

INSURAPLEX PTY LTD SUPPLIER CONTRACTOR PURCHASE ORDER TERMS AND CONDITIONS

1. Scope of Works and Contractor Payment

(1.1) A reference to purchase order details in these terms and conditions means the purchase order details as specified on the front page of the purchase order conditions and which may be amended and/or supplemented by the order details as specified in any purchase order subsequently issued by Insuraplex Pty Ltd to which these terms and conditions are incorporated by reference.

(1.2) Except as otherwise expressly agreed upon in writing between a duly authorised officer of Insuraplex Pty Ltd and the subcontractor/supplier, these terms and conditions will apply notwithstanding any provisions to the contrary which may appear on any quotation, order form or other document issued by the subcontractor/supplier.

(1.3) The subcontractor/supplier shall complete the works in a professional, expeditious, safe and workmanlike manner.

(1.4) The subcontractor/supplier shall follow the Insuraplex code of conduct.

(1.5) The subcontractor/supplier shall be responsible for the whole of the works, including the work of any sub-contractors.

(1.6) Insuraplex Pty Ltd shall, in accordance with any purchase order, pay to the subcontractor/ supplier the subcontract sum stated in the order details as such sum may be adjusted in accordance with the purchase order.

2. Instructions and Variations

(2.1) Insuraplex Pty Ltd may from time to time issue instructions to the subcontractor/supplier regarding the works and the subcontractor/supplier shall comply with them. Insuraplex Pty Ltd may instruct the subcontractor/supplier to vary the works.

(2.2) The subcontractor/supplier shall have No Claim arising out of or in connection with that instruction or any variation to the works unless either:

(2.3) Insuraplex Pty Ltd and the subcontractor/supplier agree in writing as to the amount of any such payment and to the extent of any extension of time. For the purposes of agreeing the amount of any such payment, any pre-agreed rates shall be applied; or

(2.4) Notwithstanding any failure to agree as contemplated by sub-clause



(2.5) Insuraplex Pty Ltd gives the subcontractor/supplier a written instruction expressed (on the face of the instruction) to be given under this sub-clause

(2.6) And instructing the subcontractor/supplier to proceed.

3. Regulations, Notices, Fees and Consents

(3.1) The Subcontractor / supplier shall comply with the requirements of all authorities having jurisdiction over the works and shall give and receive all notices and pay all fees and deposits.

(3.2) If, in connection with the performance of the works, it is necessary for the subcontractor/ supplier to obtain access to any property, the subcontractor/supplier shall do so at its own cost and shall obtain all necessary consents and approvals from landowners and occupiers to carry out all repairs as per Building Code of Australia (BCA) whether instructed by Insuraplex or not.

(3.3) The subcontractor/supplier bears absolutely the risk of site conditions including any latent conditions and is deemed to have inspected the Incident, address and made all relevant inquiries and satisfied itself it can carry out the works having regard to those site conditions without any increase in the subcontract sum.

(3.4) The subcontractor/supplier is deemed to have allowed in the subcontract sum and the subcontractor/supplier's program for all things reasonably incidental to performing the works under this subcontract notwithstanding such work is not expressly stated in any purchase Order.

(3.5) The subcontractor/supplier shall have no claim against Insuraplex Pty Ltd in respect of the matters in this clause.

(3.6) The subcontractor/supplier shall apply and provide complete evidence of all copies to Insuraplex Pty Ltd of all compliance/consent certificates for works completed if and when such applies.

4. Warranties and Acknowledgements

(4.1) In addition to the other warranties given by the subcontractor/supplier, including manufacturer's warranty on all materials under the purchase order, the subcontractor/supplier hereby warrants to Insuraplex Pty Ltd as follows:

(4.2) The works under the subcontract will be performed in a proper and workmanlike manner in accordance with any documents and plans and specifications forming part of the purchase order and or sent via email or delivered in writing or verbally separately to the purchase order;

(4.3) All materials supplied by the subcontractor/supplier will be good and suitable for the purpose for which they are used and, unless otherwise stated in the purchase order, those materials will be new;



(4.4) The works to be executed in accordance with any purchase order will be done in accordance with and comply with any applicable law;

(4.5) The works to be executed in accordance with any purchase order will be done with due diligence and within the time stipulated in the work order, or if no time stipulated, within a reasonable time;

(4.6) The works and all materials used in doing the works will be fit for the specified purpose or result; and

All work done under any purchase order will comply with:

- The Building Code of Australia, specific trade codes and/or equal or above to all Australian Standards;
- All other relevant codes, standards and specifications that the works are required to comply with under any law; and
- The conditions of any relevant development consent or complying development certificate.

