

## Terms and Conditions – Protecta Group Pty Ltd

ABN 81 258 257 084

These Terms and Conditions ("Terms") apply (unless otherwise previously agreed in writing) to the supply of Goods by the Company to a Customer from time to time. Any supply of Goods by the Company to the Customer made after the date of acceptance of these Terms is a supply pursuant to the supply agreement constituted by these Terms and the relevant order accepted by the Company and any such supply does not give rise to a new or separate agreement.

### 1. Interpretation

In these Terms unless the contrary intention appears:

- (a) "Additional Charges" includes all delivery, handling and storage charges, goods and services tax, stamp duty, interest, legal and other costs of recovery of unpaid money and all other government imposts and all money, other than the Purchase Price, payable by the Customer to Company arising out of the sale of the Goods
- (b) "Customer" means the person to or for whom the Goods are to be supplied by Company.
- (c) "Goods" means the goods sold to the Customer by Company and includes any services provided by Company to Customer.
- (d) "Company" means Protecta Group Pty Ltd ABN 81 258 257 084.
- (e) "PPSA" means the Personal Property Securities Act, 2009 (Cth).
- (f) "Purchaser Price" means the list price for the goods as charged by Company at the date of delivery or such other price as may be agreed by Company and the Customer prior to delivery of the Goods
- (g) "Quotation" means a written or verbal quotation provided by the Company to the Customer.

### 2. Orders for Goods

- (a) An order given to Company is binding on Company and the Customer, if:
  - (i) a written acceptance is signed for or on behalf of Company; or
  - (ii) the Goods are supplied by Company in accordance with the order.
- (b) An acceptance of the order by Company is then to be an acceptance of these Terms by Company and the Customer and these Terms will override any conditions contained in the Customer's order. Company reserves the right to accept a part only of any order by notifying the Customer in writing or by delivering the Goods to the Customer. No order is binding on Company until accepted by it.
- (c) An order which has been accepted in whole or in part by Company cannot be cancelled by the Customer without obtaining the prior written approval of Company, which it may refuse in its absolute discretion.
- (d) The Customer must ensure the Goods are suitable for its particular purpose. In placing an order, the Customer acknowledges that it has not been induced by any representation by or on behalf of the Company which has not been confirmed in writing to or by the Company.

### 3. Price

- (a) All prices are subject to change without notice. The Company may increase any agreed sale price after the Customer accepts a Quotation, to cover the full amount of any increases in price which the Company incurs in connection with a transaction after the date of the Customer's order.
- (b) All prices are quoted in Australian dollars and all payments must be made in Australian dollars.
- (c) The Company is entitled to adjust the price where the Quotation has expired or where the Customer varies the quantities or the times of delivery.

### 4. Payment

- (a) The Customer must pay the Purchase Price and the Additional Charges to the Company.
- (b) Unless otherwise agreed to by the Company, the Customer must pay the Purchase Price and Additional Charges before the delivery of the Goods to the Customer.
- (c) All payments are due within 30 days of the date of invoice. Interest is charged at the rate of 2% per month or part of a month from the expiry of that period until the date payment is received by Company.
- (d) Where the Company has granted credit facilities to the Customer for the supply of Goods, payment is due 30 days from the date of invoice in which the Goods are purchased, unless otherwise specified in writing by the Company.
- (e) The Company may at its sole discretion at any time and without any prior notice to the Customer, vary, suspend or terminate any credit facilities or arrangements concerning the supply or provision of Goods, without liability to the Company.

### 5. Delivery of Goods and Risk

- (a) Delivery of the Goods shall be made to the Customer's address. The Customer shall make all arrangements necessary to take delivery of the Goods whenever they are tendered for delivery.
- (b) The times quoted for delivery are estimates only and Company accepts no liability for failure or delay in delivery of Goods. The Customer is not relieved of any obligation to accept or pay for Goods by reason of any delay in delivery. Goods may be delivered by instalments at the discretion of Company.
- (c) Risk in accepting the Goods passes on delivery to the Customer.
- (d) Return of Goods will not be accepted by Company except by prior agreement in writing with Company. To the extent permitted by law, the Goods must be unused, undamaged, returned as agreed in the original intact packing and are listed in the Company's current price list. Any Goods accepted for return will be subject to a restocking charge of 15% of the Purchase Price of those Goods.

