

MARINE PLANT SYSTEMS PTY LTD

STANDARD TERMS AND CONDITIONS FOR THE SUPPLY OF GOODS AND SERVICES

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Approved by: Executive Management / Board

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In these Terms and Conditions:

- **"AS 4608"** means Australian Standard 4608-2004 (Dispute resolution procedures).
- **"As-Left Condition"** means the documented technical, operational, and physical status of the equipment or vessel system immediately upon completion of the Services by MPS, as recorded in the Service Acceptance Report or commissioning sheet.
- **"Australian Consumer Law" or "ACL"** means Schedule 2 of the *Competition and Consumer Act 2010* (Cth).
- **"Buyer"** means the person, firm, corporation, government department, naval authority, or shipyard purchasing Goods or Services from MPS.
- **"Change Request"** means a formal document issued in accordance with PRINCE2 project management controls proposing a variation to the Scope of Work, price, or schedule.
- **"Goods"** means all marine machinery, equipment, spare parts, components, fluids, consumables, and hardware supplied by MPS.
- **"ISO Standards"** means the Quality Management (ISO 9001), Environmental Management (ISO 14001), and Occupational Health & Safety Management (ISO 45001) standards under which MPS operates.
- **"MPS"** means Marine Plant Systems Pty Ltd (ABN 61 078 997 449), its successors, and permitted assigns.
- **"OEM"** means the Original Equipment Manufacturer of the Goods or related machinery.
- **"PRINCE2"** means the PRojects IN Controlled Environments methodology used by MPS for project governance, controls, stage boundaries, and change management.
- **"Services"** means all technical, engineering, maintenance, repair, installation, commissioning, overhauling, or advisory services provided by MPS.
- **"Stage Gate" / "Milestone"** means a predefined control point under PRINCE2 where specific deliverables must be accepted before progression to the next phase of work.
- **"Work Package"** means a defined set of Goods, Services, or engineering scope assigned to MPS under a Purchase Order or Contract.

1.2 Interpretation

In these Terms, headings are for convenience only and do not affect interpretation. Singular includes plural and vice versa. References to legislation include amendments or re-enactments.

2. CONTRACT FORMATION AND GOVERNANCE (PRINCE2 ALIGNMENT)

2.1 Binding Agreement: Every quotation, proposal, or offer issued by MPS is subject to these Terms and Conditions. A binding contract is formed upon MPS issuing a written order acknowledgment or executing a formal Work Package agreement.

2.2 Project Governance: All projects, engineering tasks, and complex service scopes delivered by MPS shall be executed following PRINCE2 governance controls. This includes:

- (a) **Work Package Authorisation:** MPS will perform work only against defined, authorized Work Packages.
- (b) **Management Tolerances:** Tolerances regarding time, cost, scope, and quality shall be agreed upon in writing. Minor adjustments within agreed PRINCE2 tolerances shall not constitute a default or breach.
- (c) **Stage Gates:** Progress between project phases or milestone billing shall be contingent upon formal sign-off at designated Stage Gates.

3. QUALITY ASSURANCE AND ISO COMPLIANCE

3.1 ISO Quality Management: MPS delivers Goods and Services in accordance with its certified ISO 9001 Quality Management System. MPS maintains rigorous traceable processes, quality control documentation, inspection test plans (ITPs), and non-conformance management.

3.2 Auditable Records: Where requested and agreed prior to commencement, MPS shall provide the Buyer with quality compliance records, material certification, test reports, and non-conformance logs.

3.3 Buyer Audit Rights: Upon reasonable written notice and during normal business hours, the Buyer may inspect or audit MPS's compliance with Quality Plans applicable to the specific Work Package, subject to safety, confidentiality, and security regulations.

4. SUPPLY OF GOODS

4.1 Delivery and Risk: Delivery of Goods shall be Ex Works (EXW Incoterms 2020) MPS facilities unless otherwise agreed in writing. Risk of loss or damage to Goods passes to the Buyer upon delivery or collection by the carrier.

4.2 Title: Title in Goods passes to the Buyer only upon full and final payment of all monies owed to MPS for those Goods.

4.3 Delivery Inspection: Upon receipt of Goods, the Buyer shall immediately perform a visual and quantitative inspection. The Buyer must notify MPS in writing within three (3) calendar days of delivery of any discrepancies, shortages, or apparent transit damage.

Failure to give notice within three (3) days constitutes conclusive acceptance of the Goods as delivered.

