

GENERAL TERMS AND CONDITIONS OF SALE The following general terms and conditions of sale (Terms) apply where AC Industries Pty Ltd, ACN 162 715 148 (Seller) supplies Goods to any person or entity (Buyer) and any supply of Goods by Seller to Buyer after the date of these Terms is a supply pursuant to the Contract and any such supply does not give rise to a new or separate agreement.

1. DEFINITIONS: In these Terms:

- (a) Australian Consumer Law means schedule 2 of the Competition and Consumer Act 2010 (Cth);
- (b) Business Days means any day which is not a Saturday, Sunday or public holiday in New South Wales, Australia;
- (c) Consumer has the meaning given to it in section 3 of the Australian Consumer Law;
- (d) Consumer Guarantee has the meaning given to it in section 3 of the Australian Consumer Law;
- (e) Contract means the contract between the Buyer and the Seller which consists of the accepted credit application, these Terms, and all Purchase Orders for Goods placed by the Buyer from time to time and accepted by the Seller from time to time;
- (f) Goods means the goods supplied by the Seller to the Buyer; in accordance with these Terms and an accepted Purchase Order;
- (g) Insolvency Event means the happening of any of these events:
 - (i) the Buyer suspends payment of its debts generally, is or becomes unable to pay its debts when they are due, or is or becomes unable to pay its debts within the meaning of the Corporations Act 2001 (Cth);
 - (ii) the Buyer enters into, or resolves to enter into, any arrangement, composition or compromise with, or assignment for the benefit of, its creditors or any class of them;
 - (iii) a receiver, receiver and manager, liquidator, provisional liquidator, administrator, trustee or similar official is appointed over any of the assets or undertakings of the Buyer, an application or order is made for the winding up or dissolution of the Buyer, or a resolution is passed or any steps are taken to pass a resolution for the winding up or dissolution of the Buyer, except for the purpose of an amalgamation or reconstruction which has the Seller's prior consent;
 - (iv) the Buyer goes bankrupt; or
 - (v) the Buyer ceases, or threatens to cease, to carry on business;
- (h) Loss means all actions, claims, costs (including legal costs on an indemnity basis), damages, expenses, interest, liabilities and losses (whether direct, indirect, special, consequential or otherwise including loss of profits, loss of business revenue, failure to realise expected profits or savings, overhead costs, loss of goodwill, loss of reputation, loss of value in any intellectual property, damages or liquidated sums payable pursuant to other agreements, other economic losses, or any consequential or indirect losses of any kind howsoever arising and whether caused by breach of statute, breach of contract, negligence or other tort);
- (i) Price means the price of the Goods set out in an accepted Purchase Order and in accordance with clause 3;
- (j) PPSA means the Personal Property Securities Act 2009 (Cth); and
- (k) Purchase Order means a purchase order issued by the Buyer setting out details of the Goods that the Buyer requires the Seller to supply, subject to these Terms.

2. PURCHASE ORDERS: The Seller reserves the right to accept or reject in its absolute discretion any Purchase Order, or part of a Purchase Order, which it may receive from the Buyer. A Purchase order given to the Seller by Buyer is binding on the Seller and the Buyer if:

- (a) a written acceptance is signed for and on behalf of the Seller by a person authorised to sign for an on its behalf; or
- (b) the Seller supplies the Goods or some of the Goods in accordance with the Purchase Order.

3. PRICES:

- (a) At the Seller's discretion, the Price shown in a quotation relating to a Purchase Order will be:
 - (i) the Seller's current price at the date of delivery of the Goods; or
 - (ii) the Seller's quoted price, and is fixed for a period of thirty (30) days from the date that the Buyer places a Purchase Order with the Seller, subject to any deletions, additions or alterations to the Goods set out in the Purchase Order.
- (b) Prices are ex-Seller's warehouse unless otherwise agreed by the parties in writing prior to the Buyer placing a Purchase Order for any Goods.
- (c) Any variation from the specifications pertaining to the Goods will be charged for in addition to the Price, in accordance with clause 3(a) and will be shown as extra Goods on the Seller's invoice. Payment for all extra Goods must be made in accordance with clause 6.
- (d) All additional charges such as goods and services tax, delivery, handling and storage charges, stamp duty, interest, legal and other costs of recovery of unpaid money and all other government imposts and all money other than the Price is payable by Buyer in addition to the Price.