### 6. Warranties

- (a) Company liability is limited to, to the extent permissible by law and at Company's option:
  - (i) in relation to the Goods:
    - (A) the replacement of the products or the supply of equivalent products
    - (B) the repair of the products
    - (C) the payment of the cost of replacing the products or of acquiring equivalent products; or
    - (D) the payment of the cost of having the products repaired
  - (ii) Where the Goods are services:
    - (A) the supply of service again; or
    - (B) the payment of the cost of having the services supplied again.
- (b) Any claims to be made against Company for short delivery of Goods must be lodged with Company in writing within 7 days of the delivery date.
- (c) To the extent permitted at law, all other warranties whether implied or otherwise, not set out in these Terms are excluded and Company is not liable in contract, tort (including, without limitation, negligence or breach of statutory duty) or otherwise to compensate Customer for:
  - (i) any increased costs or expenses;
  - (ii) any loss of profit, revenue, business, contracts or anticipated savings;
  - (iii) any loss or expense resulting from a claim by a third party; or
  - (iv) any special, indirect or consequential loss or damage of any nature whatsoever caused by Company's failure to complete or delay in completing the order to deliver the Goods.

### 7. Retention of Title

- (a) Ownership, title and property of the Goods remains with Company until payment in full for the Goods and all sums due and owing by the Customer to Company on any account has been made. Until the date of payment:
  - (i) the Customer has the right to sell the Goods in the ordinary course of business;
  - (ii) until the Goods have been sold by the Customer in the ordinary course of the Customer's business, the Customer holds the Goods as bailee for Company,
  - (iii) the Goods are always at the risk of the Customer.

- (b) The Customer is deemed to be in default immediately upon the happening of any of the following events:
  - (i) If any payment to Company is not made promptly before the due date for payment;
  - (ii) If the Customer ceases to carry on business, or stops or suspends payment, or states its intention of so doing, or is unable to pay its debts as they fall due, or if any cheque or bill of exchange drawn by the Customer payable to Company is dishonoured;
- (c) In the event of a default by the Customer, then without prejudice to any other rights which Company may have at law or under this agreement:
  - (i) Company or its agents may without notice to the Customer enter the Customer's premises or any premises under the control of the Customer for the purposes of recovering the Goods.
  - (ii) Company may recover and resell the Goods;
  - (iii) If the Goods cannot be distinguished from similar Goods which the Customer has or claims to have paid for in full, Company may in its absolute discretion seize all goods matching the description of the Goods and hold same for a reasonable period so that the respective claims of Company and the Customer may be ascertained. Company must promptly return to the Customer any goods the property of the Customer and Company is in no way liable or responsible for any loss or damage to the Goods or for any loss, damage or destruction to the Customer's business howsoever arising from the seizure of the Goods.
- (d) In the event that the Customer uses the Goods in some manufacturing or construction process of its own or some third party, then the Customer must hold such part of the proceeds of sale of such manufacturing or construction process as relates to the Goods in trust for Company. Such part will be an amount equal in dollar terms to the amount owing by the Customer to the Company at the time of the receipt of such proceeds. The Customer will pay Company such funds held in trust upon the demand of Company.