5. Design Responsibility

The provisions in this clause will apply if in the order details the subcontractor/supplier is stated as being responsible for the design of the works for that purchase order.

(5.1) For the purposes of this clause and the subcontract:

(5.2) “Design” means such design, conceptual design, design development and design documentation (including shop drawings) as the subcontractor/supplier must provide.

(5.3) “Design Documents” means the computer, computer programs, drawings (including modifications to any drawings or any additional drawings), models, patterns, samples, specifications and other information and the like required by the purchase order and created for the design of the works.

(5.4) The subcontractor / supplier shall be fully responsible for the design required to carry out the works in accordance with the purchase order.

(5.5) The subcontractor / supplier shall carry out the design so that the works are in accordance with the purchase order, and so that the works are fit in every respect for the purpose for which the purchase order was issued.

(5.6) Should this subcontract be terminated for any reason, Insuraplex Pty Ltd may take possession of any design documents developed for the purposes of carrying out the works.



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6. Superintendence and Other Subcontractor/Suppliers

(6.1) The subcontractor/supplier shall superintend the whole of the works and shall nominate to Insuraplex Pty Ltd in writing a person authorised to receive instructions from Insuraplex Pty Ltd as required in relation to his or her purpose on site.

(6.2) The subcontractor/supplier acknowledges that it does not have sole and exclusive possession of the incident address and must co-ordinate its works with the work being carried out by the other contractors, sub-contractors, workers engaged by Insuraplex Pty Ltd and the client. The subcontractor/supplier must comply with all directions issued by Insuraplex Pty Ltd with respect to the co-ordination of the works including with the works carried out by others and must do so at no additional cost to Insuraplex Pty Ltd.

(6.3) The subcontractor/supplier must not without the written approval of Insuraplex Pty Ltd. subcontract any of the works. approval to subcontract will not relieve the subcontractor/supplier from any liability or obligation under any purchase Order. The subcontractor/supplier will be liable to Insuraplex Pty Ltd for the acts and omissions of its subcontractor/suppliers and employees and agents of its subcontractor/suppliers as if they were acts or omissions of the subcontractor/supplier.

7. Start Date and Completion Date

(7.1) "Completion" means completion of the works such that they are useable by the client and free from identifiable defects, where the subcontractor/supplier has provided the statement of satisfaction required and where all surplus materials and rubbish have been removed and the Incident Address has been cleaned and tidied.

(7.2) The subcontractor/supplier shall commence the works on the start date set out in the details or as advised by Insuraplex representative and or the client. Prior to commencing the works the subcontractor/supplier must complete a site risk Assessment and where high-risk work is preformed and identified, the subcontractor/supplier must also provide and make available on site a SWMS and or JSA's document obtained by their own authority signed by all that attend the property during the risk period and provide a copy to Insuraplex Pty Ltd when requested.

(7.3) The subcontractor/supplier shall achieve completion by the date for completion set out in the order details or as such date may be adjusted by Insuraplex Pty Ltd at its discretion and in recognition of the delays caused by any variations or caused by any act, omission or default on the part of Insuraplex Pty Ltd, or any servant or agent of Insuraplex Pty Ltd.

(7.4) The subcontractor/supplier shall procure the signature of the statement of satisfaction by the client when the subcontractor/supplier considers that it has achieved completion. It is a precondition to completion that the subcontractor/supplier has procured a signed statement of satisfaction from the client. If the client is not available to sign the statement of satisfaction, the subcontractor/supplier must



contact Insuraplex Pty Ltd and arrange for Insuraplex Pty Ltd to inspect the works and sign the statement of satisfaction on behalf of the client. If the client or Insuraplex Pty Ltd identify any defects in the works which require rectification prior to the signing the Statement of satisfaction, the subcontractor/supplier must rectify those defects immediately and to the satisfaction of the client or Insuraplex Pty Ltd (as the case may be), acting reasonably, and as a precondition to the signing of the Statement of satisfaction.

