

1. TERM

1.1 The Order commences on acceptance of the Order in accordance with clause 3.2 and unless terminated earlier in accordance with clause 11 or 12, ends on the expiry date or on completion of the Supplies if no expiry date is specified ("Term").

2. ORDER APPLICATION

2.1 These general purchasing conditions apply to all Orders placed by SiNAB whether relating to a purchase or purchases, the rental of goods or the provision of services.

2.2 Subject to clause 2.3, the Order contains the entire agreement of the parties in relation to its subject matter and can only be varied in writing signed by all parties.

2.3 In the event that the parties have negotiated, agreed and signed alternative terms and conditions for the Supplies, such alternative terms and conditions prevail over the terms and conditions of this Order.

3. ORDERING

3.1 Any provision of Supplies must be the subject of an Order issued by SiNAB and signed by its properly authorised representative.

3.2 The Supplier accepts the Order by signing and returning a copy of the Order, or otherwise acknowledging the Order, or signifying its acceptance in some other way within five (5) days from the date of the Order. If no acknowledgment is received within that period, the Supplier will be deemed to have accepted the Order.

3.3 By accepting the Order, the Supplier acknowledges that it has received all information required to fulfil its obligations. Any additional information must be requested before acceptance of the Order.

3.4 SiNAB reserves the right to cancel the Order in accordance with clause 11 or 12.

4. PROVISION OF SERVICES

4.1 The Supplier shall provide the Supplies to SiNAB:

- (a) for the period, at the times and locations (as applicable), and in accordance with any requirements for the provision of the Supplies as specified in the Order;
- (b) using the personnel identified in the Order (if any) or otherwise using appropriately qualified, skilled and experienced personnel;
- (c) ensure that the Supplies are provided to a standard of quality as specified in the order or otherwise not less than industry best practice for Supplies of the same type and in a timely manner;
- (d) to the satisfaction of SiNAB; and
- (e) in accordance with any other requirements specified in the order.

5. PRICES, INVOICING AND PAYMENT TERMS

5.1 Unless otherwise stated in the Order, the Price is fixed and not subject to rise and fall.

5.2 The Price is inclusive of:

- (a) any GST and all taxes, excise, duties and government charges imposed or levied in Australia or overseas;
- (b) remuneration to the Supplier's officers, employees, agents and subcontractors, including salaries, wages, fees, superannuation, annual leave, sick leave, long service leave and all other benefits to which any of them may be entitled under any contract with the Supplier or under any award, statute or at common law;
- (c) costs in respect of procuring and maintaining the insurances required under clause 10; and

(d) costs of compliance with all other statutory, award or other legal or contractual requirements with respect to the Supplier's officers, employees, agents and subcontractors.

5.3 Invoices are payable 45 days after receipt of a correctly rendered invoice. Incomplete invoices will not be processed.

5.4 Invoices are to be issued to the SiNAB address appearing in the Order and are to include the corresponding Order reference number and identification details of the Supplies. Where applicable, a tax invoice, valid under the Goods & Services Tax Act 1985, must be provided.

5.5 SiNAB reserves the right to query any invoice presented by the Supplier and to require correction of any error, even if the invoice relates to a payment already made or specifies a time limit for raising queries.

5.6 Despite any other provision in the Order, SiNAB reserves the right to deduct or set off amounts owed by the Supplier to SiNAB from moneys due by SiNAB to the Supplier.

6. WARRANTY

6.1 The Supplier warrants that:

- (a) the Supplies will be fit for the purpose or purposes for which services of that kind could be reasonably expected to be applied by SiNAB;
- (b) the Supplies will be provided by appropriately qualified, skilled and experienced personnel;
- (c) the Supplies do not infringe the Intellectual Property or moral rights of any person; and
- (d) none of the Supplier, its subcontractors or any other person has a lien, mortgage, charge or other security interest of any type in or over any of the Supplies.

6.2 The Supplier is to, without delay and at Supplier's risk and expense, repair, replace or re-perform (as appropriate) non-conforming Supplies.

