

# Purchase Order Terms and Conditions Cabrini Health Limited

ABN 33 370 684 005 - ACN 108 515 073  
183 Wattletree Rd, Malvern Victoria 3144



## Definitions and Interpretation: In this Contract:

- **Cabrini** means Cabrini Health Ltd or its related entities
- **Contract** means the Purchase Order, these Cabrini Purchase Order Terms and any Schedules, Attachments or other Appendix to a Purchase Order.
- **GST** means Goods and Services Tax.
- **Product** means any goods and/or services supplied under this Contract.
- **Purchase Order or PO** means any document issued by Cabrini Health Ltd for the supply by the Supplier of Product.
- **Specifications** means
  - any description of or representation about the Products provided to Cabrini and referred to in the Purchase Order, and
  - the Supplier's published specifications for the Products.
- **Supplier** means the person, firm or corporation from whom goods or services are ordered by this Contract.
- **Tax Invoice** means an invoice regulated by GST laws.

**Contract Formation:** This Contract may be formed electronically with the Supplier. The binding Contract between Cabrini and the Supplier will come into existence on the earlier of the date the Supplier confirms acceptance of the Contract, or the Supplier commences delivery of any of the Products.

**Delivery:** The Supplier must deliver the Products to the Delivery Address on the Delivery Date and in accordance with any delivery instructions and Schedules. On delivery, the Supplier must obtain the name and signature of the Cabrini employee that receives the Products.

**Inspection and Acceptance:** Cabrini or its authorised agent has the right to inspect and has the right to reject any goods or services carried out that do not conform to this Contract. If the Products do not comply with the Specifications, Cabrini may terminate this Contract or require the Supplier to promptly modify or resupply the Products, at no additional cost to Cabrini, so that they comply with the Specifications. Execution of a delivery document or payment by Cabrini does not constitute acceptance by Cabrini.

**Price:** The prices are fixed and the Total Prices include all levies, duties, taxes (including GST, unless expressly stated as being exclusive of GST), insurance, packaging and delivery costs. The total amount payable by Cabrini under this Contract will not exceed:

- the Total Price; or
- if no Total Price is stated on the PO, the amount specifically authorised in writing by the Requestor.

**Payment:** Unless otherwise agreed, the Supplier will only invoice Cabrini on the completion of the services or on or after the delivery of the goods. Each invoice must itemise the GST included in the Prices, state the PO Number and be addressed to the Cabrini Contact at the address for invoices specified in the PO. Cabrini will pay a correctly rendered invoice (less any amounts due to Cabrini from the Supplier) 30 days from the end of the month in which the invoice was dated. Cabrini is entitled to withhold payment of any invoice to the extent that it relates to Products that do not meet the Specifications. Invoices that do not quote a PO Number will not be paid by Cabrini. **NOTE: Cabrini pays invoices via American Express and will not accept any surcharge applied to the invoice amount.**

**Goods and Services Tax:** The Supplier must ensure that any invoice or constitutes a Tax Invoice that will enable Cabrini to claim tax credits in respect of supplies to which the invoice relates. If the Purchase Order nominates an amount of GST, this amount is an estimate only and should not be relied upon. The Supplier is responsible to ensure the invoice or other request or demand for payment specifies the correct amount of GST.

**ABN:** In compliance with the relevant withholding tax legislation, Cabrini will withhold an amount of tax from any payment it makes to the Supplier for a supply, unless the Supplier provides to Cabrini an invoice or other document relating to the supply that quotes the Supplier's Australian Business Number ("ABN")

**Risk and Title:** Risk in the Products will pass to Cabrini when the Products are delivered. Title in the Products (other than Product licensed under the IPR clause) will pass to Cabrini on the earlier of acceptance of or payment for the Products.

**Cancellation:** Cabrini may cancel or reduce the quantity of a Product by notifying the Supplier before the relevant Delivery Date or if the Supplier fails to supply a Product on the Delivery Date. Cabrini will not be liable for any amounts or expenses for cancelled Product.

