

Terms and Conditions of Sale

Knotwood Pty Ltd

1. General Terms

- 1.1. Knotwood Pty Ltd (**Company**) may assign its rights and obligations under these terms and conditions of sale (**Conditions**). If the customer changes its corporate status, both customer and its successors continue to be bound by these conditions. No prior representation, affirmation, or agreement shall be enforceable unless set forth herein. The contract constitutes the entire agreement between the parties as to its subject matter and may only be amended in writing signed by both parties.
- 1.2. Any order placed by the Customer for the purchase of goods (**Order**) will incorporate these Conditions, unless expressly agreed to in writing by the Company and any conditions contained in a Customer's order are excluded.
- 1.3. In these Conditions and any other part of this document or any other terms and conditions agreed in writing by the Company and Customer, a Customer's order when accepted by the Company means a **Contract**, the goods that the Company proposes to sell or has sold to a Customer means **Goods**, and a reference to goods includes services; **GST** means goods and services tax; **Customer** means the person buying goods from the Company; **PPSA** means the Personal Property Securities Act 2009 (Cth); other items which the Company manufactures or obtains in order to produce the goods and includes all intellectual property in or relating to the goods.
- 1.4. If there is any inconsistency between any of the terms of a contract, the order of priority is:
 - 1.4.1. any other terms and conditions agreed in writing by the Company;
 - 1.4.2. these Conditions;
 - 1.4.3. any other part of this document;
 - 1.4.4. the Customer's order.
- 1.5. The Company reserves the right to vary these Conditions by writing at any time.
- 1.6. The Customer acknowledges that they have read and accepts these Conditions to be fair and reasonable, except to the extent otherwise agreed in writing by the parties.

2. Payments

- 2.1. Unless otherwise agreed to by The Company in writing, all amounts payable hereunder shall be due to The Company within forty-five (45) days of the statement date. Payment must be made without deduction by forty-five (45) Days after the month of invoice, unless otherwise noted on the other part of this document or agreed in writing by the Company.
- 2.2. The Customer agrees to deliver written notice of any error in any invoice or statement of account to the Company within a reasonable period after the day that the invoice or statement of account is dated. The invoice or statement of account shall be deemed to be correct and accepted as rendered, unless the Company has received the customer's written notice to the contrary within the above time period.
- 2.3. Company reserves the right to vary the terms of payment and to require payment in full prior to delivery if, at any time, the credit worthiness of the Customer is, in the Company's opinion, unsatisfactory. If the Customer has not paid the Company in full by the due date, the Company may, at its option, rescind the contract and resell or dispose of the goods without prejudice to any claims for damages against the Customer.
- 2.4. Fees will apply for payment by credit card for account customers.

3. True and Accurate

- 3.1. The Company will consider an extension of credit to the customer based on the information provided in this application and by other available sources. This application authorizes The Company to check the customer's credit background and to contact all of the customer's credit references and sources. The customer states and certifies that the information contained in this application is true and correct and that the Company may justifiably rely on the information provided by the client.
- 3.2. Once credit has been approved, or in the event the customer arranges to purchase products or services from The Company on other terms, the customer agrees to pay any or all invoices, charges, fees and costs which the customer or any authorized person incur on or for the Customer's account. Unless the customer notifies the Company in writing within a reasonable period of any unauthorized use of the customer's credit or account, the customer agrees that such use is authorized and the creditor shall be responsible for all such charges and use.

4. Price

- 4.1. All quotations are exclusive GST.
- 4.2. All quotations are valid until the end of month of date quoted.
- 4.3. All goods will be charged in accordance with the Company's prices at the date of acceptance of the order or as per a valid quotation plus any applicable GST. These charges must be paid to the Company by the Customer when payment is due for the goods.

5. Liability

- 5.1. Subject to the maximum extent permitted by law, the liability of the Company is limited, howsoever arising under a contract, for the Company's option to:
 - 5.1.1. the supply of equivalent goods; or
 - 5.1.2. replacement or repair of the goods; or
 - 5.1.3. the cost of replacing or repairing the goods.
- 5.2. The Customer agrees to indemnify, release and hold harmless the Company from and against any liability whatsoever and howsoever arising in connection with the use of the goods by the Customer.

