

Tabcorp Vendor Terms - General Terms

The parties agree as follows:

1 Purchase Orders

- 1.1 Any member of the Tabcorp group may at any time request the Vendor to provide Goods and/or Services by issuing a Purchase Order.
- 1.2 A valid Purchase Order:
 - (a) must specify the relevant Tabcorp purchase order number;
 - (b) in the case of Goods, must identify the Goods for delivery, specify quantities, and the delivery location, and may include any specifications or other requirements that the Vendor or the Goods must comply with; and
 - (c) in the case of Services, must describe the Services to be provided and specify the location at which the Services are to be provided, and may include any other relevant matters such as the hours during which Services are to be provided, applicable service levels and service level rebates.
- 1.3 If no date for the delivery of Goods is specified in a Purchase Order, they are to be delivered on the next Business Day after the date of delivery of the Purchase Order to the Vendor.
- 1.4 Unless rejected by the Vendor within 1 Business Day of delivery of a Purchase Order to the Vendor, a Purchase Order will be deemed to be accepted by the Vendor.

2 Formation of Supply Agreement

- 2.1 Upon such acceptance (or deemed acceptance), a separate agreement for the provision of the Goods and/or Services described in the Purchase Order is established ("Supply Agreement"). The terms of each Supply Agreement consist of these General Terms and the terms of the relevant Purchase Order.
- 2.2 In each Supply Agreement:
 - (a) references to this agreement are to be read as references to the Supply Agreement; and
 - (b) in the event and to the extent of any inconsistency between these General Terms and the terms of a Purchase Order, these General Terms will prevail.

3 Vendor terms

If the Vendor (or any person on the Vendor's behalf) purports to impose upon Tabcorp or incorporate into this agreement any additional or varied terms by any means whatsoever, including in the Vendor's delivery documentation or in any other notification purported to be provided or delivered by or on behalf of the Vendor, then such terms will be null and void and of no force or effect.

4 No minimum purchase and non-exclusivity

- 4.1 Tabcorp is under no obligation, whether under or in connection with this agreement or otherwise, to purchase any, or any minimum quantity of, Goods and/or Services.
- 4.2 This agreement is non-exclusive. Tabcorp may at any time purchase any goods and services, including goods and services identical or similar to the Goods and Services, from any third party.

5 Provision of Goods and Services

Upon acceptance (or deemed acceptance) by the Vendor of a Purchase Order, the Vendor will deliver the Goods and/or Services in accordance with the relevant Supply Agreement.

6 Title and risk

Title to all Goods passes to Tabcorp free of encumbrances upon payment in full by Tabcorp for those Goods. Risk of loss of or

damage to Goods resides with the Vendor until the Goods are delivered to Tabcorp at the place of delivery specified in the relevant Purchase Order.

7 Charges

- 7.1 Charges payable by Tabcorp will be as specified in a Purchase Order.
- 7.2 If the parties agree in writing that Charges for goods and/or services are to be fixed for a certain period ("Vendor Quote"), the Vendor must ensure that Charges invoiced are consistent with the Vendor Quote.
- 7.3 Unless provided otherwise in a Purchase Order, all Charges payable by Tabcorp are, subject to clause 9 (GST), inclusive of all applicable taxes, charges and duties, and all other costs and charges connected with provision of the Goods and/or Services, including for packaging, carriage, insurance and delivery.
- 7.4 Charges will not be increased without Tabcorp's consent.

8 Payment of the Charges

- 8.1 Unless otherwise agreed, the Vendor may only render an invoice for Goods or Services following completion of the Services or delivery of the Goods (as relevant) in accordance with the applicable Purchase Order. Invoices must satisfy the requirements for a valid Tax Invoice as specified in the GST Act.
- 8.2 Upon receipt of a correctly rendered Tax Invoice, Tabcorp will pay to the Vendor all undisputed Charges within 30 days of receipt of such invoice.
- 8.3 Tabcorp may set off any amounts payable by Tabcorp to the Vendor (whether payable under or in connection with this agreement or otherwise) against any amounts payable by the Vendor to Tabcorp (whether payable under or in connection with this agreement or otherwise).
- 8.4 Tabcorp is not liable to pay interest on any amounts that are paid late.

