

## 1. When these General Terms apply

- 1.1 These General Terms apply to this Contract unless otherwise expressly stated in the Purchase Order. This is even if the Supplier subsequently gives Thales the Supplier's terms including as printed on consignment notes.
- 1.2 These General Terms use capitalised defined terms. Some terms are defined (capitalised and in bold) within clauses 2 to 23. Otherwise, clause 24 sets out the definitions.

## 2. Entering into a Contract

- 2.1 This "**Contract**" refers to the legally binding agreement between Thales and the Supplier for the provision of the Supplies.
- 2.2 This Contract comprises (in descending order of priority in the event of any inconsistency between the components):
  - (i) the "**Purchase Order**": this is the Thales document titled "Purchase Order" signed by a representative of Thales that includes the description of the Supplies, the Price, any applicable Incoterms and the delivery date and delivery address;
  - (ii) the "**Requirements**": this is any document or requirement stated in or incorporated by reference in the Purchase Order such as a specification for, or drawings describing, the Supplies; and
  - (iii) these General Terms.
- 2.3 Within 7 days of receiving a Purchase Order, the Supplier must notify Thales if it accepts or rejects this Contract. The Supplier may accept a Contract by signing and returning a copy of the Purchase Order. If no response is received, at the expiry of the 7 days the Supplier will be deemed to have accepted this Contract.
- 2.4 This Contract sets out the entire agreement relating to the provision of the Supplies. Any changes to this Contract must be agreed in writing.
- 2.5 A Purchase Order may specify that an "**Incoterm**" (an international contract term published by the International Chamber of Commerce, 2020 edition unless otherwise stated) applies. If there is an inconsistency between the General Terms and the specified Incoterm, the Incoterm will apply to the extent of the inconsistency.

## 3. Supplier's obligations

- 3.1 The Supplier must:
  - (i) provide the Supplies in accordance with the requirements of this Contract and all applicable Laws;
  - (ii) comply with any directions given by Thales regarding the provision of the Supplies (including in respect of health, safety and security), excepting any directions that are clearly inconsistent with the express terms of this Contract; and
  - (iii) where relevant to the Supplier's performance of this Contract, comply with (and ensure Supplier Personnel comply with) Thales policies which apply to the Sites and Thales' IT systems, Confidential Information, personnel and use of Thales provided materials, access or information.
- 3.2 The Supplier must promptly notify Thales when it becomes aware of any issue that is likely to impact the ability of the Supplier to perform its obligations in accordance with this Contract, including without limitation any delay or potential delay in delivering the Supplies.
- 3.3 The Supplier must maintain, and must ensure that the Supplier's Personnel involved in providing the Supplies maintain, all necessary qualifications and licences to perform this Contract.

## 4. Conformity of Supplies

- 4.1 The Supplier must deliver Supplies that are of the quantity, quality and description required under this Contract.
- 4.2 The Supplier must ensure that:
  - (i) the Supplies are fit for the purposes for which the Supplies are intended to be used by Thales;
  - (ii) the Supplies comply with any samples, specifications, drawings or other descriptions provided to Thales;
  - (iii) the Supplies are of good quality, free from all defects (including defects in design, material and workmanship) and are new;
  - (iv) the Supplies are free of any Hazardous Materials (unless otherwise agreed in writing by Thales);
  - (v) the Supplies do not contain any material, part or component that is an unauthorised copy, imitation, substitute or modified part which is knowingly misrepresented as a specified genuine part of an original or authorised manufacturer;
  - (vi) the Supplies will be available for any design life specified by Thales in this Contract;
  - (vii) where the Supplies are subject to a shelf life, the Supplies when delivered:
    - (i) are labelled with the date of manufacture and the expiry date; and
    - (ii) have at least 75% shelf life remaining at delivery;
  - (viii) where the Supplies incorporate software, the software (and any maintenance, upgrade, patch or fix):
    - (i) is free from viruses, trojan horses, bugs, worms, harmful code or any other defects that are intended to, or do, damage, permit unauthorised access to, or interfere with the proper working of the software;
    - (ii) will be free from any back door, time bomb, drop dead device or any other code designed to disable the software; and
  - (ix) Thales will receive good and clear title to the Supplies upon delivery to Thales.

