



Jubatus Consulting Pty Ltd
Standard Terms and Conditions

DEFINITIONS AND INTERPRETATIONS

These Standard Terms and Conditions are valid for all goods and services supplied by Jubatus Consulting Pty Ltd (ABN 27 088 452 788 - hereinafter called 'Jubatus'), unless otherwise agreed in writing. Standard conditions issued by the Customer are valid only if accepted in writing by Jubatus. All agreements and legally binding statements of the parties are only valid if made in writing and signed by the parties. The invalidity of any provision of these Standard Terms and Conditions (in whole or in part) will not affect the validity or enforceability of any other provisions of these Standard Terms and Conditions. A contract is deemed concluded after Jubatus has accepted and confirmed an order in writing.

SCOPE AND DELIVERY

Scope of the goods and services and delivery of goods and services are defined by the confirmation of the order provided to the Customer by Jubatus in, drawings, images, descriptions in brochures and catalogues. Data on dimensions and weights are provided for reference only and are to be regarded as approximate.

REGULATIONS IN THE COUNTRY OF DESTINATION

The Customer must inform Jubatus of the statutory regulations and standards relating to the goods and services to be supplied by Jubatus and to the respective health and safety regulations (OH&S), no later than at the time of ordering and Jubatus is entitled to rely on the information so provided. If information from the Customer is missing, the goods and services to be supplied by Jubatus will conform with the regulations and standards valid at the place of

manufacture. The Customer indemnifies Jubatus for any cost, expense or loss suffered by either party in connection with the omitted or erroneous information.

SALE AND PURCHASE OF GOODS AND SERVICES

Jubatus reserves the right to accept in whole or in part or reject any order submitted by the Customer to purchase goods or services from Jubatus.

QUOTATIONS

Unless otherwise explicitly stated the validity of any quotation is taken to be 7 days from the date of quotation. Prices included in quotations issued by Jubatus will be based on:

- a. The exchange rate at the stated reference date. If no reference date is explicitly stated, the reference date will be taken to be the business day immediately preceding the date of quotation. Unless explicitly stated otherwise the exchange rate will be the rate published by the Reserve Bank of Australia.
- b. The cost of metals as provided by the London Metal Exchange (LME) at the stated reference date unless a different metal index is explicitly stated. If no reference date is explicitly stated, the reference date will be taken to be the business day immediately preceding the date of quotation.

CONFIRMED PRICES

If, in between the date of quotation being issued by Jubatus and the placement of a Purchase Order either or both, the exchange rate and cost of metals underlying the quotation change, Jubatus has the right to adjust the prices stated in the quotation. Unless otherwise explicitly stated in the quotation the adjustment



of the price by Jubatus (being both unit pricing and total pricing) will be adjusted and fixed at the first business day after receipt of the Purchase Order. The price adjustment will be based on the Price Adjustment Formula referred to or included in the quotation or where not so identified according to the formula annexed to these Standard Terms and Conditions.

RETURNS

Jubatus may, upon written request, accept incorrectly ordered goods or goods no longer required, however such acceptance may be conditional. Goods will not be accepted for return without the written approval of Jubatus.

TERMS OF PAYMENT

Jubatus may require an unconditional bank guarantee for the full value of any order issued by a reputable Australian bank prior to confirmation of any order. Unless otherwise explicitly stated in writing, payments are due 30 days from invoice to be issued on arrival of goods at the place of delivery where delivered within Australia (DDP), or on arrival of the goods at the port of destination where exported outside Australia (CIF). Unless otherwise explicitly stated in writing payment for services will be due 30 days from invoice to be issued upon performance of those services. Customer payments are to be made to Jubatus without any deduction, including discounts, charges, taxes and fees of any kind. No payments may be withheld, in particular not in the event of delayed delivery or complaints. The offsetting of any possible counterclaims of the Customer against claims of Jubatus shall be excluded. Without limiting any other remedy of Jubatus, if the quoted or revised price is not paid in full pursuant to the above terms the Customer will pay Jubatus, on demand, interest calculated on the unpaid amount of the price, from the date of delivery of the goods or services to the date

on which the quoted or revised price is paid in full at the rate of 1.25% per month.

