## Supply

#### By accepting our PO, you agree to provide the Deliverables in accordance with these T&Cs. If we negotiate and sign a separate agreement for you to provide the Deliverables that agreement prevails over these T&Cs to the extent of any inconsistency. Otherwise these T&Cs are the entire agreement between us concerning the Deliverables and they override, replace and supersede any previous arrangement, understandings, representations, warranties, or other terms you provide to us (including any provided with your quotes or invoices, or on your website or online forms). To the extent of any inconsistency, the higher of the following documents will prevail: (i) any separately signed agreement; (ii) a Purchase Order; (iii) these T&Cs; (iv) any other document.

#### All Deliverables must: conform with all our specifications, requirements, descriptions and timeframes, including those in our PO; be free from defects, fit for purpose and of acceptable quality; and provided to the highest professional standards and in accordance with best industry practice. For at least a period of 12 months after delivery (or longer if agreed or pursuant under any Law) all Deliverables provided will be free from defects, and errors or omissions of design, materials, performance or quality. If defects arise in this 12 month period you must repair or replace the Deliverables at your cost. You may not substitute or modify any Deliverables prior to delivery, without our written approval.

#### You warrant and undertake to ensure that:

##### RMIT may utilise and exploit the Deliverables without risk to health or safety;

##### you and the Deliverables will not damage or destroy any part of RMIT’s property, facilities, data, networks, systems, devices or computers or introduce any viruses, infrastructure weakness or vulnerability or any similar programming effects into RMIT’s environment;

##### you, your Personnel, and Supply Chain Participants, in the course of providing the Deliverables and throughout your operations, meet or exceed RMIT’s minimum requirements regarding the conduct of suppliers in the areas of labour and human rights, protection against modern slavery, environmental management, health and safety, corporate governance and ethical business practices, as set out in our Corporate Social Responsibility Code of Conduct (**Supplier Code**); and you must inform RMIT immediately if you become aware of any issues that are in breach of the Supplier Code.

#### We accept no responsibility where you provide the Deliverables to the wrong person or at the wrong site, or if you fail to properly identify and record the person receiving the Deliverables. You warrant and undertake that you have full power, legal right and authority to enter into and perform your obligations under these PO T&Cs.

#### You must get our written consent before you subcontract any parts of the Deliverables, or novate or assign this agreement. You are responsible for all acts or omissions of your Personnel as if the acts or omissions were yours. You and your Personnel must:

##### have the skills, qualifications, licenses, approvals, and experience to provide the Deliverables to us, and exercise due skill, care and diligence and act in a proper, professional, timely and cost effective manner, at all times when providing the Deliverables to us;

##### comply with all Laws and RMIT Policies when providing the Deliverables to us, including in relation to the environment, health, safety, security, and all privacy laws that bind RMIT (including in the same way and to the same extent those laws bind RMIT) and not do (or omit to do) anything that causes us to breach any Law or RMIT Policy;

##### without limiting the preceding clause you must do all things reasonably required and provide all reasonable assistance to us to ensure we comply with child safety Laws (including by providing current working with children and police checks on our request);

##### not do (or omit to do) anything that could harm or adversely affect our name, interests or reputation, or bring us into disrepute; and

##### comply with all reasonable directions and requirements we give regarding the Deliverables.

## Cancellation and issues with Deliverables

#### We may cancel the PO and terminate these T&Cs at any time by notifying you. If we cancel the PO, we will pay your reasonable direct costs of providing or preparing to provide the Deliverables to us, which you have used best endeavours to mitigate. If we reasonably determine that any Deliverables do not comply with our requirements, without limiting our rights under these T&Cs or under Law we can: (a) reject the Deliverables and require you to repay the Fee to us; (b) accept the Deliverables and require you to indemnify us for our losses suffered because of that failure; or (c) reject the Deliverables and require you to re-supply them to us at your expense.

## Payment

#### We will pay the Fees within 30 days of receiving a valid tax invoice from you (or subject to clause 3(d), within 30 days of us issuing a RCTI to you), provided that: (i) unless we specify otherwise in the PO or agree in writing, you have fully supplied all Deliverables to us; (ii) you have provided the Deliverables to our satisfaction and in accordance with the PO and these T&Cs; and (iii) we have not disputed the tax invoice.

#### We may withhold any disputed Fees until we are reasonably satisfied the Deliverables have been provided in accordance with these T&Cs.

#### The Fees are in full satisfaction of any applicable workplace entitlements for you, or your Personnel under Law (including payroll tax, superannuation and workers’ compensation insurance premiums), and include the cost of all expenses, disbursements, services, functions and responsibilities which are incidental to the provision of the Deliverables. RMIT has no obligation to pay any Fees which you invoice more than 3 months after the corresponding Deliverables were accepted by RMIT.

