

CONDITIONS OF SALE

1 INTERPRETATION

1.1 In these conditions the following words will have the following meaning :

Supplier means the person or corporation stated overleaf as the Supplier;

Purchaser means the person or corporation stated overleaf as the Purchaser;

Manufacturer means the Company identified as Manufacturer on the documentation accompanying the Products;

Products means the products listed overleaf which are the subject of these conditions of sale;

Loss includes any and all losses (including indirect or consequential loss) damages, claims, liabilities and demands and all expenses, legal and otherwise (including all legal fees and disbursements incurred) of any kind and nature.

1.2 Unless otherwise stated overleaf, prices are exclusive of goods and services tax, sales tax, freight charges and other delivery costs, which taxes and costs will be payable by Purchaser.

1.3 If GST is payable on a Supply made under or in connection with these Terms, an additional amount (**Additional Amount**) is payable by the party providing consideration for the Supply (**Recipient**) equal to the amount of GST payable on that Supply as calculated by the party making the Supply (**Supplier**) in accordance with the GST Law. Words and phrases that commence with a capital letter in this paragraph 1.3 and not elsewhere defined in these Terms have the meaning given to such terms in the *A New Tax System (Goods and Services Tax) Act 1999 (Cth of Australia) (GST Act)*.

2 TERMS OF PAYMENT

2.1 Purchaser must pay the price of the Products in the manner nominated overleaf.

2.2 In the event of non-payment, Supplier will have a right to charge interest at a rate equivalent to two (2) per centum in excess of such rates as may be charged from time to time by Supplier's bankers for overdraft accommodation, calculated from the date on which payment was due to the date of full and final payment.

3 TITLE AND RISK

3.1 Title in the Products will remain vested in Supplier and shall not pass to Purchaser until payment for the Products has been made in full. If default is made by Purchaser in payment, Supplier will have the right in its absolute discretion and without further notice to enter from time to time upon Purchaser's premises and remove any or all of the Products. Supplier reserves the full right to dispose of the Products in such circumstances.

3.2 If nominated overleaf, Supplier will arrange for delivery of the Products to Purchaser at Purchaser's risk and expense. In this event, Supplier may, if so required by Purchaser and at Purchaser's expense, arrange insurance cover for the Products.

3.3 The Products will be at Purchaser's risk immediately upon dispatch from Supplier's warehouse.

3.4 Supplier will make all reasonable efforts to have the Product delivered on the date agreed to between the parties but Supplier will not be liable if delivery does not take place on this date for whatever reason.

4 ACCEPTANCE AND RETURN

4.1 Purchaser must inspect the Products forthwith upon delivery and must give notice in accordance with Clause 5 if Purchaser alleges the products are not in accordance with these conditions. If Purchaser fails to give such notice, the Products will be deemed to have been accepted by Purchaser. Claims for non-delivery must be made within fourteen (14) days after date of delivery.

4.2 Claims to return Products and obtain credit therefore must be approved by an authorised representative of Supplier. Supplier will allow Purchaser a credit for the cost of the Products accepted for return subject to a deduction of a handling charge of 20% of the invoiced value of the returned Products and any freight charges paid by Supplier for the original shipment of the Products. Supplier will not be obliged to accept for return Products which have been used. Products must be return in their original packing.

5 SAFETY OBLIGATIONS

5.1 Supplier is not familiar with the use to which customers of Purchaser intend to place the Products, safety regulations or standards not applicable throughout Australia and occupational health and safety requirements of particular industries or particular working environments. Purchaser will advise users as to the suitability of the Products for use in any particular application, fitting and responsible use of the Products, and as to the manner of using the Products for compliance with relevant regulations, standards and requirements and in accordance with Supplier's or manufacturer's instructions and common or accepted industry practice.

5.2 The Purchaser will in relation to the use of the Products comply with occupational health and safety laws and good industrial safety practice and without limitation:

- (a) do all that is necessary to ensure that the Products are used only in accordance with Supplier's specifications;
- (b) make its own assessment of the suitability of the Products having regard to the use to which Purchaser or any end-user intends to apply the Products; and
- (c) comply with any recommendations made by occupational health and safety authorities.

5.3 Purchaser will, upon the request of Supplier, provide to Supplier documentation detailing the steps taken by Purchaser in compliance with clause 5.1 and paragraphs 5.2(a), (b) and (c).

5.4 Purchaser must only use Products with accessories, spare parts and replacement items approved by Supplier or the Product's manufacturer for use with those Products.

6 WARRANTY AND LIMITATIONS

6.1 Supplier will ensure that the Products are in accordance with Supplier's specifications and such relevant Australian Standards as have mandatory operation or in relation to which Supplier specifies particular Products conform.

