

General Terms and Conditions of Sales and Supply

1. General

1.1. These general conditions of sales and supply ("Conditions") are applicable to all deliveries, services and offers of HUBER+SUHNER (Australia) Pty. Ltd. ("H+S"). These general Conditions of sale and supply (which shall only be waived in writing signed by H+S) shall prevail over all conditions of customers' orders to which H+S has not given express written approval or to the extent of any inconsistency.

1.2. All agreements and legally relevant declarations of the parties to the contract ("Contract") must be in writing to be valid.

1.3. Offers which do not stipulate a validity period are not binding upon H+S.

1.4. The Contract between the Parties is deemed concluded when H+S confirms its acceptance in writing.

1.5. The use of an electronic signature corresponding to the current level of technology and in accordance with the legally required rulings is permissible for a conclusion of Contract or an alteration to the Contract to be effective and replaces the requirement of such in writing.

1.6. Should a provision of these Conditions prove to be wholly or partly invalid or unworkable, the parties shall jointly seek an arrangement having a legal and economic effect which will be as similar as possible to the invalid provision.

2. Scope of supplies and services

2.1. The supplies and services of H+S are exhaustively specified in the order acknowledgement and in appendices thereto. H+S shall be entitled to make any changes which lead to improvements provided such changes do not result in a price increase.

2.2. With regard to deliveries concerning cable, H+S reserves the right to over or under supply up to 10% of the ordered volume. If a specific (minimum) order quantity is required against surcharge, a special comment is to be made when the order is placed.

3. Drawings, technical documents and tools

3.1. Unless otherwise agreed upon, information in brochures, catalogues and the Internet are not binding. Data provided for in technical documents are only binding in so far as having been expressly stipulated as such by H+S.

3.2. Each party to the Contract retains all rights to technical documents provided to the other. The party receiving such documents recognises these rights and shall not without previous written consent of the other party make these documents available to any third party, either in whole or in part, nor use them for purposes other than those for which they were handed over.

3.3. Where any design or specification has been supplied by the customer for manufacture by or to the order of H+S then the customer warrants that the use of those designs or specifications by H+S do not infringe the rights of any third party and the customer will indemnify H+S against all claims and actions arising out of the use by H+S of those designs or specifications.

3.4. Tools and moulding tools of all kinds remain in all cases the property of H+S with exception of those provided by the customer.

3.5. Special conditions are to be agreed for tools and moulding tools provided by the customer to H+S. The cost for servicing and maintaining these tools are to be borne in all cases by the customer. The cost for storing these tools is the responsibility of H+S, however, up to a maximum of five years only after the last delivery was executed.

4. Regulations in force in the country of destination and safety devices

4.1. The customer shall, on or before placing the order, advise H+S of any standards and regulations relevant to the installation and operation of the supplies and services that may apply at the customer's place of business.

4.2. Provided the customer has advised H+S of the relevant standards and regulations and unless otherwise agreed upon, the supplies and services shall comply with the standards and regulations at the place of business of the customer. Additional or other safety devices shall be supplied to the extent they have been expressly agreed upon.

5. Prices

5.1. Unless otherwise agreed upon all prices shall be net ex works H+S (Incoterms, latest issue), excluding packing. All prices are quoted in Australian currency unless otherwise specified. Exchange variation formula will apply when H+S quotations are made in any other currency or where specified in writing by H+S.

Any and all additional charges, such as, but not limited to, freight charges, insurance premiums, fees for export, transit, import and other permits, as well as for certifications, shall be borne by the customer.

Likewise, the customer shall bear any and all taxes, fees, levies, customs duties and the like which are levied out of or in connection with the Contract, or shall refund them to H+S against adequate evidence in case H+S is liable for them.

5.2. H+S reserves the right to adjust the prices in case the wage rates or the raw material prices vary between the submission of the tender or quotation and the contractually agreed performance. In such case the adjustment shall be made according to the inflation rate applicable.

In addition, an appropriate price adjustment shall apply if

- the delivery time has been subsequently extended due to any reason stated in Clause 6.3, 8.1, and 8.3, or

- the nature or the scope of the agreed supplies or services has changed, or

- the design, the material or the execution has undergone changes because any documents furnished by the customer were not in conformity with the actual circumstances, or incomplete, or the customer did not, whether at the time of placing of the order or not at all, draw to the attention of H+S the standards and regulations according to Clause 4.1.

