



Northern Territory
**MAJOR
EVENTS**
Company

Purchase Order Terms & Conditions

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1 General

- 1.1 These are the terms and conditions referred to in the purchase order.
- 1.2 These standard terms and conditions (Conditions) apply to any contract entered in to by the Northern Territory Event Management Company (NTMEC) issuing a purchase order to the nominated supplier (Supplier), whether as an offer, or acceptance of an offer (the contract), where that purchase order refers to the NTMEC standard terms and conditions

2. Definitions and Inconsistency

- 2.1 In these standard conditions:

Applicable Standards means the latest versions of any standards or codes which relate to the Services (and/or Goods) or components of the Services (and/or Goods) or, where such a standard does not exist, any applicable international standard.

Deliverables means NTMEC's specifications for the Goods and/or Services as described in any Order.

Force Majeure means the occurrence of any event:

- (a) beyond the reasonable control of the party whose obligations under this Agreement are affected by the occurrence of the event;
- (b) that will, or is likely to, prevent or cause the affected party to be delayed in performing any of its obligations under this Agreement; and
- (c) that could not have been prevented, overcome or remedied by the affected party exercising a standard of care and diligence consistent with that of a competent party in the affected party's position or by taking reasonable steps (other than incurring any additional direct or indirect costs) to prevent, mitigate, minimise or remedy the effects of the event.

Goods means any goods, equipment or products supplied or Deliverables created (or both) under an Order, or brought to the address specified on the Order on behalf of a Supplier.

Intellectual Property Rights means all intellectual property rights conferred under statute, common law or equity in any country, including:

- (a) patents, copyright, moral rights, rights in circuit layouts, registered designs, trademarks and the right to have Confidential Information kept confidential; and
- (b) any application or right to apply for registration of any of those rights.

Legislative Requirements includes all Acts, ordinances, by-laws, regulations and subordinate legislation in Northern Territory (and any other jurisdiction in which activities under this Agreement are performed), and any certificates, licences, consents, standards, permits,

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plans, approvals or requirements of authorities or organisations having jurisdiction.

Order means an order by NTMEC on the Supplier for the supply of Goods or the supply of Services or both as detailed in each *Purchase Order Form*

Purchase Order Form means NTMEC's official purchase order form bearing a purchaser order number which is the only form recognised by NTMEC as authority for charging Goods or Services to its account.

Regulations mean the regulations, guidelines, policies or procedures as developed by NTMEC from time to time, including those relating to the staging of events, access to Venues, Branding Guidelines and Ambush Marketing Policy (copies of which are available on request).

Services means all things to be performed in accordance with an Order.

Supplier means the party named in the Purchase Order Form.

Supplier Personnel means any director or other officer, employee, contractor, agent or volunteer of Supplier who supplies Goods or Services or requires access to a Venue.

3. Orders

3.1 No order is valid other than an order issued on a Purchase Order Form.

3.2 Unless otherwise agreed in writing by NTMEC:

(a) these Conditions apply to and govern all Orders placed by NTMEC and all contracts entered into by NTMEC whereby Goods and/or Services are supplied, provided and/or delivered (supply or supplied) to NTMEC;

(b) an Order and the Conditions will constitute the entire agreement between NTMEC and the Supplier under which Goods and/or Services will be supplied by the Supplier to NTMEC. No terms and conditions stated by the Supplier in any quotation, invoice or other document will be binding upon NTMEC unless accepted in writing by NTMEC; and

(c) to the extent that any conflict exists between these Conditions and any other documentation or correspondence forming part of any Order or any contract, these Conditions take precedence and prevail. These Conditions may only be varied by agreement in writing between the parties.

3.3 Within 3 business days of receipt of an Order, the Supplier must reply to NTMEC to confirm that the Order has been received and that the Order will be completed by the time stated in the Order. The above reply must be sent by email accounts.ntmec@nt.gov.au or to the email address, as appropriate, provided by NTMEC to the Supplier for the purposes of this clause.

