

Terms and Conditions of Purchase

1. Definitions

“Company” means Operatix Pty Ltd ABN 18 614 008 132 or Euphorix Pty Ltd ABN 20 614 008 141 or any related body corporate of either of them.

“Confidential Information” includes but is not limited to the details of all Company operations, finances, and plans, as well as any designs, recipes, processes, patterns, drawings and specifications prepared, supplied or derived by or on behalf of the Company.

“Deliverables” means the Goods and/or Services to be supplied by the Supplier to the Company as identified in the Purchase Order.

“Goods” means all goods, materials, equipment, parts and any other ancillary activity provided by the Supplier to the Company identified in the Purchase Order.

“GST” means the Goods and Services Tax as defined in *A New Tax System (Goods and Services Tax) Act 1999 (Cth)*.

“Purchase Order” means any binding purchase commitment made by a duly authorised representative from the Company to the Supplier, whether conveyed verbally, written, email, computer generated order or any other means.

“Services” means the services to be provided by the Supplier to the Company identified in the Purchase Order.

“Supplier” means the person supplying the Goods and/or performing the Services as identified in the Purchase Order.

2. Entire Agreement

The Purchase Order, incorporating these terms and conditions, comprises the entire agreement between the Company and the Supplier and supersedes all prior agreements, representations, warranties or arrangements.

3. Precedence of Documents

Unless otherwise stated, the order of precedence of the following documents shall apply:

- a) the Purchase Order;
- b) these terms and conditions; and
- c) any other attached drawings or documents.

4. Acceptance, Alterations or Variations

- 4.1 Upon receipt of Purchase Order, the Supplier shall check it for accuracy. The Supplier shall acknowledge the Purchase Order by signing and returning the Purchase Order to Purchaser within five business days of its receipt. In the absence of such acknowledgment, the performance of the Purchase Order by Supplier shall constitute acceptance of the Purchase Order and these terms and conditions.
- 4.2 Alterations or variations to the Purchase Order, these terms and conditions or any other attached drawings or documents shall not be legally binding upon Company or Supplier unless agreed in writing by the parties.

5. Price and Payment

- 5.1 The price of the Deliverables shall be specified in the Purchase Order and cannot be varied without prior written agreement of the Company and Supplier.
- 5.2 Unless specified otherwise in the Purchase Order, all prices are fixed, not subject to escalation, are in Australian Dollars, inclusive of GST, fully inclusive of supply, delivery and mobilisation, includes all expenses incurred by the Supplier in relation to fulfillment of the Purchase Order, and inclusive of all other direct and indirect taxes, levies, duties, costs and charges.
- 5.3 Unless otherwise stated in the Purchase Order, the terms of payment are 30 days from end of the month in which the Company is in receipt of a correctly rendered and legally compliant Supplier's tax invoice and following acceptance of the Deliverables by the Company.
 - a) A correctly rendered invoice includes, as a minimum, the Purchase Order number or reference and is a tax invoice for the purposes of GST.
 - b) Company reserves the right to return to Supplier any invoices not deemed to be correctly rendered and retains the right to offset against any moneys payable to the Supplier against any sums owed by the Supplier to the Company.

6. Manufacturing, Packaging and Preservation

All Goods supplied by the Supplier shall be manufactured using all due care and skill and good workmanship and shall be fit for purpose. All Goods shall be packed as specified in the Purchase Order and if not specified shall be packed so as to avoid being damaged during transportation, loading and unloading.

7. Inspection and Testing

- 7.1 The Company is entitled to expedite, inspect and witness tests on the Goods at the Supplier's and any subcontractor's premises. The Supplier

must allow Company access at any time to the Supplier's and any subcontractor's premises for this purpose. The Supplier must make this a condition of any subcontract.

- 7.2 Upon request the Supplier shall provide all testing and quality assurance documentation and certification pursuant to the supply of the Goods or Services.

8. Delivery, Risk and Title

- 8.1 The Supplier is responsible for the delivery and all costs associated with the delivery of the Goods to the Company's premises or such other location that is specified in the Purchase Order.
- 8.2 Title to and property in the Goods immediately passes to the Company upon payment or delivery, whichever occurs first, and the Goods must be appropriately marked and identified as the property of the Company.
- 8.3 Risk in the Goods remains with the Supplier until delivery to the Company unless otherwise stated in the Purchase Order.

