

Dive Works Purchase Order Terms and Conditions

This document sets out the Terms and Conditions which will apply to a Purchase Order issued by Dive Works for the supply of Goods to Dive Works (whether by way of rental, consignment, purchase or in conjunction with the provision of Services) and/or supply of Services to Dive Works.

1. SUPPLY OF GOODS AND/OR SERVICES

- (a) In consideration of payment of the Price by Dive Works, the Contractor must supply to Dive Works the Goods and/or perform the Services in accordance with these Purchase Order Terms and Conditions.
- (b) To the extent the Contractor's terms and conditions are supplied with the Goods or Services (whether printed on consignment notes or otherwise), those terms and conditions will be of no legal effect and will not constitute part of this Purchase Order, even if any of representative of Dive Works signs those terms and conditions or annexes the terms and conditions to this Purchase Order.
- (c) Where this Purchase Order relates to Goods and/or Services the subject of a contract between the Contractor and Dive Works, the terms of that contract will prevail to the extent of any inconsistency with these Purchase Order Terms and Conditions.
- (d) The Contractor must, in supplying the Goods and/or performing the Services:
 - (i) comply with and ensure that the Contractor's personnel are aware of and comply with: (A) all applicable Laws; (B) all Dive Works' Standards and Procedures to the extent that they are applicable to the supply of the Goods or the performance of the Services by the Contractor; and (C) all lawful directions and orders given by Dive Works or its representatives;
 - (ii) act in a skilful, diligent, workmanlike, careful and safe manner and ensure that the Contractor's personnel so act and are properly qualified for, and skilled in, the performance of their tasks;
 - (iii) keep and maintain accurate books, accounts and records in connection with the supply of the Goods or the performance of the Services; and
 - (iv) on request by Dive Works, provide to Dive Works any information and reports required or access to any such books accounts and records in connection with the supply of the Goods or performance of the Services.

2. DELIVERY

The Contractor must deliver the Goods to the Delivery Address by the Delivery Date. The Contractor must ensure that the Goods are suitably packed to avoid damage in transit or in storage. Packages must be marked with the Purchase Order number, item number, destination, contents, quantity, date and method of dispatch and weight of each package.

3. TIME FOR PERFORMANCE

The Contractor must perform the Services on or before the date specified in the Purchase Order, or if no date is so specified on or before the date advised by Dive Works.

4. TITLE AND RISK

Title in the Goods passes to Dive Works upon payment of the Price. Risk in the Goods passes to Dive Works when the Goods are delivered to the Delivery Address.

5. PRICE

- (a) Subject to supply of the Goods or performance of the Services in accordance with this Contract, Dive Works must pay the Contractor the Price for the Goods and/or Services.
- (b) The Price is not subject to rise and fall and is inclusive of all costs incurred by the Contractor in the supply of the Goods and/or performance of the Services including all charges for packing, insurance and delivery of the Goods and the cost of any items used or supplied in the performance of the Services.
- (c) The Price is inclusive of all taxes and duties. The Contractor must pay all taxes and duties imposed on the Contractor in relation to supply of the Goods and/or performance of the Services.

6. INVOICING

- (a) Upon delivery of the Goods and/or completion of the Services or at the end of the month for Goods provided on rental, the Contractor must provide to Dive Works an invoice in writing, containing the Purchase Order number; full details of all Goods supplied and/or Services performed for which payment is claimed and attaching evidence of supply or such Goods and/or performance of such Services, including time sheets and receipts and supporting documentation for any reimbursable expenses; and the Price relating to the Goods and/or Services, broken down to reflect the Price components on the Purchase Order.
- (b) Dive Works will pay all invoices that comply with paragraph (a) within 30 days of their receipt, except where Dive Works disputes the invoice, in which case: (i) Dive Works may withhold payment pending resolution of the dispute; and (ii) if the resolution of the dispute determines that Dive Works must pay an amount to the Contractor, Dive Works must pay that amount upon resolution of that dispute.
- (c) Dive Works may reduce any payment due to the Contractor under this Contract by any amount which the Contractor must pay Dive Works, including costs, charges, damages and expenses and any debts owed by the Contractor to Dive Works on any account whatsoever. This does not limit Dive Works' right to recover those amounts in other ways.

