

- 1) Contract
    - a) These Conditions of Purchase and the Purchase Order shall constitute a binding Contract ("Contract") between the Vendor ("Supplier") named on the Purchase Order and the Ampcontrol entity ("Buyer") named on the Purchase Order.
    - b) The Contract terms apply to the exclusion of any preceding, subsequent or other terms and conditions, unless stated on the Purchase Order or as expressly agreed to in writing by the Buyer. Where there is variation between what is stated on the Purchase Order and these Conditions of Purchase, the Purchase Order takes precedence.
  - 2) Price
    - a) Unless otherwise stated on the Purchase Order, the price is in Australian dollars and includes the cost of delivery, including insurance, duties, taxes, packing and any other costs or concessions associated with manufacturing, delivery and supply of the Goods and/or Services.
    - b) The price is not subject to change without the express written authorisation of the Buyer.
  - 3) Goods and Services Tax (GST)
    - a) The price is exclusive of GST.
    - b) If GST is payable, the Buyer shall reimburse the Supplier for the GST payable in respect of any supply made under the Contract, subject to the Supplier providing a tax invoice for the supply. The Buyer may reject, without payment, any invoice that is not a tax invoice.
    - c) Where there is an adjustment in relation to the supply:
      - i) The Supplier must refund to the Buyer the amount by which the amount reimbursed pursuant to clause a) above exceeds the adjusted GST on the supply; or
      - ii) The Buyer must pay to the Supplier the amount by which the adjusted GST on the supply exceeds the amount reimbursed pursuant to clause a) above.
    - d) Where the Buyer is required to pay for or reimburse an expense or outgoing of the Supplier under this Contract, the amount to be invoiced to the Buyer is the amount of the expense or outgoing less any input tax credit in respect of such expense or outgoing that the Supplier is entitled to.
  - 4) Delivery
    - a) The Supplier must deliver Free into Store (FIS) the Goods and/or Services at the nominated delivery address.
    - b) The Supplier shall be deemed to have delivered the Goods and/or Services only where it obtains a receipt or signed delivery docket, quoting the Purchase Order number, item number and a detailed description of the Goods and Services, from an authorised officer of the Buyer.
    - c) All goods shall be suitably packaged, labelled, stored and transported in compliance with relevant standards and regulations relative to the goods being supplied.
    - d) Risk of the Goods shall pass to the Buyer on acceptance of the Goods, which shall be deemed to be accepted by the Buyer 14 days after the later of:
      - i) successful performance acceptance testing; or
      - ii) delivery,
      - iii) if the Buyer has not previously advised the Supplier that the Goods are not in conformity with the Contract.
    - e) Property in the Goods, including packaging, shall pass to the Buyer on delivery of the Goods to the delivery address or payment by the Buyer, whichever is the earlier.
    - f) The quantity delivered shall not be in excess of that ordered, any excess shall be returned at the Suppliers cost.
  - 5) Time
    - a) Where a delivery time is stated on the Purchase Order, that time must be met in accordance with the terms of the Contract.
    - b) If the Goods and/or Services are not supplied by the time stipulated in the Purchase Order the Buyer may, without prejudice to any other rights and remedies, rescind the Contract, unless the delay is caused by factors outside the reasonable control of the Supplier, as determined by the Buyer.
    - c) The Buyer shall not be liable to the Supplier in respect of any cost, expense, loss or damage whatsoever incurred or suffered by the Supplier as a direct or indirect result of the rescission of the Contract.
  - 6) Payment
    - a) The Supplier shall be entitled to submit an Invoice to the Buyer for the amount due to the Supplier under this Contract, upon the supply of the Goods and/or Services as stated in the Purchase Order.
    - b) The Invoice shall be for the price, value of the work performed and materials supplied under the Contract.
    - c) Each Invoice must include the Purchase Order number and be supported by evidence of the amount due to the Supplier and such other information as the Buyer shall reasonably require.
