

PURCHASE ORDER TERMS AND CONDITIONS FOR GOODS AND SERVICES

1. DEFINITIONS AND INTERPRETATION

1.1 In these Conditions the following words have the following meanings:

Acceptance Tests means any tests formulated by Centurion (on criteria developed by Centurion acting reasonably) to confirm Centurion's acceptance of any Goods and/or Services from the Supplier pursuant to the Contract.

Authorisation includes:

- (a) any authorisation, approval, agreement, indemnity, guarantee, consent, licence, permit, franchise, permission, filing, registration, resolution, direction, declaration or exemption; and
- (b) in relation to anything which will be prohibited or restricted in whole or in part by Law if an Authority intervenes or acts in a manner within a specified period after notification to it, the expiry of that period without intervention or action by the relevant Authority.

Australian Standards means the quality assurance standards set by Standards Australia Limited ABN 85 087 326 690 from time to time.

Authority means a government or governmental, semi-governmental, administrative, fiscal or judicial body, department, commission, authority, tribunal, agency or entity whether foreign, federal, state, territorial or local.

Background IP means the Intellectual Property Rights in any materials or products created by a party in the ordinary course of business that already exist at the date of the Contract.

Centurion means Centurion Transport Co. Pty Ltd ACN 008 746 334; Centurion Forestry Pty Ltd (ACN 609 403 312); or Centurion Central Pty Ltd (ACN 159 225 322), as applicable.

Centurion Group means Centurion and its Related Bodies Corporate.

Claim includes any claim, notice, demand, costs (including legal costs and expenses), debts, dues, liabilities, damages, losses, taxes, duties, fees, suits, action, demands, proceeding, litigation or judgment, however it arises.

Conditions means these terms and conditions for the supply of Goods and/or Services (including any documents referred to in them).

Contract has the meaning given to it in clause 2.3.

Contract IP means all Intellectual Property Rights created, discovered or coming into existence as a result of, for the purpose of, or in connection with the performance of the Contract.

Control means the ability to directly or indirectly control or direct the affairs of another whether by the ownership of fifty percent (50%) or more of the voting rights exercisable at general meetings, or by contract, or otherwise.

Confidential Information means:

- (a) the nature and existence of the Contract;
- (b) all information (regardless of form) relating to Centurion or the Centurion Group disclosed or made available to the Supplier in connection with the Contract;
- (c) all information (regardless of form) which concerns the business, operations, finances, strategies, Personnel, suppliers or customers of Centurion or the Centurion Group which is disclosed or made available to the Supplier; and
- (d) all information (regardless of form) prepared by the Supplier which is based on or derived from, or which includes, incorporates or refers to, any of the foregoing information.

Defect means any aspect of the Goods or Services not in accordance with the Contract, or any damage deficiency, faulty or inadequacy in design, performance, workmanship, quality or make-up of the Goods or Services and **Defective** has an equivalent meaning.

Defects Period means:

- (a) in relation to Goods the period so specified in the Purchase Order, or if no period is specified, the longer of the period of twelve (12) months from the date of delivery to the Delivery Address and the warranty period under any manufacturer's warranty against defects provided with those Goods; or
- (b) in relation to Services, the period so specified in the Purchase Order, or if no period is specified, the period of twelve (12) months from the date the Services have been fully performed to Centurion's satisfaction (acting reasonably).

Deliverables means all documents, products and materials developed by the Supplier or its agents, suppliers or employees as part of or in relation to the Services in any form or media, including without limitation drawings, maps, plans, diagrams, designs, pictures, computer programs, data, specifications and reports (including drafts).

Delivery Address means the delivery address specified in the Purchase Order or to such other location notified to the Supplier by Centurion (acting reasonably) for delivery.

Delivery Date means the date specified in the Purchase Order for delivery of the Goods, or such other date as agreed in writing between the parties.

Goods means the goods to be supplied by the Supplier (if any) specified in the Purchase Order.

Good Industry Practice means the exercise of that degree of skill, care and diligence as would be expected from a skilled, expert and experienced provider of the Goods and/or Services.

GST has the meaning given to it in the GST Act.

GST Act means *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

GST Law has the meaning given to it in the GST Act.

Invoice means an invoice submitted by the Supplier to Centurion in accordance with clause 11.

Intellectual Property Rights means all industrial and intellectual property rights of whatever nature throughout the world conferred under statute, common law or equity, whether existing now or at any time in the future, and includes rights in respect of or in connection with copyright, inventions (including patents), formulae, databases, business processes and methods, circuit layouts, plant varieties, trademarks, service marks, trading names (including both business and company names), domain names, designs, confidential information, trade secrets and know-how and similar industrial and intellectual property rights, whether or not registered or registrable, and includes the right to apply for or renew the registration of such rights.

Jurisdiction means:

- (a) the State or Territory of Australia in which the Goods or Services are, or required to be, delivered under the Contract; or
- (b) Western Australia if the Contract involves delivery in more than one State or Territory in Australia.

Key Personnel means the specific individuals set out in the Purchase Order and other individuals notified to Centurion under clause 9.5.

