

1. **Contract:**

A binding contract exists between the Supplier and the Company for the supply of Goods and Services subject to the terms referred to in the Purchase Order and in these Master Terms and Conditions from the earlier of either the date on which the Company receives notice of acceptance of a Purchase Order or the date on which the Supplier supplies the Goods and Services, undertakes any act to fulfill the Purchase Order, performs in accordance with these Master Terms and Conditions or the Purchase Order in any way.

2. **Price:**

- 2.1 Prices for Goods and Services are as quoted by the Supplier or as set out in Supplier's latest price list.
- 2.2 Prices are exclusive of GST unless otherwise stated.
- 2.3 The Company will not be bound by any increase in Supplier's prices unless such increase is notified and accepted by the Company in writing prior to shipment.
- 2.4 If the invoices for the Goods or Services omit the price, the invoice will be returned and only deemed to have been received once corrected.

3. **Payment:**

Invoices must show the relevant Purchase Order number and, provided they are complete, the Company will pay within the period nominated on the Purchase Order, or if not stated, within 30 days of the first day of the month immediately following the month in which the invoice is received. Where the invoice must be corrected, the invoice shall be deemed received, for the purpose of calculating the time for payment on the date when the Company receives a duly corrected invoice.

4. **Quality:**

- 4.1 Goods supplied must conform to the specifications, drawings or samples agreed by the Company and the Supplier. The Company will be under no obligation to accept Goods that do not comply with the agreed specifications or drawings. The Company may require a Certificate of Conformity to be sent for the Goods with each delivery. If the specifications required for a Certificate of Conformity are not met, the Goods may be returned at the Supplier's expense.
- 4.2 The Supplier will grant the Company reasonable access to its facilities and records to allow assessment of the Supplier's Quality System and its compliance with the Company specifications, drawings and Quality System requirements.

5. **Delivery:**

- 5.1 Where Goods are delivered on a duty paid basis in accordance with the International Chamber of Commerce Incoterms 2020 unless otherwise stated. Invoices must accompany all deliveries. The Company will not recognise invoices unless the Company's Purchase Order number is quoted. The Company is not liable for packing or cartage costs unless agreed to prior to shipment.
- 5.2 The Company may cancel all or the balance of the Purchase Order if the Goods are not delivered by the date or dates specified in the Purchase Order. The Company is under no obligation to accept Goods that are delivered prior to the due date on the Purchase Order.
- 5.3 Where the Purchase Order is a blanket order covering a period of time and providing indicative quantities of Goods that will be called up via a release schedule from the Company, then the due date for delivery and quantity of Goods will be deemed to be the due date for delivery and quantity of Goods set out in the release schedule given to the Supplier by the Company.
- 5.4 Should the Supplier fail to provide the Goods covered by the order on the specified due date, deliver less than the specified quantity or fail to deliver Goods that comply with the Company's specifications or drawings, then the Supplier will take such action necessary to ensure the Company's operations are not unduly impacted. This action may include but is not limited to the dispatch of replacement product via priority freight, the sourcing of alternative materials from other sources of supply or the working of required overtime in the Supplier's operations. If alternative materials have to be used then the Supplier will reimburse the Company with the cost of such testing and evaluation that are necessary to approve the use of the alternative materials.
- 5.5 Where some or all of the Goods specified on the Purchase Order are lost or damaged in transit and the Supplier is responsible for transportation, then the Supplier must replace those Goods on notification by the Company provided that the notification is given within 14 days of receipt of Goods.

6. **Acceptance of Goods:**

- 6.1 Unless otherwise agreed in writing, title to and risk in Raw Materials will pass to the Company upon the later of acceptance by the Quality Control Department of the Company or 3 working days after the Raw Materials come into the possession of the Company.
- 6.2 Title to and risk in the Goods (other than Raw Materials) will pass to the Company on receipt of correctly supplied and invoiced Goods to a Company store personnel.

7. Warranty Concerning Goods:

- 7.1 The Supplier warrants and agrees that the Goods supplied:
- (a) shall be fit for the purpose for which Goods of the same kind are usually supplied and any other purpose advised to the Supplier prior to filling of this Purchase Order;
 - (b) shall be of merchantable quality and free from defects in material and manufacture;
 - (c) shall be transferred to the Company free of any encumbrance; and
 - (d) shall not infringe the intellectual property rights of any third party.
- 7.2 The Supplier will protect the Company from any action arising from any such infringement by the Supplier.
- 7.3 In relation to the Goods, the Supplier acknowledges that these Terms and Conditions do not modify or exclude the Consumer Guarantees, or any other right available to the Company under the Competition and Consumer Act 2010 (Cth) (including the ACL).

