



Patties Foods Limited Purchase Order Terms and Conditions

All Goods and/or Services are purchased by Patties Foods Limited subject to the following Purchase Order Terms and Conditions which shall prevail over all other terms and conditions, unless a separate agreement in writing in relation to the relevant Goods or Services has been executed by the parties Except where Patties Foods Limited has entered into a separate written agreement any terms and conditions other than these Purchase Order Terms and Conditions are expressly excluded to the maximum extent permitted by Law.

1. Supply of goods and services

The Supplier must supply the Goods and/or Services to Patties Foods Limited in accordance with the Agreement.

2. Price for goods and services

2.1 Patties Foods Limited agrees to pay the Price for the Goods and /or Services.

2.2 The Price excludes GST, but includes all packaging, transport, customs duty (and any other duties, taxes or levies), insurance, loading, unloading, handling, storage and administrative costs, up to the point of delivery.

3. Risk and title in Goods and Services

3.1 Risk in the Goods passes to Patties Foods Limited upon delivery of the Goods to Patties Foods Limited, Delivery occurs when a duly authorized representative of Patties Foods Limited signs a delivery receipt ("**Delivery**").

3.2 Title in the Goods passes to Patties Foods Limited upon delivery (in accordance with clause 3.1) or upon payment by Patties Foods Limited for the Goods, whichever occurs first.

4. Conditions as to quality of Goods and Services

4.1 The Supplier represents and warrants that the Goods and Services :

(a) comply with all Specifications;

(b) do not infringe any right of any third party (including, without limitation, any intellectual property right), or applicable Law, statute, regulation, code or rule;

(c) are fit for the purpose which the Supplier has been notified Patties Foods Limited intends to use them or for which they are commonly used;



(d) correspond with any description or sample the Supplier has previously provided to Patties Foods Limited;

(e) comply with Patties Foods Limited Environmental, Occupational, Health and Safety requirements and all other statutory environmental, occupational, health and safety requirements; and

(f) comply with all relevant legislation.

4.2 The Supplier represents and warrants that the Goods:

(a) are not defective and are of acceptable quality;

(b) where the Goods are intended for human consumption (or are an ingredient to be used in the manufacture of goods intended for human consumption):

(i) are fit for human consumption;

(ii) comply in all respects with all relevant provisions of all applicable food, health, competition and consumer, trade practices, weights and measures and other legislation in Australia (inc: FSANZ requirements);

(iii) are not adulterated or contaminated in any way; and

(iv) the Goods do not comprise and are not derived from any genetically modified organisms or products, except to the extent agreed in writing by Patties Foods Limited.

4.3 The Supplier represents and warrants that the Services will:

(a) be performed by appropriately qualified and trained personnel;

(b) be performed with due care and skill; and

(c) comply with all directives and orders given by Patties Foods Limited representatives, or procedures communicated by Patties Foods Limited, to the Supplier.

4.4 This clause does not purport to exclude, restrict or modify any warranty or guarantee which applies under legislation relating to the supply of Goods or Services.



5. Goods and Services which fail to meet standards

Without limiting any other remedy Patties Foods Limited may have, if the Goods delivered or Services performed do not meet or exceed the standards required in the Agreement, do not meet or exceed the Specifications or are otherwise unacceptable to Patties Foods Limited upon delivery and in relation to Goods, at any time during their intended useful life (the "**Non-conforming Goods and Services**"), Patties Foods Limited will not be required to pay for those Non-conforming Goods and/or Services. The Supplier must, at the Supplier's cost, if Patties Foods Limited requires the Supplier to do so, promptly remove any Non-conforming Goods from Patties Foods Limited's premises. The Supplier must at Patties Foods Limited's election either:

- (a) promptly replace the Non-conforming Goods and/or Services with Goods and/or Services which do meet the relevant standards or Specifications and which are acceptable to Patties Foods Limited; or
- (b) refund to Patties Foods Limited all money paid in respect of the Non-conforming Goods and/or Services.

6. Intellectual property

6.1 Nothing in the Agreement affects ownership of any intellectual property rights of the Supplier existing as at the date of the Agreement or subsequently arising in relation to the Goods and Services other than as specified in **clauses 6.2 and 6.3**.

6.2 If any of the Goods have been specifically designed for or requested by Patties Foods Limited (the "**Custom Works**") all intellectual property in, and relating to, the Custom Works will be Patties Foods Limited's property.

6.3 All intellectual property created by or on behalf of the Supplier in the course of providing the Services to Patties Foods Limited ("**Contract Intellectual Property**") will be Patties Foods Limited's property.

