

# Terms and Conditions of Sale

## 1. APPLICATION

- 1.1 **Currency:** These terms and conditions of sale (**Terms**) apply to the supply of all Goods and Services by us to you from the date that you accept these Terms.
- 1.2 **Acceptance:** You accept these Terms when:
- 1.2.1 you submit an Order;
  - 1.2.2 you accept delivery of, or any part of, the Goods and Services of an Order; or
  - 1.2.3 you make Payment, or partial Payment, for any Goods and Services supplied by us,
- whichever occurs first.
- 1.3 **Applicability:** These Terms shall be incorporated into and form part of each contract constituted upon an accepted Order.
- 1.4 **Current Terms:** These Terms may be varied from time to time by us. The current Terms at the time of placing an Order or part of an Order shall apply to such Orders.
- 1.5 **Updated Terms:** The updated version of the Terms will be published on our website following any amendment to the Terms and will apply to any subsequent supply of Goods and Services.

## 2. QUOTES + ORDERS

- 2.1 **Requesting a Quote:** You may request a Quote from us relating to the potential supply of Goods and Services.
- 2.2 **Providing a Quote:** We may provide you a Quote for the potential supply of Goods and Services. The Quote may include the price and quantity of the Goods and Services proposed to be supplied by us and other relevant details.
- 2.3 **Validity of Quote:** A Quote is valid for 30 days only. We reserve the right to withdraw a Quote at any time before you place an Order.
- 2.4 **Placing an Order:** If our Quote is acceptable to you, you may place an Order for the supply of Goods and Services. An Order is not binding until we have provided you in our absolute discretion our acceptance of the Order. Acceptance may be verbal, by conduct or in writing at our discretion.
- 2.5 **Additional conditions:** Unless otherwise agreed by us in writing, these Terms will prevail over, and we will not be bound by, any conditions (express or implied) added or provided by you.

## 3. PRICE

- 3.1 **Price:** Unless we otherwise agree in writing and subject to clause 3.2, the price charged and payable for the Goods and Services shall be the price in Australian dollars at the date we provide the Quote. Any applicable taxes, charges, delivery, installation and incidental costs in relation to the Goods and Services will be payable by you in addition to the price.
- 3.2 **Variation of price:** Prices in any Quote for the supply of Goods or Services are based on the costs prevailing and the specifications supplied at the time of the Quote. Subject to your rights under law, we may (acting reasonably) vary prices, including if:
- 3.2.1 there is any movement in the cost of supplying the Goods or Services specified in your Order, including any Charges; or
  - 3.2.2 the Goods or Services specified in your Order are varied from the Goods or Services specified in our Quote.

3.3 **Imported goods:** Prices for imported goods charged to you shall be the price of those goods charged to us (including any relevant Charges, transportation, freight and insurance costs) converted into Australian dollars using exchange rate applied to us or such other rate as we reasonably determine.

## 4. PAYMENT + CREDIT

- 4.1 **Invoice on delivery:** Unless we otherwise agreed, we will issue you an Invoice upon delivery (or as soon as practicable thereafter) of the Goods or Services specified in your Order.
- 4.2 **Payment terms:** You must make all Payments in full within 30 days from the end of the month Invoiced or the time period as we may otherwise indicate to you in writing and from time to time based on our assessment of your credit worthiness.
- 4.3 **Minimum Orders:** The minimum amount for Orders requiring credit is \$50.00 (plus GST, duties and bank charges if applicable) or such amount as determined by us from time to time.
- 4.4 **Payment method:** You must make all Payments by cheque and/or direct credit to the bank account nominated by us.
- 4.5 **Information:** You acknowledge and agree that for us to establish your credit worthiness, we may require you to provide financial statement and other related financial statistical information to enable us to determine relevant financial indicators such as cash flow measurement, liquidity measurements and solvency measurements.
- 4.6 **Credit:** We may at our discretion grant you a credit limit in accordance with our credit management policy and our determination of your creditworthiness.
- 4.7 **Bank Guarantee:** You acknowledge and agree that you must provide to us a bank guarantee or other collateral as we may determine is appropriate in the circumstances where we grant you a credit limit.
- 4.8 **Changes:** We reserve the right at our discretion to change the amount of credit available to you or your payment terms, including without limitation if we consider that your credit worthiness has changed for any reason.
- 4.9 **Credit limit:** Unless we otherwise agree in writing, you must not exceed the credit limit granted to you in accordance with these Terms.
- 4.10 **Revocation of credit:** We reserve the right to revoke at any time any credit extended to you because of your failure to make any Payment when due or for any other reason.
- 4.11 **Accounts:** We may provide to you a credit account statement monthly or as we may otherwise indicate to you in writing.