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4. Goods and Services

4.1 Unless otherwise agreed in writing by NTMEC Goods supplied must:

- (a) comply strictly with the quantity, volume and description as noted in the Order;
- (b) comply strictly with any specifications as noted in the Order;
- (c) be fit for and of suitable quality for the purpose required by NTMEC;
- (d) be to or of any standard specified in the Order;
- (e) be of merchantable quality;
- (f) be delivered by the time specified in and in accordance with all instructions in the Order;
- (g) comply with all Applicable Standards and Regulations; and
- (h) pass such inspections and tests as may be required by NTMEC in its absolute discretion.

4.2 Services performed pursuant to an Order must:

- (a) comply strictly with the description as noted in the Order;
- (b) comply strictly with any specifications as noted in the Order (including any due date for commencement of the Services);
- (c) be fit for the purpose required by NTMEC and any Goods supplied in connection with the Services must be fit for the purpose required by NTMEC;
- (d) be to or of the standard of skill and care and the quality expected of a provider experienced in the provision of the type of services required;
- (e) be completed by the time specified in and in accordance with all instructions in the Order;
- (f) comply with all Applicable Standards and Regulations;
- (g) pass such inspections and tests as may be required by NTMEC; and
- (h) be rendered in a diligent manner and with due care and skill.

4.3 NTMEC relies on the skill and knowledge of the Supplier in providing the Services.

4.4 The Supplier will obtain all permits, licences, consents, approvals and authorisations required in respect of the Goods and Services and will give all notices required to be given in respect of the Goods and Services and will pay all requisite fees, deposits, and taxes. The Supplier will provide evidence of compliance with these Conditions at the request of NTMEC.

5. Price

5.1 Unless otherwise agreed by NTMEC in writing, the prices specified for the Goods and Services in the Order:

- (a) will remain fixed for the term of the Order and will not be subject to any variation in the cost of materials, labour, delivery, taxes or otherwise;
- (b) include all duties, taxes (including GST), levies, imposts and other like costs; and

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- (c) in relation to Goods, include all costs of delivery to the delivery address specified in the Order as well as the full cost of packaging and marking and, in relation to Services, include all costs of performance at the address specified in the Order.
- 5.2 The Supplier must provide NTMEC with a valid tax invoice for GST purposes in respect of each supply of Goods and Services and forward the invoice electronically to accounts.ntmec@nt.gov.au
- 5.3 NTMEC at any time may issue a written instruction to the Supplier requiring additions, deletions or changes to the Goods and Services to be supplied or in the arrangement of transportation of the Goods.
- 5.4 Where an instruction under this clause results in an additional cost to NTMEC, the Supplier must clearly identify the increases in costs and provide necessary documentation to substantiate any increased cost of the Goods and Services.

6. Delivery

- 6.1 Time is of the essence for each Order. If the Supplier does not supply the Goods or complete the performance of the Services within the time(s) stated in the Order, NTMEC may terminate the Order and any contract and such termination will be without prejudice to any other rights or remedies of NTMEC.
- 6.2 Unless otherwise agreed by NTMEC in writing, the Supplier must deliver the Goods to the address specified on the Order and perform the Services at the address specified on the Order.
- 6.3 Goods must be accompanied by a delivery docket which may be electronic but must state the Order number and the item number, description, quantity and price of the Goods and must include evidence of receipt by NTMEC personnel.

7. Title, Risk, Inspection and Acceptance

- 7.1 The Supplier warrants that, at the time of delivery, it has the right to sell the Goods and the Goods are free from all liens, charges and encumbrances of any kind.
- 7.2 NTMEC may inspect and test the Goods and Services at the Supplier's premises or elsewhere and at any stage during or after manufacture, production, supply or performance. NTMEC's right to inspect and test will not reduce the obligations or liabilities of the Supplier under an Order.
- 7.3 Title and risk in the Goods will pass to NTMEC after the Goods have been physically delivered to and inspected and accepted by NTMEC at its discretion as being in accordance with the Order.
- 7.4 In the event that Goods are supplied with Services, title and risk in the Goods will not pass to NTMEC, until both the Goods and the Services have been supplied by the

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Supplier and inspected and accepted by NTMEC at its discretion as being in accordance with the Order.

- 7.5 NTMEC may reject any Goods and Services at its discretion which NTMEC determines to be contrary to the requirements of the Order.
- 7.6 NTMEC may at any time return rejected Goods to the Supplier at the Supplier's expense and obtain full credit and or refund in respect of the purchase price thereof.
- 7.7 If required by NTMEC, the Supplier must re-supply any rejected Goods and remedy any rejected Services at no additional cost to NTMEC.

