



SMARTER
HVAC
SOLUTIONS

Built in certainty



Supplier Terms and Conditions

Value Added Engineering Pty Ltd
ACN 080 489 756

PURCHASE ORDER

TERMS AND CONDITIONS

1. INTERPRETATION

1.1. In these conditions:

- a) **Purchaser** means the Purchaser of the Goods specified in the PO.
- b) **Supplier** means the Supplier of the Goods specified in the PO.
- c) **Goods** means the products and, if any, services specified in the PO.
- d) **PO** means the order for the Goods constituted by this document.
- e) **Head Contract** means any agreement which the Purchaser has entered into for the supply and installation of Goods to a third party, including as a subcontractor.

2. GENERAL

- 2.1. The Supplier must maintain confidentiality in relation to the PO and not disclose the fact that a PO has been made without the prior written consent of the Purchaser.
- 2.2. The acceptance of this PO by the Supplier will result in these terms and conditions being accepted by the parties and governing the sale to the exclusion of any other terms, including any conditions of sale appearing on any document of the Supplier.

3. ALTERATIONS

No changes to this PO are to be made by the Supplier without the written agreement of the Purchaser.

4. PRICE

This PO is placed on a firm price basis in accordance with the price(s) listed in the PO and is not subject to increases in price without the Purchaser's prior approval in writing. The price includes delivery to the destination stated in this PO and the offloading of the Goods by the supplier at the point of destination.

5. STANDARD TO CONFORM TO SPECIFICATIONS

The Supplier must ensure that the Goods are in accordance with and conform to any specifications, drawings, samples or other description (if any) furnished by the Purchaser to the Supplier. Any inspection of the Goods by the Purchaser's employees or agents or other representative does not affect this requirement.

6. WARRANTIES

6.1. The Supplier warrants that the Goods sold will:

- a) be fit for the purpose for which Goods of the same kind are commonly supplied and any other purpose made known to the Supplier;
- b) be of merchantable quality and to be free from defect in material and workmanship;
- c) carry any applicable manufacturer's warranty which passes on to any Purchaser or customer from the Purchaser without liability to the Purchaser;
- d) be free of mortgage, charge, lien or encumbrance.

7. INDEMNITIES

The Purchaser is entitled to rely on any warranty or condition which may be implied at law, including under statute. The Supplier must assign to the Purchaser at the request of the Purchaser the benefit of any warranty or guarantee that the Supplier has received from any supplier (whether under contract or by implication or operation of law).

8. SUPPLIER INDEMNITIES

The Supplier hereby indemnifies and will at all times hereinafter keep indemnified the Purchaser its servants, agents, invitees, or licensees against all loss, liability, damage, costs, actions, demands and suits of whatsoever kind or nature arising out of:

- 8.1 any claim for injury to or death of any person caused in whole or in part by any act or omission whatsoever by the Supplier, its servants or agents whilst executing this PO or making a delivery hereunder;
- 8.2 any claim with respect to any of the Goods or equipment arising out of any latent or inherent defect in any of the Goods or equipment;
- 8.3 any claim for accidental damage, loss, death or injury sustained by any person caused in whole or in part by any act or omission of the Supplier his servants or agent whilst executing this PO or making a deliver hereunder;
- 8.4 any litigation or arbitration resulting from any claim referred to above.

9. INSPECTION AND RETURN

All Goods are received subject to inspection within a reasonable time after delivery or before delivery at the Purchaser's discretion irrespective of date of payment. Signed delivery dockets do not mean acceptance by the Purchaser of Goods delivered but only the number of packages or cartons delivered. The Purchaser must promptly notify the Supplier of any defects, and hold any defective Goods on the Supplier's instructions and at the Supplier's risk for a reasonable period not exceeding 60 days. If the Supplier's instructions are not received within that period, the Purchaser may return the defective Goods to the Supplier's premises at the Supplier's expense and risk and any expense incurred by the Purchaser in such return is payable forthwith by the Supplier and may be set off by the Purchaser against any moneys otherwise due by the Purchaser to the Supplier.



10. ENTRY INTO PREMISES

Should the Supplier, its servants or agents enter upon any premises which the Purchaser has a right to enter in order to perform any work or any obligation the subject of this PO, the Supplier shall indemnify the Purchaser and hold him harmless at all times against all liability, claims and demands on account of personal injuries (including death) or loss of property or damage arising out of the performance of such work and caused by the negligent or wilful act or omission of the Supplier, its servants or agents. The Supplier shall, at its own expense, defend any and all actions based thereon and is responsible for payment of all legal costs and other expenses. In that regard, the Supplier will procure and maintain the same insurances, including contractors risk, workers compensation, and public liability as the Purchaser shall require in respect of any Head Contract and shall comply with the provision of all Acts and regulations thereunder applicable to Occupational Health, Safety Long Service Leave and Conditions of Employment and to all site agreements to which the Purchaser is subject in respect of any Head Contract.

