

## TERMS & CONDITIONS OF SALE

HOMERSHAM LIMITED (the Seller”) and THE PURCHASER OF GOODS FROM THE SELLER (“the Buyer”) agree as follows:

### **1. GENERAL**

Orders are accepted and goods supplied upon and subject to these terms and conditions of sale together with the quotation given by the Seller (if any). The Seller is entitled to vary these terms and conditions of sale but any such variation must be in writing. The terms and conditions may not be unilaterally varied by the Buyer.

### **2. PRICE**

Unless previously withdrawn by the Seller, the quotation will remain open for acceptance within 30 days from the date of the quotation, or such other period (if any) as is specified in the quotation. Any quotation not accepted within that time will lapse upon the expiry of that time unless written confirmation of renewal is obtained. All prices quoted are net, unpacked, ex the Seller’s store or on consignment. Unless otherwise specified the quoted price is exclusive of Goods and Services Tax which is additional and calculated at the time of invoicing in accordance with the rate ruling.

### **3. PAYMENT**

- a) Payment is due on the 20th day of the month following delivery. Failure to do so may result in the stopping of credit facilities without notice, until payment is made. Overdue accounts will incur interest charges of 3% per month.
- b) Continued noncompliance will result in the account being closed, and legal action taken to recover the amounts outstanding. All costs of collection including debt collector’s fees will be added to the account.
- c) I/We authorise any seller or person to irrevocably provide you with such information as you may require in response to your credit enquiries for your provision of credit to me/us.
- d) I/We further authorise you to furnish any third party any details contained in this application and any details of subsequent dealings that I/We may have as a result of this application being actioned by you and to use for any lawful purpose connected with our business, any information which I/we or any third party may provide.
- e) Title of these goods remains with the seller until they have been paid in full.

### **4. DELIVERY**

The Seller’s delivery records shall be prima facie proof of delivery of the goods of the quantity and description stated therein.

The Seller shall not be under any liability whatsoever for the consequence of any delay in completion, delivery, or dispatch of the goods for any reason.

### **5. EXCLUSION LIABILITY**

- a) The supply of goods by the Seller is for business purposes and accordingly the Consumer Guarantees Act 1993 does not apply.
- b) All warranties expressed or implied at common law or by Sale of Goods Act 1908 are hereby negated.
- c) The Seller shall be under no liability to the Buyer for any loss (including but not limited to loss of profit and consequential loss) of any kind whatsoever arising out of the supply of or failure to supply goods hereunder.
- d) The Seller shall be under no liability to the Buyer for any defect or defects or deterioration of goods or any part thereof (except as provided in paragraph 7 hereunder). The Seller gives no warranty that the goods are suitable for the purpose for which the Buyer proposes to use them and the Buyer must be satisfied, in the Buyer’s own judgment, that such goods are in fact so suitable. As the Seller may have no control over the inclusion of any goods as components of any process or equipment the Seller gives no warranty that the goods will then function in any particular way.

## 6. WARRANTY

- a) Goods supplied are guaranteed for the period of the manufacturer's warranty from the date of delivery against defective work material and workmanship, provided payment for such goods is made in accordance with clauses 3 and 4. The Buyer shall return the defective goods to the Seller's premises. The Seller shall determine whether or not the goods will be repaired or altered or replaced or whether the purchase price is to be refunded. The Seller shall not be liable for any charges covering repairs or alterations to the goods made by the Buyer, or at the request of the Buyer, without the Seller's prior written consent first having been obtained.
- b) Any claim for short delivery is to be notified to the Seller within three days of the Buyer's receipt of goods and the Buyer must provide full invoice or packing slip details. If no notification is received the Buyer is deemed to have accepted the goods.

## 7. RISK

Goods supplied by the Seller to the Buyer shall be at the Buyer's risk immediately after the goods leave the Seller's store. The Seller will arrange 'all risk' insurance cover on behalf of and to the charge of the Buyer on receipt of the Buyer's written instructions.

## 8. RETURN OF GOODS

Goods are not returnable except with the written consent of the Seller. In such cases, full invoice or packing slip details are required.

## 9. OWNERSHIP

- a) Ownership of any goods sold or delivered by the Seller is retained by the Seller until payment is made in full. The delivery or sale of the goods by the Seller to the Buyer under these conditions of sale creates a fiduciary relationship between the Seller and the Buyer in relation to these goods.
- b) All goods sold or delivered by the Seller to the Buyer in which ownership is retained by the Seller, must be stored separately so as to be readily identifiable.
- c) The conditions of sale shall apply notwithstanding that the goods may be amalgamated with or attached to other goods.
- d) The Seller and its agent shall, at all times, have the right to enter the Buyer's premises without notice to take possession of any goods in which ownership has been retained under these conditions.

## 10. RIGHTS AND OBLIGATIONS

All rights and obligations of the parties pursuant to or otherwise arising out of this contract shall be governed by the laws of New Zealand.