

## GENERAL TERMS AND CONDITIONS OF PURCHASE

Unless otherwise agreed by the parties in writing, these Terms apply to all Orders placed by Buyer whether relating to a purchase or purchases, the rental of goods or the provision of services.

### 1. Definitions:

**Background Intellectual Property** means any Intellectual Property which is in existence at the time of the Order or is subsequently brought into existence otherwise than as a result of the performance of the Order and is embodied in, attached to or is otherwise necessarily related to the functioning and/or operation of the Supplies.

**Buyer** means Thomas Global Systems Pty. Ltd (ABN 30 168 134 414), Thomas Global Systems (Aerospace) Pty. Ltd (79 164 143 300), Thomas Global Systems (Defence) Pty. Ltd (ABN 21 164 180 321), Thomas Global Systems (IP) Pty. Ltd (ABN 51 164 142), Thomas Global Systems (Shared Services) Pty. Ltd (ABN 58 164 521 993), Thomas Global Systems LLC, or any of their related bodies corporate (as defined by the *Corporations Act 2001 (Cth)*), as specified in the Order.

**Foreground Intellectual Property** means any Intellectual Property (other than Background Intellectual Property) created in the performance of the Order.

**GST** means any goods and services tax, value added tax or sales tax imposed on the sale or supply of goods, services and rights including but not limited to a tax imposed by the *A New Tax System (Goods and Services Tax) Act 1999 (Cth)* and the related imposition Acts of the Commonwealth.

**Intellectual Property** means any registered or unregistered intellectual and industrial property rights recognized by any law including but not limited to patents, utility models, copyrights, rights in relation to an circuit layout, authors' rights, domain names, know-how, drawings, logos, plans, any sort of data, technical notes, prototypes, processes, methods, algorithms, any technical-related documentation, any software, registered designs and other designs.

**Order** means any purchase order placed by the Buyer for the purchase of Supplies and any other documents referenced therein and to which these Terms shall apply, including all information provided by Buyer to the Seller supplementary to the Order and any variation agreed to by the parties.

**Specifications** means (in order of priority) (a) any description of or representation about the Supplies provided to Buyer or referred to in the Order, and (b) the Seller's published specifications for the Supplies.

**Seller** means the person or entity supplying the Supplies as set out in the Order and includes their personal representatives, survivors and permitted assigns.

**Supplies** means any goods, software and/or services supplied under the Order (including all information required from the Seller under the Order relating to the Supplies) or any other item(s) described on the face of the Order including but not limited to raw materials, incomplete or unfinished items, and spare parts.

**Terms** means these General Terms and Conditions of Purchase

**Warranty Period** means the warranty period specified on the face of the Order or, if no period is specified, a period of 12 months from Delivery.

**2. Orders:** Any provision of Supplies must be the subject of an Order issued by Buyer and signed by its properly authorized representative. The Seller accepts the Order by signing and returning a copy of the Order, or otherwise acknowledging the Order, commencing delivery of any of the Supplies, or signifying its acceptance in some other way within seven (7) days from the date of Order. If no acknowledgement is received with that period, the Seller will be deemed to have accepted the Order. By accepting the Order, the Seller acknowledges that it has received all information required to fulfil its obligations. Buyer reserves the right to cancel the Order in accordance with clause 16. In the event that the parties have negotiated, agreed and signed alternative terms and conditions for the Supplies (constituted by a Supply Agreement or Commitment Letter) such alternative terms and conditions prevail over the terms and conditions of this Order.

**3. Changes:** The Buyer may at any time, by a written notice, make changes to the Specifications, designs or drawings, samples or other description to which the Supplies are to conform, to methods or terms of shipment and packaging and to delivery times or place of delivery. If such change causes a significant increase or decrease in the cost of, or the time required for, the performance of any part of the work under this Order, the Seller and the Buyer shall agree an equitable adjustment to be made to the price or delivery schedule, or both, and the Order modified accordingly. If the Seller wishes to make a claim for an adjustment, it must make its claim in writing within thirty (30) days of the receipt of such notice and the Buyer agrees to promptly negotiate with the Seller an equitable settlement of such claim. Nothing in this clause 3 shall excuse the Seller from proceeding without delay to perform this Order as changed. Notwithstanding the fact that the Supplies may continue to conform to the Specifications, the Seller shall inform the Buyer of any actual or impending material change in the form or function of the Supplies. For clarity, any change in software version shall be construed as a material change.

**4. Packaging:** The Seller shall ensure that Supplies are adequately and securely packed and conform with the Buyer's packaging specification referred to in the Order and other instructions given by Buyer from time to time, if any, and comply with usual industry practice and applicable laws and requirements. The Seller shall replace or repair at its own cost or reimburse the Buyer with the cost of third party repair of any damage to Supplies resulting from improper packing irrespective of the point at which transfer of risk occurs.

