



## STANDARD TERMS & CONDITIONS OF PURCHASE (Inwards Goods & Services)

The following Standard Terms and Conditions of Purchase (Terms and Conditions), shall, unless on any occasions expressly varied in writing, apply to all transactions entered into with TAE Gas Turbines Pty Ltd ABN 55 084 974 710 (TAE) as part of the Contract between the Supplier specified in the TAE Purchase Order (Supplier) and TAE. Every Supplier having dealings with TAE must read these Terms and Conditions. If the Supplier neglects to read them and shall be deemed to have read them and shall be bound by these Terms and Conditions in the same manner as if they had read them. These Terms and Conditions supersede all Terms and Conditions issued earlier by/to either party.

### 1. TERM

The term of these Terms and Conditions is as specified in the TAE Purchase Order.

### 2. PERFORMANCE

The Supplier agrees to provide parts, goods, equipment and materials ("Goods") to TAE and/or carry out works and services on TAE supplied equipment ("Services") in accordance with these Terms and Conditions.

### 3. PRICE AND PAYMENT

The price payable for Goods and/or Services is specified in the TAE Purchase Order.

The Supplier may invoice TAE for the Goods and/or Services in accordance with these Terms and Conditions on delivery of the Goods and/or Services, by issuing an invoice to the TAE officer specified in The TAE Purchase Order. Unless otherwise specified in these Terms and Conditions, all prices shall be F.O.B. delivery location specified in the relevant agreement, and all Taxes in respect of Goods and/or Services shall be separately itemised on the Supplier's invoice. TAE will make payments for the Goods and/or Services at the price specified in the TAE Purchase Order, and within 30 days of receipt of a valid invoice issued to the person specified in the relevant agreement by the Supplier.

### 4. AIRCRAFT PARTS

All Goods for use on an aircraft provided by the Supplier must be accompanied by any documentation required by any applicable aviation authority. If alternate Goods are supplied to those specified in these Terms and Conditions, the documentation provided by the Supplier must be endorsed to the effect that such Goods supersede or are completely interchangeable with the Goods ordered, and such documentation must be acceptable to TAE, acting reasonably.

All chemical, fluid, or similar goods supplied by the Supplier must have the manufacturer's original label(s) attached to the container/s. Where product containers are over-labelled by a distributor, a statement of the content of the original label/s and the reason for the overlay must be provided by the Supplier. A statement of conformance to the original manufacturer's label specifications must be also supplied for items decanted from bulk containers.

### 5. PACKING

All Goods and/or Services provided or performed under these Terms and Conditions shall be suitably packed and marked to secure the lowest reasonably available transportation costs and in accordance with the requirements of common carriers. The use of Styrofoam peanuts as packaging dunnage is prohibited. No additional charge will be allowed for packaging, boxing, crating or storage. If TAE discovers damage to any Goods and/or Services which it considers, in its reasonable opinion, was not packed to ensure proper protection of such Goods and/or Services, TAE may at its discretion accept or reject the Goods and/or Services. If such

Goods and/or Services are accepted by TAE, notwithstanding damage caused to those Goods and/or Services, all subsequent rectification costs will be paid by the Supplier. TAE's count will be accepted as first and conclusive on all shipments not accompanied by packing lists. All O rings are to be individually packaged in light proof packaging and marked with applicable specification details and cure date.

### 6. PROVISION OF GOODS AND PERFORMANCE OF SERVICES

All Goods and Services performed and materials used in connection therewith shall be at the risk and expense of the Supplier and shall be replaced by the Supplier in the event of any damage or destruction thereof prior to delivery to and acceptance by TAE.

The Supplier is to notify TAE of any nonconforming products and must obtain TAE approval for any nonconforming product disposition. The Supplier must also notify TAE of any changes in product and/or process, changes of suppliers, changes of manufacturing facility location and, where required, obtain TAE approval prior to supply of any affected parts and/or services.

If these Terms and Conditions require Services to be performed by the Supplier upon any TAE premises owned or controlled by TAE (including Commonwealth Government premises) and/or TAE's customers, the Supplier will comply with all health and safety, privacy, security and other applicable requirements at the premises. Whenever any property belonging to TAE or its customer is in the possession of the Supplier or the Supplier's suppliers, the Supplier shall be deemed the insurer thereof and shall be responsible for its safe return to TAE. For the avoidance of doubt, title to TAE supplied equipment will at all times remain in TAE and the Supplier shall ensure that the equipment carries TAE identification tags at all times.