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Law includes:

- (a) a constitutional provision, treaty, decree, convention, statute, regulation, ordinance, directive, by-law, subordinate legislation, warrant, judgment, rule of common law or equity;
- (b) any binding requirement, instruction, direction, order, Authorisation, warrant, franchise or scheme of an Authority or other body of competent jurisdiction; and
- (c) any notices, guidance notes, circulars, and codes of practice issued, made or published under or in connection with any of the foregoing.

MSA means the *Modern Slavery Act 2018* (Cth).

Modern Slavery has the meaning given to it in the MSA.

Personnel of a party means the directors, officers, employees, representatives, agents, contractors and subcontractors of that party but a reference to Centurion's Personnel excludes the Supplier.

Price means the price or applicable rates for the supply of Goods and/or the provision of Services as specified in the Purchase Order.

Purchase Order means any Purchase Order for Goods and/or Services issued by Centurion to the Supplier from time to time (including an electronic purchase order, an email requesting the provision of Goods and/or Services or any other document describing the Goods and/or Services to be provided by the Supplier).

Related Bodies Corporate has the meaning given in section 50 of the *Corporations Act 2001* (Cth).

Services means the services to be provided by the Supplier (if any) specified in the Purchase Order.

Specification means the specification and/or description of Goods and/or Services to be provided as specified in the Purchase Order, or if no such specification or description is specified, the standard specification for such Goods and/or Services as would ordinarily apply to the supply of such Goods and/or Services in accordance with Good Industry Practice.

Supplier means the person, firm, company or entity to whom the Purchase Order is addressed or directed and enters into the Contract with Centurion.

Tax Invoice has the meaning given to it in the GST Act.

Taxes includes all present or future taxes, fees, levies, duties, imposts, assessment royalties, tariffs, fees and charges imposed or assessed by all authorities, including income tax, payroll tax, statutory pension or superannuation contributions, workers' compensation payments and contributions, sales tax, customs duty, excise and stamp duty, as well as any interest and penalties, but does not include GST.

1.2 In these Conditions unless the context otherwise requires:

- (a) headings are for convenience only, and do not affect its interpretation;
- (b) words of one gender include any other gender;
- (c) the singular includes the plural and vice versa;
- (d) a "person" includes an individual, partnership, firm, company, government, joint venture, association, Authority, corporation or other body corporate;
- (e) a reference to "A\$", "\$A", "dollar" or "\$" is a reference to Australian currency;
- (f) a reference to a thing or amount includes any part of that thing or amount;
- (g) a reference to a clause is to a clause in these Conditions;

- (h) a reference to a document or agreement, including the Contract, includes a reference to that document or agreement as novated, altered or replaced from time to time;
- (i) a reference to a party includes its executors, administrators, successors, assigns and permitted assigns;
- (j) a promise or agreement by 2 or more persons binds those persons jointly and each of them individually;
- (k) no rule of construction applies to the disadvantage of a party because that party was responsible for the preparation of the Contract or any part of it;
- (l) wherever "including", "includes" or any other form of that word is used, it will be construed as if it were followed by "(without limitation)"; and
- (m) if a period of time is calculated from a particular day, act or event (such as the giving of a notice), unless otherwise stated, it is to be calculated exclusive of that day, or the day of that act or event.

2. CONTRACT

- 2.1 Each Purchase Order is an offer by Centurion to purchase Goods and/or Services from the Supplier in accordance with these Conditions.
- 2.2 These Conditions govern and are incorporated into every Purchase Order and acceptance of a Purchase Order by the Supplier constitutes the Supplier's unconditional acceptance of these Conditions.
- 2.3 Each accepted Purchase Order shall create a separate legally binding contract between Centurion and the Supplier being constituted by the Purchase Order together with these Conditions (**Contract**).
- 2.4 A Purchase Order shall be deemed to be accepted on the earlier of:
 - (a) the Supplier providing Centurion with written acceptance of the Purchase Order; and
 - (b) any act by the Supplier consistent with fulfilling the Purchase Order,
 at which point and on which date a Contract in respect of that Purchase Order shall come into existence.
- 2.5 Centurion may withdraw any offer at any time prior to formation of the Contract.
- 2.6 In consideration for the payment of the Price, the Supplier must supply to Centurion the Goods and/or perform the Services in accordance with the Contract.
- 2.7 These Conditions prevail over and supersede any other terms and conditions purporting to apply to any Purchase Order (including any terms and conditions contained or referred to in any quotation, work purchase order, delivery note, invoice, correspondence or other documentation supplied by the Supplier). Such terms and conditions shall be of no legal effect and do not form part of the Contract, even if Centurion's Personnel signs and/or attaches them to a Purchase Order.
- 2.8 Centurion makes no warranty or representation to the Supplier as to minimum purchase or future purchase obligations (whether by volume or financial amount).
- 2.9 The Supplier acknowledges that the supply of Goods and/or Services under the Contract is non-exclusive and Centurion may engage other suppliers for the supply of the same or similar goods and services.
- 2.10 Any variation of these Conditions is valid only if it is in writing and signed by or on behalf of the Supplier and Centurion. No other action on the part of Centurion, whether by accepting Goods and/or Services or otherwise, shall be construed as acceptance of any other conditions.

