

## VENTORA GROUP PTY LIMITED SUPPLIER TERMS AND CONDITIONS

VENTORA Group Pty Ltd or any of its related bodies corporate trading under various business names (all of which are referred to as the **Buyer**)

and

The entity the Buyer is purchasing products and/or services from (**Seller**)

### 1. Order

The purchase order terms and conditions set forth herein and on the purchase order to which these terms are attached, or are incorporated by reference (together with any specifications and other documents referred to herein or on the purchase order, collectively, this “Order”), are between the buyer identified in the purchase order (“Buyer”), and the seller identified in the purchase order (“Seller”). Buyer and Seller may be referred to below as a “Party” or the “Parties”. This Order establishes the rights, obligations, and remedies of Buyer and Seller that apply to an Order issued by Buyer for the purchase of Seller’s products and ancillary services (“Products”). This Order shall not constitute an acceptance by Buyer of any offer to sell, quotation or other proposal from Seller, even if referred to in this Order. Buyer expressly objects to and rejects any additional or different terms and conditions. These purchase order terms and conditions apply to this Order to the exclusion of all other terms and conditions. No additional or different terms or conditions, whether contained in Seller’s acknowledgement, invoice, or in any other document or communication pertaining to this Order, will be binding on the Parties unless such additional or different terms are accepted in writing by an authorised representative of Buyer. This Order shall be irrevocably accepted by Seller upon the earlier of: (a) Seller’s issuing any acceptance or acknowledgement of this Order; or (b) shipment of any part of the Products or other commencement of performance by Seller.

### 2. Price

The price for Products shall be the price set forth in this Order and shall not be subject to change. Prices are payable in the currency stated in this Order and are inclusive of all delivery charges, handling, export and/or import duties, and sales, use, value added, excise or similar taxes. If any of the foregoing taxes and fees are levied against Buyer, Seller shall reimburse Buyer for those taxes and fees. Seller warrants that the pricing for Products shall not exceed Seller’s offer to any third party for similar quantities of Products (or similar products). Seller shall promptly inform Buyer of any lower pricing levels for same or comparable Products, and the Parties shall promptly make the appropriate price adjustment.

### 3. Payment Terms

Amounts owed for Products are due sixty (60) days end of month, unless otherwise specified and agreed upon between the Buyer and Seller in writing, after Buyer’s receipt of an accurate invoice for Products, each such invoice to be issued on completion of delivery of the Products that are the subject of this Order and to contain such information as Buyer may notify in writing to Seller at any time, but including as a minimum the Order number. If Buyer in good faith disputes any invoice, Buyer may withhold payment of the disputed invoice until resolved by mutual agreement between the Parties. Invoices shall be in English.

### 4. Delivery

Time for delivery is of the essence of this Order. For the purposes of this clause only, Buyer may include Buyer’s customer. Seller shall deliver the Products on the date set forth in Buyer’s Order. Buyer may reject Products delivered prior to the date set forth in the Order and Products that fail to meet the warranties in this agreement. If Seller believes that delivery of the Products will be delayed, Seller shall immediately inform Buyer of the

anticipated delay, indicate the cause of delay, and use its best efforts to cure the anticipated delay. If Seller does not deliver Products in accordance with the delivery date on the Order, without prejudice to its other rights and remedies, (a) Buyer may reject the Products, and (b) Seller shall pay Buyer, at Buyer's option, either (i) the actual damages incurred by Buyer in respect of the delay, or (ii) four percent (4%) of the Order price for each day delivery is not made in accordance with the Order (up to 20% of the total price of the Order).

Seller shall adequately package all Products to prevent loss or damage during transit and shall comply with any packaging requirements provided by Buyer. Seller shall include a packing list with each delivery of Products that contains at least the following items:

- The Order number;
- Seller's part number;
- Buyer's part number;
- Quantity shipped; and
- Date of shipment.

Unless otherwise agreed, Products must be shipped DDP Seller's facility named in Buyer's Order (Incoterms 2010). Seller will bear all risk of loss, damage, or destruction to the Products, in whole or in part, occurring before delivery to Buyer at the designated delivery location. Title to Products will pass to Buyer upon delivery. Seller shall not retain any security interest in Products after the passage of title, and shall deliver the Products free of all liens and encumbrances.