## 5. DEFECTS AND RETURN OF GOODS

- 5.1 This clause 5 is subject to any statutory or legal right whether under these Terms and Conditions or otherwise.
- 5.2 **Returns:** You must inspect the Goods immediately upon Delivery or otherwise within 48 hours of receipt of the Goods and may only return the Goods if:
- 5.2.1 they do not materially comply with the Order; or
  - 5.2.2 permitted by law, including the ACL.

5.3 **Deemed acceptance:** You will be deemed to have accepted the Goods if:

- 5.3.1 you do not notify us within the time period specified in clause 5.2;
  - 5.3.2 you have put the Goods to use consistent with acceptance.
- 5.4 **Notification:** If you wish to return any Goods (referred to in clauses 5.2.1 and 5.2.2) delivered to you, you must give to us:
- 5.4.1 notice within a reasonable time of your receipt of the Goods; and
  - 5.4.2 the original Invoice details.
- 5.5 **Replacement or credit:** If we accept the return of Goods from you, then subject to your statutory rights, we will at our option either:
- 5.5.1 replace the returned Goods; or
  - 5.5.2 give a credit or a refund for such Goods.
- 5.6 **Payment for other Goods:** You may not withhold any payment due to us in respect of any other Goods pending the resolution of a return.
- 5.7 **Transportation charges:** You will be liable for all transport charges incurred in returning Goods (other than those referred to in clauses 5.2.1 and 5.2.2) together with the cost of returning them to you unless relevant laws require otherwise.

## 6. PAYMENT DEFAULT

- 6.1 **Consequences:** If you fail to make a Payment in accordance with clause 4, without otherwise limiting our rights, we may in our absolute discretion:
- 6.1.1 cease supply of any and all relevant Goods and Services until all Payments have been made in full;
  - 6.1.2 modify any credit limit or payment terms applicable to you;
  - 6.1.3 apply any bank guarantee, security or collateral towards any outstanding amounts; and/or
  - 6.1.4 terminate any Order and these Terms.

## 7. DELIVERY, RISK + INSURANCE

- 7.1 **Delivery:** Delivery of the Goods and commencement of the Services (as applicable) occurs when we deliver of the Goods to you, your agent or nominee or to a carrier commissioned on your behalf and/or commence the Services at the place specified by you (as applicable), or as otherwise agreed. Deliveries are to be made by normal courier or parcel post. Normal courier shall be defined as "air bag" or local "sticker" for parcels up to 5kg gross weight. For parcels over 5kg gross weight, normal courier will be by Road Express.
- 7.2 **Cost of delivery:** We may charge you the cost of delivering the Goods to you, which will be included in the Payment. You must pay for any further costs after the Goods have been Delivered.
- 7.3 **Instalments:** We reserve the right to make deliveries in instalments and these Terms shall be severable as to such instalments, in which case Payment for each instalment is a condition precedent to subsequent instalments.
- 7.4 **Risk passes on delivery:** The risk in the Goods shall pass to you upon the delivery of the Goods in accordance with clause 7.1.
- 7.5 **Site safety:** You must ensure the Delivery location or your premises are otherwise suitable, ready and safe for the Delivery of the Goods and the commencement of the Services (as applicable).

