



## 3M Australia Pty Limited

# Purchase Order Terms

These terms ("Terms") are incorporated in any purchase order ("Order") for goods and other deliverables (referred to as "Goods") and services ("Services") issued by the 3M entity issuing the Order ("3M") to the supplier providing the Goods and/or Services identified in that Order ("Seller"), except to the extent any Terms conflict with a written agreement between 3M and Seller (the "Parties"), or other written terms 3M has provided to Seller, that specifically cover that transaction.

**1. SCOPE.** Seller has accepted an Order (including these Terms) if Seller gives a verbal, written or electronic acknowledgement of, or initiates performance under, that Order. By accepting an Order, Seller's acceptance is limited to the Order's terms (which include these Terms). No additional or conflicting term in any Seller acknowledgement, invoice, bid, proposal, or other documentation is binding on 3M, unless 3M specifically agreed to it in writing. All Goods and Services will be delivered to 3M in strict conformance with any packaging, product and/or service standards, specifications, and other requirements provided by 3M or approved in writing by 3M (the "Requirements").

**2. DELIVERY.** Unless otherwise stated in the Order, (a) all Goods shipped from a location in the United States to 3M in the United States of America are sold FOB to the 3M facility or facilities specified in the applicable Order, (b) all Goods shipped to 3M facilities in the United States from other countries or to 3M facilities in other countries are sold FCA (Incoterms 2010) the location specified in the applicable Order, and (c) if Seller is responsible for shipping Goods, Seller will ship Goods via the most economical route and in a single shipment. Seller will deliver all Goods and Services within the time period stated in the Order, unless 3M specifies a longer, or the Parties agree to a shorter, time period. Seller will make no charge for any packing, crating, storage, insurance, shipping, or delivery expense, unless authorized in the Order. Seller will pay any excess costs due to failure to follow 3M's shipping instructions. If Seller delivers any Goods amount other than that stated in the Order without 3M's prior written consent, 3M may return any of that delivery, at Seller's expense. 3M's determination of the Goods' count and weight is conclusive, unless Seller encloses a packing slip stating a different amount. **TIME IS OF THE ESSENCE FOR ALL ORDERS.**

**3. PRICES AND PAYMENT.** Goods and Services will be delivered to 3M for the price stated in the Order. Unless the Order states different payment terms, payments are two percent/twenty net sixty to be paid in the currency specified in the Order. 3M's payments may be adjusted for Seller's errors, defects or non-compliance with the Order (including these Terms). Each invoice must relate to only one Order, and be issued and dated no earlier than the date on the Goods' and/or Services' delivery date. Each Seller invoice and all related documents (such as packaging lists, bills of lading, freight bills and correspondence) must include: (a) Order number; (b) applicable Order line item number(s) and unit of measure; and (c) 3M's identification number (if provided by 3M). Seller warrants that the prices being paid by 3M are not affected by collusion or any other anti-competitive activity.

By accepting this Order, Seller agrees that GST shall only be charged on its invoice issued to 3M in Australia if it was registered for GST purposes in Australia on the date of the invoice. In the event GST was wrongfully charged by the Seller to 3M, i.e. Seller fails to notify 3M of its GST deregistration status and charges GST on its invoices issued to 3M, Seller shall immediately refund to 3M such GST sum as may have been paid by 3M. In addition to the GST, Seller agrees to indemnify 3M against such sums of money (whether in form of fines, penalties and the like) which 3M may have paid arising out of or related to the Seller's unauthorised charging of GST to 3M.

#### **4. ORDER CHANGE, SUSPENSION OR CANCELLATION.**

4.1 3M may change an Order by giving electronic notice to Seller prior to shipment of the applicable Goods or performance of the Services. If any Order change causes an adjustment in price or delivery date, the Parties will make an equitable adjustment and modify an Order accordingly, provided that Seller gives 3M notice of that adjustment claim within three business days after receipt of 3M's Order change notice. 3M may require Seller to suspend all or part of Seller's performance under an Order for up to twelve consecutive calendar months. Seller will suspend performance and resume performance, as directed by 3M. If any Order suspension causes an adjustment in price, the Parties will make an equitable adjustment and modify an Order accordingly, provided that Seller gives 3M notice of that adjustment claim within three business days after receipt of 3M's Order suspension notice.

