



TERMS AND CONDITIONS OF TRADE FOR PRINT SERVICES SUPPLIERS

Effective Feb 2010

Purchase Order Terms & Conditions

1. Definitions and Interpretation

- a) **“Design & Creative Services”** means all services provided by the Supplier to GEON or to a GEON Client involving creative, design or graphic arts services and includes pre-press, digital graphics services, variable data manipulation, picture remodelling and photography services.
- b) **“FIS”** means free into store (i.e. includes delivery costs)
- c) **“GEON”** means GEON Group Australia Pty Ltd (ABN 75 110 488 125);
- d) **GEON Client** means any client of GEON to whom, at the direction of GEON, the Goods or Services the subject of this Order are to be provided.
- e) **“Goods”** means the objects or articles the subject of this Order;
- f) **“Intellectual Property Rights”** means all intellectual property rights at any time recognised by law, including patents, copyright, registered designs, trade marks, business names, moral rights, and any application or right to apply for registration of any of the foregoing rights;
- g) **“Order”** means the Purchase Order for Goods or Services and includes these Terms and Conditions of Purchase;
- h) **“Supplier”** means the person, firm, business, company or corporation from whom Goods or Services are ordered pursuant to this Order;
- i) **“Services”** includes all service provided to GEON or to a GEON Client and specifically includes but is not limited to repairs & maintenance, pre-press, manufacturing, data management, delivery, reporting, Design & Creative Services, digital services and electronic media services;
- j) Words in the singular include the plural and vice versa
- k) The words 'for example', 'including' and similar expressions are not used as nor are intended to be interpreted as words of limitation.
- l) Headings are for convenience only and do not form part of the interpretation of this Order.

2. Contract and Variation

- 2.1 This Order constitutes the entire contract between GEON and the Supplier and supersedes all previous communications and negotiations. No terms stated by the Supplier in accepting or acknowledging this Order will be binding on GEON unless expressly accepted by GEON in writing. The Supplier may not assign this Order without GEON's prior knowledge and written consent.
- 2.2. This Order may not be varied except by a written “Amendment to Purchase Order” signed by GEON.
- 2.3. This Order constitutes a contract between the parties and no further document or act will be required of the parties to be legally bound.

3. Quality of Goods and Standard of Service

- 3.1. The Supplier warrants that the Goods or Services will at all times be of acceptable commercial quality fit for the purpose for which they are required and intended, conform to their description and specifications, and be of merchantable quality. These warranties are in addition to any other warranties of service or guarantees given by the Supplier or that may be implied by law.
- 3.2. Services will be provided professionally, in accordance with best commercial practice, and with due skill, care and attention.
- 3.3. The Supplier will comply with the following requirements:
 - a) Goods will not be under or over supplied;
 - b) minimum order requirements will not be applicable unless specified in the Order;
 - c) the Goods or Services described in the Order will be supplied as per the specification. Alternative Goods or Services must be approved by GEON in writing before they are deemed acceptable;
 - d) the Goods or Services will not be defective, sub-standard, faulty, soiled, damaged, unusable or late;
 - e) the Supplier will maintain the quality of Goods or Services from the time of the order until delivery;
 - f) in the case of the provision of Services, the Supplier undertakes to rectify or redo any faulty work or Services at GEON's discretion, for a period of 12 months from the date of practical completion of the original provision of Services;

g) the Supplier will comply with all relevant laws, regulations and standards in the supply of the Goods or Services and will obtain any requisite licences or permits.

4. Delivery

4.1. The Supplier will deliver the Goods to the location specified in the Order between the hours of 8.00a.m. and 4.00 p.m. on any business day (Monday to Friday, excluding public holidays in New South Wales) unless other prior arrangements are made or alternate delivery instructions have been supplied by GEON.

4.2. The Supplier will ensure that::

- a) unless otherwise specified in the Order, the Goods are supplied in one delivery;
- b) the Goods are provided FIS unless otherwise specified in the Order;
- c) all Goods are packed in a way to ensure their safe and undamaged delivery to the location specified in the Order;
- d) where the Goods are delivered by the Supplier to a GEON Client on behalf of GEON, the Goods are delivered in packaging approved by GEON and with labelling detailing the order number and description of contents, items and quantity.

