

## Terms & Conditions

These are the terms and conditions upon which all Companies (as named in section 1.13 below) or agents for the Company sell and quote for the sale of goods.

### 1. Definitions

In these terms and conditions, The following have the meanings set out below:

- 1.1. "Application" in relation to a Customer means the Commercial Credit Account Application signed by the Customer which refers to these terms and conditions;
- 1.2. "Credit" means the ability of a customer to obtain goods or services before payment;
- 1.3. "Customer" means the Person named in the relevant Sales Invoice, Sales Order or Quotation;
- 1.4. "Exclusive Goods" means any goods which are, at the Customer's request, embellished, embroidered, printed, machined, cut-to-size or specifically ordered for the Customer;
- 1.5. "GST" means the goods and services tax as imposed by the GST Law together with any related interest, penalties, fines or other charge;
- 1.6. "GST Amount" means any Payment (or the relevant part of that Payment) multiplied by the appropriate rate of GST;
- 1.7. "GST Law" has the meaning given to that term in A New Tax System (Goods and Services) Act 1999, or, if that Act does not exist for any reason, means any Act imposing or relating to the imposition or administration of a goods and services tax in Australia and any regulation made under that Act;
- 1.8. "Payment" means any amount payable under or in connection with a Quotation or Sales Invoice including any amount payable by way of indemnity, reimbursement or otherwise (other than a GST Amount) and includes the provision of any non-monetary consideration;
- 1.9. "Person" includes an individual, the estate of an individual, a body politic, a corporation, an association (incorporated or unincorporated) and a statutory or other authority;
- 1.10. "PPSA" means the Personal Property Securities Act 2009 (Cth) as amended;
- 1.11. "Delivery Point" means the final place of delivery to the customer;
- 1.12. "Purchase Price" means the price for the goods set out in the relevant Quotation or Sales Invoice;
- 1.13. "Quotation" means the form of quotation submitted by the Company to the Customer in which these terms and conditions are accepted by the Buyer;
- 1.14. "Company" in relation to any Quotation, Sales Order or Sales Invoice means: acknowledges that the Company, as named above acts only as the agent of that Person.
- 1.15. "Tax Invoice" has the meaning given to that term by the GST Law;
- 1.16. "Taxable Supply" has the meaning given to that term by the GST Law;
- 1.17. "Sales Invoice" means the sales invoice issued by the Company to the Customer in which these terms and conditions are, or are accepted by the Buyer;
- 1.18. "Security Interest" has the meaning given under the PPSA; and
- 1.19. "Smalls" means any goods that are not classified as capital equipment, tanks and/or cubes.

### 2. Interpretation

- 2.1. Any special conditions specified on a Quotation, Sales Order or Sales Invoice shall, to the extent they are inconsistent with these terms and conditions, take precedence over these terms and conditions.
  - 2.1.1. Words importing the singular shall include the plural (and vice versa).
  - 2.1.2. If any provision of these terms and conditions are invalid and do not go to the essence of this agreement, these terms and conditions should be read as if that provision has been severed.

### 3. Governing Terms and Conditions

- 3.1. These are the only terms and conditions which are binding upon the Company with the exception of those otherwise agreed in writing by the Company which is imposed by a statute and which cannot be excluded. Any direction by the Customer either verbal or written to procure goods or services from the Company will be deemed as acceptance by the Customer of these terms and conditions, despite any provisions to the contrary in the direction or any purchase order issued by the Customer.

#### 4. Terms of Payment

- 4.1. The standard payment terms from the Company is deemed as 40% deposit due upon order placement, with the balance due prior to despatch ex works of the goods. It should be noted that production will not commence until remittance of the deposit payment.
- 4.2. The customer must not withhold payment of any amount by reason of any account query, dispute or claimed deduction.
- 4.3. If the Company extends credit to the Customer, credit will be on Smalls only, unless otherwise advised in writing by the Company. Payment for all goods sold must be made within the terms outlined in the signed Customer Credit Account Application, or otherwise communicated in writing by the Company. Interest shall be payable by the Customer on all amounts overdue to the Company at the rate of 3 (three) per cent compounded monthly from the due date until the date of full payment is received by the Company.

#### 5. Inspection and Acceptance

- 5.1. The Customer shall inspect all goods upon delivery and shall within 24 hours of delivery give notice to the Company named in the relevant Sales Invoice of any alleged defect whereby the goods are not in accordance with the Customer's order. Failing such notice, subject to any non-excludable condition implied by law, such as those in the Competition and Consumer Act 2010.