7.6 **No liability for delay:** We will use reasonable efforts to deliver the Goods to you and commence the Services (as applicable) by the date and to the place specified by you. Without limiting clause 9, if the Delivery of the Goods and/or Services is delayed or you do not comply with clause 7.5 to our satisfaction:

- 7.6.1 we may at your cost take any necessary action to remedy the delay or non-compliance;
  - 7.6.2 we shall not be liable for late delivery or delay in delivery; and
  - 7.6.3 the delay does not give you the right to cancel an Order or terminate these Terms.
- 7.7 **No Splits:** Tungsten / Titanium Carbide inserts will be sold in trade packs of 10. No trade pack will be split.

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## 8. SUSPENSION + CANCELLATION

8.1 **Suspension of Order:** If as a consequence of your instructions we delay or suspend (but not cancel) an Order or any part of an Order for a period of 14 days or more, we may:

- 8.1.1 request the payment in full for all work in progress relating to the relevant Order at the time of suspension;
- 8.1.2 vary the price for the uncompleted portion of the relevant Order; and/or
- 8.1.3 cancel your Order.

8.2 **Cancellation by you:** You may not cancel an Order, or any part of it, unless:

- 8.2.1 we give our written consent; and
- 8.2.2 you pay to us (if required by us in our absolute discretion) any and all costs reasonably incurred by us in relation to the cancelled Order or the cancelled part of the Order to the date of cancellation.

8.3 **Cancellation by us:** We may in writing and at our discretion suspend cancel an Order or delivery of an Order without liability to you if:

- 8.3.1 we reasonably form the opinion that you are insolvent or at material risk of insolvency;
- 8.3.2 we determine your credit worthiness is unsatisfactory or that you would not be able to make a Payment on time;
- 8.3.3 you fail to make a Payment on time; or
- 8.3.4 we reasonably form the opinion that supplying Goods or Services to you may have a negative impact upon our business or commercial reputation or image.

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## 9. EXCLUSIONS + LIMITATIONS

9.1 **Excluded rights:** All express or implied representations, conditions, statutory guarantees, warranties and provisions (whether based on statute, common law or otherwise), relating to these Terms, which are not contained in it, are excluded to the fullest extent permitted by law.

9.2 **Limitations:** Subject to clause 10, no warranty is given and we will not be liable for:

*In the case of Goods*

- 9.2.1 alterations to Goods for which we are not responsible;
- 9.2.2 damage or failure caused by unusual or non-recommended use, misuse or application of the Goods; or
- 9.2.3 loss caused by any factors beyond our control; and

*In the case of Services*

- 9.2.4 interference with our Services for which we are not responsible;
  - 9.2.5 damage or loss caused by unusual or non-recommended use of our Services; or
  - 9.2.6 loss caused by any factors beyond our control.
- 9.3 **Indirect loss:** We will not be liable for any special, indirect, consequential or economic loss or damage or loss of profits (in contract or tort or arising from any other cause of action) suffered by you or any other person resulting from any act or omission by us (including breach, termination or non-observance of the terms of an Order or agreement which incorporates these Terms).

9.4 **Total liability:** Subject to clause 10, our total liability for breach of these Terms or breach of our contractual obligations or duties at law or in equity (however arising) is limited at our option to:

*In the case of Goods*

- 9.4.1 the replacement of the Goods or the supply of equivalent goods;
- 9.4.2 the repair or rectification of the Goods;
- 9.4.3 the payment of the cost of replacing the Goods or of acquiring equivalent goods; or
- 9.4.4 the payment of the cost of the repair or rectification of the Goods; and

*In the case of Services*

- 9.4.5 the supply of the Services again; or
  - 9.4.6 the payment of the cost of having the Services supplied again.
- 9.5 **No reliance:** You agree that:
- 9.5.1 you have and will make your own assessment of the fitness for purpose and suitability of any Goods or Services supplied to you;
  - 9.5.2 you do not and will not rely on our skill or judgment nor that of any person by whom any prior arrangements in relation to the acquisition of any Goods or Services were or will be made; and
  - 9.5.3 you have not made nor will make known to us or a manufacturer of goods (directly or indirectly) the particular purpose for which you acquire Goods or Services.
- 9.6 **Third party work:** If we obtain goods or services from a third party in order to carry out your instructions or complete an Order:

- 9.6.1 we will not be liable for any breach of these Terms if that breach is as a result of or is connected with the supply by a third party of such goods or services;
- 9.6.2 we acquire such goods or services as agent for you not as principal and will have no liability to you in relation to the supply of these goods or services;
- 9.6.3 any claim by you in relation to the supply of such goods or services must be made directly against that third party; and
- 9.6.4 you must pay for such goods or services from the third party plus the cost of or relevant fee for us performing such services as agent for you (whether separately identified or not).

9.7 We give no warranty in respect of any goods or services that are supplied or carried out or provided to you by a third party even where forming part of an Order. Any warranties or other rights will

be governed by the terms of supply by that provider to you and relevant laws.

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## 10. STATUTORY RIGHTS

10.1 **Statutory rights:** Certain statutory guarantees, warranties and rights may apply to your purchase of Goods and Services from us as provided by relevant laws but subject to these Terms as applicable and where permitted by relevant laws.

10.2 **No restriction:** Nothing in these Terms excludes, restricts or modifies any condition, warranty, statutory guarantee, right or remedy implied or imposed by common law, statute or regulation which cannot be lawfully excluded, restricted or modified.

10.3 **Unfair contract:** If section 23 of the ACL applies to any provisions in these Terms, any such provision(s) shall be void to the extent it is unfair within the meaning of section 24 of the ACL.

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## 11. TITLE

11.1 **Subject to the PPSA:** The provisions of this clause 11 are subject to the provisions of the PPSA and clause 12.

11.2 **Title:** We will retain absolute title over the Goods until:

- 11.2.1 we have received Payment in full in respect of the Goods; or
- 11.2.2 the Goods are disposed of in the manner prescribed under clause 12.10.

11.3 **Identification:** Until full title in the Goods has passed to you, you will ensure that:

- 11.3.1 any identifying plate, mark or packaging number on any of the Goods is not removed, defaced or obliterated; and
- 11.3.2 the Goods are identifiable and distinguishable from any other goods that may be in your possession and as to each particular Invoice of Goods.

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## 12. SECURITY INTEREST

12.1 **Security Agreement:** This clause 12 sets out the Security Agreement between you (as **grantor**) and us (as **secured party**).

12.2 **Creation of Security Interest:** You grant to us a security interest (**Security Interest**) in the Goods supplied by us to you, including all related proceeds (**Collateral**), as security for all or part of the Payment of any amount relating to the Goods in accordance with these Terms or otherwise. For the avoidance of doubt, this Security Interest is also a Purchase Money Security Interest in the Collateral.

12.3 **Ranking:** Subject to the priority rules set out in the PPSA, this Security Interest ranks in priority ahead of all other security interests in the Collateral.

12.4 **Perfection:** You irrevocably give us authority to register a financing statement for the Security Interest on the PPSR. This clause does not prevent us from perfecting this Security Interest by any other means in accordance with the PPSA.

12.5 **Information:** You must provide us with any information required for us to register a financing statement or a financing change statement for this Security Interest on the PPSR.