6.4 The Supplier assigns all intellectual property rights under **clauses 6.2 and 6.3** to Patties Foods Limited and reserve all Patties Foods Limited's intellectual property rights in any agreement which the Supplier enters into with any third party in relation to any Custom Works and/or Contract Intellectual Property.

7. Confidentiality

7.1 The parties must keep all Confidential Information secret and must not use that Confidential Information except as necessary for the purposes of the Agreement. Each party must store all Confidential Information in a way that minimises the risk of unauthorised access. In this **clause 7**, "Confidential Information" with respect to a party (a "**Receiving Party**") means:



(a) the existence and terms of the Agreement;

(b) any technical, scientific, commercial, financial or other information of or about the other party (the "Discloser") or any of its products, of which the Receiving Party becomes aware in connection with the Agreement and all information about the Discloser's business and business processes; and

(c) any documents, notes, records or other materials which include, identify or are based on anything referred to in clauses 7.1(a) and (b).

7.2 The parties' obligations under this clause 7 do not apply to any information which:

(a) is in the public domain as at the date of the Agreement or which subsequently comes into the public domain (other than because of a breach of any obligation of confidence owed to the Discloser); or

(b) the Receiving Party can demonstrate by evidence in writing either:

(i) was in the possession of the Receiving Party as at the date of the Agreement; or

(ii) subsequently comes into the possession of the Receiving Party through a third party who does not owe any obligation of confidence to the Discloser in respect of that information; or

(iii) the Receiving Party is required by Law to disclose.

7.3 Where the Supplier is the Receiving Party, the Supplier must promptly return all Confidential Information to Patties Foods Limited, or destroy it, if Patties Foods Limited asks the Supplier to do so, including any Confidential Information held by the Supplier in an information storage or retrieval system of any kind.

8. Termination

8.1 The Agreement may be terminated immediately by Patties Foods Limited if the Supplier breaches the Agreement, or at any other time by Patties Foods Limited by providing 2 weeks notice in writing to the Supplier. A fair and reasonable price will be paid for all agreed work in progress at the time of cancellation and subsequently Delivered (within the meaning given to that term in clause 3.1) to Patties Foods Limited. Patties Foods Limited will not be liable for any loss to the Supplier, including special, economic, indirect, consequential or punitive loss, whether or not foreseeable.

8.2 Termination of the Agreement will not affect the obligations of a party under clauses 4, 6, 7, 11, 12 and 13.2 of this Agreement, and any such obligations will survive termination of the Agreement.



9. Terms of payment

9.1 The Supplier must submit an invoice for all Goods and Services provided to Patties Foods Limited in a form acceptable to Patties Foods Limited. The invoice must specify the Purchase Order number to which the invoice relates. Patties Foods Limited will not be required to pay any invoice that does not specify a Purchase Order number or specifies an invalid Purchase Order number.

The Supplier must provide Patties Foods Limited with a valid Tax Invoice for any Taxable Supply it makes to Patties Foods Limited under the Agreement. Patties Foods Limited will not be required to pay the Supplier until the Supplier has provided a valid Tax Invoice to Patties Foods Limited.

9.2 Patties Foods Limited will pay the invoiced amount by the end of the final day of the calendar month immediately following the month of invoice if the invoice is received by Patties Foods Limited by no later than the 10th day of the calendar month, and in any other case Patties Foods Limited will pay the invoiced amount by the end of the final day of the following calendar month.

9.3 All invoices must be sent to Accounts Payable Department, Patties Foods Limited, P.O. Box 409, Bairnsdale, Victoria, Australia, 3875.

10. Insurance

The Supplier must obtain at its own expense product liability insurance of not less than \$20 million per event, public liability insurance of not less than \$20 million per event and, if Services are being provided, professional indemnity insurance of not less than \$20 million per event, and must provide Patties Foods Limited with satisfactory evidence of such insurance if requested by Patties Foods Limited to do so.

11. Indemnity

Without limiting any of Patties Foods Limited's other legal rights, the Supplier hereby agrees to indemnify and keep indemnified Patties Foods Limited, its related bodies corporate (as defined in the Corporations Act 2001), and its employees, agents, officers or contractors ("**Indemnified Persons**") against any loss, damage, claim, action or expense (including, without limitation, legal expense) which any Indemnified Person suffers in connection with any of the following:

- (a) a breach of the Agreement by the Supplier;
- (b) a failure by the Supplier to comply with its obligations implied by Law;



(c) any warranty or guarantee given by the Supplier under the Agreement or which applies under legislation relating to the supply of Goods or Services;

(d) any misleading or deceptive conduct by the Supplier;

(c) any failure to comply with any safety standard, or any product liability claim or product recall relating to the Goods;

(d) any fraud, wilful default, negligent act or failure to act, or any other omission, by the Supplier or any of the Supplier's employees, agents, officers or contractors;

(e) any act which is not authorised by the Agreement; and

(f) any third party claim arising from anything referred to in clauses 11(a) to (e).