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2.11 Nothing contained in any Purchase Order shall operate to vary these Conditions unless the Purchase Order specifically refers to the relevant clause being varied.

THE FOLLOWING CLAUSES 3 TO 8 BELOW ONLY APPLY TO CONTRACTS WHERE THE SUPPLIER IS PROVIDING GOODS

3. SUPPLY OF GOODS

- 3.1 The Supplier warrants and represents that it has, or will have at the time title passes to Centurion under the Contract, full, clear and unencumbered title to the Goods and an unrestricted right to sell and transfer the Goods to Centurion.
- 3.2 The Supplier further warrants and represents that the Goods shall:
- match the description (if any) in the Purchase Order and any Specification;
 - conform with all standards referred to on any part of the Goods and in any product packaging and/or documentation in relation to which the Goods are supplied;
 - be new (unless otherwise specified in the Purchase Order) and of merchantable quality and fit for any intended uses or purposes held out by the Supplier or made known to the Supplier by Centurion;
 - be free from Defects during the Defects Period; and
 - comply with all applicable Australian Standards and Laws, including in relation to the manufacture, labelling, packaging, storage, handling and delivery of the Goods.
- 3.3 If the Supplier gave Centurion a sample of the Goods, the Goods must be of the same nature and quality as the sample given.
- 3.4 Centurion shall have the right to inspect and test the Goods at any time prior to delivery. If upon inspection or testing Centurion considers that the Goods do not conform or are unlikely to comply with the Supplier's undertakings in clause 3.2, Centurion will inform the Supplier, who will immediately take such remedial action (at the Supplier's cost) as necessary to ensure compliance.

4. DELIVERY OF GOODS

- 4.1 The Supplier shall be responsible for (at the Supplier's own cost) delivering the Goods together with any operating and maintenance manuals for the Goods:
- to the Delivery Address; and
 - on the Delivery Date during Centurion's normal hours of business.
- 4.2 Time is of the essence in respect of the delivery of the Goods.
- 4.3 The Supplier shall ensure that the Goods are properly packed, secured and weather sealed to provide maximum protection for the Goods in a manner as to enable them to reach the Delivery Address in good condition and in accordance with the Contract.
- 4.4 The Supplier shall ensure that:
- each consignment of Goods is accompanied by a delivery docket in such form and containing such details as reasonably required by Centurion from time to time, including the Delivery Date, the Supplier's name and address, the quantity and brief description of Goods in the consignment, any special storage instructions and the Purchase Order number; and
 - its Personnel entering a Centurion controlled or occupied site to effect delivery comply with:
 - any lawful and reasonable instructions of Centurion; and
 - the site standards, procedures and policies of general application to the site concerning

matters or safety, health, the environment, industrial relations and personal conduct, as notified to the Supplier from time to time.

- 4.5 Unless otherwise directed by Centurion, the Supplier shall be responsible for unloading the Goods at the location at the Delivery Address directed by Centurion, and delivery shall only be effected once the Goods have been fully unloaded.
- 4.6 Centurion shall be under no obligation to accept or pay for any Goods that are not supplied in accordance with the Contract.

5. TITLE AND RISK IN GOODS

- 5.1 Title in the Goods shall pass to Centurion on the earlier of payment of the Price and delivery of the Goods to the Delivery Address.
- 5.2 All Goods remain at the Supplier's risk until delivered to the Delivery Address and accepted by Centurion.
- 5.3 The Supplier shall insure the Goods against all risks and damage, including theft, damage during transit, and non-delivery for any reason from the place of origin to the Delivery Address for an amount that is not less than the replacement value of the Goods.
- 5.4 If Centurion makes payment to the Supplier in respect of Goods prior to taking physical possession, the Supplier covenants to do all things necessary to assist Centurion in registering any security interest Centurion may have in relation to those Goods pursuant to the *Personal Property Securities Act 2009* (Cth).
- 5.5 If Goods are delivered in excess of the quantities in the Purchase Order:
- Centurion shall not be required to pay any amounts in relation to the excess Goods;
 - risk of damage to or loss of the excess Goods and title to the excess Goods shall remain with the Supplier at all times;
 - Centurion shall notify the Supplier of the existence of the excess Goods and give the Supplier a reasonable timeframe to collect them. Following which Centurion shall be entitled to charge the Supplier reasonable storage fees.
 - if the excess Goods are not removed by the Supplier within 45 days of notification by Centurion under clause 5.5(c), Centurion may elect to sell or dispose of the excess Goods, and shall be entitled to:
 - if the excess Goods are sold, retain any proceeds of sale; or
 - reimbursement by the Supplier on demand for any reasonable costs incurred in disposing of the excess Goods.