8. Access to Venues

- 8.1 Where required, for the purposes of fulfilment of an Order, the Supplier may be entitled to access a specified address (Venue) at a time and date notified by NTMEC.
- 8.2 When accessing a Venue under this clause, the Supplier must:
 - (a) ensure Goods are safe and secure and free from defects in materials, design, workmanship and installation;
 - (b) ensure Supplier Personnel are properly qualified under any applicable law (or relevant professional body) and have obtained the relevant permission from applicable authorities to supply the Services;
 - (c) supply all Services with due care and skill;
 - (d) comply with all directions of NTMEC in relation to access, vehicle movements and load limits and workplace health and safety;
 - (e) promptly notify NTMEC in writing after becoming aware of any material damage to a Venue or serious injury to anyone at a Venue; and
 - (f) repair, or at NTMEC's election pay the cost of repair, of any damage caused to a Venue as a result of the Supplier's access or supply of Services or Goods.

9. Insurance

- 9.1 The Supplier must arrange adequate insurance coverage in respect of the Goods and Services in accordance with the requirements of NTMEC or any Applicable Standards regarding the entities insured, the risks insured against and the amount of the insurance.
- 9.2 Unless otherwise agreed by NTMEC in writing the Supplier must;
 - (a) at all times while providing the Goods and Services, be the holder of a current public liability policy of insurance ('the Public Liability Policy') in the name of the Supplier providing coverage for an amount per event of at least \$20,000,000 and cover such risks and be subject to such conditions and exclusions as are approved by NTMEC and shall extend to cover NTMEC in respect to claims for personal injury or property damage arising out of negligence of the Supplier;
 - (b) insure itself and NTMEC in relation to the Goods against product liability and product recall liability for an amount per event of at least \$10,000,000;

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- (c) where the Supplier is providing professional services, at all times while providing the Services, be the holder of a current professional indemnity policy of insurance in respect of the activities related to the provision of the Services providing coverage for an amount per event of at least \$2,000,000 or at the minimum level recommended by the professional body associated with the Services (whichever is more). For the avoidance of doubt NTMEC can, at its discretion, by notice in writing, waive a Suppliers obligation under this clause 9.2 (c) if professional indemnity insurance is not required on the basis of the professional Services supplied; and
- (d) comply with the requirements of relevant State or Territory Workers Compensation laws in respect of any Supplier Personnel used in the provision of goods and services to NTMEC.

9.3 The Supplier must provide NTMEC with Certificates of Currency in respect of all insurances required by the Order and also evidence of Workers Compensation Insurance, within two (2) days of a written request by NTMEC.

9.4 If the Supplier fails to comply with its obligations to insure or to provide evidence of insurance, NTMEC may immediately terminate the Order at no cost to NTMEC.

10. Indemnity

10.1 Subject to clause 10.3 without prejudice to any other right or remedy, the Supplier must indemnify, and keep indemnified, NTMEC in respect of all costs, expenses, fees, claims, damages, liabilities and losses (including in respect of bringing or defending any action, claim or proceedings and including any indirect or consequential loss or damage including loss of opportunity, loss of profits, loss of goodwill or other financial loss or expense) suffered, paid or incurred by NTMEC or for which NTMEC is or may become liable by reason of, in relation to or in connection with:

- (a) a breach by the Supplier of the terms of an Order including any of the Conditions; or
- (b) a breach by the Supplier of any warranty as may be implied by operation of law; or
- (c) negligence of the Supplier or any of its employees, servants, agents or sub-contractors or other Supplier Personnel; or
- (d) the supply of Goods or Services or access to a Venue, except to the extent that that loss was caused by the negligence of NTMEC.

The Supplier is to make payment immediately on demand from NTMEC.

10.2 At its option NTMEC may deduct from or withhold from any amount due and owing or to become due and owing to the Supplier by NTMEC an amount equivalent to not more than the sum of the moneys payable to NTMEC by the Supplier.

