



IRON ROAD LIMITED

PURCHASE ORDER

TERMS AND CONDITIONS

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IRON ROAD LIMITED – TERMS OF PURCHASE

In these terms:

goods means the goods (if any) specified in the Principal's purchase order provided to the Supplier;

purchase order means the Principal's purchase order to purchase goods or services, or to hire rental items (as the case may be) from the Supplier;

rental items means the rental items (if any) specified in the Principal's purchase order provided to the Supplier;

services means the services (if any) specified in the Principal's purchase order provided to the Supplier;

Principal means Iron Road Limited ACN 128 698 108; and

Supplier means the person or entity supplying goods, services or rental items to the Principal, including that person or entity's employees, agents and sub-contractors.

By failing to reject in writing the Principal's purchase order within forty eight (48) hours of receipt, the Supplier agrees that:

1 Terms Applicable to all Purchase Orders

Unless otherwise agreed in writing between the Principal and the Supplier (in which case, such agreement shall prevail), the following terms are applicable to all purchase orders which the Principal places with the Supplier:

- 1.1 the price for goods, services or rental items is as stated in the Principal's purchase order, excluding GST ;
- 1.2 the price for goods, services or rental items may not be increased and the delivery date (for goods and rental items) or performance date (for services) may not be extended;
- 1.3 the Principal may amend or cancel its purchase order at any time before delivery;
- 1.4 all purchase orders submitted by the Principal will be made on its standard purchase order form, in accordance with the Principal's administrative and accounting requirements, or in a manner and form agreed between the Principal and the Supplier;
- 1.5 these terms prevail over any terms which the Supplier may seek to impose on the Principal's purchase order;

- 1.6 the Principal may deduct or set-off against any amount it owes the Supplier any amount the Supplier owes the Principal and the Principal may withhold payment for any goods, rental items or services which do not comply with these terms, even if the Principal has accepted them;
- 1.7 the Supplier must submit to the Principal a valid tax invoice specifying:
 - (a) the relevant purchase order number;
 - (b) the goods, services or rental items to which the tax invoice relates;
 - (c) the price and GST, separately, payable for the goods, services or rental items; and
 - (d) such other particulars as are necessary to enable the Principal to obtain input tax credits for the amount of GST payable;
- 1.8 if the Principal accepts the goods, services or rental items, it will pay the price for them within 30 days of receipt of a valid tax invoice for them;
- 1.9 if, due to the Supplier's acts or omissions, the Principal suffers a loss or incurs an expense (including legal costs), then the Supplier will compensate the Principal for that loss or expense irrespective of whether it was negligent or wilfully in default of its obligations;
- 1.10 the Principal may immediately terminate these terms if the Supplier breaches any part of them or if the Supplier becomes insolvent within the meaning of section 92 of the Corporations Act 2001 (Cth) (as amended or replaced from time to time);
- 1.11 if the Supplier comprises more than one person or entity, these terms bind them jointly and severally;
- 1.12 time is of the essence in the Supplier's performance of obligations under these terms;
- 1.13 these terms, together with the Principal's purchase order, are not intended to diminish, and will not be construed as limiting, any other rights the Principal has against the Supplier at law, in equity or under statute;
- 1.14 the Supplier may not transfer its rights under these terms without the Principal's prior written consent;
- 1.15 the Principal may amend or replace these terms at any time by notice to the Supplier;
- 1.16 these terms, together with the Principal's purchase order, set out the whole agreement between the Supplier and the Principal relating to the goods, rental items or services;
- 1.17 these terms will not be construed against the Principal merely because the Principal prepared them; and
- 1.18 these terms are governed by South Australian law and the Supplier submits to the jurisdiction of South Australian courts for any proceedings arising out of these terms.

- 1.19 The Supplier agrees to indemnify, and keep indemnified, the Principal from and against all claims, proceedings, expenses, costs (including legal costs on a solicitor and own client basis), damages, losses and liabilities of any kind arising directly or indirectly from a breach of any of these terms by the Supplier, except to the extent of liability which is caused by a wilful or negligent act or omission of the Principal.

2 Additional Terms Applicable to Purchase Orders of Goods and Rental Items

In addition to the terms set out in clause 1, the following additional terms apply to all purchase orders which the Principal places with the Supplier for goods and, unless otherwise stated, rental items:

