

# STANDARD PURCHASE ORDER CONDITIONS

## 1. DEFINITIONS

In these conditions of Purchase Order ("Conditions"), unless the context requires otherwise:-

<b>Company</b>	means Cooper Energy Limited ABN 93 096 170 295 of level 8, 70 Franklin Street, Adelaide, South Australia (or a relevant subsidiary as specified in the Purchase Order) as agent for, and on behalf of, the Participants.
<b>Company Group</b>	means the Company [and the Participants] and their Related Bodies Corporate.
<b>Completion Date</b>	means the date (and time, if applicable) specified in the Purchase Order as the 'Date Required' or 'Date of Completion' (as applicable) by which the Services are to be performed by the Supplier (time being of the essence) or if no date is specified, within a reasonable time having regard to normal commercial practice.
<b>Supplier Delivery Date</b>	means the date (and time, if applicable) specified in the Purchase Order as the 'Date Promised' 'Date of Completion' (as applicable) by which the Goods or Rental Items are to be supplied to the Company by the Supplier (time being of the essence) or if no date is specified, within a reasonable time having regard to normal commercial practice.
<b>GST</b>	means the goods and services tax imposed under the <i>A New Tax System (Goods &amp; Services Tax) Act 1999</i> . Words defined in the Act have the same meaning in these Conditions.
<b>Goods</b>	means the goods (if any) specified in the Purchase Order.
<b>Lease Expiry Date</b>	means the date on which the lease of the Rental Items expires as specified in the Purchase Order.
<b>Participant</b>	means the participants in any joint venture from time to time to which the Goods and/or Services relate.
<b>Percentage Interest</b>	means the participating interest from time to time of a Participant in a relevant joint venture.
<b>Price</b>	means the amount specified in the Purchase Order as payable for the Goods, Rental Items and/or Services and described as Purchase Order 'Total' in the Purchase Order.
<b>Purchase Order</b>	means the Purchase Order to which these Conditions apply.
<b>Rental Items</b>	means any item specified in the Purchase Order to be rented to the Company.
<b>Related Body Corporate</b>	has the meaning given to that term in the <i>Corporations Act 2001</i> (Ch).
<b>Services</b>	means the services (if any) specified in the Purchase Order.
<b>Site</b>	means the location nominated by the Company as the shipping address for the Goods and/or the location of the supply of the Services as specified in the Purchase Order.
<b>Sitework Conditions</b>	means the Company's sitework conditions, rules and policies for the Site

## 2. FORMATION OF CONTRACT

- 2.1 A Purchase Order issued by the Company to the Supplier constitutes an offer by the Company to engage the Supplier to supply the Goods and/or the Rental Items and/or the Services described in the Purchase Order on the terms set out in the Purchase Order and these Conditions.
- 2.2 A contract for the supply of the Goods and/or the lease of the Rental Items and/or the supply of the Services ("Contract") is formed between the Company and the Supplier when the Supplier:
- (a) communicates either in writing or verbally with the Company, the content of which confirms or implies acceptance; or;
  - (b) dispatches the Goods and/or the Rental Items and/or commences performance of the Services.
- 2.3 The Contract consists solely of the Purchase Order, any specifications referred to in the Purchase Order, these Conditions and the Sitework Conditions. No terms or conditions sought to be imposed by the Supplier before or after placement of the Purchase Order (including terms incorporated into any tender, offer, counteroffer or proposal made by the Supplier) will apply, unless expressly accepted in writing by the Company.