6. ACCEPTANCE OF GOODS

- 6.1 The issue by Centurion of a receipt for Goods or a signed delivery docket shall be evidence of delivery only and shall not be an acknowledgment of the condition or nature of those Goods or acceptance of those Goods.
- 6.2 In the absence of there being any specified Acceptance Tests, if Centurion determines, within a reasonable time after delivery of Goods, that the Goods (or part of them):
- are not in accordance with the Contract;
 - do not comply with the Specifications, Australian Standards, or any sample given to Centurion;
 - are not of satisfactory quality or contain a Defect;
 - are not fit for any purpose held out by the Supplier or made known to the Supplier by Centurion at the time the Contract is made;

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- (e) the Goods' packaging is damaged or Defective to an extent that damage to the Goods is possible; or
- (f) are in breach of any of the warranties provided by the Supplier,

then Centurion shall, without limiting any other rights Centurion may have under the Contract or at Law, have the right to (at its election) reject all or any of those Goods.

7. RETURN OF GOODS

- 7.1 To the extent that Centurion rejects any or all Goods under clause 6.2, Centurion may in its discretion require the Supplier to collect the rejected Goods or repair or replace the rejected Goods at the Supplier's cost and at a time convenient to Centurion.
- 7.2 If Goods are rejected by Centurion pursuant to clause 7.1:
 - (a) the Supplier must immediately refund the Price paid by Centurion in respect of those Goods; and
 - (b) where title in the Goods has already passed to Centurion, title in those Goods shall remain with Centurion until the Supplier has refunded the Price paid to the Supplier in relation to such Goods.

8. WARRANTIES

- 8.1 The Supplier must ensure that Centurion has the full benefit of any manufacturer's or third party warranties that may be applicable to the Goods.
- 8.2 The Supplier must, if Centurion so requests, pursue any manufacturer's or third party warranties on Centurion's behalf or assist Centurion to enforce those warranties during the relevant warranty period.

THE FOLLOWING CLAUSES 9 AND 10 ONLY APPLY TO CONTRACTS WHERE THE SUPPLIER IS PROVIDING SERVICES

9. SUPPLY OF SERVICES

- 9.1 The Supplier shall commence performance of the Services on the commencement date specified in the Purchase Order and where applicable, shall perform the Services at the location and by the completion date specified in the Purchase Order. The Supplier acknowledges and agrees that time is of the essence in respect of the performance of the Services.
- 9.2 The Supplier warrants and represents that the Services (and any Deliverables developed as a result of the Services) shall:
 - (a) be provided with the highest level of professional skill, care and diligence;
 - (b) be provided in a safe and workmanlike manner to ensure the absolute safety at all times of Centurion and its Personnel;
 - (c) comply with all applicable Laws;
 - (d) be provided in accordance with Good Industry Practice;
 - (e) conform with any Specifications; and
 - (f) be of satisfactory quality and fit for any purpose made known to the Supplier and be free from Defects during the Defects Period.
- 9.3 In providing the Services, the Supplier undertakes that it shall:
 - (a) obtain and at all times maintain all Authorisations necessary to perform its obligations pursuant to the Contract, including any accreditation required under applicable Laws and must, upon Centurion's request, provide copies of such Authorisations;
 - (b) co-operate with Centurion in all matters relating to the Services;
 - (c) not interfere with Centurion's activities or those of Centurion's Personnel, suppliers or customers;

- (d) use Personnel who are suitably skilled and experienced to perform tasks assigned to them, and a sufficient number to ensure that the Supplier's obligations are fulfilled in accordance with the Contract;
- (e) provide all equipment, tools and vehicles and such other items as are required to provide the Services;
- (f) ensure all written information provided in connection with the Services and Deliverables is accurate and comprehensive in all material respects;
- (g) comply at all times with Centurion's:
 - (i) lawful and reasonable instructions; and
 - (ii) health and safety, security standards, site procedures, and other policies, codes of conduct or guidelines relevant to the performance of the Contract and notified to the Supplier from time to time; and
- (h) cooperate with other suppliers who provide other services to Centurion at the same location that the Contract is performed.

9.4 If any Key Personnel are nominated in the Purchase Order the Services must be primarily provided by them.

9.5 The Supplier must immediately notify Centurion if any Key Personnel are unable to provide the Services and the Supplier must promptly provide suitably qualified Personnel of equivalent or better experience and expertise to replace the Key Personnel who are unable to provide the Services for approval by Centurion.

9.6 The Supplier shall provide the Services in line with any service levels or key performance indicators agreed between the parties from time to time.

10. ACCEPTANCE OF SERVICES

- 10.1 In the absence of there being any specified Acceptance Tests, if Centurion determines, within a reasonable time after performance of the Services, that the Services (or part of them, including any Deliverables):
 - (a) are not in accordance with the Contract;
 - (b) do not comply with the Specifications or Australian Standards;
 - (c) are not of satisfactory quality;
 - (d) are not fit for any purpose held out by the Supplier or made known to the Supplier at the time the Contract is made; or
 - (e) are in breach of any of the warranties or undertakings provided by the Supplier,

then Centurion shall, without limiting any other rights Centurion may have under the Contract or at Law, have the right to reject those Services or any of them and require the Supplier to (at Centurion's election) either refund the Price paid by Centurion in relation to such Services or re-perform the Services at no cost.

