

Terms of Agreement

- 1) By accepting this purchase order for the ordered goods or services as described in this document, you (the legal entity named as Supplier) agree that these conditions apply to the exclusion of any other conditions (including those on your delivery notes and invoices). No other terms or conditions of supply will have any effect unless in writing and signed by an authorized ANZ Requestor. If this purchase order refers to a duly executed contract between you and **ANZ**, its terms form part of this purchase order except as expressly stated otherwise or to the extent the terms conflict with this purchase order, in which case the terms of this purchase order prevail.
- 2) If you do not agree to comply with every aspect of this purchase order you should immediately reject it by notifying the ANZ Requestor who placed the order. If you accept the purchase order, ANZ may require you to confirm such acceptance in writing.
- 3) The prices listed on the Purchase Order (or attached to it at the time of issuance) are firm prices, and can only be varied if ANZ so agrees. All prices will be invoiced and paid in the currency indicated in the Purchase Order, or if no currency is specified, Australian Dollars. The prices are inclusive of all freight, packing, insurance, and delivery charges. All such charges must be detailed separately on each invoice. You shall be solely responsible for handling the formalities for the conversion and payment of foreign currency in accordance with applicable laws and regulations of the People's Republic of China.
- 4) The parties do not anticipate that any supplies made under this purchase order will be connected with Australia. To the extent that you make any supplies under this purchase order that are connected with Australia, you must notify ANZ of such in writing by inserting an appropriate notation on the relevant invoice detailing that the supplies are 'connected with Australia'.
- 5) Fees and Taxes
 - a) Any applicable taxes shall be stated separately on your invoices and shall be remitted by ANZ to you and is payable together with the fees in accordance with clause 7.
 - b) The tax provisions set out in the Schedule are applicable.
- 6) All documentation relating to the provision of goods or services pursuant to the Purchase Order, including invoices, delivery notes, and labels on the outside of packages, must state the Purchase Order number, the ANZ Requestor, and, where available, serial numbers and asset numbers. Invoices must be valid tax invoices under applicable taxation laws and include your Business License Number or Unified Social Credit Code in the People's Republic of China and must provide your bank account details into which a direct deposit can be made. Invoices which do not meet these criteria are not considered correctly rendered and will not be accepted for payment.
- 7) ANZ will pay correctly rendered invoices pursuant to the Payment Terms stipulated hereunder after receipt of invoice. Invoices must be sent to the billing address specified in this purchase order. Any payment may, at ANZ's sole discretion, be made by electronic funds transfer to your bank account as detailed in this purchase order. ANZ will not accept, and will have no duty to pay, any tax invoice which does not comply with the requirements set out above or which is not a Valid Tax Invoice.
- 8) In order to be acceptable to ANZ, all goods and services you supply must be of merchantable quality and fit for the relevant purpose and must comply with:
 - a) any samples provided by you, including, where requested, any previous deliveries;
 - b) all applicable laws, codes and standards;

- c) the manufacturer's published specification; and
 - d) any other specification or requirement notified by ANZ, including any attached to this purchase order.
- 9) You warrant that:
- a) You have good title in the goods and are authorised to sell them to ANZ;
 - b) You have and will maintain all relevant licences, permits or qualifications for provision of the goods or services; and
 - c) ANZ's use of the goods or services will not infringe any rights of a third person, including intellectual property ("**IP**") rights.
- 10) If any goods or services do not comply with the requirements of these terms and conditions or the Purchase Order (and such non-compliance is not caused by the default of ANZ), ANZ may (if goods) return them to you and require their immediate repair or replacement or a refund; and (if services) require their re-performance at no additional cost to ANZ, or a refund. ANZ, acting reasonably, may also terminate the entire Purchase Order for cause and return all goods to you and require a refund including if you fail to meet ANZ's delivery requirements set out in the Purchase Order. You will be liable for freight, packing and all other costs associated with their return. Termination by ANZ under this clause for cause is without further liability.
- These clauses apply if goods are to be supplied**
- 11) Title to goods, and risk of loss or damage to them, passes to ANZ upon acceptance by ANZ, provided that if ANZ has not paid for the goods at the time of acceptance then title will not pass until the time of payment.
- 12) Delivery will only be accepted if:
- a) the whole order arrives as a single delivery (unless otherwise specified or agreed by the ANZ Requestor);
 - b) all items are securely packed and identified as required by ANZ from time to time and so as to prevent damage and allow proper storage and stock control; and
 - c) each container has a delivery note detailing its contents and the matters referred to in clause 6.
- 13) Goods will only be accepted after unpacking and inspection by ANZ, regardless of when this occurs. ANZ may deliver items into its store without inspecting them at the time of delivery. ANZ paying any invoice does not constitute acceptance of the items to which the invoice relates and payment is subject to your obligation to immediately refund payment for any item ANZ subsequently finds not to be acceptable.
- 14) Where goods must be installed, you will install them and confirm their proper operation and compliance with the warranties in these purchase order terms.
- 15) You must repair or replace defects in or damage to goods (other than damage caused by ANZ) identified within 12 months after delivery, at your own cost as soon as reasonable after ANZ notifies you of such.