Seller shall not deliver the Products the subject of this Order by instalments unless expressly agreed in writing by Buyer.

## 5. Inspection

The Products and Seller must meet the requirements set out in an applicable Order. Buyer may cancel this Order if Products or Seller fail to comply with the Order requirements.

Buyer may inspect Products and components of Products at any time prior to, during, and after delivery in order to assess Seller's work quality and/or compliance with this Order. Upon notice by Buyer, Seller will allow reasonable access to its facilities and assistance to Buyer, its customers, or representatives in order to inspect goods, materials and services related to the Products, including, raw materials, components, assemblies, work in process, tools and end products at all places, including sites where the Products are made, located, or the services are performed, whether at Seller's premises or elsewhere. Seller shall inspect the Products prior to delivery to ensure the Products meet all requirements of the Order and these terms and conditions.

If an inspection reveals the Products or components of Products fail or are likely to fail to comply with all requirements of the Order and these terms and conditions, Buyer may reject all or any portion of the Products. If Buyer rejects any portion of the Products, Buyer has the right, effective upon written notice to Seller, to: (a) rescind the Order in its entirety; (b) accept the Products at a reasonably reduced price; or (c) reject the Products and require replacement of the rejected Products. If Buyer requires replacement of the Products, Seller shall, at its expense, promptly replace the nonconforming Products and pay for all related expenses, including, but not limited to, transportation charges for the return of the defective goods and the delivery of replacement Products. Buyer may purchase substitute goods in lieu of the rejected Products and Seller shall indemnify Buyer on demand for any additional costs and/or losses incurred by Buyer in doing so. Buyer's, Buyer's representative's, and Buyer's customer's inspection of the Products and components of Products, or any of their approval of drawings, designs, or other documents, will not limit Seller's obligation to strictly comply with the requirements of the Order and these terms and conditions.

## 6. Representations and Warranties

Seller represents and warrants that:

- (a) it has full rights and authority to enter into and perform according to this Order and its performance will not violate any agreement or obligation between it and any third party;
- (b) Products will be free from liens, security interests, or other encumbrances caused by or on behalf of Seller;
- (c) Products will be of merchantable or satisfactory quality and fit for the purpose for which they are purchased;
- (d) Products will strictly comply with Buyer's specifications for the Products and all specifications and representations included in the Buyer Global Supplier Quality Manual (as amended or replaced from time to time. A copy of this manual can be obtained via your VENTORA procurement manager), drawings, designs, prototypes, samples, and Seller's catalogs, brochures, and other marketing materials;
- (e) Products on delivery and for a period of five (5) years after delivery will be free from defects in material, workmanship, and design;
- (f) Products and their use by Buyer will not infringe any third party's intellectual or industrial property rights;
- (g) Products will not require export licenses for Buyer to export or re-export the Products or any technology or data provided with the Products;
- (h) Products shall meet or exceed the highest industry standards applicable for the Products and shall comply with all applicable statutory and regulatory requirements; and
- (i) Seller warrants to Buyer and Buyer's customers that all information Seller provides Buyer pursuant to this Order will be complete and accurate.

If Products fail to comply with the warranties in this clause 6, without prejudice to Buyer's other rights and remedies, Seller shall, at Buyer's option, immediately repair, replace, or refund the purchase price of the affected Products, or otherwise rectify the failure as requested by Buyer, and Seller shall be liable for all reasonably associated costs and/or losses incurred by Buyer. Buyer may purchase substitute goods and services in lieu of requiring Seller to repair or replace the affected Products, and Seller shall indemnify Buyer on demand for any additional costs and/or losses incurred by Buyer in doing so.

Buyer may initiate and implement a recall of Products, or take any other action in its reasonable discretion, if recall or such other action is required by applicable law or any regulatory authority, or in Buyer's reasonable discretion, it determines that a recall or such other action is warranted based on the fact that that the Products create a potential safety hazard or breach of applicable law or regulation. Seller shall pay for all costs arising out of or related to any such recall or other action.

