

Standard Conditions of Purchase – Goods (minor purchases)

- 1. DEFINITIONS**

The following definitions shall apply for the purpose of administering the Purchase Order: “**Purchaser**” shall mean the SAUNDERS INTERNATIONAL PTY LTD (ABN 14 050 287 431) or any of its affiliated companies identified on the Purchase Order. “**Vendor**” shall mean the person or firm on which the Purchase Order is placed. “**Purchase Order**” shall mean the Order and all documents incorporated therein including these Standard Conditions of Purchase. “**Goods**” shall mean all plant, equipment, materials and other items of all kinds to be supplied by the Vendor under the Purchase Order.
- 2. THE PURCHASE**

The Purchase Order constitutes the entire agreement between the Purchaser and the Vendor and supersedes all previous oral or written communications between the parties. If any of these Conditions of Purchase are inconsistent with any terms and conditions set out on the face of the Purchase Order the latter shall prevail, to the extent of the inconsistency.
- 3. NATURE AND CONSTRUCTION OF PURCHASE ORDER**
 - 3.1.** The Purchase Order price is a fixed and firm lump sum price. The Vendor shall supply the Goods in accordance with the requirements of the Purchase Order and shall guarantee that the Goods will be suitable for their intended purpose without adjustment to the Purchase Order lump sum price.
 - 3.2.** The Purchase Order shall be governed by and construed with reference to the laws in force in the State of New South Wales, Australia. The parties agree that any action or proceeding arising in connection with the Purchase Order shall be held in Sydney, New South Wales, Australia.
 - 3.3.** Unless otherwise provided prices are in Australian currency and payments shall be made in Australian currency.
- 4. ASSIGNMENT**
 - 4.1.** The Vendor shall not, without the prior written consent of the Purchaser, assign or subcontract the Purchase Order or any part thereof.
 - 4.2.** The Parties agree that their rights, obligations and liabilities will be those which would exist if the Proportionate Liability Act that may apply to the Purchase Order, did not apply.
- 5. VARIATIONS TO THE PURCHASE ORDER**

The Purchaser may alter, amend, omit, add to or otherwise vary any of the Goods or to defer or accelerate the time(s) for delivery without prejudice to the Purchase Order. The difference in cost if any occasioned by variations directed by the Purchaser shall be added to or deducted from the Purchase Order price as the case may require.
- 6. PRICE AND PAYMENT**
 - 6.1.** All prices shown shall be fixed and firm and shall include all charges for packing, crating, loading and delivery together with all taxes, duties and fees relevant to the due performance of the Purchase Order. Provided the Vendor complies with the terms and conditions of the Purchase Order and supplies the Goods in accordance with the Purchase Order, the Purchaser shall pay the Vendor forty-five (45) days following the receipt of a correctly submitted invoice. The invoice shall detail all items to correlate with the Purchase Order, including clearly identifying the Purchase Order number. Unless otherwise stated in the Purchase Order, the Vendor shall only be entitled to submit an invoice for the Goods following delivery of all the Goods.
 - 6.2.** The Purchaser shall be entitled to set off against any sums that would otherwise be due to the Vendor amounts in respect of any claims it has for damages for breach of contract by the Vendor, by way of indemnity or otherwise.
 - 6.3.** The Purchase Order price is exclusive of Goods and Services Tax (GST). The Purchase Order price shall only be increased by an amount equal to the GST liability properly incurred by the Vendor.
- 7. WARRANTY, QUALITY AND GUARANTEE OF THE GOODS**

The Vendor warrants that the Goods shall be free from defects in design, material and workmanship, that they shall conform in all respects to the terms of the Purchase Order and that they shall be of the best quality, if no quality is specified.
- 8. INSPECTION**

The Purchaser shall have the right to inspect, expedite and test any part of the Goods at any time. The Goods shall not be deemed accepted until a final inspection is carried out after arrival at the delivery point.
- 9. DELIVERY**

Unless stipulated to the contrary in the Purchase Order, Goods shall be delivered DDP (INCOTERMS 2020) to the nominated delivery point.
- 10. PACKAGING**

The Vendor shall package all Goods in such a manner as to ensure protection against damage and deterioration during shipment and storage including transportation, air and ocean freight and storage.
- 11. LAW, PATENTS, COPYRIGHT AND PROPERTY RIGHTS**
 - 11.1.** The Vendor shall indemnify and save harmless the Purchaser against all costs and claims due to infringement of any patent, registered design, copyright, trademark or trade name or other intellectual property right in relation to the Goods ordered and used for their intended use. The Vendor warrants that all Goods sold hereunder have been produced, sold, delivered and furnished in strict compliance with all applicable laws and regulations to which the Goods are subject.
 - 11.2.** Any intellectual property rights generated by the Vendor in the provision of Goods in respect of this Purchase Order shall vest in the Purchaser, upon its creation.
- 12. INDEMNITY**

The Vendor shall indemnify the Purchaser against every liability it may incur to any other person whatsoever and against all claims, demands, proceedings, damages, costs and expenses made against or incurred by the Purchaser by reason of any act or omission of the Vendor, its employees, sub-vendors or agents or otherwise, including any claims, demands, costs, charges or expenses arising from the death of or injury to any persons employed by the Vendor or a sub-vendor.
- 13. TITLE AND OWNERSHIP OF THE GOODS**

The Goods to be supplied pursuant to the Purchase Order shall become the property of the Purchaser upon delivery of the Goods and satisfactory final inspection at the delivery point. The Vendor warrants that the Goods, materials and items furnished by the Vendor in the performance of its obligations under the Purchase Order shall be free and clear of all liens, restrictions, reservations, security interests and encumbrances.
- 14. CONFIDENTIALITY**

All drawings, design calculations, specifications and intellectual property or other information of any kind supplied by the Purchaser and contained in the Purchase Order or supplied by the Purchaser in connection with the Purchase Order are confidential to the Purchaser.
- 15. DEFAULT**

If the Vendor fails or neglects to act in accordance with its obligations under the Purchase Order and such failure to act is seriously affecting the due performance of the Purchase Order, the Purchaser may give notice to the Vendor requiring it to make good such failure or neglect. If the Vendor does not, within a reasonable time, make good such failure or neglect, or becomes bankrupt or insolvent, or has a receiving order made against it, or compounds with its creditors, or carries on business under a receiver, trustee or manager for the benefit of its creditors, or commences to be wound-up or goes into liquidation, the Purchaser may, after giving seven (7) days written notice to the Vendor, terminate the Purchase Order. The Purchaser shall after such termination pay the amount due to the Vendor as at the date of termination taking into consideration such extra cost the Purchaser may incur as a result of any default of the Vendor.
- 16. TERMINATION**

In addition to any other rights that it may have with respect to cancellation or termination, the Purchaser may terminate the Purchase Order. If, in the opinion of the Purchaser, the Vendor is not in default at the time the termination notice is given, the Purchaser shall make an equitable termination payment to the Vendor. The termination payment shall not exceed that fraction of the total Purchase Order price which is attributable to the Goods delivered up to the point of termination and in no event shall the Purchaser be liable for any special, indirect, incidental or consequential damages of any nature.
- 17. DISPUTES**

All disputes arising in connection with the Purchase Order which cannot be settled by proper and continuous discussion between the parties shall be referred to the Chief Executives of the parties for negotiation. If resolution cannot be achieved within a reasonable time or to the mutual satisfaction of the parties, the parties shall be at liberty to seek such remedies as they consider appropriate under common law or equity. A dispute, or reference of any matter to any dispute settling process shall not relieve the Vendor of its obligation to proceed with work and complete its obligations under the Purchase Order.