## 3. SUPPLY OF GOODS OR RENTAL ITEMS AND/OR SERVICES

- 3.1 The Supplier will supply to the Company the Goods or Rental Items by the Delivery Date and/or the Services by the Completion Date.
- 3.2 The Supplier must comply with the terms of this Contract and the Sitework Conditions.
- 3.3 Goods and Rental Items supplied by the Supplier must:
- (a) comply with the specification or description in the Purchase Order;
  - (b) be new (unless otherwise specified in the Purchase Order) and of recent origin (except this requirement does not apply to Rental Items);
  - (c) be free from defects in design, manufacture and assembly;
  - (d) be of merchandise quality and fit for the purpose for which they are ordinarily acquired;
  - (e) when used properly, be safe and not endanger health; and
  - (f) otherwise be in accordance with all relevant standards, laws and regulations.
- 3.4 Services supplied by the Supplier must:
- (a) comply with the specification or description in the Purchase Order;
  - (b) be performed with due skill, care and attention and in a safe and diligent manner;
  - (c) be performed by personnel who are qualified, licensed, competent and experienced in providing the Services and by the key personnel (if any) specified in the Purchase Order;
  - (d) be performed in a timely manner and in accordance with the program or timetable, if any, specified in the Purchase Order (time being of the essence); and

(e) be performed in accordance with all applicable laws, codes and standards.

- 3.5 All documentation (including drawings and reports) supplied by the Supplier in relation to the Goods or Rental Items or as part of the Services shall be accurate, comprehensive and complete.

## 4. PRICE AND PAYMENT

- 4.1 Unless otherwise specified in the Purchase Order:
- (a) The Price is fixed and not subject to rise and fall for labour or material costs or any other adjustment; and
  - (b) The Price is inclusive of:
    - i. all necessary packaging and delivery costs;
    - ii. all excise, duties or taxes (including related penalties and any government imposed greenhouse gas emissions trading scheme or greenhouse gas emissions reporting obligation) levied or assessed by government, or otherwise payable, in respect of the Goods, except for GST;
    - iii. all charges for supply of the Goods (and no additional charges will be raised for inspection, testing, packaging, delivering, insurance or equipment); and
    - iv. all amounts payable for the use of intellectual property (including licences) and moral rights consents.
- 4.2 Subject to these Conditions, the Company will pay the Price to the Supplier for supply of the Goods and/or the Rental Items and/or performance of the Services. Payment will be made by electronic funds transfer or cheque.
- 4.3 If any supply made pursuant to a Purchase Order is Taxable Supply, the Company will pay to the Supplier the GST in respect of that Taxable Supply.
- 4.4 The Supplier must submit to the Company a valid tax invoice specifying:
- (a) the relevant Purchase Order number;
  - (b) the Goods or Rental Items supplied and/or the Services performed as at the date of the invoice;
  - (c) the site and date of performance of the Services and/or delivery of the Goods or Rental Items;
  - (d) where Services are charged on a time basis, the actual hours spent by individual personnel performing the Services; and
  - (e) such other particulars as are necessary to enable the Company to obtain input tax credits for the amount of GST payable.

- 4.5 By submitting an invoice to the Company, the supplier warrants that:

- (a) the specified Goods and/or Rental Items and/or Services have been supplied in accordance with the Contract; and
- (b) the amounts specified in the invoice are accurate and the Company is entitled to payment of the amount claimed.

- 4.6 The Company will make payment to the Supplier within 30 days of receipt of the invoice.

- 4.7 The Company may deduct and set off from any moneys due to the Supplier any sum which is payable by the Supplier to the Company.

