

TERMS AND CONDITIONS OF PURCHASE

1. INTERPRETATION

1.1 For the purpose of these Terms and Conditions and unless the context otherwise requires:

"**Conditions of Supply**" means GSE Services' Standard Specifications and Conditions of Sub-contract to which goods and/or services provided under an Order are, where appropriate, subject;

"**Contract**" means the contract formed by the Seller's acceptance of an Order and includes the Order, and the Conditions of Subcontract together with all documents attached thereto or incorporated therein by reference in each case with the approval of GSE Services;

"**Purchaser**" means GSE Services Pty Ltd as set out in the relevant Order;

"**Order**" means this document of which these terms and conditions are a part and bearing an order number or blanket order number; and

"**Seller**" means the person so described in the Order and includes sub-contractors and all other classes of persons performing any type of work under the Order.

1.2 To the extent that the provisions of the Conditions of Subcontract are inconsistent with these terms and conditions, the Conditions of Subcontract prevail except for any inconsistency involving those provisions relating to payment terms and method in which case these terms and conditions prevail.

2. ACCEPTANCE OF ORDER

2.1 Upon receipt by the Seller of an Order the Contract shall take effect and shall form the entire agreement between the parties, notwithstanding any previous agreements or understandings and notwithstanding the Seller's terms of sale.

2.2 The Seller shall acknowledge receipt of the Order within 24 hours by email or facsimile;

2.4 Purchaser reserves the right to cancel an Order within a reasonable time prior to scheduled delivery without further liability.

3. PRICES AND TERMS OF PAYMENT

3.1 No extra charges of any kind including but not limited to packing, boxing, crating, delivery freight or insurance will be paid for by Purchaser unless so provided in the Order.

3.2 Prices shown on an Order are not subject to escalation or variation for any reason whatsoever unless agreed to in writing by Purchaser's relevant Manager or Director.

3.3 Seller represents and warrants that the prices quoted in an Order (including cash or credit discounts or rebate) shall not be:

(a) in excess of Seller's list, catalogue or published prices; and

(b) higher than prices quoted or currently being charged by Seller to any other purchaser for similar goods or services.

3.4 Invoices for goods are to be mailed to the address set out in the Order the day following dispatch or collection of the goods, unless otherwise agreed in writing. Accounts will nominally be settled by cheque or telegraphic transfer within the agreed term unless there is a prior arrangement in writing with Purchaser's relevant Manager (or equivalent). Purchaser shall not be responsible for delay in receipt of the Seller's invoice.

3.5 Services performed or goods supplied by the Seller beyond the requirements of the Contract shall not constitute a justified claim for remuneration. Goods will be returned at the Seller's expense.

3.7 Purchaser will not be responsible for any delay in payment due to Seller failing to quote the relevant Order on all invoices, packing notes and other correspondence or in the event of any disagreement between an invoice and an Order.

3.8 Except as otherwise specified in an Order, the price includes all federal, state, local or foreign taxes (including any goods and services tax), stamp duties and other governmental charges upon the manufacture, sale or transportation of the goods or on the provision of services. Any invoice for goods must include a tax invoice complying with the legislation under which goods and services tax is imposed. The provision of a tax invoice is a precondition to payment of any invoice.

3.9 Purchaser is entitled to set off any amount owing at any time by Seller or any of its affiliates. Without limitation, credits due to rejection or non-conformances will be set off from the amount on the invoice or will be deducted from subsequent payments.

4. CONDITION OF GOODS.

4.1 Goods shall be delivered in the condition required by the Order. This includes any preparation such as cleaning and fumigation as required by quarantine regulations, if stated in the Order.

5. PACKING AND DELIVERY

5.1 The Seller shall, at its own expense, crate, package or otherwise prepare goods for shipment in accordance with Purchaser's instructions and otherwise in a fashion which will ensure safe and secure delivery to Purchaser unless otherwise stated in the Purchase Order/Contract. All labelling of documentation and supplies shall include as a minimum, but not be limited to, Part Number, Receipt Number, Quantity, Serial Number, Batch Number and Purchase Order Number.

5.2 The time for delivery specified in the Order shall be of the essence. If for any reason Seller does not comply with the delivery schedule, Purchaser may be required to cancel the Order without further liability.

6. INSPECTION AND ACCEPTANCE

6.1 Goods shall be deemed not to have been accepted until Purchaser, or its delegate, has inspected the goods and signified its acceptance.

6.2 If Purchaser, in its sole discretion, determines that goods or services in whole or in part do not conform to the requirements of the Order it may (at its election) and without prejudice to any other remedies available to it:

(a) return (at the Seller's expense) the whole or any part of the goods for repair or replacement within the time specified by Purchaser or for credit or refund; or

(b) repair the goods with all costs to be borne by the Seller;

6.3 Where the Seller is supplying goods to specifications, Purchaser reserves the right to inspect these items and Seller's plant facilities at reasonable times during any stage of manufacturing.

6.4 **Certificates of Conformity** - All goods must be accompanied by an original manufacturer's certificate of conformity (or legally certified true copy) or other relevant release documentation as stated in the Purchase Order/Contract.

