

## PURCHASE / SERVICE ORDER

### WHOLE OF AUSTRALIAN GOVERNMENT TERMS AND CONDITIONS

## 1. FORM OF CONTRACT

### 1.1 Purchase/Service Order

- (a) Subject to clauses 1.1(d) and 1.1(e), the Purchase/Service Order incorporates these General Terms and Conditions and any other special terms and conditions, drawings or specifications set out in the Purchase/Service Order. Nothing contained in any quotation, proposal, correspondence, discussion or negotiation prior to the date of the Purchase/Service Order is incorporated into, or has any effect on, the Purchase/Service Order unless expressly set out in the Purchase/Service Order.
- (b) The Supplier will be deemed to have accepted the Purchase/Service Order if it:
  - (i) signs the Purchase/Service Order;
  - (ii) confirms its acceptance of the Purchase/Service Order verbally or in writing;
  - (iii) accepts the Purchase/Service Order through the OMS; or
  - (iv) commences performance of the Supply that is the subject of the Purchase/Service Order.
- (c) Once a Purchase Order has been accepted by the Supplier it will form a binding contract between Ventia and the Supplier.
- (d) The Purchase/Service Order may be issued under, and governed by, a contract already in place between the Supplier and Ventia (**Governing Contract**). If so:
  - (i) the terms and conditions in the Governing Contract will apply to the Purchase/Service Order; and
  - (ii) these General Terms and Conditions (other than clauses 1.1(d) and 1.1(e)) will not apply to the Purchase/Service Order.
- (e) If there is more than one Governing Contract that may apply to the Supplies, and the Purchase/Service Order does not identify which Governing Contract applies, Ventia may (acting reasonably) notify the Supplier under which Governing Contract the Purchase/Service Order was issued and the Purchase/Service Order will be governed by that Governing Contract.

### 1.2 Ambiguities

If the Supplier discovers any ambiguity in the Purchase/Service Order it must notify Ventia in writing as soon as reasonably possible. If Ventia agrees that there is an ambiguity, the parties will work together (acting reasonably) to resolve it. The parties agree that there will be no ambiguity if the issue is resolved by applying the following order of precedence:

- (a) the Purchase/Service Order;
- (b) any other special terms and conditions, drawings or specifications set out in the Purchase/Service Order;
- (c) the Special Conditions in Annexure A to these General Terms and Conditions; and

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- (d) these General Terms and Conditions (other than the Special Conditions in Annexure A).

## **2. PERFORMANCE**

### **2.1 Performance**

The Supplier must perform the Supplies in accordance with:

- (a) the Purchase/Service Order;
- (b) Ventia's directions;
- (c) Good Industry Practice;
- (d) all applicable Standards; and
- (e) the Critical Risk Protocols applicable to the Supplies.

### **2.2 Supplier Qualifications**

The Supplier represents and warrants to Ventia that it has the necessary skills, licences, approvals, resources and experience to successfully perform the Supplies in accordance with the requirements of the Purchase/Service Order.

### **2.3 Licences and Laws**

The Supplier must comply with all applicable Laws.

### **2.4 Ancillary Items**

Each Supply includes the supply and performance of all ancillary and minor items not expressly mentioned in the Purchase/Service Order but which are necessary for the satisfactory performance of the Supply.

### **2.5 Supplier to Inform Itself**

- (a) The Supplier acknowledges and agrees that it has:
  - (i) carefully examined all documents furnished by Ventia; and
  - (ii) fully satisfied itself regarding all the conditions, risks, contingencies and other circumstances described in or inferred from those documents or which a supplier exercising Good Industry Practice having made reasonable enquiries should have foreseen might affect the performance of the Supplies.
- (b) Unless otherwise expressly stated in the Purchase/Service Order, no increase in the Purchase/Service Order price will be allowed for the Supplier's failure to ensure that it is fully informed regarding all of the circumstances relating to the Purchase/Service Order as required by this Clause 2.5.

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#### 2.6 Health and Safety

- (a) If the Supplier or its personnel or subcontractors attend any site owned or operated by Ventia, or any site where Ventia or its personnel or subcontractors are working, the Supplier must and must ensure that its subcontractors:
- (i) value safety above all else with the objective of achieving zero harm;
  - (ii) comply with all policies, signage, rules, requirements, procedures, and directions of Ventia (and, if applicable, the appointed principal contractor) at the site in connection with health and safety;
  - (iii) not interfere with, move, modify or ignore safety signage, safety protection arrangements or safety equipment, including emergency equipment;
  - (iv) comply with applicable laws and Good Industry Practice in connection with work health and safety and, where necessary, hold appropriate permits, licences, certificates and accreditation to perform the work they are required to perform in a safe and competent manner;
  - (v) ensure its personnel and subcontractors wear all appropriate personal protective equipment including eye protection and are not impaired by alcohol or drugs (prescribed and non-prescribed);
  - (vi) promptly notify Ventia of any actual or potential hazard, unsafe area or work practice that may lead to any personal injury;
  - (vii) promptly notify Ventia of any safety incident that occurs, no matter how minor;
  - (viii) immediately, and within 12 hours, notify Ventia of any lost-time injury or other serious injury, or incident or near miss which could have resulted in a lost-time injury or other serious injury, in connection with the Supply; and
  - (ix) if the Supplier is required to notify a government authority of any work health and safety incident or matter, notify Ventia of that incident or matter at the same time.
- (b) The Supplier must investigate any incident notified under Clause 2.6(a)(vii) or (viii) and provide a written report to Ventia within 5 days after the incident, containing any details that Ventia may reasonably require.

#### 2.7 Ventia policies

The Supplier warrants that it has read and will comply with the Code of Conduct and Critical Risk Protocols and any other Ventia policy identified in the Purchase/Service Order or notified in writing by Ventia (acting reasonably) from time to time.

#### 2.8 Order Management System

If directed by Ventia, the Supplier must at its own cost and risk use the OMS nominated by Ventia in relation to the performance of its obligations under the Purchase/Service Order.

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## 3. QUALITY

### 3.1 Quality Standards

The Supplier must comply with the standards of quality specified in the Purchase/Service Order. If no standards are specified in the Purchase/Service Order, the Supplier must comply with standards of quality consistent with Good Industry Practice.

### 3.2 Materials and Workmanship

- (a) All Supplies must be suitable for the purpose for which they are required as stated in, or reasonably ascertainable from, the Purchase/Service Order.
- (b) The Supplier must use new and undamaged materials (unless otherwise specified in the Purchase/Service Order) and the workmanship must be of a high quality and standard.

### 3.3 Defects and Warranty

- (a) The Supplier warrants that the Supplies will:
  - (i) be free from defects in design, materials or workmanship;
  - (ii) be free from liens, charges, encumbrances, mortgages or other defects in title;
  - (iii) be new (unless otherwise specified in the Purchase/Service Order) and made to the quality specified in the Purchase/Service Order;
  - (iv) conform to the conditions and specifications set out in the Purchase/Service Order;
  - (v) conform to all applicable Laws; and
  - (vi) without limiting Clause 3.1, be performed in accordance with any performance standard specified in the Purchase/Service Order.
- (b) The warranties in Clause 3.3(a) are in addition to any statutory warranties applicable to the Supplies.
- (c) During the Warranty Period, Ventia may give written notice to the Supplier of any failure or defect in the Supplies. The Supplier must as soon as reasonably possible, and within the time reasonably directed by Ventia, and at no cost to Ventia:
  - (i) correct any defect in the Services covered by the warranty, by way of re-performance of the Services such that the Services comply with the requirements of the Purchase/Service Order and are otherwise acceptable to Ventia (acting reasonably); or
  - (ii) correct any defect or failure in the Goods covered by the warranty, by way of repair, replacement, modification such that the Goods comply with the requirements of the Purchase/Service Order and are otherwise acceptable to Ventia (acting reasonably).
- (d) If the Supplier fails to correct any defect or failure within the time reasonably directed by Ventia, Ventia will have the right to rectify the Supplies itself or have the rectification undertaken by a third

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party. All costs reasonably incurred by Ventia in doing so will be a debt due and payable by the Supplier to Ventia.

- (e) Any Services re-performed or rectified and/or any Goods repaired under warranty will be subject to a further full Warranty Period commencing on the date of completion of any such re-performance, rectification or repair, provided that the Warranty Period will not exceed 24 months in the aggregate.

#### 3.4 Testing and Inspection

- (a) The Supplier must test the Supplies in accordance with the requirements of the Purchase/Service Order, including any specification included with the Purchase/Service Order. Unless otherwise stated in the Purchase/Service Order, any tests and the costs of carrying out those tests will be the responsibility of the Supplier. The results of tests must be promptly supplied to Ventia in writing.
- (b) Ventia may, acting reasonably, direct the Supplier to undertake additional tests not stated in the Purchase/Service Order. If those tests demonstrate that the Supply is in accordance with the Purchase/Service Order, Ventia will pay the Suppliers reasonable, direct, additional costs of carrying out the test.
- (c) Ventia will have the right to inspect and monitor performance of the Supplies and the Supplier must give Ventia access to the Supplier's premises for such purpose during its normal working hours.
- (d) The Supplies will not be accepted by Ventia until inspected and approved by Ventia.
- (e) Any inspection by Ventia will not relieve the Supplier from its obligations to comply with the requirements of the Purchase/Service Order and will in no way impair Ventia's right to require subsequent correction or re-performance of non-conforming Supplies.

#### 4. VARIATIONS

- 4.1 Ventia may increase, decrease, vary, omit (including to award the omitted work to third parties) or change the timing for or required method of execution of any of the work under the Purchase/Service Order and the Supplier must carry out any such variation as directed by Ventia.
- 4.2 Ventia and Supplier must negotiate in good faith to agree in writing the Supplier's price (addition or reduction) for any variation, and any effect on the Delivery Date(s), prior to the Supplier carrying out any variation. If agreement cannot be reached, Ventia will determine (acting reasonably) a price for the variation and its effect on the Delivery Date(s).
- 4.3 The Supplier must not vary the work under the Purchase/Service Order or any condition thereof, except as directed and approved by Ventia in writing. No variation will invalidate the Purchase/Service Order.

#### 5. DELIVERY AND DELAY

- 5.1 Unless otherwise specified in the Purchase/Service Order, the Supplier must deliver the Goods FOT, adequately packaged and protected to ensure safe delivery, to the delivery point and by the relevant Delivery Date(s) or, if there is no Delivery Date, promptly.

