PURCHASE ORDER - TERMS AND CONDITIONS - UBE Urethanes Australia Pty Ltd (5 Comserv Close, West Gosford NSW 2250 Australia)

These terms and conditions apply only to the UBE Urethanes Business, the urethanes business of UBE Corporation. They do not apply to any other business of UBE, which is governed by separate terms and conditions.

Instructions: Part I applies generally to all purchases under this Purchase Order. Part II applies to the purchase of all Goods hereunder, and Part III applies in addition to Part II if the Goods are Equipment. Part IV applies to Services whether purchased alone (whereas Parts II and III shall not apply) or performed in conjunction with the supply of Goods.

Part I: General Terms and Conditions:

1. Definitions:

"Affiliate" means an entity which is directly or indirectly Controlled by, in Control of, or under common Control with, either Seller or Buyer as appropriate.
"Affected Party" means the party whose performance is delayed or prevented by a Force Majeure Event.
"Agreement" means the agreement between Buyer and Seller consisting of the Purchase Order, these Terms and Conditions, the Specification(s), and any other documents (or parts thereof) specified in the Purchase Order or otherwise expressly incorporating these Terms and Conditions.
"Buyer" means the UBE Urethanes legal entity specified in the Purchase Order.
"Control" means the ownership of more than 50% of the voting share capital of any corporation or the legal power to direct or cause the direction of the general management of either Seller or Buyer as appropriate.
"Equipment" means any and all of the equipment that is purchased by Buyer in accordance with this Purchase Order.
"Force Majeure Events" include acts of nature, fire, flood, war, terrorism, accident, action or request of governmental authority, labor trouble or shortage, or any other circumstances of a similar or different nature that are beyond the reasonable control of the Affected Party.
"Goods" means any and all of the goods covered by the Agreement including without limitation raw materials, processed materials or fabricated products. Goods also include Equipment.
"GST" means Goods and Services Tax charged under A New Tax System (Goods and Services Tax) Act 1999 (Cth) on the supply of goods and services.
"Incoterms" means the Year 2010 edition of the official International Chamber of Commerce Rules for the interpretation of trade terms.
"Intellectual Property Rights" means any registered and unregistered trademarks, trade names, brand names, logos, trade dress, designs, patents (including applications for registration thereof) and any know how, copyright and database rights wherever subsisting.
"Loss" means all loss, damages, liability, claims, costs and expenses (including legal costs and expenses), of any nature including, but not limited to, any claim of death or injury to persons or damage to property, arising out of, or related in any way, directly or indirectly to, the Goods and Services supplied hereunder, including, without limitation, defects in design, materials, workmanship or manufacture.
"Purchase Order" means an order placed by Buyer using its standard purchase order form.
"Seller" means the person, firm (or any individual partner thereof) or company to whom the Purchase Order is addressed, and who will be supplying Goods or providing Services to Buyer under the Agreement.
"Services" means the services as specified in the Purchase Order.
"Site" means Buyer's specified plant or location where Services are to be performed or Goods or Equipment is to be delivered.
"Specification(s)" means the specification(s) detailed in a schedule either to be attached to the Purchase Order or separately documented by Buyer in writing which sets out the composition, performance and/or such other expectations of the Buyer of the Goods and Services.

2. Contract:

2.1. This Agreement constitutes the final, complete and exclusive terms of agreement with the Seller and may not be modified or rescinded except by a written change order issued by the Buyer. In the event of any inconsistency between these Terms and Conditions and the provisions appearing on the face of the Purchase Order, the latter will prevail unless expressly provided otherwise.
2.2. These Terms and Conditions supersede all other terms or conditions which are set out in any correspondence or documents issued by Seller to Buyer regardless of the date of communication, and acceptance of the Purchase Order constitutes acceptance of these Terms and Conditions and of all schedules (if any) attached.
2.3. In the event that the parties have entered into a negotiated written contract in respect of the Goods or Services, the terms and conditions of such written contract supersede these Terms and Conditions and shall apply to the Purchase Order for such Goods or Services.
2.4. The parties agree that the express terms of this Agreement may not be explained or supplemented by evidence of trade usage or prior course of dealing.