8. QUALITY

- (a) The Goods and/or Services must be fit for the purpose for which goods and/or services of the same kind are commonly supplied or bought and for any other purpose Dive Works specifies.
- (b) Goods must be of merchantable quality, free from defects whether arising from faulty or defective materials, workmanship or design and, unless otherwise specified in the Purchase Order, must be new and Rental Goods or Goods used in performance of the Services must be continuously maintained.
- (c) Contractor's personnel used or provided in performance of the Services must be sufficiently qualified and licensed. Contractor must provide to Dive Works, on request, the name, qualifications and experience of such personnel. If Dive Works is not satisfied with personnel of the Contractor at any time, Dive Works may require Contractor to replace personnel with personnel satisfactory to Dive Works and if Contractor is unable to do so, Dive Works may by written notice to the Contractor terminate the Purchase Order.

9. WARRANTY PERIOD

If, during the Warranty Period, any of the Goods or Services are determined by Dive Works to be Defective, the Contractor must at the Contractor's cost and if requested to do so by Dive Works: (i) repair or replace the Defective Goods; (ii) re-perform or make good the Defective Services; or (iii) reimburse Dive Works for the Price paid, if any, in respect of the Defective Goods or Services, and/or any expenses incurred by Dive Works in repairing, re-performing or making good (as the case may be) any Defective Goods or Services. Any such request by Dive Works shall not limit Dive Works rights in relation to any breach or default by Contractor.

10. INSURANCE

The Contractor must obtain and maintain the following insurances and provide evidence that the insurances are current immediately upon request by Dive Works:

- (a) Workers Compensation Insurance;
- (b) Public Liability Insurance for a minimum of AUD\$20 million per occurrence;
- (c) Marine Insurance covering all normally insurable risks of physical loss or damage to the Goods occurring at any time whilst in transit (including storage during transit) up to the point of Delivery for their full replacement costs;
- (d) Motor Vehicle Liability Insurance for a limit consistent with local practices as agreed by the Parties where the Contractor or its personnel will be driving a vehicle whilst providing services in accordance with the Purchase Order.

11. INTELLECTUAL PROPERTY AND CONFIDENTIALITY

All intellectual property (including copyright) in any material produced by the Contractor or its personnel under this Purchaser Order will belong to Dive Works absolutely for Dive Works' own use. The Contractor must only use confidential information, which includes but is not limited to any information concerning the business, finances, plans or strategies of Dive Works or any information concerning the provision of the Goods and/or Services, for the purposes of providing the Goods and/or Services, and must not disclose it to any third parties without the written consent of Dive Works.

12. GENERAL

This Purchase Order is governed by the laws of Victoria, Australia and each party submits to the non-exclusive jurisdiction of the courts of Victoria and any courts which have jurisdiction to hear appeals therefrom. The relationship between Dive Works and the Contractor is a relationship of principal and independent contractor and nothing in this Purchase Order shall be construed so as to create a relationship of employment, agency or partnership.

13. DEFINITIONS

Contractor means the party identified as such in the Purchase Order. **Defective** means Goods and/or Services (or any aspect of them) which are not in accordance with the Purchase Order or which are damaged, deficient, faulty, inadequate or incomplete. **Delivery Address** means the place for delivery specified on the Purchase Order. **Delivery Date** means the delivery date specified on the Purchase Order or otherwise specified by Dive Works. **Dive Works** means Ford Commercial Diving Services Pty Ltd As Trustee for the Ford Family Trust (Trading as Dive Works ABN 65 949 363 960 and its related bodies corporate as defined in the Corporations Act) **Goods** means the goods, materials, tools, plant, equipment and consumable items if any, described on the Purchase Order. **Law** means: all or any part of any decree, legislation, statute or Act of Parliament or similar government authority (**Act**) and any decree, legislation, regulation, ordinance, proclamation, order or by-laws made under such Act or by any government authority, and any amendments, re-enactments or modifications made to such laws from time to time, and any consents, certificates, licences, permits and approvals granted or required under such laws. A reference to **personnel** of a party means that party and its subcontractors and their respective directors, officers, employees, agents, invitees, consultants and subcontractors. **Purchase Order** means the purchase order for Goods and/or Services issued by Dive Works to the Contractor from time to time and includes these Terms and Conditions. **Price** means the price set out in the Purchase Order. **Services** means the services, if any, described on the Purchase Order. **Standards and Procedures** means any Dive Works policies, standards, guidelines, rules, requirements or other specific conditions which Dive Works makes available to the Contractor from time to time. **Warranty Period** means the period of 12 months commencing on the date of delivery of the Goods and/or 12 months from the date on which the Services are performed.