

Terms and Conditions of Purchase for Suppliers

The conditions of purchase set out below ("**Conditions**"), as amended from time to time, apply to all Goods supplied by any company, person or other party ("**Supplier**") to Iplex Pipelines Australia Pty Limited ("**Purchaser**").

The Purchaser is not bound by the Supplier's terms of sale or any other conditions the Supplier seeks to impose on, or that purport to apply to, the supply of the Goods by the Supplier to the Purchaser. The parties must not amend these Conditions unless recorded in writing and signed by the Purchaser's Supplier Manager.

These terms and conditions take effect on and from 1 September 2018 ("**Effective Date**").

1. DEFINITIONS

In these terms and conditions, unless the context requires otherwise:

Anti-Corruption Law means any law prohibiting or relating to bribery, corruption, kickbacks, secret commissions or money laundering, including without limitation, the *Foreign Corrupt Practices Act 1977* (US), the *Bribery Act 2010* (UK), the *Criminal Code Act 1995* (Cth), the *Crimes Act 1961* (NZ), the *Secret Commissions Act 1910* (NZ), and any anti-corruption regulations and provisions applicable in the European Union or in any other locations in which Iplex carries on business;

Business Day means a day (other than Saturday or Sunday) on which registered banks are open for business in Sydney, NSW but excludes any day in the period from 24 December in any year to 5 January (both inclusive) in the following year;

Contract means an agreement between the Purchaser and Supplier for the supply of Goods to the Purchaser in accordance with these Conditions including clauses 2.1 and 2.4;

Goods means the goods and any ancillary or associated services (including delivery) described in the Order, if any;

Order means the Purchaser's purchase order placed or communicated with the Supplier and includes these Conditions;

Price means the price for the Goods as calculated in accordance with clause 3;

Road Transport Legislation includes the chain of responsibility laws that apply to the services where they are provided including (without limitation and where applicable) the *Heavy Vehicle National Law* and all regulations made under it, the *Road Traffic (Vehicles) Act 2012* (WA) and *Road Traffic (Administration) Act 2008* (WA), the *Road Transport Act 2013* (NSW), the *Road Safety Act 1986* (Vic), the *Transport Operations (Road Use Management) Act 1995* (Qld) and any other comparable legislation in other states or territories where the services are provided, and any regulations made under these Acts;

Security Interest means a security interest that is subject to the *Personal Property Securities Act 2009* (Cth).

In these terms and conditions:

- (a) words in singular will include the plural and vice versa;
- (b) any reference to "including" means "including without limitation";
- (c) a reference to a statute includes all regulations under and amendments to that statute and any statute to the extent passed in substitution for that statute;

(d) if any matter requires agreement between the parties, such agreement must be express and in writing and must be at the absolute discretion of each party;

(e) headings used do not form part of the Conditions and are for convenience only.

2. TERMS OF AGREEMENT

2.1 Contract: The Contract between the Purchaser and the Supplier for the purchase of Goods by the Purchaser from the Supplier comprises:

- (a) these Conditions;
- (b) any other terms and conditions set out in or incorporated by reference in the Order; and
- (c) any other terms and conditions which are imposed by law and which cannot be excluded.

In the event of a conflict between these Conditions and the Order, the Order will prevail.

2.2 Entire Agreement: These Conditions, together with the documents referred to in clause 2.1, will apply to all orders for the purchase of Goods by the Purchaser from the Supplier, and contain the only terms and conditions of purchase to which the Purchaser will be bound in connection with the purchase of Goods from the Supplier. The Purchaser will not be bound by any other terms the Supplier may purport to apply (including on an invoice or other document and whether before or after submission of an Order by the Purchaser) or which are endorsed upon any correspondence or documents issued by the Purchaser, except to the extent that the Purchaser and the Supplier enter into a final, signed agreement relating to the provision of Goods by the Supplier to the Purchaser in which case that final, signed agreement will take effect to the exclusion of these Conditions.

2.3 Acceptance: Without limiting any other mode of acceptance of this Contract exercised by the Supplier, the Supplier acknowledges that by delivery of the Goods, the Supplier by such conduct agrees to be bound by these Conditions.

