



## **BRIDGEPORT GENERAL TERMS & CONDITIONS FOR STANDARD PURCHASE ORDERS**

**Bridgeport's General Terms and Conditions contained herein shall prevail and take precedence over any conflicting terms and conditions contained in any Supplier purchase order, service order or other documentation or printed form of the Supplier, notwithstanding any language in the Supplier's forms to the contrary.**

***Performance by the Supplier of the Purchase Order attached to these General Terms and Conditions will be deemed to constitute acceptance by the Supplier of these General Conditions.***

### **1. Definitions**

*"Bridgeport"* means Bridgeport Energy Limited and any Related Body Corporate (as that term is defined in the *Corporations Act 2001 (Cth)*);

*"Contract"* means this document, the Purchase Order and all other documents specified on the Purchase Order and specifically excludes any conflicting terms and conditions contained in any Supplier purchase order, service order or other documentation or printed form of the Supplier;

*"Date Expected"* means the date for delivery specified in the Purchase Order;

*"Force Majeure"* means any act, circumstance or event beyond the reasonable control the party concerned resulting in or causing a failure or delay, hindrance to, or interference, whether wholly or in part, with the performance of that party's obligations. Such circumstances and events include but are not limited to earthquakes, cyclones, floods, fires, lightening, storms or other acts of God, blowouts, strikes or industrial disputes, except those initiated or substantially contributed to by the Supplier or the Supplier's Personnel, lockouts, riots, terrorist acts, picketing, boycotts, insurrections, rebellions, civil disturbances and dispositions or orders of governmental authority, delays associated with native title or cultural heritage or compliance with any law, regulation, or other requirement of any governmental authority, body or court, but shall not include lack of funds nor economic hardship;

*"Goods"* means the goods to be delivered in accordance with the Contract;

*"Payment Terms"* means the payment terms specified in the Purchase Order;

*"Place of Delivery"* means the place specified in the Purchase Order;

*“Price”* means the Total Due as specified in the Purchase Order;

*“Purchase Order”* means the document titled “Purchase Order” addressed to the Supplier specifying details of the Goods and / or Services to be provided and any specific conditions including any specific payment arrangements which may apply;

*“Services”* means the services described in the Service Order, to be delivered in accordance with this Contract; and

*“Supplier’s Personnel”* means any of the Supplier’s officers, employees, subcontractors (including subcontractor’s personnel), agents and representatives involved either directly or indirectly in the provision of the Goods and/or Services.

## **2. Scope of Contract**

The Supplier will supply the Goods and/or Services to Bridgeport by the Date Expected in accordance with the terms and conditions of the Contract. This Contract constitutes the entire agreement between the parties relating to its subject matter. No amendment to this Contract shall be binding unless in writing.

## **3. Title, Risk and Delivery**

3.1 The Supplier will deliver the Goods and/or supply the Services to Bridgeport at the Place of Delivery.

3.2 The Supplier will retain ownership of the Goods until such time as the Goods have been received and accepted by Bridgeport or its nominee at the Place of Delivery, at which point full and unencumbered ownership will pass to Bridgeport.

3.3 The Supplier will be responsible for and bear all risk associated with the Goods (including design, manufacture, transport, supply and insurance) until such time as the Goods have been received and accepted by Bridgeport or its nominee at the Place of Delivery at which point risk in the Goods will pass to Bridgeport.

## **4. Performance of the Services**

4.1 The Supplier will perform the Services in a prompt, diligent, skilful, technically competent and workmanlike manner, in accordance with:

- (a) the standards of diligence, skill and care normally exercised by a similarly qualified and competent person in the supply of services comparable to the Services;
- (b) accepted industry standards and Bridgeport’s policies (as provided by Bridgeport from time to time), permit requirements and any applicable laws and regulations including occupational health and safety and environmental protection;
- (c) any specifications and other documents as provided by Bridgeport to the Supplier to detail the Services to be performed; and
- (d) the terms of this Contract.

4.2 The Supplier must:

(a) furnish all necessary labour, supervision, machinery, equipment, materials and supplies in performing its obligations under this Contract;

(b) obtain and maintain all building and other permits and licenses required by public authorities in connection with its obligations under this Contract; and

(c) control and direct all operations in the Supplier's own name, and not in the name of, or as agent for, Bridgeport.

## 5. Prices and Payment

5.1 The Supplier will invoice Bridgeport in accordance with the directions provided on the Purchase Order. If so requested by Bridgeport, the Supplier will submit further information necessary to substantiate the Supplier's invoice or any part of the invoice. Bridgeport will, in accordance with the terms specified on the Purchase Order, pay the Supplier the Price. All moneys due from the Supplier to Bridgeport and any amount which Bridgeport may have incurred or paid and for which the Supplier is liable, may be deducted by Bridgeport from any amounts due to the Supplier under this Contract.

5.2 Providing that an invoice is not in dispute, Bridgeport will make payment of the same to the Supplier within 30 days from receipt of the invoice.

5.3 Acceptance of, or payment for the Goods and/or Services by Bridgeport shall not constitute a waiver of the foregoing and nothing in this Contract shall exclude any warranties implied by law.