#### The Fees are fixed and inclusive of all costs, expenses, taxes or other duties (except GST) unless we agree to a written variation signed by our authorised representative. In this clause 3: ‘RCTI’ means recipient created tax invoice, and a word or expression which is also defined in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth)has the meaning given in that Act. Unless expressly stated, all consideration and amounts payable under these T&Cs are exclusive of GST.If GST is payable on any supply made under these T&Cs by a supplier or by the representative member for a GST group of which the supplier is a member, the recipient will pay to you an amount equal to the GST payable on the supply. If we are the recipient of a taxable supply, and the parties agree that we may issue RCTIs to you, then: (i) we may issue a RCTI to you in respect of that taxable supply (and if required, an adjustment note); (ii) you will not issue a tax invoice or adjustment note to us in respect of that taxable supply; (iii) a RCTI issued under these T&Cs will be treated as a tax invoice; (iv) each party warrants that it is registered for GST and will notify the other party should it cease to be registered for GST.

#### We may set-off any payment owed to you, against sums you owe us.

## Confidentiality. privacy and records

#### You, and your Personnel must:

#### keep confidential any information in connection with the Deliverables which is (or would reasonably be regarded as) confidential to us, and only use or disclose that information for the purposes of providing the Deliverables or with our prior written consent; and

#### comply with all Laws in relation to any personal information you obtain in connection with providing the Deliverables to us (including, but not limited to: (i) the *Privacy and Data Protection Act 2014* (Vic) and the Information Privacy Principles thereunder; (ii) the *Health Records Act 2001* (Vic) and the Health Privacy Principles thereunder; and (iii) the *Privacy Act* 1988 (Cth) and the Australian Privacy Principles thereunder), and ensure that any person authorised to access that personal information agrees to comply with equivalent obligations to this clause.

#### retain copies of all materials, records, and accounts associated with the provision of the Deliverables; and we may conduct a review of those materials in order to assess your compliance with these T&Cs and the PO, including the Supplier Code. You must provide all reasonable assistance to facilitate our review of these materials.

#### not make any public statement about your provision of the Deliverables to us, or these T&Cs, without our prior approval.

## Insurance, liability, risk and IP

#### Unless we notify you in writing, you must have and maintain the following insurance policies: (i) product and public liability insurance for at least $10 million; (ii) workers’ compensation insurance required by Law; (iii) where relevant to the Deliverables, professional indemnity insurance for at least $5 million; (iv) insurance for all equipment and materials used (if any) for the provision of the Deliverables; and (v) any other insurance required by Law.

#### Title to, and risk in, any physical Deliverables passes to us on our acceptance of the Deliverables, which, in our discretion, may occur when we have determined that the Deliverables comply with our requirements and this PO.

#### Subject to any separate agreement signed by us with you: (1) you retain ownership of your prior or background intellectual property (**IP**) and you grant us a perpetual, worldwide, sublicensable, assignable, royalty-free licence for us to use, modify and adapt that IP however we require for the full use and exploitation of the Deliverables; and (2) you agree to transfer all IP in the Deliverables, and IP generated by you in the course of providing the Deliverables, to RMIT on delivery. You warrant and undertake that the IP in or associated with the Deliverables and your prior or background IP does not infringe any party’s rights, and you have full authority and consents to transfer or licence the IP to us. You warrant you have obtained all necessary consents including those regarding moral rights, to enable our full use and exploitation of the IP. You agree to provide us reasonable assistance and pay our reasonable costs (including legal costs) in relation to any actual or alleged breach of this subclause (c).

## Conflict of Interest

#### You warrant to the best of your knowledge no conflict of interest exists or is likely to arise in the performance of your obligations in providing the Deliverables. You must not, in the course of providing the Deliverables, engage in any activity likely to compromise your ability to perform your obligations under these T&Cs fairly and independently. You must immediately disclose to us any activity or circumstance which constitutes or may constitute a conflict of interest.

## Trusts

#### If you are the trustee of a trust, you warrant that: (a) the trustee is liable under these T&Cs in its personal capacity and as trustee; (b) the trust is duly constituted and validly existing; (c) the trustee has the full legal capacity, power and authorisation under the trust deed to own, manage, administer, transfer, deal with and otherwise dispose of the trust property, and to be bound by these T&Cs personally and on behalf of the trust; (d) if necessary, the trustee’s agreement to these T&Cs has been approved by the beneficiaries; (e) the trustee has the right to be fully indemnified out of the trust property in relation to any debts or liabilities arising in connection with these T&Cs; (f) the rights or interests of the beneficiaries to or in the trust property are subject and subordinate to the creditors of the trust, including our claims against you; and (g) we may proceed against the trust property to recover amounts owed to us.

## Modern slavery

#### We are subject to the *Modern Slavery Act 2018* (Cth) and at our request, you will cooperate and provide us with all information and assistance required by us to comply with this legislation. You will, and will ensure your Personnel and your Supply Chain Participants: comply with Human Rights; notify us within 10 days of becoming aware of any actual, alleged or suspected breach of this clause by you, your Personnel or your Supply Chain Participants; and cooperate with and assist us in relation to any investigation or legal proceedings regarding any actual or suspected breach under this clause.

