

AMO AUSTRALIA PTY LTD PURCHASE ORDER TERMS AND CONDITIONS FOR GOODS

1. **APPLICABILITY.** Unless otherwise expressly provided in writing with respect to a particular purchase, the following Terms and Conditions apply to all purchases of goods by AMO Australia Pty Ltd ("**AMO**").

2. **PRICES.** Supplier represents that the prices charged to AMO are no higher than the prices Supplier currently charges to other similarly situated purchasers of similar quantities of goods of like kind and quality. Unless otherwise stated, all prices quoted include all applicable taxes as required under applicable laws in effect on both the date of the order and the date of delivery of the goods.

3. **DELIVERY.** Each Purchase Order shall specify the date on which the goods must be received at AMO's designated location. Supplier shall immediately notify AMO of any anticipated failure to ship the specified quantity of goods in time to meet such delivery date. If, due to Supplier's fault, delivery will not occur by the specified date or a replacement delivery will be necessary where AMO has rejected a prior delivery of nonconforming goods, AMO shall have the right to require air freight delivery at Supplier's expense. If, for any reason including Supplier's failure to make a timely shipment, Supplier ships any goods by a method other than that specified in AMO's Purchase Order, Supplier shall pay any resulting increase in the cost of freight.

4. **SHIPPING DIRECTIONS.** Unless otherwise specified in the Purchase Order, all shipments shall be F.O.B. destination. Title to goods released under a Purchase Order and risk of loss or damage shall pass from Supplier to AMO upon delivery of the goods to such destination. Supplier shall preserve, package, handle, and pack the goods so as to protect them from loss or damage, in conformance with good commercial practice and AMO's specifications. Supplier shall be responsible for any loss or damage due to its failure to properly preserve, package, handle, or pack the goods, and AMO shall not be required to assert any claims for such loss or damage against the common carrier involved. Each container shall be marked with AMO's order number, Supplier's packing list number, and the quantity and part number of contents. The container that contains the packing list must be marked "Packing List Enclosed." Time of delivery is of the essence.

5. REJECTION, RETURN OF MATERIAL.

5.1 If any goods are defective or do not otherwise conform with the requirements of these Terms and Conditions or of any Purchase Order, AMO may elect in its sole discretion to: (a) reject the nonconforming goods; (b) return the nonconforming goods at Supplier's expense for repair, replacement, or credit; (c) repair the nonconforming goods and recover AMO's reasonable expenses of repair; or (d) hold the nonconforming goods pending Supplier's instructions as to disposition. If, after payment, AMO subsequently rejects any goods upon discovery that they are nonconforming, AMO may deduct all or any part of said payment from any indebtedness due Supplier under any outstanding order. If Supplier does not repair, replace, or give credit for the nonconforming goods within ten days after return by AMO, AMO shall have the right to resort to any other remedy available under these Terms and Conditions or the Purchase Order, or at law. All purchases are subject to inspection and rejection notwithstanding prior payment.

5.2 All nonconforming goods returned by AMO shall be accompanied by a return material order issued by AMO. Transportation and storage of rejected goods shall be at Supplier's risk and expense, and Supplier shall reimburse AMO for all associated charges paid by AMO.

6. WARRANTY.

6.1 Supplier warrants that all goods shall:

- (a) conform strictly to the specifications, designs, models, drawings, samples, or other descriptions provided by AMO, or, if none are so provided, to the Supplier's specifications;
- (b) be free from defects in design, material, manufacture, and workmanship;
- (c) be of acceptable quality, new and unused (unless otherwise specified in the relevant Purchase Order), and shall be fit and suitable for the purposes intended by AMO; and
- (d) be free and clear of all liens, encumbrances, and other claims against title.

6.2 The warranties provided for in this Section shall survive any inspection, acceptance, or payment by AMO, and shall be in addition to and not in limitation of any other warranty or guarantee provided or implied by law.

7. CONFIDENTIAL INFORMATION.

7.1 Any property furnished to Supplier or which Supplier may obtain from AMO, its subsidiaries, parents and affiliated companies, and their agents and employees (all of which shall be included for purposes of this Section in the term "AMO") or otherwise discover in the course of filling a Purchase Order in connection with any goods to be supplied to AMO shall remain the property of AMO. Supplier shall not directly or indirectly make use of or disclose to any third party such property or any information derived there from or related thereto without AMO's express written approval.

