

TERMS & CONDITIONS OF PURCHASE

HEATH PIPELINE SERVICES PTY LTD (ACN 112 174 740)

1. DEFINITIONS

In these Conditions of Purchase:

ABN has the meaning given to that term in the GST Law.

Conditions means these Terms and Conditions of Purchase.

Confidential Information means all information belonging to the Purchaser or any related body corporate of the Purchaser (regardless of form) which:

- (a) is regarded by the Purchaser as confidential to it or can reasonably be inferred to be confidential from the circumstances in which it is disclosed; and
- (b) is disclosed to or observed by the Purchaser (whether before, on or after the date of these Conditions are provided to the Supplier and whether by the Purchaser or any other person).

It includes the following specific types of information of the Purchaser or any related body corporate of the Purchaser:

- (c) details of employees, clients, policies, procedures, manuals, handbooks, contracts and deeds, forms designed, created or purchased by the Purchaser or any related body corporate of the Purchaser, financial information, strategic information, information about current and future projects;
- (d) the affairs, ideas, business plans, activities and/or operations (including the parties with whom the Purchaser deals);
- (e) the terms of these Conditions;
- (f) any intellectual property belonging to the Purchaser;
- (g) any materials or information which is marked "Confidential" or which is of a commercially sensitive nature, including information reasonably to be regarded as confidential from its nature and content;
- (h) developments relating to existing and/or future developments, business opportunities and client or customer lists or business practices; and
- (i) all other matters relating to internal or external operations or plans.

Force Majeure Events means an act of God, fire, lightning, explosions, flood, subsidence, insurrection or civil disorder or military operations, government or quasi-government restraint, expropriation, prohibition, intervention, direction or embargo, inability or delay in obtaining governmental or quasi-governmental approvals, consents, permits, licences or authorities, strikes, lock-outs or other industrial disputes of any kind and, any other cause whether similar or not to the foregoing, outside of the affected party's control.

Goods means the type and quantity of products to be supplied, and/or the type of service(s) to be rendered as specified in the order form which are the subject matter of these Conditions.

GST means a goods and services tax, or a similar value added tax, levied or imposed under the GST Law.

GST Law has the meaning given to it in the A New Tax System (Goods and Services Tax) Act 1999 (Cth).

Purchaser means Heath Pipeline Services Pty Ltd (ACN 112 174 740) and unless the context indicates otherwise, includes the Purchaser's agent or agents.

Recipient Created Tax Invoice has the meaning given to that term in the GST Law.

Supplier means the supplier of the Goods and/or services specified in the order form which are the subject matter of these Conditions and unless the context indicates otherwise, includes the Supplier's agent or agents.

Tax Invoice has the meaning given to that term in the GST Law.

2. GENERAL

- 2.1 These Conditions, including the order form, constitute a complete and exclusive statement of the agreements and understandings between the Purchaser and the Supplier for the purchase and/or supply of the Goods, notwithstanding any purported attempt by any Supplier to govern the terms of the contract for Sale by the Supplier's delivery of standard Terms and Conditions of Sale.
- 2.2 These Conditions supersede all prior arrangements, written or oral between the Purchaser and its Suppliers.
- 2.3 All additions and modifications to these Conditions must be in writing and must be signed by both parties and attached as a Schedule hereto.
- 2.4 These Conditions shall always take precedence and are not negated in any way by the Purchaser signing the Supplier's acceptance of order or such similar agreement which shall only be construed as an acknowledgment of price, description and delivery date.

3. SPECIFICATION

- 3.1 The Supplier will ensure that the Goods:
 - (a) comply in all respects with the specifications for the Goods (the **Specifications**) where such specifications have been advised in writing by the Purchaser to the Supplier or alternatively to the Purchaser by the Supplier;
 - (b) correspond to their description and are fit for any particular purpose made known by the Purchaser to the Supplier; and
 - (c) comply with the requirements of any statutes and regulations in force as at the date of delivery and installation including but not limited to the Sale of Goods Act 1896 (Qld), the Competition and Consumer Act 2010 (Cth) and the Work Health and Safety Act 2011 (Qld).

- 3.2 The Supplier will promptly give written notice to the Purchaser of any proposed change in any specification which change the Purchaser may accept or reject at the Purchaser's sole discretion.

