

# Standard Terms and Conditions of Purchase

## 1. DEFINITIONS

"TS GLOBAL" means TS Global Pty Limited ACN 603 644 748 and all related companies or assigns.

"Goods" means all services (including but not limited to consultancies, maintenance) goods or products covered by the Purchase Order, including raw materials, processed materials or fabricated products.

"Purchase Order" means TS GLOBAL's official purchase order to which these conditions apply, and includes printed purchase orders, whether delivered by hand, mail or facsimile, and purchase orders issued by means of the Electronic Data Transfer or otherwise.

"Seller" means the person, firm, partnership, company or other legal entity to whom the Purchase Order is issued and includes its servants, agents and sub-contractors.

## 2. ENTIRE AGREEMENT

These Conditions of Purchase and the Purchase Order represent the entire agreement between the parties and shall be incorporated in the contract for the purchase of Goods specified on the face of the Purchase Order and the Seller shall, by accepting this Purchase Order, be bound by these Conditions of Purchase. Subject to clause 3, these Conditions of Purchase shall apply to the exclusion of all other Seller terms and conditions, whether contained in the Seller's invoice or conditions of sale or otherwise.

Where the Seller is certified to ISO9001, this Purchase Order must be fulfilled in accordance with the terms of that certification.

## 3. EXISTING CONTRACTS

Subject to the terms of the Purchase Order, if the Purchase Order is issued under the terms of an existing contract, the terms of that existing contract will apply and these Standard Terms and Conditions of Purchase (other than this clause 3) will have no effect.

## 4. RESPONSIBILITY FOR PURCHASE

TS GLOBAL will not be responsible for any order unless it is issued on a Purchase Order. No variation of a Purchase Order will be effective unless approved in writing by TS GLOBAL. The number appearing on the Purchase Order must be quoted on all invoices, delivery dockets and parcels.

## 5. QUALITY

The Seller warrants that the Goods:

- conform with the description provided by the Seller;
- conform with any applicable specifications agreed by TS GLOBAL and the Seller;
- are of merchantable quality and are fit for the purpose for which they are sold;
- are free of defects in material, workmanship and design;
- are new (unless otherwise specified);
- are free from all liens and encumbrances and the Seller has good and marketable title thereto; and
- carry any applicable manufacturer's warranty which passes on to any buyer or customer from TS GLOBAL without liability to the TS GLOBAL. The Seller must assign to TS GLOBAL at the request of the TS GLOBAL the benefit of any warranty or guarantee that the Seller has received from any supplier (whether under contract or by implication or operation of law). These warranties are in addition to any other warranties or guarantees contained in the Purchase Order or implied by law or provided by the Seller or any other third party.

## 6. LIABILITY

The Seller shall, without limitation, indemnify TS GLOBAL for any loss, damage, expense, claim or liability suffered or incurred by TS GLOBAL, whether consequential or otherwise as a result of a breach of any other warranties contained in Clause 5 hereof.

Notwithstanding Clause 6.1, and without limiting the generality thereof, the Seller shall repair or replace, at TS GLOBAL's option, all Goods which are or become defective or otherwise fail to comply with all warranties contained in Clause 5 within 30 days of notification of such defect or failure from TS GLOBAL. Such repairs or replacements shall be subject to the warranties contained in Clause 5 and the liabilities contained herein.

## 7. LOSS OR DAMAGE IN TRANSIT

7.1 TS Global shall advise the Seller of any loss or damage to or defects in the Goods within the following time limits:

- partial loss, damage, defects or non-delivery of any separate part of a consignment of Goods within 60 days of the date of delivery of the consignment or part consignment; or
- non-delivery of whole consignment of Goods within 60 days of the intended date of delivery as specified in the Purchase Order.

7.2 The Seller shall make good free of charge to TS GLOBAL any loss or damage to or defect in the Goods where notice is given by TS GLOBAL in compliance with this condition.

## 8. REJECTION

Notwithstanding Clause 7 hereof, TS Global may reject Goods not confirming for any reason whatsoever to the Purchase Order upon delivery of such Goods or within reasonable time thereafter. Any acceptance of delivery or payment by TS GLOBAL for such Goods shall not prejudice its right of rejection contained herein. The Seller shall reimburse TS GLOBAL for:

- any purchase price paid by TS GLOBAL with respect to such Goods; and
- any costs incurred by TS GLOBAL in connection with the rejection of such Goods.

## 9. DELIVERY

9.1 The date and place of delivery of the Goods shall be that specified in the Purchase Order unless otherwise agreed between TS GLOBAL and the Seller.

