

KADOR ENGINEERING (AUSTRALIA) PTY. LIMITED'S TERMS AND CONDITIONS OF SUPPLY

1. APPLICATION OF THESE TERMS AND CONDITIONS

For the purpose of this agreement "Kador" is KADOR ENGINEERING (AUSTRALIA) PTY. LIMITED ABN 41 010 145 534 its successors and assigns or any person acting on behalf of and with the authority of Kador Engineering (Australia) Pty. Limited; "the Buyer" is the business named on the quotation and /or credit account or work authorisation; "Goods" mean engineering products as more particularly described in the Buyer's Purchase Order and Kador's quotation; "Purchase Order" means the document issued by the Buyer to Kador for the order of Goods and includes any specifications, drawings or other documents; "Contract" means Kador's accepted quotation or work authorisation; and "Australian Consumer Law" means the Australian Consumer Law set out in Schedule 2 of the Competition and Consumer Act 2010 (Cth).

2. QUOTATIONS

A quotation shall remain in force as a basis for placing orders with Kador for thirty (30) days from the date of the Quotation, unless otherwise stated on the Quotation.

3. CONTRACT

3.1 Acceptance

Kador will not be obligated to proceed until an official purchase order is issued by the Buyer and all details pertaining to the Contract have been received by Kador.

3.2 Price

The price/s quoted is/are based on the current costs of labour, materials, bank rate of exchange for demand drafts, freight, insurance (including war risk), customs duty and all other costs prevailing at the date of the Contract. Any rise in such costs and any additional tariffs, landing charges, dues, duties, taxes and other Government impositions incurred by Kador whether on an affective hourly rate or otherwise between the date of the Contract and the date of delivery shall be payable by the Buyer. Kador's calculations of increase in price due to any of the forgoing shall be conclusive.

3.3 Sales Tax/GST

Neither Sales Tax nor GST is included in the quoted price. Any such tax that is applicable will be added to the quoted price.

3.4 Liquidated Damages

No liquidated damages will be accepted unless otherwise stated in writing in the Contract.

4. DESCRIPTIVE DATA

All illustrations, drawings, catalogues, advertisements etc. accompanying Kador's quotation or work authorisation must be regarded as informative only and are not part of the Contract unless otherwise stipulated in the quotation or work authorisation. All weights, measurement, powers, capacities and other particulars specified in these illustrations and drawings etc. are stated in good faith but inaccuracies shall not vitiate the Contract or be made the basis of any claim against Kador nor justify rejection.

5. THE BUYER'S SPECIFICATIONS

5.1 The Buyer shall furnish free of charge to Kador three (3) copies of all specifications, drawings and other information specified to be supplied by the Buyer or which may be reasonably required for the execution of the Contract.

5.2 The Buyer shall be responsible for, and shall pay the costs of all alterations to the work or delays in execution of the work arising from discrepancies, errors or omissions or delay in providing such specifications, drawing and other information.

6. INSTRUCTIONS

Insofar as these conditions require that instructions be given in writing or that information be provided, the Buyer and Kador agree that minutes certified by Kador of meetings between authorised representatives of the Buyer and Kador shall be deemed to be written instructions of information provided. The Buyer acknowledges that all the terms and conditions of the Contract are set out herein and that Kador shall not be bound to carry out any oral instructions given or alleged to have been given to any agent or representative of Kador.

7. COPYRIGHT AND MANUFACTURING DATA

The proprietary products sold by Kador are covered by various patents, design copyright and licensing agreements. In order to protect Kador's intellectual property, Kador will not release to the Buyer any details which may be used to copy Kador's products. Information relating to geometric proportions, material specifications, manufacturing drawings, check sheets that include dimensional tolerances, calculations, formulae and Kador's proprietary software will not be provided. All of the above restricted information is available for the Buyer's inspection in Kador's Sumner Park office. Copies of this information will not be provided. Ownership of Copyright will at all times remain exclusively with Kador.

8. CONFIDENTIALITY

Kador's Quotation/Work Authorisation will contain information and concepts which are proprietary and confidential to Kador.

The information contained in any Quotation/Work Authorisation must be kept strictly confidential and used only for the purpose of evaluating Kador's proposal. Disclosure of any proprietary and confidential information to any third party or other use of such information without Kador's written permission is strictly prohibited.

9. PAYMENT

9.1 Time for Payment

Payment terms apply strictly from date of Kador's invoice and all invoices shall be payable thirty (30) days from the date thereof without deduction.

