

These are the standard terms and conditions ("**Terms and Conditions**") governing, and incorporated into, a Purchase Order supplied by **Osmoflo Water Management Pty Ltd** (ACN 608 078 459) or any of its related bodies corporate ("**Osmoflo**"). These Terms and Conditions will apply to any Purchase Order unless a contractual arrangement already exists between Osmoflo and the Supplier in relation to the goods or services the subject of the Purchase Order. These Terms and Conditions take precedence over any terms and conditions that may be contained in the Supplier's quotation or invoice or in any other document or elsewhere (other than any existing contractual arrangement for goods or services).

In these Terms and Conditions:

Contract means the contract comprising the Purchase Order, these Terms and Conditions and any other document which is attached to, or incorporated by reference in, the Purchase Order or these Terms and Conditions;

Defect means any part or aspect of the Goods or Services which is not in compliance with the requirements of the Contract and includes any Defect which is attributable to design, workmanship or operating characteristics;

Defects Liability Period is defined in clause 13;

End User means any person to whom Osmoflo is contractually bound to supply the Goods and/or Services (including where incorporated into another product);

Goods means each and every article or thing described in the Purchase Order as to be purchased by Osmoflo, or any part thereof, and includes all materials and equipment necessary to allow or assist in the performance of the Services;

GST has the same meaning as it does in *A New Tax System (Goods and Services Tax) Act 1999* (Cth);

Incoterms means "Incoterms 2010 – ICC rules for the use of domestic and international trade terms", published in September 2010 by the International Chamber of Commerce, as updated or amended from time to time;

Indemnified Parties means Osmoflo Pty Ltd, each related body corporate of Osmoflo Pty Ltd, any End User and their respective officers, directors and employees;

Intellectual Property Rights means any and all intellectual and industrial property rights anywhere in the world, including but not limited to the rights comprised in any patent, copyright, design, trade mark, eligible layout or similar right whether at common law or conferred by statute, throughout the world for the full period of the rights and all renewals and extensions.

Legal Requirements means present and future obligations arising under (a) applicable laws, statutes, regulations, by-laws, orders, ordinances, proclamations and decrees; (b) the terms and conditions of any applicable government approvals; (c) any binding requirement, direction or order of a governmental agency; and (d) any applicable international or Australian standards;

Purchase Order means the document issued by Osmoflo headed as such and describing the Goods and/or Services to be supplied;

Services means the services described in the Purchase Order and includes the performance of all incidental or other services; and

Supplier means the person named as the supplier of the Goods and/or Services in the Contract and includes as appropriate the Supplier's affiliates, executors, administrators, successors, and permitted assigns.

PART A – GOODS

1. Supply

1.1 The Supplier must supply the Goods to Osmoflo in accordance with (a) the Contract; (b) all applicable Legal Requirements; and (c) any reasonable requests of Osmoflo.

2. Packaging and delivery

2.1 Goods must be (a) properly and safely packed and marked so as to comply with any Legal Requirements; (b) clearly and accurately labelled with printed, legible labels; (c) compliant with Osmoflo's specifications; and (d) of the best quality and workmanship. If the Goods will be manufactured by the Supplier in accordance with the Contract, the Supplier must not commence manufacture until all patterns, parts or other specifications in relation to the Goods are approved by Osmoflo.

2.2 The delivery of the goods must be made in accordance with the relevant Incoterm specified in the Contract, or otherwise at the time, place and in the manner specified in the Contract.

2.3 The time for delivery of the Goods, as specified in the Contract, is of the essence. If the time for delivery of the Goods will not be met, the Supplier must immediately notify Osmoflo of any anticipated delay, its cause and the earliest possible delivery date. In such event, Osmoflo may (without prejudice to any other rights) terminate all or any part of the Contract and Osmoflo will not be liable to pay the Supplier any damages, compensation or reimbursement for any Goods supplied or any work or Service performed or expense incurred by the Supplier after the date of termination (including loss of profits, loss of use, loss of trading revenue and any other consequential, indirect, remote or unforeseeable loss or damage).