## 5. Pre-delivery, packaging and transit

- 5.1 The Supplier must notify Thales of any special storage conditions for the Supplies at least 14 days before the date of delivery of the Supplies.
- 5.2 If the Supplies contain a Hazardous materials, the Supplies must be appropriately labelled including identifying the Materials, the hazards and appropriate safeguards.
- 5.3 The Supplier must ensure that the Supplies are packaged for delivery to Thales in a manner that:
  - (i) complies with Laws including Safety Laws;
  - (ii) complies with applicable customs, export, import and quarantine requirements;
  - (iii) prevents any unauthorised interference with the Supplies or the introduction of additional items during loading, transit and unloading; and
  - (iv) otherwise is appropriate to prevent damage or deterioration of the Supplies in the course of loading, transit and unloading.
- 5.4 Subject to any relevant Incoterm, the Supplier must
  - (i) ensure that the shipping documentation, including any commercial (customs) invoice and certificate of origin, is accurate and complete; and
  - (ii) engage reputable transportation providers that implement globally recognised standard supply chain

safety and security measures in connection with the delivery of the Supplies.

- 5.5 If requested by Thales, the Supplier must promptly provide information to assist Thales in obtaining customs clearance.

## 6. Delivery

- 6.1 The Supplier must deliver the Supplies to the delivery address on the delivery date and in accordance with any delivery instructions specified in the Purchase Order, or as otherwise directed by Thales from time to time.
- 6.2 Unless otherwise agreed in writing, the Supplier must deliver to Thales with the Supplies:
- (i) packing and delivery slips or advice notes that include the Thales' Purchase Order reference number;
  - (ii) a certificate of conformity, being a certificate signed by an authorised representative of the Supplier stating that the Supplies covered by the certificate comply with this Contract requirements and applicable Laws; and
  - (iii) a copy of the Export Approval (if relevant).
- 6.3 Where the Supplies (including any associated documentation) are not provided in accordance with this Contract, Thales may reject the Supplies (without prejudice to any other rights that Thales may have).
- 6.4 If Thales rejects the Supplies, Thales may give the Supplier 7 days' notice to collect the rejected Supplies. If the Supplier does not collect the Supplies within this time, Thales may:
- (i) return the Supplies to the Supplier at the Supplier's cost including an administration charge; or
  - (ii) require the Supplier within 7 days (or as otherwise agreed in writing) to repair or replace the Supplies at no cost to Thales.

## 7. Title and Risk

- 7.1 Title to the Supplies passes to Thales on the earlier of payment for those Supplies and delivery of those Supplies to Thales.
- 7.2 Risk in the Supplies transfers to Thales when the Supplies are delivered to Thales.
- 7.3 If Thales rejects any Supplies under clause 9:
- (i) the risk in the rejected Supplies transfers to the Supplier from the date of Thales' rejection notice;
  - (ii) title to those Supplies will transfer to the Supplier once the Supplier has complied with its obligations under clause 9.

## 8. Intellectual Property Rights

- 8.1 Ownership of pre-existing IP Rights will not change as a result of this Contract.
- 8.2 The Supplier grants to Thales a royalty-free, irrevocable, worldwide, perpetual and transferable licence in IP Rights provided as part of the Supplies, which may be sublicensed by Thales in its sole discretion, to the extent necessary for Thales and its sub-licensees to be able to fully use and obtain the benefit of the Supplies.
- 8.3 The IP Rights in any materials provided by Thales to the Supplier, or created by the Supplier, in the performance of its obligations under this Contract including, but not limited to, drawings and specifications remain with or are vested in Thales, and the Supplier must promptly return all such material to Thales, if requested by Thales.

## 9. Defective Supplies

- 9.1 If any Supplies are not in accordance with the requirements of this Contract, are defective in any way or are damaged while the risk in the Supplies is with the Supplier (as determined by Thales), Thales may (at its sole discretion), at any time within a 12-month period following the date of delivery of the affected Supplies:
- (i) require the Supplier to make good that damage or rectify the defect within a timeframe specified by Thales. If the Supplier fails to do so within the specified timeframe, Thales may itself, or by engaging a third party, make good or rectify the damage or defect and recover its costs from the Supplier;
  - (ii) require the Supplier to replace the Supplies with Supplies that comply with the requirements of this Contract within the timeframe specified by Thales;
  - (iii) reject all or part of the Supplies in which case the risk in the rejected Supplies will remain with the Supplier and Thales will not be liable to pay for the rejected Supplies for so long as they are rejected; or
  - (iv) accept the Supplies (without prejudice to Thales' other rights under this Contract), and the Price will be reduced by either the reduction in value of the Supplies or the costs of rectifying the damage or defect, as chosen by Thales.
- 9.2 Thales is entitled, in the circumstances described in clause 9.1, to recover from the Supplier any financial loss incurred by Thales either directly or indirectly arising from such occurrence.