## 7. Compliance

Seller shall comply with all applicable state, national, and international laws, rules, orders, treaties, and regulations related to, without limitation, the production, manufacture, installation, sale, use, import, and export of all Products. Seller shall comply with all applicable environmental laws, health, and human safety laws, including without limitation, all laws dealing with and prohibiting child labor, human trafficking, and slavery, environmental protection, sustainable development, bribery and corruption. Supplier warrant it has adopted and implemented appropriate and effective policies to ensure compliance, including but not limited to: (a) the implementation of due diligence and data collection procedures reasonably designed to monitor compliance; (b) the establishment of internal review and accountability structures to oversee internal compliance; (c) the coordination of ongoing training and instruction for its employees, suppliers and subcontractors regarding compliance; and (d) the implementation of regular audits, either directly or through a 3<sup>rd</sup> party auditor, to monitor compliance efforts.

Seller further agrees to comply with Buyer's Code of Business Conduct and Ethics to be provided to Seller by Buyer. Seller may submit reports or questions regarding violations of law, policy or the Code of Business Conduct and Ethics through either a secure website ([www.ventora.ethicspoint.com](http://www.ventora.ethicspoint.com)) or by telephone at 1800 339 276.

Seller shall implement procedures to assure that all Products (including any materials provided by Seller's suppliers) are DRC Conflict Free. DRC Conflict Free means that the Products do not contain conflict minerals (Columbite-tantalite (also known as Coltan (tantalum, niobium)), Cassiterite (Tin), Wolframite (Tungsten), Gold or

their derivatives) that directly or indirectly finance armed groups through mining or mineral trading in the Democratic Republic of Congo or an adjoining country. If requested by Buyer, Seller shall certify its compliance with this Section 7 by providing a sworn declaration of an officer, director, or managing agent of Seller. Buyer shall have the right, directly or through an independent agent, to engage in reasonable inspections of each manufacturing facility in which the Products are manufactured, rendered, or produced with or without notice to Seller, to ascertain Seller's compliance with this Section 7.

Seller understands that Products may be, either now or in the future, subject to one or more trade remedy proceedings (e.g., anti-dumping, countervailing duty, safeguard) in the United States or any other country, the purpose of which is to impose additional duties or other charges on the Products. If any governmental entity initiates, or if any Products are already subject to, such proceedings against the Products or duties or charges imposed on the Products, Seller agrees that, at Buyer's request, Seller will cooperate fully with Buyer and with requests for information from the applicable governmental authorities. Seller further understands and agrees that such cooperation may require it to provide confidential sales and cost information to the applicable governmental authorities so that they can calculate the amount of the duty or other charge on the goods.

Seller must manufacture the Products in conformance with all applicable consumer product safety standards, guidelines and rules issued and demonstrate compliance with all applicable foreign, state and local laws and applicable industry standards. Seller shall promptly provide Buyer with all information it requests regarding the Products in order to comply with applicable laws, rules, and regulations and/or to assess the environmental impact associated with the Products, and shall promptly notify Buyer if Seller becomes aware of any defects, hazards or similar matters that could give rise to the need for corrective action with respect to the Products under any such laws and standards.

## **8. Intellectual Property Ownership**

Seller owns or is the authorized licensee of all intellectual property rights related to the Products to the extent the Products have not been modified, customized, or designed for Buyer.

If and to the extent Products have been or will be modified, customised, or designed for Buyer, Seller hereby agrees to irrevocably assign and transfer to Buyer and does hereby assign and transfer to Buyer all of Seller's worldwide right, title, and interest in and to the Works for Hire (defined below) including all associated intellectual property rights. For purposes of this Order, "Works for Hire" include all rights in ideas, inventions, works of authorship, strategies, plans and data created in or resulting from Seller's performance under this Order, including all patent rights, copyrights, rights in proprietary information, database rights, trademark rights and other intellectual property rights. All Works for Hire shall at all times be and remain the sole and exclusive property of Buyer. Buyer will have the sole right to determine the treatment of any Works for Hire, including the right to keep it as trade secret, execute and file patent applications on it, to use and disclose it without prior patent application, to file registrations for copyright or trademark in its own name, or to follow any other procedure that Buyer deems appropriate. Buyer hereby grants a non-exclusive, non-assignable license, which is revocable with or without cause at any time, to Seller to use any information, drawings, specifications, computer software, know-how and other data furnished or paid for by Buyer hereunder for the sole purpose of performing this Order for Buyer. Buyer may require Seller to use and label Products with Buyer's or its affiliates' trademarks, trade names, logos or other information ("Company Information"). Company Information is the sole property of Buyer or its affiliates, and Seller shall use Company Information strictly within the method and scope approved by Buyer.

