Terms of Trade

Sauer Pty Ltd (ACN 683 275 756) as trustee for the Saueesti Trust, trading as SAE Engineering · ABN 87 744 586 592 PO Box 592, Bungalow QLD 4870 · 07 4243 3488 · saee.com.au

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These terms apply to every quote we give and every job we do for you, unless we both sign something in writing that says otherwise. They are written in plain English on purpose. “We”, “us” and “our” mean SAE Engineering. “You” and “your” mean the customer named on the quote, order, invoice or credit account application.

1. Words used in these terms

1.1 **Work** means everything we supply to you: goods, equipment, materials, parts, fabrication, installation, electrical work, design, drawings, engineering, programming, software, commissioning, repairs, advice and labour.

1.2 **Equipment** means the physical items we supply as part of the Work, including anything we install, build or fabricate, whether or not it has been fixed in place.

1.3 **Software** means any program, PLC or HMI project, configuration, script or file we write, adapt or set up as part of the Work.

1.4 **Agreement** means these terms together with our quote, your order or acceptance, any variation we both agree in writing, and our invoices.

1.5 **Price** means the amount you must pay for the Work, as set out in clause 4.

1.6 **Business day** means a day other than a Saturday, Sunday or public holiday in Queensland.

1.7 If more than one person or company is the customer, each of you is responsible for the whole amount owing, together and separately. If you are a partnership, each partner is bound. If you are a trustee, clause 17 also applies.

2. How the agreement is made

2.1 You accept these terms when you sign or accept our quote, place an order, give us a purchase order, let us start work, or take delivery of any Work. Terms printed on your purchase order or other paperwork do not apply unless we agree to them in writing.

2.2 If something in our quote conflicts with these terms, the quote wins for that job. If anything else conflicts with these terms, these terms win.

2.3 A change to these terms only counts if it is in writing and agreed by both of us. We may publish a new version of these terms for future jobs. A new version applies to a job only if it was in force when you accepted the quote or placed the order for that job.

2.4 You can buy on account only after we have approved a signed credit account application. Until then, payment terms are as stated on the quote or invoice. We may decline to supply on account, or stop supplying, if your account is overdue or over its limit.

2.5 Electronic signatures and acceptance by email count as signing in writing, as allowed by the Electronic Transactions (Queensland) Act 2001 and the equivalent laws of the other states and territories.

3. Your people and your information

3.1 Anyone you introduce to us as acting for you, such as a site manager, foreman, engineer or project manager, may order Work and ask for variations on your behalf. You are responsible for paying for what they ask for. If their authority is limited, tell us the limits in writing before they give us instructions.

3.2 We rely on the drawings, specifications, measurements, quantities, site details and other information you or your people give us. If that information is wrong or incomplete, you pay for any extra time and materials needed to put it right, and we are not responsible for problems it causes.

3.3 If you order something that has been made, cut or programmed to your instructions and your instructions were wrong, you still pay for it.

3.4 Tell us in writing at least 14 days before any change in who owns or controls your business, or a change of name, address, trustee or contact details. You are responsible for any loss we suffer because you did not tell us.

4. Price, variations and payment

4.1 The Price is the amount in our quote. A quote is valid for 30 days, or for any other period written on it. Where there is no quote, the Price is the amount on our invoice, worked out at our usual rates.

4.2 We may change the Price if: (a) you ask for a change to the Work; (b) the site, access or conditions are different from what we were told or could reasonably have expected; or (c) the cost of materials or labour rises for reasons outside our control after we quoted. We will tell you about this before we carry out the affected part of the Work.

4.3 Variations will be priced and confirmed in writing before we do them where practical. If we send you a variation and you do not respond within 10 business days, but you let the Work continue, the variation is treated as accepted.

4.4 We may ask for a deposit before ordering materials or starting work. The quote will say if a deposit is needed. A deposit is not refundable once we have spent it on materials or labour for your job, except as required by law.

4.5 Unless the quote or invoice says otherwise, you must pay each invoice within 7 days of its date. For larger jobs we may invoice progress claims as set out in the quote. Paying on time is an essential term of the agreement.

4.6 You can pay by bank transfer, or by any other method we agree. A card surcharge may apply. A payment counts as made only when the money has cleared into our account.