7. TITLE AND RISK

Risk of loss for goods shall pass to Purchaser at the delivery point specified in the Order. Title and risk of loss of the goods shall remain with the Seller until the goods are delivered to the Purchaser's nominated point of delivery.

8. TERMINATION

8.1 Upon termination Seller shall deliver at its sole expense all goods which have been paid for by Purchaser (whether wholly or partly manufactured) and then in its possession to such other person or persons as Purchaser may direct.

8.2 If notice is given to Seller to terminate the Contract, Purchaser (without limiting the remedies available to it):

(a) may recover any sums paid to Seller on any account or for Services which have not been performed together with interest at the rate of 2% per annum above Purchaser's average cost of funds from the date the sums were paid to the Seller to the date of refund;

(b) recover from the Seller the amount of any direct loss or damage sustained as a result of the termination; and

(c) be regarded as being discharged from any further obligations under the Order.

8.3 Purchaser may terminate this Contract on 30 days written notice to the Seller should the Order be cancelled or the goods are deemed by the Purchaser to be not compliant with the requirements of Clause 5



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9 WARRANTY and NON-CONFORMING PRODUCT

9.1 The Seller warrants that the goods are free and clear of all liens, charges and encumbrances and that the Seller has a good and marketable title to the same, and

(a) all goods (including repaired or replacement items):

(i) shall be free from defects in materials and workmanship and be of merchantable quality and fit for the purpose contemplated by Purchaser; and

(ii) shall strictly conform to the requirements of the Order.

(iii) must be covered by a twelve month warrantee period or a period as stated or referenced in the Seller's quotation.

9.2 All goods shall be deemed by the Purchaser to be non-conforming if:

(a) The part number / description of the item ordered is not the part number/description of the item delivered to the Purchaser.

(b) Seller has not provided an Original Equipment Manufacturers Certificate of Conformance; or other relevant release documentation as stated in the GSE Services purchase order/contract

10. PROPRIETARY RIGHTS AND CONFIDENTIALITY

10.1 All information, including know-how, software, trademarks, trade secrets, plans, drawings, specifications, designs, goods, materials and patterns furnished by Purchaser, its agents or contractors ("Purchaser Property"), to Seller for the purposes of this Order and all property rights embodied therein, remain the property of Purchaser, shall be treated by Seller as confidential and shall not in whole or in part be used, communicated, copied, disclosed, sold or reproduced for any purpose whatsoever, except in the performance of the Order, or with the express written permission of Purchaser.

10.2 On completion, cancellation or termination of the Order Seller shall immediately return to Purchaser all documents, equipment and any other material supplied by Purchaser to Seller for purposes of the performance of the Order.

10.3 Seller shall be liable in the event of loss, damage or theft of Purchaser Property howsoever caused and at Purchaser's option shall replace the property or reimburse Purchaser for its value (as determined by Purchaser) at the time of theft.

10.4 Section 9 shall survive the termination of the Order.

11. PATENT, TRADEMARK & COPYRIGHT INDEMNITY

The Seller shall indemnify and forever hold Purchaser harmless from action, claim or demand, costs or expenses, arising from or incurred by reason of any infringement or alleged infringement of letters patent, design, trademark, copyright, trade secret or other protected rights in respect of any of goods supplied by Seller, except where infringement or alleged infringement is directly caused by designs originally furnished to Seller by Purchaser.

12. INSURANCE AND INDEMNITY

12.1 Seller shall indemnify Purchaser from and against any and all proceedings, claims, demands, losses, costs, damage and expenses arising out of or in respect of any act, omission or negligence of Seller or any of its officers, employees, agents or representatives in connection with the goods or services to be provided under this Order or otherwise in connection with Seller's performance or breach of this Order.

11.2 The Seller shall, if requested by Purchaser, at its sole expense, effect proper insurance against all risks, including product liability and shall, if required by Purchaser, produce evidence of the currency and validity of any such policy.

13. NON-CONFORMING PRODUCT

The goods shall be deemed to be non-conforming if they do not comply with the requirements of the Order

14. ASSIGNMENT

The Seller shall not without the previous consent in writing of Purchaser assign or transfer this Order or sub-contract any part of the work required to be done under this Order unless GSE Services have provided prior approval or for service/repair work – sub-processes are subcontracted to those sub-contractors controlled through the "Supplier's" vendor approval program.

15. DISPUTE RESOLUTION

The parties agree that if a dispute arises out of or relates to this Order, a party may not commence any court or arbitration proceedings relating to the dispute unless the party claiming that a dispute has arisen has provided written notice to the other party specifying the nature of the dispute.

16. EXCUSABLE DELAY

Notwithstanding anything else contained in this Agreement neither party shall be liable for any delay in performing its obligations hereunder if such delay is caused by circumstances beyond its reasonable control.

17. OCCUPATIONAL HEALTH & SAFETY

The Seller warrants and represents that in connection with the supply of goods or services performed under this Order, the Seller will comply with any relevant occupational health and safety legislation applicable in the jurisdiction, and applicable in each and every location in which work is performed or services provided under this Order.

18. AMENDMENT

This Contract may only be amended in writing signed by both parties.

19. GOVERNING LAW

Where Purchaser is a party to this Contract, the laws of Queensland, Australia, govern this Contract.

HEAD OFFICE (Head Office)

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