Each Party hereby acknowledges and agrees that trade names and trademarks of the other Party, whether registered or unregistered, are the exclusive property of such other Party. Nothing herein shall be construed as granting any license to Seller to use Buyer's trademarks. No such license shall be valid unless provided in writing with specificity and signed by both Parties, and unless Seller agrees to comply with Buyer's trademark quality usage and control provisions provided by Buyer. In any case, any and all use of Buyer's trademarks shall inure to the benefit of Buyer, and Buyer may revoke such license at any time.

## 9. Indemnification

Seller shall, at its sole expense, indemnify, defend, and hold Buyer and its affiliates, employees, representatives and agents and its direct or indirect customers harmless (“Indemnified Parties”) from and against any and all damages, legal actions, settlements, judgments, liabilities, claims, fines, penalties, costs, expenses or losses of any nature whatsoever (including all attorney’s fees), arising from or relating to: (1) Seller’s breach of its representations, warranties, covenants or obligations under this agreement; (2) product liability attributable to an actual or alleged defect in the design of, manufacture of, or warnings and instructions included with Products claimed to have been suffered by any person or entity; and (3) the provision of Products by Seller under this agreement

## 10. Intellectual Property Indemnification

Seller shall, at its sole expense, defend, indemnify and hold harmless Buyer and any Indemnified Parties against any and all losses arising out of or in connection with any claim that Buyer’s or Indemnitee’s use or possession of the Products infringes or misappropriates the patent, copyright, trade secret or other intellectual property right of any third party. In no event shall Seller enter into any settlement of a claim made against Buyer without Buyer’s or Indemnified Parties’ prior written consent.

## 11. Limitation of Liability

**IN NO EVENT SHALL BUYER, ITS OFFICERS, DIRECTORS, AFFILIATES OR EMPLOYEES, BE LIABLE TO SELLER OR ANY OTHER PERSON FOR ANY SPECIAL, INDIRECT, INCIDENTAL, OR CONSEQUENTIAL DAMAGES OF ANY KIND INCLUDING, BUT NOT LIMITED TO, LOSS OF PROFITS OR DAMAGES TO BUSINESS REPUTATION HOWEVER CAUSED AND ON ANY THEORY OF LIABILITY, WHETHER IN AN ACTION FOR CONTRACT, STRICT LIABILITY OR TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY REMEDY.**

## 12. Insurance

During the performance of this Order and for five (5) years following the last delivery of Products, Seller shall maintain the following minimum insurance coverage. The insurance required of Seller shall cover and properly protect Buyer as required by this Order, provided, however, that nothing contained in the following insurance provisions shall be construed as limiting the liability assumed by Seller under this Agreement.

(a) Public, motor vehicle, and product liability insurance with limits of at least twenty million Australian dollars (AUD20,000,000) per occurrence (or applicable currency equivalent), which may include a combination of primary and excess liability insurance limits.

(b) Workers’ Compensation Insurance; and

(c) Employer’s Liability Insurance (as applicable) and any additional worker injury-related insurance as required that meets applicable law.

Seller shall ensure that Buyer’s interest is noted on each insurance policy, or that a generic interest clause has been included.

On receipt of this Order Seller shall furnish Buyer annually with certificates of insurance evidencing the insurance coverage required by this agreement. Certificates of Insurance shall include all applicable endorsements required herein, list the insurance company, amount of coverage, policy numbers, expiration date, and if available, include a clause requiring at least thirty (30) written days’ notice of cancellation or modification of the policies, a waiver of subrogation in favor of Buyer and its affiliates and a clause providing such insurance is primary and non-contributory with respect to any insurance Buyer may maintain.

## 13. Termination; Order Change/Cancellation

Buyer may terminate all or any part of an Order at any time with or without cause for undelivered Products. Termination is effective upon written notice. If Buyer terminates the Order without cause, Seller's sole and exclusive remedy is payment for the Products received and accepted by Buyer prior to the termination. Seller will refund all amounts pre-paid by Buyer for the Order within thirty days of Buyer's cancellation.