9.2. Progress Payments

During the progress of the Contract Kador shall submit from time to time to the Buyer a statement showing the value of work done and/or materials purchased for the Contract and the Buyer shall make a progress payment to Kador within thirty (30) days of the date of each such statement.

9.3 Cancellation

Kador's acceptance at the Buyer's request of the cancellation of any order or part thereof implies the Buyer's agreement to the payment of a cancellation charge covering all material purchased for and all work whether productive or non-productive on the product or tools for it, carried out in connection with the order plus an amount for indirect costs and profit. Kador's account shall be conclusive as to the amount payable. Payment must be made within seven (7) days of receipt of Kador's invoice.

9.4 Interest

Kador will charge interest at a rate of two percent (2%) above the commercial lending rate of Kador's bank or financial institution calculated on a daily basis on amounts not paid within the time specified in Kador's invoice.

9.5 Damages

The Buyer must pay Kador any costs, expenses or losses incurred by Kador as a result of the Buyer's failure to pay Kador all sums outstanding as owed by the Buyer to Kador including without limiting the generality of the forgoing any debt collection and legal costs incurred in enforcing payment on a solicitor and own client basis.

10. IMPORT LICENSE

If an Import License is necessary to obtain admission into the country of destination of the Goods quoted the procurement shall be arranged by and at the cost of the Buyer who will also make the necessary arrangements for remission of funds to Australia.

11. SUSPENSION OF WORK

In the event of the suspension of work on the Buyer's instructions or lack of instructions, the Contract price may be increased by Kador to cover any extra expense thereby incurred and Kador's calculation of such increase shall be conclusive.

12. PROLONGATION

12.1 In the event that Kador is prevented from performing its obligations under the Contract within the terms and conditions herein due to any act or omission by any person, body or thing whatsoever, including strike action or act of God, then Kador has the right to extend the time to perform its obligations for a similar period to that for which it was unable to work.

12.2 If the prolongation is due to the Buyer or its agents failing to supply material, site access or facilities, information, drawings or do anything whatsoever that the Buyer or its agents should have done under its contractual obligations then the Buyer must pay prolongation costs as determined by Kador.

13. ACCEPTANCE INSPECTION

13.1 Unless stated in writing in the Contract, testing and inspection by the Buyer shall be at Kador's workshop and shall be final.

13.2 All costs and fees incurred in connection with testing and inspection other than those specifically included in the Contract will be payable by the Buyer.

13.3 No claim for defective Goods shall be made by the Buyer after such testing and inspection by or on behalf of the Buyer.

14. STORAGE OF GOODS

Kador takes no responsibility for the storage and handling of the Buyer's Goods whilst in Kador's possession. Every care will be taken to ensure the safe handling of the Goods as per the manufacture's recommendations but Kador is not responsible for any damage sustained.

15. INSURANCE

Unless otherwise stipulated herein in the Contract Kador shall not be responsible for loss or damage occasioned by burglary, fire, water accident or any other cause to the Buyer's property when left in Kador custody and it shall not be obligatory on the part of Kador to insure or exercise special case with the Buyer's property. If so directed by the Buyer, Kador will take out suitable insurance at the cost of the Buyer.

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16. DELIVERY

16.1 Delivery of the Goods "Ex Works", to a third party and/or site nominated by the Buyer is deemed to be delivery to the Buyer for the purpose of this agreement.

16.2 Any time or date for delivery is given and intended as an estimate only and Kador shall not be responsible for the consequences of delayed delivery howsoever arising. The Buyer shall accept delivery of the Goods ordered upon completion of manufacture by Kador but not earlier than the specified delivery time.

16.3 All charges incurred should the Buyer not take delivery as specified in the Contract shall be payable by the Buyer including a storage charge of 1% per month (calculated on a daily basis) of the value of the Goods. In the case of sales on "Ex Works" delivery shall be deemed to be affective on dispatch of the completed Goods.

16.4 Packing and freight will be charged to and payable by the Buyer unless otherwise stated in the Contract. In the case of sales on an F.O.B or similar basis any risk for which Kador might otherwise be liable shall cease after the Goods have been put on the wharf, rail, ship or other vehicles at place of delivery whether or not freight may be arranged or carrier engaged by Kador for Buyer's benefit or convenience.

17. FREIGHT

17.1 The Buyer agrees that as Kador has no control over the carrier's conditions the Buyer accepts and abides by the conditions and stipulations on bills of lading and similar documents.

17.2 Kador will ensure goods are packed and loaded for transport using reasonable care. However the Buyer acknowledges that Kador has no control over the state of the public roads, the Buyer's site access roads and the work practices of the Buyer's unloading crews. Kador therefore requires that minor paint and other damage caused during transport to site will be repaired by the Buyer, at no cost to Kador.

