

Purchase Order Terms and Conditions

1. DEFINITIONS

1.1 Unless the context otherwise requires, the meanings of terms used in these Purchase Order Terms and Conditions and the Purchase Order (together the **Agreement**) are as follows:

- (a) **Delivery Date** means the date or dates specified as the Date Scheduled in the Purchase Order (and if no such date is specified then the date reasonably nominated by the Purchaser).
- (b) **Goods** means the goods and other property to be supplied by the Supplier as referred to in the Purchase Order, including those supplied in the course of providing Services and any other goods agreed to be provided by the Supplier in connection with this Agreement.
- (c) **IP Rights** means all present and future rights relating to intellectual property or industrial property of any nature, anywhere in the world, including any patents, designs, trademarks, copyright or trade secrets, circuit layouts, invention, discovery, trade secret, know-how, technical or product information.
- (d) **Price** means the price, rates or fees specified as such in the Purchase Order.
- (e) **Products** means the Goods or Services, and where the context includes any part of them.
- (f) **Purchaser** means Advanced Manufacturing Queensland Pty Ltd ACN 654 430 850 and, where the context permits includes a references to its related bodies corporate and their respective officers, employees and agents.
- (g) **Purchase Order** means the relevant purchase order provided by the Purchaser to the Supplier for the Products.
- (h) **Services** means the services and other obligations of the Supplier referred to in the Purchase Order, including any ancillary or related services as required by the Purchaser to enable the Purchaser to receive the full benefit of the Goods and services and such other services agreed to be provided by the Supplier in connection with this Agreement.
- (i) **Supplier** means the relevant person that the Purchaser orders Products from time to time, including any persons named as the 'Supplier', 'supplier', 'vendor', 'vendor' or similar expression in a corresponding Purchase Order and, where the context permits, the officers, employees and agents of the foregoing.

2. SUPPLY OF GOODS (IF APPLICABLE)

- 2.1 If Goods are being supplied under this Agreement, then the Supplier must:
- (a) supply the quantity of Goods (in accordance with any specifications or requirements) set out or referred to in the Purchase Order (or otherwise notified by the Purchaser around the time of submitting the Purchase Order) free of any encumbrances or security interest;
 - (b) deliver the Goods to the delivery point (including any 'Ship To') location on or before the Delivery Date, including by providing any means for unloading of the Goods;
 - (c) comply with the Purchaser's reasonable directions and delivery instructions;
 - (d) provide material safety data sheets if dangerous goods or hazardous substances are being delivered and ensure the Supplier complies with any chain of responsibility requirements in the Heavy Vehicle National Law prescribed by the Purchaser from time to time;
 - (e) provide test evidence for the Goods if required in accordance with the Purchaser's reasonable requirements; and
 - (f) if indicated in the Purchase Order, install the Goods on or before the Delivery Date.
- 2.2 If the Supplier cannot comply with any of its obligations under clause 2.1, the Supplier must notify the Purchaser in writing immediately.
- 2.3 The Purchaser may inspect (and conduct acceptance testing on) the Goods to determine whether to accept the Goods.
- 2.4 Any payment by the Purchaser does not constitute acceptance of any Products and the Purchaser may notify the Supplier within 7 days that it does not accept the Goods and any reason for not accepting the Goods.
- 2.5 If a Good is defective then, from delivery up until the end of the Warranty Period (which will be not less than 12 months from the Delivery Date, any period in any express warranty provided by the Supplier or manufacturer and any period required by law, whichever is the latest), then at the Purchaser's election the Supplier must replace (or repair if agreed by the Purchaser) the defective Good within 7 days (or such other time as is agreed) or the Supplier must refund the Price paid for the Goods.
- 2.6 The Supplier bears the risk in the Goods until the Purchaser accepts delivery of the Goods and any installation or related Services in respect of Goods and any rectification work in respect of any defects is completed. Title in the Goods will pass to the Purchaser upon delivery or collection.

3. SUPPLY OF SERVICES (IF APPLICABLE)

- 3.1 If Services are being supplied under this Agreement, then the Supplier must provide the Services in accordance with this Agreement. The Services must be provided in accordance with best industry practice and any applicable standards or specifications set out or referred to in the Purchase Order (or otherwise notified by the Purchaser around the time of submitting the Purchase Order).
- 3.2 If reports, data or other materials are to be delivered in the performance of the Services, the rights and title (including copyright) vests in the Purchaser on their acceptance by the Purchaser.

