

Standard terms and conditions for the supply of good and services to Chalmers

- 1 In these terms and conditions the following definitions apply:
- Goods and/or Services** means those goods and/or services that are noted on the front of this form.
 - You or your** means the person noted on the reverse side of this form as "the supplier", whether a natural person, company, trust, partnership, joint venture, association or other corporate form. Any reference to you includes your employees, agents, contractors, sub-contractors, assignees or representatives.
 - Us or we or our** means Chalmers Industries Pty Ltd (ABN 87 004 330 367) and any related body corporate of Chalmers Industries Pty Ltd.
- 2 These terms and conditions apply for the Goods and/or Services that you provide to us, anywhere within Australia.
- 3 You acknowledge and agree that this is not a contract of Service. You, your employees, agents, sub-contractors or representatives are not, and are not intended to be, our employees.
- 4 You cannot vary or waive these terms and conditions without our prior written consent.
- 5 You must provide us with the Goods and/or Services described on the front of this form.
- 6 You must provide the Goods and/or Services within the time noted on the front of this form, or, if not noted, within a reasonable time.
- 7 In providing Goods and/or Services, you must comply with all of our reasonable directions.
- 8 You must, at all times, support and maintain our reputation, good customer service and cost competitiveness.
- 9 You must keep full records, data and documentation in relation to the Goods and/or Services for a minimum period of 7 years. On our request, you must make these records and documentation available to us for inspection and copying.
- 10 In the provision of Services, at all times you must:
- (a) Engage sufficient employees with adequate skills and training to provide Services in an efficient and proper manner;
 - (b) Ensure that all employees providing the Services are properly qualified to perform such Services in accordance with all applicable laws and our reasonable requirements; and
 - (c) Ensure that the Services are only provided by persons who have received appropriate training.
- 11 The rates or price for the provision of Goods and/or Services are set out on the front of this form or as otherwise agreed, and cannot be varied without our prior written consent.
- 12 You must submit an invoice to us at the end of the week after provision of the Goods and/or Services, or as we otherwise advise you.
- 12.1 An invoice must specify:
- (a) the amount due to you;
 - (b) the date or dates of provision of the Goods and/or Services to which the invoice relates;
 - (c) a description of the Goods and/or Services provided in sufficient detail to communicate the identity, nature and extent of the Goods and/or Services provided;
 - (d) any taxes, such as GST, payable in respect of the provision of the Goods and/or Services; and
 - (e) an address or method for payment.
- 12.2 All invoices must be accompanied by other such documents as we reasonably require, including any documents relating to Goods and/or Services provided by a third party.
- 12.3 We will pay your invoices approximately 30 days from the end of the month in which the Goods and/or Services were provided or the date on which we receive a properly completed and accurate invoice in accordance with paragraphs 12 to 12.2. We may pay your invoice earlier at our sole discretion.
- 12.4 We will not pay any invoice or part of an invoice where, in our reasonable opinion:
- (a) the invoice or part of the invoice relates to Goods and/or Services not performed or provided in accordance with these terms and conditions;
 - (b) the invoice or part of the invoice lists sundry charges or the like;
 - (c) you fail to provide us with satisfactory documentary evidence of your insurance in accordance with paragraph 13.1; or
 - (d) you damage our plant, vehicles or equipment or part thereof.
- 13 For any time in which you provide us with Goods and/or Services, you must maintain and keep current:
- (a) Public liability insurance, with a minimum of AUD\$20,000,000 cover in respect of any one claim;
 - (b) Workers' compensation insurance and cover for any employer's liability, loss, claim or proceedings in relation to personal injury or death sustained in the course of employment, whether arising at common law or by statute, for an unlimited amount in accordance with the local laws for any place in which you may conduct operations or for which a liability might arise; and
 - (c) Insurance against your legal liability for any loss or damage, including consequential loss or damage, arising from or relating to our goods, vehicles or other property for a minimum of AUD\$20,000,000 in respect of any one claim; and
 - (d) If you provide us with Goods, product liability insurance with a minimum of AUD\$20,000,000 cover in respect of any one claim.
- 13.1 You must provide us with satisfactory documentary evidence of your insurance when we ask you to.
- 14 You indemnify us against any loss, damage, claim, action or expense (including, without limitation, legal expense) which we suffer or might suffer as a direct or indirect result of any of:
- (a) a breach of these terms and conditions including any failure by you to provide Goods and/or Services or any delay in the provision of Goods and/or Services;
 - (b) any warranty given by you under these terms and conditions being incorrect or misleading in any way;
 - (c) the provision of Goods and/or Services or any activity directly or indirectly associated with the provision of Goods and/or Services;
 - (d) any negligent act or failure to act by you or any of your employees, agents, or subcontractors.
- 14.1 You will be liable for the acts or omissions of third parties where you have failed to exercise due diligence in selecting, supervising or instructing those third parties.
- 14.2 No assignment or sub-contracting of any of your rights or obligations under these terms and conditions will relieve you from any liability under these terms and conditions or at law.