6.3 If the Supplier fails to rectify a defect or non conformance in the Supplies within the time specified by SiNAB, SiNAB may, without limiting the Supplier's warranties and obligations under this Order, rectify or have rectified such defect or non conformance and recover the costs from the Supplier.

6.4 The rights and remedies provided in this Clause 6 are in addition to and do not limit any of SiNAB's other rights.

7. INTELLECTUAL PROPERTY RIGHTS

7.1 Ownership in all Intellectual Property specifically created for the purpose of the provision of the Supplies to SiNAB under this Order vests in SiNAB. In the event that such rights cannot automatically vest in SiNAB, the Supplier undertakes to do all things required by SiNAB in connection with the transfer of such rights to SiNAB. 7.2 Ownership of all Background Intellectual Property incorporated in the Supplies remains unchanged. The Supplier hereby irrevocably and unconditionally grants to SiNAB, a royalty-free, non-exclusive, worldwide, perpetual licence to use any Background Intellectual Property (including the right to sub-licence) to the extent that it forms part of or is integral to the Supplies or other items created by the Supplier in relation with the provision of the Supplies in connection with the Order.

8. INDEMNITY

8.1 The Supplier indemnifies and holds harmless SiNAB in respect of all actions, suits, proceedings, claims, demands, losses, costs, charges and expenses (including any indirect, incidental, special or

consequential loss, any loss of revenue, loss of profits, loss of business opportunities, loss of anticipated savings, damage to goodwill and damage to reputation and also including the cost of settling any pending or threatened proceedings, including legal expenses on a solicitor and own client basis) arising from or incurred by reason of:

- (a) any breach of the Order or negligence by the Supplier;
- (b) any loss or damage to property or injury or death to persons caused or contributed to directly or indirectly by the Supplier in connection with the Order or the Supplies;
- (c) any actual or alleged infringement or breach of any Intellectual Property anywhere in the world arising out of or resulting from the sale or use of the Supplies or their incorporation in other things; and
- (d) any claim made against SiNAB by any third party arising directly or indirectly from or as a result of the Supplier's failure to deliver the Supplies in accordance with the requirements of the Order.

9. CONFIDENTIALITY / PUBLICITY

9.1 For a period of 10 years from the date of this Order, the Supplier hereby covenants that the Proprietary Information:

- (a) subject to clause 9.1 (d), must not, without the prior written consent of SiNAB, be disclosed, revealed, copied, published, reproduced, or in any way used for any purpose other than for performing the Supplier's obligations under this Order; and
 - (b) will be kept protected, in a secure place and in strict confidence; and
 - (c) will, on request by SiNAB at any time, be returned to SiNAB, or destroyed in the manner requested by SiNAB. Return or destruction will extend to any copies of the material in question and any records containing references to the Proprietary Information; and
 - (d) will not be disclosed nor caused to be disclosed directly or indirectly to any third party, except to the Supplier's employees and subcontractors who have a need to know for the purpose of fulfilling its obligations under this Order, provided that the Supplier informs such employees and/or subcontractors of the confidential nature of the Proprietary Information and uses all reasonable endeavors to prevent such employees and/or subcontractors from using or disclosing Proprietary Information for other purposes.
- 9.2 The Supplier is not to, in any manner, reveal, advertise or publish the fact that it has contracted with SiNAB or any details in relation to the Order.

9.3 The expiry or termination of this Order or the delivery of the Supplies does not relieve the Supplier or its employees, representatives and subcontractors from complying with the obligations imposed with respect to the use and protection of the Proprietary Information.

10. INSURANCE

10.1 The Supplier will effect and maintain at its cost any policies of insurance specified in the Order but in any event, sufficient insurance to cover its various liabilities in connection with the Order.

10.2 The Supplier undertakes to insure and keep insured at all times the Supplies for their full replacement value with a reputable insurer and provide SiNAB with a copy of the relevant Certificate of Currency upon request.

10.3 Should the Supplier be required to enter SiNAB's premises or worksites to carry out any work related to this Order, the Supplier must effect and maintain at its cost adequate workers' compensation insurance with a principals indemnity extension (where applicable in

the relevant jurisdiction) and public liability insurance in sufficient amounts to cover its liabilities in connection with the Order.