12.6 **Identification:** Until this Security Interest has been extinguished, you must ensure that, as far as is reasonably practicable:

- 12.6.1 any identifying plate, mark or packaging number on any of the Collateral (including

- Goods) is not removed, defaced or obliterated; and
- 12.6.2 the Collateral is identifiable and distinguishable from any other goods or products in your possession and as to each particular Invoice of Goods comprising the Collateral.
- 12.7 **Accessions:** You acknowledge that this Security Interest continues to apply to Collateral that becomes an accession to other goods.
- 12.8 **Remedies:** Until this Security Interest in the Collateral has been extinguished, if:
- 12.8.1 you experience a Default Event; or
- 12.8.2 you breach these Terms,
- we may as we see fit and without notice to you, seize, retain or redeem the Collateral, or seek any and all remedies provided under Chapter 4 of the PPSA or any other remedies provided at law or in equity, including those set out in clause 12.9.
- 12.9 **Right of entry:** In addition to any rights given to us under Chapter 4 of the PPSA, you irrevocably:
- 12.9.1 grant us the right to:
- A demand the immediate return of the Goods to us;
- B enter your premises to search for and seize the Goods without notice or liability to you; and
- C retain, sell or otherwise dispose of those Goods in any manner we see fit; and
- 12.9.2 indemnify and us keep indemnified against any claim (including in negligence) in respect of any damage to your property or the premises you occupied or any consequential loss caused by another party arising relating to searching for and seizing any Goods in accordance with this clause 12.9.
- 12.10 **Permitted use and sale:** You may only sell or deal with any of the Collateral (including accessions) in respect of which full Payment has not been received if you obtain our consent.
- 12.11 **Costs:** You must pay all costs incurred by us (including costs on a solicitor-client basis and debt collector's costs) arising out of this Security Agreement, including costs in relation to:
- 12.11.1 seizure, retention, redemption or any other remedy exercised pursuant to this Security Agreement; and
- 12.11.2 the enforcement of our rights under this Security Agreement (including matters incidental to it).
- 12.12 **Extinguishment:** The Security Interest is extinguished only if all obligations under this Security Agreement have been satisfied.
- 12.13 **Waiver:** Sections 95, 118, 121(4), 125, 130, 132 and 135 of the PPSA shall not apply to the extent that they impose obligations on us.
- 12.14 **Waiver of receipt of statements:** You irrevocably waive your to receive from us a copy of any financing statement, financing change statement or verification statement that is registered, issued or received at any time in relation to this Security Agreement.
- 12.15 **Disclosure:** The parties agree that neither party may disclose information that:

- 12.15.1 can be requested under section 275(1) of the PPSA (subject to any exceptions that may apply under section 275(7) of the PPSA); or
- 12.15.2 is protected against disclosure by a duty of confidence.
- 12.16 **Acknowledgement:** You acknowledge due notice of this Security Agreement with acceptance of these Terms.

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### 13. LOAN OR TRIAL GOODS

- 13.1 **Loan:** We may, at our absolute discretion, agree to provide you with certain Goods on a loan, or trial basis subject to any terms and for a loan period specified by us.
- 13.2 **Delivery:** We will deliver the Goods to you subject to these Terms and at the expiration of the loan period (or such earlier period notified to you in writing) we will collect the Goods from you, at a time convenient to both parties, unless agreed otherwise.
- 13.3 **Estimates only:** Without limiting any other clause in these Terms, dates of delivery and collection and availability of loan or trial Goods will be notified to you and are estimates only. While we will use best endeavours to maintain such estimates, no liability of any nature will attach to us for delay or non-availability or reduced availability or loan periods resulting from any cause.
- 13.4 **Title and Risk:** For the avoidance of doubt and without limiting clauses 11 and 12 of these Terms, title to and property in the Goods will at all times remain with us. However, upon delivery of the Goods to you, any risk of loss or damage to the Goods passes to you and you accept all risk and liability for the Goods, until their return to us.
- 13.5 **Use:** You must only use the loan or trial Goods for the stated purpose and in compliance with all laws, or otherwise for the ordinary use or purpose a reasonable person would use them for.
- 13.6 **Condition of Goods:** Unless otherwise agreed by us (for example, where goods are disposable, not required to be returned to us or are not reasonably expected to last beyond the loan period), you must use your best efforts to keep and maintain the Goods in the same condition that they were in on delivery, subject to fair wear and tear. You must notify us immediately upon becoming aware of the Goods requiring repair or maintenance.
- 13.7 **Post loan payments:** If the Goods are retained by you after the expiry of the agreed loan period (except where the parties are genuinely in the process of arranging collection of those Goods), we may in our absolute discretion charge you the relevant price in respect of those Goods.

