

Terms & Conditions of Purchase

1.0 Interpretation

In these conditions:

Inorail: means the company specified as receiving the goods or services, and its employees, agents, subcontractors and assignees.

Supplier: means the Supplier, being a person, firm or corporation, providing goods or services to Inorail.

Goods: means the products received by Inorail.

Services: means the services received by Inorail.

2.0 General

These terms & conditions of purchase take the place of any other terms & conditions whether written, oral or electronic. They shall form the basis for the contract together with any non-conflicting provisions in the supplier quotation, to purchase whether it be for a single transaction of a frame contract agreement.

3.0 Purchase Order

No order is to be accepted by the supplier without an official Inorail Purchase Order number.

Purchase orders will be approved by authorised personnel within Inorail and will be sent via electronic means, via postal service or given to a representative of the Supplier.

4.0 Acceptance

Acceptance of a purchase order from Inorail means that the Supplier agrees to and will abide by these Terms and Conditions of Purchase from Inorail.

5.0 Price & Payment

Inorail will only accept the price quoted at time of order placement as quoted by the Supplier.

Inorail will pay at 30 days from date of invoice, unless otherwise agreed in writing between Inorail and the Supplier.

6.0 Delivery

All deliveries will be FIS (freight, insurance and shipping), unless otherwise stipulated by the supplier at time of order placement. Inorail will not accept freight costs that are added to an invoice after a purchase order has been placed.

7.0 Documentation

All Supplier documentation, including delivery dockets, shipping documents, consignment notes and supplier invoices must show the purchase order number. Any product delivered without an Inorail purchase order number and or no delivery docket will be sent back to the Supplier at the Supplier's expense.

8.0 Receipting

Signing of a courier's delivery document does not constitute Inorail acceptance of goods. Inorail will not accept goods as having been delivered until such time as they have been checked off against the purchase order, checked for any damage or shortfall, and that they are the correct items as ordered.

9.0 Warranty

The supplier warrants that the goods and services it supplies will be of merchantable quality, reasonably fit for the purpose for which it was ordered, and comply with any other requirements set out in the purchase order.

Inorail quite often relies on the knowledge of the Supplier to supply the correct product. In the event that the product supplied is not what is required to do the job then Inorail will return the product to the supplier in its original condition and packaging at Inorail's expense. Inorail however will not pay restocking fees unless mutually agreed to by both parties at time of purchase.

10.0 Project Purchases

In the case where an order is a project related purchase, Inorail reserve the right to make progress payments.

Inorail will advise the Supplier if the order is a project purchase, at the time of the quotation or order placement, whichever occurs first.

11.0 Part Shipment

Inorail will only accept partial shipment if advised at time of order of specific delivery dates. Inorail reserve the right to cancel any part of the order not received by the specified delivery date without penalty to Inorail.

12.0 Packaging

It is the Supplier's responsibility to adequately package and protect the product from damage, weather and loss. Any shipment received not adequately packed will be returned to the supplier at the Supplier's cost for repacking/repair/replacement as applicable.

13.0 Confidential Information and Intellectual Property

All information of a confidential nature provided to the Supplier by Inorail should be treated as confidential. Such information includes (without limitation) the contents of drawings, specifications and instructions, and other information provided by Inorail to the Supplier (but does not include any information which is lawfully in the public domain with the consent of Inorail).

Such information must not be disclosed by the Supplier to third parties or used for any purpose other than the purpose for which it was disclosed to the Supplier by Inorail. Any documents containing confidential information belonging to Inorail (including documents created by the Supplier) must be returned to Inorail in conclusion of the work or immediately if requested by Inorail.

Inorail retains ownership of all intellectual property relating to the work to be carried out by the Supplier on behalf of Inorail.

14.0 Variations

Any changes to the Purchase Order including but not limited to timing of works, cost of work, increase or decrease of work, change to the character or quality shall be agreed by the parties in writing.

15.0 Indemnity

Each Party indemnifies the other and must keep them indemnified, from and against all amounts that the indemnified party is ordered by a court to pay to a third party for personal injuries or property damage, to the extent caused or contributed to by the negligence or wilful misconduct of the indemnifying party.

16.0 Limit on Liability and exclusion of consequential loss

Notwithstanding any other provision of this agreement the supplier will not be liable to Inorail or any party beneficially entitled under or pursuant to the Contract (including under any indemnity) for any Consequential Loss.

Definition:

Consequential Loss means any consequential or indirect loss and any:

- (a) Loss of actual or anticipated profits, savings or revenues
- (b) Loss by reason of shut down non operation or interruption
- (c) Loss of opportunity or productivity
- (d) Increased capital or financing
- (e) Increased operational costs
- (f) Increased costs of borrowing
- (g) Loss of reputation
- (h) Loss of goodwill
- (i) Special, exemplary or punitive damage

Arising out of or in connection with this [agreement], under an indemnity or whether for breach of contract, breach of statutory duty, in tort (including negligence), in equity or otherwise.

17.0 Supplier Liability

Subject to clause 18 the Supplier's liability to Inorail arising out of or in respect of the agreement, under statute, in tort (including negligence) or any other basis in law or equity, is limited to the greater of

- a) The value of the Purchase Order
- b) The proceeds actually received by the Supplier from a policy of insurance required to be maintained under the agreement.

18.0 Exclusions

The limitation in 17.0 will not apply to:

- a) Third party claims for personal injury
- b) Third party claims for property damage