PURCHASE ORDER TERMS AND CONDITIONS

1. Definitions and Interpretation

In this Contract:

Cairns Airport means Cairns Airport Pty Ltd (ABN 18 132 228 221) or Cairns Airport Property Holding Pty Ltd as trustee for Cairns Airport Property Trust (ABN 61 295 533 448) (whichever is the entity specified on the Purchase Order).

Contract means:

(a) these Purchase Order Terms and Conditions;

(b) the Purchase Order; and

(c) any document referred to in the Purchase Order as forming part of this agreement

Codes and Standards means the codes, standards, regulations and requirements referred to or implied

Defects Period means twenty four (24) months commencing from the delivery of the Goods

Delivery Address means the address where the Goods are to be delivered and/or Services undertaken

Delivery Date means the dates(s) on which the Goods are to be delivered and/or the Services are to be commenced

Dispute means any dispute, difference of opinion or disagreement whatsoever between the parties arising under, out of or in connection with the Contract.

Documentation means designs, drawings, plans, engineering information, data, specifications, reports and any other information regarding the Goods and/or Services

Goods means goods or any part of the goods described in the Purchase Order

GST has the same meaning as the GST Act.

GST Act means the *A New Tax System (Goods and Services Tax) Act 1999* (Cth), as amended from time to time

Law means any statute, ordinance, code, law, decree, circular, rule or regulation by any government authority, whether currently in force or coming into force on or after the date of the Contract.

Purchase Order means any document issued by Cairns Airport to supply Goods and/or perform Services

Price means the price of the Goods and/or Services as specified in the Purchase Order

Site means the part of the Cairns airport where the Services are to be performed

Services means the services or any part of the services as described in the Purchase Order

Supplier means the supplier of the Goods and/or Services

Tax Invoice has the same meaning as in the GST Act

2. Contract

2.1 Acceptance or performance of the Purchase Order by the Supplier constitutes acceptance of these Purchase Order Terms and Conditions and the Contract; and

2.2 Any reference to other terms and condition in the Supplier's quotation or any other documentation in connection with the Goods and/or Services will have no legal effect, Unless otherwise agreed in writing by Cairns Airport.

3. Goods and Services

3.1 The Goods must be:

(a) New and in good condition;

(b) Compliant with all relevant Australian standards and industry goods;

(c) Free from defects in design, materials and workmanship;

(d) fit for the purchase for which the Goods of the same kind are commonly supplied and for any other purpose specified by Cairns Airport; and

(e) compliant with any specifications issued by Cairns Airport.

3.2 The Services must be carried out by suitably qualified, skilled and experienced personnel. Workmanship shall be of a high quality and standard, conforming to good professional practice and all applicable industry codes, Laws, regulations and standards.

4. Price

4.1 Unless otherwise specified in the Contract, all Prices are fixed and not subject to escalation, are in Australian Dollars, exclusive of GST, fully inclusive of insurance, packaging and delivery, and inclusive of all other direct and indirect taxes, duties, costs and charges.

4.2 The Price as defined in the Purchase Order shall be the sole consideration payable to the Supplier for the supply of Goods and/or provision of the Services in accordance with the Contract.

5. Invoicing and Payment

5.1 Unless otherwise agreed, the Supplier will only submit a Tax Invoice to Cairns Airport:

(a) on or within 7 days of delivery of the Goods; or

(b) within 7 days of completion of the Services;

5.2 Each Tax Invoice must include:

(a) the details of the Goods and/or Services; and

(b) the Purchase Order number; and

(c) all relevant records and substantiating documents to enable approval of the invoice amount.

5.3 All Tax Invoices must be submitted directly into the Cairns Airport e-Procurement system, Coupa, by one of the following methods:

* "Flipping" the purchase order from the e-mail received; or
* Submitting via the Coupa Supplier Portal.

5.4 Standard terms for payment of an approved invoices are thirty (30) days from the date of Tax Invoice, except where:

(a) Cairns Airport has the right to withhold, retain or set off part of the Price pursuant to clause 5.5; or

(b) A Tax Invoice is disputed, in which case Cairns Airport shall at its own discretion, make payment of any amounts invoiced which are not in dispute.

5.5 Cairns Airport may:

(a) deduct, withhold or retain any amounts due or becoming due to the Supplier under the Contract until such time as the Goods and/or Services comply with the terms of the Contract; or

(b) set off any amounts due to the Supplier which are owed to Cairns Airport.