6. Terms of payment

6.1. Customers with an approved credit account shall make payment within 30 days after the date of invoice, net, without any deduction for cash discount, expenses, taxes, levies, fees, duties, and the like unless otherwise agreed upon in writing.

6.2. The dates of payment shall also be observed if transport, delivery, erection, commissioning or taking over of the supplies or services is delayed or prevented due to reasons beyond H+S' control, or if unimportant parts are missing, or if post-delivery work is to be carried out without the supplies or services being prevented from use.

6.3. If the advance payments, if agreed upon, are not provided in accordance with the terms of the Contract, H+S shall be entitled to, at its discretion, terminate the Contract and claim damages from the customer.

6.4. If the customer delays in the agreed terms of payment, he should be liable, without reminder, to pay interest to H+S on the balance outstanding to H+S from the due date of payment. Interest shall be charged at the rate of three percent (3%) per annum above the Commonwealth Bank of Australia overdraft rate for overdrafts in excess of \$100,000.00 as published from time to time.

6.5. An offset of claims from either party out of this, or in conjunction with this Contract is only allowed with an accepted or legally confirmed counterclaim.

7. Reservation of title

7.1. H+S reserves the following rights in relation to the supplies until all accounts owed by the customer to H+S are fully paid :

- a. Ownership of the supplies;
- b. To enter the customer's premises (or the premises of any associated company or agent where the supplies are located) without liability for trespass or any resulting damage and retake possession of the supplies;
- c. To keep or resell any supplies repossessed pursuant to (b) above. If the supplies are resold, or products manufactured using the supplies are sold, by the customer, the customer shall hold such part of the proceeds of any such sale as represents the invoice price of the supplies sold or used in the manufacture of the supplies sold in a separate identifiable account as the beneficial property of H+S and shall pay such amount to H+S upon request. Notwithstanding the provisions above, H+S shall be entitled to maintain an action against the customer for the purchase price and the risk of the supplies shall pass to the customer upon delivery.

8. Delivery time

8.1. The delivery time shall start as soon as the contract is entered into, all official formalities such as, but not limited, to import or payment permits have been completed, payments due with the order have been made, any agreed securities given and the main technical points settled. The delivery time shall be deemed to be observed if by that time H+S has sent a notice to the customer informing that the supplies are ready for dispatch respectively in case of services that H+S is ready to fulfill its obligations.

8.2. Compliance with the delivery time is conditional upon customer's fulfilling of its contractual obligations, especially its payments and co-operation responsibilities.

8.3. The delivery time is reasonably extended :

a. if the information required by H+S for performance of the Contract is not received in time, or if the customer subsequently changes it thereby causing a delay in the delivery of the supplies or services;

b. if hindrances occur which H+S cannot prevent despite using the required care, regardless of whether they affect the customer or a third party. Such hindrances include, but shall not be limited to, epidemics, mobilisation, war, revolution, serious breakdown in the

works, accidents, labour conflicts, late or deficient delivery by subcontractors of raw materials, semi-finished or finished products, the need to scrap important work pieces, official actions or omissions by any state authorities or public bodies, natural catastrophes, acts of God;

c. if the customer or a third party is behind schedule with the performance of its contractual obligations, in particular if the customer fails to observe the terms of payment for the current or for previous orders.

8.4. In case a specific date instead of a delivery period is fixed, such date shall correspond to the last day of a delivery period; Clauses 8.1 to 8.3 apply by analogy.

8.5. Any delay of the supplies or services does not entitle the customer to any rights to terminate the Contract or any entitlements for damages or claims. This limitation does, however, not apply to unlawful intent or gross negligence on the part of H+S, but does apply to unlawful intent or gross negligence of persons employed or appointed by H+S to perform any of its obligations.

8.6. Notwithstanding that H+S may have delayed or failed to deliver the supplies and services (or any part of them) promptly, the customer shall be bound to accept delivery and to pay for the supplies and services in full provided that the delivery shall be tendered at any time within three (3) months of the original scheduled date of delivery.

9. Passing of benefit and risk

9.1. The risk in each order passes to the customer upon delivery of that order to the customer or collection of that order by the customer's agent or carrier as the case may be. Respectively for on-site contracts by the beginning of use of supplies or services the latest.