4. DELIVERY

- 4.1 The Supplier will deliver the Goods to the address specified and in the manner and time specified in the order and in this regard time of delivery shall be of the essence.
- 4.2 If the Supplier fails for any reason to deliver the Goods within the time specified, the Purchaser may, at its sole discretion:
 - (a) grant the Supplier an extension of the time of delivery of the Goods and such extended time limit shall be of the essence; or
 - (b) by written notice, excluding any liability to the Supplier for any expense incurred in respect of such order, terminate the order.

- 4.3 All Goods must be accompanied by a delivery docket. The delivery docket must show clearly the Supplier's name, the Purchaser's order number and the quantity of Goods supplied. Non-compliance with this condition shall entitle the Purchaser to cancel the relevant order in whole or in part and renders the Goods liable to rejection. Such Goods will be held by the Purchaser at the risk of the Supplier and at the Supplier's expense and if the Goods are not cleared from the Purchaser's premises within one (1) month from the date of actual delivery, then they will be returned at the Supplier's expense.

- 4.4 The Purchaser will give notice to the Supplier of any loss or damage to the Goods occasioned during or prior to delivery as soon as possible upon discovery by the Purchaser of such loss or damage to the Goods and the Supplier must, at its own expense, promptly replace or repair such Goods.

- 4.5 The Purchaser may postpone the time of delivery of the Goods or any part thereof by giving notice to the Supplier in which event the Supplier must arrange storage of the Goods at the Supplier's risk and expense until otherwise agreed in writing by the Purchaser.

5. QUANTITY

- 5.1 No quantities in excess of those requested in each relevant order will be accepted by the Purchaser unless agreed to in writing by the Purchaser prior to delivery and any unauthorised excess will be liable to rejection by the Purchaser.

6. CONDITION OF GOODS

- 6.1 All Goods must correspond in all respects with the particulars of the order.
- 6.2 The Goods supplied by the Supplier will be quality tested by the Purchaser in accordance with its usual procedures, of which the Supplier is aware or ought reasonably to be aware, or in accordance with standard industry practice and there shall be no limitation on the right of the Purchaser to claim compensation for damage or loss incurred upon any defect being found in the Goods supplied against the Purchaser's order through any subsequent quality control testing or at any later stage of the manufacturing, distribution and sale process.
- 6.3 The Supplier warrants that the Goods supplied shall be of merchantable quality. If the Goods supplied are not of merchantable quality, the Supplier must either replace the Goods or refund the price paid by the Purchaser in full.

7. DAMAGED GOODS

Any item received by the Purchaser that is damaged will not be accepted and will, at the Purchaser's sole discretion, be returned to the Supplier at the Supplier's expense for replacement without charge or for credit.

8. EXCLUSION OF WARRANTIES

Any purported exclusion of warranties, conditions and/or representations (whether collateral or antecedent) of any kind and nature, whether implied by statute or otherwise at law shall, to the maximum extent permitted by law, be of no force and effect and shall not form part of these Conditions.

9. INSTALLATION

The Supplier shall, where an order includes installing and/or commissioning the Goods, provide the Purchaser with all necessary information in sufficient time for the Purchaser to carry out any necessary preparatory work. The Supplier will provide all necessary skilled labour and supervision for installation and/or commissioning of the Goods and shall fully indemnify the Purchaser against all loss or damage arising from any work done or any advice given by the Supplier, its employees or agents.

10. HEALTH AND SAFETY

The Supplier shall comply with all duties imposed under any and all applicable workplace health and safety legislation and all other health relevant industrial legislation and shall indemnify the Purchaser in respect of any claim made by the Supplier, its employees or agents of whatsoever nature and howsoever arising out of the order.

11. RIGHT OF REJECTION

The Purchaser without prejudice to its right to claim damages and/or to subsequently repudiate the order may, by written notice to the Supplier, reject the Goods or any portion thereof if any conditions of the order are breached and the Supplier shall then deal with the rejected Goods in such a manner as the Purchaser may reasonably direct. The Purchaser will not be deemed to have accepted the Goods until the Purchaser has had a reasonable and sufficient opportunity to ascertain that the Goods are in compliance with the Specification and terms of the relevant order.

12. PURCHASER'S MATERIAL

- 12.1 Any items including, but not limited to, samples, drawings and other such materials supplied by the Purchaser to the Supplier or purchased by the Supplier for or at the expense of the Purchaser for the purposes of the order, including but not limited to, the copyright and/or any industrial property rights in those samples, drawings or other such materials (the **Materials**) shall be and shall remain the sole property of the Purchaser and

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shall be clearly labelled as such at all times, however such materials shall be at the Supplier's risk until delivered or returned to the Purchaser.

