

## Sykes Group Pty Ltd (“Sykes”) Purchase Order Terms and Conditions

### 1 Supply and Ordering of Goods and Services

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- (a) In consideration of payment of the Price by Sykes, the Supplier must supply to Sykes the Goods and perform the Services in accordance with the Purchase Order.
- (b) The Supplier will be deemed to have accepted the Purchase Order Terms and Conditions, on the earlier of: (i) commencing either the supply or fabrication of the Goods, or the performance of the Services; or (ii) on written acceptance of the Purchase Order within 2 Business Days of receipt of the Purchase Order.
- (c) If the Supplier's terms and conditions are supplied with the Goods or Services (including printed on consignment or delivery notes or other documents), those terms and conditions will be of no legal effect and will not constitute part of the Purchase Order (even if a representative of Sykes signs those terms and conditions or annexes the terms and conditions to the Purchase Order). The Purchase Order Terms and Conditions prevail over any of the Supplier's terms and conditions.
- (d) Where the parties have entered into a separate written agreement for the supply of the Goods or the performance of the Services, the terms of that agreement will prevail in the event of an inconsistency between the terms of that agreement and the Purchase Order Terms and Conditions.
- (e) Sykes may vary a Purchase Order in writing including increasing, decreasing or omitting part of the supply or changing the quality, character or extent of the supply or Specifications, in which case the Supplier must accept and fulfil the varied Purchase Order. If the parties cannot agree the price for a variation, Sykes must determine and pay a reasonable price.
- (f) Sykes may cancel a Purchase Order in writing in whole or in part in respect of the purchase of any undelivered Goods or unperformed Services, in which case Sykes is not required to pay for, and has no liability in respect of, the cancelled part of the Purchase Order.
- (g) The Supplier must comply with the packaging, labelling and branding requirements in the Purchase Order or as notified to it by Sykes. The Supplier must ensure that the Goods are properly packed, secured and labelled in such a manner as to reach the Delivery Location in a Satisfactory Condition.

### 2 Delivery

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- (a) The Supplier must, by the Delivery Date, deliver the Goods to the Delivery Location and perform the Services. The Goods and Services must be in a Satisfactory Condition. The Goods will be considered delivered when they have arrived at the Delivery Location in a Satisfactory Condition.
- (b) The Supplier must include a packing list with the delivered Goods and must mark the package with the Purchase Order number and any other documents requested by Sykes from time to time.
- (c) Subject to this clause, title to and the risk of loss and damage to the Goods will pass to Sykes on delivery.
- (d) The Supplier must notify Sykes as soon as it becomes aware of any potential delay in the Delivery Date. If the Supplier fails to deliver the Goods or perform the Services by the Delivery Date, then the Supplier must (on Sykes' written notice):
  - (i) pay to Sykes the Liquidated Damages (which the Supplier acknowledges are reasonable); and
  - (ii) where no Liquidated Damages are specified in the Purchase Order or to the extent that the Delay Expenses exceed the Liquidated Damages, reimburse Sykes for all Delay Expenses arising out of the Supplier's delay in delivering the Goods or performing the Services.

These payments are in addition to, and not in derogation of, any of Sykes' rights contained in these Purchase Order Terms and Conditions or at law.

- (e) If the Supplier fails to deliver the Goods or perform the Services by the Delivery Date, then Sykes may cancel the Purchase Order by notice in writing to the Supplier. If Sykes cancels the Purchase Order pursuant to this clause, then Sykes will not be required to pay any amounts to the Supplier in respect of the Purchase Order and the Supplier must refund to Sykes all amounts that Sykes has paid to the Supplier in respect of the Purchase Order. The Supplier must also reimburse Sykes for all Delay Expenses arising out of the Supplier's delay in delivering the Goods or performing the Services and for all reasonable expenses incurred by Sykes in obtaining the Goods or Services from a person other than the Supplier, to the extent that those expenses exceed the Price for the Goods or Services.