2.4 Amendment: The Purchaser may change these Conditions from time to time. These Conditions and any changes to them will be shown on the website <http://www.iplex.com.au>, together with the date on which any new terms and conditions become effective. The Supplier must check this website before entering into a new Contract. By entering into a Contract after the date upon which the new terms and conditions become effective, the Supplier accepts and is bound by the changed terms and conditions for that Contract and future Contracts. If the Supplier does not accept the changes to the Conditions, the Supplier may give notice to the Purchaser that it does not wish to supply any further Goods.

3. PRICE

- 3.1 Price of Goods supplied:** The Price of the Goods will be as set out in the Order. If no Price is specified in the Order, then the Supplier must confirm the Price with the Purchaser before the supply of the Goods. The Purchaser will not be bound to pay for the Goods unless the Purchaser has agreed to the Price in writing before the Goods are supplied. The Price set out in the Order or agreed between the Supplier and the Purchaser for a Contract may not be amended without the prior written agreement of the Purchaser.
- 3.2 Price:** The Purchaser will pay the Price for the Goods. The Price is exclusive of GST but includes all other taxes or duties levied or assessed in connection with the supply of the Goods and includes all costs of testing, inspection, labelling, packing and freight and delivery to and off-loading at the destination as specified in the Order. The Supplier agrees that it will not be entitled to any other payments or reimbursements in respect of the Goods.
- 3.3 No less favourable:** The Supplier warrants that the Price is no less favourable than the price paid by any other purchaser of the same Goods supplied by the Supplier in substantially similar volumes or circumstances.
- 3.4 No admission:** The Supplier acknowledges that any payment made to it by the Purchaser does not imply or constitute an admission on the part of the Purchaser that the Goods comply with the Contract or a waiver or release of the Supplier's obligations under the Contract.

4. INVOICES AND PAYMENT

- 4.1 Invoices:** The Supplier will submit monthly GST invoices to the Purchaser, which invoices will be received by the Purchaser no later than the 5th of each month in respect of Goods supplied during the preceding month to the Purchaser. All invoices must specify the amount payable, state the relevant Order number or numbers, and include reasonable detail of the Goods supplied during the relevant period.
- 4.2 Proof of Insurances Required:** The Purchaser will not be required to pay the Supplier's invoices where the Supplier has not provided the Purchaser with all proof of insurances required under these Conditions.
- 4.3 Payment Terms:** The Purchaser will pay invoices for Goods supplied by the Supplier to the Purchaser 62 days from the end of the month in which the Purchaser received a correctly tendered invoice (unless otherwise agreed in writing between the parties), provided that the Goods have been received by the Purchaser at the date of the invoice. If the Purchaser disputes any amount of an invoice, the Purchaser will pay the non-disputed amount of the invoice on the due date for the invoice. Payment will be made by direct credit to a bank account nominated by the Supplier.
- 4.4 Set Off:** The Purchaser may set off any sums due to the Supplier against any costs, expenses or other losses (whether direct or indirect) incurred by the Purchaser as a result of any breach of the Contract or any other Contract between the Supplier and the Purchaser and any losses sustained as a result.

5. PURCHASE OF GOODS

- 5.1 Quotes:** A request for quotation by the Purchaser will not constitute an offer to purchase Goods from the Supplier. No contract for the supply of Goods will exist between the Purchaser and Supplier until the Purchaser gives the Supplier an Order in accordance with these Conditions and that Order has been accepted by the Supplier (such acceptance of the Purchaser's Order may be made and

communicated by the Supplier in writing including an order acknowledgment or by overt act of acceptance).

- 5.2 Orders:** The Purchaser may purchase Goods from the Supplier by providing to the Supplier an Order. The date for delivery of the Goods will be as specified in the Order.
- 5.3 Cancellations or Variations:** The Purchaser may cancel, or vary, an Order if the Purchaser has provided notice of such cancellation, or variation, to the Supplier at least 10 Business Days prior to the time specified for delivery in such Order and the Supplier has not delivered the Goods in accordance with the Contract.
- 5.4 No Exclusivity or Minimum Quantities:** The Supplier acknowledges that the Purchaser may purchase Goods from other suppliers, and there is no guarantee of exclusivity or minimum quantity.