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- 5.2 Unless otherwise specified in the Purchase/Service Order, the Supplier must perform the Services to Ventia's reasonable satisfaction by the relevant Delivery Date(s) or, if there is no Delivery Date, as soon as reasonably possible.
- 5.3 The Goods will become the property of Ventia upon delivery of the Goods to Ventia, as evidenced by the signature on the delivery docket of a duly authorised representative of Ventia. Such signature is not, and will not be deemed to be, an acknowledgement of the acceptability of the Goods. Notwithstanding that Ventia has taken delivery of the Goods, the Supplier will remain responsible for any loss or damage to the Goods, which may have occurred prior to delivery, and for any non-compliance of the Goods with the requirements of the Purchase/Service Order.
- 5.4 The Supplier must take all reasonable steps to minimise or prevent any delay in the performance of the Supplies. Ventia may grant an extension of time to a Delivery Date provided:
- (a) the delay is caused by a Delay Event; and
  - (a) the Supplier has notified Ventia in writing within seven (7) days after the Supplier becomes aware, or should reasonably have become aware, of the delay (or such other time as may be specified in the Purchase/Service Order) of its claim for an extension of time. Ventia will not be liable for any extension of time claim that is not notified in writing by the Supplier to Ventia within seven (7) days after the Supplier becomes aware, or should reasonably have become aware, of the delay.
- 5.5 If the Supplier fails to complete a Supply by the relevant Delivery Date, the Supplier will be liable to pay Ventia liquidated damages for delay in the amount stated in the Purchase/Service Order per day after the Date for Completion up to and including the earlier of:
- (a) the date the Supply is completed; or
  - (b) the date the Purchase/Service Order is terminated.
- 5.6 The parties agree that the liquidated damages stated in the Purchase/Service Order serve a legitimate commercial purpose and are a genuine pre-estimate of the loss that Ventia will suffer if the Supplier fails to complete a Supply by the relevant Delivery Date and are not a penalty.
- 5.7 If there are no liquidated damages stated in the Purchase/Service Order, or if liquidated damages are found to be void or unenforceable for any reason, the Supplier indemnifies Ventia against any loss or liability suffered or incurred by Ventia, directly or indirectly, arising out of or in connection with the Supplier's failure to complete a Supply by the relevant Delivery Date.

## 6. INSURANCE

- 6.1 In relation to the Services, the Supplier must effect and maintain:
- (a) public and product liability insurance to the value of \$20 million per claim and in the aggregate;
  - (b) workers compensation insurance as required by law;
  - (c) motor vehicle third party damage insurance;
  - (d) motor vehicle insurance including death or injury cover as required by State and Federal legislation; and

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- (e) such other insurances reasonably required by Ventia that are consistent with Good Industry Practice and which a prudent subcontractor would reasonably procure in connection with the Supplies, or otherwise required by law, and in either case upon terms reasonably acceptable to Ventia.

6.2 In relation to the Goods, the Supplier must effect and maintain any policies of insurance specified in the Purchase/Service Order or required by law.

## 7. PRICE AND PAYMENT

7.1 Unless otherwise stated in the Purchase/Service Order, prices will be fixed and not subject to any escalation or adjustment for rise and fall in costs for any cause, including changes in the cost of labour, plant, equipment, materials, goods, taxes (other than GST), freight, excise, duty, fees, or charges.

7.2 The Supplier will be responsible for the payment of all relevant Australian (Federal, State and Local Government) and overseas taxes, goods and services taxes, PAYG taxes, duties and charges payable with respect to the Supplies. The Purchase/Service Order price will be deemed to be inclusive of all such taxes, duties and charges.

7.3 Unless other payment terms are specified in the Purchase/Service Order, the Supplier is entitled to submit an invoice on a milestone basis following completion of a Supply. The Purchase/Service Order reference number must be quoted on all invoices. Invoices that do not quote a Purchase/Service Order reference number may be returned to the Supplier for rectification and resubmission.

7.4 If Ventia does not propose to pay the full amount of the invoice, Ventia may assess the invoice and issue a payment schedule:

- (a) identifying the invoice to which it relates;
- (a) indicating the amount of the payment (if any) that Ventia proposes to make (the **scheduled amount**); and
- (b) if the scheduled amount is less than the claimed amount, indicating why the scheduled amount is less and (if it is less because Ventia is withholding payment for any reason) Ventia's reasons for withholding payment.

7.5 Ventia will pay the amount of the invoice, or, if there is a payment schedule, the scheduled amount, no later than 30 days from the date on which the invoice was received.

7.6 In relation to:

- (a) a Supplier providing Services, the Supplier must include with each invoice required in Clause 7.3:
  - (i) a statement that all remuneration or other amounts payable by the Supplier to any of its employees, consultants or subcontractors have been paid by law or under any industrial instrument in respect of the Services; and
  - (ii) a service report signed by a representative of Ventia or the Client confirming that the Services have been performed.



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7.7 Ventia may withhold any payment due to the Supplier until it receives from the Supplier the relevant statement required by Clause 7.6(a) and, if applicable, 7.6**Error! Reference source not found..**

7.8 Ventia may set-off or deduct from any monies due and payable to the Supplier any monies that are due and payable, or Ventia reasonably considers are due and payable, to Ventia by the Supplier.

## 8. GST

8.1 In this Clause 8:

- (a) “**GST Amount**”, “**GST-exclusive Consideration**”, “**Recipient**”, “**RCTI**”, “**Supply Party**” and “**Tax Invoice**” have the meanings given in this Clause 8; and
- (b) other terms used that are defined in *A New Tax System (Goods & Services) Act 1999 (Cth)* (“**GST Act**”), have the same meanings in this Clause 8.

8.2 Each party acknowledges and agrees that:

- (a) at the time of entering into the Purchase/Service Order, it is registered for GST;
- (b) it must promptly provide written evidence of its GST registration on request; and
- (c) it must promptly notify the other party in writing if it ceases to be registered for GST.

8.3 In respect of payments to be calculated under or in connection with the Purchase/Service Order:

- (a) when calculating the amount payable or other consideration to be provided for a supply, the amounts used in the calculation are to exclude any GST component; and
- (b) if the payment is relevant to a cost, expense or loss suffered or incurred by a party, then the payment will be reduced by any input tax credit to which that party, or the representative member of any GST group of which that party is a member, is entitled in respect of that cost, expense or loss.

8.4 For each supply made by a party (**Supply Party**) under or in connection with the Purchase/Service Order on which GST is imposed:

- (a) the amount payable or to be provided for that supply under the Purchase/Service Order but for the application of this Clause 8.3 (**GST-exclusive Consideration**) will be increased by, and the recipient of the supply (**Recipient**) must also pay to the Supply Party, an amount (**GST Amount**) equal to the GST-exclusive Consideration multiplied by the prevailing rate of GST; and
- (b) the GST Amount must be paid to the Supply Party by the Recipient without set off, deduction or requirement for demand, at the same time as the GST-exclusive Consideration is payable or to be provided,

subject to a valid tax invoice being provided in respect of the GST-exclusive Consideration.

8.5 If and to the extent an adjustment event arises in respect of a supply made under or in connection with the Purchase/Service Order, then:

- (a) if the Supply Party’s corrected GST Amount is less than the previously attributed GST Amount, the Supply Party must refund the difference to the Recipient;



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- (b) if the Supply Party's corrected GST Amount is greater than the previously attributed GST Amount, the Recipient must pay the difference to the Supply Party; and
- (c) Ventia will issue an adjustment note to the Supplier.

## 9. INDEMNIFICATION AND LIABILITY

9.1 The Supplier indemnifies Ventia and its officers, employees and agents against any all claims, demands, proceedings, liabilities, costs, charges and expenses suffered or incurred, directly or indirectly, arising out of or in connection with:

- (a) a breach of the Purchase/Service Order by the Supplier;
- (b) any defect in the Supplies or any damage caused by a defect in the Supplies;
- (c) any breach of Law by the Supplier or its personnel;
- (d) any deliberate or reckless breach or default, any misleading or deceptive conduct, negligent or fraudulent misrepresentation, abandonment of the Purchase/Service Order, fraud, criminal conduct, or gross negligence of the Supplier or its personnel;
- (e) physical damage to property to the extent caused or contributed to by the Supplier or its Personnel or resulting from the performance of a Supply;
- (f) personal injury (including illness) to, or death of, any person, to the extent caused or contributed to by the Supplier or its Personnel or resulting from the performance of a Supply;
- (g) any claim, finding or determination that an employee or subcontractor of the Supplier is an employee of Ventia or is entitled to the payment of any remuneration or benefit from Ventia that would usually be paid to an employee;
- (h) the Supplier not being registered for GST; or
- (i) the Supplier or a Supply infringing any third party's Intellectual Property Rights.

9.2 The Supplier's liability to indemnify Ventia under any indemnity in the Purchase/Service Order will be reduced proportionately to the extent that the relevant claim, demand, proceeding, liability, cost, charge or expense was caused by Ventia's negligence or breach of the Purchase/Service Order.

9.3 Neither party will be liable to the other for any loss of profit, loss of revenue, loss of business opportunity or business interruption in relation to any Claim in connection with the Purchase/Service Order, whether arising in contract, tort (including negligence), equity, statute, implied duties or on any other basis.

9.4 Clause 9.3 does not limit the Supplier's liability:

- (a) for liquidated damages or general damages for delay under Clause 5;
- (b) for death or personal injury (including illness);
- (c) for property damage;
- (d) which:

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- (i) the Supplier has recovered under a policy of insurance (or could recover if it were to pursue a claim under such a policy); or
- (ii) is insured (or should have been insured if the Supplier complied with its obligations under the Purchase/Service Order);
- (e) for any Wilful Misconduct;
- (f) for any breach of Law by the Supplier or its Personnel;
- (g) for any fines or statutory penalties;
- (h) breach of Clause 11 (Intellectual Property);
- (i) (where there is a Head Contract) for any act, breach or omission of the Supplier or its Personnel that causes Ventia to breach, or suffer loss under, the Head Contract;
- (j) any breach of Clauses 12 (Anti-bribery, corruption, and money laundering), or 13 (Modern Slavery), 15.2 (Confidentiality), 15.3 (Data Security), 15.4 (Privacy); or
- (k) which cannot be excluded at law.

