

1. Interpretation

Unless otherwise inconsistent with the context the word "person" shall include a corporation. "goods" shall include services. Words importing the singular number shall be deemed to include the plural and vice versa. Words importing the male gender shall be deemed to include the female and neuter gender and vice versa. "PDM Group" shall mean PDM Group Pty Ltd, its successors and assigns. "purchaser" shall mean the person named as "the Applicant" on the credit application annexed hereto. "GST" means and goods and services tax.

2. Offer and Acceptance

Unless previously withdrawn all quotations are valid for thirty (14) days from the date of quotation thereon, but are not to be construed as an obligation to sell and no contractual relationship arises therefrom until the purchasers order has been accepted by the company.

3. Warranty

Any expressed or implied condition, statement or warranty, statutory or otherwise is excluded to the extent to which such condition, statement or warranty may lawfully, be excluded. It is the responsibility of the purchaser to ensure that the specified capacity and performance of the goods and the selected materials are sufficient and suitable for the purpose. PDM Group does not warrant that any products it supplies are fit for any specific purpose. Where goods supplied are manufactured by a vendor other than PDM Group the vendor's standard warranty applies.

In so far as goods or services supplied by PDM Group are not of a kind ordinarily acquired for personal, domestic or household consumption, the liability for breach of a condition or warranty, implied into this contract by the Sale of Goods Act or the Trade Practices Act (other than a condition implied by Section 69) is limited:

- (a) in the case of goods to any one of the following as determined by PDM Group:
 - (i) the refund of the price paid by the purchaser for the goods or the issue of a credit note for such amount; or
 - (ii) the replacement of the goods or the supply of equivalent goods; or
 - (iii) the repair of the goods; or
 - (iv) the payment of the cost of replacing the goods or at acquiring equivalent goods; or
 - (v) the payment of the costs of having the goods repaired;
- (b) in the case of services to any one of the following as determined by PDM Group:
 - (i) the supplying of the services again; or
 - (ii) the payment of the cost of having the services supplied again.

3. Price Variation

(a) Prices quoted are based on ruling award wages, charges currently made by the Company suppliers and current rates for freight, ordinary marine insurance, customs duties, landing, clearing and delivery charges and other taxes and duties in respect of the goods. In the event of there being changes in the said wages and/or charges and/or rates after the date of the Quotation the Company reserves the right unless otherwise stated herein to increase the price by such an amount as it deems necessary to take account of such requirement.

(b) If the Company is subjected to increased costs attributable to delays caused by the failure of the Purchaser or contractors for whom the Purchaser is responsible to meet their respective obligations, it reserves the right unless otherwise stated herein to increase the price by such amount as it deems necessary to take account of such increased costs.

(c) **Exchange Rate Variation.** Unless otherwise specified prices quoted in respect of any goods being purchased by the Company from an overseas supplier are based on the telegraphic transfer selling rate prevailing at the date of the Quotation between Australian currency and the currency in which payment is required to be made by the Company to the supplier of the goods described in the Quotation. The Purchaser hereby expressly agrees to indemnify the Company against any loss occasioned to the Company by a variation between such rate and the rate prevailing on the date when EITHER the Letter of Credit established by the Company with its bankers is actually drawn upon by the original vendor OR actual payment is made to the original vendor in some manner other than by Letter of Credit but otherwise in accordance with the terms of the contract between the Company and the original vendor.

4. Delivery

Any date quoted for delivery ("the quoted date") is an estimate only and unless a guarantee shall be given by PDM Group in writing providing for liquidated damages for failure to deliver by the quoted date PDM Group shall not be liable to the purchaser for any loss or damage howsoever arising even if arising out of the negligence of PDM Group for failure to deliver on or before the quoted date. The purchaser shall accept and pay for goods and any GST if and when rendered notwithstanding any failure to deliver on or before the quoted date. Written advice to the purchaser that goods are ready for delivery whether in whole or in part shall constitute tendering and the terms of payment shall apply.