## 5. DELIVERY OF GOODS

- 5.1 If specified in the Purchase Order, the Company will arrange for the Goods and/or Rental Items to be collected from the Supplier, in which case delivery is taken to occur upon commencement of loading of the Goods and/or Rental Items onto the transport arranged the Company.
- 5.2 If specified in the Purchase Order, the Supplier must, at its own cost and risk, deliver the Goods and/or Rental Items by the Delivery Date. Deliveries are to be made at the time and at the Site specified in the Purchase Order, unless otherwise agreed in writing. Time is of the essence for delivery of the Goods and/or Rental Items. If this clause 5.2 applies, delivery is taken to occur upon completion of offloading by the Supplier.
- 5.3 The Supplier must, at its own cost, ensure the Goods and/or Rental Items are adequately and securely packed to avoid damage or destruction during transit including marking and delivering the Goods in accordance with the documents available on the company's website or as otherwise directed by the Company.
- 5.4 If clause 5.2 applies, where Goods and/or Rental Items are lost or damaged in transit, the Supplier will replace them at no cost to the Company.
- 5.5 The Supplier shall provide sufficient documents to enable the Company to identify the nature and quantity of Goods and/or Rental Items delivered including a material safety data sheet in accordance with, and if required by, the National Code of Practice for the Preparation of Material Safety Data Sheets. All delivery documents must include a delivery docket which must state:
- 5.6 Title in the Goods passes to the Company upon the earlier to occur of delivery in accordance with the Contract or payment by the Company for the Goods.
- 5.7 Unless otherwise specified in the Purchase Order, risk in the Goods is taken to pass at the time of delivery in accordance with the Contract. If the Purchase Order specifies the point of delivery by reference to Incoterms, risk is taken to pass at the time specified in the applicable Incoterm in Incoterms 2010.

## 6. RENTAL CONDITIONS

- 6.1 Where the Purchase Order is for the supply of Rental Items, whether in conjunction with the supply of Goods or Services or otherwise, this clause 6 will apply in addition to any other applicable terms of the Contract.
- 6.2 The Supplier will lease the Rental Items to the Company and the Company will pay the Price as rent to the Supplier in accordance with the terms of the Purchase Order.
- 6.3 The Supplier retains full title to the Rental Items.
- 6.4 If, with the Supplier's consent, the Company wishes to continue to retain possession of the Rental Items after the Lease Expiry Date, the Company will issue a new Purchase Order or an amendment to the Purchase Order in respect of the Rental Items on the same day as the Purchase Order.
- 6.5 If the Company pays the rent for the Rental Items and duly complies with the Purchase Order, the Supplier must allow the Company to possess and enjoy the Rental Items during the term of the lease without any interruption or disturbance from the Supplier.
- 6.6 On the Lease Expiry Date or upon the termination of the Contract, the Rental Items will, subject to fair wear and tear, considering the conditions in which the Rental Items were employed, either be (depending on the terms of the Purchase Order):
- 6.7 returned to the Supplier by or on behalf of the Company (at the Company's cost); or
  - (a) collected by the Supplier (at the Supplier's cost).

## 7. INSPECTION, TESTING AND DEFECTS

- 7.1 The Company may inspect and test the Goods and/or Rental Items. Inspection and testing may be undertaken after the Goods and/or Rental Items are unpacked by the Company or when Goods and/or Rental Items are installed into the Company's plant or premises. If, after an inspection or test, the Goods and/or Rental Items are found to be defective or otherwise fail to comply with these Conditions, the Company may (without prejudice to its rights) return the Goods and/or Rental Items to the Supplier at the Supplier's expense. Upon return, the Supplier shall reimburse the Company for the Price paid by the Company for the Goods and/or Rental Items and any costs incurred by the Company in returning the Goods and/or Rental Items to the Supplier.
- 7.2 If any Goods are returned under clause 7.1, risk will revert to the Supplier upon return and title will revert to the Supplier upon reimbursement of the Price by the Supplier.
- 7.3 Satisfactory inspection and/or testing of the Goods and/or Rental Items does not:
- (a) release the Supplier from liability in relation to any inherent defects or inadequacies in the Goods and/or Rental Items which were not actually identified during inspection or testing;
  - (b) release or waive warranties given by the Supplier in relation to the Goods and/or Rental Items; or
  - (c) otherwise relieve the Supplier of any of its obligations to perform the Contract.
- 7.4 The Supplier must ensure that all warranties applicable to the Goods are transferred to the Company.
- 7.5 If in the reasonable opinion of the Company the Services performed by the Supplier do not meet the requirements of the Contract, the Supplier shall upon request by the Company promptly re-perform the deficient part of the Services at its own cost. If the Supplier fails to do so, the Company may have the deficiency rectified by others and recover the costs of doing so from the Supplier.
- 7.6 Nothing in this clause reduces or otherwise affects the Supplier's obligations or the Company's rights under this Contract or the law.

