

General Purchase Conditions Goods and Services



AME SYSTEMS (VIC) PTY LTD
HEAD OFFICE & MANUFACTURING

18 Gordon Street, Ararat
Victoria 3377 Australia

PH..... 61 3 5352 9000
FX..... 61 3 5352 5199

AMESYSTEMS.COM.AU



EM..... info@amesystems.com.au
ACN 605 571 220

1. Definitions and interpretation

1.1 Definitions

The following definitions apply unless the context requires otherwise.

ACICA means the Australian Centre for International Commercial Arbitration and includes any successor body administering an arbitration or mediation under the relevant rules.

AME Entity means the Purchaser, each of its related bodies corporate, and each of their respective directors, officers, employees, agents and subcontractors

Applicable Law means all laws, regulations, sanctions rules, export and trade controls, mandatory industry requirements and legally binding governmental requirements applicable to the supply of Goods, performance of Services, processing of data, or activities of a party in the relevant jurisdiction.

Business Day means a day other than a Saturday, Sunday or public holiday in Melbourne, Victoria.

Conditions means these General Purchase Conditions for Goods and Services.

Confidential Information means all information of a confidential or commercially sensitive nature concerning the Purchaser, any AME Entity, their personnel, customers, suppliers, operations, pricing, technical information, designs, data, systems, products, projects and plans, whether disclosed before or after an Order is issued.

Control has the meaning given in section 50AA of the *Corporations Act 2001* (Cth).

Defect means any defect, deficiency, fault, error, non-conformity or failure to comply with an Order, the Specifications, these Conditions or Applicable Law.

Force Majeure Event means an event beyond the reasonable control of the affected party, including natural disaster, war, riot, pandemic, epidemic, cyber incident, sanctions event, or supply chain disruption beyond the reasonable control of the Supplier, but excluding any lack of funds and any event that could reasonably have been avoided or mitigated.

Goods means all goods, materials, equipment, components, tooling and other items supplied under an Order.

GST means any goods and services tax imposed under applicable law, including any similar value added, consumption or indirect tax.

Intellectual Property Rights means all present and future intellectual property rights anywhere in the world, whether registered or unregistered, including copyright, designs, patents, trade marks, circuit layout rights, trade secrets, know-how and analogous rights.

Loss means any loss, liability, damage, cost, charge, expense or claim, including legal costs on a full indemnity basis and any consequential or indirect loss.

Order means a purchase order or other written ordering document issued by the Purchaser that expressly incorporates these Conditions.

Personal Information means any information or opinion relating to an identified or reasonably identifiable individual and includes any equivalent concept under applicable privacy or data protection law.

Purchase Contract means the separate contract formed for a particular Order under clause 2.

Purchaser means the AME entity identified in the relevant Order.

Purchaser Data means all data, records, information and materials supplied by or on behalf of the Purchaser, or generated for the Purchaser, in connection with an Order.

Services means all services and ancillary deliverables supplied under an Order, other than information technology (IT) or technology services procured under the separate IT / Technology Master Services Agreement.

Specifications means the requirements, drawings, statements of work, descriptions, quality criteria, samples, milestones and other specifications stated or referred to in the Order.

SST means any sales tax, service tax, or sales and service tax imposed under applicable law in any jurisdiction.

Supplier means the person or entity to whom the relevant Order is issued.

Supplier Materials means pre-existing materials, methodologies, know-how, tools, templates and intellectual property owned or controlled by the Supplier before creation of the relevant Work Product or developed independently of the Order.

VAT means any value added tax, goods and services tax, consumption tax, or similar indirect tax imposed under applicable law in any jurisdiction.

Work Product means all custom goods, tooling, moulds, jigs, fixtures, custom designs, drawings, engineering documents, reports, records, data and other materials created, developed, adapted or paid for under an Order.

1.2 Interpretation

In this document, unless the context requires otherwise:

- (a) the singular includes its plural and vice versa;
- (b) words denoting any gender include all genders;

- (c) where a word or phrase is defined, its other grammatical forms have a corresponding meaning;
- (d) headings are for convenience only and do not affect interpretation;
- (e) a reference to a person includes a corporation, trust, partnership, unincorporated body or other entity, whether or not it comprises a separate legal entity;
- (f) a reference to a party to this document includes its successors and permitted assigns;
- (g) a reference to a particular day or time is to that day or time in Melbourne, Victoria;
- (h) a reference to any document (including this document) is to the agreement or document as amended, supplemented, novated or replaced from time to time;
- (i) a reference to a clause, paragraph, schedule or annexure is to a clause, paragraph, schedule or annexure in or to this document;
- (j) a reference to this document includes any schedules and annexures to this document;
- (k) a reference to writing includes any method of representing or reproducing words, figures, drawings or symbols in a visible or tangible form;
- (l) a reference to dollars or \$ is to Australian currency;
- (m) a reference to legislation (including subordinate legislation) or a provision of it is to that legislation or provision as amended, re-enacted or replaced, and includes any subordinate legislation issued under it;
- (n) words such as including or for example do not limit the meaning of the words preceding them;
- (o) an obligation or liability assumed by, or a right conferred on, two or more parties binds or benefits all of them jointly and each of them severally; and
- (p) nothing in this document is to be interpreted against a party solely on the ground that the party or its advisers drafted it.

1.3 Business Days

Unless expressed to the contrary in this document, if the day on or by which a party must do something under this document is not a Business Day, the party must do it on or by the next Business Day.

1.4 Consents or approvals

Unless expressed to the contrary in this document, if the doing of any act, matter or thing under this document is dependent on the consent or approval of a party or is within the discretion of a party, the consent or approval may be given or the discretion may be exercised conditionally or unconditionally or withheld by the party in its absolute discretion.



