

1. GENERAL MATTERS
 - 1.1 In this Order "Agon" means Agon Environmental Pty Ltd ACN 29 167 746 063. The "Goods" and "Services" means the goods and services described in the Purchase Order Form; "specified date(s)" means the date(s) for supply specified in Order and "Warranty Period" means the period specified in Order commencing on the date of final supply of Goods to nominated delivery point or date of final performance of Services, as applicable, but in any event not less than one (1) year. Unless inconsistent with Order, a trade term has the meaning defined in the edition of INCOTERMS current at the date of Order.
 - 1.2 Acceptance of Order or supply of Goods or Services pursuant to Order is acceptance of these terms and conditions and of those set out or referred to in the annexed documentation and excludes Supplier's terms and conditions. The following documents comprise Order, constitute the entire agreement between the parties and take precedence in the following order: the Purchase Order Form; these General Terms & Conditions (as amended by any special conditions set out in the Order or otherwise annexed hereto); specifications (if any); drawings (if any) and other annexed documentation. Supplier is deemed to have carefully examined all documents provided by Agon and fully satisfied itself regarding all the conditions, risks, contingencies and other circumstances which might affect supply. If Supplier discovers any ambiguity in this Order, it will immediately notify Agon. Agon will then determine the correct interpretation of Order and Agon's determination will be final and binding on Supplier.
 - 1.3 All specifications and information provided by Agon to Supplier in relation to Order are confidential to, and remain property of, Agon or its customers (as the case may be). Such specifications and information and the prices, terms and conditions of Order must not be disclosed to any third party without Agon's consent and must be used by Supplier solely for performance of its obligations. Supplier's obligations under this clause are continuing obligations and will survive completion or termination of Order.
 - 1.4 Supplier will not subcontract or assign all or any part of its rights or obligations under Order without Agon's consent. Such consent will in no way relieve Supplier of any of its obligations under Order.
 - 1.5 Any notice, consent or other communication in relation to Order must be delivered in writing in a form which can be read and recorded conveniently and will take effect from the time it is delivered to nominated address of relevant party. Verbal communications must be confirmed in writing within a reasonable time.
 - 1.6 Unless otherwise specified, Order will be governed and construed in accordance with laws of the State or Territory in which Order is issued and the parties will submit to the non-exclusive jurisdiction of its Courts.
 - 1.7 No failure or delay on Agon's part in exercising any of its rights will constitute a waiver of any such rights.
2. INSURANCE AND INDEMNIFICATION
 - 2.1 Supplier will effect and maintain the policies of insurance specified in Order and in any event sufficient to cover its liability under Order to the extent it is insurable.
 - 2.2 Supplier shall effect and maintain the following insurance policies:
 - 2.2.1 Workers compensation insurance as required by the laws of the State or Territory where work is executed for the entire duration of the Services;
 - 2.2.2 Public liability insurance for a minimum sum of \$20,000,000 in respect of any Claim and unlimited as to the number of Claims for the entire duration of the Services; and
 - 2.2.3 Professional indemnity insurance, for a sum of \$10,000,000 in respect of any Claim and in the aggregate. The insurance must be maintained for a period of not less than 7 years following completion of the Services.
 - 2.3 Supplier shall, prior to the commencement of the Services and on request from Agon at any time make available for inspection by Agon the insurance policies referred to in clause 2.2.
 - 2.4 Supplier will indemnify and keep indemnified Agon and its officers, employees and agents against all claims, demands, proceedings, liabilities, costs, charges and expenses arising as a result of any act or omission, negligence, breach or default of Supplier, its officers, employees or agents related to Supplier's obligations, including those arising from any infringement of any intellectual property right under Order.
3. SUPPLIER WARRANTIES
 - 3.1 Supplier represents and warrants and it is a condition of Order that: (a) all Goods and Services will be of merchantable quality, suitable for the purpose for which they are required by Agon and free from defects in design, materials and workmanship and will comply with their respective descriptions; (b) it will use new and undamaged materials, unless otherwise specified in Order; (c) its workmanship will be of highest quality and standard and its obligations will be carried out in accordance with Order, good engineering practice and all applicable Australian and international standards and codes; (d) it has the capability, skills, resources and expertise necessary to supply Goods or Services in accordance with Order; (e) supply of Goods or Services under Order will not infringe any patent, trade mark, copyright, registered design or intellectual property right of any third party; (f) it will comply with standards of quality specified in Order and, if no standards are specified, will comply with best quality standards as applicable; (g) Goods will be free from liens, charges, encumbrances, mortgages or other defects in title; and (h) it will comply with all applicable laws and with lawful requirements of statutory authorities related to supply of Goods or Services under Order including any applicable statutory terms, conditions and warranties.
