

## TRADING TERMS

The following terms and conditions ("**Trading Terms**") apply to all purchases of goods and/or services by you, (the "**Customer**"), from The Parrington Group Pty. Ltd. (ACN 008 125 657) trading as Comtec IPE (the "**Company**"). Placing an order with the Company or the acceptance of a quotation from the Company will constitute acceptance by the Customer of these Trading Terms. Additions or modifications to these Trading Terms must be accepted by the Company in writing. These Trading Terms shall override and take the place of any other terms and conditions in any document of the Customer purported to be included by the Customer. In these Trading Terms "**Equipment**" means any equipment, machinery parts, spares and other goods supplied by the Company and any services provided by the Company in connection therewith.

### 1. QUOTATIONS

- (a) Quotations are not valid unless they are provided to the Customer in writing.
- (b) Quotations are subject to correction by the Company for errors and omissions.
- (c) Without limiting clause 1(b), the Company reserves the right to withdraw its quotation or vary any part of its quotation, including without limitation any price or fee specified in the quotation, at any time before acceptance by the Customer.
- (d) Unless otherwise agreed in writing by the Company, all quotations are open for acceptance for 30 days from date of the quotation.
- (e) Acceptance must be in writing and signed by the Customer within that time period.
- (f) The Customer cannot cancel an order after acceptance of a quotation without the written agreement of the Company.

### 2. TIME

- (a) The Company makes no warranty as to time of delivery, the performance of other contractual obligations or the availability of any Equipment. All time periods and dates specified by the Company are estimates only.
- (b) The Company accepts no responsibility for loss or damage (including consequential loss or damage) resulting from delay or failure to notify the Customer of any such delay.
- (c) The Company may, by notice in writing to the Customer, extend any period for delivery or performance of other obligations, or cancel an order without liability to the Customer for any loss or damage of any kind.
- (d) Estimated times run from the date of the Customer's acceptance of the Company's quotation together with any payment due pursuant to such quotation on acceptance and receipt from the Customer of all samples, information, drawings, licences and consents necessary to proceed with the order.

### 3. PRICE

- (a) Prices quoted apply only to the quantities and deliveries specified in the Company's quotation.
- (b) The prices quoted are based on the cost of material and labour at the date of offer. Should variations occur either by rise or fall in either of these costs prior to delivery, then the quoted price shall be adjusted accordingly by notice in writing to the Customer. For every 1% rise or fall in the relevant local labour award rates and conditions current at the date of offer, the contract price shall be increased or decreased by .9% of the contract price multiplied by a factor representing that portion of labour and material not expended at the time of the wage and condition variation.
- (c) All prices quoted are for the supply of the Equipment ex works, unless otherwise agreed in writing by the Company.

### 4. PAYMENT

- (a) The Customer agrees to pay the purchase price for the Equipment supplied to the Customer by the Company, as specified in the accepted quotation.
- (b) Unless otherwise agreed in writing by the Company, the purchase price for Equipment supplied by the Company must be paid as follows:
  - (i) 30% at the time of placing an order or accepting the Company's quotation, whichever is the sooner (such payment being non refundable);
  - (ii) 60% prior to despatch of the Equipment in accordance with clause 7; and
  - (iii) 10% on installation of the Equipment or within 30 days of despatch of the Equipment, whichever is the sooner.
- (c) The Company may refuse to supply any Equipment ordered by the Customer if the Customer does not make payment of the purchase price in accordance with clause 4(b).
- (d) The Customer is not entitled to withhold payment in whole or in part, or claim any right to set off in respect of the purchase price of the Equipment.
- (e) If any instalment of the price is not paid in accordance with clause 4(b), work on the Equipment is held up for any reason attributable to the Customer, the Customer commits an act of Insolvency, or the Customer ceases to carry on business, the full purchase price for the Equipment and any sums due or payable from the Customer in respect of the Equipment shall immediately become due and payable by the Customer and the Company may, at its option, cancel the contract for the supply of the Equipment or cancel or suspend despatch of the Equipment.
- (f) In this clause 4, Insolvency means:
  - (i) the Customer, not being a company committing an act of bankruptcy, making a proposal to its creditors for a composition or arrangement under the Bankruptcy Act or if any other act or event occurs that would entitle a petition for a bankruptcy order to be made;
  - (ii) the Customer, being a company, having a receiver or administrator appointed or doing, or omitting to do anything which would permit such an appointment to occur.