5. PERFORMANCE OF SERVICES AND SITE OPERATIONS

5.1 Workmanlike Manner: MPS warrants that Services shall be executed in a professional, competent, and workmanlike manner, in compliance with applicable marine industry standards and ISO Quality Management protocols.

5.2 Access and Preparation: The Buyer shall, at its sole cost, ensure safe, timely, and unobstructed access to the vessel, shipyard, navy base, or offshore platform. The Buyer must ensure the site complies with ISO 45001 / OHS requirements, providing isolation of hazardous energies, clean working areas, stable power utilities, and proper lifting equipment.

5.3 Completion & As-Left Acceptance:

- (a) Upon completion of the Services, MPS and the Buyer shall conduct a joint inspection.
- (b) The technical condition of the serviced equipment shall be recorded in an "As-Left Condition" report or Service Acceptance Certificate.
- (c) Unless the Buyer provides written, specific non-conformance notification within three (3) calendar days of completion, the Services shall be deemed unconditionally accepted and the Warranty Period shall commence.

6. VARIATIONS AND CHANGE CONTROL

6.1 Formal Change Control Procedure: No variation to the scope, technical specification, delivery schedule, or contract price shall be effective unless processed via a formal PRINCE2 Change Request approved in writing by authorized representatives of both parties.

6.2 Unforeseen Conditions: If MPS encounters latent site conditions, unexpected mechanical deterioration, hidden naval vessel defects, or non-compliant interfacing equipment, MPS reserves the right to suspend work and submit a Change Request outlining the necessary scope, cost, and schedule adjustments.

7. PRICING, INVOICING, AND PAYMENT

7.1 Pricing: Prices are quoted exclusive of GST, customs duties, import tariffs, freight, local taxes, or vessel boarding/access fees, which shall be borne by the Buyer.

7.2 Payment Terms: Payment shall be made strictly within thirty (30) calendar days from the date of invoice, or in accordance with agreed PRINCE2 milestone payment schedules.

7.3 Late Payment: Late payments shall attract interest at the rate of 1.5% per month (or the maximum legal rate under Western Australian law) calculated daily from the due date until full payment is received. MPS reserves the right to suspend ongoing Services or withhold shipment of Goods during any period of default.

8. WARRANTY — GOODS

8.1 Goods Warranty Period: MPS warrants that new Goods shall be free from defects in materials and workmanship for a period of twelve (12) months from the date of delivery or installation/commissioning, whichever occurs first. Replaced or repaired Goods are warranted only for the remainder of the original 12-month period.

8.2 ACL Statutory Rights: For Australian transactions where the Australian Consumer Law applies, our Goods come with guarantees that cannot be excluded under the ACL. You are entitled to a replacement or refund for a major failure and compensation for any other reasonably foreseeable loss or damage.

8.3 Exclusive Remedy for Goods: Subject to non-excludable ACL rights, the Buyer's sole and exclusive remedy for defective Goods shall be limited, at MPS's discretion, to:

- (a) Repair of the defective Good or part; or
- (b) Replacement of the defective Good or resupply of the affected quantity.

8.4 Goods Claim Procedure:

- (a) Written notice of a claim must be submitted to the MPS Warranty Department within fourteen (14) calendar days of discovery and within the Warranty Period.
- (b) At MPS's request, the Buyer shall return the defective Good to an MPS designated facility. The Buyer bears all freight, packaging, customs, insurance, and transit risks.
- (c) Returned items found not to be defective under warranty shall incur an administrative, testing, and Root Cause Analysis fee payable by the Buyer.

9. WARRANTY — SERVICES

9.1 Services Warranty Period: MPS warrants its workmanship for a period of twelve (12) months from the date of substantial completion / As-Left acceptance ("Services Warranty Period"). Rectified Services carry a six (6) month warranty, provided the total cumulative warranty liability does not exceed eighteen (18) months from original commencement.

9.2 Exclusive Remedy for Services: MPS's sole liability for breach of service warranty is limited to:

- (a) Re-performance of the specific defective Service; or
- (b) Refund of the original purchase price paid for the specific defective portion of the Service.
- *MPS reserves the right to attempt initial resolution via remote technical support, phone, or email.*

9.3 As-Left & Root Cause Analysis (RCA):

- (a) Warranty claims apply strictly to the documented "As-Left Condition" of the serviced equipment.
- (b) Prior to any claim approval, MPS reserves the right to attend the vessel or site to conduct a joint inspection and Root Cause Analysis (RCA).
- (c) The Buyer must preserve evidence, secure operational data/alarms, and cease operating the equipment if safe to do so. No third-party tear-down may occur prior to

MPS inspection.

