



PURCHASE ORDER TERMS AND CONDITIONS

1. SUPPLY OF GOODS AND/OR SERVICES

- 1.1 In consideration or payment of the Price by the Company, the Contractor must supply the Goods and/or provide the Services to the Company in accordance with, and as specified in, this Purchase Order (which includes these Purchase Order Terms and Conditions).
- 1.2 To the extent permitted by Law and to the extent the Contractor's terms and conditions are supplied to the Company in respect of the Goods or Services (including as printed on consignment notes or other documents), those terms and conditions will be of no legal effect and will not constitute part of this Purchase Order (even if any representative of the Company signs those terms and conditions or annexes the terms and conditions to this Purchase Order).
- 1.3 Where this Purchase Order relates to Goods and/or Services the subject of a contract between the Contractor and the Company, the terms of that contract apply to the extent of any inconsistency with these Purchase Order Terms and Conditions.
- 1.4 The Contractor must, in supplying the Goods or performing the Services:
- (a) not interfere with the Company's activities or the activities of any other person at the Delivery Point or the Site;
 - (b) be aware of and comply with, and ensure that the Contractor's Personnel are aware of and comply with:
 - (i) all applicable Laws;
 - (ii) all Site Standards and Procedures and the Code of Conduct, to the extent that these documents are applicable to the supply of the Goods or the performance of the Services by the Contractor; and
 - (iii) all lawful directions and orders given by the Company's representative or any person authorised by Law or the Site Standards and Procedures to give directions to the Contractor;
 - (c) ensure that the Contractor's Personnel entering the Site perform the Services or deliver the Goods in a safe manner and in a way that does not prejudice safe working practices, safety and care of property and continuity of work at the Site;
 - (d) provide all such information and assistance as the Company reasonably requires in connection with any statutory or internal health and safety, environment or community investigation in connection with the Purchase Order, the supply of the Goods or the performance of the Services; and

- (e) on request by the Company, provide to the Company and its Personnel any information and assistance required to identify, evaluate, implement and report on any matter required by Law in respect of anything used, produced or created in connection with the performance of the Contractor's obligations under this Purchase Order.

2. DELIVERY

- 2.1 The Contractor must deliver the Goods to the Delivery Point by the Delivery Date.
- 2.2 The Contractor must ensure that the goods are suitably packed to avoid damage in transit or in storage and in such a way to comply with any applicable Laws.
- 2.3 Packages must be marked with the Purchase Order number, item number, Delivery Point, contents, quantity, date and method of dispatch and weight of each package.

3 TIME FOR PERFORMANCE OF THE SERVICE

The Contractor must perform the Services by the date specified in the Purchase Order.

4 TITLE AND RISK

- 4.1 The Company will have title to the Goods when the Company pays for those Goods.
- 4.2 The Company will bear risk in the Goods when the Company takes delivery of those Goods at the Delivery Point.

5 PRICE

- 5.1 The Company must pay the Contractor the Price for the Goods and/or Services at the time set out in this Purchase Order (subject to the requirements of clause 6 having been satisfied).
- 5.2 The Price is inclusive of:
 - (a) all charges for packaging, packing, insurance and delivery of the Goods in accordance with this Purchase Order;
 - (b) the cost of any miscellaneous services of a kind which are commonly provided with the Goods and any miscellaneous items of a kind which are commonly used or supplied in the performance of (and in conjunction with) the Services;
 - (c) the Contractor's compliance with its obligations under this Purchase Order; and
 - (d) all Taxes.

