

General Conditions of Purchase for Goods and/or Services

Recitals

- A. RDA has issued a Purchase Order for delivery of Supplies based on these General Conditions of Purchase for Goods and/or Services.
- B. The Supplier agrees that delivery of the Supplies constitutes a contract between RDA and the Supplier on the terms of the Purchase Order Documents.
- C. These General Conditions of Purchase do not apply in circumstances whereby the Supplier and RDA are already in contract with respect to the Supplies prior to the date of the Purchase Order.

1. Purchase Order Documents (Contract)

Subject to clause 2, the Contract between RDA and the Supplier comprises:

- a. the Purchase Order; and
- b. these General Conditions of Purchase.

If there is any ambiguity or inconsistency between the Purchase Order Documents, the document appearing higher in the list will have precedence to the extent of the ambiguity or inconsistency.

2. Existing Contracts and Standing Offers

If the Purchase Order is issued under the terms of an existing contract or a standing offer, the terms of that existing contract or standing offer will apply and these General Conditions of Purchase (other than this clause 2) will have no effect.

3. Supplies

The Supplier agrees to provide the Supplies to RDA, or its Related Body Corporate, and RDA agrees to purchase the Supplies in accordance with the terms of this Contract.

4. Delivery

The Supplier must provide the Supplies to RDA at the Delivery Location and Delivery Date in accordance with the Purchase Order. The Supplier must promptly notify RDA if the Supplier becomes aware that it will be unable to provide all or part of the Supplies, by the relevant Delivery Date.

5. Acceptance

RDA may accept or reject the relevant Supplies within 14 days after delivery of the Supplies to the Delivery Location. If RDA does not notify the Supplier of acceptance or rejection within the 14 day period, RDA will be taken to have accepted the Supplies on the expiry of the 14 day period.

RDA may reject the Supplies where the Supplies do not comply with the requirements of this Contract. If RDA rejects the Supplies RDA may require the Supplier to provide, at the Supplier's cost, replacement Supplies which comply with the requirements of this Contract within a period determined by RDA

In either case and at RDA's request, the Supplier must promptly remove any relevant Supplies.

6. Title and Risk

Title in the Goods transfers to RDA upon acceptance by RDA in accordance with clause 5. The risk of any loss or damage to the Goods remains with the Supplier until their delivery to RDA at the Delivery Location. Ownership of any products of Services supplied shall be deemed to vest in RDA upon its creation.

7. Payment

RDA must pay the Price to the Supplier on the 20th calendar day of the month following receipt of a correctly rendered invoice in accordance with clause 8.

Subject to compliance with clause 8, RDA is deemed to have received a correctly rendered invoice at the following times:

- a. at the time of delivery of the Supplies where the invoice is supplied:
 - (i) prior to delivery of the Supplies; or
 - (ii) at the time of delivery of the Supplies; or
- b. at the time of actual receipt of the invoice, where the invoice is provided by the Supplier after delivery of the Supplies.

8. Invoice

The Supplier must submit a correctly rendered invoice to RDA accounts RDA.Accounts@Rheinmetall.com. An invoice is correctly rendered if:

- a. it is correctly addressed and calculated in accordance with the Purchase Order;
- b. RDA has not rejected the Supplies under clause 5;
- c. it is for an amount which does not exceed the Price;
- d. it includes the Purchase Order number; and
- e. it is a valid tax invoice in accordance with the GST Act.

The Supplier must promptly provide to RDA such supporting documentation and other evidence reasonably required by RDA to substantiate performance of the Contract by the Supplier or payment of the Price by RDA.

9. Price Basis

The Price is firm and is inclusive of all relevant taxes (except GST), duties (including any customs duty) and government charges imposed or levied in Australia or overseas relevant to the Supplies. The Price also includes the cost of any packaging, marking, handling, freight and delivery, insurance and any other applicable costs and charges.

10. Warranty

The Supplier warrants that the Supplies are new, free from deficiencies in design, manufacture and workmanship and are fit for the purposes for which goods of a similar nature to the Supplies are commonly supplied and for any other purposes notified by RDA to the Supplier.

11. Intellectual Property

- a. The Supplier warrants that it has all Intellectual Property (IP) rights and moral rights necessary to provide the Supplies to RDA and licenses those rights to RDA to allow RDA to have the full benefit of the Supplies. Any Intellectual Property developed under this Contract shall vest in RDA on its creation.
- b. The Supplier also warrants that the provision of the Supplies in accordance with this Contract will not infringe any third party's IP or moral rights.