## 6. GST

6.1 Unless otherwise stated, if GST is or becomes payable on any Supply from time to time made under this Contract, the Consideration for that Supply is to be considered exclusive of GST and the person making the Supply may recover from the Recipient the amount of the GST at the same time and in the same manner as the Consideration for that supply is payable provided that the person making the supply issues a valid Tax Invoice or Adjustment Note (if applicable) enabling the Recipient to claim all applicable Input Tax Credits.

6.2 If the Recipient is entitled to withhold a disputed portion of an amount on which GST is payable, the Recipient is not required to pay the non-withheld portion until the person making the Supply issues a replacement Tax Invoice or Adjustment Note permitting the Recipient to claim all applicable Input Tax Credits for the amount not withheld. Once the dispute regarding the withheld amount is resolved, the Recipient must make payment of the applicable amount upon receipt of a further Tax Invoice or Adjustment Note issued by the person making the Supply.

6.3 In this clause 6 capitalised terms have meaning given to them in the GST Law.

6.4 In addition:

(a) "**Consideration**" means the consideration to be provided under this Contract for the Supply.

(b) "**GST Law**" means *A New Tax System (Goods and Services Tax) Act 1999 (Cth)*;

(c) “**Recipient**” means the party that receives the Supply from the Supplier; and

(d) “**Supply**” means any supply to the Recipient by the Supplier pursuant to this Agreement. However, if the GST Law treats part of a supply as a separate supply for the purpose of determining whether GST is payable on that part of the supply or for the purpose of determining the tax period to which that part of the supply will be attributable, such part of the supply will be treated as a separate supply for the purposes of this clause 6.

## **7. Supplier’s warranty**

The Supplier warrants that:

- (a) it is able and suitably qualified and experienced to supply the Goods and/or Services in accordance with the Contract;
- (b) it holds all licences, permits, consents and authorisations required to be held by someone supplying the Goods and/or Services
- (c) it is the legal and beneficial owner of the Goods;
- (d) it will exercise due skill, care and diligence in the supply of the Goods and/or Services in accordance with this Contract;
- (e) it will comply with all applicable laws, regulations and standards in performing its obligations under this Contract, including without limitation the *Competition and Consumer Act 2010 (Cth)*;
- (f) the Supplier’s Personnel have all necessary government approvals required to lawfully work in Australia, and will be paid and engaged upon work conditions in accordance with the law and any relevant industrial award or agreement; and
- (g) it has not engaged in any activity, practice or conduct that would constitute an offence under Division 270 or Division 271 of the Schedule to the Criminal Code Act 1995 (Cth), and it is not aware of any such activity, practice or conduct by its personnel or its immediate subcontractors or suppliers.

and that the Goods will:

- (h) conform with the requirements of the Contract including any API specifications;
- (i) not infringe any applicable patent, registered design, copyright or other proprietary right of a third party;
- (j) be free from all defects;
- (k) conform to any legally applicable standards and comply with all relevant legislation;
- (l) operate under any conditions set out in the Contract; and
- (m) be fit for purpose and of merchantable quality.

## **8. Defects Liability**

8.1 If any defect attributable to the design (other than a design furnished by Bridgeport), workmanship or operating characteristics of the Goods and/or Services arises at any time up to 12 months from the date when the Goods and/or Services are first put into operation or supplied, the Supplier shall at its own expense and as soon as practicable after receiving notice from Bridgeport, make such alterations, repairs and replacements to the Goods and/or Services, as may be necessary to correct the defective design, workmanship or operating characteristics.

8.2 If any defect is not corrected in a reasonable time after the Supplier receives notice from Bridgeport, Bridgeport may repair or replace the defective Good or resupply the Services and the cost thereof shall be a debt due and owing by the Supplier to Bridgeport.

8.3 Where the Supplier obtains any warranties or guarantees not specified in this Contract or where any warranties or guarantees extend beyond the warranty periods in this clause 8, the Supplier shall ensure that Bridgeport shall have the benefit of such warranties or guarantees.

8.4 In the event of any remedial work referred to in clause 8.1, a new warranty will apply to such work for a period of 12 months from its completion or until expiry of the normal warranty period whichever is later.

## **9. Indemnity**

9.1 The Supplier must indemnify and keep indemnified Bridgeport from and against any and all loss, damage or liability suffered by Bridgeport resulting from the Supplier's breach of this Contract or its negligent act or omission.

9.2 The parties shall only be liable for or be required to indemnify the other for damages for indirect loss, actual or anticipated profits, or any consequential, special and contingent damages, indirect economic loss (in tort), loss of revenue, savings, opportunity or goodwill, loss of property or mineral rights, or indirect loss in respect of a third party claim under this Contract to the extent such liability arises out of events or circumstances in respect of which insurance proceeds are available under an insurance policy required to be put into effect by a party under this Contract (or would have been available had such party complied with its obligations under this Contract). In such case, the total aggregate liability of a party will be the amount which is paid under that insurance policy, or would have been paid had the relevant party so complied, up to the limits of such insurance as are required hereunder.

