

Purchase Order - Terms of Purchase

1. AGREEMENT TO SUPPLY

- 1.1. Unless a formal agreement has been entered into between Apollo and the Supplier these Terms of Purchase shall apply to any Purchase Order issued by Apollo to the Supplier. The Purchase Order is deemed to be accepted by the Supplier upon acceptance of, or otherwise processing of, an Order. Any terms and conditions of the Supplier shall have no legal effect and shall not constitute part of any agreement (including this Agreement) between Apollo and the Supplier for the supply of Goods and Services.
- 1.2. Subject to the exception stated in clause 1.1, or unless otherwise agreed in writing by Apollo, if the Supplier supplies any Goods or Services to Apollo then the Supplier is deemed to have accepted these Terms.
- 1.3. The Supplier will supply the Goods and Services according to the Specification(s) detailed in the Purchase Order.

2. QUANTITY FORECAST

- 2.1. Where Apollo provide an estimate or forecast of its future requirements for Goods or Services, these estimates are indicative only and do not constitute a commitment to purchase the estimated requirements.

3. DELIVERY

- 3.1. Delivery of Goods or performance of Services shall be made by the Supplier by the dates and to the places specified in the relevant Purchase Order, and the Supplier is solely responsible for safely unloading all Goods or performance of Services at the Place of Delivery.
- 3.2. If the Supplier is not responsible for Delivery, Apollo is responsible for taking Delivery of the Goods from the Supplier. In that case, the Supplier must make the Goods available to Apollo for pick up at the Place of Pick-up on the Delivery Date.
- 3.3. The Supplier acknowledges there may be other contractors on or within the vicinity of the Place of Delivery and it must not obstruct, delay or interfere with, or damage, the separate contractors' works or property.
- 3.4. Apollo may, at any time, and for any reason whatever, by notice in writing to the Supplier extend the time for completion of Delivery of the Goods or the performance of the Services.
- 3.5. The Supplier shall ensure all deliveries of Goods are accompanied by a delivery docket containing the following information.
 - (a) Purchase Order number and order date;
 - (b) Supplier's details
 - (c) quantity dispatched;
 - (d) item description and part number;
 - (e) whether or not Delivery is part only of total order; and
 - (f) details of any items on back order.
 - (g) the Supplier's delivery docket number/tax invoice number
- 3.6. The Supplier must, at its own cost, package, mark, label and ship the Goods in accordance with the instructions or specifications on the Purchase Order, or with any specification for packaging, marking or labeling in respect of the Goods, if applicable or otherwise in a manner reasonably expected of the Supplier by Apollo having regard to the nature of the Goods and the purpose for which the Goods are reasonably intended by Apollo whilst complying with best commercial practice to ensure safe arrival at the Place of Delivery at the lowest transportation cost.
- 3.7. The Supplier must clearly indicate any substances in the Goods which are, or may be, hazardous to human health, animal health or the environment, by clearly marking the Goods and their packaging and including appropriate and prominent precautions in documentation accompanying the Goods.
- 3.8. The Supplier must comply with Apollo's reasonable quality requirements, including management of quality, quality systems, control and reporting, managing defects and providing quality statistics reporting, and where required by Apollo, production of, and working to, a quality plan approved by Apollo.
- 3.9. Compliance with the requirements outlined in clause 3.8 may be audited by Apollo.
- 3.10. The Supplier must ensure that all times the Principal's representative or any person authorised by the Principal (including visitors invited by the Principal and other contractors and consultants who are to perform work on the site), to have safe and convenient access to the Goods, and the Supplier shall provide every facility reasonably necessary for the inspection of the Goods.

4. TITLE AND RISK

- 4.1. The Supplier warrants that it has ownership of the Goods free of any liens, charges and encumbrances and will transfer the Goods to Apollo on that basis.
- 4.2. Unencumbered title to the Goods passes to Apollo at the point of Delivery of the Goods in accordance with this Agreement or at time of payment if the Goods were paid for in advance.
- 4.3. Risk of loss and damage or deterioration to the Goods from any cause whatsoever shall remain with the Supplier and shall not pass to Apollo until the Goods are Delivered to Apollo at the specified Place of Delivery, or where the Goods are held by the Supplier at a Place of Pick-up, until the Goods are picked-up by Apollo from that Place of Pick-up.

