

FURNACE ENGINEERING PTY LTD

ACN 006 276 786

CONDITIONS OF PURCHASE

(These conditions below form part of, and are in addition to the conditions specified on the front of the Purchase Order)

1. The Purchase Order in writing is an offer by Furnace Engineering Pty Ltd ACN 006 276 786 ("Buyer") to the supplier of goods and/or services to whom Buyer's order is addressed as shown overleaf ("Seller") on these terms and conditions ("conditions"). Acceptance of this offer by Seller in the manner specified by Buyer shall constitute the formation of a binding contract between Buyer and Seller in connection with the goods ordered on these conditions.
2. The Purchase Order, when bearing an order number of Buyer is the only form which will be recognised by Buyer as authority for charging goods and/or services as ordered, to Buyer's account. Goods or materials ordered ("Goods") are to be marked by the Seller as specified on the Purchase Order.
3. (a) Buyer shall have the right to designate the carrier or delivering agent and routing of the goods or materials provided this shall not result in additional cost to Seller.
(b) Delivery charges to the receiving point shown on the Purchase Order must be shown as a separate item.

4. No charges are to be made by Seller for packaging, boxing crating or cartage of Goods unless specifically authorised by Buyer in the Purchase Order.
5. No amounts payable by Buyer to Seller are assignable by Seller without the prior written consent of Buyer.
6. Unless expressly stated to the contrary on the face hereof, terms of payment are net 45 days EOM from the receipt of Seller's valid tax invoice, provided that delivery of the Goods has occurred to the satisfaction of Buyer.
7. For the purpose of payment, a valid and correct tax invoice must be received by Buyer within five (5) days after delivery otherwise payment dates shall be extended by the number of days delay after receipt of correct and valid tax invoice by Buyer.
8. (a) All drawings, designs, prints, specifications or samples submitted by Buyer for the purpose of the Purchase Order are and shall remain the exclusive property and valuable intellectual property of Buyer and shall not be disposed of nor disclosed to others or used for the purpose of manufacturing parts for third parties without the prior written consent of Buyer.

(b) Any disclosures of information made to the Seller for the purposes of the Purchase Order (whether the disclosure is verbal or written or otherwise; whether the disclosure occurs before or after the date that the Purchase Order is issued; and including the identity of the Buyer or its customer) is confidential and must not be disclosed by the Seller (including its employees, officers, agents

and representatives) to any third party without the prior written consent of the Buyer. Any incorrect disclosures by the Supplier to third parties, or enquiries from third parties to the Supplier, relating to the Purchase Order must be referred promptly to the Buyer.

9. Without prior notice to the Seller, Buyer may at any time by a written notice amend or vary this Purchase Order. If any such change shall increase or decrease the cost to Seller of the Goods to be supplied an adjustment in the contract price shall be made by agreement.
10. (a) Buyer or its representative shall have full and free access to the shops, factories or other places of business of Seller, and all subcontractors and suppliers of Seller in order that Buyer may inform itself as to the general condition and progress of the work covered by this Purchase Order in relation to the Goods.

(b) Without prejudice to its right at law Buyer reserves the right to inspect and reject or return Goods situated at Seller's premises or, at Buyer's premises after delivery, if not strictly in accordance with specification and/or sample submitted if not fit for the intended purpose of Buyer or if not of merchantable quality.
11. Buyer's right to inspect and reject or return the Goods is not waived or prejudiced by payment for the Goods or by acceptance of delivery thereof if that occurs prior to Buyer's inspection and rejection or return of the Goods. In the event of rejection or return of the Goods after such payment and inspection, Buyer shall have the option of requiring from Seller either the replacement of the

Goods (which Seller shall immediately replace) or a refund (without deduction) of the contract price for the Goods including any delivery and transportation charges incurred by Buyer.

12. (a) If Seller either as principal or by agent or employee enters upon the premises or property of Buyer in order to do any contracted work including but not limited to construction, erection, inspection, delivery, servicing or repairing, then:
- (i) Seller shall indemnify Buyer and hold harmless from and against all liability action claims and demands on account of personal injuries including death or property loss or damage to others (including Seller and employees and invitees of both Seller and Buyer) arising out of or in any manner connected with the performance of such work and caused by the negligent or wilful act or omission of Seller or a supplier of Seller or employees or invitees or licensees or either of them; and
 - (ii) Seller shall at its own expense defend all actions based thereon and shall pay all charges of attorneys and all costs and other expenses arising therefrom.
- (b) Seller shall also procure and fully maintain insurance of employees on any contracted work that may be required by any worker's compensation legislation. Any such employee or agent shall remain the employee or agent of Seller.
- (c) Seller shall procure and maintain all such other insurance in connection with the work as the Buyer shall specify, including under clause 16.