3. Contract Price and Terms of Payment:

3.1. The price stipulated in the Purchase Order as payable for the Goods and Services ("Purchase Price") (which shall be a firm fixed price), shall be exclusive of GST but inclusive of Value Added Tax and all other taxes, packaging and other related charges and unless otherwise agreed, inclusive of delivery and insurance. GST, where applicable, will be shown separately on all invoices as a strictly net extra.
3.2. Payment of the Purchase Price will be made by Buyer to Seller within sixty (60) days of Buyer's receipt of invoice from Seller.
3.3. Buyer reserves the right to set off any sums owing to it by Seller against any amount owing by Buyer to Seller under any invoice.
3.4. If Buyer is required to make payments prior to the acceptance of Services or Goods, Seller shall provide to Buyer upon its request an unconditional and irrevocable performance bond as security for the fulfillment of Seller's obligations. The performance bond shall be issued by a first class international bank or insurance company and shall be in the amount of the advance payment or such other amount as requested by the Buyer.
3.5. The correct Purchase Order number must be quoted on all invoices. To ensure payment in accordance with the above procedure, all invoices must be received at the invoice address shown on the Purchase Order. All invoices shall be submitted in duplicate and be accompanied by a copy of the bill of lading if on collect freight shipments or if otherwise required by law, and by a prepaid freight bill if all or any part of the freight is included on the face of the Purchase Order. In addition to any other information specified elsewhere herein, invoices and packing slips shall contain the following information: description of Goods and Services, sizes, quantities, weight, and unit prices.
3.6. Buyer shall be entitled to withhold payment of all disputed portions of invoices (without interest or penalty) until resolution of dispute. Once the dispute has been resolved, the agreed amount (if any) shall be paid within sixty (60) days of the date the dispute is resolved.

4. Confidentiality:

All drawings, plans, Specifications or other documents, data or information furnished by Buyer to Seller, orally or in writing, shall be treated as confidential by Seller. Seller shall not make any commercial use thereof except in performance of the Purchase Order. Seller shall not disclose same to anyone before or after performance of this Purchase Order without having obtained the written consent of Buyer. All such information shall remain the property of Buyer and be returned to Buyer upon request.

5. Compliance with Laws and Buyer's Standards:

5.1. Seller shall comply fully at all times with all applicable laws, regulations and other legal requirements including but not limited to anti-corruption laws, health, safety, environment, welfare, production, storing, handling and delivery of the Goods and performance of the Services.
5.2. Seller agrees that it has not, and covenants that it will not, in connection with the performance of the Agreement, directly or indirectly, promise, authorise, ratify or offer to make or make any payments of anything of value to any individual (or at the request of any individual) including a Government Official for the improper purpose of influencing or inducing or as a reward for any act, omission or decision to secure an improper advantage or to improperly assist the Seller or the Buyer in obtaining or retaining business.
5.3. Seller, its employees and any third party it engages shall strictly comply with all applicable codes of conduct, policies, rules and regulations pertaining to health, safety and environment.
5.4. Seller shall comply with, and conduct its business in accordance with, the Buyer's Group Code of Conduct, including the supply chain responsible sourcing provisions therein, as published and updated from time to time at https://ube.com/ube/en/sustainability/management/conduct/. Buyer will notify Seller of material updates, and continued performance under this Order following such notice constitutes Seller's acceptance of the updated Code.

6. Changes:

Buyer may direct Seller to make changes in the Goods or Services ordered or in the requirements of the drawings, Specifications or instructions. Seller shall promptly review such changes and within five (5) days inform Buyer of any change in Seller's cost of performance or delay in delivery. Upon mutual agreement as to any price or delivery change, Buyer shall issue a written change order. In the event Seller shall fail to comply with this procedure, Seller shall be deemed to have waived all claims for increased cost or extension of time of performance.

7. Handover of Documentation:

Seller shall prepare and handover a complete set of all documents in connection the Services, including warranty, test certificates, permits and any other document and required certificates as are necessary for the completion of Services or acceptance of Goods.