9 GST

- 9.1 Unless otherwise stated in this agreement, the consideration specified in this agreement does not include any amount for Goods and Services Tax ("GST").
- 9.2 If a supply under this agreement is subject to GST, the recipient must pay to the supplier an additional amount equal to the amount of the payment in connection with the supply multiplied by the applicable GST rate.
- 9.3 The additional amount is payable at the same time as the consideration for the supply is payable or is to be provided.
- 9.4 If the additional amount differs from the amount of GST payable by the supplier, the parties must adjust the additional amount.
- 9.5 If a party is entitled to be reimbursed or indemnified under this agreement, the amount to be reimbursed or indemnified does not include any amount for GST for which the party is entitled to an Input Tax Credit (as defined in the GST Act).

10 Intellectual Property

- 10.1 The Vendor acknowledges and agrees that Tabcorp (or a third party supplier to Tabcorp) owns all intellectual property rights in and to any materials provided to the Vendor by or on behalf of Tabcorp ("Tabcorp Materials").
- 10.2 The Vendor is permitted to use Tabcorp Materials only to the extent necessary for the provision of the Goods and Services. The Vendor must return all Tabcorp Materials to Tabcorp when no longer required by the Vendor for such purposes or on demand by Tabcorp.



Tabcorp Vendor Terms - General Terms

10.3 All intellectual property rights developed by the Vendor under or in connection with this agreement or the provision of the Goods and/or Services vests immediately in Tabcorp upon its creation. The Vendor hereby irrevocably and unconditionally assigns to Tabcorp all such intellectual property rights.

11 Access

- 11.1 On reasonable notice and during normal working hours, Tabcorp will use reasonable endeavours to provide the Vendor with access to the relevant Tabcorp location to enable the Vendor to deliver the relevant Goods and/or Services.
- 11.2 When providing Services at or delivering Goods to Tabcorp's premises, the Vendor agrees to comply with Tabcorp's policies and procedures relating to occupational health (including Tabcorp's smoke free work place policy), safety and security in effect at those premises, as notified by Tabcorp, and with all reasonable directions given by any Representative of Tabcorp.

12 Indemnity and insurance

- 12.1 The Vendor will indemnify Tabcorp, Tabcorp's related bodies corporate (as defined in the *Corporations Act 2001* (Cth)), and all Representatives of each of them, against any and all loss, liability, damages, and expenses (including legal fees on a full indemnity basis) suffered or incurred by any of them to the extent such loss, liability, damage or expense is suffered or incurred, as a result of any of the following:
- (a) any fraud by the Vendor or any of its Representatives;
 - (b) any breach by the Vendor or any of its Representatives of any applicable laws; and
 - (c) personal injury, death, or loss of or damage to real or tangible personal property caused by the Vendor or by any of its Representatives under or in connection with this agreement, or caused in any way by any Goods provided under this agreement.
- 12.2 Without limiting its obligations under clause 12.1, the Vendor will arrange and maintain with a reputable insurance company, at its cost, the insurance specified at Item B (Insurance) on the Cover Page. Such insurance must commence on the Commencement Date and continue for a period of 7 years after expiry or termination (for whatever reason) of the last Supply Agreement.

13 Confidentiality

- 13.1 The Vendor will not disclose or use any Confidential Information except for the purposes of performing its obligations under this agreement.
- 13.2 The Vendor may disclose Tabcorp's Confidential Information:
- (a) to its legal or financial advisers, to obtain advice; or
 - (b) as required or authorised by law; or
 - (c) with Tabcorp's prior written consent; or
 - (d) as required by the listing rules of any stock exchange on which the Vendor's shares are listed.

