



Standard Terms and Conditions for Purchase

Unless T&R and the Supplier otherwise agree in writing, these Terms are incorporated into and form part of any Contract between T&R and the Supplier for the supply of Goods, and, or Services to T&R.

1. Definitions

In these Terms unless the contrary intention appears:

- 1.1 'Agent' means an officer, employee, contractor, representative or agent;
- 1.2 'Business Day' means any day that banks are generally open for business in Adelaide but not a Saturday, Sunday or a public holiday pursuant to the *Holidays Act 1910* (SA);
- 1.3 'Contract' means the contract referred to in **clause 3.1**, being the contract formed between T&R and the Supplier for the supply of Goods and, or Services;
- 1.4 'Goods' means any plant, equipment, components, materials or other goods to be manufactured and, or supplied in accordance with the Contract;
- 1.5 'Services' means any engineering, consulting, repair, maintenance or other services provided by the Supplier in accordance with the Contract;
- 1.6 'Service Results' means any results or outcomes resulting from the provision of Services including repaired plant, repaired equipment, repaired components, other repaired goods, technical drawings, designs and reports;
- 1.7 'Supplier' means the party or parties entering into the Contract with T&R;
- 1.8 'Terms' means these standard terms and conditions for the supply of Goods and, or Services; and
- 1.9 'T&R' means T&R Consolidated Pty Limited ACN 105 849 121 of Lot 10 Lagoon Road, Murray Bridge, South Australia and its subsidiary companies.

2. Interpretation

In these Terms unless the contrary intention appears:

- 2.1 the **singular** includes the plural and vice versa;
- 2.2 a reference to a **person** includes any corporation, partnership, joint venture, trust, association, government, or public authority and vice versa;
- 2.3 a reference to any **party** to this or any other document includes the party's successors and permitted assigns;
- 2.4 a reference to any **legislation** or legislative provision includes any statutory modification, substitution or re-enactment and any subordinate legislation issued under that legislation or provision;
- 2.5 mentioning anything after **include, includes or including** does not limit what else might be included; and
- 2.6 a reference to a **person** that comprises two or more persons means those persons jointly and severally.

3. Contract

- 3.1 The specifications, timing, price and other details of the Goods and, or Services to be provided by the Supplier to T&R will be agreed in writing between the parties (**'the Contract'**).
- 3.2 If the Supplier provides a quotation (**'the Quotation'**) in relation to the Goods and, or Services to be provided, the Quotation is valid unless or until it is withdrawn by the Supplier or otherwise agreed between the parties.
- 3.3 If T&R makes a request or order (**'the Order'**) for the Supplier to supply Goods and, or Services:
 - 3.3.1 if the Order is in response to a Quotation, the Contract will be formed at the time the Order is made; or
 - 3.3.2 if the Order is not in response to a Quotation, the Contract will not be formed until such time as the Supplier accepts the Order either verbally or in writing or by delivery of the Goods, or provision of the Services.
- 3.4 Once formed, the Contract and these Terms constitute the entire agreement between T&R and the Supplier. All prior negotiations, agreements, arrangements, representations, understandings and correspondence are superseded by the Contract and these Terms.
- 3.5 The Contract and these Terms will in all circumstances prevail over the Supplier's terms and conditions (if any), unless T&R agrees in writing to be bound by the Supplier's terms and conditions.
- 3.6 To the extent that there is any inconsistency between the Contract and these Terms, these Terms prevail unless the inconsistency is agreed in writing.

4. Prices

- 4.1 The price for the supply of Goods and, or Services will be agreed in the Contract.
- 4.2 Unless otherwise stated, the price for the Goods and, or Services agreed in the Contract and any other amount payable under the Contract or these terms will be inclusive of any tax payable pursuant to *A New Tax System (Goods and Services) Tax Act 1999* (Cth) (**'GST'**).

5. Delivery

- 5.1 The Supplier will, unless T&R and the Supplier otherwise agree, bear the cost of delivery of the Goods and, Service Results.
- 5.2 The Supplier will ensure that all Goods and, or Service Results delivered, or Services provided, to T&R by the Supplier are in accordance with the Contract.
- 5.3 The Supplier will be liable for:
 - 5.3.1 any failure to deliver, or delay in delivery, of Goods and, or Service Results for any reason;
 - 5.3.2 any failure to provide, or any delay in providing, Services for any reason;
 - 5.3.3 any damage or loss due to unloading or packaging of Goods or Service Results;
 - 5.3.4 any damage to property caused upon entering premises to deliver the Goods and, or Service Results; and
 - 5.3.5 any damage to property caused upon entering premises to supply Services.