8. Warranty Concerning Services:

- 8.1 The Supplier warrants that the Services supplied will be provided in a proper and workmanlike manner and that in performing the Services the Supplier shall exercise the degree of skill, care and diligence normally exercised by members of the Supplier's industry performing services of a similar nature.
- 8.2 In relation to the Services, the Supplier acknowledges that these Terms and Conditions do not modify or exclude the Consumer Guarantees, or any other right available to the Company under the Competition and Consumer Act 2010 (Cth) (including the ACL).

9. Labelling and Safety Information:

- 9.1 Each packaging unit containing Goods must clearly indicate as applicable: the product, batch number, grade and quality.
- 9.2 The Supplier shall provide the Company with adequate information about the use for which the Goods are designed, and any conditions necessary to ensure safe handling and usage by the Company, its employees, agents and customers.
- 9.3 The Supplier shall comply with legislative provisions, requirements of regulatory bodies and commonly accepted industry standards with respect to labelling and packaging of dangerous goods and hazardous substances.

10. Indemnity:

The Supplier hereby indemnifies and agrees to hold harmless the Company from and against any and all losses, liabilities, claims, causes of action, damages and expenses whatsoever arising out of or in respect of the supply of the Goods and Services by the Supplier, including, without limitation, all claims in respect of any breach of the conditions or warranties contained in these terms or implied by law.

11. Health & Safety:

The Supplier shall ensure that it and its agents, employees and sub-contractors entering on the premises of the Company faithfully observe all the rules and regulations in force at that time relating to the presence of these people on the premises including any reasonable directions given to those persons by any representative of the Company.

12. Bankruptcy or Liquidation:

- 12.1 If the Supplier being an individual (or being a firm, any partner in the firm) shall commit any act of bankruptcy or being a company becomes insolvent or makes an arrangement with its creditors or has a receiver appointed or a receiver and manager or administrator appointed or commences to be wound up whether compulsorily or voluntarily (other than for the purposes of bona fide amalgamation or reconstruction and the resultant company is or agrees to be bound by the terms hereof) then the Company shall be entitled to cancel this Purchase Order forthwith by notice in writing to the Supplier (or any receiver liquidator manager or administrator) without limiting the rights or remedies that may be available to the Company.
- 12.2 On cancellation of this Purchase Order, the Company shall be granted immediate access to all property owned by the Company such as tooling, jigs or fixtures.
- 12.3 In the case of bankruptcy or liquidation, any materials, parts or components that have been produced using the Company owned tooling, manufactured against the Company drawings or specifications or contain some element of the Company intellectual property shall not be disposed of other than by sale to the Company at the price for which those materials, parts or components are being sold by the Company at that time (Ruling Contract Price) or a reasonable value for unfinished materials as long as this does not exceed the Ruling Contract Price.

13. Confidentiality:

Any specifications, plans, drawings, patterns, blue prints, descriptions, designs, jig tools and fixtures (including without limitation pattern equipment) and all intellectual property rights contained therein supplied by the Company to the Supplier in connection with this Purchase Order shall remain the property of the Company and any information derived there from shall be treated by the Supplier as confidential and shall not without prior written consent of the Company be published or disclosed to any third party or used by the Supplier except to the extent necessary to implement the Purchase Order.

14. Inventions:

In the case of any Purchase Order requiring the Supplier to undertake any development work then the Company developmental work will be the intellectual property of the Company and the Supplier must transfer all intellectual property rights in such work and execute all such things and documents as shall be necessary to give effect to this clause.

15. Patterns, Dies and Tooling:

15.1 The property and intellectual property in all patterns, dies, moulds and other tooling supplied by the Company to the Supplier or manufactured on behalf of the Company by the Supplier for use in the execution of this Purchase Order shall remain the property of the Company and shall not be used by and nor shall details thereof be disclosed to any third party without written consent of the Company.

15.2 All such patterns, die, moulds and other tooling shall be insured by the Supplier against all risks to the satisfaction of the Company while in the custody of the Supplier. The patterns, die, moulds and other tooling must also be surrendered to the Company upon demand in good and serviceable condition and the Supplier shall be liable to the Company for any loss thereof or damage thereto.

16. Insurance:

The Supplier shall insure against all losses, claims, demands, proceedings, costs, charges and expenses for injury (including death) or damage to any person or property arising out of any and all occurrences which are the result of the fault or negligence of the Supplier in the supply of Goods or Services and any other liabilities covered under these Terms and Conditions. The Supplier will whenever requested by the Company produce to the Company a copy of the policy. The Supplier must deliver the Goods on a Delivered Duty Paid basis, insure the Goods in transit at their cost and pay for all shipping and freight costs in accordance with the International Chamber of Commerce Incoterms 2020.

17. Statutory Provisions:

The Supplier shall be responsible for ensuring that its agents, employees, contractors and sub-contractors comply with all statutory provisions, regulations, orders and by-laws of any government or other authority relating to the provision of the Goods and Services.