## 10. SUSPENSION AND TERMINATION

### 10.1 Suspension

- (a) Ventia may, at any time by written notice, suspend all or part of the Purchase/Service Order for any reason.
- (b) Upon receipt of a notice of suspension, the Supplier will cease work in accordance with the notice.
- (c) The Supplier must recommence the work under the Purchase/Service Order as soon as possible after being directed to do so by Ventia.

### 10.2 Termination by Default

Ventia may by written notice to the Supplier:

- (a) terminate the Purchase/Service Order; or
  - (b) take any or all Supplies out of the Supplier's hands,
- if:
- (c) the Supplier suffers an Insolvency Event;
  - (d) the Supplier is in breach of the Purchase/Service Order and that breach is:
    - (i) incapable of remedy; or
    - (ii) capable of remedy but the Supplier fails to remedy the breach within 7 days after receiving a written notice from Ventia requiring it to do so;

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- (e) the Supplier breaches the Critical Risk Protocols or the Code of Conduct;
- (f) the Supplier breaches any Law in connection with the Purchase/Service Order;
- (g) the Supplier regularly or persistently breaches the Purchase/Service Order (including a persistent failure to proceed with expedition and without delay), whether or not Ventia has required the Supplier to remedy any or all of the breaches;
- (h) the Supplier breaches Clauses 12 (Anti-Bribery, Corruption, and Money Laundering) or 13 (Modern Slavery); or
- (i) the Purchase/Service Order otherwise entitles Ventia to terminate the Purchase/Service Order.

#### 10.3 Termination for Ventia's convenience

Notwithstanding any other provisions of the Purchase/Service Order, Ventia may for any reason in its absolute discretion terminate the Purchase/Service Order by giving fourteen (14) days written notice to the Supplier.

#### 10.4 Supplier's Rights and Obligations on Suspension /Termination

- (a) In the event of suspension of the Purchase/Service Order, except to the extent the need to suspend is caused or contributed to by the Supplier or its personnel, the Supplier will be entitled to payment of its additional, reasonable, direct costs unavoidably incurred in connection with the suspension (without any element of profit or off-site overheads). The Supplier must do all things reasonably possible to mitigate its costs.
- (b) If Ventia exercises its right under Clause 10.2(a):
  - (i) Ventia may immediately suspend any further payment to the Supplier. Any additional monies required by Ventia to complete the Supplies in excess of what Ventia would have paid under the Purchase/Service Order will be a debt due and payable by the Supplier to Ventia; and
  - (ii) the Supplier must:
    - (1) immediately stop performing Supplies under the terminated Purchase/Service Order, except to the extent necessary to make the Supplies safe;
    - (2) comply with Ventia's directions in respect of the terminated Purchase/Service Order;
    - (3) take all available steps to minimise loss resulting from that termination; and
    - (4) if applicable, return any Ventia property in the custody or control of the Supplier or its personnel to Ventia.
- (c) If Ventia exercises its right under Clause 10.2(b):
  - (i) the Supplier will have no claim for further payment in respect of the Purchase/Service Order;

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- (ii) Ventia may take any steps necessary to complete the Supplies taken out of the Supplier's hands; and
  - (iii) upon completion of the Supplies terminated or taken out of the Supplier's hands, Ventia will certify the loss incurred by Ventia in completing the relevant Supply and in connection with the termination of the Supply. If the amount certified is greater than the amount that Ventia would have paid to the Supplier to complete the Supply, the balance will be a debt due from the Supplier to Ventia.
- (d) In the event of termination by Ventia under Clause 10.3, and provided the Supplier is not in default, Ventia will be liable only:
- (i) to pay the Supplier for work carried out prior to termination; and
  - (ii) to reimburse any expenses reasonably and unavoidably incurred by the Supplier and directly attributable to the termination where the Supplier substantiates these amounts to Ventia's reasonable satisfaction.
- (e) If the Company terminates the Contract for convenience under clause 10.3 but such termination does not result in any Purchase / Service Order being cancelled, the Contractor will have no claim arising from the termination.
- (f) The Contractor will have no claim arising from the cancellation of a Purchase / Service Order or the termination of this Contract for convenience under clause 10.3 except as stated in clause 10.4(d).

**11. INTELLECTUAL PROPERTY**

- (a) Each party retains ownership of its own Background IP.
- (a) The Supplier grants Ventia an assignable, sub-licensable, non-exclusive, royalty-free, worldwide, perpetual, and irrevocable license in the Supplier's Background IP to the extent required to receive, use, and enjoy the full benefit of each Supply.
- (b) The Supplier assigns to Ventia all Intellectual Property Rights in each Supply, other than the Background IP, immediately on creation. If directed by Ventia, the Supplier must take all steps, including executing all relevant documents, to complete such assignment.
- (c) Ventia grants to the Supplier a non-exclusive, non-transferable, royalty free, personal licence to use the Intellectual Property Rights in each Supply to the extent directly necessary to perform its obligations under the Purchase/Service Order. The Supplier may sublicense to approved subcontractors to the extent necessary to perform the Supply.
- (d) If a Supply includes any third-party Intellectual Property Rights, the Supplier must procure rights in respect of such third-party Intellectual Property Rights which enable Ventia to receive, use and otherwise enjoy the full benefit of the Supply as required by this Clause 11.
- (e) The Supplier warrants that the performance of its obligations under the Purchase/Service Order and the Supplies will not infringe any third party's Intellectual Property Rights.

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## 12. ANTI-BRIBERY, CORRUPTION, AND MONEY LAUNDERING

The Supplier must comply with all applicable Laws (including the *Criminal Code Act 1995* (Cth)) relating to anti-bribery, corruption, or money laundering.

## 13. MODERN SLAVERY

13.1 The Supplier warrants that:

- (a) it is compliant with the Modern Slavery Act;
- (b) if it is a reporting entity under the Modern Slavery Act, it is compliant with its obligation to submit modern slavery statements and those modern slavery statements are complete and accurate;
- (c) it has never committed, or been investigated for, an offence under the Modern Slavery Act or any other applicable law in any jurisdiction concerning Modern Slavery;
- (d) it actively investigates and manages the risk of Modern Slavery in its operations and supply chain; and
- (e) there are no known or suspected instances of Modern Slavery (current or historical) in its operations or those of its supply chain.

13.2 The Supplier must immediately notify Ventia:

- (a) if the Supplier identifies or suspects a breach of the Modern Slavery Act, or an instance of Modern Slavery, in the Supplier's operations or those of its supply chain; or
- (b) a government authority opens an investigation or makes an adverse finding in connection with the Modern Slavery Act, or any other applicable law in any jurisdiction concerning Modern Slavery, in respect of the Supplier's operations or those of its supply chain.

13.3 The Supplier must provide all information, documents, records, and access (including access to Personnel) requested by Ventia to permit Ventia to audit the Supplier's compliance with this Clause 13.

13.4 The Supplier must ensure that all subcontracts it enters into in connection with the Purchase/Service Order contain a clause in equivalent terms to this Clause 13.

## 14. DISPUTES AND APPLICABLE LAW

### 14.1 Applicable Law

Unless otherwise specified, the Purchase/Service Order will be governed and construed in accordance with the laws of the Australian Capital Territory and each party submits to the non-exclusive jurisdiction of the courts of the Australian Capital Territory.

### 14.2 Disputes

- (a) Any dispute, disagreement, or difference between the parties in connection with a Supply or the Purchase/Service Order, including any dispute or difference as to the formation, validity, existence, or termination (**Dispute**), must be determined in accordance with this Clause 14.2.

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- (b) The parties must continue to perform the Purchase/Service Order despite the existence of any Dispute.
- (c) If a Dispute arises, either party may give the other party a written notice setting out reasonable details of the Dispute (**Dispute Notice**).
- (d) If the parties cannot resolve the Dispute arising within 21 days after the Dispute Notice, either party may refer the Dispute to the Australian Disputes Centre (**ADC**) for mediation. The dispute must be mediated within 30 days after it is referred to the ADC.
- (e) Neither party may litigate until the procedures in this Clause 14.2 have been complied with.

## 15. GENERAL

### 15.1 Use of Documentation

Documents prepared in relation to, or ancillary to the Purchase/Service Order, must not be copied or used for any other purpose than the performance of the Supplies by the Supplier to Ventia, without the prior written approval of Ventia.

### 15.2 Confidentiality

- (a) Any information provided by Ventia to the Supplier, which is noted as, or which is by its nature, confidential, must not be disclosed to any third party without the prior written consent of Ventia.
- (b) The Supplier must not issue any information which includes details about the Supplies and/or the Purchase/Service Order, for publication in any news or communication media, without the prior written approval of Ventia.
- (c) The obligations under this Clause 15.2 will be continuing obligations and will survive the completion or termination of the Purchase/Service Order for a period of 5 years from the completion or termination of the Purchase/Service Order.
- (d) If requested by Ventia, the Supplier must execute a deed of confidentiality (on reasonable terms) in a form required by the Client.

### 15.3 Data Security

- (a) The Supplier must:
  - (i) protect Ventia Data from misuse, interference, loss, unauthorised access, modification or disclosure; and
  - (ii) if any Ventia Data is lost, destroyed, corrupted or altered (to the extent such loss, destruction, corruption was caused or contributed to by the Supplier or its Personnel) take all practical measures to restore the Ventia Data.
- (b) If the Supplier becomes aware of any Data Security Breach, the Supplier must:
  - (i) notify Ventia immediately;

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- (ii) cooperate fully and transparently with Ventia in relation to the investigation and resolution of the Data Security Breach; and
- (iii) comply with Ventia's reasonable directions in relation to the Data Security Breach including for the purposes of remedying or mitigating the effects of the Data Security Breach.