In the event that part or all of an order are non-standard products, compliance with the agreed delivery schedule, if any, is contingent upon final agreement on and receipt from the purchaser of complete specifications all necessary information and all necessary waivers in relation thereto. The delivery schedule aforesaid shall be extended by such time as shall have been lost by reason of PDM Group's delay. PDM Group shall have the right to change design details and methods or meeting specifications if interchangeability of products is not affected thereby subject to PDM Group's consent.

PDM Group shall not be liable to any purchaser or any other party for direct or indirect or consequential injury, loss or damage whatsoever by reason or any delay in delivery whether the same is due to the negligence of PDM Group or any other party, strike or any other industrial action be it of PDM Group or other party or any other cause whatsoever.

PDM Group reserves the right to deliver by instalments. If delivery is made by instalments the purchaser shall not be entitled:

- (a) to terminate or cancel the contract; or
 - (b) to any claim, loss or damage howsoever arising failure by PDM Group to deliver any instalments on or before the quoted date.
- It is agreed that PDM Group shall not be responsible for the delay in delivery caused by, or in any way incidental to an act of God, war, fire, breakages of machinery, strikes or arising out of any other unexpected exceptional cause, or any cause beyond reasonable control of PDM Group.

Any quotation containing a provision to supply goods "ex stock" is subject to fulfilment of prior orders at the date of receipt of the purchaser's order.

5. Payment

The purchaser shall pay the price of any goods supplied by PDM Group and any GST in addition to the price. For approved Account customers only, unless otherwise agreed in writing or stipulated in a quotation, payment terms are net cash 30 (Thirty) days from the date of invoice. This term as to the payment shall be of the essence of the contract.

6. Claims and Returns

PDM Group shall not be liable for any loss or damage whatsoever and however arising whether direct or indirect or consequential or in respect of any claim whenever and however made for any loss or damage, deterioration, deficiency or other fault or harm in the goods provided by or on behalf of or in any arrangement with PDM Group or occasioned to the purchaser or any third party or to his or their property or interest and whether or not due to the negligence of PDM Group, its servants or agents.

As soon as any of the facts or matters which form any part of any claim or complaint whatsoever become known to the purchaser, the purchaser shall within fourteen (14) days notify PDM Group in writing of the same.

PDM Group shall not be liable in any circumstances for any;

- (a) defects or damages caused in whole or in part by misuse, abuse, neglect, improper application, repair or alteration (other than by PDM Group) or accident;
- (b) any transport, installation, removal, labour or other costs;
- (c) details in goods not manufactured by it but PDM Group will endeavour to pass on to the purchaser the benefit or any claim made by PDM Group and accepted by the purchaser and the benefit of any claim made by PDM Group and accepted by the manufacturer of such goods under a warranty given by the manufacturer of such goods provided that nothing contained in this subparagraph shall limit the rights of the purchaser to proceed against PDM Group pursuant to the Trade Practices Act; and
- (d) technical advice, opinion or assistance given or rendered by it to the purchaser or not in connection with the manufacture construction or supply of goods for or to the purchaser.
- (e) No goods will be accepted for return or warranty repair without prior written authorisation and shipping instructions first having been obtained from PDM Group. Standard stock items may be returned for credit under the following conditions:
 - i) a packing list enclosed with the goods and return freight and cartage to PDM Group are prepaid by the purchaser;
 - ii) items returned are received at our Store in as new condition complete with original packaging. Credit allowed will be dependent on circumstances and will normally be on the basis of invoice price less 15% handling charge;
 - iii) credit will not be given on non-stock or indent items if returned. Credit will not be given on goods manufactured specifically to order for the purchaser.