9.2. If dispatch is delayed at the request of the customer or due to reasons beyond H+S's control, the risk of the supplies shall pass to the customer at the time originally foreseen for their leaving the works. From this moment on, the supplies shall be stored and insured on the account and at the risk of the customer and payment for the supplies shall become due and payable in accordance with clause 6.1.

10. Forwarding, transport and insurance

10.1. H+S shall, the latest with the order, be notified of special requirements regarding forwarding, transport and insurance. The transport shall be ex works H+S (Incoterms, latest issue) at customer's expense and risk.

Objections regarding forwarding or transport shall upon receipt of the supplies or of the shipping documents be immediately submitted by the customer to the last carrier.

10.2. The customer shall be responsible for taking insurance against risks of any kind.

11. Inspection and taking-over of the supplies and services

11.1. According to its own practices, H+S shall inspect the supplies and services before dispatch, respectively after fulfilling its services. If the customer requests further testing, this has to be specially agreed upon and paid for by the customer.

11.2. The customer shall inspect the supplies and services including partial supplies and partial services within a reasonable period upon arrival and shall immediately notify H+S in writing of any deficiencies. If the customer fails in doing so, the supplies and services including partial supplies and partial services shall be deemed to have been taken over.

11.3. Having been notified of deficiencies according to Clause 11.2, H+S shall as soon as possible remedy them, and the customer shall give H+S the possibility of doing so. After remedy of such deficiencies, a taking-over test may be carried out at the request of the customer or of H+S.

11.4. Taking-over of the supplies or services shall also be deemed completed as soon as the customer uses respectively can use the supplies or services of H+S including partial supplies or partial services.

11.5. Deficiencies of any kind in supplies or services including partial supplies and partial services shall not entitle the customer to any rights or claims other than those expressly stipulated in these general conditions.

12. Guarantee, liability for defects

12.1. Guarantee period

H+S's liability for supplies manufactured by it is limited to making good any defects by repairing the defects or at H+S's option by replacement within a period not exceeding 12 calendar months after the dispatch of the supplies.

For replaced or repaired parts, the guarantee period finishes after expiry of the original guarantee period according to above Clause.

The guarantee ceases to have effect if the customer or a third party performs inappropriate modifications or repairs or if the customer, in case of a defect, does not immediately take all appropriate steps to mitigate the damage and give H+S in writing the possibility of remedying such defect.

12.2. Liability for defects in material, design and workmanship

Upon written request of the customer, H+S undertakes – excluding the acceptance of any claims and at its choice – to repair or replace as quickly as possible any parts of the supplies which, before the expiry of the guarantee period, are proved to be defective due to bad material, faulty design or poor workmanship. Replaced parts shall become H+S' property. H+S shall bear the costs of remedying the defective parts in its works. The repair and the replacement costs outside the works of H+S are to be borne by the customer.

Upon written request of the customer, H+S undertakes – excluding the acceptance of any claims and at its choice – to repair or redo as

quickly as possible any services which, before the expiry of the guarantee period, are proved to be defective.

12.3. Liability for express warranties

Express warranties are only those which have been expressly specified as such in the order acknowledgement. An express warranty is valid until the expiry of the guarantee period at the latest, unless an extended period has been agreed upon.

If the express warranties are not or only partially achieved, H+S has the right to carry out improvements. The customer shall give H+S the necessary time and possibility of doing so.

If such improvements fail completely or in part, the customer may claim a reasonable reduction of price.

12.4. Exclusions from the liability for defects

Excluded from H+S' guarantee and liability for defects are all deficiencies which cannot be proved to have their origin in bad material, faulty design or poor workmanship, e.g. those resulting from normal wear and tear (like tear and general wear as well as causes, but not limited to, electric overload, environmental pollution, electromagnetic disturbances), improper maintenance or repair, failure to observe the operating instructions, excessive loading, use of any unsuitable material, influence of chemical or electrolytic action, interference with other products, systems or services or resulting from other reasons beyond H+S' control.

12.5. Supplies and services of sub-suppliers

For supplies and services of sub-suppliers prescribed by the customer, H+S assumes liability only to the extent of such sub-suppliers' liability obligations towards H+S.

12.6. Exclusivity of liability claims

With respect to any defective material, bad design or poor workmanship as well as to any failure to fulfil express warranties, the customer shall not be entitled to any rights or claims other than those expressly stipulated in Clauses 12.1 to 12.5, especially no claims of cancellation or damages.