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1.5 Application and Precedence

- (a) These Conditions apply to every Order issued by the Purchaser for Goods and non-information technology (IT) services unless a separate written agreement signed by the parties expressly overrides them for that Order.
- (b) These Conditions do not apply to IT or technology engagements that AME procures under the separate IT/Technology Master Services Agreement and service orders.
- (c) A Purchase Contract is formed when the Supplier accepts an Order in writing, commences performance, delivers any Goods, performs any Services, or otherwise acts in a manner consistent with acceptance of the Order.
- (d) Each Purchase Contract consists of the relevant Order, these Conditions, and any schedule, annexure or customer flow-down document expressly incorporated into that Order.
- (e) Unless the Order states otherwise, the order of precedence for each Purchase Contract is:
 - (i) the Order;
 - (ii) any customer flow-down document, country annex and/or schedule expressly stated to override these Conditions; and
 - (iii) these Conditions.
- (f) Any terms or conditions proposed by the Supplier are excluded and do not apply, even if referred to in any quotation, acknowledgment, delivery document, invoice or other communication, unless the Purchaser expressly agrees to them in writing.
- (g) Each Order forms a separate Purchase Contract. No minimum volume, exclusivity or ongoing commitment arises merely because the Purchaser has issued previous Orders.
- (h) A revised version of these Conditions only applies to a future Order if that revised version is attached to, or expressly incorporated in, that future Order.

2. Supply, delivery and performance

2.1 Supply obligations

- (a) The Supplier must supply the Goods and perform the Services strictly in accordance with the Purchase Contract, the Specifications, Applicable Law, good industry practice, and any reasonable directions of the Purchaser that are consistent with the Purchase Contract.
- (b) The Supplier must promptly notify the Purchaser if it becomes aware of any matter likely to delay or adversely affect supply, quality, compliance or continuity, and must promptly provide the Purchaser with all information reasonably requested in relation to that matter, including its cause, likely impact and proposed corrective action.

2.2 Delivery and performance timing

- (a) The parties agree and acknowledge that time is of the essence in relation to each delivery date, completion date and milestone stated in an Order, unless the Order expressly states otherwise.
- (b) The Supplier must not deliver Goods early, or perform Services materially earlier than required, without the Purchaser's prior written consent.

2.3 Packaging and transport

- (a) The Supplier must package, label, transport and handle the Goods so that they arrive safely, are protected from damage or deterioration, and comply with all contractual, regulatory and traceability requirements under the Purchase Contract.
- (b) The Supplier is responsible for all Loss arising from inadequate or improper packaging, labelling, transport or handling.
- (c) The Supplier must comply with the Purchaser's Packaging Sustainability Strategy as notified or made available to the Supplier from time to time, and as updated from time to time.
- (d) Without limiting clause 2.3(c), the Supplier must design, select and use packaging for all Goods that is aligned with the Australian Packaging Covenant Organisation (APCO) Sustainable Packaging Guidelines, including the requirements relating to effective packaging (SPG 1), efficient packaging (SPG 2), recyclable packaging (SPG 3) and reduced impact packaging (SPG 4).
- (e) The Supplier must, on request by the Purchaser, provide full and accurate packaging material disclosures, including material types, weights, recycled content percentages, recyclability classification and any environmental certifications or claims relating to the packaging.
- (f) The Supplier must use reasonable endeavours to ensure that all packaging supplied is recyclable through kerbside or other appropriate collection systems in Australia, avoids mixed materials that cannot be easily separated, and bears correct disposal instructions using the Australasian Recycling Label (ARL) or equivalent labelling approved by the Purchaser.
- (g) The Supplier must use reasonable endeavours to meet any recycled content targets, material reduction targets or other packaging sustainability targets notified by the Purchaser from time to time, and must prioritise the use of post-consumer recycled content, renewable materials and certified sustainable materials where commercially available and fit for purpose.
- (h) The Supplier must not use any packaging material that the Purchaser has identified as problematic or prohibited, including materials that are not recyclable in Australia, and must phase out any such material on reasonable notice from the Purchaser.

2.4 Progress reporting and quality records

If required by the Order or reasonably requested by the Purchaser, the Supplier must provide progress reports, manufacturing records, sample inspection reports, PPAP documents, first article inspection material, or equivalent quality records. The Supplier must ensure that those records are complete, accurate and up to date.



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2.5 Inspection rights

The Purchaser may, on reasonable notice, inspect the Goods, Services, manufacturing processes, facilities and related records to verify compliance with the Purchase Contract. The Supplier must provide all reasonable assistance in connection with any such inspection. Any inspection, review, comment, approval or failure to inspect does not relieve the Supplier of responsibility for compliance with the Purchase Contract.

3. Inspection, acceptance and rejection

3.1 Inspection and testing

The Purchaser is entitled to inspect, evaluate, review and test the Goods and Services within a reasonable time after delivery or performance, and may do so at the Supplier's premises, the delivery location, or any other location where the Goods or Services are made available to the Purchaser.

3.2 Rejection

- (a) The Purchaser may reject any Goods and/or Services that do not comply with the Purchase Contract by giving notice within thirty (30) days after delivery or performance.
- (b) The Purchaser may reject any Goods or Services after that period if the relevant Defect was latent or could not reasonably have been discovered within that thirty-day period.
- (c) A rejection notice need only specify, in reasonable detail, the basis on which the Goods or Services are rejected.

3.3 Acceptance

- (a) Acceptance occurs only if the Purchaser gives written notice of acceptance.
- (b) Payment, inspection, testing, partial use, or failure to reject within the thirty-day period does not constitute acceptance and does not waive any rights or remedies in respect of latent Defects or warranty claims, whether under the Purchase Contract, at law or otherwise.

3.4 Purchaser remedies on rejection

If the Purchaser rejects any Goods or Services, it may, at the Supplier's cost and at the Purchaser's election:

- (a) require the Supplier to replace the Goods;
- (b) require the Supplier to repair the Goods;
- (c) require the Supplier to re-perform the Services;
- (d) reject and return the Goods to the Supplier;

- (e) obtain substitute goods or services from a third party;
- (f) reimburse the Purchaser for rectification carried out by the Purchaser or a third party; or
- (g) refund any amount paid for the rejected Goods or Services.

3.5 Rejected Goods

- (a) The Supplier must promptly collect and remove rejected Goods at its own cost and risk.
- (b) If the Supplier fails to do so, the Purchaser may return, store, dispose of or otherwise deal with the rejected Goods at the Supplier's risk and expense.
- (c) The Supplier must reimburse the Purchaser on demand for all reasonable costs incurred by the Purchaser in connection with any rejected Goods, including handling, storage, return, disposal and replacement procurement costs.

4. Price, taxes, invoices and payment

4.1 Price

- (a) Unless the Purchase Contract expressly provides otherwise, the price stated in the Order is fixed and includes all costs of packaging, transport, insurance, loading, unloading, duties, compliance, and all other costs incurred by the Supplier in supplying the Goods or Services.
- (b) The Supplier may not increase any price except to the extent an agreed adjustment mechanism is expressly stated in the Order or Schedule 1.