THE FOLLOWING CLAUSES APPLY TO ALL CONTRACTS

11. PRICE AND PAYMENT

- 11.1 In consideration of the Supplier providing the Goods and/or Services in accordance with the Contract, Centurion shall pay to the Supplier the Price.
- 11.2 Unless the Purchase Order expressly provides otherwise, the Price represents the full, fixed and exclusive remuneration of the Supplier for the provision of Goods and/or Services and:
 - (a) will not be subject to adjustment for rise and fall, exchange rate variations, changes in Taxes or changes in Law or Authority requirements;

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- (b) in respect of Goods, includes the cost of delivery, freight, packaging, packing, premiums, insurance and Taxes; and
- (c) in respect of Services, includes all costs and expenses directly or indirectly incurred by the Supplier including the cost of any items used or supplied in the performance of the Services.
- 11.3 The Supplier must, as a condition to receiving payment, submit an Invoice to Centurion following delivery of the Goods and/or completion of the Services or, where the performance of the Contract exceeds 30 days in duration, at the end of the calendar month in which the Contract is performed.
- 11.4 Invoices must refer to the Purchase Order (including the Purchase Order number), be a valid Tax Invoice where GST applies, and provide a description of the Goods and/or Services provided.
- 11.5 Subject to clauses 11.6 to 11.8 (inclusive), Centurion shall pay an Invoice within 45 days of the date on which it is received.
- 11.6 The Supplier must provide all relevant information reasonably requested by Centurion to verify the amount of any submitted Invoice.
- 11.7 If there is any dispute relating to an Invoice, Centurion shall be entitled to withhold payment of the disputed portion of the Invoice (as determined by Centurion) until the dispute has been resolved.
- 11.8 Centurion may set off against and deduct from any monies due and payable to the Supplier under the Contract any amount which is due or payable from the Supplier to Centurion, including costs, charges, damages, expenses and debts owed whether under the Contract or otherwise.
- 11.9 Any amounts payable to the Supplier under the Contract shall be paid by electronic funds transfer to the Supplier's nominated bank account or by such other means as the parties may agree in writing.
- 11.10 A payment made by Centurion under this clause 11 will only be taken to be payment on account and does not constitute proof or admission that any part of the Goods have been delivered or the Services completed or were to Centurion's satisfaction.
- 12. GST**
- 12.1 Undefined terms and expressions in this clause that are defined in the GST Law have the same meaning as in the GST Law.
- 12.2 If GST is or becomes payable on a Supply made under or in connection with the Contract, an additional amount (**Additional Amount**) is payable by the party providing the Consideration for the Supply (**Recipient**) equal to the amount of GST payable on that Supply as calculated by the party making the Supply (**Supplier**) in accordance with the GST Law.
- 12.3 The Additional Amount is payable at the same time and in the same manner as the Consideration for the Supply, and the Supplier must provide the Recipient with a Tax Invoice as a pre-condition to payment of the Additional Amount.
- 12.4 If for any reason (including the occurrence of an Adjustment Event) the amount of GST payable on a Supply varies from the Additional Amount, then the Additional Amount shall be adjusted accordingly and the parties will do everything necessary to give effect to the adjustment.
- 12.5 If an amount payable under or in connection with the Contract (whether by way of reimbursement, indemnity or otherwise) is calculated by reference to an amount incurred by a party, whether by way of cost, expense, outlay, disbursement or otherwise (**Amount Incurred**), the amount payable must be reduced by the amount of any Input Tax Credit to which that party or its representative member is entitled in respect of the Amount Incurred.
- 13.1 Without prejudice to Centurion's other rights under the Contract or at Law, if during the applicable Defects Period:
- (a) the Goods are found to be Defective, Centurion may return the Defective Goods to the Supplier at the Supplier's expense, and the Supplier will (at Centurion's election) either replace or repair the Goods; and
- (b) the Services are found to be Defective, Centurion may reject the Defective Services, and the Supplier must (at Centurion's election) re-perform or make good the Defective Services.
- 13.2 If the Supplier fails to replace or rectify any Defect within a reasonable timeframe specified by Centurion, then Centurion may rectify or engage a third party to rectify the Defect at the Supplier's risk, and all reasonable costs and expenses incurred by Centurion shall be a debt due and payable from the Supplier to Centurion.
- 13.3 The Supplier is liable for any damage or loss caused to property or persons arising from Defective Goods or Defective Services.
- 13.4 Where the Supplier makes good any Defect under this clause, those Goods or Services shall be subject to a renewed Defects Period commencing on the date the Supplier completed the rectification of the Defect.
- 14. INTELLECTUAL PROPERTY RIGHTS**
- 14.1 Each party shall retain ownership of all of its Background IP.
- 14.2 The Supplier grants to Centurion a worldwide, non-exclusive, perpetual, royalty-free, irrevocable licence (including the right to assign and sub-license) to use its Background IP to the extent necessary for Centurion to use and exploit the Goods and/or Services (including the Deliverables) in the manner contemplated by the Contract.
- 14.3 All rights, title and interest in the Contract IP shall vest in Centurion. If and to the extent the Supplier or its Personnel own any such Contract IP, the Supplier hereby assigns, and if applicable shall procure that its Personnel assign, to Centurion all Contract IP with full title guarantee and free from all third party rights upon the creation of that Contract IP.
- 14.4 The Supplier must, and must ensure that its Personnel, execute all documents and do all things required to give Centurion full legal ownership and title to the Contract IP.
- 14.5 Centurion grants to the Supplier, for the duration of the Contract, a non-exclusive, royalty-free, revocable, non-transferable licence to use the Contract IP and Centurion's Background IP solely to the extent required to perform the Supplier's obligations under the Contract.
- 14.6 The Supplier warrants that the manufacture, supply or use by Centurion of the Goods and/or Services, including the Deliverables does not and/or will not infringe the Intellectual Property Rights of any third party.
- 15. LIMITATION AND INDEMNITY**
- 15.1 To the extent permitted by Law, Centurion's aggregate liability to the Supplier arising out of or in connection with the Contract is limited to the total Price paid or payable by Centurion under the Contract.
- 15.2 The Supplier defends, indemnifies and keep indemnified the Centurion Group and its Personnel against:
- (a) any Claim that may be brought by any person against any member of the Centurion Group or their Personnel;
- (b) all loss or damage to the real or personal property of the Centurion Group;
- (c) any loss, damage, cost or expense suffered or incurred by the Centurion Group in respect of personal injury to, illness or death of any person; and
- (d) loss of or damage to any third party property (including any suit for an injunction in respect of any loss,

