

# Arrow Energy Ltd

## Purchase Order Terms and Conditions

ABN 73 078 521 936



**WARNING TO SELLERS – Changes to this document must be authorised in writing by the Seller’s Procurement Manager, Contracts Manager or Legal Department to be effective.**

1. These provisions govern all purchase orders issued by Arrow Energy Ltd and its subsidiaries (with such issuer named on the purchase order being “the Buyer”) to the exclusion of all other terms unless specifically agreed in writing.
2. **DELIVERY:** The Seller shall deliver the articles in accordance with the terms specified in the order and at the time or times nominated by Buyer. The Seller shall unload the articles at the delivery point. The Seller shall immediately advise Buyer in writing of any circumstances that may cause delay in delivery, the action taken to avoid or minimise the delay and the estimated period of delay.
3. **PASSING OF TITLE:** Except if title has heretofore passed to Buyer or Buyer's customers under other provisions of this order, title to the articles shall pass to Buyer upon completion of unloading of such articles at the delivery point.
4. **EXTRAS:** No charges will be allowed for transportation packing or returnable containers unless stated. All shipments must be packaged and must conform with Buyer's packaging specifications referred to elsewhere in this order if any, and so as to permit efficient handling and to provide protection in shipment. If tendered to a common carrier for delivery, packaging must also conform to the packaging requirements applicable to such carrier, and acts of the common carrier shall be deemed to be acts of the Seller. Damage to any articles resulting from improper packaging will be charged to Seller.
5. **QUALITY:** The articles shall be of merchantable quality, new, free from defects, and fit for the purpose for which the articles are generally used, or intended to be used by Buyer to the extent within the reasonable knowledge of the Seller.
6. **PAYMENT:** The price noted on the order is a firm price and is not subject to rises and falls. Payments shall be deemed to have been made on the date on which the cheque for payment is drawn by Buyer. Buyer shall not be required to pay for the articles until after the expiry of 30 days from their delivery or satisfactory completion whichever is the later.
7. **WARRANTY:** Unless otherwise agreed to in writing by the parties, Seller warrants that articles ordered to specifications shall conform thereto and to any drawings, samples or other descriptions furnished or adopted by Buyer.
8. **DEFECTIVE GOODS:** Buyer may, at its option either return for credit or refund or require prompt correction of replacement of the defective or nonconforming article or part thereof. Return to Seller of any defective or nonconforming article and delivery to Buyer of any corrected or replaced articles shall be at Sellers expense.
9. **INSPECTION:** All articles shall be subject to inspection and test at all times and places, including the period of manufacture. Seller, without additional charge, shall arrange industry standard testing of all articles and provide evidence thereof to the Buyer prior to delivery. The Seller shall provide all reasonable facilities and assistance for the safety and convenience of Buyer and Government inspectors to allow them to conduct additional inspections. All articles are also subject to final inspection and acceptance at Buyer's plant notwithstanding any payments or other prior inspections. Such final inspection shall be made within a reasonable time after delivery.

## **10. TERMINATION:**

(a) Buyer may terminate this order if Seller:

(i) fails to comply with any of the provisions hereof;

(ii) fails to remedy breach within seven days of notice of breach by Buyer;

(iii) is insolvent; or

(iv) if Seller becomes the subject of administration, liquidation, a proceeding for relief of debtors or makes an assignment for the benefit of creditors.

(b) Without affecting its right to terminate this order under paragraph (a) hereof, Buyer may for its convenience terminate this order in whole or from time to time in part provided that the Buyer is paid reasonable compensation (calculated on the same basis as purchase order pricing) for work started but not completed. The Seller shall provide auditable details of its proposal for such compensation within seven days of receiving a notice under this clause 10(b), and at any other time at the request of the Buyer. The Buyer may withdraw a notice under this clause 10(b) within 14 days of receiving the Seller's compensation proposal. If the parties do not agree on compensation, and the notice is not withdrawn, either party may refer the matter to the disputes process.

**11. PATENT INDEMNITY:** Seller hereby indemnifies Buyer its successors, assignee, agents, customers and users, of the articles against loss damage or liability including costs and expenses which may be incurred on account of any such claim judgement or demand involving infringement or alleged infringement of any patent rights in the manufacture use or disposition of any articles supplied hereunder.

**12. EXCUSABLE DELAYS:** Neither party shall be liable for damages for delay in delivery arising out of causes beyond its reasonable control and without its fault or negligence including but not limited to acts of God, or of criminals, or acts of the Government, fires, floods, epidemics, quarantine restrictions, and unusually severe weather. However this clause shall not apply to strikes, design errors, manufacturing errors or equipment failure in any circumstances.

Seller will notify Buyer in writing within ten (10) days after the beginning of any such cause. Buyer may terminate the order at no charge if the delay under this clause continues for more than 45 days.

**13. CHANGES:** Buyer may at any time by a written notice make changes in the specifications, designs or drawings, samples or other description to which the articles are to conform in methods of shipment and packaging or place of delivery. If any such change causes an increase or decrease in the cost of or time required for the performance of any part of the work under this order, a proportionate adjustment shall be made in the price or delivery schedule or both and this order modified in writing accordingly. Any claim by Seller for an adjustment must be made in writing within thirty (30) days of the receipt of any such notice, provided however, that Buyer may, in its discretion receive and act upon any such claim so made at any time prior to final payment under this order. Nothing in this clause shall excuse the Seller from proceeding without delay to perform this order as changed.