**Intellectual Property Rights ("IPR"):** The Supplier assigns (now and in the future) to Cabrini all IPR in any material created for Cabrini in the supply of the Products. The Supplier grants Cabrini (and its contractors) a non-exclusive paid up, royalty free, perpetual licence to use and copy the Products so that Cabrini (and its contractors) can make full use of them. Cabrini owns IPR in any modifications by Cabrini to the Products.

**Warranty:** The Supplier warrants that:

- all goods supplied by the Supplier are:
  - new and in good condition;
  - compliant with all relevant Australian standards and industry codes. Where relevant the Supplier must ensure all quality control testing of the Goods is in accordance with the Therapeutic Goods Administration's (TGA) Code of Good Manufacturing Practice, and any other applicable standards required by the Law. Upon request by the Cabrini, the Supplier must provide a copy of the analytical report to accompany the specific batch of the Goods supplied. Where the Goods are therapeutic goods, the Supplier must comply with the TGA's uniform recall procedures for therapeutic goods. The Supplier must notify Cabrini within 7 Business Days of any Good being subject to a recall;
  - free from defects in design, materials and workmanship;
  - of good and merchantable quality and fit for their intended purposes; and
  - compliant with the Specifications;
- any services supplied by the Supplier will:
  - be supplied with the degree of skill, care and diligence that would be expected of a skilled professional experienced in providing the same or similar services;
  - comply with all reasonable directions of Cabrini;
  - comply with all Cabrini's conduct policies (as notified to the Supplier by Cabrini from time to time) and relevant Australian standards and industry codes; and
- the Products and their use and supply will not breach any obligation of confidence or infringe any IPR of any person.

**Breach of Warranty:** If the Supplier becomes aware, or Cabrini notifies the Supplier, that a Product fails to comply with any of the warranties given under this Contract, the Supplier must, without prejudice to any other rights of Cabrini:

- in the case of the warranties provided under paragraph of the Warranty clause, during the period of 12 months (or such longer period as may be agreed) from the acceptance of the Product fix any non-compliance; and
- in the case of any other warranty provided under this Contract, promptly, at Cabrini's option:
  - remedy that failure (including by replacing or resupplying the Product),
  - provide to Cabrini a full refund of the price paid for the Product, or (
  - deduct in accordance with Cabrini's directions the price paid for the Product for any amounts owing to the Supplier.

**Indemnity:** The Supplier indemnifies Cabrini against all losses and damages, on a full indemnity basis and whether incurred by or awarded against Cabrini that Cabrini may sustain or incur as a result, whether directly or indirectly, of:

- a claim that the Products or their use or supply breaches any obligation of confidence or infringes the IPR of any person;
- a claim, demand, suit, action or proceeding by a third party arising from an act or omission of the Supplier in connection with this Contract whether negligent or not;
- without limiting paragraph (b), any act or omission of the Supplier in connection with this Contract resulting in or contributing to
  - claims by any third party against Cabrini in respect of personal injury or death, or
  - loss of or damage to Cabrini's or a third party's physical property; or
- failure by the Supplier to comply with the requirements of the Contract.

**Insurance:** The Supplier must take out and maintain with a reputable insurer valid and enforceable insurance policies:

- Public and Product Liability insurance covering the Supplier and its Personnel against any liability to any party arising out of or in connection with this Contract for an insured amount of not less than A\$10 million per accident or incident claim;
- Workers Compensation insurance covering the Supplier for any claim against it by any person employed by the Supplier who provides services in relation to this Contract (and ensure that each of its other Personnel have similar insurance) for an amount necessary to cover any potential liability under statute or at common law; and
- Property insurance covering the Supplier for any loss or damage to any property used directly or indirectly in connection with the Products.

**Assignment and Subcontracting:** The Supplier must not assign the whole or any part of this Contract. The Supplier must not use any subcontractors for supply of the Products without Cabrini's prior written consent. If the Supplier uses a subcontractor, the Supplier remains liable for the subcontractor's performance.

