

All works on site are to comply with the MS WHS regulations or directions or any other applicable statutory or regulatory requirements

The Marina Specialist Pty Ltd – Purchase Order Standard Terms

These Standard Terms apply to purchase orders issued by The Marina Specialist Pty Ltd trading as Marine Structures to an Australian supplier

1. General

1.1 Every purchase order ('Order') we issue is an offer to acquire goods, products or services as the case may be from you subject to these terms and conditions ('Standard Terms') and any written special conditions that we include with our Order. Where you accept our Order, there is a contract on this basis. Any terms and conditions in your quote, offer document, Order acceptance or any other document you supply are excluded.

2. Delivery

2.1 You must supply the goods, products or services as the case may be as, where and when specified in our Order or otherwise directed by us (at any time) in writing. You must keep us informed of any delays or other matter which may affect the delivery of the goods, products or services.

2.2 The Parties are to do all they reasonably can to co-operate in all matters relating to the Contract.

2.3 The Supplier is to comply, within a reasonable time, with any instruction given by us

3. Cancellations

3.1 We may cancel an Order by written notice to you: (a) at any time prior to supply; or (b) after supply, if the goods, products or services are not in accordance with our Order (including where wrong quantities are delivered) or if you otherwise breach this contract

4. Quality

4.1 You must, and all goods, products or services you supply or provide must, strictly comply with all applicable laws, regulations, codes and Australian Standards, and with our Order (including any performance criteria).

4.2 Goods and products must be new, fit for the purpose for which they are acquired, free from damage and defects in workmanship and materials and of merchantable quality. Services must be performed to a high standard of professional care and skill by appropriately trained and qualified personnel.

4.3 Without limiting clause 4.2, you must assign to us the benefit of any warranty or guarantee given by the manufacturer in respect of goods or products.

4.4 We may reject goods, products or services which do not comply with our Order or these Standard Terms, even if we have previously inspected and / or accepted them. Where goods or products are rejected, you must, at our option within 5 day s: (a) replace, repair or re-supply the goods or products at your expense; or (b) refund to us any amount we paid for the rejected goods or products and (c) in the case of services, perform them again as directed by us at your cost and expense in all respects

5. Price and payment

5.1 The price for goods, products or services is the price stated in our Order.

5.2 Unless the Order expressly states otherwise, it includes: (a) any applicable GST; and (b) all packing, insurance and delivery charges and all taxes and duties.

5.3 You may only invoice us after all goods, products or services have been delivered or completed to our satisfaction. Your invoice must: (a) be correctly addressed; (b) identify our Order number; (c) be a valid tax invoice for GST purposes; and (d) where we request it, be accompanied by documentation substantiating the amount claimed.

5.4 Unless agreed otherwise, we will pay all correctly rendered and undisputed invoices 30 days end of month.

5.5 If we dispute an invoice (a) payment is suspended until the dispute is resolved and (b) you must give us any information or document we request in relation to the invoice or the dispute.

5.6 As well as any of our other rights, we may deduct from your invoice any amount you owe us (including under any indemnity).

6. Title and risk

6.1 Title to and risk in goods or products passes to us on delivery and acceptance.

6.2 You warrant that: (a) you have complete ownership of the goods or products free of any encumbrances; (b) we will receive clear and complete title to the goods or products free from any encumbrances; and (c) no claim of infringement of moral rights will be brought against us by your employees or agents.

6.3 Any intellectual property rights created from your performance of this contract vest in and are assigned to us on creation.

7. Our materials

7.1 Any tools, patterns, designs, drawings, dies or other material used in supplying or manufacturing goods or products and that is paid for or supplied by us ('our materials') is our property.

7.2 While our materials are in your possession, you: (a) hold them solely as our bailee; (b) must store them securely and maintain them in good repair; (c) must use them only for the purpose of performing this contract; and (d) must return them to us on demand

8. Confidentiality

8.1 You must keep our confidential information (which includes information about our customers and employees) confidential and not directly or indirectly disclose, use, record, memorise, reverse engineer or copy it for any purpose other than to perform this contract, without our prior written approval.

9. Privacy

9.1 You must comply, and must ensure that your representatives (employees, officers, Subcontractors and other agents) comply, with all applicable privacy laws.

10. Indemnity and insurance

10.1 You indemnify us, our officers, employees, agents and customers against all loss, damage, claim, expense or liability incurred in connection with: (a) your performance or breach of this contract; (b) any goods, products or services you supply; (c) a claim by a third party that the goods, products or services infringe their intellectual property rights; and (d) any negligent or wilfully wrong act or omission by you, your employees, agents and contractors.