## 10. Price

- 10.1 In consideration for the Supplier providing the Supplies in accordance with this Contract, Thales must pay the Supplier the Price plus any applicable goods and services tax.
- 10.2 The Price is fixed and is inclusive of all charges, packaging and delivery costs, insurances, expenses and overheads, and all taxes (excluding any goods and services tax), duties, and government charges.

## 11. Correctly rendered invoices

- 11.1 The Supplier must ensure that invoices issued to Thales for the Supplies include adequately itemised information and are a **"Correctly Rendered Invoice"** in accordance with the following:
- (i) the amount claimed in the invoice is due for payment and correctly calculated;
  - (ii) the invoice is addressed in accordance with this Contract;
  - (iii) the invoice includes Thales' purchase order number; and
  - (iv) the invoice is a valid tax invoice in accordance with the *A New Tax System (Goods and Services) Act 1999* (Cth).
- 11.2 Subject to clause 11.1, the Supplier must only invoice Thales at the times, and where applicable, in the amounts, set out in the Purchase Order.

## 12. Payment

- 12.1 Subject to the Supplier's compliance with this Contract including clause 11, Thales must pay the amount of the invoice within the period specified in the Purchase Order calculated from the later of:

- (i) receipt of the original or corrected invoice (as applicable) from the Supplier; or
  - (ii) Thales' acceptance of the relevant Supplies.
- 12.2 Thales may deduct from moneys due or to become due to the Supplier any amounts that are due to Thales by the Supplier.

## 13. Health and Safety

- 13.1 The Supplier must:
- (i) comply with, and enable Thales to comply with, Safety Laws and safe work method statement(s); and
  - (ii) cooperate fully in any safety or health related reviews, inspections, audits and investigations.
- 13.2 The Supplier must ensure that any Supplier Personnel who enter or are present at a Site in connection with the provision of the Supplies act at all times in a safe manner and in a way that does not prejudice safe working practices, safety and care of property and continuity of work at the Site.

## 14. Controlled and Classified Supplies

- 14.1 At least 14 days before delivery, the Supplier must notify Thales if the Supplies are subject to:
- (i) any export control Laws (**Controlled Supplies**); and
  - (ii) any restrictions arising from an official government security classification (**Classified Supplies**).
- 14.2 For Controlled Supplies or Classified Supplies, the Supplier must provide Thales with:
- (i) details in writing of any export and re-export restrictions affecting the Supplies including affecting Thales' right to use or re-transfer the Controlled Supplies or Classified Supplies; and
  - (ii) a copy of any export licence, agreement or approval (however described) relating to export, including without limitation re-export, in-country transfer or re-transfer, affecting Thales' right to use or re-transfer the Supplies (**Export Approval**).
- 14.3 If requested by Thales, the Supplier must deliver to Thales a commodity export classification document in a form acceptable to Thales that has been completed by the manufacturer of the Controlled Supplies.
- 14.4 The Supplier must ensure that the performance of the Supplier's obligations under this Contract including the delivery of the Supplies to Thales will not contravene any export control Laws.
- 14.5 Unless otherwise agreed in writing, the Supplier is responsible for obtaining all Export Approvals required in connection with this Contract before entry into this Contract. If Thales is required to obtain Export Approval (including for any subsequent re-export of the Controlled Supplies), the Supplier must provide Thales with such assistance as Thales requires.
- 14.6 If an Export Approval is withdrawn, expires without being renewed, is varied or otherwise is no longer valid due to an act or omission of the Supplier or its Personnel and this affects Thales' right to use or re-transfer the Controlled Supplies, this is deemed to be a material breach of this Contract by the Supplier.