### 3 Acceptance of Goods and Services

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- (a) Sykes may test the Goods and Services after delivery. If it is satisfied they are in a Satisfactory Condition, then Sykes may give notice to the Supplier that it accepts the Goods and Services. If Sykes determines that the Goods or Services are not in a Satisfactory Condition, it may, within 5 Business Days after the delivery, notify the Supplier that it does not accept the Goods or Services, with accompanying reasons. Otherwise, the Goods and Services are deemed to be accepted within 5 Business days of delivery.
- (b) Notwithstanding acceptance, Sykes may at any time, at the Supplier's expense, return any Goods that are not in a Satisfactory Condition. The Supplier must, upon Sykes' request, promptly resupply the relevant Goods to Sykes.

### 4 Price and Payment

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- (a) Sykes must pay the Supplier the Price for the Goods and Services in accordance with these Purchase Order Terms and Conditions.
- (b) The Price includes the items set out in the Purchase Order, and, unless otherwise agreed, includes all costs incurred in fulfilling the duties of the seller as set out in the Incoterms 2010 (or latest revision) rule specified in the Purchase Order.
- (c) Unless expressly included, the Price excludes all GST payable in respect of the supply.
- (d) The Supplier must provide to Sykes an invoice for the Goods and Services. The invoice must be correct, must be dated no earlier than the Delivery Date, and must be a tax invoice (accepted by the Commissioner of Taxation as such).
- (e) Subject to the other terms of these Purchase Order Terms and Conditions, Sykes must pay the Supplier the Price for the Goods and Services supplied pursuant to a Purchase Order within 45 days after the end of the month in which an invoice that complies with this clause is dated.
- (f) Sykes is only obliged to pay for Goods and Services once it receives an invoice that is correct and that complies with these Purchase Order Terms and Conditions, and is not obliged to pay for Goods or Services that are not in a Satisfactory Condition or Goods or Services that have not been accepted by Sykes in accordance with clause 3.

### 5 Suppliers Obligations

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#### 5.1 General Obligations

The Supplier must, in supplying the Goods and performing the Services, at its cost:

- (a) **authorisations:** hold all relevant certifications, authorisations, registrations, permits and licences;
- (b) **ISO 9001:** unless otherwise agreed, comply with AS/NZS ISO 9001;
- (c) **due care and skill:** fulfil its obligations with the skill and care expected of a manufacturer experienced in the manufacture of goods similar to the Goods or a service provider experienced in the provision of services similar to the Services;

- (d) **provide access:** provide Sykes, its representatives and customers and any Authorities with reasonable access to the Supplier's facilities to inspect the manufacturing processes, test records, quality control procedures and records and storage facilities;
- (e) **retain quality records:** retain all quality and testing records in relation to the Goods for at least 15 years from the date of the record; and
- (f) **compliance by subcontractors and suppliers:** ensure that all of its subcontractors (if approved under clause 5.3(a)) and suppliers comply with clauses 5.1 and 5.2.

### 5.2 Obligations related to the Goods and Services

The Supplier must, at its cost:

- (a) **comply with Specifications, laws etc:** ensure that all Goods and Services supplied pursuant to the Purchase Order are in accordance with the Specifications, applicable laws, applicable Australian industry and safety standards (including standards notified by Sykes);
- (b) **quality assurance:** maintain a quality assurance system conforming with best practice in the manufacturing industry; the agreed PPAP Guidelines; and any other reasonable quality requirements advised by Sykes from time to time;
- (c) **Defective Goods:** immediately notify Sykes if it becomes aware of any defect or issue relating to the Goods or Services, and support and comply with any product recall program or quality inspection or audit initiated by Sykes or by any government agency;
- (d) **inform of Intellectual Property claims:** notify Sykes in writing immediately of any claim arising from the infringement or alleged infringement of any person's Intellectual Property relating to the Goods or Services;
- (e) **not admit liability:** not admit liability on behalf of Sykes in respect of any complaint, action, suit, claim, proceeding, demand or loss (**Claim**) relating to any of the Goods or Services;
- (f) **not incur liability for Sykes:** not resolve or settle any complaint or Claim relating to any of the Goods or Services which may result in Sykes incurring any liability;
- (g) **deal promptly:** deal promptly with all complaints or Claims relating to any of the Goods or Services so that they will not result in Sykes incurring any liability;
- (h) **cooperate:** in any dispute or proceedings involving a Claim in relation to any of the Goods or Services, provide such cooperation and assistance as reasonably required by Sykes, including consenting to being joined as a party to such proceedings; and
- (i) **comply with Sykes site standards:** not interfere with Sykes' activities at the Delivery Location and ensure that all of the Supplier's employees, agents and contractors comply with Sykes site standards and procedures and follow all reasonable directions of Sykes at the Delivery Location.

