

STANDARD TERMS AND CONDITIONS FOR PURCHASE ORDERS

1. DEFINITIONS

In these Standard Terms and Conditions for Purchase Order (“**Conditions**”), unless the context requires otherwise:

TEK is TEK Engineering Ltd Pty and their Related Bodies Corporate (as defined by law).

Claim mean all suits, actions or proceedings, at law or in equity, and from any and all claims, demands, losses, judgments, fines, penalties, damages, costs, expenses, or liabilities of any kind.

Completion Date means the date and time stated in the Purchase Order as the 'Date Required' by which the Services are to be performed or, if no date is stated, a reasonably accepted industry practice time.

Contract is the Purchase Order, specifications referred to in the Purchase Order, these Conditions and the Worksite Conditions.

Delivery Address is the address shown on the Purchase Order

Delivery Date means the date and time stated in the Purchase Order as the 'Date Promised' by which the Goods or Rental Items are supplied or, if no date is stated, a reasonably accepted industry practice time.

Goods means the goods stated in the Purchase Order.

GST means the goods and services tax imposed under A New Tax System (Goods & Services Tax) Act 1999. Words defined in that Act have the same meaning in these Conditions.

Lease Expiry Date means the date of the lease of the Rental Items in the Purchase Order.

Legal Requirements means any Australian legislation (including regarding safety, occupational health and safety and the environment), statute, ordinance, rules, regulation, subordinate legislation or by-law, Australian standards and includes any licenses, permits and consents necessary for the Supplier to carry out and complete the supply under a Purchase Order and those principles of common law and equity established by decisions of courts, excluding tax, immigration, labour, securities, investments, corporate structuring or import, or export laws and all fees and charges payable in connection with the foregoing.

Price means the amount stated in the Purchase Order.

Purchase Order means the TEK Purchase Order which describes the Goods, Services and/or Rental Items that TEK requires.

Rental Items means any rental item stated in the Purchase Order.

Services means the services stated in the Purchase Order.

Site means the location nominated by TEK as the Ship to Address for the Goods and/or Rental Items, and/or the location of the supply of the Services as stated in the Purchase Order.

Supplier means the Supplier stated in the Purchase Order.

Supplies means all Goods, Rental Items and Services to be supplied and/or performed by the Supplier, as generally described in the Contract and more particularly identified in a Purchase Order and all work and activities that are necessary or incidental to such supply.

Taxable Supply means sales of goods and services that must have GST included in their Price.

Work means the Goods, Rental Items or Services stated in the Purchase Order

Worksite Conditions means TEK's worksite conditions, rules and policies for the Site.

2. FORMATION OF CONTRACT

2.1 A Contract is formed if TEK provides a Purchase Order to the Supplier and the Supplier accepts it or commences performance of it.

2.2 The Contract consists of the Purchase Order, any specifications referred to in it, these Conditions and the Worksite Conditions. No terms or conditions sought to be imposed by the Supplier (e.g. terms in any Supplier tender, offer, counteroffer or proposal “**Offer**”) will be incorporated, unless expressly accepted in writing by TEK. In the event that TEK signs and returns an acknowledgement copy of a Supplier Offer, the Supplier agrees that TEK signature thereon is provided solely (i) as an accommodation to Supplier for Supplier's internal administrative purposes only, (ii) does not signify TEK agreement to any terms or conditions contained therein which vary, conflict with, or impose additional obligations to the provisions set forth in the Contract and (iii) shall be void and of no force or effect and shall not alter, modify, amend or otherwise change the terms of the Contract. The failure of either party to enforce any provision hereof will not constitute a waiver or preclude subsequent enforcement thereof. No partial invalidity of the Contract will affect

the remainder. Notwithstanding the foregoing, in the event that TEK and Supplier have a fully executed, unexpired and valid agreement or other agreement (“**Purchasing Agreement**”) in place that governs the parties' relationship with respect to the Work to be provided by the Supplier under the Purchase Order, then these Conditions shall not apply and will be of no force of effect and the Purchasing Agreement will govern the transaction.

3. SUPPLY

3.1 The Supplier will supply to TEK the Goods or Rental Items by the Delivery Date and/or the Services by the Completion Date.