14 Term

- 14.1 The General Terms commence operation on the Commencement Date.
- 14.2 Each Supply Agreement commences on the date of, or on such other date as may be specified in, the relevant Purchase Order and continues (subject to earlier termination) until the parties have performed all of their obligations under the Supply Agreement.

14.3 If the Purchase Order is not dated or does not specify a commencement date then the commencement date of a Supply Agreement will be the date of acceptance or deemed acceptance of the Purchase Order under clause 1.3 (Purchase Orders).

15 Termination - breach and insolvency

Tabcorp may terminate this agreement immediately by giving written notice to the Vendor, while preserving to itself whatever rights may have accrued to it, upon occurrence of any of the following events:

- 15.1 where the Vendor commits a breach of this agreement which is not capable of being remedied;
- 15.2 where the Vendor has committed a breach of this agreement which is capable of remedy, and has not remedied the breach within 30 days of receipt of written notice of the breach; or
- 15.3 where the Vendor commits an act of insolvency, comes under any form of insolvency administration, or novates, assigns or otherwise deals with its rights under this agreement without Tabcorp's consent.

16 Termination without cause

- 16.1 Tabcorp may terminate this agreement at any time without cause by giving the Vendor 7 days' written notice.
- 16.2 Tabcorp may terminate this agreement at any time without cause immediately by giving the Vendor written notice if directed or required to do so by any regulatory authority.

17 Supply Agreements are separately terminable

- 17.1 Each Supply Agreement is a separate agreement which is independently terminable.
- 17.2 Termination of any Supply Agreement (or of all Supply Agreements) does not have the effect of terminating these General Terms.
- 17.3 Except if expressly provided in writing, termination of the General Terms does not terminate any Supply Agreement that may be in force as at the effective date of termination of the General Terms.

18 Consequences of termination

- 18.1 In the event of the termination of this agreement for any reason, Tabcorp will be entitled to a refund of any Charges paid in advance for Goods and/or Services not delivered.
- 18.2 In the event of termination of this agreement under clause 16 (Termination without cause), the Vendor will be entitled upon termination to payment of:
 - (a) any monies outstanding for Services performed or Goods delivered prior to termination; and
 - (b) the Vendor's actual and direct out-of-pocket expenses to the date of termination, as approved by Tabcorp. The Vendor must mitigate any such costs claimed from Tabcorp.
- 18.3 In no event will amounts to be paid by Tabcorp under clause 18.2 (Consequences of termination) exceed the value of the Charges payable for the Goods and Services terminated.
- 18.4 In the event of termination of this agreement for any reason, the only amounts payable by Tabcorp to the Vendor are those referred to in clause 18.2 (Consequences of termination). Tabcorp will not be liable to pay the Vendor any amount by way of early termination charges or compensation for loss of prospective revenue or profit suffered in connection with such termination.

19 Warranties

- 19.1 The Vendor warrants that:

Tabcorp Vendor Terms - General Terms

- (a) Goods and Services will conform to all of the requirements of this agreement;
 - (b) Services will be provided with due care and skill; and
 - (c) Goods will conform to any sample provided, will be of merchantable quality, and will be fit for purpose.
- 19.2 If any Goods or Services do not comply with clause 19.1, then the Vendor will, at Tabcorp's request and at no additional cost to Tabcorp:
- (a) in the case of Services, to the extent practicable, promptly provide the Services again; and
 - (b) in the case of Goods, promptly rectify the non-conforming Goods or replace them with goods that meet the requirements of clause 19.1.
- 19.3 Alternatively, and at Tabcorp's discretion, Tabcorp may:
- (a) elect to receive defective Goods or Services at a reduced price, such price to be determined by Tabcorp having regard to the nature of the relevant defect or non-conformance; or
 - (b) reject any defective Goods or Services, in which case the Vendor will refund to Tabcorp in full all Charges paid in respect of those Goods or Services.

