



## Arafura Purchase Order Terms and Conditions

(v1.2 January 2018)

### 1. PURCHASE ORDER

A Purchase Order for Goods is (or will be) issued by Purchaser to Supplier, together with these Purchase Order Terms and Conditions.

The Purchase Order is recorded on a document electronically generated by the Purchaser and titled "Purchase Order" bearing an identifying 'Purchase Order number and refers to these Purchase Order terms and conditions as the terms and conditions relating to the Purchase Order.

Purchase Order shall have an issue date, a description of Goods, applicable prices and delivery details and may contain information specific to the particular Purchase Order including special conditions (if any) in a separate section titled 'Notes, Instructions and Special Conditions'. The Purchase Order may also include attachments (if any) referenced therein.

### 2. ACCEPTANCE BY SUPPLIER

Upon receipt of Purchase Order, Supplier shall check it for discrepancies.

Upon receipt of Purchase Order Terms and Conditions, Supplier must read them in full.

Supplier shall acknowledge Supplier's acceptance and agreement of the Purchase Order and Purchase Order Terms and Conditions by signing and returning the Purchase Order to Purchaser within five (5) days after receipt of Purchase Order. In the absence of such acknowledgment, the performance or part performance of the Purchaser Contract by Supplier, including delivery of any of the Goods, constitutes acceptance of both the Purchase Order and the Purchase Order Terms and Conditions by the Supplier.

The Supplier must supply and deliver the Goods to the Purchaser in accordance with the Purchase Contract.

### 3. PRICE

Unless otherwise stated, the total Purchase Order price as indicated in the Purchase Order is in Australian currency excluding GST and is fixed and firm, not subject to escalation for the duration of the Purchase Order; and includes all packing, loading, delivery, testing, documentation and unloading costs.

#### **4. PAYMENT**

Unless otherwise stated Purchaser's payment of the Purchase Order price shall be made in full within thirty (30) days after receipt by Purchaser from Supplier of correct and proper invoice and required supporting documentation following delivery of Goods to the delivery point stated in the Purchase Order.

#### **5. DELIVERY OF GOODS**

Supplier, at its expense and risk, shall deliver the Goods using the mode, on the date and at the point of delivery specified in the Purchase Order in which any required advance notification of delivery may be indicated. Unless stated otherwise in the Purchase Order, Supplier at its cost shall unload the Goods at the specified point of delivery.

#### **6. PACKING AND HANDLING OF GOODS**

Supplier is liable for all or any damage, loss or destruction to any Goods or property resulting from improper packaging, delivery, loading, unloading, or handling by Supplier (including the Supplier's employees or contractors).

#### **7. TIME OF DELIVERY OF GOODS AND DELAY**

If at any time Supplier discovers that the time of delivery will not be met, it shall notify Purchaser within two (2) working days after discovery, stating cause of delay and earliest possible delivery date. Purchaser may thereupon (without prejudice to any other rights) terminate all or part of the Purchase Order.

If Supplier is delayed in delivery of the Goods by unforeseeable occurrences or causes such as acts of God, state or nationwide strikes, fire, or other causes of a similar nature beyond Supplier's reasonable control, Supplier shall notify Purchaser within two (2) days after the commencement of each such occurrence or cause and request an extension of time. If approved by Purchaser, any extension of time shall be granted in writing.

Supplier shall not be entitled to and hereby waives all claims to increased compensation for/or damages which it may suffer from any such unforeseeable causes.

#### **8. REVISION OF THE PURCHASE ORDER**

Purchaser reserves the right at any time in relation to the Goods to make a Revision to the Purchase Order to correct any errors or omissions therein or to make any changes including in respect of specifications, quantity and delivery.

A Revision shall be made through the issue of an electronic document titled "Purchase Order" having the same Purchase Order number as the previously executed Purchase Order with the words "Re-printed" stated at the top of the revised Purchase Order.

Supplier must not make such corrections or changes until the resulting cost and time impacts have been agreed between the parties and the proper Purchase Order document, and has been authorised

and issued by Purchaser and acknowledged and accepted by Supplier. Thereafter Supplier agrees to take immediate and necessary action to comply with such Revision to the Purchase Order.

#### **9. TITLE AND RISK RELATING TO GOODS**

Title to and property in the Goods shall pass to Purchaser on the first to occur of payment of any part of the Purchase Order price or delivery to the point of delivery specified in the Purchase Order. Such Goods yet to be delivered by Supplier shall be appropriately marked and identified as the property of Purchaser.

Risk in the Goods shall remain with Supplier until the time Purchaser takes delivery of the Goods at the point of delivery stated in the Purchase Order, unless otherwise as expressly stated in the Purchase Order. Any loss or damage to Goods howsoever caused when under Supplier's risk shall at its own cost be rectified by Supplier and thereafter when the risk in the Goods has transferred to Purchaser, Supplier shall be liable for any loss or damage to such Goods to the extent caused by its negligence, wilful act, misconduct, fault, breach of duty (statutory or otherwise) or breach of the Purchase Order.