These clauses apply if services are to be supplied

- 16) You will advise ANZ immediately of any actual or potential conflict of interest arising during provision of services to ANZ. If ANZ considers a conflict to adversely affect its interests, it may terminate your services. In this event, you must cease providing the services the subject of the terminated Purchase Order, and use all reasonable endeavours to mitigate your costs and expenses. ANZ will pay for services that have actually been delivered or provided to ANZ as at the date of termination
- 17) New IP (including copyright) you create in providing services will be owned by ANZ and you assign such IP rights to ANZ from their date of creation. You grant a perpetual, irrevocable, non-exclusive, worldwide license to exercise all IP rights not assigned by you to ANZ but owned or licensed by you to the extent such a licence is necessary for ANZ to enjoy the benefit of the services. Notwithstanding any other provision of this purchase order, you must not in any way (including in any advertising material or on

any website) use ANZ's (or any member of the ANZ Group's) trademarks, logos, business names or brand names (whether registered or unregistered) without the prior written consent of ANZ.

- 18) You will ensure everyone you provide to ANZ to perform the services is properly qualified and adequately experienced, works diligently, reliably and to a high standard, conducts themselves with integrity, abides by ANZ's policies, including occupational health and safety policies, and complies with the terms of this Purchase Order. If ANZ has any concerns with the competence, performance or attitude of any person, engaged by you to perform services to ANZ, you will review with ANZ the person's performance and on ANZ's reasonable request, you will replace the person with another person acceptable to ANZ.
- 19) You may only use subcontractors or personnel in substitution for personnel named or described in any attachment to this purchase order if ANZ consents in writing.
- 20) You must arrange and maintain:
- (a) a public liability insurance policy that:
 - (i) covers you and ANZ in respect of liabilities to third parties; and
 - (ii) provides insurance cover in respect of any one occurrence of not less than AUD 10 million or its equivalent; andwhere services are supplied by you to ANZ, a professional indemnity insurance policy which provides cover in respect of any one claim of not less than AUD 2 million or its equivalent;
 - (b) where goods are supplied by you to ANZ, a product liability insurance policy in respect of the goods that:
 - (i) covers you and ANZ in respect of liabilities to third parties caused by, or arising from the use of, the goods; and;
 - (ii) provides insurance cover in respect of any one occurrence of not less than AUD 10 million or its equivalent.

General

- 21) You will keep confidential all information (which is of its nature confidential) about ANZ, its business, its subsidiaries, related entities or its clients that becomes available to you in the course of providing the goods or services, and will protect that information from use not authorized by ANZ. You warrant you have read, understood and will comply with the Law of the People's Republic of China on Tortious Liability, and all other applicable laws in relation to privacy and data protection.
- 22) You must arrange and maintain:
- (a) a public liability insurance policy that:
 - (i) covers you and ANZ in respect of liabilities to third parties; and
 - (ii) provides insurance cover in respect of any one occurrence of not less than AUD 10 million or its equivalent; andwhere services are supplied by you to ANZ, a professional indemnity insurance policy which provides cover in respect of any one claim of not less than AUD 2 million or its equivalent;
 - (b) where goods are supplied by you to ANZ, a product liability insurance policy in respect of the goods that:
 - (i) covers you and ANZ in respect of liabilities to third parties caused by, or arising from the use of, the goods; and;
 - (ii) provides insurance cover in respect of any one occurrence of not less than AUD 10 million or its equivalent.
- 23) You acknowledge and agree that:
- a) ANZ is committed to engaging suppliers whose environmental, ethical and social performance is of high standard; and
 - b) you must comply with ANZ's Supplier Code of Practice published at anz.com and such other document as notified to you by ANZ.