#### 15.4 Privacy

If the Supplier is provided with, or has access to, any Personal Information under Ventia's control, the Supplier must:

- (a) comply with the Privacy Law in relation to Personal Information, whether or not it is an organisation bound by that Act;
- (b) only collect, store, use, disclose or otherwise deal with Personal Information as required for the purposes of performing its obligations under the Purchase/Service Order;
- (c) comply with all reasonable directions given by Ventia in relation to the management of the Personal Information, except to the extent that doing so would cause the Supplier to breach any applicable law;
- (d) not do anything that would put Ventia in breach of the Privacy Law;
- (e) provide such assistance as Ventia may reasonably request in order to enable Ventia to comply with the Privacy Law in relation to the Personal Information;
- (f) take such steps (if any) as are reasonable in the circumstances to ensure that the Personal Information is accurate, up-to date, complete and relevant;
- (g) take such steps as are reasonable in the circumstances to protect the Personal Information from misuse, interference and loss, and from unauthorised access, modification or disclosure;
- (h) destroy or permanently de-identify the Personal Information if that information is no longer needed to provide the Supplies; and
- (i) if the Supplier discloses any of the Personal Information to a third party:
  - (i) ensure that the third party complies with this Clause 15.4 in relation to the Personal Information as if it was the Supplier; and
  - (ii) accept responsibility for any act or omission by that third party in relation to the Personal Information as if it was an act or omission of the Supplier.

#### 15.5 Waiver

No failure or delay on the part of Ventia in exercising any of its rights under the Purchase/Service Order will be construed as constituting a waiver of any such rights.



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#### 15.6 Subcontracting and Assignment

- (a) The Supplier must not subcontract nor assign all or any part of the Purchase/Service Order without Ventia's prior written approval. The Supplier must give Ventia any information reasonably requested to enable Ventia to consider a request for approval of a subcontractor.
- (b) Approval of Ventia to any subcontract will in no way relieve the Supplier of any of its obligations under the Purchase/Service Order. The Supplier will be responsible and liable for any act, default, omission, or negligence of a subcontractor as if it was the act, default, omission, or negligence of the Supplier itself.
- (c) Ventia may assign (in whole or any part) its rights under the Purchase/Service Order to any person without the Supplier's approval. Ventia may novate or transfer (in whole or any part) the Purchase/Service Order to any person who has financial capacity to perform Ventia's obligations under the Purchase/Service Order, at any time without the Supplier's approval and the Supplier must execute any document(s) reasonably required to give effect to such assignment or novation.

#### 15.7 Entire Agreement

The Purchase/Service Order constitutes the entire agreement between Ventia and the Supplier. The parties will not be bound by or liable for any term, condition, statement, representation, promise or understanding not set out in the Purchase/Service Order.

#### 15.8 Communications

- (a) The Supplier must comply with Ventia's reasonable directions in connection with the Supplies.
- (b) Any notice or other communication required under the Purchase/Service Order must be delivered in writing and must be in a form which can be read, copied and recorded conveniently. Verbal instructions or directions from Ventia will be confirmed in writing to the Supplier within a reasonable time. The notice will take effect from the time when it is delivered to or received at the nominated address of the parties.

#### 15.9 Relationship

In relation to the performance of Services, the Supplier will provide the Services as an independent contractor and nothing in the Purchase/Service Order will be construed so as to constitute the Supplier as an employee of Ventia or constitute a partnership between the parties or so as to constitute either party as the agent or legal representative of the other party.

#### 15.10 Significant Events

- (a) The Supplier must immediately (and within 1 Business Day) notify Ventia if it becomes aware of the actual or likely occurrence of a Significant Event, including:
  - (i) a summary of the Significant Event;
  - (ii) the date the Significant Event occurred (if it has occurred); and
  - (iii) any personnel of the Supplier that are involved.

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- (b) Ventia may direct the Supplier that an event is a Significant Event and, if so directed, the Supplier must give the notice required under clause 15.10(a).
- (c) Ventia may direct the Supplier to provide additional documents or information regarding a Significant Event and the Supplier must give the additional documents or information within 2 Business Days.
- (d) If directed by Ventia, the Supplier must (within 5 Business Days after being directed to do so) prepare a draft remediation plan in connection a Significant Event and submit that draft remediation plan to Ventia for approval, including:
  - (i) how the Supplier proposes to:
    - (1) remedy the Significant Event;
    - (2) ensure that the Significant Event (or any similar Significant Event) does not occur again; and
    - (3) report its progress in implementing the remediation plan;
  - (ii) confirmation that the Significant Event, and implementation of the remediation plan, will not impact the Supplier's compliance with this Purchase/Service Order; and
  - (iii) any other matter reasonably directed by Ventia.
- (e) Ventia may, at its discretion, by notice to the Supplier:
  - (i) approve the remediation plan; or
  - (ii) reject the remediation plan.
- (f) If Ventia rejects the remediation plan in accordance with 15.10(e)(ii), the Supplier must revise and re-submit the remediation plan within 2 Business Days. Clause 15.10(d) will apply again until Ventia approves the remediation plan.
- (g) The Supplier must:
  - (i) strictly comply with the approved remediation plan.
  - (ii) report to Ventia its progress in implementing the remediation plan (including providing relevant evidence, documents and information) in accordance with the remediation plan and as otherwise reasonably directed by Ventia.

## 16. DEFINITIONS AND INTERPRETATION

### 16.1 Definitions

In these General Terms and Conditions:

**“Background IP”** means any Intellectual Property Rights developed by a party independent of the Purchase/Service Order or the Supplies or prior to the date of the Purchase/Service Order.

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**“Business Day”** means any day except a Saturday or Sunday, a day between Christmas Day and New Year’s Day (both inclusive) and any public holiday in the State or Territory in which the relevant Supplies is to be performed.

**“Clause”** means a clause of these General Terms and Conditions.

**“Code of Conduct”** means Ventia’s Code of Conduct as may be amended or updated by Ventia from time to time. A current version of the Code is available on Ventia’s website: <https://www.ventia.com/who-we-are/code-of-conduct>.

**“Confidential Information”** means information that is by its nature confidential (including Commonwealth Data) and in the case of information of Ventia or the Client is information that the Supplier knows or ought to know is confidential but does not include information that is or becomes public knowledge other than by breach of this this Purchase/Service Order or any other confidentiality obligation.

**“Critical Risk Protocols”** means the protocols developed by Ventia that outline the supervision and management of specific critical risks that people on Ventia’s projects are commonly exposed to, including in relation to:

- (a) lifting operations;
- (b) working around mobile plant;
- (c) working at height;
- (d) working near traffic;
- (e) working near live services;
- (f) excavations;
- (g) hazardous energies;
- (h) confined spaces;
- (i) hazardous substances; and
- (j) driving and remote travel,

as may be amended or updated by Ventia from time to time. A current version of the Critical Risk Protocols is available on Ventia’s website: <https://connect.ventia.com/safety/>.

**“Data Security Breach”** means any breach by the Supplier of Clause 15.3 or any actual, suspected, or potential breach of the security of Ventia Data or any security vulnerability which could compromise the security of Ventia Data.

**“day”** means a calendar day.

**“Delay Event”** means:

- (a) a breach or wrongful act of prevention by Ventia;

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- (b) a suspension directed by Ventia, except to the extent the need to suspend is caused or contributed to by the Supplier or its personnel; or
- (c) a variation directed by Ventia.

**"Delivery Date"** means a delivery date specified in the Purchase/Service Order by which the Supplier must deliver the Goods or complete the Services (as relevant).

**"FOT"** means, in relation to delivery of the Goods, free on truck (or other transport) and includes the responsibility (and associated costs) for packing, loading, transportation and insurance (for the full replacement value of the Goods) to the nominated delivery point for the Goods.

**"General Terms and Conditions"** means clauses 1 to 16 of this document.

**"Goods"** means all goods, equipment, materials, articles, or any other property or parts to be provided to Ventia by the Supplier under the Purchase/Service Order and includes all ancillary activities such as design, manufacture, inspection, testing, expediting, quality assurance and control, painting, packing and delivery as specified or required hereunder.

**"Good Industry Practice"** means performing the Supply in an effective, efficient, careful, skilful, diligent, and safe manner, with the degree of skill, care, diligence, and foresight which may reasonably be expected of an experienced professional performing works or services, or supplying goods, similar to the Supply.

**"Insolvency Event"** means where:

- (a) the Supplier informs Ventia, or its creditors generally, or Ventia reasonably forms the view that the Supplier is insolvent or is financially unable to proceed with the Supplies;
- (b) execution is levied against the Supplier by a creditor;
- (c) if the Supplier is an individual person or a partnership including an individual person, and if that person:
  - (i) commits an act of bankruptcy;
  - (ii) has a bankruptcy petition presented against him or her or presents his or her own petition;
  - (iii) is made bankrupt;
  - (iv) makes a proposal for a scheme of arrangement or a composition; or
  - (v) has a deed of assignment or deed of arrangement made, accepts a composition, is required to present a debtor's petition, or has a sequestration order made, under applicable law; or
- (d) if the Supplier is a corporation:
  - (i) notice is given of a meeting of creditors with a view to the Supplier entering a deed of company arrangement;
  - (ii) the Supplier enters a deed of company arrangement with creditors;

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- (iii) a controller, receiver or administrator is appointed in respect of the Supplier;
- (iv) an application is made to a court for the Supplier's winding up and not stayed within 14 days;
- (v) a winding up order is made in respect of the Supplier;
- (vi) the Supplier resolves by special resolution that it be wound up voluntarily (other than for a member's voluntary winding up); or
- (vii) a mortgagee of any of the Supplier's property takes possession of that property.

**"Intellectual Property Rights"** means all intellectual property and proprietary rights (whether registered or unregistered) including copyright and analogous rights, any right to have information (including Confidential Information) kept confidential, rights in relation to inventions or discoveries including patent rights, patent applications, trade secrets, technical data, formulae, know how, designs, trade names, brand names and registered or unregistered trademarks including service marks, and moral rights.

**"Law"** means any applicable statute, regulation, by-law, ordinance or subordinate legislation in force from time to time in Australia, whether made by a State, Territory, the Commonwealth, or a local government, including the common law and rules of equity as applicable from time to time.

**"Modern Slavery"** has the meaning given in the Modern Slavery Act.

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

**"OMS"** means a work order management or compliance management system notified by Ventia in writing or otherwise used by Ventia in connection with the Purchase/Service Order or the Supplies.

**"Personal Information"** has the meaning given in the Privacy Law.

**"Personnel"** means in relation to a party, any employee, officer, contractor, subcontractor, agent or professional adviser of that party, and in the case of the Supplier, their subcontractor's employee, officer, agent or professional adviser.

**"Privacy Law"** means the *Privacy Act 1988 (Cth)*.

**"Purchase/Service Order"** means the purchase order and/or service order (with a unique reference number) issued by Ventia to the Supplier which incorporates these General Terms and Conditions.