18. FORCE MAJEURE

Kador will have no liability to the Buyer in relation to any loss, damage or expense caused by Kador's failure to deliver the Goods or delay in delivering the Goods as a result of fire, flood, strike, accident, lock-out, hindrance, riot, civil commotion, war, inability to produce or obtain raw materials or component parts or import or other licenses or any other occurrence beyond Kador's control but any such delay shall not exempt the Buyer from the obligation to accept or take delivery of and pay for the said Goods.

19. WARRANTY

19.1 The Australian Consumer Law implies mandatory conditions and warranties (the "consumer warranties"). In such circumstances the Buyer has the benefit of both the consumer warranties and the warranties herein contained and in the event of any inconsistency the consumer warranties shall prevail. All other express or implied conditions or warranties in respect of the Goods are hereby excluded from the Contract.

19.2 Goods are hereby sold and warranted against any defect in workmanship appearing under proper usage within twelve (12) months from date of delivery. Where Goods contain materials, equipment or components purchased from sub-suppliers, the warranty for these items is limited to the warranty Kador receives from the sub-supplier.

19.3 No express warranty is given as to fitness or suitability of the Goods for any specific application or use unless expressly endorsed by Kador. To the extent permitted by the Australian Consumer Law the liability of Kador shall in any case be limited to the repair or replacement at the option of Kador of the defective material at the workshops of Kador.

19.4 The Buyer acknowledges that no person representing or purporting to represent Kador has authority to make any representations or warranties on behalf of Kador other than those set out expressly in the Contract and to the extent permitted by the Australian Consumer Law and any further express or implied representations and warranties are expressly void.

19.5 Kador reserves the right to make null and void the warranty should the Goods be modified, altered, damaged or put to any undue stress other than in the way the Goods were designed to perform. Work and/or service carried out on the Goods by anyone other than Kador and/or their nominated agents shall make the warranty null and void unless the Buyer obtains written approval from Kador before any remedial work is carried out.

20. CLAIMS

The Buyer must within thirty (30) days of the date of delivery of the Goods notify Kador in writing of any matter or thing by reason whereof the Buyer alleges that the Goods are not in accordance with Contract. Otherwise the Goods shall be deemed to be in all respects in accordance with the Contract and the Buyer shall be bound to accept and pay for the same accordingly.

21. RETURNS

21.1 Subject at all times to the provisions of the Australian Consumer Law, Goods returned to and accepted by Kador as defective will be dealt with in accordance with these conditions but shall not give rise to any claim on account of any loss, damage, expense or otherwise whatsoever.

21.2 Returns for credit will not be accepted except by authorised written agreement. The Buyer shall be solely liable for all freight costs of any return.

22. CONSEQUENTIAL LOSS

To the extent permitted by the Australian Consumer Law Kador shall not be subject to, nor incur, and the Buyer hereby releases Kador from any claim, action or liability for consequential loss or damage to persons or property including loss of use of the Goods or of profits arising by reason of delays, non-delivery, defective materials or workmanship, negligence or any matter, conduct or thing done or omitted by Kador.

23. DEFAULT IN PAYMENT

Should the Buyer make default in payment or fail to carry out the terms of the Contract or fail to duly make payment under any contract with Kador or become insolvent or bankrupt or call a meeting of creditors or go into liquidation, voluntary or otherwise Kador may, not withstanding any waiver of any such default or failure, and without prejudice to its other rights under the Contract, suspend delivery or cancel the Contract or require payment in cash before or on delivery of the Goods, notwithstanding the terms of payment specified.

Kador may exercise such rights either as to the whole or part of the contracted Goods. All Goods supplied by Kador remain the property of Kador until all monies outstanding to Kador in connection with the Contract (other than agreed retention monies if any) have been paid.

24. RETENTION OF TITLE

24.1 Title

Notwithstanding the delivery of the Goods or their installation, title in any particular Goods shall remain with Kador regardless of whether the Goods are on-sold by the Buyer until the Buyer has paid and discharged any and all monies owing pursuant to any invoice issued by Kador for the Goods, including all applicable GST and other taxes, levies and duties. Should the Goods be installed into another piece of equipment to form part of that equipment, the Buyer shall ensure that the Goods remain separate, distinct and identifiable and shall be severable from the equipment into which it is installed. Goods belonging to Kador whether they are installed or in storage shall be marked permanently so they are identifiable as such.

