

## Reflex Labels & Packaging Asia Pacific Pty Ltd

### TERMS AND CONDITIONS OF SALE

#### 1. APPLICATION OF THESE TERMS AND CONDITIONS AND QUOTATIONS

##### 1.1 Definitions

In this document ("Terms and Conditions"):

- (a) "Application" means the application by the Buyer to the Seller for commercial credit;
- (b) "Contract" has the meaning given to it in clause 1.2;
- (c) "Credit Application" means the application for the line of credit with the Seller in the form required by the Seller from time to time;
- (d) "Buyer" means the person placing the Order with the Seller;
- (e) "Goods" means any goods, products or materials to be supplied by the Seller;
- (f) "Intellectual Property Rights" means:
  - (i) inventions, discoveries and novel designs, whether or not registered or registrable as patents or designs, including developments or improvements of equipment, products, technology, processes, methods or techniques;
  - (ii) copyright (including future copyright) throughout the world in any works or subject matter in which copyright subsists and may in the future subsist;
  - (iii) confidential information and trade secrets;
  - (iv) trade and service marks (whether registered or unregistered) business names, trade names, logos and get-up; and
  - (v) any application or right to apply for registration of any of the rights referred to above.
- (g) "Seller" means Reflex Labels & Packaging Asia Pacific Pty Ltd ACN 660016508
- (h) "Order" is defined in clause 2(a);
- (i) "Order Acknowledgment" is defined in clause 2(b);
- (j) "Statutory Provisions" means the Competition and Consumer Act 2010 any statutory amendment or re-enactment of it for the time being in force and any other relevant and applicable State and/or Commonwealth legislation.
- (k) "Returnable Items" shall mean all pallets, slip sheets and/or dividers used by the Seller to deliver the Goods to the Buyer.

1.2 These Terms and Condition, or such varied form in accordance with clause 1.3, together with:

- (i) any accepted Credit Application;
- (ii) any Supply Agreement (if applicable);
- (iii) all Quotes as accepted in accordance with clause 1.4;
- (iv) any document attached to, or incorporated by reference into, this Agreement; and
- (v) any variation to a document listed in (i) to (iv) above, constitutes the entire agreement ("the Contract") between the Seller and the Buyer for the supply of the Goods. The application of these Terms to any order or other arrangement by the Seller to supply the Goods to the Buyer may only be varied by agreement in writing between the Buyer and the Seller.

1.3 Except as otherwise agreed in writing, the Buyer may amend these Terms and Conditions at any time with notice in relation to future Orders placed by the Buyer or with notice prior to acceptance of Orders which have already been placed on the Seller, in which latter case the Buyer may decide to withdraw its Order if it considers such variation would cause detriment to it.

##### 1.4 Quote

- (a) Any Quote given by the Seller will not bind the Seller or form any part of the Contract between the parties unless given, or subsequently confirmed, in writing by it and accepted by the Buyer through placing under Order in accordance with clause 2.
- (b) A Quote will remain open for acceptance for a maximum period of 30 days', unless otherwise specified in the Quote.

- (c) A Quote may be subject to alteration at any time prior to the Seller accepting an Order from the Buyer.
- (d) Any Quote given by the Seller to the Buyer are except to the extent otherwise stated in such document, subject to these Terms and Conditions.