### 5.3 Miscellaneous

- (a) The Supplier may only subcontract the manufacturing of the Goods or performance of the Services with Sykes' prior written consent. Any subcontracting will not relieve the Supplier from its liabilities and responsibilities under these Purchase Order Terms and Conditions.
- (b) The Supplier must comply with the agreed PPAP Guidelines in the supply of the Goods. If they are amended, Sykes must make an updated version available to the Supplier.
- (c) Sykes and its auditors may, at reasonable times, enter premises occupied by the Supplier to ensure the Supplier has complied with these Purchase Order Terms and Conditions.
- (d) Sykes may change the Specifications from time to time by written notice to the Supplier. If a change to the Specifications results in a material increase or decrease in the costs incurred by the Supplier in supplying the Goods or Services, then either party may request a review of the Price.

## 6 Intellectual Property

- (a) The Supplier acknowledges and agrees that Sykes owns all rights, including the Intellectual Property rights, in the Sykes IP and any Improvements; the Supplier acquires no rights in the Sykes IP, any Improvements or any other material provided by Sykes under the Purchase Order; and the Supplier must not, without Sykes' written consent, use the Sykes IP or any Improvements for any purpose except for the manufacture of the Goods or performance of the Services for Sykes and the performance of its obligations under these Purchase Order Terms and Conditions.
- (b) The Supplier must not register or apply to register any rights in relation to the Sykes IP or any Improvements, and must not challenge or in any way impair the Sykes IP or Sykes' rights in any Improvement.
- (c) To the extent that any Intellectual Property rights relating to the Goods and the Improvements do not vest in Sykes, the Supplier grants to Sykes a perpetual, irrevocable, royalty free, non-exclusive licence to use and adapt the Goods and Improvements, incorporate the Goods and Improvements into other products, to sell, market, advertise and distribute the Goods and any products into which the Goods are incorporated, to provide information and instructions regarding the Goods to Sykes' customers and to grant Sykes' customers the same rights granted to Sykes in this clause 6(c).

## 7 Confidential Information

- (a) Each party must keep confidential all of the other party's Confidential Information, not disclose it without the other party's prior written consent, and ensure that such Confidential Information is disclosed only to those of its directors, officers, employees or agents who need (and then only to the extent that they need) that Confidential Information for the purposes of fulfilling their obligations or exercising their rights under these Purchase Order Terms and Conditions.
- (b) Each party must use its best efforts to cause all of its directors, officers, employees, agents, suppliers and subcontractors who have access to the other party's Confidential Information to observe all the obligations of confidentiality under this clause 7.
- (c) Nothing in these Purchase Order Terms and Conditions prohibits disclosure by a party of information which is in the public domain (other than as a wrongful act of that party) or required to be disclosed by law or any government agency having authority over a party, provided that before making any such disclosure, the party to the extent reasonably possible, provides the other party with sufficient notice to enable the other party to seek a protective order or other remedy.
- (d) Nothing in these Purchase Order Terms and Conditions prohibits disclosure by a party of information which is given to a party's legal or financial advisers for the purpose of obtaining legal or financial advice (as applicable).