4.7 Prices are shown excluding GST unless stated otherwise. You must pay GST on top of the Price, at the same time as the Price.

4.8 If you dispute part of an invoice, tell us in writing within 7 days of receiving it and say what is wrong. You must still pay the part you do not dispute by the due date. We will look into it promptly and issue a credit if we agree.

4.9 You cannot deduct from what you owe us any amount you say we owe you, unless we have agreed to it in writing or a court or tribunal has ordered it.

4.10 We may apply any payment you make to whichever of your invoices we choose. Where we have not chosen, a payment goes to the oldest invoice first.

4.11 Some items in a quote may be shown as a provisional sum or allowance. These are our estimate of work, goods or services that could not be fully priced when we quoted, for example because a subcontractor’s price, a design or site information was not yet available. Each provisional sum is adjusted to the actual cost to us, plus our margin on that cost. The margin is the one stated in the quote, or 35% if the quote does not state one. The adjusted amount may be up to 50% more than the amount shown in the quote, and you agree to pay the adjusted amount. If we expect a provisional sum to go beyond that, we will tell you in writing before we commit to the extra cost. Where the actual cost is lower, we credit the difference.

5. Delivery and timing

5.1 Equipment is delivered when you or your carrier collect it from us, or when we or our carrier drop it at the address you gave us, whether or not anyone is there to receive it.

5.2 Delivery costs are as set out in the quote, or as we tell you before you order.

5.3 Dates and timeframes we give are our best estimate. We will do our best to meet them, but we are not liable for loss caused by a delay. If we cannot deliver or carry out the Work because of something you did or did not do, such as site not ready, no access, or no power, you pay for the wasted time, extra trips and storage.

5.4 You must provide safe access to the site, the work area and isolation points, and tell us about any hazards we need to know about.

6. Risk

6.1 Risk of loss or damage to Equipment passes to you on delivery, even though we still own it until you pay (see clause 7). You should insure it from delivery.

6.2 If you ask us to leave Equipment at an unattended place, it is left there at your risk.

7. We own it until you pay

7.1 We keep ownership of all Equipment until you have paid us everything you owe us, on that job and every other job. Payment by cheque or card counts only once it has cleared. This applies even if the Equipment has been installed, fixed or wired in.

7.2 Until you have paid in full: (a) you hold the Equipment for us, must keep it in good condition, and must not move it off site without our written consent; (b) you must not sell, hire, lend or give away the Equipment, or let anyone else take a security interest in it; (c) you must keep the Equipment identifiable as ours and must not remove or cover our labels, nameplates or serial numbers; (d) if the Equipment is lost, damaged or destroyed, any insurance money you receive for it is held for us and must be paid to us, up to what you owe; and (e) you must tell us immediately if anyone else tries to seize the Equipment or take it over, including a receiver, liquidator or landlord.

7.3 If your account is overdue, or any of the events in clause 12.2 happen, we may recover the Equipment. To do that, you permit us, and anyone acting for us, to: (a) enter the site or premises where we believe the Equipment is, during business hours or at any reasonable time, using reasonable care and causing no more disruption than needed; (b) isolate electrical, pneumatic, hydraulic or other energy supply to the Equipment, and to any circuit or machine it is part of, so that it can be made safe to remove; (c) fit our own lockout devices and danger or out-of-service tags at the isolation point. You must not remove our locks or tags, or re-energise the isolated equipment, until we have removed them or told you in writing that you may; (d) disconnect and remove the Equipment and take it away; and (e) photograph and record the work for evidence. This permission cannot be withdrawn while any money is owing.

7.4 We will isolate, disconnect and remove Equipment in a safe and workmanlike way, following the usual safety rules for the type of work. We will tell whoever is in charge on site who we are and why we are there, and leave our contact details at the isolation point. We will not use force against any person, and we will leave if lawfully told to.

7.5 You must pay our reasonable costs of recovering the Equipment, including labour, travel, transport and storage, and the cost of any lock, tag or device of ours that is cut off, removed or damaged. We are not liable for loss of production, downtime or other loss that results from recovering Equipment in line with this clause.

7.6 Once we have recovered Equipment, we may keep it, reuse it or sell it. If we sell it, we will credit what we receive, less our costs, against what you owe. Recovering Equipment does not cancel the debt. We can still sue you for the Price, and for the balance after any credit, even though ownership has not passed to you.