**"Supplier"** means the person performing the Supplies, as identified in the Purchase/Service Order.

**"Supplies"** means the Services and/or the supply of Goods that the Supplier is required to perform or supply in accordance with the Purchase/Service Order, and **"Supply"** has an equivalent meaning.

**"Services"** means the services and/or works as set out and further detailed in the Purchase/Service Order.

**"Significant Event"** means:

- (a) any adverse comments or findings made by a court, commission, tribunal or other statutory or professional body regarding the conduct or performance of the Supplier or the Supplier's personnel that impacts or could be reasonably perceived to impact on their professional capacity, capability, fitness or reputation, or

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- (b) any other significant matters, including the commencement of legal, regulatory or disciplinary action involving the Supplier or the Supplier's personnel, that may adversely impact on:
  - (i) compliance with Laws;
  - (ii) compliance with Ventia's policies (including the Critical Risk Protocols or the Code of Conduct) or, if applicable, any Ventia client policies included in the Purchase/Service Order or notified by Ventia to the Supplier
  - (iii) Ventia's reputation or, if applicable, Ventia's client's reputation.

**"Standards"** means the Australian Standards published by Standards Australia and any other codes or standards identified in the Purchase/Service Order or with which a subcontractor or supplier exercising Good Industry Practice would apply in connection with the Supplies.

**"Ventia"** means the Ventia entity named on the Purchase/Service Order or, if no such entity is named, Ventia Australia Pty Limited (ABN 11 093 114 553).

**"Ventia Data"** means data of any kind of Ventia, or a Ventia related body corporate, or of any customer or supplier of Ventia or a Ventia related body corporate, that the Supplier accesses, stores or handles in connection with the Purchase/Service Order or any Supply.

**"Warranty Period"** means:

- (a) in relation to Services, the period commencing on the date of completion of the Services and lasting for a period of one (1) year after that date; and
- (b) in relation to Goods, the date of the final supply of the Goods to the nominated delivery point and lasting for a period of one (1) year after that date.

**"Wilful Misconduct"** means any deliberate or reckless breach or default, any misleading or deceptive conduct, negligent or fraudulent misrepresentation, abandonment of the Purchase/Service Order, fraud, criminal conduct, or gross negligence of the Supplier or its personnel.

## 16.2 Interpretation

Words importing the singular are deemed to include the plural and vice versa. Headings and subheadings are inserted for convenience only and must not be used to interpret the text. Words denoting a natural person will include a corporation and vice versa. The words 'include', 'including' and 'includes' and the expressions 'for example' and 'such as', are not words or expressions of limitation.

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#### ANNEXURE A

#### 1. SPECIAL CONDITIONS

##### 1.1 Definitions

Defined terms in this ANNEXURE A – SPECIAL CONDITIONS have the same meaning as set out in clause 16.1 of the General Terms and Conditions unless otherwise stated below.

- (a) **“Benefit or Discount”** means any (GST exclusive) benefit, discount, override or commission (whether monetary or in kind, including gifts and supplier funded events, however described) received by or on behalf of the Supplier its officers or employees (including Related Bodies Corporate of the Supplier and their officers and employees) from a third party, as a result (directly or indirectly) of Ventia procuring the Goods and / or Services from the Supplier on behalf of the Commonwealth.
- (b) **“Client”** means the Department of Finance on behalf of the Commonwealth of Australia and any Commonwealth entity who is entitled to procure Services under party to the contract titled “Deed in relation to Property Services to the Commonwealth of Australia” between Ventia and the Client.
- (c) **“Conflict”** means any circumstances:
  - (i) which constitute an actual conflict;
  - (ii) which constitute a known risk of conflict; or
  - (iii) which may be perceived by others to constitute a conflict,(or is likely at some future time to constitute such a conflict, risk of conflict or perceived conflict) between the interests of Ventia or the Client and those of the Supplier or its Personnel or a Related Body Corporate of the Supplier (or between the duties or obligations of the Supplier or its Personnel to Ventia or the Client and their duties or obligations to another person) in relation to the Supply or otherwise in connection with the Purchase/Service Order.
- (d) **“Financial Year”** means the period commencing 1 July in any year and ending 30 June the following year.
- (e) **“Fraud”** means dishonestly obtaining a benefit, or causing a loss, by deception or other means, and includes suspected, alleged or attempted fraud. Fraudulent has a corresponding meaning.
- (f) **“Losses”** means any liabilities, expenses, losses, damages and costs (including legal costs on a full indemnity basis, whether incurred by or awarded against a party).
- (g) **“Related Body Corporate”** means a related body corporate as defined in the *Corporations Act 2001* (Cth).
- (h) **“Related Entity”** has the meaning given to this term in the *Corporations Act 2001* (Cth).
- (i) The terms **“agency”**, **“Australian Privacy Principle”** (APP), **“contracted service provider”**, and **“organisation”**, have the meanings given to them in section 6 of the Privacy Law.



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#### 1.2 Specific requirements of entities

- (j) The Supplier acknowledges that Client entities may have specific requirements. Where:
  - (i) the requirements are disclosed in or attached to the Purchase/Service Order; or
  - (ii) are disclosed after the Purchase/Service Order is issued but do not impact on the Supplier's cost of delivering the Services,the Supplier must provide the Services to that entity in accordance with those requirements.
- (k) If the specific requirements are disclosed after the Purchase/Service Order is issued and the Supplier considers that, as a direct result of the entity specific requirements, the Supplier's costs in delivering the Services will increase, the Supplier must notify Ventia of this view and:
  - (i) Ventia may request the Subcontractor provide a quote to comply with the entity specific requirements; and
  - (ii) if Ventia wants to proceed with the quote, it will issue a new or revised Purchase/Service Order authorising the additional fees to provide the entity specific requirements.

#### 1.3 Warranties

- (a) The Supplier warrants that neither it nor any of its Personnel are:
  - (i) named by the Director of the Workplace Gender Equality Agency in a report to the responsible Minister as an employer currently not complying with the reporting requirements of the WGE Act; and
  - (ii) named on the list of persons designated as terrorists for the purposes of the Charter of United Nations (Dealing with Assets) Regulations 2008 (available at [http://www.dfat.gov.au/icat/UNSC\\_financial\\_sanctions.html](http://www.dfat.gov.au/icat/UNSC_financial_sanctions.html)).
- (b) The Supplier warrants that it does not have any judgments against it relating to employee entitlements that have not been paid in full (other than judgments that are under appeal).
- (c) The Supplier must not enter into a subcontract for delivery of the Goods/Services with an entity who is not compliant with this Special Condition 1.3.

#### 1.4 Payments to subcontractors

- (a) The Supplier must ensure that it makes payments to its subcontractors within 30 days (or such shorter period specified in the subcontract) of receipt of properly rendered invoices under the subcontract and provide reasonable evidence of payment of Subcontractors following receipt of a notice by the Customer to do so within the time required by the notice (which must not be less than 5 Business Days).

#### 1.5 Disclosure of Supplier details

- (b) The Supplier agrees that where requested by the Client, Ventia may provide the name and contact details of the Supplier to the Client. The Supplier agrees that Client may publicly disclose the name of the Supplier.

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#### 1.6 Standards for Supplier Personnel and Suppliers

- (a) The Supplier must use its best efforts to manage the availability of its Personnel to perform the Services in accordance with the Purchase/Service Order and to keep the turnover of its Personnel and Suppliers to a minimum.
- (b) The Supplier's Personnel must make themselves reasonably available to meet with Ventia or the Client (or its nominated representative) on the Client's (or its nominated representative's) premises or attend teleconferences as and when reasonably required by Customer or the Client to discuss the delivery of the Goods/Services.

#### 1.7 Supplier

- (a) The Supplier:
  - (i) acknowledges that the Supplier and its Personnel may be subject to legislation and policies that apply to Client's employees when performing the Services as notified by Ventia from time to time; and
  - (ii) must ensure that its Personnel are aware of and comply with their obligations under all laws including the legislation and policies referred to in this Special Condition.

#### 1.8 Quality assurance

- (a) The Supplier must provide continuous quality assurance and quality improvement through:
  - (i) the implementation of programs, practices and measures designed at a minimum to ensure that the Services are performed and Goods are supplied in accordance with the requirements of the relevant Purchase/Service Order and with the objective of continually improving levels of performance;
  - (ii) ensuring that service quality is maintained when particular Personnel or Subcontractors are no longer involved in the provision of the Goods/Services; and
  - (iii) continually assessing the way the Goods/Services are delivered, with the objective of continually improving the quality of the Goods/Services.

#### 1.9 Open Book Accounting

- (a) Without limiting any other clause, the Supplier must maintain an open book accounting approach to enable Ventia or its nominee to monitor, scrutinise and verify the accuracy of all invoices.
- (b) By written notice to the Supplier, Ventia may request an open book account of all of the invoices from the Supplier.
- (c) Within five Business Days of the request, the Supplier must provide to Ventia an open book account of invoices, which must at a minimum set out full and transparent details of each component of the costings, including the Supplier's:
  - (i) general and administrative mark-up,
  - (ii) margins and discounts; and

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- (iii) profit.

#### 1.10 Benefits or Discounts

- (d) The Service Provider must fully disclose details of all Benefits or Discounts to Ventia when requested.
- (e) The Supplier must ensure that for all Benefits or Discounts that are made available to the Supplier (or a Related Body Corporate or a Related Entity) on the basis of:
  - (i) an individual client base (in this case Ventia), the Supplier has deducted the equivalent to the total sum of the Benefit or Discount from the amount that is payable by Ventia for the Supply and that deduction is shown on the relevant Tax Invoice; or
  - (ii) all or some of its client base or on the basis of volume purchases, the Supplier must pro rata the amount which is equivalent to the total sum of the Benefit or Discount across each of the relevant clients and must at a minimum deduct an amount that is equivalent to that pro rata amount from the amount that is payable by Ventia in respect of the Supply and that deduction is shown on the relevant Tax Invoice.
- (f) The Supplier must report to Ventia details of all Benefits or Discounts it receives because of the Supply irrespective of whether the Benefit or Discount is made available to the Supplier (or a Related Body Corporate or Related Entity) on the basis of an individual client base (in this case Ventia), on the basis of all or some of its client base, or on the basis of volume purchases.
- (g) The Supplier must within 30 days of the end of each Financial Year undertake an annual audit of the Benefits or Discounts it receives and identify any Benefits or Discounts (or increases to Benefits or Discounts) which have not previously been reported to Ventia.
- (h) The Supplier must notify Ventia of the results of an audit under Special Condition 1.10(g) as soon as practicable and not later than 10 Business Days after completion of the audit.

