

Purchase Order Terms and Conditions

- 1 The Supplier shall be liable to the Contractor identified in the Purchase Order together with any subsidiary of Johns Lyng Group Pty Ltd ACN 005 852 317 within the meaning of Section 46 of the *Corporations Act 2001*.
- 2 The Supplier shall be bound to supply the goods or services and works specified in this Purchase Order upon receipt of this Purchase Order from the Contractor.
- 3
 - 3.1 The Contractor will not be liable for any payment whatsoever to the Supplier unless that payment is the subject of a written Purchase Order;
 - 3.2 The Contractor shall be entitled to set off any monies owed by it to the Supplier against any monies whatsoever owed or likely to be owed to it by the Supplier.
- 4 The Supplier must supply the goods or services or undertake the works specified in accordance with the Purchase Order in accordance with the provisions of all Commonwealth, State, Territory and Municipal Statutes, Regulations, By-Laws, Ordinances, Orders, Rules, Standards and other legal requirements for the time being in force and affecting or in any way relating to the works the subject of this Purchase Order.
- 5 The Contractor will not pay any invoice submitted by the Supplier to the Contractor unless that invoice contains the following information:-
 - 1 The Purchase Order number.
 - 2 The name of the Contractor's supervisor having control of the job.
 - 3 The address of the job.
 - 4 The Supplier's ABN number.
 - 5 The goods and services have been supplied to the satisfaction of the Contractor.
 - 6 Invoices will only be paid if they are received and at our office within 30 days from the date that works are completed.
- 6 Subject to the Supplier's compliance with Clause 5 the Contractor will pay the Supplier's invoices the month ending following the previous month's supply. i.e. Goods or services supplied during May and correctly invoiced before the end of May will be paid on the first Thursday on or after the end of May unless the Supplier wishes to take advantage of the following early settlement discounts:-
 - 10% discount from invoice – Payment 7 days
 - 5% discount from invoice – Payment 14 days
 - 2.5% discount from invoice – Payment 30 days
- 7 In the event Johns Lyng Group / Restorx have paid for goods and services that are deemed to be unsatisfactory, you irrevocably authorise Johns Lyng Group / Restorx to deduct this amount from future payments for any unsatisfactory or incomplete works, including necessary rectification costs by other sub-contractors.
- 8 Before any works commence you warrant that you have all workcover, public liability and/or other relevant insurances in place.
- 9 All works covered by OHS Regulations must have safe work method statements produced and available at the commencement of works. SWMS must be return to Johns Lyng Group at the conclusion of works. Failure to abide by any OHS regulations will result in the purchase order being withdrawn and the work cancelled
- 10 **Flooring**

In the event that you are carrying out timber flooring works, it is your responsibility as the contractor to ensure that you have carried out relevant moisture testing of the substrates and of the product to be laid to ensure that it is suitable for installation. You must obtain the clients approval of the installation of the floor prior to commencement in relation to type, quality, size and all other relevant criteria.

11 **Substrates**

By carrying out installation of your product, the sub-contractor has carried out a thorough inspection of the substrate that you are installing and have deemed them to be satisfactory and have no right of claim to Johns Lyng Group for any failure in the product after installation.

12 **Construction**

By proceeding with the works now or in the future, you have agreed to be bound by Johns Lyng Group / Restorx terms and conditions at all times.

13 The Supplier must rectify all defects or omissions in the goods or services identified before and during the defects liability period which period shall be 24 months. The defects liability period commences on completion of the services or delivery of the goods to the Contractors satisfaction in accordance with Clause 5.5.

14. 14.1 The Contractor may direct when the services are to be undertaken or the goods supplied and the Supplier must co-operate with and co-ordinate the services and supply of goods with the activities of other Suppliers and must immediately advise the Contractor if it cannot perform its obligations pursuant to this contract.

14.2 The Supplier must not without the written consent of the Contractor or the Owner of the items referred to in this clause use or install any goods, chattels, fixtures or fittings unless they are an exact match for those items they are replacing.

15. The Supplier will be liable for any cost, expense, loss or damage incurred by the Contractor arising from a failure to perform the services or supply the goods in a timely manner or arising from the failure of the Supplier to carry out the services or supply the goods to the satisfaction of the Contractor.

16. The Supplier shall not proceed to carry out any services if in the Supplier's opinion the previous work is unsatisfactory and unless the Contractor has issued a written instruction expressly overriding such objection and accepting responsibility for such services proceeding. Commencement of any works shall be evidence that the Supplier accepts the previous work and requires no additional payment and that the Supplier shall be liable for any resultant or consequent defects or damage.

17. The Supplier must not in any circumstances carry out any services or supply any goods which do not comply with all Commonwealth, State, Territory and Municipal Statutes, Regulations, By-Laws, Ordinances, Orders, Rules, Standards and other legal requirements for the time being in force and affecting or in any way relating to the works the subject of this Purchase Order.