3.2 The parties must comply with the terms of this Contract and the Worksite Conditions.

3.3 Goods and Rental Items must: (i) comply with the specification or description in the Purchase Order; (ii) be new and/or of recent origin (except for Rental Items), safe and free from defects and; (iii) be fit for purpose.

3.4 Services must: (i) comply with the specification or description in the Purchase Order; (ii) be performed safely, skilfully, diligently, on time and according to the agreed timetable; and (iii) be performed by fully qualified, competent and suitable people.

3.5 All Supplier documents, drawings and reports will be accurate, comprehensive and complete.

Quality assurance

3.6 The Supplier must ensure that all Supplies, as applicable, comply with:

- (a) all relevant Legal Requirements relating to quality assurance; and
- (b) any additional requirements of TEK's with respect to quality identified in the Purchase Order.

TEK's rights

3.7 TEK reserves the right to conduct quality assurance activities including but not limited to inspections, evaluations and quality capability, at the Supplier's premises in respect of the manufacture or supply (or both) of the Supplies.

The Supplier must give TEK reasonable assistance in any quality assurance activities conducted under this clause.

Quality assurance information

3.8 If requested by TEK by written notice, the Supplier must provide TEK with the following information within five (5) Business Days of the notice:

- (a) the mode and place of manufacture of all Goods;
- (b) tests conducted on Goods during and at completion of the manufacture of Goods and the outcome of such test and any other information reasonably required by TEK concerning the quality of Goods manufactured by the Supplier; and
- (c) the Supplier's quality assurance system and procedures in respect of the Supplies.

4. PRICE AND PAYMENT

4.1 Unless otherwise expressly agreed, the Price is fixed, not subject to adjustment and includes all costs that may be incurred by the Supplier in performing its obligations, and it includes all excise, duties and taxes (including GST).

4.2 TEK will pay the Price to the Supplier within sixty days of the end of the month in which a correct invoice is received unless otherwise specified on the Purchase Order.

4.3 If it is a Taxable Supply, TEK will pay to the Supplier the GST in respect of it and the price is inclusive of the GST payable for the supply.

4.4 The Supplier must submit a valid tax invoice that includes: (i) the Purchase Order number; (ii) description, quantities, unit prices and extended totals of the Goods, Rental Items and/or Services supplied to date; (iii) the Site and date of supply; (iv) if Services are charged by time, the time spent by the people; and (v) any other details or information required under the Purchase Order or reasonably required by TEK. Invoices that do not contain this information will not be considered as correct and will be returned to Supplier for correction.

4.5 By submitting an invoice, the Supplier warrants that the Goods, Rental Items and/or Services have been supplied according to the Contract and the amounts in the invoice are true and correct.

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4.6 TEK may set off, from any monies due to the Supplier, any sum payable by the Supplier to TEK.

4.7 Payment of invoices will not constitute acceptance of the Work and will be subject to adjustment for shortages, defects, or Supplier's failure to comply with these terms. Invoices must be submitted by Supplier to TEK within 90 days of completion of the services or receipt of the goods by TEK, and Supplier's failure to do so will constitute a waiver by Seller of any legal or equitable rights to demand payment for such Work.

5. DELIVERY

5.1 If expressly stated so in the Purchase Order, TEK will arrange for the Goods and/or Rental Items to be collected from the Supplier. Delivery occurs when the Goods and/or Rental Items are loaded onto the transport.

5.2 Unless expressly stated otherwise in the Purchase Order, the Supplier must, at its own cost and risk, deliver the Goods and/or Rental Items by the Delivery Date to the Site. Delivery is taken to occur upon completion of offloading by the Supplier.

5.3 Deliveries must be made at the time and at the Site specified in the Purchase Order. Time is of the essence.

5.4 The Supplier must, at its own cost, ensure the Goods and/or Rental Items are adequately packed. If the Goods and/or Rental Items are lost or damaged in transit, the Supplier will replace them at its cost.

5.5 The Supplier must provide sufficient documents to enable TEK to identify the Goods and/or Rental Items being delivered including the quantity, Purchase Order number, description and a material safety data sheet as required by law.

5.6 Title in the Goods passes to TEK when delivery is completed according to this Contract or TEK's payment for the Goods, whichever is earlier. Unless stated in the Purchase Order, risk in the Goods and/or Rental Items passes when they are delivered according to this Contract.

