

CONDITIONS OF SALE

These are the standard terms and conditions (the **"conditions"**) referred to in the Quotation provided to the Customer by the Company and/or the Order placed by the Customer with the Company (as the case may be):

1. Wherever the following expressions are used in these conditions, they shall have the meanings respectively given to them below:
 - 1.1 **"Company"** means Energy Materials Group (ABN No. 98 654 253 406) having its Registered Office at Level 18, 324 Queen Street, Brisbane, Queensland, 4000, Australia (including its successors and permitted assignees);
 - 1.2 **"Customer"** means the person, firm or company who requests a quotation from or places an order with the Company for the supply of Goods (including the permitted assignees of such person, firm or company);
 - 1.3 **"Contract"** means the contract between the Company and the Customer for the sale of the Goods, which contract shall be constituted solely by (i) these conditions and (ii) the Customer's acceptance of the Company's quotation or the Company's acceptance of the Customer's order (as the case may be);
 - 1.4 **"Goods"** means the goods of the nature, specification and quantities identified in the Contract;
 - 1.5 **"Parties"** means the Company and the Customer (and "Party" means either of them);
 - 1.6 **"Confidential Information"** means all and any information provided to the Customer by the Company that is expressly stated to be confidential or ought to be considered confidential (however such information is conveyed or presented to the Customer and/or on whatever media such information is stored) and also includes (i) any information of the Company which, if disclosed by the Customer to a third party, would, or would be likely to, prejudice or adversely affect any commercial interest, trade secret, intellectual property right and/or know-how of the Company and (ii) any personal data to which the Data Protection Laws apply;
 - 1.7 **"Data Protection Laws"** "Data Protection Laws" means all applicable laws relating to data protection, the processing of personal data and/or privacy, including the Australian Privacy Act 1988, the Privacy Amendment (Notifiable Data Breaches) Act 2017, and any other legislation that concerns or relates to data protection, the processing of personal data and/or privacy from time to time in Australia, as applicable to this Terms of Sale contract for business.

- 1.8 **"Force Majeure Event"** includes any act, event, non-occurrence, omission or accident beyond the Company's reasonable control and includes (without limitation) the following:
 - 1.8.1 strikes, lock-outs or other industrial action;
 - 1.8.2 protestor action, civil commotion, riot, invasion, terrorist attack or threat of terrorist attack, national emergency, war (whether declared or not) or threat or preparation for war;
 - 1.8.3 fire, explosion, storm, flood, earthquake, subsidence, epidemic or other natural disaster;
 - 1.8.4 restrictions on or impossibility of the use of railways, shipping, aircraft, motor transport or other means of public or private transport;
 - 1.8.5 stoppages in, restrictions on or impossibility of the use of any public or private utilities (including, without limitation, supplies of electricity, water, gas and/or telecommunications);
 - 1.8.6 acts, decrees, legislation, regulations or restrictions of any government or governmental body;
 - 1.8.7 acts or omissions of the Customer or any third parties which prevent or delay the production and/or delivery of any Goods;
 - 1.8.8 pandemic or epidemic (whether declared or not).
2. The Contract shall be deemed effective and enforceable by the Parties upon the occurrence of the first of the following events: (a) the Company issues a written acceptance of the Customer's order in the case of an order, or (b) the Customer issues a written acceptance of the Company's quotation in the case of a quotation. In the event of any inconsistency, ambiguity, or conflict between the provisions of these conditions and the Customer's order or the Company's quotation, the provisions of these conditions shall always prevail, unless the Company provides written notice to the Customer stating otherwise. If either Party discovers any material errors or omissions in the Contract documents, they shall promptly notify the other Party of the issue, and both Parties shall work together in good faith to resolve the matter.
3. The Parties agree that none of the provisions of these conditions shall be interpreted or construed against the Company, solely on the basis that these conditions are the Company's standard or customary terms and conditions of business. Additionally, as the Parties have had the opportunity to seek legal advice prior to entering into the Contract, none of the provisions of the Contract shall be construed contra proferentem.
4. Any provision within the Contract, including any express limitation, exclusion, or disclaimer, shall not be construed as limiting or excluding the liability of either Party for any fraudulent or intentionally misleading acts committed by them.