7.7 We do not have to reinstall Equipment that we have recovered. If we agree to reinstall it after you have paid, that is new Work at our usual rates.

8. Software, designs and licences

8.1 We own the copyright and all other intellectual property in the Software, drawings, designs, calculations, documents and methods we create. Nothing in this agreement transfers ownership of them to you.

8.2 Once you have paid in full for the job, you have a permanent licence to use the Software, drawings and documents for the job, plant or equipment they were made for. That licence includes having them maintained or modified for that same plant. You may not sell them, copy them for other sites, or give them to anyone else to

reuse, without our written consent.

8.3 Until you have paid in full, your use of the Software is a temporary licence only. Software may include a time limit, licence key or similar control that we set. We will tell you in the quote if the Software has one. You must not remove, bypass or tamper with any such control. Once you have paid in full we will remove the control or make the licence permanent.

8.4 You promise that drawings, specifications and instructions you give us do not infringe anyone else's patent, design, copyright or trade mark. You will cover us for any claim made against us because of them.

8.5 We may use photographs and general descriptions of the Work in our marketing, but we will not publish your confidential information.

9. Defects, guarantees and our liability

9.1 Check Equipment when it is delivered and tell us in writing within 7 days about any damage, shortage or anything that does not match the quote. Tell us about any other defect as soon as you notice it, and give us a reasonable chance to inspect it before anyone else works on it.

9.2 Nothing in these terms takes away any guarantee, right or remedy you have under the Australian Consumer Law (Schedule 2 to the Competition and Consumer Act 2010) or any other law that cannot be excluded.

9.3 Where the law allows us to limit our liability, including under section 64A of the Australian Consumer Law for goods or services not ordinarily acquired for personal, domestic or household use, our liability for a failure is limited, at our choice, to: (a) for goods: replacing them, repairing them, supplying equivalent goods, or paying the cost of doing one of those; and (b) for services: supplying them again, or paying the cost of having them supplied again.

9.4 Apart from the guarantees that cannot be excluded and any written warranty we give you, we give no other warranty about the Work. For items made by others, we pass on to you the benefit of the manufacturer's warranty.

9.5 To the extent the law allows, we are not liable for indirect or consequential loss, including loss of profit, production or opportunity. Our total liability for any job is limited to the Price of that job.

9.6 We are not responsible for a fault or damage caused by: (a) misuse, neglect, poor maintenance, or use outside the design limits or operating instructions; (b) work done by anyone else, including on parts we did not supply or replace; (c) wrong information given to us (see clause 3.2); (d) continuing to use something after a fault became obvious; (e) normal wear and tear, accident, power supply problems, lightning, flood or fire; or (f) distortion or finish changes from welding, galvanising, heat or weather that are normal for the material.

9.7 If you ask us to modify or temporarily repair your existing equipment rather than replace it, we are responsible only for the quality of our own work, not for how the rest of your equipment performs. A temporary repair has no guarantee that the fault will not come back. We will tell you what a permanent repair needs.

9.8 Advice we give is our honest professional view, based on what we know at the time. If you decide not to follow our advice, the result is your responsibility.

9.9 We accept returns of Equipment that is not faulty only if we agree in writing. We may charge a restocking fee of up to 20% plus freight. Items made, cut or programmed to your order cannot be returned unless they are faulty.

10. Cancelling an order

10.1 You may cancel an order by written notice within 24 hours of placing it, at no cost, unless we have already ordered materials or started work for you.

10.2 If you cancel later, you must pay for the work done up to the date of cancellation, the materials we have ordered and cannot return, and any restocking or cancellation charges from our suppliers.

10.3 We may cancel all or part of a job by written notice if something outside our reasonable control stops us doing it. If we do, we will refund any money you paid for Work we have not done or supplied.

11. Our lien on your goods

11.1 If you leave equipment or other goods with us, for repair, modification, testing or programming, we may hold them until you have paid what you owe for that work and any other overdue invoices.

11.2 If you do not pay or collect them, we may sell or dispose of them under Queensland law on uncollected goods, and apply what we receive to what you owe.

12. Overdue accounts

12.1 If an invoice is not paid by its due date, we may charge interest on the overdue amount at 2.5% per month, calculated daily, from the due date until payment, both before and after any judgment. Interest is simple, not compounding.

