

# Terms and Conditions of Purchasing

Effective December 2023

## 1. Order process

- 1.1 A purchase order issued by Galvin Engineering Pty Ltd (Company) and these terms and conditions (Order) constitute an offer by the Company to purchase Goods or Services from the supplier identified in the purchase order (Seller).
- 1.2 The Seller can accept the Order by notifying the Company of its acceptance, or by supplying the Goods or Services in accordance with the Order. The Order will automatically expire if it has not been accepted within 90 days.

## 2. Scope

- 2.1 The Seller will supply, and the Company will acquire and pay for, the Goods and Services in accordance with the Order.

## 3. Supply of Goods

- 3.1 The Seller will pack and prepare the Goods so as to ensure their secure and safe transport, enable the lowest transport and insurance rates to be obtained, and otherwise comply with the carrier's requirements.
- 3.2 The Seller will deliver the Goods to Company at the Delivery Point by the Dispatch Date. The Seller will deliver with the Goods any documentation (including operating manuals, installation instructions and reference material) required to enable the Goods to be used by the Company.
- 3.3 The Goods and Services must be accompanied by a suitable delivery docket and/or charge sheet.
- 3.4 Risk of loss or damage to the Goods passes to the Company when an authorised officer of the Company signs for receipt of the Goods. Title in the Goods passes to the Company upon delivery or payment for the Goods, whichever occurs first.
- 3.5 All Goods supplied by the Seller are to be of good and merchantable quality, fit in every way for the purpose for which they are intended, of a good and proper standard of workmanship, manufactured using only the materials specified in the Order (if any), and match the description in the purchase order and any sample provided to the Company.

## 4. Supply of Services

- 4.1 The Seller will supply the Services punctually and with due care, skill and diligence, and otherwise in the manner the Company reasonably requires. Unless otherwise agreed, the Seller will provide all equipment, personnel, accommodation and other resources the Seller requires to perform the Services.
- 4.2 Where the Seller is performing the Services on the Company's or the Company's customer's site, the Seller will (i) comply with all reasonable policies and directions notified to the Seller; and (ii) have and maintain public liability insurance for an amount of at least \$20 million per claim and workers' compensation insurance as required by law.
- 4.3 Where the Services involve the Seller performing work on goods provided by the Company, the Seller will: (i) take reasonable care of the goods; (ii) identify and treat the goods as the property of the Company; (iii) not use or modify the goods except as necessary to perform the Services; (iv) return the goods to the Company when the Services are complete or earlier if the Seller no longer needs the

goods to perform the Order; and (v) indemnify the Company for loss or destruction of, or damage to, the goods.

## 5. Price and payment

- 5.1 Unless otherwise agreed, the Price includes all taxes, duties and charges, including GST.
- 5.2 The Seller will invoice the Company within 7 days after delivery of the Goods or performance of the Services. All invoices must be a proper tax invoice and include the Order number.
- 5.3 The Company will pay a correct invoice within 30 days after the end of the month during which the invoice was received. The Company is not liable to pay for Goods or Services which the Company reasonably determines as not being supplied in accordance with the Order. Where the Company queries or disputes an amount included in an invoice, the Company does not have to pay the relevant portion of the invoice until the query or dispute is resolved.

## 6. Quality

- 6.1 The Company will inspect the Goods and Services within a reasonable time after they are delivered. Where the Goods or Services are Defective, the Company may, without prejudice to the Company's other rights and remedies, at its option: (i) reject the Goods or Services; (ii) require the Seller to re-supply the Goods or Services; or (iii) accept the Goods or Services on terms reasonably acceptable to the Company (including a reasonable reduction to the Price). The Seller will promptly collect any rejected Goods from the Company and refund all amounts paid by the Company in respect of rejected Goods or Services.

## 7. Installation

- 7.1 Unless otherwise agreed, the Seller is responsible for the installation and commissioning of the Goods and/or Services at the time and location specified in the Order, in compliance with all applicable laws and standards, and must supply all adequate spare parts for this purpose.

## 8. Company Property

- 8.1 Company Property remains the property of the Company. The Seller will not use or modify Company Property except in the proper performance of the Order. The Seller will take reasonable care of Company Property and hand over to the Company any Company Property when it is no longer required by the Seller or in any case within 7 days of a request by the Company.

## 9. Confidentiality

- 9.1 The Seller must treat as confidential information all information provided by or obtained from the Company in relation to the Order, and not disclose such information to any person except: (i) to its personnel and advisors on a need to know basis; (ii) with the Company's consent; (iii) if required by law; or (iv) if it is in the public domain, except as a result of a breach of the Order.

## 10. Modern Slavery

- 10.1 The Seller warrants that (i) it and its supply chain will conduct their business in a manner so as to reduce the risk of Modern Slavery in their operations and supply chains; and (ii) to the best of its knowledge and belief having made reasonable enquiries, it and its supply chain have not been convicted of any offence involving Modern Slavery. The Seller will implement an appropriate system of due diligence to ensure any subcontractors take reasonable steps to reduce the risk of Modern Slavery.