10.2 You must effect and maintain appropriate insurance policies, taking into account the goods, products or services you supply. You must provide us with proof of your insurance upon request.

11. Subcontracting

11.1 You must not subcontract the whole or any part of your obligations under this contract without our prior written approval, which we may grant or withhold at our sole discretion. You will remain principally liable for the performance of this contract and the acts and omissions of any Supplier

12. Termination

12.1 As well as our other rights, we may terminate this contract where: (a) you fail to supply goods, products or services by the date or progress with works at a reasonable rate required in our Order; (b) you breach this contract including failure to maintain any insurances required under the contract ; or (c) you become or threaten to become insolvent or bankrupt or enter into a compromise or arrangement with creditors or any form of external administration.

13. Miscellaneous

13.1 This contract may only be varied with our written agreement.

13.2 You may not assign this contract without our prior written consent which we may grant or withhold at our sole discretion.

13.3 Unless agreed otherwise in writing, these Standard Terms plus our Order constitute the entire agreement between us and you in relation to its subject matter.

13.4 The parties are independent contractors. No relationship of employment, agency, partnership or joint venture is created by this contract.

13.5 Our delay or failure to exercise a right under this contract is not a waiver of that right or any other rights. Our consent to a breach of this contract is not a consent to any subsequent breach.

13.6 If a provision of these Standard Terms is unenforceable for any reason, it shall be read down to the point of severance. These Standard Terms must not be construed to our disadvantage merely because we prepared them.

13.7 This contract is governed by the law of Queensland, Australia. You submit to the jurisdiction of the courts of Queensland and waive any right to claim that those courts are inconvenient forums.

The Supplier must ensure that the confidential information is maintained confidential

14. Definitions and interpretation

14.1 In these Standard Terms:

- The singular includes the plural and vice versa and "Parties" means the two of us.
- A person includes a firm, body corporate, unincorporated association or authority and reference to a person includes their executors, administrators, successors, substitutes and assigns.
- A reference to '\$' is a reference to Australian currency.
- 'Including' and similar expressions are not words of limitation.
- 'Goods' means goods set out in our Order.
- 'Products' means goods and / or services and includes any deliverable resulting from a service.
- 'Services' means services set out in our Order.
- 'Us', 'we' or 'our' means The Marina Specialist Pty Ltd trading as Marine Structures
- 'You' or 'your' means the supplier of products set out in our Order

15. Onsite works

15.1 The Supplier is to set reasonable standards of conduct and ensure they are met by persons engaged in carrying out the Works. Marine Structures may instruct the Supplier to remove a person from the Site for failing to meet reasonable standards of conduct.

15.2 The Supplier must ensure that it, together with its employees and Suppliers hold the requisite licence(s) and qualifications(s) for the relevant High Risk Work. The Supplier is to submit copies of these licences and qualifications to Marine Structures prior to commencing works. Relevant tickets and licences are to be employees at all times. All site personnel must undertake an onsite induction prior to works on site commencing.

15.3 The Supplier shall ensure that personal protective equipment is provided and maintained in accordance with Workplace Health & Safety Acts and Regulations and in accordance with relevant Australian Standards at all times.

15.4 The Supplier is expected, at its own expense, to supply any suitably maintained equipment necessary to perform the Services under the contract. At times we may request copies of these maintenance records demonstrating machinery has been maintained to the manufacturer's specification.

15.5 The Suppliers is expected to provide evidence of adequate supervision for the duration of the works.

15.6 The Supplier is to start work on the Site as originally agreed on by both parties, but not before satisfying all the necessary requirements including submission of requested documentation 3 Business days before commencing work on site. Any Delays could cause us to be liable for Liquidated damages.

15.7 All safety incidents, and including near misses, are to be reported immediately to Marine Structures If an incident arises, the Supplier is to investigate and submit a written report to Marine Structures using report SFTY002-2 Incident Report Form as soon as practicable after an incident occurs.

15.8 The Principal Contractor is contractually constrained to Practical Completion dates under the head contract, and the Supplier must abide by our scheduled program of works. If the Supplier causes delays, the Supplier may be liable for any costs incurred under the Head Contract if Practical Completion is not met due to the Suppliers delays. If the Supplier is aware of any potential delays, the Supplier must notify in writing to the Principal Contractor reasons for a potential delay.

15.9 The Principal Contractor is contractually constrained to Defects Liability periods within the Head Contract. If, within the Defects Liability period, a Defect arises from the Suppliers completed scope of works, the Supplier is responsible for rectifying the Defect at the Suppliers cost and in a timely manner and at the Suppliers cost.