

TERMS AND CONDITIONS OF SALE

By submitting a credit application and/or ordering goods and services ("goods") from AW Distribution Pty Limited (ABN 77 158 345 834) ("Supplier") you ("Customer") agree that the following terms and conditions of sale shall apply to the supply. These terms and conditions replace any previous terms and conditions of sale. These terms and conditions create a security interest in favour of the Supplier for the purposes of the Personal Property Securities Act 2009.

1. DEFINITIONS

"Customer" means a person whose order for the purchase of goods is accepted by the Supplier. A reference to "Supplier" includes the Supplier's associated bodies corporate (as the term is defined in the Corporations Act 2001).

"Consumer" means a person who is defined as such under the Competition and Consumer Law 2010.

"Law" means any Commonwealth or Australian state legislation regulations and the general law and includes in particular the Commonwealth Competition and Consumer Act 2010 and regulations as amended from time to time and the Commonwealth Personal Property Securities Act 2009 and regulations as amended from time to time.

"PPSA" means Personal Property Securities Act 2009.

"Purchase Monies Securities Interest" or "PMSI" has the meaning given in section 14 of the PPSA as amended from time to time.

2. INTERPRETATION

(a) "Including" is not a term of limitation.

(b) Where the context admits or requires words importing the singular number shall include the plural number, those denoting a given gender shall include all other genders and those denoting natural persons shall include corporations.

3. GENERAL

(a) Unless otherwise specifically agreed in writing by the Supplier, where any terms and conditions of the Customer's order are inconsistent with these terms and conditions, then these terms and conditions will prevail. Any variations or additions to these terms and conditions not expressly agreed to in writing by the Supplier are expressly rejected by the Supplier.

(b) A quotation by the Supplier shall not constitute an offer to sell goods to the Customer. No contract for the supply of goods shall exist between the Supplier and the Customer until a Customer's order for goods has been accepted by the Supplier (such acceptance of Customer's orders may be made and communicated by the Supplier in writing or by overt act of acceptance). The Supplier may accept or refuse any order for goods in its absolute discretion and may make its acceptance of an order conditional upon it receiving a satisfactory credit assessment of the Customer.

(c) The Supplier may vary these terms and conditions by notice in writing to the Customer. If the Customer is a Consumer, then the Customer may consider the variation and, if not acceptable, may elect not to proceed with the purchase of goods ordered before the date of the variation but which are intended to be subject to the variation. If the Customer is not a Consumer, the Customer agrees that goods delivered and/or ordered after the date of a notice of variation will be subject to the variation and acceptance of the goods or the placing of the order shall be deemed to be an acceptance of such varied terms and conditions.

(d) Should there be any variation to any of the information supplied by the Customer to the Supplier in any credit application, or there has been a change of control of the Customer or in the structure or nature of the Customer's business (such as a conversion to or from a Company or Trust) the Customer shall notify the Supplier in writing within 28 days of the variation occurring.

(e) These terms and conditions and all obligations hereunder shall be binding on the Customer's personal representatives, successors and permitted assigns and shall be for the benefit of the Supplier's successors and assigns.

4. PRICING

(a) Notwithstanding any prior acknowledgment by the Supplier of the price of goods, the prices specified for goods may at the Supplier's option be subject to alteration to reflect the Supplier's prices and charges in effect at the time of delivery.

(b) Any variations in the invoice or contract price as a consequence of currency fluctuations, taxes, customs duty or other imposts shall be to the Customer's account.

(c) The Supplier will be entitled to set off against any money owing to the Customer amounts owed to the Supplier by the Customer on any account whatsoever.

(d) If the Customer is a Consumer, then the Customer may consider the alterations referred to in this clause and, if not acceptable, may elect not to proceed with the purchase of goods ordered before the date of the variation, but which are intended to be subject to the variation.

5. ACCOUNT TERMS

(a) The Supplier shall issue a tax invoice for the goods and the Customer shall pay for all goods delivered within 30 days of the end of the month in which the goods were supplied; or in accordance with any written credit agreement between the parties, whichever is later.

(b) Credit extended to the Customer for goods sold will be made in accordance with any written agreement between the Customer and the Supplier or, in none, in accordance with the terms of credit as maintained by the Supplier at the time the Customer's account was established (as subsequently altered by the Supplier). In all other respects these terms and conditions will apply.

(c) If the Customer does not pay the Supplier by the due date, the Customer shall pay interest on monies due, charged on a daily basis at 2% per annum above the National Australia Bank Limited Base Rate (as at the due date) from the due date for payment until actual date of payment. If the Customer has an account with the Supplier, the Supplier may debit the Customer's account monthly or at such other times it chooses for such interest.