All goods and service providers shall ensure that their employees are aware of the following:

- *their contribution to product or service conformity;*
- *their contribution to product safety;*
- *the importance of ethical behavior.*

### 7. CHANGES AND VARIATIONS

TAE may request a change to the Goods or Services required under these Terms and Conditions, by giving a written request to the Supplier (Change Order) in which case the Supplier must as soon as reasonably practicable, but in any event no later than seven (7) days after receipt of the Change Order, provide TAE with a notice setting out (i) whether or not it is able to comply with the Change Order, (ii) any change to the price (specified in the TAE Purchase Order), and (iii) any changes to the time for delivery of the Goods and/or performance of the Services (Change Notice). Within seven (7) days after receipt of a Change Notice TAE shall either approve the Change Notice by signing and returning it to the Supplier, or notify the Supplier that it does not wish the Supplier to implement the Change Notice. If TAE approves the Change Notice, upon receipt of the signed Change Notice by the Supplier, the agreement will be deemed to be amended in accordance with the signed



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Change Notice. No changes to the Goods or Services shall be binding unless agreed in accordance with this clause.

No other changes to these Terms and Conditions shall be binding unless agreed in writing and signed by the parties.

### 8. DELIVERY

Delivery shall mean (i) the delivery of possession of the Goods, or completion and delivery of the Services being delivered hereunder to TAE at the delivery location, and at the time and date for delivery specified by TAE, as set out in The TAE Purchase Order, and (ii) the transfer by the Supplier to TAE of its right, title and interest in and to the Goods which the Supplier possesses, free and clear of all liens. If no time and date for delivery is specified in The TAE Purchase Order, the Supplier shall deliver the Goods or completed Services within a reasonable period of time. TAE shall not be bound to accept delivery prior to the date and time for delivery specified in The TAE Purchase Order and will not be liable for any loss or charge arising from its refusal to accept such delivery prior such date and time. Upon delivery of the Goods to TAE at the delivery location, title to as described below, and risk of accidental loss of or damage to such Goods and exclusive care, custody and control thereof, will pass to TAE.

If a date and time for delivery is specified in The TAE Purchase Order, the parties agree that time for delivery is of the essence.

### 9. INSPECTION AND ACCEPTANCE

Notwithstanding any agreement by TAE to collect or pay for the transportation costs of any Goods and/or Services and subject to these Terms and Conditions, TAE shall not be deemed to have accepted the Goods and/or Services unless and until it has had a reasonable opportunity to examine them for the purpose of ascertaining that they conform with these Terms and Conditions and any plans, drawings, specifications or sample provided by the Supplier to TAE and which relates to the Goods and/or Services. Following TAE's inspection of Goods and/or Services, TAE may reject any Goods and/or Services which do not comply with these Terms and Conditions or which contain defective material or workmanship irrespective of payment being made pursuant to clause 3. TAE may hold Goods and/or Services pending the Supplier's instructions relating to any Goods and/or Services so rejected, or may return them to the Supplier at the Supplier's expense. TAE will be deemed to have accepted the Goods and/or Services on the date that is the earlier of: (i) the date that TAE provides a written notice to the Supplier stating that it accepts the Goods and/or Services; or (ii) fourteen days after the date that the Goods and/or Services were delivered in full to TAE.

### 10. COMPLIANCE WITH LAWS AND REGULATIONS

The Supplier agrees to comply with all Commonwealth, State and Local laws, regulations and orders applicable to the supply of the Goods or performance of the Services and shall indemnify TAE against any loss or damage which arises out of, or in connection with, a breach of this clause 10 by the Supplier.

### 11. TAXES AND GST

Where a supply made by the Supplier is subject to GST, TAE will upon receipt of a valid tax invoice pay, in addition to any other consideration payable to the Supplier, an amount equal to the GST on that supply. The price stated as being payable by TAE is inclusive of all Taxes unless otherwise specified in these Terms and Conditions. TAE will pay the price free and clear of and without deduction or withholding for, or on account of, any Taxes except as required by law. If a deduction is required by law, the relevant GCT152 Standard Terms and Conditions of Purchase

payment shall be made net of, or after, the required deduction or withholding.