4.2 Invoicing and payment

- (a) The Supplier must submit a valid tax invoice in the form and to the address or email stated in the Order after supplying the relevant Goods or Services.
- (b) Subject to clause 4.2(c), the Purchaser must pay the undisputed amount of a correctly rendered invoice within sixty (60) days after receipt of that invoice.
- (c) If the Purchaser disputes an invoice, it may withhold the disputed portion, must pay any undisputed amount when due, and the parties must work in good faith to resolve the dispute.

4.3 GST and similar taxes

- (a) Unless the Order states otherwise, prices are exclusive of GST and any equivalent indirect tax.
- (b) If a taxable supply is made, the recipient must pay the applicable GST or equivalent indirect tax at the same time as payment of the underlying amount, subject to receipt of a valid tax invoice.



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4.4 Other taxes and withholding

- (a) Each party is responsible for taxes imposed on its own income, employment, payroll or profits.
- (b) The Purchaser may withhold any amount required by law, and payment of the withheld amount to the relevant authority satisfies the Purchaser's obligation to that extent.
- (c) For international Orders, any customs duty, withholding tax, SST, VAT, service tax or equivalent tax, and any agreed gross-up or pass-through amount, must be identified in the Order or Schedule 1.
- (d) In the absence of express identification, the Supplier bears those amounts to the extent legally permissible.

4.5 No acceptance by payment

Payment does not constitute acceptance of any Goods or Services and does not prejudice any right of the Purchaser.

5. Price adjustment and international supply

5.1 Agreed adjustment mechanisms

- (a) Where the Purchaser agrees that a long-term Order may be adjusted for foreign exchange movements or raw material or commodity movements, the agreed mechanism must be stated in the Order or completed using Schedule 1.
- (b) Any adjustment mechanism must specify at least the baseline date, exchange rate or index source, threshold movement, review timing, supporting evidence, and whether the mechanism applies symmetrically to increases and decreases.
- (c) No annual CPI-based escalation applies unless the Order expressly states that it does.

6. Title and risk

6.1 Passing of title

Title to the Goods passes to the Purchaser on the earlier of payment or delivery to the delivery location stated in the Order, unless the Order states otherwise, and in each case, title passes free from all security interests, retention of title claims and other encumbrances.

6.2 Passing of risk

- (a) Risk in the Goods passes to the Purchaser only on delivery of the Goods, including unloading, at the delivery location stated in the Order.

- (b) The passing of risk does not constitute acceptance or reduce the Supplier's obligations in respect of any Defect, warranty, recall or non-conformity.

6.3 Rejected Goods

If Goods are rejected, risk in those Goods reverts to the Supplier immediately on the Purchaser giving notice of rejection.

7. Warranties and quality

7.1 Authority and title

The Supplier warrants that it has full right, power and authority to enter into and perform each Purchase Contract and to transfer title to the Goods free from all security interests, retention of title claims and other encumbrances.

7.2 Goods warranties

The Supplier warrants that all Goods will:

- (a) be new and unused, unless the Order expressly allows otherwise;
- (b) conform to the Specifications and any sample, drawing, description or other requirements of the Purchase Contract;
- (c) be fit for any purpose made known by the Purchaser or, if no purpose is stated, their ordinary purpose;
- (d) be of merchantable quality;
- (e) be free from Defects, including defects in design, materials and workmanship;
- (f) be safe and suitable for their intended use; and
- (g) comply with Applicable Law.

7.3 Services warranties

The Supplier warrants that all Services will be performed:

- (a) with due care, skill, diligence and professional competence;
- (b) by appropriately qualified, skilled and experienced personnel;
- (c) in accordance with good industry practice; and
- (d) in accordance with the Purchase Contract and Applicable Law.

7.4 Non-infringement

The Supplier warrants that the Goods, Services and Work Product, and the Purchaser's receipt and use of them, do not infringe the Intellectual Property Rights or other rights of any person, and that the Supplier has obtained all rights, licences, consents and permissions necessary for that purpose.

7.5 Supplier authorisations

The Supplier must obtain and maintain all licences, permits, authorisations, qualifications, accreditations and memberships necessary to supply the Goods and Services.

7.6 Third party warranties

The Supplier must pass to the Purchaser the full benefit of all manufacturer and subcontractor warranties and indemnities relevant to the Goods and Services, to the extent permitted, and must do all things reasonably required to enable the Purchaser to enforce them directly.

7.7 Warranty period

- (a) Unless the Order specifies a longer period, the warranty period for Goods is 24 months after acceptance by the Purchaser or, if the Goods are repaired or replaced, 24 months after acceptance of the repaired or replacement Goods.
- (b) This clause 7 does not limit any other right or remedy available under the Purchase Contract or Applicable Law.

8. Defects, rectification and recall

8.1 Defects and non-conformity

If any Goods or Services are defective, non-conforming or otherwise in breach of the Purchase Contract at delivery, on acceptance, or during the applicable warranty period, the Purchaser may, by notice to the Supplier and at the Supplier's cost, require the Supplier to:

- (a) repair the Goods;
- (b) replace the Goods;
- (c) re-perform the Services;
- (d) refund any amount paid for the affected Goods or Services; or
- (e) reimburse the Purchaser for any reasonable costs it incurs in rectifying, replacing or obtaining substitute Goods or Services.

8.2 Rectification obligations

The Supplier must promptly comply with any rectification direction given by the Purchaser and bear all associated costs, including freight, handling, reinstallation, removal, testing, and third party costs reasonably incurred by the Purchaser.

8.3 Purchaser step-in rights

If the Supplier does not act promptly, or if urgent action is required to protect operations, safety or customer commitments, the Purchaser may itself carry out, or procure a third party to carry out, the necessary work and recover its Loss from the Supplier.

8.4 Defect notification and recall cooperation

- (a) The Supplier must immediately notify the Purchaser if it becomes aware of any actual or potential defect, quality escape, safety issue, regulatory non-compliance or recall risk affecting the Goods or Services.
- (b) The Supplier must fully cooperate in any containment, correction, field action or recall relating to the Goods or Services.