4.2 3M may cancel an Order, without cause, at any time by electronic or written notice to Seller, but if 3M's notice of cancellation is issued less than five days prior to a scheduled Goods delivery date or Services performance date, then Seller will be entitled to reimbursement for: (a) if Goods, any unique raw materials that cannot be returned to Seller's supplier or sold to other Seller customer(s) and are necessary to provide those Goods due on that delivery date; or (b) if Services, the fees for those Services completed prior to the termination and Seller's actual, out-of-pocket expenses paid to third parties that are not refundable and were reasonably necessary to provide those Services. If Seller fails to comply with all of an Order's Terms or admits its inability to meet its financial obligations, or it otherwise becomes apparent that Seller will not be able to fulfill its obligations under that Order due to Unavoidable Delay or other cause, then 3M may cancel an Order at any time by electronic or written notice to Seller without any liability of any kind to Seller, in addition to any other legal or equitable remedies 3M may have.

**5. TRADEMARKS.** Seller will use a 3M trademark, tradename, or corporate logo ("3M Mark") only if required by the Requirements. Seller will, at 3M's direction, return to 3M or destroy all materials containing a 3M Mark. While Seller is providing Goods and/or Services for 3M and at any time thereafter, Seller will not use 3M's name or 3M Mark in any manner, including promotional or advertising materials, or otherwise assert affiliation with 3M or a 3M affiliate, except with 3M's prior written consent in each instance.

**6. 3M MATERIAL & 3M EQUIPMENT.** 3M owns any materials 3M provides to Seller, including, without limitation, raw materials, databases, or documents ("3M Material") and any tooling or other equipment that 3M provides to Seller or for which 3M reimburses Seller ("3M Equipment"). Seller authorizes 3M to file any documentation including but not limited to UCC financing statements, caveats and any other documentation without Seller's signature to acknowledge 3M's ownership of these items. Seller will not sell, pledge, transfer or remove from Seller's facility any 3M Material or 3M Equipment. Seller will use all 3M Material and 3M Equipment solely to perform its obligations under Orders and for no other purpose. Seller will not alter any 3M Equipment. Seller will use its best efforts to maintain the security and confidentiality of all 3M Material and 3M Equipment. Seller has all risk of loss or damage to 3M Equipment and 3M Material, and will, at 3M's request, immediately restore or replace any damaged or lost 3M Equipment or 3M Material with an equivalent item. Promptly on 3M's request, Seller will return to 3M all 3M Equipment and unused 3M Material in their original condition, except for reasonable wear, with 3M liable only for crating and shipping costs. Seller will maintain all 3M Equipment in a safe and proper condition and indemnify 3M for, and defend it against, all claims arising out of Seller's use of 3M Equipment. If the Parties establish 3M Material loss allowances, Seller will reimburse 3M for any excess losses, at 3M's delivered cost to Seller. Seller will inspect 3M Material that will be incorporated into Goods and promptly inform 3M of any non-compliance with the Requirements.

#### **7. WARRANTIES & REMEDIES.**

7.1 In addition to all implied and express warranties available under these Terms, any applicable law and/or the Uniform Commercial Code ("UCC"), Seller warrants that: (a) all Goods and Services will be free from any encumbrance and conform to all Requirements and the applicable Order; (b) all Goods will be without any defect in design (except to the extent designed by 3M), manufacture, processing, materials and workmanship; (c) all Goods will be made or processed, and all Services will be performed, in compliance with all laws applicable to

Seller and its business and maintain environmental, health and safety, transportation, ethics, human resources and labor programs and management systems that are consistent with 3M Supplier Responsibility Code regarding EHS, Transportation, Labor/Human Resources, Ethics, Management Systems and Supplied Materials available at <http://multimedia.3m.com/mws/media/1204567O/3m-supplier-responsibility-code.pdf>. Seller also warrants that: (x) Seller has the expertise, and resources to perform its obligations under any Order (including these Terms); (y) no Good or Service infringes on any third party's intellectual property rights; and (z) Seller has no third party obligations that conflict in any way with Seller's obligations under these Terms.