12.2 The Supplier will:

- (a) ensure that the Materials are kept in good order and condition excepting always fair wear and tear and proper use of the Materials in executing the order; and
- (b) not lend or remove the Materials from its custody or allow them to be seized, sequestered or used for any purpose other than in connection with the relevant order.

12.3 The Supplier will deliver the Materials to the Purchaser immediately upon completion of the relevant order.

13. GUARANTEE AND INDEMNITY

13.1 The Supplier will, without prejudice to any statutory or other rights accruing to the Purchaser, promptly repair and/or replace any of the Goods which in one (1) year (or such greater term as the Supplier offers) of having been put into use or having been replaced become, or are found to be defective, or not in compliance with the Specifications.

13.2 The Supplier shall indemnify and keep indemnified the Purchaser against all losses, costs, claims and expenses arising from:

- (a) any death, personal injury or damage to property caused by the Supplier, its employees or agents or, by the Goods except where such death, injury or damage is caused by the Purchaser's negligence; and
- (b) any infringement of any letters patent, registered design, trade mark, copyright or other property right relating to the Goods otherwise than when the infringement relates to instructions or designs given by the Purchaser. In the event of any claim being made against the Supplier, the Supplier will at its own expense and at the Purchaser's option either make the Goods non-infringing or replace the Goods with compatible non-infringing Goods.

13.3 Any attempt to require the Purchaser to indemnify any Supplier against claims and demands by a third party resulting directly out of any breach by the Supplier of any warranty, condition and/or representation relating to the Goods supplied is hereby negated and of no force or effect.

14. PERFORMANCE OR PART PERFORMANCE

14.1 The Supplier's performance or part performance by delivery of any or all of the order for the Supplier's Goods shall constitute an acceptance of the terms and conditions contained in these Conditions.

15. CONFIDENTIALITY

15.1 Subject to clause 15.2, the Supplier must:

- (a) keep confidential all Confidential Information of the Purchaser;
- (b) only use any Confidential Information for the purpose of providing or receiving (as the case may be) the Goods or otherwise with the prior written consent of the Purchaser;
- (c) not copy any document that contains Confidential Information or otherwise record or reproduce the Confidential Information in any material form except as is strictly necessary for the purpose of these Conditions or otherwise with the consent of the Purchaser;
- (d) establish and maintain security procedures to prevent unauthorised access to or use of the Confidential Information or copying or reproducing of the Confidential Information;
- (e) acknowledge that it has no proprietary rights, title or interest in, and will not acquire any licence, rights, title or interest in, the Confidential Information of the Purchaser;
- (f) following a request by the Purchaser or when the Purchaser's Confidential Information is no longer required for the purpose of the Supplier performing its obligations or exercising its rights under these Conditions, immediately return (or otherwise destroy) all Confidential Information belonging to the Purchaser and certify that no Confidential Information of the Purchaser is retained; and
- (g) acknowledge and agree that a breach of this clause may cause the Purchaser irreparable damage for which monetary damages would not be an adequate remedy. Accordingly, in addition to other remedies that may be available, the Purchaser may seek and obtain an injunctive relief against such a threatened breach.

15.2 The obligations in clause 15.1 do not apply:

- (a) to the extent necessary to enable the Parties to make any disclosure required by law;
- (b) to the extent necessary to enable the parties to perform their obligations under these Conditions by disclosing the Confidential Information to any officer, employee, agent or adviser of the party having first ensured that the third party agrees to keep the Confidential Information confidential on terms at least as restrictive as set out in this clause;
- (c) to any disclosure agreed in writing between the parties; or
- (d) where a portion of the Confidential Information has entered the public domain other than as a result of a breach by a party of these Conditions, to that portion of the Confidential Information that has entered into the public domain.

16. ASSIGNMENT AND SUB-CONTRACTING

The Supplier may not assign these Conditions or otherwise transfer the benefit of these Conditions or a right or remedy under it, without the Purchaser's written consent. The Purchaser may without the consent of the Supplier assign all or any of its rights or obligations hereunder.

17. RESTRICTION ON DAMAGES

17.1 Any attempt to limit or restrict the quantum of any loss or damage incurred and claimable by the Purchaser arising out of any breach by the Supplier of any warranty, condition and/or representation relating to the sale or supply shall be of no effect and shall not form part of the terms and conditions of the sale.

