



STANDARD TERMS AND CONDITIONS OF PURCHASE

1 DEFINITIONS

- 1.1. "Purchaser" means, in respect of each Purchase Order, the relevant entity set out below:
- a) Rema Tip Top Australia Pty Ltd ACN 003 380 827
 - b) Rema Tip Top Industrie Pty Ltd ACN 121 411 229
 - c) Rema Tip Top Industrial Australia Pty Ltd ACN 110 697 624
 - d) Rema Tip Top Surface Protection Australia Pty Ltd ACN 601 313 562
 - e) ConvaTech Pty Ltd ACN 002 924 307
 - f) ConvaTech Services Pty Ltd ACN 137 976 606
 - g) ConvaTech Queensland Pty Ltd ACN 119 833 831
 - h) ConvaTech WA Pty Ltd ACN 124 473 918
 - i) Enduroclean Pty Ltd ACN 601 391 440
 - j) Adelaide Conveyor Services Pty Ltd ACN 610 802 581
 - k) Industrial Tyre Supplies Pty Ltd ACN 104 695 892
 - l) Work Integrated Learning Pty Ltd ACN 163 584 076; and
 - m) Cobra South Pacific Pty Ltd ACN 092 167 238.

1.2. "Goods" means all services (including but not limited to consultancies, maintenance) goods or products covered by the Purchase Order, including raw materials, processed materials or fabricated products.

1.3. "Purchase Order" means the Purchaser's official purchase order to which these conditions apply, and includes printed purchase orders, whether delivered by hand, mail or facsimile, and purchase orders issued by means of the Electronic Data Transfer or otherwise.

1.4. "Seller" means the person, firm, partnership, company or other legal entity to whom the Purchase Order is issued and includes its servants, agents and sub-contractors.

2 ENTIRE AGREEMENT

2.1 These Conditions of Purchase and the Purchase Order represent the entire agreement between the parties and shall be incorporated in the contract for the purchase of Goods specified on the face of the Purchase Order and the Seller shall, by accepting this Purchase Order, be bound by these Conditions of Purchase. Subject to clause 3, these Conditions of Purchase shall apply to the exclusion of all other Seller terms and conditions, whether contained in the Seller's invoice or conditions of sale or otherwise.

2.2 Where the Seller is certified to ISO9001, this Purchase Order must be fulfilled in accordance with the terms of that certification.

2.3 These Standard Terms and Conditions of Purchase apply to Purchase Orders with Sellers where the purchaser is one or more of the entities referred to in the definition of "Purchaser".

3 EXISTING CONTRACTS

3.1 Subject to the terms of the Purchase Order, if the Purchase Order is issued under the terms of an existing contract, the terms of that existing contract will apply and these Standard Terms and Conditions of Purchase (other than this clause 3) will have no effect.

4 RESPONSIBILITY FOR PURCHASE

4.1 The Purchaser will not be responsible for any order unless it is issued on a Purchase Order. No variation of a Purchase Order will be effective unless approved in writing by the Purchaser. The number appearing on the Purchase Order must be quoted on all invoices, delivery dockets and parcels.

5 QUALITY

- 5.1 The Seller warrants that the Goods:
- a) conform with the description provided by the Seller;
 - b) conform with any applicable specifications agreed by the Purchaser and the Seller;
 - c) are of merchantable quality and are fit for the purpose for which they are sold;
 - d) are free of defects in material, workmanship and design;
 - e) are new (unless otherwise specified);
 - f) are free from all liens and encumbrances and the Seller has good and marketable title thereto; and
 - g) carry any applicable manufacturer's warranty which passes on to any buyer or customer from the Purchaser without liability to the Purchaser. The Seller must assign to the Purchaser at the request of the Purchaser the benefit of any warranty or guarantee that the Seller has received from any supplier (whether under contract or by implication or operation of law). These warranties are in addition to any other warranties or guarantees contained in the Purchase Order or implied by law or provided by the Seller or any other third party.

6 LIABILITY

6.1 The Seller shall, without limitation, indemnify the Purchaser for any loss, damage, expense, claim or liability suffered or incurred by the Purchaser, whether consequential or otherwise as a result of a breach of any other warranties contained in Clause 5 hereof.

6.2 Notwithstanding Clause 6.1, and without limiting the generality thereof, the Seller shall repair or replace, at the Purchaser's option, all Goods which are or become defective or otherwise fail to comply with all warranties contained in Clause 5 within 30 days of notification of such defect or failure from the Purchaser. Such repairs or replacements shall be subject to the warranties contained in Clause 5 and the liabilities contained herein.

7 LOSS OR DAMAGE IN TRANSIT

- 7.1 the Purchaser shall advise the Seller of any loss or damage to or defects in the Goods within the following time limits:
- a) partial loss, damage, defects or non-delivery of any separate part of a consignment of Goods within 60 days of the date of delivery of the consignment or part consignment; or
 - b) non-delivery of whole consignment of Goods within 60 days of the intended date of delivery as specified the Purchase Order.

7.2 The Seller shall make good free of charge to the Purchaser any loss of or damage to or defect in the Goods where notice is given by the Purchaser in compliance with this condition.