#### 2. ORDERS, ORDER ACKNOWLEDGMENTS AND CONTRACT

- (a) An Order must be made by the Buyer in writing or via the telephone.
- (b) An Order submitted by the Buyer must specify:
  - (i) The identity of the Buyer and the order number;
  - (ii) The details of the Seller as specified in these Terms and Conditions;
  - (iii) The specific Goods to be provided to the Buyer, including quantity of each item required;
  - (iv) the Price; and
  - (v) the Delivery Date.
- (c) An Order is accepted when the Buyer receives from the Seller an order acknowledgment in writing or if writing is not received, acknowledgment by delivery, whichever first occurs. However, any terms and conditions contained in any Order or other document issued by the Buyer will not form part of the Contract unless they are expressly signed and accepted by the Seller's authorised representative.
- (d) An Order placed by the Buyer will only form part of the Agreement when it has been received and accepted by the Seller.
- (e) The Seller may reject an Order at its discretion.
- (f) Previous dealings between the Seller and the Buyer shall not have any effect on the Agreement.
- (g) Trade custom and/or trade usage is superseded by the Contract and shall not be applicable in the interpretation of the Contract.
- (h) A Contract constitutes the entire agreement between the Seller and the Buyer with respect to the Goods supplied under the Contract. All prior negotiations, proposals and correspondence are superseded by the Contract and will in all circumstances prevail over the Buyer's terms and conditions of purchase (if any).
- (i) Supply of products or services by the Seller does not create any obligation on the Seller to supply the products or services to the Buyer on a continuing basis or at any time in the future. Further, except as otherwise agreed in writing, the Seller reserves the right at any time and without notice to impose a limit on the amount of the Goods the Buyer may purchase.
- (j) The delivered quantity is subject to a rise or fall of 10% from the ordered quantity.
  - (i) The Buyer acknowledges that whilst the Seller will use their reasonable endeavours to produce the exact number of items in a Purchase Order, there are many manufacturing variables which will cause the number of items actually produced to be 10% over or under the number specified in a Purchase Order ("overs and unders").
  - (ii) The Buyer acknowledges and agrees that it must pay for any overs and unders. The Seller in determining the price for the overs and unders will adjust the amount charged to the Buyer for a Purchase Order on a prorata sum to reflect the actual number of Goods produced.
- (k) The Seller reserves the right to charge the Buyer a percentage deposit (with such percentage to be determined by the Seller at its discretion). Should the Seller request a deposit from the Buyer, the Buyer must pay the deposit upon the Buyer's acceptance of a Quote. The Seller will not commence the production of the Goods until the deposit is received by the Seller and the Service Provider will not be liable to the Buyer for any delay caused due to the Buyer's failure to pay the deposit on time.

#### 3. DELIVERY

- (a) The Seller will make all reasonable efforts to have the Goods



delivered to the Buyer or their designated agent on the date specified in an Order or such other date as agreed between the parties in writing, and otherwise within a reasonable period. The Seller shall not be liable in anyway whatsoever or howsoever arising for any failure to deliver or delay in delivery for any reason.

(b) The Seller will endeavour to deliver all Goods the subject of an Order at the same time. However, where this is not possible, in order to minimise any detriment that may be caused to the Buyer, the Seller will deliver products to the Buyer by instalments within a reasonable period of time.

(c) Delivery shall be deemed to have taken place at the time of physical taking of the Goods by the Buyer or by a carrier, whether engaged by the Seller or by the Buyer.

(d) If the Buyer fails to take or accept delivery of the Goods, save where such failure or delay is as a result of the Seller's failure to observe its obligations under the Agreement, then:

(i) Delivery of the Goods is to shall be deemed to have been completed at 5:30pm on the date that the Seller attempted to deliver the Goods to the Buyer; and

(ii) The Seller shall store the Goods until delivery is rearrange by the parties and reserves the right to charge the Buyer all related costs and expenses (including insurance) for redelivery and storage of the Goods.

(e) If, at the Buyer's request, delivery of any Goods is delayed after notification by the Seller to the Buyer that the Goods are ready for delivery, the Buyer agrees to pay any reasonable storage costs incurred or to be incurred by the Seller.

(f) If the Seller fails to deliver in accordance with clause 3(a) by reason of:

(i) inability to obtain supplies/raw materials of the Goods (where it is not the manufacturer) or materials, raw materials or parts from approved sources;

(ii) import or export restrictions;

(iii) any strike or combination of worker, shortage of labour or lockout;

(iv) any fault of the Buyer; or

(v) any other event or circumstance beyond the reasonable control of the Seller, the Seller may at its option cancel any Order, the Contract or any unfulfilled part of an Order or extend the time for its performance or completion by the time lost because of the event preventing or delaying delivery. The Seller shall not be liable for delay in delivery of the Goods as a result of any of the causes set out in this clause.

