

### **Terms & Conditions**

1. If there is an inconsistency between these Conditions and any quotation or offer by the Supplier, then these Conditions shall prevail unless and to the extent only that the Purchaser agrees in writing to the contrary.
2. The Supplier warrants that the materials supplied will conform with any specification attached to this order. In the absence of any other requirement, the materials will comprise new materials of merchantable quality suitable for the Purchaser's purpose and will conform, in all respects, with all requirements of relevant Australian Standards.
3. The Purchaser may direct the Supplier to alter, add to or omit the materials. The Supplier shall not however vary the materials without the Purchaser's prior written direction. Unless the Purchaser and the Supplier agree upon a price for a variation the price shall be a reasonable price.
4. The Supplier shall deliver the materials to the Purchaser at the time for delivery and at the place for delivery stated in this order. Where a program is attached to this order, the program providing for deliveries of part of the materials on separate dates, the Supplier shall deliver those parts of the materials on those dates.
5. The Supplier shall take all reasonable steps to prevent and minimize delay. If any cause (including any direction, act or omission of the Purchaser) beyond the control of the Supplier delays the Supplier in making delivery of the materials and the Supplier within 14 days after the delay occurs gives the Purchaser a notice in writing of a claim for an extension of time for delivery, the Supplier shall be entitled to a reasonable extension of time. The notice shall specify the number of day's extension of time claimed and shall include details of the delay and the cause. If Supplier is entitled to an extension of time the Purchaser shall, within 28 days after receipt of the notice of the number of day's extension claimed, grant a reasonable extension of time.
6. If the Purchaser finds that the materials are not in accordance with this order then the Purchaser may direct the Supplier to remove the materials from Purchaser's premises. Upon receipt of such direction the Supplier shall repay to the Purchaser all moneys which the Supplier has received from the Purchaser in relation to the rejected materials. Upon repayment of the moneys the Supplier shall own the rejected materials and shall remove them from the Purchaser's premises.
7. The Purchaser shall have the right to recover from the Supplier any damages exceeding the amount repaid, which the Purchaser suffers by reason of the failure of the Supplier to supply materials which are in accordance with the requirements of the contract.
8. Unless otherwise stated in any specification or special conditions attached to this order, a Defects Liability Period of twelve months shall commence on delivery of the materials. At any time prior the expiration of the defects liability period, the Purchaser may direct the Supplier to rectify and defect in the materials which becomes apparent prior to the expiration of the Defects Liability Period. The direction shall identify the defect and state a date by which the Supplier must complete rectification.
9. Prices stated in the purchase order are not subjected to adjustment for rise and fall in costs. The Purchaser shall pay the Supplier the purchase price for the materials within the period stated in this order and if no period is stated, then within 30 days after the end of the month in which an invoice is received from the Supplier. The Supplier shall not render such invoice to the purchaser until the materials have been delivered to the purchaser. The purchaser may deduct from moneys otherwise due to the Supplier any monies due from the Supplier to the

purchaser. When the Supplier renders an invoice for the materials or part thereof the purchaser may direct the Supplier to establish that ownership of the materials or part thereof has passed to the purchaser or will upon making of the payment claimed pass to the purchaser if the Supplier fails to comply with the direction, the purchaser shall not be bound to make payment. If the purchaser requires that the materials be tested then those tests shall take place and the materials pass the test, before the purchaser is obliged to make payment to the Supplier.

10. Without prejudice to any other rights the Purchaser may have the Supplier terminate this order immediately by notice in writing if:
  - (a) The Supplier is in breach of any provision of this order and such breach is not remedied within 7 days of written notice by the Purchaser
  - (b) Materials are lost, stolen, sold, disposed of, repossessed, destroyed or damaged beyond reasonable repair prior to the passing of title to the purchase.The Purchaser may terminate the order immediately from notice in writing to the Supplier if the Supplier becomes or threatens to become or is in jeopardy of becoming subject to any form of insolvency administration.
11. The Purchaser shall not be liable upon any claim by the Supplier in respect of any matter arising out of this order unless the claim together with full particulars thereof, is lodged in writing with the purchaser not later than seven days after the occurrence of the events or circumstances on which the claim is based.
12. Where applicable, the Supplier is required to act consistently with the 2016 Code in respect of the building work that is the subject of the agreement.
13. In the event of a payment dispute arising between the parties, the Construction Contracts Act 2004 (WA) will apply which allows for adjudication of the dispute. The parties agree that the Institute of Arbitrators (IAMA) shall be the nominator of the adjudicator.