#### **10. TERMINATION OF PURCHASE CONTRACT**

If Supplier fails to deliver to the Purchaser a Purchase Order signed by the Supplier under clause 2; fails to make delivery; fails to perform within the time specified in the Purchase Order; delivers non-conforming or defective Goods; fails to make progress so as to endanger performance of the Purchase Order; then in any case Purchaser may, in its discretion, cancel the Purchase Order or part thereof and terminate the Purchase Contract and Supplier shall be liable for all costs incurred by Purchaser in purchasing similar Goods elsewhere.

#### **9. PURCHASER'S CANCELLATION OF PURCHASE ORDER**

Purchaser may at its option cancel the Purchase Order or any part thereof at any time. Purchaser's liability will be to pay for the Goods supplied in accordance with the Purchase Order at the date of cancellation and for costs of materials and other items ordered for which Supplier is legally bound to pay. Upon such payment, title to and property in all those materials and other items shall pass to Purchaser.

#### **11. PURCHASER'S SUSPENSION OF SUPPLY**

The Purchaser may suspend all or part of the supply of the Goods at any time for any period of time by notice in writing to the Supplier. The Supplier must comply with the notice and recommence supply when notified by the Purchaser. The Supplier will not be entitled to any additional payment arising as a result of the suspension.

#### **12. INSURANCE**

Supplier shall, at its cost, effect and maintain until the risk in the Goods passes to Purchaser in accordance with clause 7, adequate property loss or damage insurance at least to the full replacement value of the Goods including adequate transit insurance and also covering unloading if Supplier is required to unload the Goods. Such insurance shall cover the parties' respective rights and if required by Purchaser shall be in the joint names of the parties.

Supplier shall carry: (a) Workers Compensation/Employer's Liability required by law with where legally permitted an indemnity for Purchaser (including its client as applicable) and ensure that its sub-suppliers have similarly insured its employees; (b) adequate public & product liability insurance and (c) any other insurance pursuant to Clause 16 (if applicable) or as required by law.

### **13. SUPPLIER'S WARRANTY & INDEMNITY RELATING TO GOODS**

Supplier warrants that Goods supplied shall be of merchantable quality, fit for the purpose intended and free of defects in materials, workmanship, and design. If Purchaser supplies manufacturing drawings to Supplier, Supplier warrants that the Goods are manufactured and supplied strictly in accordance with such drawings.

Supplier shall (at the option of Purchaser) either replace or repair and make good any Goods or parts of Goods supplied by it found to be defective or in any way unsuitable for the purpose intended for a period of twelve (12) months from date of delivery of the Goods ("Warranty Period"). If Supplier repairs or replaces Goods during the Warranty Period, then a new warranty shall apply to those Goods for a period of twelve (12) months from the date such repairs or replacements were completed.

Supplier shall indemnify Purchaser against all claims by any person for loss or damage, direct or indirect caused by Goods supplied under the Purchase Order by Supplier in respect of Goods which are defective or otherwise not of merchantable quality or not fit for purpose.

### **14. PATENTS**

Supplier warrants that Goods supplied other than Goods supplied in accordance with technical plans or drawings provided to Supplier by Purchaser do not infringe any patent, copyright, design or trademark (whether foreign or domestic) which any person may in any way be entitled to and shall save harmless and indemnify Purchaser from and against all claims and proceedings for or on account of such infringements in respect of Goods supplied by Supplier and from and against all related claims, demands, proceedings, damages, costs, charges and expenses.

### **15. INSPECTION OF GOODS**

Purchaser may at any time during the course of manufacture or otherwise inspect Goods to be supplied (subject to Purchaser first giving Supplier reasonable notice of such inspection). Inspection by Purchaser shall neither relieve Supplier of its obligations under the Purchase Order or otherwise nor waive Purchaser's rights or remedies provided under the Purchase Order or otherwise.

### **16. TEST CERTIFICATES**

If Test Certificates for Goods are required by the Purchase Order those must be forwarded to Purchaser upon completion of testing.

### **17. SUB-PURCHASE ORDERS & ASSIGNMENT**

Supplier shall ensure that any sub-purchase or sub-supply agreements relating to this Purchase Order contain the same terms and conditions as contained in these Purchase Order Terms and Conditions.

The Purchase Contract shall be binding upon and inure to the benefit of the Purchaser and Supplier and (unless such interpretation shall be repugnant to the sense or context) their respective executors, administrators, personal representatives, successors and assigns but shall not be assignable by Supplier without the prior written consent of Purchaser.

#### **18. WAIVER & AMENDMENT**

Neither a waiver of any provision of the Purchase Contract nor consent to any departure therefrom shall be effective unless given in writing by Purchaser.

Except as provided by law or equity or elsewhere in the Purchase Order, none of the provisions of the Purchase Contract shall be varied or amended without the prior written agreement of the Purchaser and Supplier.

#### **19. INDEMNITY**

Insofar as this Clause applies to property, it applies to property other than the Goods.