7.2 In addition to all available remedies, 3M may reject any Goods or Services not meeting Seller's warranties, and: (a) obtain substitutes and offset, or require Seller to reimburse 3M for, all additional costs associated with the substitutes; or (b) require Seller, at 3M's option, to either replace the affected Goods or re-perform the affected Services without charge, or to reimburse 3M that Good's price, plus any 3M Material's delivered cost, or that Service's price. 3M may, but is not obligated to, inspect or test Goods and Services at 3M's premises, Seller's premises or those of any Seller subcontractor performing under an Order. 3M's acceptance of delivery, inspection, or payment for any Good or Service does not waive any of Seller's warranties or other obligations. Seller will use its best efforts to assist 3M in investigation of, and corrective action for, 3M customer complaints related to the Goods and/or Services.

7.3 Seller warrants that a) the Goods do not infringe any patent, utility model, design, copyright, trade mark, confidential information, or other intellectual property rights ("IP Rights" collectively) of any third party, and b) no claims have been asserted, no legal action is pending or threatened, against Seller alleging that the Goods infringe the IP Rights of any third party.

## **8. COMPLIANCE WITH LAWS & PRODUCT CONTENT.**

8.1 Seller will not provide products or services to 3M that use labor: (a) resulting from mental or physical coercion, physical punishment, slavery, human trafficking or other oppressive labor conditions; and (b) from workers younger than 16 years of age if local law permits employees younger than 18. In addition, Seller will only use workers between 16 and 18 years of age to perform Seller's obligations under this Order if Seller implements and maintains any additional working conditions needed to adequately protect their safety and health.

8.2 Before or at shipment of any Good that requires a Material Safety Data Sheet ("MSDS"), Seller will deliver a current and complete MSDS to 3M. Seller warrants that each Good is in compliance with, or exempt from, all applicable chemical control Laws ("Chemical Control Laws"), including, without limitation, the United States Chemical Control Law known as "TSCA" and any other Chemical Control Law(s) referenced in an Order. Seller will promptly inform 3M in writing of any change in a Good's regulatory status under any Chemical Control Law.

8.3 Materials Compliance: Products, the 3M products into which they are incorporated and Product packaging ("Product Packaging") may need to comply with laws that restrict, regulate or require disclosure of, product content, including but not limited to the European Union's (EU) Directive on the Restriction of the Use of Certain Hazardous Substances in Electrical and Electronic Equipment (known as "RoHS"), the People's Republic of China Management Methods for Prevention and Control of Pollution from Electronic Information Products of 2006, the EU's Regulation 1907/2006 (known as "REACH") relating to products and packaging, the EU's Directive 94/62/EC relating to packaging, and other similar laws ("Substance Laws") as well as laws on legal harvesting such as, for example, the U.S. Lacey Act, the EU Timber Regulation, the Australian Illegal Logging Prohibition Act and other similar laws ("Legal Harvest Laws"). See [3M.com/supplierregspecs](http://3M.com/supplierregspecs). Seller therefore warrants as follows for each Product and all Product Packaging (exclusive of any 3M Materials):

(a) Restricted Substances. Product and Product Packaging will not contain substances in excess of permitted concentration values established by Substance Laws unless the applicable Specifications specifically permit that substance in a higher concentration value. Without limiting the foregoing, substances in Product and Product Packaging will not exceed the following maximum concentration values in any homogenous material ("Restricted Values"): (1) 0.1% (by weight) for each of lead, mercury, hexavalent chromium, polybrominated biphenyls or polybrominated diphenyl ethers; or (2) 0.01% (by weight) for cadmium.

(b) Illegally Obtained Plant Material. Product and Product Packaging will not contain plant material (including any derivative of plant material) taken, possessed, transported, or sold in violation of any law. Seller must exercise due diligence to ensure that the materials contained in Product and Product Packaging supplied to 3M are legally sourced, harvested and exported from their country of harvest.

(c) Conflict Minerals. If Products contain any conflict minerals as defined under Section 1502 of the U.S. DoddFrank Act and its implementing regulations that are necessary to the production or functionality of such Products ("Conflict Minerals"), Seller must (i) disclose their presence; (ii) provide on request information on Conflict Mineral smelters and refiners in the relevant supply chains and other information consistent with industry standard conflict minerals reporting templates; and (iii) adopt a Conflict Minerals policy and due diligence management system and require Seller's suppliers to adopt a policy and management system.

(d) Counterfeit Goods. All products delivered pursuant to this Agreement will comply with and are subject to the anti-counterfeiting terms and conditions listed under "Counterfeit Goods" at 3M.com/supplierregspecs ("Counterfeit Goods Provisions"). For purposes of this Agreement, reference to "Goods" in the Counterfeit Goods Provisions means the Products.