3.3 The Supplier may only subcontract the Services with the express written approval of the Purchaser.

3.4 If in the Purchaser's reasonable opinion the Supplier has failed to satisfactorily perform the Services the Purchaser may elect to have the Supplier provide replacement Services within such reasonable time as the Purchaser may determine or terminate this Agreement under clause 9 (in which case the Supplier must refund the Price).

4. SUPPLIER'S WARRANTIES

- 4.1 The Supplier warrants that the Products supplied pursuant to this Agreement:
- (a) conform to with any description of the Products and any sample provided by the Supplier;
 - (b) in respect of Goods, are new (unless otherwise specified in the Purchase Order);
 - (c) are free from defects in materials, manufacture, workmanship and installation, come with any express warranty notified or published by the Supplier and comprise all items required by the Purchaser for the use and enjoyment of the Products;
 - (d) are provided with due care and skill and in a timely manner;
 - (e) conform to any applicable Australian Standards or other standards nominated in the Purchase Order;
 - (f) are installed correctly (if the Supplier is responsible for installation);
 - (g) are fit for their intended purpose and are of acceptable quality; and
 - (h) are manufactured and/or supplied without infringing any person's IP Rights.
- 4.2 The Supplier must ensure that the Purchaser receives the full benefit of any manufacturer's warranties in respect of the Goods.

5. PRICE AND PAYMENT

- 5.1 The Price stated on the Purchase Order is fixed and includes containers, insurance, packaging, freight and all costs and charges to the point of delivery and installation unless otherwise stated and is inclusive of GST.
- 5.2 The Price is payable in accordance with the payment terms in the Purchase Order (and if no such terms are specified then upon completion of any delivery and completion of any related Services). However, the Purchaser is not obliged to pay for the Products unless the Supplier has provided a tax invoice in respect of that payment.

6. LIABILITY

- 6.1 The Supplier indemnifies and holds harmless the Purchaser against any and all costs, losses, damages, charges (government or otherwise), taxes, expenses, solicitors and advisors fees (on a full indemnity basis), claims or damages that may the Purchaser may in any way suffer, incur or sustain by in connection with any breach of this Agreement by the Supplier, any failure of the Product to conform to its requirements, any damage to person or property caused by the Supplier (or its employees, agents or contractors) or any claims made by any third party as a result of the Supplier's acts or omissions. This clause survives termination of this Agreement.
- 6.2 The Supplier's obligations under clause 6.1 above will not apply where the relevant loss suffered by the Purchaser arises solely due to the gross negligence or wilful misconduct of the Purchaser.

7. CONFIDENTIAL INFORMATION

- 7.1 The Supplier must keep the Purchaser's information confidential and only use or disclose the confidential information to the extent necessary for the purpose of this Purchase Order. This clause survives termination of this Agreement.

8. INTELLECTUAL PROPERTY

- 8.1 The Supplier grants the Purchaser a perpetual, irrevocable, royalty-free non-exclusive licence to use any IP Rights in respect of the Products, which includes the supply of replacement goods or services), or additions or alterations to the Products and the copyright of the documents for any such purposes. The Supplier warrants that the use of the Products by the Purchaser will not infringe any IP Rights of third parties.

9. TERMINATION

- 9.1 Either party may terminate this Purchase Order immediately upon giving notice in writing to the other party if:
- (a) the other party is in breach of this Agreement and has not rectified such breach within 14 days of the first party giving notice in writing to the other party requiring the rectification of such breach; or
 - (b) the other suffers or, in the reasonable opinion of the Purchaser, is in jeopardy of becoming subject to any form of insolvency administration or bankruptcy.
- 9.2 Any termination of this Agreement by either party does not affect any accrued right of either party or any rights arising by law independently of such termination.

10. GENERAL

- 10.1 This Agreement will be governed by the laws of Queensland and each party irrevocably submits to the non-exclusive jurisdiction of the courts of Queensland.
- 10.2 This Agreement constitutes the entire agreement between the parties in relation to its subject matter and supersedes all prior agreements, understanding and negotiations. Without limiting the foregoing, no terms and conditions proposed by the Supplier whether before or after the date of this Agreement be binding on the Purchaser, unless the Purchaser expressly agrees in writing and signs the relevant terms and conditions.