

## **Delta T Technologies (WA) Pty Ltd**

### Terms and Conditions of Supply

#### 1. Contract

These terms and conditions ("terms") apply to the supply of goods or services by DELTA T to customers, unless otherwise agreed in writing. To the extent that there is any inconsistency between these terms and the content of any purchase order or other document provided by the customer (whether before or after the date of these terms), these terms prevail.

#### 2. Supply

In consideration for payment of the price, DELTA T will supply the specified goods and \or services. Any goods to be delivered by DELTA T will be delivered to the specified delivery point on or before the specified date (unless alternative arrangements are made for delivery or collection of the goods). Risk in the goods delivered passes on delivery. Unless otherwise provided for, all freight, insurance, taxes and other costs associated with the delivery of the goods are to be paid by the customer. Unless DELTA T receives notice from the customer within 14 days that the goods are not in accordance with the agreement with DELTA T, all goods are deemed to be accepted by the customer. DELTA T is not responsible for any installation, support or other services unless otherwise agreed in writing. Delta T reserves the right to dispose of any unclaimed condemned items or parts 30 days after receiving/replacing goods or service completion date unless otherwise agreed to in writing.

#### 3. Payment

The customer will pay the price for the supply of the goods and or services on delivery, unless otherwise agreed in writing by DELTA T. DELTA T will be entitled to charge interest on payments not received by the due date at a rate which is not more than the overdraft rate for business customers charged by the National Australia Bank at the time of the default.

#### 4. Retention of title

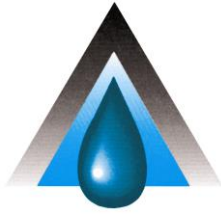
DELTA T retains ownership of any goods delivered until payment in full is made by the customer. The customer acknowledges that it is in possession of the goods as bailee for DELTA T until payment in full is made. If the customer is subject to any form of insolvency event (including, without limitation, appointment of an administrator, receiver or other person to manage the affairs of the customer, or winding up or bankruptcy of the customer, or deemed insolvency of the customer, or the customer's inability to pay its debts as and when due) the customer will immediately deliver up the goods to DELTA T and DELTA T may enter on the premises of the customer for the purpose of taking possession of the goods.

**9 Hopetoun Place Welshpool WA 6106**

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WEB: [www.deltat.com.au](http://www.deltat.com.au)

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Until the goods are paid for in full, the customer must keep and store them separately from other goods (identifying DELTA T as the owner of the goods) and not use them or incorporate them into other goods.

### **5. Warranties**

DELTA T provides the following warranties:

For goods manufactured by DELTA T: DELTA T warrants that the goods manufactured and supplied by DELTA T will be at the time of delivery and for 12 months thereafter (a) of merchantable quality; (b) free of defects in materials and workmanship; and (c) substantially in accordance with any specifications or requirements agreed in writing between DELTA T and the customer.

For goods repaired by DELTA T: DELTA T warrants that the repaired goods supplied by DELTA T will be at the time of delivery and for 90 days thereafter (a) of merchantable quality; (b) free of defects in material and workmanship; and (c) substantially in accordance with any specifications or requirements agreed in writing between DELTA T and the customer, except that no warranty is provided in relation to used parts serviced by DELTA T.

DELTA T warrants that any services provided by it will be carried out with due skill, care and diligence.

The above warranties do not apply where any defect or fault or non-compliance is caused by (a) misuse of the goods (b) use of the goods for an unintended purpose or outside normal operating conditions (c) modification or alteration of the goods by or for the customer (d) failure to service and maintain the goods (e) service of the goods by a party other than DELTA T or (f) fair wear and tear caused to the goods through use.

These are the only warranties given by DELTA T and, to the fullest extent permitted by law, all other warranties or conditions are excluded. All implied warranties or conditions in any Sale of Goods legislation are excluded.