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apprehended loss or interference with enjoyment of any property),

arising out of or as a consequence of:

- (e) the act or omission of the Supplier or any of its Personnel;
- (f) the Supplier's breach of its obligations or warranties under the Contract;
- (g) the Supplier's breach of any applicable Law including occupational health and safety or environmental legislation; or
- (h) Defective Goods or Services or non-compliance of Goods or Services with any Specifications or Australian Standards,

except to the extent that such Claim, loss or damage is contributed to by the negligence or wilful misconduct of Centurion or its Personnel.

16. INSURANCE

16.1 The Supplier shall (at its own cost) effect and maintain at all times for the duration of the Contract with a reputable insurance company satisfactory to Centurion acting reasonably a policy or policies of insurance in respect of the following:

- (a) where the Supplier provides Goods, transit insurance (all risk) covering transit, loading and unloading of Goods for not less than their replacement value;
- (b) public and products liability insurance covering legal liability to pay compensation for bodily injury, death, sickness or disease to any person and loss, destruction or damage to real or personal property (including resultant loss of use), arising directly or indirectly from the performance by the Supplier of the Contract with a minimum liability cover of not less than \$20,000,000 in respect of any one occurrence. The public and product liability policy must:
 - (i) include a principal indemnity extension indemnifying Centurion and its employees for legal liability arising out of the Supplier's performance of the Contract;
 - (ii) include a cross liability clause which confirms insurers accept the term "Insured" as applying to each of the parties constituting the insured as if a separate policy of insurance had been issued to each of them (subject always to the overall limit of liability not being increased) and that a failure by any insured party to observe and fulfil the terms and conditions of the policy will not prejudice the rights of any other insured party to claim under the policy;
 - (iii) extend to cover goods in the physical and legal control of the Supplier; and
 - (iv) extend to cover liability in respect of third party property damage or personal injury arising from the use of unregistered plant and equipment.
- (c) worker's compensation and employer's liability insurance as required by Law, covering liability arising out of death of or injury to persons employed (or deemed to be employed) by the Supplier. The workers compensation policy must include:
 - (i) a principal indemnity extension for both Workers Compensation legislation benefits and common law; and
 - (ii) a waiver of subrogation,

in favour of the Centurion and its employees

- (d) comprehensive motor vehicle insurance in respect of all vehicles owned, operated, leased, hired, or controlled by the Supplier or its Personnel, registered or required to be registered in accordance with applicable Law which are used (or to be used) on any road at any time in connection with the performance of the Contract;
- (e) where the Supplier provides Services which include knowledge or skill (including the provision of advice, design, specifications, consultancy and similar), professional indemnity insurance covering liability arising from an act, error or omission of the Supplier (or any person engaged by the Supplier) in relation to the performance of the Services The professional indemnity insurance must:
 - (i) have a limit of liability of not less than the value of the Services and \$5 million, whichever is greater;
 - (ii) include provision for one automatic reinstatement;
 - (iii) include an 'unlimited' retroactive date;
 - (iv) remain in force for a minimum of 7 (seven) years after the expiry or termination of the Contract; and
- (f) any other insurances required by applicable Law specified in the Purchase Order, or reasonably required by Centurion.

16.2 The Supplier must provide written evidence of insurance cover on request by Centurion.

16.3 If the Supplier fails to effect or maintain an insurance policy under clause 16, Centurion may (but is not obliged to) effect and maintain the insurance policy and recover all costs and expenses incurred from the Supplier as a debt. The Supplier is not relieved of any liability under the Contract due to, or as a result of, Centurion effecting or maintaining any insurance policy referred to in clause 16.