7. Title

Title to any goods supplied to the purchaser shall not pass to the purchaser until such time as the goods the subject of this invoice and all other goods supplied by the Company to the Purchaser have been paid for in full. Until the date of payment the Purchaser shall store the goods in such manner that it is clearly identifiable as the property of the Company and shall not combine them with other objects unless they may be readily extricated from such combination at any time. The Purchaser hereby grants a licence to the Company to dismantle any such combination in order to extricate the goods and to enter any place where the goods may be for that purpose in any case where the Company may be entitled under this Agreement to retake a possession of the goods. If the Purchaser is unable to grant the Company any such licence the Purchaser on being requested by the Company so to do, shall forthwith dismantle such combination, extricate the goods and deliver them to the Company. The Company shall not be liable and is hereby indemnified by the Purchaser for any damage caused by or costs incurred in dismantling the goods. Notwithstanding the above the Purchaser will be entitled to sell the goods to third parties within the ordinary course of its business on the condition that the Purchaser until such time as the Company has received full payment of all monies owed to it in respect of the goods, shall hand over to the Company any claims it has against the third party in respect of the transaction and maintain the proceeds of the transaction in such manner as may enable them to be readily identified as held in trust on behalf of the Company. Any sale of goods to a third party by the Purchaser shall be as principal and not as agent of the Company.

8. Risk

Unless otherwise agreed in writing, risk in the goods shall pass to the purchaser at the time when the goods have been placed on the vehicle which is to effect delivery from PDM Group's store or warehouse. The goods shall remain at the purchaser's risk at all times unless and until PDM Group retakes possession of the goods pursuant to these terms and conditions.

9. Force Majeure

The Company shall not be liable for failure to perform its obligations if the failure arises from circumstances beyond its reasonable control, including but not limited to fire, explosion, strikes, lock-outs or any other industrial disputes, failure or refusal of its supplier to supply the goods, inclement weather, acts of God, Governmental action, in no such event shall the Purchaser be entitled to damages of any kind for late performance or failure to perform.

10. Default

Upon the occurrence of default by the purchaser in compliance with the terms herein:

PDM Group may at its discretion without further supplies of goods or cancel the contract, or vary the terms of this contract without prejudice to its rights hereunder provided however that PDM Group may at any time and from time to time upon such terms as it may determine waive any of its rights under this clause, but without prejudice to its rights thereafter of any of the events herein before referred to or upon the continuation after any such waiver or any state of affairs the subject of such waiver.

The purchaser shall pay to PDM Group interest at the rate of 3.5% per month on daily balances in respect of any amounts as may from time to time be overdue until paid and such money together with all interest shall be recoverable forthwith from the purchaser as a liquidated debt.

Without prejudice to any other right or remedy the purchaser shall indemnify PDM Group against any costs, fees, charges and disbursements (inclusive of any GST) charged by any mercantile or collection agent or solicitor engaged for the purpose of the collection or recovery of monies due and payable by the purchaser to PDM Group on an indemnity basis and all such costs shall be recoverable as a liquidated debt and, at the option of PDM Group, may be recovered in a Minor Debt Claim.

11. Change of Ownership

The purchaser agrees to notify PDM Group in writing of any change of ownership of the purchaser or its business, or of directorships in the case of a corporate purchaser, or of any other change whatsoever affecting this agreement within seven (7) days from the date of such change and indemnifies PDM Group against any loss or damage incurred by it as a result of the purchaser's failure to notify PDM Group of any change.

12. Lien Charge

The purchaser hereby acknowledges and agrees that PDM Group has a lien over all goods in its possession belonging to the purchaser to secure payment of any or all amounts outstanding from time to time.

The purchaser hereby charges all property, both equitable and legal, of the purchaser in respect of any monies that may hereinafter be owing to PDM Group under this contract by the purchaser or otherwise and hereby authorise PDM Group or its solicitors to execute any consent form as its attorney for the purpose of registering a caveat over any real property owned by the purchaser at any time, or to register this charge over assets of the purchaser with the Australian Securities Commission.

14. Revocation of Orders

In event the purchaser revokes an order, in whole or part, the purchaser shall pay to PDM Group liquidated damages in an amount of 20% of the price thereof. PDM Group shall have the right to retain any down payments made by the purchaser up to the above percentage of the purchase price.

15. Jurisdiction

The Quotation, any contract or agreement of which it shall form the basis, shall be interpreted and enforced in accordance with the laws for the time being in force in the State of Queensland and the Purchaser agrees to submit to the jurisdiction of the Courts therein.