11. ROYALTIES

Goods are for the use of or re-sale by the Purchaser or its associated companies and may be incorporated in any products (whether owned or used or possessed by the Purchaser). The Supplier must not make any claim from the Purchaser by reason of or connected with such use, re-sale or manufacture.

7. PATENT RIGHTS

- 7.1. The Supplier agrees to defend and indemnify the Purchaser, its successors, assigns, customers and the users of the Purchaser's products from and against any claim arising by reason of the use of the Goods, including all claims for infringement of any letters patent, trade marks, copyright, design, confidential information or similar protection whether granted by the Commonwealth of Australia or any foreign state or the common law.
- 7.2. If the Supplier makes any representation or statement directly or indirectly to the Purchaser that the Goods ordered are protected by one or more patents and any such patent is found to be invalid, the Purchaser may forthwith cancel this PO or any contract arising from this PO and recover any money paid to the Supplier under this agreement as a liquidated debt.

8. SPECIAL DIES, ETC TO REMAIN PURCHASER'S PROPERTY

- 8.1. Special dies, tools, patterns and drawings (each a "tool") used in manufacture of the Goods, the cost of which is met by the Purchaser, remain the Purchaser's property whether during or after the termination of this agreement.
- 8.2. While the Supplier is in possession of the Purchaser's tools, it acknowledges that it is a bailee of them and owes the Purchaser the duties, responsibilities and liabilities of a bailee.
- 8.3. The Supplier shall provide by the date or dates specified all drawings, technical data and operating and maintenance manuals with and as part of the Goods or equipment so supplied. The Purchaser may withhold all monies then due and owing until compliance by the Supplier with the requirements of this clause.

12. DESIGNS AND SPECIFICATIONS TO BE RETAINED IN CONFIDENCE

Any Goods made according to the Purchaser's design or any designs or specifications supplied by the Purchaser are held by the Supplier on the Purchaser's behalf and must not be disclosed or furnished to any other person without the Purchaser's prior written consent. The Supplier must take all reasonable precautions to protect the confidentiality of the designs.

13. PACKING COSTS AND STANDARD

- 13.1 The Supplier and any of its agents or suppliers must not make any charge to the Purchaser for wrapping or packing unless authority for such charge is expressly incorporated in this PO.
- 13.2 The Supplier must ensure that all Goods are suitably packed or otherwise prepared for shipment so as to secure the lowest transportation and insurance rates and in accordance with carriers' requirements.

14. ADVERTISING

The Supplier must not, without the Purchaser's prior written consent, in any manner advertise or publish the fact that the Supplier has entered into this PO with the Purchaser in relation to the Goods.

15. DELIVERY DOCUMENTS

- 15.1 The Supplier must invoice the Purchaser promptly, followed by monthly statements of account.
- 15.2 The Supplier must dispatch packing lists, shipping documents and certified invoices to the Purchaser's office by direct mail on the day of shipment unless a different method or date of dispatch (or both) is agreed by the Purchaser.
- 15.3 Any extension of the time for delivery may only be given with the written consent of the Purchaser. Unless the Purchaser has agreed in writing to an amended delivery date the Supplier shall pay to the Purchaser any loss or damages (including any incidental or consequential damages and any damages required to be paid by the Purchaser to any Head Contractor or Proprietor) due to the failure of the Supplier to deliver on time.

16. CANCELLATIONS

- 16.1 In addition to any other rights which are available at law, the Purchaser reserves the right to cancel this PO if:
 - a) the Supplier fails to comply with this agreement, including any warranties;
 - b) the Supplier is insolvent; or
 - c) subject to clause 17.3, all Goods ordered are not delivered to its premises on or before the delivery date specified in this PO.
- 16.2 The Supplier does not have and may not prosecute any claim whatsoever at law or in equity against the Purchaser if the Purchaser cancels the PO under the preceding sub-clause.
- 16.3 The Supplier must, in addition to any other liability, pay the costs of removing the Goods from the Purchaser's premises, if the Purchaser cancels the PO under clause 18.1.



17. RESPONSIBILITY

The Goods are at the Supplier's risk until delivered to the destination stated in this PO. Nothing in the conduct of the Purchaser or the transfer of property in the Goods alters the incidence of risk under this clause.

9. INSURANCE IN TRANSIT

The Supplier shall insure all of the Goods or equipment the subject of this PO whilst in transit to the destination required by the Purchaser.

10. NO WAIVER

Waiver by the Purchaser of any specific default or defaults by the Supplier shall not constitute waiver by the Purchaser of his rights under any of the terms and conditions of this PO.