 - 3.2 During Warranty Period, Agon may notify Supplier of any failure or defect in Goods or Services. Supplier will, without delay and at no cost to Agon, correct any such defect or failure which is a breach of clause 3.1, by way of repair, replacement, resupply or other means acceptable to Agon. If Supplier fails to correct any such defect or failure within time specified in notice (which will not be unreasonable) Agon may rectify such defect or failure itself, or have the rectification undertaken by a third party, and costs so incurred will be a debt due and payable by Supplier or deducted from monies otherwise owing to Supplier. Any Goods or Services repaired, replaced or resupplied under this clause may be subject to a further full Warranty Period, if Agon requires, commencing on date of completion of any such repair, replacement or resupply.
4. TESTING AND INSPECTION
 - 4.1 Goods must be tested and satisfy tests as required by specifications. Unless set out elsewhere in Order, Supplier is responsible for any tests and the costs of such tests. Supplier will promptly notify Agon of test results. Agon may, in case of manufactured Goods, inspect at Supplier's premises everything to be used in their manufacture or Agon may direct Supplier to conduct such an inspection. Agon may inspect Goods at Supplier's premises. Such inspection will not constitute acceptance of Goods or their compliance with Order or affect Agon's rights to reject any Goods at any time for any non-compliance of Goods with Order. Goods will not be accepted until Agon notifies its acceptance.
5. DELIVERY, TITLE AND RISK
 - 5.1 Unless otherwise specified in Order, Goods will be delivered DDP, adequately packaged and protected to ensure safe delivery, to nominated delivery point, by specified date(s). Delivery of the Goods is evidenced by the signature on the delivery docket by the duly authorised representative of Agon. Services will be performed by specified date(s). Performance of a Service is evidenced by the signature on an acceptance form by the duly authorised representative of Agon. Supplier must comply with any rules imposed by Agon in respect of Agon premises.
 - 5.2 Time is taken to be of the essence with regard to such delivery and performance. Supplier must immediately notify Agon if it believes that it is reasonably likely that delivery of Goods or performance of Services may not meet specified date(s).
6. OCCUPATIONAL HEALTH AND SAFETY
 - 6.1 Supplier must comply with all applicable occupational health and safety laws, all safety instructions that Agon issues (including any health and safety notices and handbooks) and all reasonable directions that Agon may issue to the Supplier regarding health and safety.
 - 6.2 Supplier must ensure that all plant, tools, equipment and substances that are used in providing services under this Order are provided in a safe and serviceable condition and are used in accordance with their operating instructions.
 - 6.3 Supplier must allocate time for any necessary health and safety specific training. Supplier shall adopt all necessary measures to ensure Supplier's workers' safe working conditions during performance of the services, in compliance with applicable legal requirements.
 - 6.4 If Supplier engages in conduct which, in Agon's reasonable opinion, causes a serious risk to health and safety, Agon may direct you to leave Agon's premises/ site of work, and Supplier must comply with that direction immediately. Supplier must not return to Agon's premises/site of work in these circumstances without Agon's prior written consent.
 - 6.5 Supplier agrees that they will immediately notify Agon upon becoming aware of any health and safety incidents that occur in the provision of the Order, or of any involvement by relevant health and safety authorities in matters relating to the provision of the Order.
7. VARIATION, SUSPENSION AND TERMINATION
 - 7.1 Supplier will carry out such variations of Order as Agon notifies. The parties will attempt to agree the effect such variation will have on price and specified date(s) before Supplier carries out such variation. If such agreement is not reached there is a dispute subject to clause 8. Supplier may not vary Order without Agon's consent.
 - 7.2 Agon may, at any time by notice, suspend all or part of Order for any reason whatsoever. Upon receipt of any such notice, Supplier will cease work in accordance with such notice. If Agon notifies Supplier to recommence work, Supplier must do so immediately using all available resources. Supplier will not be entitled to payment by Agon for any costs it may incur as a result of any such suspension.