7.2 For purposes of this Section, "property" shall include:

- (a) tools, designs, patterns, dies, machinery, and test equipment;
- (b) drawings or specifications supplied by AMO; and
- (c) "confidential information" including without limitation trademarks, trade names, labels, or imprints specified by AMO, and all information or data provided by or related to AMO (including information and data relating to the discovery, invention, research, improvement, development, manufacture, or sale of AMO products), or its business operations (including sales costs, profits, pricing methods, organizations, employee lists, and processes). Confidential information does not include any information which:
 - (i) was known to Supplier on a non-confidential basis before being disclosed under a Purchase Order, as evidenced by Supplier's written records;

- (ii) is disclosed to Supplier after issuance of a Purchase Order by a third party having a right to make such disclosure in a non-confidential manner; or
- (iii) is or becomes part of the public domain through no fault of Supplier.

7.3 Nothing in these Terms and Conditions shall be construed to restrict Supplier from disclosing confidential information as required by law or court order or other governmental order, provided that Supplier:

- (a) is notified of any such proposed disclosure in a timely manner;
- (b) uses all reasonable efforts to limit the disclosure and maintain the confidentiality of the relevant confidential information to the extent possible; and
- (c) shall permit AMO to attempt to limit such disclosure by appropriate legal means.

7.3 Upon demand by AMO, Supplier shall promptly return all of AMO's property in Supplier's possession and control together with all copies or reprints. All property shall be returned to AMO in good condition and at no expense to AMO.

8. INDEMNIFICATION.

8.1 GENERAL INDEMNIFICATION. Supplier hereby agrees to indemnify and hold harmless AMO and AMO's officers, employees, distributors, agents, dealers, representatives, customers, and users of the goods from all losses, liability, damages and/or expenses which may be sustained or claimed against AMO (i) arising out of or related to any breach of these Terms and Conditions or the Purchase Order; (ii) arising out of Supplier's negligence or willful misconduct in providing goods or services to AMO thereunder; (iii) arising from injury to Supplier's employees while in the course of providing goods to AMO; or (iv) arising from Supplier's use of automobiles, trucks, heavy equipment, or other vehicles in the course of providing goods to AMO. Supplier shall at the request of AMO defend any such claim, action, or lawsuit.

8.2 INTELLECTUAL PROPERTY INDEMNIFICATION. Supplier shall indemnify, hold harmless, and defend AMO, its subsidiaries, parents and affiliated companies, and their agents and employees (all of which shall be included for purposes of this Section in the term "AMO") from and against all claims or liabilities for damages (including costs of suit and attorney's fees) in any matter arising out of or resulting from any actual or claimed infringement of any patents, trademarks, or trade secrets, by reason of the manufacture, sale, or use of the goods, except to the extent, if any, to which such goods are manufactured exclusively to AMO's designs or specifications.

9. CHANGES IN ORDER.

9.1 AMO shall have the right to change the drawings, designs, or specifications, the method of shipment or packing, the place and date of delivery, and the quantity of goods to be delivered by Supplier, on notice to Supplier up to 30 days prior to ship date. If any such change causes an increase or decrease in the cost or the time required for performance of this order, an equitable adjustment shall be made in the price or delivery schedule, as applicable, by mutual agreement. Supplier shall assert any claims for adjustment under this Section within 10 days after receipt by Supplier of the notification of change.

9.2 Supplier shall not make any changes in the form, fit, function, design, or appearance of the goods purchased by AMO without AMO's prior written consent, which consent will not be unreasonably withheld.

10. TERMINATION.

10.1 AMO may cancel a Purchase Order, in whole or in part, without cause upon 30 days' advance notice to Supplier. In the event AMO cancels a Purchase Order without cause, AMO shall pay Supplier all documented reasonable and actual costs incurred by Supplier in performance of the Purchase Order up to the date of cancellation and which are properly allocable under recognized commercial accounting practices, excluding unrecovered fixed costs and unrealized profits.

