

TERMS AND CONDITIONS OF PURCHASE

- **DEFINITIONS:** The following words shall where the context so permits have the following meanings;
 - "Merchandise" means all goods, plant equipment, machinery stores and the like referred to in this order.
 - "Purchaser" means Rojone Pty Ltd.
 - "Services" means any services ordered by the Purchaser under this order.
 - "Supplier" means the person, firm or corporation from whom the Merchandise and/or Services have been ordered.
- **CONTRACT:** This form bearing an order number is the only form which will be recognised by Purchaser as authority for charging Merchandise and Services to its accounts and supersedes all previous communications and negotiations. This form, together with all documents attached hereto or incorporated herein by reference (referred to as the "Purchase Order Documents") constitute the entire terms of the order ("Contract"). If the order form contains terms which are inconsistent with these terms and conditions, then the terms in the order form will prevail to the extent of the inconsistency. No terms stated by Supplier in accepting or acknowledging this order shall be binding upon the purchaser unless accepted in writing by Purchaser. The supply of Merchandise or commencement of Services by the Supplier will constitute acceptance of the Contract by the Supplier. Failure by the Purchaser to insist on strict performance of any term or condition of the Contract will not be deemed to be a waiver of any of the Purchaser's rights and remedies under the Contract unless expressly waived in writing. Supplier performs all work and Services as an independent contractor and not as an agent or employee of Purchaser.
- **QUANTITY:** The quantity of Merchandise delivered shall not be greater than the amount specified unless an additional amount is first ordered by Purchaser in writing on its "Purchase Order Change" form. Purchaser may return excess quantities to Supplier at Supplier's expense.
- **PRICE:** Where any prices are not specified in the Purchase Order Documents, the price payable by the Purchaser to the Supplier for Merchandise or Services supplied shall be a fair and reasonable price. Prices are in Australian dollars unless otherwise stated and include all other taxes or costs relating to the Merchandise or the Services including but not limited to delivery, packaging or storage costs, certifications, testing, insurance, tariffs, duties or excise.

- **TIME:** Where any dates or time limits are specified in the Purchase Order Documents, time shall be of the essence.
- **PAYMENTS:** Payments will be made in accordance with the Purchase Order Documents or if not stated, within 30 days of receipt of invoice from Supplier.
- **INVOICES:** Invoices must show the name or the plant or other destination to which the Merchandise was delivered or shipped. The invoice must be a valid tax invoice to enable the Purchaser to claim all relevant GST input tax credits.
- **TITLE:** Supplier warrants that the Merchandise is free and clear of all liens and encumbrances and that Supplier has a good and marketable title to same.
- **PROPERTY AND RISK IN MERCHANDISE:** Title to all Merchandise will pass on payment. Where any part payment for the Merchandise is made by Purchaser, the title to and property in the partly completed or completed Merchandise and any materials and parts to be used in its manufacture and then on hand shall pass to Purchaser and the same shall be appropriately marked by the Supplier. The risk with any Merchandise shall remain with Supplier until delivery to Purchaser.
- **WARRANTY:** Supplier warrants that the Merchandise will conform to its description and any applicable specifications shall be of good merchantable quality and fit for the purpose (whether express or implied) for which it is sold. Supplier also warrants that all workmanship will be carried out and performed in a proper and workmanlike manner. The Purchaser will be assigned and have the full benefit of any manufacturer's warranties. All Services will be provided to standards of skill and care normally exercised by qualified and experienced professionals or tradespersons in the performance of similar services. These warranties are in addition to any warranties or service guarantees stated in the Purchase Order Documents or implied by legislation or law.
- **LAWS, REGULATIONS, etc:** Supplier shall conform with the provision all laws (Federal, State, or municipal) in any way affecting or applicable to the manufacture or supply of Merchandise and Services and shall obtain all permits, licenses and give all notices required to be given and shall pay all fees, deposits and taxes in connection therewith. In addition, all workmanship shall be of suitable quality and consistency to meet the relevant Australian Standards.
- **NEW AND AUTHENTIC MATERIALS:** Subcontractors, Contract Manufacturers, OEM's and Franchised Distributors are permitted to use only new and authentic materials in products delivered to the Purchaser. No counterfeit or suspect counterfeit parts are to be contained within the delivered product. Parts shall be purchased directly from the OEM's or through OEM's Franchised Distributor. Documentation must be available that authenticates traceability to the applicable OEM. Independent Distributors (Brokers) shall not be used without written consent from the Purchaser.