(e) Other Information Disclosure. Seller will provide 3M: (i) satisfactory documentation that Product and Product Packaging (exclusive of 3M Materials) do not exceed the Restricted Values; (ii) certification of the presence of any substance regulated under any Substance Law ("Regulated Substance") contained in the Product or Product Packaging including without limitation any Regulated Substance listed in the REACH Candidate List (found at <http://echa.europa.eu/web/guest/candidate-list-table>); (iii) certification of the exact concentration of each Regulated Substance contained in Product and Product Packaging regardless of whether the relevant Specifications permit one or more Regulated Substances; (iv) certification of each plant scientific name (genus and species), country of harvest, and other information that may be required by Legal Harvest Laws; and (v) reports on the occurrence of other substances in any Product or Product Packaging that may be restricted by, or require disclosure to, governmental bodies, customers and/or recyclers.

8.4 Seller warrants that all Seller employees, agents, and subcontractors ("Seller Personnel") performing any of Seller's obligations under an Order will have employment authorization that complies with all applicable Laws. On 3M's request, Seller will provide 3M with all documentation and information 3M requires to conduct an export control license assessment relating to Seller Personnel. If 3M determines that an export license is needed for certain Seller Personnel, 3M may, in its discretion, pursue that export license or instruct Seller not to use that Seller Personnel to perform Seller's obligations under an Order.

8.5 If any Goods will be shipped from another country into the United States, Seller must secure its facilities and all of its shipments made to 3M and 3M designated sites in accordance with then-current U.S. Customs Trade Partnership Against Terrorism ("C-TPAT") security guidelines. If 3M is the importer of record for specific shipments, Seller must provide 3M and must ensure that its logistics providers also provide 3M all necessary shipping data to satisfy security, notification and other regulatory requirements applicable at the time of delivery, including but not limited to the U.S. Importer Security Filing ("ISF") requirements. This shipping data must be provided to 3M in sufficient time before Goods are delivered to the carrier to complete the applicable requirements and in the case of ocean freight no less than three business days prior to delivery of Goods to the carrier. Current C-TPAT and ISF requirements can be found on the U.S. Customs and Border Protection website ([www.cbp.gov](http://www.cbp.gov)).

8.6 Seller must comply fully at all times with applicable national and international anti-bribery rules, including, without limitation, the U.S. Foreign Corrupt Practices Act, the U.K. Bribery Act, Australian Crimes Act and applicable EU, OECD and Council of Europe anti-bribery rules. Seller will not offer, make, promise to make, or authorize the making of any gift or payment of money or anything of value either directly or indirectly for purposes of (a) influencing any act or decision of any government official or political party (or candidate thereof) (collectively, "Officials"); (b) inducing an Official to do or omit to do any act in violation of the lawful duty of that Official; or (c) inducing an Official to use influence with a non-U.S. government or instrumentality to facilitate Seller's performance of its obligations under any Order. Seller and its affiliates must at all times keep complete and accurate books and records. All records and information that Seller provides to 3M pertaining to the performance of each Order must be complete and accurate.

8.7 Seller must fully comply with all trade-related laws including but not limited to export control, embargo and sanctions, anti-boycott and import laws applicable to Seller and its business. Seller also represents and warrants that:

a) Restricted Parties. In the performance of its obligations under this Order, Seller will not engage in any transaction with any restricted party appearing on the restricted parties lists of the United States or any other applicable jurisdiction including but not limited to Seller's use of freight forwarders, financial institutions, customs brokers and Seller Personnel. The U.S. Government's consolidated list of restricted parties is available at [http://www.export.gov/ecr/eg\\_main\\_023148.asp](http://www.export.gov/ecr/eg_main_023148.asp).

b) Export Controls. Unless 3M agrees in writing to the contrary and notwithstanding any Incoterm referenced in these Terms or the Order, Seller will obtain all export control licenses, permits, or any other governmental authorizations required to perform Seller's obligations under the Order. Prior to shipping any export-controlled Goods or transmitting any related export-controlled software or technical data to 3M, Seller will provide the export classifications of the Goods, software or technical data ("Export Classification Information") by e-mail to [export3MUS@mmm.com](mailto:export3MUS@mmm.com). In addition, Seller will include the Export Classification Information on (i) any packing documentation accompanying the shipment of Goods; (ii) any transmission instructions for software; and (iii) on the face of all technical data.