1. APPLICATION OF THESE TERMS: Unless there is a binding agreement between AC Industries and customer that applies at the time of issue of the Seller's quotation to Buyer, these Terms apply to every quotation issued by the Seller to the Buyer, to every Purchase Order placed by the Buyer with the Seller, whenever these may be received by the Seller, and to every Contract between the Buyer and Seller for the supply of Goods by the Seller to the Buyer. For the avoidance of doubt, Unless there is a binding agreement between AC Industries and customer that applies at the time of issue of the Seller's quotation to Buyer, these Terms exclude all terms and conditions issued to the Seller by the Buyer at any time, before or after this quotation, whether together with a Purchase Order or otherwise, including where the Buyer's terms and conditions are received by the Seller after the issue of its quotation or at the time of the placement of the Purchase Order by the Buyer with the Seller. At all times, a Purchase Order issued by the Buyer to the Seller will be read as incorporating these Terms unless these terms are varied or excluded expressly in writing by a person actually authorised by the Seller to vary or exclude these Terms. For the avoidance of doubt, the Buyer acknowledges and agrees that the Buyer's acceptance of the Seller's quotation, any Purchase Order placed by the Buyer with the Seller for any Goods, and any other agreement from the Seller for the supply of Goods to the Buyer is deemed to an unconditional acceptance of these Terms by the Buyer.

5. INSURANCE: The Buyer is responsible for taking out and maintaining whatever insurance cover it requires in respect of the Goods at its own expense from delivery.

6. PAYMENT:

- (a) Unless otherwise agreed by the Seller in writing, the Buyer must pay for the Goods in full prior to delivery of the Goods by the Seller and

(a) all additional charges that are listed in clause 3(c) and 3(d). If the Seller has extended credit to the Buyer, the Buyer must pay for all Goods purchased within thirty (30) days from the end of the month after the Seller's invoice is sent to the Buyer, unless other payment terms are agreed to by the parties in writing prior to the Buyer placing a Purchase Order. Without prejudice to any other rights or remedies of the Seller, if the Buyer fails to make (whether in full or in part) any payment required under these Terms on or before the due date for payment, then:

- (i) the Seller may require the Buyer to pay interest on the unpaid amount at 2% per annum above the average of the most recent prime rate, indicator rate, or reference rate (however described) for business overdrafts published by Commonwealth Bank of Australia;
- (ii) such interest will accrue from the date payment was due to the date payment is made, will be calculated daily and capitalised monthly and must be paid by the Buyer upon demand by the Seller; and
- (iii) Buyer must in addition to all other obligations, on demand, pay to Seller all costs incurred by Seller (including but not limited to any legal costs on a full indemnity basis).

(b) All payments must be made on or before the due date as a condition precedent to future deliveries or supplies under this Contract or any other contract

7. CANCELLATION: The Seller may cancel the supply of Goods at any time before the delivery of the first instalment of the Goods that are specified in a Purchase Order, by written notice to the Buyer. The Seller is not liable for any Loss arising from such cancellation. The Buyer may not, without the Seller's consent, cancel a Purchase Order after the Seller has accepted the Purchase Order. If the Seller consents to the cancellation of a Purchase Order, the Buyer will be liable for any costs incurred by the Seller up to the time of cancellation.