### **6. Remedies**

DELTA T's liability and the customer's remedy for breach of any express warranty, or warranty or right implied or conferred by law which cannot be excluded, is limited to, at DELTA T's option, one or more of:

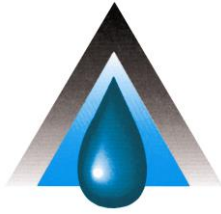
In the case of any goods: (a) replacement of the goods or supply of equivalent goods; (b) repair of the goods; (c) payment of the cost of replacing the goods or acquiring

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equivalent goods; or (d) payment of the cost of repairing the goods.

In the case of any services: (a) supplying the services again; or (b) payment of the cost of having the services supplied again.

### **7. Liability**

Except as expressly provided in these terms, DELTA T will be under no liability to the customer (whether for breach of contract, negligence or otherwise) in respect of any loss or damage which may be suffered or incurred by the customer or which may arise directly or indirectly in respect of the supply or use of any of the goods or provision of the services by DELTA T or in respect of a failure or omission on the part of DELTA T to comply with its obligations under these terms. Without limiting the generality of the above, DELTA T will be under no liability to the customer (whether for breach of contract, negligence or otherwise) for any special, incidental, indirect, or consequential damages whatsoever (including, without limitation, damages for loss of business or profits, loss resulting from business interruption, loss of business information, loss resulting from any claim by any third party or any other pecuniary loss) arising out of the supply or use of the goods or provision of the services by DELTA T, even if DELTA T has been advised of the possibility of such damages.

### **8. Customer requirements**

Where goods or services are supplied by DELTA T to meet the specifications or other requirements of the customer, the customer warrants that the supply of the goods and services by DELTA T does not infringe any third party rights including any third party intellectual property rights.

### **9. Indemnity**

The customer will indemnify DELTA T and keep DELTA T indemnified for any loss or damage suffered by DELTA T (including legal costs) arising out of any breach of these terms by the customer.

### **10. Confidential information and intellectual property**

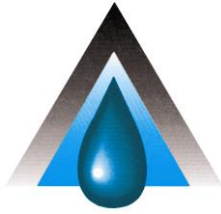
All information of a confidential nature provided to the customer by DELTA T for the purpose of DELTA T carrying out work for the customer should be treated as confidential. Such information includes (without limitation) the contents of drawings, specifications and instructions, and other information provided by DELTA T to the customer (but does not include any information which is lawfully in the public domain with the consent of DELTA T). Such information must not be disclosed by the customer to third parties or used for any purpose other than the purpose for which it was disclosed to the customer by DELTA T. Any documents containing confidential

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information belonging to DELTA T (including documents created by the customer) must be returned to DELTA T on conclusion of the work or immediately if requested by DELTA T. DELTA T retains ownership of all intellectual property relating to the work to be carried out by DELTA T for the customer including (without limitation) copyright in all drawings created by or for DELTA T.

### **11. Severance**

If any term or part of these terms is, or becomes, for any reason invalid or unenforceable at law, that term or part of this agreement will be and is hereby deemed to be severed from these terms without affecting the remainder of these terms and the remainder of these terms will continue to be valid and enforceable.

### **12. Waiver**

Any waiver of any right or remedy under these terms by DELTA T is only effective if in writing. A failure of DELTA T to enforce any of these terms on one occasion does not amount to a waiver of DELTA T's right to enforce any right or remedy on any future occasion.

### **13. Amendment**

These terms may only be amended, varied or replaced by a document duly signed by or on behalf of the parties.

### **14. Entire agreement**

These terms constitute the entire agreement between the parties in respect of the supply of the goods or services by DELTA T. This agreement supersedes all prior representations, warranties, agreements, understandings, negotiations and discussions whether oral or written, express or implied, collateral or otherwise, by or between the parties pertaining to the subject matter of these terms.

### **15. Force majeure**

A party will not be liable to the other for any delay or failure to perform its obligations under these terms by reason of any circumstances beyond its reasonable control.

### **16. Governing law and jurisdiction**

This agreement is governed by and is to be construed in accordance with the laws of Western Australia. Each party irrevocably and unconditionally submits to the nonexclusive jurisdiction of the courts of Western Australia

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