Supplier shall be solely responsible for and shall indemnify and hold Purchaser harmless against all claims, liens, demands, proceedings, judgements, fines, penalties, costs (including legal costs), losses, liabilities and other expenses whatsoever for any personal injury, including death and disease or loss of or damage to any property (including Purchaser's personnel and property) arising directly or indirectly out of or as a consequence of the Supplier's performance of the Purchase Order or by failure of Supplier to perform any of its obligations under or to comply with requirements of the Purchase Order irrespective of sole or contributory negligence, misconduct, fault or breach of duty (whether statutory or otherwise) on the part of the Purchaser.

#### **20. PURCHASER'S ACCESS TO SUPPLIER'S PREMISES AND EXPEDIATING**

Purchaser shall be granted access to all parts of Supplier's work premises and those of its sub-suppliers. Supplier shall expedite all Goods ordered through sub-purchase orders on a regular basis and visit sub-supplier's facilities or premises when necessary.

#### **21. CONSEQUENTIAL LOSS**

Neither Purchaser nor Supplier shall be liable to the other for any consequential loss, loss of contract, business opportunity, profit, or anticipated profit (or any loss of a similar nature) sustained by the other party.

#### **22. APPLICABLE LAW**

The Purchase Contract and the rights and obligations of the parties hereto shall be construed in accordance with and be governed by the laws applicable in Western Australia. Each of the parties hereto hereby agrees that any legal action or proceedings with respect to its obligations hereunder shall be brought in Western Australia and each of the parties hereto hereby submits to such jurisdiction.

**23. SERVICE OF NOTICE**

Unless otherwise agreed to by the parties, any notice (and other documents) required or permitted to be given or delivered under this Purchase Order shall be delivered and addressed to the party at the addresses set forth in the Purchase Order. Notice shall be deemed to have been received by any party, and shall be effective: (a) on the day given, if personally delivered or if sent by confirmed facsimile or electronic mail transmission (including any attached scanned documents), receipt verified, to a facsimile number or electronic mail address provided by the receiving party to the sending party for the purpose of receiving such notices; or b) on the third day after which such notice is deposited, if mailed by certified or prepaid post.

**24. ENTIRE AGREEMENT AND PREVIOUS NEGOTIATIONS SUPERSEDED**

The Purchase Contract constitutes the entire agreement between Supplier and Purchaser in relation to the supply of the Goods and no representation or statements by any employee or agent not expressly stated in the Purchase Order are binding upon the Purchaser.

The Purchase Contract between the Purchaser and Supplier supersedes all previous contracts, agreements, arrangements, communications, and negotiations and is the sole authority for charging Goods to the Purchaser's account.

Any reference by the Supplier to Supplier's own or any other terms and conditions in its quotation or other documentation presented by it in connection with the Purchase Order will have no effect on the Purchase Order.

**25. PURCHASE ORDER PREVAILS OVER TERMS AND CONDITIONS**

In case of any conflict or ambiguity, the Purchase Order (including any attachments) shall have precedence over these Purchase Order terms and conditions and special conditions (if any) shall have precedence over the rest of the Purchase Order.

**26. SEPARATE SIGNED WRITTEN AGREEMENT PREVAILS OVER TERMS AND CONDITIONS**

If there is a separate written agreement signed by both the Supplier and the Purchaser, then in the case of any conflict or ambiguity, the terms of the separate written agreement (including any attachments) shall have precedence over these Purchase Order terms and conditions.

## 27. DEFINITIONS

In these Purchase Order Terms and Conditions:

**Arafura Group** means Arafura Resources Limited ABN 22 080 933 455 and all subsidiary companies of Arafura Resources Limited.

**Goods** means the goods described in the Purchase Order.

**Purchase Contract** means the agreement between the Purchaser and the Supplier for the supply of Goods which is constituted by the Purchase Order, these Purchase Order Terms and Conditions and any other separate written agreement or document relating to the supply of the Goods which is signed by both the Supplier and the Purchaser.

**Purchase Order** means an order for Goods in the format (or substantially in the format) set out in **Annexure 1**.

**Purchaser** means the member of the Arafura Group named as the “**Purchaser**” in the Purchase Order (or if no name is included at all then means Arafura Resources Limited).

**Supplier** means the entity (including an individual, firm, or corporate entity) named as the “**Supplier**” in the Purchase Order.

## ANNEXURE 1 - FORMAT OF PURCHASE ORDER



**Arafura Resources Limited**  
**ABN 22 080 933 455**  
**Level 3, 263 Adelaide Terrace**  
**Perth WA 6000**  
**Telephone: (08) 6210 7666**

SUPPLIER:

DELIVER TO:

INVOICE TO:

Required By

Order No:  
 Order Date:  
 Originator:  
**Delivery Instructions:**

SUPPLIER PART No	DESCRIPTION	QTY	UNIT	UNIT PRICE	TOTAL EXCL. GST
TOTAL (excl. GST)					

Authorised Officer: Barbara Dunsire

- This purchase order is subject to Arafura Resources Ltd standard terms and conditions.
- Invoices only paid quoting this Purchase Order Number.