

1. INTERPRETATIONS

a) Definitions and Interpretations: "SIMCRAFT" means The Simcraft Group Pty Ltd (A.C.N 637 809 799).

"Purchaser" means a person or a company placing the order with SIMCRAFT.

"Documents" means the documents forming the agreement between SIMCRAFT and Purchaser.

"Warranty Period" means the period commencing on the date of final supply of the Goods and lasting for a period of twelve (12) months, unless otherwise stated by SIMCRAFT.

b) Purchaser to Inform Itself

The Purchaser shall be deemed to have carefully examined all documents furnished by SIMCRAFT and fully satisfied itself regarding all the conditions, risks, contingencies and other circumstances which might affect the supply of the Goods.

c) Order of Precedence

Unless otherwise stated, the order of precedence of the following documents constituting the contract between SIMCRAFT and the Purchaser shall be: i) Quotation; ii) Drawings; iii) Purchase Order; iv); Order Acknowledgement; v) these General Terms and Conditions; vi) Specification(s) and in the event of any inconsistency between documents they shall be interpreted in that order.

d) Use of Documentation – Intellectual Property

The Documents listed in 1.3 above shall not be copied or used for any other purchase than the supply of the Goods, without the prior written approval of SIMCRAFT and the Purchaser acknowledges SIMCRAFT's ownership of intellectual property of all Drawings and Goods.

e) Confidentiality

Any information provided by SIMCRAFT to the Purchaser that is noted as confidential shall not be disclosed to any third party without the prior written consent of SIMCRAFT.

f) Waiver

No failure or delay on the part of SIMCRAFT in exercising any of its rights under the documents shall be construed as constituting a waiver of any such rights.

g) Subcontracting and Assignment

SIMCRAFT may subcontract or assign all or any

part of the work to be done for the Purchaser without the prior written approval of the Purchaser. The Purchaser acknowledges and agrees that some component parts of various items sold to Purchaser by SIMCRAFT are bought by SIMCRAFT from its sub-suppliers.

h) Communications

Any notice or other communication required between SIMCRAFT and the Purchaser shall be delivered in writing and shall be in a form which can be read, copied, and recorded conveniently. Verbal instructions or directions from the Purchaser shall be confirmed in writing to the Supplier within a reasonable time and SIMCRAFT shall be under no obligation to act or rely upon any verbal communication.

i) Entire Agreement

The Documents constitute the entire agreement between The Purchaser and SIMCRAFT. The Parties shall not be bound by or liable for any statement, representation, promise or understanding not set forth in the Documents. Nothing contained in proposals, correspondence, discussions or negotiations prior to the date of the Purchase Order has any effect on the agreement between the Parties unless specifically incorporated in the Documents.

2. PROCESS

a) When requested by the Purchaser SIMCRAFT will issue a Quotation for work to be carried out and products supplied to the Purchaser.

b) The Purchaser may communicate to SIMCRAFT its intention to purchase the Goods by issuing a Purchase Order which SIMCRAFT shall regard as an offer by the Purchaser to purchase Goods.

c) SIMCRAFT may respond to a Purchase Order by issuing an Order Acknowledgement form and shall where appropriate prepare and send to the Purchaser drawings of the Goods to be purchased.

d) Where no drawings are required the contract between the parties shall come into existence when the SIMCRAFT's Order Acknowledgment is communicated to the Purchaser.

e) Where SIMCRAFT sends drawings to the Purchaser the contract between the Parties shall come into existence when the Purchaser

approves the Drawings as accurately representing the scope of work to be done and a delivery date for the Goods is agreed upon. If a shop drawing has been supplied by SIMCRAFT and the Purchaser cancels the order, charges will be incurred and invoiced for the sum of hours taken to complete the SIMCRAFT shop drawings. Shop drawings are charged at a rate of \$110/hour.

f) Specifications. If no specifications are provided it is agreed the Goods shall meet the standards specified in the Purchase Order and failing that shall meet SIMCRAFT's general specifications. Other statements in brochures or the like or verbally shall be applicable only if referred to in the Purchase Order.