10.3 If the Supplier fails to deliver or complete an Order by the date set out in the Order (Order Date):

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- (a) the Supplier will be indebted to NTMEC for liquidated damages at the rate of 5% of the total price set out in the Order for every day after the Order Date to and including the first to occur of the date on which:
 - (i) *the Order is completed; or*
 - (ii) *the Order is terminated;*
- (b) at its option NTMEC may deduct from or withhold from any amount due and owing or to become due and owing to the Supplier by NTMEC an amount equivalent to not more than the sum of the monies to be paid to NTMEC by the Supplier pursuant to this clause 10.3; and
- (c) the parties agree that the amount calculated under this clause 10.3 is a reasonable estimate of the loss NTMEC will suffer in the event the Supplier fails to complete an Order by the date set out in the Order.

10.4 Each party excludes all liability to the other party arising out of or in any way related to these Conditions for consequential or indirect losses and damages even if the first party knew they were possible or they were otherwise foreseeable, including lost profits and loss of revenue, income or production.

11. Warranty

11.1 All usual and customary trade warranties will be obtained for the Goods and Services (including manufacturers' warranties in respect of the Goods), as well as any warranties which are specifically requested in the Deliverables in the Order, and the Supplier must, at its cost, ensure NTMEC is assigned and has the benefit of any unexpired warranties at the completion of the supply of the Goods or the Services.

11.2 Any Goods or Services determined by NTMEC not to be in accordance with the Order must be remedied by the Supplier at its own expense. In the case of Goods, without limitation the remedy will be re-supply of the relevant Goods. If the Supplier fails to promptly remedy any defect in the Goods or Services on request by, and to the satisfaction of, NTMEC, then NTMEC may remedy (or arrange for a third party to remedy) that defect at the cost of the Supplier which will be a debt due and owing to NTMEC.

12. Confidential Information

12.1 All drawings, specifications, know-how and other information relating to the Services, the Goods, NTMEC's operations or affairs which the Supplier becomes aware of during the term of the Order, including information which by its nature should reasonably be considered to be confidential information, (collectively, Information) are confidential to NTMEC. Information does not include any information which the Supplier can prove either is in the public domain or was known by the Supplier at the time of disclosure, other than through a breach of the Conditions.

12.2 The Supplier must keep the Information confidential and must not disclose the Information to any third party except that the Supplier may disclose the Information:

- (a) as expressly required or permitted by the Order

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- (b) with the written consent of NTMEC;
- (c) to the extent required by a law, by an order of a court or of a regulatory body or by the Listing Rules of the ASX Limited; or
- (d) to the extent necessary, to any employee or agent of the Supplier or any other person who is bound by terms no less onerous than those contained in this clause.

12.3 The Supplier indemnifies NTMEC from all damages, losses, expenses, claims or actions arising out of a breach by the Supplier of any obligation under this Clause 12 or a breach by any third party of any confidentiality obligation which is imposed on that party and which applies to the Information.

12.4 The Supplier must not use or permit the use of any Information for any purpose other than that contemplated by the Order, unless authorised by a separate agreement between the parties.

13. Payment

13.1 The Supplier will invoice NTMEC for payment within 30 days after supply of the Goods or completion of the Services unless:

- (a) supply of the Goods or performance of the Services extends for more than 1 calendar month in duration, in which case the Supplier may invoice NTMEC at the end of each month for Goods supplied or Services performed during the relevant month, or
- (b) there is a different arrangement in writing between the Supplier and NTMEC covering payment for Goods and Services, in which case the terms of such arrangement will apply.

13.2 Invoices are required to be sent to NTMEC's accounts payable at accounts.ntmec@nt.gov.au

13.3 Unless otherwise agreed by NTMEC in writing, NTMEC will pay the Supplier within 30 days of receiving an invoice properly issued in accordance with the requirements of the Order provided the Supplier has complied with all of the requirements in the Order.

14. Cancellation

14.1 NTMEC may, on providing notice at least 30 days prior to the time for supply of the Goods or the completion of the Services, cancel an Order for any Goods not supplied or incomplete Services and the Supplier will not supply those Goods or perform the Services in accordance with and to the extent specified in the notice.

14.2 If an Order is cancelled under clause 14.1, the Supplier will immediately do everything possible to mitigate any costs incurred by it arising from the Order and the cancellation.