#### 4. RISK

(a) Where the Seller has agreed that delivery is to be FIS (free into store) then risk in the Goods passes to the Buyer when the Goods are made available for unloading by the Buyer at the agreed place of delivery.

(b) In all other cases, risk in the Goods passes to the Buyer upon delivery at the Buyer's premises (including all risks associated with unloading). The Seller shall not be liable for any such loss, deterioration or damage caused to the products after risk passing.

#### 5. PRICES

(a) Unless otherwise agreed in writing, the price charged for the Goods shall be the price ruling as determined by the Seller in the Quote. Any price indications or price lists are subject to alteration in accordance with the price ruling at that date.

(b) Where a transaction tax, including a goods and services tax and any other transaction taxes that come into existence after the date of these Terms and Conditions, applies to any supply made under these Terms and Conditions, the price charged for the Goods will be exclusive of that transaction tax. The Seller may recover from the Buyer, at the time of payment under clause 6, an additional amount on account of that transaction tax.

#### 6. PAYMENT

(a) Where the Seller has granted the Buyer credit, payment for the Goods must be made in full (without any set off) and received by the Seller by the last business day of the month following the month of delivery unless otherwise identified by the Seller on any written statement of account or tax invoice.

(b) Payment must be made by the Buyer without set off or deduction by electronic funds transfer to a bank account nominated by the Seller no later than the date of delivery of the Goods ("Due Date"). In all instances, the Seller reserves the right to make delivery of the Goods

conditional upon contemporaneous payment, payment of progress claims or, subject to Schedule 2 of the Competition and Consumer Act 2010 (Cth) and the corresponding provisions of the applicable state Fair Trading Acts (Australian Consumer Law), on prepayment of the price.

(c) In the event payment of a tax invoice has not been paid, the Buyer must and the Seller is entitled to recover interest on any overdue amount at the rate of 1.5% per month. For the purposes of this clause 6(c), overdue amount means an amount that has been outstanding for more than 30 days from the date of the tax invoice. The Buyer will pay all collection costs including but not limited to bank and legal expenses and debt collection commissions incurred in obtaining payment for any overdue amounts.

(d) The Seller may allocate all amounts received by the Buyer in any manner it determines including any manner required to preserve any personal property security interest in the Goods.

#### 7. TITLE

(a) Notwithstanding the delivery of and the passing of risk in the Goods, or any other provision of this Agreement, the right and title in the Goods shall not pass to the Buyer until the Seller has received payment in full of all money due and payable to the Seller by the Buyer (including the full price of the Goods and any other money owing in respect of other transactions between the Seller and the Buyer) and the Seller has the following rights:

(A) The Buyer shall store separately those Goods in respect of which title is retained by the Seller and shall clearly identify such Goods as the property of the Seller.

(B) Upon the occurrence of any of the following events, and following written notice to do so, to enter the Buyer's premises (or the premises of where the Seller suspects the Goods are located) without liability for trespass or any resulting damage and retake possession of the Goods:

1. the Buyer, being a natural person, committing an act of bankruptcy or being declared bankrupt;

2. the Buyer being a corporation suffering an Insolvency Event;

3. the Buyer enters into some arrangement or assignment for the benefit of its creditors;

4. the Buyer disposes or parts with possession of the Goods otherwise than expressly authorised by the Agreement or direction of the Seller;

5. the Buyer, in the opinion of the Seller acting reasonably, is in breach of any of the terms of this Agreement.

(C) Additional to the rights conferred in clause 7(a)(B) above and provided the Goods have not been sold or used up, the Seller may also at any time require the Buyer to deliver up to the Seller the Goods for which the Seller has not received payment in full.

(D) To keep or sell any Goods repossessed pursuant to 7(a)(B) and (C) above.

(E) If the Goods are resold, or Goods are manufactured using the Goods are sold by the Buyer, the Buyer shall hold such part of the proceeds of any such sale, as represents the invoice of the Goods sold or used in the manufacture of the Goods sold, in a separate identifiable account as the beneficial property of the Seller and shall pay such amount to the Seller on request. Notwithstanding the provisions above, the Seller shall be entitled to maintain an action against the Buyer for the purchase price and the risk of the Goods shall still have passed to the Buyer upon delivery. The Buyer shall not pledge or in any way charge by way of security for any indebtedness any of the Goods which remain the property of the Seller, but if the Buyer does so all money owing by the Buyer to the Seller shall become due and payable.