5. INSPECTION

- 5.1. Apollo may reject any Goods and Services that fail to meet the description or Specification set out in a Purchase Order. Any monies paid by Apollo to the Supplier prior to inspection of the Goods and Services shall be deemed to have been paid conditional upon, and subject to, the Goods and Services being free of any defects to the satisfaction of Apollo, following inspection by it. If Apollo notifies the Supplier of any defects in or damage to the Goods or the output of the Services Apollo may return the Goods to the Supplier's premises at the Supplier's expense and risk and/or request the Services are performed again and any monies paid shall be refunded to Apollo.
- 5.2. No inspection, examination or testing by Apollo, the Principal or its respective employees, contractors, consultants or agents will relieve the Supplier of its obligations under this Agreement.

6. PRICE

- 6.1. The Supplier agrees to supply the Goods and Services in accordance with this Agreement in consideration for the Price specified in the Purchase Order. No variation to the Price will be allowed unless agreed to in writing by Apollo. If the Price is omitted on the Purchase Order, the Price will be that specified in any quotation provided by the Supplier and accepted by Apollo, or otherwise the lowest prevailing market price for the Goods and Services as determined by Apollo. All prices are inclusive of delivery, packaging, transport and any Taxes unless otherwise stated in a Purchase Order and are in New Zealand dollars.

7. PAYMENT AND DEDUCTIONS

- 7.1. Tax invoices submitted to Apollo under this Agreement must specify the:
 - (a) description of Goods, including manufacturer part number;
 - (b) quantity of the Goods in units of measure which are consistent with the Purchase Order;
 - (c) details of any items on back order;
 - (d) serial item number, if applicable, of the Goods;
 - (e) Place of Delivery or the Place of Pick-up, as applicable;
 - (f) Delivery Date; and
 - (g) Price (including unit price) of the Goods consistent with the relevant Purchase Order, or discount applied to items whose price is not specified in a Purchase Order
 - (h) Purchase Order number;
 - (i) Purchase Order item number (in sequential order);
 - (j) Apollo contact person;
 - (k) the delivery docket number and list transactions in date order showing;
 - (l) freight and other charges where applicable;
 - (m) goods and services tax ("GST");
 - (n) total purchase price; and
 - (o) a description of any Services performed
- 7.2. If the Supplier complies with clause 7.1, and subject to Apollo receiving a correct tax invoice by the second-to-last Friday of the month following supply of the Goods or Services, Apollo shall pay the tax invoice by the last day of the month following the month in which the Goods or Services were Delivered. Apollo may withhold payment of any tax invoice which contains reference to Goods or Services under dispute until that dispute is resolved.
- 7.3. In addition to any other rights that it may have under this Agreement or otherwise, Apollo may deduct from, and set off against, any monies due or that become due to the Supplier:
 - (a) all costs, damages and expenses which Apollo may have paid for or incurred or is likely to incur in connection with the supply of Goods and Services for which the Supplier is liable and which remain unpaid by the Supplier; and
 - (b) all debts owed by the Supplier to Apollo and which remain unpaid on any account whatsoever.

8. GST

- 8.1. Apollos agree to pay the Supplier GST for supplies subject to such tax, and delivered to Apollo pursuant to a Purchase Order. If the amount of GST recovered by the Supplier from Apollo differs from the amount of GST payable at law by Apollo in respect of the supply, the relevant price payable by Apollo will be adjusted.
- 8.2. Apollo will not be obliged to pay any amount in respect of GST to the Supplier unless and until a valid tax invoice has been issued by the Supplier in respect of the Goods and Services to which that GST relates.

9. SUPPLIER'S WARRANTIES

- 9.1. The Supplier warrants and guarantees to Apollo that:
 - (a) all Goods are free from defects in design, material and workmanship, of merchantable quality, of good material and workmanship, fit for the particular purpose specified by Apollo, correctly designed, fabricated and installed to the standards set out or reasonably inferred from this Agreement, and generally fit for intended purpose and comply with any samples or Specification(s) given by Apollo or provided by the Supplier and agreed to by Apollo and with any express guarantees, warranties and undertakings given by the Supplier and meet the

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quality requirements set out in a Purchase Order;