6. Rejection of Goods and Services

- 6.1 T&R may reject any Goods, Service Results and, or Services in accordance with this clause.
- 6.2 If any Goods, Service Results and, or Services are damaged, wrongly supplied or not in accordance with the Contract, T&R may notify the Supplier by providing particulars of the claim within 10 Business Days of the receipt of those Goods, Service Results and, or Services.
- 6.3 If T&R gives notice pursuant to **clause 6.2** and the claims are valid, the Supplier must at T&R's election replace the Goods and, or Service Results, re-perform the Service, or refund T&R the purchase price.
- 6.4 Unless the Supplier and T&R otherwise agree in writing, the Supplier will bear the costs of any action required under **clause 6.3** including the cost of removal or delivery of the Goods or Service Results.
- 6.5 Nothing in this clause affects the rights T&R has at law.

7. Payment

- 7.1 Unless the Supplier and T&R otherwise agree in writing, T&R must pay for the Goods and, or Services 60 days after the later of:
 - 7.1.1 the time that the Goods and, or Service Results are delivered or the Services are performed; or
 - 7.1.2 a valid tax invoice is given to T&R.
- 7.2 T&R may exercise its rights of set off if the Supplier owes to T&R any money of any kind or on any account.

8. Title and Risk

- 8.1 The legal and equitable title to the Goods and, or Service Results passes on delivery of the Goods and, or Service Results to T&R.
- 8.2 Risk in the Goods and, or Service Results passes to T&R upon the expiry of the period referred to in **clause 6.2**.

9. Warranties

- 9.1 The Supplier warrants to T&R that:
 - 9.1.1 it has the power to enter into the Contract and to perform its obligations under the Contract;
 - 9.1.2 it can transfer ownership of the Goods and, or Service Results unencumbered;
 - 9.1.3 the Goods and, or Service Results are fit for the intended purpose and any Goods manufactured or ordered to specification meet T&R's requirements and specifications;
 - 9.1.4 it has provided any and all information and documentation required to ensure the proper use of the Goods and, or Service Results including but not limited to the correct and appropriate warnings and instructions;
 - 9.1.5 it is not in breach of any contractual obligations in relation to the Goods and, or Services and is not infringing upon any third party's intellectual property rights, or any other proprietary rights whether contractual, statutory or common law; and
 - 9.1.6 the Goods and, or Services comply with all applicable laws, regulations, accreditations and quality and environmental standards.
- 9.2 Nothing in this clause affects any of the implied warranties under the *Competition and Consumer Act 2010* (Cth).

Document Type	Terms and Conditions of Supply	Page 1 of 2	Parent Document	
Document Authorisation	Group Operations Manager		Review Date	Aug 2014
Document Owner	HR Manager		Version	1.0
© 2012 Printed versions of this document are uncontrolled. Before using a print copy verify it is in the current version online				