5. The Company's issuance of a quotation for Goods to the Customer is subject to the following conditions: (a) a binding contract will only be established in accordance with Clause 2, and (b) the quotation will remain valid and open for the Customer's written acceptance within the period of validity stated in the quotation. The validity period of the quotation is 30 calendar days from the date of issue, unless the Company notifies the Customer otherwise in writing before the expiration of the period.
6. No purported variation of and/or addition to the Contract or these conditions in any document or communication of the Customer shall be binding on the Company unless and until it has been accepted as such in writing by the Company to the Customer. References in these conditions to any statute or statutory provision shall include any subordinate legislation made under it and shall be construed as references to such statute, statutory provision and/or subordinate legislation as modified, amended, extended, consolidated, re-enacted and/or replaced and in force from time to time.
7. If the Contract specifies a delivery date, dates, or a period for the delivery or collection of Goods by the Company or the Customer, and this date, dates, or period is not extended in writing between the Parties before the occurrence of such date, dates, or period or the expiry of the period, the Customer is obligated to take delivery or collect the Goods before the specified date or before the expiry of the period, and time is declared to be of the essence in this respect. This is without prejudice to Clause 8.
8. If the quotation or order in the Contract states a particular date or dates for the delivery of Goods (or consignments thereof), the Company will make reasonable efforts to meet those delivery dates. However, the Parties acknowledge and agree that the specified delivery dates are estimates only, and the Company will not be held liable for any loss or damage resulting from any delay in the delivery of Goods on or by those dates. If the Company becomes aware of an actual or anticipated delay affecting any delivery date, it will notify the Customer as soon as reasonably practicable and work with the Customer to agree on alternative delivery dates, subject to the provisions of this Clause 8, in which both Parties are obliged to act reasonably.
9. In cases where the Contract specifies that the Customer is to collect the Goods (or any consignments of Goods) from the Company's premises (or another location) on or by a specific date or dates, and the Customer fails to collect the Goods (or any consignment of Goods) within fourteen (14) days from the specified date or dates, the Company reserves the right (without affecting any other rights or entitlements available to it) to resell or dispose of all or part of the uncollected Goods. The Company shall give the Customer at least fourteen (14) days' notice before exercising this right. In such cases, if the Company fails to resell the Goods at a price equal to or greater than the Contract price, the Customer shall be liable for any resulting shortfall and must pay the Company on demand.

10. If the Contract specifies that the Customer must provide details, specifications, drawings, or any other information ("Customer's Data") related to the Goods, the Customer must supply such data to the Company within a sufficient amount of time to enable the Company to perform its obligations and deliver the Goods by the specified delivery date(s). The Company may rely on all or any of the Customer's Data provided to it. The Customer warrants that the Customer's Data is complete and accurate, and that the Company's use or possession of the Customer's Data in connection with the Contract will not infringe on any third-party intellectual property rights or violate any Data Protection Laws, without prejudice to Clause 22.
11. The Company has the option to supply the Customer with 10% more or less than the quantity of Goods specified in the Contract. If the Company exercises this option, the Customer must accept the delivered quantity and pay for it accordingly (pro rata), as if the revised quantity was originally specified in the Contract. This provision overrides any conflicting terms of the Contract.
12. The Customer shall assume all risk and responsibility for the Goods at the point of delivery specified in the order or quotation under the Contract. If any Goods are sold F.O.B. (free on board) and are to be shipped, the Company's responsibility and risk in the Goods shall terminate as soon as the Goods are placed on board the ship, and the Company shall not be required to provide the Customer with any notification.
13. If the Contract does not specify the intended use of the Goods, the Company is assumed to be unaware of it. All guarantees, warranties, and conditions (except for those mentioned) are excluded from the Contract to the fullest extent permitted by law, and the Customer waives any right, remedy, claim, or entitlement to them to the fullest extent permitted by law.
14. The Company shall not be liable for any faulty workmanship or defective materials in the Goods unless the Customer provides full particulars of such alleged faults or defects in writing to the Company within fourteen (14) days from the date of delivery or collection of the Goods. The Customer shall be responsible for returning the relevant Goods to the Company at their expense, and if the Company agrees that such Goods are defective due to faulty workmanship or materials, the Company may, at its discretion, replace or rectify the relevant Goods. The cancellation of the remainder of the order or the termination of the Contract by the Customer based on the existence of defects in any Goods, whether in quality, dimensions, or workmanship, shall not be deemed a valid ground. This Clause 14 shall also apply to any replacement or repaired Goods supplied by the Company to the Customer.

