

TARONG ENERGY CORPORATION LIMITED
CONDITIONS OF ORDER FOR SUPPLY OF GOODS AND/OR SERVICES



1. DEFINITIONS

In these Conditions of Order ("Conditions"), unless the context requires otherwise:-

Contractor	means the entity or individual to whom the Order is addressed.
Delivery Date	means the date specified in the Order as the date by which the Goods and/or Services are to be supplied to Tarong by the Contractor (time being of the essence) or if no date is specified, within a reasonable time having regard to normal commercial practice.
GST	means the goods and services tax imposed under the <i>A New Tax System (Goods & Services Tax) Act 1999</i> . Words defined in that Act have the same meaning in these Conditions.
Goods	means the goods (if any) specified in the Order.
Order	means the purchase order issued by Tarong to the Contractor.
Price	means the amount specified in the Order as payable for the Goods and/or Services.
Services	means the services (if any) specified in the Order.
Site	means the site nominated by Tarong for delivery of the Goods or supply of the Services.
Site Work Conditions	means Tarong's Site Work Conditions and Site Rules, copies of which are available from Tarong upon request or at www.tarongenergy.com.au .
Tarong	means Tarong Energy Corporation Limited, its directors, employees, officers, agents and successors.

2. FORMATION OF CONTRACT

2.1 An Order issued by Tarong to the Contractor constitutes an offer by Tarong to engage the Contractor to supply the Goods and/or the Services described in the Order on the terms set out in the Order and these Conditions.

2.2 A contract for the supply of the Goods and/or the Services ("Contract") is formed between Tarong and the Contractor when the Contractor:

- (a) communicates either in writing or verbally with Tarong, the content of which confirms or implies acceptance; or
- (b) the Contractor dispatches the Goods or commences performance of the Services.

2.3 The Contract consists solely of the Order, these Conditions and the Site Work Conditions. No terms or conditions sought to be imposed by the Contractor before or after placement of the Order (including terms incorporated into any tender, offer, counteroffer or proposal made by the Contractor) will apply, unless expressly accepted in writing by Tarong.

3. SUPPLY OF GOODS AND/OR SERVICES

3.1 The Contractor will supply to Tarong the Goods and/or the Services by the Delivery Date.

3.2 Goods supplied by the Contractor must:

- (a) comply with the specification or description in the Order;
- (b) be new (unless otherwise specified in the Order) and of recent origin;
- (c) are free from defects in design, manufacture and assembly;
- (d) be of merchantable quality and fit for the purpose for which they are ordinarily acquired;
- (e) when used properly, be safe and not endanger health; and
- (f) otherwise be in accordance with all relevant standards, laws and regulations.

3.3 Services supplied by the Contractor must:

- (a) comply with the specification or description in the Order;
- (b) be performed with due skill, care and attention in a safe and diligent manner;
- (c) be performed by personnel who are qualified, licensed, competent and experienced in providing the Services and by the key personnel (if any) specified in the Order;
- (d) be performed in a timely manner and in accordance with the program or timetable, if any, specified in the Order (time being of the essence);
- (e) be performed in accordance with all applicable laws, codes, standards and the Site Work Conditions (including safety obligations).

3.4 All documentation (including drawings and reports) supplied by the Contractor in relation to the Goods or as part of the Services shall be accurate, comprehensive and complete.

4. PRICE AND PAYMENT

4.1 Unless otherwise specified in the Order:

- (a) the Price is fixed and not subject to rise and fall for labour or material costs or any other adjustment;
- (b) the Price is inclusive of:
 - (i) all necessary packaging and delivery costs;
 - (ii) all excise, duties or taxes (including related penalties) levied or assessed by government, or otherwise payable, in respect of the Goods, except for GST;
 - (iii) all charges for supply of the Goods (and no additional charges will be raised for inspection, testing, packaging, delivering, insurance or equipment); and
 - (iv) all amounts payable for the use of intellectual property and moral rights (including licences).

4.2 Subject to these Conditions, Tarong will pay the Price to the Contractor for supply of the Goods and/or performance of the Services. Payment will be made by electronic funds transfer or cheque.

4.3 If any supply made pursuant to an Order is a Taxable Supply, Tarong will pay to the Contractor the GST in respect of that Taxable Supply.

4.4 The Contractor must submit to Tarong a valid tax invoice specifying:

- (a) the relevant Order number;
- (b) the Goods supplied and/or the Services performed as at the date of the invoice;

TARONG ENERGY CORPORATION LIMITED
CONDITIONS OF ORDER FOR SUPPLY OF GOODS AND/OR SERVICES



- (c) the Site and date of performance of the Services or delivery of the Goods;
- (d) where Services are charged on a time basis, the actual hours spent by individual personnel performing the Services; and
- (e) such other particulars as are necessary to enable Tarong to obtain input tax credits for the amount of GST payable.

4.5 By submitting an invoice to Tarong, the Contractor warrants that:

- (a) the specified Goods and/or Services have been supplied in accordance with the Contract; and
- (b) the amounts specified in the invoice are accurate and Tarong is entitled to payment of the amount claimed.