#### 6. Returns

- 6.1. Returns will be accepted for faulty or defective goods or any other non-excludable obligations of the Company set out in the Competition and Consumer Act 2010 or similar State and Territory legislation.
- 6.2. Returns other than those referred to in (6.1) above, must be approved by the Company named in the relevant Sales Invoice. These authorised returns must be freight prepaid and will only be accepted if they are in a saleable condition. The Company reserves the right to charge a handling fee equal to 20% of the price of the goods returned under this provision. Products specifically purchased, manufactured, machined or cut to size or to the Customer's specification are not returnable unless they are of the kind referred to in (6.1) above.

#### 7. Quotations

- 7.1. Unless previously withdrawn, a quotation is valid for 30 days or such other period as stated in it. A quotation is not to be construed as an obligation to sell but merely an invitation to treat and no contractual relationship shall arise from it until the Customer's order has been accepted in writing by the Company which provided the Quotation.
- 7.2. The Company will not be bound by any conditions attaching to the Customer's Purchase Order or acceptance of a Quotation and, unless such conditions are expressly accepted and executed by the relevant Company in writing, the Customer acknowledges that such conditions are expressly negated.
- 7.3. Every Quotation is subject to and conditional upon obtaining any necessary import, export or other licence.
- 7.4. The Customer accepts the Companies' Terms and Conditions of sale upon issue of their Purchase Order, the Customer acknowledges these Terms and Conditions to take precedence unless agreed otherwise in writing.

#### 8. GST

- 8.1. The parties agree that:
  - 8.1.1. the Purchase Price is inclusive of GST;
  - 8.1.2. all other Payments have been calculated without regard to GST;
  - 8.1.3. each party will comply with its obligations under the Competition and Consumer Act 2010 when calculating the amount of any Payment and the amount of any relevant Payments will be adjusted accordingly;
  - 8.1.4. if the whole or any part of any Payment is the consideration for a Taxable Supply (other than for payment of the Purchase Price) for which the payee is liable to GST, the payer must pay to the payee an additional amount equal to the GST Amount, either concurrently with that Payment or as otherwise agreed in writing. any reference to a cost or expense in this Agreement excludes any amount in respect of GST forming part of the relevant cost or expense when incurred by the relevant party for which that party can claim an Input Tax Credit; and the payee will provide to the payer a Tax Invoice.

## 9. Passing of Property and Risk

- 9.1. Goods supplied by a Company to the Customer shall be at the Customer's risk immediately upon delivery to the Customer, into the Customer's custody or at the Customer's direction (whichever happens first). The Customer shall insure the goods from the time of that delivery at its cost against such risks as it thinks appropriate, shall note the interest of the Company named in the relevant Sales Invoice on the insurance policy and shall produce a certificate to this effect to that Company upon request.
- 9.2. Property in the goods supplied by a Company to the Customer under these terms and conditions shall not pass to the Customer until those goods and other goods have been paid for in full.
- 9.3. Title to the Goods will pass from the Company to the Customer on the earlier of delivery to the delivery point or when the Customer pays for the goods.
- 9.4. Until the goods have been paid for in full:
  - 9.4.1. the Customer shall store the goods in a manner which shows clearly that they are the property of the Company which supplied them; and
  - 9.4.2. the Customer may sell the goods, in the ordinary course of its business, as agent for the Company and shall account to the Company for the proceeds of sale (including any proceeds from insurance claims). These proceeds must be kept in a separate bank account.
- 9.5. The Customer irrevocably authorises each Company at any time to enter onto any premises upon which:
  - 9.5.1. the Company's goods are stored to enable the Company to:– inspect the goods; and/or – if the Customer has breached these terms and conditions, reclaim the goods;
  - 9.5.2. the Customer's records pertaining to the goods are held to inspect and copy such records.
- 9.6. The Customer and each Company agree that the provisions of this clause apply notwithstanding any arrangement under which that Company grants credit to the Customer.

## 10. Supply

- 10.1. The Company reserves the right to suspend or discontinue the supply of goods to the Customer without being obliged to give any reason for its action.

## 11. Part Deliveries

- 11.1. Each Company reserves the right to make part deliveries of any order, and each part delivery shall constitute a separate sale of goods upon these terms and conditions. A part delivery of an order shall not invalidate the balance of an order.

## 12. Installation

- 12.1. A Company's Quotation or Sale Invoice is made on a supply only basis. Installation and commissioning (if any) is at the expense of the Customer unless otherwise specified in writing by the relevant Company.
- 12.2. Installations and commissioning will always be cost estimates when applicable.

