



## Supplier Terms & Conditions of Purchase

“MMM” means Mark Millman Marine ABN 38 009 110 794 “Purchase Order” means an order for the Products which is placed by MMM

“Products” means the goods or services stated on the Purchase Order.

“Supplier” means the company or persons who have been engaged to provide the Products to MMM.

1. Agreement - These Terms and Conditions apply where a Supplier has accepted a Purchase Order placed by MMM either electronically or otherwise. The Purchase Order and these Terms and Conditions together constitute the entire agreement between the parties (“Agreement”). This Agreement will prevail over any subsequent document or documents issued by the Supplier.
2. Variations - No variation to these Terms and Conditions, or waiver of them is valid or effective unless the Supplier negotiates, and enters a formal variation agreement or waiver in writing with MMM.
3. Payment Terms - MMM operates a monthly payment system. Therefore unless otherwise agreed the Supplier will be paid 45 days following monthly statement date and upon receipt of a correctly rendered invoice. Payment will be made to the Supplier or the Supplier’s nominee, by Direct Debit. The price payable by MMM will be the price stated on any quote provided by the Supplier. All invoices to be invoiced to Locked Bag [accounts@markmillmanmarine.com](mailto:accounts@markmillmanmarine.com)
4. Title in Products - Title & risk in the Products shall pass on delivery to the MMM site stated on the Purchase Order.
5. Purchase Orders & discrepancies – The Supplier is deemed to have accepted a Purchase Order if the Supplier does not reject the Purchase Order within 12 hours of receiving it. Unless the Purchase Order states otherwise, the price for the Products includes all costs including without limitation delivery, all taxes imposed on the Supplier and all importation costs. MMM will only pay orders where a valid MMM purchase order number and invoice is supplied. If there is a discrepancy in the Purchase Order value and the Supplier’s invoice value, please contact the Purchasing Officer named on the Purchase Order and they will adjust appropriately. If this is not done then payment may be withheld or rejected for the Purchase Order amount.
6. Labelling/Packaging - Each packing slip, delivery note, package and invoice must be marked clearly with the order number set out in the packing slip. This shall be quoted in all relevant enquiries and documents.
7. Delivery
  - a) The Supplier must deliver the Products to the delivery address specified on the Purchase Order. Delivery of the Products must be made in accordance with the delivery quantity and date information stipulated on the Purchase Order.
  - b) The Supplier must inform MMM if they are unable to deliver on the due date. MMM reserves the right to cancel the Purchase Order or reschedule the delivery date or arrange expedited delivery by alternative means and at the Supplier’s cost.
  - c) MMM may change the delivery date and/or delivery schedules at any time.
8. Price – the price will be the price stated on the quote received from the Supplier.
9. Defective Products – Without limiting any other rights or remedies which may be available to MMM, MMM may require the Supplier to either repair or replace Products in a defective condition or which fail to comply with the warranties in clause 16 at no cost to MMM. The Supplier will pay all costs for storing, handling and returning any Products rejected by MMM.
10. New Products - All Products must be new and unused unless otherwise stipulated on the Purchase Order. The Products must be free of all encumbrances.
11. Force Majeure - In the event that either party is incapable of performing its obligations to the other due to a force majeure event (including without limitation Acts of God), that party shall immediately give notice to the other and must do everything reasonably possible to resume performance without delay. Upon the giving of such notice, the obligations of the parties to perform under this Agreement are suspended and the party receiving such notice is entitled to terminate this Agreement and any the Purchase Order with notice to the other party if the force majeure events continues for more than 30 days.
12. Intellectual Property - The Supplier warrants that the use of the Products by MMM will not infringe on other persons intellectual property rights. The Supplier agrees that MMM shall be the sole and exclusive owner of all intellectual property rights related to any Products and other works and materials created in the course of or for the purpose of providing the Products.
13. Indemnity - The Supplier indemnifies MMM and keeps MMM indemnified, against all losses, damages, liability, claims or costs, arising directly or indirectly out of or in connection with (1) any infringement or alleged infringement by the Products of a third party’s intellectual property rights (2) any breach by the Supplier of this Agreement, (3) breach of warranty, (4) the provision of Products or (5) any negligent act or omission of the Supplier, its employees, agents or contractors. A loss to MMM includes all costs, expenses, liability, claims, demands and proceedings.
14. Governing Law – This Agreement is governed by and construed in accordance with the laws of Western Australia and shall be subject to the jurisdiction of the Courts of Western Australia.
15. Confidentiality – any confidential information (including without limitation sales and marketing information and business strategies) disclosed by MMM to the Supplier must be kept confidential by the Supplier.
16. Product warranties – the Supplier warrants that the Products are free from contamination, have been tested and comply with all legislation, standards, codes, regulations and other requirements in Australia, conform with the Product description and any samples and specifications, fit for purpose, newly manufactured and free from defects in workmanship and materials. The Supplier further warrants that any Products with an expiry date are delivered to MMM within the first quarter of the recommended shelf life (that is, the period from manufacture to the “best before” or “use by” date).
17. Insurance – The Supplier must have all necessary insurances for the provision of Products covered by this Agreement, including without limitation, product liability insurance for at least \$10,000,000 per event.
18. Alternative Products – Under no circumstances is the Supplier to supply an alternative product or product component without MMM’s prior written consent. Any alternative product or product component must be submitted to MMM for examination prior to supply.
19. Credit Notes – must be presented by the Supplier bearing the same address and layout details as an invoice. Credit notes must be issued and received by MMM within the same month as the relating invoice.
20. Privacy – the Supplier must observe all applicable privacy laws in performance of its obligations under this Agreement.
21. No sub-contracting – The Supplier shall not sub-contract or otherwise arrange for another person to perform any part of this Agreement without the prior written consent of MMM (such consent not to be unreasonably withheld).
22. Variations - Any variations to this Agreement must be agreed between parties through the Supplier Agreement Variation Form.