2.4 Goods delivered are subject to inspection and acceptance or rejection by Osmoflo in accordance with clause 11. Upon rejection of the Goods the Supplier must (a) arrange, at its own cost, to remove the Goods from Osmoflo's premises; and (b) at Osmoflo's election, either arrange for the Goods to be re-supplied at the Supplier's own cost (subject to the same right of rejection) and at a time to be specified by Osmoflo or as soon as possible, or reimburse or credit Osmoflo for any amount paid on account of the price of the rejected Goods.

2.5 Any installation of the Goods by the Supplier will be subject to Part B (Services) of these Terms and Conditions.

2.6 The Supplier must furnish all engineering and other data relating to the Goods in accordance with and within the time stated in the Contract.

2.7 Title to and property in the Goods passes to Osmoflo upon delivery. The Goods must be appropriately marked and identified as the property of Osmoflo.

2.8 A representative of Osmoflo is entitled to inspect the Goods and request and witness tests on the Goods at the Supplier's and any subcontractor's premises. The Supplier must allow Osmoflo access or use its best endeavours to procure such access at any time to the Supplier's and any subcontractor's premises for this purpose. The Supplier must make this a condition of any subcontract.

PART B – SERVICES

3. Performance of Services

3.1 The Supplier shall perform the Services, and Osmoflo shall pay the Supplier for the Services performed, in accordance with and to the standard required by the Contract.

3.2 The Supplier is responsible for the provision and maintenance of all materials and resources and the supply of all tools and equipment necessary to perform the Services. The Supplier will ensure that all of the Supplier's equipment is in good working order and suitable for use in connection with the Services.

3.3 The Services must be of first class quality and the Supplier must perform the Services: (a) with due care and skill and in a professional, competent and diligent manner that would be expected of a professional person providing services of the kind described in the Contract; (b) in accordance with good safety practices and any applicable Legal Requirements and, if applicable, good industry practices; and (c) in accordance with any reasonable direction of Osmoflo.

3.4 The Supplier will engage and provide the services of all personnel required to perform the Services. The Supplier will ensure that all of the Supplier's personnel hold all current licenses, permits, endorsements and other certificates required by law or otherwise necessary to carry out the Services and are competent in every way to perform the Services. The Supplier is responsible for its employees and industrial relations with its employees and any subcontractors' employees and, insofar as they relate to the provision of the Services, must conduct its employee and industrial relations using the highest standard of skill, care and diligence. The Supplier must not hinder or adversely affect the employee and industrial relations of Osmoflo or any other employer on Osmoflo's premises.

3.5 Osmoflo and its agents have the right to carry out reasonable inspection and testing to ensure that the Services are in compliance with the Contract. The Supplier will render such reasonable assistance (including access to the Supplier's premises) as may be required to facilitate such inspections and testing.

4. Records and Information

4.1 The Supplier will provide progress reports on the performance and progress of the Services under the Contract and matters arising in the course of such Services. The reports will be prepared and given with such frequency and in such format as Osmoflo may reasonably require from time to time.

4.2 The Supplier will keep full and accurate records relating to the performance and progress of the Services under the Contract and matters arising in the course of such Services. Osmoflo will be entitled to inspect and copy such records.

PART C – General

5. Term

The Supplier will supply the Goods, or commence the performance of the Services, on the date or within the period specified in the Contract and will continue to supply the Goods or perform the Services for the period specified in or determined in accordance with the Contract, unless the supply of the Goods or the performance of the Services are terminated earlier in accordance with the Contract.

6. Payment

6.1 In consideration for the Supplier's performance of its obligations under the Contract, Osmoflo will pay the Supplier the rates or price (as the case may be) specified in the Contract ("**Price**"). The Price will be the sole consideration payable to the Supplier for the performance of the Contract, and includes:

- (a) all taxes including any goods and services tax, duties and other imposts for which the Supplier is liable (including GST unless expressly stated otherwise);
- (b) all amounts payable for the use of applicable patents, copyright, registered designs, trade marks and other Intellectual Property Rights;
- (c) all charges for the supply of the Goods or Services; and
- (d) all costs in connection with the testing, inspection, packaging, delivery and insurance of the Goods or Services.