## 8. COMPUTER SOFTWARE

- 8.1 Where the Goods and/or Rental Items incorporate computer software, the Supplier warrants that:
- (a) the software is free from viruses, trojan horses, bugs, worms or any other defects that are intended to, or do, damage or interfere with the proper working of the software;
  - (b) any software maintenance, upgrade, patch or fix supplied by the Supplier for the software will comply with subparagraph (a) and will be compatible with the existing version of the software; and
  - (c) the Company's use of the software will not infringe the intellectual property or moral rights of any person.

## 9. SITE EXAMINATION AND INDUCTION

- 9.1 The Supplier is deemed to have examined the Site and its surrounds and accepted responsibility for any additional costs, losses and expense arising out of the physical conditions and characteristics of the Site.
- 9.2 The Supplier (and any employee, agent or subcontractor of the Supplier) must:
- (a) complete all relevant inductions as required by the Company prior to commencing performance of Services at the Site;
  - (b) at all times while performing the Services at the Site, comply in full with the Sitework Conditions including obtaining a "temporary pass" before entering the Site;
  - (c) use its best endeavours not to interfere with the Company's activities on the Site; and
  - (d) ensure that it does not leave rubbish or debris when delivering the Goods and/or Rental Items and/or performing the Services.

# STANDARD PURCHASE ORDER CONDITIONS

## 10.INSURANCE

10.1 Unless otherwise specified in the Purchase Order, the Supplier must hold insurances a prudent supplier of the Goods or Rental Items and/or Services would hold including:

- (a) insurances to cover physical loss or damage to the Goods or Rental Items;
- (b) public liability insurance of not less than \$5 million;
- (c) comprehensive motor vehicle insurance of not less than \$1 million;
- (d) workers compensation insurance as required by law; and
- (e) any other insurance reasonably required by the Company.

## 11.WARRANTIES

11.1 The Supplier warrants and represents to the Company that:

- (a) all performance data, measurements and specifications quoted in brochures, quotations or tenders are accurate within the tolerances (if any) specified in those documents;
- (b) it has unencumbered title to all Goods and Rental Items;
- (c) use of the Goods and/or Rental Items by the Company will not infringe the intellectual property, moral or other rights of any third party;
- (d) it, and any person performing the Contract on its behalf, holds and will maintain all requisite licences, permits and authorities relevant to the supply of the Goods and/or Rental Items and/or Services; and
- (e) it holds all relevant import licenses, consents or authorities necessary for performance of the Contract.

## 12.INDEMNITY

12.1 The Supplier shall indemnify the Company against any and all claims, liabilities, losses, damages or penalties in respect of:

- (a) any loss of or damage to real or personal property owned by the Company or any other party;
- (b) any personal injury or death sustained by any person, arising in any way out of the Supplier's performance of the Contract or any breach by the Supplier of its obligations under the Contract.

12.2 Every indemnity, exemption, limitation, defence, immunity or other benefit contained in the Contract to which the Company is entitled will also be held by the Company on trust for the benefit of, and will extend to protect, each of the Company's personnel and the Company Group members.

12.3 Each indemnity in the Contract is a continuing obligation separate and independent from the Supplier's other obligations and survives expiry or termination of the Contract

12.4 It is not necessary for the Company or any Company Group member to incur expense or make payment before enforcing a right of indemnity conferred by the Contract.