For the purpose of these Terms and Conditions, 'Taxes' means all present and future taxes including without limitation GST, levies, imposts, duties, excise, charges, fees, deductions, or withholding of any nature imposed, levied, collected, withheld or assessed by any taxing authority.

### 12. INTELLECTUAL PROPERTY

The Supplier grants to TAE a worldwide, perpetual, non-exclusive, transferable licence (with a right to sublicense) to use all intellectual property rights which may exist in the Goods and/or Services on delivery of the Goods and/or Services to TAE in accordance with these Terms and Conditions. The Supplier expressly warrants that the Goods and/or Services to be furnished hereunder and the use, production and sale thereof, does not and will not infringe any intellectual property rights of a third party; that the Supplier will at its own expense defend any suit that may arise in respect thereto; and that the Supplier will indemnify and hold harmless TAE, its contractors, employees and agents and its related companies and its and their successors and assigns, and the customers of any of them, from all loss and expense which may arise out of, or in connection with any alleged or actual infringement.

### 13. REPORTING & AUDIT

In respect of the supply of aviation authority approved and certified Goods and/or Services for aircraft use, the Supplier shall retain all records pertaining to such Goods and/or Services for a period of at least seven years from the date of shipment. Records must be held in their current form and may not be amended, modified in any way or destroyed without prior consent of TAE.

The Supplier will allow a person or persons authorised by TAE to inspect records during normal business hours and to take copies and extracts from the records.

TAE, TAE's customers and/or associated regulatory authorities, on giving reasonable notice, may enter the Supplier's premises to ensure that the Supplier is complying with its obligations under these Terms and Conditions or to ensure that any Goods and/or Services comply with any and all plans, drawings, specifications or sample provided by the Supplier to TAE. The Supplier will give all reasonable assistance to TAE to enable TAE to exercise its rights under this clause 13 including access to photocopying facilities at TAE's reasonable expense.

### 14. WARRANTIES

The Supplier expressly warrants that all Goods and/or Services ordered pursuant to these Terms and Conditions, (i) shall be delivered free from any pledge, mortgage, lien, other security interest or encumbrance (ii) will be of merchantable quality; (iii) fit and sufficient for the purpose ordered; (iv) will be free from defect in material, design, manufacture and workmanship; (v) will comply with these Terms and Conditions and conform to any plans, drawings specifications or sample furnished by TAE with, or otherwise approved by TAE; and (vi) will comply with all Commonwealth, State and Local laws, regulations and orders applicable to the supply of the Goods or performance of the Services, in each case, for the Warranty Periods specified in The TAE Purchase Order. The Supplier's warranties shall, as applicable, benefit TAE, its related companies, its and their successors, assigns and customers and shall be construed as conditions as well as warranties and shall not be deemed to be exclusive. The Supplier will obtain warranties from third parties involved in the provision

of Goods and/or performance of the Services and assign all such warranties to TAE. The Supplier agrees that the assignment of warranties provided by third parties to TAE, will not limit, restrict or affect in any way, the Supplier's obligations (including its warranties and liabilities) under these Terms and Conditions.

#### **15. FORCE MAJEURE**

No party will be liable for any failure or delay in complying with any obligation imposed on such party under these Terms and Conditions if and to the extent that: (i) the failure or delay arises directly or indirectly from any circumstances or occurrence (including, but not limited to labour disputes, war, riot, civil disorder, terrorism, fire, explosion, flood, earthquake, acts of God, epidemics, accident, or intervention of Government or other authority) or epidemics which is beyond the reasonable control of the party affected and which could not have been reasonably foreseen (Force Majeure); (ii) that party gives the other party prompt written notice as soon as possible, but within five (5) days after that party becomes aware of the Force Majeure, providing details of the nature, expected duration and effect of the Force Majeure and keeps the other party informed of any changes in the nature of the Force Majeure and of the cessation of the Force Majeure; (iii) and that party uses its reasonable endeavours to mitigate the effects of the Force Majeure on that party's obligations under these Terms and Conditions; and perform that party's obligations under these Terms and Conditions, within the time specified by these Terms and Conditions despite the Force Majeure, provided that no party will, by virtue of this clause 15, be required against its will to settle any strike, lockout, work stoppage or other labour hindrance.