18. Amendments:

18.1 These terms shall apply to the exclusion of any terms of the Supplier, unless the Company accepts a variation of these terms in writing. Should there be any conflict between these terms and specific terms noted on the Purchase Order then the specific terms in the Purchase Order shall prevail to the extent that such conflict exists.

18.2 The parties may vary these Terms and Conditions from time to time by agreement in writing.

19. Assignment and Sub-Contracting:

The Supplier shall not without the written consent of the Company assign, transfer or sub-let this Purchase Order or any part thereof except as part of any bona fide amalgamation or reconstruction of the Supplier's business. No assignment transfer or sub-letting shall relieve the Supplier from any of its obligations under this Purchase Order.

20. Governing Law:

The contract between Supplier and the Company shall be governed by the Laws of Victoria, Australia, and the parties submit themselves to the non-exclusive jurisdiction of the courts of that State.

21. Cancellation:

The Company has the right to cancel this Purchase Order subject to reasonable payment for work completed to the date of cancellation. Any such payment shall not exceed the applicable price under clause 1.

22. Modern Slavery

22.1 The Company acknowledges that it complies with the Modern Slavery Act to the extent the Modern Slavery Act applies to the Company.

22.2 The Supplier acknowledges that it complies with the Modern Slavery Act to the extent the Modern Slavery Act applies to the Supplier.

23. Time:

Time is of the essence of these Terms and Conditions.

24. Entire Agreement:

24.1 These Terms and Conditions contain the entire agreement between the Supplier and Company, and supersede all previous agreements concluded between them. Each circumstance set out in clause 1 of these Terms and Conditions shall constitute a binding and enforceable contract between the Supplier and the Company on the terms set out in these Terms and Conditions.

24.2 Any attempt by the Supplier to impose any variation or additional terms inconsistent with these Terms and Conditions shall not bind the Company.

25. Severability:

If any term, agreement or condition of these terms and Conditions or the application thereof to any person or any circumstance shall be or become illegal, invalid or unenforceable, the same shall be read down, if such reading down is possible, and if found to be impossible, shall be severed and the remaining terms and agreements and conditions shall not be affected.

26. Non merger:

A provision of these Terms and Conditions which can, and is intended to, operate after the effective date remains effective.

27. Confidentiality:

27.1 The Supplier acknowledges the confidential nature of its dealings with the Company.

27.2 The Supplier shall not, without the Company's prior consent in writing, copy or disclose or cause to be copied or disclosed any details of its dealings with the Company to a third party.

28. Dispute Resolution:

If a dispute:

- (a) arises out of, or in any way in connection with, or otherwise relates to the supply of Goods or Services, these Terms and Conditions or the breach, termination, validity or subject matter thereof, or as to any related claim at law, in equity or pursuant to any statute, and
- (b) cannot be resolved between the parties within a reasonable time, the parties agree to refer their dispute to Arbitration administered by the Australian Commercial Disputes Centre (ACDC). The Arbitration shall be conducted in Ballarat (unless otherwise agreed) in accordance with the ACDC Rules for Arbitration which are operating at the time the dispute is referred to ACDC and which terms are hereby deemed incorporated into these Terms and Conditions.

29. Definitions:

In these Terms and Conditions:

29.1 "ACL" means the Australian Consumer Law set out in a Schedule to the Competition and Consumer Act 2010 (Cth).

29.2 "Certificate of Conformity" means a certificate of conformity issued by the Supplier or an authorised third party in accordance with the Supplier's quality system as applicable to the Goods.

29.3 "Company" means Selkirk Pty Ltd ABN 36 509 084 079 as trustee for Selkirk Unit Trust, including any successor Trustee from time to time.

29.4 "Consumer Guarantee" means consumer guarantees as that term is used in the Competition and Consumer Act 2010 (Cth).

29.5 "Goods" means any goods the subject of the Purchase Order and includes Raw Materials.

29.6 "GST" means goods and services tax levied under the GST Act.

29.7 "GST Act" means the A New Tax System (Goods and Services Tax) Act 1999 (Cth) as amended from time to time.

29.8 "Master Terms and Conditions" and "Terms and Conditions" means these Terms and Conditions.

29.9 "Modern Slavery Act" means the Modern Slavery Act 2018 (Cth).

29.10 "Purchase Order" means a Company's order for Goods and Services from the Supplier.

29.11 "Quality System" means the requirements for a quality management system set out in ISO 9001 as amended from time to time.

29.12 'Raw Materials' means unfinished or unprocessed materials the subject of the Purchase Order that will be used to produce a final product.

29.13 "Services" means any services the subject of the Purchase Order.

29.14 "Supplier" means the supplier whose name appears overleaf.