## 8 Warranties and Indemnities

### 8.1 Supplier warranties

The Supplier represents and warrants to Sykes that:

- (a) **skill:** it has the skill, experience and personnel necessary to manufacture the Goods and provide the Services in accordance with the Purchase Order;
- (b) **timeliness:** it has sufficient storage facilities and quantities of Goods, spare parts and accessories necessary to enable it to fulfil the Purchase Order in a timely manner;
- (c) **no infringement:** the Goods, and the processes used by the Supplier to manufacture the Goods, will not infringe the Intellectual Property of any person; and
- (d) **title:** all Goods will be delivered to Sykes free of any lien, encumbrance or restrictions as to title.

## 8.2 Product warranty

- (a) The Supplier represents and warrants to Sykes that the Goods and Services will conform with the Specifications; be of merchantable quality and in good condition and fit for their intended use; and be free from defects for the duration of the Warranty Period. The Goods must be new unless otherwise specified by Sykes in writing.
- (b) This warranty is not intended to exclude or restrict any warranties, guarantees or implied terms or conditions under any laws, and will survive any delivery, inspection, acceptance or payment by Sykes.

## 8.3 Third Party Warranty

The Supplier must ensure that any third party who supplied any part of the Goods to the Supplier or performed any aspect of the manufacture of the Goods, provides to Sykes a manufacturer's warranty in respect of the Goods or part of the Goods that:

- (a) applies for at least the duration of the Warranty Period;
- (b) includes, without limitation, replacing Goods which are faulty or damaged, or which do not comply with the applicable laws and standards, or which are defective in any other way;
- (c) Sykes can pass on to its distributors and customers; and
- (d) survives any delivery, inspection, acceptance or payment by Sykes.

## 8.4 Warranty claims

- (a) Subject to clause 8.4(c), if Sykes believes that any of the Goods or Services do not comply with any warranty conditions stated in these Purchase Order Terms and Conditions during the Warranty Period, and notifies the Supplier, the Supplier must at its cost (including all delivery and packaging costs), within 15 Business Days after the date of the notification, at Sykes' option, either:
  - (i) re-perform the Services; or
  - (ii) collect the defective Goods from Sykes and indemnify Sykes against all damages and losses incurred by Sykes resulting from the delivery of the defective Goods.
- (b) Subject to clause 8.4(c), if the Supplier identifies that any of the Goods or Services do not comply with any warranty conditions stated in these Purchase Order Terms and Conditions during the Warranty Period, and notifies Sykes of the non-compliance, Sykes may direct the Supplier, at the Supplier's cost (including all delivery and packaging costs) to either:
  - (i) re-supply the Goods or re-perform the Services; or
  - (ii) remedy the defect in the Goods or Services; or
  - (iii) reimburse Sykes what it has paid in respect of the Goods or Services, including packaging and delivery costs,provided that any such remedy or action does not cause any delay in Sykes' production.
- (c) If the Supplier does not comply with clause 8.4(a) or any direction under clause 8.4(b) or if Sykes deems it appropriate, where Sykes believes that any of the Goods or Services do not comply with any warranty during the Warranty Period, Sykes may:
  - (i) remedy the defect in the Goods or Services itself at the Supplier's cost (including all delivery and packaging costs);
  - (ii) have a third party remedy the defect in the Goods or Services at the Supplier's cost (including all delivery and packaging costs); or
  - (iii) return the defective Goods to the Supplier and the Supplier shall indemnify Sykes against all damages and losses incurred by Sykes resulting from the delivery of defective Goods.

## 8.5 Supplier's Indemnity

The Supplier indemnifies Sykes, and must keep Sykes indemnified, against any loss, claim, action, damage, liability, cost, charge or expense of whatever nature and however occurring or incurred (**Loss**) which Sykes suffers, incurs or is liable for arising from or in connection with:

- (a) Any act or omission of the Supplier or its employees, officers, agents or contractors (**the Supplier Personnel**), including any

negligence, any wrongful act or omission, or any warranty given by the Supplier in connection with the Goods or Services;

- (b) Personal injury, including sickness and death arising out of any act or omission of the Supplier or the Supplier Personnel;
- (c) Damage to, or loss of, property arising out of any act or omission of the Supplier or the Supplier Personnel; or
- (d) Any breach of these Purchase Order Terms and Conditions by the Supplier.