6. DELIVERY

- 6.1 Delivery:** Unless otherwise agreed with the Purchaser, the Supplier must deliver the Goods to the address specified in the Order by the date stated in the Order. Time is of the essence.
- 6.2 Packing:** The Supplier must ensure that all Goods are properly and securely packed and where not specified in the Order packaging will be in a manner appropriate to the Goods and the distance to be travelled.
- 6.3 Documents:** The Supplier must quote the Order number and the item number (if applicable) on all documents and packages sent by it to the Purchaser in respect of the Order. On delivery of each consignment of the Goods, the Supplier must deliver to the Purchaser such documents as are required by the Order, including, without limitation, customs export documents (if applicable), advice notes, certificates of conformity, and if the Supplier is not the original manufacturer of the Goods, copies of the original manufacturer's certificate of conformity together with test figures, etc, where applicable.
- 6.4 Delivery Notice:** Where the Supplier becomes aware that it will not be able to comply with a specified delivery date as shown on an Order, the Supplier will immediately notify the Purchaser and obtain approval for any change to the original delivery date. If approval is not obtained, the Supplier will use, and be responsible for, any express freight that may be required to guarantee that the product is delivered into the delivery address to meet the required delivery date or the agreed lead-time. In the event that delivery is delayed by more than twenty- four (24) hours, the Purchaser will be entitled to cancel the order or reject the delivery without any liability whatsoever.
- 6.5 Liability for Late Delivery:** The Purchaser will be entitled to recover from the Supplier as a debt due and payable by the Supplier to the Purchaser, any costs, expenses or liquidated damages suffered by the Purchaser as a result of the Supplier failing to satisfactorily complete delivery within the agreed timeframe.

7. RECEIVING GOODS

- 7.1 Making Claims:** The Purchaser reserves the right to make claims upon the Supplier for any goods which are at the time of delivery, damaged, defective, short delivered and/or incomplete.
- 7.2 Packaged Goods:** The Supplier accepts that the contents of Supplier factory packaged goods may not be checked by the Purchaser at time of receipt, but will be checked at time of installation. Claims for damaged and/or defective goods, items short delivered and/or incomplete goods may be made at that time.

7.3 End Customer Claims: The Supplier also accepts that claims may be made by the Purchaser for defects at any time within a reasonable period of the end customer becoming aware of such defects.

8. TITLE AND RISK

8.1 Title: Title in the Goods passes to the Purchaser on delivery or as stipulated in the Order.

8.2 Risk: The Supplier bears all risk of loss and damage to the Goods until the Goods have been accepted in accordance with clause 8.3.

8.3 Acceptance: Where acceptance tests are required for Goods and are set out in an Order, acceptance of the Goods delivered will be subject to completion of the acceptance tests by the Purchaser. Where no acceptance tests are required, the Purchaser will have the right to inspect the Goods after delivery and acceptance will take place if the Goods are satisfactory to the Purchaser on inspection, or, if no inspection is made, the Goods will be accepted on the earlier of (a) when they have been taken into final and beneficial use by the Purchaser or (b) twenty eight (28) days after delivery.

If the Purchaser is not satisfied that the Goods are delivered in accordance with the Order, the Purchaser may in its absolute discretion (without limiting any other rights or remedies available to the Purchaser):

(a) reject them in whole or in part with no further liability to pay for the Goods. Any sums paid will be returned to the Purchaser on demand within ten (10) days of rejection; and/or

(b) give notice to the Supplier to repair or replace the Goods without delay at the Supplier's expense and risk.

Title and risk in the rejected Goods immediately re-vests in the Supplier. The Supplier is liable for all loss incurred by the Purchaser due to the rejection of the Goods. The Supplier must, at its cost, remove from the rejected Goods any of the Purchaser's intellectual property (including names, logos, etc) or any other distinguishing features such as name or symbols.

8.4 No Waiver: The Purchaser's acceptance does not limit or waive the Purchaser's rights to claim from the Supplier for any defect in the Goods or failure of the Goods to comply with the warranties, requirements or Conditions of the Order.