#### 1.11 Documentation

- (a) The Supplier must develop and deliver to Ventia any deliverables as specified in the Purchase/Service Order. The deliverables must meet the requirements specified in the Purchase/Service Order and be submitted in accordance with timeframes specified in the Purchase/Service Order.
- (b) The Supplier must maintain and update the deliverables as required by the Purchase/Service Order and ensure that they are current and address all operational, technical and other requirements set out in or reasonably inferred from the Purchase/Service Order and provide the updated deliverables to Ventia for approval at no additional cost to Ventia.
- (c) The Supplier must comply with all obligations specified in the deliverables, including any amendments made to the deliverables in accordance with the Purchase/Service Order.
- (d) The deliverables must:
  - (i) be accurate and fit for the purpose stated in or reasonably inferred from the Purchase/Service Order and these terms;
  - (ii) be acceptable to Ventia (acting reasonably) in terms of presentation and scope;

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- (iii) be the most current and up-to-date versions available;
  - (iv) be prepared in a professional manner which as a minimum meets industry best practice;
  - (v) be written in English; and
  - (vi) contain adequate definitions of all key terms, words and symbols.
- (e) Where the Supplier is required under the Purchase/Service Order to make available or deliver any material, data, information or records to Ventia, it must provide them in any data format and storage medium that Ventia may reasonably request to enable Ventia, or its nominated representative, to access, read and use them without incurring any additional cost (including by use of their existing computer hardware and software where the material, data, information or records are provided in electronic form).

**1.12 Use of Commonwealth Data**

- (a) The Supplier must not and must ensure that its Personnel do not:
- (i) use Commonwealth Data held by the Supplier, or which the Supplier has access to, other than for the purposes of fulfilling its obligations under the Purchase/Service Order;
  - (ii) allow any person, unless authorised by Ventia in writing, to access or use Commonwealth Data;
  - (iii) purport to sell, let for hire, assign rights in or otherwise dispose of Commonwealth Data;
  - (iv) purport to commercially exploit Commonwealth Data; or
  - (v) alter Commonwealth Data in any way, other than in the course of and to the extent necessary in providing the Goods/Services as required under the Purchase/Service Order.
- (b) The Supplier must establish and maintain safeguards against the destruction, loss or alteration of Commonwealth Data in the possession or control of the Supplier that are no less rigorous than those notified by Ventia from time to time; and comply with all Laws and any procedures or requirements specified by Ventia from time to time.
- (c) The Supplier must ensure that all Commonwealth Data that is sent via email is secured using encryption or such methods as notified by the Client, in order to ensure the data is not usable if intercepted by unauthorized persons.
- (d) The Supplier agrees that Ventia (or its nominee) may, at any time, by reasonable prior notice, conduct a security audit of the Supplier's compliance with this Special Condition 1.12 including the right to undertake a security risk assessment, threat risk assessment or privacy impact assessment.
- (e) Without limiting any other clause the Supplier must ensure the:
- (i) system location and physical security;
  - (ii) information and data encryption and protection;

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- (iii) certification and accreditation;
- (iv) fraud and unauthorised access prevention; and
- (v) storage arrangements,

are maintained to the minimum level advised by Ventia (acting reasonably) at its own cost.

- (f) The Supplier must ensure that the systems and data security arrangements referred to in Special Condition 1.12(e) are not adversely changed, or the location of a data centre changed, without Ventia's prior written approval.
- (g) The Supplier must not, and must ensure that its Personnel do not remove the Client's data Commonwealth Data or allow Commonwealth Data to be removed from the premises of Ventia or the Client without Ventia's prior written consent.
- (h) The Supplier must not take, transfer, transmit or disclose Commonwealth Data or allow Commonwealth Data to be taken, transferred, transmitted, accessed or disclosed outside of Australia, without the prior written consent of Ventia.
- (i) The Supplier must ensure that any subcontract entered into for the purpose of delivering the Goods/Services imposes on the Supplier the same obligations as the Supplier has under this Special Condition 1.12.
- (j) The Supplier agrees to indemnify Ventia and the Client (including any entities) in respect of any loss suffered or incurred which arises directly or indirectly from a breach by the Supplier of any of its obligations under this Special Condition 1.12.

#### 1.13 Cyber Security

- (a) If the Supplier has access to Commonwealth Data in connection with the Supply, the Supplier must comply with the requirements of the Commonwealth Data Protection Plan as notified by Ventia from time to time.
- (b) If the Supplier has access to Commonwealth Data in connection with the Supply and becomes aware of any actual or suspected:
  - (i) action taken through the use of computer networks that result in an actual or potentially adverse effect on the Supplier's information system and/or Commonwealth Data residing on that system (**Cyber Incident**); or
  - (ii) any other unauthorised access or use by a third party or misuse, damage or destruction by any person in relation to the Supplier's information system and/or Commonwealth Data residing on that system (**Other Incident**),

it must notify Ventia in writing immediately (and no longer than 12 hours after becoming aware of the Cyber Incident or Other Incident); and
- (c) comply with all reasonable directions issued by Ventia in connection with the Cyber Incident or Other Incident, including in relation to:
  - (i) notifying the Australian Cyber Security Centre, or any other relevant body, as required by Ventia;

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- (ii) obtaining evidence about how, when and by whom the Supplier's information system and/or Commonwealth Data has or may have been compromised, providing it to Ventia, on request, and preserving and protecting that evidence for a period of up to 12 months;
  - (iii) implementing any mitigation strategies to reduce the impact of the Cyber Incident or Other Incident or the likelihood or impact of any future similar incident; and
  - (iv) preserving and protecting Commonwealth Data (including as necessary reverting to any backup or alternative site or taking other action to recover Commonwealth Data).
- (d) The Supplier must ensure that all subcontracts and other supply chain arrangements, which may allow or cause access to Commonwealth Data, contain no provisions that are inconsistent with this Special Condition 1.13.

**1.14 Fraud**

- (a) The Supplier must not, and must ensure that its Personnel do not, engage in any Fraudulent activity.
- (b) The Supplier is responsible for preventing and detecting Fraud in relation to the provision of the Goods/Services.
- (c) The Supplier must prepare a Fraud risk assessment and zero tolerance Fraud control strategy and comply with the plan. The risk assessment and strategy must contain appropriate Fraud prevention, detection, investigation and reporting processes and procedures that comply with the Commonwealth Fraud Control Guidelines (<http://www.ag.gov.au/CrimeAndCorruption/FraudControl/Pages/default.aspx>). Such strategies must include procedures to record and maintain books, accounts and records relating to the Goods/Services.
- (d) The Supplier must immediately report to Ventia any Fraudulent activity that:
  - (i) relates to, or is connected with, the Services; and/or
  - (ii) may cause reputational harm to any or all of Ventia, the Client or the Supplier.
- (e) In the event of Fraud and in consultation with Ventia, if required by Ventia or its nominee, the Supplier must develop and implement a strategy to investigate the Fraud, based on the principles set out in the Australian Government Investigations Standards (available at [www.ag.gov.au](http://www.ag.gov.au)). The Supplier must undertake the investigation at the Supplier's cost.
- (f) In addition to the investigation carried out by the Supplier under this clause Special Condition 1.14 Ventia or its nominee may conduct its own investigation.
- (g) Following the conclusion of an investigation (whether by the Supplier or by Ventia) if the investigation finds that the Supplier or its Personnel have acted in a Fraudulent manner, the Supplier must:
  - (i) pay to Ventia an amount equivalent to the losses suffered by Ventia; and
  - (ii) refer the matter to relevant local, state or federal authorities responsible for prosecution of fraudulent activity (and promptly after the conclusion of the investigation, provide evidence of such referral to Ventia).



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- (h) The Supplier's obligations under this Special Condition 1.14 survive the termination or expiration of the Purchase/Service Order.

#### 1.15 Conflict of Interest

- (a) The Supplier warrants that, to the best of its knowledge after making diligent inquiry no Conflict exists or is likely to arise in the performance of its obligations under the Purchase/Service Order by itself or any of its Personnel except as disclosed in writing to Ventia.
- (b) The Supplier must not, and must ensure that its Personnel do not, engage in any activity or obtain any interest that is likely to Conflict with or restrict the Supplier in undertaking the Services fairly and independently.
- (c) If a Conflict arises, or appears likely to arise, the Supplier must, promptly after becoming aware of the Conflict or likely Conflict:
  - (i) notify Ventia immediately in writing;
  - (ii) make full disclosure of all relevant information relating to the Conflict and setting out the steps the Supplier proposes to take to resolve or otherwise deal with the Conflict; and
  - (iii) take such steps as have been proposed by the Supplier, or at the absolute discretion of Ventia that Ventia requires to resolve or otherwise deal with the Conflict.
- (d) If the Supplier fails to notify Ventia under this Special Condition 1.15, or is unable or unwilling to resolve or deal with the Conflict within the reasonable time required by Ventia, without limiting Ventia's rights, Ventia may engage a third party to perform the affected part of the Services or supply the Goods and recoup any corresponding costs (from the Supplier as a debt payable to Ventia) and / or terminate the Purchase/Service Order.

#### 1.16 General compliance with Laws and policies

- (a) The Supplier must, at all times comply with, and require its Personnel to comply with:
  - (i) all relevant Laws, including the following statutes the *Crimes Act 1914* (Cth), *Criminal Code Act 1995* (Cth), *Privacy Act 1988* (Cth), *Disability Discrimination Act 1992* (Cth), *Racial Discrimination Act* (Cth), *Sex Discrimination Act 1984* (Cth), *Workplace Gender Equality Act 2012* (Cth), *Age Discrimination Act 2004* (Cth), *Fair Work Act 2009* (Cth), *Competition and Consumer Act 2010* (Cth), *Work Health and Safety Act 2011* (Cth) and any correspondence WHS law as defined in the Act, *Environment Protection and Biodiversity Conservation Act 1999* (Cth) and any other applicable law relating to the environment, *Safety Rehabilitation and Compensation Act 1988* (Cth), *Ombudsman Act 1976* (Cth), *Auditor-General Act 1997* (Cth), *Archives Act 1983* (Cth) *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (Cth), Part 4 of the *Charter of the United Nations Act 1945* (Cth) and *Charter of the United Nations (Dealing with Assets) Regulations 2008* (Cth); and
  - (ii) any policies of the Client that are relevant to the provision of the Goods/Services (as notified by Ventia from time to time).
- (b) The Supplier must ensure that neither it nor any of its Personnel places Ventia in breach of any relevant Laws or any Commonwealth policy.



