



General Terms and Conditions of Supply



- C. the payment of the cost of replacing the goods or of acquiring equivalent goods ;or
- D. the payment of the cost of having the goods repaired; and
- (ii) if the breach relates to services–
 - A. supplying of the services again; and
 - B. the payment of the cost (for the period of the breach) of having the services supplied again.
- (d) In no circumstances are we liable for any indirect, secondary or consequential loss(including among other things, loss of profits, loss of business, loss of bargain, loss of income or business interruption) that you or anyone else may suffer.
- (e) For all other liability we may be liable for, our liability will not exceed the total of any tax invoice you have paid to us that relates to such liability arising.
- (f) You indemnify us (on a full indemnity basis including all legal costs and expenses) against any claim, loss or damage we suffer to the extent that it arises from:
 - (i) any act or omission by you;
 - (ii) any breach of any law by you;
 - (iii) any breach of a customer contract; by you or anyone receiving the goods and services or the benefit of them.

14. Substitution and Repairs

We reserve the right to:

- (a) substitute goods with ones that are of the same or similar quality where goods that you order are not available – in which case we will endeavour to advise you of this;
- (b) to vary the design of the goods at our absolute discretion to provide for the required purpose.

15. Cancellation

- (a) You acknowledge and agree that if you cancel a customer contract, we may suffer loss and damage, and we reserve our rights to recover such loss and damage from you. In the event we have suffered loss and damage, you agree to release us any deposit you have paid us, as compensation towards such loss and damage, without prejudice to any of our rights.
- (b) We may end a customer contract at anytime if:
 - (i) you breach any term of your customer contract, including non payment;
 - (ii) we deem you (in our absolute discretion) to be an unacceptable credit risk;
 - (iii) you are declared bankrupt;
 - (iv) you have been served with a bankruptcy notice, creditor's petition or winding up application;
 - (v) you are insolvent, or we have reason to believe that you are insolvent (in our absolute discretion);
 - (vi) you are placed under management, or have a receiver and manager appointed, or you go into voluntary administration or liquidation;
 - (vii) we are unable to perform our obligations under a customer contract, due to a breach by any of our suppliers, or an event of force majeure.

- (c) If a customer contract is cancelled by you or ended by us in accordance with clause 15(b), we reserve the right to:
 - (i) charge you the freight costs for the delivery and return of the goods.
 - (ii) charge you a handling and restocking fee of 25% of the price of the goods and/or services;

16. Representations and Entire Agreement

- (a) These terms contain the whole agreement between us, unless agreed otherwise in writing. We both agree that neither of us is entitled to rely on any warranty or statement in relation to:
 - A. these terms.
 - B. any goods and/or services provided under these terms, to fullest extent permitted by law.
- (b) without limiting clause 13(b), you warrant that you have not:
 - (i) relied on any representation made by us which has not been stated expressly in this Agreement, or upon any descriptions, illustrations or specifications contained in any document including catalogues or publicity material produced by us.
 - (ii) Any advice, recommendations, information or services provided by us, our employees, servants or agents regarding the goods and/or services sold and the use of the goods will not be construed as contractual guarantees, conditions or warranties.

17. Security

- (a) In consideration of us supplying and providing you the goods and/or services, you agree and consent to us:
 - (i) Registering a general security interest over all your company assets and property (if applicable);
 - (ii) Registering a caveat against any real property you may own from time to time; and/or
 - (iii) Securing or registering any other security interest against you, from time to time.on account of any monies owing to us under a customer contract, by you, from time to time.
- (b) If you are a trustee, you represent to us that you have authority under the relevant trust instrument to trade with us and to give us the security noted in clause 17(b), in your capacity as trustee.
- (c) You irrevocably appoint us as your attorney from time to time, to do all things necessary to create and register each of the security interests noted in clause 17(b).