6. Delivery of the Goods

6.1 The Supplier must:

(a) deliver the Goods by the Delivery Date to the Delivery Address in accordance with any delivery instructions;

(b) ensure the Goods are correctly packaged including a packing slip and shipping documents (when required); and

(c) provide copies of all Documentation.

7. Inspection and Acceptance of the Goods

7.1 Goods will be inspected by Cairns Airport within a reasonable time after the delivery of the Goods.

7.2 If, following delivery and prior to the end of the Defects Period, the Goods are found to be defective or do not conform to this Contract, the Supplier, at its cost, must promptly repair or replace the Goods.

8. Title and risk in the Goods

8.3 The title to and risk in the Goods does not pass to Cairns Airport until the Goods are inspected and accepted in accordance with clause 7.

8.4 The Supplier warrants that at the time of delivery of the Goods:

(a) The Supplier has full ownership of the Goods free from any liens, charges and encumbrances and are supplying the Goods on this basis; and

(b) Cairns Airport will be entitled to full, unencumbered and quiet possession of the Goods.

9. Defects Period

9.1 If, during the Defects Period, any Goods are found to be defective, Cairns Airport may at its own discretion:

(a) return the Goods; or

(b) make good the defects in the Goods.

9.2 During the Defects Period and at the discretion of Cairns Airport, the Supplier agrees to:

(a) repair any defective Goods that are returned free of charge; or

(b) replace any defective Goods that are returned free of charge; or

(c) reimburse Cairns Airport for any expenses incurred in making good the defective Goods or in returning any defective Goods.

9.3 Any repairs or replacement goods supplied by the Supplier under this clause 9, will be subject to the same Defects Period as the original Goods, commencing from the date or repair or replacement.

10. Performance of the Services

10.1 The Supplier must carry out the Services:

(a) exercising due care, skill and judgment;

(b) in an efficient, professional and cost effective manner; and

(c) in accordance with:

(i) all applicable Laws and the requirements of any government authority to ensure possession of all authorisations, permits and licences to perform the Services; and

(ii) the Contract, and all guidelines, procedures and directions made Cairns Airport.

10.2 Without limiting clause 10.1,the Supplier must comply with:

(a) all applicable occupational health, safety and environmental laws, guidelines and codes of practice including, without limitation, the *Work Health and Safety Act 2011 (Qld);*

(b) all occupational health, safety and environmental guidelines, rules and procedures provided by Cairns Airport;

(c) applicable drug and alcohol testing and management programs, Laws, guidelines and codes of practice including, without limitation, the *Civil Aviation Safety Regulations 1998* (Cth);

(d) drug and alcohol management plans, guidelines, rules and procedures provided (including on request) by Cairns Airport and as may be updated from time to time;

(e) drug and alcohol management plans which the Supplier may be required to provide to the Cairns Airport, pursuant to the Purchase Order.

10.3 The Supplier must provide evidence of compliance with the obligations under clauses 10.1 and 10.2, if requested.

11. Site

11.1 Where access to the Site is required in order to deliver the Goods or perform the Services required pursuant to the Purchase Order, the Supplier will be provided with sufficient possession of and access to the Site for the proper performance the obligations under the Contract. Nothing in this clause 11 confers to the exclusive possession of or exclusive access to the Site.

11.2 The Services are to be carried out on or in the vicinity of an operational airport and the Supplier must not interfere with any of the operations of the airport or other occupier or user of the Site.

11.3 The Supplier must:

(a) comply with any requirement, procedure or direction by Cairns Airport relating to the Site; and

(b) ensure that at the end of each shift, the Site area is left secure, clean and fit for immediate use if required.

11.4 The Supplier must only carry out work within the hours as set out in the Purchase Order, or notified by Cairns Airport in writing.

12. Indemnity

12.1 The Supplier must indemnify Cairns Airport against any claim, liability, loss or damage of any kind suffered or incurred and arising directly or indirectly from:

(a) caused by the Supplier in connection with supplying of Goods and/or performing the Services

(b) any unlawful or negligent act or omission or the willful misconduct of the Supplier in connection with supplying of Goods and/or performing the Services;
(c) failure by the Supplier to comply with any relevant Laws in connection with supplying of Goods and/or performance of the Services; and
(d) breach by the Supplier of any warranty or any of the terms or conditions of the Contract.