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### 14. INTELLECTUAL PROPERTY

- 14.1 **Our intellectual property:** All of our Intellectual Property Rights in and relating to the production, development and supply of the Goods or Services, including but not limited to illustrations, specifications and other literature remains our property.
- 14.2 **Limited licence:** We grant to you a non-transferrable, non-exclusive, revocable limited licence to use our Intellectual Property Rights in respect of the Goods and Services for the sole purpose of your use of the Goods and Services in accordance with this Agreement.

- 14.3 **Infringement:** You must inform us immediately if you become aware of any third party intellectual property infringement claim in relation to our Intellectual Property Rights.
- 14.4 **Confidentiality:** You must keep confidential and shall not use any of our confidential information without our prior written consent.

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### 15. TERMINATION

- 15.1 **Termination:** If a Default Event occurs:
- 15.1.1 we may, without limiting any other right we have under these Terms, terminate any outstanding Order and any contract for the supply of Goods and Services to you; and
- 15.1.2 all Payments and any other monies due under these Terms become immediately payable.
- 15.2 **Effect:** Termination under this clause does not affect our rights or remedies that may have accrued prior to termination.
- 15.3 **Survival:** Any indemnity, obligation of confidence or any other term by its nature intended to survive termination of this Agreement is independent and survives that termination.

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### 16. GST

- 16.1 **Prices exclusive of GST:** Unless otherwise agreed, prices with respect to any taxable supply are exclusive of GST.
- 16.2 **GST payable in addition:** You must pay to us all GST in addition to any other amounts payable by you to us in respect of a taxable supply, which will be payable by you when required to pay for the Goods or Services.
- 16.3 **Issue of tax invoice:** We will issue a tax invoice for any taxable supply to you, which will enable you, if permitted by the GST Law, to claim a credit for GST paid by you.

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### 17. DISPUTE RESOLUTION

- 17.1 **CISG:** The United Nations Convention on Contracts for the International Sale of Goods does not apply to this Agreement.
- 17.2 The parties will use their best efforts to negotiate in good faith and settle any dispute that may arise out of or relate to this Agreement or any breach of it (**Dispute**).
- 17.3 If a Dispute cannot be settled amicably through ordinary negotiations between representatives of the parties, the Dispute shall be referred to the management of each party who will meet in good faith to try and resolve the dispute.
- 17.4 All negotiations connected with the Dispute will be conducted in complete confidence and on a without prejudice basis.
- 17.5 If the Dispute remains unresolved after thirty (30) days from the commencement of such negotiations referred to in clause 17.2, either party may take any further action they see fit, including to commence legal proceedings to resolve the Dispute.
- 17.6 Nothing in this clause 17 prevents a party from instituting proceedings to seek urgent injunctive, interlocutory or declaratory relief.

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### 18. GENERAL

- 18.1 **Indemnity:** You agree to indemnify and keep us indemnified in respect of all damages, losses, costs and expenses (including legal costs) that we may incur as a result of your breach or alleged breach of these Terms.

18.2 **Lawful purpose:** You must ensure the Goods and Services are used only for lawful purposes and in accordance with applicable laws.

18.3 **Binding:** These Terms bind our successors, administrators and permitted assigns and your executors and permitted assigns or your successors, administrators and permitted assigns (as applicable).

18.4 **Assignment:** We may without notice to you assign, transfer and/or sub-contract our rights and/or obligations (in whole or in part) under these Terms. You may not assign, transfer, hold on trust or otherwise delegate any of your rights or obligations under these Terms without our prior written consent.

18.5 **Time of the essence:** Time is of the essence for any date or period under these Terms.

18.6 **New Terms:** If we adopt new terms and conditions for the sale of Goods and Services:

18.6.1 you will be given written notice; and

18.6.2 they will apply to the subsequent supply of Goods and Services.