8.5 No Security Interests: Nothing in the Contract creates a Security Interest in the Goods for the Supplier. The Supplier must not, in any circumstances, register or seek to register an interest in the Goods under the *Personal Property Securities Act 2009* (Cth).

9. GST

9.1 Defined Terms: Any expression used in this clause or clause 3 and which is defined in the *A New Tax System, (Goods and Services Tax) Act 1999* (Cth) has the same meaning in clause 3 and this clause 9.

9.2 GST Exclusive: With the exception of any amount payable under this clause 9, unless otherwise expressly stated, all amounts stated to be payable by the Purchaser in these Conditions are exclusive of GST.

9.3 Tax Invoices: If GST is imposed on any supply made under or in accordance with these Conditions, the recipient of the taxable supply must pay to the supplier an additional amount equal to the GST payable on or for the taxable supply. Payment of the additional amount will be made at the same time as payment for the taxable supply

is required to be made in accordance with these Conditions, subject to the provision of a tax invoice by the supplier to the recipient.

9.4 GST Registered: If the Supplier is registered for GST it must raise and provide to the Purchaser GST compliant Tax Invoices and Adjustment Notes (accounts) in accordance with *A New Tax System (Goods and Services Tax) Act 1999* (Cth) and as interpreted by GST Rulings and Determinations made by the ATO.

9.5 Not GST Registered: If the Supplier is not registered for GST, it agrees to include its ABN on all invoices and credit notes. Failure by the Supplier to quote its ABN on its invoices may result in the Purchaser withholding part payment at the top marginal tax rate (plus Medicare Levy) of the total invoice value and remitting this to the ATO as per legislated taxation requirements (PAYG system).

10. SUPPLIER WARRANTIES AND INSURANCES

10.1 Goods Warranties: The Supplier warrants and undertakes that the Goods:

(a) are new and unused;

(b) are of acceptable quality and fit for expected use and purpose, fit for sale to the end customer and fit for any purpose held out by the Supplier or made known to the Supplier in writing at the time the Order is placed;

(c) are free from defects in design, material and workmanship;

(d) are of sound design;

(e) are in accordance with the relevant Australian Standards;

(f) will be labelled, marked and packaged in accordance with all applicable laws, and not misbranded or mislabelled;

(g) not be subject to any mortgage, charge, lien, encumbrance, retention of title or other security interest;

(h) are safe, not a risk to human health and not emit or contain any contaminant or hazardous substance;

(i) are free from encumbrances;

(j) will meet the requirements of the Order, including all specifications contained in the Order;

(k) comply with all laws and regulations in the place where the Purchaser is located;

(l) include appropriate and correct warning and instructions; and

(m) comply with any representations, descriptions, samples or other specifications provided by the Supplier in connection with the Goods, including as to quality, function, performance or design.

10.2 Supplier Warranties: The Supplier represents and warrants to the Purchaser that:

(a) the Supplier holds all consents, approvals, permits and licences necessary for the manufacture (if applicable), storage and/or supply of the Goods;

(b) any intellectual property rights or other proprietary rights of any other person will not be infringed by such supply or the Purchaser's on-sale or use of the Goods; and

(c) its financial condition is stable and sufficient to enable it to perform its obligations under this Agreement.

10.3 Accreditation & Markings: All Goods which are classified by Standards Australia must be accredited to the

relevant standard and carry the current Standards Australia mark or watermark and license number. Goods must also be marked with Supplier identification.

10.4 Consumer Guarantees: Where the Purchaser on-sells the Goods to a consumer, the Supplier will be liable for all claims, costs, losses or damages that the Purchaser may be responsible for to the consumer under applicable consumer guarantees law in respect of those Goods.

10.5 No limitation: The warranties provided in clauses 10.1 and 10.2 are in addition to any obligations that the Supplier owes to the Purchaser that are implied by law, trade, usage or otherwise. The provisions of this clause 10 will survive termination of the Order and/or Contract, howsoever arising.

10.6 Insurance: The Supplier warrants that it holds and will maintain:

- (a) public and products liability insurance in relation to all supplies to the Purchaser with a reputable insurer for an amount not less than \$20,000,000 in respect of any one claim; and
- (b) transit insurance for not less than the full replacement value of the Goods.

