

AsureQuality Australia Pty Ltd | Standard Terms of Business

1. DEFINITIONS

- "**Credit/Account Application**" means the Credit/Account Application annexed to these Standard Terms of Business;
"**Estimated Completion Date**" means the estimated completion date specified in the Work Order Form;
"**Estimated Price**" means the estimated price specified in the Work Order Form;
"**Goods**" means all goods and other products supplied or to be supplied by AsureQuality Australia Pty Limited from time to time;
"**Guarantor**" means any guarantor who is specified on the Credit/Account Application;
"**Services**" means the services provided or to be provided by AsureQuality Australia Pty Limited from time to time;
"**Work Objectives**" means the work objectives outlined in the Work Order Form; and
"**Work Order Form**" means AsureQuality quotation / proposal.

2. GENERAL

- 2.1 These Standard Terms of Business, the Work Order Form and the Credit/Account Application constitute the entire agreement between the parties with respect to Goods and Services to be supplied by AsureQuality and supersede all previous communications, representations, inducements, undertakings, agreements or arrangements between the parties or their respective officers or agents.
- 2.2 The Estimated Price, Estimated Completion Date and Work Objectives are set out in the Work Order Form.
- 2.3 AsureQuality may at any time amend any of the Terms with immediate effect by posting the amended Terms on its website (www.asurequality.com) and advising that the Terms have been amended on the Customer's invoice. By continuing to order Goods or Services from AsureQuality after AsureQuality has posted the amended Terms on its website, the Customer is deemed to have accepted such Terms.

3. PERFORMANCE

- 3.1 AsureQuality will use its reasonable skill and care to achieve the Work Objectives at the Estimated Price using resources reasonably available to AsureQuality.
- 3.2 AsureQuality will use its reasonable efforts to achieve the Work Objectives on or before the Estimated Completion Date but will not be liable for any delay beyond that date.
- 3.3 Without limiting clause 3.2, AsureQuality will not be liable for any delay or non-performance or for exceeding the Estimated Price if it is attributable (directly or indirectly) to circumstances beyond its control.
- 3.4 The Customer is responsible for the cost of and arranging transportation of items to be tested to and from AsureQuality's premises (including without limitation the cost of all freight charges, and all applicable duties and taxes).
- 3.5 The Customer may not cancel any order for services (whether fully or in part) without AsureQuality's written consent, which may be given or withheld in its sole discretion.
- 3.6 Notwithstanding any other provision of these Terms, AsureQuality is not obliged to accept any order for services made by the Customer, and in its sole discretion may refuse to perform all or any such services requested.
- 3.7 AsureQuality may withdraw any quotation before it is accepted by the Customer, and in any event any quotation will lapse without notice 30 days after it is given.

4. TITLE AND RISK

- 4.1 Ownership in the goods will not pass on delivery, but will remain with AsureQuality until full payment for all monies owing pursuant to clauses 3.1 to 3.3 by the Customer to AsureQuality in respect of such goods has been made.
- 4.2 Risk in respect of any goods sold will pass to the Customer when the goods are delivered to the Customer or any carrier, or the time the Customer pays for the goods (whichever is the earlier). Risk in any goods which are in AsureQuality's possession for repair remains with the Customer.

5. PAYMENT

- 5.1 The price for the services will be the Estimated Price as quoted by AsureQuality to the Customer in writing (plus any adjustments made by AsureQuality following the performance of the services to reflect the actual price) or, if no written quote is provided, at AsureQuality's standard charges for such services applying at the time. Unless expressly stated in writing any stated price is exclusive of GST, and all GST will be charged to and borne by the Customer, and payable at the same time as the price.
- 5.2 Unless otherwise agreed in writing, any quoted price may be altered by AsureQuality prior to the provision of the services to the Customer if AsureQuality's costs in providing such services will fluctuate materially.
- 5.3 Unless otherwise agreed in writing, all relevant freight and delivery charges will be additional to any quoted price, and will be charged to and borne by the Customer, and payable at the same time as the price.

- 5.4 Payment for all goods and services is due on the 20th day of the month following the date of AsureQuality's invoice. AsureQuality may at its option issue a monthly interim invoice for work which is conducted over a period of more than one month's duration. The Customer will be required (at AsureQuality's option) to pay interest (as well as all costs (including legal and credit recovery costs) incurred by AsureQuality resulting from late or non-payment) at a rate of 2% above the current penalty interest rate fixed under the *Penalty Interest Rates Act 1983* on any moneys outstanding from the due date until the date of payment, but without prejudice to AsureQuality's other rights or remedies in respect of the Customer's default in failing to make payment on the due date. Interest shall be calculated monthly and shall be payable on demand.
- 5.5 If the Customer wishes to query any invoice submitted by AsureQuality, the Customer must give written notice to AsureQuality of the query within 30 days of the date of the invoice. If the Customer has not raised any query on the invoice within 30 days of the date of such invoice, the Customer is deemed to have accepted the invoice and must pay the invoice in full by the due date.