Completion or cancellation of an Order shall not affect any rights, remedies, obligations or liabilities of the Parties that have accrued up to the date of completion or cancellation.

Specifications for Products may be changed only by written agreement between the Parties. Buyer may at any time make changes within the scope of this Order in any one or more of the following: (a) method of shipment or packing; (b) place and time of delivery; (c) amount of Buyer's furnished property; (d) quality; (e) quantity; or (f) scope or schedule of goods and/or services. Seller shall not proceed to implement any change until such change is provided in writing by Buyer. If any changes cause an increase or decrease in the cost or schedule of any work under this Order, an equitable adjustment shall be made in writing to the Order price and/or delivery schedule as applicable. Any Seller claim for such adjustment shall be deemed waived unless asserted within thirty (30) days from Seller's receipt of the change or suspension notification and may only include reasonable, direct costs that shall necessarily be incurred as a direct result of the change.

#### **14. Special Tooling; Ancillary Services**

Buyer may provide patterns, dies, fixtures, molds, jigs or other tools or directly or indirectly pay for tools for use in making Products at Seller's facilities ("Special Tooling"). Unless approved in writing by Buyer, Seller shall not remove or relocate any Special Tooling from Seller's facilities, make any changes to Special Tooling, or reverse engineer any Special Tooling. Seller shall use all Special Tooling solely for manufacturing Products as specified by Buyer in writing. Special Tooling shall remain Buyer's property, be segregated from Seller's property, and be individually marked as Buyer's property. Seller shall maintain Special Tooling in good condition and replace it at Seller's cost if lost, damaged, destroyed, or otherwise rendered unfit for use. Upon Buyer's request, Seller shall transfer possession of the Special Tooling to Buyer free and clear of liens and encumbrances and at the time and place designated by Buyer.

If Seller provides any ancillary services ("Services") to the sale of the Products including without limitation, Product installation, repair, or maintenance, Seller represents and warrants that the Services will be performed (a) in compliance with all applicable national, state, provincial, or local laws, statutes, rules, regulations or ordinances; and (b) in a good and workmanlike manner by qualified personnel possessing the necessary professional, technical or other background and training. Buyer will not be obligated to pay for Services that Buyer either: (1) determines to be unsatisfactorily performed; or (2) has not expressly agreed to pay for. Seller bears all expenses of providing Services except as may be assumed by Buyer in writing. Personnel assigned to perform Services are independent contractors and will not be regarded as employees or agents of Buyer.

#### **15. Confidentiality**

Any information, whether disclosed orally or disclosed or accessed in written, electronic or other form or media, and whether or not marked, designated or otherwise identified as "confidential" that Buyer conveys to Seller, including but not limited to, product designs, customer information, business processes, trade secrets, business plans, forecasts, and financial information, considered non-public, confidential or proprietary by Buyer is **confidential information**. Seller shall use the confidential information solely for the purpose of performing the Order and may not disclose or copy confidential information unless authorized by Buyer in writing. Seller may disclose confidential information to its employees who (1) have a bona-fide need to know the information to perform Seller's duties under this agreement, and (2) are bound by a duty of confidentiality to Seller greater than or equal to Seller's duty of confidentiality under this agreement. Seller shall, at Buyer's option, return or destroy confidential information at the Buyer's request or at the termination of this agreement, whichever occurs first. Seller shall be responsible for any breach of these obligations by any party to whom it discloses Buyer's confidential information. This Section shall not apply to information that is: (a) in the public domain; (b) known to the Seller at the time of disclosure; or (c) rightfully obtained by the Seller on a non-confidential basis from a third

party.

#### **16. Changes**

Seller shall notify Buyer in writing in advance of any and all: (a) changes to the Products, their specifications and/or composition; (b) process changes; (c) plant and/or equipment/tooling changes or moves; (d) transfer of any work hereunder to another site; and/or (e) sub-supplier changes, and no such change shall occur until Buyer has approved such change in writing. Seller shall be responsible for obtaining, completing and submitting proper documentation regarding any and all changes, including complying with any written change procedures issued by Buyer.