11. TERMINATION

11.1 Without prejudice to any of its rights, powers or remedies, SiNAB may terminate the Order immediately without incurring any liability to the Supplier if:

- (a) the Supplies, or any portion of the Supplies, are not delivered within the time or times nominated or agreed by SiNAB;
- (b) there is any breach of the Order; or
- (c) the Supplier becomes insolvent, bankrupt, goes into administration, receivership or liquidation, is made subject to any petition or proceedings taken for the Supplier's compulsory winding up, is made subject to the supervision of a court, enters into a scheme or arrangement with its creditors or becomes the subject of any order or proceedings relating to its solvency.

11.2 On termination SiNAB may:

- (a) refuse to accept any undelivered Supplies;
- (b) at the Supplier's risk and expense, return to the Supplier any of the delivered Supplies which cannot be used without the undelivered Supplies. In such an event, the Supplier indemnifies SiNAB for any moneys paid in respect of the returned Supplies;
- (c) enter into any premises and take away all finished and unfinished Supplies, materials and things in which SiNAB has property and recover all moneys paid by SiNAB in respect of those Supplies; or
- (d) institute proceedings, including but not limited to, claiming compensation by way of damages in respect of any loss or damage suffered or sustained directly or indirectly by SiNAB including consequential loss and loss of profits.

12. TERMINATION FOR CONVENIENCE

12.1 In addition to any other rights it has under the Order, SiNAB may at any time terminate the Order by notifying the Supplier in writing. If SiNAB issues such a notice, the Supplier shall stop work in accordance with the notice, comply with any directions given by SiNAB and mitigate all loss, costs (including the costs of its compliance with any directions) and expenses in connection with the termination, including those arising from affected subcontracts.

12.2 SiNAB will only be liable for payments to the Supplier for Supplies provided to SiNAB before the effective date of termination and any reasonable costs incurred by the Supplier that are directly attributable to the termination, if the Supplier substantiates these amounts to the satisfaction of SiNAB.

12.3 The Supplier will not be entitled to profit anticipated on any part of the Order terminated.

13. EXPORT CONTROL

13.1 In the event that the Supplies or part of the Supplies, including their technical documentation, are subject to any export control laws, regulations or rules, the Supplier undertakes to ensure that the manufacturer of the Supplies completes the "Commodity Export Classification" form and returns it to SiNAB.

13.2 The Supplier warrants that the information provided to SiNAB is true and accurate, and will immediately inform SiNAB in writing if it becomes aware of any change that might affect the export control rules applicable to the Supplies.

13.3 Where exportation and/or re-exportation of the Supplies is subject to a licence from governmental authorities, the Order is conditional upon the issue of the licence. A copy of all licences is to be provided to SiNAB upon receipt by the Supplier.

13.4 In the event that the licence is delayed, withdrawn, not renewed or invalidated, SiNAB is entitled to terminate the Order in accordance with clause 11.

13.5 The Supplier indemnifies and holds harmless SiNAB and its customers against any liability or damage resulting from the Supplier's non-compliance with its obligations in connection with this clause 13.

14. HEALTH, SAFETY, SECURITY AND ENVIRONMENT

14.1 The Supplier, in the performance of its obligations in relation to this Order must:

- (a) comply with all applicable health, safety and environmental obligations in force in the State, Territory or other jurisdictions in which the Order, or a part of the Order, is, or is to be, carried out; and
- (b) comply and ensure that its employees, representatives and subcontractors comply with all SiNAB health, safety, environmental and site security policies.

15. RESTRAINT

15.1 During the Term, and for a period of 6 months after completion of the delivery of the Supplies or termination of an Order, the Supplier shall not:

- (a) directly or indirectly solicit, canvass, approach, deal with or accept any approach from a SiNAB client with a view to obtaining the custom of that client in a business or provision of services that is the same or similar to the current or demonstrably anticipated business or provision of services provided by SiNAB to that client; or
- (b) negatively interfere with the relationship between SiNAB and its clients, employees or other suppliers; or
- (c) induce or assist in the inducement of (i) any employee of SiNAB to leave their employment with SiNAB; or (ii) any client of SiNAB to cease being a client of SiNAB.