### 5. INTEREST

- (a) Without prejudice to any other right of the Company, all overdue payments shall carry interest at five per cent per annum above the base rate charged from time to time by the Company's principal bankers for unsecured overdrafts of less than \$100,000.
- (b) Interest accrues from day to day, from the day the payment was due until and including the day that the relevant payment is made in full. Any amount of interest, together with the outstanding purchase price is payable by the Customer on receipt of a written demand from the Company and the Customer agrees to pay such interest levied from time to time.

### 6. CREDIT

- (a) Credit facilities may be suspended or withdrawn by the Company, in its absolute discretion, at any time without notice.
- (b) The Customer agrees to pay on demand all sums owing in connection with a credit facility provided by the Company in the event that such credit facility is suspended or withdrawn.
- (c) The Customer shall notify the Company of any proposed changes in the ownership or directorship of the Customer, no later than 14 days prior to the proposed change. If there is a change, which the Company in its discretion deems to be material, the Company may suspend or withdraw all credit facilities and require that the Customer submit a new application for credit.

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### 7. DESPATCH AND DELIVERY

- (a) Unless otherwise agreed in writing by the Company, delivery of the Equipment will be ex works.
- (b) The Company may deliver the Equipment in part with written notice to the Customer. If Equipment is delivered in part pursuant to such notice, the Customer must accept the part-delivery and pay the percentage of the purchase price represented by the Equipment delivered.
- (c) Where despatch is delayed through the Customer's delay or failure to arrange carriage or to make any payment due to the Company prior to despatch, the Company may effect delivery of the Equipment by giving written notice to the Customer that the Equipment is ready for despatch.
- (d) If the Equipment is stored by the Company at the Customer's request or after notice has been given that the Equipment is ready for despatch, the Customer shall be liable to the Company for all costs and expenses of storage (including any necessary transit costs and insurance), and such costs and expenses shall constitute a debt immediately due and payable by the Customer to the Company.

### 8. RISK

- (a) All risk in the Equipment shall pass to the Customer on despatch.
- (b) Thereafter the Customer shall be responsible for the satisfactory care and protection of the Equipment and shall take out at its own expense adequate and comprehensive all risks cover on the Equipment (with a note of the Company's interest endorsed thereon) until title in the Equipment passes to the Customer in accordance with clause 9.
- (c) The Customer shall produce to the Company on demand, a certificate of currency such policies and premium receipts.

### 9. TITLE

- (a) Ownership of each unit of the Goods will remain with the Company until all amounts owing by the Customer to the Company on any account whatsoever (including the purchase price for the Goods) ("**Amounts Owing**") have been paid. Until the Amounts Owing have been paid, the Customer:
  - (i) may, subject to clause 9(b), take possession of the Goods and hold them as trustee and agent for the Company;
  - (ii) must ensure that the Goods are insured and stored or identified so that they are readily distinguishable from other goods held by the Customer or other persons.
- (b) Until the Amounts Owing have been paid, the Customer has the right to move, sell and otherwise use the Goods in the ordinary course of its business, subject to the following:
  - (i) the Customer may sell the Goods, but only as trustee and agent for the Company (save that the Customer must not represent to any third parties that it is acting as agent of the Company and the Company will not be bound by any contracts with third parties to which the Customer is a party);
  - (ii) the Customer must hold the proceeds it receives from any sale of the Goods as trustee and agent for the Company;
  - (iii) the Customer must place the whole of the monetary proceeds in an ADI account separate from its own monies, maintain proper records of that ADI account and not allow any other person to have control of those proceeds; and
  - (iv) if the Goods become part of a product or mass through manufacturing, processing, assembly or becoming commingled, the Company's security interest continues in that product or mass ("**Commingled Property**") to the extent permitted by law.
- (c) If the Customer fails to comply with any of these Trading Terms then:
  - (i) upon request by the Company the Customer must return to the Company any Goods acquired from the Company;
  - (ii) the Company may enter the premises at which those Goods are stored, and seize possession of them; and
  - (iii) the Company may retain, sell or otherwise dispose of those Goods.
- (d) The Customer must not assign or grant a security interest in respect of any accounts owed to it in relation to the Goods without the Company's prior written consent.
- (e) Without limiting the meaning of Amounts Owing, if the Customer makes a payment to the Company at any time whether in connection with the supply of Equipment or otherwise, the Company may, apply that payment as it sees fit.
- (f) If Chapter 4 of the *Personal Property Securities Act 2009* (Cth) ("**PPSA**") would otherwise apply to the enforcement of a security interest arising in connection with these Trading Terms the Customer agrees the following provisions of the PPSA will not apply to the enforcement of these Terms & Conditions: section 95 (notice of removal of accession), to the extent that it requires the Company to give a notice to the Customer; section 96 (when a person with an interest in the whole may retain an accession); subsection 121(4) (enforcement of liquid assets – notice to grantor); section 125 (obligation to dispose of or retain collateral); section 130 (notice of disposal), to the extent that it requires the Company to give a notice to the Customer; paragraph 132(3)(d) (contents of statement of account after disposal); subsection 132(4) (statement of account if no disposal); section 142 (redemption of collateral); and section 143 (reinstatement of security agreement).
- (g) In this clause 9:
  - (i) a reference to Goods means the original Equipment supplied as described in each invoice and also includes proceeds and Commingled Property when the context permits;
  - (ii) paid means receipt of cash or cleared funds by the Company in full satisfaction of the Amounts Owing;
  - (iii) the following words have the respective meanings given to them in the PPSA: account, ADI account, commingled, control, proceeds, purchase money security interest, register, registration, security interest and verification statement.
- (h) Notices or documents required or permitted to be given to the Company for the purposes of the PPSA must be given in accordance with the PPSA. The Customer consents to the Company effecting a registration on the PPSA register (in any manner the Company considers appropriate) in relation to any security interest contemplated by these Trading Terms and the Customer agrees to provide all assistance reasonably required to facilitate this. The Customer waives the right to receive notice of a verification statement in relation to any registration on the register.