4.6 Tarong will make payment to the Contractor within 30 days of receipt of the invoice.

4.7 Tarong may deduct and set off from any moneys due to the Contractor any sum which is payable by the Contractor to Tarong.

5. DELIVERY OF GOODS

5.1 The Contractor must, at its own cost and risk, deliver the Goods by the Delivery Date. Deliveries are to be made at the time and place specified in the Order, unless otherwise agreed in writing. Time is of the essence for delivery of the Goods.

5.2 The Contractor must, at its own cost, ensure the Goods are adequately and securely packed to avoid damage or destruction during transit. Where Goods are lost or damaged in transit, the Contractor will replace the Goods at no cost to Tarong.

5.3 The Contractor shall provide sufficient documents to enable Tarong to identify the nature and quantity of Goods delivered. All delivery documents must include the Order number.

5.4 Title and risk in the Goods passes to Tarong upon delivery.

5.5 For the purposes of clause 5.4, unless otherwise specified in the Order delivery is taken to occur at the time Tarong takes physical possession and control of the Goods at the Site. For the avoidance of doubt:

- (a) if the Contractor is responsible for offloading the Goods at the Site, delivery is taken to have occurred upon completion of offloading by the Contractor;
- (b) if Tarong is responsible for offloading the Goods at the Site, delivery is taken to have occurred immediately upon Tarong commencing to offload the Goods.

If the Order specifies the point of delivery by reference to Incoterms (for example, EXW, FCA or CIF), delivery is taken to occur at the time specified in the applicable Incoterm in *Incoterms 2000*.

6. INSPECTION, TESTING AND DEFECTS

6.1 Tarong may inspect and test the Goods. Inspection and testing may be undertaken after the Goods are unpacked by Tarong or when Goods are installed into Tarong's plant or premises. If, after an inspection or test, the Goods are found to be defective or otherwise fail to comply with these Conditions, Tarong may (without prejudice to its rights) return the Goods to the Contractor at the Contractor's expense. Upon return, the Contractor shall reimburse Tarong for the Price paid by Tarong for the Goods and any costs incurred by Tarong in returning the Goods to the Contractor.

6.2 Satisfactory inspection and/or testing of the Goods does not:

- (a) release the Contractor from liability in relation to any inherent defects or inadequacies in the Goods which were not actually identified during inspection or testing;
- (b) release or waive warranties given by the Contractor in relation to the Goods; or
- (c) otherwise relieve the Contractor of any of its obligations to perform the Contract.

6.3 The Contractor must ensure that all warranties applicable to the Goods are transferred to Tarong.

6.4 If in the reasonable opinion of Tarong the Services performed by the Contractor do not meet the requirements of the Contract, the Contractor shall upon request by Tarong promptly re-perform the deficient part of the Services at its own cost. If the Contractor fails to do so, Tarong may have the deficiency rectified by others and recover the costs of doing so from the Contractor.

7. COMPUTER SOFTWARE

Where the Goods incorporate computer software, the Contractor warrants that:

- (a) the software is free from viruses, trojan horses, bugs, worms or any other defects that are intended to, or do, damage or interfere with the proper working of the software;
- (b) any software maintenance, upgrade, patch or fix supplied by the Contractor for the software will comply with subparagraph (a) and will be compatible with the existing version of the software; and
- (c) Tarong's use of the software will not infringe the intellectual property or moral rights of any party.

8. SITE EXAMINATION AND INDUCTIONS

8.1 The Contractor is deemed to have examined the Site and its surrounds and accepted responsibility for any additional costs, losses and expense arising out of the physical conditions and characteristics of the Site.

8.2 The Contractor (and any employee, agent or subcontractor of the Contractor) must:

- (a) complete all relevant inductions prior to commencing performance of Services at the Site;
- (b) at all times while performing the Services at the Site, comply in full with the Site Work Conditions.

9. INSURANCE

Unless otherwise specified in the Order, the Contractor must hold insurances a prudent supplier of the Goods and/or Services would hold including:

- (a) insurances to cover physical loss or damage to the Goods;
- (b) public liability insurance of not less than \$5 million;
- (c) professional indemnity insurance in respect of the Services of not less than \$2 million; and
- (d) if Services are to be supplied, workers compensation insurance as required by law.

10. WARRANTIES

10.1 The Contractor warrants and represents to Tarong that:

TARONG ENERGY CORPORATION LIMITED
CONDITIONS OF ORDER FOR SUPPLY OF GOODS AND/OR SERVICES



- (a) all performance data, measurements and specifications quoted in brochures, quotations or tenders are accurate within the tolerances (if any) specified in those documents;
- (b) it has unencumbered title to the Goods;
- (c) use of the Goods by Tarong will not infringe the intellectual property, moral or other rights of any third party;
- (d) it, and any person performing the Contract on its behalf, holds and will maintain all requisite licences, permits and authorities relevant to the supply of the Goods and/or Services;
- (e) it holds all relevant import licenses, consents or authorities necessary for performance of the Contract.