7. Manner of payment

7.1 Unless otherwise specified in the Contract: (a) Osmoflo will pay the Price for Goods or Services no later than 45 days from the end of the month in which Osmoflo receives the Supplier's correctly rendered tax invoice for the supply; and (b) the Supplier will be responsible for all costs, expenses and liabilities incurred by the Supplier in connection with the supply of the Goods and/or Services.

7.2 The Supplier must forward a correctly rendered invoice marked to the attention of 'Accounts Payable' at Osmoflo's address for payment of invoices as set out in the Contract.

7.3 Unless otherwise stated, the Supplier shall be entitled to render an invoice upon completion of the supply of the Goods and/or Services or, where performance of the

- Contract may exceed 30 days in duration, at the end of each calendar month in which the Contract is performed.
- 7.4 A tax invoice is correctly rendered if it: (a) complies with the provisions of Subdivision 29C of *A New Tax System (Goods and Services Tax) Act 1999* (Cth) as amended and all associated rulings by the Australian Tax Office; (b) is addressed in accordance with the Purchase Order; (c) quotes the Purchase Order number; and (d) is, if required by Osmoflo, accompanied by documentation substantiating the amount claimed.
- 7.5 Any invoice incorrectly rendered may be returned, unpaid, to the Supplier for correction.
- 7.6 If the Supplier appears to be an Australian tax resident and no Australian Business Number is quoted on the tax invoice, an amount may be withheld in accordance with the *A New Tax System (Pay As You Go) Act 1999* (Cth).
- 8. Compliance with Legal Requirements and directions**
- 8.1 The Supplier must promptly comply with any notice from Osmoflo at any time directing the Supplier to add to or delete from the Goods and/or Services to be supplied under the Contract.
- 8.2 The Supplier will comply with all Legal Requirements relating to taxation. If Osmoflo is required by Legal Requirements to make withholdings or deductions from payments otherwise due to the Supplier, then Osmoflo may do so, and the amount so withheld will be deemed to have been paid to the Supplier.
- 8.3 In supplying the Goods, performing the Services or undertaking any work under the Contract, the Supplier will observe and comply with all Legal Requirements.
- 8.4 The Supplier must, at its own cost, ensure that its personnel (including its subcontractors) are aware of and comply with any Osmoflo or End User health, safety or security policies, procedures and directions whilst on Osmoflo's premises or at an End User site. If required by Osmoflo, the Supplier must procure, at its own cost, that its relevant personnel complete induction training to the reasonable satisfaction of Osmoflo prior to their first entry on to Osmoflo's premises or an End User site.
- 9. Access**
- 9.1 Subject to clause 8.4, Osmoflo grants the Supplier access to Osmoflo's premises for the purposes of performing its obligations under the Contract. The Supplier must remove any of its personnel from Osmoflo's premises immediately upon request by Osmoflo.
- 9.2 The Supplier does not have exclusive possession of all or any part of Osmoflo's premises but only such use and control as Osmoflo considers is necessary to enable the Supplier to perform the Services.
- 10. Termination and Default**
- 10.1 Osmoflo may immediately terminate the Contract, or any part thereof, by giving written notice to the Supplier, in which case Osmoflo shall pay to the Supplier:
- for work executed prior to the date of termination, the amount properly due for that part of the Contract properly performed to the date of service of the notice;
 - the cost of materials reasonably ordered by the Supplier for the Contract which the Supplier is liable to accept, but only if the materials become the property of Osmoflo on payment;
 - costs reasonably incurred by the Supplier in expectation of completing the entire Contract and not included in any payment by Osmoflo; and
 - the reasonable costs of demobilisation from Osmoflo's premises.
- 10.2 If the Supplier breaches any of its obligations under the Contract, Osmoflo may, by notice in writing and without prejudice to any rights it may have against the Supplier (including under clause 10.1), suspend the Contract, or any part thereof or require the Supplier to remedy the breach within 5 business days.
- 10.3 If: (a) the Supplier breaches a term of the Contract, and does not remedy that breach within 5 business days of receiving notice to remedy; (b) Osmoflo forms the view that the Supplier is incapable of delivering the Goods or otherwise fulfilling its obligations under the Contract due to war, civil disorder, industrial action, fire, flood, explosion, act of God or other cause beyond the Supplier's control; or (c) the Supplier becomes insolvent under administration for the purposes of the *Corporations Act 2001* (Cth); Osmoflo may terminate the Contract, or any part thereof, immediately by written notice. In the event of termination under this clause 10.3, Osmoflo's only obligation will be to pay the Supplier the amount properly due (if any) for that part of the Contract properly performed prior to the date of termination.
- 10.4 Termination of the Contract for any reason shall be without prejudice to the rights and remedies of either party accrued up to and including the date of such termination. Osmoflo shall in no event be liable to the Supplier for any loss of profits, loss of use or loss of trading revenue, whether arising in connection with or as a result of such termination or otherwise.
- 11. Acceptance of Goods**