The Supplier agrees to provide copies of current certificates of currency for the public and products liability insurance referred to in this clause when requested by the Purchaser, detailing the policy number and the amount of insurance cover.

11. PRODUCT LIABILITY

11.1 Supplier Indemnity: The Supplier hereby indemnifies the Purchaser for any loss, costs, damages, expenses and injury to property or persons resulting from, arising out of or in connection with a breach by the Supplier of the Contract and/or any use or resupply by the Purchaser of the Goods (including breach of the quality warranties set out in clause 10). In the event that a warranty claim requires the Purchaser or a customer of the Purchaser to repair, replace or reinstall the Goods, the Supplier agrees that all costs relating to or arising out of the required work or replacement will be at the Supplier's expense.

11.2 Warranty Claims: In the event of a warranty claim by the Purchaser or a customer of the Purchaser, the Supplier agrees, where possible, to inspect the site of the installation within twenty-four (24) hours of the Supplier being notified of the warranty claim. The Supplier also agrees to respond with a written report to the customer and the Purchaser within five (5) Business Days of the warranty claim notifying the Purchaser and the customer of the Supplier's decision in relation to the warranty claim.

The Purchaser may, at its option or if requested by the Supplier, inspect the site of the installation of the Goods that are the subject of a warranty claim. The Supplier agrees to reimburse the Purchaser for the Purchaser's reasonable costs for conducting such inspection.

12. AUSTRALIAN CONSUMER LAW

12.1 Compliance Essential: It is an essential term of these Conditions that the Supplier complies with the provisions of the Australian Consumer Law. Without limiting that obligation in any way, the Supplier must comply (and ensure that any manufacturer or other supplier complies) with Section 102 of Schedule 2 of the *Competition and Consumer Act 2010* (Cth) and Regulation 90 of the *Competition and Consumer Regulations 2010* (Cth), in relation to any warranty provided by the Supplier, any third party supplier, or the manufacturer of the Goods. To the extent permitted by law, the Supplier indemnifies, and

keeps the Purchaser indemnified against any loss, cost, penalty or claim made against the Purchaser that arises out of or relates to a breach of this clause by the Supplier.

13. SUPPLIER RESPONSIBILITIES

13.1 Compliance with the Order: The Supplier will provide the Goods to the Purchaser in accordance with the Order.

13.1 Health, Safety and Environment: The Supplier will:

- (a) at all times comply with all directions and applicable laws in the place where the Purchaser is located, including but not limited to those directions, laws and regulations relating to health, safety and environment which are relevant to any of the Goods;
- (b) notify the Purchaser as soon as it becomes aware of any health and safety hazards or issues which arise in relation to the Goods in which the Purchaser will have an interest, and must provide the Purchaser on demand with copies of any reports, documents or other material in relation to those safety hazards or issues.

13.2 Employees and contractors: The Supplier will at all times be responsible for its employees, agents and sub-contractors and will ensure that they, when on the Purchaser's site (or the Purchaser's customer's site), are made aware of and comply with rules, regulations and requirements of that site, copies of which will be provided by the relevant site manager. The Purchaser will have the right to refuse access to its site to any of the Supplier's employees, agents and sub-contractors who, in the reasonable opinion of the Purchaser, is not a fit and proper person to have access to the site, or who refuses to comply with the site rules.

14. ROAD TRANSPORT LEGISLATION

14.1 Supplier Obligations: The Supplier must:

- (a) comply, and ensure that all of its employees, workers, agents and subcontractors comply with all laws that apply to the transport of goods by road including but not limited to mass, loading, dimension, fatigue management requirements and speed compliance requirements of the Road Transport Legislation;
- (b) establish, implement and maintain appropriate policies, procedures and business practices to ensure its business practices comply with the requirements of the Road Transport Legislation.

15. CONFIDENTIALITY AND INFORMATION

15.1 Confidentiality: The Supplier agrees to keep confidential all of the Purchaser's information concerning or arising from the performance of the Order or otherwise provided by the Purchaser to the Supplier. This clause does not apply to information which is lawfully obtained from a third party who does not owe an obligation of confidentiality to the Purchaser, is public knowledge, is already known or is otherwise independently developed by the Supplier.