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- (c) The Supplier must advise its officers and employees that they are Commonwealth public officials for the purposes of section 142.2 of the *Criminal Code Act 1995* (Cth); and acting with the intention of dishonestly obtaining a benefit for any person is punishable by penalties including imprisonment.
- (d) The Supplier acknowledges that it may be considered a 'Commonwealth Supplier' for the purposes of the *Ombudsman Act 1976* (Cth) and may be subject to investigation by the Commonwealth under that Act. The Supplier acknowledges that Ventia will not be liable for the cost of any investigation of the Supplier's activities by the Commonwealth Ombudsman or the Commonwealth Privacy Commissioner in connection with the subject matter of the arrangement or the subject matter of the Purchase/Service Order.

#### 1.17 Security

- (a) Without limiting any other clause, the Supplier must, and must ensure that its Personnel, comply with any security requirements advised to them by Ventia including; the Commonwealth Protective Security Policy Framework (outlined at [www.protectivesecurity.gov.au](http://www.protectivesecurity.gov.au)) and the Commonwealth Information Security Manual (outlined at [www.asd.gov.au](http://www.asd.gov.au)), as updated from time to time (as applicable to the Goods/Services).
- (b) The Customer may from time to time, notify the Supplier of the level of security or access clearance applicable to the Supplier's Personnel, and the date from which, or the period during which, that clearance will be effective and the Supplier must comply with and ensure its Personnel act in accordance with that notice.
- (c) The Supplier is responsible for all costs associated with obtaining security clearances.
- (d) The Supplier acknowledges that holding these security clearances is a precondition for the supply of Goods and performance of Service and the Purchase/Service Order.
- (e) The Supplier may only access the Client's premises if it has Ventia's prior, written authorisation and complies with the Client's requirements notified to it by Ventia.
- (f) The Supplier must ensure that its Personnel safeguard any keys or passes or other material detailing access arrangements that are provided to the Supplier for the purposes of the Purchase/Service Order.
- (g) The Supplier must notify Ventia immediately on becoming aware of any security incident or security breach. The Supplier agrees that if a security incident or a security breach occurs, the Supplier will immediately comply with all directions of Ventia in order to address the incident or breach and ensure it does not occur again.
- (h) The Supplier acknowledges that if any of its Personnel lose their security clearance or cause a security breach, Ventia may, after consultation with the Supplier, require the replacement of that person or immediately terminate the Purchase/Service Order.

#### 1.18 Books and records

- (a) The Subcontractor must:
  - (i) keep accurate books and records, in accordance with the Accounting Standards, in sufficient detail to enable the amounts payable by the Client and each entity procuring

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under the Main Contract, to be determined and to comply with Special Condition 1.9;  
and

- (ii) retain for a period of seven years after the expiry or termination of this Purchase / Service Order all books and records relating to the Supply.
- (b) The obligations under this Special Condition 1.18 will be continuing obligations and will survive the completion or termination of the Purchase/Service Order for a period of 7 years from the completion or termination of the Purchase/Service Order.

**1.19 Audit and access**

- (a) The Client, or its authorised representative, may conduct audits relevant to the performance of the Supplier's obligations under the Purchase/Service Order. Audits may be conducted of:
- (i) the Supplier's operational practices and procedures as they relate to this Supply, including security procedures;
  - (ii) the accuracy of the Supplier's invoices and reports in relation to the Supply;
  - (iii) the Supplier's obligations under Special Conditions 1.6 and 1.9;
  - (iv) the Supplier's compliance with its confidentiality, privacy and security obligations;
  - (v) material (including books and records) in the possession of the Supplier relevant to the Supply or the Purchase/Service Order; and
  - (vi) any other matters determined by the Client (acting reasonably) to be relevant to the Supply or the Purchase/Service Order.
- (b) Without limiting Special Condition 1.19(a) the Client or its authorised representative may conduct audits:
- (i) in relation to the Supply; and
  - (ii) to verify the Benefits and Discounts received by the Supplier and to verify that those Benefits and Discounts have been disclosed as required under Special Condition 1.10.
- (c) The Client, or its authorised representative, may, at reasonable times and on giving reasonable Notice to the Supplier, and to the extent relevant to the Supply or the Purchase/Service Order:
- (i) access the premises of the Supplier;
  - (ii) require the provision by the Supplier or its Personnel, of records and information in a data format and storage medium accessible by the Client or the entity by use of their existing computer hardware and software;
  - (iii) inspect and copy documentation, books and records (including original documentation, books and records), however stored, in the custody or under the control of the Supplier or its Personnel. For the avoidance of doubt, this includes the Supplier's agreements with third parties that give rise to Benefits and Discounts;

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- (iv) require assistance in respect of any inquiry into or concerning the Supply or the Purchase/Service Order. For these purposes an inquiry includes any administrative or statutory review, audit or inquiry (whether within or external to the Client), any request for information directed to the Client, and any inquiry conducted by Parliament or any parliamentary committee; and
- (v) require any other reasonable assistance from the Supplier or its Personnel in respect of an audit relevant to the performance of the Supplier's obligations under the Purchase/Service Order.
- (d) The Supplier must provide access to its computer hardware and software to the extent necessary for the Client or a representative authorised by the Client to exercise its rights under this Special Condition 1.19, and provide the Client or a representative authorised by the Client with any reasonable assistance requested to use that hardware and software.
- (e) For clarity, the Client's rights under this Special Condition 1.19 extend to:
  - (i) all information referred to in this Special Condition, whether held by the Supplier or a Related Body Corporate;
  - (ii) information located in Australia or overseas; and
  - (iii) information about any Benefit or Discount for the purposes of Special Condition 1.10, including original documentation describing the arrangements between the Supplier or a Related Body Corporate and a third party, under which the Supplier or a Related Body Corporate is entitled to a Benefit or Discount.
- (f) The Client and any representative authorised by the Client must use reasonable endeavours to ensure that:
  - (i) audits performed pursuant to Special Condition 1.19(a) to (d); and
  - (ii) the exercise of the general rights granted by Special Condition 1.19(c) to (e) to the Client,do not unreasonably delay or disrupt in any material respect the Supplier's performance of its obligations under the Purchase/Service Order.
- (g) Except as set out in Special Condition 1.19(h), each party must bear its own costs of any reviews and any audits.
- (h) If an audit or review conducted pursuant to this Special Condition 1.19 identifies a material breach by the Supplier of the Purchase/ Service Order, the Supplier will be liable for the Client's reasonable costs of conducting that review or audit.
- (i) The rights of Finance under Special Condition 1.19(c)(i) to (iii) apply equally to the Auditor General or a delegate of the Auditor General, the Information Commissioner or a delegate of the Information Commissioner for the purpose of performing the Auditor General's or the Information Commissioner's respective functions or activities.
- (j) The Supplier must do all things reasonably necessary to comply with the Auditor General's or Information Commissioner's or his or her delegate's requirements, notified under Special Condition 1.19(c), provided such requirements are legally enforceable and within the power of the Auditor General or Information Commissioner or his or her respective delegate.

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- (k) The requirement for, and participation in, audits does not in any way reduce the Supplier's responsibility to perform its obligations in accordance with the Purchase/Service Order.
- (l) Nothing in these Special Conditions reduces, limits or restricts in any way any function, power, right or entitlement of the Auditor General or a delegate of the Auditor General or the Information Commissioner or a delegate of the Information Commissioner. The rights of the Client under these Special Conditions are in addition to any other power, right or entitlement of the Auditor General or a delegate of the Auditor General or the Information Commissioner or a delegate of the Information Commissioner.
- (m) The obligations under this Special Condition 1.19 will be continuing obligations and will survive the completion or termination of the Purchase/Service Order for a period of 7 years from the completion or termination of the Purchase/Service Order.

#### 1.20 Freedom of Information

- (a) If Ventia has received a request for access to a document created by, or in the possession of, the Supplier or its Personnel that relates to the performance of a Purchase/Service Order Ventia may at any time by written notice require the Supplier to provide or procure the document for Ventia and the Supplier must, at no additional cost to Ventia, promptly comply with the notice.
- (b) The Supplier must provide reasonable assistance to Ventia in respect of its obligations under the *Freedom of Information Act 1982* (Cth).
- (c) The Supplier must include in any subcontract a provision that will enable the Supplier to comply with its obligations under this Special Condition 1.20.

#### 1.21 Illegal workers

- (d) The Supplier must ensure that its Personnel are at all times:
  - (i) Australian citizens; or
  - (ii) in the case of persons who are not Australian citizens, not illegal workers.
- (e) The Supplier must remove or cause to be removed any illegal worker from any involvement in the carrying out of Services/delivery of the Goods and arrange for their replacement at no cost to Ventia immediately upon becoming aware of the involvement of the illegal worker. The Supplier must immediately notify Ventia of the involvement of the illegal worker and of the removal.
- (f) For clarity, compliance with the Supplier's obligations under this Special Condition 1.21 will not give rise to an entitlement to claim any delay or otherwise excuse the Supplier from compliance with its obligations under the Purchase/Service Order.
- (g) When requested by Ventia, the Supplier must promptly provide evidence that it has taken all necessary steps to ensure that it has complied and is complying with its obligations under this 1.21, including in relation to any Personnel.
- (h) For the purposes of this clause, an "illegal worker" is a person who:
  - (i) has unlawfully entered and remains in Australia;

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- (ii) has lawfully entered Australia, but remains in Australia after his or her visa has expired;  
or
- (iii) is working in breach of his or her visa conditions.