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- **PATENTS, TRADEMARKS, and COPYRIGHT:** Supplier warrants that the sale or use of the Merchandise or Services provided will not infringe or contribute to the infringement of any patents, trademarks, copyrights, designs, trade secrets or other intellectual property rights in either Australia or foreign countries. Supplier shall indemnify Purchaser against any loss or damage (including legal fees and other costs of defending an action) arising from breach of this warranty.
- **TRANSPORTATION:** Immediately Supplier dispatches the Merchandise to Purchaser, Supplier shall notify Purchaser of the time of dispatch, the number of the order, the kind and amount of Merchandise dispatched and the route and method by which the Merchandise will be transported. All Merchandise shall be packed, marked and transported as specified in the Purchase Order Document but if not specified then in a proper and suitable manner and in all cases in accordance with the proper requirements of the carrier. Supplier shall be liable for any difference in freight charges arising from its failure to follow any transport instructions in the Purchase Order Documents or properly describe the Merchandise transported. Purchaser and Supplier shall assist each other in obtaining documents and other information desirable for the prosecution of claims against carriers.
- **INSPECTION IN PROGRESS:** Supplier agrees that Purchaser or its designed agent shall have the right of inspection of all work contained in the Purchase Order Documents while in any stage of engineering, manufacture or installation. Supplier agrees to make this a condition of any contract for any subcontracted work. The Purchaser or designated agent shall have the power to reject any work performed or being performed that does not conform to this order, whereupon the work rejected shall be redone at no additional cost to Purchaser. Any such inspection shall not relieve Supplier of any obligations contained in the Purchase Order Documents.
- **SITE INSPECTION:** All Merchandise is subject to Purchaser's inspection within a reasonable time after arrival at ultimate destination. If upon inspection any Merchandise is found to be unsatisfactory, defective or of inferior quality or workmanship or fails to meet the specification or any other requirements of the Purchase Order Documents, Purchaser may return such Merchandise to Supplier at Supplier's expense. Upon return of any unsatisfactory or defective Merchandise, Supplier shall reimburse Purchase for;
 - a) Any amounts paid by Purchaser on account of the purchase price of returned Merchandise, and
 - b) Any cost incurred by Purchaser in connection with the delivery or return of such Merchandise.

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- **INSTALLATION AND FITTING:** Where Supplier provides work in connection with the installation or fitting of the Merchandise or where the Purchase Order Documents require specifically or by implication the presence of Supplier or his employees, contractors or agents on Purchaser's premises then;
 - a) All work shall be performed in a proper and workmanlike manner.
 - b) If any of the work or materials is found by Purchaser to be defective or not in compliance with the Purchase Order Documents, and Supplier on request of Purchaser fails to remedy any defect or default to the satisfaction of Purchaser, the same may be remedied by Purchaser at the cost of the Supplier.
 - c) Supplier shall supply all labour, tools, equipment and materials necessary to completed the work.
 - d) Supplier shall use its best endeavours not to impede or interfere with other work in progress on Purchaser's premises.
 - e) Supplier and its employees, contractors or agents enter Purchaser's premises at its own risk.
 - f) Supplier shall at his own expense obtain all requisite licenses and permits and comply with all laws and regulations in connection with the work, Services or installation of the Merchandise.
 - g) Supplier's employees, agents and subcontractors shall comply with the safety regulations of Purchaser and with the reasonable directions and orders of Purchaser or its management, foreman and authorised officer.
 - h) Supplier shall, at its own expense, procure and maintain all relevant insurance policies including but not limited to adequate Worker's Compensation and Public Liability insurance to cover the work to be provided on the Purchaser's premises.
 - i) Supplier shall ensure that provisions equivalent to those contained in this clause are included in any relevant subcontract entered into by the Supplier.

- **DATA:** Supplier shall furnish all engineering and other data, designs and drawings in accordance with the Purchase Order Documents and within the time stated.

- **CANCELLATION:** Purchaser may at its option cancel any unshipped Merchandise. If this order covers any standard stock Merchandise, Purchaser's obligation shall be only to pay for Merchandise shipped prior to the cancellation.

If this order covers Merchandise made to Purchaser's specifications or prepared by Supplier for the Purchaser, upon receipt of notice of cancellation, Supplier shall cease manufacture, supply or work in accordance with and to the extent specified in the notice and shall immediately do everything possible to mitigate any cost incurred by him consequent upon such cancellations. In such cases, provided that Supplier is not in default, Purchaser shall pay to Supplier all reasonable costs incurred by Supplier in connection with this order prior to date of cancellation. The Supplier will not be entitled to payment for any unperformed work or Services or for anticipated revenues or lost profits.

Upon such payments, title to and property in any material or Merchandise already manufactured or partly completed shall pass to Purchaser.

- **TERMINATION FOR DEFAULT:** In the event of a breach by Supplier of any of the terms of this order, including the Supplier's warranties, Purchaser may at its option and without prejudice to any of its other rights cancel any undelivered Merchandise.
- **ASSIGNMENT OR SUBCONTRACTING:** Supplier may not assign or subcontract this Contract or any part of it without Purchaser's prior written consent. The terms of any subcontract must be consistent with the terms of the Contract.
- **INDEMNITY:** The Supplier will indemnify and keep indemnified the Purchaser against all liability, loss, costs or damage arising out of the Contract or the presence of the Supplier's employees, contractors or agents on the Purchaser's premises, except to the extent that it has been caused or contributed to by the wilful default, unlawful or negligent act or omission of the Purchaser.
- **CONFIDENTIALITY:** Both Supplier and Purchaser agree to keep confidential all information of a confidential or commercially sensitive nature acquired as a result of the Contract.
- **LAW APPLICABLE:** Purchaser and Supplier accept the laws of the State of New South Wales as the proper law on the contract, and Purchaser and Supplier both submit to the exclusive jurisdiction of the Courts of the State of New South Wales and of courts which may hear appeals there from.

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