3. TERMS OF SALE

The acceptance of SIMCRAFT goods or services implies complete acceptance of these terms and conditions. These conditions shall prevail over any conditions of any Purchaser's order whether written or verbal.

4. PAYMENTS

The standard terms offered by SIMCRAFT unless specifically agreed to in writing by SIMCRAFT prior to the order being made are:

- a) An official account application form must be fully and accurately completed by the Purchaser prior to supply.
- b) Only long term established, and formally accepted account Purchasers will be granted credit for a period of not more than 30 days from date of supply.
- c) Other Purchasers must provide:
 1. 30% deposit must be provided with order; 2. Balance to be paid upon delivery.
- d) All accounts outstanding beyond the date of actual supply will be subject to an interest charge of 1.25% per month, commencing from the date of actual manufacture or supply.
- e) Retention will not be accepted by SIMCRAFT under any circumstances.
- f) All accounts unless confirmed by writing will be 30 days nett EOM.
- g) Accounts not settled within 45 days will be placed on hold and an administration fee of \$200 incorporating the late fee above will also be added.
- h) SIMCRAFT will not accept any credit claims being deducted from future or unrelated invoices. Should a credit request be raised

after a past invoice has been paid, SIMCRAFT requests the Purchaser work with us directly to resolve this. A \$200 administration fee will be added to any invoice that is subject to unrelated credit claim deductions and the account will be placed on immediate hold until all monies including the admin fee are paid.

5. PROPERTY AND RISK

- a) All goods sold by SIMCRAFT shall remain the sole property of SIMCRAFT until the account is paid in full.
- b) The Purchaser agrees that SIMCRAFT or its representative can legally enter any property to recover the goods that have not been paid for under the terms of sale.
- c) SIMCRAFT reserves the right to sell or dispose of any goods removed pursuant to clause 5b.
- d) The Purchaser agrees that SIMCRAFT can withhold future deliveries until previously received goods are paid for.
- e) Risk in all goods supplied by SIMCRAFT shall pass to the Purchaser upon their collection or delivery or, where Purchaser fails to collect or accept delivery of the goods on time, upon SIMCRAFT first making the goods available for collection or attempting to effect delivery of the goods.

6. FORCE MAJEURE

SIMCRAFT will not be liable for any loss, damage, cost, or expense suffered by the Purchaser where the failure or delay is due to any cause or circumstance beyond SIMCRAFT's control.

7. WARRANTY

- a) SIMCRAFT undertakes to correct and make good any goods so manufactured under our guidelines.
- b) SIMCRAFT's goods come with guarantees that cannot be excluded under the Australian Consumer Law. The Purchaser is entitled to a replacement or refund for a major failure and for compensation for any other reasonably foreseeable loss or damage. The Purchaser is also entitled to have the goods repaired or replaced if the goods fail to be of acceptable quality and the failure does not amount to a major failure.
- c) This statutory guarantee only extends to goods that cost less than \$40,000.

- d) SIMCRAFT's standard warranty is 120 days on all labour and 12 months on parts.
- e) The warranty does not extend to goods that are misused, installed incorrectly, damaged in any way by a third party beyond the control of SIMCRAFT, or where goods have not been maintained in accordance with the information set out in SIMCRAFT's document "**SIMCRAFT Guide to maintaining Stainless Steel Products**" supplied with Goods and/or displayed on SIMCRAFT's website simcraftproducts.com.au. If a product has been returned to SIMCRAFT for repair and it is determined by SIMCRAFT that SIMCRAFT is not the cause of the fault, then SIMCRAFT will charge the Purchaser for the repair. Should SIMCRAFT conduct a call-out and it is determined by SIMCRAFT that the products being inspected is not faulty or that SIMCRAFT is not the cause of the fault, then SIMCRAFT will charge a call-out fee of \$75 per hour.
- f) Should the Purchaser need to make a claim under the warranty then it must first contact SIMCRAFT, notifying SIMCRAFT that it seeks to make a claim. The contact details for SIMCRAFT are: Address: 108 Radium Street, Welshpool, Western Australia 6105. Telephone: +61 (0)8 9258 3033.
- g) All goods are to be returned to SIMCRAFT's factory at the Purchaser's expense to enable such warranty to be undertaken.
- h) Where a special part to an item is supplied by a third party, SIMCRAFT will have the item repaired by the supplier of the item. Third party warranties apply.
- i) Warranty work will only be carried out during normal working hours except if otherwise agreed to in writing by SIMCRAFT and extra charges for labour may apply.
- j) SIMCRAFT will at its discretion instead of remedying or replacing Goods have the right to credit the Purchaser with the value of the defective Goods or the sum by which such value is diminished by the defect.
- k) Any such repaired or replaced Goods shall be the subject of a further full warranty period.