- 15 Goods and/or Services are provided at your risk.
- 15.1 You bear the risk of loss or damage to your goods, equipment, tools or any other property.
- 15.2 You bear the risk of any personal injury to yourself, your employees, agents or subcontractors that occurs on our premises, except to the extent that such injury is directly caused by our negligence.
- 15.3 You agree that our employees, agents and subcontractors and their employees, agents and subcontractors:
- (a) have the benefit of these terms and conditions; and
 - (b) we hold that benefit on trust for them and can, if requested by them, enforce it on their behalf.
- 15.4 We, and our employees, agents and subcontractors and their employees, agents and subcontractors:
- (a) are not liable for any delay, loss, or damage arising from the supply of or failure to supply Goods and/or Services for any reason whatsoever including breach of agreement, negligence, breach of duty as bailee, or our wilful act or default;
 - (b) have the benefit of these exclusions and limitations of liability even if any loss or damage arises for any reason whatsoever including breach of agreement, negligence, breach of duty as a bailee, or a wilful act or default.
- 15.5 Paragraphs 15 to 15.4 also apply in respect of claims for consequential losses including loss of profits.
- 16 You must ensure that there is no interruption to the provision of Goods and/or Services as a result of industrial dispute or unrest. In the event of a disruption, you must make alternative arrangements so that Goods and/or Services are maintained and provided, at no cost to us.
- 17 When providing or carrying out Goods and/or Services or carrying out any functions incidental to the provision of Goods and/or Services, whether on our premises or in any other place, including a vehicle, you must:
- (a) immediately report any incident which caused or could have caused damage to any property or injury to any person to us;
 - (b) assist and support us in fulfilling our legal obligations in relation to the reporting of any incidents or accidents, including by completing incident reports and documentation;
 - (c) remain free of alcohol and non-prescription drugs;
 - (d) remain free of any prescription medication which may hinder the performance of Services in a safe and lawful manner;
 - (e) act in a safe and lawful manner; and
 - (f) comply with all relevant safety legislation and regulations, and our safety standards and policies.
- 18 In providing Goods and/or Services to us, whether on or off our premises, you will maintain your tools and equipment, including any vehicle, in a safe condition in accordance with Australian Standards and any applicable laws.
- 19 When you enter or are on our premises, you must:
- (a) take all measures necessary to protect people and property;
 - (b) avoid unnecessary interference with the passage of people and vehicles;
 - (c) wear appropriate safety clothing, vests and high visibility apparel that comply with Australian Standards at all times;
 - (d) use nominated entrances to enter and leave our premises, unless otherwise directed by us;
 - (e) prevent nuisance and unnecessary noise and disturbance; and
 - (f) not leave any debris or rubbish on or near our premises.
- 19.1 Safety, pedestrian and traffic rules may vary from premises to premises. You must comply with all of the safety, pedestrian and traffic rules and standards for each and every premises you enter.
- 19.2 It is your duty to ensure that you are aware of all applicable safety, pedestrian and traffic rules and standards for each of our premises. We will take reasonable steps to inform you of any changes to those rules or standards as they arise.
- 20 When providing Goods and/or Services, whether on or off our premises, you must comply with all equal opportunity and anti-discrimination laws, and any of our policies in relation to equal opportunity and harassment. We may terminate your engagement if you conduct or are guilty of harassment or discrimination in the workplace.
- 21 You must provide Goods and/or Services and perform all other obligations under these terms and conditions:
- (a) With due care and skill;
 - (b) In good faith and in a manner which is consistent with the maintenance of our business and goodwill;
 - (c) In a proper and efficient manner and in accordance with best industry practice; and
 - (d) In compliance with all the relevant laws and requirements of the jurisdiction in which those Goods and/or Services are rendered.
- 22 You must provide Goods, and any materials or items incidental to Goods and/or Services, that are of merchantable quality and fit for purpose.
- 23 You warrant that you are qualified to provide Goods and/or Services in accordance with the law and any other professional qualifications which are required for the provision of those Goods and/or Services. If, at any time, your qualifications change or lapse, you must immediately notify us of that change, and we will be entitled to immediately terminate your engagement.
- 24 If we consider that you are in default of any of these terms and conditions we may arrange for the default to be remedied by another person. You must pay any costs or charges that we incur in remedying a default, or we may deduct that amount from any payment made to you in accordance with paragraph 12.3.
- 25 Should a dispute arise in relation to these terms and conditions, you and we will use our best endeavours to resolve the dispute at first instance without delay and with no interruption to Goods and/or Services.
- 25.1 If a dispute:
- (a) is not resolved at first instance; or
 - (b) threatens to fundamentally interrupt or is interrupting the provision of Goods and/or Services;
- either you or we may request a mediation to be chaired by an independent mediator, to be agreed upon between the parties, or, in default of agreement, appointed by the President of the Law Institute of Victoria.
- 25.2 You and we will share the cost of any mediation convened in accordance with paragraph 25.1 unless otherwise agreed.
- 25.3 The rights and processes set out in these dispute resolution provisions do not preclude or necessarily precede our rights in litigation or otherwise.
- 26 You have no legal authority to bind us, whether expressly, by implication or representation, except with our written authority. Any attempt by you to bind us, whether orally or in writing, will be null and void and of no effect. We will not accept liability in tort, contract or otherwise to any third party for any purported attempt to bind us by you.
- 27 These terms and conditions have effect, whether or not the front of this form is signed by you. Any step that you take in providing us with Goods and/or Services will be taken as acceptance that you agree to these terms and conditions.
- 28 This document is governed by the law of Victoria, Australia. Subject to paragraph 25.1, you and we submit to the non-exclusive jurisdiction of its courts and courts of appeal from them. You and we will not object to the exercise of jurisdiction by those courts on any basis.