(d) The Customer shall pay any legal costs (on a solicitor/client), stamp duties and other expenses payable on these terms and conditions or any credit application, guarantee or other security documents signed by the Customer together with any collection costs or dishonoured cheque fees.

(e) The Supplier may withdraw the Customer's credit facilities at any time or vary the Customer's credit limit, without notice to the Customer or any guarantor of the Customer.

6. PERSONAL PROPERTY SECURITY ACT

(a) The Customer agrees that these terms and conditions create a PMSI in the goods (and their proceeds) supplied presently and in the future by the Supplier to the Customer.

(b) The Customer agrees to do all things necessary and execute all documents reasonably required to register the PMSI granted by the Customer under these terms and conditions and to ensure that the Supplier acquires a perfected security interest in the goods under the PPSA.

(c) This PMSI does not lose its priority as a result of the renewal, refinancing, consolidation or restructure of the subject matter of these terms and conditions and any purchase money obligations.

(d) Until ownership of the goods passes to the Customer, the Customer waives its rights under the following provisions of the PPSA, to the extent that it is permitted by law to:

(i) receive a notice of intention of removal of an accession (s.95);

(ii) receive a notice that the Supplier has determined to enforce its security interest in accordance with land law (s118);

(iii) receive a notice of enforcement action against liquid assets;

(iv) receive a notice of disposal of goods by the Supplier purchasing the goods (s129);

- (v) receive a notice to dispose of the goods (s130);
- (vi) receive a statement of account following disposal of the goods (s132(2));
- (vii) receive a statement of account if no disposal of the goods, six monthly (s152(4));
- (viii) receive notice of any proposal by the Supplier to retain the goods (s135(2));
- (ix) object to any proposal by the Supplier to either retain and dispose of the goods (s137(3));
- (x) redeem the goods (s142);
- (xi) reinstate the security agreement (a143); and
- (xii) receive a notice of any verification statement (s157(1) and 157(3)).

(e) To the extent permitted by the PPSA, these terms and conditions exclude any provisions of the PPSA which may be excluded in the Supplier's discretion and which would otherwise confer rights on the Customer.

(f) The Customer further agrees that where the Supplier has rights in addition to those under Part 4 of the PPSA, those rights shall continue to apply.

(g) The Customer's right to possession of goods still owned by the Supplier under these terms and conditions shall cease if:

- (i) the Customer being an individual, commits an act of bankruptcy,
- (ii) the Customer being a company, circumstances arise where a receiver, manager, administrator or controller becomes entitled to take possession of any of its assets, any proceedings are instituted for winding up, or the Customer entering into a Deed of Company Arrangement,
- (iii) the Customer ceasing or threatening to cease conducting business in the normal manner or applying for deregistration or receives a deregistration notice,
- (iv) any cheque the Customer provide to the Supplier,
- (v) the Customer failing to comply with any demand for payment issued by the Supplier, or

(vi) the Customer breaching any of the terms and conditions contained herein and/or are in default of any other agreement between the Supplier or any other Group Company and the Customer.

(h) The Customer expressly and irrevocably agrees that the Supplier is entitled to enter any premises where the goods supplied by the Supplier are located to repossess, remove and sell such goods. The Customer (its successors and assigns, including any external manager or administrator) shall not object to the Supplier, or its agents, entering any premises for the purpose of this clause and agrees to indemnify and keep the Supplier indemnified in respect of any claims, actions and costs that may arise against the Supplier in relation to the removal, repossession and sale of the goods pursuant to these terms and conditions including any claims brought by third parties.

(i) The Customer agrees that repossession and retention of the goods pursuant to the PPSA will only satisfy so much of the monies which may become payable to the Supplier by the Customer, as is equivalent to the Supplier's estimation of the market value of the goods as it is at the date of repossession and the repossession and retention will immediately extinguish any rights for interest the Supplier has on the value of the goods recovered.

(j) Until ownership of the goods passes, the Customer must not give the Supplier a written demand or allow any other person to give the Supplier a written demand requiring the Supplier to register a financing change statement under the PPSA or enter into or allow any other person to enter into the personal property securities register a financing change statement under the PPSA.

(k) The Customer agrees not to change the Customer name or under- take any changes to any documents that the Supplier has registered, requires to be registered or are capable of being registered without our prior written consent of the Supplier.

where the customer is a Consumer.