9. Liquidated damages for delay

9.1 When liquidated damages apply

If the total value of an Order exceeds \$5,000 (five thousand Australian dollars) and the Supplier fails to meet a delivery date, completion date or milestone stated in that Order, the Supplier must pay to the Purchaser liquidated damages at the rate of 0.5% of the total value of the affected Order for each day of delay, accruing from the due date until the date the relevant delivery, completion or milestone is achieved, capped at 10% of the total value of that Order, unless the Order states otherwise.

9.2 Basis of liquidated damages

The parties agree that the liquidated damages payable under clause 9.1 are a genuine pre-estimate of, or are otherwise proportionate to, the Purchaser's legitimate commercial interest in timely performance of the Purchase Contract, including the Purchaser's exposure to operational disruption, rescheduling costs and customer commitments, and are not a penalty.

9.3 Effect of payment

- (a) Payment of liquidated damages does not relieve the Supplier from performing the Purchase Contract.
- (b) The Purchaser may deduct or set off liquidated damages from any amount due to the Supplier.

- (c) The Purchaser's right to liquidated damages is without prejudice to any other rights or remedies of the Purchaser, including any right to recover Loss to the extent it exceeds the liquidated damages cap, where permitted by Applicable Law.

10. Intellectual property, tooling and work product

10.1 Work Product

- (a) All Intellectual Property Rights in Work Product created, developed, adapted or paid for under an Order vest in the Purchaser on creation.
- (b) To the extent any such Intellectual Property Rights do not automatically vest in the Purchaser, the Supplier assigns them to the Purchaser with effect from creation and must procure that its personnel and subcontractors do the same.
- (c) The Supplier must do, and must ensure that its personnel and subcontractors do, all things and execute all documents reasonably required by the Purchaser to give full effect to this clause 10.1, including to perfect, evidence or record the Purchaser's title to the Work Product and related Intellectual Property Rights.
- (d) The Supplier irrevocably appoints the Purchaser as its attorney to execute any document and do any act reasonably necessary to give effect to this clause 10.1 if the Supplier fails to do so promptly after request.
- (e) The Supplier must promptly deliver to the Purchaser all embodiments of the Work Product, including drawings, specifications, source files, source code, models, data, tooling records and other materials in which the Work Product is recorded or stored.

10.2 Tooling and Purchaser property

- (a) Without limiting clause 10.1, all tooling, moulds, jigs, fixtures, custom designs, drawings, engineering documents and other materials developed or paid for by the Purchaser are the Purchaser's property.
- (b) The Supplier must clearly identify and segregate Purchaser property, keep it free from all security interests and encumbrances, and hold it as bailee for the Purchaser.
- (c) The parties agree that risk in Purchaser property remains with the Supplier while it is in the Supplier's possession or control.
- (d) The Supplier must keep Purchaser property secure, properly stored, insured, in good condition and properly maintained, fair wear and tear excepted.
- (e) The Supplier must use Purchaser property only for the purpose of performing the relevant Purchase Contract and must not copy, modify, dispose of, relocate, part with possession of, or permit any third party to use it without the Purchaser's prior written consent.

- (f) The Purchaser may, on reasonable notice, inspect Purchaser property and the Supplier's records relating to it.
- (g) The Supplier must immediately notify the Purchaser if Purchaser property is lost, damaged, subject to a third party claim, or at risk of seizure or encumbrance.
- (h) On request by the Purchaser, or on expiry or termination of the relevant Purchase Contract, the Supplier must promptly return Purchaser property to the Purchaser, or deal with it as the Purchaser directs, at the Supplier's cost.
- (i) The Purchaser may enter any premises where Purchaser property is located, on reasonable notice and during business hours, to inspect or recover that property if the Supplier does not promptly comply with clause 10.2(h).

10.3 Supplier Materials

The Supplier retains ownership of Supplier Materials, but grants the Purchaser a perpetual, irrevocable, worldwide, transferable, sublicensable and royalty-free licence to use, copy, modify and exploit any Supplier Materials to the extent incorporated in, or necessary for the use, maintenance, repair or enjoyment of, the Goods, Services or Work Product.

10.4 Moral rights

The Supplier must obtain from each individual involved in creating copyright material under an Order an effective consent to any act or omission that would otherwise infringe that individual's moral rights, to the fullest extent permitted by law.

10.5 Limited use of Purchaser IP

The Supplier must not use the Purchaser's name, logo, drawings, designs or other Intellectual Property Rights except to the extent necessary to perform the Purchase Contract.

11. Confidentiality, privacy and information security

11.1 Confidential Information

- (a) The Supplier must keep confidential all Confidential Information and must not disclose it except to those of its personnel and approved subcontractors who need to know it for the purpose of performing the Purchase Contract and who are bound by confidentiality obligations no less onerous than those in this clause 11.
- (b) The Supplier must not use any Confidential Information except to the extent necessary to perform the Purchase Contract.
- (c) The Supplier is responsible for any act or omission of its personnel and subcontractors that would, if done by the Supplier, breach this clause 11.



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11.2 Protection of Confidential Information

- (a) The Supplier must protect Confidential Information with at least the same degree of care it uses to protect its own confidential information and, in any event, no less than a reasonable standard of care.
- (b) Without limiting clause 11.2(a), the Supplier must implement and maintain administrative, physical and technical safeguards appropriate to the sensitivity of the relevant information and the nature of the Goods or Services.

11.3 Privacy and Purchaser Data

- (a) If the Supplier processes Personal Information or otherwise handles Purchaser Data, it must comply with all Applicable Law relating to privacy, data protection and information security, having regard to the origin of the data and the location of processing.
- (b) The Supplier must process Personal Information and Purchaser Data only for the purpose of performing the Purchase Contract and in accordance with the Purchaser's lawful written directions.
- (c) The Supplier must not transfer, disclose or permit access to any Personal Information or Purchaser Data outside the jurisdiction in which it is collected, or to any third party, without the Purchaser's prior written consent, unless required by Applicable Law.
- (d) The Supplier must ensure that access to Personal Information and Purchaser Data is limited to those of its personnel and approved subcontractors who strictly need that access for the purpose of performing the Purchase Contract.