## Labour hire

#### This clause applies to the extent any part of the Deliverables is covered by the Labour Hire Law. You warrant that you and your Personnel are licensed to provide labour hire services under the Labour Hire Law; and by providing the Deliverables, it is not for a purpose of avoiding or circumventing the Labour Hire Law. You must, at your own cost: comply, and ensure your Personnel comply, with the Labour Hire Law; provide evidence of you and your Personnel’s licences under the Labour Hire Law (including licence numbers); cooperate and assist us in relation to any audit, investigation or legal proceedings in relation to the Labour Hire Law; ensure that any subcontracts entered into by you with your Personnel impose obligations on its them which are at least equivalent to the obligations imposed on you under this clause. You must immediately notify us in writing: if you become aware of any actual, alleged or suspected breach of the Labour Hire Law by you or your Personnel or any investigation related to you or your Personnel by the Victorian Labour Hire Licensing Authority; and if you or your Personnel’s licence under the Labour Hire Law is suspended, restricted, cancelled or revoked.

## General

#### These T&Cs are governed by the laws of Victoria, Australia. A reference to A$, $A, dollar or $ in the PO is to Australian currency. If any part of these T&Cs is or becomes invalid, at our option, that part is severed or read down; and doesn’t affect the validity of the remaining parts. Nothing in these T&Cs is intended to limit or exclude any liability which cannot be excluded or limited by Law. Nothing in these T&Cs makes you or your Personnel our employee, partner, agent or other representative. You are solely responsible for your Personnel, and you must comply with all Laws relating to employment or engagement of contractors, including superannuation, tax, minimum entitlements and remuneration (including salaries, wages and leave entitlements), and payment of workers compensation premiums. Neither party has the authority to bind the other. A waiver has to be in writing and signed. These T&Cs can only be varied by an amendment in writing and signed by each party. We don’t waive a right if we fail to exercise it or delay exercising it. Each party must do all things and execute all further documents necessary to give full effect to these T&Cs. Clauses which are continuing in nature survive the termination or expiry of these T&Cs. You acknowledge you have had the opportunity to obtain independent advice before agreeing to provide the Deliverables to us. You acknowledge that we may order or obtain Deliverables under these T&Cs and a PO on behalf of and for the benefit of our Affiliates. RMIT will hold the benefit of these T&Cs on its own behalf and on trust for each of its Affiliates.

## Definitions

#### **Affiliate** means in relation to a person means: a related body corporate as defined in s 50 of the *Corporations Act* 2001 (Cth); and any joint venture or other business entity or arrangement that directly or indirectly Controls, is Controlled by, or is under common Control with, that person.

#### **Control** means, with regard to any person, either: the legal, financial and equitable ownership, directly or indirectly (including through any holding company), or 50% or more of the share capital (or other ownership interest, if not corporation) of such person ordinarily having voting rights; or effective control of such person, and Controlled has the corresponding meaning.

#### **Deliverables** mean the goods and/or services described in the PO or otherwise provided by you to RMIT, including: any associated materials, instructions or documentation required to use, exploit or otherwise enjoy the benefit of the Deliverables; any installation, assembly, training or handover services or acceptance testing to be conducted in relation to the Deliverables; ongoing support or maintenance services associated with the Deliverables.

#### **Fees** means your fees for providing the Deliverables to us.

#### **Human Rights** means rights and freedoms universally recognised in international law, domestic law or international declarations or standards relating to rights of employees in the workplace including those in The Universal Declaration of Human Rights, The International Labour Organization’s Declaration on Fundamental Principles and Rights at Work and rights or obligations in any Modern Slavery Law.

#### **Labour Hire Law** means any Law which regulates the licensing scheme for providers of labour hire in Victoria and includes: the *Labour Hire Licensing Act 2018* (Vic); the *Labour Hire Licensing Regulations 2018* (Vic); and any codes of practice, guidelines, directives, principles, policies or orders made under such Law, including by the Victorian Labour Hire Licensing Authority.

#### **Law** means any applicable statute, regulation, rule, by-law, ordinance or subordinate legislation, the common law and equity and any applicable industry codes of conduct.

#### **Modern Slavery Law** means the *Modern Slavery Act 2018* (Cth) and any Law creating similar reporting obligations as in that Act; Div 270 and 271 of the *Commonwealth Criminal Code*, the *Modern Slavery Act 2018* (NSW), the *Modern Slavery Act 2015* (UK), the *Transparency in Supply Chains Act (California)* and any Law of any jurisdiction that creating similar offences to those in Div 270 and 271 of the *Commonwealth Criminal Code*.

#### **RMIT Policies** mean the policies and procedures of RMIT available on our website as updated from time to time, including those relating to OHS, and workplace safety including policies on anti-bullying and harassment, and the Supplier Code.

#### **Personnel** includes agents, staff, employees, subcontractors, representatives and volunteers.

#### **Supply Chain Participant** means any organisation or individual involved in the chain of production or provision of particular goods or services for a business.

#### **We**, **us** and **our** means RMIT University (ABN 49 781 030 034) and our Affiliates.

#### **You** and **your** mean the supplier specified in the PO.