

**Terms and Conditions of Purchase**

In these terms and conditions unless a contrary intention is expressed the term:

“Purchaser” means Q-Boss Pty Ltd (ABN 35 149 600 448) ;

“Supplier” means the person supplying the goods and services to Q-Boss;

“Order” means the order form accompanying these conditions;

“Goods” means the goods and services to be supplied pursuant to this Order;

“Special Conditions” means any special conditions agreed to in writing by the parties and expressly forming part of this Order;

“Person” includes corporations and other entities recognised by law. If the context permits, a reference to a person includes the employees, agents, legal personal representatives, successors in title or assigns of a person as the circumstances may require;

“GST” means any tax impost or duty on goods or services imposed by the Commonwealth of Australia, its State or Territories or any similar or like tax and whether imposed before or after the date of this Order;

“Supply” means the supply of any goods, services, other rights, benefits or other things pursuant to this Order and includes the definition of supply in any legislation or regulation that imposes, implements or varies a GST.

The Supplier shall supply and deliver to the Purchaser the Goods for the price stated and within the time stipulated in this Order unless such Goods, price or time shall have been varied with the written consent of the Purchaser. The Purchaser may change, alter or amend the sequence in which the Goods are to be delivered and the times at which delivery shall be accepted. Any variation in time for the supply of Goods requested by the Purchaser shall not entitle the Supplier to claim extra costs and shall not vitiate this Order.

Unless this Order expressly states the contrary, where any price is to be calculated at a rate, that rate shall be on a fixed price basis and shall not be varied due to any rise or fall in the cost of labour and or materials or any other costs or expenses incurred by the Supplier. Prices in this Order do not apply in any other order unless agreed otherwise in writing. The Purchaser will not accept any price escalation unless specifically agreed to in writing beforehand. Escalation which occurs after the due delivery date or on any agreed extension thereto will also not be accepted.

All Goods must be accompanied by a delivery docket identifying the goods in sufficient detail to enable verification at the time of delivery. The Purchaser shall be under no obligation to make any payment unless the Purchaser has signed the delivery dockets. The signing of any delivery docket by or on behalf of the Purchaser shall be without prejudice to the Purchaser’s rights and shall not be evidence that the Purchaser has accepted the Goods as regards their quality or quantity. All material and paperwork must be marked by the Supplier with the Order number.

In addition to any inspection that may be carried out before the Goods are delivered, the Purchaser shall inspect the Goods when they are delivered. If the Goods or any part of them do not conform to the provisions of this Order or if any condition or warranty (express or implied) is breached by the Supplier, without prejudice to its rights the Purchaser may reject the Goods or part of them. The Purchaser may, at any time after acceptance, reject the Goods if the Purchaser believes the Goods are defective or do not meet the requirements set out in this Order, provided that the defect could not have been discovered by reasonable inspection before acceptance. If rejection occurs, the Supplier shall be liable for any loss or damage suffered or incurred by the Purchaser as a consequence of such rejection. The Purchaser shall notify the Supplier of any such rejection, and the rejected Goods shall be collected by the Supplier at the Supplier's own cost and until collection shall remain at the Supplier's risk. The provisions of this Clause shall apply equally to Goods found to be defective at a time subsequent to the time of inspection if the defect is of a nature that was not apparent upon examination after delivery.

The Supplier must not assign the benefit of this Order without the Purchaser's prior written approval.

No variation of this Order will be binding on the Purchaser unless in writing and signed by a duly authorised representative of the Purchaser

The Purchaser's failure or delay to enforce a condition, or to exercise a right or remedy for breach, is not a waiver of any other breach.

All Goods shall be delivered cartage paid to the address stipulated on this Order and, until the Purchaser acknowledges delivery, all Goods shall be at the sole and absolute risk of the Supplier.

Except insofar as this Order may expressly state to the contrary the Supplier shall provide at its own expense all labour, materials, tools, implements, plant and all other things necessary for the complete and proper performance of this Order.

The Supplier must:

1. provide the Goods in accordance with any Special Conditions stated in this Order;
2. provide the Goods safely and appropriately to protect it from damage; and
3. deliver the Goods by the date, to the place and in the quantity as specified in this Order.

The Supplier expressly warrants that the Goods comply strictly with all the terms, specification, requirements, conditions and documents stated in or attached to and forming part of this Order and conform with the requirements from time to time applicable of all authorities and standards governing the manufacture and sale of the Goods. The Goods must be of good and merchantable quality, fit for purpose, compliant with all applicable Australian standards and legislation, unencumbered, without defect in material or workmanship and not infringe any patent, trademark or copyright. Where no specifications are mentioned in relation to quality, then the Goods

shall be of the best material and workmanship of their respective kinds and the decision of the Purchaser's buyer shall be binding and conclusive on these matters.