18. The Supplier shall at all times during the provision of the goods and services:-

18.1 ensure that its employees and sub-contractors at all times exercise all necessary precautions for the safety of all persons engaged in the performance of the works the subject of this Purchase Order or otherwise on site and the public generally and comply with all statutory requirements in respect of workplace or occupational health and safety directions in relation thereto by the Contractor. The Supplier shall be liable for and keep the Contractor indemnified against all claims, fines, penalties, costs (including legal costs), losses or damages and liabilities whatsoever arising out of any breach of this obligation on the part of the Supplier.

18.2 complete all necessary Occupational Health & Safety documentation including but not limited to work method statements job safety analysis sheets and the Supplier, must be fully aware of and understand all material safety data sheets in relation to any and all goods being used by the Supplier.

19. The Supplier shall in the carrying out of its obligations pursuant to this Purchase Order on a daily basis clean up the site and remove rubbish from the site to the satisfaction of the Contractor. Any failure by the Supplier to comply with the provisions of this clause shall entitle the Contractor to carry out those matters at the expense of the Supplier and that expense shall be deducted from any amount owing by the Contractor to the Supplier.
20. Title to any goods supplied by the Supplier pursuant to the provisions of this Purchase Order shall pass to the Contractor upon their delivery to the Contractor or to the site however the insurable risk in respect of those goods shall remain with the Supplier until such time as the obligations to the Supplier pursuant to this Purchase Order have been completed to the satisfaction of the Contractor.
21. Time shall be the essence of this Purchase Order that is required to be complied with by the Supplier.
22. The Supplier must at all times ensure that it, its servants agents and sub-contractors comply with The Johns Lyng Group Code of Conduct as current from time to time and annexed hereto or made available on The Johns Lyng Group website www.johnslyng.com.au. By accepting this Purchase Order the Supplier shall be deemed to have read, understood and accepted responsibility to comply with The Johns Lyng Group Code of Conduct.
 - 22.1 Subject to Clause 20.8, if there is any dispute between the parties concerning this Agreement, then the parties must attempt to resolve any such dispute by the dispute resolution procedure set out herein before resorting alternative avenues, including litigation provided that nothing herein shall preclude a party from seeking urgent interlocutory relief from a court.
 - 22.2 The dispute resolution procedure is as follows:
 - 22.2.1 if a party believes that a dispute has arisen, it must serve a dispute notice ("the dispute notice") on the other party;
 - 22.2.2 the dispute notice must state that a dispute has arisen and identify in sufficient detail what the dispute is;
 - 22.2.3 within three (3) days of service of the dispute notice, a representative of each party ("the representatives") must meet and seek to resolve the dispute;
 - 22.2.4 failing resolution by the representatives the parties may jointly request the appointment of a mediator and failing agreement within seven (7) days of service of the dispute notice, either party may apply to the President of the Law Institute of Victoria to appoint a mediator;
 - 22.2.5 once the mediator has accepted the appointment, the parties must comply with the mediator's instructions; and
 - 22.2.6 if the dispute is not resolved within thirty (30) days of the appointment of the mediator, or any other period agreed by the parties in writing, the mediation ceases.
 - 22.3 The mediator may fix the charges for the mediation which must be paid equally by the parties.
 - 22.4 If the dispute is settled, all parties must sign the terms of agreement and those terms are binding on the parties.
 - 22.5 The mediation is confidential and statements made by the mediator or the parties as well as discussions between the participants to the mediation before, after or during the mediation cannot be used in any legal proceedings.
 - 22.6 It shall be a term of the engagement of the mediator that the parties release the mediator from any court proceedings relating to the dispute or the mediation.
 - 22.7 The mediator is not bound by the rules of natural justice and may discuss the dispute with a party in the absence of any other party.

- 22.8 Notwithstanding the foregoing provisions of this Clause 16, where the dispute relates to the computation of the purchase price under this Agreement, either party may refer the dispute to a chartered accountant appointed by the President for the time being of the Institute of Chartered Accountants, Victorian Division, who shall act as an expert and not as an arbitrator and whose decision shall be final and binding on all parties. The vendor and the purchaser shall bear the accountant's costs in equal proportions.
- 23 This Agreement contains the entire understanding and agreement between the parties as to the subject matter of this Agreement.
- 23.1 All previous negotiations, understandings, representations, warranties (other than warranties set out in this Agreement), memoranda or commitments in relation to, or in any way affecting the subject matter of this Agreement are merged in and superseded by this Agreement and shall be of no force or effect whatever and no party shall be liable to any other party in respect of those matters.
- 23.2 No oral explanation or information provided by any party to another shall affect the meaning or interpretation of this Agreement or constitute any collateral agreement, warranty or understanding between any of the parties.
- 24 Each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the Courts of the State of Victoria and the Federal Court of Australia and any Courts of Appeal from them. Each party waives any right it has to object to action being brought in those Courts, to claim that the action has been brought in an inconvenient forum, or to claim that those Courts do not have jurisdiction.