## 15. Quality

- 15.1 The Supplier must, specifically for its sites providing the Supplies:
- (i) maintain a quality, safety and environment system that satisfies the requirements of ISO 9001, ISO14001 and ISO45001;

- (ii) ensure that the Supplies are subject to quality control and internal certification by the Supplier;
- (iii) maintain quality control records for the longer of the period required by Law or under the relevant ISO certification; and
- (iv) maintain records of training, competence, qualification and security compliance of skilled and /or labour personnel conducting work in relation to this Contract.

15.2 If requested by Thales, the Supplier must promptly provide documentation relating to clause 15.1.

15.3 Thales may on reasonable notice and at reasonable times:

- (i) inspect and test the Supplies before delivery to Thales; and
- (ii) audit, inspect and review the Supplier's quality management system and documentation in connection with the provision of the Supplies.

15.4 The Supplier must provide Thales with access to facilities, records and personnel reasonably required for Thales or its representative for the purposes of clause 15.3. This may include access to a third party's premises if that third party is involved in the production or delivery of the Supplies

## 16. Insurance

16.1 The Supplier must maintain the following insurances:

- (i) subject to any relevant Incoterm, insurance cover for goods comprising the Supplies for their full replacement value against loss or damage, including loss or damage in transit and unloading;
- (ii) workers compensation insurance as required by Law;
- (iii) unless otherwise agreed in writing, product liability insurance for at least 1 million dollars per occurrence and in the aggregate annually; and
- (iv) if the Supplier enters a Site in connection with the provision of the Supplies (excluding entry for the sole purpose of physical delivery of the Supplies), public liability insurance for at least 20 million dollars per occurrence and in the aggregate annually.

16.2 If requested by Thales, the Supplier must promptly provide insurance certificates of currency, evidencing compliance with clause 16.1.

## 17. Confidentiality

17.1 Each Recipient must, with respect to the Confidential Information of the Discloser and for a period of 10 years from receipt of the Confidential Information:

- (i) keep confidential the Confidential Information, and not disclose the Confidential Information to any person except in accordance with this Contract;
- (ii) only use the Confidential Information for the performance of its obligations, or exercising its rights, under this Contract; and
- (iii) not copy, reproduce, or reduce to writing any part of the Confidential Information, except as is reasonably necessary for the performance of its obligations under this Contract.

17.2 A Recipient may disclose the Discloser's Confidential Information:

- (i) to its officers, directors, employees and contractors, and in the case of the Supplier, includes any subcontractor and the subcontractor's officers, directors, employees and contractors, and in the case of Thales, to a related body corporate, on a need to know basis;
- (ii) to a third party to the extent required by law, or any stock exchange having authority; and

- (iii) in the case of Thales, to any person or organisation so that Thales can obtain the complete and full benefit of the Supplies; and
- (iv) to another person with the Discloser's consent.

## 17.3 The Supplier must:

- (i) ensure that each person to whom it discloses Confidential Information as permitted under this Contract agrees to keep the Confidential Information confidential;
- (ii) promptly notify Thales if it becomes aware of any:
  - (i) suspected or actual breach of this clause 17; or
  - (ii) unauthorised access or unauthorised use; and
- (iii) provide Thales with all reasonable assistance required to remedy the breach, unauthorised access or unauthorised use.

## 18. Privacy

### 18.1 Where the Supplier processes Personal Information in connection with this Contract, the Supplier must:

- (i) comply with all applicable Privacy Laws; and
- (ii) take all appropriate technical and organisational measures against unauthorised or unlawful processing of Personal Information and against accidental loss, disclosure or destruction of, or damage to, Personal Information.

## 19. Anti-corruption

### 19.1 Each party, its executives and employees must comply with Anti-corruption Laws.

### 19.2 The Supplier, whether directly or indirectly, must not in connection with this Contract offer or promise any gift, benefit or advantage to a person, for herself/himself or for others, with the purpose that the person abuses, or because this person would have made illegitimate use of, its real or supposed influence in order to obtain distinctions, jobs, contracts or any other favourable decision.

### 19.3 The Supplier must not solicit or accept for itself any offer, promise, gift, benefit or advantage of any kind, to make illegitimate use of its influence with a view to making or obtaining any favourable decision.