15. The Company shall not be liable for any indirect or consequential loss or damage suffered by the Customer as a result of any defects in Goods supplied or the non-delivery of any Goods or the delayed delivery of any Goods or the unavailability of any Goods.
16. No claim for damage in transit, shortage of delivery or loss of Goods shall be made unless, in the case of damage in transit or shortage of delivery, separate notices in writing are given to the carrier concerned and to the Company within seven (7) days of the Customer's receipt of the Goods or, in the case of any loss of Goods, notice in writing is given by the Customer to the carrier concerned and to the Company within fourteen (14) days of the date of delivery of the Goods in accordance with the Contract. Where any Goods are accepted by the Customer from the carrier concerned without the Goods being checked by the Customer at that time, the Customer must ensure that the delivery book of the carrier concerned is signed "not examined".
17. All special packaging that is deemed necessary or advisable by the Company to facilitate the protection of Goods during their transit may, at the Company's discretion, be charged to the Customer in addition to the price payable for such Goods (and such packaging is not returnable by the Customer).
18. Unless otherwise agreed between the Company and the Customer, the cost of carriage of all Goods delivered to a Customer will be charged to and be payable by the Customer in addition to the price payable for the Goods themselves.
19. Deliveries of Goods by the Company or collections of Goods by the Customer (if applicable) may be wholly or partially suspended by the Company (in which event the Company shall be entitled to an extension of time to perform its obligations, of a duration equivalent to the period of such suspension) in the event of any stoppage, delay or interruption of work affecting the employees or contractors of the Company or the Customer as a result of strikes, lock-outs, trade disputes, breakdown, accident or any cause whatsoever beyond the reasonable control of the Company or the Customer respectively.
20. If a Force Majeure Event partially or wholly causes the Company to fail to perform or delay in performing any of its obligations under the Contract, the Company shall not be liable. The Company's performance under the Contract shall be suspended throughout the period of the Force Majeure Event, and the Company shall have an extension of time to perform its obligations for a duration equivalent to the delay caused by the Force Majeure Event, effective from the date of cessation of the event. If a Force Majeure Event prevents the Company from fulfilling its obligations for a period of six (6) months or more, the Company may, at its sole discretion, terminate the Contract by giving notice to the Customer, or deliver partial orders to the Customer. Termination of the Contract shall not prejudice any claims, rights, remedies, or entitlements that the Parties have accrued prior to the date of termination.

21. If the Customer defaults or breaches the Contract, or if any process, distress, or execution is levied upon any of the Customer's property or assets, or if the Customer offers to make an arrangement with its creditors, or commits any act of bankruptcy, or if a petition or receiving order in bankruptcy is made against the Customer, or if the Customer is a limited company and any resolution or petition to wind up such a company (other than for the purpose of amalgamation or reconstruction of a solvent company) is passed or presented, or if an administrator, liquidator or receiver of such a company's undertaking, property or assets, or any part thereof is appointed, or if any equivalent or analogous event occurs in respect of the Customer in any jurisdiction, then the Company may terminate the Contract immediately by giving notice to the Customer. Such termination shall not prejudice any right, remedy, claim, and/or entitlement that may have accrued to the Company on or before the date of termination of the Contract.
22. The Customer shall indemnify the Company, on demand, from and against all losses, claims, damages, penalties, costs, charges and/or expenses suffered or incurred by the Company as a result of any possession or use of or work done pursuant to any Customer's Data which caused or contributed to (i) the infringement of any third party's copyright, letters patent, registered design, moral rights or other intellectual property rights or (ii) a breach of any Data Protection Laws.
23. All quotations issued to the Customer by the Company are given strictly on a net cash basis. Payment by the Customer for Goods sold pursuant to the Contract shall be made in full to the Company (together with all GST payable thereon) by the date (the "due date") occurring thirty (30) days following the date of delivery or collection of the Goods (as the case may be) and if the Goods are to be delivered or collected (as the case may be) in two or more consignments then:
 - (a) payment for each consignment of Goods shall be made in full by the Customer (together with all GST payable thereon) by the date occurring thirty (30) days after the date of delivery or collection (as the case may be) of the relevant consignment;
 - (b) if full payment for the Goods or the relevant consignment of Goods is not received by the Company by the applicable due date then the Customer shall also pay to the Company interest on the unpaid sum (or on the unpaid instalment or unpaid balance thereof, as the case may be) at the rate of 15% per annum from the applicable date of delivery or collection to the date of actual payment thereof in full by the Customer, whether before or after judgment (which the Parties agree constitutes a substantial remedy for the purposes of the Late Payment of Commercial Debts (Payment times reporting act 2020))
 - (c) all late payment interest payable by the Customer pursuant to this clause shall accrue on a daily basis and the Customer shall pay such interest to the Company together with the overdue sum to which it relates;
 - (d) the Parties agree that receipt by the Company of the sums payable by the Customer in respect of each consignment of Goods by the due date applicable thereto (together with all GST and, if applicable, the late payment interest