13. If the Goods covered by this Order are standard stock merchandise Buyer at its option may cancel at any time any unshipped portion of this Purchase Order without further obligation hereunder except to make payment subject to other applicable terms hereof, for the merchandise actually shipped and delivered prior to such cancellation. If this Purchase Order covers Goods specially manufactured or fabricated to the specification of Buyer then at any time prior to completion of the work to be performed hereunder Buyer may at its option cancel its order upon written notice to Seller and upon the effective date of such cancellation Seller shall stop all work hereunder except as otherwise directed by Buyer. Upon such cancellation of specially manufactured Goods the maximum amount the Seller shall be entitled to, including its expense in connection with cancellation of any subcontractors, provided the cancellation is not due to or arising from a default of the Seller in delivery or under any other terms or conditions of this Purchase Order, is the direct costs and expenses incurred in the manufacture of the Goods up to the cancellation all as determined by Buyer plus five percent (5%) for overhead and profit, but in no even shall the total amount to be paid hereunder exceed the purchase price specified on the Purchase Order. Upon such payment, all Goods or uncompleted portions of the work shall be the property of Buyer and subject to its disposition.
- Notwithstanding anything contained in this paragraph the Seller shall not be entitled to claim for any consequential or indirect loss as to damage (including loss of profits) anticipatory profits or any damages caused by such cancellation. Nothing contained in the paragraph shall affect the Buyer's right to terminate this Purchase Order on account of a default by the Seller under any of the terms and

conditions of Buyer's Purchase Order or to pursue remedies as provided by law for any such default.

14. Seller agrees that no lien shall be created against Buyer or its property for materials or labour or both furnished hereunder and that before final payment is made by Buyer Seller shall, if required by Buyer, furnish a complete release satisfactory to Buyer signed by all persons furnishing materials or labour hereunder waiving the right to create any lien.
15. Risk in the Goods ordered shall not pass to Buyer until physical delivery of the goods is taken by Buyer at the receiving point stated on the Purchase Order, and accepted by Buyer.
16. All tooling dies, artwork, negatives/positives, offset plates, and other equipment and all drawings and specifications supplied without charge to Seller by Buyer and all or any such items as above which shall have been purchased or manufactured by Seller and for which Buyer shall have paid or will pay shall be the sole property of Buyer unless otherwise agreed in writing. Seller accepts liability of damage and undertakes to insure the property specified in this clause at Seller's expense for its full value against risk of fire loss or damage from whatever cause arising. Seller during the continuance of the contract resulting from a Purchase Order will not sell or offer for sale, assign, mortgage, pledge lease, lend, use for purposes other than under the Purchase Order, or otherwise deal with the said machinery or any part or parts thereof. On completion or cancellation of the Purchase Order Seller shall dispose of all finished or

unfinished goods, and items previously mentioned in this clause as directed by Buyer.

17. Delivery of specified requirements of the Purchase Order as to quarantine and time of delivery shall be deemed a condition of acceptance of that order. No variation in supply specification price delivery or any other conditions shown on Purchase Order will be recognised or accepted unless agreed in writing by Buyer.
18. Seller undertakes to defend at Seller's expense all suits actions claims or proceedings brought against Buyer or persons or corporations acquiring from Buyer, Goods subject of the Purchase Order, based on infringement or alleged infringement of any patent of similar rights by the sale or use of such goods by the Buyer and to indemnify Buyer and such persons or corporations and hold them harmless against all such suits actions claims and proceedings and any costs arising therefrom.
19. Waiver by Buyer of any rights herein with regard to any specific default or defaults by Seller with respect to supply specification price delivery or any other conditions or failure by Buyer to cancel the order or any part thereof when right of cancellation arises shall not constitute waiver by Buyer of any rights of Buyer arising through any further or subsequent default by Seller whether giving rise to a right of cancellation or a claim for damages.

20. Where Goods are not quoted “ex-works” or “ex-warehouse” by Seller it is Seller’s responsibility to arrange for delivery of the Goods in accordance with the Buyer’s instructions and to bear all costs thereon and also to arrange and bear all costs of insurance on such delivery.

21. These conditions are governed by and must be construed in accordance with the laws of the State of Victoria. The parties submit to the non-exclusive jurisdiction in the courts of that State and the Commonwealth of Australia in respect of all matters or things arising out of these conditions.