8. Damages for Late Completion

(8.1) Liquidated Damages in principal:

- Should the date when Completion is achieved as advised by Insuraplex Pty Ltd be after the date for completion, then, without prejudice to any other rights of Insuraplex Pty Ltd the subcontractor/supplier shall allow Insuraplex Pty Ltd liquidated damages and such amount may be deducted from payments, from retention and any balance may be recovered by Insuraplex Pty Ltd as a debt due to it by the subcontractor/supplier.
- Where there is no sum stated on the order details, the subcontractor/supplier is liable to pay or allow to be deducted the costs estimated by Insuraplex Pty Ltd to be suffered by it as a result of the delay in completing the works by the date for completion.
- If this clause (or any part thereof) is found for any reason to be void, invalid or otherwise inoperative so as to disentitle Insuraplex Pty Ltd from claiming delay liquidated damages, Insuraplex Pty Ltd is entitled to claim against the subcontractor/supplier damages at law for the subcontractor/supplier's failure to achieve completion by the date for completion.

9. Defects and Defects Liability Period

(9.1) In addition to rectifying any defects in the works, the subcontractor/supplier is required to rectify, replace and/or pay for any damage caused and/or contributed to by the subcontractor/ supplier to the client's property.

(9.2) Without limiting the preceding paragraph, the subcontractor/supplier shall be responsible for and make good any defects in materials or workmanship as advised by Insuraplex Pty Ltd for a period after the date of completion as stated in the order details. This period shall be deemed the defects liability period.

(9.3) During the defects liability period, Insuraplex may direct the subcontractor/supplier to rectify any defects in the works of which either - becomes aware. The subcontractor/supplier must rectify any defect in the works when directed to do so by Insuraplex Pty Ltd, or where not directed, as soon as practicable.

(9.4) A further defects liability period applies for the duration specified in respect of all rectified works, commencing on the date the rectification work is completed.



(9.5) The subcontractor/supplier must ensure that, in carrying out rectification work, it causes as little convenience as is reasonably possible to the Builder, client and or home owner and other persons working on or using the site or the works.

(9.6) If the subcontractor/supplier fails to comply with its obligations under this clause within the time specified by Insuraplex, (or if no time is specified), a reasonable time, then Insuraplex may have the rectification work carried out by others. The cost of the rectification work incurred by Insuraplex will be a debt due from the subcontractor/supplier to Insuraplex. The subcontractor/ supplier will always have first preference to the rectification as long as the subcontractor/supplier is still trading legally and part of the Insuraplex proffered subcontractors.

10. Claims and Payments

1. PDF invoices can be sent to us via email:

2. All invoices must be sent to ar@insuraplex.com.au

3. Invoices sent prior to works being completed will not be entered until works are completed and your payment terms will start from the latest date

4. All invoices must clearly display job address and purchase order number

5. Any amounts raised on an invoice that do not match a purchase order will be returned and not processed

6. If your insurance certificates have expired payments will not be processed, it is your responsibility to provide Insuraplex with new certificates of currency for work cover and public liability prior to your old certificates expiring.

The subcontractor/supplier shall be entitled to make a claim for payment upon completion of the works and subject to the submission by the subcontractor / supplier of a copy of:

- (1) Tax Invoice if registered with GST
- (2) The company ABN as set up with the Insuraplex Pty Ltd
- (3) A Tax invoice number and an invoice date to be easy to identify
- (4) The correct full purchase order number the invoice aligns to
- (5) The cost should align exactly to the purchase order cost
- (6) All GST free invoices must state - 'Invoice'



- (7) No corrections on any invoice allowed - IE; Liquid paper, cross out etc.
- (8) The subcontractor/supplier's claim is made and having regard to any deductions that Insuraplex Pty Ltd is entitled to make under this subcontract including without limitation the estimated cost of rectifying defects.
- (9) Payment shall be on account only and no payment shall be deemed to signify approval or acceptance of any works up to that time completed.
- (10) Insuraplex Pty Ltd may set off against any amount owing to the subcontractor/supplier the amount of any loss or damage which Insuraplex Pty Ltd claims to be due to it as a result of any act or omission of the subcontractor/supplier.

11. Final Payment

(11.1) On the expiration of the Defects Liability Period and completion of making good any defects and omissions and on certification by the subcontractor/supplier that he has completed all the works in accordance with this subcontract, the subcontractor/supplier shall be entitled to payment of any amount retained and to any other amount outstanding provided that in connection with any amount outstanding, it has complied with and it has submitted a complete statement of accounts, has handed over all certificates of authorities relating to the works and all required guarantees and warranties.