24) You agree to indemnify ANZ against all loss, liabilities, damages and expenses (including without limitation legal and other professional costs and expenses) arising out of or in connection with your negligence, default or breach of this purchase order, including any act or omission of your staff.

25) Anti-money laundering and sanctions

You must comply with any economic and trade sanctions imposed by Australia, the United States, the European Union or any country (including any sanction that supports a decision or resolution of the United Nations Security Council) applicable to the performance by the Supplier of its obligations under the Agreement. You acknowledge that ANZ is prohibited from dealing with any supplier which is a sanctioned entity under the laws of any country in which ANZ or ANZ Group members operate. ANZ may, acting reasonably, refuse to perform one or more of its obligations under the Purchase Order or these terms and conditions, if performance of those obligations would cause ANZ or any of the ANZ Group members to breach any law, regulation or other legal prohibition. For the avoidance of doubt, this includes ceasing to deal with you if you are or become, or any person (natural, corporate or governmental) associated with you is or becomes, subject to any sanction imposed by Australia, the European Union or any government, including any sanction that supports a decision or resolution of the United Nations or any part or agency of the United Nations.

a) You agree that ANZ may, in its sole and absolute discretion:

- (i) delay, block or refuse to process any transaction; or
- (ii) refuse to perform any one or more of its obligations under this agreement, without incurring any liability, if ANZ suspects, for any reason, that:
 - (iii) an action it is required or requested to take under this agreement;
 - (iv) its involvement in any transaction that is any way connected with this agreement; or
 - (v) its performance of any service for any person in connection with this agreement;

might in any way cause ANZ:

- (vi) to breach any Law, regulation or other legal prohibition of any place or jurisdiction (including a foreign place or jurisdiction);
- (vii) to deal in any way with any person (natural, corporate or governmental) that is sanctioned, or is connected in any way to any person that is sanctioned, under economic and trade sanctions imposed by the United Nations, the European Union or any country;
- (viii) to breach any sanction of any kind imposed by any country (including any sanction that supports a decision or resolution of the United Nations Security Council);
- (ix) to deal in any way with any person (natural, corporate or governmental) that has been listed or named by any government, or independent authority (such as the United Nations or the European Union), as a person who is in any way suspected of being involved (or potentially involved) in terrorism or in any activities connected with terrorism; or
- (x) to be involved (whether directly or indirectly) in any transaction which involves the proceeds of unlawful conduct or which involves proceeds which might be applied for the purposes of unlawful conduct.
- (xi) For the purposes of this clause, the circumstances listed in paragraphs (vi) to (x) above are collectively described as unlawful acts.

b) You must provide all information to ANZ which ANZ reasonably requires in order:

- (i) to manage anti-money laundering, counter-terrorism financing and economic and trade sanctions risk;
- (ii) to comply with any laws, regulations, or other prohibitions that may be applicable to ANZ with respect to any transaction, requested action or obligation applicable to ANZ; or