(b) Subject to clause 7(a), the Buyer is authorised to sell the Goods in the ordinary course of business and shall hold the proceeds of any sales separately from its own moneys and the Seller has a security interest in those proceeds, provided that such authority may be revoked by notice from the Seller at any time if the Seller considers the creditworthiness of the Buyer to be unsatisfactory or if the Buyer is in default in the performance of its obligations under the Contract or any other agreement between the Seller or any related body corporate of the Seller as that term is defined in the Corporations Act 2001 (Cth) (Related Seller) and the Buyer. Such authority shall be deemed



automatically revoked if the Buyer satisfies clause 7(a)(B).

(c) The Buyer will remain liable to the Seller for the price of any damaged, used, incomplete, broken or obsolete Goods that the Seller determines have no commercial value or are unable to be resold and for the difference in the original purchase price agreed by the Buyer from actual resale value. The Seller may also require the Buyer to pay the Seller's reasonable costs in exercising any of its rights under this clause 7 together with any related costs such as transportation and repackaging. The Buyer indemnifies the Seller from and against all loss suffered or incurred by the Seller as a result of exercising its rights under this clause.

## 8. CREDIT

- (a) The Seller may grant the Buyer credit upon the Terms and Conditions on the basis of the Credit Application and such other documents and information as may be required by the Seller.
- (b) The Seller may cancel a Buyer's credit at its discretion by providing the Buyer written notice.
- (c) Until the Seller grants the Buyer credit by notice in writing, the Seller will only supply Goods to the Buyer on the basis of payment of an order prior to delivery occurring.
- (d) The granting of credit does not oblige the Seller to extend any particular amount of credit to the Buyer.
- (e) The Buyer must notify the Seller in writing if there is any change in the shareholding or ownership of the Buyer or any material change in the Buyer's financial position.

## 9. PERSONAL PROPERTY AND SECURITIES REGISTER

9.1 The Buyer acknowledges and agrees that:

- (a) the Contract constitutes a security agreement;
- (b) in accordance with clause 9 of these Terms, it grants to the Seller a security interest (as defined in the Personal Property Securities Act 2009 (Cth) (PPSA) in all Goods supplied by the Seller and the proceeds thereof as security for payment of the purchase price of the Goods and all other moneys payable to the Seller by the Buyer;
- (c) the Seller may apply to and register any security interests created under the Contract on public registers including the Personal Property Securities Register (as defined in the PPSA) (PPSR) at any time before or after delivery of the Goods by the Seller;
- (d) the Seller may use and/or disclose any information provided by the Buyer to register any security interest on public registers. Such disclosure is only authorised to the extent necessary in connection with an exercise of rights under the Contract or a transfer or other dealing with rights or obligations under the Contract, or to officers, employees, agent, contractors, legal and other advisors and auditors of the Seller, or in accordance with the consent of the Buyer (not to be unreasonably withheld) or as required by any law (other than section 275(1) of the PPSA unless section 275(7) of the PPSA applies) or as required by any stock exchange or rating agency;
- (e) it will do anything that the Seller requires and will promptly give the Seller all assistance and information (including signing any documents) as the Seller requests to ensure that the Seller has a perfected first ranking security interest in all Goods supplied by the Seller to the Buyer (and the proceeds thereof);
- (f) the Seller need not give the Buyer any notice unless such notice is required by the PPSA and cannot be excluded;
- (g) if Chapter 4 of the PPSA would otherwise apply to the enforcement of the security interest created under this Contract, the following provisions of the PPSA do not apply: section 95; subsection 121(4); section 130; paragraph 132(3)(d); subsection 132(4); section 135; section 142; and section 143;
- (h) it will not change its name without notifying the Seller in writing at least 10 business days prior to doing so; and
- (i) it must indemnify the Seller for any costs incurred by the Seller under this clause.

