

**1. DEFINITIONS**

- 1.1. "Hynds" means Hynds Pipe Systems Limited, Hygrade Products, Gillies, Waters & Farr or any other member of the Hynds Group, which purchases the Goods from the Supplier; and "Hynds Group" means Hynds Limited and its subsidiary companies including any business divisions.
- 1.2. "Supplier" means you, your successors and assignees or any person receiving, acting or relying on this purchase order.
- 1.3. "Goods" means all goods and/or services supplied by the Supplier to Hynds at Hynds request from time to time.
- 1.4. "Price" means the Price payable for the goods as agreed between Hynds and the Supplier in accordance with clause 3 below.
- 1.5. "Purchase Order" means a purchase order for the Goods.
- 1.6. "Delivery" shall mean the delivery of the Goods transferring the possession from the Supplier to Hynds in accordance with clause 4.1.
- 1.7. "Authorized Person(s)" shall mean the CEO, CFO, Executive, Manager of Manufacturing or Operations, Supply Chain or Vendor Manager.

**2. APPLICABILITY**

- 2.1. Unless otherwise agreed in writing by Hynds, all quotes or communications surrounding or preceding the Purchase Order and the supply of Goods by the Supplier to Hynds are governed by these terms and conditions (**Terms**).
- 2.2. These Terms may only be amended, cancelled or waived in whole or in part with Hynds consent in writing by a duly Authorized Person and shall prevail to the extent of any other inconsistency with any other document or agreement between the Supplier and Hynds including the Supplier's own Terms of Trade, or Terms of Conditions of Sale or contract or other document. By supplying Goods to Hynds, the Supplier shall be deemed to accept these Terms, unless we have agreed in writing to contract with you on a different basis than as set out in these Terms.
- 2.3. None of Hynds agents, branch or factory managers or other staff are authorized to make any representations, statements, conditions or agreements unless expressly authorized by an Authorized Person in writing and nor shall Hynds be bound by any such unauthorized statements, waiver or variation.

**3. PRICE AND PAYMENT**

- 3.1. Unless otherwise agreed, the Price will be determined by Hynds in its sole discretion as the lower of:
  - a. the Price as indicated on this Purchase Order provided by Hynds to the Supplier; or
  - b. the Price as at the date of delivery of the Goods according to the Supplier's current price list; or
  - c. The Supplier's quoted price (subject to clause 3.3) as at the date of delivery.
- 3.2. Unless otherwise agreed, time for payment of the Goods will be determined by Hynds in its sole discretion as being:
  - a. on delivery of the Goods;
  - b. before delivery of the Goods;
  - c. by way of installment/progress payments in accordance with an agreed payment schedule; or
  - d. The last day of the month following the month in which an invoice is received by Hynds or at Hynds address for notices.
- 3.3. The Supplier may reserve the right to change the Price:
  - a. if a variation to the Goods which are to be supplied or scheduled (including any applicable plans or specifications) is requested by Hynds; or
  - b. where additional Goods are required due to the discovery of hidden or unidentifiable difficulties (including, but not limited to third party costs outside of their reasonable control, safety considerations, a change of design etc.) which are only discovered on commencement of the supply of the Goods; or
  - c. in the event of increases to the Supplier in the cost of labour or materials which are beyond the Supplier's reasonable control, provided that Hynds has a right to terminate the Purchase Order at its discretion in the event of any Price changes by the Supplier.
- 3.4. Payment by Hynds in any form shall be deemed to be payment in full once the payment leaves Hynds.
- 3.5. Unless otherwise stated the Purchase Order price does not include GST. In addition to the Price, Hynds will pay to the Supplier an amount equal to any GST for the supply of the Goods. All other taxes and duties are, unless agreed in writing by Hynds, expressly included in the Price.

**4. DELIVERY OF GOODS**

- 4.1. Unless otherwise agreed, Delivery of the Goods shall occur at the time that:
  - a. Hynds personnel or Hynds nominated carrier takes possession of the Goods at the Supplier's address; or

- b. Failing such naming of a carrier the Supplier (or the Supplier's nominated carrier) for the purpose of transmission to Hynds delivers the Goods to Hynds nominated address and a clearly identified or signed receipt being proof of delivery thereof is obtained.
- 4.2. Subject to any prior agreement for a bulk break or free in store delivery, the costs of carriage and any insurance which the Supplier may reasonably direct to Hynds that they may incur, shall be reimbursed by Hynds and shall be due on the date for payment of the Price.
- 4.3. The Supplier may deliver the Goods in separate instalments however Hynds reserves the right to pay only on satisfaction and delivery of the Purchase Order in full.
- 4.4. The Supplier may be required to observe Hynds' specified delivery times and is advised to check such requirement prior to delivery. If the Supplier does not observe Hynds' specified delivery times and Hynds is unable to take delivery of the Goods, the Supplier will be required to re-deliver the Goods at the Supplier's own expense. The Supplier may also be liable to Hynds for any loss of revenue, loss of profits or liabilities incurred by Hynds on account of any Goods not being delivered on any specified times.

**5. RISK & TITLE**

- 5.1. Risk of damage to or loss of the Goods passes to Hynds on Delivery and the Supplier must comprehensively insure the Goods for the full value on or before Delivery and use only appropriately insured carriers.
- 5.2. Hynds agrees that ownership and title of the Goods shall not pass to Hynds until Hynds has paid the Supplier all amounts owing to the Supplier in respect of the Goods.