#### **17. Non-exclusivity**

Buyer may purchase Products and the Seller may sell Products similar to or in completion with Products from any person or entity.

#### **18. Publicity**

Without the prior written consent of Buyer and unless otherwise required by law, Seller shall not make public or otherwise disclose to any person or entity that a business relationship exists between Buyer and Seller.

#### **19. Law and Jurisdiction.**

This Agreement and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation will be governed and construed in accordance with the laws of the state of New South Wales, Australia. The Parties submit to the jurisdiction of the courts of New South Wales in relation to any disputes arising out of this Agreement.

#### **20. Assignment, Subcontracting and Change of Control**

Seller may not assign, delegate, subcontract or transfer (including by change of ownership or control by operation of law or otherwise) this Order or any of its rights or obligations hereunder, including payment, without Buyer's prior written consent. Should Buyer grant consent to Seller's assignment, Seller shall ensure that such assignee shall be bound by the terms and conditions of this Order. In addition, Seller shall obtain for Buyer, unless advised to the contrary in writing, written acknowledgement by such assignee, subcontractor and/or supplier to Seller of its commitment to act in a manner consistent with Buyer's integrity policies, and to submit to, from time to time, on-site inspections or audits by Buyer or Buyer's third-party designee as requested by Buyer. Subject to the foregoing, this Order shall be binding upon and inure to the benefit of the Parties, their respective successors and assigns.

#### **21. Language**

The Parties have expressly required that these terms and conditions be prepared in the English language and if they are translated into any other language, the English language version shall prevail. Any notice given under or in connection with this Order shall be in the English language. All other documents provided under or in connection with this Order shall be in the English language, or accompanied by a certified English translation. If such document is translated into any other language, the English language version shall prevail.

#### **23. Relationship between the Parties**

The relationship between Buyer and Seller is solely that of independent contractors and nothing in this Order or otherwise shall be construed or deemed to create any agency, partnership, joint venture or other form of joint enterprise, employment or fiduciary relationship between the Parties, and neither party shall have authority to contract for or bind the other party in any manner whatsoever.

#### **24. Entire Agreement**

This Order, with documents as are expressly incorporated by reference, is intended as a complete, exclusive and final expression of the Parties' agreement with respect to the subject matter herein and supersedes any prior or contemporaneous agreements, whether written or oral, between the Parties. No course of prior dealings and no

usage of the trade shall be relevant to determine the meaning of this Order even though the accepting or acquiescing party has knowledge of the performance and opportunity for objection. No claim or right arising out of a breach of this Order can be discharged in whole or in part by a waiver or renunciation unless supported by consideration and made in writing signed by the aggrieved party. Either party's failure to enforce any provision hereof shall not be construed to be a waiver of such provision or the right of such party thereafter to enforce each and every such provision. Buyer's rights and remedies in this Order are in addition to any other rights and remedies provided by Law, contract or equity, and Buyer may exercise all such rights and remedies singularly, alternatively, successively or concurrently. Section headings are for convenience and shall not be given effect in interpretation of this Order. The term "including" shall mean and be construed as "including, but not limited to" or "including, without limitation", unless expressly stated to the contrary. The invalidity, in whole or in part, of any section or paragraph of this Order shall not affect the remainder of such section or paragraph or any other section or paragraph, which shall continue in full force and effect. Further, the Parties agree to give any such section or paragraph deemed invalid, in whole or in part, a lawful interpretation that most closely reflects the original intention of Buyer and Seller. All provisions or obligations contained in this Order, which by their nature or effect are required or intended to be observed, kept or performed after termination or expiration of this Order shall survive and remain binding upon and for the benefit of the Parties, their successors (including without limitation successors by merger) and permitted assigns.

## **25. Interpretation**

In these terms and conditions: (a) clause headings are for convenience and shall not be given effect in interpretation of this Order. (b) the term "including" shall mean and be construed as "including, but not limited to" or "including, without limitation", unless expressly stated to the contrary; (c) unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular, and a reference to one gender shall include a reference to the other genders; (d) a reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time and shall include all subordinate legislation made from time to time; and (e) reference to "writing" or "written" includes fax and email.