

# Purchase Order Conditions

## 1. Subcontract

The subcontractor named in this form shall complete the work on the project "the Works" as described, ordered or instructed by the purchaser for the price or other agreed rates, and in conformity with these purchase order conditions. The price or rates may be varied in accordance with the conditions. The subcontractor shall execute the Works in a workmanlike manner to the reasonable satisfaction of the purchaser issuing the purchase order and in accordance with the relevant plans and specifications and within the time specified in the purchase order and if no time is specified in accordance with the purchaser's reasonable instructions. If so indicated, the subcontractor shall complete the works in stages by the dates stated for each stage in the purchase order. All electrical work shall comply with Standards Australian AS/NZS 3000:2000 Wiring Rules. Any other work whether electrical or otherwise shall comply with the relative Australian Standards and the Building Code of Australia.

## 2. Suitability of Materials for Purpose

In accepting this purchase order, the subcontractor acknowledges having considered the nature and location of the Works and warrants that the materials to be supplied for the Works will be suitable for the purpose in the particular circumstances of the Works.

## 3. Completion

3.1 If the subcontractor fails to complete the Works or any stage by the date specified in the purchase order or within any extended time approved in writing by the purchaser, the subcontractor shall pay or allow by way of pre-estimated liquidated damages, the sum stated in the purchase order for each week or part of a week during which the Works or the relevant stage shall remain incomplete.

3.2 The purchaser will allow a reasonable extension of time in respect of any delay not caused or contributed by act or default of the subcontractor.

## 4. Indemnity re Damages

If the subcontractor shall commit a breach of this agreement and that breach shall be substantial and proximate cause of damages being imposed upon the purchaser under any contract in respect of the works which binds the purchaser to any proprietor or principle contractor at the date of the purchase order then the subcontractor shall be liable for and shall indemnify the purchaser against such damages.

## 5. Payments

5.1 The subcontractor may submit a payment claim on the 28<sup>th</sup> day of each month or any other date agreed between the parties. The purchaser must provide a payment schedule within 10 business days of receipt of the payment claim.

5.2 Terms and time of payment should be stated in quotations or orders but if nothing is stated, then a payment period of 30 days will apply.

5.3 The purchaser shall retain ten percent (10%) of monies becoming due for the Works, until the sum retained is five percent (5%) of the total amount payable for the work. Half the sum so retained by the purchaser will be released on satisfactory completion of the works. The remainder of the sum will be released on the expiration of the period of 26 weeks or as otherwise stated from the acceptance by the purchaser of the works pursuant to Clause 23.

5.4 The purchaser shall permit the subcontractor at any time to substitute security in lieu of retention in the form of security by party having the benefit of the security.

5.5 Before becoming entitled to any payment, the subcontractor shall deliver to the purchaser a certificate to the following effect:

*"I declare that all wages and site allowance payable to any of my employees on the works have been paid to date and correct income tax installments have been deducted and the I accept responsibility and have made adequate provision for payment of, and have prepared all necessary documentation for, holiday pay, long service leave, payroll tax and workers' compensation insurance on such wages, and that such employees are insured under the Workers' Compensation Act in the State in which the purchase order is issued and in addition I/We am/are insured against common law claims by my/our employees for an adequate amount. Moreover, I declare that the provisions of the Income Tax Assessment Act and the Taxation Administration Act*

*have been complied with in respect of my subcontractors engaged to perform any part of the works."*

## 6. Instructions

The subcontractor shall not carry into effect any instruction or direction in respect of the Works given by any person other than the purchaser's contracts supervisor for the time being, or other employee appointed in writing by the purchaser.

## 7. Quality of Works or Materials

If the materials supplied or workmanship performed by the subcontractor are not in accordance with relevant plans, specifications and standards, the purchaser may instruct the subcontractor to remove and/or execute and/or replace any part of the materials or workmanship. The subcontractor shall, at no charge to the purchaser, comply with any such instruction.

## 8. Variations

8.1 The subcontractor shall vary the Works if required by the purchaser in writing and the reasonable costs of any such variation agreed to in writing by the purchaser shall be added to or deducted from the price stated in the purchase order for the works, as the case may require.

8.2 The subcontractor shall not be entitled to payment for any variation not authorised in writing. If the parties fail to agree on the cost of an authorised variation, then the purchaser may require the subcontractor to execute the variation and the matter of the cost shall be settled in accordance with Clause 27.

8.2 The subcontractor shall not be entitled to payment for any variation not authorised in writing. If the parties fail to agree on the cost of an authorised variation, then the purchaser may require the subcontractor to execute the variation and the matter of cost shall be settled in accordance with Clause 27.

8.3 The purchaser may at its option have any variation carried out by a third party and in this event, the subcontractor shall allow free access to such third party and it's employees as required.