9.2 The Buyer and the Seller agree that, without limiting the rights of the Seller under clause 8.3, they will not disclose any of the information set out in section 275(1) of the PPSA in relation to any security interest created under the Contract to any person (except that the Seller may do so where required due to the operation of section 275(7) of the PPSA).

## 10. INSURANCE

(a) Until property in the Goods passes to the Buyer, the Buyer shall keep the Goods insured, with the Seller noted as an additional insured and will produce upon demand evidence of the existence of such insurance as the Seller may require. If the Buyer defaults in the

performance of its obligations under this clause 10, the Seller may insure the Goods and the cost of effecting such insurance shall be payable by the Buyer on demand.

(b) If any Goods are damaged or destroyed prior to property in them passing to the Buyer, the Seller shall be entitled, without prejudice to any of its rights or remedies under these Terms, to receive all insurance proceeds which are payable in respect thereof (whether or not the purchase price of such Goods has become payable under these Terms) and the production of these Terms by the Seller shall be sufficient evidence of the Seller's right to receive payment of such insurance proceeds without the need for further enquiry by any person dealing with the Seller. Any such insurance proceeds shall be applied by the Seller as follows:

- (i) first, in payment of the purchase price of the Goods which are damaged or destroyed, if unpaid;
- (ii) secondly, in payment of the outstanding purchase price of any other Goods supplied to the Buyer by the Seller, whether under these Terms or otherwise; and
- (iii) thirdly, in payment of any other sums payable to the Seller by the Buyer whether under these Terms or otherwise.

## 11. INTELLECTUAL PROPERTY

- (a) All intellectual property rights in or relating to Goods or services supplied by the Seller, including in relation to the development, manufacture, use, operation, repair or maintenance of the Goods, and in or in relation to any Seller-licensed, commissioned or created tooling, materials, samples, reports, work results and other documents, remains at all times the sole and exclusive property of the Seller or its licensor.
- (b) The Seller is not liable for any claims arising from an actual or alleged infringement of a third party's intellectual property rights where:

- (i) such claim arises due to the Seller agreeing to supply the Goods in accordance with Buyer's specifications or using Buyer's Materials;
- (ii) the actual or alleged infringement of the intellectual property rights is due to use of the Seller's product in conjunction with another product not supplied by the Seller;
- (iii) the Goods or work results produced by the Seller in providing the services are used in a way which could not have been foreseen by the Seller;
- (iv) such claim arises due to the Buyer requesting the Seller to supply of any artwork, design, drawings, technical information or documents to the Buyer as a part of the Goods and/or Services

(c) The Buyer shall indemnify the Seller from and against all actions, claims, demands, costs, expenses and liabilities arising in connection with any alleged or actual infringement of the intellectual property rights of a third party.

(d) The Customer warrants that Seller's use of any designs, instructions or documents provided by the Customer to Seller will not infringe the Intellectual Property Rights of any other party.

**12. FORCE MAJEURE** The Seller is not liable for failure to perform the Contract to the extent and for so long as its performance is prevented or delayed because of:

- (a) circumstances outside the Seller's control;
- (b) failure of the Seller's machinery; (c) or failure of a supplier to the Seller.

## 13. STATUTORY PROVISIONS

- (a) These Terms and Conditions:-
- (b) are subject to the Statutory Provisions; shall not exclude, limit, restrict or modify the rights, entitlements and remedies conferred on the Buyer or the liabilities imposed upon the Seller by any condition or warranty implied by the Statutory Provisions rendering void or prohibiting such exclusion, limitation, restriction or modification. Insofar as any such condition or warranty can be:-
- (i) excluded – it is hereby excluded; or
  - (ii) limited, restricted or modified – it is hereby limited, restricted or modified to the fullest extent permitted by law.
- (c) Subject always to clause 10(a) and where permitted by law, where there is an inconsistency between these Terms and Conditions and the Statutory Provisions then these Terms and Conditions shall apply. To the extent that any Statutory Provisions that do apply to these Terms and Conditions and which cannot be excluded, limited, restricted or modified then, to the extent of any inconsistency between these Terms



and Conditions and the Statutory Provisions, the Statutory Provisions shall prevail;

(d) These Terms and Conditions supersede and exclude all prior and other discussions, representations (contractual or otherwise) and arrangements relating to the supply of the Goods including, but not limited to, those relating to the performance of the Goods or the results that ought to be expected from using the Goods.

