

## Aero Defence Terms and Conditions of Sale

**1. Definitions**

1.1 The definitions and rules of interpretation set out below apply in these conditions:  
 "Buyer" means the person, firm or company, authority or government department, which purchases the Goods from the Seller.  
 "Contract" means any contract between the Seller and the Buyer for the sale and purchase of the Goods, incorporating these conditions.  
 "Seller" means Aero Defence whose registered office is at 7/82-86 Minnie Street, Southport, QLD, Australia 4215. ABN: 42 129 351 220  
 "Parties" is the Seller and the Purchaser and/or any other persons or companies involved.

**1. General**

1.1. These terms and conditions of sales are applicable to all deliveries, services and offers of Aero Defence Pty Ltd ("Seller"). These terms and conditions can only be waived in writing signed by the Seller and shall pre-vail over all terms and conditions of customers' orders to which the Seller has not given express written approval or to the extent of any inconsistency.

1.2. This document together with the relevant Sales Quotation and Sales Order Confirmation embodies the sole terms and conditions of the Contract between the Seller and the Purchaser ("Parties") and supersedes all other conditions and agreements between the Parties, unless expressly amended in writing by the Seller.

1.3. All agreements and legally relevant declarations of the parties to the contract ("Contract") must be in writing to be valid.

1.4. The use of an electronic signature corresponding to the current level of technology and in accordance with the legally required rulings is permissible for a conclusion of Contract or an alteration to the Contract to be effective and replaces the requirement of such in writing.

**2. Scope of supplies and services**

2.1. The supplies and services of the Seller are specified in the sales order confirmation/acknowledgement. The Seller shall be entitled to make any changes which lead to improvements provided such changes do not result in a price increase.

2.2. With regard to deliveries concerning cable, the Seller reserves the right to over or under supply up to 10% of the ordered volume. If a specific (minimum) order quantity is required against surcharge, a special comment is to be made when the order is placed.

**3. Drawings, technical documents and tools**

3.1. Unless otherwise agreed upon, information in brochures, catalogues and the Internet are not binding. Data provided for technical documents are only binding in so far as having been expressly stipulated as such by the Seller.

3.2. Each party to the Contract retains all rights to technical documents provided to the other. The Parties receiving such documents recognises these rights and shall not without previous written consent of the other Partee make these documents available to any third Partee, either in whole or in part, nor use them for purposes other than those for which they were handed over.

**4. Regulations in force in the country of destination and safety devices**

4.1. The Purchaser shall, on or before placing the order, advise the Seller of any standards and regulations relevant to the installation and operation of the supplies and services that may apply at the customer's place of business.

4.2. Provided the Purchaser has advised the Seller of the relevant standards and regulations and unless otherwise agreed upon, the supplies and services shall comply with the standards and regulations at the place of business of the purchaser. Additional or other safety devices shall be supplied to the extent they have been expressly agreed upon.

**5. Prices**

5.1. All prices are quoted in Australian currency unless otherwise specified. Exchange variation formula will apply when the Seller's quotations are made in any other currency or where specified in writing by the Seller.

5.2. Any and all additional charges, such as, but not limited to, freight charges, insurance premiums, fees for export, transit, import and other permits, as well as for certifications, shall be borne by the Purchaser.

**6. Terms of payment**

6.1. The purchaser with an approved credit account shall make payment within 30 days after the date of invoice, net, without any deduction for cash discount, expenses, taxes, levies, fees, duties, and the like unless otherwise agreed upon in writing from the Seller.

6.2. The dates of payment shall also be observed if transport, delivery, erection, commissioning or taking over of the supplies or services is delayed or prevented due to reasons beyond the Seller's control, or if unimportant parts are missing, or if post-delivery work is to be carried out without the supplies or services being prevented from use.

6.3. If the advance payments, if agreed upon, are not provided in accordance with the terms of the Contract, the Seller shall be entitled to, at its discretion, terminate the Contract and claim damages from the Purchaser.

6.4. If the Purchaser delays in the agreed terms of payment, the Purchaser will be liable, without reminder, to pay interest to Seller on the balance outstanding to Seller from the due date of payment. Interest shall be charged at the rate of three percent (3%) per annum above the Commonwealth Bank of Australia overdraft rate for overdrafts in excess of \$100,000.00 as published from time to time.

6.5. An offset of claims from either party out of this, or in conjunction with this Contract is only allowed with an accepted or legally confirmed counterclaim.

**7. Reservation of title**

7.1. The Seller reserves the following rights in relation to the supplies until all accounts owed by the Purchaser to Seller are fully paid:

- a. Ownership of the supplies;
- b. To enter the Purchaser's premises (or the premises of any associated company or agent where the supplies are located) without liability for trespass or any resulting damage and retake possession of the supplies;
- c. To keep or resell any supplies repossessed pursuant to (b) above. The Seller shall be entitled to maintain an action against the Purchaser for the purchase price and the risk of the supplies shall pass to the customer upon delivery.

**8. Delivery time**

8.1. The delivery time shall start as soon as the Contract is entered into, all official formalities such as, but not limited to, import or payment permits have been completed, payments due with the order have been made, any agreed securities given and the main technical points settled.

8.2. Compliance with the delivery time is conditional upon Purchaser fulfilling of its contractual obligations, especially its payments and co-operation responsibilities.