17.2 The Purchaser shall remain entitled to claim any special, indirect or consequential damages including, without limitation, loss of anticipated profits arising directly or indirectly out of the Goods supplied or the Supplier's breach of these Conditions.

17.3 The Purchaser's right to claim for damage or loss shall not be limited as a result of having transformed the Goods in the course of a process of production or manufacture or resupply of those Goods.

18. PROPERTY AND RISK

18.1 The risk in the Goods shall not pass to the Purchaser until delivery or, if a requirement of the order, after commissioning or installation of the Goods by the Supplier.

18.2 Any property in the Goods shall pass to the Purchaser on the first occurring of:

- (a) delivery;
- (b) payment of any part of the relevant price;
- (c) receipt of a notice by the Supplier from the Purchaser pursuant to Clause 4 of these Conditions that delivery of the Goods is postponed in which event the Supplier will clearly ascertain and label the Goods as the property of the Purchaser.

19. INSURANCE

19.1 The Supplier must insure:

- (a) its liabilities under Clauses 9 and 13 in the sum of ten million dollars (\$10,000,000.00) or such other sum as the Purchaser may agree to in writing prior to the commencement of any work so as to indemnify jointly and severally the Purchaser and the Supplier;
- (b) against "all risks" and to their replacement value any materials belonging to the Purchaser under Clause 12 of these Conditions until delivery.

19.2 The Supplier will, when requested by the Purchaser, provide copies of any insurance policies and receipts of premium notes and in default thereof the Purchaser may take out such insurance on the Supplier's behalf and may at the Purchaser's option deduct any premium payable by the Purchaser from moneys outstanding to the Supplier.

19.3 The Supplier will hold any insurance monies payable pursuant to the terms of this Clause 19 in trust for the Purchaser.

20. CANCELLATION OR TERMINATION

The Purchaser may, by written notice to the Supplier and without liability to the Supplier and without prejudice to any rights accrued to the Purchaser prior to cancellation or termination, immediately cancel or terminate an order by notice in writing to the Supplier of such cancellation or termination in the event of one or more of the following events:

- (a) the Supplier becomes insolvent, bankrupt, has a receiver or manager appointed or commences liquidation or winding up;
- (b) the Supplier fails to deliver the Goods ordered either at the place or within the time specified in the relevant order;
- (c) the Supplier fails to comply with, or breaches any of, the terms of the order and fails to rectify the same within such reasonable period as the Purchaser may specify in writing to the Supplier.

21. FORCE MAJEURE

The parties will not be liable to each other for any loss or damage due to Force Majeure Events or any other cause beyond its reasonable control provided that in the event of any party claiming such a disability its will use its best efforts to restore itself to a position where it can meet its obligations under these Conditions as soon as possible.

22. COST OF PRODUCT RECALL

22.1 The Purchaser shall have sole responsibility for undertaking any recall of its products into which Goods supplied by the Supplier have been integrated. The Purchaser shall also have sole responsibility for the making of any statutory notifications required by legislation in force in the Commonwealth, the States and Territories in connection with any such recall.

22.2 The Supplier shall bear the costs of any recall of the Purchaser's products into which defective Goods supplied by the Supplier have been integrated.

23. GST & ABN

23.1 This clause 23.1 does not apply where the Purchaser purchases Goods from a Supplier that is not a resident of Australia.

23.2 If the Supplier does not provide an ABN to the Purchaser at or before the time of delivery of the Goods, the Purchaser shall:

- (a) reduce the amount payable to the Supplier by such amount as the Purchaser is so required to do by any law, regulation or rule; and
- (b) not pay any amount of GST which may be payable by the supplier for the supply of the Goods to the Purchaser.

23.3 Subject to clause 23.2, the Supplier shall be required to furnish a Tax Invoice at or before the time of delivery of the Goods and if the supplier fails to do so the Purchaser can elect to refuse to accept deliver of the Goods.

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23.4 Clause 23.3 shall not apply where an agreement is made between the Purchaser and the Supplier with respect to the creation and issue of Recipient Created Tax Invoices, whether such agreement is made before or after the supply of these Conditions.

24. GOVERNING LAW AND JURISDICTION

25.1 These Conditions are governed by the law of the State of Queensland.

25.2 Each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of Queensland, Australia, and all courts of appeal from such courts.

Issue Date: 31 August 2016

Authorised By: General Manager