7. DEFAULT

If:

(a) the Supplier has any reasonable grounds to believe that the Customer may not be able to make due and punctual payment to the Supplier of any monies owing by the Customer or there is any default or failure by the Customer in making such payments;

(b) an administrator, liquidator, provisional liquidator or external manager is appointed in respect of the Customer;

(c) a receiver, receiver and manager, administrator or controller is appointed in respect of any assets or group of assets of the Customer;

(d) the Customer goes into bankruptcy or is wound up;

(e) the Customer becomes, admits in writing that it is, or is declared by a court to be unable to pay its debts as and when they fall due; or

(f) there is a breach by the Customer of any of these terms and conditions, then all monies payable by the Customer to the Supplier and any Group Company may, at the Supplier's election, become immediately due and payable notwithstanding the due date for payment shall not have expired; and

(i) the Supplier and any Group Company may without prejudice to any other rights it may have do any or all of the following:

(a) withdraw any credit facilities which may have been extended to the Customer;

(b) withhold any further delivery of goods;

(c) in respect of goods already delivered, enter onto the Customer's premises to recover and resell the goods for its own benefit;

(d) recover from the Customer the cost of materials or goods acquired for the purpose of future deliveries;

(e) exercise such rights as are afforded to the Supplier under the PPSA; and

(f) Register a default with any credit reference facility.

8. DELIVERY

(a) Goods will be delivered or deemed to be delivered when they are delivered to the delivery place nominated by the Customer. If no such address is nominated then delivery will be deemed to occur at the time when the goods are ready for collection at the Supplier's premises.

(b) The Customer shall pay to the Supplier packing (other than the standard packing of the Supplier), crating and delivery charges in accordance with the Supplier's current rates, as at the date of dispatch. If there is no current rate then the Supplier may charge a reasonable amount to the Customer. The Supplier may charge a reasonable amount for storage if delivery instructions are not provided by the Customer within 14 days of a request by the Supplier for such information.

(c) The Customer authorises the Supplier to deliver goods to the place nominated by the Customer and to leave the goods at such place whether or not any person is present to accept delivery. The Supplier shall not be liable on any basis whatsoever for loss suffered by the Customer after delivery.

(d) The Supplier shall not be obliged to obtain a signed receipt or other acknowledgment from any person at the nominated place for delivery but if a signed receipt or other acknowledgment is obtained from someone believed by the Supplier to be authorised by the Customer to sign or otherwise take delivery, then such signed receipt or other acknowledgment shall be conclusive evidence of the Customer's acceptance of the goods delivered.

(e) Any times quoted for delivery are estimates only and the Supplier shall not be liable to the Customer for any failure to deliver or for delay in delivery of goods occasioned by any other cause whatsoever

whether or not beyond the control of the Supplier.

(f) The Customer shall not be relieved of any obligation to accept or pay for goods by reason of any delay in delivery.

(g) The Supplier reserves the right to deliver goods by instalments and each instalment shall be deemed to be sold under a separate contract. Failure to deliver any instalment or deliver any instalment on time shall not entitle the Customer to repudiate the contract in whole or in part.

9. PROPERTY AND RISK

(a) The goods shall be at the sole risk of the Customer as soon as they are delivered or deemed to be delivered.

(b) Property in and title to the goods will not pass to the Customer until those goods and all other amounts owed to the Supplier by the Customer have been paid for in full and until then:

(i) the Customer will hold the goods as fiduciary and bailee for the Supplier;

(ii) the goods must be stored separately and in a manner enabling them to be identified as goods of the Supplier and cross-referenced to particular invoices and the Customer acknowledges that if it should process or mix the goods with other goods or items such that the goods are no longer separately identifiable then the Customer and the Supplier will be owners in common of the new goods;

(iii) the Customer may sell the goods in the ordinary course of its business as bailee for the Supplier and will hold the proceeds of sale in a separate account on trust for the Supplier and account to the Supplier for those proceeds; and

(iv) the Supplier may require the Customer to return the goods to it on demand and may enter upon the premises of the Customer to inspect or repossess the goods.

(c) The Customer expressly and irrevocably agrees that the Supplier is entitled to enter any premises where the goods supplied by the Supplier are located to, repossess, remove and sell such goods. The Customer, its successors and assigns (including any external manager or administrator) shall not object to the Supplier, or its agents, entering any premises for the purpose of this clause and agrees to indemnify and keep the Supplier indemnified in respect of any claims, actions and costs that may arise against the Supplier in relation to the removal, repossession and sale of the goods pursuant to these terms and conditions including any claims brought by third parties.