### 10. NON-CONFORMITY WITH ORDERS

- (a) The Customer shall be responsible for inspecting the Equipment on arrival and shall notify the Company in writing within 24 hours of receipt of the Equipment if the Equipment delivered does not conform with the type and quantity of Equipment ordered.
- (b) The Customer will be deemed to have accepted the Equipment delivered unless the Company receives a notice of rejection within the time period set out in clause 10(a) and the Customer waives any right to reject or revoke acceptance after such time.
- (c) The Company shall replace any Equipment that does not conform with the type and quantity of Equipment ordered by the Customer at the Company's cost.

### 11. SAFETY

- (a) The Equipment will be fitted with such guarding and safety devices as the Company reasonably considers necessary to ensure, so far as is reasonably practicable, that the Equipment is safe when properly used in accordance with the Company's instructions.
- (b) If the Customer requires any guarding or safety device additional to the above, this will be provided as an addition to the Equipment specification and the purchase price and any estimated times for completion will be adjusted accordingly.
- (c) In the installation, use, operation and maintenance of the Equipment, the Customer shall be responsible for compliance with all applicable laws, regulations and standards.

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### 12. LIABILITY

- (a) To the maximum extent permitted by law:
  - (i) any guarantee, condition or warranty (including, without limitation, any implied guarantee, condition or warranty of merchantability, satisfactory quality or fitness for a particular purpose) which would otherwise apply to, or be implied in, this Agreement is hereby excluded; and
  - (ii) the Company excludes all liability in respect of the Equipment.
- (b) To the extent that:
  - (i) any law provides for, or implies in these Trading Terms, any guarantee, condition or warranty, and that law voids or prohibits provisions in a contract excluding or modifying the application of, or exercise of, or liability under, such guarantee, condition or warranty; or
  - (ii) the Company is not otherwise able to exclude liability under law, then to the maximum extent permitted by law, the Company's liability for any breach of such guarantee, condition or warranty, or otherwise, shall be limited, at the Company's option, to one or more of the following:
    - (iii) the replacement of goods delivered or the supply of equivalent goods; the repair of such goods; the cost of replacing such goods or of acquiring equivalent goods; or the cost of having such goods repaired; and
    - (iv) the supply of any services provided again or the cost of having such services supplied again.
- (c) Other than specifically stated in these Trading Terms and to the maximum extent permitted by law, the Company is not liable for and the Customer hereby releases and indemnifies the Company from any claim, action, demand, and all losses (including without limitation indirect and consequential losses), costs, liabilities and expenses (including legal costs on a solicitor and own-client basis) (**Claims**), arising directly or indirectly out of or in connection with the Customer's use or application of the Equipment, including without limitation the installation, use, operation and maintenance of the Equipment other than in accordance with the Company's instructions or recommendations (except to the extent that the Company's negligence caused or contributed to such Claims).