- 11.1 Osmoflo may inspect the Goods at any time prior to acceptance and reject any Goods not found to be in accordance with these Terms and Conditions. The Supplier must give Osmoflo all assistance reasonably necessary for the inspection.
- 11.2 Notwithstanding Osmoflo's inspection, full compliance with design criteria and other drawing and data specifications remain the responsibility of the Supplier.
- 11.3 After acceptance of the Goods, Osmoflo can reject the Goods for any non-conformity that could not have been discovered by reasonable inspection before acceptance.
- 11.4 If Osmoflo rejects any Goods pursuant to clause 11.1 or clause 11.3, title to and risk in the rejected Goods will re-transfer to the Supplier at the time of such rejection. Osmoflo will not be liable to pay for any rejected Goods or any costs or expenses associated with such rejection (including any applicable tax, duty or costs associated with the return or collection of such Goods). Nothing in this clause will prejudice any rights Osmoflo may have under clause 10 to terminate the Contract or any rights it may have at law.
- 11.5 Risk of loss or damage to the Goods passes to Osmoflo on acceptance of the Goods by Osmoflo in writing.
- 12. Warranties**
- 12.1 The Supplier warrants that all Goods and Services supplied under these Terms and Conditions will: (a) be free from Defect in workmanship and materials and fit for the purpose for which they are acquired; (b) be of acceptable quality; (c) be manufactured and supplied in accordance with all relevant Legal Requirements, good industry practice and the requirements of the Contract; (d) conform with the description given by the Supplier and the conform with the specifications and quantities in the Contract; (e) be free from any lien or encumbrance; and (f) not infringe any third party Intellectual Property Rights.
- 12.2 The delivery of a warranty from any subcontractor or third party shall be in addition to the warranties given by the Supplier under these Terms and Conditions and shall not relieve the Supplier from responsibility for its warranties under these Terms and Conditions.
- 12.3 The Supplier acknowledges and agrees that: (a) State and Commonwealth legislation implies certain non-excludable guarantees, warranties and conditions into particular agreements for the supply of goods and services, which cannot be excluded, restricted or modified ('**Non-Excludable Guarantees**'); (b) the Supplier does not exclude, restrict or modify the Non-Excludable Guarantees, which are in addition to the warranties set out in these Terms and Conditions; and (c) all rights and remedies of Osmoflo and its related entities under these Terms and Conditions will be in addition to any other remedies available to Osmoflo and its related entities at law, including in respect of the Non-Excludable Guarantees as appropriate.
- 12.4 Osmoflo Pty Ltd holds the benefit of all warranties given by the Supplier under the Contract on trust for each Indemnified Party. The Supplier must execute such documentation as an End User may reasonably require to satisfy the End User that it is receiving the benefit of the relevant warranties.
- 13. Defects liability obligations**
- 13.1 The Defects Liability period shall be the earlier of 18 months from delivery of the Goods or performance of the Services or 12 months from the time the Goods or Services are first put into commercial operation, or such other term as is specified in the Contract (**Defects Liability Period**).
- 13.2 Where Osmoflo gives the Supplier notice of a Defect within the Defects Liability Period, the Supplier must, at its own cost, do all things necessary to remedy that Defect and must reimburse Osmoflo for any costs incurred in connection with the Defect, including the cost of Osmoflo remedying the Defect if the Supplier does not do so within a reasonable period following receipt of a notice of the Defect.
- 13.3 If Osmoflo determines that a Defect cannot adequately be remedied, then Osmoflo may, at its option, elect either to accept the non-conforming Goods with an adjustment in the Price or to direct that the Goods be removed and re-supplied at the Supplier's expense or that the Supplier reimburse or credit Osmoflo for any amount paid on account of the price of the Goods the subject of a Defect.
- 13.4 All remedial work will be subject to the provisions of the Contract. All remedial work will have its own separate Defects Liability Period of 12 months commencing from completion of such remedial work.
- 14. Supplier's employee obligations**
- 14.1 The Supplier will be solely responsible and bear: (a) the payment and remuneration to all its employees, agents and suppliers, including salaries and wages, leave entitlements and all other benefits to which any of them may be entitled under any contract, award, statute or common law; (b) the payment of all taxes and duties; (c) costs in connection with workers compensation (or workcover) and insurance in relation to all risks appropriate to the duties of the employees, agents and suppliers; and (d) compliance with, and all costs of compliance with, all other statutory, award or other legal requirements with respect to its employees, agents and/or suppliers.
- 14.2 The Supplier is an independent contractor and must exercise independent control, management and supervision in the performance of the Contract. The Supplier is not Osmoflo's agent in any way.
- 15. Indemnity**
- 15.1 The Supplier agrees to defend, hold harmless and keep indemnified the Indemnified Parties against all and any: (a) loss, damage, liabilities, penalties, costs and expenses relating to damage to, or loss of equipment, plant and property, personal injury or death; (b) financial loss; (c) claims, demands, actions, proceedings or