(d) The Customer shall insure the goods against theft or any damage until such goods have been paid for or until they are sold by the Customer whichever occurs first and the Supplier will be entitled to call for details of the insurance policy. If the Customer does not insure the goods or fails to supply details of its insurance policy the Customer will reimburse the Supplier for the cost of any insurance which the Supplier may reasonably arrange in respect of the goods supplied to the Customer.

10. SPECIAL ORDERS

The Customer warrants to the Supplier that all drawings and specifications and other design information provided to the Supplier for the manufacture of special orders or tooling are accurate and correct in all respects, comply with any relevant standards or legal or regulatory requirements, and do not infringe upon the intellectual property rights of any party including any copyright, patents, designs or trademarks of a third party.

11. RETURN OF GOODS – CONSUMERS

(a) If the Customer is a Consumer,

(b) the goods come with guarantees that cannot be excluded under the Australian Consumer Law. The Customer is entitled to a replacement or refund for a major failure and to compensation for any other reasonably foreseeable loss or damage. The Customer is entitled to have the goods repaired or replaced if the goods fail to be of acceptable quality and the failure does not amount to a major failure.

(c) The guarantees under the Australian Consumer Law are given by the Supplier.

(d) If the Customer believes the goods do not comply with the statutory guarantees, they must contact the Supplier and the parties may make arrangements for the return of the goods. Any returned goods must be accompanied by proof of purchase. If the Supplier agrees that the goods do not comply with the statutory guarantee the Supplier will refund the costs of returning the goods to the Supplier and, in all other respects, act in accordance with its obligations under the Australian Consumer Law.

(e) No other guarantees or warranties apply to the goods unless a further and additional warranty is provided, in writing, to the Customer by the Supplier.

12. RETURN OF GOODS AND CLAIMS UPON SUPPLIER (NON CONSUMERS)

(a) If the Customer is not a Consumer,

(b) Unless agreed in writing by the Supplier, the Supplier will not accept the return of goods. Goods accepted for return by the Supplier may attract a charge to recover restocking and repackaging charges. The amount of this charge will be determined by the Supplier, and deducted from the amount of credit allowed to Customer.

(c) The proof of purchase from the Customer must accompany all goods returned to the Supplier.

(d) All claims for the Supplier's failure to comply with the Customer's order whether due to shortfall, defect, incorrect delivery or otherwise must be made by giving written notice to the Supplier within fourteen (14) days from the date of delivery. If the Customer fails to provide such notice then the Customer shall be deemed to have accepted the goods.

(e) These conditions shall not exclude, or limit the application of any provision of any statute including any implied condition or warranty the exclusion of which would contravene any statute or cause any part of this clause to be void. To the extent permitted by law all conditions, warranties and undertakings are expressly excluded.

(f) The Supplier's liability for breach of a non-excludable condition or warranty is limited at the Supplier's option, to any one of the following:

(i) the replacement of the goods or the supply of equivalent goods;

(ii) the repair of the goods;

(iii) the payment of the cost of providing replacement goods or of acquiring equivalent goods; or

(iv) the payment of the cost of having the goods repaired.

(g) The Supplier shall not be liable for any indirect loss or damages whatsoever, including consequential loss, loss of profits, loss of opportunity or loss of use.

13. FITNESS FOR PURPOSE

To the maximum extent permitted by the Law, the Customer agrees that it does not rely on the skill or judgement of the Supplier in relation to the suitability of any goods for a particular purpose. Any advice, recommendation, information or assistance provided by the Supplier is provided without any liability by the Supplier whatsoever.

14. PRIVACY

(a) The Supplier's Privacy Policy, available on its website or upon request to the Supplier, forms part of these Terms and Conditions.

(b) Our web site may be hosted, or some data may be stored overseas for reasons of uniformity and convenience for AW Distribution Pty Ltd. All personal information derived from Australia will still be treated in accordance with this Privacy Policy while being stored overseas

(c) In accordance with the Privacy Policy, the Customer agrees that the Supplier may use or disclose information and to third parties for the purpose of providing the goods, providing information about goods; performing our administrative and marketing operations; complying with legislative and regulatory requirements or as otherwise permitted or authorised by law; considering any other

application you may make to the Supplier managing our rights and obligations in relation to external payment systems, e.g. credit card schemes and debit payment schemes; conducting market research or customer satisfaction research; developing, establishing and administering arrangements (including rewards programs) with other organisations in relation to the promotion, administration and use of the AW Distribution's goods; and developing and identifying products and services that may interest you.