15.2 The Supplier acknowledges that they shall be liable for damages (including punitive or special damages) arising out of the breach of any of the covenants set out in this clause 15.

15.3 The Supplier acknowledges and agrees that a breach of the covenants set out in clause 15 would result in irreparable damage to SiNAB.

15.4 The Supplier acknowledges and agrees that the covenants set out in clause 15 are reasonable in protecting the legitimate business interests of SiNAB.

16. GOVERNING LAW

16.1 This Order is governed by the laws of the State of New South Wales and the parties hereby submit to the exclusive jurisdiction of the Courts of the State of New South Wales.

17. GENERAL

17.1 A party's failure or delay in exercising a power or right does not operate as a waiver of that power or right, unless in writing and signed by the waiving party.

17.2 Notices must be given to a party at the address set out on the Order or as otherwise notified by the parties in writing.

17.3 The Supplier may not sub-contract, transfer, assign, hold in trust for another, or otherwise dispose of all or any of its rights, obligations or interests under this Order without the prior written consent of SiNAB. Such consent is not to be unreasonably withheld.

17.4 In the event that SiNAB provides equipment and/or tools to the Supplier, these remain the property of SiNAB and are not to be modified, altered, destroyed, damaged or used for any purposes other

than for the fulfilment of the Order. The Supplier is responsible for their safe custody and proper maintenance while in its custody.

17.5 The parties expressly agree to exclude the application to the Order of the United Nations Convention on Contracts for the International Sale of Goods.

17.6 Supplier agrees to right of access by SiNAB, its customer, and regulatory authorities to the applicable areas of the suppliers facilities and to applicable documented information.

18. DEFINITIONS

"Background Intellectual Property" means the Intellectual Property that is in existence at the time of the Order or is subsequently brought into existence other than as a result of the performance of the Order and/or is embodied in, attaches to or is otherwise necessarily related to the functioning and/or operation of the Supplies.

"GST" has the same meaning as given under the *A New Tax System (Goods and Services Tax) Act 1999 (Cth)*.

"Dollars" or **"\$"**, unless otherwise stated, means Australian dollars.

"Intellectual Property" means all registered and unregistered intellectual property rights, including without limitation, copyright, patents, trademarks, designs, trade secrets, know-how, rights in relation to any circuit layout, data, invention, product, work, discovery, process, word, phrase, symbol, design, application or other thing capable of protection and the right to have confidential information kept confidential.

"Latent Defects" means a deficiency in design, materials or workmanship not discoverable prior to or on delivery which causes the Supplies to function incorrectly.

"Order" means this purchase order and these general purchasing conditions including all information provided by SiNAB to the Supplier supplementary to the Order and any variation in writing agreed to by the parties.

"Proprietary Information" means all information, documents, data, materials, electromagnetic reproductions, samples and/or models in whatever form, whether or not produced under this Order, disclosed or to be disclosed by SiNAB to the Supplier pursuant to this Order including, but not limited to, pictures, plans, specifications, blueprints, performance details and requirements, sub-assembly and assembly drawings, costs, lists, instructions, reports, know-how, trade secrets, manufacturing data, software, models and intellectual or industrial property.

"Price" means the price to be paid to the Supplier by SiNAB for the Supplies as noted on the Order.

"Supplier" means the person, partnership, joint venture, firm, company, government or entity described on the face of the Order supplying the Supplies and includes their personal representatives, survivors and permitted assigns.

"Supplies" means all goods, services, articles, products, materials, items, parts, components, assemblies, tools, dies, information (including all information required from the Supplier under the Order, relating to the Supplies and their installation, use, operation and maintenance) or any other item(s) described on the face of the Order including but not limited to raw materials, incomplete or unfinished items, and spare parts.

"SiNAB" means SiNAB Australia Limited (ABN 16 165 262 091)