c) Country of Origin. On request Seller will provide 3M with complete and accurate country of origin information for all Goods covered by the Order ("Country of Origin Information") by e-mail to [import3MUS@mmm.com](mailto:import3MUS@mmm.com).

d) Antidumping and Countervailing Duties. If any Goods are subject to antidumping or countervailing duties for the purposes of import into the United States or any country specified in the Order, Seller will notify 3M by e-mail to [import3MUS@mmm.com](mailto:import3MUS@mmm.com) prior to shipment of the Goods.

e) 3M Cancellation Remedies. If Seller breaches this Section 8.7, 3M may in addition to its other remedies cancel the Order on notice to Seller without any opportunity to cure and without liability to 3M. In addition, 3M may in its sole discretion and without liability or opportunity to cure cancel the Order on notice to Seller if: (i) the export control classification of the Goods or related software or technical data limits or restricts 3M's ability to use or resell the Goods; or (ii) Seller notifies 3M that any Goods are subject to antidumping or countervailing duties.

8.8 All drawback of duties and rights related to duties paid by Seller when the Goods or any materials or components used in manufacturing Goods are imported by Seller accrue to the exclusive benefit of 3M. Duty drawback rights include without limitation rights accruing from product substitution and rights obtained from Seller's subcontractors. Upon request, Seller will provide 3M with all documents, records, and other supporting information necessary to obtain any duty drawback, and will reasonably cooperate with 3M to obtain payment.

## **9. CONFIDENTIAL INFORMATION.**

9.1 The term: (a) "products" as used only in this Section 9 means all products manufactured or sold by or for 3M or services performed for 3M, including the Goods and Services; and (b) "3M Confidential Information" means information or tangible materials, whether or not designated by 3M as confidential, pertaining to: (i) product development, design, formulations, composition, research and development, or specifications; (ii) product manufacturing techniques, rates or quantities; (iii) equipment used to make products; (iv) any other aspects of 3M's business relating to products and services, including without limitation marketing, sales, customers and non-public financial data; (v) all Orders placed by 3M; and (vi) the Parties' relationship.

9.2 Seller will: (a) keep all 3M Confidential Information confidential; (b) use 3M Confidential Information only as necessary to perform Seller's obligations under the Order; and (c) assure that its employees, agents, and 3M approved subcontractors abide by these confidentiality obligations. If Seller receives any tangible materials constituting 3M Confidential Information, then Seller will return those to 3M, on 3M's request or at the end of the applicable Order. 3M Confidential Information does not include information that is: (x) available to the public in any publication; (y) known to Seller prior to its receipt from 3M as evidenced by Seller's written records; or (z)

available to Seller from another source without breach of any agreement or violation of law. If required by judicial or administrative process to disclose 3M Confidential Information, Seller agrees to promptly give 3M notice, allow 3M reasonable time to oppose such process, and seek to have the third party treat the information confidentially to the extent legally permissible.

9.3 To the extent that IP Rights are created by Seller based on 3M's Confidential Information, Seller agrees that such IP Rights shall belong to 3M. Seller agrees to assign and hereby assigns to 3M such IP rights, and will execute any document 3M reasonably requires to perfect 3M's ownership of such IP rights. Nothing in the foregoing requires Seller to assign to 3M any of Seller's intellectual property rights existing prior to the date of this agreement ("Background IP Rights"), except that Seller grants 3M a non-exclusive, royalty free, worldwide, irrevocable and assignable right under Seller's Background IP Rights to use, sell or practice the Goods in any way for 3M's benefit.

**10. PERSONAL INFORMATION.** "Personal Information" means information about a particular individual that, on its own or in combination with other information, identifies an individual, in any form and any media. Seller may access, collect, or process Personal Information during its performance under an Order. Seller must keep all that Personal Information confidential, use it only as necessary to perform Seller's obligations under an Order, and promptly notify 3M of any judicial process that might require its disclosure. Seller will, at 3M's option, either return or destroy all that Personal Information on 3M's request. In addition, Seller will: (a) create, obtain, process and use Personal Information only in compliance with all applicable laws; (b) restrict access to Personal Information to only those Seller employees as is necessary to perform Seller's obligations under an Order; (c) ensure that all Seller employees with such access have obligations as strict as Seller's obligations under this Section and have been informed of those obligations; (d) use security measures to protect all Personal Information from unauthorized access, use, disclosure, alteration or destruction; (e) maintain any records that include Personal Information in accurate and current form; (f) on 3M's request, provide reasonable assistance with updating, correcting, verifying, and providing individuals with access to their Personal Information related to an Order; and (g) promptly notify 3M if any unauthorized person accesses, uses, or discloses any Personal Information related to an Order, or if any individual requests access to, correction of, or revokes consent for, Personal Information related to an Order.