    - d) Without limiting the Buyers rights under any other provision of the Contract, the Buyer may deduct from or set off against any monies which may be or thereafter become payable by the Buyer to the Supplier, including:
      - i) any debt due from the Supplier to the Buyer; and
      - ii) any claim which the Buyer may have against the Supplier under or by virtue of any provision of the Contract or otherwise at law or in equity.
    - e) The Buyer shall pay the Supplier in accordance with the Purchase Order terms or as otherwise agreed in writing.
  - 7) Insurance
    - a) At the Suppliers own cost it must insure the Goods and Services for any loss or damage, until acceptance of the Goods and Services by the Buyer.
    - b) The Supplier warrants that it has and will maintain:
      - i) Public and Products Liability insurance policy for at least \$10 million for any one occurrence;
      - ii) Professional Indemnity insurance policy for at least \$5 million for any one occurrence;
      - iii) Workers Compensation insurance or equivalent;
      - iv) Transit insurance to the value of the goods per shipment;
      - v) such insurances required to provide the Goods and/or Services stated on the Purchase Order;
      - vi) the Buyer shall be noted as an interested party on the Suppliers insurance policy;
      - vii) as a minimum, relevant insurances shall be retained for the term of the Contract;
      - viii) Certificates of Currency shall be provided upon request by the Buyer.
  - 8) Indemnity
    - a) The Supplier shall indemnify and keep the Buyer indemnified:
      - i) from and against all actions, claims, loss, damage, expense or liability expense of any kind incurred by the Buyer, or damage of any kind suffered by the Buyer; or
      - ii) personal injury to any person or loss of or damage to any property,
      - iii) arising out of or by reason of anything done or not done by the Supplier in respect of the supply of the Goods and/or Services.
    - b) The Supplier shall indemnify the Buyer in respect of any loss, damage, expense, claim or liability suffered or incurred by the Buyer as a result of a claim by a third party, including any alleged infringement of any intellectual property right in relation to the Goods and Services provided under this Contract.
  - 9) Warranty
    - a) The Supplier warrants the Goods and Services for a minimum of 12 months from date of acceptance by the Buyer and that the Goods and Services:
      - i) meet the description in the Purchase Order and conform to all specifications, drawings and samples provided by the Buyer to the Supplier;
      - ii) are free of any omissions, defects or failures arising from faulty design, materials or workmanship, or any other failures which render them unsuitable for the Buyer's requirements and will operate satisfactorily and reliably under all conditions;
      - iii) are fit and sufficient for the purpose for which they are intended;
      - iv) are made with new materials and are themselves new, unless otherwise specified on the Contract;
      - v) are of the quality specified or are the best merchantable quality;
      - vi) are free of all charges, duties, liens and encumbrances and the Supplier has title to them;
      - vii) do not violate any copyright or patent rights;
      - viii) where a licence is granted by the Supplier pursuant to Clause 11, it does not infringe the intellectual property rights of any third party; and
      - ix) compliance with all relevant Acts, Regulations, By-laws, Codes, Standards, statutory requirements, applicable laws, notices, directions and requirements.
    - b) The Supplier extends equivalent warranty and guarantee as is provided to the Buyer, to the customer of the Buyer for the Goods Supplied in the Purchase Order.
  - c) Pursuant to clause a) and b) the Supplier shall be liable for any resulting costs and expenses incurred directly or indirectly by the Buyer or the Supplier and must at the request of the Buyer:
    - i) refund the price;
    - ii) repair, modify or replace;
    - iii) resupply Services which are in the opinion of the Buyer, not supplied in accordance with the Contract.
  - d) The Buyer may, at its option, arrange the repair, modification, replacement or resupply of the Goods and Services referred to in clause c) by a third party or itself, whereby all resulting costs and expenses shall be borne by the Supplier.
  - e) To claim the warranty the Buyer will write to the Supplier specifying the nature of the defect, breach or non-conformance at the last address specified by the Supplier to the Buyer for correspondence.
  - f) If the Buyer makes a warranty claim in accordance with this clause 9, the Supplier will be responsible for all expenses associated with the warranty claim including the cost of returning any defective Goods to Supplier.