- (b) all Services provided are performed by persons with the requisite skill and experience, with due care and diligence and in accordance with best industry practice and are fit for the purpose for which they have been supplied and comply with any express guarantees, warranties and undertakings given by the Supplier and meet the performance requirements set out in a Purchase Order;
 - (c) any third party materials or data provided to Apollo by the Supplier do not infringe any intellectual property rights of third parties;
 - (d) the Supplier will cover any costs and expenses of Apollo resulting from a failure to meet the performance requirements and/or Specification(s) set out in a Purchase Order;
 - (e) Apollo shall have the full benefit of any manufacturer's warranties that may be applicable to the Goods or Services or any part thereof;
 - (f) the Goods and Services will comply with all laws in force in the jurisdiction in which they are supplied; and
 - (g) it shall not do or omit to do anything, or use any materials, substances or processes which breach or would or could breach any duty or obligation of the Supplier or Apollo under the Resource Management Act 1991, and any other environmental legislation relevant to the supply of the Goods and Services
- 9.2. The Supplier provides a warranty for the Goods and Services against any defects in its manufacture or supply for a period of 12 months or such other longer period as may be defined by the requirements of any local authority or other governing or regulatory body, or as agreed between Apollo and the Supplier, from the date of Delivery of the Goods and Services.
- 9.3. If the Goods or Services are, or become, defective in any way during the warranty period specified in clause 9.2, Apollo may in its absolute discretion do any one or more of the following:
- (a) direct the Supplier to remedy, replace or repair the Goods and/or Services at the Supplier's cost and within a reasonable period;
 - (b) Apollo may cancel the Purchase Order in respect of the Goods and Services (and any other Purchase Order with the Supplier in respect of Goods and Services which have not yet been Delivered) and Apollo will be entitled to a full refund of any amounts paid for the relevant Goods and Services; and/or
 - (c) accept the defective Goods and/or Services in which case Apollo may certify as an amount due and payable by the Supplier to Apollo an amount determined by Apollo having regard to any decrease in value to Apollo of the Goods and/or Services by reason of the Defect,

and the Supplier indemnifies Apollo against any loss Apollo incurs that is caused by the defective Goods or Services.

10. INDEMNITY

- 10.1. The Supplier shall be liable for and must indemnify Apollo against any and all Loss whatsoever arising, directly or indirectly, from:
- (a) any breach by the Supplier of any warranty or any of the other terms and conditions of this Agreement;
 - (b) any loss or damage arising out of, or in connection with, any personal injury, illness or death to any person or damage to any property or any other loss or damage of any kind whatsoever caused or contributed to by the Goods and Services;
 - (c) any negligence or willful act or omission by the Supplier in connection with the performance of the Supplier's obligations under this Agreement;
 - (d) any claim that the Goods or Services, anything the Supplier does in supplying Apollo with the Goods or providing Apollo with any Services, or the use of the Goods or Services infringes or allegedly infringes the Intellectual Property Rights of any person.
- 10.2. Notwithstanding any other provision of this Agreement, the liability of Apollo to the Supplier, whether arising under or in connection with this Agreement or the performance or non-performance thereof or anything incidental thereto, and whether by way of indemnity, by statute, in tort (for negligence or otherwise), or on any other basis in law or equity is hereby limited or excluded as follows:
- (a) Apollo shall have no liability whatsoever to the Supplier for Loss; and
 - (b) the total aggregate liability of Apollo to the Supplier is limited to the Price or such other amount as agreed between Apollo and the Supplier.

11. INTELLECTUAL PROPERTY

- 11.1. Intellectual Property Rights existing prior to the placement of a Purchase Order shall remain the property of the party who owned it. Apollo shall retain copyright and the sole and exclusive ownership of all data, information, documents, reports or other such Intellectual Property Rights outputs of the Goods and Services made in the course of the Supplier supplying the Goods and Services, provided that any other Intellectual Property Rights invented, made or discovered during the fulfillment of a Purchase Order that relates to the Goods and Services, shall vest in and belong to the party who invented, made or discovered those Intellectual Property Rights. To the extent that any Intellectual Property Rights do not vest in Apollo, the Supplier grants to Apollo a perpetual, transferable (in whole or in part), royalty-free licence of such Intellectual Property Rights required in order to use, consume, sell or modify the Goods including the right to sub-licence

the use, consumption, sale or modification of the Goods. If in the course of providing the Goods and Services any Intellectual Property Rights are jointly invented, made or discovered that relates to the Goods and Services, then, ownership of those Intellectual Property Rights automatically and completely vests in Apollo and the Supplier jointly and either party may use such Intellectual Property Rights.