6 INVOICING AND PAYMENT

- 6.1 On delivery of the Goods and/or completion of the Services, the Contractor must provide to the Company:
 - (a) a Contractor Reference Document;
 - (b) if the Company directs, an Invoice which meets all the requirements of a valid invoice for Consumption Tax purposes in a relevant jurisdiction, which must include the information set out in clause 6.3.
- 6.2 The Contractor must provide the Contractor Reference Document of invoice using an electronic invoicing system if directed to by the Company.
- 6.3 Any Contractor Reference Document or Invoice must include the following details:
 - (a) a reference to this Purchase Order and the relevant contract (if any) including the line item numbers on this Purchase Order and the contract number;

- (b) a detailed description of the delivered Goods or performed Services, including the date of delivery and/or period of Services and the relevant quantity of the Goods and/or Services;
 - (c) an individual reference number for the Company to quote with remittance of payment;
 - (d) the Price relating to the Goods and/or Services, broken down to reflect the same Price components on this Purchase Order, including the amount of any applicable Consumption Tax; and
 - (e) Company operation, Site and Company contact name.
- 6.4 If the Company requests, the Contractor must provide the Company with all relevant records to calculate and verify the amount set out in any Contractor Reference Document or any Invoice.
- 6.5 The Company must pay all Invoices that comply with clause 6.3 within 30 days (or such other period as the Company's Representative and Contractor's Representative agree) of the date on which the relevant invoice is generated (in the case of a recipient created tax invoice) or the date on which the relevant invoice is received from the Contractor (in all other cases), except where the Company:
- (a) is required by Law to pay within a shorter time frame, in which case the company must pay within that time frame;
 - (b) exercises any right to retain, withhold, reduce or set-off any amount due to the Contractor;
 - (c) disputes the Contractor Reference Document or Invoice, in which case:
 - (i) to the extent permitted by Law, the Company may withhold payment of the disputed part of the Contractor Reference Document or Invoice pending resolution of the dispute; and
 - (ii) if the resolution of the dispute determines that the Company must pay an amount to the Contractor, the Company must pay that amount upon resolution of that dispute; or
 - (d) is required by Law to withhold a portion of payment for services rendered by a foreign contractor.
- 6.6 The Company may reduce any payment due to the Contractor under this Purchase Order by any amount which the Contractor must pay the Company, including costs, charges, damages and expenses and any debts owed by the Contractor to the Company on any account whatsoever. This does not limit the Company's right to recover those amounts in other ways.

7 CONDITIONS AS TO QUALITY OF THE GOODS AND THE SERVICES

The Contractor must ensure that:

- (a) the Goods and Services supplied by the Contractor match the description of the Goods and Services in this Purchase Order;
- (b) if the Contractor gave the Company a sample of the Goods before the Company issued this Purchase Order, the Goods correspond with the sample;
- (c) if the Contractor provided the Company with a demonstration of the Services before the Company issued this Purchase Order, the Services correspond in nature and quality with the Services demonstrated;

- (d) if the Contractor showed the Company a result achieved by the Services before the Company issued this Purchase Order, the Services correspond in nature and quality with the services that achieved that result;
- (e) the Services are performed with the professional skill, care and diligence expected of a skilled and experienced professional contractor;
- (f) the Goods and Services are fit for the purposes set out in, or which an experienced professional contractor would reasonably infer from, the Purchase Order;
- (g) the Goods are new and of merchantable quality;
- (h) to the extent that the Services are design Services, the works being designed will be fit for their intended purpose as described in this Purchase Order;
- (i) any items which the Contractor uses or supplies in conjunction with the Services are of merchantable quality and comply with any standards specified in this Purchase Order and are fit for their usual purpose and any purpose described in this Purchase Order; and
- (j) the Company has the full benefit of any manufacturer's warranties that may be applicable to the Goods (and the Contractor must pursue any manufacturer's warranties on the Company's behalf if the Company so requests).

8 ACCEPTANCE AND CHANGE OF A PURCHASE ORDER

The Contractor may request changes to this Purchase Order, by written notice to the South32 contact specified in this Purchase Order, in response to which the Company may issue a changed Purchase Order. If the Company is unable to accept the requested changes, the Company will cancel this Purchase Order.