- 9.3 T&R warrants to the Supplier that it has the power to enter into the Contract and to perform its obligations under the Contract.
- 9.4 If either party breaches any of the warranties in this clause 9, that party indemnifies the other party for any loss or damage of any kind, whether direct or indirect, suffered as a result of that breach of warranty.
10. **Default**
- 10.1 Either party will be in default if:
- 10.1.1 the party breaches any of the Terms or the Contract;
- 10.1.2 the party being an individual commits an act of bankruptcy; or
- 10.1.3 the party being a body corporate becomes insolvent within the meaning of section 95A of the *Corporations Act 2001* (Cth).
- 10.2 In the event of a Default, the non-defaulting party may:
- 10.2.1 treat the whole of the Contract as repudiated and sue for breach of contract; and
- 10.2.2 refuse to supply, or receive, any Goods and, or Services.
- 10.3 Nothing in this clause limits a non-defaulting party's rights at law.
11. **Confidential Information**
- 11.1 A party (**'the Disclosee'**) must keep confidential all information disclosed to it by the other party (**'the Discloser'**).
- 11.2 The Disclosee must use its best endeavours to safeguard the confidential information and may not use or disclose such information unless:
- 11.2.1 it receives the prior written consent of the Discloser;
- 11.2.2 such information enters the public domain (other than as a result of a breach of this paragraph);
- 11.2.3 or the use or disclosure is required by law.
- 11.3 The provisions of this clause survive the termination or expiry of the Contract.
12. **Quality Standards**
- The Supplier will supply Goods and, or provide Services in accordance with any specifications, drawings, and requirements provided by T&R.
13. **Health and Safety**
- 13.1 If the Goods supplied by the Supplier are plant and, or equipment, the Supplier must provide to T&R, at the time of delivery of the Goods a risk assessment prepared by the Supplier. That risk assessment must contain such information, and be to such a standard, as T&R requires and T&R is not obliged to accept the Goods if T&R is not satisfied with the risk assessment.
- 13.2 The Supplier will be responsible for ensuring that any Goods, Services and, or Service Results supplied comply with all relevant legislation and Australian Standards, or other relevant standards.
- 13.3 The Supplier warrants to T&R that the Supplier and its Agents that will, or will likely need to, attend T&R premises in order to supply Goods and, or Services have been vaccinated for Q Fever and the Supplier indemnifies T&R for any loss or damage of any kind, whether direct or indirect, suffered as a result of a breach of this warranty by the Supplier or its Agents.
- 13.4 Due to the risk of Q Fever and other risks of T&R's business, whilst on T&R's premises the Supplier must ensure that the Supplier and all Agents carrying out work on behalf of the Supplier comply with T&R contractor management procedures specified by T&R from time to time.
14. **Access**
- 14.1 Subject to T&R providing the Supplier with reasonable written notice, the Supplier will permit T&R to have reasonable access to the Supplier's premises during normal office hours for the purpose of inspecting the Goods during supply or manufacture or Service Results during the provision of Services.
- 14.2 Whilst on the Supplier's premises a T&R representative must be accompanied by an officer of the Supplier and must comply with the Supplier's safety regulations.
15. **Notice**
- 15.1 A notice is deemed to have been given if it is in writing and executed by the sender or its agent and is:
- 15.1.1 delivered or sent by pre-paid post to the address on the Contract (or any other address notified to all parties in writing);
- 15.1.2 sent by facsimile transmission to the recipient's last known facsimile number; or
- 15.1.3 sent or delivered to the recipient in accordance with the *Corporations Act 2001* (Cth) or any other legislation.
- 15.2 A notice given in accordance with this clause is deemed to have been received:
- 15.2.1 if delivered or transmitted by facsimile;
- (a) on the day of transmission or delivery if the transmission or delivery occurred before 5.00 pm on a Business Day, and
- (b) otherwise, on the next Business Day; and
- 15.2.2 if sent by pre-paid post, on the third Business Day after posting.
- 15.3 Where two or more persons comprise a party, notice to one is effective notice to all.
16. **General**
- 16.1 The Supplier cannot assign, charge or otherwise deal with its rights and obligations under the Contract and these Terms without the prior written consent of T&R.
- 16.2 The Contract and these Terms are governed by the laws of South Australia and the Commonwealth of Australia. The parties submit to the jurisdiction of the Courts of South Australia and the Commonwealth of Australia. Any proceeding brought in the Federal Court of Australia must be instituted in its South Australia District Registry.
- 16.3 The Supplier acknowledges that it has been given reasonable opportunity to obtain independent legal advice before entering into the Contract.
- 16.4 The rights and obligations of the parties will not merge on completion of any transaction under the Contract and these Terms or upon the execution of any other document in connection with the subject matter of the Contract and the Terms.
- 16.5 All rights under the Contract and these Terms are in addition to and do not abrogate, limit or reduce any other rights that T&R may have.
- 16.6 Any provision of the Contract and these Terms that is invalid, unenforceable or illegal must be read down to the extent necessary to avoid that effect. If that is not possible, that provision must be excluded from the Contract and these Terms but only to the extent necessary to avoid that effect. All other provisions of the Terms continue to be valid and enforceable.
- 16.7 Unless otherwise specified, time is of the essence in the Contract.
- 16.8 T&R may vary the Terms with reasonable notice to the Supplier.
- 16.9 A right or obligation under the Contract and these Terms cannot be waived except by a document executed by the party waiving that right or obligation and specifying the waiver.
- 16.10 Each party must bear its own legal and other costs in relation to the negotiation, preparation and execution of the Contract and these Terms and any document required by the Contract and these Terms.
- 16.11 The Supplier must pay all stamp duty, registration fees and any other fees charged by any government authority or body in respect of the Contract and these Terms and any document required by the Contract and these Terms.

Document Type	Terms and Conditions of Supply	Page 2 of 2	Parent Document	
Document Authorisation	Group Operations Manager		Review Date	Aug 2014
Document Owner	HR Manager		Version	1.0
© 2012 Printed versions of this document are uncontrolled. Before using a print copy verify that it is in the current version online				