**Termination:** Cabrini may terminate this Contract:

- on one month's notice without any liability for compensation and without being obliged to give any reason for so doing; or
- immediately if the Supplier:
  - becomes insolvent or is petitioned in bankruptcy;
  - being a company, a petition for winding up the company is presented;
  - an order is made or an application is brought or a resolution is passed for its winding up;
  - any step is taken to appoint a receiver or receiver and manager or administrator or liquidator to the Supplier; or
  - the Supplier makes any arrangement for the benefit of creditors; or
  - the Supplier breaches any provision of this Contract. Any such termination by Cabrini shall be without prejudice to any other of its rights.

The failure by Cabrini to exercise any right or remedy in relation to any specific default by the Supplier, including by terminating this Contract or any part thereof when such a right arises shall not constitute a waiver by Cabrini of any of its rights pursuant to this Contract.

**Entire Agreement:** This Contract is the complete contract between Cabrini and the Supplier in relation to the Products. No confirmation, shipment, delivery document, licence or representation will vary this Contract.

**Confidentiality:** This Contract and any information which the Supplier obtains from Cabrini relating to this Contract, whether in writing or otherwise is Cabrini's confidential information unless it is:

- public knowledge at the time it is obtained by the Supplier, or
- in the Supplier's lawful possession prior to being obtained from Cabrini. The Supplier must keep Cabrini's confidential information confidential, not disclose it to any person, except employees of the Supplier who have a need to know and return it when it has performed all of the work under this Contract or this Contract terminates or expires. The Supplier may not make any public statement about this Contract unless it has first obtained written consent from Cabrini.

**Compliance with Law:** The Supplier must comply with all relevant legislation and regulations in the performance of this Contract.

**Applicable Law:** The laws of Victoria apply to this Contract and the parties submit to the non-exclusive jurisdiction of the courts of Victoria, Australia.

**Health and Safety and Behaviour on Cabrini Sites:** Cabrini may suspend or terminate this Contract if Cabrini considers that the Supplier's policies, procedures or documents are inadequate to meet the obligations of this clause. The Supplier undertaking work for Cabrini must:

- Carry out its obligations under this Contract in a way that is safe and without risk to the health of its employees and contractors, Cabrini's staff and contractors and any person who may come into contact with the Products.
- Comply with all legislative requirements under the relevant Acts and/or Regulations.
- Comply with all requirements outlined by Cabrini to ensure the health, safety and wellbeing of contractors, employees and other persons.
- Complete the OHS Contractor Questionnaire in full, ensuring all required documentation is submitted prior to undertaking work at a Cabrini facility.
- Ensure all supplier employees and subcontractors undertaking work at a Cabrini facility have completed the Cabrini OHS induction and acknowledge that they are aware and understand all information provided by Cabrini to ensure the health, safety and wellbeing of contractors, employees and other persons. If a supplier employee or subcontractor does not understand any of the safety requirements outlined by Cabrini, the Supplier must not commence work and is required to immediately notify their Cabrini Representative.
- Ensure adequate supervision is provided for supplier employees and subcontractors undertaking work at a Cabrini facility.
- Ensure supplier employees and subcontractors are competent to undertake the work in which they have been engaged for and hold the hold the necessary knowledge, skill qualifications, licences and/ or certifications.
- All supplier employees and subcontractors conducting work at a Cabrini facility are required to sign in and out daily.
- Complete all documentation required to ensure the health, safety and wellbeing of contractors, employees and other persons. This may include, but is not limited to Job Safety Environment Analysis, Safe Work Method Statements, Permits and/or Risk Assessments.
- Ensure the required plant and/or equipment is provided to carry out the work safely and correctly. Furthermore, ensure equipment brought into a Cabrini facility is inspected and maintained in accordance with the manufacturer's instruction, tested and tagged in accordance with requirements, adequately guarded and safe for use.
- Report all hazards, near misses, injuries and/or illnesses (where applicable) as soon as reasonably practicable to a Cabrini representative. Where a notifiable incident occurs, the supplier employee or subcontractor must immediately notify their Cabrini Representative and the Cabrini OHS Manager. Contractors must ensure the incident site is not disturbed unless there is immediate risk to the health and safety of a person.
- Comply with any other directive provided by Cabrini to ensure the health, safety and wellbeing of contractors, employees and other persons.