payable thereon) shall be a condition precedent to any future deliveries of Goods by the Company and/or any future collections of Goods by the Customer (as the case may be); and

(e) if any payment to be made the Customer under the Contract (together with all GST payable thereon) is not received by the Company by the due date applicable thereto, the Company may terminate the Contract on giving notice thereof to the Customer (which termination shall take effect on and from the date of service of such notice) but such termination shall be entirely without prejudice to any rights, claims, remedies or entitlements that may have accrued to the Company on or prior to the date of such termination.

24. Ownership of the Goods shall not of pass to the Customer unless and until the price payable for the Goods and all other sums that, pursuant to these conditions, become payable by the Customer to the Company in respect of the Goods (together with all unpaid sums owed to the Company by the Customer in respect of goods which are the subject of any other contract between the Parties) have been paid to and received by the Company in full. The Customer acknowledges and agrees that, until the date that ownership of the Goods passes from the Company to the Customer pursuant to this Clause 24, the Customer is in possession of such Goods as bailee or trustee for the Company and that until the date that ownership of the Goods passes to the Customer as aforesaid, the Customer will hold the Goods to the order of the Company and store the Goods on the Customer's premises separately from the Customer's own property and/or that of any other person (and in a manner which makes the Goods readily identifiable as the property of the Company), provided always that, until ownership of the Goods passes to the Customer as aforesaid, (a) the Customer shall hold harmless and indemnify the Company (and keep the Company indemnified) on demand in respect of any loss of or damage caused to the Goods at any time after they have been delivered to or collected by the Customer (as the case may be);(b) if, notwithstanding the foregoing provisions of this Clause 24, the Customer sells the Goods or any of them to any third party, the Customer shall hold the net proceeds of such sale as trustee for and on behalf of the Company until the price of the Goods and all other sums payable to the Company under the Contract have been received by the Company in full and (c) if the Customer shall make default in any payment due to the Company under the Contract then (without prejudice to any other rights or remedies to which the Company may be entitled) the Company may, for the purpose of making recovery of its Goods, enter upon any premises where the Goods are stored and forthwith take possession of and remove such Goods.