**11. PRODUCTION DISCONTINUATION.** Prior to Seller's discontinuing the manufacture or sale of any Good identified in any Order issued by 3M during the preceding twelve months: (a) Seller will fill all current Orders for that Good; (b) Seller will give 3M at least six months' prior written notice of that discontinuation; and (c) 3M will have the right to issue a last-time buy Order for, and Seller will deliver, that discontinued Good at its then-current price in an amount up to 3M's largest twelve-month purchase volume (based on Orders issued).

**12. INDEMNIFICATION & INSURANCE.** Seller will indemnify, defend, and hold harmless 3M, its affiliates, and their successors, assigns, officers, directors, employees, and agents for, from and against any claim, liability, loss, damage, lien, judgment, duty, fine, civil penalty and cost, including attorneys' fees and litigation expenses, arising out of: (a) Seller's failure to comply with any of its obligations under an Order (including these Terms), which may include, without limitation, those relating to a resulting Good recall or other reasonable action 3M takes regarding any such failure; and (b) claims arising out of handling, packaging, labeling, storage, treatment, removal, transportation, and disposal of any waste material at any Seller site or related to the Goods under any laws, including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. Sections 9601 et seq. as amended, known as "CERCLA"), the Hazardous Materials Transportation Act (49 U.S.C. Sections 5101 et seq.), the Resource Conservation and Recovery Act (42 U.S.C. Sections 6901 et seq., known as "RCRA"), or any other current or future law of similar effect, and (c) claims of trademark, patent, copyright or other intellectual property rights infringement by any third party with respect to the Goods covered by this Agreement, and such obligation shall survive acceptance of the goods and payment therefore by 3M. The foregoing indemnities do not affect any other 3M remedies. Seller will at all times maintain liability, property damage, and other insurance to protect 3M from all the foregoing risks, and will, on request, supply certificates evidencing this coverage. If the Goods or part thereof becomes, or is likely to become, the subject of an IP Rights infringement litigation, Seller shall, at 3M's option and at Seller's own expense, do the following in sequential order: a) use best efforts to secure the IP Rights necessary for 3M to use, sell

and import the Goods or any 3M products incorporating the Goods globally, or b) replace or modify the Goods or part thereof to render them non-infringing, provided that such replacement or modification does not result in the degradation of the quality, performance or specification of the Goods, or c) refund 3M the entire sum paid for the Goods.

**13. U.S. GOVERNMENT CONTRACTS.** The U.S. Government provisions that apply to Orders (“Flow Downs”) may be found on the 3M Supplier Direct website at: [www.3M.com/supplier/gov](http://www.3M.com/supplier/gov) under “U.S. Government Contracts - Provisions for Suppliers and Subcontractors USGOV-U”. These Flow Downs are in addition to any other Flow Downs that may be included in a specific Order or other agreement between 3M and Seller. The Flow Downs have the same force and effect as if they were included in full text in the Order. The version of the Flow Downs is the most current version shown in the 3M Supplier Direct website as of the issuance date of the Order and may only be changed by mutual written agreement of the Parties.

**14. UNAVOIDABLE DELAY.** If a Party cannot perform its obligations, in whole or in part, under an Order as a result of civil or military authority, war, flood, fire, epidemic, or other condition or cause beyond its reasonable control and not related to its fault or negligence (an “Unavoidable Delay”), that Party will be excused from that performance during the Unavoidable Delay to the extent that performance is prevented or delayed. If Seller has an Unavoidable Delay, 3M may modify or terminate any Orders on notice to Seller without liability to Seller. During a Seller Unavoidable Delay period, Seller will allocate any available Goods as is fair and reasonable. Unavoidable Delay will not include: (a) any labor dispute; (b) non-performance by Seller’s supplier; or (c) any delay preventable by Seller moving the affected Goods to an alternate 3M-approved Seller facility.