8. ACCEPTANCE AND CLAIMS: The Buyer must, as soon as possible after delivery, check whether the Goods were damaged or defective when delivered. Goods will be considered to have been delivered in good condition unless the Buyer gives the Seller notice of the damage or defect within 7 days after delivery. If the Buyer gives the Seller notice under this clause, it must:

- (a) preserve the Goods in the state in which they were delivered for 10 Business Days after it gives the Seller notice; and
- (b) during that period, allow the Seller access to the Buyer's premises to inspect the Goods; or
- (c) at the Seller's request return the Goods, at the Buyer's cost within 10 Business Days after the delivery date in the condition in which they were delivered and with all packaging material in as new condition as is reasonably possible in the circumstances.

9. SPECIAL ORDERS: The Buyer must indicate in writing where it is placing a Purchase Order for non-stock items. The Seller will not be required to accept the return of non-stock items unless the manufacturer of the non-stock item agrees to accept the return from the Seller. The Seller may deduct transport, handling and restocking charges of up to 20% of the Price of the Goods (depending of the particular type of Goods) from the credit due to Buyer. The Buyer acknowledges that the transport, handling and restocking charge is a genuine pre-estimate of the Seller's loss in such circumstances.

10. DELIVERY, RISK AND PROPERTY:

(a) The Seller will use all commercially reasonable efforts to deliver the Goods the subject of an accepted Purchase Order within a reasonable period, which is determined by the date that the Seller accepts the Purchase Order and the readily availability of the specific Goods specified in the Purchase Order. The Seller may deliver the Goods by separate instalments. Each separate instalment will be invoiced and must be paid for in accordance with clauses 3 and 6.

(b) Unless otherwise agreed to by Seller in writing, delivery occurs when the Goods are loaded onto a truck at Seller's warehouse. The Seller will not in any circumstances accept liability for damage, shortage or loss of Goods during transit, being the time that the Goods are loaded onto a truck at Seller's warehouse and the time that the Goods arrive at Buyer's nominated destination.

(c) The failure of the Seller to deliver the Goods does not entitle either party to treat the Contract as repudiated. The Seller is not liable for any Loss whatsoever due to the failure by the Seller to deliver the Goods (or any of them) promptly or at all.

(d) Other than as set out in clause 10(b), where Seller is delivering the Goods to Buyer, risk in the Goods passes to Buyer on delivery of the Goods to Buyer.

11. TITLE: Title to the Goods remains with the Seller until the Seller has received in full the total Price for all Goods ordered by the Buyer in the Purchase Order. The Seller may at any time recover its Goods if they are in the Buyer's possession and resell the Goods if any amount owed by the Buyer is overdue or if, in the Seller's opinion, the amount owing by the Buyer is in excess of the credit limit the Seller is willing to accord to the Buyer and for this purpose the Seller, its servants and agents may enter upon the Buyer's or other premises where the Goods are situated to recover the Goods. Until title to the Goods passes to the Buyer:

- (a) the Buyer holds the Goods solely as fiduciary and bailee for the Seller;
- (b) the Buyer will store the Goods separately from its own goods and those of other persons and in such manner to clearly identify the Goods as the property of the Seller; and
- (c) subject to this clause 11, the Buyer is authorised to sell the Goods as agent, fiduciary and bailee for the Seller and the entire proceeds of the sale or any other proceeds arising from the Goods or an insurance claim regarding the Goods must be held in a separate account in trust for the Seller. If the Buyer's credit facilities are terminated, or Buyer is subject to an Insolvency Event, the Buyer's right to sell the Goods is immediately terminated. The parties agree that these provisions apply notwithstanding any agreement, whether subject to the Contract or not, between the parties under which the Seller gives the Buyer credit.