9. LICENCES, PATENTS, TRADEMARKS AND COPYRIGHTS

- 9.1 The Supplier shall at its cost obtain all requisite licences, permits and authorities required in performance of the Purchase Order and shall comply with all applicable laws and regulations in relation to the Goods and Services.
- 9.2 The Supplier warrants that the manufacture, sale or use of the Goods or Services will not infringe or contribute to the infringement of any patents, trademarks, designs or copyrights. The Supplier shall indemnify and keep the Company indemnified against any loss or damage (including all legal fees and costs) arising from breach of this warranty or prevention or hindrance of use of the Goods or Services.

10. Delays

Time is of the essence in the Supplier's performance of the Purchase Order. If it ever appears that the provision of Deliverables will not be met within the time specified, the Supplier must immediately notify the Company of any anticipated delay, in writing, with complete information regarding the cause and the earliest possible delivery date. In such event, the Company may (without prejudice to any other rights) do whatever is necessary to expedite the provision of the Deliverables at the Supplier's expense, including terminating the Purchase Order.

11. Warranty

- 11.1 The Supplier warrants that the Deliverables shall be free from faulty design, defects and workmanship, suitable for the purpose intended and conform to the Purchase Order requirements and any applicable laws and regulations. Supplier further warrants that the Goods are new and are of the specified quality.
- 11.2 These warranties are in addition to any statutory warranties applicable to the Deliverables.
- 11.3 If any part or aspect of the Deliverables fail or becomes defective within 12 months from the date the Deliverables were supplied to the Company, the Supplier must without delay and at no cost to the Company do all things necessary to remedy the defect or failure in the Deliverables. This can be by way or repair, replacement, modification or other means acceptable to the Company. If the Supplier does not do so, within a reasonable period following notice of the defect from the Company, then the Company will have the right to remedy the defect and recover costs so incurred from the Supplier.
- 11.4 If, during the term of the Purchase Order, and a further term of 12 months following completion of Services, the Company is of the view that the Services do not comply with the requirements of the Purchase Order then the Company may require the Supplier to re-perform the Services at the Supplier's cost within such time as the Company reasonably may request.

12. Liability and Indemnity

- 12.1 The Supplier must indemnify and keep indemnified, the Company, and its officers, employees and agents against all claims, demands, proceedings, liabilities, costs, charges and expenses suffered by the Company and its officers, employees and agents arising as a result from any act, neglect or fault of the Supplier, its officers, employees and agents related to its obligations under the Purchase Order.
- 12.2 The Company will not be liable to the Supplier for any indirect or consequential loss or damage under the Purchase Order.
- 12.3 The maximum sum, for which the Company may be liable to the Supplier under the Purchase order, is limited to the price of the Deliverables.

13. Insurances

- 13.1 In relation to Services, the Supplier shall take out and maintain:

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- a) comprehensive public liability insurance with a reputable insurance company where the policy has a limit of not less than \$10,000,000 per claim;
 - b) workers compensation insurance as required by law;
 - c) motor vehicle third party liability insurance as required by law;
 - d) insurance covering the Suppliers own property, equipment, materials owned, hired leased or used by the Supplier for the purpose of this Purchase Order; and
 - e) any additional insurance required by any applicable law.
- 13.2 In relation to Goods, the Supplier shall take out and maintain any policies of insurance specified in the Purchase Order or required by law.
- 13.3 Supplier will at the request of Company provide copies of all certificates of currency in respect of the insurances required to be taken out by Supplier.

14. Access

- 14.1 The Company will ensure that the Supplier has access to the site and will provide all of the agreed and specified support services, in order for the Supplier to supply the Services in accordance with the Purchase Order.
- 14.2 The Supplier must inform themselves and their employees of all applicable policies and rules pertaining to the site with which the Goods are to be delivered and/or installed or Services are to be performed. This includes but is not limited to attending site inductions and adhering to security processes and occupational health and safety requirements.
- 14.3 The Supplier shall ensure that their personnel and sub-contractors adhere to acceptable levels of behaviour and adhere to all site policies and rules. The Company reserves the right to issue a Notice for the immediate removal of any offending Supplier personnel and sub-contractors from the Company site, and the Supplier personnel must immediately comply with that Notice.