6.2 To the extent permitted by law:

- (a) Supplier excludes liability and will not be responsible for Loss arising from failure by any user to follow Supplier's safety directions or instructions in relation to use of Products or suitability of Products for particular uses.
- (b) Purchaser releases Supplier from and indemnifies Supplier against any liability or Loss arising out of Purchaser's failure to comply with Purchaser's responsibilities under clause 5 and this clause 6 and against any liability or Loss arising out of the use by any person of the Products other than liability caused by Supplier's breach of these provisions, breach of statutory duty or negligence.

6.3 Each Product comes with guarantees that cannot be excluded under the Australian Consumer Law. You are entitled to a replacement or a refund for a major failure and for compensation for any other reasonably foreseeable loss or damage. You are also entitled to have the Product repaired or replaced if the Product fails to be of acceptable quality and failure does not amount to a major failure. The benefits under this warranty are in addition to other rights that you may have at law.

6.4 Supplier warrants (**This Warranty**) that all Products supplied by it shall be free of defects in material and workmanship for a period of one (1) year from the date of delivery. If this product is in any way defective other than defects that result from abnormal use, Purchaser may at Purchaser's cost return it with its packaging to Supplier with a copy of this invoice and details of the defect. Supplier and/or the manufacturer will at their election replace the Products, or pay the cost of replacing such Products, or acquiring equivalent Products, or repair the Products, or pay the cost of having such Products repaired.

6.5 Any claim under This Warranty must be made within the period of one (1) year from the date of delivery and must be notified in writing to Supplier within thirty (30) days after discovery of the defect giving rise to the claim. No claims will be met until the Manufacturer, Supplier or their duly authorised representative has inspected the Products subject to the claim.

6.6 This Warranty will not apply to any Products or part thereof which have been repaired, altered or modified in any way whatsoever by any person other than Supplier or its authorised service representatives, or in respect of any defects arising whether directly or indirectly from fair wear and tear or any defect which may be caused directly or indirectly by installation, use or maintenance of the Products in any manner other than in accordance with instructions. This Warranty will not apply in respect of any component part of any Products which is not supplied by Supplier.

6.7 Notwithstanding any other provision of these Terms but subject to clauses 6.3 and

6.8, neither Supplier nor the manufacturer of a Product will be liable to any person for any Loss suffered or incurred by any such person in relation to the Products, including (but without limiting the generality thereof) any Loss caused by or resulting directly or indirectly from any failure, breakdown, defect or deficiency of whatsoever nature or kind in any Product or any loss or damage caused by the negligence of the manufacturer, Supplier or their respective servants, agents, employees, officers and subcontractors.

6.8 Nothing in these Terms excludes, limits or modifies any condition, guarantee, warranty, right or remedy implied or imposed by any statute or regulation which cannot lawfully be excluded, limited or modified. Subject to the last sentence and clause 6.3, express or implied guarantees, representations, conditions, warranties and other provisions relating to these Terms, or provision of products and services as contemplated by these Terms, are excluded to the maximum extent permitted by law. If any guarantee, warranty, term or condition is implied or imposed in relation to these Terms under the Australian Consumer Law or any other applicable legislation and cannot be excluded (a **Non-Excludable Provision**), and Supplier is able to limit remedy for a breach of that Non-Excludable Provision, then the liability of Supplier for breach of that Non-Excludable Provision is limited to one or more of the following at Supplier's election: in the case of products, to: replacement of the products or supply of equivalent products, repair of the products; payment of the cost of replacing the products or of acquiring equivalent products; or payment of the cost of having the goods repaired; and in the case of services, to: supply of the services again; or payment of the cost of having the services supplied again.

7 GENERAL

7.1 These conditions contain the entire understanding of the parties to the exclusion of any and all prior agreements of understandings either oral or written, provided that if the Products are supplied pursuant to a written distribution or Purchaser Agreement between Supplier and Purchaser the terms of that agreement will prevail over these conditions to the extent of any inconsistency. No subsequent variation of these conditions will have effect unless expressly agreed to in writing by both parties.

7.2 These Terms and the supply of Products will be governed by the laws applicable in the State of New South Wales, Australia as in force from time to time and the exclusive jurisdiction of courts of the State of New South Wales.

7.3 If any of these conditions, not being of a fundamental nature, is held to be illegal or unenforceable, the validity and enforceability of the remainder of these conditions will not be affected.

7.4 No waiver, consent of indulgence made or given by Supplier in relation to any breach or failure in Purchaser's performance shall be construed as a variation of these conditions or as a waiver of Supplier's rights in the event that such breach or failure continues or recurs.