12.5 The Supplier acknowledges that:

- (a) the Company may enter into the Contract as agent for the Participants, including for the purpose of receiving invoices in accordance with clause 4.4, issuing payment certificates and receiving and issuing any notices or documents under the *Building and Construction Industry Payments Act 2004* (Qld); and
- (b) the liability of any Participant under the Contract is several to the extent and only to the extent of its Percentage Interest, and such obligations are several and not joint, nor joint and several.

## 13.INTELLECTUAL PROPERTY

13.1 Unless otherwise specified in the Purchase Order, all intellectual property produced by the Supplier under the Contract shall vest in the Company upon creation. If necessary, the Supplier must (and ensure its relevant personnel) assign or transfer all intellectual property to the Company. The Supplier must (and ensure its relevant personnel) sign all documents and do anything else required to give effect to the assignment or transfer or moral rights consents under clause 13.1 or 13.2 (as applicable). The Company grants to the Supplier an irrevocable and payment-free licence to use the intellectual property for the purpose of performing the Services. The Supplier grants to the Company an irrevocable, perpetual, worldwide and payment free licence to use any intellectual property not vested in the Company that is necessary for the Company to have the benefit of the supply provided under the Contract.

13.2 The Supplier (if an individual) consents and must procure the consent of any other individual involved in producing any intellectual property referred to in this clause 13, to any act or omission by the Company in using the intellectual property that might otherwise breach the individual's moral rights.

13.3 The Supplier indemnifies the Company against any claims made by third parties in respect of the use of intellectual property in connection with any Goods, Rental Items and/or Services supplied under the Contract.

## 14.CONFIDENTIALITY

14.1 Subject to clause 14.2, the Supplier must not, without the Company's prior written approval, disclose Confidential Information to any third party or use or reproduce Confidential Information other than strictly for the performance of the Contract.

14.2 Clause 14.1 shall not apply to the extent the Confidential Information is:

- (a) in the public domain in the form it was disclosed or made available by or on behalf of the Company (otherwise than as a result of breach of the Contract); or
- (b) required to be disclosed by Law (provided the Supplier first advises the Company of the legal requirement for disclosure and allows the Company the opportunity to seek orders preventing disclosure).

14.3 The Supplier must establish and maintain effective security to safeguard the Confidential Information and to keep Confidential Information under its control.

14.4 On termination or completion of the Contract, the Supplier must return Confidential Information to the Company.

14.5 In this clause, "Confidential Information" means all documents (including drafts and notes), reports, data or information of any kind, in any form, whether:

- (a) communicated orally or in writing between the Company and the Supplier in connection with the Contract; or
- (b) created or generated by the Supplier in connection with the Contract and includes (but is not limited to) financial information, trade secrets, business affairs, suppliers, operations data, drawings, designs, technical information and any other information relating to the Company's business.

14.6 The Supplier must not make public announcements in relation to this Contract without the Company's prior written consent.

## 15.REPORTING

15.1 The Supplier must (at its cost) provide, at the Company's request:

- (a) progress reports setting out, in such detail as the Company requests, the different stages of design, manufacture and testing of the Goods and/or Rental Items and/or Services;
- (b) a detailed program for the projected supply of the Goods and/or Rental Items and/or Services;
- (c) quarterly reports on the emissions of greenhouse gases, consumption of energy and production of energy in supplying the Goods and/or Rental Items and/or performing the Services as required by the Company; and
- (d) any information requested for the audit of the Supplier's personnel for compliance with fatigue management requirements contained in any applicable State or Commonwealth legislation.

## 16.TERMINATION

16.1 The Company may terminate the Contract immediately by written notice if:

- (a) the Supplier is unable to pay its debts as and when they fall due;
- (b) a receiver, administrator or liquidator is appointed, or a meeting of creditors is called, in relation to the Supplier or the Supplier enters into an arrangement with its creditors or otherwise takes advantage of laws in force in relation to insolvent debtors;
- (c) the Supplier ceases to carry on business;
- (d) there is a change in control (as that term is defined in the *Corporations Act 2001* (Cth)) in relation to the Supplier;
- (e) the Supplier or its representatives engage in conduct that, in the reasonable opinion of the Company, endangers health and safety; or
- (f) the Supplier or its representatives breach the Sitework Conditions.