11.4 Security incidents

- (a) The Supplier must notify the Purchaser immediately, and in any event within 24 hours, of any actual or suspected data breach, security incident, unauthorised access, misuse, disclosure, loss or corruption affecting Confidential Information, Personal Information, Purchaser Data or Purchaser systems.
- (b) The Supplier's notice must include all information then available to the Supplier about the nature of the incident, the information affected, the likely impact, and the corrective action taken or proposed.
- (c) The Supplier must promptly investigate and mitigate any such incident, keep the Purchaser fully informed, and cooperate fully with the Purchaser in relation to the incident and any remediation, recovery, notification or response actions.
- (d) To the extent legally permitted, the Supplier must not notify any regulator, customer or other third party of any such incident without first consulting the Purchaser. If prior consultation is not legally permitted, the Supplier must, to the extent legally permitted, notify the Purchaser before making that notification.

11.5 Return and destruction

- (a) On request by the Purchaser, and on expiry or termination of an Order or the Purchase Contract, the Supplier must promptly cease using, and must promptly return or securely destroy, all Confidential Information and Purchaser Data in its possession or control, except to the extent retention is required by Applicable Law.
- (b) Within fourteen (14) days after any return or destruction under clause 11.5(a), the Supplier must certify in writing that it has complied with that clause.
- (c) Any information retained pursuant to clause 11.5(a) remains subject to this clause 11 for so long as it is retained.

11.6 Exceptions

The obligations in this clause 11 do not apply to information that the Supplier can prove that the Confidential Information:

- (a) is or becomes public other than through a breach of the Purchase Contract;
- (b) was lawfully known to the Supplier before disclosure by or on behalf of the Purchaser; or
- (c) was independently developed by the Supplier without use of, or reference to, the Confidential Information.

11.7 Survival

This clause 11 survives expiry or termination of the Purchase Contract.

12. Compliance, ethics and customer flow-down

12.1 General compliance

- (a) The Supplier must comply with all Applicable Law relevant to the Goods, Services and supply chain, including anti-bribery, anti-corruption, sanctions, trade, labour and modern slavery laws.
- (b) The Supplier must promptly notify the Purchaser if it becomes aware of any actual or suspected breach of Applicable Law relevant to the Goods, Services or supply chain.

12.2 Anti-bribery, corruption and human rights

- (a) Without limiting clause 12.1, the Supplier warrants compliance with the *Criminal Code Act 1995* (Cth), the UK Bribery Act 2010, the US Foreign Corrupt Practices Act, the Malaysian Anti-Corruption Commission Act 2009, and the *Modern Slavery Act 2018* (Cth), to the extent applicable.

- (b) The Supplier must maintain policies, procedures and controls reasonably designed to prevent bribery, corruption, forced labour, child labour and other serious human rights abuses in its operations and supply chain.
- (c) On request by the Purchaser, the Supplier must provide reasonable information and supporting documents demonstrating its compliance with this clause 12.2.

12.3 Quality, security and customer requirements

- (a) Where relevant to the Goods or Services, the Supplier must support the Purchaser's quality, information security and customer compliance requirements, including requirements linked to ISO 9001:2015, AS9100D and ISO 27001:2013, to the extent those requirements are stated in the Order or otherwise notified in writing.
- (b) The Supplier must comply with any customer flow-down requirements notified by the Purchaser in writing and incorporated into the Order or Schedule 2.
- (c) If the Goods or Services involve controlled goods, controlled technical data or customer-mandated export restrictions, the Supplier must comply with the specific controls, access restrictions and record-keeping obligations notified in the relevant Order.

12.4 Notification and cooperation

- (a) The Supplier must promptly notify the Purchaser of any actual or suspected breach of this clause 12.
- (b) The Supplier must provide all information reasonably requested by the Purchaser in relation to any such breach or suspected breach and must cooperate fully with the Purchaser in investigating, assessing and remediating it.

12.5 Purchaser remedies

Any breach of this clause 12 is deemed a material breach of the Purchase Contract.

13. Insurance, audit and records

13.1 Insurance

- (a) The Supplier must, at its own cost, obtain and maintain all insurance reasonably appropriate to the risks associated with the Goods, Services and performance of the Purchase Contract, and any insurance expressly required by the Order or Schedule 3.
- (b) Without limiting clause 13.1(a), the Supplier must maintain workers compensation insurance as required by law and, where relevant to the Goods or Services, public liability, product liability, professional indemnity, transit, recall and property insurance.

- (c) All insurance required under this clause 13.1 must be maintained with reputable insurers and on terms customary for the relevant risk.
- (d) The Supplier must not do, or omit to do, anything that may prejudice any insurance required under this clause 13.1.

13.2 Evidence of insurance

- (a) The Supplier must provide certificates of currency and other evidence of insurance reasonably requested by the Purchaser.
- (b) If requested by the Purchaser, the Supplier must provide that evidence before commencing supply of the relevant Goods or Services and at any time during the term of the relevant Purchase Contract.

13.3 Audit rights

- (a) The Purchaser and its representatives may, on reasonable notice and during business hours, audit the Supplier's records, systems, facilities and processes to verify compliance with the Purchase Contract, including in relation to quality, traceability, price adjustments, modern slavery, information security and customer flow-down requirements.
- (b) The Supplier must provide all reasonable assistance, access and information required for the purposes of any audit under this clause 13.3.
- (c) Any audit, or failure to conduct an audit, does not relieve the Supplier of responsibility for compliance with the Purchase Contract.

13.4 Records

- (a) The Supplier must keep full, accurate and up-to-date records relevant to each Purchase Contract for at least 7 years after completion, or longer if the Order or any customer flow-down requirement states a longer period.
- (b) Those records must be maintained in a manner that enables the Purchaser to verify the Supplier's compliance with the Purchase Contract.

13.5 Audit findings

If an audit identifies any non-compliance, the Supplier must promptly rectify it at its own cost. If the non-compliance is material, the Supplier must also reimburse the Purchaser for its reasonable audit costs.



AME SYSTEMS (VIC) PTY LTD
HEAD OFFICE & MANUFACTURING

18 Gordon Street, Ararat
Victoria 3377 Australia

PH 61 3 5352 9000
FX 61 3 5352 5199

AMESYSTEMS.COM.AU



EM info@amesystems.com.au
ACN 605 571 220

14. Subcontracting, assignment and change of control

14.1 Subcontracting

- (a) The Supplier must not subcontract any part of its obligations without the Purchaser's prior written consent.
- (b) Any approved subcontracting does not relieve the Supplier of responsibility under the Purchase Contract. The Supplier remains fully liable for the acts and omissions of its subcontractors and personnel.
- (c) The Supplier must ensure that each approved subcontractor is bound by obligations consistent with the Purchase Contract to the extent relevant to the subcontracted activities.