12. PPSA: Defined terms in this clause have the same meaning as given to them in the PPSA. The Seller and the Buyer acknowledge that the Contract constitutes a Security Agreement and gives rise to a Purchase Money Security Interest (PMSI) in favour of the Seller over the Goods supplied or to be supplied to the Grantor pursuant to the Contract. The Goods supplied or to be supplied under this Contract fall within the PPSA classifications of "Commercial Property" and "Other Goods" acquired by the Buyer pursuant to the Contract. The Seller and the Buyer acknowledge that the Seller, as Secured Party, is entitled to register its interest in the Goods supplied or to be supplied to the Buyer, as Grantor, under the Contract on the PPSA Register as Collateral. The Buyer waives its right to receive notification of or a copy of any Verification Statement confirming registration of a Financing

Statement or a Financing Change Statement relating to a Security Interest granted by the Buyer, as Grantor, to the Seller. The Buyer agrees to indemnify the Seller on demand for all costs and expenses, including legal costs and expenses on a solicitor / client basis, associated with the enforcement or attempted enforcement of any Security Interest granted to the Seller by the Buyer. The Buyer agrees:

- (a) that nothing in sections 130 to 143 of the PPSA will apply to the Contract or the Security under these Terms;
- (b) to waive its right to do any of the following under the PPSA:
 - (i) section 95 (notice of removal of accession), to the extent that it requires the Seller to give a notice to the Buyer;
 - (ii) section 121 (4) (enforcement of liquid assets-notice to grantor);
 - (iii) section 130 (notice of disposal), to the extent that it requires the Seller to give a notice to the Buyer;
 - (iv) subsection 132 (3) (d) (contents of statement of account after disposal);
 - (v) subsection 132 (4) (statement of account if no disposal);
 - (vi) section 135 (notice of retention); (vii) section 142 (redemption of collateral); and
 - (viii) section 143 (reinstatement of security agreement).

13. WARRANTY:

- (a) Except only for those rights and remedies that Buyer has in respect of the Goods under the Australian Consumer Law and similar state and territory laws applicable to Consumers and which cannot be lawfully excluded, restricted or modified:
 - (i) all conditions, warranties and Consumer Guarantees, whether statutory or otherwise, are excluded in relation to the Goods;
 - (ii) Seller is not liable to Buyer for any Loss, which Buyer suffers, incurs or is liable for in connection with the supply of the Goods under these Terms or any breach of these Term by Seller, except in accordance with this clause 13.
- (b) To the fullest extent permitted by law, the maximum liability of Seller to Buyer in respect of any claim made by Buyer, under or in connection with the Contract is limited to any one of the following remedies as determined by Seller in its absolute discretion:
 - (i) replacement of the Goods or the supply of equivalent Goods;
 - (ii) repair of the Goods;
 - (iii) payment of the cost of replacing the Goods or of acquiring equivalent goods; or
 - (iv) payment of the cost of repairing the Goods.
- (c) The Seller will not be liable for any claim of the Buyer unless it is made within 28 days after the Goods are purchased by the Buyer.

14. NO IMPLIED SERVICE: The Buyer acknowledges that except as provided by law these Terms do not entitle the Buyer to demand to receive from the Seller any site inspection, installation or service of the Goods supplied or delivered. If the Buyer does require the Seller's services in respect of the site inspection, installation or service of the Goods, then the Buyer and the Seller must enter into a separate written agreement in respect of such inspection, installation or service. For the avoidance of doubt, the Buyer acknowledges that unless the parties have entered into a separate installation or servicing agreement for the Goods, the Seller is not liable to the Buyer for any loss or damage whatsoever in connection with the installation or servicing of the Goods and the Buyer hereby releases and indemnifies the Seller from any claims in connection with the installation or servicing of the Goods.

15. DESCRIPTION AND SUBSTITUTION: To the full extent permitted by law, the parties acknowledge and agree that any description of the Goods is given by way of identification only and the use of that description does not constitute a sale by description. The Buyer acknowledges that from time to time, the Seller may, in its sole discretion, substitute Goods or portions of a Good originally described in an accepted Purchase Order with goods of a similar performance standard.