GOODS AND SERVICES TAX

Unless otherwise expressly stated, all prices or other sums payable in accordance with these Standard Terms and Conditions are exclusive of GST. Jubatus must provide a valid Tax Invoice to the Customer at or before the time of payment. If GST is imposed on any supply made under or in accordance with these Standard Terms and Conditions, the recipient of the taxable supply must pay an additional amount equal to the GST payable on or for the taxable supply. Payment of the additional amount must be made at the same time as payment for the taxable supply is required to be made in accordance with these Standard Terms and Conditions.

RETENTION OF TITLE

Jubatus retains title to all goods delivered until such time as they are fully paid for. The Customer is required to take all necessary measures to protect the ownership of Jubatus. The Customer acknowledges that these Standard terms and conditions create a security intent in the goods and consents to Jubatus effecting a registration on the PPSA register in relation to any such security interest. The Customer shall unconditionally ratify any actions taken by Jubatus under this clause to effect any such PPSA registration by Jubatus.

TERMS OF DELIVERY

The term of delivery starts with the acceptance and the written confirmation of the order by Jubatus, at the latest after clearance of the technical specifications.

The term of delivery will be extended by the appropriate duration and Jubatus will not be liable for any loss or damage suffered by the Customer;

- a. if the information necessary for the execution of the order is not given to



- Jubatus in time, or if this information is subsequently changed by the Customer;
- b. if the terms of payment are not met, if letters of credit are not opened in time, or if the required import licences are not received by Jubatus in time; or
 - c. if hindrances occur that Jubatus cannot prevent, despite taking the necessary care, and irrespective of whether these occur at Jubatus, at the Customer or at third parties. These hindrances are events beyond the control of Jubatus including; acts of God, natural disasters, epidemics, mobilisation, war, riots, interruption of production, accidents, labour conflicts acts or omissions of third parties including late or deficient supply of raw materials, semi-finished or finished products, defects of essential machinery or work pieces, administrative measures or omissions.

DELIVERY, TRANSPORT AND INSURANCE

The costs (including customs duties, taxes and fees) included for delivery, transport and insurance shall be in accordance with Incoterms as expressly stated on the order or where not stated such items shall be the responsibility of the Customer. Where Jubatus is responsible for transport or insurance Jubatus must be informed prior to confirmation of any order of any special requirements and the Customer must lodge with the last carrier any complaints relating to the transport, e.g. for damage or loss, immediately upon delivery or receipt of shipping documents.

HAZARDOUS GOODS

The Customer must comply with any respective applicable legal requirements and/or any data sheets issued to Jubatus by the manufacturer relating to the transport, the storage, and the handling of hazardous goods.

INSPECTION AND ACCEPTANCE OF DELIVERY

Jubatus or its representative will inspect the goods or services in accordance with Jubatus' standard practice before despatch or after performing the services. Any tests requested by the Customer must be agreed upon separately and the cost borne by the Customer. The Customer must inspect the (partial) deliveries and (partial) services supplied within twenty (20) days of delivery and must inform Jubatus in writing of any defects without delay, failing which the (partial) deliveries and (partial) services are deemed to have been accepted.

The (partial) deliveries and (partial) services are also deemed to have been accepted if the Customer uses or is able to use the goods or services supplied by Jubatus.

The remedies stated above for defective (partial) deliveries and (partial) services are exclusive and the Customer waives all other remedies.

WARRANTY, LIABILITY FOR DEFECTS

Express representations are only those expressly stated to be warranties in the confirmation of the order issued by Jubatus.

This warranty expires no later than the lapse of the term of warranty. Liability is excluded for damage resulting from matters other than defective material or workmanship including wear and tear, deficient maintenance, non-compliance with operating instructions, overexertion, undue operation, chemical or electrolytic interference, construction or installation not performed by Jubatus, as well as for damages resulting from other causes beyond the reasonable control of Jubatus. The period of any stated warranty is twelve months from the date of delivery. For products not manufactured by Jubatus, the terms of warranty of the



respective manufacturer apply. If, within the term of warranty, the Customer discovers defects in products supplied by Jubatus and wishes to make a claim, then they must notify Jubatus at the latest within seven days of this occurrence. Jubatus shall, at its discretion, either repair or replace such products or parts thereof. The replacement of defective products does not constitute an extension or a recommencement of the term of warranty for the entire system. Jubatus must correct the defects notified as soon as is reasonably practicable, and the Customer must give Jubatus the opportunity to do so and provide access to the goods. After the correction, an acceptance test will be made at the request of the Customer or of Jubatus at no cost to the Customer. The term of warranty expires prematurely;

- a. if the Customer or third parties do not handle the products in accordance with the instructions given by Jubatus;
- b. if the products have been exerted beyond their specifications;
- c. if the Customer or third parties make improper modifications or repairs; if the Customer fails to issue a written complaint about a defect in good time
- d. if the Customer, in the event a defect occurs, does not immediately take all suitable measures to mitigate the damage and to give Jubatus the opportunity to remedy the defect.

