injury or death; or
    - (ii) Loss of or damage to the ABC's or a third party's property.

# 11. Confidentiality

The Supplier must keep confidential any information regarded by the ABC as confidential and disclosed to the Supplier by the ABC relating to this Purchase Order. The Supplier will not make any public statement that Goods or Services have or will be supplied to the ABC without the prior written consent of the ABC.

- 12. Compliance with Laws & Work Health & Safety
- 12.1. The Supplier must comply, and must ensure that all personnel and any subcontractors comply, with all applicable legislation, regulations, guidelines, codes of practice or any other instrument made under legislation relating to the provision of the Goods or Services, including without limitation, obligations under current occupational and work health and safety laws and workers compensation laws.
- 13. Insurance
- 13.1. The Supplier must effect and maintain all insurances as required by law (including without limitation, relevant workers' compensation insurance).
- 13.2. The Supplier must at its own expense, if requested by the ABC, obtain professional indemnity insurance to a value specified by the ABC.
- 13.3. The Supplier, unless otherwise agreed by the ABC in writing, must have and maintain insurance against all risks under this Purchase Order, including public liability insurance (\$20 million for each occurrence) and products liability insurance (\$10 million for each occurrence).
- 4. Assignment & Subcontracting
- 14.1. The Supplier must not, without the ABC's prior written consent:
  - (a) assign part or all of the Purchase Order; or
  - use any subcontractor for supply of the Goods or Services. If the Supplier uses a subcontractor, the Supplier will be liable for the subcontractor's acts and omissions.

#### 15. Entire Agreemen

Subject to any separate longer form agreement between the parties, the Purchase Order is the complete agreement between the ABC and the Supplier in relation to the Goods and Services or Goods or Services.

# 6. Variation & Waiver

A provision of these terms and conditions or a right created under them may not be waived or varied except in writing, signed by the party or parties intended to be bound. A failure of a party to exercise a right arising out of these terms and conditions does not constitute a waiver of that right.

# 17. Governing Law

The laws of New South Wales apply to the Purchase Order and the parties submit to the non-exclusive jurisdiction of the courts of New South Wales.