12.7. Liability for additional obligations

H+S is only liable to the extent of unlawful intent or gross negligence as far as claims arising out of faulty advice and the like or out of breach of any additional obligations are concerned.

12.8. The warranty rights and remedies cannot be assigned to any third party without the prior written approval of H+S.

12.9. The customer shall comply with H+S procedures concerning the return of goods under warranty or for repair (Repair and Replacement Procedure).

12.10. H+S's liability for a breach of a condition or warranty implied by Division 2 of Part V of the Trade Practices Act 1974 is limited to :

a. In the case of goods, any one or more of the following :

- i). The replacement of the goods or the supply of equivalent goods;
- ii). The repair of the goods;
- iii). The payment of the cost of replacing the goods or of acquiring equivalent goods
- iv). The payment of the cost of having the goods repaired; or

b. In the case of services :

- i). The supplying of the services again; or
- ii). The payment of the cost of having the services supplied again.

12.11. H+S's liability under Section 74H of the Trade Practices Act 1974 is expressly limited to a liability to pay to the customer an amount equal to :

- a. The costs of replacing the goods;
- b. The cost of obtaining; or
- c. The cost of having the goods repaired, whichever is the lower amount.

13. Software

13.1. Any software delivered by H+S shall remain the property of H+S or its licensors. The customer is granted a personal, non-exclusive, non-transferable license to use the software in direct connection with the goods delivered with it. The customer recognizes the confidential nature of the software.

13.2. The software warranty is limited to software errors or defects which result in unacceptable errors in the functioning of the goods delivered with the software. H+S shall do its best efforts to replace software with such errors or defects.

13.3. Article 12 shall be applicable accordingly.

14. Erection/Installation and commissioning

If H+S undertakes the erection/installation, the supervision of the erection/installation or the commissioning, the General Conditions of Erection/Installation of H+S shall apply.

15. Non-performance, bad performance and their consequences

15.1. In all cases of bad performance or non-performance not expressly covered by these Conditions in particular if H+S, without any valid reasons, starts execution of the supplies and services so late that punctual completion is unlikely to be foreseen, or if an execution contrary to the terms of the Contract can be clearly foreseen due to H+S' fault, or if the supplies and services have been executed contrary to the terms of the Contract due to H+S' fault -, then the customer shall grant a reasonable period for H+S to remedy the bad performance or non-performance. If such additional period lapses due to H+S' fault, the customer shall be entitled to terminate the Contract with respect to the supplies or services executed, or certain to be executed, contrary to

the terms of the Contract, and to claim a refund of the payments already made.

15.2. In such case Clause 16 shall apply with regard to any claims for damages on the part of the customer and with exclusion of any further liability, and any claim for damages shall be limited to 10 % of the Contract price for the supplies and services affected by the termination.

16. Exclusion of further liabilities

All rights and claims on the part of the customer with the exception of those mentioned in these general conditions, irrespective on what ground they are based, are exhaustively covered in these Conditions and especially those not expressly mentioned for damages, reduction of price, termination or withdrawal from the Contract are excluded. In no case whatsoever shall the customer be entitled to claim damages other than compensation for costs of remedying defects in supplies or services. This in particular refers, but shall not be limited, to loss of production, loss of use, loss of orders, loss of profit and other direct or indirect or consequential damages. This exclusion of liability, however, does not apply to unlawful intent or gross negligence on the part of H+S, but does apply to unlawful intent or gross negligence of persons employed or appointed by H+S.

17. Partial supplies and partial services

17.1. The conditions concerning acceptance and guarantee are to be enforced individually if partial supplies are to be executed. The same is valid, if services are performed which are, or can be of use to the customer partially.

18. Return of packaging material and recycling

18.1. The customer shall not be entitled to any rights regarding the return of packaging material or the recycling of product delivered by H+S.

18.2. H+S shall credit reels and drums charged for, if such are returned to H+S freight paid and in proper condition.

19. Right of recourse of H+S

19.1. If, through actions or omissions of the customer or of persons employed or appointed by it to perform any of its obligations, personal injury, damage to the property of third parties or other damages occur and if a claim is made against H+S, then the latter shall be entitled to take recourse against the customer. The latter shall hold harmless H+S.

20. Jurisdiction and applicable law

20.1. The Contract for the sale of the goods or services is made in the state or territory of Australia from which this document is issued.

20.2. The parties submit all disputes arising between them to the Courts of such state or territory and any Court competent to hear appeals from those Courts of first instance.