12. Insurance

(12.1) The subcontractor/supplier shall in the joint names of itself, all sub-contractors and Insuraplex Pty Ltd for their respective right, interests and liabilities affect all insurances directed by Insuraplex Pty Ltd to be effected including without limitation those stipulated in the purchase order the amounts and for the period nominated.

(12.2) The insurances referred to shall be affected before the works are commenced and shall be maintained effective until completion except with respect to any professional indemnity insurance which must be maintained for a period of 6 years after completion

(12.3) All the above-mentioned policies shall be affected or otherwise with an insurer nominated by the subcontractor/supplier and approved by Insuraplex Pty Ltd and the subcontractor/supplier must provide Insuraplex Pty Ltd with a certificate of currency and a copy of the policy wording.

13. Passing of Title

(13.1) In respect of any materials or goods to be supplied as part of the works, property in such materials and goods shall pass to the Client upon the happening of the earlier of either:



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(13.2) Payment being made in respect of those materials or goods; or

(13.3) Those materials or goods being delivered to the Incident Address.

14. Notice of Claims

(14.1) All claims for damages, compensation, unjust enrichment, restitution, or adjustment to the subcontract sum, all matters of interpretation and clarification of this subcontract and all claims whether in contract, tort (including negligence), unjust enrichment or otherwise (collectively referred to as a “claim”) will be dealt with in accordance with this Clause.

(14.2) Each claim must be in writing and specify:

(14.3) The perceived legal basis for the claim including, where appropriate, a reference to the clause of this subcontract under which the claim is made;

(14.4) The facts relied upon in support of the claim in sufficient detail to permit verification; and

(14.5) Details of the quantification of the sums claimed then known to the subcontractor/ supplier and the manner in which such sums have been calculated.

(14.6) The subcontractor/supplier will not have a right to submit any claim, initiate any action or proceedings against Insuraplex Pty Ltd and will have no claim in respect of any matter, fact or thing of any nature arising out of or in connection with or under any purchase order or the works unless the subcontractor/supplier within 10 days of the Date of completion lodges that claim in writing with Insuraplex Pty Ltd.

(14.7) For the purposes of the purchase order, “No Claim” means no claim for any moneys or for any adjustment to the subcontract sum or for any extension of time for completion or for costs, expense, or loss or damage on any basis whatsoever including, without limitation, no claim:

- Pursuant to contract;
- Intorts (including negligence)
- On a quantum merit;
- Pursuant to quasi contract;
- for unjust enrichment; or
- Without limitation, pursuant to any other principle of law or equity.

15. Occupational Health and Safety

(15.1) The subcontractor/supplier must comply with:



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a. All relevant legislative requirements concerning occupational health and safety and work health and safety;

b. Directions of Insuraplex Pty Ltd with respect to the incident address including any occupational health and safety and work Health and Safety requirements and any site induction requirements of Insuraplex Pty Ltd.

(15.2) Without limiting the generality of the above:

a. The subcontractor/supplier must exercise all necessary precautions for the health and safety of all persons, including its employees, employees of Insuraplex Pty Ltd and members of the public who may be affected by the actions of the subcontractor/supplier;

(15.3) The subcontractor/supplier must inform itself of all occupational health and safety and work Health and Safety policies, procedures or measures implemented or adopted by Insuraplex Pty Ltd and the occupiers of any premises at or within which the subcontractor/supplier performs the works; and

(15.4) Insuraplex Pty Ltd will be entitled, but under no obligation, to issue directions in relation to occupational health and safety and work Health and Safety issues and the subcontractor/supplier must, at its own cost, comply with those directions to produce the highest level of health and safety.

(15.5) The subcontractor/supplier indemnifies Insuraplex Pty Ltd against any action, claim, demand, cost or expense to which it may be exposed or which arises from a breach of its obligations or from the enforcement, of any legislative requirements concerning occupational health and safety and work health and safety including, without limitation, the regulations as a result of any breach by the subcontractor/supplier of its obligations under this subcontract.