- liabilities and related costs and expenses made by third parties against, or incurred by, the Indemnified Parties in relation to damage to, or loss of property, personal injury or death or the infringement of a third party's Intellectual Property Rights; and (d) any other loss or liability of any nature whatsoever caused by or arising out of or in any way connected with the supply of the Goods and/or Services to the extent caused or contributed to by the negligent or wilful act or omission of the Supplier, the Supplier's personnel or agents.
- 15.2 The Supplier releases Osmoflo from all claims except to the extent that the claims are directly caused by the negligent acts or omissions of Osmoflo.
- 15.3 In the event that any of the Indemnified Parties suffers or incurs any loss, costs or expenses which the Supplier has indemnified the Indemnified Parties against pursuant to this clause 15, the Supplier must diligently and in good faith take all action to make and pursue a claim for indemnity under the insurances that the Supplier is required to obtain and maintain pursuant to clause 17.
- 15.4 Osmoflo Pty Ltd holds the benefit of the indemnities provided by the Supplier under this clause 15 on trust for each Indemnified Party.
- 16. Assignment and Novation**
- 16.1 The Supplier must not subcontract, novate or assign its rights under the Contract without the prior written consent of Osmoflo.
- 16.2 The Supplier will be liable to Osmoflo for the acts or omissions of any subcontractor or assignee as if those were the acts or omissions of the Supplier.
- 16.3 The Supplier acknowledges that Osmoflo may at any time assign or novate its rights and obligations under the Contract to any End User or any of Osmoflo's related bodies corporate without the consent of the Supplier.
- 16.4 The Supplier must do all things and execute those documents as may reasonably be required by Osmoflo to consent, and give effect, to any assignment or novation of the Contract by Osmoflo to any End User or any of Osmoflo's related bodies corporate.
- 17. Insurance**
- 17.1 The Supplier shall provide the following insurances or as otherwise specified in the Contract: (a) public and product liability insurance against third party liabilities, with an indemnity of not less than **\$20,000,000** per claim; (b) insurance covering the Supplier's own property, equipment and materials owned, hired, leased or used by Osmoflo for the purpose of the Contract; (c) for Services in the nature of professional services, professional indemnity insurance of at least **\$2,000,000** per claim; (d) for Services to be performed at Osmoflo premises or an End User site, workers compensation insurance in accordance with applicable laws and prudent industry practice; motor vehicle third party liability insurance with an indemnity of not less than **\$5,000,000** for any one occurrence; and (f) all insurances required pursuant to any Legal Requirements.
- 17.2 The Supplier must, within five business days of the request of Osmoflo, provide for inspection certificates of currency and copies of all policies of insurance required under these Terms and Conditions.
- 17.3 The Supplier must procure that any subcontractor authorised to supply the Goods or Services under this Contract complies with this clause 17.
- 18. Intellectual Property Rights**
- 18.1 The Supplier acknowledges and agrees that nothing in this document gives the Supplier any right or entitlement to any of the Intellectual Property Rights of Osmoflo, and that, except to the extent strictly necessary for it to perform its obligations under this Contract, it must not access or use any of the Intellectual Property Rights of Osmoflo. The Supplier will not have any legal or equitable claim or right to any part of the Intellectual Property Rights of Osmoflo, except as provided for in this document.
