

1. FORMATION OF CONTRACT

- 1.1 A contract (“**Contract**”) is formed if we provide a purchase order to you (“**Purchase Order**”) and you accept it.
- 1.2 The Contract consists of the Purchase Order, any specific contract we already have in place with you as at the date of issue of the Purchase Order, and any specifications referred to in it and these Purchase Order Terms and Conditions. No terms or conditions sought to be imposed by you (e.g. terms in any tender, offer, counteroffer, proposal or invoice) will be incorporated, unless accepted in writing by us.
- 1.3 Unless otherwise agreed, the terms of any specific contract we already have in place with you as at the date of issue of a Purchase Order (**Specific Agreement**) are incorporated into and form part of this Contract. In the event of a conflict between the Specific Agreement and the Purchase Order Terms and Conditions, the terms of the Specific Agreement take precedence to the extent necessary.

2. SUPPLY

- 2.1 You will supply the Goods (meaning the goods stated in the Purchase Order) or Services (meaning the services specified in the Purchase Order) to us by the date and time stated in the Purchase Order or, if no date is stated for delivery of Goods or completion of Services, within a time period consistent with reasonably accepted industry practice.
- 2.2 The Goods must comply with the specification or description in the Purchase Order, be new and of recent origin, safe, free from defects and fit for any purpose specified in the Purchase Order and/or the Specific Agreement, if applicable.
- 2.3 The Services must comply with the specification or description in the Purchase Order, be performed safely, skillfully, diligently, on time and according to the agreed timetable, and by fully qualified, competent people.
- 2.4 All your documents, drawings and reports provided with the Goods or as part of the Services will be accurate, comprehensive and complete.
- 2.5 You must not, and you must ensure that your workers do not, endanger any person’s health or safety in connection with the performance of the Contract.

3. PRICE AND PAYMENT

- 3.1 Unless otherwise expressly agreed in writing, the price set out in the Purchase Order (“**Price**”) is fixed, not subject to adjustment

and includes all costs that may be incurred by you in performing your obligations, and all excise, duties and taxes (excluding GST).

- 3.2 We will pay the Price to you within 30 days of receiving a correct invoice.
- 3.3 If it is a taxable supply, we will pay to you GST in respect of it.
- 3.4 You must submit a tax invoice that includes the Purchase Order number; the Goods and/or Services supplied; the location for delivery of the Goods or Services and date of supply; the time spent (if the Services are charged by time); and any other details we have specified in the Purchase Order.

4. DELIVERY

- 4.1 Unless otherwise stated in the Purchase Order, you must, at your cost and risk, deliver the Goods at the time and at the location specified in the Purchase Order.
- 4.2 You must, at your cost, ensure the Goods are adequately packed. You must replace at your cost any Goods lost or damaged in transit.
- 4.3 You must provide sufficient documents to enable us to identify the Goods being delivered and the Purchase Order number.

5. QUALITY

- 5.1 If the Goods fail to comply with this Contract, we may (without prejudice to our rights) return them and you must (at our election) repair or replace the Goods, or pay us the cost of repairing or replacing the Goods plus reasonable costs incurred in returning them.
- 5.2 Satisfactory inspection and/or testing of the Goods does not relieve you of any of your obligations to perform the Contract.
- 5.3 You must ensure that all warranties applicable to the Goods that are relevant to the purpose specified in the Purchase Order and/or the Specific Agreement, or our intended use of the Goods of which you are, or should otherwise reasonably be aware, are transferred to us.
- 5.4 If the Services do not meet the requirements of this Contract, you must, on our request, promptly re-perform the deficient part of the Services at your cost. If the relevant part of the Services still does not meet the requirements of this Contract within 30 days of our request for re-performance of them, we may have that part of the Services re-performed by others and recover the reasonable costs of doing so from you.
- 5.5 Where we are a consumer under Australian Consumer Law, you make the following statement to us in accordance with Australian Consumer Law: *Our goods and services come with guarantees that cannot be excluded under the Australian Consumer*

Law. For major failures with the service, you are entitled:

- (a) *to cancel your service contract with us; and*
- (b) *to a refund for the unused portion, or to compensation for its reduced value.*

You are also entitled to choose a refund or replacement for major failures with goods. If a failure with the goods or a service does not amount to a major failure, you are entitled to have the failure rectified in a reasonable time. If this is not done you are entitled to a refund for the goods and to cancel the contract for the service and obtain a refund of any unused portion. You are also entitled to be compensated for any other reasonably foreseeable loss or damage from a failure in the goods or service.

6. INSURANCE

During the Term, you must effect and maintain insurance of a type, and to the levels, of a prudent supplier in your industry.