### 8. PPSA

- (a) Defined terms in this clause have the same meaning as given to them in the PPSA.
- (b) Company and the Customer acknowledge that these Terms constitute a Security Agreement and entitle the Company to claim a Purchase Money Security Interest ("PMSI") in favour of Company over the Collateral supplied or to be supplied to the Customer as Grantor pursuant to these Terms.
- (c) The goods supplied or to be supplied under these Terms fall within the PPSA classification of "Other Goods" acquired by the Customer pursuant to these Terms.
- (d) Company and the Customer acknowledge that Company, as Secured Party, is entitled to register its Security Interest in the Collateral supplied or to be supplied to Customer pursuant to these Terms on the PPS Register.
- (e) To the extent permissible at law, the Customer:
  - (i) waives its right to receive notification of or a copy of any Verification Statement confirming registration of a Financing Statement or a Financing Change Statement relating to a Security Interest granted by the Customer to Company;
  - (ii) agrees to indemnify Company on demand for all costs and expenses, including legal costs and expenses on a solicitor / client basis, associated with the:
    - (A) registration or amendment or discharge of any Financing Statement registered by or on behalf of Company; and
    - (B) enforcement or attempted enforcement of any Security Interest granted to Company by the Customer;
  - (C) agrees that nothing in sections 130 and 143 of the PPSA will apply to these Terms or the Security under these Terms;
  - (D) agrees to waive its right to do any of the following under the PPSA:
    - (E) receive notice of removal of an Accession under section 95;
    - (F) receive notice of an intention to seize Collateral under section 123;
    - (G) object to the purchase of the Collateral by the Secured Party under section 129;
    - (H) receive notice of disposal of Collateral under section 130;
    - (I) receive a Statement of Account if there is no disposal under section 132(4);
    - (J) receive a Statement of Account under section 132(3)(d) following a disposal showing the amounts paid to other Secured Parties and whether Security Interests held by other Secured Parties have been discharged.
    - (K) receive notice of retention of Collateral under section 135;
    - (L) redeem the Collateral under section 142; and
    - (M) reinstate the Security Agreement under section 143.
  - (iii) All payments received from the Customer must be applied in accordance with section 14(6)(c) of the PPSA.

### 9. Indemnity

To the full extent permitted by law, Customer will indemnify Company and keep Company indemnified from and against any liability and any loss or damage Company may sustain, as a result of any breach, act or omission, arising directly or indirectly from or in connection with any breach of any of these Terms by Customer or its representatives.

### 10. Privacy

The Company may collect personal information about the Customer that is relevant to providing the Goods to the Customer, to fulfil its obligations pursuant to the Terms, to fulfil administrative functions associated with these services (for example assessment of credit worthiness), account management, to enter into contracts with the Customer or third parties, and for marketing and client relationship purposes. The Company will comply with the Australian Privacy Principles in all dealings with the Customer. A copy of the Company's Privacy Policy is available upon request or by visiting [www.protectagroup.com.au](http://www.protectagroup.com.au).

### 11. General

- (a) The Company may terminate or vary these Terms and/or cancel delivery of the Goods at any time before the Goods are delivered by giving written notice to the Customer. The Company will not be liable for any loss or damage whatever arising from termination or such cancellation.
- (b) Where these Terms are executed simultaneously to or in contemplation of a Directors Deed of Guarantee, then they shall be read together and in contemplation of each other.
- (c) These Terms are to be construed in accordance with the laws from time to time in the State of New South Wales and the Commonwealth of Australia. The parties submit to the non-exclusive jurisdiction of the Courts of New South Wales, Australia and any courts which may hear appeals from those courts in respect to any proceedings in connection with these Terms.
- (d) Clerical errors in computation, typing or otherwise of price list, catalogue, quotation, acceptance, offer, invoice, delivery docket, credit note or specification of the Company shall be subject to correction. The Company may complete any blanks on any relevant document, on the Customer's behalf.
- (e) These Terms contain all of the terms and conditions of the contract between the parties and may only be varied by agreement in writing between the parties.
- (f) Any conditions found to be void, unenforceable or illegal may, to that extent be severed from the Terms.
- (g) No waiver of any of these Terms or failure to exercise a right or remedy by Company will be considered to imply or constitute a further waiver by Company of the same or any other term, condition, right or remedy.