6 CONFIDENTIALITY OF INFORMATION

- 6.1 We will not disclose to third parties confidential information relating to you, unless compelled to do so by law. We acknowledge that your confidential information is your property.
- 6.2 You will not disclose to third parties confidential information relating to us and our processes, ideas, concepts or techniques, unless compelled to do so by law. You acknowledge that our processes, concepts and techniques are our property and are also confidential information.

7 WARRANTIES, LIABILITY AND INDEMNITY

- 7.1 The liability of AsureQuality, whether in contract or pursuant to any cancellation of any contract or in tort or otherwise, in respect of all claims for loss, damage or injury arising from breach of any of AsureQuality's obligations arising under or in connection with these Standard Terms of Business, from any cancellation of these Standard Terms of Business or from any negligence, misrepresentation or other act or omission by AsureQuality, its employees, agents or contractors shall not in aggregate exceed the sums paid pursuant to these Standard Terms of Business by the Customer.
- 7.2 To the extent permitted by law, AsureQuality is not liable, whether in contract, tort or otherwise, for any loss of profits or any special, indirect, incidental or consequential damage, loss or injury of any kind suffered by the Customer arising directly or indirectly from any breach of AsureQuality's obligations under or in connection with these Standard Terms of Business or from any cancellation of these Standard Terms of Business or from any negligence, misrepresentation or other act or omission on the part of AsureQuality, its servants, agents or contractors.
- 7.3 Except for any other written warranties given by AsureQuality to the Customer, all warranties and representations (including those expressed or implied by law) in respect of services supplied are excluded to the extent permitted by law.
- 7.4 The Customer shall indemnify and hold harmless AsureQuality from any liability of any type suffered by a third party arising directly or indirectly out of, or related to, a breach by AsureQuality of any of the Terms or any other written agreement between the Customer and AsureQuality.
- 7.5 AsureQuality's total liability under any warranty in relation to services supplied by AsureQuality is limited at AsureQuality's option to:
- (a) re-performing the services; or
 - (b) refunding the charge for the services paid by the Customer; provided that where AsureQuality elects to re-perform the services it will use reasonable endeavours to do so as soon as practicable but will not be liable for any delay in such re-performance.
- 7.6 Without limiting anything in this clause 6, the Customer must use any goods supplied by AsureQuality in accordance with all instructions given by the manufacturer of such goods.

8 TERMINATION

- 8.1 It is an event of termination:
- (a) if the Customer is in breach of its obligations under these Standard Terms of Business or any other written agreement with AsureQuality;
 - (b) if the Customer commits any act of bankruptcy, enters into any arrangement with its creditors or (in the case of a company) does any act which would render it liable to be liquidated, or if a resolution is passed or proceedings commenced for the liquidation of the Customer or if a receiver or liquidator is appointed in respect of all or any of its assets;
 - (c) by agreement of the parties; or
 - (d) if a Guarantor revokes its guarantee under the Credit/Account Application.
- 8.2 If an event of termination as specified in clause 7.1 occurs, AsureQuality will have an immediate right to possession of the Goods held by the Customer and all amounts owing by the Customer in respect of the Goods and Services and all other debts owing by the Customer in respect of the Goods or Services and any costs or expenses incurred by AsureQuality relating to the default together with all other debts owing will become due and payable and must be paid by the Customer to AsureQuality on demand. Further, AsureQuality will be entitled (without prejudice to any right or remedy provided under these Standard Terms of Business) to do any one or more of the following:
- (a) suspend indefinitely all further deliveries of Goods and provision of Services in respect of the items specified in the Work Order Form;
 - (b) cancel any credit facility provided to the Customer; and
 - (c) terminate these Standard Terms of Business by written notice to the Customer.

9 MISCELLANEOUS

- 9.1 The Customer may not assign all or any of the Customer's rights or obligations under these Standard Terms of Business without the prior written consent of AsureQuality, which may be given or withheld in its sole discretion.
- 9.2 All the rights, powers, exemptions and remedies of AsureQuality remain in full force despite any neglect, omission or delay in the enforcement thereof. AsureQuality is not deemed to have waived any provision or right unless the waiver is in writing under signature of AsureQuality or its authorised officer and any such waiver, unless the contrary is expressly stated, applies to and operates only in a particular transaction, dealing or matter.
- 9.3 All notices shall be delivered by hand or be sent by facsimile, express mail or email. Any notice sent by facsimile will be deemed to have been received on the following business day in the place of receipt, any notice sent by express mail will be deemed to have been received two business days after posting and any notice sent by email will be deemed to have been received. Notices shall be given to the parties at the address, facsimile number or email addresses shown on the Work Order Form overleaf or such other addresses, facsimile numbers or email addresses as they may from time to time advise in writing.
- 9.4 "GST" means goods and services tax payable under the A New Tax System (Goods and Services Tax) Act 1999 (Cth) (as amended).

10. GOVERNING LAW

These Standard Terms of Business are governed by and must be construed in accordance with the laws of Victoria.