25. The Company shall not under any circumstances be liable to the Customer for any damage, loss or expense whatsoever arising directly or indirectly from any defects in any Goods supplied but not manufactured by the Company, but the Company will at the request and expense of the Customer take such steps as are reasonable in order to obtain for the Customer the benefit of any condition, warranty or guarantee given by the manufacturers of the Goods and to which the Customer may be entitled.
26. The performance by the Company of its obligations under the Contract is subject to (a) the Company receiving or renewing any necessary licence, authorisation, permission or rights that may be required in order for the Company to lawfully purchase and/or use any of the materials required in the manufacture or preparation of the Goods and (b) the Company being able to obtain such materials at economic cost and on commercially reasonable terms.
27. All prices quoted and offers made by or on behalf of the Company are based on the cost of labour, materials and overheads at the date of the quotation or offer by the Company and the Company may, at any time prior to or at the time of actual supply of the Goods, amend the price of any item of Goods by the amount of any increase in the cost of labour, materials or overheads forming part of the cost to the Company of producing and supplying such Goods.
28. If the Company quotes a price for the supply of a specified quantity of any Goods, the Company may, in its absolute discretion, decline to accept an order for any lesser quantity of such Goods.
29. Unless otherwise agreed in writing by the Company, the Customer shall not be entitled to cancel any order for any reason other than a fundamental breach of the Contract by the Company and, if the Company agrees to accept cancellation of an order otherwise than because of a fundamental breach of the Contract by the Company, the Company shall (at the option of the Company) be compensated by the Customer, by way of a "cancellation charge", in respect of the costs and expenses incurred by the Company in connection with the order and its cancellation, together with an amount in respect of the loss of profit suffered by the Company as a result of such cancellation (collectively the "**Cancellation Charge**") which Cancellation Charge shall be determined by the Company, acting reasonably, and then notified in writing to the Customer. The Customer shall pay the relevant Cancellation Charge to the Company within thirty (30) days of the date of service of the Company's notice to the Customer as aforesaid, failing which interest at the rate specified in Clause 23 shall accrue and be payable in addition to the Cancellation Charge until all outstanding sums are paid in full by the Customer to the Company. All quotations and prices given by the Company are stated in Australian Dollars (AUD) and exclusive of Goods and Services Tax ("GST"). An amount corresponding to the GST payable thereon, at the rate of GST applicable on the date of despatch of the Goods, will be added to the price(s) payable by the Customer and be shown as such in the Company's invoice(s) to the Customer.

30. The Customer may not transfer, assign or charge any of its rights or obligations under the Contract to any other person without the Company's prior written consent (which consent may be granted or withheld entirely at the Company's discretion). The Company shall be free to transfer, assign, sub-contract and/or charge all or any of its rights and obligations under the Contract to any third party (subject to giving notice thereof to the Customer) but this will not affect either Party's rights under the Contract.
31. If any provision of the Contract shall be declared to be invalid, unenforceable or illegal by the courts, the Parties agree that such provision may be severed from the Contract and such invalidity, unenforceability or illegality shall not prejudice or affect the validity, enforceability and legality of the remaining provisions of the Contract.
32. If, at any time during the existence of the Contract, the Company does not require the Customer to fulfill any of its obligations under the Contract, or if the Company does not enforce any of its rights or remedies under the Contract, this does not constitute a waiver of those rights or remedies, nor does it release the Customer from complying with those obligations. The Company's decision to overlook a default by the Customer does not automatically mean that the Company will overlook any subsequent defaults by the Customer. Unless the Company expressly states that it is a waiver and provides written notice to the Customer, no waiver of any of these conditions by the Company will be considered valid.
33. Notwithstanding any other provision of the Contract, the maximum aggregate liability of the Company to the Customer under or pursuant to the Contract (and under any order accepted or quotation issued further to it) shall not exceed a sum equal to the price stated in the Contract on the date of the Contract coming into force pursuant to Clause 2.
34. The Customer must obtain prior written permission from the Company before disclosing any Confidential Information to any other person, and must not exploit or allow others to exploit any such Confidential Information for their own benefit or for the benefit of any third party. Upon the Company's written request, the Customer must (a) immediately return all Confidential Information in its possession to the Company, and (b) provide written confirmation to the Company that no Confidential Information has been retained or disclosed to any other person. The Customer is responsible for ensuring that its employees, agents, and contractors (and any other persons for whom the Customer is responsible at law) who have access to any Confidential Information are bound by confidentiality obligations equivalent to those in this Clause.
35. The Customer (and its employees, agents, contractors, and others for whom the Customer is responsible at law) must not commit or permit any act or omission that would cause the Customer or the Company to breach or commit an offense under (i) any laws related to anti-bribery and/or anti-corruption, (ii) any laws

related to anti-slavery and human trafficking, or (iii) any Data Protection Laws. The Customer must indemnify and hold the Company harmless for any losses, damages, costs, charges, or other liabilities incurred as a result of the Customer's breach of its obligations under this Clause.

36. Unless otherwise stated in Clause 32, the Contract does not confer any rights on any third party under the Contracts (Rights of Third Parties) Act 1999.
37. These conditions, the Contract, and any matters arising from them (including any contractual or non-contractual obligations) will be governed by and construed in accordance with the laws of Australia, and the Parties agree to submit to the non-exclusive jurisdiction of the Australian courts.

Dated: 14/03/2023