9 ENDING THIS PURCHASE ORDER

- 9.1 The Company may cancel this Purchase Order for any reason upon written notice to the Contractor, and:
- (a) subject to clause 6, the Company must pay for any part of the Goods delivered or Services performed prior to the cancellation;
 - (b) if the Contractor has shipped any Goods before the cancellation but the Goods have not been delivered to the Delivery Point at the date of cancellation, the Company may either:
 - (i) subject to clause 6, accept those Goods when delivered, and pay the Price for them; or
 - (ii) return the Goods to the Contractor at the Company's expense;
 - (c) if the Contractor has not shipped the Goods at the time of cancellation, on receiving the written notice of cancellation the Contractor must stop manufacture of the Goods in accordance with and to the extent specified in the notice, and do everything possible to mitigate any costs incurred in relation to the Goods; and
 - (d) if clause 9.1(b)(ii) or 9.1(c) applies:
 - (i) to the extent that the Goods were manufactured or fabricated in accordance with any specification prepared by the Contractor for the Company, the Company must reimburse the Contractor in respect of any expenditure reasonably incurred by the Contractor prior to the date of the cancellation which is directly attributable to the placing of the Purchase Order and which the Contractor is not able to recoup in some other way; and

- (ii) the Contractor is not entitled to the Price of those Goods or Services, or to any compensation for that cancellation other than as specified in clause 9.1(a).

10 CONFIDENTIAL INFORMATION

- 10.1 The Contractor must not, and must ensure that the Contractor's Personnel do not, without the prior written approval of the Company;
 - (a) use Confidential Information other than as necessary for the purposes of fulfilling the Contractor's obligations under this Purchase Order; or
 - (b) disclose the Confidential Information, other than to the Contractor's Personnel who need the information to enable the Contractor to perform this Purchase Order, to the Contractor's legal advisors, accountants or auditors, or where disclosure is required by Law (including disclosure to any stock exchange).
- 10.2 The rights and obligations under this clause 10 continue after the termination of this Purchase Order.

11 INTELLECTUAL PROPERTY

- 11.1 Subject to the terms and conditions of this clause 11, a party's Background IP remains vested in that Party.
- 11.2 The Contractor grants the Company a non-exclusive, perpetual, royalty-free, irrevocable, transferrable licence (with the right to assign and sub-license) to use the Contractor's Background IP to the extent necessary to use the Goods and/or Services, and assigns to the Company all Project IP upon the creation of that Project IP.
- 11.3 The Company grants the Contractor a non-exclusive, royalty-free, revocable, non-transferable licence to use the Project IP and the Company's Background IP to the extent required to perform the Contractor's obligations under this Purchase Order.
- 11.4 A reference to 'use' in the context of a licence of Intellectual Property from one Party to the other is a reference to 'use, copy, adapt, modify, exercise, test, install, operate, maintain, manage, support and repair' within the scope of the licence which is granted.

12 DEFECTS

- 12.1 If, during the Defect Correction Period, the Company finds any Defects in the Goods or Services (other than a Defect caused by the negligence of the Company), the Company may:
 - (a) reject the Goods with the Defect and return them to the Contractor, in which case the Contractor must replace the Goods free of charge and reimburse the Company for any expenses incurred;
 - (b) reject the Services with the Defect, in which case the Contractor must re-perform the Services free of charge; or
 - (c) make good or engage another contractor to make good the Defect, in which case the Contractor must reimburse the Company for any expenses incurred.
- 12.2 If the Contractor does not replace the Goods pursuant to clause 12.1(a) or re-perform the Services pursuant to clause 12.1(b) and:
 - (a) the Company has already paid the Contractor for the Goods or Services with the Defect, the Contractor must repay the Company the Price for those Goods or Services; or
 - (b) the Company has not already paid the Contractor for the Goods or Services with the Defect, the Company is not liable to pay the Contractor for those Goods or Services.

- 12.3 The acceptance of any Goods or Services with a Defect by the Company will not bind the Company to accept any other Goods or Services with a Defect and does not affect any of the Company's other rights under this Purchase Order or at Law.
- 12.4 Where the Contractor has made good any Defect under this clause, those Goods or Services will be subject to the same Defect Correction Period as the original Goods or Services, from the date the Contractor made good the Defect.