10. SEPARATION OF WARRANTIES & LIMITATION OF LIABILITY

10.1 Distinct Liability for Goods vs. Services:

- (a) A defect in Goods **does not** constitute a defect in Services, even if supplied under the same contract or project.
- (b) If Goods supplied by MPS fail under warranty, MPS's obligation is strictly limited to replacing or repairing the Good as per Clause 8. MPS is **not liable** to re-perform associated installation, removal, or commissioning Services, nor compensate third-party labour or drydocking costs.

10.2 **Warranty Exclusions:** Warranty coverage (Goods and Services) shall be completely void if the fault arises from:

- (a) Unauthorised adjustment, modification, or repair by ship crew, Buyer, or third parties not authorised in writing by MPS;
- (b) Failure to operate, monitor, or maintain equipment in accordance with OEM instructions and auditable maintenance logs;
- (c) Interfacing system failures (e.g., fluid contamination from unserviced tanks, electrical surges from vessel switchboards, cooling system failure);
- (d) Normal wear and tear, consumables (gaskets, seals, filters), negligence, accident, collision, grounding, or operation outside design parameters;
- (e) Use of non-OEM or non-genuine spare parts or unapproved lubricants;
- (f) Compliance with designs, drawings, or technical specifications supplied by the Buyer or third parties.

10.3 **Consequential Loss:** To the maximum extent permitted by law, MPS shall not be liable to the Buyer for any indirect, special, punitive, or consequential losses, including but not limited to loss of profits, loss of vessel charter, demurrage, drydock fees, naval penalties, or operational downtime.

10.4 **Overall Aggregate Liability Cap:** MPS's maximum aggregate financial liability under contract, tort (including negligence), equity, or statute arising out of or in connection with any Work Package or Order shall be capped at 100% of the total contract price actually paid by the Buyer for that specific Work Package.

11. DISPUTE RESOLUTION (AS 4608)

11.1 **Notice of Dispute:** If a dispute arises out of or relates to this Contract, including any question regarding its existence, validity, performance, or termination, either party may give the other party a written Notice of Dispute specifying the matters in issue.

11.2 **Executive Negotiation:** Within fourteen (14) calendar days of receipt of a Notice of Dispute, senior executive representatives of MPS and the Buyer with authority to settle the dispute shall meet in good faith to resolve the matter.

11.3 **AS 4608 Mediation:** If the dispute is not settled within twenty-eight (28) calendar days of the Notice of Dispute, the parties agree to submit the dispute to mediation in accordance with **AS 4608 (Dispute resolution procedures)**.

- (a) The mediator shall be agreed upon by the parties or, failing agreement within seven (7) days, appointed by the Resolution Institute (or its successor body).
- (b) The venue for mediation shall be Perth, Western Australia, unless otherwise agreed.

11.4 Arbitration or Litigation: If mediation under AS 4608 does not resolve the dispute within forty-five (45) calendar days of mediator appointment, either party may commence legal proceedings or, by mutual consent, refer the matter to binding arbitration.

11.5 Continued Performance: Unless prevented by safety or injunction, both parties must continue to perform their contractual obligations during dispute resolution proceedings.

12. FORCE MAJEURE

Neither party shall be liable for failure or delay in performance (excluding payment obligations) caused by acts of God, naval or military blockades, war, acts of terrorism, epidemic, labor disputes, harbor closures, severe maritime weather events, export restrictions, or delays by OEM suppliers beyond reasonable control.

13. GOVERNING LAW AND JURISDICTION

These Terms and Conditions shall be governed by, construed, and enforced in accordance with the laws of the State of **Western Australia**. The parties submit to the non-exclusive jurisdiction of the Courts of Western Australia and federal courts sitting in Australia.

14. CONTACT INFORMATION FOR NOTICES & WARRANTY

All notices, warranty claims, and project communications must be submitted in writing to:

Marine Plant Systems Pty Ltd

Attn: Warranty & Quality Department

Address: 3/11 Blackly Row, Cockburn Central WA 6164, Australia

Email: sales@marineplantsystems.com

Phone: +61 8 9410 0144