8. Indemnity:

Seller shall indemnify, defend and hold harmless Buyer against Loss and any breach by Seller of its obligations and warranties hereunder or of any statutory duty, compliance with applicable laws or standard or care.

9. Force Majeure:

The Affected Party shall be excused from delays or hinders in performance or non-performance caused by a Force Majeure Event, provided that the Affected Party furnishes the other with prompt written notice that shall include, at a minimum, the nature of Force Majeure Event, its expected duration, and its expected impact on the ability to perform obligations under this Agreement. At Buyer's option, quantities so affected may be eliminated from any obligation under a particular purchase order or this Agreement without liability, but this Agreement shall remain otherwise unaffected. In the event the Force Majeure Event from which Seller claims relief lasts or is reasonably expected to last longer than sixty (60) days, Buyer may, without liability or penalty, terminate this Agreement or any particular purchase order issued hereunder.

10. Assignment and Subcontracting:

10.1. Any attempt by Seller to assign the rights or delegate the duties under this contract shall be null and void absent the written permission of the Buyer.
10.2. Seller shall not subcontract all or any part of its performance of this Purchase Order to any other party without Buyer's prior written consent.
10.3. No assignment or subcontracting by Seller, with or without Buyer's consent, shall relieve Seller of any obligations under this Purchase Order.

11. Dispute Resolution:
11.1. The parties will attempt in good faith to negotiate a settlement to any dispute arising out of or in connection with the Agreement, including any question regarding its existence, validity, application, interpretation, administration and termination.
11.2. If the parties fail to reach agreement within sixty (60) days after a party first gives written notice to the other party of any such dispute, then the dispute shall be referred by either party to arbitration and be finally resolved by arbitration in Sydney, New South Wales in accordance with the Arbitration Rules of the Australian Centre for International Commercial Arbitration ("ACICA") for the time being in force, which rules are deemed to be incorporated by reference in this Clause. The Tribunal shall consist of three (3) arbitrators appointed by ACICA and the language of arbitration shall be English. The seat of the arbitration shall be Sydney, New South Wales.

12. Waiver:
Buyer's waiver of any breach by Seller of any of the provisions of this Purchase Order shall not constitute a waiver of any other breach of the same or any other provision. Buyer's rights and remedies under any provision of this Purchase Order shall be in addition to, and not in substitution or limitation of, any other rights or remedies available to Buyer under applicable law.

13. Applicable Law:
13.1. This contract and all of the rights, duties and obligations of the parties hereto shall be construed, interpreted and controlled by the laws of the State of New South Wales, Australia, and all claims arising out of or related to the parties' performance of their obligations hereunder, whether sounding in contract, tort or otherwise, shall be governed by the laws of the State of New South Wales, Australia.
13.2. The parties agree that, pursuant to Article 6 of the United Nations Convention on Contracts for the International Sale of Goods (CISG), CISG will not apply in any respect to this contract.

14. Headings and Severability:
Any headings preceding the several articles hereof are inserted solely for convenience of reference, shall not constitute a part of the Purchase Order and shall not otherwise affect the meanings, content, effect or construction of this Purchase Order. In the event that any provision contained herein is held to be invalid or unlawful, such provision shall be severable from the remaining provisions of this Purchase Order, which shall remain in full force and effect.

15. Publicity:
Seller shall not, and shall require that its subcontractors and suppliers of any tier shall not, cause or permit to be released any publicity, advertisement, news release, public announcement, or denial or confirmation of same, in whatever form, regarding any aspect of this Purchase Order or the Goods and/or Services to which they pertain without Buyer's prior written approval.

16. Third Party Rights:
No person who is not a party to the Agreement, other than a valid assignee of any right or obligation assigned pursuant to Article 10 shall have any rights to enforce any term or condition of the Agreement except for Buyer's Affiliates who shall be entitled to enforce rights granted to it under the Agreement.