16.2 If either party breaches an essential term of the Contract, the other party may give notice requiring the breach to be remedied within 14 days. If the breach is not remedied, the party giving the notice may terminate the Contract.

16.3 The Company may, by notice in writing, terminate the Contract at any time. Upon receipt of a notice of termination under this clause, the Supplier must cease performance of the Contract and take all available steps to minimise loss arising from termination. The Company will pay the Price for work completed up to the date of termination. The Company will not be liable for any other costs, expenses, damages or compensation for the termination.

16.4 Termination of the Contract does not affect accrued rights or remedies.

## 17.DISPUTE RESOLUTION

17.1 The parties will negotiate to resolve any disputes. If a dispute cannot be resolved within 14 days of first being notified, either party may commence legal proceedings.

## 18.ETHICAL BUSINESS CONDUCT

18.1 Each party warrants that neither it nor any person acting on its behalf:

- (a) has made or offered;
- (b) proposes to make or offer; or
- (c) has caused or proposes to cause any third party to make or offer, with respect to the matters that are the subject of the Purchase Order, any payment, gift, promise or other advantage, whether directly or indirectly, including (without limitation) through affiliates or representatives (including representatives of the intended recipient), to or for the use of any public official, where such payment, gift, promise or advantage would violate:

- i. the applicable laws of the country in which the activities under the Purchase Order are taking place;
- ii.
- iii. the laws of the country of incorporation of such party;
- iv. the principles described in the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions; or
- v. the laws of any other country.

18.2 Each party warrants that neither it nor any person acting on its behalf:

(a) has made, or proposes to make, any payment in Australia to, by the order of, or on behalf of a person or entity sanctioned by the Reserve Bank of Australia pursuant to regulation 8(1)(a) of the *Banking (Foreign Exchange) Regulations 1959* (Cth); or

(b) has breached, or proposes to breach, the Charter of the *United Nations Act 1945* (Cth) or regulations made under that Act

18.3 The obligations in this clause 18 are continuing and survive the completion, termination or expiry of this Contract.

## 19.GENERAL

19.1 The relationship between the Company and the Supplier is one of principal and independent contractor. Nothing in this Contract shall create a relationship of joint venture, trust, employment, agency or partnership. The Supplier does not have authority to contract with third parties on behalf of the Company or to otherwise bind the Company, unless the Company's prior written consent is provided.

19.2 The Supplier must not subcontract, assign or novate any rights or obligations under the Contract without the prior written consent of the Company. The Supplier hereby consents to the Company assigning or novating any or all of its rights or obligations under this Contract at any time to any person.

19.3 The Supplier acknowledges that the Company may contract with any other party to supply like goods or services and no exclusive relationship exists or is to be implied by the Contract.

19.4 Any variation to the Contract must be approved by the Company's procurement contact named in the Purchase Order.

19.5 The Supplier acknowledges and agrees that it will not register any security interest in relation to this Purchase Order against the Company on any register maintained under the *Personal Property Securities Act 2009* (Cth).

19.6 This Contract is governed by the laws of South Australia and each party submits to the non-exclusive jurisdiction of Courts of that state.

19.7 Neither party is taken to have waived any right under the Contract unless the waiver is given in writing and expressed to be a waiver.

19.8 Any notice given under the Contract must be given in writing to the address specified in the Purchase Order in the case of the Supplier and to the following address in the case of the Company:

Cooper Energy Limited ABN 93 096 170 295  
Level 8, 70 Franklin Street, Adelaide, South Australia, 5000

(Marked to the attention of the Company's procurement contact named in the Purchase Order).

19.9 The Contract constitutes the entire agreement between the Company and the Supplier in relation to its subject matter.