14.2 Assignment and dealing

- (a) The Supplier must not assign, novate, transfer, declare a trust over, or otherwise deal with any right or obligation under a Purchase Contract without the Purchaser's prior written consent.
- (b) The Purchaser may assign or novate a Purchase Contract to any AME Entity or other related body corporate on written notice to the Supplier.

14.3 Change of Control

- (a) The Supplier must notify the Purchaser immediately of any proposed change of Control.
- (b) The Purchaser may terminate any affected Purchase Contract by written notice if a Competitor acquires Control of the Supplier. For this purpose, "Competitor" means any person identified in Schedule 3 as a named competitor and, if no person is identified there, any person that competes directly with the Purchaser in the manufacture or supply of customised electrical solutions for heavy transport, aerospace, defence, medical, rail, mining or special purpose vehicles and machinery.
- (c) The Purchaser may also terminate any affected Purchase Contract by written notice if a proposed change of Control would, in the Purchaser's reasonable opinion, adversely affect supply continuity, confidentiality, information security, quality, compliance or the Purchaser's commercial interests.

15. Force majeure

15.1 Relief from performance

- (a) Subject to this clause 15, a party affected by a Force Majeure Event is excused from performance to the extent, and for so long as, the Force Majeure Event prevents that performance.

- (b) A party is not excused from performance to the extent that the relevant non-performance was caused or contributed to by that party, its personnel or its subcontractors, or could reasonably have been avoided or overcome by reasonable precautions or mitigation measures.

15.2 Notification and mitigation

- (a) The affected party must promptly give notice of the Force Majeure Event, provide reasonable details of its nature, likely duration and effect on performance, and keep the other party informed of any material developments.
- (b) The affected party must use all reasonable endeavours to mitigate the effects of the Force Majeure Event and resume full performance as soon as reasonably practicable.
- (c) Without limiting clause 15.2(b), the Supplier must use reasonable efforts to source alternative materials, routes, sites or subcontractors where commercially and operationally feasible.

15.3 Consequences of Force Majeure

- (a) A Force Majeure Event does not excuse any obligation to pay amounts already due.
- (b) During any Force Majeure Event affecting the Supplier, the Purchaser may obtain substitute goods or services from another source, or otherwise take such steps as it reasonably considers necessary to mitigate the effects of the Force Majeure Event, without liability to the Supplier.
- (c) If a Force Majeure Event continues for more than thirty (30) days and materially affects an Order, the Purchaser may terminate the affected Purchase Contract by written notice without liability, except for amounts properly due for conforming Goods or Services accepted by the Purchaser before termination.

16. Liability and indemnities

16.1 Supplier indemnity

- (a) The Supplier indemnifies the Purchaser and each AME Entity against all Loss, including legal costs on a full indemnity basis and costs of investigation, containment, recall, replacement, rectification and remediation, arising out of or in connection with:
 - (i) any breach of a Purchase Contract by the Supplier;
 - (ii) any Defect in Goods or Services;
 - (iii) any delay, failure to supply, recall, replacement, rectification or remediation relating to Goods or Services;
 - (iv) any infringement, or alleged infringement, of Intellectual Property Rights;
 - (v) any breach of confidentiality, privacy or data security obligations;

- (vi) any death, personal injury or damage to property caused by the Supplier or its personnel;
- (vii) any fraud, wilful misconduct or unlawful act or omission of the Supplier or its personnel; and
- (viii) any claim by a customer or other third party to the extent arising from any matter referred to in clauses 16.1(a)(i) - (vii).

16.2 Liability cap

Subject to clauses 16.3 and 16.4, the aggregate liability of the Supplier arising out of or in connection with a particular Purchase Contract, whether in contract, tort (including negligence), under statute, in equity or otherwise, is capped at the greater of:

- (a) 2.5 times the total amount paid or payable under that Purchase Contract; and
- (b) the amount recoverable under any insurance the Supplier is required to maintain under the Purchase Contract for the relevant claim.

16.3 Exclusions from cap

The cap in clause 16.2 does not apply to liability arising from:

- (a) infringement of Intellectual Property Rights;
- (b) breach of confidentiality, privacy or data security obligations, including any data breach;
- (c) death, personal injury or damage to property caused by the Supplier or its personnel;
- (d) any Defect, recall, field action or regulatory non-compliance affecting Goods or Services;
- (e) breach of clause 12;
- (f) fraud, wilful misconduct or unlawful act or omission;
- (g) any liability for liquidated damages under clause 9; or
- (h) any liability that cannot lawfully be limited or excluded.

16.4 Claims not attributable to a single Purchase Contract

For claims not attributable to a single Purchase Contract, the Supplier's aggregate liability is capped at the greater of:

- (a) 2.5 times the total amounts paid or payable under all Orders issued to the Supplier in the twelve (12) months before the event giving rise to the claim; and

- (b) the amount recoverable under any insurance the Supplier is required to maintain under the Purchase Contract for the relevant claim.

16.5 Recoverable Loss

Nothing in a Purchase Contract excludes or limits the Supplier's liability for indirect or consequential Loss. Without limiting the foregoing, loss of profit, loss of revenue, loss of production, loss of opportunity, customer claims, customer liquidated damages and costs of recall, rectification, remediation or replacement are recoverable by the Purchaser, subject only to the liability cap in clause 16.2 where applicable.

16.6 Cumulative rights

Any right or remedy of the Purchaser under a Purchase Contract is cumulative and does not exclude any other right or remedy.

17. Dispute resolution

17.1 Dispute notice

A party claiming that a dispute has arisen must give written notice describing the dispute.

17.2 Senior representatives

Within ten (10) Business Days after that notice, the parties must cause appropriately senior representatives to meet and attempt in good faith to resolve the dispute.

17.3 Mediation

If the dispute is not resolved within fifteen (15) Business Days after that notice, either party may refer it to mediation administered by ACICA, or, if ACICA is unavailable, another mediator agreed by the parties.

17.4 Arbitration

If the dispute is not resolved within twenty (20) Business Days after referral to mediation, either party may refer the dispute to arbitration administered by ACICA under the ACICA Arbitration Rules.