- (iii) to avoid involvement in any unlawful act.
 - c) You warrant and undertake to ANZ that it will not request ANZ to take any action, or to perform any obligation, in connection with this agreement that might cause ANZ to be involved in any unlawful act on the part of ANZ. Should you become aware that ANZ might become involved in an unlawful act in connection with this agreement, you must immediately tell ANZ of the fact or circumstance that might cause ANZ to be at risk or involvement in an unlawful act. Should you become aware that ANZ has become involved in an unlawful act, as a result of its performance of any action or obligation in connection with this agreement, you must immediately tell ANZ of the facts or circumstances that has caused this to occur.
 - d) You agree that ANZ may disclose any information concerning you to any law enforcement agency or court where required to do so under any law or regulation (including a law or regulation of a foreign place or jurisdiction).
 - e) You acknowledge that any breach of this clause constitutes a material breach and entitles ANZ to immediately terminate this agreement on written notice.
- 26) You will be familiar with and comply with all laws and regulations on bribery, corruption and prohibited business practices. You have not and will not, for the purpose of influencing or inducing anyone to influence decisions in favour of ANZ or its controlled entities, offer, promise or make or agree to make, directly or indirectly: (a) any political contributions of any kind, or any payment to a public official (including foreign public officials); (b) any payments for gifts, meals travel or other value to a government employee or his/her family; or (c) any payments or gifts to anyone. You must notify ANZ in writing as soon as reasonably possible and in any event within 24 hours upon becoming aware of a breach or a potential breach of this clause 26.
- 27) **Supplier Code of Practice**
You acknowledge and agree that:
- a. ANZ is committed to engaging suppliers whose environmental, ethical and social performance is of high standard; and
 - b. you must comply with ANZ's Supplier Code of Practice as published at anz.com, or otherwise notified to you from time to time.
- 28) **Human Rights and Modern Slavery**
In performing your obligations under this agreement, you must:
- a. comply with all applicable modern slavery laws, statutes, regulations and codes from time to time in force; and
 - b. take reasonable steps to ensure that there is no modern slavery or human trafficking in your or your subcontractors' supply chains or business operations.
- 29) The Purchase Order and any matters relating to the Purchase Order shall be governed by and construed in accordance with the laws of the People's Republic of China without regard to the conflicts of laws principles therein. Any dispute arising out of or in connection with the Purchase Order, including any question regarding its existence, validity or termination shall be referred to and finally resolved by arbitration at China International Economic and Trade Arbitration Commission ("CIETAC") under the CIETAC rules, which rules are deemed to be incorporated by reference into this section. The number of arbitrators shall be three (3). The seat or legal place of arbitration shall be Beijing, China. The language to be used in the arbitral proceedings shall be English.

SCHEDULE¹

- TAXES -

1.1 Definitions

In this **clause 1 of this Schedule**:

- (a) unless otherwise expressly stated or the context otherwise requires, words and expressions which are not defined in this purchase order but which have a defined meaning in GST Law have the same meaning as in the GST Law;
- (b) Consumption Taxes means any tax payable on the sale or supply of goods, services or other things and includes GST, goods and services tax, value added tax, sales tax, consumption tax or any similar impost;
- (c) GST Law means the local taxation legislations or regulations governing the application of Consumption Taxes;
- (d) Permanent Establishment has the same meaning as in the local taxation laws of the relevant jurisdiction in which you are supplying the goods or services under or in accordance with this purchase order (as altered by the application of any double tax treaty) [and, in Australia, has the same meaning as in the Income Tax Assessment Act 1997 (as altered by the application of any double tax treaty)].
- (e) Tax **includes**:
 - (i) any tax, levy, impost, deduction, charge, rate, withholding or duty by whatever name called levied, imposed or assessed (including, without limitation, withholding tax, employment taxes, land tax, property tax, excise duties, customs duties, goods and services tax, value added tax, sales tax, consumption tax, stamp duty and transaction duties or any similar impost imposed or levied); and
 - (ii) any interest, penalty, charge, fine or fee or other amount of any kind assessed, charged or imposed on or in respect of the above.
- (f) **Valid Tax Invoice** means an invoice containing the elements of a tax invoice as required under local GST Law and must include the following:
 - (i) a description of each type of service/supply being made; and
 - (ii) for services, the location(s) where the services are performed, with the amounts applicable to each of the above.

1.2 Consumption Taxes

- (a) Unless otherwise expressly stated, all monetary consideration to be provided under or in accordance with this purchase order is inclusive of Consumption Taxes.
- (b) To the extent that the consideration to be provided for any sale or supply (of goods, services or other things) ("Supply") made under or in accordance with this purchase order is expressly stated to be exclusive of Consumption Taxes, ANZ must pay to you (at the same time as payment for the Supply is required to be made) an additional amount equal to the Consumption Taxes payable in respect of the Supply.
- (c) ANZ may provide to you an exemption certificate (if possible from relevant tax authority) acceptable by the relevant taxing authority in which case you shall not collect Consumption Taxes covered by such certificate.
- (d) ANZ's obligation to pay the Consumption Taxes component of any consideration under this purchase order is subject to ANZ receiving a Valid Tax Invoice or other documents required by law in respect of the Supply at or before the time of payment.