17. Origin of Goods; Trade Regulations:
The Goods supplied must conform to the conditions of origin as required by applicable laws and regulations. Seller undertakes not to source Goods or materials, neither directly nor indirectly, in relation to this Purchase Order which contravene the terms of any applicable foreign trade regulations including but not limited to any embargo imposed by the United Nations (UN), the United States of America or the European Union (EU).

Part II: Terms Related to the Purchase of Goods:

18. Title and Risk of Loss:
18.1. Unless otherwise specified in the Purchase Order, title to the Goods (or such portion thereof as has been paid for by or delivered to Buyer) shall pass to Buyer upon the earlier of (a) payment or (b) delivery to the Buyer's premises as specified on the Purchase Order and accepted by Buyer.
18.2. Unless otherwise specified in the Purchase Order, Buyer shall, upon receiving title to the Goods, have the right to use, move, transfer and dispose of said Goods in any manner that Buyer sees fit, without restriction or limitation, together with a fully paid-up, fully transferable, irrevocable license to use, in connection with the use of the Goods, any data, software or other patented or copyrighted technology or material incorporated into or supplied with the Goods.
18.3. All Goods shipped shall remain at Seller's risk until actually delivered to Buyer's premises as specified on the Purchase Order and accepted by Buyer.

19. Delivery of Goods; Rendering of Services:
19.1. All Goods shall be delivered CFR, INCOTERMS 2010, Buyer's location stated on the front of this Purchase Order. If Seller fails to perform according to the terms of a Purchase Order within the required time, Buyer may cancel the Purchase Order and/or the Agreement and purchase the Goods elsewhere and hold Seller liable for any costs or damages incurred. Seller shall forward notice of shipment of Goods to Buyer within twenty-four (24) hours, and such notice is an express condition to Buyer's duty under this Purchase Order.
19.2. The original bill of lading must accompany the invoice and be mailed in accordance with the instructions on the face of the Purchase Order. Complete packing lists must accompany each shipment.
19.3. Separate invoices are required for each Purchase Order and for each shipment when partial deliveries are made.

20. Warranty on Goods:
20.1. Seller represents, warrants, and undertakes that title to all Goods shall be free and clear of all liens, encumbrances, security interests and/or other claims.
20.2. Seller warrants that all Goods supplied hereunder shall conform to the Specifications and are of merchantable quality and free from defects in material, design and workmanship, free of impurities, shall be fit for the particular purpose intended, and shall conform to any affirmations, descriptions, samples, drawings and plans, if any.
20.3. Seller warrants that the Goods, Services and use thereof shall be delivered free of any rightful claim of infringement of Intellectual Property Rights or the like.

21. Rejection, Repair, or Replacement:
21.1. Buyer shall have a reasonable opportunity to inspect Goods. If the Goods or the tender of delivery fail in any respect to conform to the terms of this Purchase Order, the Buyer may reject the Goods or their tender, or the Buyer may revoke its acceptance of the Goods where appropriate.
21.2. If Goods do not conform to the requirements of the Agreement (including without limit non-conformance with quantity specified, quality or any Specifications in respect thereof), without prejudice to Buyer's other legal rights, Seller shall, at Buyer's sole option, immediately (and in any event within fourteen (14) days) after receipt of notice from Buyer, either at Seller's cost and expense:
21.2.1. repair the defective Goods at the site of delivery or Seller's site;
21.2.2. replace the defective Goods at the site of delivery with Goods which conform to the requirements of the Agreement; or
21.2.3. refund to Buyer the Purchase Price of Goods; and
21.2.4. pay to Buyer all costs incurred, by Buyer including but not limited to freight, clearance, duty and storage charges relating to the repair or replacement of such Goods.

Part III: Additional Terms for the Purchase of Equipment:

22. Provision of Equipment; Spares:
22.1. Seller shall manufacture and supply the Equipment in accordance with all applicable Specifications.
Seller shall be responsible for any applicable certification or design approval from the appropriate agency and/or all necessary approvals from the relevant authorities, and such certifications and approvals shall be obtained in a timely manner.
22.3. Unless Buyer has indicated that a third party will be responsible for the design of the Equipment, Seller shall be responsible for the design and shall design and deliver the Equipment in accordance with good engineering practices.
22.4. Seller shall be responsible for the accuracy and completeness of the Specifications.
22.5. Upon request of Buyer, Seller shall deliver a full list of spare parts with the parts numbers, part names, full prices and expected lifetime.
22.6. Seller shall supply all spare parts needed in accordance with separate Purchase Orders issued for the same.