- 2.1 the Supplier must deliver the goods or rental items to the Principal by the date, and at the place, set out in the Principal's purchase order;
- 2.2 unless the Principal's purchase order states otherwise the:
- (a) goods must be delivered DDP (as that term is defined in Incoterms® 2010) to the place set out in the Principal's purchase order, subject to clauses 2.9 and 2.11 concerning the passing of title and risk); and
 - (b) rental items must be delivered to the place set out in the Principal's purchase order as if the term DDP (applicable to the sale of rental items) applied, subject to clauses 2.10 and 2.12 concerning the passing of title and risk);
- 2.3 all deliveries of goods or rental items must be accompanied by a cart note setting out the Principal's purchase order number, a description of the goods or rental items and the quantity of goods or rental items supplied to the Principal;
- 2.4 goods or rental items must be packed in accordance with the Principal's instructions or, if there are no instructions, they must be safely and securely packed;
- 2.5 goods or rental items which the Supplier provides must:
- (a) be of acceptable quality;
 - (b) be fit for their usual purpose and any particular purpose the Principal makes known to the Supplier;
 - (c) correspond with their description, if the Supplier provided the Principal with a description of the goods or rental items before the Principal placed its purchase order;
 - (d) correspond with the sample or demonstration model in quality, state or condition, if the Supplier provided the Principal with a sample or demonstration model of the goods or rental items before the Principal placed its purchase order;
 - (e) be free from defects;
 - (f) strictly conform to the Principal's specifications; and
 - (g) comply with all applicable laws,
 - (h) and goods which the Supplier provides must be new;

- 2.6 by providing the goods or rental items, the Supplier represents and warrants to the Principal that the Supplier:
- (a) has title to the good or rental items;
 - (b) has undisturbed possession of the goods or rental items; and
 - (c) has not granted undisclosed security interests or other interests to third parties over the goods or rental items;
- 2.7 acceptance of any goods or rental items occurs if, within 14 days of delivery, the Principal does not notify the Supplier that the goods or rental items do not comply with these terms;
- 2.8 the Supplier will, at its cost, promptly replace or pay the Principal the cost of replacing any goods or rental items which do not comply with these terms due to the Supplier's default, at any time up to 12 months after delivery even if the Principal has accepted the goods or rental items;
- 2.9 title to the goods passes to the Principal when the Principal accepts or pays for them (whichever is the earlier);
- 2.10 title to the rental items passes to the Principal if and when the relevant rental item:
- (a) is the subject of a hire purchase or other agreement, whereby the rental item is capable of being sold to, and purchased by, the Principal with clear and unencumbered title; and
 - (b) has been paid for in full by the Principal;
- 2.11 risk in the goods passes to the Principal when the Principal pays for them or when the fourteen (14) day period set out in clause 2.7 expires (whichever is the later);
- 2.12 risk in the rental items passes to the Principal if and when title in the rental items passes to the Principal pursuant to clause 2.10;
- 2.13 the Supplier must effect and maintain insurance:
- (a) in compliance with all applicable laws;
 - (b) which covers the liability of the Supplier to third parties (including the Principal, for any loss or damage it may suffer) arising from the Supplier's provision of the goods or rental items; and
- 2.14 as a minimum, the insurance provided under clause 2.13 will include general product and public liability insurance of not less than \$10,000,000 per occurrence. (and in the aggregate with respect to product liability). The insurance must name the Principal as an Insured for the Principal's vicarious or contingent liability for the acts and omissions of the Supplier in the performance by them for arising from this Purchase Order.

3 Additional Terms Applicable to Purchase Orders of Services

In addition to the terms set out in clause 1, the following additional terms apply to all purchase orders which the Principal places with the Supplier for services:

- 3.1 the Supplier must perform the services by the date, and at the place, set out in the Principal's purchase order;
- 3.2 services which the Supplier provides must:
 - (a) comply with the Principal's specifications and any description contained in the Principal's purchase order;
 - (b) correspond in nature and quality with the services the Supplier demonstrated, if it provided a demonstration of the services before the Principal placed its purchase order;
 - (c) correspond in nature and quality with the services that achieved that result, if the Supplier showed the Principal a result achieved by the services before the Principal placed its purchase order;
 - (d) be performed by appropriately qualified and trained personnel;
 - (e) be performed with due care and skill;
 - (f) be fit for their usual purpose and any particular purpose the Principal makes known to the Supplier; and
 - (g) be performed in a timely manner;
- 3.3 acceptance of any services occurs if, within 14 days of performance of the services, the Principal does not notify the Supplier that the services do not comply with these terms;
- 3.4 the Supplier will, at its cost, promptly re-perform or pay the Principal the cost of re-performance of the services, if they do not comply with these terms;
- 3.5 the Supplier must effect and maintain insurance:
 - (a) in compliance with all applicable laws;
 - (b) which covers the liability of the Supplier to third parties (including the Principal, for any loss or damage it may suffer) arising from the Supplier's provision of the services; which is consistent with the standard of a prudent supplier providing comparable services; and
- 3.6 as a minimum, the insurance provided under clause 3.5 will include:
 - (a) general product and public liability Insurance of not less than \$10,000,000 per occurrence and in the aggregate; and
 - (b) if the services include any professional services, professional indemnity insurance of not less than \$5,000,000 per occurrence and in the aggregate.