  - g) The Goods are supplied with guarantees that cannot be excluded under Competition and Consumer Act 2010. The Buyer is entitled to a replacement or refund for a major failure and compensation for any other reasonably foreseeable loss or damage. The Buyer is also entitled to have the goods repaired or replaced if goods fail to be of acceptable quality and the failure does not amount to a major failure.
- 10) Confidentiality
  - a) The Supplier shall keep confidential the terms, conditions and all information in relation to the Contract and shall only disclose them as required by law or to those employees, servants or agents as necessary to enable the Supplier to meet the Contract requirements.
  - b) All information, including but not limited to specifications, plans, designs, drawings and documentation remains the property of the Buyer.
- 11) Intellectual Property
  - a) The Supplier hereby grants to the Buyer a perpetual non-exclusive, non-transferable, worldwide, royalty-free licence in respect of intellectual property in the Goods and Services to the extent reasonably necessary to use the Goods and Services for their intended purpose and any related purposes.
  - b) The title to and intellectual property rights in all material created by the Supplier and brought into existence after the date of acceptance and as a result of this Contract shall vest in the Buyer.
- 12) Subcontract or Assignment
  - a) The Supplier must not assign, sub-licence, sub-contract or transfer in whole or in part any of its interest or obligations under the Contract without the Buyer's prior written consent, which consent may be granted, withheld or granted subject to conditions in the Buyer's absolute discretion.
  - b) Where the Buyer grants consent under clause a), such consent shall not relieve the Supplier from its obligations under the Contract. Further, any sub-contractors or agents are equivalently bound by the conditions of this Contract.
- 13) Buyers Rights
  - a) The Buyer reserves the right to enter the Suppliers premises and inspect all or any part of the contracted work, including sub-contracted work.
  - b) The Buyer reserves the right to suspend the Contract, at no cost or liability to the Buyer, where the reason for doing so is beyond the reasonable control of the Buyer.
- 14) Breach and Termination
  - a) The Buyer may terminate the Contract by written notice to the Supplier, where:
    - i) the Supplier is in breach of a term of the Contract and fails to remedy the breach within 14 days of receipt of a written notice from the Buyer specifying the breach and its rectification;
    - ii) the Buyer is of the reasonable opinion that the Supplier is unable or unwilling to comply with its obligations under the Contract with due diligence or in a competent manner; or
    - iii) if the Supplier becomes bankrupt, insolvent, goes into liquidation or an order is made for the winding up or is in receivership.
  - b) Termination of the Contract pursuant to this clause shall be without prejudice to the rights of either party.
  - c) The Supplier shall be liable to the Buyer for any loss whether direct, consequential, economic or otherwise suffered by the Buyer and arising out of or in connection with such termination or prior breach.
  - d) The Buyer shall not be liable to the Supplier for any loss, whether direct, indirect, consequential, and economic or otherwise, suffered by the Supplier and arising out of or in connection with termination of the Contract pursuant to this clause.
  - e) If the Supplier breaches a term of the Contract and the Buyer do not terminate the Contract pursuant to this clause, the Buyer shall not be bound to perform its obligations under the Contract until the breach is remedied by the Supplier.
- 15) Dispute Resolution
  - a) Any dispute between the parties arising out of or in any way connected with the Contract, which are not resolved by the parties within 7 days, shall be escalated to the parties senior executive for resolution within 14 days after issue of a written notice of the dispute by either party on the other party. Should resolution not be achieved, it shall be referred for decision to the Institute of Arbitrators and Mediators within 30 day after service of the written notice of the dispute.
- 16) Force Majeure
  - a) Neither party shall be liable to the other in performing the obligations in the Contract caused by any occurrence beyond its reasonable control, including fire, national strike, national industrial disturbance, riot, war, act of God, government order or regulation, provided that the affected party gives written notice to the other within 7 days of the date of occurrence.
- 17) Law
  - a) The Contract shall be governed by the laws of the appropriate State of the Commonwealth of Australia and the parties agree to submit to the jurisdiction of the courts in New South Wales.
  - b) Where any provision or part of the Contract is unenforceable it shall not affect any other condition under the Contract.