**6. WARRANTY AND CLAIMS**

- 6.1. The Supplier warrants that Goods supplied by the Supplier are free from defect of any kind and in the case of manufacture free from faulty workmanship and fit for their intended purpose. Such warranty shall be the manufacturer's warranty or for a minimum period of 18 months from Delivery which ever shall be the greater. All liabilities arising without limitation shall remain in full force and effect in all circumstances and notwithstanding any breach of these conditions or negligence of any person entitled to benefit from these conditions or their respective agents, servants or officers
- 6.2. Hynds reserves the right to claim damages of any kind from the Supplier including liquidated damages, and damages for loss of profit, any inadvertent misrepresentation by the Supplier, consequential, direct, indirect or special loss, damage or injury of any kind suffered by any person arising directly or indirectly in connection with the Goods supplied by the Supplier or any breach by the Supplier of these Terms.

**7. DEFECTS**

- 7.1. Hynds shall make all reasonable efforts to inform the Supplier of any alleged defect, shortage in quantity, damage or failure to comply with the description or quote within 14 days of Delivery and Hynds may, without prejudice to Hynds' other rights and remedies, (in its sole discretion) accept replacement or repair of Goods or credit or claim for damages.

**8. CANCELLATION**

- 8.1. Hynds may cancel in part or full any Purchase Order to which these Terms apply or cancel delivery of Goods at any time before the Goods are delivered by giving written notice to the Supplier. As applicable on giving such notice the Supplier shall as soon as practicable repay to Hynds any money paid by Hynds for the Goods if such Payment has been made in advance.

**9. CONFIDENTIALITY**

- 9.1. The Supplier agrees that all information which Hynds supplies in connection with this Purchase Order including any verbal communications, emails, drawings, designs, specifications, technical data and anything else that might reasonably be expected to be confidential including the Price and Payment are confidential information (**Confidential Information**). All such Confidential Information remains Hynds' property and must not be disclosed to any third party without Hynds written permission and where practical shall be returned immediately upon Hynds request. The Supplier does not obtain any rights in or to any of the Confidential Information. If the Supplier is required by law to disclose Confidential Information, the Supplier must first give written notice of the intended disclosure to Hynds.

**10. INTELLECTUAL PROPERTY**

- 10.1. Where Hynds is to supply the Supplier with any design specifications (including, but not limited to CAD drawings) Hynds will be responsible for providing accurate data. The Supplier shall not be liable whatsoever for any errors in the Goods that are caused by incorrect or inaccurate data being supplied by Hynds.
- 10.2. Where Hynds provides the Supplier with any design specifications, Hynds will own all of the intellectual property rights (whether registered or unregistered) in those design specifications and all right and title to any actual or possible development or improvement in the Goods or the intellectual property (**Development IP**). The Supplier acknowledges that it will not at any time acquire any right, title or interest in any kind in Hynds' intellectual property or the Development IP.

**11. HEALTH AND SAFETY**

- 11.1. The Supplier must comply with all health and safety legislative requirements, including the Health and Safety at Work Act 2015 (**HSWA**) and all related legislative instruments, guidance and codes of practice. These obligations include, but are not limited to, the Supplier's obligations under section 39 of the HSWA.
- 11.2. In the event that any employee, agent, contractor and sub-contractors engaged or employed by the Supplier is required to attend a Hynds site, they must comply with Hynds' health and safety policies and procedures at all times.
- 11.3. To the extent that they have overlapping duties, the Supplier agrees to consult, co-operate and co-ordinate its activities so far as is reasonably practicable with Hynds.
- 11.4. The Supplier will, and will ensure that its employees, agents, contractors and sub-contractors (if any), comply at all times with all reasonable directions of Hynds and will notify Hynds of any identifiable hazards which come to its attention in relation to the purchase of Goods.
- 11.5. The Supplier will provide all reasonable assistance to Hynds in relation to any investigation (whether conducted by a customer, Hynds, or a regulatory agency) into a notifiable event at no cost to Hynds.
- 11.6. The Supplier will notify Hynds of any improvement or prohibition notice, enforcement proceedings or prosecution under Health and Safety Legislation against the Supplier in relation to work done under these Terms.
- 11.7. The Supplier will, to the extent permitted by law, indemnify Hynds in respect of any claims brought against Hynds resulting from any breach by the Supplier of its obligations under any Health and Safety Legislation, and/or any failure by the Supplier to comply with its obligations under this clause.

**12. GENERAL**

- 12.1. Excluding a valid executed formal contract between the parties any Purchase Order (including these Terms) constitutes the entire agreement between the parties and these Terms without amendment of any kind shall supersede and nullify any previous negotiations, agreements, promises or undertakings either written or verbal between the parties in respect of the subject matter of this Purchase Order which have been made prior to the execution or deemed acceptance of this Purchase Order, and in particular anything in the Suppliers own quotes, invoices or the Parties correspondences or other Purchase Orders.
- 12.2. The failure by Hynds to enforce any provision of these Terms shall not be treated as a waiver of that provision, nor shall it prejudice Hynds right to subsequently enforce that provision or exercise any right or remedy unless expressly waived by Hynds in writing. If any provision of these Terms is found to be invalid, void, illegal or unenforceable the validity, existence, legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired.
- 12.3. These Terms and any contract to which they apply shall be governed by the laws of New Zealand and are subject to the jurisdiction of the courts of New Zealand.
- 12.4. These Terms are for the benefit of, and are enforceable by, each member of the Hynds Group for the purposes of the Contract and Commercial Law Act 2017.