12. INSURANCE

- 12.1. Before commencing work, the Supplier must at its own expense, procure and maintain with insurers, and on terms and conditions approved by Apollo, insurance policies relating to the Supplier's supply of the Goods and Services necessary to protect Apollo against the risks under these terms upon usual commercial terms including:
- (a) public and products liability insurance written on an occurrence basis with a limit of indemnity of not less than the amount specified in the Purchase Order for each and every occurrence and, in the case of product liability, no less than the amount specified in the Purchase Order in the aggregate during any 12 month period of insurance which covers the liability of Apollo in respect of:
 - (i) bodily injury to any third party; and
 - (ii) third party property damage
 - (b) third party motor vehicle insurance, including, as a minimum:
 - (i) insurance that is compulsory under applicable laws governing the use of motor vehicles and liability for personal injury or death; and
 - (ii) liability insurance for third party property damage with a sum insured of not less than the amount specified in the Purchase Order per occurrence;
 - (c) professional indemnity insurance providing coverage for the Supplier's professional responsibilities to Apollo with a sum insured of not less than the amount specified in the Purchase Order; and
 - (d) such other insurance policies in such amounts and against such risks as Apollo may from time to time reasonably require.
- 12.2. The Supplier must insure the Goods until the time of delivery to Apollo's specified delivery location and for performance of Services until the end of the defects liability period and must maintain professional indemnity insurance for 6 years following delivery of Services.
- 12.3. The Supplier must provide evidence that all insurances required are current and fulfill the obligations of the Purchase Order.

13. VARIATION AND CANCELLATION OF A PURCHASE ORDER

- 13.1. Apollo may at its option cancel any Order to the extent unperformed without cause. In the event of cancellation of an Order Apollo's only obligation shall be to pay for Goods delivered or Services performed prior to the cancellation.
- 13.2. In the case of the cancellation of an Order for Goods specifically manufactured or fabricated for Apollo to the Specification(s), upon receipt of a notice of cancellation the Supplier shall cease manufacture, supply all work in accordance with and to the extent specified in the notice and shall immediately do everything possible to minimise any cost after such cancellation. Following cancellation:
- (a) the Supplier must send Apollo a written claim setting out all costs and cost savings that result from the variation or termination of the Purchase Order (including an adjusted Price) within 30 business days of the effective date of variation or termination; and
 - (b) Apollo has the right to audit the adjusted price specified in the written claim.
- 13.3. The adjusted price will apply to the Purchase Order; if:
- (a) Apollo is satisfied that the adjusted price specified in the written claim is equitable; and
 - (b) the variation or termination of the Purchase Order is not a result of any default or action on the part of the Supplier.

14. TERMINATION

- 14.1. Apollo may terminate this Agreement at any time and for any reason on 30 days written notice. Undisputed tax invoices for Goods supplied and Services rendered prior to the effective date of termination will be honoured, but Apollo will have no further liability to the Supplier.
- 14.2. Apollo may terminate this Agreement immediately by giving notice to the Supplier if the Supplier commits a breach of this Agreement which:
- (a) is capable of rectification and does not rectify the breach within 10 days of receipt of a notice from Apollo; or
 - (b) is not capable of rectification.
- 14.3. Apollo may terminate this Agreement immediately by giving notice to the Supplier if:
- (a) there is any change in effective control of the legal or equitable ownership of the Supplier without Apollo's prior written consent (which must not be unreasonably withheld);
 - (b) the Supplier:
 - (i) informs Apollo or its creditors generally that it is insolvent or unable to pay its debts as they fall due, or if Apollo on reasonable grounds suspects that the Supplier is insolvent;
 - (ii) enters into or calls a meeting with a view to entering into a composition or arrangement with its creditors;
 - (iii) has a receiver or controller appointed over the whole or part of its property;