17.5 Seat and procedure

The seat of the arbitration is Melbourne, Victoria. The language of the arbitration is English. The arbitral tribunal is to consist of one arbitrator unless the parties agree otherwise.

17.6 Preserved rights and continued performance

- (a) Nothing in this clause 17 prevents a party from seeking urgent interlocutory or injunctive relief from a court of competent jurisdiction.

- (b) Nothing in this clause 17 prevents the Purchaser from exercising any right of rejection, set-off, withholding, suspension, step-in or termination under the Purchase Contract.
- (c) The Supplier must continue to perform the Purchase Contract notwithstanding the existence of a dispute, unless the Purchase Contract has been terminated or the Purchaser directs otherwise.

18. Suspension and termination

18.1 Suspension

- (a) The Purchaser may, at any time and on written notice, suspend performance of all or part of a Purchase Contract if the Purchaser reasonably considers it necessary to investigate or address any compliance, safety, quality, security, continuity of supply or customer flow-down issue.
- (b) The Supplier must immediately comply with any notice of suspension and must take all reasonable steps to minimise the Purchaser's exposure, protect Purchaser property, preserve Work Product and mitigate any resulting delay or disruption.
- (c) A suspension under this clause 18.1 does not limit any other right or remedy of the Purchaser.

18.2 Termination for convenience

- (a) The Purchaser may terminate any Purchase Contract for convenience, in whole or in part, at any time by written notice to the Supplier.
- (b) If the Purchaser terminates a Purchase Contract for convenience, the Purchaser is liable only for:
 - (i) the price for conforming Goods accepted by the Purchaser and conforming Services properly performed up to the termination date; and
 - (ii) reasonable, properly documented, unavoidable direct costs irrevocably incurred by the Supplier before the termination notice in reliance on the Purchase Contract, to the extent those costs cannot reasonably be mitigated and the Purchaser elects to take the resulting work in progress or materials.
- (c) The Purchaser is not liable for loss of profit, loss of opportunity, loss of goodwill, indirect loss, or any costs incurred by the Supplier after receipt of the termination notice.
- (d) The Supplier must use all reasonable endeavours to mitigate its costs arising from any termination for convenience.

18.3 Termination for cause

The Purchaser may terminate any Purchase Contract immediately by written notice if the Supplier:

- (a) commits a material breach and, if that breach is capable of remedy, fails to remedy it within fourteen (14) days after notice from the Purchaser;
- (b) commits repeated breaches that, taken together, are material;
- (c) becomes insolvent, enters external administration, or ceases or threatens to cease carrying on business;
- (d) engages in fraud, bribery, corruption, serious misconduct, modern slavery, serious human rights abuse, or conduct likely to damage the reputation of the Purchaser or any AME Entity;
- (e) undergoes a change of Control described in clause 14.3;
- (f) suffers any event or circumstance that materially jeopardises quality, continuity of supply, certification, compliance or customer commitments; or
- (g) fails to maintain any licence, permit, authorisation, qualification, accreditation, insurance or approval required to perform the Purchase Contract.

18.4 Consequences of expiry, suspension or termination

- (a) On expiry, suspension or termination of a Purchase Contract, the Supplier must immediately stop work to the extent directed by the Purchaser.
- (b) The Supplier must protect and promptly deliver to the Purchaser all Purchaser property, Work Product, Confidential Information, Purchaser Data, and all completed or partly completed Goods, Services and materials paid for by the Purchaser or for which the Purchaser is liable under clause 18.2.
- (c) The Supplier must provide all reasonable transition, handover and assistance requested by the Purchaser to enable the orderly transfer, continuation or replacement of the Goods or Services.
- (d) The Supplier must not, without the Purchaser's prior written consent, remove, dispose of or use for any other purpose any Purchaser property, Work Product, work in progress or materials to which the Purchaser is entitled.
- (e) Suspension, expiry or termination does not affect any accrued rights or any clause which by its nature or express terms is intended to survive.

19. General

19.1 Governing law

Each Purchase Contract is governed by the laws of Victoria, Australia.



AME SYSTEMS (VIC) PTY LTD
HEAD OFFICE & MANUFACTURING

18 Gordon Street, Ararat
Victoria 3377 Australia

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AMESYSTEMS.COM.AU



EM info@amesystems.com.au
ACN 605 571 220

19.2 CISG excluded

The parties exclude the United Nations Convention on Contracts for the International Sale of Goods.

19.3 Entire agreement

These General Purchase Conditions, together with the relevant Order and any documents expressly incorporated by reference in the Order, constitute the entire agreement between the parties in relation to that Purchase Contract and supersede all prior conduct, arrangements, agreements, representations and understandings in relation to its subject matter.

19.4 Relationship with other documents

- (a) No unilateral website update, supplier policy, quotation term or other publication changes an existing Purchase Contract.
- (b) If there is any inconsistency between these General Purchase Conditions and any other document forming part of a Purchase Contract, the order of precedence is:
 - (i) the Order;
 - (ii) any Schedule or document expressly incorporated into the Order; and
 - (iii) these General Purchase Conditions,unless the Order expressly states otherwise.

19.5 Variations

A Purchase Contract may only be amended, varied or replaced by a written document signed by both parties.

19.6 Waiver

A waiver is effective only if in writing and signed by the party granting the waiver. Any failure or delay by a party to exercise any right, power or remedy does not operate as a waiver of that right, power or remedy or of any later breach.

19.7 Severability

If any provision of a Purchase Contract is invalid, illegal or unenforceable, it is to be read down or severed to the minimum extent necessary without affecting the validity or enforceability of the remaining provisions.

19.8 Further assurances

Each party must do all things reasonably necessary to give effect to each Purchase Contract, including executing and delivering documents.

19.9 Costs

Unless a Purchase Contract expressly provides otherwise, each party must bear its own costs in connection with the negotiation, preparation, execution and performance of that Purchase Contract.

19.10 Assignment and successors

Subject to clause 14, each Purchase Contract binds and benefits the parties and their respective successors and permitted assigns.

19.11 No merger

The rights and obligations of the parties under a Purchase Contract do not merge on completion and survive to the extent necessary to give them effect.

19.12 Relationship of parties

Nothing in a Purchase Contract creates a relationship of employment, agency, partnership, fiduciary duty or joint venture between the parties, and the Supplier has no authority to bind the Purchaser or any AME Entity.