15. GST

(a) In this clause the expressions "GST", "input tax credit", "tax invoice", "recipient" and "taxable supply" have the meanings given to those expressions in the A New Tax System, (Goods and Services Tax) Act 1999.

(b) With the exception of any amount payable under this clause 15, unless otherwise expressly stated all amounts stated to be payable by the Customer under these terms and conditions are exclusive of GST.

(c) If GST is imposed on any supply made under or in accordance with these terms and conditions, the recipient of the taxable supply must pay to the supplier an additional amount equal to the GST payable on or for the taxable supply. Payment of the additional amount will be made at the same time as payment for the taxable supply is required to be made in accordance with this document, subject to the provision of a tax invoice.

16. CHARGE

The Customer hereby charges all property, both equitable and legal, present or future of mine/ours and the Company/Trustee Company/ Trust/ Sole Trader/ Partnership (as applicable), in respect of any monies that may hereinafter be owing to the Supplier under this Credit Application and Agreement by the Customer or otherwise and hereby authorise the Supplier or its solicitors to execute any consent form as its attorney for the purpose of registering a mortgage or caveat over any real property owned by the Customer and any of the Company/Trustee Company/ Trust/ Sole Trader/Partnership (as applicable) at any time, or to register this charge over assets of the Customer's and the Company/Trustee Company/Trust/Sole Trader/Partnership (as applicable) with the Australian Securities and Investments Commission. The costs and Stamp Duty payable on the Mortgage or Caveat are payable by the Customer

17. TRUST AND TRUSTEES

Where the Customer is a trustee:

(i) The Customer agrees to produce a stamped copy of the trust deed (with all amendments) if and when requested by the Supplier.

(ii) The Customer warrants that it has full power and authority to enter into this Agreement on behalf of the trust and that it shall be bound by these terms and conditions both personally and as trustee, irrespective of whether or not it discloses to the Supplier that it is a trustee at the time of entering into any credit agreement with the Supplier.

18. LAWS TO GOVERN PROVISIONS OF AGREEMENT

(a) These terms and conditions shall be governed by and construed in accordance with the laws of New South Wales. The parties submit to the exclusive jurisdiction of the courts of New South Wales.

19. NOTICE

Notice to be given by the Customer to the Supplier may be delivered personally or sent by electronic transmission to the credit manager of the Supplier at the Supplier's address as follows:

AW Distribution Pty Limited, 381 Victoria Street, Wetherill Park NSW 2164

and unless the contrary is proved shall be taken as delivered when received by the Supplier. Notice to be given to the Customer by the Supplier may be delivered personally, or sent to the Customer's last known address and unless the contrary is proved shall be taken as delivered on the second business day following posting. Invoices and statements are deemed received by the Customer on the second business day after posting by ordinary prepaid post.

20. SEVERANCE

In the event that the whole or any part or parts of any provisions in this Agreement should be held to be void or unenforceable in whole or in part such provision or part thereof shall to that extent be severed from these terms and conditions but the validity and enforceability of the remainder of these terms and conditions shall not be affected.

21. SUB CONTRACTING

The Supplier reserves the right to sub-contract the manufacture and/or supply of the goods or any part thereof to a third party.

22. CERTIFICATE

A statement in writing signed by the Supplier's credit manager stating monies payable by the Customer to the Supplier shall be prima facie evidence of the amounts so payable.

23. TOLERANCES

The Supplier reserves the right to supply and invoice a quantity plus or minus a % of the quantity of the goods ordered as set out below:

Order Quantity Tolerance

AW Distribution Pty Limited:

1000kg or over +/-10%
500kg to under 1000 kg +/-15%
150kg to under 500kg +/-20%
under 150kg +/-30%

The Customer must pay for the quantity of goods delivered.

24. TOOLING

Where tooling is manufactured for use by the Supplier (notwithstanding that the Customer may have contributed to the cost of development or manufacture of such tooling) will, unless otherwise agreed be and remain the property of the Supplier (including all intellectual property rights in the tooling) and the Supplier shall be entitled to deal with such tooling as it so determines.

25. PACKING

(a) The Supplier retains the right of possession of any Supplier owned boxes, pallets or skips used for delivery of the goods and the Customer agrees to indemnify the Supplier in respect of any boxes, pallets or skips not returned in good order (subject to fair wear and tear), and condition to the Supplier within 14 days of delivery of the goods.

(b) If packing is charged for and is returnable an allowance will only be made for the return of such packing when it has been received by the Supplier in good condition.