## 11. Warranty

- 11.1 The Seller warrants that: (i) during the Warranty Period the Goods are not Defective; (ii) the Goods are new and have not been previously used; (iii) at the time title in the Goods passes to the Company, the Goods are free from all liens, charges and

encumbrances; (iv) the Company's use of the Goods will not infringe another person's intellectual property rights; and (v) the Goods comply with applicable laws. Without limiting clause 6, where the Goods are Defective during the Warranty Period, the Company may advise the Seller and the Seller will arrange for the repair or replacement (as necessary) of the Goods at no cost to the Company.

## **12. Indemnity**

12.1 The Seller indemnifies the Company against claims, liabilities, losses, damages, costs and expenses (including legal expenses on an indemnity basis) made against, or suffered or incurred by, the Company as a result of (i) a breach of the Order by the Seller; (ii) negligence relevant to the Order by the Seller; or (iii) any actual or threatened infringement of a third party's intellectual property rights relating to the Goods.

12.2 In conducting a claim in respect of which the Seller indemnifies the Company, the Seller will, at the Seller's expense, comply with the Company's reasonable directions.

## **13. Other contract**

13.1 If there is another signed contract between Company and the Seller for the supply of the Goods or Services, these terms and conditions apply to the extent they are not inconsistent with the other contract.

## **14. Changes and cancellation**

14.1 The Company may cancel an Order for Goods by notifying the Seller prior to the delivery of the Goods. Where the Company cancels an Order, it will reimburse the Seller for reasonable expenses incurred as a result of cancellation (which, together with any amounts already paid, will not exceed the Price).

14.2 The Company may change, suspend or cancel an Order for Services by notifying the Seller. Where the Company changes an Order for Services, the Price will be subject to a reasonable adjustment. Where the Company suspends an Order for Services, payment will be suspended until the Company notifies the Seller to resume the Services. Where the Company cancels an Order for Services after the Seller has commenced performing them, Company will pay the Seller a reasonable price for the Services performed and reimbursement for reasonable expenses incurred as a result of cancellation (which, together with any amounts already paid, will not exceed the Price).

## **15. General**

15.1 A party will not assign its rights under the Order without the other party's prior consent, which will not be unreasonably withheld.

15.2 The Seller will comply with applicable laws and standards and, when on the Company's premises, Company's policies.

15.3 The Seller will cooperate with Company and do things reasonably required by Company to give effect to the Order.

15.4 If the Seller becomes aware of a matter which is likely to materially affect the ability of the Seller to perform the Order, it will immediately notify Company.

15.5 The Company may set off money due to Company from the Seller, or damages, costs or expenses recoverable by Company from the Seller, against money due to the Seller under the Order or another contract between the parties.

15.6 If any part of the Order is or becomes illegal, void or unenforceable, this does not invalidate the rest of the Order.

15.7 Clauses 6 to 12 will survive the cancellation or completion of the Order.

15.8 Subject to clause 13, the purchase order and these terms and conditions constitute the entire agreement between Company and the Seller in relation to its subject matter. Any terms printed on the Seller's invoice or other documentation do not apply.

15.9 The Order is governed by and construed in accordance with the law of Western Australia and the parties submit to the jurisdiction of the Courts of Western Australia. The United Nations Convention on

Contracts for the International Sale of Goods (Vienna 1980) is excluded.

15.10 Except as provided for in these terms and conditions, the Order may only be varied by a document signed by or on behalf of each party.

15.11 Failure or omission by a party to require strict or timely compliance with any provision of the Order will not affect any right of that party to remedies it may have in respect of any breach of a provision.

15.12 The Seller may not subcontract its obligations without the prior consent of the Company.

## **16. Interpretation**

16.1 In these terms and conditions (i) clause headings are inserted for convenience only and do not affect interpretation; and, unless the context indicates otherwise (ii) to the extent of any inconsistency between these terms and conditions and the details in the purchase order, these terms and conditions prevail; (iii) "includes" in any form is not a word of limitation; and (iv) the Price is in Australian currency and an obligation to pay money is an obligation to pay in Australian dollars.

16.2 The following terms are defined:

**Company Property** means property or information of Company in the custody or control of the Seller or its personnel.

**Defect** means that the Goods or Services do not conform to the Specifications or have an error, defect or malfunction, and **Defective** means that the Goods or Services have a Defect.

**Delivery Point** means the delivery point specified in the Order or otherwise notified by the Company.

**Dispatch Date** means the date by which the Goods must be dispatched in accordance with the freight terms as specified in the Order. If no dispatch date is specified in the Order, the Dispatch Date is a reasonable time after the date of the Order.

**Goods** means the goods specified in the Order.

**Modern Slavery** has the same meaning as under the Modern Slavery Act 2018 (Cth).

**Price** means the price specified in the Order, or such other price as the parties agree in writing.

**Services** means the services specified in the Order.

**Specifications** means: (i) requirements in these terms and conditions; (ii) specifications in, or referred to in, the purchase order; (iii) the documentation provided under clause 3.2; and (iv) the current applicable specifications published generally by the manufacturer of the Goods. To the extent of any inconsistency between these specifications, the specifications listed earlier in this definition prevail over those listed later.

**Warranty Period** means the period commencing on delivery of the Goods to Company and continuing for the period specified in the Order or, if no period is specified, for 12 months.