15.2 No advertisement: The Supplier will not advertise itself as supplying goods and/or services to the Purchaser without the Purchaser's prior written consent. The obligations of this clause 14 will remain in force notwithstanding completion, cancellation or termination of the Order.

16. TERMINATION

16.1 Material Breach: A material breach by the Supplier of any of the terms of these Conditions will constitute an event of default. On the occurrence of an event of default the Purchaser may (without prejudice to any other remedy available to it) in its absolute discretion immediately

terminate the Contract (including the Order) by giving written notice to the Supplier.

16.2 Default: Without limiting the foregoing, the Purchaser may terminate the Contract or an Order pursuant to this clause, in whole or in part, if the Supplier:

- (a) fails to make delivery of the Goods within the time specified in the Order;
- (b) fails to replace defective Goods in accordance with these Conditions;
- (c) fails to comply with any other terms specified in the Contract; or
- (d) becomes insolvent, files or has filed against petition in bankruptcy, or makes an assignment for the benefit of creditors.

17. GENERAL

17.1 No assignment, subcontracting or advertising: The Supplier must not assign or subcontract its rights or obligations under the Contract without the Purchaser's prior written consent.

17.2 Relationship: The Supplier acknowledges that it is not the legal representative, agent, joint venturer or partner of the Purchaser for any purpose and it has no right or authority to assume or create any obligations of any kind or to make any representations or warranties, whether express or implied, for or on behalf of the Purchaser or to bind the Purchaser in any respect.

17.3 Waiver: No waiver of any breach of, or failure to enforce any provision of, the Contract by any party will in any way limit the right of such party thereafter to enforce and compel strict compliance with the provisions of the Contract.

17.4 Governing Law: The Contract will be governed by and construed in accordance with the laws of New South Wales. The parties submit to the non-exclusive jurisdiction of the courts of New South Wales.

17.5 Notice to Iplex: Notice to be given by the Supplier to the Purchaser may be delivered personally or sent by electronic transmission to the Purchaser's Supplier Manager at Iplex's address as follows:

Iplex Pipelines Procurement Department
Cnr South Pine & Johnstone Roads
PO Box 5160
Brendale QLD 4500
ipallcentralpurchasing@iplexpipelines.com.au

and unless the contrary is proved will be taken as delivered on the sixth Business Day following posting. Invoices and statements are deemed received by the Purchaser on the sixth Business Day after posting by ordinary prepaid post.

17.6 Notice to Supplier: Notice to be given to the Supplier by the Purchaser may be delivered personally or sent to the last address supplied by the Supplier and unless the contrary is proved will be taken as delivered on the sixth Business Day following posting.

17.7 Severance: In the event that the whole or any part or parts of any provisions in the Contract should be held to be void or unenforceable in whole or in part such provision or part thereof will to that extent be severed from that Contract but the validity and enforceability of the remainder of that Contract will not be affected.

17.8 Waiver: A party to the Contract may waive any term of the Contract at any time and will notify the other party in writing of any waiver.

17.9 Consequential Loss: Despite any other provision of these Conditions, neither party is liable to the other for any loss of profit, loss of revenue, loss of use, loss of business, loss of opportunity, loss of goodwill, loss of production or business interruption or any kind of indirect, special or consequential loss or damage.

17.10 Indemnities: Each indemnity provided under the Contract requires the Purchaser to mitigate its loss and the Supplier's liability will be reduced to the extent any loss or damage arises from or is in connection with any act or omission of a person other than the Supplier.

18. ANTI-CORRUPTION

18.1 Compliance: The Supplier and Purchaser agree to comply with the Anti-Corruption Law and must not commit any act or omission which causes or would cause it or the other party to breach, or commit an offence under, any Anti-Corruption Laws.

18.2 Supplier Warranty: The Supplier warrants and represents that it has not been convicted of any offence, and has not been the subject of any investigation or enforcement proceedings by any governmental, administrative or regulatory body regarding any offence or alleged offence, under Anti-Corruption Laws.