

FURNACE ENGINEERING PTY. LTD.

ACN 006 276 786

CONDITIONS OF PURCHASE

(These conditions listed below form part of, and are in addition to the conditions specified on the front of the Purchase Order)

1. The Purchase Order is an offer by Buyer to Seller on the terms and conditions herein contained. Acceptance of this offer by Seller in the manner specified by Buyer shall constitute the formation of a binding contract between Buyer and Seller in connection with the goods ordered.
2. For the purpose of these conditions Buyer is defined as Furnace Engineering Pty. Ltd. and Seller is the firm to whom the order is addressed as shown on face hereof.
3. The Purchase Order, when properly signed and bearing an order number is the only form which will be recognised by the Buyer as authority for charging goods and/or services etc. to the Buyer's account.
4. Goods are to be marked as shown on the order.
5. (a) The Buyer shall have the right to designate the carrier of delivering agent and routing of these goods or materials provided this shall not entail additional cost to the Seller.
(b) Delivery charges to the receiving point shown on the order must be shown as a separate item.
6. No charges are to be made by Seller for boxing crating or cartage of goods unless specifically authorised in the order.
7. Amounts payable by Buyer to the Seller hereunder are not assignable by the Seller without the prior written consent of the Buyer.
8. Unless expressly stated to the contrary on the face hereof, terms of payment are net 90 days from the date of delivery and receipt of invoice.
9. For the purpose of payment, correct invoice must be received by Buyer four (4) days after delivery otherwise payment dates and cash discount periods shall be extended by the number of days delay after receipt of correct invoice by Buyer.
10. All drawings prints specifications or samples submitted by Buyer for the purpose of the order are the property of Buyer and shall not be disposed of nor disclosed to others or used for the purpose of manufacturing parts for others without written consent of Buyer.
11. The Buyer may at any time by a written order amendment and without prior notice to the Seller make changes in this order. If such changes shall increase or decrease the cost of the work to the Seller an equitable adjustment in the contract price shall be made.
12. (a) The Buyer or its representative shall have full and free access to the shops factories or other places of business of the Seller subcontractors and suppliers of the Seller in order that it may inform itself as to the general condition and progress of the work covered by this order.
(b) Without prejudice to its right at Law the Buyer reserves the right to inspect and reject or return the goods ordered at Seller's premises or at Buyer's premises after delivery if not in accordance with specification and/or sample submitted or of merchantable quality.
13. Buyer's right to inspect and reject or return the goods ordered is not waived by payment for the goods or by acceptance of delivery thereof prior to Buyer's inspection and rejection or return of the goods. In the event of rejection or return of the goods after such payment Buyer shall have the option of calling for either replacement of the goods or refund of the amounts involved including any transportation charges.
14. If the Seller either as principal or by agent or employee enters upon the premises or property of the Buyer in order to do any work hereunder including but not limited to construction erection inspection delivery servicing or repairing the Seller shall indemnify same and hold harmless from and against all liability action claims and demands on account of personal injuries including death or property loss or damage to others (including Seller and employees and invitees of Seller and of the Buyer) arising out of or in any manner connected with the performance of such work and caused by the negligent or wilful act or omission to act of Seller or a supplier of Seller or employees or invitees or licensees or either of them and the Seller shall at his own expense defend all actions based thereon and shall pay all charges of attorneys and all costs and other expenses arising therefrom. Seller shall also procure and carry the insurance of employees on such work that may be required by any Workman's Compensation Act or similar liability act. Any such employer or agent shall remain the employee or agent of the Seller. Seller shall procure and maintain such other insurance in connection with the work as the Buyer shall specify.
15. If the merchandise covered by this order is standard stock merchandise Buyer at his option may cancel at any time any unshipped portion of this order without further obligation hereunder except to make payment subject to other applicable terms hereof, for the merchandise actually shipped prior to such cancellation. If this order covers merchandise manufactured or fabricated to the specification of the Buyer than at any time prior to completion of the work to be performed hereunder the Buyer may at his option cancel his order upon written notice to the Seller and upon the effective date of such cancellation Seller shall stop all work hereunder except as otherwise directed by Buyer. Upon any cancellation including its expense in connection with cancellation of any subcontracts all as determined by Buyer plus five percent (5%) for such costs and expenses but in no event shall the total amount to be paid hereunder exceed the purchase price specified on the face hereof and provided further that if Seller at the time of notice of cancellation is given is in default in delivery or under any other terms or conditions of this Purchase Order Seller shall not be entitled to such five percent (5%) of its out of pocket costs and expenses. Upon such payment any materials or uncompleted portions of the work shall be the property of Buyer and subject to its disposition. Notwithstanding anything contained in this paragraph the Seller shall not be entitled to any anticipatory profits or any damages caused by such cancellation. Nothing contained in this paragraph shall affect the Buyer's right to terminate this order on account of a default by the Seller under any of the terms and conditions of this order or to pursue remedies as provided by law for such default.
16. The Seller agrees that no lien shall be created against the Buyer or his property for materials or labour or both furnished hereunder and that before final payment is made by the Buyer the Seller shall if required by the Buyer, furnish a complete release satisfactory to the Buyer signed by all persons furnishing materials or labour hereunder waiving the right to create any lien.
17. Title to the goods ordered shall not pass to Buyer until physical delivery of the goods is taken by Buyer at the receiving point stated on the order.
18. All tooling dies artwork negatives/positives offset plates and other equipment and all drawings and specifications supplied without charge to Seller by Buyer and all or any such items as above which shall have been purchased or manufactured by Seller and for which Buyer shall have paid or will pay shall be the sole property of Buyer unless otherwise agreed in writing. The Seller accepts liability of damage and undertakes to insure the property specified in this clause at Seller's expense for its full value against risk of fire loss or damage from whatever cause arising. The Seller during the continuance of the contract (being Purchase Order) will not sell or offer for sale assign mortgage pledge underlet lend or otherwise deal with the said machinery or any part or parts thereof. On completion or cancellation of the order Seller shall dispose of all finished or unfinished goods, and items previously mentioned in this clause as directed by Buyer.
19. Delivery of specified requirements of the order as to quarantine and time of delivery shall be deemed a condition of acceptance of the order. No variation in supply tolerance price delivery or any other conditions shown on order will be recognised unless made in writing and agreed to by Buyer.
20. Seller undertakes to defend at Seller's expense all suits actions claims or proceedings brought against Buyer or persons or corporations acquiring from Buyer, goods subject to the order, based on infringement or alleged infringement of any patent or similar rights by the sale or use of such goods by the Buyer and to indemnify Buyer and such persons or corporations and hold them harmless against all such suits actions claims and proceedings and any costs arising therefrom.
21. Waiver by Buyer of any rights herein with regard to any specific default or defaults by the Seller with respect to supply tolerance price delivery or any other conditions or failure by the Buyer to cancel the order or any part thereof when right of cancellation arises shall not constitute waiver by the Buyer of any rights of the Buyer arising through any further or subsequent default by the Seller whether giving rise to a right of cancellation or a claim for damages.
22. Where goods are not quoted "ex-works" or "ex-warehouse" by the Seller it is his responsibility to arrange delivery for the goods in accordance with the Buyer's instructions and to bear all costs thereon and also to arrange and bear all costs of insurance on such delivery.
23. These conditions shall be governed and constructed in accordance with the laws of the State of Victoria, Australia and any proceedings against the Company or the Seller shall be brought in the State of Victoria and not elsewhere.