## 20. Modern Slavery

### 20.1 The Supplier warrants that:

- (i) neither the Supplier, nor any of its officers, employees or related personnel have been convicted of any offence involving slavery or human trafficking; and
- (ii) to the best of its knowledge and following reasonable enquiries, the Supplier's Supply Chain have not been convicted of any offence involving slavery or human trafficking.

### 20.2 In performing this Contract, the Supplier must:

- (i) comply with all anti-slavery and human trafficking Laws, including the *Modern Slavery Act 2018* (NSW) and the *Modern Slavery Act 2018* (Cth); and
- (ii) have in place and implement, appropriate anti-slavery and anti-trafficking policies, practices and procedures;
- (iii) incorporate into contracts with its Supply Chain, obligations equivalent to those set out in this clause 20; and
- (iv) notify Thales as soon as possible following:

- (i) any actual or suspected breach of this clause by the Supplier or any member of its Supply Chain; and
- (ii) any actual or suspected slavery or human trafficking in a supply chain relating to this Contract.

## 21. Liability

### 21.1 Subject to clause 21.2 and to the maximum extent permitted by law, the total liability of the Supplier to Thales under this Contract will not exceed the Price or \$50,000 (whichever is the higher).

### 21.2 The limitation in sub-clause 21.1 does not apply to:

- (i) the liability of the Supplier for the matters listed in clause 21.3; or
- (ii) for any liability which, by law, the parties cannot contract out of or limit.

### 21.3 The Supplier indemnifies Thales and its Personnel from and against all Claims incurred or suffered by any of them, whether in contract, tort (including negligence), or otherwise, in connection with any:

- (i) contravention of or liability by the Supplier and its Personnel under any Law;
- (ii) personal injury, including sickness and death, or loss of or damage to tangible property, caused or contributed to by the Supplier and its Personnel;
- (iii) infringement or alleged infringement, of any Moral Right or IP Rights, relating to Thales' use of the Supplies;
- (iv) the Supplier's or its Personnel's breach of or non-compliance with any of its obligations under or in connection with clauses 17, 18, 19 or 20; or
- (v) any Claim by a third party arising out of any negligent act or omission of the Supplier or its Personnel in the performance of this Contract.

### 21.4 The Supplier's liability to Thales under clause 21.3 will be reduced proportionately to the extent that any unlawful or negligent act or omission of Thales contributed to the loss or liability.

### 21.5 To the maximum extent permitted by law, the parties exclude the operation of the "proportionate liability laws" set out in the *Civil Liability Act 2002* (NSW) or any equivalent legislation that might otherwise have application to this Contract.

## 22. Termination

### 22.1 Without prejudice to any right Thales may have to be indemnified or to damages, or to rescission, for breach of this Contract, Thales may terminate this Contract in whole or in part by written notice to the Supplier at any time at its absolute discretion by giving the Supplier notice in writing, including termination for the Supplier's breach of this Contract.

### 22.2 If this Contract or part thereof is terminated for any reason, including under clause 22.1, Thales will be liable only for payment for Supplies delivered in accordance with this Contract before termination, and is not liable for any other Claim of the Supplier arising out of the termination of this Contract.

### 22.3 If for any reason the Supplier validly terminates this Contract as a result of the breach or repudiation of this Contract by Thales, Thales' liability will be limited to the extent provided under clause 22.2.

## 23. General

### 23.1 A reference to dollars or \$ means Australian dollars unless otherwise stated.

- 23.2 Notices must be given to a party at the address set out on the Purchase Order or as otherwise notified by the parties in writing.
- 23.3 The Supplier must not transfer, assign or otherwise dispose of all or any of its rights, obligations or interests under this Contract without the written consent of Thales.
- 23.4 The United Nations Convention on Contracts for the International Sale of Goods is excluded from the operation of this Contract.
- 23.5 Clauses and rights in this Contract may only be waived in writing signed by the waiving party. Failure or delay of a party in exercising a right under this Contract does not waive the party's rights. A waiver will only waive the particular rights in the particular circumstances and will not waive any other rights, or the same rights in other circumstances.
- 23.6 The Supplier is an independent contractor of Thales and not an agent or employee. The Supplier's Personnel are not agents or employees of Thales.
- 23.7 This Contract does not create an exclusive supply arrangement and Thales is not obliged to procure any minimum level of supply from the Supplier.
- 23.8 This Contract is to be governed by and construed in accordance with the law of the New South Wales, Australia. The parties submit to the non-exclusive jurisdiction of the courts of New South Wales and the Commonwealth of Australia, and the courts of appeal from them.