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- (iv) resolves to appoint, or has appointed to it, an administrator;
 - (v) has execution levied against it by creditors, debenture holders or trustees under a floating charge; or
 - (vi) being a company, has any action or proceeding instituted against it which may result in the winding up of the Supplier, or an order is made or a resolution is passed which will lead to the winding up of the Supplier; or
 - (vii) breaches any HSW Legislation; or
 - (viii) the Supplier or its employees or contractors commits fraud in regards to any supply or alleged supply pursuant to this Agreement; or
 - (ix) breaches any of the Terms, or any other conditions or warranties contained in a Purchase Order.
- 14.4. Termination under clause 14 does not affect any other rights available to Apollo, and Apollo shall not be obliged to make any payment in respect of the unfulfilled portion of a cancelled Purchase Order and any costs incurred by Apollo arising from such cancellation and non-performance of the Purchase Order by the Supplier will be due and payable by the Supplier to Apollo and may be claimed as a debt owing by the Supplier to Apollo or otherwise set-off pursuant to clause 7.
- 15. SECURITY INTEREST**
- 15.1. Under no circumstance does Apollo agree to grant a security interest over any of its property including any Goods delivered to it, and Apollo does not consider itself bound by any provision purporting to create a security interest over any of its property.
- 16. NOTICES**
- 16.1. A notice is taken as given by the sender and received by the intended recipient:
- (a) if delivered personally, the date of delivery;
 - (b) if posted, 3 business days after posting; or
 - (c) if emailed:
 - (i) on receipt of an automatic receipt transmission reply by the sender; or
 - (ii) four hours after the time sent (as recorded on the device from which the sender sent the email) unless the sender receives an automated message that the delivery failed, whichever happens first.
- 17. DISPUTE RESOLUTION**
- 17.1. Either party will promptly notify the other party of any dispute in writing in accordance with clause 17.
- 17.2. In the event of a dispute or difference arising out of or in connection with this Agreement, both parties shall genuinely attempt amicable resolution by conference or, by using appropriate alternative dispute resolution techniques, but without prejudice to any other right or entitlement they may have pursuant to these Terms or otherwise.
- 17.3. Failing resolution, the issue shall be submitted to arbitration by an arbiter appointed by The Arbitrators' and Mediators' Institute of New Zealand Inc. The arbitrator's decision is final and binding on the parties.
- 17.4. Notwithstanding the existence of a dispute, the parties shall continue to perform this Agreement.
- 17.5. Nothing under this clause prevents either party seeking urgent interlocutory relief from the courts.
- 18. ASSIGNMENT & SUBCONTRACTING**
- 18.1. The Supplier may not assign or otherwise transfer any of the rights, benefits or obligations under this Agreement without Apollo's prior written consent, which may not be unreasonably withheld. Apollo shall be entitled to assign any Agreement reached with a Supplier incorporating these Terms to a third party undertaking the business to which the Agreement relates upon giving written notice to the Supplier.
- 18.2. The Supplier must not subcontract or otherwise arrange for another person to discharge any of its obligations (excluding Delivery) under the Agreement without the prior written consent of Apollo. Notwithstanding Apollo's consent, the Supplier will remain fully responsible for all obligations to Apollo under the Agreement.
- 19. THE RELATIONSHIP BETWEEN THE SUPPLIER AND APOLLO**
- 19.1. Nothing in this Agreement should be interpreted as constituting either Apollo or the Supplier as an agent, partner, or employee of each other and neither the Supplier nor Apollo may pledge the credit of the other nor represent to anyone that:
- (a) It is the other party;
 - (b) It is an agent, partner or employee of the other party; or
 - (c) It has any power or authority to incur any obligation of any nature on behalf of the other party.
- 19.2. Apollo's relationship with the Supplier is not exclusive. The Supplier is free to supply the Goods and Services to other purchasers and Apollo is free to purchase the Goods and Services (including the Goods and Services equivalent to the Supplier's) from other suppliers.
- 20. GENERAL**
- 20.1. This Agreement constitutes the entire agreement of the parties about its subject matter and:
- (a) supersedes all previous agreements, understandings and negotiations on that subject matter irrespective of whether or not in writing;