4.3. Time is of the essence in the delivery of Goods or Services. The Supplier will deliver the Goods or Services pursuant to the Order on the date and time specified in the Order (which is the essential date and time for delivery or performance of the Good or Service). If the Supplier fails to deliver the Goods or Services on the date and time as specified, GEON may;

- a) cancel the whole or part of this Order for fundamental breach of the Order;
- b) return the Goods to the Supplier at the Supplier's expense;
- c) seek damages as a result of the Supplier's late delivery; and/or
- d) order the Goods or Services elsewhere and seek damages for any loss suffered by GEON.

4.4. The Supplier must notify GEON upon delivery as per the Order.

4.5. An authorised representative of GEON (or where the Goods are being delivered to a GEON Client, an authorised representative of the GEON Client) at the address accepting delivery of the Goods must sign delivery documentation. If Goods are delivered and no signature has been obtained, the Goods may be considered undelivered and in that case GEON will not be responsible for such Goods.

5. Return of Goods

5.1. Notwithstanding the terms of any delivery documentation including the signature of GEON or a GEON Client, GEON may reject and return any Goods which do not comply with this Order (and in particular Clause 3.3) or which are otherwise unacceptable in the reasonable opinion of GEON.

5.2. The Supplier will accept return of any Goods in excess of GEON's requirements except for perishables (including foodstuffs) and Goods manufactured expressly for GEON (including printed materials) for which there is no alternative market.

5.3. Except for Goods returned under Clause 5.2, where the Goods are returnable the Supplier will bear the cost of return transportation and GEON may, without prejudice to any other rights under this Order or otherwise:

- a) obtain credit for the returnable Goods; or
- b) obtain replacement Goods from the Supplier; or
- c) source the Goods elsewhere and recover from the Supplier any additional cost or expense incurred; or
- d) terminate the Order in whole or in part and seek damages.

6. Title and Risk of Loss or Damage

6.1. The Supplier warrants that the Goods or Services purchased are free and clear of all liens and encumbrances and the Supplier has good and marketable title to the Goods.

6.2. All risk in the Goods remains with the Supplier until the Goods are delivered to GEON or to the address specified in this Order. This includes, but is not limited to, risk of loss or damage to the Goods or items connected with the provision of the Goods, including material supplied by GEON for delivery, or any third party material.

6.3. Where this Order relates to:

- (a) the servicing of equipment or property, the Supplier will bear the risk of loss or damage from the time of receipt by the Supplier of the items to be serviced until they are delivered and signed for in accordance with this Order;
- (b) Goods or Services to be provided to GEON or a GEON Client involving the creation of new Intellectual Property Rights or the use of existing GEON or GEON Client Intellectual Property Rights (**Relevant IPR**), title to the Relevant IPR is vested in, or remains with, (as the case may be) GEON or the GEON Client, as directed by GEON. GEON grants the Supplier a non-exclusive, royalty free licence to use, reproduce and modify the Relevant IPR to the extent necessary to provide the Goods and Services in accordance with this Order.

6.4. Where part payment for any partly completed Goods is made by GEON, the title to and property in such Goods (including materials or parts to be used in their manufacture) will pass to GEON. Risk of loss will remain with the Supplier.

7. Installation and Fitting

7.1 Where the Supplier provides work in connection with the installation or fitting of Goods, or where the presence of the Supplier or its servants, agents or contractors is required on GEON's premises or a GEON Client's premises;

- a) the Supplier will use, and will procure that each of its servants, agents or contractors uses, its best endeavours not to impede or

interfere with other work in progress on GEON's premises or the GEON Client's premises;

b) the Supplier, and each of its servants, agents or contractors, enters GEON's premises or the GEON Client's premises at its own risk. The Supplier will be liable for and indemnify GEON against any loss, damage, claim or liability incurred by GEON arising directly or indirectly out of the performance of work by the Supplier, its servants, agents or contractors, or the presence of any of them, on GEON's premises or the GEON Client's premises;

c) the Supplier will comply, and will procure that each of its employees, agents and contractors complies, with the safety regulations of GEON or the GEON Client and with the reasonable directions of GEON or the GEON Client.

8. Supply Independent of GEON

8.1 The Supplier performs all work independently of GEON and not as an agent or employee of GEON.

8.2 The Supplier will be liable for the safe supply of the Goods or Services.

9. Price

9.1. Unless otherwise specified in this Order all prices will be net of G.S.T.

9.2. Where, pursuant to this Order, a price is not specified or is variable, if the Supplier has failed to substantiate the price or the price appears unreasonable to GEON, GEON may refuse to accept the delivery or may accept the delivery and payment will only be made after confirmation of change to the price or by agreement between the parties.