Except as expressly provided above, all implied conditions and warranties (including those implied under the United Nations Convention on Contracts for the International Sale of Goods (Vienna, 1980)), liabilities and obligations on the part of Jubatus are excluded to the maximum extent permitted by law. The liability of Jubatus is limited to the cost of repair or replacement of the goods and services and Jubatus excludes all liability for loss or damage whether consequential or otherwise and whether arising

from negligence or from any other cause whatsoever, in respect of products or services supplied by it to the maximum extent permitted by law. Jubatus will not be liable to the Customer or any other person (whether directly or indirectly) for any loss of revenue, loss of profit, loss of use or any consequential loss howsoever caused.

SAFETY MEASURES IN FOREIGN COUNTRIES

If the presence of Jubatus personnel is necessary outside Australia for the execution of contractual obligations, the Customer is responsible for identifying any reasonable steps necessary to ensure the health and safety of the Jubatus personnel and taking, at the Customer's cost and expense, all steps reasonably necessary to protect the health and safety of the Jubatus personnel.

APPLICABLE LAW AND JURISDICTION

These terms and conditions will be governed by and construed in accordance with the law in force in Victoria (excluding the United Nations Convention on Contracts for the International Sale of Goods (Vienna Convention) and the Customer and Jubatus agree to submit to the jurisdiction of the Victorian Courts in respect of any dispute arising in connection with this contract.

CONFIDENTIAL INFORMATION

The Customer must not use, reproduce, disclose or otherwise disseminate any Confidential Information of Jubatus.

Disclosures of Confidential Information may be made only to the Customer's employees and agents who have specific need to know and are subject to confidentiality restrictions at least as restrictive as those contained herein.

"Confidential Information" means confidential information relating to the business, products and services of Jubatus and/or unrelated



parties, which is or has been disclosed to the Customer, and which has value to Jubatus and is not generally known to Jubatus competitors, including (without limitation), information regarding product specifications and product plans, designs, costs, prices, finances, marketing plans, business opportunities, personnel, research and development activities and know-how. The Customer is not bound to keep confidential any information that becomes part of the public domain, is lawfully obtained by the Customer from another party, is disclosed to the Customer's professional advisors (who have agreed to keep the information confidential) or the information is required to be disclosed by the operation of any law, stock exchange, judicial or parliamentary body or governmental agency. Where Jubatus and the Customer have entered into a Confidentiality and Non-Disclosure Deed ("Deed") then to the extent of any inconsistency between the Deed and the provisions of these Standard Terms and Conditions, the terms of the Deed will prevail.

- b. the Customer ceases trading or has a receiver or liquidator or similar officer appointed in respect of any of the Customer's assets.

Where Jubatus terminates the contract, the Customer must take any action reasonably directed by Jubatus for the transfer of the goods and must ensure protection and preservation of the goods until they are returned to Jubatus. Any termination by Jubatus does not affect any rights of the parties which may have accrued before the date of termination including the rights and obligations of the parties under these Standard Terms and Conditions regarding Confidential Information and liability for defects.

VARIATION OF THESE TERMS AND CONDITIONS

Jubatus reserves the right to vary these Standard Terms and Conditions from time to time in its absolute discretion. Such varied terms and conditions will supersede all terms and conditions previously issued by Jubatus. A variation of these Standard Terms and Conditions is of no effect unless in writing.

TERMINATION AND SUSPENSION

Jubatus may immediately terminate or suspend an order by notice in writing to the Customer where;

- a. the Customer does not carry out its material obligations under these Standard Terms and Conditions and fails to rectify that breach following reasonable notice of the breach; or



ATTACHMENT

Jubatus Price Variation Formula (Metal Price Adjustment Formula)