 - (b) applies retrospectively to all works, services and goods of any kind provided by the Supplier to Apollo in relation to the Project prior to the date of this Agreement; and
 - (c) will prevail over any other document (including any delivery docket executed by Apollo, tax invoice, creditor request or other document containing terms and conditions in relation to the supply of the Goods) issued by the Supplier from time to time whether signed by Apollo or not and whether post-dating this Agreement or not.
- 20.2. Conduct of Apollo including its employees shall not constitute acceptance of any terms set out in any document provided by the Supplier to Apollo for the supply of Goods and Services.
- 20.3. Where Apollo fails to enforce or delay enforcing any of these Terms Apollo shall not be considered to have waived those rights with respect to any subsequent breach of any term or condition of these Terms. To be effective any waiver must be in writing and must be signed by an authorised officer of Apollo.
- 20.4. Apollo may from time to time amend these Terms by providing notification in accordance with clause 16.
- 20.5. This Agreement for the supply and purchase of the Goods and Services is to be governed by the laws of New Zealand and the parties submit to the non-exclusive jurisdiction of the Courts of New Zealand.
- 20.6. If any provision of these Terms is, or becomes, unenforceable, illegal or invalid for any reason, the relevant provision shall be deemed to be modified to the extent necessary to remedy such unenforceability, illegality or invalidity or if this is not possible then such provision shall be severed from these Terms, without affecting the enforceability, legality or validity of any other such provision of these Terms.
- 20.7. Time is of the essence in the fulfilment of the Supplier's obligations described in these Terms.
- 20.8. Unless this Agreement expressly states otherwise, the Supplier must bear all risks, costs and delays in connection with the supply and Delivery of the Goods and its obligations (including compliance with any direction given by Apollo) under this Agreement;
- 20.9. The Supplier will at all times comply with the 'Anti-corruption Code of Conduct' as published from time to time.
- 20.10. If a party consists of more than one person, this Agreement binds them jointly and an obligation, representation or warranty in favour of Apollo is for the benefit of them separately and jointly.
- 20.11. This Agreement may be executed in one or more counterparts (including scanned PDF counterparts) each of which will be deemed to be an original and which together shall constitute one and the same instrument. A party may enter into this Agreement by executing any such counterpart.
- 21. HEALTH AND SAFETY**
- 21.1. The Supplier must:
- (a) Have in place a health and safety management plan that is appropriate for the supply of the Goods and Services under this Agreement;
 - (b) Inform itself of, and comply with, all occupational health and safety policies, procedures or measures implemented or adopted by Apollo and/or the occupiers of any premises at, or within which, the Supplier performs, supplies or delivers the Goods and Services under this Agreement;
 - (c) Exercise all necessary precautions for the health and safety of all persons, including its employees, employees of Apollo and members of the public who may be affected by the actions of the Supplier;
 - (d) Comply with:
 - (i) the HSW Legislation; and
 - (ii) the Supplier's health and safety management plan;
 - (e) So far as is reasonably practicable, consult, co-operate and coordinate activities with Apollo and all other persons who conduct a business or undertaking who have a duty in relation to the same matter; and
 - (a) Report any potential risks, incidents and near misses so Apollo can investigate, eliminate, or minimise harm or the risk of harm.
- 21.2. The Supplier must comply with, and will ensure its employees, agents, contractors, subcontractors, invitees, franchisees, visitors or licensees also comply with, Apollo's drug and alcohol policy and any other applicable policies and procedures notified to the Supplier from time to time.
- 21.3. The Supplier shall not be entitled to make any Claim against Apollo in respect of any delay or cost it incurs as a result of its compliance with any health and safety policies.
- 22. ACCESS TO FACILITIES AND COMPLIANCE WITH STATUTES**
- 22.1. Apollo reserves the right to remove from land and premises controlled or occupied by it, any employee or representative of the Supplier for any reason. At all times while the Supplier or its representatives are present on the land or premises occupied or controlled by Apollo such person(s) shall comply with the requirements and directions of Apollo.
- 22.2. The Supplier shall at all times comply with all statutes regulations and