12. Defects

Notwithstanding acceptance of the Supplies by RDA in accordance with clause 5, the Supplier must remedy at its cost any defects in the Supplies notified by RDA to the Supplier at any time within the period of 90 days or the Supplier's or manufacturer's standard warranty period (whichever is the longer) following acceptance of the Supplies by RDA. The Supplier will be responsible for any costs of removing Goods and, if applicable, delivering repaired or replacement Supplies to RDA together with any associated or incidental costs. If the Supplier does not remedy the defect, RDA may remedy the defect and the costs incurred by RDA in remedying the defect will be a debt due from the Supplier to RDA.

13. Insurance

The Supplier must procure and maintain such insurances and on such terms and conditions as a prudent supplier, providing supplies similar to the Supplies, would procure and maintain.

14. Set Off

If the Supplier owes any debt to RDA in connection with this Contract, RDA may deduct the amount of the debt from payment of the Price.

15. Indemnity

The Supplier indemnifies RDA, its officers, employees and agents against any liability, loss, damage, cost (including the cost of any settlement and legal costs and expenses on a solicitor and own client basis), compensation or expense arising out of or in any way in connection with:

- a. a default or any unlawful, wilful or negligent act or omission on the part of the Supplier, its officers, employees, agents or subcontractors; or
- b. any action, claim, dispute, suit or proceeding brought by any third party in respect of any infringement or alleged infringement of that third party's IP rights or moral rights in connection with the Supplies.

The Supplier's liability to indemnify RDA under clause 15a is reduced to the extent that any wilful, unlawful, or negligent act or omission of RDA, its officers, employees or agents contributed to the liability, loss, damage, cost, compensation or expense.

16. Assignment

The Supplier must not assign any of its rights under this Contract without the prior written consent of RDA.

17. Subcontracting

Subcontracting the whole or part of the Supplier's obligations under this Contract will not relieve the Supplier from any of its obligations under this Contract. Upon request the Supplier must make available to RDA the details of all subcontractors engaged to provide the Supplies. The Supplier acknowledges that RDA may be required to disclose such information.

18. Approvals and Compliance

The Supplier must obtain any necessary export licences, licences, accreditations, permits, registrations, regulatory approvals or other documented authority (however described) required by law and necessary for the provision of the Supplies or work performed under this Contract and arrange any necessary customs entry for the Supplies. The Supplier must comply with and ensure its officers, employees, agents and subcontractors comply with the laws from time to time in force in the State, Territory or other jurisdictions in which any part of this Contract is to be carried out.

19. General

Compliance with Laws

The Supplier shall comply with all relevant legislation, regulatory requirements and RDA policies (including Codes of Conduct and Ethical Standards) with respect to delivering the Supplies, including all applicable policies and procedures relevant to the WHS Legislation.

Confidentiality

The Supplier and RDA agree not to disclose confidential information obtained in the performance of this Contract without the prior written consent of the other party.

Public Announcements

The Supplier agrees not to make any public announcements or disclosures as to Contract, without the prior written consent of RDA.

Notices

Notices shall be deemed effective when in writing and delivered to the addresses described in the Purchase Order.

1. Governing Law

The laws of Victoria apply to this Contract.

2. Entire Agreement

This Contract, subject to clause 2, represents the parties' entire agreement in relation to the subject matter and supersedes all tendered offers and prior representations, communications, agreements, statements and understandings, whether oral or in writing.

3. Definitions: In the Contract:

'**Delivery Date**' means the date or dates for provision of the Supplies specified in the Purchase Order.

'**Delivery Location**' means the location or locations for the provision of the Supplies specified in the Purchase Order.

'**Goods**' means if the Contract relates to goods, those goods specified in the Purchase Order (if any) to be provided by the Supplier and any goods or component parts supplied by the Supplier.

'**GST** and '**GST Act**' means a Commonwealth goods and services tax imposed by the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

'**Price**' means the contract price specified in the Purchase Order, excluding any GST component payable.

'**Purchase Order**' means the purchase order attached to these General Conditions of Purchase.

'**Related Body Corporate**' has the same meaning as in section 9 of the *Corporations Act 2001* (Cth).

'**RDA**' means Rheinmetall Defence Australia.

'**Services**' means if the Contract relates to services, those Services described in the Purchase Order (if any).

'**Supplier**' means the supplier specified in the Purchase Order.

'**Supplies**' comprise the Goods and/or Services and, for the avoidance of doubt, may include both and are as described by the details of the Purchase Order.

'**WHS Legislation**' means the *Work Health and Safety Act 2011* (Cth) and the *Work Health and Safety Regulations 2011* (Cth); and any corresponding WHS law as defined in section 4 of the *Work Health and Safety Act 2011* (Cth).