23. Assembly and Testing:
23.1. Seller shall be responsible for the assembly, installation, inspection, construction, and commissioning, as applicable, of the Equipment at the Site in accordance with applicable Specifications.
23.2. Seller shall be responsible for performing all testing of the Equipment.

24. Services Associated with Equipment:
All Services required related to the installation, inspection, construction, repair, and commissioning of the Equipment on Site shall be performed under the terms of Part IV.

25. Manufacturer's Warranties:
Seller shall pass through to Buyer any manufacturer's or third party's warranties associated with the supply of the Equipment to Buyer.

Part IV: Terms for Service:

26. Rendering of Services:
26.1. Seller's performance shall be in strict conformance with the time provisions specified in this Purchase Order.
26.2. If Seller fails to perform according to the terms of a Purchase Order within the required time, Buyer may cancel the Purchase Order and/or the Agreement and purchase Services elsewhere and hold Seller liable for any costs or damages incurred.
26.3. Seller shall provide all equipment and personnel necessary to execute and complete the Services in accordance with the Purchase Order.
26.4. As requested by Buyer, Seller shall provide progress reports on regular basis as specified by Buyer.
26.5. Seller shall be responsible for the complete execution of the Services and shall certify completion of the Services.
26.6. Upon completion of Services at the Site, Seller shall remove all waste materials and clean and restore the work area to the state it received it, as applicable.

27. Access to Site:
27.1. Buyer shall allow Seller and its authorised personnel access to the Site as Buyer deems necessary for the execution of the Purchase Order.
27.2. Unless otherwise approved in writing, access is permitted only with advance notice and approval of Buyer and only during normal working hours established for the Site.
27.3. Seller shall comply with any access regulations for the Site and is responsible for ensuring that its personnel have the appropriate documents to enter the Site.
27.4. All persons who enter the Site are obligated to strictly adhere to the rules and regulations of the Site regarding health, safety and environment.
27.5. Buyer reserves the right to bar or remove any person for the Site who fails to comply with the Site rules and regulations or who fails to perform in a manner consistent with the Purchase Order.

28. Standard of Services:
28.1. All Services shall be performed in a sound, professional and competent manner and with all due speed, care, skill and diligence.
28.2. All Services shall be carried out in accordance with the Agreement, with current industry standard codes of practice, and the highest standards prevailing in Seller's industry. Seller shall ensure that all of its personnel and sub-contractors are suitably qualified to perform the Services and that all necessary licenses, work permits or other authorizations have been obtained and will be maintained for the duration of the performance of the Services.
28.3. If any materials that are required by Buyer for the provision of the Services are not delivered fully in accordance with any stipulations in the Agreement, Seller shall immediately correct delivery and shall be responsible for any and all additional costs and expenses incurred by either party in so doing.

29. Remedy for Breach of Standard of Services:
29.1. Buyer shall have a reasonable opportunity to inspect the Services. If the Services fail in any respect to conform to the terms of this Purchase Order, Seller shall, at Buyer's sole option, immediately (and in any event within fourteen (14) days) after receipt of notice from Buyer, either:
29.1.1. reperform the defective Services at the site of delivery or Seller's site, as applicable; or
29.1.2. refund to Buyer the Purchase Price for the Services; and
29.1.3. pay to Buyer all costs incurred by Buyer related to the defective Services.

