

1. PURCHASE ORDER

- a) The supplier agrees to provide the goods and the purchaser agrees to purchase the goods in accordance with the purchase order and these terms and conditions.

2. PRECEDENCE

- b) If there is any ambiguity or inconsistency between the documents comprising the contract, the order of precedence to the extent of the ambiguity or inconsistency shall be: An executed contract between the parties in relation to the purchase; the purchase order; and these purchase order terms and conditions.

3. WARRANTIES

- a) The supplier warrants that all goods supplied under this contract shall conform to the description in the purchase order and all applicable Australian (or equivalent) codes, specifications and standards and laws; be free of all liens and encumbrances; and as far as practicable, not impede or interfere with the operations on site or on the purchaser's premises (applicable to any installation or commissioning work required).
- b) The supplier warrants that for a period of 12 months from the date of acceptance or commissioning of the goods, whichever is later, the supplier will, on written notice from the purchaser and at its own cost, repair or replace any defective goods as to design, materials or workmanship.
- c) If the supplier does not rectify the defects within 28 days of receiving notice from the purchaser, the purchaser may carry out the repair or replacement on the supplier's behalf and the cost of such repair or replacement will be a debt due and payable on demand by the supplier to the purchaser.

4. NOVATION, ASSIGNMENT AND SUBCONTRACTING

- a) The supplier shall not novate, assign or transfer the Contract without the purchaser's prior written consent.

5. INVOICES, PRICE AND PAYMENT

- a) All prices in the purchase order shall be fixed unless otherwise stated in the purchase order.
- b) The supplier must send its invoice for the goods to the invoice address of the purchaser specified on the purchase order.
- c) A valid tax invoice must be provided in respect of the goods and must show the purchase order number, description of the goods, the price, and any GST or duty component.
- d) Unless otherwise stated in the purchase order, upon acceptance of the goods by the purchaser, payment for the goods shall be made within forty five (45) days after the end of the month in which a correctly rendered invoice is issued to the purchaser. Payment for the goods does not imply acceptance of the goods by the purchaser.

6. GOODS AND SERVICES TAX ("GST")

- a) Unless otherwise expressly stated in the Contract, all prices or other sums payable under this Contract are exclusive of GST.

7. TAXES, DUTIES AND IMPOSTS

- a) The supplier must pay all taxes, duties and government charges imposed or levied in Australia or overseas in connection with the goods under this Contract.

8. LAWS AND REGULATIONS

- a) The supplier must, at its own cost, obtain all approvals in performance of this Contract and comply with all legislative requirements in relation to the goods.

9. TRANSPORT, DELIVERY & PACKAGING

- a) All goods must be packed, clearly marked and transported in accordance with the purchase order or, if not specified in the purchase order, in accordance with industry best practices.

10. TITLE AND RISK

- a) Risk in the goods passes from the supplier to the purchaser when the goods are delivered to the purchaser at the delivery address or, if applicable, on completion of installation.
- b) Title in the goods passes from the supplier to the purchaser on the earlier of payment of the price or the delivery of the goods to the purchaser at the delivery address or, if applicable, on completion of installation.

11. QUANTITY

- a) The purchaser shall only be liable for payment to the supplier for the quantity of goods described in the purchase order.

12. INSPECTION AND TESTING

- a) The purchaser will inspect and/or test all goods received by the purchaser within 28 days of delivery.
- b) If, in the purchaser's opinion, the goods are not supplied in accordance with the purchase order and to the standard, quality and finish required by the purchaser then the supplier must, upon receiving notice from the purchaser, replace, correct or have workmanship re-performed on the goods at no cost to the purchaser within 28 days of the date of the notice.

13. INDEMNITY

- a) The supplier is liable for and shall indemnify and keep indemnified the purchaser and its officers, employees, agents and contractors against all loss in respect of all property, and injury or death of all persons and otherwise. This indemnity is reduced proportionately to the extent to which the loss is caused or contributed to by the purchaser.
- b) Notwithstanding any other provision in this Contract, neither party is liable to the other for any consequential loss.

14. INTELLECTUAL PROPERTY

- a) The supplier warrants that the sale or use of the goods will not infringe or contribute to the infringement of any intellectual property rights of any third party in either Australia or overseas. The supplier shall indemnify the purchaser and its officers, employees, agents and contractors against any loss or damage (including legal fees and other costs in defending in action) arising out of or in connection with any breach of this clause, and shall be liable to the purchaser for all costs associated with providing equivalent goods which do not infringe any intellectual property rights of any third party.