17. CONFIDENTIALITY

17.1 Subject to clause 17.2 and except to the extent necessary to perform the Contract, the Supplier must keep the Confidential Information confidential and must not, and must ensure that its Personnel do not, without the prior written approval of Centurion, at any time (including after the termination or expiry of the Contract):

- (a) disclose or give to any person any Confidential Information;
 - (b) use or exploit any Confidential Information for its own commercial purposes or to the competitive, financial or commercial disadvantage of Centurion or the Centurion Group; or
 - (c) reproduce, or permit or allow any other person to reproduce any Confidential Information.
- 17.2 Clause 17.1 does not apply to the extent that the Confidential Information:
- (a) is or becomes part of the public domain (other than as a result of a breach of the Contract); or
 - (b) is required to be disclosed under any Law, Authority, regulated securities exchange or Order of any Court of competent jurisdiction.

17.3 Without limiting the generality of clause 17.1, the Supplier must not advertise, publish, issue or announce (or allow to be advertised, published, issued or announced), any information, publication, document or article for publication, media release or other publicity concerning the Contract, the supply of Goods

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and/or Services under the Contract, Centurion's Confidential Information, that the Supplier has any business relationship with Centurion or Centurion's business and activities without the prior written approval of Centurion.

18. CANCELLATION AND TERMINATION

18.1 Centurion may, in its absolute discretion and for any reason whatsoever, end the Contract in whole or in part at any time by giving written notice to the Supplier.

18.2 Centurion may immediately end the Contract by notice in writing to the Supplier if:

- (a) the Supplier is in default under the terms of the Contract and Centurion reasonably believes the default is incapable of remedy or, where the default is capable of remedy, the Supplier has failed to remedy the default within 14 days' written notice from Centurion requiring it to do so;
- (b) the Supplier undergoes a change of Control and Centurion determines acting reasonably that Control of the Supplier vests in a competitor of Centurion, the change would otherwise create a conflict of interests; or following the change, the Goods and/or Services may not be provided in accordance with the Contract; or
- (c) the Supplier becomes bankrupt, goes into liquidation or provisional liquidation, has an administrator, trustee in bankruptcy or controller appointed to it or any of its property, fails to comply with a statutory demand, is unable to pay its debts when due or otherwise becomes insolvent.

18.3 The Supplier may end the Contract by notice in writing to Centurion if:

- (a) Centurion fails to make a payment due to the Supplier in respect of which there is no dispute and Centurion has failed to remedy the non-payment within 30 days' written notice requiring it to do so; or
- (b) Centurion goes into liquidation or provisional liquidation, has an administrator or controller appointed to it or all or substantially all of its property, fails to comply with a statutory demand, is unable to pay its debts when due or otherwise becomes insolvent.

18.4 If Centurion terminates pursuant to clause 18.1 or the Supplier terminates pursuant to clause 18.3, Centurion shall, as the Supplier's sole remedy in respect of the termination:

- (a) pay to the Supplier the Price for any Goods delivered to the Delivery Address or Services performed and accepted by Centurion prior to the date of termination but not yet paid;
- (b) if the Supplier has shipped any Goods prior to the termination which have not yet been delivered to the Delivery Address, Centurion may either accept delivery of those Goods and pay for them or return them to the Supplier at Centurion's expense; and
- (c) to the extent that Goods were manufactured or fabricated specifically for Centurion in accordance with bespoke specifications and therefore cannot be resold by the Supplier, Centurion must reimburse the Supplier in respect of expenditure reasonably incurred prior to the date of termination which is directly attributable to the Contract and which the Supplier cannot otherwise recoup.

18.5 On termination or expiry of the Contract for any reason the Supplier shall:

- (a) do everything possible to mitigate its costs incurred in relation to the undelivered Goods and unsupplied Services;

(b) immediately return to Centurion or arrange for immediate destruction of, as directed by Centurion, all materials or documents belonging to Centurion or relating to Centurion (including any Deliverables, and/or Confidential Information); and

(c) reimburse Centurion on demand in respect of any and all amounts pre-paid by Centurion in respect of the Goods not yet delivered and/or Services not yet provided at the date of termination or expiry.

18.6 Termination or expiry of the Contract for any reason will not affect the rights or liabilities accrued prior to termination or expiry, or any terms intended expressly or by implication to survive termination or expiry. For the avoidance of doubt the benefit of any indemnity given under the Contract shall survive termination or expiry.

19. REPUTATION

19.1 The Supplier shall not knowingly or intentionally act or make any omission or otherwise do anything which in Centurion's reasonable opinion causes (or is likely to cause) damage to and/or prejudice Centurion's or the Centurion Group's good name and/or reputation.

20. AUDIT

20.1 The Supplier shall maintain, in accordance with Good Industry Practice, complete, reasonably detailed, accurate and up to date accounting books, records and supporting documentation in connection with the Contract (**Records**).

20.2 The Supplier shall retain the Records for the duration of the Contract and for a minimum period of two (2) years thereafter or such longer period as required by applicable Law.