This indemnity does not in any way reduce or qualify Sykes' rights at common law in respect of the events that are the subject of the indemnity.

## 8.6 Limitation of Liability

Sykes is not liable to the Supplier for any Loss which the Supplier suffers, incurs or is liable for in connection with the manufacture, delivery and supply of Goods or Services under these Purchase Order Terms and Conditions.

## 9 Insurance

- (a) The Supplier must effect and maintain with reputable insurers public liability insurance, workers compensation insurance and professional indemnity insurance as required under applicable laws, for \$20 million per event, together with any other insurance specified in the Purchase Order (**Insurances**).
- (b) The Supplier must punctually pay all premiums and other amounts necessary to maintain the Insurances, and must not do or permit to be done anything which may cause any of the Insurances to be cancelled, avoided or otherwise prejudiced.
- (c) If the Supplier fails to effect or maintain any Insurances as required by these Purchase Order Terms and Conditions, or to provide evidence to Sykes of such Insurances within 10 Business Days after a request by Sykes, Sykes may at its option obtain or maintain the Insurances and may recover the cost of doing so as a debt due from the Supplier; or set-off the premiums payable for the relevant Insurances against amounts payable to the Supplier.

## 10 Force Majeure

Where Force Majeure prevents or delays the performance of any obligation under these Purchase Order Terms and Conditions, that obligation is suspended as long as the Force Majeure continues. If a Force Majeure continues for a period of 3 months or more, the other party may (without affecting the accrued rights and obligations of the parties as at the date of termination) terminate the Purchase Order immediately by notice to the party claiming Force Majeure.

## 11 Termination

### 11.1 Termination by Sykes

Sykes may, without affecting the accrued rights and obligations of the parties as at the date of termination, terminate the Purchase Order immediately by notice to the Supplier if:

- (a) the Supplier breaches these Purchase Order Terms and Conditions and, in Sykes' reasonable opinion, the breach:
  - (i) cannot be remedied; or
  - (ii) can be remedied, but is not remedied by the Supplier within 10 Business Days after Sykes gives the Supplier notice of the breach;
- (b) the Supplier is in breach of its confidentiality obligations;
- (c) the Supplier closes or disposes of all or a substantial part of its business; or
- (d) there is a 'change of control' of the Supplier, for the purposes of the *Corporations Act 2001*.

### 11.2 After termination

When the Purchase Order is terminated, its terms continue to bind the parties for transactions relating to the Goods and Services entered into before termination. The Supplier must, within 10 Business Days after termination, pay Sykes any amounts it owes Sykes and must, at Sykes'

election, return or destroy all Sykes IP and other Confidential Information of Sykes.

## 12 Additional Terms

The parties agree to comply with any additional terms set out in the Purchase Order (if any). If there is a conflict between these terms and the additional terms set out in the Purchase Order, the additional terms take precedence.

## 13 General

### 13.1 Notices

Any notice or other communication to or by a party must be in writing and sent to an address of the party stated in the Purchase Order. A party may change its address details by giving notice to the other party.

### 13.2 Miscellaneous

- (a) Where the day on or by which something must be done is not a Business Day, that thing must be done on or by the next Business Day. A **Business Day** is a day excluding a Saturday, Sunday or gazetted public holiday in Perth, Western Australia.
- (b) Clauses 7, 8, 9 and this clause survive termination of the Purchase Order.
- (c) These Purchase Order Terms and Conditions are governed by the laws of New South Wales. The parties submit to the non-exclusive jurisdiction of the courts of New South Wales.
- (d) Sykes may assign its rights and obligations under these Purchase Order Terms and Conditions without the Supplier's consent. The Supplier may not assign any of its rights or obligations under these Purchase Order Terms and Conditions without Sykes' prior written consent, which may be withheld by Sykes at its absolute discretion.

### 13.3 Exclusion of UN Convention on Contracts

Each party agrees that the terms of the United Nations Convention on Contracts for the International Sale of Goods 1980 do not apply to these Purchase Order Terms and Conditions or any supply of goods made pursuant to it.