15. Force Majeure

Neither the Company nor the Supplier shall be liable to the other for default or delay in performing its obligations in respect of this Purchase Order caused by any occurrence beyond its reasonable control including, without limitation, fire, strike, disturbance, riot, war, Act of God and government order or regulation, provided that the party affected by such occurrence notifies the other party in writing within 7 days of the commencement of that occurrence, and the likely time for resumption of the Deliverables. When the party ceases to be affected by the force majeure event it must immediately recommence performing its obligations under the Purchase Order and notify the other party accordingly. However, if as a result of any such force majeure event, supply of all or part of the Deliverables is delayed more than 7 days after the delivery date specified in the Purchase Order the Company may, without penalty whatsoever, cancel this Purchase Order to the extent it relates to such delayed Deliverables.

16. Disputes

- 16.1 The Parties agree to work together to quickly settle Disputes that may arise. If any Dispute cannot be negotiated quickly and amicably, within 7 days of the Dispute arising, then the matter must be escalated to the respective Chief Executive Officers. If they fail to resolve the dispute within 10 business days then the matter will be referred to independent expert, acting as expert and not arbitrator, where the cost will be equally shared and the decision binding.
- 16.2 Either party may commence court proceedings in relation to any Dispute at any time where that party seeks urgent interlocutory relief.
- 16.3 In the event of any unresolved dispute the Supplier must ensure the continued progress of achieving Deliverables.

17. Cancellation or Suspension

- 17.1 The Company may cancel or suspend the Purchase Order at any time. If the Purchase Order is for standard stock Goods then the Company will only be required to pay for Goods shipped prior to cancellation or suspension. For Services, non-stock Goods, or Goods specifically manufactured to meet the unique specification of the Purchase Order, the Supplier shall cease manufacture or supply and do everything possible to mitigate any further cost. The Supplier may issue an invoice and upon payment, title and property to any material or incomplete Goods will pass to us.
- 17.2 If the suspension is subsequently waived then the Company will notify the Supplier in writing and both parties, in good faith, will negotiate a revised delivery timeframe commensurate with the initial Purchase Order.
- 17.3 Provided the Supplier is not in default, the Company shall pay the Supplier all of the costs incurred by them in relation to the Purchase Order provided that the cost is reasonably proportional to the value of Goods received, manufactured, or Services provided.

- 17.4 If the Supplier breaches the terms, conditions or warranties in the Purchase Order, and following receipt of our written Notice, fails to remedy the default, then the Purchase Order may be cancelled without penalty or loss to the Company.

18. Termination

- 18.1 Company may suspend performance of, or cancel, or suspend and then at any subsequent time cancel, the Purchase Order without any liability to the Supplier if the Company reasonably considers the Supplier is in breach its terms, or if the Supplier's business fails. The Supplier's business will be treated for this purpose as having failed if:
- a) the Supplier makes any voluntary arrangement with its creditors;
 - b) the Supplier become bankrupt;
 - c) the Supplier becomes subject to an administration order or goes into liquidation;
 - d) any third party takes possession of, or enforces rights over, any of the Supplier's property or assets under any form of security;
 - e) the Supplier stops or threatens to stop carrying on business;
 - f) the Supplier suffers any process equivalent to any of these, in any jurisdiction; or
 - g) Company reasonably believes that any of the events mentioned above is about to occur and Company notifies the Supplier accordingly.
- 18.2 Any right of cancellation or suspension under this section is additional to any rights available to the Company under the law of any relevant jurisdiction.

19. Confidential Information

Any information provided by the Company to Supplier which is noted as confidential, or the Supplier ought reasonably to know to be confidential, must not be disclosed to any third party by the Supplier without the prior written consent of the Company. The parties agree that this obligation shall survive termination or expiration of the Purchase Order. The Supplier shall take all reasonable steps to ensure the confidentiality of Company information, whether that information is marked as confidential or not.