## 9. Hours of Work

No part of the Works shall be executed on the site outside normal working hours prevailing on the site of the Works without prior written consent of the purchasers, which consent shall not be unreasonably withheld.

## 10. Regulations etc

The subcontractor shall give all necessary notices and pay all necessary fees and shall comply with all provisions and requirements statutory or otherwise relevant to the Works.

## 11. Indemnity

11.1 The subcontractor shall be liable for and shall indemnify the purchaser against any legal liability, loss claim or proceeding in respect of damage or injury whatsoever to any property real or personal. This would include but without limitation underground cables and services and other concealed work. The subcontractor shall be liable for any damage or injury which arises from the execution of the Works due of the subcontractor, its servants or agents or any subcontractor.

11.2 The subcontractor shall be liable for and shall indemnify the purchaser against any legal liability loss, claim or proceeding whatsoever arising under any statute or at common law in respect of personal injury to or death or any person whomsoever, including but not limited to any employee or agent of the subcontractor arising out of or in course or caused by the execution of the Works or in any way related, unless due to any act or negligence, omission or default of the purchaser of any person or persons in the direct employ of the purchaser.

## 12. Insurance

The subcontractor shall insure under a public liability policy against any damage, loss or injury which may occur to the property or person of any third party arising out of the subcontractor's execution of the Work's, and shall lodge with the purchaser evidence that all insurances required have been effected and the Purchaser reserves the right to call for such evidence at any time during the currency of the Works.

## 13. Default

If the subcontractor shall become bankrupt or go into liquidation or if it shall make default in any of the following respects: (a) if it wholly suspends the work before completion, or (b) if it fails to proceed with the works with reasonable diligence in a competent manner, or (c) if it fails to comply with notice from the purchaser requiring it to remove and replace defective work or materials or (d) it commits any breach of these or other conditions stated in the purchase order, then the

purchaser may notice in writing determine this agreement. Such determination shall not affect any rights of the purchaser accrued against the subcontractor.

## 14. Determination

If the Works from all or part of a contract which binds the purchaser to any proprietor or any principal contractor at the date of the purchase order, and if for any reason that contract is determined, then the purchaser may determine the purchase order between the subcontract and the purchaser covering the Works.

## 15. Scaffolding

Should the subcontractor or its employees or any subcontractor elect to use any scaffolding or equipment belonging to or provided by the purchaser, then such use shall be on the express conditions that no warranty or other liability on the part of the purchaser will be created or implied as to the condition or suitability of the scaffolding equipment.

## 16. Care of Company Materials

Whenever the purchaser shall notify the subcontractor that it will store in the premises of which the works form part materials to be fixed by the subcontractor into the Works, then the subcontractor will take such steps as it is reasonably able to take to protect the materials from damage or theft.

## 17. Notices

Any written notice to be given shall be deemed to be sufficiently given if served personally on or sent by prepaid post addressed to the person whom it is to be given at the address appearing in the purchase order or at the last known place of abode or business.

## 18. Sub-letting

The subcontractor shall not assign or sub-let the purchaser order or any portion of it without the prior written consent of the purchaser.

## 19. Wages

The subcontractor shall pay their employees the rate of wages and observe and perform the conditions that are provided for in any relevant award or industrial agreement applicable to such employees during the currency of the Works.

## 20. Removal of Workers

The purchaser may require the removal from the Works of any person employed by the subcontractor who in the opinion of the purchaser is incompetent or misconducts himself/herself.

## 21. Cleaning Up

The subcontractor shall keep the Works clean and tidy as they proceed and on completion shall remove its plant and equipment and residues and leave the Works trade cleaned and tidy. If it shall fail to do this within 48 hours of being instructed, the purchaser may carry out whatever may be required and the cost shall be deducted from any monies due or becoming due to the subcontractor.

## 22. Damage

The subcontractor shall on demand pay the purchaser the cost of making good any damage done by them or their employees or subcontractors to the Works or to property for which the purchaser is responsible and if it shall fail to pay to pay, the purchaser may deduct the cost from any monies due or becoming due to the subcontractor.

## 23. Defects

The subcontractor shall maintain the Works until completed satisfactorily and accepted in writing by the purchaser and shall in addition make good all defects in the Works due to faulty Workmanship or materials supplied by the subcontractor which appear within a period of 52 weeks from acceptance by the purchaser of the Works.

## 24. Taxes and Duties

Any taxes or duties levied on and directly attributable to this agreement shall be borne by the subcontractor.

## 25. Definitions

Words denoting persons shall also denote companies and words denoting the singular shall include the plural and vice versa.

## 26. Settlement of Disputes

(a) Failing settlement of a payment dispute or any other difference arising whatsoever in connecting with the contract the matter shall be submitted to Alternative Dispute Resolution. Failing settlement by this procedure the dispute should be submitted to arbitration.