9.2 Time is of the essence hereof insofar as it applies to the obligations of the Seller. If any Goods are not delivered within the time specified in the Purchase Order, TS GLOBAL may either:

- refuse to accept such Goods to terminate the Purchase Order; or
- cause the Seller to deliver the Goods by the most expeditious means, whereupon any additional delivery charges in excess of those which would apply for the usual means of the delivery shall be borne by the Seller.

9.3 If any Goods are not delivered to the place specified in the Purchase Order or otherwise agreed between TS GLOBAL and the Seller, the Seller will be responsible for any additional expense incurred in delivering them to their correct destination.

9.4 Where TS GLOBAL terminates an order pursuant to clause 9.2 the Seller does not have any may not prosecute any claim whatsoever at law or in equity against TS GLOBAL, provided that the failure of the Seller to deliver the Goods on the delivery date was not due to the conduct of TS GLOBAL.

9.5 Where the Seller's failure to deliver the Goods was not as a result of TS GLOBAL's conduct, then the Seller must, in addition to any other liability it may have pursuant to these terms, pay the costs of removing the Goods from TS GLOBAL's premises.

## 10. TITLE AND RISK

Title to and risk of loss in the Goods shall pass to TS GLOBAL upon delivery to TS GLOBAL in accordance with Clause 9 but without prejudice to any right of rejection or other rights which may accrue to TS GLOBAL hereunder.

## 11. INSPECTION IN PROGRESS AND PRIOR TO DESPATCH

The Seller agrees that TS GLOBAL or its agents shall have the right of inspection of all work performed pursuant to the Purchase Order while in any stage of engineering, manufacture or installation, and of the Goods prior to their despatch. The Seller shall make this a condition of any sub-contracted work. TS GLOBAL or its agents shall have the power to reject any work performed or any Goods that do not conform to the Purchase Order, whereupon the work or Goods rejected shall be re-performed at no additional cost to TS GLOBAL. Any such inspection shall not relieve the Seller of any obligations contained in the Purchase Order or at law.

## 12. INTELLECTUAL PROPERTY

12.1 The Seller agrees to defend, protect and indemnify TS GLOBAL, its successors and assigns, from and against any claim arising from the lawful use of the Goods by TS GLOBAL or third parties including all claims for actual or alleged infringement of any letters patent, trademarks, copyright, design, confidential information or similar protection whether granted by the Commonwealth of Australia or any foreign state or the common law,

12.2 If the Seller makes any representation or statement directly or indirectly to TS GLOBAL that the Goods ordered are protected by one or more patents and any such patent is found to be invalid, the TS GLOBAL may forthwith cancel this Purchase Order or any contract arising from this Purchase Order and recover any money paid to the Seller under this agreement as a liquidated debt.

## 13. PRICE

13.1 The price for the Goods and Services is fixed unless otherwise specified in this Purchase Order or agreed in writing by TS GLOBAL and the Seller and includes delivery of the Goods to the destination specified in this Purchase Order. No prices listed on the Purchase Order are subject to escalation unless TS GLOBAL expressly agrees in writing (signed by an authorised representative of TS GLOBAL) to such escalation.

13.2 The price includes all taxes, levies, fees and GST which are payable in relation to the supply and delivery of the Goods and services. The Seller must pay any such taxes, levies, fees and GST.

13.3 The Seller must deliver to TS GLOBAL an invoice for the price of the Goods. The invoice must be in the form of a tax invoice and must state the Purchase Order number on it. Failure to include the Purchase Order reference may cause the invoice to be rejected for payment.

13.4 The purchase price specified in the Purchase Order shall be on an FIS basis unless otherwise agreed.

13.5 If TS GLOBAL notifies the Seller that it is able to buy the Goods at a lower cost than similar goods supplied by the Seller then either the Seller shall agree to meet the lower cost for those Goods from the Seller or acquire the Goods from the alternative source.

## 14. TERMS OF PAYMENT

The terms of payment unless otherwise stated on the Purchase Order are 45 days from the completion of the month invoice. TS GLOBAL reserves the right to set off any amount owing under any Purchase Order against any amount due from the Seller to TS GLOBAL for any reason whatsoever.

## 15. SUB-CONTRACTING AND ASSIGNMENT

15.1 The Seller shall not assign its rights or obligations hereunder or sub-contract any work to be performed pursuant to the Purchase Order without the prior written consent of TS GLOBAL.

15.2 TS GLOBAL's consent to the Seller sub-contracting any work to be performed pursuant to the Purchase Order shall not relieve the Seller of its responsibility for the whole of the work to be performed pursuant to the Purchase Order or of any obligations contained in the Purchase Order or at law.

15.3 Where TS GLOBAL has consented to the placing of sub-contracts by the Seller, copies of each sub-order shall be sent by the Seller to TS GLOBAL immediately they are issued and TS GLOBAL reserves the right to inspect all sub-contracted work.