The date for delivery of the Goods or performance of the Services shall be automatically extended by a period equal to the number of days reasonably necessary to overcome the Force Majeure event in the reasonable opinion of the party seeking to rely on this clause. If the Force Majeure event continues for more than 90 days, TAE may terminate these Terms and Conditions and the Supplier shall be entitled to payment for all Goods supplied and Services performed in accordance with these Terms and Conditions up to the date of such termination.

#### **16. INSURANCE**

The Supplier shall maintain the necessary insurances to allow it to meet its obligations under these Terms and Conditions. In each case the sum insured shall not be less than the amount specified in these Terms and Conditions or such other amount as is reasonably directed by TAE from time to time. If no such amount is specified or directed, the amount shall not be less than either the total value of the Goods being supplied under these Terms and Conditions, or the full replacement cost of the equipment to which the Services relate, whichever is the higher sum. The Supplier is required to provide evidence of insurances in the form of a certificate of insurance from its insurance company.

#### **17. INDEMNITY AND LIABILITY**

The Supplier agrees to indemnify and will keep indemnified TAE and its related companies (and each director, officer, agent and employee of the other and its related companies) (each an Indemnified Party) from and against all claims, demands, losses, damages, penalties, fines, liabilities, taxes, costs and legal and other expenses (collectively the Claims) incurred by any of the Indemnified Parties, including all Claims by third parties, arising out of or in any way connected with or related to these Terms and Conditions, in respect of (i) loss of or damage to property (whether real or personal) including the Goods and Services; and (ii) any  
GCT152 Standard Terms and Conditions of Purchase

personal injury to or the death of any person, to the extent that any such Claims arise out of, or are in any way connected with, or related to, the negligence, wilful misconduct or a breach of these Terms and Conditions by the Supplier.

TAE's liability in relation to the performance or otherwise of its obligations under these Terms and Conditions, including without limitation in respect of negligence and other tort, shall not exceed the price for the relevant Goods and/or Services, and TAE shall not be liable to the Supplier, for loss of profits, or liability for any consequential or indirect loss of any nature whatsoever, including without limitation liabilities, losses, damage, damages, penalties, fines, taxes, judgments, costs and legal and other expenses including but not limited to loss of use, revenue or any loss of business, loss of production, contract or goodwill.

#### **18. NON PERFORMANCE AND CANCELLATION**

TAE may cancel these Terms and Conditions, or part thereof relating to the undelivered or unperformed portion of these Terms and Conditions, by written notice to the Supplier, if subject to clause 15, the Supplier fails to make delivery of the Goods and/or Services by the delivery date, or in the quantity, specified in The TAE Purchase Order. If TAE cancels all or part of these Terms and Conditions under this clause 18, it shall be relieved of its obligation to accept and pay for such Goods and/or Services which are not performed or delivered at the time of cancellation, and may charge the Supplier for any loss incurred. Failure by TAE to cancel these Terms and Conditions or any part hereof when a right of cancellation pursuant to this clause 18 arises shall not constitute a waiver by TAE of any provisions of these Terms and Conditions with respect to any undelivered Goods, unperformed Services or subsequent default by the Supplier which gives rise to a right of termination.

#### **19. TERMINATION**

In addition to its rights in clause 9, TAE may by notice in writing to the Supplier terminate these Terms and Conditions in whole or in part if the Supplier is in breach of these Terms and Conditions and has failed to remedy the breach (where such breach is capable of remedy) within five (5) days of receipt of a notice in writing from TAE to remedy the breach and indicating that failure to remedy the breach may result in termination of these Terms and Conditions. The termination of these Terms and Conditions in accordance with this clause 19 will not, of itself, relieve any party of its obligation to pay any amount which is properly due and payable under these Terms and Conditions at the date of termination, or affect the existence, exercise or performance by either party of their respective rights, powers and obligations under these Terms and Conditions which have accrued prior to the date of termination.