The Supplier shall operate a quality system based on the requirements of ISO / AS / NZ 9001:2008 if specifically requested by the Purchaser on this Order and in such a case the Supplier must as a minimum ensure:

1. All equipment used for validation and test of the Goods described in this Order shall be controlled by a calibration system as described in the aforementioned standard.
2. The Supplier shall retain accurate records of activities to demonstrate compliance with the requirements of this Order for a period specified between the Purchaser and the Supplier.
3. Where the Supplier is required to provide documents to support this Order's compliance requirements, this Order shall not be deemed fulfilled until the Supplier has issued such documents to the Purchaser.

The Supplier shall give the Purchaser's duly authorized representative access at all reasonable times to the Supplier's works and allow the Purchaser's representative to inspect and examine the Goods to be supplied during their manufacture, any records of competency of staff working on this Order and documents demonstrating the calibration status of tools and instruments used on this Order. Previous notice in writing will be given by the Purchaser of its intention to send such a representative. Such representative shall have no authority to accept the Goods and their inspection or examination (if satisfactory) shall not be deemed an acceptance.

If, as part of this Order, the Supplier is required to perform any repair or maintenance work to plant or equipment of the Purchaser at the Purchaser's premises or other location where work is being performed by the Purchaser, then the Supplier:

1. must ensure that each person who performs the repair or maintenance work:
  - a. is qualified and holds all certificates and licences required by law to perform the work;
  - b. complies with legislative and other requirements relevant at the location, including attendance at any induction course(s), supply and use of appropriate personal protective equipment, working in accordance with safe working procedures and other reasonable requirements of the Purchaser;
  - c. is paid in accordance with relevant payment conditions and otherwise receives all relevant employee entitlements;
  - d. performs the work at and within time(s) reasonably required by the Purchaser; and
  - e. is covered under a policy of insurance against liability at law for death or injury, including liability by statute and at common law (at all times when working at the location and for the maximum amount available at law);
2. must ensure that it has public liability insurance in place in an amount not less than \$5 million for any one occurrence to cover its (and its subcontractors, if any) liability to third parties for loss of or damage to property and the death of or injury to any person (other than liability which applicable law requires to be covered under a worker's compensation insurance policy);

3. must, whenever requested by the Purchaser, provide evidence satisfactory to the Purchaser of its compliance with paragraphs (1) and (2); and

4. indemnifies the Purchaser against:

- a. all loss of or damage to property; and
- b. actions, claims, demands or proceedings by any person against the Purchaser, or any liability the Purchaser may have, in respect of personal injury or death or loss of or damage to any property,

arising out of or as a consequence of the performance of the repair or maintenance work. The Supplier's liability under this indemnity to the Purchaser will be reduced proportionately to the extent that an act or omission of the Purchaser contributes to the loss, damage, death or injury.

The Supplier must procure and carry the insurance of employees on any work associated with this Order that may be required by any Worker's Compensation Act or any other legislation. The Supplier shall procure and maintain such other insurance as the Purchaser shall reasonably specify from time to time.

If the Supplier is unable to supply the Goods as specified, it must promptly notify the Purchaser. Subject to the Purchaser's approval of the price, quality and specifications before delivery, the Supplier may offer alternative Goods in substitution.

The Purchaser may at any time prior to delivery, cancel or change this Order. If this occurs and:

1. the change causes an increase or decrease in the cost of the Goods, or time required to deliver the Goods, an equitable adjustment will be made subject to the circumstances;
2. the Supplier has already incurred expenses in satisfying this Order, the Purchaser will pay for the Supplier's reasonable expenses.

By acceptance of this Order (whether orally, in writing or otherwise) the Supplier shall be bound by these terms and conditions and any additional or other terms or conditions contained in its acceptance or confirmation of this Order or in its delivery docket or as otherwise shall be null void and of no effect as regards this Order.

Payment shall be upon the terms specified in this Order.

Time is of the essence in respect of deliveries to be made and the Purchaser may (in addition and without prejudice to all other rights) cancel all or any part of this Order if deliveries are not made within times specified and without being liable to the Supplier.

The Purchaser may cancel this Order at any time if the Supplier's rights are assigned for the benefit of creditors, or being a company, the Supplier is wound up, has a liquidator or provisional liquidator appointed, makes any

arrangement or compromise with its creditors generally, is placed under official management, or has a receiver appointed to the whole or any part of its assets or property.