5.7 The Supplier must, as soon as it becomes reasonably apparent to the Supplier that the Supply is being or is likely to be delayed and, in any event, within two (2) Business Days after the delay commencing, notify TEK in writing with details of the causes of the delay.

Liquidated Damages For Late Delivery

5.8 If the Supplies are not Delivered by the Delivery Date, the Supplier must pay to TEK liquidated damages at the rate set out in the Purchase Order from the Delivery Date until the earlier of:

- (a) the date on which Delivery is made;
- (b) the date on which the Supply is cancelled; or
- (c) termination of this Contract.

5.9 Both parties acknowledge the liquidated damages as set out in the Purchase Order is a genuine pre-estimate of the loss TEK will suffer as a consequence of late Delivery and is not a penalty.

5.10 If liquidated damages are found to be void, voidable or unenforceable on any basis so that TEK is not entitled to claim liquidated damages, TEK is entitled to claim general law damages if the Supplier fails to Deliver the Supplies by the Delivery Date.

5.11 If an extension of time is directed after the Supplier has paid or TEK has set-off liquidated damages, TEK shall repay or allow to the Supplier an amount equal to such of those liquidated damages as represent the days the subject of the extension of time.

6. RENTAL CONDITIONS

6.1 The Supplier retains title to the Rental Items. The Supplier must allow TEK to possess and enjoy the Rental Items during the term without any interruption.

6.2 Unless the Purchase Order states differently, at the end of this Contract, the Rental Items will, subject to fair wear and tear, be collected by the Supplier at its cost.

7. INSPECTION, TESTING AND DEFECTS

7.1 If the Goods and/or Rental Items fail to comply with this Contract, TEK may (without prejudice to its rights) return them at the Supplier's expense and the Supplier will reimburse TEK the Price plus any costs incurred by TEK in returning them. If this occurs, risk will revert to the Supplier upon return and title upon reimbursement of the Price.

7.2 Satisfactory inspection and/or testing of the Goods and/or Rental Items does not relieve the Supplier of any of its obligations to perform the Contract.

7.3 The Supplier must ensure that all warranties applicable to the Goods are transferred to TEK.

7.4 If in TEK's reasonable opinion, the Services do not meet the requirements of this Contract, the Supplier must, on TEK's request, promptly re-perform the deficient part of the Services at its cost. If the Supplier does not, TEK may have it fixed by others and recover those costs from the Supplier.

8. SITE EXAMINATION AND INDUCTIONS

8.1 The Supplier is responsible for any costs or losses arising out of the Site characteristics and conditions.

8.2 The Supplier and its workers must: (i) complete inductions required by TEK prior to commencing performance of Services; (ii) comply with the Worksite Conditions including obtaining a "pass" before entering the Site; (iii) use its best endeavours not to interfere with TEK's activities on the Site; and (iv) ensure that it does not leave rubbish or debris on the Site.

9. INSURANCE

9.1 Unless stated in the Purchase Order, the Supplier must hold this insurance cover: (i) physical loss or damage to the Goods or Rental Items; (ii) public & products liability insurance of not less than \$20 million (limited in the aggregate for products); (iii) comprehensive motor vehicle insurance of not less than \$20 million; (iii) workers compensation insurance as required by law; (iv) professional indemnity insurance of not less than \$5 million if the performance of this contract requires the Supplier to provide professional advice or services which are representative by nature; and any other insurance reasonably required by TEK.

10. WARRANTIES

10.1 The Supplier warrants and represents to TEK that: (i) all information in brochures, quotes or tenders is accurate; (ii) it has unencumbered title to all Goods and Rental Items and use of them will not infringe the rights of any third party; (iii) it holds and will maintain all licences, permits and authorities to perform the Contract; (iv) the Supplies when Delivered will confirm with this Contract and all Legal Requirements.