#### 1.22 Anticompetitive conduct

- (a) The Supplier must comply with the provisions of the *Competition and Consumer Act 2010* (Cth) and must not engage in any collusive conduct, anti-competitive conduct or other similar conduct in relation to performing its obligations under the Purchase/Service Order.
- (b) If Ventia suspects that the Supplier or its Personnel or any Supplier has engaged in conduct contrary to the *Competition and Consumer Act 2010* (Cth), they may notify the appropriate regulatory authority and provide the authority with information regarding the conduct. The provision of such information will not be taken to be an infringement of any obligation of confidentiality from Ventia to the Supplier.
- (c) The Customer may terminate this Agreement for default if the Supplier or its Personnel or Subcontractors contravene the *Competition and Consumer Act 2010* (Cth) or equivalent laws in Australia or overseas.

#### 1.23 Lobbying Code of Conduct

In providing the Services, the Supplier must, and must ensure that its Personnel and Suppliers, comply with the Lobbying Code of Conduct (available at [www.ag.gov.au](http://www.ag.gov.au)) and the Australian Public Service Commission's requirements relating to the working with lobbyists and post-separation employment (outlined in sections 5.8 and 5.10 of the APS Values and Code of Conduct in Practice available at [www.apsc.gov.au](http://www.apsc.gov.au)).

#### 1.24 Step-in Rights

If Ventia exercises its rights under the Head Contract to step-in and take control of the provision of all or any part of the Services and directs the Supplier to continue supplying Goods or performing Services under a Purchase/Service Order, the Supplier must continue doing so provided it is continuing to receive payment.

#### 1.25 Mobility Portal

All Purchase/Service Orders will be sent to Suppliers directly to an application available on either a mobile device or a computer ('Mobility'). It is the responsibility of the Supplier to then issue the details of the Purchase/Service Orders to their Personnel and/or Suppliers. The Supplier must accept the Purchase/Service Order, update its status regularly and close out the Purchase/Service Order using the application. The Supplier must submit its claim via the application, including uploading any mandatory documents requested.

#### 1.26 Priority Response Timeframes

Ventia assigns a mandatory priority response timeframe for all Purchase/Service Orders. The Supplier must respond to all Purchase/Service Orders issued in accordance with the priority response timeframes outlined below, ensuring that the mobility portal is updated accordingly.

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REACTIVE MAINTENANCE			
Priority	Attendance	Description	Definition
Priority 1	1 hour	Life Threatening	Any fault which is life threatening or may cause immediate injury.
Priority 2	4 Hours	Urgent	Any fault which is not 'life threatening' but which may: <ul style="list-style-type: none"> <li>• Compromise critical operations or cause a significant interruption to business;</li> <li>• Compromises security and / or safety; and causes major property damage or injury; and</li> <li>• Causes major property damage or injury.</li> </ul>
Priority 3	1 Business Day	High	Any event which is less than 'urgent' but which may significantly reduce or impact on operational efficiency or comfort.
Priority 4	2 Business Days	Medium	Any event which is less than 'high' but which may moderately reduce or impact on operational efficiency or comfort.
Priority 5	3 Business Days	Low	Low is less than 'medium' but which may cause annoyance to the Client or requests for new work.

ROUTINE MAINTENANCE			
Priority	Complete	Description	Definition
Priority 6	30 days	Routine Work	Routinely generated work order for planned maintenance tasks.

### 1.27 Rapid Global Compliance

Ventia employs Rapid Global Workforce Management Software (Rapid) to manage the lifecycle of its contractors and suppliers from a HSEQ and compliance perspective. The Supplier is required to register in Rapid, upload and maintain insurances as well as ensure that to the extent relevant all its Personnel complete the mandatory inductions, including uploading relevant Police Checks, Working With Children Checks and so forth.

### 1.28 Industrial Relations (Fair Work/Modern Slavery)

- (a) The Supplier must comply with all laws including without limitation the requirements under the *Fair Work Act 2009* (Cth) and *Modern Slavery Act 2018* (Cth) and must take appropriate steps to ensure its Subcontractors comply.

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- (b) The Supplier must meet all obligations in relation to remuneration or other amounts payable to any of its Personnel by law or under any industrial instrument in respect of the provision of the Goods/Services.
- (c) If requested by Ventia, at a minimum a monthly compliance statement is to be submitted by the Supplier to Ventia that confirms all workers entitlements, payroll tax and workers compensation insurance premiums have been paid.
- (d) The Customer may at any time require the Supplier verify its compliance with the *Modern Slavery Act 2018* (Cth) and take appropriate steps if a human rights risk is identified including immediate suspension or termination of the Purchase/Service Order.

#### 1.29 Personal Information

- (a) This Special Condition 1.29 applies only when the Supplier deals with Personal Information when, and for the purpose of, providing the Goods/Services.
- (b) The Supplier acknowledges that it is a “contracted service provider” and agrees in respect of the provision of Goods/Services:
  - (i) to use or disclose Personal Information obtained during the course of providing the Goods/Services only for the purposes of this Purchase/Service Order;
  - (ii) to maintain reasonable safeguards against loss, unauthorised access, use, modification or disclosure and other misuse of Personal Information collected or held in connection with this Purchase/Service Order.
  - (iii) not to do any act or engage in any practice that would breach an APP contained in Schedule 1 of the Privacy Law, which if done or engages in by an agency, would be a breach of that APP;
  - (iv) to carry out and discharge the obligations contained in the APPs as if it were any agency under the Privacy Law;
  - (v) to notify individuals whose Personal Information the Supplier holds, that complaints about acts or practices of the Supplier may be investigated by the Information Commissioner who has power to award compensation against the Supplier in appropriate circumstances;
  - (vi) not to use or disclose Personal Information or engage in an act or practice that would breach APP 7 (direct marketing), or a registered APP code, when that registered APP code is applicable to the Supplier;
  - (vii) to disclose in writing to any person who asks, the content of the provisions of this Contract (if any) that are inconsistent with an APP or a registered APP code binding a party to the Purchase/Service Order;
  - (viii) to immediately notify Ventia if the Supplier becomes aware of a breach or possible breach of any of the obligations contained in, or referred to in, this Special Condition 1.29;
  - (ix) not to disclose any Personal Information held in relation to this Purchase/Service Order to an overseas recipient, without the written prior consent of Ventia;



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- (x) to comply with the Department of Finance's privacy policy in relation to the Goods / Services it provides to the Department of Finance (available at [www.finance.gov.au](http://www.finance.gov.au)) and in relation to Services it provides to an entity, that entity's privacy policy subject to receiving notice of such policy;
  - (xi) to comply with any directions, guidelines, determinations, or recommendations of the Information Commissioner, to the extent that they are not inconsistent with the requirements of this Special Condition 1.29.
  - (xii) to comply with any request under section 95C of the Privacy Law (relating to disclosure of any provisions of this Purchase/Service Order that are inconsistent with a registered APP code binding a party to the Purchase/Service Order or with an APP); and
  - (xiii) to ensure that any employee of the Supplier who is required to deal with Personal Information for the purposes of this Purchase/Service Order is made aware of the obligations of the Supplier set out in this Special Condition 1.29.
- (c) If the Supplier is providing Goods / Services to an entity which is not an "agency", this Special Condition 1.29 applies as if references to "agency" were replaced with references to "organisation".
- (d) The Supplier agrees to indemnify Ventia in respect of any Losses suffered or incurred which arises directly or indirectly from a breach of any of the obligations of the Supplier under this Special Condition 1.29.
- (e) The Supplier acknowledges that its obligations under this Special Condition 1.29 are in addition to, and do not restrict, any obligations it may have under the Privacy Law and this Purchase/Service Order.
- (f) In the event a clause of this Purchase/Service Order is inconsistent with an APP:
- (i) When the Supplier is providing Goods/Services to the Client which is a Commonwealth agency, this Special Condition will prevail to the extent of the inconsistency and the Supplier will not be in breach of this Special Condition by reason of undertaking an act or practice that is required by this Purchase/Service Order; and
  - (ii) If the Supplier is providing Goods/Services to the Client which is a non-Commonwealth agency, the APP will prevail to the extent of the inconsistency and the Supplier will not be in breach of this Special Condition by reason of undertaking an act or practice that is required by the APP.

#### 1.30 Confidentiality

- (a) Subject to Special Condition 1.30(d), the Supplier must not, without the prior written consent of Ventia:
- (i) disclose any Confidential Information to a third party; or
  - (ii) disclose any Confidential Information of any Client.
- (b) Ventia may at any time request the Supplier to arrange for:
- (i) its Personnel; or

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- (ii) any other third party associated with the delivery of Goods/Services, to give a written undertaking relating to the use and non-disclosure of Confidential Information.
- (c) If the Supplier receives a request under this Special Condition 1.30(b), it must promptly arrange for all such undertakings to be given.
- (d) The obligations on a party under this Special Condition 1.30 will not be taken to have been breached to the extent that Confidential Information:
  - (i) is disclosed by a party to its Personnel solely to comply with obligations, or to exercise rights, under this Purchase/Service Order;
  - (ii) is disclosed by a party to its internal management personnel, solely to enable effective management or auditing of Purchase/Service Order related activities;
  - (iii) is disclosed by a Client to the responsible Minister;
  - (iv) is shared by a Client within their organisation, or with another Client where this serves the legitimate interest of the Commonwealth;
  - (v) is disclosed by a Client in response to a request from a House of Committee of the Parliament of the Commonwealth, or from a State or Territory Parliament or Assembly if the relevant Client is a State or Territory body;
  - (vi) is authorised or required by law, including under the Head Contract, under a licence or otherwise, to be disclosed; or
  - (vii) is in the public domain other than due to a breach of this Special Condition 1.30.
- (e) If the Supplier disclosed Confidential Information to another person pursuant to Special Conditions 1.30(a) or 1.30(d)(d)(ii), the Supplier must:
  - (i) inform the receiving person that the information is Confidential Information; and
  - (ii) not provide the information unless the receiving person agrees to keep the information confidential.
- (f) The Supplier may agree with Ventia in writing after the date of this Purchase/Service Order that certain additional information constitutes Supplier Confidential Information for the purposes of the Purchase/Service Order, by executing a variation to include that information.
- (g) The obligations under this Special Condition 1.30 continue indefinitely, notwithstanding the expiry or termination of this Purchase/Service Order, unless a period is specified in respect of that information, or another period is agreed in writing by the parties.
- (h) Nothing in this Special Condition 1.30 derogates from any obligation with Ventia, and the Client may have under the Privacy Law) as amended from time to time, or under this Purchase/Service Order in relation to the protection of Personal Information.