13 ANTI-CORRUPTION

- 13.1 The Contractor represents, warrants and agrees that, in connection with this Purchase Order:
- (a) neither the Contractor nor their Personnel, directly or indirectly, has engaged (upon entering into this Purchase Order) or will engage in the Bribery of a Government Official or any person;
 - (b) the Contractor (including their Personnel) will otherwise comply with any Applicable Anti-corruption Laws;
 - (c) it will notify the Company promptly upon becoming aware that any officer, director, employee or shareholder becomes, or expects to become, a Government Official in a position to influence action for or against the Company;
 - (d) if the Contractor engages a sub-contractor or other third party to interact with others on behalf of the Company, it will perform appropriate risk based anti-corruption due diligence on that sub-contractor or third party, will keep records of the same, and take reasonable measures to ensure they comply with clauses 13.1(a), 13.1(b), 13.1(c) and 14.1(a);
 - (e) it will notify the Company promptly upon becoming aware of any actual or potential breach of clause 13.1(a), 13.1(b), 13.1(c) or 14.1(a) by the Contractor or their Personnel.
- 13.2 Without limiting any other rights of the Company at law or under this Purchase Order, if the Company reasonably suspects that the Contractor is in breach of or has breached clause 13.1(a), 13.1(b) or clause 14.1(a), or the Company knows or reasonably suspects that such a breach is imminent, then:
- (a) the Company may immediately cancel this Purchase Order by notice to the Contractor; and
 - (b) any claims for payment by the Contractor in relation to this Purchase Order will be automatically terminated and cancelled.

14 BOOKS AND RECORDS

- 14.1 The Contractor represents, warrants and agrees that it will:
- (a) keep and maintain accurate and reasonably detailed books and financial records of expenses and receipts in connection with its performance under, and payments made or received in connection with, this Purchase Order; and
 - (b) upon request, as soon as reasonably practicable but no later than 7 calendar days, provide any information and reasonable assistance to the Company to audit any books and financial records to verify compliance with the Contractor's representations, warranties and undertakings under this Purchase Order, and otherwise reasonably co-operate with the Company's investigation of any related matters.

15 SUSTAINABILITY AND BUSINESS CONDUCT SUPPLIER REQUIREMENTS

- 15.1 The Company has sustainability and business conduct supplier requirements (**Supplier Requirements**) for its contractors. The Supplier Requirements are accessible on the 'Supplier' section of the Company's website. The Contractor acknowledges that it has read, understands and will comply with these Supplier Requirements. The Company reserves the right to request information and monitor compliance with these Supplier Requirements in connection with this Purchase Order.
- 15.2 The Company may cancel this Purchase Order upon written notice to the Contractor if the Contractor breaches clause 1.4(b) and this clause 15 in performing its obligations under this Purchase Order.

16 LANGUAGE

If by Law the parties are required to translate this Purchase Order into a language other than English, then to the extent permitted by Law, the English language text of this Purchase Order will prevail over any inconsistencies or difference of interpretation with any other language. In the event of any such inconsistency or difference, the parties must amend the text in any other language to remove the inconsistency or difference.

17 ENTIRE AGREEMENT

This Purchase Order (including representations, warranties, promises, statements and documents provided by the Contractor as part of the Company's vendor pre-qualification and/or business partner pre-clearance process (as applicable)) constitutes the entire agreement between the parties in respect of its subject matter and supersedes all other prior agreements, quotation requests, understandings, representations, warranties, promises, statements, negotiations, letters and documents in respect of its subject matter (if any) made or given prior to the date of this Purchase Order.

18 DEFINITIONS

In this Purchase Order (unless the context otherwise requires):

Applicable Anti-Corruption Laws means any anti-corruption laws that are applicable to either the Company, the Contractor or this Purchase Order.

Authority means any national, state, provincial, regional, territorial, local or municipal government, ministry, governmental department, commission, board, bureau, agency, instrumentality, executive, legislative, judicial or administrative body.

Background IP means all intellectual property owned or licensed by a party which that party makes available, contributes, brings to or uses in connection with this Purchase Order.