19.13 Counterparts and electronic execution

- (a) A Purchase Contract or any document related to it may be executed in counterparts.
- (b) Counterparts taken together constitute one instrument.
- (c) The parties consent to the use of electronic communications and to the electronic exchange of executed documents in connection with a Purchase Contract.
- (d) Electronic delivery of an executed counterpart is effective delivery of the original, and failure to provide the original hard copy does not affect the formation or enforceability of the relevant document.

19.14 Notices

- (a) A notice or other communication under a Purchase Contract must be in writing and sent to the contact details stated in the Order or otherwise notified in writing.
- (b) A notice may be delivered in person, by email or by post.
- (c) Subject to clause 19.14(d), a notice is taken to be received:
 - (i) if delivered in person, on delivery;
 - (ii) if sent by email, at 9.00 am on the next Business Day after transmission, unless an error message is received earlier, or receipt is acknowledged earlier; and

- (iii) if sent by post, 3 Business Days after posting within Australia or 6 Business Days after posting from outside Australia.
- (d) If a notice is received on a day that is not a Business Day, or after 4.00 pm at the recipient's location, it is taken to be received at 9.00 am on the next Business Day.

19.15 Remedies

Except as expressly stated otherwise, the rights and remedies of the Purchaser under a Purchase Contract are cumulative and do not exclude any rights or remedies available at law or in equity.

19.16 Party acting as trustee

If a party enters into a Purchase Contract as trustee of a trust, that party and its successors as trustee of the trust are bound by the Purchase Contract in their own right and as trustee of the trust. Nothing in the Purchase Contract limits or excludes the liability of that party in its personal capacity. That party warrants that, at the date of the relevant Purchase Contract and on each date on which it performs obligations under it:

- (a) the trust is validly constituted and subsisting;
- (b) it is the sole trustee of the trust;
- (c) it has full power and authority under the trust deed and at law to enter into, perform and be bound by the Purchase Contract as trustee;
- (d) all powers and discretions conferred by the trust deed are capable of being validly exercised by it as trustee and have not been revoked, varied or restricted in a manner that would adversely affect its ability to perform the Purchase Contract;
- (e) the Purchase Contract is entered into as part of the due and proper administration of the trust and for the benefit of the beneficiaries of the trust;
- (f) it has a right of indemnity out of, and lien over, the assets of the trust in respect of liabilities properly incurred under the Purchase Contract;
- (g) that right of indemnity and lien have not been excluded, limited, released or lost, and will not be prejudiced by any act or omission of that party; and
- (h) no restriction exists, and it will not permit any restriction to arise, on its right of indemnity out of, or lien over, the assets of the trust, and that right will have priority over the rights of the beneficiaries to the trust assets.

Schedule 1 - International Supply and Price Adjustment

1. International Supply

1.1 Application

Clause 19.1 applies to domestic and international supply, subject to any mandatory local law that cannot lawfully be excluded.

1.2 Order requirements

The relevant Order must identify, to the extent applicable:

- (a) the country of supply;
- (b) the currency;
- (c) the applicable Incoterms position, if any; and
- (d) any local tax, withholding, customs, import or regulatory requirements relevant to the Goods or Services.

1.3 Mandatory local law

If any local law imposes mandatory supplier obligations, worker protections, import requirements, tax requirements or other non-excludable legal requirements, those matters must be identified and addressed in the relevant Order or a country annex to this Schedule, and the Supplier remains responsible for complying with them whether or not they are expressly identified.

2. Price adjustment

2.1 Adjustment mechanism

Any foreign exchange or commodity adjustment mechanism must be expressly stated in the relevant Order or this Schedule.

2.2 Minimum content

Any adjustment mechanism must specify:

- (a) the baseline date;
- (b) the exchange rate source or index source;
- (c) the threshold movement;
- (d) the review timing;

- (e) the supporting evidence required; and
- (f) whether the mechanism applies symmetrically to increases and decreases.



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HEAD OFFICE & MANUFACTURING

18 Gordon Street, Ararat
Victoria 3377 Australia

PH 61 3 5352 9000
FX 61 3 5352 5199

AMESYSTEMS.COM.AU



EM info@amesystems.com.au
ACN 605 571 220

Schedule 2 - Customer flow-down requirements

1. Purpose

This Schedule is intended to capture customer-imposed obligations that the Purchaser must flow down to suppliers, particularly for defence, aerospace, government and other regulated customer programmes.

2. Applicable flow-down requirements

The Supplier must comply with any customer flow-down requirements identified in the relevant Order or set out in this Schedule, including any requirements relating to:

- (a) quality assurance and certification;
- (b) traceability and record keeping;
- (c) export control and access restrictions;
- (d) information security and cyber security;
- (e) confidentiality and handling of customer materials or data;
- (f) audit, inspection and reporting; and
- (g) subcontractor controls.

3. Order-specific requirements

If a relevant Order identifies customer-specific requirements, those requirements are incorporated into the relevant Purchase Contract to the extent stated in that Order.

Schedule 3 - Insurance minimums, named competitors and supplier due diligence

1. Insurance minimums

1.1 Minimum requirements

If specified in the relevant Order, the Supplier must maintain the following minimum insurance limits:

- (a) public and products liability and professional indemnity: \$20,000,000 for each claim (which may be maintained under a combined policy);
- (b) transit/marine cargo insurance: \$500,000;
- (c) industrial special risks (property) insurance: \$50,000,000;
- (d) cyber liability insurance: \$1,000,000 for each claim;
- (e) motor vehicle insurance: \$35,000,000; and
- (f) workers compensation insurance as required by law.

1.2 Supplier category requirements

Different minimum insurance limits may apply depending on supplier category, risk profile, or the nature of the Goods or Services.

2. Named competitors

For the purposes of clause 14.3(b), no closed list of named competitors applies. The functional definition in clause 14.3(b) is used.

3. Supplier due diligence items

The Purchaser may require the Supplier to provide any of the following before or during the term of a Purchase Contract:

- (a) company extract or equivalent corporate registration evidence;
- (b) beneficial ownership information;
- (c) insurance certificates of currency;
- (d) modern slavery and anti-bribery compliance information;
- (e) bank account verification details; and

- (f) any quality certifications or accreditations relevant to the Order.



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Victoria 3377 Australia

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AMESYSTEMS.COM.AU



EM info@amesystems.com.au
ACN 605 571 220