9.3 Clause 9.2 does not limit the Supplier's liability:

- (a) to the extent it cannot be limited at law;
- (b) excludes, restricts or modifies any rights or remedies provided under the *Competition and Consumer Act 2010 (Cth)* which cannot be excluded, restricted or modified; or
- (c) arises out of or in connection with the Supplier's wilful default, fraud or criminal conduct.

9.4 The indemnities contained in this clause 9 continue in effect after the termination of this Contract.

## **10. Import/Export**

The Supplier shall be responsible for the import into Australia of all items necessary to perform this Contract. The Supplier shall take all steps necessary to obtain any exemptions from customs duties or import/export taxes or the like and shall not do or fail to do any act which may prejudice such exemption. If an exemption is not available and this is not due to any fault of the Supplier, then Bridgeport shall reimburse the Supplier for the actual documented cost of any customs duties, import/export taxes or the like which have been paid by the Supplier, provided Bridgeport has approved such costs in advance.

## **11. Confidentiality**

The Supplier will, and will ensure that the Supplier's Personnel will, keep confidential and will not disclose to any third party or use, other than for the purposes of this Contract, without prior consent of Bridgeport, any data or information obtained as a consequence of this Contract. The Supplier will take or cause to be taken such reasonable steps as may be necessary for the compliance with the above obligations, which will survive the expiration of this Contract. The Supplier will not publish or otherwise disclose anything associated with this Contract or Bridgeport without Bridgeport's prior written consent.

## **12. Force Majeure**

12.1 If, by reason of Force Majeure, a party's performance of this Contract is prevented or delayed, the party so affected shall be relieved of its obligations under this Contract while the Force Majeure continues.

12.2 In such event, the affected party shall give notice to the other party within 48 hours specifying the circumstances which that party believes constitutes Force Majeure, the estimated duration thereof and all relevant information as is available pertaining to such event. The affected party shall use its best endeavours to overcome or remedy any such Force Majeure event as soon as is possible.

## **13. Insurance**

The Supplier must procure and maintain throughout the term of this Contract all relevant insurance policies to support its indemnity obligations under this Contract and otherwise as required by law and will, upon request by Bridgeport, provide certificates of currency in respect of such insurances.

## **14. Compliance with Laws**

In addition to any other requirement in this Contract, the Supplier agrees to comply with and ensure that the Supplier's Personnel comply with all applicable laws, rules and regulations pertaining to the Contract.

## **15. Termination**

15.1 This Contract may be terminated by Bridgeport at any time on reasonable notice as follows:

(a) if the Supplier defaults in the performance, or observance, of any obligation, term, condition or stipulation contained in this Contract. Bridgeport may, in addition to any other rights or remedies it

has at law, give the Supplier notice specifying the default and requiring the Supplier to remedy the same at the Supplier's expense. If, within 2 days after such notice is given, the Supplier fails, in the opinion of Bridgeport, to rectify or provide adequate assurance that the default will be rectified, then Bridgeport may at any time thereafter, by notice, terminate this Contract and, Bridgeport may at its sole discretion:

(i) complete the Services; or

(ii) engage a third party supplier to complete the Services and/or provide substitute Goods, at the sole cost of the Supplier;

(b) where a Force Majeure event continues for more than 15 days; or

(c) immediately, in the event that a receiver or manager is appointed to manage or control the affairs or assets of the Supplier under any security or pursuant to any applicable law or if the Supplier goes into liquidation or if proceedings are commenced for any of those purposes.

15.2 In the event of termination pursuant to this clause 15, the Supplier shall, on receipt of the notice of termination:

(a) supply only the Goods and/or Services as specified in the notice; and

(b) comply in all respects with any directions contained in the notice.

15.3 In the event that this Contract is terminated in accordance with clauses 15.1(b) and 15.1(c), Bridgeport's sole liability shall be to pay the Supplier such sums as may be due and owing to the Supplier up to the date of termination but not more than the Price.

15.4 No action taken by Bridgeport under this clause 15 shall operate to the prejudice of the rights, remedies, powers, authorities and discretions of Bridgeport.

## **16. Governing Law**

This Contract is governed by the laws of the State of New South Wales.

## **17. Assignment**

The Supplier will not assign this Contract in whole or in part without the prior written consent of Bridgeport.

## **18. Arbitration Agreement**

Any dispute or difference arising out of or in connection with this Contract shall be submitted to arbitration in accordance with, and subject to, the Institute of Arbitrators and Mediators Australia Fast Track Arbitration Rules. The number of arbitrators will be one. The seat of the arbitration will be Sydney, Australia.

## **19. Waiver and Severability**

Unless waived in writing all rights of Bridgeport under this Contract shall remain in force notwithstanding any neglect, forbearance or delay in the enforcement of them, and no waiver will be deemed a waiver of any continuing, recurring or other breach. If any one or more clauses are declared to be invalid, illegal or unenforceable by any court of competent jurisdiction, that clause will be severed from this Contract to the extent of such invalidity, illegality or unenforceability and the remaining provisions will not be affected by that declaration.