15. INSURANCE

- a) Where the supply of the goods includes installation and/or on-site management, the supplier shall effect and maintain, at its own expense, the following insurances:

- b) Workers Compensation insurance for an amount not less than the statutory amount to cover all claims or liabilities for any accident or injury. This insurance shall include an indemnity extension and waiver of subrogation in favour of the purchaser;
- c) Public and Product liability insurance for an amount no less than AUD\$5 Million (per accident and unlimited per period of insurance) covering liability to any third party for death, bodily injury, loss of and damage to property arising out of any act or omission in relation to the Contract; and
- d) Motor Vehicle Third Party Liability Insurance for an amount no less than AUD\$5 Million (per accident and unlimited per period of insurance) covering all motor vehicles which are owned or controlled by the supplier used in connection with the Contract.

16. CANCELLATION

- a) The purchaser may cancel a purchase order at any time by giving the supplier 7 days' written notice. If the Contract covers standard stock goods, the purchaser's liability will be to pay for goods shipped prior to the cancellation. If the Contract covers goods manufactured to the purchaser's specification or specification prepared by the supplier for the purchaser, upon receipt of notice of cancellation, the supplier shall cease manufacture, supply or work in accordance with the notice and shall immediately do everything possible to mitigate any costs incurred from such cancellation. Provided the supplier is not in default under this Contract, the purchaser will pay the supplier the costs incurred prior to cancellation, the purchase order value of the goods manufactured and/or supplied at the date of the cancellation and cost of materials for which the supplier is legally bound to pay. Upon such payment, title to and property in the goods and ordered materials shall pass to the Purchaser.

17. TERMINATION FOR DEFAULT AND INSOLVENCY

- a) If the supplier fails to comply with any condition of the Contract, or fails to deliver the goods by the delivery date, the purchaser may give notice to the supplier that unless the failure is remedied within a period of 14 days of receipt of the notice the purchaser may terminate the Contract with immediate effect by written notice to the supplier.
- b) The purchaser may terminate this Contract with immediate effect by written notice to the supplier if the supplier becomes insolvent including if the supplier ceases to be able to pay its debts as they become due, has a controller or managing controller or liquidator or administrator appointed, is declared bankrupt or any analogous event occurs.
- c) If the Contract is terminated pursuant to clause 17.2 or 17.2, the parties rights, remedies and liabilities will be the same as they would have been under the law governing the Contract had the supplier repudiated the Agreement and the purchaser elected to treat the Contract as at an end and recover damages, which election the purchaser hereby makes.

18. NOTICES

- a) Any notices must be in writing and hand delivered, sent by prepaid post, by facsimile or email to the recipient's address for notices set out in the purchase order.

19. KGC HEALTH, SAFETY AND ENVIRONMENTAL POLICIES AND STANDARDS

- a) The purchaser is committed to operating in a healthy, safe and sustainable manner. As such, the purchaser requires that all goods designed, supplied and constructed in relation to this Contract comply with all relevant environmental and health and safety requirements, legislative requirements, Australian standards, regulations and industry codes of practice.

20. LOCAL CONTENT

- a) It is the purchaser's policy to support Australian industry and accordingly the supplier is required wherever possible to give preference to local suppliers, manufacturers and contractors where price, quality, delivery and service are equal to or better than that obtainable elsewhere. The purchaser may request evidence of compliance with this policy.

21. MISCELLANEOUS

- a) The supplier shall obtain and ensure the purchaser will have the benefit of all warranties specified in this Contract or relevant to the goods.
- b) The terms of this Contract can only be amended or varied in a written document signed by both parties.
- c) No party to this Contract may rely on the words or conduct of any other party as a waiver of any right and the purchaser can only waive its rights under or in connection with this Contract by a written document signed by the purchaser.
- d) The purchaser may, in its discretion, set off any amount owing to supplier against any amount payable by the purchaser to the supplier under this Contract.
- e) This Contract is governed and construed in accordance with the laws of Western Australia. The parties submit to the exclusive jurisdiction of the Courts of Western Australia.
- f) The supplier provides all goods under and in relation to this Contract as an independent contractor and not as an agent or employee of the purchaser.

22. SPECIAL CONDITIONS

[Include or attach as necessary]