- 18.2 Osmoflo acknowledges and agrees that, with the exception of Intellectual Property Rights comprised in or associated with custom Goods provided in the performance of the Services (**'New Rights'**), the Intellectual Property Rights comprised in and associated with the Goods and/or Services are owned by the Supplier. Osmoflo will not have any legal or equitable claim or right to any part of the Intellectual Property Rights comprised in and associated with the Goods and/or Services, except as provided for in this Contract.
- 18.3 The parties agree that the New Rights will vest in Osmoflo immediately upon creation and will be the sole and absolute property of Osmoflo. The Supplier will not have any legal or equitable claim or right to any part of the New Rights, except as provided for in this Contract, and agrees to execute (and procure the execution of) any documentation required by Osmoflo in relation to the registration or transfer of ownership in the New Rights to Osmoflo.
- 19. No Security Interest**
- 19.1 Terms used in this clause which are defined in the *Personal Property Securities Act 2009* (Cth) (**'PPSA'**) have the same meaning as in the PPSA.
- 19.2 The Supplier: (a) acknowledges that Osmoflo does not grant the Supplier a security interest under these Terms and Conditions and the Supplier has no reasonable grounds to believe that it is, or will become, a secured party in relation to any Goods; and (b) agrees that it will not lodge any financing statement on the Personal Property Securities Register in connection with the Goods or any Contract.
- 20. Anti Bribery and Corruption**
- 20.1 The Supplier shall at all times comply with Osmoflo's Anti Bribery and Corruption Policy (a copy of which can be viewed at www.osmoflo.com/136/doing-business-with-osmoflo.aspx) and of which the Supplier acknowledges receipt. In the event that an End User requires Osmoflo and its subcontractors to comply with its own Anti Bribery or ethics policy, the Supplier must also comply with the same. A copy of any such policy will be provided to the Supplier upon request.
- 20.2 In the event of breach of the Supplier's obligation under this clause 20, Osmoflo may, without prejudice to any other rights it may have, terminate the Contract. If the Contract is terminated under this clause 20, any payments already made to the Supplier under the Contract must be returned to Osmoflo without counterclaim or setoff.
- 21. Confidentiality and Photography**
- 21.1 The Supplier must not disclose to any third party information supplied to it by Osmoflo in connection with any Contract without Osmoflo's prior written consent (including without limitation the existence, or terms, of the Contract).
- 21.2 The Supplier must not, and must ensure that its employees and subcontractors do not, take any photographs or video recording of any works being performed under the Contract or of Osmoflo's or an End User's premises (whether under the Contract or otherwise) without the prior written approval of Osmoflo.
- 22. Precedence of Contract Documents**
- If there is any conflict or inconsistency between the documents constituting the Contract, unless otherwise provides, the documents will rank in order of precedence as follows: Purchase Order; Terms and Conditions; documents attached, or incorporated by reference, to the Purchase Order.
- 23. Miscellaneous**
- 23.1 Osmoflo and the Supplier must each appoint a representative for the purpose of liaising with the other party and will notify the other party of its appointed representative.
- 23.2 The Contract constitutes the entire agreement between the parties as to its subject matter and supersedes all previous negotiations and communications.
- 23.3 No alteration or variation of the Contract will be binding on Osmoflo unless in writing and executed by the Supplier and Osmoflo.
- 23.4 Where conduct requires a consent or approval from Osmoflo, that consent or approval must be given before that conduct occurs. Any consent or approval may be withheld at the sole discretion of Osmoflo.
- 23.5 The laws in South Australia govern these Terms and Conditions. The parties submit to the non-exclusive jurisdiction of the Courts of South Australia and the Federal Court of Australia (Adelaide Registry), and the Courts of Appeal there from.