20 Regulatory

- 20.1 The Vendor will at all times comply with all laws and regulations that are applicable to performance by the Vendor of its obligations under this agreement.
- 20.2 To the extent that this agreement is a "controlled contract" within the meaning of the *Casino Control Act 1992* (NSW) or the *Public Lotteries Act 1996* (NSW), the Vendor agrees to comply with any requirements under such legislation as may from time to time be notified to it by Tabcorp, and agrees to provide any information and access to its premises and records that any regulatory authority having jurisdiction under such legislation may require or request.
- 20.3 At Tabcorp's request, the Vendor agrees to complete an Enterprise Assessment Form in such form and containing such information as Tabcorp may require.

21 No agency

The parties acknowledge and agree that their relationship under this agreement is that of independent contractors and nothing in this agreement should be construed as creating a relationship of employer/employee, principal/agent, partnership or joint venture.

22 Jurisdiction and governing law

This agreement is governed by the laws of the State or Territory in which the relevant Tabcorp entity is located and the parties submit to the non-exclusive jurisdiction of the courts of that State or Territory and courts of appeal from them.

23 Entire agreement

- 23.1 This agreement constitutes the entire agreement between the parties with respect to the subject matter of this agreement and contains all of the representations, warranties and agreements of the parties.
- 23.2 This agreement supersedes all prior negotiations, contracts, arrangements, understandings and agreements concerning such subject matter.

24 Variation

This Agreement may be amended or varied only by agreement in writing signed by the parties.

25 Survival

- 25.1 Clauses 10 (Intellectual Property), 13 (Confidentiality), 21 (No agency), 22 (Jurisdiction and governing law), 23 (Entire agreement) and this clause 25 (Survival) survive

the expiry or termination (for whatever reason) of this agreement, together with any other clauses that by necessary implication survive such expiry or termination.

- 25.2 The Vendor's obligations under clauses 12 (Indemnity and insurance), 19 (Warranties) and 20 (Regulatory) survive the expiry or termination (for whatever reason) of this agreement.

26 Definitions

In this agreement:

Business Day means 8am to 6pm Monday to Friday, excluding public holidays, in the place where the relevant Tabcorp entity is located.

Charges means the charges payable by Tabcorp for Goods and Services, as detailed in a Purchase Order and in any relevant Vendor Quote.

Cover Page means the front page to this agreement containing the agreement details.

Commencement Date means the date specified at Item B on the Cover Page.

Confidential Information means any Tabcorp information disclosed in any form to the Vendor or otherwise learned or acquired by the Vendor under or in connection with this Agreement, which is identified by Tabcorp as being confidential, or which due to the circumstances of disclosure the Vendor knows or ought to know is confidential, whether disclosed visually, orally or in writing, and including (without limitation) information which relates to Tabcorp's business, systems, technology, affairs, or products, but excluding information that:

- (a) was or becomes generally available to the public, other than as a result of a breach of an obligation of confidentiality owed to Tabcorp;
- (b) becomes known to the Vendor, without an obligation of confidentiality, from a source other than Tabcorp;
- (c) was in the Vendor's possession, without an obligation of confidentiality, prior to receipt from Tabcorp; or
- (d) is independently developed by the Vendor without the use of Tabcorp's confidential information.

General Terms means these terms headed "Tabcorp Vendor Terms - General Terms", and includes the Cover Page.

Goods means the goods to be provided by the Vendor to Tabcorp under and in accordance with a Supply Agreement.

GST Act means the *A New Tax System (Goods and Services Tax Act 1999* (Cth).

Purchase Order means a purchase order issued by Tabcorp under clauses 1.1 and 1.2 (Purchase Orders).

Representative of a party includes an employee, agent, officer, director, auditor, adviser, partner, consultant, joint venturer or sub-contractor of that party.

Services means the services to be provided by the Vendor to Tabcorp under and in accordance with a Supply Agreement.

Supply Agreement has the meaning given in clause 2.1 (Formation of Supply Agreement).

Tabcorp means the Tabcorp entity named on a Purchase Order.

Tabcorp Materials has the meaning given in clause 10.1 (Intellectual Property).

Vendor Quote has the meaning given in clause 7.2 (Charges).