The Supplier indemnifies and shall at all times keep indemnified the Purchaser against all loss, liability, damage, costs, actions, demands and suits whatsoever (including legal costs and disbursements) arising out of, suffered or incurred in connection with:

1. any claim for injury to any person or property caused in whole or in part by any act or omission by the Supplier while executing this Order;
2. any claim with respect to any of the Goods or arising out of a defect in the Goods, or arising from any claim of unfair competition or any adverse claim of statutory or non-statutory rights, or
3. any claim, liability or demand on account of personal injuries including death, property loss or damage to others (including the Supplier and invitees of the Supplier entering upon any premises or property including property in the possession or control of the Purchaser) in order to execute this Order;
4. any litigation pursuant to any claim referred to above. The Purchaser shall give the Supplier reasonable notice of the commencement of any such litigation. Immediately upon becoming aware of circumstances giving rise to a claim under this clause, the Supplier shall notify the Purchaser in writing setting out full particulars of the claim and allow the Purchaser full and free access to all information and locations for the purpose of conducting such inspections and tests as the Purchaser reasonably considers necessary to investigate the claim.

The Supplier shall pay all royalties and fees on patented articles, processes and registered designs and indemnify the Purchaser from all claims in respect thereof.

Any reduction in the Supplier's costs resulting from a reduction in freight rates, customs duties and or sales taxes or goods and services tax from those in force at the date of this Order shall be paid to or allowed to the Purchaser by the Supplier in reduction of the price payable to the Supplier by the Purchaser.

No charges for packing or any other or additional charges shall apply unless expressly agreed with the Purchaser prior to this Order being executed. Packing slips showing the relevant Purchase Order Number must accompany all deliveries.

Insurance of Goods in transit to destination shall be the responsibility of the Supplier unless otherwise stated in this Order.

Where Goods supplied are manufactured by the use of tools, dies, patterns, templates or drawings, such tools, dies, patterns, templates or drawings supplied by the Purchaser are acknowledged by the Supplier to be the property of the Purchaser and the Supplier must:

1. not at any time use such tools, dies, patterns, templates or drawings for the purpose of manufacturing goods for supply to any other company or person or to the Supplier's own advantage unless expressly authorized so to do by the Purchaser;
2. return such tools, dies, patterns, templates or drawings immediately upon being so requested by the Purchaser;  
and
3. not at any time disclose any commercial or technical details of product or manufacturing techniques of the Purchaser to another party, and shall keep such material confidential.

Waiver by the Purchaser of any specific fault or default by the Supplier, or failure of the Purchaser to cancel this Order or any part of it when a right to do so arises, shall not constitute a waiver by the Purchaser of any of the other conditions of this Order or any rights under these terms and conditions or at law, save and except to the extent that such defaults as are specifically waived. In the event of payment for the Goods before receipt by the Purchaser, such payment shall not constitute a waiver of any rights or claims that the Purchaser might have arising out of or in connection with inspection of the Goods after receipt or otherwise.

The total price shown on this Order is the GST inclusive price of the Supply. If GST applies to any Supply, in addition to any payment or amount due under or consideration payable or to be provided pursuant to this Order the Supplier may recover from the Purchaser an additional amount on account of GST. Such amount shall be calculated by multiplying the value of the payment for the relevant Supply by the prevailing GST rate.

Any amount on account of GST recoverable under the preceding clause must be calculated without any deduction or set-off of any other amount and must be paid at the same time as the consideration for the relevant supply is payable or to be provided.

Each tax invoice must also include the ABN and the name of the Supplier that is recorded in the Australian Business Register for that ABN. Otherwise, PAYG Withholding (No ABN) laws require the Purchaser to withhold an amount from the payment and remit it to the Australian Taxation Office.

The proper law applying to this order shall be the laws of Western Australia and the parties irrevocably submit to the jurisdiction of the Courts of that state.

Where this Order includes the carrying out of works or provision of services upon a site, then in addition to these terms and conditions, the Purchaser's standard sub-contract terms and conditions shall apply. In such instances, to the extent that there is any discrepancy between these terms and conditions and the Purchaser's standard sub-contract terms and conditions then the latter shall prevail.

The terms and conditions of this Order may only be rescinded or altered by the Purchaser in writing. This Order constitutes the entire Agreement between the parties and supersedes all previous communications (oral or written) between the parties in relation to or arising from the subject matter of this Order. In the event of any conflict between the Special Conditions and this Order the Special Conditions shall prevail.

This Order including these Terms and Conditions will be deemed to be accepted by the Supplier for the supply of the Goods and its other obligations under this Order from the Supplier's commencement of work relevant to the supply of Goods following receipt of this Order

Any amendment to these conditions must be raised by the Supplier and agreed to in writing by the Purchaser, before this Order is accepted.

The Terms and conditions of purchase as stated in this Order govern in the event of conflict with any terms in the Supplier's proposal and are not subject to change by reason of any written or verbal statements by the Supplier or by any terms stated in the Suppliers acknowledgement unless same is accepted in writing by the Purchaser.