16. FORCE MAJEURE:

- (a) For the purposes of this clause 16, 'Force Majeure Event' means:
 - (i) an act of God, lightning, fire, flood, explosion;
 - (ii) strike, lock-out or other labour difficulty;
 - (iii) breakage, accident or other damage to or failure of machinery or equipment;
 - (iv) unavailability or shortage of raw materials, labour, power supplies or transport facilities;
 - (v) failure or inability to obtain licenses or the effect of any applicable laws, orders, rules or regulations of any government or competent authority; or
 - (vi) any other event which is not within the reasonable control of the Seller.
- (b) Where a Force Majeure Event prevents or delays the Seller from performing any obligation under the Contract, that obligation is suspended as long as the Force Majeure Event continues.

17. CONFIDENTIALITY:

- (a) In this clause 17, 'Confidential Information' means confidential information, trade secrets, know-how, scientific, technical, product, market or pricing information relating to the Goods of the Seller or the Seller's business.
- (b) The Buyer is authorised to use the Confidential Information for the sole purpose of using or selling the Goods under this Contract and must not otherwise use or disclose any Confidential Information.

18. INDEMNITY: The Buyer indemnifies the Seller against any Loss which the Seller suffers, incurs or is liable for in connection with the Contract and not limited to:

- (a) any act or omission of the Buyer;
- (b) any breach of this Contract by the Buyer; and
- (c) enforcing any security interest arising under this Contract.

19. CLERICAL ERRORS: Clerical errors in computations, typing or otherwise of datalogue, quotation, acceptance notice, invoice, delivery docket, credit

note, or specifications by the Seller is subject to correction.

20. MODIFICATIONS: All modifications and amendments to these Terms shall be in writing and if otherwise shall not be binding upon Seller.

21. ENTIRE AGREEMENT:

(a) To the fullest extent permitted by law, this Contract:

(i) supersedes and excludes all prior, subsequent and other discussions, representations (contractual or otherwise) and arrangements made by, between or on behalf of the parties relating to the supply of the Goods including, but not limited to, those relating to the performance of the Goods or the results that ought to be expected from using the Goods; and

(ii) overrides any quotes, invoices, terms and conditions or other documentation provided by the Buyer to the Seller or otherwise exchanged between the parties, whether or not such documents expressly provide that they override these Terms.

(b) Unless the Seller otherwise agrees in writing, the Contract contains the only terms and conditions which shall apply to all Goods supplied by the Seller.

(c) All supplies of Goods by Seller to Buyer will be deemed to be supplied under these Terms as a single supply rather than each supply constituting a new agreement.

(d) This clause 21 applies in addition to, and is not intended to limit or exclude, clause 4 of these Terms.

22. NO RELIANCE: This clause does not apply if the Buyer is a Consumer. The Buyer acknowledges, represents and warrants to the Seller that:

(a) it has made, and it relies upon, its own searches, investigations, enquiries and evaluations in respect of the Goods, or their suitability to the Buyer's intended purpose and it has not relied on any information or testing results supplied, data published or representation made by or on behalf of the Seller or the Seller's employees, agents or contractors; and

(b) no representations, promises, undertakings, statements or conduct have induced or influenced the Buyer to enter into this Contract.

23. SEVERANCE: If any of the provisions or part thereof of the Contract are unlawful or invalid by reason of any applicable statute or rule of law, then such provisions or part thereof shall be severed from the rest of the Contract, which shall remain valid and binding on the parties.

24. NO ASSIGNMENT: The Buyer must not assign, transfer, create any encumbrance or otherwise deal in any way with any of its rights under this Contract without the prior written consent of the Seller, which the Seller may give or withhold in its absolute discretion.

25. GST: Prices are exclusive of GST. The Buyer must reimburse the Seller for any GST payable on a supply of Goods in accordance with the A New Tax System (Goods and Services Tax) Act 1999 (Cth).

26. GOVERNING LAW: These Terms are governed by the laws of New South Wales, Australia. The parties submit to the non-exclusive jurisdiction of the courts of that State and courts entitled to hear appeals from those courts.