18. Security Interest Under the PPSA

- (a) You agree that:
 - (i) Each order accepted by us, being an order accepted under these terms, creates a registrable interest under the PPSA in any goods supplied under it, including goods on consignment;
 - (ii) You acknowledge our right to register a financing statement under the PPSA with respect to the security interest created by these terms
 - (iii) If we register a security interest under the PPSA we may exercise any or all remedies afforded to us as a secured party under it, without prejudice to any other rights or remedies arising out of a breach by you, of any agreement with us;

(iv) The goods, including goods on consignment, are collateral for the purposes of the PPSA

- (b) You acknowledge and agree that you waive any rights you have under the PPSA to receive notice in relation to registration events.
- (c) Both you and we agree that neither of us will disclose information of the kind specified in section 275(1) of the PPSA.
- (d) At our election, we may exercise at any time, at our absolute discretion that any section of the PPSA specified in Section 115, will not apply to the extent permitted by section 115.

19. Force Majeure

- (a) We are not responsible for the consequences of force majeure.
- (b) For the purpose of this clause a force majeure is an event or circumstance beyond our reasonable control.

20. GST

- (a) Except where express provision is made to the contrary, the consideration payable by the customer under this agreement represents the value of any taxable supply for which payment is to be made.
- (b) Amounts payable under or in respect of a taxable supply made by us (other than under clause (c)) are GST exclusive.
- (c) Subject to us supplying you with a valid tax invoice, if we make a taxable supply for a consideration, which represents its value, then you will pay, at the same time and in the same manner as the value is otherwise payable, (or, if for any reason that does not happen, without delay after we request you to) the amount of any GST payable in respect of the taxable supply.
- (d) Subject to us supplying you with a valid tax invoice, if this agreement requires you to pay, reimburse or contribute to an amount paid or payable by us in respect of an acquisition of a taxable supply from a third party, the amount required to be paid, reimbursed or contributed by you will be the value of the acquisition by us less any input tax credit to which we are entitled plus, if our recovery from you is a taxable supply, any GST payable under clause 20.
- (e) For the purpose of this clause 20:
 - (i) GST means GST within the meaning of the GST Act; and
 - (ii) A New Tax System (Goods and Services Tax) Act 1999 (as amended).

21. Customer Contact

- (a) On our request, you must nominate at least one customer contact in writing to us.
- (b) You must keep us informed of current and accurate contact details of your customer contact/s.
- (c) A customer contact must be contactable at all reasonable times.
- (d) We may deal with a customer contact on the basis that they are your representative and have your full authority, including making variations.
- (e) A person remains your customer contact until we are given notice in writing that they are no longer your customer contact and a replacement customer contact is nominated.

22. Credit Checks

- (a) You authorise us to do the things set out in this clause 24 and acknowledge that we may do so, whenever we see fit for as long as a customer contract continues or you owe us any money.
- (b) We may use a credit report (within the meaning of the Privacy Act 1988(Cth)) on you to assess your credit worthiness or for debt recovery purposes.
- (c) We may give to a credit reporting agency any information we have about you to enable us to obtain a credit report.
- (d) We may exchange information about you with other credit providers or a credit reporting agency.
- (e) You acknowledge that we are authorised to do the things set out in this clause 24 under the Privacy Act 1988(Cth) and that to assess or review your credit worthiness, we may:
 - (i) request a third party to report about your credit worthiness; and
 - (ii) disclose financial, credit and other information about you to any person.
- (f) You must cooperate with any enquiries that we make about your credit worthiness and provide any further information, consent or authority we reasonably require.

23. Waiver

No right under a customer contract can be waived except by notice in writing signed by the party waiving it. If a party overlooks a breach by the other party on one or more occasions, it is not taken to have agreed to any future breach.

24. Assignment

- (a) You may not transfer your rights or obligations under a customer contract to or share them with anyone without our prior written consent.
- (b) We may transfer our rights or obligations under this agreement to or share them with anyone without notice to you.

25. Intellectual Property Rights

- (a) You may not use any of our intellectual property including our photographs, logos, trademarks, or get up without our written consent.
- (b) Where we allow you to use our intellectual property, we may revoke that consent at any time – where we do, you must immediately cease using our intellectual property.

26. Variations

We may vary or amend these terms without your consent, but where we do we will endeavour to notify you at least 7 days before we do so.

27. Severance

If any provision in this agreement is unlawful or inconsistent with any law, then to the extent of the unlawful nature or inconsistency, that provision may be severed from without affecting the remainder of the agreement.

28. Jurisdiction

This agreement and any customer contract are governed by the laws of Victoria, Australia. Any legal proceedings relating to them can only be taken in courts with jurisdiction in Victoria.