16. Termination

(16.1) Should the subcontractor/supplier be in default of any provision of the purchase order, then Insuraplex Pty Ltd may give notice in writing to the subcontractor/supplier describing the default and stating that if it is not remedied within 2 days of sending the notice, either Insuraplex Pty Ltd may employ and pay others to remedy the default (at the subcontractor/supplier's cost) or may determine the employment of the subcontractor/supplier. If the subcontractor/supplier does not make good the matter in which it is in default within that period of time, then Insuraplex Pty Ltd either may employ and pay others to remedy the default (at the subcontractor/supplier's cost) or may give notice to the subcontractor/supplier that the employment of the subcontractor/supplier is thereby determined.

(16.2) If the subcontractor/supplier becomes bankrupt, enters into a scheme of arrangement with creditors, goes into liquidation or a receiver is appointed, Insuraplex Pty Ltd may terminate this contract immediately without prejudice to any right which might have accrued or may accrue.



17. Terminations and Reduction for Convenience

(17.1) Insuraplex Pty Ltd may, by written notice, terminate any purchase order immediately. The subcontractor/supplier must immediately do everything possible to mitigate consequential losses and continue work on the provision of the works not affected by the notice.

(17.2) Where there has been a termination Insuraplex Pty Ltd will be liable only for:

- (a) Payments for works performed before termination; and
- (b) The cost of materials and goods properly ordered for the works for which the subcontractor/supplier shall have paid or for which the subcontractor/supplier is legally bound to pay; and
- (c) The reasonable cost of demobilization of the subcontractor/supplier.

(17.3) The subcontractor/supplier otherwise will have no claim against Insuraplex Pty Ltd. Insuraplex Pty Ltd will not be liable to pay any compensation relating to the termination including for loss of prospective profits.

18. Licensing

(18.1) The subcontractor/supplier warrants that it is the holder of all current and valid license from the regulatory authorities which permits the carrying out of residential and commercial building works which are the subject of any purchase order.

(18.2) The subcontractor/supplier undertakes to ensure that this license remains valid throughout the period of any purchase order and acknowledges the validity of such license is a fundamental condition of the purchase order.

19. Notices

(19.1) Any notices required to be given to either party shall be deemed sufficiently given if sent by email, pre-paid mail or facsimile to the person for whom it is intended at the address appearing in any purchase order.

(19.2) Goods and Services Tax, the parties agree that:

- (a) If any Payment is consideration for a Taxable Supply for which the supplier is liable to GST, the recipient must pay the GST Amount to the supplier, concurrently with the relevant payment unless otherwise agreed in writing;



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(b) Any reference to a cost or expense in any purchase order excludes any amount of GST forming part of the cost or expense when the relevant party incurring the cost or expense can claim an Input Tax Credit; and

(c) The supplier will provide to the recipient a Tax Invoice for each supply.

(d) GST Amount means any Payment multiplied by the applicable rate at which the GST is levied;

(e) GST Act means the A New Tax System (Goods and Services Tax) Act 1999; and

(f) Input Tax Credit, Tax Invoice and Taxable Supply have the meanings given to those expressions in the GST Act.

20. Disputes

(20.1) Differences or disputes between the parties arising under or in any way related to any purchase order or the subject matter thereof ('dispute') will be resolved in accordance with Reservations of Common Law Rights below. A party claiming a dispute has arisen must give written notice thereof to the other specifying the nature of the dispute within 7 days of receipt of that notice the parties to the dispute shall seek to resolve the dispute by referring the matter to a meeting of a director, or such other authorised persons, of each of the parties. If the dispute is not resolved within 10 days after such referral, a party may commence litigation with respect to the dispute.

21. Reservations of Common Law Rights

(21.1) The parties acknowledge and agree that the provisions of this contract shall be in addition to any common rights of Insuraplex Pty Ltd. No provision of this contract shall limit the operation or generality of any other provision of this contract which confers any rights on Insuraplex Pty Ltd.

22. Governing Law

(22.1) The law of your Region governs any purchase order. The parties submit to the exclusive jurisdiction of the courts of your region or any competent federal court exercising jurisdiction in your region. The dispute must be determined in accordance with the law and practice applicable in the court.

23. Review of Document

(23.1) This document and all Insuraplex documents will be reviewed from time to time without notice, it is the supplier / sub-contractors responsibility to regularly check for revisions. In the event that works are undertaken during to varying documents then the date of the purchase order will prevail as the correct terms and conditions.