8 REJECTION

8.1 Notwithstanding Clause 7 hereof, the Purchaser may reject Goods not confirming for any reason whatsoever to the Purchase Order upon delivery of such Goods or within reasonable time thereafter. Any acceptance of delivery or payment by the Purchaser for such Goods shall not prejudice its right of rejection contained herein. The Seller shall reimburse the Purchaser for:

- a) any purchase price paid by the Purchaser with respect to such Goods; and
- b) any costs incurred by the Purchaser in connection with the rejection of such Goods.

9 DELIVERY

9.1 The date and place of delivery of the Goods shall be that specified in the Purchase Order unless otherwise agreed between the Purchaser and the Seller.

9.2 Time is of the essence hereof insofar as it applies to the obligations of the Seller. If any Goods are not delivered within the time specified in the Purchase Order, the Purchaser may either:

- a) refuse to accept such Goods to terminate the Purchase Order; or
- b) cause the Seller to deliver the Goods by the most expeditious means, whereupon any additional delivery charges in excess of those which would apply for the usual means of the delivery shall be borne by the Seller.

9.3 If any Goods are not delivered to the place specified in the Purchase Order or otherwise agreed between the Purchaser and the Seller, the Seller will be responsible for any additional expense incurred in delivering them to their correct destination.

9.4 Where the Purchaser terminates an order pursuant to clause 9.2 the Seller does not have any and may not prosecute any claim whatsoever at law or in equity against the Purchaser, provided that the failure of the Seller to deliver the Goods on the delivery date was not due to the conduct of the Purchaser.

9.5 Where the Seller's failure to deliver the Goods was not as a result of the Purchaser's conduct, then the Seller must, in addition to any other liability it may have pursuant to these terms, pay the costs of removing the Goods from the Purchaser's premises.

10 TITLE AND RISK

10.1 Title to and risk of loss in the Goods shall pass to the Purchaser upon delivery to the Purchaser in accordance with Clause 9 but without prejudice to any right of rejection or other rights which may accrue to the Purchaser hereunder.

11 INSPECTION IN PROGRESS AND PRIOR TO DESPATCH

11.1 The Seller agrees that the Purchaser or its agents shall have the right of inspection of all work performed pursuant to the Purchase Order while in any stage of engineering, manufacture or installation, and of the Goods prior to their despatch. The Seller shall make this a condition of any sub-contracted work. The Purchaser or its agents shall have the power to reject any work performed or any Goods that do not conform to the Purchase Order, whereupon the work or Goods rejected shall be re-performed at no additional cost to the Purchaser. Any such inspection shall not relieve the Seller of any obligations contained in the Purchase Order or at law.

12 INTELLECTUAL PROPERTY

12.1 The Seller agrees to defend, protest and indemnify the Purchaser, its successors and assigns, from and against any claim arising from the lawful use of the Goods by the Purchaser or third parties including all claims for actual or alleged infringement of any letters patent, trade marks, copyright, design, confidential information or similar protection whether granted by the Commonwealth of Australia or any foreign state or the common law.

12.2 If the Seller makes any representation or statement directly or indirectly to the Purchaser that the Goods ordered are protected by one or more patents and any such patent is found to be invalid, the Purchaser may forthwith cancel this Purchase Order or any contract arising from this Purchase Order and recover any money paid to the Seller under this agreement as a liquidated debt.

13 PRICE

13.1 The price for the Goods and Services is fixed unless otherwise specified in this Purchase Order or agreed in writing by the Purchaser and the Seller and includes delivery of the Goods to the destination specified in this Purchase Order. No prices listed on the Purchase Order are subject to escalation unless the Purchaser expressly agrees in writing (signed by an authorised representative of the Purchaser) to such escalation.

13.2 The price includes all taxes, levies, fees and GST which are payable in relation to the supply and delivery of the Goods and services. The Seller must pay any such taxes, levies, fees and GST.

13.3 The Seller must deliver to the Purchaser an invoice for the price of the Goods. The invoice must be in the form of a tax invoice and must state the Purchase Order number on it. Failure to include the Purchase Order reference may cause the invoice to be rejected for payment.

13.4 The purchase price specified in the Purchase Order shall be on an FIS basis unless otherwise agreed.

13.5 If the Purchaser notifies the Seller that it is able to buy the Goods at a lower cost than similar goods supplied by the Seller then either the Seller shall agree to meet the lower cost for those Goods from the Seller or acquire the Goods from the alternative source.

14 TERMS OF PAYMENT

14.1 The terms of payment unless otherwise stated on the Purchase Order are 45 days from the completion of the month invoice. The Purchaser reserves the right to set off any amount owing under any Purchase Order against any amount due from the Seller to the Purchaser for any reason whatsoever.