(e) The Buyer agrees that if it is aware (or should be aware) that the Goods, the subject of an Order, are for a particular purpose (including, but not limited to, use as a component part of another product) or are required to possess special or uniform characteristics, the Buyer will clearly specify that purpose or those characteristics in any such Order.

#### 14. WARRANTIES AND LIMITATION OF LIABILITY

(a) The Seller warrants that the Goods supplied conform to the agreed specifications noted in an Order and are of merchantable quality.

(b) If the Buyer rejects any of the Goods due to above clause 14(a), the following must apply:

(i) The Seller must notify the Buyer of any defects in writing within 30 days of Delivery and set the alleged defective Goods aside for inspection by the Seller. If the Buyer does not notify the Seller within 30 days of Delivery, the Buyer shall be deemed to have accepted the Goods to be of merchantable quality and free of defects and agrees that the Buyer is prevented from subsequently pleading otherwise.

(ii) The Seller must arrange for inspection of the alleged defective Goods within 5 business days after receipt of the notice referred to in clause 14(b)(i) above.

(c) If the Goods are found to be defective, the Seller at its own cost, will remove the defective Goods and at its discretion, will either replace the defective Goods as soon as reasonably practicable, repair the defective Goods or the invoice price of the defective Goods.

(d) To the extent the law permits, the Buyer agrees that the Seller is not liable to the Buyer (and any party claiming through the Buyer against the Seller) for consequential, special or indirect loss or damage of any kind howsoever arising and whether caused by a breach of any of the warranties, terms, conditions or any other provisions of a Contract or from negligence, breach of statutory duty or other tort or otherwise related to a contract. Consequential, special or indirect losses will be taken to include but not limited to:-

- (i) any loss of income, profit, revenue or business opportunity;
- (ii) any loss in the nature of overhead costs;
- (iii) any loss of goodwill or reputation, including, without limitation, any loss of value of intellectual property; and
- (iv) any damages, liquidated sums or penalties under any other agreement.

(e) The Seller's liability for breach of a Contract does not extend beyond the defective Goods to any other Goods that are part of an Order or otherwise;

(f) The Seller's obligations in the event of paragraph 14(b) applying do not include:

- (i) the cost of removal of defective Goods;
- (ii) the cost of installation of the replacement for the defective Goods;
- (iii) defects in Goods caused by improper use or maintenance of Goods or related components or normal

(g) The Seller assumes no liability whatever for any technical advice, recommendation, information (whether contained in data sheets or otherwise) or assistance given, or the results obtained there from, all such advice being given and accepted at Buyer's sole risk.

(h) The Buyer indemnifies the Seller against and releases the Seller from any and all demands, claims, actions, suits, costs and expenses now or later arising in relation or in connection to the Goods, whether such demands, claims, actions, suits, costs and expenses is made by the Buyer or a third party.

(i) The Seller shall be under no liability to the Buyer in respect of any defect in the Goods arising from fair wear and tear, minor imperfections, any wilful damage, negligence, subjection to abnormal working conditions, failure to follow the Seller's written instructions, misuse or alteration or repair of the Goods without the Seller's written approval, or any other act or omission on the part of the Buyer, its employees, agents, contractors or any third party in respect to the Goods.

#### 15. CONFIDENTIAL INFORMATION

The Buyer agrees to keep confidential the Seller's financial, technological (including designs, drawings, specifications, technical handbooks), strategic, financial and business information, disclosed in the course of, or arising from, the Contract ("Information").

(a) All Information remains the property of the Seller and may only be used by the Buyer in fulfilling its rights and obligations under the Contract. Otherwise, no Information may be disclosed to any third party without the Seller's prior written consent.

