



DELKOR RAIL PTY LTD
ABN 16 003 769 140
("Purchaser")

TERMS AND CONDITIONS FOR PURCHASE

1. GOVERNING TERMS AND CONDITIONS

Delkor Rail Pty Ltd ("Purchaser") seeks the supply of products as particularised in a purchase order from time to time. The party to this agreement contracted to supply a product to the Purchaser is known as the "Supplier". The Purchaser and Supplier are collectively known as the "Parties".

2. GUARANTEES

All products supplied to the Purchaser under the terms of this agreement are guaranteed by the Supplier as follows:

- a. Guarantee that the products are of acceptable and merchantable quality
- b. If a product is supplied by order based on description, specification or representation by either the Supplier or Purchaser, guarantee that the product's function, quality, material and dimensions are consistent with the order description, specification or representation
- c. The Supplier has full title and ownership to the products supplied to the Purchaser and do not possess hidden debts or extra charges on the products
- d. In the event that a product supplied under this agreement is damaged, regardless of which party is at fault, the Supplier will have or has access to spare parts and facilities available for the repair of the product within reasonable time, unless notified otherwise to the Purchaser
- e. Unless agreed to the contrary between the Parties, the warranty for each product supplied is assessed based on the nature of the product and the purchase price paid by the Purchaser to the Supplier, and any costs of freight, duties and tax applicable to the product.

3. DRAWINGS AND DIMENSIONS

All drawings, dimensions and quantities submitted with the quotation are for quotation purposes and for identifying any Purchaser specifications prior to making a purchase order. All drawings and specifications shall remain the sole property of the Purchaser and shall not be copied or divulged to any third party without the prior written consent of Purchaser.

4. ON-SITE INSPECTION

- a. In the event that the Purchaser requests for an on-site inspection of a product after making a purchase order and during the manufacturing process, the Supplier shall make all preparations reasonably necessary for the Purchaser's inspection.
- b. The Purchaser may request an inspection by providing reasonable notice to the Supplier.
- c. The Purchaser must comply with all reasonable directions by the Supplier or their representatives during the course of the inspection.
- d. For avoidance of doubt, the Purchaser shall request an inspection solely for the purposes of examining product specifications and compliance with order requirements.

5. CANCELLATION OF ORDER

Cancellation of any order or part order by the Purchaser during the course of manufacture must be confirmed in writing. Any applicable cancellation fee shall be calculated based on the following factors:

- a. Time elapsed between the date when the Purchaser made the purchase order and the date of cancellation



- b. Whether the Supplier has incurred any freight fees specifically attributable to the cancellation of the Purchaser's purchase order
- c. Stage of manufacturing a particular product when the Purchaser provides a cancellation notice.

For the avoidance of doubt, the Supplier may not charge a cancellation fee to the Purchaser if the Supplier accepts a purchase order and the Supplier subsequently cancels the order.

6. DELIVERY

- a. Subject to clause 9, title to the products supplied under this agreement is transferred to the Purchaser on consignment of the product to the location agreed between the Parties. The Purchaser must sign a consignment acknowledgement notice in a form reasonably required by the Supplier.
- b. The Supplier acknowledges and agrees that the Purchaser shall not be liable for any product damaged in transit unless the damage is caused by an act or omission on the part of the Purchaser, their employee or agent.
- c. Notwithstanding that the Purchaser may sign a consignment notice, the Purchaser may within 7 days of product receipt issue a written notice to the Supplier of any defects which the Purchaser alleges are due to manufacturing or damage of the product in transit.
- d. Components consisting of an entire product must not be part-delivered unless agreed otherwise between the Parties.
- e. In the event that the Supplier is unable to meet an estimated delivery date and time made known to the Parties at the time of making an order, the Supplier must notify the Purchaser as soon as they become aware of the delay.

7. DEFECTIVE OR DAMAGED PRODUCTS

In the event that a product is defective or otherwise in contravention of clause 2, then notwithstanding a consignment notice, the Purchaser may elect to have the defective product returned to the Supplier. The Supplier shall be responsible for any applicable costs for freight, duties and tax for the return of such products.

8. PAYMENT

Payments for purchase of good NOT within Australia will be payable within 30 days on the later of

- a. Provision of a tax invoice by the Supplier; and
- b. Receipt of delivery of the products.

Payments for purchase of goods within Australia will be payable on the last day of the following month subject to

- c. Provision of a tax invoice by the Supplier; and
- d. Receipt of delivery of the products.

For the avoidance of doubt, if the products are received on 15 January, and invoice tendered on 28 January, payment date will be on 28 February..

For purchase of goods within Australia, Goods and Services Tax (GST) will be shown separately in the tax invoice for the sale of the products. The amount of GST payable in respect of the supply of the products is payable by the Purchaser.

9. PASSING OF PROPERTY AND RISK

Property in the products supplied by the Supplier to the Purchaser pursuant to these terms and conditions shall not pass to the Purchaser until those products supplied to the Purchaser have been paid in full.



10. APPLICABLE LAW

The rights and obligations of the Parties shall be governed by the laws of the state in which the sales contract is issued and the Parties shall irrevocably submit to the jurisdiction of the courts of that State and the Commonwealth of Australia for the purpose of determining such rights and obligations.

11. DISPUTES AND CLAIMS

If any disputes or claim arise between the Purchaser and the Supplier in the provision of supply or services, then both Parties must first try to settle the dispute by way of good faith negotiation. Any disputes which can not be settled within 14 days must then be submitted to mediation.

12. SEVERABILITY

If any of these terms or conditions are deemed invalid, void or unenforceable, that term and condition will be deemed severable and does not affect the validity and the enforceability of the balance of these terms and conditions.