**15. SELLER WAIVER OF DAMAGES.** 3M WILL NOT, UNDER ANY CIRCUMSTANCES, BE LIABLE TO SELLER FOR SPECIAL, INDIRECT, OR CONSEQUENTIAL DAMAGES (INCLUDING BUT NOT LIMITED TO, LOSS OF PROFITS) IN ANY WAY RELATED TO GOODS, SERVICES, AN ORDER, OR ITS TERMINATION, REGARDLESS OF THE LEGAL OR EQUITABLE THEORY ON WHICH THE DAMAGES ARE SOUGHT.

**16. DISPUTE RESOLUTION.** Any claim or dispute arising from, or relating to, a Good, Service, or an Order (including these Terms) will be: (a) governed by the laws of New South Wales; and (b) must only be litigated in a court of competent jurisdiction in New South Wales. Each Party consents to the courts’ personal jurisdiction. Each Party will bear its own costs in dispute resolution, except that if a Party commences litigation, the losing Party in that litigation will pay all the prevailing Party’s attorneys’ fees, court costs, and other expenses related to that litigation. The 1980 United Nations Convention on Contracts for the International Sale of Goods will not govern an Order. All negotiations will be conducted in English, and all documents, including all Orders, will be written in English.

**17. NOTICES.** Unless otherwise stated in these Terms, any permitted or required notice must be in writing and personally delivered, including via any internationally recognized overnight service: (a) to 3M at: Building A, 1 Rivett Road, New South Wales, NSW; Attention: General Counsel; and (b) to Seller at the address to which the applicable Order was sent. Notice of a Party’s address change will be given as stated above.

**18. TAXES.** If any Goods or Services Tax (GST) or any consumption tax (“the Tax”) is imposed by the relevant authorities on any goods or services supplied under this Agreement, 3M shall pay for the appropriate Tax under each invoice in the event that the Seller has complied with the following:

- (a) The Seller is duly licensed by the relevant authorities to collect such Tax;
- (b) The appropriate Tax for each invoice is included under the relevant invoice at the time of the issuance of the invoice; and
- (c) All invoices provided by the Seller to 3M comply with the relevant Tax laws enforced by the relevant authorities.



The Seller hereby agrees that no Tax amount shall be due and payable by 3M unless the Seller has complied with the provisions of this Clause. The parties agree to use reasonable efforts to do anything required by the relevant Tax law to enable or assist the other party to claim or verify any input tax credit, set off, rebate or refund in respect of any Tax paid or payable in connection with goods or services supplied under this Agreement.

Notwithstanding anything herein contained, the Seller hereby agrees and undertakes to indemnify and keep indemnified 3M against all GST or Tax, damages, losses, penalties, fines and all sums whatsoever that 3M may suffer as a result of the Seller's failure to comply with the laws on GST or Tax.

**19. GENERAL TERMS.** Reference in these Terms to laws includes all federal, state, provincial, regional, territorial and local laws, statutes, regulations, rules ordinances and directives of any government. Each Order (including these Terms) is the Parties' final and complete agreement, and it terminates all their prior written or oral agreements and understandings as to that Order's subject matter except: (a) for any additional Seller obligations in a Bidding Participation Agreement; and (b) no Order is intended to terminate or supersede any existing confidentiality or intellectual property agreement by the Parties, including, without limitation, a General Supplier & Patent Agreement or Supplier Agreement or any written agreement between the Parties that specifically covers the Order or other written terms 3M has provided to Seller, that specifically covers that Order. All these Terms including, without limitation, those relating to safety, regulatory compliance, warranty, insurance, indemnification, confidentiality, will survive an Order's end and be fully enforceable thereafter to the full extent necessary to protect the Party in whose favor they run. A Party's failure(s) to insist on strict performance, or to exercise its rights, under an Order, does not waive subsequent compliance with that Order. All 3M rights and remedies under an Order are cumulative, and in addition to any other rights and remedies provided in law or equity. Seller may not assign an Order or any of its rights or obligations under an Order, including, without limitation, any subcontracting ("Assignment"), without 3M's prior written consent. No purported Assignment by Seller is binding on 3M without its written consent. No 3M consent to a Seller Assignment relieves Seller of any obligations under an Order, and Seller will ensure that any full assignee assumes all of Seller's obligations under these Terms and that any subcontractor is bound by terms as stringent as these Terms. Except as otherwise provided in these Terms, an Order may only be modified by a written document signed by the Parties' authorized representatives.