

# MAYFIELD INDUSTRIES Pty Ltd - TERMS OF PURCHASE

## 1. BASIS OF PURCHASE ORDER

- 1.1 If this Purchase Order is raised by Mayfield as agent for the Principal, Mayfield shall administer the Purchase Order but shall not itself incur liability under this Purchase Order.
- 1.2 This Purchase Order including these Terms of Purchase shall be deemed to be accepted by the Supplier for the supply of the Goods identified in the Purchase Order from the earlier of:
  - a) the Supplier signing and returning a copy of this Purchase Order to Mayfield; or
  - b) the Supplier's commencement of work relevant to the supply of the Goods after receipt of this Purchase Order
- 1.3 This Purchase Order contains the entire agreement between the parties and no regard shall be had to any prior dealings. Any terms that may have been attached or embodied in the Supplier's tender or offer of other correspondence are deemed to have been withdrawn in favour of the terms stated in this Purchase Order.
- 1.4 'Mayfield' means Mayfield Industries Pty Ltd.

## 2. GOODS

- 2.1 The goods to be supplied by the Supplier are described in the Purchase Order
- 2.2 The Supplier warrants that the Goods shall:
  - a) comply with any drawings, specifications and/or other technical documents included with and/or identified in this Purchase Order or otherwise by Mayfield;
  - b) comply with all relevant standards and statutory requirements;
  - c) be new (unless stated otherwise), of good merchantable quality, free of defects and fit for their intended purpose.
  - d) upon delivery to Mayfield, be free of all liens, charges and other encumbrances; and
  - e) be supplied to Mayfield strictly in accordance with the terms of this Purchase Order except to the extent that Mayfield may agree or direct otherwise in writing.
- 2.3 The Supplier shall have and operate a recognised Quality Control / Assurance System.
- 2.4 The Supplier indemnifies Mayfield and where relevant the Principal against any action, suit, claim, demand, cost, loss, expense or damage arising out of or in any way connected with the infringement of any intellectual property rights relevant to or in any way connected with the Goods including the use of the Goods
- 2.5 The Supplier shall be responsible for the care of the Goods until their delivery to and acceptance by Mayfield. If loss or damage occurs to the Goods while the Supplier is responsible for their care, the Supplier shall promptly make good the loss or damage.

## 3. ENGINEERING DATA

- 3.1 The Supplier shall furnish all purchasing and other data in accordance with the Purchase Order and within the time stated and without prejudice to any specific requirement set out in the Purchase Order shall supply to Mayfield all such engineering data, installation instructions, maintenance and operating manuals, spare parts list and other information as necessary or reasonably required in connection with the installation, operation and maintenance of the Goods, in such time as no to delay the installation, operation or maintenance of the Goods.

## 4. Delivery

- 4.1 The Date for Delivery shall be the date stated in this Purchase Order as may be extended by Mayfield pursuant to clause 4.
- 4.2 The Supplier shall:
  - a) liaise with Mayfield Prior to the Date for Delivery to confirm the arrangements for delivery of the Goods;
  - b) label the Goods as directed by Mayfield;
  - c) store the Goods until the date and time arranged with Mayfield for delivery of the Goods;
  - d) deliver the Goods packaged as reasonably required by Mayfield; and
  - e) deliver the Goods to the Delivery Address on the date and at the time arranged with Mayfield
- 4.3 Unless agreed otherwise in writing by Mayfield, ownership of the Goods shall pass to Mayfield upon their delivery to and acceptance by Mayfield
- 4.4 At the time of delivery the Supplier shall provide Mayfield with a delivery docket in duplicate setting out the details of the Goods delivered and accepted by Mayfield, for signature by Mayfield and the Supplier shall retain on copy so signed.
- 4.5 Delivery and acceptance of Goods by Mayfield does not constitute approval of the Goods.

## 5. DELAY

- 5.1 The Supplier shall give immediate notice to Mayfield upon becoming aware of any event or circumstance likely to delay delivery of the Goods by the Date for Delivery.
- 5.2 Mayfield:
  - a) shall be entitled at any time to grant an extension of time to the Date for Delivery; but
  - b) shall not be obliged to grant an extension of time the Date for Delivery except to the extent that a delay to the Date for Delivery is caused by an act, default or mission by Mayfield.
- 5.3 The Supplier Shall:
  - a) take all practical steps to avoid or minimise any delay to the Date for Delivery; and
  - b) where a delay does not cause the Date for Delivery to be extended, take whatever action is necessary to deliver the Goods by the Date for Delivery.

## 6. PAYMENT

- 6.1 The rates stated in this Purchase Order are deemed to include for everything necessary (labour, plant, equipment and other things) for the Supplier to supply the Goods and to fulfil all of its obligations under this Purchase order. Accordingly, the value of Goods delivered to and accepted by Mayfield shall be:
  - a) an amount calculated by multiplying the relevant quantity and rate for the Goods stated in this Purchase Order; less
  - b) the reasonable costs incurred by Mayfield in remedying any default by the Supplier of its obligations under this Purchase Order; and/or less
  - c) the amount of any costs, losses or damage suffered by Mayfield if the Supplier does not fulfil its obligations under this Purchase Order or otherwise.
- 6.2 Unless stated or agreed otherwise by Mayfield. Payment for the Goods shall only be made for those Goods delivered to and accepted by Mayfield and for which the Supplier has submitted a payment claim setting out value of those Goods as described in clause 7.1.