11. LIABILITY AND INDEMNITY

11.1 The Supplier will be liable for and shall defend, indemnify, release and hold harmless TEK against any and all Claims and liabilities arising from this Contract (including for personal injury or death), arising from any one or more of the following: (i) the breach by the Supplier or its personnel of any of the Supplier's obligations (including warranty) under this Contract; (ii) any goods supplied by the Supplier being faulty, broken or defective; or (iii) any act or omission by the Supplier or its personnel (including employees, agents, consultants or subcontractors) arising out of the performance of this Contract, excluding Claims and liabilities to the extent they are attributable to the negligence of TEK. Part 1F of the Civil Liability Act 2002 (WA) is excluded from operation with respect to any dispute or action arising out of or in connection with this Order (to the extent that such exclusion is permitted by Law). TEK is not liable for consequential or indirect loss including in the nature of loss of profits, loss of production, loss of goodwill or loss of business opportunity.

11.2 Each indemnity is a continuing obligation separate from the Supplier's other obligations and survives expiry or termination of the Contract.

12. INTELLECTUAL PROPERTY

Unless stated in the Purchase Order, all intellectual property produced under the Contract shall vest in TEK upon creation. The Supplier must assign or transfer it to TEK. TEK grants the Supplier an irrevocable and royalty free licence to use it for this Contract. The Supplier grants to TEK an irrevocable, perpetual, worldwide and royalty free licence to use any intellectual property not vested in TEK that is necessary for TEK to have the benefit of the supply provided under the Contract. The Supplier indemnifies TEK against any claims made by third parties in respect of the use of intellectual property supplied under the Contract.

13. CONFIDENTIALITY

Other than when subject to an order issued by a court or governmental body pursuant to law or regulation, the parties must

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not disclose Confidential Information to any third party or use or reproduce it other than for the performance of the Contract. The parties obligations for confidentiality under this clause survive after the end of the Contract by either operation or termination for a period of five (5) years. When the Contract ends, upon request, the parties must return the Confidential Information. In this clause Confidential Information means information belonging to one party which is disclosed to the other party in relation to this Contract and which was not already known by the other party or already in the public domain.

14. HEALTH AND SAFETY

The Supplier must, in the performance of the Contract: (i) comply with all health and safety laws; (ii) immediately notify TEK of any incident that is notifiable under health and safety laws; (ii) provide TEK with a copy of its incident investigation report and evidence that it has revised risk control measures so as to maintain, so far as is reasonably practicable, a work environment that is without risks to health and safety; (iv) allow TEK to monitor the Supplier's systems, work practices and procedures.

15. REPORTING

The Supplier must provide TEK, when reasonably requested, progress reports and/or a detailed program about the stages of performance of the supply, quarterly reports on the emissions of greenhouse gases and energy usage relating to the supply, and any information about the Supplier's workers relating to their health and safety.

16. TERMINATION

16.1 TEK may terminate the Contract immediately by written notice if: (i) the Supplier is unable to pay its debts when they are due or the Supplier is involved in solvency/insolvency proceedings or processes; (ii) the Supplier ceases to carry on business; (iii) there is a change in control in relation to the Supplier; (iv) the Supplier or its workers, in the reasonable opinion of TEK, endanger health and safety; or (v) the Supplier or its workers breach the Worksite Conditions.

16.2 If a party breaches an essential term of the Contract, the other party may give notice requiring the breach to be remedied within 14 days. If it is not, the party giving the notice may terminate the Contract. TEK may terminate the Contract on 14 days' notice for any reason. If so, the Supplier must cease performing the Contract and minimise any arising loss.

16.3 TEK will pay the Price for work completed up to the date of termination. TEK will not be liable for any other loss or damage. Termination of the Contract does not affect accrued rights or remedies.

17. GENERAL

17.1 The Supplier is an independent contractor. This Contract does not create a joint venture, trust, employment, agency or partnership relationship. The Supplier does not have authority to contract with third parties on behalf of TEK.

17.2 The Supplier must not subcontract, assign or novate any rights or obligations in the Contract.

17.3 TEK may contract with another party for similar supplies and no exclusive relationship exists.

17.4 The Supplier must not make public announcements in relation to this Contract without the express written permission of TEK.

17.5 Any variation to the Contract must be agreed in writing by the parties.

17.6 The Supplier must not register any security interest in relation to this Purchase Order against TEK.

17.7 The laws of the Australian State or Territory where the work is delivered (the Ship to Address) will apply and the courts there will be used. In the event that the Delivery Address is the Supplier's premises located outside Australia then the laws of Western Australia will apply and the courts there will be used.

17.9 The Contract is the entire agreement between TEK and the Supplier in relation to its subject matter.