Bribery means the offering, authorising, giving, soliciting or accepting any monetary or other benefit to influence action or non-action of a Government Official in an official capacity, or to otherwise influence any person to act improperly. Bribery includes the making of facilitation payments, which are minor payments or benefits made to improperly expedite or secure the performance of required routine official action.

Code of Conduct means the Company's code of business conduct accessible on the Company's website.

Company means the entity named as such in this Purchase Order.

Confidential Information means the terms of this Purchase Order and the Company's information made available to the Contractor at any time in connection with this Purchase and the Goods and/or the Services, together with any information that concerns the business, operations, finances, plans or customers of the Company (or the Company's related entities)

disclosed to or acquired by the Contractor (including any information that is derived from such information), but does not include information which:

- (a) is or becomes public knowledge other than by a breach of this Purchase Order;
- (b) is in the Contractor's possession without restriction in relation to disclosure on or before the date on which it is disclosed to or acquired by the Contractor; or
- (c) has been independently developed by the Contractor or acquired from a source which was not subject to a duty of confidentiality to the Company.

Consumption Tax means value-added Tax, sales Tax, goods and services Tax or any Tax analogous thereto, but excludes any statutory late payment interest or penalties.

Contractor means the party or parties named as such in this Purchase Order.

Contractor Reference Document means a delivery document, dispatch note, time sheet, claim form or such other document which evidences the delivery of the Goods or the performance of the Services.

Defect means any aspect of the Goods or Services not in accordance with this Purchase Order, or any damage, deficiency, fault or inadequacy in design, performance, workmanship, quality or makeup of the Goods or Services.

Defect Correction Period means the period of 24 months from the date of delivery of the Goods and/or 12 months from the date on which a Service is last performed.

Delivery Date means the delivery date specified as such in the Purchase Order.

Delivery Point means the place for delivery of the Goods specified on this Purchase Order.

Goods means the goods, if any, specified as such in this Purchase Order (including any part of the goods specified)

Government Official includes any;

- (a) officer, employee or agent of a government or public international organisation or any department or agency thereof or any government-owned or controlled entity (including state owned enterprises);
- (b) political party or party official, or political office candidate;
- (c) individual who holds or performs the duties of an appointment, office or position created by custom or convention, including, potentially, some tribal leaders and members of royal families; or
- (d) person who holds themselves out to be authorised intermediary of any person specified in (a), (b) or (c) above.

Invoice means an invoice submitted by the Contractor in accordance with clause 6.1.

Law means all legislation including regulations, by-laws, orders awards and proclamations with which a party is legally required to comply, together with all Authority requirements, guidelines, consents, certificates, licenses, permits and approvals (including conditions in respect of those consents, certificates, licences, permits and approvals) with which a party is legally required to comply.

Personnel means directors, employees, agents, contractors or subcontractors, but a reference to the Company's Personnel excludes the Contractor.

Price means the price or rates specified as such in this Purchase Order.

Project IP means all intellectual property created, discovered or coming into existence as a result or, for the purpose of, or in connection with the performance of this Purchase Order.

Purchase Order means this purchase order for Goods and/or Services issued by the Company to the Contractor from time to time containing, amongst other things, a description of the Goods and/or Services.

Services means the services, if any, specified as such in this Purchase Order (including any part of the specified services and any ancillary services).

Site means the place described as such in this Purchase Order as the place for the use or storage of the Goods by the Company or for the performance of the Services.

Site Standards and Procedures means all the Company's standards, policies and procedures that are of general application at the Site in relation to matters concerning safety, health, the environment, industrial relations and personal conduct.

Tax:

- (a) includes all present or future taxes, fees, levies, duties, imposts, assessment royalties, tariffs, fees and charges imposed or assessed in respect of this Purchase Order by all Authorities including income tax, payroll tax, statutory pension or superannuation contributions and workers' compensation payments and contributions, sales tax, customs duty, excise, and stamp duty, as well as interest, penalties and additions thereto; but,
- (b) does not include Consumption Tax.