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other laws relating to the supply of the Goods and Services under the Agreement applying from time to time.

23. CONFIDENTIALITY

23.1. The Supplier and its staff must not without Apollo's prior written consent, disclose to any person (other than a person authorised by Apollo) any information whatsoever acquired by the Supplier in connection with the Purchase Order issued here under, nor advertise or publicly announce (including by any social media) that it is supplying Goods or Services to Apollo. The provisions of this clause shall continue to bind the Supplier notwithstanding that it may have withdrawn from, terminated or concluded a Purchase Order.

23.2. All Confidential Information provided by Apollo will be and will remain the property of Apollo, and the Supplier must:

- (a) Use the Confidential Information only for the purpose of the Agreement and/or Order; and
- (b) Return the Confidential Information to Apollo upon Apollo's request at any time or if no request is made, upon completion or termination of the Agreement.

24. DEFINITIONS AND INTERPRETATIONS

24.1. Definitions

In these Terms unless the context otherwise requires:

Agreement means the Purchase Order together with these Terms of Purchase;

Apollo means Apollo Projects Limited;

Confidential Information includes any information, document or thing which Apollo provides to the Supplier and any matter concerned with, or arising out of, this Agreement, the Project, Apollo, or the Principal which is disclosed to or learnt by the Supplier;

Defect means any:

- (a) error, deficiency, omission, non-conformity, fault, failure malfunction, irregularity or defect (including shrinkage, expansion, fading or settlement) in the Goods or any deliverable; or
- (b) aspect of the Goods or a deliverable that is not in accordance with the requirements of this Agreement;

Delivery means the physical receipt of possession and control of the Goods from the Supplier to Apollo and **Deliver** and **Delivered** have corresponding meanings;

Delivery Date means the date(s) upon which the Supplier has undertaken to deliver the Goods to Apollo or perform the Services at the Place of Delivery as set out in the Purchase Order;

Goods means the Goods specified in the Purchase Order;

Goods and Services means the Goods and/or Services described in a Purchase Order;

GST means goods and services tax chargeable in accordance with the Goods and Services Tax Act 1985;

HSW Legislation means any legislation that regulates health and safety, as at the date of this Agreement, including the Health and Safety at Work Act 2015 and all associated regulations, approved codes of practice, and guidelines under the HSW Legislation and any replacement HSW Legislation;

Intellectual Property Rights means all present and future rights conferred by statute, common law or equity in or in relation to copyright, trademarks, designs, patents, inventions and other results of intellectual activity in any field whether or not registerable, registered or patentable;

Loss includes but is not limited to any damage, loss (including loss of profit and loss of expected or anticipated profit), liability, cost, claim, charge, expense, outgoing or payment (whether direct or indirect, unforeseeable, remote, abnormal, consequential or incidental);

Place of Delivery means the delivery address specified in the Purchase Order or such other address that may be advised from time to time by Apollo;

Place of Pick-up means the place specified in the Purchase Order or such other address that may be advised from time to time by Apollo;

Price means the price for the Goods or Services in accordance with this Agreement, as set out in the Purchase Order, exclusive of GST;

Principal means the entity (if any) specified in the Purchase Order;

Project means [insert];

Purchase Order or **Order** means any document issued by Apollo to the Supplier requesting the supply of Goods or Services, whether in the agreed form or otherwise and includes any specifications, drawings or other documents that may be contained therein or annexed thereto;

Services mean all services ordered by Apollo as specified in a Purchase Order;

Specification means the specification for the Goods and Services (if any) as set out in a Purchase Order and any other specifications communicated in writing by Apollo to the Supplier for the Goods or Services;

Supplier means the company, firm or person identified in the Purchase Order as the supplier of the Goods or ;

Taxes means all taxes (except GST), fees, levies, duties and charges imposed or assessed in respect of the Goods or Services by all local, provincial or national government authorities including sales tax, custom duty, excise tax, and stamp duty (or equivalent) but excludes taxes imposed on the income of the Supplier; and

Terms of Purchase and Terms means the terms in this document.

24.2. Interpretation

In this Agreement, headings are only for convenience and do not affect interpretation and, unless the context requires otherwise:

- (a) words in the singular include the plural and the plural include the singular;
- (b) an expression indicating a person includes an individual, a company, partnership, joint venture, association, corporation or other body corporate;
- (c) a reference to a party to this Agreement includes that party's successors and permitted assigns;
- (d) a reference to a clause, party or schedule, is a reference to a clause of, and a party and schedule to, this Agreement and a reference to this Agreement includes any schedule or annexure;
- (e) a reference to a right includes a remedy, power, authority, discretion or benefit;
- (f) a reference to anything (including, but not limited to, a right) includes any part of that thing;
- (g) a reference to legislation includes any amendment to that legislation, any consolidation or replacement of it, and any subordinate legislation made under it;
- (h) a reference to a document includes all amendments or supplements to, or replacements or novations of, that document; and
- (i) no rule of construction applies to the disadvantage of a party merely because that party was responsible for the preparation of this Agreement or any part of it.
- (j) any other conditions appended to a Purchase Order or otherwise specified by Apollo in relation to a Purchase Order shall have the same effect as if set out in these Terms provided that for the purposes of interpretation of these Terms in the event of any conflict any conditions of, or relating to, a Purchase Order shall be interpreted subject to the other provisions of these Terms.