7. WARRANTIES

You warrant and represent to us that:

- (a) all information in brochures, quotes or tenders is accurate;
- (b) you have unencumbered title to all Goods and to the best of your knowledge, having made reasonable enquiries, use of them in accordance with the specifications applicable to them will not infringe the rights of any third party; and
- (c) you hold and will maintain during the Term all licences, permits and authorities required in order to perform the Contract.

8. INDEMNITY

8.1 Each party indemnifies the other party and its workers against all claims, liabilities, loss, damage (or penalties for any loss or damage) to persons or property if caused or contributed to by that party or its workers' negligence, misconduct or breach of this Contract. This indemnity is reduced to extent that the other party or its workers cause or contribute to such loss or damage.

9. INTELLECTUAL PROPERTY

9.1 Unless stated in the Purchase Order, all intellectual property produced under the Contract shall vest in us upon creation. You irrevocably assign to us (or will procure the assignment of) all intellectual property rights in any intellectual property developed in the course of your performance of the Contract.

9.2 Unless stated in the Purchase Order, you grant us an irrevocable, perpetual, royalty-free and fee-free, worldwide licence (with the right to sub-licence) to use any intellectual property rights in any material which was in existence

as at the date of commencement of the Contract and which was supplied to us, or is required by us in order to use intellectual property developed in the course of your performance of the Contract.

9.3 You indemnify us against any infringement by us or our licensees or assignees of third party intellectual property rights arising from use of intellectual property assigned or licensed to us under this clause, except to the extent that such use is not consistent with the Contract.

10. CONFIDENTIALITY

The parties must not disclose Confidential Information to any third party or use or reproduce it other than for the performance of the Contract. The parties must safeguard the Confidential Information. When the Contract ends, the parties must return or destroy the Confidential Information (except to the extent required to retain information by Law). In this clause **Confidential Information** means information belonging to one party which is disclosed to the other party in relation to this Contract and which was not already known by the other party or already in the public domain.

11. TERMINATION

11.1 If a party breaches an essential term of the Contract, the other party may give notice requiring the breach to be remedied within 14 days. If it is not remedied, the party giving the notice may terminate the Contract.

11.2 A party may terminate the Contract immediately by written notice to the other party if the other party is unable to pay its debts when they are due, or the other party is involved in insolvency proceedings or processes, and as a result the other party is unable to continue to materially perform its obligations under this agreement.

11.3 Either party may terminate the Contract on 30 days' notice in writing for any reason. If so, you must cease performing the Contract and minimize any arising loss. We will pay the Price on a pro-rata basis for work completed up until the date of termination, and if we issue the notice of termination under this clause 11.3, any costs that you unavoidably incur that arise from the termination.

12. MODERN SLAVERY

12.1 You warrant and represent to us that:

- (a) you conduct your business in a manner that is consistent with the principles of the *Modern Slavery Act 2018 (Cth)*; and
- (b) neither you, nor any of your personnel, suppliers or sub-contractors, have been investigated or convicted of any offence involving modern slavery (as defined in

the *Modern Slavery Act 2018 (Cth)*.

- 12.2 You will notify us as soon as practicable if you become aware of any actual or suspected modern slavery in a supply chain which has a connection with this Contract.

13. GENERAL

- 13.1 Both you and we acknowledge and agree that you are an independent contractor, and there is no joint venture, trust, employment, agency or partnership relationship between us. You do not have authority to contract with third parties on our behalf. You must not subcontract, and neither party may assign or novate, any rights or obligations in the Contract without prior written consent (which will not be unreasonably withheld).
- 13.2 We may contract with another party for, and you may provide another party with, similar supplies and no exclusive relationship exists.
- 13.3 Neither party may make public announcements in relation to this Contract without the prior written consent of the other party.
- 13.4 Subject to the Australian Consumer Law, the Contract is the entire agreement between us and you in relation to its subject matter. Any variation to the Contract must be agreed in writing by the parties.
- 13.5 The laws of South Australia apply and the courts of South Australia will be used to resolve any dispute.
- 13.6 Formal notices shall be sent to your address in the Purchase Order and to us at RAA, Level 6 RAA Place, 91 King William Street, Adelaide SA 5000, marked to the attention of the person named in the Purchase Order.
- 13.7 In this Contract, “**we**” or “**us**” is the Royal Automobile Association of South Australia Limited (ACN 677 371 274) (ABN 90 020 001 807) or such other wholly owned subsidiary of this entity as is as indicated on the Purchase Order, and “**you**” means the supplier stated in the Purchase Order.