Any payment made by or on behalf of the Buyer which is later avoided by the application of any Statutory Provisions shall be deemed not to discharge Kador's title in the Goods nor the Buyer's indebtedness to Kador and, in such an event, the parties are to be restored to the rights which each respectively would have had if the payment had not been made.

24.2 Bailment

The Buyer acknowledges that it is in possession of the Goods solely as Bailee until payment of all invoices for the Goods is made pursuant to clause 24.1 and until that time:

- the Buyer is not entitled to sell the Goods but only in the ordinary course of business; and
- the Buyer shall be fully responsible for any loss or damage to the Goods whatsoever and howsoever caused following delivery or installation of the Goods to the Buyer.

24.3 Repossession

The Buyer hereby irrevocably grants to Kador the right, at its sole discretion, to remove or repossess any Goods from the Buyer and sell or dispose of them, and Kador shall not be liable to the Buyer or any person claiming through the Buyer and Kador shall be entitled to retain the proceeds of any Goods sold and apply same towards the Buyer's indebtedness to Kador.

If the Buyer commits an act of bankruptcy, enters into any form of administration or liquidation, makes any composition or arrangement with its creditors, ceases to carry on business or breaches any fundamental clause of this agreement, then Kador may, without prejudice to any other remedies it may have, repossess any Goods delivered to the Buyer on any account which has not been paid in accordance with the terms and conditions herein and commence proceedings to recover the balance of any monies owing Kador by the Buyer.

25. PERSONAL PROPERTY SECURITIES ACT ("PPSA")

25.1 In this clause, the following words have the respective meanings given to them in the PPSA: Financing Statement, Financing Change Statement, Proceeds, Register, Security Agreement, Security Interest and Verification Statement.

25.2 The Buyer acknowledges and agrees:

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- a) that these Terms & Conditions constitute a Security Agreement that creates a Security Interest in all Goods (and Proceeds):
 - (i) previously supplied by Kador to the Buyer;
 - (ii) to be supplied in the future by Kador to the Buyer;
- b) that the Security Interest created by these Terms & Conditions is a continuing Security Interest in all Goods (supplied now or in the future by Kador to the Buyer) and Proceeds, which will operate (despite any intervening payment or settlement of account) until Kador has signed a release;
- c) to waive its rights in relation to the sections listed in sub-section 115(1) of the PPSA (or as otherwise amended), which will not apply (to the extent, if any, mentioned) to the Security Agreement created by these Terms & Conditions.

25.3 The Buyer undertakes to:

- a) keep all Goods free of any charge, lien or Security Interest except as created under these Terms & Conditions and not otherwise deal with the Goods in a way that may prejudice any rights of Kador under these Terms & Conditions or the PPSA;
- b) sign any further documents and provide any further information (which must be complete, accurate and up-to-date in all respects) that Kador may require to:
 - (i) register a Financing Statement or Financing Change Statement in relation to a Security Interest on the Register;
 - (ii) register any other document required to be registered by the PPSA; or
 - (iii) correct a defect in a statement referred to in clause 25.3(b) (i) or 25.3(b) (ii);
- c) indemnify, and upon demand reimburse, Kador for all fees (including actual legal fees on a solicitor/own client basis), costs, disbursements and expenses in:
 - (i) registering and maintaining a Financing Statement or Financing Change Statement on the Register or releasing any Goods charged thereby; and
 - (ii) enforcing or attempting to enforce the Security Interest created by these Terms & Conditions.
- d) not register, or allow to be registered, a Financing Statement or a Financing Change Statement in respect of the Goods or Proceeds in favour of a third party, without the prior written consent of Kador; and
- e) immediately advise Kador of any material change in its business details (including, but not limited to, its trading name, address, facsimile number) or business practices.

26. SECURITY AND CHARGE

The Buyer hereby charges all property, both equitable and legal present or future of the Buyer in respect of any monies that may be owing by the Buyer to Kador under the terms and conditions or otherwise and hereby authorises Kador or its solicitors to execute any consent form as its attorney for the purpose of registering a caveat over any real property owned by the Buyer at any time.

27. PRIVACY

27.1 The Buyer hereby authorises Kador to collect, retain, record, use and disclose consumer and/or commercial information about the Buyer, in accordance with the Privacy Act 1988 and subsequent amendments, to persons and/or legal entities who are a solicitor or any other professional consultant engaged by Kador, a debt collector, credit reporting agency and/or any other individual or organisation which maintains credit references and/or default listings.

27.2 Kador may give information about the Buyer to a credit reporting agency for the purposes of obtaining consumer and commercial credit reports and/or lodging consumer and commercial defaults on the Buyer's credit file. This information may be given before, during or after the provision of credit to the Buyer and will be in accordance with the Privacy Act 1988 and subsequent amendments.