(b) The Buyer agrees to effect and maintain adequate security measures to safeguard the Information from access or use by any unauthorised person and not to disclose any terms of the (c) Contract or Information except where disclosure is necessary to comply with the Contract or any other agreement between the parties, or if the disclosure is required by law.

(d) The Buyer must, on becoming aware of any breach of confidentiality, immediately inform the Seller, investigate the breach and report to the Seller as to the outcome of the investigation.

(e) Upon termination of this Contract for any reason whatsoever, the Buyer must immediately return or destroy (at the direction of the Seller) all Information.

#### 16. DEFAULT

(a) The Buyer will be in default if:

- (i) the Buyer breaches any of the Terms and Conditions;
- (ii) payment for the Goods has not been received by the Seller by the due date of payment;
- (iii) the Buyer being an individual commits an act of bankruptcy or becomes an insolvent under administration;
- (iv) the Buyer being a body corporate becomes an externally-administered body corporate or has an application for winding up filed against it;
- (v) the Seller forms the opinion that the Buyer's credit worthiness or credit standing alters from that indicated in its Application.

(b) If one of the events described in clause 15(a) occurs, the Seller may without notice to the Buyer do any one or more of the following:-

- (i) treat the whole of the Contract and any other Contract with the Buyer as repudiated and sue for breach of contract;
- (ii) refuse to supply any Goods to the Buyer,
- (iii) claim the return of any Goods in the Buyer's possession where title has not passed to the Buyer;
- (iv) withdraw or vary any credit the Seller has provided to the Buyer;
- (v) make all monies owing by the Buyer to the Seller on any account immediately due and payable;

**17. WAIVER** The Seller's failure at any time to insist on performance of any provision of these Terms and Conditions and/or of a Contract is not a waiver of the Seller's rights at any time later to insist on performance of that or any other provision.

**18. SEVERANCE** If a provision of a Contract would, but for this clause, be unenforceable:

- (a) the provision must be read down to the extent necessary to avoid that result;
- (b) If the provision cannot be read down to that extent, it must be severed without altering the validity and enforceability of the remainder of the Contract.

**19. COSTS** If default occurs and the Seller exercises any of its rights then the Buyer must also pay the Seller all costs and expenses incurred by the Seller in connection with the Contract including legal expenses (on a solicitor-client basis), stamp duty and costs incurred in the recovery of monies owing by the Buyer to the Seller or in otherwise enforcing the Seller's rights against the Buyer under the Contract.

**20. RETURNABLE ITEMS** Unless otherwise agreed in writing all Returnable Items on which Goods are delivered remain the property of the Seller and must be returned at the expense of the Buyer in good order and condition to the factory or store of the Seller from which they were delivered. Returnable Items will be deemed to be still in the possession of the Buyer until receipt at such factory or store. All risks whatsoever associate with the Returnable Items rest with the Buyer absolutely and the Buyer agrees to indemnify the Seller fully in respect of any Returnable Items not returned in good order and condition to the Seller.



The Seller reserves the right to subcontract any work hereunder to any third party, should this be required without the Buyer's prior written consent.

**21. APPLICABLE LAW** The supply of Goods under these terms and conditions is governed by the law of the State from which the Seller supplied and the Seller and the Buyer submit to the non-exclusive jurisdiction of the Courts of that State.

**22. THE SELLER MAY ASSIGN** Without notice to the Buyer, the Seller may assign to any person this document and any Contract.

**23. BUYER MAY NOT ASSIGN** This contract is personal to the Buyer which shall not assign its rights or delegate its performance hereunder without the consent in writing of the Seller.

**24. GENERAL LIEN** In addition to any right of lien to which the Seller may be entitled under the common law, the Seller shall be entitled to exercise general lien over all items in its possession belonging to the Buyer until the Buyer has paid in full for all goods supplied by the Seller to the Buyer. The Seller may in its sole discretion sell any item that is subject to the said lien provided that the Seller shall pay to the Buyer any surplus proceeds that are realised by it from sale of any such items after discharging in full all monies outstanding to the Seller in respect of goods that have been delivered by it to the Buyer and all reasonable costs sale incurred by the Seller.