- (e) If a payment under this document is a fee, price, reimbursement or indemnification which is calculated directly or indirectly by reference to a cost (including a loss or expense) incurred by a party, the cost must be reduced by the amount of any input tax credit or credit to which the party or the representative member for a Consumption Taxes group of which that party is a member, is entitled for that cost in calculating the payment. An entitlement to claim a full credit for Consumption Taxes incurred on those costs will be assumed unless it is demonstrated otherwise.
- (f) You agree to take such steps as are requested by ANZ to minimize such Consumption Taxes in accordance with all relevant laws and to cooperate with and assist ANZ, at ANZ's request, in challenging the validity of any Consumption Taxes or taxes otherwise paid by ANZ.
- (g) If any taxing authority refunds any Consumption Taxes to you which ANZ originally paid to you, or you otherwise become aware that any Consumption Taxes were incorrectly and/or erroneously collected from ANZ, you shall promptly remit to ANZ an amount equal to such refund or incorrect collection.

1.3 Consumption Taxes on Claims

- (a) Subject to clause 1.2 (c), if a payment to satisfy a claim or a right to a claim under or in connection with this purchase order (for example, for misleading or deceptive conduct or for misrepresentation or for a breach of warranty or for an indemnity or for reimbursement of any expense) gives rise to a liability to pay an amount of Consumption Tax, the payer must also pay, and indemnify the payee against the amount of that Consumption Tax.
- (b) Subject to clause 1.2 (c), if a party has a claim under or in connection with this purchase order or a cost on which that party must pay an amount of Consumption Tax, the claim is for the cost plus all Consumption Taxes (except any Consumption Taxes for which that party, or the representative member for a GST group of which that party is a member, is entitled to an input tax credit).
- (c) If a party has a claim under or in connection with this purchase order and the amount of the claim depends on actual or estimated revenue or lost revenue, revenue must be calculated without including any amount received or receivable as reimbursement for any Consumption Taxes (whether that amount is separate or included as part of a larger amount).]

1.4 Other taxes, duties and charges

Except as set out above in this clause 1 of the Schedule in respect of Consumption Taxes (including but not limited to China business tax and local surcharge), all applicable Taxes imposed or levied in connection with this purchase order will be borne by you and will not cause any increase to the fees set out in this purchase order.

1.5 Income taxes

For the avoidance of doubt, each party is responsible for taxes imposed in respect of its income in connection with this purchase order.

- 1.6** In the event that local laws required taxes to be withheld by ANZ on payments to you (including but not limited to China Business Tax and local surcharge), such taxes shall be withheld and remitted to the local tax authorities by ANZ, unless you provide ANZ with an applicable exemption certificate. ANZ will use reasonable efforts to cooperate with and assist you in obtaining tax certificates or other appropriate documentation evidencing such payment.

- 1.7** Any Consumption Taxes (including Business Tax) payable by ANZ China should be grossed up and reflected in the invoice.

1.8 Jurisdiction

- (a) Prior to execution of this purchase order, you must advise ANZ in writing as to whether you have a Permanent Establishment in the relevant jurisdiction and supply ANZ with



certificates of residency in the form required by the relevant taxing authority. The certificate of residency must specify the period you are to provide the services and/or deliverables.

- (b) [In the event that circumstances change resulting in you acquiring a Permanent Establishment in the relevant local jurisdiction and/or the certificates of residency previously supplied by you ceasing to be valid, you must notify ANZ in writing of the change in circumstances no later than 10 days after you become aware of the change in circumstances.]²
- (c) Without limiting anything else in this purchase order, you must ensure that all invoices you provide to ANZ clearly identify the residency of all relevant entities providing the goods or services and the nature of the goods or services that are the subject of the invoice and otherwise provide ANZ with all information necessary for ANZ to comply with all applicable local taxation Laws.

1.9 [Parties not disadvantaged by new impost]

- (a) [If any new Consumption Tax or withholding tax is introduced or is changed after the date of this purchase order ("Impost Change") the parties will make every effort to reasonably amend arrangements to minimise any adverse effect of the Impost Change and negotiate in good faith to adjust the fees (the "Negotiated Position") such that the Parties are not disadvantaged by the Impost Change.]
- (b) The parties agree that [any][the first] invoice issued after agreement has been reached in clause 1.9(a) must reflect the necessary adjustment from the date of effect of the Impost Change [and that subsequent invoices reflect the Negotiated Position].]³