12.2 All amounts you owe us become due immediately, and we may suspend or stop work, if: (a) an invoice is more than 7 days overdue and we have given you written notice; (b) you exceed your credit limit and do not fix it within 7 days of written notice; (c) you become insolvent or bankrupt, or make an arrangement with your creditors; or (d) a receiver, administrator, liquidator or similar person is appointed to you or your assets.

12.3 You must pay our reasonable costs of recovering overdue amounts. That includes collection agency fees, court or tribunal fees, legal costs, and any bank fees for dishonoured or reversed payments.

12.4 If a payment you made is later reversed or charged back without a lawful reason, the amount becomes owing again immediately, together with any fees it causes.

13. Security of payment

13.1 Where the Work is construction work or related goods and services, we may use the Building Industry Fairness (Security of Payment) Act 2017 (Qld), or the equivalent law in the state or territory where the Work is done, in addition to these terms. Nothing in these terms limits our rights under those laws.

14. Personal Property Securities Act 2009 (PPSA)

14.1 This agreement is a security agreement for the purposes of the PPSA. It gives us a security interest in the Equipment, and in its proceeds, to secure payment of what you owe. Words in this clause have the meaning they have in the PPSA.

14.2 We may register our security interest on the Personal Property Securities Register. You agree to give us any information we reasonably need to do so, and you must not register a financing change statement about our interest without our written consent.

14.3 To the extent the PPSA allows, the following do not apply to this agreement: sections 95, 96, 118, 121(4), 125, 130, 132(3)(d), 132(4), 135, 142 and 143. You waive your right to receive a verification statement under section 157.

15. Privacy and credit information

15.1 We collect and handle personal information in line with the Privacy Act 1988 and the Australian Privacy Principles. We use it to quote, supply, invoice, assess credit, and collect what is owed. We do not sell it. You can ask us by email for a copy of the personal information we hold about you, and ask us to correct it. You can also ask us not to use it for marketing.

15.2 If you apply for credit, you agree that we may get a credit report on you, and on any guarantor, from a credit reporting body. We may use it to assess your application and to manage and collect your account.

15.3 If an amount of $150 or more is overdue by 60 days or more, and we have written to you asking for payment, we may give information about the overdue amount to a credit reporting body, as allowed by the Privacy Act. We will tell the credit reporting body when the debt is paid.

15.4 If you have a privacy complaint, email us. We will reply within 7 days and aim to resolve it within 30 days. If you are not satisfied, you can complain to the Office of the Australian Information Commissioner (oaic.gov.au).

16. Notices

16.1 A notice under this agreement must be in writing. It may be handed over in person, left at or posted to the other party's last known address, or emailed to their last known email address.

16.2 An email is received when it is sent, unless the sender gets a message that it was not delivered. A posted notice is received when it would arrive in the ordinary course of post.

17. Customers who are trustees

17.1 If you deal with us as trustee of a trust, whether or not you tell us that you are a trustee: (a) you are personally liable, and also liable as trustee; (b) you confirm that you have power under the trust deed to enter this agreement, and that you have a right to be indemnified out of the trust assets; and (c) you must not do anything that would remove or reduce that right of indemnity while you owe us money.

17.2 You must tell us in writing before you are replaced or retire as trustee, or before the trust is varied, resettled or wound up.

18. General

18.1 **Subcontractors.** We may subcontract any part of the Work, but we remain responsible for it. You must give instructions to us, not to our subcontractors.

18.2 **Events outside anyone's control.** Neither of us is liable for a delay or failure caused by something outside our reasonable control, such as extreme weather, flood, fire, pandemic, a government order, a strike or a supply shortage. This does not excuse payment of money already owing.

18.3 **Assignment.** You may not transfer your rights or obligations under this agreement without our written consent. We may transfer ours, including the right to be paid, if doing so does not make your position worse.

18.4 **Not enforcing a term.** If we do not enforce a term straight away, we can still enforce it later.

18.5 **Invalid terms.** If any part of these terms is invalid or unenforceable, that part is removed and the rest still applies.

18.6 **Survival.** Clauses 7, 8, 9, 11, 12 and 14 continue to apply after the Work is finished.

18.7 **Law and courts.** Queensland law governs this agreement. Any dispute will be heard in the courts or tribunals of Queensland.

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