 - 7.3 If Supplier commits a material breach of Order and fails to make good such breach or satisfy Agon it can complete Order within time specified within one (1) week of Agon notifying Supplier of such breach, Agon may terminate Order in whole or part.
 - 7.4 If, in Agon's opinion, Supplier is unable effectively to perform its obligations under Order due to insolvency, bankruptcy or related reasons, Agon may terminate Order.
 - 7.5 Despite any other provision of Order, Agon may terminate Order by giving two (2) weeks notice to Supplier. If Order is so terminated and Supplier is not in default, Agon will pay Supplier's costs of work it carries out before termination and all reasonable Supplier's costs associated with cancellation of orders placed by Supplier before termination. Agon will be liable only for any such costs as Supplier fully substantiates.
 - 7.6 If Order is terminated under clause 7.3 or 7.4, Agon is not obliged to make any further payment to Supplier and any additional costs incurred by Agon to complete Order in excess of amounts Agon would have paid under Order will be a debt due and payable by Supplier to Agon. In no circumstances will Agon be liable for costs, losses or damages (including consequential losses and loss of profits) arising from or as a result of termination or suspension of Order otherwise than as set out in clause 7.
8. PRICE AND PAYMENT
 - 8.1 Prices specified in Order or applying at time of Order will be fixed and firm and not subject to any variation without Agon's consent. Any reduction in the Supplier's published prices for goods or services the same as the Goods or Services will be applied to the prices specified in Order. Supplier will be responsible for payment of all applicable taxes (including any goods and services, value added, consumption or similar), duties and charges payable with respect to Goods or Services imposed by any jurisdiction. Subject to Clause 8.2, Order price is deemed to include such taxes, duties and charges. Unless otherwise specified in Order, invoices for payment will be submitted to Agon following delivery of Goods or performance of Services and acceptance by Agon of Goods or Services. Agon will make payment of approved amount by date specified on Order. All invoices must be in a form approved by Agon ("Approved Invoice"). Invoice is not an Approved Invoice unless it bears a formal Purchase Order Number issued by Agon to Supplier for the supply.
 - 8.2 Unless otherwise specified, the price or rate payable for the Goods or Services excludes any GST. The amount payable for the Goods or Services is the price or rate plus the GST payable. Where the Supplier seeks reimbursement for expenses from Agon, it will not pass on any GST included in expenses to the extent that the Supplier is entitled to an input tax credit for the GST. If the Supplier does not provide an ABN number, Agon may withhold, in accordance with law, tax from payments for the supply.
9. DISPUTE RESOLUTION
 - 9.1 If a dispute arises in relation to Order a party must not commence any court or arbitration proceedings relating to the dispute unless it has complied with this clause: (a) the party claiming that a dispute has arisen must notify the other party specifying the dispute; (b) within one (1) week of receipt of such notice, authorised representatives of the parties must meet and use their best endeavours to resolve the dispute by negotiation; (c) if the dispute is not resolved within two (2) weeks of such meeting, then the dispute must be referred to the Australian Commercial Disputes Centre for mediation in accordance with its Mediation Guidelines; and (d) the dispute has not been resolved within six (6) weeks after the appointment of a mediator. This clause does not limit in any way a party's right to seek any form of equitable relief including injunctive relief.
 - 9.2 Supplier acknowledges that Goods and Services are to be used by Agon to fulfill obligations towards third parties and that any breach by Supplier of Order may result in damages being incurred by Agon and such third parties for which Supplier may be liable. Notwithstanding any dispute, the Supplier will supply under Order and any variation of Order as Agon notifies without any effect on specified date(s).
 - 9.3 Nothing in clauses 3 or 7 prejudices any other rights or remedies Agon may have at law or otherwise under Order.
10. LIABILITY
 - 10.1 Agon's total aggregate liability to the Supplier arising out of or in any way associated with Order, except to the extent that liability cannot be limited or excluded, is limited to the price payable to Supplier in accordance with the Order.
 - 10.2 Agon has no liability to Supplier and Supplier indemnifies Agon for any claims for loss of use, production, profit, revenue, business, data, contract, anticipated savings, financial costs, increase in operating costs, economic loss, special, indirect or consequential loss or damage.