8. LIABILITY & EXCLUSIONS

To the extent permitted by law, the Purchaser agrees that:

- a) the Purchaser exempts SIMCRAFT from all forms of direct, indirect, or consequential

damage or loss, including loss of profit or loss of damage that may reasonably have been supposed to be upon the place of the parties and arising in or out of connection with the supply of products sold by SIMCRAFT.

- b) Whilst every effort will be made to meet despatch and/or delivery dates, SIMCRAFT will in no event be liable for delays in delivery or failure to provide notice of delay, or for any failure to perform hereunder due to causes beyond the reasonable control of SIMCRAFT.

Such causes may include but are not limited to machinery breakdowns, failure of the Purchaser to provide confirmation of the details required to manufacture or procure items pertaining to the order, labour disputes, and employee absenteeism.

- c) it shall rely on its own knowledge and expertise in selecting Products for any purpose and any advice or assistance given by or on behalf of SIMCRAFT shall be accepted at the Purchaser's risk and shall not be deemed to have been given as expert advice nor to have been relied upon.

- d) SIMCRAFT shall not be liable under these Terms in respect of any Products to the extent that any third-party manufacturer is liable under a manufacturer's warranty for such Products (the benefit of which SIMCRAFT will, to the extent possible, extend to the Customer).

- e) SIMCRAFT shall not be liable nor responsible for any failure to comply with any requirements of the Purchaser or any other person (whether relating to manufacture, design, fabrication, installation and/or any other particular intended use of any Goods and/or otherwise) which are not precisely and accurately communicated in writing directly to the appropriate personnel at SIMCRAFT and accepted in writing by SIMCRAFT prior to delivery of the Goods under these Terms.

9. STORAGE

SIMCRAFT reserves the right to charge a storage fee where goods manufactured have been placed on hold post agreed delivery date.

10. RETURNS AND CANCELLATIONS

- a) Orders cannot be cancelled in full or part without prior written consent from SIMCRAFT.
- b) If the Purchaser cancels an order for goods, the Purchaser must, within 14 days of receipt

of a written notice from SIMCRAFT, reimburse SIMCRAFT for all costs incurred by SIMCRAFT in manufacturing or preparing to manufacture those goods.

c) Any failure by the Purchaser to reimburse SIMCRAFT in accordance with clause 9.2 of these Terms will result in a debt owed by the Purchaser to SIMCRAFT which SIMCRAFT will be entitled to enforce.

d) Orders for third party supplied products cannot be cancelled after fabrication has commenced and are non-returnable after being supplied.

e) Goods which have been installed and/or used after being supplied to the Purchaser cannot be returned regardless of condition.

f) Where products are regarded as standard “off the shelf” products, SIMCRAFT may allow return for credit or reimbursement under the following terms and conditions:

i) Only the original Purchaser may request to return products.

ii) A request to return a Product must be made within 14 days of SIMCRAFT despatch date.

iii) No products will be accepted in without the “Return of Goods Authorisation” form.

iv) Where SIMCRAFT accepts the return of goods, a 25% administration and re-stocking fee will apply.

11. GOVERNING LAW

Unless otherwise specified, the Purchase Order shall be governed and construed in accordance with **Western Australian law** and the Purchaser and the Supplier shall submit to the jurisdiction of the courts of Western Australia.