28. SEVERABILITY

28.1 The Contract is to be regarded as severable in the event of the Goods being of different kinds or the Contract providing for delivery by installments and the separate items of the Contract shall be regarded as separately contracted for and each and every delivery under the Contract shall be regarded as a separate contract and damages arising from any alleged break of Contract by Kador shall be limited accordingly.

28.2 Any provision in these terms and conditions which is invalid or unenforceable in any jurisdiction must be read down for the purposes of that jurisdiction, if possible, so as to be valid and enforceable. If that provision cannot be read down then it is capable of being severed to

the extent of the invalidity or unenforceability without affecting the remaining provisions of these terms and conditions or affecting the validity or enforceability of that provision in any other jurisdiction.

29. GOVERNING LAW AND JURISDICTION

These terms and conditions are governed by the laws of the State of Queensland and all disputes arising between the Buyer and Kador will be submitted to the Brisbane Registry of any Court as is competent to hear the matter.

ADDITIONAL CONDITIONS APPLICABLE TO CONTRACTS FOR MAINTENANCE OR SUPPLY AND INSTALLATION OF GOODS.

30. MAINTENANCE

Maintenance services shall be charged at rates specified in Kador's Contract or where no contract exists then at Kador's current charges. Travel time from Kador's workshop to the Buyer's site and site to workshop will be charged on to the Buyer.

31. SITE ACCESS

Kador's Contract is based on the assumption that access to the Buyer's site with suitable provision for transport of all equipment, materials and plant and the actual site itself will be made readily available during the installation period and that reasonable space will be provided in and near the installation to take deliveries of materials and to store Kador equipment, and that the Buyer shall make available to Kador (at the costs of the Buyer) all necessary telecommunications, electrical power, compressed air, light, water, waste disposal amenities, toilet and other services and facilities at the site during the progress of the work.

32. SITE SECURITY

The Buyer agrees to provide site security for Kador's tools and equipment should they be left unattended at the Buyer's site.

The Buyer shall indemnify Kador from costs, expenses or losses incurred should Kador's tools and equipment go missing or suffer damage when left unattended at the Buyer's site.

33. WORKING HOURS

Installation work will be carried out during normal working hours. Such work carried out at other times at the Buyer's request will be subject to an extra charge.

34. CONDITIONS OF PREMISES

The Buyer warrants that the structure of the premises or equipment in or upon which the Goods are to be installed is sound and will sustain the installation and work incidental thereto and Kador shall not be liable for the Buyer agrees to indemnify Kador against any and all loss, damage and/or injury and by whomsoever sustained resulting from insufficient or defective foundation walls or other structures not erected by Kador.

35. FIRE DAMAGE

Kador will take all reasonable precautions against fire during site cutting, welding and other installation procedures. Insurance of buildings and contents etc. and the Goods installed during installation shall be the responsibility of the Buyer.

36. ACCEPTANCE TESTS

36.1 Upon completion of the work or any mutually agreed part thereof the Buyer and Kador shall carry out Acceptance Tests at an agreed date or dates to establish the ability of the work or mutually agreed part thereof.

36.2 To meet the performance complying with the specification the Buyer shall forthwith issue a Certificate of Acceptance of the work or part thereof which shall then be deemed to have been finally accepted or taken over by the Buyer. Acceptances shall not be unreasonably withheld because of minor omissions or deficiencies which do not affect the commercial use of the work provided always that Kador undertakes to make good such omissions and defects at the earliest date practicable.

36.3 If by any act of the Buyer, Kador shall be prevented from carrying out Acceptance Tests within thirty (30) days from the date of completion of the work or mutually agreed part thereof unless in the meantime performance shall have proved not to be substantially in accordance with the Contract, the work shall be deemed to have been accepted on the expiry of the said thirty (30) days and payments to Kador shall be made as if satisfactory Acceptance Tests had taken place.

36.4 Notwithstanding this provision Kador shall undertake these tests during the period provided for warranty as and when required within fourteen (14) days notice in writing from the Buyer and Kador will have the same obligations and liabilities in connection with the tests provided that the Buyer shall pay the extra expense incurred in such delayed testing.

37. QUALIFICATIONS

Orders are only acceptable upon and subject to the foregoing conditions of supply and (where the Contract is for maintenance or the supply and installation of Goods) the conditions hereinafter set forth

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which constitute the whole agreement between the parties. Unless expressly agreed in writing by Kador any qualifications of these conditions in a Buyer's form shall not apply.

Signature Date

Signature Date