## 24. Defined terms

In the General Terms:

**Anti-corruption Laws** means regulation, law, order, standard and other similar instrument against corruption and influence peddling that applies in the context of the performance of this Contract including, to the extent applicable, law n°2016-1691 of 9 December 2016 relating to transparency, fight against corruption and modernization of the economy.

**Claim** means any claim, demand, remedy, injury, damage, cost, loss, expense, liability, suit, action, proceeding, verdict, judgement, right of action or debt whether arising at law, in equity, under statute or otherwise.

**Confidential Information** means all information disclosed by or on behalf of one party (**Discloser**) to the other party (**Recipient**) in connection with this Contract, or created using that information, which is confidential or commercially sensitive in nature and designated as such, or which a reasonable person receiving the information would realise is sensitive or confidential, and all information to the extent it is derived from that information. Confidential Information does not include information which:

- (i) was independently created by the Receiving Party;
- (ii) is or becomes public knowledge (otherwise than as a result of a breach of confidentiality);
- (iii) was already lawfully in the possession of the Receiving Party on a non-confidential basis; or
- (iv) is provided to the Receiving Party by a person who is in possession of it lawfully and can disclose it to the Receiving Party on a non-confidential basis.

**Hazardous Materials** means any substance, mixture or article that has the potential through being used at work to harm the health and safety of persons in the workplace including:

- (i) any hazardous chemical (within the meaning of The Globally Harmonized System of Classification and Labelling of Chemicals, 7th Edition); and
- (ii) asbestos containing material.

**IP Rights** means all copyright (including rights in computer software), Moral Rights, all rights in relation to inventions (including patent rights), plant varieties, trademarks (including service

marks), designs (whether or not registrable), confidential information (including trade secrets and know-how), circuit layouts and all other rights throughout the world resulting from intellectual activity in the industrial, scientific or artistic fields and all rights to register, rights in applications for the registration of and rights to extend or renew the registration of any of the foregoing.

**Laws** includes:

- (i) acts, ordinances, regulations, by-laws, orders, awards and proclamations of the Commonwealth of Australia and any other relevant jurisdiction;
- (ii) certificates, licences, consents, permits, approvals, codes, standards and requirements of organisations having jurisdiction in connection with or recognised generally as authorities in respect of the Supplies;
- (iii) Australian Standards and the Building Code of Australia; and
- (iv) the mandatory codes of practice of the Commonwealth and any other relevant jurisdiction,

and any amendment or replacement to them.

**Moral Rights** means the right of integrity of authorship, the right of attribution of authorship and the right not to have authorship falsely attributed, more particularly as conferred by the Copyright Act 1968 (Cth), and analogous rights in other applicable jurisdictions.

**Personal Information** means all 'personal information' and 'personal data' as defined by Privacy Laws, and includes any information relating to an identified or identifiable natural person.

**Personnel** means officers, directors, employees and contractors, and in the case of the Supplier, includes any subcontractor and the subcontractor's officers, directors, employees and contractors.

**Privacy Laws** means any data protection or privacy regulation, law, order, standard and other similar instrument that applies in the context of the performance of this Contract, including: (i) the *Privacy Act 1988* (Cth) and applicable Commonwealth and State privacy instruments; and (ii) the *Regulation (EU) 2016/679* on the protection of natural persons with regard to the processing of personal data and on the free movement of such data.

**Price** means the price (including a price list if relevant) stated in the Purchase Order.

**Safety Laws** means all applicable Commonwealth, State and Territory work health and safety Laws including the *Work Health and Safety Act 2011* (Cth) and the *Work Health and Safety Regulations 2011* (Cth).

**Site** means premises used or occupied by Thales or a customer of Thales and may include premises with specific safety, security and access requirements.

**Supplier** means the person identified as the Supplier in the Purchase Order

**Supplies** means the goods and/or services to be provided by the Supplier under this Contract, as stated in the Purchase Order. Where relevant, the Supplies include operating manuals and installation guides even if not expressly stated in the Purchase Order.

**Supply Chain** refers to the Supplier's direct and indirect subcontractors, service providers and suppliers.

**Thales** means Thales Australia Limited ACN 008 642 751.