## 13. Dimensions, Performance Data and other Descriptive Details

- 13.1. Photographs, drawings, illustrations, weights, dimensions and any other particulars accompanying, associated with or given in a Quotation, descriptive literature, website or a catalogue approximate the goods offered but may be subject to alteration without notice.
- 13.2. Any performance data provided by a Company or a manufacturer is an estimate only and should be construed accordingly.
- 13.3. Unless agreed to the contrary in writing, each Company reserves the right to supply an alternative brand or substitute product when necessary.

#### **14. Shipment and Delivery**

- 14.1. Upon acceptance of an order by a Company that Company will seek confirmation of the period of shipment or delivery. If any variation has occurred in the quoted period, that Company will notify the Customer. Unless the Customer objects in writing within seven days of that notification to the Customer, the period of shipment or delivery notified to the Customer will be the contractual period for shipment or delivery.
- 14.2. A delivery charge will apply to all deliveries with the exception of back order deliveries which are part of an original order that has been partly fulfilled.
- 14.3. The company is not responsible for any damage caused during shipping.

#### **15. Shipping Orders**

- 15.1. Unless otherwise agreed, the Customer must place any order for non-stock items on the Company in writing.

#### **16. Manufacturers' Changes**

- 16.1. Where a Company is acting as agent for a manufacturer or supplier, the Company shall not be liable for any alteration or variation in the goods made by this manufacturer or the supplier.

#### **17. Currency**

- 17.1. Where goods are imported into Australia, any adverse variation in the price arising from fluctuation in exchange rates between the date of the Customer's order and the date of payment by the relevant Company will be to the Customer's account.

#### **18. Contingencies**

- 18.1. Any charge, duty, impost, sales tax or other expenditure which is not applicable at the date of Quotation or Sales Invoice but which is subsequently levied upon a Company in relation to a Quotation or Sales Invoice as a result of the introduction of any legislation, regulation or governmental policy, shall be to the Customer's account.

#### **19. Charges Beyond Point of Delivery Quoted**

- 19.1. Unless otherwise agreed in writing, if a Company prepays freight, insurance, custom and import duties (if any), landing and delivery charges and all other charges in connection with shipment and delivery of the goods, then any such charges shall be charged to the Customer's account. Each Company reserves the right to nominate the means of delivery.

#### **20. Force Majeure**

- 20.1. If the performance or observance of any obligations of any Company is prevented, restricted or affected by reason of a force majeure event including strike, lock out, industrial dispute, raw material shortage, breakdown of plant, transport or equipment or any other cause beyond the reasonable control of the Company, the Company may, in its absolute discretion give prompt notice of that cause to the Customer. On delivery of that notice the Company is excused from such performance or observance to the extent of the relevant prevention, restriction or effect.

#### **21. Default of Customer**

- 21.1. If these terms and conditions are not strictly observed by the Customer, the Company may in its absolute discretion, refuse to supply to the Customer and the Company shall not be liable to the Customer for any loss or damage the Customer may sustain as a result of such refusal. The costs of collection of any moneys are due and payable by the Customer, including the fees of any mercantile agent or lawyer engaged by the Company.



Unit 3, 11-15 Business Drive  
Narangba QLD 4504 AU



P: +61 (0) 7 3204 9558  
P: 1300 604 999



team@ehon.com.au  
ABN: 12 670 833 379

## 22. Customer's Cancellation

- 22.1. Unless otherwise agreed in writing, the Customer shall have no right to cancel an order which has been accepted by a Company. If a right of cancellation is expressly reserved to the Customer, such right of cancellation must be exercised by notice in writing from the Customer to the Company with which the order has been placed not later than 7 days prior to the estimated date of shipment by the manufacturer or that Company as the case may be. Unless otherwise agreed between the Customer and Company, upon cancellation prior to shipment any deposit paid by the Customer shall be forfeited to the manufacturer or Company (as the case may be). Despite the cancellation of any order for any reason, the Customer must still purchase from the Company any goods ordered by the Customer which constitute Exclusive Goods (whether in store, in transit or being manufactured) which were procured or ordered by the Company before such cancellation, unless otherwise agreed in writing by the Company.