**5. Delivery:** The Seller shall deliver the Supplies (or in the case of services, complete their performance) ("Delivery") at the time and place specified in the Order or in the case where the Order contains a delivery schedule then at the time and place specified for each part of the schedule. If no time is specified in the Order, then the Seller shall make Delivery at the earliest time possible consistent with normal execution of its business not incurring any exceptional costs. The Seller acknowledges that time is of the essence in the performance of the Order by the Seller. The Seller shall inform the Buyer promptly of any expected delay in Delivery. The Seller shall not deliver ahead of schedule unless authorized by the Buyer. Supplies not delivered on time may be rejected by Buyer and held (at the Seller's

risk) for the Seller's instructions or returned at the Seller's expense.

**6. Acceptance:** Buyer may test the Supplies within a reasonable time after delivery to determine whether the Supplies comply with the Specifications. Buyer must accept the Supplies if they comply with the Specifications. If the Supplies do not comply with the Specifications, Buyer may terminate the Order or require the Seller to promptly modify or resupply the Supplies so that they comply with the Specifications. Execution of a delivery document or payment by Buyer does not constitute acceptance by Buyer.

**7. Risk and Title:** Risk in the Supplies will pass to Buyer when the Supplies are delivered. Title in the Supplies (other than Supplies licensed under clause 10) will pass to Buyer on the earlier of acceptance in writing or of payment for the Supplies.

**8. Price:** The Prices are fixed and include all levies, duties, taxes (including GST), insurance, packaging and delivery costs. The Seller warrants that each price charged for the Supplies covered by the Order is no less favourable than the price charged by the Seller to its other customers of similar products in similar circumstances. The Seller agrees that any price reduction made in the Supplies covered by the Order subsequent to its placement but prior to payment will be applicable to it.

**9. Payment:** Unless otherwise agreed, the Seller may invoice Buyer on Delivery. Invoices are to be issued to the Buyer address appearing in the Order and are to include the Order number and identification details of the Supplies. The Seller must ensure that any invoice or other request or demand for payment constitutes a tax invoice that will enable Buyer to claim tax credits in respect of Supplies to which the invoice relates and acknowledges that no amount will be due and payable by Buyer in respect of any such supply unless Thomas has received from the Seller such an invoice. Buyer will pay the invoice (less any amounts due to Buyer from the Seller) within 45 days of receipt of a correctly rendered invoice. Buyer is entitled to withhold payment of any invoice to the extent that it relates to Supplies that do not meet the Specifications. Buyer reserves the right to query any invoice presented by Seller and to require correction of any error, even if the invoice relates to a payment already made or specifies a time limit for raising queries.

**10. Intellectual Property Rights:** Ownership in all Foreground Intellectual Property vests in Buyer. In the event that such rights cannot automatically vest in Buyer, Seller undertakes to do all things required by Buyer in connection with the transfer of such rights to Buyer. Ownership of all Background Intellectual Property remains unchanged. The Seller hereby irrevocably and unconditionally grants to Buyer, a royalty-free, non-exclusive, worldwide, perpetual license to use any Background Intellectual Property (including the right to sub-license) to the extent that it forms part of or is integral to the Supplies or other items created by Seller in relation with the provision of Supplies in connection with the Order.

**11. Warranties:** The Seller warrants that:  
(a) the Supplies: (i) conform to the Specifications; (ii) are of good and merchantable quality and fit for the purposes

for which Buyer proposes to use them; (iii) are free from defects in design, materials and workmanship; and (iv) correspond to any samples supplied by the Seller to Buyer; (b) the Supplies are free and clear of all liens and encumbrances and that the Seller will have good and marketable title to the Supplies; (c) the Supplies and the Seller's performance of this Order comply with all relevant legislation and regulations; (d) the Supplies and their use and supply will not breach any obligation of confidence or infringe any intellectual property rights of any person. These warranties are in addition to any other warranties or guarantees given by the Seller or implied by law and apply despite any inspection by Buyer or its agents and delivery of the Supplies. Buyer may assign these warranties in whole or in part to any of its related bodies corporate, customer, or end user of the Supplies.

**12. Breach of Warranty:** If the Seller becomes aware, or Buyer notifies the Seller, that any Supplies fail to comply with any of the warranties given under the Order, the Seller must, without prejudice to any other rights of Buyer: (a) in the case of the warranties provided under paragraph (a) of the Warranty clause, during the Warranty Period fix any non-compliance; and (b) in the case of any other warranty provided under the Order, promptly (at Buyer's option) (i) remedy that failure (including by replacing or resupplying the Supplies), or (ii) provide to Buyer a full refund of the price paid for the Supplies, or (iii) deduct in accordance with Buyer's directions the price paid for the Supplies from any amounts owing to the Seller. If the Seller fails to rectify a defect or non-conformance within the time specified by Buyer, Buyer may, without limiting the Seller's obligations under this Order, rectify or have rectified such defect or non-conformance and recover the costs from the Seller.