**14. ASSIGNMENT:** The Seller shall not without the prior written consent of Buyer (which may be withheld in Buyer's absolute discretion) assign or sub-contract the order or any part of it, or supply of purport to supply articles which are not manufactured by the Seller. Where the Seller does sub-contract any work, all acts of sub-contracts are deemed to be acts of the Seller.

## **15. INFORMATION:**

(a) Drawings, data design, inventions and other technical information supplied by Buyer shall remain Buyer's property and shall be held in confidence by Seller, employees and former employees of Seller. Such information shall not be reproduced used or disclosed to others by Seller without Buyer's prior written consent and shall be returned to Buyer upon completion by Seller of its obligations under this order or upon demand

(b) Any information which Seller may disclose to Buyer relevant to the use or maintenance of the articles may be used by the Buyer for those purposes.

**16. GRATUITIES:** Seller warrants that not any of its employees agents or representatives has offered or given any gratuities to Buyer's employees, agents or representatives with a view toward securing this order or securing favourable treatment with respect thereto.

**17. RIGHTS, REMEDIES AND WAIVER:** The rights and remedies provided to Buyer herein shall be cumulative and in addition to any other rights and remedies provided by law or equity. A waiver of a breach of any provision hereof shall not constitute a waiver of any other breach. The laws of Queensland shall apply, and the Seller hereby submits to the jurisdiction of the courts of that State.

**18. DISPUTES:** Any dispute arising under this order which is not settled by agreement of the parties may be settled by appropriate legal proceedings. Pending any decision, appeal or judgement in such proceedings or the settlement of any dispute arising under this order, Seller shall proceed diligently with the performance of this order.

**19. BUYER APPROVALS AND REVIEWS:** The review or approval by Buyer of any work hereunder or of any designs, drawings, specifications or other documents prepared hereunder shall not relieve Seller of any of its obligations under this order nor excuse or constitute a waiver of any defects or nonconformity's in any articles furnished under this order or change, modify or otherwise affect any of the provisions of this order, including but not limited to the prices and delivery schedules contained herein. .

**20. TAXES AND OTHER EXACTIONS:** Seller assumes exclusive liability under all laws that impose taxes or other exactions on the manufacture or sale of the items to be furnished hereunder, or any component part thereof, or on any process or labour involved therein or on any services to be rendered by Seller and to pay any and all such taxes except those Buyer specifically agrees or is by law required to pay. Any taxes to be paid by Buyer shall be separately stated on the invoice. Prices shall not include any taxes for which Buyer has furnished a valid exemption certificate. Notwithstanding the above, all prices are GST-inclusive unless otherwise specified. All invoices issued by the Seller must be GST-compliant tax invoices.

**21. NOTICES:** A notice or other communication required or permitted to be given by a party to another shall be in writing and:

(a) delivered; or

(b) sent by post, postage prepaid, to that party's address set out in the order or subsequently notified to each party from time to time; or

(c) sent by email or facsimile addressed to the responsible manager of the party for whom those contact details have been given.

**22. SELLER DOCUMENTATION:**

(a) All invoices issued by the Seller must be billed to the company designated on the purchase order and sent directly to Accounts Payable, Arrow Energy Limited, GPO Box 5262, Brisbane, Queensland, 4001 or electronically via e-mail in PDF format to [accounts@arrowenergy.com.au](mailto:accounts@arrowenergy.com.au).

(b) All invoices and delivery notifications issued by the Seller to the Buyer must include:

(i) A valid purchase order number;

(ii) Adequate description of the goods and/or service;

(iii) Particulars of the date and time of delivery of the goods and/or service.

Non-inclusion of the Purchase Order number in the invoice(s) and delivery notifications may delay the processing of payment for the goods or service.

(c) Arrow Energy Limited will not be liable to pay any invoices issued by the Seller where a valid and duly authorised purchase order has not been received by the Seller prior to entering into any contractual obligation.

(d) Invoices received by Arrow Energy Ltd from the Seller will be returned to the Seller unpaid where any one or more of the following occur:

- (i) The invoice date precedes the purchase order date;
- (ii) The invoice includes additional items or charges not quoted on the purchase order;
- (iii) The prices on the invoice are in excess of those on the purchase order; and
- (iv) The company designated on the invoice does not match the company designated on the purchase order.

### **23. FORMATION OF AGREEMENT**

The delivery of a Purchase Order by Arrow Energy Ltd or its associated companies to the Seller constitutes an offer by Arrow Energy Ltd or its associated companies to acquire the Goods and/or Service described in that Purchase Order from the Seller on the terms contained in that Purchase Order and these Conditions.

An Agreement for the purchase of goods and/or service is formed between Arrow Energy Ltd and the Seller when the Seller:

- (a) Confirms acceptance of the Purchase Order or informs Arrow Energy Ltd either in writing or verbally that the goods and/or service will be supplied or otherwise communicates with Arrow Energy Ltd in any way which confirms or implies acceptance or;
- (b) Delivers the goods and/or service to Arrow Energy Ltd.

**24. TIME IS OF THE ESSENCE:** Time is of the essence in the performance of this order by Seller.