## 23. Warranty

- 23.1. The Company makes no express warranties under this Agreement except that to the extent the goods supplied are covered by the manufacturer's warranty, the Company will pass on to the Customer the benefit of the manufacturer's warranty.
- 23.2. Upon discovery of any defect in the goods supplied by a Company the Customer shall immediately notify that Company in writing. The Customer shall not carry out any remedial work to allegedly defective goods without first obtaining the written consent of that Company to do so.
- 23.3. The Company does not exclude or limit application of any provision of any statute (including Competition and Consumer Act 2010) where to do so would contravene that statute or cause any part of this clause to be void.
- 23.4. The Company excludes all conditions, warranties and terms, whether expressed or implied by law or otherwise in respect of the goods which may apart from this clause be binding upon the Company, except any implied conditions and warranties the exclusion of which would contravene any statute or cause this clause to be void.
- 23.5. To the extent permitted by statute, the liability, if any, of the Company arising from the breach of any implied conditions or warranties in relation to the supply of goods, shall at the Company's option be:
- 23.5.1. Subject to the Company's Inspection and Judgment; and
- 23.5.2. Limited to repair only; or
- 23.5.3. Limited to parts only. Labour and costs associated with any site works is to the Customer's account.
- 23.6. The Company excludes all liability to the Customer in negligence for acts or omissions of the Company, its employees, agents and contractors and all liability to the Customer in contract for consequential or indirect loss or damages, arising out of or in connection with this Agreement.
- 23.7. The Customer expressly acknowledges and agrees that it has not relied upon, any advice given by the Company, its agents or employees in relation to the suitability for any purpose of goods or materials supplied by a Company.
- 23.8. To the extent permitted by statute, all warranties (whether express or implied, and whether given by the Company, the manufacturer or a third party) and any obligation of the Company to repair or replace any goods are void in respect of any goods which the Customer tampers with or alters.

## 24. Alteration to Conditions

- 24.1. A Company may, at any time and from time to time, alter these terms and conditions.

## 25. Vienna Sales Convention

- 25.1. The United Nations Convention on Contracts for the International Sale of Goods (Vienna 1980) known as the Vienna Sales Convention does not apply to the contract comprised by these terms and conditions nor do any of the terms and conditions express or implied by the Vienna Sales Convention form part of the contract.

## 26. Governing Law

- 26.1. These terms and conditions and any contract including them shall be governed by and construed in accordance with the laws of the State of Queensland and the Company and the Customer submit to the non-exclusive jurisdiction of the Courts of Queensland.

## **27. Clerical Errors**

- 27.1. Clerical errors in computations, typing or otherwise of catalogue, quotation, acceptance offer, invoice, delivery docket, credit note, specifications of Company shall be subject to correction.

## **28. Personal Property Securities Act 2009 (CTH)**

- 28.1. If a term used in this clause 28 or elsewhere in these Terms has a particular meaning in the PPSA, it has the same meaning in these Terms.
- 28.2. The Customer acknowledges that the Supplier may register one or more financing statements in relation to any security interest provided for by these Terms. If permitted by the PPSA, the customer waives its right under section 157 of the PPSA to receive notice of any verification statement relating to the registration of any such financing statement or any related financing charge statement.
- 28.3. The customer must provide the Supplier with all information the Supplier requires in order to ensure that any registration of any security interest that may be granted in favour of the Supplier under these Terms is, and remains, fully effective and with the priority that the Supplier requires.

## **29. Intellectual Property**

- 29.1. All drawings, designs, specifications, inventions, devices, developments, processes, copyrights and other information or industrial or intellectual property disclosed or otherwise provided to the customer by the company or otherwise and all rights therein will remain the property of the Company and will be kept confidential by the customer. The customer shall have no claim to, nor ownership interest in, any intellectual property. The customer acknowledges that no license or rights of any sort are granted to the Customer in respect of any Intellectual Property, other than the limited right to use Products purchased from the Company for the purpose they are supplied by the Company.
- 29.2. The customer warrants that any products manufactured, constructed or supplied by the Company which are based in whole or in part upon designs, drawings, specifications or information supplied by the Company or on behalf of the Customer shall not infringe any letters, patents or registered designs or any other industrial or intellectual property rights of any person.

## **30. Confidential Information**

- 30.1. All information furnished or made available by the Company to the Customer in connection with the subject matter of these Terms and Conditions or the supply of products shall be held in the strictest confidence by the Customer. The customer agrees not to use or disclose such information to others without the Company's prior approval.

Updated November 2024.



Unit 3, 11-15 Business Drive  
Narangba QLD 4504 AU



P: +61 (0) 7 3204 9558  
P: 1300 604 999



team@ehon.com.au  
ABN: 12 670 833 379