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## 16. PACKAGING, STORAGE AND HAZARD

16.1 The Goods shall be properly packed to avoid being damaged during the delivery of loading and unloading. All packages shall be clearly marked with the Purchase Order number and the location of the delivery.

16.2 The Seller shall comply with all applicable Australian and International Laws regulations and other relevant requirements relating to the transport, packaging, storage, handling and use of the Goods.

16.3 All Goods which are hazardous Goods must be marked by the Seller with international danger symbol(s) and display the name of the material in English. Products classified as "Dangerous Goods" in accordance with the Australian Dangerous Goods (ADG) Code must be marked in accordance with that Code Delivery and other documents must include disclosure of the hazard(s) and name of the material in English. Goods must be accompanied by emergency materials in English in the form of written instructions, labels or markings and Material Safety Data Sheets.

16.4 All information held by or reasonably available to the Seller regarding any potential hazards or special requirements known or believed to exist in the transport, packaging, storage, handling or use of the Goods shall be immediately communicated to TS GLOBAL.

16.5 The Goods shall be packed in the case of Dangerous Goods to comply with the requirements of the ADG Code and marked accordingly with the relevant approvals. Such packaging shall also be marked with the appropriate information required by the ADG Code. In all other cases, the Goods shall be packed in accordance with any packaging requirements or specifications communicated by TS GLOBAL to the Seller. Any proposed alteration to TS GLOBAL's packaging requirements or specifications shall be subject to TS GLOBAL's prior approval.

16.6 Where required by TS GLOBAL or at law, the Seller shall provide all necessary Certificates of Conformance, Certificates of Analysis and Test Certificates together with the Goods delivered pursuant to the Purchase Order.

16.7 The Seller and its agents or suppliers must not include a charge to TS GLOBAL for wrapping, packing, cartons or crating unless authority for such charge is expressly incorporated in this Purchase Order.

## 17. INSURANCE

The Seller shall maintain adequate insurance including without limitation public liability, worker's compensation (including common law liability), automotive and other means of transportation/freight liability insurance and product damage insurance upon such terms and for such amounts as are reasonable in the circumstances of the Purchase Order.

## 18. FORCE MAJEURE

Neither the Seller nor TS GLOBAL shall be liable to the other for default or delay in performing its obligations under the Purchase Order caused by any occurrence beyond its reasonable control including without limitation fire, strike, industrial disturbance, riot, war, act of God and governmental order of regulation PROVIDED THAT the party affected by such occurrence gives written notice thereof to the other party within 7 days of the commencement of that occurrence.

## 19. TS GLOBAL'S RIGHTS IN SPECIFICATIONS, PLANS, PROCESS INFORMATION, ETC

Any specifications, plans, drawings, process information, patterns or designs supplied by TS GLOBAL to the Seller in connection with the Purchase Order shall remain the property of TS GLOBAL and any information derived therefrom or otherwise communicated to the Seller in connection with the Purchase Order shall be kept confidential and shall not without the written consent of TS GLOBAL be published or disclosed to any third party, or made use of by the Seller except for the purpose of implementing the Purchase Order. Any specifications, plans, drawings, process information, patterns or designs supplied by TS GLOBAL to the Seller must be returned to TS GLOBAL on request by TS GLOBAL. An invention or improvement made by the Seller attributable in whole or in part to such specifications, plans, drawings, process information, patterns or designs shall be the property of TS GLOBAL.

## 20. ROYALTIES

Goods are for the use of or re-sale by the TS GLOBAL or its associated companies and may be incorporated in any products (whether owned or used or possessed by the TS GLOBAL). The Seller must not make any claim for royalties or other additional compensation from the TS GLOBAL by reason of or connected with such use, re-sale or manufacture.

## 21. ADVERTISING

The Seller must not, without TS GLOBAL's prior written consent, advertise or publish the fact that the Seller has contracted to TS GLOBAL with respect to the supply of the Goods.

## 22. WORK ON TS GLOBAL'S SITE

Should the Purchase Order require the Seller to carry out any work on a site of TS GLOBAL, such work is to be subject to, in addition to the conditions of the Purchaser Order, any conditions imposed by law. A copy of the Sub-Contractor's Statement regarding worker's compensation, payroll tax and remuneration shall be supplied to TS GLOBAL before any such work begins.

## 23. APPLICABLE LAW

The Purchase Order shall be governed by, subject to and constructed in accordance with the laws of the State or Territory in which the relevant TS GLOBAL site issuing the Purchase Order is situated and the parties accept the jurisdiction of the courts or that State or Territory and the Commonwealth of Australia. The Seller shall comply at all times with all applicable Federal, State and local laws and regulations.