

GALVIN ENGINEERING - PURCHASE ORDER TERMS AND CONDITIONS

Effective May 2007

Application

1. These terms and conditions apply to and form part of all purchase orders issued by *Galvin Engineering Pty Ltd* ("the Company") for the purchase of goods and where specifically referred to, services.

Essential Provisions

2. The purchase order contains essential provisions which must be complied with by the supplier of the goods and/or services ("the Seller"). If the Seller does not comply with an essential provision, the Seller will be in default of its obligations to the Company. The essential provisions of the purchase order are:-

- a. The Seller will provide a written acknowledgement and acceptance that the goods and/or services ordered are available and can be supplied in accordance with the prices and delivery terms as shown on the purchase order. Where the Seller is within Australia, the acknowledgement and acceptance is to be provided within two (2) days of the date of the order and where the Seller is outside Australia, the acknowledgement and acceptance is to be provided within seven (7) days of the date of the order.
- b. All prices quoted in the purchase order shall include all taxes and charges (excl GST), and shall not be increased, unless agreed in writing by the Company.
- c. The goods supplied by the Seller shall:-
 - i. be of good and merchantable quality;
 - ii. be fit in every way for the purpose for which they are intended;
 - iii. if purchased after the review of a sample, comply in all respects with the sample and shall not incorporate any modification or variation without express written approval from the Company;
 - iv. be of a good and proper standard of workmanship; and
 - v. be manufactured using only the best quality material.
- d. The goods and/or services supplied by the Seller shall comply with all applicable Federal and State laws and regulations relating to the product standards and safety for the goods and/or services.
- e. The Seller must comply with the timing, method and quantity requirements for the delivery of the goods and/or supply of services ordered.
- f. The goods supplied by the Seller shall be suitably packed and prepared for shipment so as to secure the goods against damage, enable the lowest transport and insurance rates to be obtained, and otherwise comply with the carrier's requirements.
- g. The goods and/or services must pass the Company's quality control inspection and the Seller agrees to allow the Company's inspectors access to the Seller's premises for the purposes of quality control inspection.
- h. The goods and/or services supplied must be accompanied by a suitable delivery docket and/or charge sheet. Goods delivered must be marked with Galvin Engineering item numbers. A GST tax invoice needs to be provided ASAP after the supply to ensure prompt payment.

If a breach of any essential provision occurs, the Seller will be in default and the Company can take the steps described in the terms and conditions to remedy the default.

Remedies

3. If the Seller is in default, the Company can at its absolute discretion:-

- a. Where the goods delivered are found to be defective in design, function, material or workmanship, the Company shall have the right to notify the Seller and either:-
 - i. carry out necessary repairs to the goods to correct such defect; or
 - ii. return the goods to the Seller for a credit, repair or replacement.

The costs of the Company exercising either of these options shall be at the Seller's expense.

- b. If the goods and/or services are not delivered within twenty-one (21) days after the date specified in the purchase order the Company may, at its discretion, cancel the purchase order.
- c. If the goods and/or services supplied pursuant to the purchase order are not of the standard required by the Company in the essential provisions, the Company shall, in addition to other available remedies, be entitled to cancel the balance of the order and any other orders not yet supplied and be paid compensation by the Seller for any costs and losses involved, including the credit, replacement, repair and freight of the goods.
- d. Call on the indemnity provided by the Seller to the Company.
- e. Exercise its right to damages and any other remedies available at law.

Indemnity

4. The Seller indemnifies the Company and keeps the Company indemnified from and against any claim, demand, cause of action, damage, loss, consequential loss, cost, expense (including legal expense) made against or suffered by the Company arising out of or in connection with or as a result of:-

- a. the goods and/or services supplied or to be supplied under this purchase order;
- b. any actual or threatened infringement of a third party's industrial and/or intellectual property rights relating to the goods; and
- c. the Company breaching contracts or arrangements it has entered into in reliance upon the acknowledgement and acceptance of the Seller in clause 2a. where the Seller, for whatever reason, fails to comply with the availability or delivery conditions of the purchase order.

Termination

- 5.
- a. The purchase order may be cancelled by the Company in the event of the Seller at any time failing or being unable to comply with any of the terms or conditions either express or implied in relation to the sale of the goods or supply of the services in any way.
 - b. Either party may terminate the purchase order forthwith by written notice to the other party if:-
 - i. a receiver, official receiver, liquidator, provisional liquidator, official manager, agent, receiver and manager or similar officer is appointed or application is made to a court for the appointment of such a person to the other party;
 - ii. the other party enters into or resolves to enter into a scheme of arrangement or composition with or assignment for the benefit of its creditors or it proposes a reorganisation, moratorium or other administration involving its creditors or resolves to wind itself up or otherwise dissolve itself or give notice of intention so to resolve;
 - iii. the other party is presumed to be insolvent within the meaning of the Corporations Act, 2001;
 - iv. without the prior written consent of the party, ceases to carry on its business or threatens to do so; or,
 - v. the business of the other party is sold or otherwise comes under the control of any person other than the other party or is purported to be sold, mortgaged or otherwise alienated or encumbered.

GST

All prices quoted in the purchase order for any taxable supply do not include Goods and Services Tax (GST) payable. Notwithstanding any other conflicting provisions, the Company is not obliged to pay for any taxable supply made by the Seller unless and until the Company receives a GST tax invoice or adjustment notice for that supply.

General

6. This contract is not assignable by the Seller without the written consent of the Company.
7. No variation of the purchase order shall be binding on the Company unless made in writing and signed by a duly authorised officer of the Company.
8. The Seller and the Company agree that they shall comply with all the provisions of the Privacy Act 1988 as amended and that they are bound by and fully comply with the National Privacy Principles dealing with the collection, use and storage of personal information about individuals.
9. The applicable law for the interpretation and enforcement of the purchase order is that of the State of Western Australia and the Seller hereby agrees to submit to the jurisdiction of the courts of Western Australia for the purpose of settling any disputes hereunder.