14.3 NTMEC will pay for any Goods delivered or Services performed at the time of receipt of the notice referred to in clause 14.1 and will pay the costs of Goods and Services ordered but not supplied which the Supplier is legally bound, at the time of receipt of the notice under clause 14.1, to pay, provided that NTMEC will have no other liability for any

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damages or losses (whether direct, indirect or consequential), costs or expenses in connection with the Orders or their cancellation. Title to any Goods which NTMEC pays for will pass to NTMEC in accordance with clause 7.

14.4 NTMEC may terminate this Agreement with immediate effect for an event of Force Majeure or if the Northern Territory Government directs the cancellation of an Event to which this Order relates.

14.5 If NTMEC terminates an Order pursuant to clause 14.4, then the parties will negotiate in good faith to determine an amount of money that Supplier reasonably deserves to be paid by NTMEC for work done or materials supplied under this Order up to and including the date of termination. If such amount is determined (and in respect thereof the parties must act reasonably), then NTMEC will pay that amount to the supplier within 14 days after receiving a valid tax invoice in relation the determination.

15. Termination for Default

15.1 If the Supplier:

- (a) breaches any of these Conditions, suspends the provision of Goods or Services the subject of any Order or fails to proceed with due diligence so as to endanger completion of the supply of Goods or Services by the time stated in the Order, and does not rectify such breach, suspension or failure within 7 days of receipt of notice from NTMEC regarding the breach, suspension or failure; or
- (b) becomes insolvent, commits an act of bankruptcy or has a petition for bankruptcy presented against it or, being a company, a liquidator, provisional liquidator, receiver, receiver and manager, administrator or official manager is appointed in respect of the Supplier, a mortgagee goes into possession of the Supplier's assets or business, an application is made to appoint a liquidator or to have NTMEC wound up, the Supplier resolves to go into liquidation, the Supplier is made subject to the supervision of a court or enters into a scheme or arrangement with its creditors or if anything analogous occurs in respect of the Supplier,

then NTMEC may:

- (i) *suspend payment in respect of all Orders placed by NTMEC with the Supplier whether or not the Supplier has complied with the Conditions attaching to any of those particular Orders;*
- (ii) *remedy the breach referred to in clause 15.1(a) on behalf of the Supplier at the cost of the Supplier; and/or*
- (iii) *terminate the Order at no cost to NTMEC.*

15.2 Termination of the Order under clause 15.1 will be without prejudice to any of the other legal rights and remedies (including damages) that NTMEC may have as result of the breach, suspension or failure referred to in clause 15.1.

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16. Law Applicable

16.1 All of the Conditions and all of the Orders will be governed by and interpreted in accordance with the laws of the Northern Territory of Australia.

17. Assignment

17.1 The Supplier must not assign or subcontract, in whole or in part, an Order or assign money due to the Supplier under an Order, except with the prior written consent of NTMEC.

18. Intellectual Property Rights

18.1 The Supplier must indemnify NTMEC and its affiliates from and against any loss, damage, injury, cost (including legal costs), action, claim, demand or proceedings arising from or incurred by reason of, directly or indirectly, any infringement or alleged infringement of patents, registered designs, trademarks, copyright and/or any other industrial or intellectual property right in connection directly or indirectly with the Supplier's provision of the Goods or performance of the Services.

19. Liens

19.1 The Supplier must not claim any liens, attachments or similar claims in connection with the Goods or the Services and must defend and indemnify NTMEC against any liens, attachments or other similar claims arising out of or in connection with an Order.

20. Waivers

20.1 Any waiver of any right or remedy of NTMEC under an Order

- (a) is effective only if it is issued in writing and properly signed on behalf of NTMEC;
- (b) is effective to the extent that NTMEC expressly states in writing; and
- (c) does not constitute a waiver of any other right or remedy under the Order or these Conditions.

21. Dispute Resolution

21.1 Any dispute between the Supplier and NTMEC arising out of or in any way connected with an Order which is not resolved by the Supplier and NTMEC within 14 days of a notice by either party to the other advising that it is a notice pursuant to this clause shall be referred for determination to the person agreed between NTMEC and the Supplier or, failing such agreement, to the nominee of NTMEC, who will act as an independent expert and not as an arbitrator and the expert's written determination is final and binding on the parties.

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