11. INDEMNITY

- 11.1** The Contractor shall indemnify Tarong against any and all claims, liabilities, losses, damages or penalties in respect of:
- (a) any loss of or damage to real or personal property owned by Tarong or any other party;
 - (b) any personal injury or death sustained by any person,
- arising in any way out of the Contractor's performance of the Contract or any breach by the Contractor of its obligations under the Contract.

12. INTELLECTUAL PROPERTY

- 12.1** Unless otherwise specified in the Order, all intellectual property and moral rights in material or documentation produced by the Contractor under the Contract shall vest in Tarong upon creation. The Contractor shall assign or transfer (and shall ensure its personnel assign or transfer) all intellectual property and moral rights and ownership of such material to Tarong. Tarong grants to the Contractor an irrevocable licence to use the intellectual property for the purpose of performing the Services.
- 12.2** If the Contractor is an individual, the individual consents to any act or omission by Tarong in exercising the intellectual property or moral rights in this clause that might otherwise constitute breach of the individual's moral rights.
- 12.3** The Contractor indemnifies Tarong against any claims made by third parties in respect of the use of intellectual property in connection with any Goods and/or Services supplied under the Contract.

13. CONFIDENTIALITY

- 13.1** Subject to clause 13.2, the Contractor must not, without Tarong's approval, disclose Confidential Information to any third party or use or reproduce Confidential Information other than strictly for the performance of the Contract.
- 13.2** Clause 13.1 shall not apply to the extent the Confidential Information is:
- (a) in the public domain in the form it was disclosed or made available by or on behalf of Tarong (otherwise than as a result of breach of the Contract); or
 - (b) required to be disclosed by Law (provided the Contractor first advises Tarong of the legal requirement for disclosure and allows Tarong the opportunity to seek orders preventing disclosure).

- 13.3** The Contractor must establish and maintain effective security to safeguard the Confidential Information and to keep Confidential Information under its control.
- 13.4** On termination or completion of the Contract, the Contractor must return Confidential Information to Tarong.
- 13.5** In this clause, "Confidential Information" means all documents (including drafts and notes), reports, data or information of any kind, in any form, whether:
- (a) communicated orally or in writing between Tarong and the Contractor in connection with the Contract; or
 - (b) created or generated by the Contractor in connection with the Contract
- and includes (but is not limited to) financial information, trade secrets, business affairs, suppliers, operations data, drawings, designs, technical information and any other information relating to Tarong's business.
- 13.6** The Contractor must not make public announcements in relation to this Contract without Tarong's consent.

14. TERMINATION

- 14.1** Tarong may terminate the Contract immediately by written notice if:
- (a) the Contractor is unable to pay its debts as and when they fall due;
 - (b) a receiver, administrator or liquidator is appointed, or a meeting of creditors is called, in relation to the Contractor or the Contractor enters into an arrangement with its creditors or otherwise takes advantage of laws in force in relation to insolvent debtors;
 - (c) the Contractor ceases to carry on business;
 - (d) the Contractor or its representatives engage in conduct that, in the reasonable opinion of Tarong, endangers health and safety; or
 - (e) the Contractor or its representatives breach the Site Work Conditions.
- 14.2** If either party breaches the Contract, the other party may give notice requiring the breach to be remedied within 14 days. If the breach is not remedied, the party giving the notice may terminate the Contract.
- 14.3** Tarong may, by notice in writing, terminate the Contract at any time. Upon receipt of a notice of termination under this clause, the Contractor must cease performance of the Contract and take all available steps to minimise loss arising from termination. Tarong will pay the Price for work completed up to the date of termination. Tarong will not be liable for any other damages or compensation for the termination.
- 14.4** Termination of the Contract does not affect accrued rights or remedies.

15. DISPUTE RESOLUTION

The parties will negotiate to resolve any disputes. If a dispute cannot be resolved within 14 days of first being notified, either party may commence proceedings.

16. GENERAL

16.1 The relationship between Tarong and the Contractor is one of principal and independent contractor. Nothing in this Contract shall create a relationship of joint venture, trust, employment, agency or partnership. The Contractor does not have authority to contract with third parties on behalf of Tarong or to otherwise bind Tarong, unless Tarong's prior written consent is provided.

TARONG ENERGY CORPORATION LIMITED
CONDITIONS OF ORDER FOR SUPPLY OF GOODS AND/OR SERVICES



- 16.2** The Contractor acknowledges that Tarong may contract with any other party to supply like goods or services and no exclusive relationship exists or is to be implied by the Contract.
- 16.3** Any variation to the Contract must be in writing, signed by both parties.
- 16.4** This Contract is governed by the laws of Queensland and each party submits to the non-exclusive jurisdiction of Courts of that state.
- 16.5** Neither party is taken to have waived any right under the Contract unless the waiver is given in writing and expressed to be a waiver.
- 16.6** Any notice given under the Contract must be given in writing to the address specified in the Order for the relevant party.
- 16.7** The Contract constitutes the entire agreement between Tarong and the Contractor in relation to its subject matter.