18.7 **Force Majeure:** If a Force Majeure Event occurs, we may:

18.7.1 totally or partially suspend any Order or any deliveries relating to an Order during any period in which we may be hindered due to that Force Majeure Event; and

18.7.2 elect to extend at our discretion the period for performance of an obligation under these Terms as is reasonable in all the circumstances.

18.8 **Severability:** Each clause in these Terms is severable and if any clause is held to be illegal or unenforceable, then the remaining clauses will remain in full force and effect.

18.9 **Waiver:** No failure, delay, relation or indulgence on our part in exercising any power, right or remedy precludes any other or further exercise of that or any other power, right or remedy.

18.10 **Governing law:** These Terms shall be governed by the laws of the State of New South Wales and the parties irrevocably submit to the non-exclusive jurisdiction of the Courts of the State of New South Wales.

## 19. INTERPRETATION + DEFINITIONS

19.1 **Personal pronouns:** Except where the context otherwise provides or requires:

19.1.1 the terms **we, us** or **our** refers to **SEI Carbide Australia Pty Ltd** (ABN 47 001 145 651); and

19.1.2 the terms **you** or **your** refers to any person or entity that places an Order with us and agrees (by conduct, notice or otherwise) to be bound by these Terms, including any related company, related party, officer and authorised person of the relevant person.

19.2 **Defined terms:** In these Terms, unless otherwise provided, the following terms shall have their meaning as specified:

**ACL** means the Australian Consumer Law under the *Consumer and Competition Act 2010* (Cth) as amended.

**Charges** means any sales tax, excise duties, customs duty, transfer duty, GST or any other taxes, duties or charges applicable in respect of the provision of the Goods and Services.

**Default Event** means any one of the following events:

- (a) you fail to make any payment when due, whether for the Goods and Services or otherwise;
- (b) if you are a person – you become an *insolvent under administration*;
- (c) if you are a body corporate – you become an *externally administered body corporate*;
- (d) proceedings or applications are commenced or made for the appointment of any persons listed in items (b) or (c) above;
- (e) a mortgagee or their agent enters into possession of your assets;
- (f) you cease or threaten to cease carrying on business; or
- (g) you experience a change in control or a material change in financial position which in our reasonable opinion adversely affects your ability to meet your obligations under this Agreement.

**Default Interest** means as defined in clause 5.

**Delivery** means the delivery of the Goods and Services in accordance with clause 7.1.

**Force Majeure Event** means circumstances beyond our reasonable control, which shall include, but not be limited to compliance with any laws, regulations, orders, acts, instructions or priority request of any government, or any department or agency, civil or military authority, acts of God, acts of the public enemy, your acts or omissions, fires, floods, strikes, lockouts, embargoes, wars, labour or material shortages, riots, insurrections, defaults of our suppliers or subcontractors, delays in transportation, loss or damage to Goods in transit or instructions or lack of instructions from you.

**Goods** mean goods we sell from time to time, including those set out in our Quote and goods provided on a loan or trial basis.

**GST and GST Law** mean as defined in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

**Intellectual Property Rights** means all forms of intellectual property rights (whether registered or unregistered) in copyright, designs, patents, trade marks, domain names, trade secrets, know-how, confidential information, and all other similar proprietary rights which currently exist and/or are recognised in the future.

**Invoice** unless otherwise agreed means the invoice issued upon the delivery of the Goods and Services specified in your Order.

**Order** means an order for Goods and Services received by us in accordance with these Terms.

**Payment** means payment of any amount relating to Goods or Services in accordance with these Terms.

**PPSA** means the *Personal Property Securities Act 2009* (Cth) as amended, including any regulations made pursuant to it.

**PPSR** means the Personal Property Securities Register.

**Quote** means a quotation by us for the supply of particular Goods and Services containing details as specified in clause 2.2.

**Security Agreement** means the security agreement set out in clause 12.

**Services** mean services we provide from time to time, including those set out in our Quote.