### 13. PERFORMANCE, DATA, DRAWINGS AND SPECIFICATIONS

- (a) The Customer acknowledges that it has the sole responsibility of satisfying itself that the Equipment is suitable for the use of the Customer or any contemplated use of the Customer and that it has conducted its own investigations and has not relied upon any information, statement, advice or representation by the Company of or in relation to:
  - (i) the operating and/or performance parameters of the Equipment;
  - (ii) the outcomes that the Equipment may achieve;
  - (iii) the suitability of the Equipment to any particular application, installation or physical environment; and
  - (iv) the appropriateness of the use of the Equipment outside Australia.
- (b) The Customer acknowledges and agrees that:
  - (i) all drawings, illustrations, specifications, dimensions, particulars of performance, designs, plans, computations, descriptions, weights, measurements and statements advertised or submitted to the Customer by the Company are, unless otherwise indicated, estimates only and are the Company's property and must not be copied or disclosed in any way or used for any purpose whatsoever without the Company's prior written consent;
  - (ii) any representation as to the operating parameters of the Equipment are representative of assumed conditions in a well managed plant, with experienced, adequate and efficient operators, appropriate services, and proper use of satisfactory materials;
  - (iii) the actual performance of the Equipment in situ might be affected by external factors (including without limitation environmental conditions) beyond the Company's control;
  - (iv) incorrect and/or negligent installation, application or use of the Equipment may cause loss of life, injury and/or damage to property; and
  - (v) the Company makes no representation, warranty or assurance as to any of the matters listed in 13(a) and that the Company shall not be liable for any loss or cost arising from those matters to the maximum extent permitted by law.

### 14. INTELLECTUAL PROPERTY

- (a) The Customer must not deface or remove any mark, label or plate affixed by the Company on the Equipment.
- (b) The Customer acknowledges that all intellectual property in the Equipment is the property of the Company.
- (c) The Customer must not and must not cause, permit or assist any other person directly or indirectly to:
  - (i) copy any intellectual property in the Equipment or record or replicate it by any other means;
  - (ii) make copies of or replicate the Equipment;
  - (iii) translate, reverse engineer, decompile or disassemble the Equipment; or
  - (iv) copy, publish, disclose or distribute any documentation associated with the Equipment (including without limitation, operating instructions and manuals).

### 15. FORCE MAJEURE AND FRUSTRATION

- (a) The Company shall be entitled to cancel or rescind any contract for the supply of Equipment to the Customer and in any event shall not be liable for loss or damage if the performance of its obligations under the contract is in any way adversely affected by any cause whatsoever beyond the Company's control including but not limited to the default of any sub-contractor, war, strike, lock-out, trade dispute, flood, accident to plant or machinery shortage of materials or labour.
- (b) If all or any of the circumstances provided for in 15(a) arise the Customer shall pay to the Company all costs which the Company, its suppliers and/or sub-contractors have incurred directly or indirectly or for which they are liable in relation to the Company's contract with the Customer. The Company will not require payment for any standard part or material which it is able to use in any other contract. Any prepayment made to the Company under the contract will be set off against sums due to the Company under this clause.

### 16. GENERAL

- (a) Liability for accounts held in more than one name is joint and several. In the case that a trust is Customer, the Customer acknowledges that the trustee of shall be liable for all payments due to the Company and that the assets of the trust shall be available to meet payment of such amounts.
- (b) The contract between the Company and the Customer shall be governed and construed in accordance with the laws of the State of South Australia and Commonwealth of Australia and the Customer agrees to submit to the non-exclusive jurisdiction of the courts of South Australia and the courts which hear appeals from them.
- (c) If any part of these Trading Terms is or becomes for any reason wholly or partially void, voidable or unenforceable, then that part of these Term and Conditions shall be severed without prejudice to the continuing force and validity of the remaining conditions.
- (d) Any waiver or relaxation by the Company partly or wholly of any clause or right under these Trading Terms is only valid if in writing and signed by the Company, applies to a particular occasion only and is restricted to its written terms.
- (e) The Company reserves the right to change these Trading Terms at any time in its sole discretion, to be effective on the giving of written notice to the Customer.

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- (f) Any amounts payable to the Company are exclusive of GST unless specified otherwise. Any government charges or duties, including sales tax, GST, use or excise taxes or similar taxes, are payable by the Customer.
- (g) These Trading Terms (together with any quotation given to the Customer by the Company) constitute the entire agreement between the Company and the Customer and supersede all prior negotiations, representations, proposals, undertakings and agreements, whether written or oral, relating to the subject matter of these Trading Terms. To the extent of any inconsistency between these Trading Terms and a quotation, these Trading Terms shall prevail.

**On behalf of the Customer, I/we have read, understood and agree to be bound by these Trading Terms:**

**Signed by or on behalf of the Customer by a properly authorised person:**

NAME: \_\_\_\_\_

NAME: \_\_\_\_\_

POSITION: \_\_\_\_\_

POSITION: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_

DATE: \_\_\_\_\_

DATE: \_\_\_\_\_