20.3 Centurion and its Personnel shall have the right on reasonable notice during normal business hours, to inspect, audit and (where deemed necessary by Centurion) copy the Records to verify the accuracy of payments made to the Supplier, and the Supplier's compliance with its obligations under the Contract at no charge.

20.4 The Supplier will provide any information and assistance reasonably required by Centurion to enable and facilitate the inspection and audit under clause 20.3, including giving reasonable access to the Supplier's Personnel during business hours at no charge.

21. ASSIGNMENT AND SUBCONTRACTING

21.1 Subject to clause 21.2, neither party may assign, novate, charge, transfer, or otherwise deal in or dispose of any of its rights, interests or obligations under the Contract without the prior written consent of the other party (which consent must not be unreasonably withheld).

21.2 Centurion may assign, transfer and/or sub-license any of its rights and obligations under the Contract to any entity within the Centurion Group without the Supplier's consent.

21.3 The Supplier shall not subcontract any of its obligations under the Contract without the prior written consent of Centurion.

22. CENTURION BUSINESS STANDARDS

22.1 The Supplier must not, and must procure that its Related Body Corporates and Personnel do not:

(a) pay or accept any commissions or fees, or make or accept any payments or rebates to or from any employee or officer of the Centurion or its Related Bodies Corporate, or favour any of those persons with gifts or entertainment of unusual or substantial value, or enter into any business arrangements with any of those persons, that would result in a detriment to the Centurion or is contrary to fair dealing; and

(b) provide or offer to provide a benefit (which is not legitimately due) to a public official (including a

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- foreign public official) in order to retain or obtain a business advantage.
- 22.2 The Supplier must, and must ensure that its Personnel, immediately report to Centurion any offer, payment, rebate or other benefit, or any receipt of any payment, benefit or rebate of the kind referred to in clause 22.1.
- 22.3 The Supplier represents and warrants that neither it nor any of its Personnel or Related Bodies Corporate:
- (a) have been convicted of an offence; nor
 - (b) have been or are the subject of any investigation, inquiry or enforcement proceedings by any Authority regarding any offence or alleged offence,
- in connection with Modern Slavery.
- 22.4 The Supplier must:
- (a) comply with applicable anti-slavery and human trafficking Laws, including the MSA, Divisions 270 and 271 of the *Criminal Code* (Cth) and any applicable equivalent Laws in Australian States and Territories; and
 - (b) take reasonable steps to identify, assess, address and mitigate risks of Modern Slavery in its operations and supply chains used in the performance of the Contract.
- 22.5 If at any time the Supplier becomes aware of Modern Slavery practices in its operations or supply chains used in the performance of the Contract, the Supplier must:
- (a) notify Centurion as soon as reasonably practicable and provide any relevant information requested by Centurion; and
 - (b) take all reasonable action to address or remove those practices, including where relevant by addressing any practices of other entities in its supply chains.
- 22.6 Upon request by Centurion the Supplier must:
- (a) provide, at its cost, all reasonable assistance (including the provision of information and access to documents and Personnel) that Centurion may require to enable it to comply with its obligations under the MSA;
 - (b) without limiting Centurion's other rights under the Contract, including under clause 20, provide evidence to the reasonable satisfaction of Centurion verifying the Supplier's compliance with its obligations in this clause 22.
- 22.7 The Supplier must ensure that each contract it enters into with subcontractors or suppliers in relation to the performance of the Contract includes provisions that are substantially similar to those set out in clauses 22.3 to 22.6 (inclusive).
- 23. GENERAL**
- 23.1 The parties agree that the United Nations Convention on Contracts for the International Sale of Goods (adopted at Vienna on 10 April 1980) does not apply to the Contract in any respect.
- 23.2 The Supplier is an independent contractor. Nothing in the Contract is intended to constitute a fiduciary relationship, employment relationship or an agency, partnership or trust; and no party has the authority to bind the other party.
- 23.3 The Contract constitutes the entire agreement between the parties, relating in any way to its subject matter. All prior negotiations, agreements, communications, understandings, representations about the subject matter of the Contract are of no effect.
- 23.4 No variation of the Contract is effective unless made in writing and signed by or on behalf of each party.
- 23.5 If any provision of these Conditions is held to be invalid or unenforceable in a particular jurisdiction:
- (a) it is read down or severed in that jurisdiction only to the extent of the invalidity or unenforceability; and
 - (b) it does not affect the validity or enforceability of that provision in another jurisdiction or the remaining provisions in any jurisdiction.
- 23.6 The rights, powers and remedies provided in the Contract are cumulative with and not exclusive of the rights, powers or remedies provided by Law independently of the Contract.
- 23.7 Failure to exercise or delay in exercising a right, power or remedy under the Contract does not operate as a waiver or prevent further exercise of that or of any other right or remedy. A single or partial exercise of a right or remedy under the Contract does not prevent a further exercise of that or of any other right or remedy.
- 23.8 The Contract is governed by and is to be construed in accordance with the laws of the Jurisdiction. The parties irrevocably agree that the courts of the Jurisdiction will have non-exclusive jurisdiction to settle any dispute which may arise out of or in connection with the Contract (including non-contractual disputes).