**13. Indemnity:** The Seller indemnifies Buyer against all losses and damages (on a full indemnity basis and whether incurred by or awarded against Buyer) that Buyer may sustain or incur as a result, whether directly or indirectly, of: (a) a claim that the Supplies or their use or supply breaches any obligation of confidence or infringes the intellectual property rights of any person; (b) a claim, demand, suit, action or proceeding by a third party arising from an act or omission of the Seller in connection with the Order whether negligent or not; or (c) without limiting paragraph (b), any act or omission of the Seller in connection with the Order resulting in or contributing to (i) claims by any third party against Buyer in respect of personal injury or death, or (ii) loss of or damage to Buyer's or a third party's physical property.

**14. Insurance:** The Seller must comply with any insurance requirements in the Order, but in any event, effect and maintain at its cost sufficient insurance to cover its various liabilities in connection with the Order. The Seller undertakes to insure and keep insured at all times the Supplies for their full replacement value with a reputable insurer and provide Buyer with a copy of the relevant Certificate of Currency upon request. Should the Seller be required to enter Buyer's premises or worksites to carry out any work related to the Order, the Seller must effect and maintain at its cost adequate workers' compensation insurance and public liability

insurance in sufficient amounts to cover its liabilities in connection with the Order.

**15. Assignment and Subcontracting:** The Seller must not assign the whole or any part of the Order. The Seller must not use any subcontractors for supply of the Seller without Buyer's prior written consent. If the Seller uses a subcontractor, the Seller remains liable for the subcontractor's performance.

**16. Termination:** Without prejudice to any other rights or remedies of Buyer, Buyer may terminate the Order in whole or in part and without liability if the Seller: (a) fails to deliver the Supplies or any part of the Supplies within the time or times nominated or agreed by Buyer; (b) breaches the Order; (c) becomes insolvent, bankrupt, goes into administration, receivership or liquidation, is made subject to any petition or proceedings for the Seller's compulsory winding up. The clauses "Breach of Warranty", "Indemnity", "Confidentiality", "Applicable Law" and any other term that by its nature is intended to survive termination, will survive termination of this Order.

**17. Export Control:** The Seller will ensure that any shipment, transfer or delivery of any Supplies to Buyer under this Order is in full compliance with applicable export regulations and whenever any such shipment, transfer or delivery requires an export licence or other authorisation under applicable export regulations: (a) the Order is conditional upon the issue of such licence or authorisation; and (b) the Seller will obtain such licence or authorisation at no cost to Buyer and in a manner that permits delivery of the Supplies by the delivery date specified in the Order; and (c) the Seller will provide a copy of the licence or authorisation to Buyer on receipt by the Seller. In the event that the licence or authorisation is delayed, withdrawn, not renewed or invalidated, Buyer may terminate the Order in accordance with clause 16. The Seller indemnifies and holds harmless Buyer and its customers against any liability or damage resulting from the Seller's non-compliance with this clause.

**18. Seller Requirements:** In carrying out its obligations under the Order, the Seller must comply with: (a) the Buyer's "Supplier Flowdown Requirements", a copy of which is available at <http://thomas-global.com/supplier-portal>; and (b) all applicable health, safety and environmental obligations and comply and ensure that its employees, representatives and subcontractors comply with all Buyer health, safety, environmental and site security policies. The Seller acknowledges it has received and reviewed Buyer's "Supplier Flowdown Requirements."

**19. Entire Agreement:** The Order contains the entire agreement between Buyer and the Seller in relation to the Supplies and may only be amended in writing signed by the parties. No confirmation, shipment, delivery document or representation will vary the Order.

**20. Confidentiality:** The Order and any information supplied to the Seller by Buyer or its related bodies corporate relating to the Order (whether in writing or otherwise) and treated by Buyer as confidential will be Buyer's confidential information unless Seller can show it is: (a) public knowledge (except as a result of a breach of the Order), or (b) in the Seller's lawful possession prior to its supply to the Seller. The Seller must keep Buyer's

confidential information confidential, safe and secure, not disclose it to any person (except personnel of the Seller who have a need to know and are subject to equivalent confidentiality undertakings to be enforced by the Seller), use it solely in connection with the Order and return it when it has performed all of the work under the Order or the Order terminates or expires. The Seller may not make any public statement about the Order unless it has first obtained written consent from Buyer.

**21. Waiver:** Waiver of any right arising under these Terms must be in writing and signed by the party granting the waiver.

**22. Severability:** If part or all of any clause of these Terms is invalid or unenforceable in any jurisdiction then it will be read down to the extent necessary to ensure that it is not invalid or unenforceable, but if that is not possible, it will be severed to the extent of the invalidity or unenforceability, without effecting the validity or enforceability of that provision in any other jurisdiction.

**23. Notices:** Notices must be given to a party at the address set out in the Order or as otherwise notified by the parties in writing.

**24. Furnished Equipment:** In the event Buyer provides equipment to the Seller, these remain the property of Buyer and are not to be modified, altered, damaged or used for any purposes other than for fulfilment of the Order. The Seller is responsible for their safe custody and proper maintenance while in its custody.

**25. Applicable Law:** These Terms are governed by the laws of the State of New South Wales, Australia, excluding the United Nations Convention on Contracts for the International Sale of Goods, and each party submits to the exclusive jurisdiction of the courts of that State.