6. Title/Risk of loss/ insurance

- 6.1. Property in, and ownership of, the goods will not pass from the Company to the Customer until payment in full of the purchase price of the goods. Refer also to clause 18 below.
- 6.2. Until property passes to the Customer:
 - 6.2.1. The Customer will hold the goods as fiduciary and Bailee for the company
 - 6.2.2. The company, its employees or agents, are entitled to enter the purchase's premises between 9:00am and 5:00pm on any business day to inspect the goods;
 - 6.2.3. Unless otherwise notified in writing by the company, the Customer is authorized to sell the goods in the ordinary course of the purchases business.
- 6.3. If the Customer fails to pay all or any part of the Customer's total indebtedness to the company under a contract and fails to remedy such default within thirty days (30), the company may on noticed and without prejudice to any of its other rights and remedies:
 - 6.3.1. Recover and/or re-sell the goods or any of them and may enter upon the Customer's premises for that purpose; and
 - 6.3.2. Recover any difference between the sale or scrap value of the goods and the price payable by the Customer for the goods.
- 6.4. Unless otherwise agreed in writing by the Company, the risk of loss of, or damage to, the goods will pass to the Customer on delivery to the Customer. If the Customer collects the goods or arranges for their collection from the Company, then delivery will be deemed to occur on collection of the goods from the Company.

7. Delivery

- 7.1. Delivery will be the Customer's responsibility unless otherwise requested by the Customer and accepted by the Company to use the Company's Freight Company, which all costs of delivery will be charged to the Customer's account unless agreed in writing by the Company.
- 7.2. Any date given at any time of the contract for delivery of the goods or completion of the services shown on the other part of this document or otherwise indicated by the Company, is an estimated date for delivery only. The Company will not be liable for any loss or damages arising, if the goods are not delivered or the services are not completed by that date, or for any reason including, without limitation:
 - 7.2.1. Act of God, lightning, fire, flood, explosion;
 - 7.2.2. strike, lock-out or other labour difficulty;
 - 7.2.3. breakage, accident or other damage to or failure of machinery or equipment;
 - 7.2.4. unavailability or shortage of raw materials, labour, power supplies or transport facilities;
 - 7.2.5. or failure or inability to obtain licences or the effect of any applicable laws, orders, rules or regulations of any government or competent authority.
- 7.3. The Customer must notify the Company in writing within seven (7) days of delivery of the goods for any claims for an incorrect or short delivery of the. If the Customer does not notify within that time, any claim by the Customer will be taken to have been absolutely waived.
- 7.4. The contract may be cancelled by the Company if the Company is unable to deliver within a reasonable time or not at all. If the contract is cancelled, the Customer will have no claim against the Company for any expenses, loss, or damage.

8. Acceptance of Goods

- 8.1. The customer shall inspect or test all goods upon receipt. The customer shall be deemed to have accepted final acceptance of the goods within a reasonable period from the date of initial shipment, unless written notice is received by the Company within such period. In any case, the goods will be deemed accepted on the date when used or otherwise placed in commercial operation.

9. Warranty

- 9.1. The Company warrants that title to the goods shall be free from any encumbrance, and will conform to the description contained on the Company invoice. Any description of the goods is given by way of identification only and the use of that description does not constitute a sale by description.
- 9.2. The Company warrants that all goods manufactured by it will be free from defects in materials or workmanship under normal use and service. The Company will investigate and determine, in its discretion, whether the goods manufactured by it are defective.
- 9.3. The liability of the Company under this Condition is limited as detailed in clause 5 above. All other costs, including freight and installation, must be paid by the Customer. While the goods are in the custody of the Company for investigation or repair they will be at the risk of the Customer and the Company will not be liable for any damage to the goods.
- 9.4. The Company will use its reasonable endeavours to obtain for the Customer the benefit of any applicable manufacturer's warranty in respect of goods not manufactured by the Company.

10. Indirect Loss

- 10.1. To the maximum extent permitted by law, the Company is not liable in any way for any indirect or consequential loss including loss of profit, revenue, reputation or opportunity, in contract, tort (including negligence) or otherwise arising in connection with a contract.

11. Implied Terms

- 11.1. Except as detailed in these Conditions, all conditions and warranties expressed or implied by statute, the common law, equity, trade, custom or usage or otherwise are expressly excluded to the maximum extent permitted by law.

12. No limitation on statutory rights

- 12.1. Nothing in clauses 5, 9, 10 or 11 purports to have or has the effect on excluding, limiting or modifying any rights, entitlements or remedies that may be conferred on a customer under the Competition and Consumer Act (Cth) or the Sale of Goods Act 1923 (NSW) to the extent that those rights, entitlements or remedies cannot be excluded or modified by agreement.