12. GST

12.1 Where the Agreement requires a party to pay for, reimburse or contribute to any expense, loss or outgoing ("**reimbursable expense**") suffered or incurred by the other party, the amount required to be paid, reimbursed or contributed by the first party will be the sum of:

(a) the amount of the reimbursable expense net of input tax credits (if any) to which the other party is entitled in respect of the reimbursable expense ("**net amount**"); and

(b) if the other party's recovery from the first party is a Taxable Supply, any GST payable in respect of that supply.

13. Miscellaneous

13.1 Patties Foods Limited may transfer, assign, novate or otherwise encumber or deal with ("**dispose of**") the Agreement, or any right or obligation under it to any wholly owned subsidiary of Patties Foods Limited without the consent of the Supplier. A party must not otherwise dispose of the Agreement or any right or obligation under it or sub-contract any of its obligations under the Agreement, without the prior written consent of the other party. The Supplier will not as a result of any sub-contracting arrangement be relieved from the performance of any obligation under the Agreement and will be responsible and liable for all acts and omissions of a sub-contractor.

13.2 The Agreement is governed by the laws of Victoria. The Supplier irrevocably and unconditionally submits to the jurisdiction of the courts of Victoria for determining any dispute.



13.3 Patties Foods Limited requires that the Supplier possesses high ethical and environmental standards and social responsibility in its business practices and production supplies.

14. Additional Terms and Conditions for Contractors

14.1 Patties Foods Limited requires, and the Supplier must procure and ensure, that the Supplier's employees, agents and contractors entering, supplying the Goods or performing the Services to Patties Foods Limited's premises:

- (a) Not interfere with Patties Foods Limited's activities or the activities of any other person at the place of delivery as specified on the Purchase Order.
- (b) Be aware of and comply with and ensure that the Supplier's employees, agents and contractors are aware of and comply with
 - a. All applicable Laws;
 - b. All Patties Foods Limited's Site Standards and Procedures, to the extent that they are applicable to the supply of the Goods or the performance of the Services by the Supplier; and
 - c. All lawful directions and order given by Patties Foods Limited or any other person authorised by Law to give directions to the Supplier;
- (c) Perform in a safe manner and are properly qualified for, and skilled in, the performance of their tasks and do not prejudice:
 - a. Safe working practices
 - b. Safety and care of property; and
 - c. Continuity of work;
- (d) Provide all such information as Patties Foods Limited reasonably requires in connection with any statutory or Patties Foods Limited's Environmental, or Occupational Health and Safety investigation in connection with the supply of Goods or the performance of the Services;
- (e) On request by Patties Foods Limited, provide to Patties Foods Limited, and its employees, agents and consultants any information and assistance required to identify, evaluate, implement and report on any matter required by Law, including:
 - a. Producing written reports;
 - b. Recommending efficiency opportunities;
 - c. Collecting data;
 - d. Monitoring or metering;



- (f) Must ensure that the Goods are suitably packed to avoid damage in transit or in storage and labelled with the Purchase Order number, item number, destination, contents, quantity, date and method of dispatch and weight of each package.

Agreement means these Purchase Order Terms and Conditions and the Purchase Order.

Consideration, GST, input tax credit, Supply, Tax Invoice, and Taxable Supply have the meanings given to those expressions in the A New Tax System (Goods and Services Tax) Act 1999.

Delivery Address means the place for delivery as specified on the Purchase Order.

Goods and Services means the goods and services specified in the Purchase Order to be supplied by the Supplier to Patties Foods Limited.

Law means:

- (a) Commonwealth, State and local government legislation including regulations, by-laws, orders, awards and proclamations
- (b) Common law and equity;
- (c) Authority requirements and consents, certificates, licences, permits and approvals (including conditions in respect to those consents, certificates, licences, permits and approvals); and
- (d) Guidelines of Authorities with which the Contractor is legally required to comply.

Patties Foods Limited means Patties Foods Limited (ABN [62 007 157 182](#)).

Price means the price specified in the Purchase Order.

Purchase Order means the purchase order provided by Patties Foods Limited to the Supplier which is subject to these Purchase Order Terms and Conditions.

Specifications means all specifications provided by Patties Foods Limited to the Supplier in relation to the Goods or Services including those provided prior to the date of the Agreement.

Supplier means the supplier of the Goods and Services named in the Purchase Order, and any assignee, sub-contractor or delegate of the Supplier agreed by Patties Foods Limited.