TAE shall also be entitled to terminate these Terms and Conditions without cause by giving the Supplier seven (7) days written notice to that effect. In that case only, TAE shall pay to the Supplier: (i) for such of the Goods delivered and/or Services completed prior to notice of termination, the price of those Goods and/or Services; (ii) for such of the Goods and/or Services partially completed prior to notice of termination, the Supplier's documented cost of labour and material used to construct or work on such partially completed Goods and/or Services (including the cost of material which the Supplier has contractually agreed to purchase), together with proportionate overhead charges. Such payments made under this provision shall be subject to the Supplier using its best endeavours to mitigate its financial loss, including by reworking or otherwise utilising completed Goods, partially completed Goods and raw materials and/or disposing of the same at the best price reasonably obtainable for those Goods and raw materials. The total of such

claim shall not, however, exceed the price for the Goods and/or Services as specified in these Terms and Conditions.

## **20. DISPUTE RESOLUTION, JURISDICTION AND GOVERNING LAW**

Either party may require any dispute between the parties arising out of or connected to these Terms and Conditions (Dispute), which has not been resolved within 14 days, to be referred in the first instance to the senior management of the respective parties. If within 28 days of such referral, a resolution of the Dispute has not been achieved then the parties may refer the Dispute to mediation and shall be entitled to jointly appoint a mediator, or if the parties cannot agree to a mediator within 14 days of a party referring the Dispute to formal mediation, to be appointed by the President of the Institute of Arbitrators and Mediators Australia. The mediator shall conduct the mediation in accordance with the model mediation guidelines of the Institute of Arbitrators and Mediators Australia. The costs and expenses of the mediator shall be shared by the parties equally. If within 28 days of the parties' first meeting for mediation, the parties are unable to resolve the Dispute through mediation, either party may commence court proceedings. Notwithstanding the existence of a Dispute, or the undertaking of the dispute resolution steps set out in this clause, each party must continue to perform its obligations under these Terms and Conditions.

The provisions of this clause 20 shall not limit or affect the rights of either party to apply to the court at any time for any interim or preliminary relief in respect of the Dispute.

These Terms and Conditions are governed by the law in force in Queensland. Each party irrevocably submits to the nonexclusive jurisdiction of courts exercising jurisdiction in Queensland and courts of appeal from them in respect of any proceedings arising out of or in connection with these Terms and Conditions. Each party irrevocably waives any objection to the venue of any legal process in these courts on the basis that the process has been brought in an inconvenient forum.

## **21. ENTIRE AGREEMENT**

These Terms and Conditions and the Purchase Order (as may be amended from time to time in accordance with clause 7) constitute the entire agreement between the parties in relation to the Goods and/or Services. These Terms and Conditions supersede all other terms and conditions issued by the Supplier and TAE otherwise than in accordance with these Terms and Conditions.

## **22. NO ASSIGNMENT OR SUBCONTRACTING**

The Supplier may not assign, transfer, novate or subcontract these Terms and Conditions or any rights or obligations thereunder, without the prior written consent of TAE.

## **23. RELATIONSHIP**

These Terms and Conditions do not create a relationship of principal and agent, joint venture, partnership or fiduciary relationship between TAE and the Supplier and the parties agree that the Supplier is an independent contractor.

## **24. CONFIDENTIALITY**

The Supplier and its staff must not, without TAE's prior written consent, disclose to any person (other than a person authorised in writing by TAE) any commercially sensitive information whatsoever acquired by the Supplier in connection with these Terms and Conditions.

## **25. WAIVER**

Neither party may rely on the words or conduct of the other party as a waiver of any right unless that waiver is in writing and signed by the party granting the waiver.

## **26. NOTICES**

All notices given in connection with these Terms and Conditions shall be given in English and in writing and may be given by personal delivery, certified mail, e-mail, facsimile or any other customary means of communication to the party's address specified in The TAE Purchase Order. Notices given pursuant to this these Terms and Conditions shall be effective (i) (in the case of delivery by hand) on delivery; (ii) (in the case of prepaid post) on the second business day after the date of posting; (iii) (in the case of e-mail) when the e-mail and any attachment comes to the attention of the addressee; and (iv) (in the case of facsimile) on receipt of a transmission report confirming successful transmission.

## **27. SEVERABILITY**

If any provision of these Terms and Conditions is invalid under the law of any jurisdiction, the provision is enforceable in that jurisdiction to the extent that it is not invalid, whether it is in severable terms or not. This clause 27 does not apply where enforcement of the provision of these Terms and Conditions in accordance with this clause 27 would materially affect the nature or effect of the parties' obligations under these Terms and Conditions.