- 6.3 Subject to clauses 6, 7 and 8, unless stated otherwise, payment shall be made by the Friday following the 45<sup>th</sup> day from the last day of the month in which the Supplier's payment claim is received by Mayfield for Mayfield's determination of the value of Goods delivered to and accepted by Mayfield.
- 6.4 At Mayfield's discretion, payment shall be made by electronic funds transfer or by cheque. The date of payment shall be regarded as the date on which the funds are cleared by Mayfield for payment, the funds being available to the Supplier within 2 business days thereafter.
- 6.5 As a condition precedent to payment the Supplier shall provide evidence satisfactory to Mayfield that its employees and subcontractors have been paid all amounts due to them and that it has satisfied all statutory obligations with respect to the Goods.
- 6.6 In the event that Mayfield is required at law to provide security to the supplier, the security shall be in the form of a guarantee from Mayfield up to the amount of the security required.
- ii) if Mayfield determines a different aggregate amount paid and due for payment to the Supplier than indicated on the Supplier's Tax Invoice(s).
- a. the Supplier shall be responsible for payment of the GST relevant to its Tax Invoice(s); and
- b. the Supplier may revise and resubmit its Tax Invoice(s) to Mayfield or provide Mayfield with an adjustment note prepared in compliance with relevant GST legislation adjusting its Tax Invoice(s) to correspond with the aggregate amount determined by Walker Mayfield, clearly identifying the Tax Invoice(s) replaced or adjusted and the relevant amount(s).
- 7.2 Subject to Mayfield providing the Supplier with its ABN and its Tax Invoice(s) the Supplier shall pay Mayfield GST on amounts payable by the Supplier to Mayfield for supplies made by Mayfield under or in connection with this Purchase Order.

## 7. GOODS AND SERVICES TAX (GST)

- 7.1 The following provisions shall apply with respect to GST on amounts payable by Mayfield the Supplier for supplies made by the Supplier under or in connection with this Purchase Order
- a) Unless the Supplier's Australian Business Number (ABN) is stated in this Purchase Order or until the Supplier advises Mayfield in writing of its ABN:
- i) Paragraphs b), c), d) and e) of this clause 6.1 shall not apply;
- ii) The Supplier shall not be entitled to claim and Mayfield shall not pay the Supplier any GST; and
- iii) Mayfield shall deduct tax in accordance with relevant legislation from each payment to the Supplier at the prescribed rate and remit that tax to the Australian Tax Office.
- b) Each party acknowledges and agrees that:
- i) it is registered for GST;
- ii) it shall promptly provide written evidence of its GST registration if so requested by the other party;
- iii) it shall indemnify the other party against any loss that may arise from it not being registered for GST.
- iv) it shall promptly notify the other party in writing if it ceases to be registered for GST; and
- v) if Mayfield reasonably considers that the Supplier may be not registered for GST for any period, then for that period the provisions of paragraph a) of this clause 6.1 shall apply as if Mayfield had not been advised of the Supplier's ABN.
- c) The aggregate amount of all amounts paid and due for payment under this Purchase Order must be covered by one or more Tax invoices prepared in compliance with relevant GST legislation (Tax invoice(s)). Tax invoice(s) shall be provided by the Supplier providing Mayfield with Tax invoice(s) in an aggregate amount sufficient to comply with the requirements of this paragraph c) prior to the due date for each payment.
- d) The Supplier acknowledges that:
- i) if it fails to provide Mayfield with Tax invoice(s) that comply with paragraph c), Mayfield may, at its sole discretion, either:
- a. pay the Supplier in aggregate terms, the lesser of the amount paid and due for payment of the amount of Tax invoice(s) received from the Supplier; or
- b. make no further payment to the Supplier until the Supplier has provided Mayfield with Tax Invoice(s) that comply with paragraph c); and

## 8. DEFAULTS / DEFECTS

- 8.1 Without limiting Mayfield's rights under clause 8, if the Supplier fails:
- a) To supply Goods to meet the requirements of this Purchase Order;
- b) To supply Goods within the time required by this Purchase Order;
- c) To remove rubbish or other items belonging to the Supplier from the Delivery Address; and/or
- d) To comply with any other obligation it has under this Purchase Order then:
- e) Notwithstanding 8(f), if the Goods are found to be faulty in quality, damaged, defective or not comply with these conditions (included Goods damaged in transit), Mayfield may, at its option, either reject the whole or any part of the Goods, or require the Supplier at its own cost either to replace the Goods or rectify any defect.
- f) Mayfield may, at its discretion, and without obligation, remedy that failure on behalf of the Supplier and the cost of doing so shall be valued under clause 5.1 b); and
- g) any cost, loss and/or damage that Mayfield has incurred or is likely to incur as result of the Supplier's default shall be valued under clause 5.1c).

## 9. TERMINATION

- 9.1 In the event that:
- a) the Supplier fails to comply with its obligations under this Purchase Order (including, without limitation, failure to comply with its obligations in a timely manner);
- b) the Supplier is insolvent or bankrupt within the meaning set out in clause 25 11 a) to l) of General Conditions of Contract for the Supply of Equipment AS3556-1988; and/or
- c) the Supplier dies, then Mayfield, may at its sole discretion, terminate this Purchase Order.
- 9.2 Upon termination under clause 8.1:
- a) Mayfield shall be liable only for those amounts which become payable for Goods delivered to and accepted by Mayfield as at the date of termination; and
- b) Any cost, loss, and/or damage that Mayfield has incurred or is likely to incur as a result of the Supplier's default shall be valued under clause 6.1c).

**10. GENERAL**

10.1 The Supplier shall not assign novate nor subcontract any of its rights or obligations under this Purchase Order without Mayfield's prior written approval.

10.2 Unless stated otherwise, this Purchase Order shall be governed by the laws of the State or Territory in which the Delivery Address is located.

**11. OTHER TERMS AND SPECIAL CONDITIONS**

In the event that terms in clauses 1 to 10 above conflict with any other terms stated in this Purchase Order including any Special Conditions then such other terms or Special Conditions shall take precedence to the extent of the conflict.