20. Intellectual Property

- 20.1 Each party will retain the rights to any of its own background Intellectual Property that was in existence prior to the Contract.
- 20.2 To the extent that it relates to the Purchase Order, each Party grants to the other royalty free, non-transferable, non-exclusive right to use the background Intellectual Property.
- 20.3 Any new Intellectual Property has been created during the performance and in relation to this Purchase Order shall become the Company's property and the Company and the Supplier will have non-exclusive and royalty free right to use of it for the purposes of the Purchase Order.
- 20.4 Neither Party will do anything, whether by act or omission and whether directly or indirectly, which may prejudice or infringe the other party's background Intellectual Property.
- 20.5 Upon request the Supplier shall return all Company intellectual property within 5 business days.

21. Waiver

No failure or delay on the part of the Company in exercising any of its rights under the Purchase Order shall be construed as constituting a waiver of any such rights.

22. Governing Law

Unless otherwise specified, the Purchase Order will be governed and construed in accordance with the laws of the Western Australia and the parties submit to the exclusive jurisdiction of the courts of Western Australia.

23. Subcontracting and Assignment

The Supplier is not permitted to assign or sub-contract all or any part of its obligations under the Purchase Order without the prior written consent of the Company.

24. Compliance with Laws

The Supplier, when providing the Deliverables, must have regard to and use best endeavours to ensure that it complies with all relevant and applicable laws, regulations and policies.

25. GST

- 25.1 GST is payable on certain supplies of goods and/or services.
- 25.2 Words defined in the GST Law have the same meaning in these terms and conditions unless specifically defined in this clause.
- 25.3 All charges and amounts payable by one party to another under the Purchase Order are stated exclusive of GST.
- 25.4 For each taxable supply under or in connection with the Purchase Order:

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- a) The Supplier will be entitled to charge the Company for any GST payable by the Supplier in respect of the taxable supply.
- b) The Company must pay to the supplier the amount of the GST at the same time as the relevant charge applicable to the supply becomes payable under the Purchase Order.
- c) The Supplier must provide a valid tax invoice (or a valid adjustment note) to the Company in respect of the taxable supply.

26. Non-exclusivity

The Purchase Order, or these terms and conditions, do not confer on the Supplier any right to be a sole or exclusive supplier of the Deliverables.

27. Independent Supplier

The Supplier is an independent contractor and must exercise independent control, management and supervision in the performance of the Purchase Order. The Supplier is not the Company's agent in any way. The Suppliers' personnel will not under any circumstances be considered employees of the Company for any purpose. No business relationship of partnership, joint venture or other is formed by the parties as a result of the supply agreement, and the parties remain independent contractors at all times.

28. Notices

A notice is treated as having been duly given and received when delivered, in writing, to the other party's address. The addresses of the parties are as stipulated in the Purchase Order.

Terms & Conditions for Royal Show Specials

DIRECTORS CUT GRAND PRIZE

Buy any Limeburners or Giniversity spirit and go in the draw to win a 700ml bottle of Limeburners Single Malt Directors Cut Whisky – valued at \$370.

1. Must be over 18 years to enter.
2. Is not transferrable.
3. Grand Prize is to be collected from Limeburners & Giniversity in the Valley, 45 Hyem Road, Herne Hill.
4. By entering the competition you agree to receive our newsletter – you can unsubscribe at any time.
5. Grand Prize will be drawn on Monday 3rd October and winner will be notified immediately.
6. The judge's decision is final and no correspondence will be entered into.

SWAN VALLEY DAY OUT

Spend \$500 at Limeburners & Giniversity at the Royal Show and receive a \$50 voucher to use at Limeburners & Giniversity in the Valley.

1. You must be 18 years or older to enter and redeem this reward.
2. Is limited to the value entered on the face of the Voucher.
3. Must be redeemed on or before the expiry date (1st April 2023).
4. Is not transferrable and can only be redeemed by the person whose name appears on the voucher.
5. Can only be redeemed for coffee, food, cocktails, beer, wine or tastings at our Swan Valley venue.
6. Must be used in full and no credit or cash will be refunded if only part of the value is used.