8.3. The delivery time is reasonably extended:

- a. if the information required by Seller for performance of the Contract is not received in time or if the Purchaser subsequently changes it thereby causing a delay in the delivery of the supplies or services;
- b. if hindrances occur which the Seller cannot prevent despite using the required care, regardless of whether they affect the Purchaser or a third party. Such hindrances include, but shall not be limited to, epidemics, mobilisation, war, revolution, serious breakdown in the works, accidents, labour conflicts, late or deficient delivery by subcontractors of raw materials, semi-finished or finished products, the need to scrap important work pieces, official actions or omissions by any state authorities or public bodies, natural catastrophes, acts of God;

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c. if the Purchaser or a third party is behind schedule with the performance of its contractual obligations, in particular if the customer fails to observe the terms of payment for the current or for previous orders.

8.4. In case a specific date instead of a delivery period is fixed, such date shall correspond to the last day of a delivery period; Clauses 8.1 to 8.3 apply by analogy.

8.5. Any delay of the supplies or services does not entitle the Purchaser to any rights to terminate the Contract or any entitlements for damages or claims. This limitation does, however, not apply to unlawful intent or gross negligence on the part of the Seller, but does apply to unlawful intent or gross negligence of persons employed or appointed by the Seller to perform any of its obligations.

8.6. Notwithstanding that Seller may have delayed or failed to deliver the supplies and services (or any part of them) promptly, the Purchaser shall be bound to accept delivery and to pay for the supplies and services in full provided that the delivery shall be tendered at any time within three (3) months of the original scheduled date of delivery.

**9. Passing of benefit and risk**

9.1. The risk in each order passes to the Purchaser upon delivery of that order to the Purchaser or collection of that order by the Purchaser's agent or carrier as the case may be.

9.2. If dispatch is delayed at the request of the Purchaser or due to reasons beyond the Seller's control, the risk of the supplies shall pass to the Purchaser at the time originally foreseen for their leaving the works. From this moment on, the supplies shall be stored and insured on the account and at the risk of the customer and payment for the supplies shall become due and payable in accordance with clause 6.1.

**10. Forwarding, transport and insurance**

10.1. The Seller shall, at the latest with the sales order, be notified of special requirements regarding forwarding, transport and insurance. Objections regarding forwarding or transport shall upon receipt of the sales order be immediately submitted by the Purchaser to the Seller in writing.

10.2. The Purchaser shall be responsible for taking insurance against risks of any kind.

**11. Inspection and taking-over of the supplies and services**

11.1. According to its own practices, seller shall inspect the supplies before dispatch. If the Purchaser requests further testing, this has to be specially agreed upon and paid for by the Purchaser.

11.2. The Purchaser shall inspect the supplies including partial supplies within a reasonable period upon arrival and shall immediately notify the Seller in writing of any deficiencies. If the Purchaser fails in doing so, the supplies including partial supplies shall be deemed to have been taken over.

11.3. Having been notified of deficiencies according to Clause 11.2, the Seller shall as soon as possible remedy them, and the Purchaser shall give the Seller the possibility of doing so.

**12. Exclusion of further liabilities**

12.1 All rights and claims on the part of the Purchaser with the exception of those mentioned in these general conditions, irrespective on what ground they are based, are exhaustively covered in these Terms and Conditions and especially those not expressly mentioned for damages, reduction of price, termination or withdrawal from the Contract are excluded. In no case whatsoever shall the Purchaser be entitled to claim damages other than compensation for costs of remedying defects in supplies. This in particular refers, but shall not be limited, to loss of production, loss of use, loss of orders, loss of profit and other direct or indirect or consequential damages. This exclusion of liability, however, does not apply to unlawful intent or gross negligence on the part of seller, but does apply to unlawful intent or gross negligence of persons employed or appointed by Seller.

**13. Jurisdiction and applicable law**

13.1. The Contract for the sale of the goods is made in the state or territory of Australia from which this document is issued.

13.2. The parties submit all disputes arising between them to the Courts of such state or territory and any Court competent to hear appeals from those Courts of first instance.

**14. Procedures and claims**

14.1 The Seller will not accept return of any goods, unless authorised in writing prior to shipment.

14.2 Granting the Buyer the authority to return goods will not be construed to signify the acceptance of the goods themselves or of the Buyer's claim but will only signify authority to physically return the goods so that they may be inspected, and so that proper disposition of the Buyer's claim may be made after such inspection.

14.3 The Seller reserves the right to return goods to the Buyer, after such inspection, with no credit to the Buyer, and with the Buyer to bear the transportation charges.

14.4 The maximum time lag between the original shipment of the goods and the request for authority to return goods by the Buyer is forty five (45) days, unless a specific exception is authorised by the Seller's Sales Manager. The maximum time lag for latent defects will be one (1) year unless a specific exception is authorised by the Seller's sales manager.

14.5 No replacement orders will be processed until final disposition has been made for the returned goods by the Seller's quality assurance department.

14.6 No credit will be given or accounting entry made until final quality assurance disposition has been made.

14.7 A restocking fee will be applied to all goods returned for credit unless the return is the result of an error by the Seller.

14.8 "Aero Defence Pty. Ltd. warrants only that the products or services sold hereunder (A) will conform to the description, if any, on the face hereof (B) will be conveyed free and clear of any lien, security interest or encumbrance created by Aero Defence Pty. Ltd. or any party claiming by, through or under Aero Defence Pty. Ltd. and (C) will be free from substantial defects in material and workmanship under normal use given proper installation and maintenance for a period of one (1) month from the date of delivery by carrier."

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