12.2 The Supplier's liability to indemnity in clause 12.1 will be reduced to the extent that such claim, liability, loss or damage is directly caused by the Cairns Airport's wilful misconduct or negligence.

13. Insurance

13.1 The Supplier must effect and maintain appropriate insurance policies for the duration of its obligations under the Contract.

13.2 The Supplier must provide evidence of such insurance upon request.

14. Confidential Information

14.1 The Supplier will treat any information supplied by Cairns Airport as confidential information and acknowledges that it will only use this information for the purpose for which it is provided, and will immediately return such information to Cairns Airport upon request. Any intellectual property generated by the Supplier in supplying the Goods and/or performing the Services shall become the property of Cairns Airport.

15. Assignment and Sub-Contracting

15.1 The Supplier must not assign the whole or any part of this Contract. The Supplier must not use any subcontractors for supply of Goods and/or in the performance of the Services, without Cairns Airport's prior written consent. If the Supplier uses a subcontractor, the Supplier remains liable for the subcontractor's performance.

16. Termination and Suspension

16.1 Cairns Airport may terminate the Contract for its convenience for any reason and in its sole discretion by giving the Supplier not less than seven (7) days' written notice of termination.

16.2 Cairns Airport may, by written notice, immediately terminate the Contract if the Supplier is in breach of its obligations under the Contract, and the breach is not remedied within seven (7) days of the receipt of the notice.

16.3 Cairns Airport may, by written notice, immediately terminate the Contract if the Supplier:
(a) becomes insolvent or is petitioned in bankruptcy;
(b) being a company, a petition for winding up the company is presented;
(c) an order is made or an application is brought or a resolution is passed for its winding up; or
(d) any step is taken to appoint a receiver or receiver and manager or administrator or liquidator to the Supplier.

16.4 The Supplier may, by written notice, terminate the Contract if Cairns Airport has failed to pay the Supplier any amount due for a period of sixty (60) days after the amount has become due and payable.

16.5 Upon receipt of a notice of termination from Cairns Airport or the Supplier issues a termination notice, the Supplier must:
(a) stop work (except to the extent specified in the notice from Cairns Airport)
(b) take all action as necessary or as directed for the transfer and protection of property on the Site
(c) take all reasonable endeavours to mitigate any costs as a result of the termination.

16.6 If the Contract is terminated by Cairns Airport in accordance with clause 16.1, Cairns Airport will only be liable for the payment for accepted Goods and/or Service performed up until the date of termination and no other costs whatsoever (and subject to Cairns Airport's right to set off).

16.7 If the Contract is terminated by Cairns Airport under clauses 16.2 or 16.3, Cairns Airport will only be liable for payment for the Goods and/or Services carried out to the date of termination subject to Cairns Airport's right to set off. Cairns Airport may employ other persons to complete or perform the Contract. Any cost incurred by Cairns Airport in employing other persons to complete or perform the Contract under this clause 16.7 will be a debt due from the Supplier to Cairns Airport.

16.8 Any expiration or termination of the Contract does not affect:
(a) any rights of the parties which may have accrued before the date of termination; and
(b) the rights and obligations of the parties under clauses 12, 14 and 17 which survive termination of the Contract.

16.9 The parties' rights under this clause 16 are without prejudice to any other rights or remedies the party may have whether under the Contract or otherwise at Law.

16.10 Cairns Airport may, at any time and for any reason by notice to the Supplier, suspend performance of the Supplier's obligations under the Contract.

17. Dispute Resolution

17.1 If a Dispute arises, the parties must, prior to the initiation of any legal action, use their best efforts in good faith to reach a reasonable and equitable resolution of the Dispute.

17.2 If any Dispute cannot be resolved within seven (7) days, either party may commence litigation to resolve the Dispute.

17.3 Despite the existence of a Dispute, the parties must continue to perform their respective obligations under the Contract.

18. Governing Law

18.1 The terms and conditions shall be governed by, and construed in accordance with the laws of Queensland.

19. Entire Agreement

19.1 This Contract is the complete contract between Cairns Airport and the Supplier in relation to the Goods and/or Services and supersedes all prior agreements, representations, warranties, promises, statements, negotiations and letters in respect of the Goods and/or Services.