9.3. GEON may reduce the amount payable on any invoice on a pro-rata basis where Goods are returned.

10. Invoice and Payment

10.1. The Supplier will invoice GEON at the agreed rate in the Order. All invoices must be addressed to GEON as per the address in the Order. All documents must include an applicable GEON Order Number and description and quantity of Goods delivered;

10.2. Invoices will be settled at the agreed price as specified in the Order and payment terms will be on terms as agreed between GEON and the Supplier, and may only be varied by consent in writing by GEON, irrespective of any pending counter claim.

10.3. GEON may offset against or deduct from any amount owing to the Supplier such amounts as may be due or payable by the Supplier to GEON whether pursuant to this Order or otherwise.

11. Indemnity

11.1 The Supplier will indemnify and hold harmless GEON, its officers, employees and agents from all liabilities, claims, losses, damages and judgements, including incidental costs and expenses:

a) for damage to or loss of property or injury, death or inconvenience to any person, arising from or in any way connected with, acts or omissions of the Supplier, or from defects in the Goods or Services provided by the Supplier; or

b) arising out of, or in connection with, infringement of patent, trade mark, copyright or the like regardless of where such action, claim or demand arises, by reason of the use of the Goods or Services purchased by this Order.

12. Termination

12.1 Without prejudice to any other rights GEON may have against the Supplier, GEON may terminate this Order in whole or in part in writing with immediate effect in the event of any of the following:

a) the supplier enters into liquidation, is presented with a winding up application, has appointed a receiver and/or manager or is unable to pay its debts;

b) the supplier's conduct in GEON's opinion, acting reasonably, is prejudicial to the interests and operations of GEON; or
c) the supplier breaches any of the terms or conditions of this Order;

d) the supplier assigns or sub-contracts this agreement in whole or part without the prior written consent of GEON; or

e) the supplier ceases or threatens to cease to carry on its business.

12.2 Waiver by GEON of any specific default by the Supplier or failure by GEON to cancel this Order or any part thereof when a right of cancellation arises, does not constitute waiver by GEON of any of the rights pursuant to this Order.

13. GEON's Property

13.1. All GEON property or GEON Client property, for example, designs, data, samples, blue prints, plans, drawings, specifications, film and cutting forms (**Relevant Property**) furnished by GEON to the Supplier (whether or not such Relevant Property is associated with the provision of a Good or Service) remains the property of GEON or the GEON Client, as the case may be. Any Relevant Property or any substantial portion or description of any Relevant Property may not be produced or reproduced in any material form without authority in writing by GEON.

13.2. The Supplier will keep confidential the content and nature of all Relevant Property and will not disclose its content or nature to third parties, except with the express written permission of GEON, which may be withheld by GEON or granted by GEON subject to conditions.

13.3. Upon conclusion or cancellation of this Order the Supplier will return all Relevant Property to GEON, including any finished or unfinished Goods that incorporate any Relevant Property.

13.4. Both during and after this Order, the Supplier will not manufacture for commercial use any Goods that incorporate or are based

on or derived from any Relevant Property, other than pursuant to another Order from GEON, nor furnish to third parties any related Goods or samples.

14. Advertising

14.1 The Supplier will not, without first obtaining the written consent of GEON, in any manner advertise or publish the fact that the Supplier has contracted with GEON for the supply of Goods or Services.

15. Client Protocols

15.1 Where the Goods or Services are supplied to a GEON Client and delivered by the Supplier on behalf of GEON, the Supplier will not solicit business directly from the GEON Client.

15.2. In the case of Design & Creative Services, following the expiration of a supply relationship between GEON and the Supplier, the Supplier may not initiate any direct contact with a GEON Client for a period of 12 months from the date of expiration of the supply relationship, except with the express written permission of GEON, which may be withheld by GEON or granted by GEON subject to conditions.

15.3. Where the Goods or Services are supplied to a GEON Client and delivered direct to the GEON Client, the Supplier will represent the delivery as a delivery for GEON in accordance with GEON labelling requirements.

16. Severability

16.1 If any of the provisions of this Order shall be deemed invalid or unenforceable they will be severed from the Order. This shall not render the entire Order or the remaining provisions of the Order unenforceable or invalid. GEON and the Supplier agree to negotiate replacement language for such invalid or unenforceable provisions that comes closest to the original meaning of such provision without being invalid or unenforceable.

17. Governing Law

17.1 This Order is governed by the laws of the State of New South Wales, Australia. The parties submit to the non-exclusive jurisdiction of the courts of New South Wales and any court hearing appeals from those courts.