10.2 AMO may cancel a Purchase Order at any time after any breach by Supplier of the terms of the Purchase Order or these Terms and Conditions upon notice to Supplier, unless Supplier cures the breach within 15 days after receipt of AMO's notice.

10.3 Notwithstanding anything set forth in Sections 10.1 or 10.2 above, AMO may immediately terminate a Purchase Order, in whole or in part, if (i) shipment or delivery is not made by the date specified on the face of the Purchase Order, or (ii) required to do so in order to comply with any law, order, regulation, or request or imminent action of any governmental agency.

11. REMEDIES. In the event of breach by Supplier, AMO shall have all the rights and remedies provided by these Terms and Conditions, the Purchase Order and by law, including without limitation the right to consequential damages. The remedies herein reserved to AMO shall be cumulative and in addition to any other remedies provided in law or in equity. No waiver of any provision or breach of the Terms and Conditions or Purchase Order shall constitute a continuing waiver or a waiver of any other provision or breach thereof.

12. PRICE PROTECTION. If during the term of a Purchase Order AMO is able to purchase goods of the quality and in the quantities specified in that Purchase Order and upon like terms and conditions at a price lower than the price stated in the Purchase Order, Supplier upon receipt of satisfactory written evidence of same shall, at its option, meet such lower price or permit AMO to purchase any undelivered portion to be sold under the Purchase Order at such lower price. The quantity so purchased by AMO from others shall be deducted from the quantity covered by the relevant Purchase Order.

13. COMPLIANCE WITH LAWS.

13.1 Supplier guarantees that it has complied with and will comply with all applicable laws, regulations, codes, standards and guidelines relevant to the production, sale, transportation and delivery of the goods purchased by AMO.

14. DEBARMENT. Supplier represents and warrants that neither Supplier, nor any of Supplier's employees or agents performing services or supplying goods under an AMO Purchase Order, have ever been, are currently, or are the subject of a proceeding that could lead to Supplier or such employees or agents becoming, as applicable, a Debarred Entity or Individual. Supplier further covenants, represents and warrants that if Supplier, or any of Supplier's employees or agents performing services or supplying goods under an AMO Purchase Order, become or are the subject of a proceeding that could lead to that party becoming, as applicable, a Debarred Entity or Individual, Supplier shall immediately notify AMO, and AMO shall have the right to immediately terminate the relevant Purchase Order. This provision shall survive termination or expiry of the Purchase Order. For purposes of this provision, a "Debarred Entity or Individual" shall be an entity or individual who has been debarred by, or prohibited from doing business or contracting with, any government authority in accordance with applicable laws and regulations.

15. GOVERNING LAW. Notwithstanding place of execution or performance, the Purchase Order and these Terms and Conditions shall be governed by and construed and enforced in accordance with the laws of the State of New South Wales, irrespective of its laws regarding choice or conflict of laws. Each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of New South Wales and waives, without limitation, any claim or objection based on absence of jurisdiction or inconvenient forum. The UN Convention on Contracts for the International Sale of Goods (**Vienna Convention**), the Sale of Goods Act 1908 (NZ), the Sale of Goods (Vienna Convention) Act 1986 (New South Wales) (and any similar legislation relating to the Vienna Convention in other States or Territories) do not apply to any purchase of goods governed by these Terms and Conditions.

16. ASSIGNMENT. Supplier shall not assign its rights or obligations under a Purchase Order or these Terms and Conditions without AMO's prior written consent.

17. MODIFICATIONS. These Terms and Conditions may be modified only by written agreement signed by the parties.

18. SEVERABILITY. If any provision of a Purchase Order or these Terms and Conditions or part thereof, as applied to either party or to any circumstance, is declared by a court of competent jurisdiction to be illegal, unenforceable or void, the remaining provisions shall continue in full force and effect without said provision or part thereof.

19. COMPLIANCE WITH REACH REGULATIONS. To the extent applicable, Supplier agrees to comply with all relevant requirements under Regulation (EC) 1907/2006 concerning the Registration, Evaluation, Authorization and Restriction of Chemicals (REACH), including Article 33 regarding the duty to communicate information on substances and articles.