30. Insurance:
Seller shall maintain, at its cost and expense, insurance coverage that a prudent person in the business of the Seller would maintain with limits sufficient to satisfy its liability and indemnity obligations related to this Purchase Order. While it is expressly understood that Buyer does not, in any way, represent that the types or limits of Seller's insurance that would be sufficient or adequate to protect Seller's interests or liability, it is recommended that Seller carry at a minimum the following, as applicable: (i) Public and Products Liability Insurance with a combined limit of liability of S$10 Million (ii) Work Injury Compensation insurance in the greater of (A) Statutory Liability under Work Injury Compensation Act or (B) Liability at Common Law limited to S$10 Million any one claim or series of claims arising out of one event; (iii) Professional liability (endorsed to cover services by subcontractors, if any); and (iv) Commercial Liability (which may include Non-Owned and Hired Auto Liability). Seller shall provide a certificate of insurance to Buyer evidencing (i) the above mentioned insurance coverage and that such insurance shall be primary; (ii) that Buyer is an insured party and loss payees under the policies; (iii) the period of coverage; and (iv) a waiver of subrogation against the Buyer, its Affiliates and their respective employees. Any modification or cancellation of coverage shall require thirty (30) days' advance written notice to Buyer.

31. Suspension or Termination:
31.1. Buyer, for its convenience, shall have the right to suspend or terminate Services hereunder upon notice to Seller. Seller shall promptly comply with Buyer's instructions to minimize the cost to Buyer.
31.2. In the event of suspension for convenience, Seller shall be entitled to recover only its uncompensated actual direct cost resulting from any suspension.
31.3. In the event of termination for convenience, Seller shall be entitled to recover only its uncompensated actual direct costs incurred prior to the date of Buyer's termination plus those actual direct costs arising from Buyer's termination, provided that in no event shall the total price paid by the Buyer exceed the price(s) specified in this Purchase Order. Any cost claimed by Seller under this Article shall be subject to the audit and approval of Buyer. Upon termination, the Services and any related Goods, as applicable, shall become the property of Buyer in their then state of completion.

32. Responsibility for Seller's Employees:
32.1. All supervision and labor employed by Seller or its subcontractors in performance of the Services shall be competent, and, where operating equipment, shall at all times maintain in good standing such licenses as may be required by statute or otherwise, to perform said Services. At least one day prior to commencement of any field Services, Seller shall advise Buyer as to its estimated start date and expected duration of the said Services and furnish Buyer a list showing the names of employees of Seller and its subcontractors and names of all others who have performed or will perform field Services under this Order and the license numbers of any vehicles that may require entry to Buyer's premises.
32.2. Seller shall handle all matters relating to the employment or engagement of Seller's employees, including, without limitation, hiring, firing, disciplining, payment of wages, and provision of benefit plans.
32.3. Seller shall ensure that every person that it employs or engages has valid work permits or employment passes in accordance with applicable immigration laws and employment acts.
32.4. Seller is an independent contractor for the performance of all Services under this Agreement. Nothing contained in this Agreement shall be deemed or construed to create a relationship of employment, principal and agent, partnership, co- or joint employer or joint venture. Seller is not authorized and shall not permit any of its officers, directors, agents, employees, representatives, supervisors, successors, assigns, employees, or sub-contractors to represent or hold out itself or themselves as agents, supervisors, servants, employees, or representatives of Buyer or as authorized to make any commitment to incur any obligation on behalf of Buyer. Seller has no authority to act on Buyer's behalf in any regard or to enter into any contracts on Buyer's behalf.
32.5. Seller shall be solely and entirely responsible and liable for its acts and contractual obligations under this Agreement, and for all acts and omissions and contractual obligations arising from or relating to this Agreement of its employees, directors, officers, supervisors, agents, representatives, successors, assigns, consultants, suppliers, sub-contractors and any other person or entity that Seller retains to perform any obligations pursuant to this Agreement.

33. Responsibility for Buyer's Property:
Unless otherwise specified, upon delivery to Seller or manufacture or acquisition by Seller of any materials, parts, tooling, data or other property required for performance of the Services, title to which is held by Buyer, Seller assumes the risk of and shall be responsible for any loss thereof or damage thereto. Upon completion of the Services, Seller shall return such property to Buyer in the condition in which it was received, except for reasonable wear and tear, and except for such property as has been reasonably consumed in the proper performance of this Purchase Order.