ONE BRAND ONE SOURCE ONE SYSTEM

- 15 SUB-CONTRACTING AND ASSIGNMENT
- 15.1 The Seller shall not assign its rights or obligations hereunder or sub-contract any work to be performed pursuant to the Purchase Order without the prior written consent of the Purchaser.
- 15.2 The Purchaser's consent to the Seller sub-contracting any work to be performed pursuant to the Purchase Order shall not relieve the Seller of its responsibility for the whole of the work to be performed pursuant to the Purchase Order or of any obligations contained in the Purchase Order or at law.
- 15.3 Where the Purchaser has consented to the placing of sub-contracts by the Seller, copies of each sub-order shall be sent by the Seller to the Purchaser immediately they are issued and the Purchaser reserves the right to inspect all sub-contracted work.
- 16 PACKAGING, STORAGE AND HAZARD
- 16.1 The Goods shall be properly packed to avoid being damaged during the delivery of loading and unloading. All packages shall be clearly marked with the Purchase Order number and the location of the delivery.
- 16.2 The Seller shall comply with all applicable Australian and International Laws regulations and other relevant requirements relating to the transport, packaging, storage, handling and use of the Goods.
- 16.3 All Goods which are hazardous Goods must be marked by the Seller with international danger symbol(s) and display the name of the material in English. Products classified as "Dangerous Goods" in accordance with the Australian Dangerous Goods (ADG) Code must be marked in accordance with that Code Delivery and other documents must include disclosure of the hazard(s) and name of the material in English. Goods must be accompanied by emergency materials in English in the form of written instructions, labels or markings and Material Safety Data Sheets.
- 16.4 All information held by or reasonably available to the Seller regarding any potential hazards or special requirements known or believed to exist in the transport, packaging, storage, handling or use of the Goods shall be immediately communicated to the Purchaser.
- 16.5 The Goods shall be packed in the case of Dangerous Goods to comply with the requirements of the ADG Code and marked accordingly with the relevant approvals. Such packaging shall also be marked with the appropriate information required by the ADG Code. In all other cases, the Goods shall be packed in accordance with any packaging requirements or specifications communicated by the Purchaser to the Seller. Any proposed alteration to the Purchaser's packaging requirements or specifications shall be subject to the Purchaser's prior approval.
- 16.6 Where required by the Purchaser or at law, the Seller shall provide all necessary Certificates of Conformance, Certificates of Analysis and Test Certificates together with the Goods delivered pursuant to the Purchase Order.
- 16.7 The Seller and its agents or suppliers must not include a charge to the Purchaser for wrapping, packing, cartons or crating unless authority for such charge is expressly incorporated in this Purchase Order.
- 17 INSURANCE
- 17.1 The Seller shall maintain adequate insurance including without limitation public liability, worker's compensation (including common law liability), automotive and other means of transportation/freight liability insurance and product damage insurance upon such terms and for such amounts as are reasonable in the circumstances of the Purchase Order.
- 18 FORCE MAJEURE
- 18.1 Neither the Seller nor the Purchaser shall be liable to the other for default or delay in performing its obligations under the Purchase Order caused by any occurrence beyond its reasonable control including without limitation fire, strike, industrial disturbance, riot, war, act of God and governmental order of regulation PROVIDED THAT the party affected by such occurrence gives written notice thereof to the other party within 7 days of the commencement of that occurrence.
- 19 THE PURCHASER'S RIGHTS IN SPECIFICATIONS, PLANS, PROCESS INFORMATION, ETC
- 19.1 Any specifications, plans, drawings, process information, patterns or designs supplied by the Purchaser to the Seller in connection with the Purchase Order shall remain the property of the Purchaser and any information derived therefrom or otherwise communicated to the Seller in connection with the Purchase Order shall be kept confidential and shall not without the written consent of the Purchaser be published or disclosed to any third party, or made use of by the Seller except for the purpose of implementing the Purchase Order. Any specifications, plans, drawings, process information, patterns or designs supplied by the Purchaser to the Seller must be returned to the Purchaser on request by the Purchaser. An invention or improvement made by the Seller attributable in whole or in part to such specifications, plans, drawings, process information, patterns or designs shall be the property of the Purchaser.
- 20 ROYALTIES
- 20.1 Goods are for the use of or re-sale by the Purchaser or its associated companies and may be incorporated in any products (whether owned or used or possessed by the Purchaser). The Seller must not make any claim for royalties or other additional compensation from the Purchaser by reason of or connected with such use, re-sale or manufacture.
- 21 ADVERTISING
- 21.1 The Seller must not, without the Purchaser's prior written consent, advertise or publish the fact that the Seller has contracted to the Purchaser with respect to the supply of the Goods.
- 22 WORK ON THE PURCHASER'S SITE
- 22.1 Should the Purchase Order require the Seller to carry out any work on a site of the Purchaser, such work is to be subject to, in addition to the conditions of the Purchase Order, any conditions imposed by law. A copy of the Sub-contractor's Statement regarding worker's compensation, payroll tax and remuneration shall be supplied to the Purchaser before any such work begins.
- 23 APPLICABLE LAW
- 23.1 The Purchase Order shall be governed by, subject to and constructed in accordance with the laws of the State or Territory in which the relevant the Purchaser site issuing the Purchase Order is situated and the parties accept the jurisdiction of the courts or that State or Territory and the Commonwealth of Australia. The Seller shall comply at all times with all applicable Federal, State and local laws and regulations.