## 14 Definitions

The meanings of the terms used in these Purchase Order Terms and Conditions are set out below:

**Authorities** means any government agencies or authorities responsible for equipment or vehicle safety standards.

**Confidential Information** means any information concerning a parties' business including, but not limited to work procedures, processes, employees, customers, services, affairs or businesses, standards, technical knowledge, specifications, Intellectual Property, ideas, designs, programs, drawings, models, patterns, samples and associated information and whether owned by, licensed to or otherwise in the power, possession or control of that party, but excluding any information which is generally available in the public domain.

**Delay Expenses** means losses arising from the delay, including liquidated damages, service credits, penalties and other similar costs incurred by Sykes under its contracts with its customers arising from a delay by Sykes in meeting the timeframes set out in those contracts.

**Delivery Date** means the delivery date for the delivery of the Goods or performance of the Services specified in the Purchase Order or as notified in writing by Sykes to the Supplier.

**Delivery Location** means the place for delivery or performance specified in the Purchase Order or as notified in writing by Sykes to the Supplier.

**Force Majeure** means an act of God; war, revolution or any other unlawful act against public order or authority; an industrial dispute; a government agency restraint; or any other similar event which is not within the reasonable control of a party.

**Goods** means the goods described in the Purchase Order which the Supplier is to supply to Sykes.

**GST** means any applicable goods and services tax or value-added tax.

**Improvement** means:

- (a) any change, amendment, modification or improvement to the Sykes IP; and
  - (b) any other change, amendment, modification or improvement to the Goods, their design, product requirements, specifications or other technical details,
- made by or on behalf of Sykes, the Supplier or any subcontractor or personnel of the Supplier.

**Intellectual Property** means all intellectual and industrial property, and rights in relation to such property, existing anywhere in the world, including without limitation: copyright, rights in any invention, design, logo, trade mark and trade secret, patents, the right to have confidential information kept confidential, and any other rights of a similar nature; and any application for or right to apply for registration of any of those rights.

**Liquidated Damages** means the liquidated damages set out in the Purchase Order, if any.

**Price** means the price for the supply of the Goods and Services set out in the Purchase Order.

**PPAP Guidelines** means Sykes' guidelines for its Production Part Approval Process, as amended from time to time.

**Purchase Order** means the purchase order for Goods and Services issued by Sykes to the Supplier containing, amongst other things, a description of the Goods and Services and includes the Purchase Order Terms and Conditions.

**Purchase Order Terms and Conditions** means these terms and conditions and any amendment to these terms and conditions to which the parties may expressly agree in writing.

**Satisfactory Condition** means (a) Goods that are not damaged or defective and that comply with the Specifications; and (b) Services that are performed in accordance with the Specifications.

**Services** means the services or any part of the services, if any, described in the Purchase Order which the Supplier is to perform for Sykes.

**Specifications** means:

- (a) the specifications for the Goods and Services, standards and performance criteria set out in the Purchase Order;
- (b) any packaging and branding specifications set out in the Purchase Order;
- (c) any changes to those specifications, standards or criteria notified by Sykes to the Supplier; and
- (d) any other reasonable specifications which are specified by Sykes in writing.

**Supplier** means the supplier specified in the Purchase Order.

**Sykes IP** means the Intellectual Property rights in any designs, product requirements, specifications and other technical information provided by Sykes to the Supplier in relation to these Purchase Order Terms and Conditions; the Intellectual Property rights in and relating to the Goods and Services, their design, product requirements and other technical details; the Sykes name and logo and any other Intellectual Property rights set out in the Purchase Order.

**Warranty Period** means the longer of:

- (a) (i) in respect of Goods, the period commencing on the date of delivery of the Goods until 12 months after the date of first beneficial use by Sykes' customer of the products incorporating the Goods; and
- (ii) in respect of Services, 12 months from the date on which the Services are performed, unless some other period is stipulated in the Purchase Order; and
- (b) any period in respect of which Sykes is entitled under any laws to the benefit of any warranty, guarantee, undertaking, implied term or condition in respect of the Goods or Services.