13. Returns

13.1. Returned goods will be accepted only if the Company has given prior written consent. Handling, inspection, restocking and invoicing charges also may be assessed against the customer. All returns must be shipped at the customer's expense and must be in excellent re-sale condition. Material cut to a customer's specifications is not returnable.

14. Delay or non-performance

14.1. The Company shall not be liable for failure or delay in performance hereunder due in whole or in part to strikes, work stoppages, fire, acts of terrorism, accidents, wars, rebellions, civil commotion, public strife, acts of any government, whether legal or otherwise, acts of public enemies, forces majeure, or qualifies labour, or any other causes beyond The Company's reasonable control. This specifically includes delays or inability to obtain product because of the actions of the Company's supplier.

15. Cancellation

15.1. Upon receipt of written notice from the customer, the Company shall cancel any orders as instructed subject to the Company (or its sub-contractors) rights to continue processing raw finished material to the point at which processing can be halted with the least disruption and cost to The Company. The customer shall be responsible for all costs associated with the cancellation and the completion of the processing of the material.

16. Acceptance

16.1. These terms and conditions shall be deemed binding on the customers by its purchase of products from The Company.

17. Law and Jurisdiction

17.1. These terms and conditions are governed by and constructed in accordance with the laws of the state of Queensland. Actions, suits or proceedings relating to any way to these terms and conditions or documents or dealings contemplated by it, may be instituted, heard and determined in a court of competent jurisdiction in the state of Queensland. Each party irrevocably submits to the non-exclusive jurisdiction of such court for the purpose of any such action, suit or proceeding.

18. Confidentiality

18.1. The Customer must keep any contract confidential.

19. Severability

19.1. If these terms and conditions shall, so far as possible, interpreted and construed so as not to be invalid, illegal unenforceable in any respect, but if a provision, on its true interpretation or construction is held to be illegal, invalid or enforceable:

19.1.1. That provision shall, so far as possible, be read down the extent that it may be necessary to ensure that it's not illegal, invalid or unenforceable and as may be reasonable in all circumstances so as to give it a valid operation; or

19.1.2. If the provision or part of it cannot effectively be read down, that provisions of this agreement shall not in any way be affected or impaired and shall continue notwithstanding that illegality, invalidity or unenforceability.

20. Notices

20.1. Any notice to be given under a contract must be sent by prepaid mail or secured email to the other party's address or email as notified.

21. PPSA

21.1. Define terms used in this clause 18 have the same meaning as given to them in the PPSA.

21.2. The Company and Customer acknowledge that a contract constitutes a security agreement and gives rise to a purchase money security interest (PMSI) in favour of the company over the goods supplied to the Customer, as grantor, pursuant to a contract, and over the proceeds (including any sale monies or an account for such monies and insurance monies)

21.3. The goods supplied or to be supplied under a contract fall within the PPSA classification of "Other Goods" acquired by the Customer pursuant to these conditions.

21.4. The Customer acknowledges that the Company, as secured party, is entitled to register its interest in the goods supplied or to be supplied to the Customer, as grantor, under a contract on the PPSA register as collateral.

21.5. The Customer waives its right to any of the following under the PPSA:

21.5.1. Receive notification of or a copy of any verification statement confirming registration of financing statement of a financing change statement relating to a security interest granted by the Customer, as grantor, to the company;

21.5.2. Receive notice of removal of an accession under sections 95;

21.5.3. Receive notice of an intention to seize collateral under section 123;

21.5.4. Receive notice of disposal of collateral under section 134;

21.5.5. Receive a statement of account if there is no disposal under section 130 (4);

21.5.6. Receive notice of retention of collateral under section 135;

21.5.7. Redeem the collateral under section 142;

21.5.8. Reinstate the security agreement under section 143;

21.5.9. Object to the purchase of the collateral by the secured party under section 129;

21.5.10. Receive a statement of account under section 132 (3)(d) following a disposal showing the amounts paid to other secured parties and whether security interest held by other secured parties have been discharged.

21.6. The Customer agrees that, to the extent permitted by law, nothing in section 130 to 143 of the PPSA will apply to, or the security under, these conditions.

22. Cost

22.1. Should payment remain outstanding beyond our agreed trading and payment terms, the customer is liable for all cost including legal costs including court fees our solicitor's fees as well as any credit management or mercantile agent's fees incurred by the seller. At our discretion we may charge interest on overdue accounts at 2% each month or part thereof from the date of default until your account is back within our terms.