

TERMS AND CONDITIONS OF TRADE
(general terms and conditions of Mirfak Pty Limited ACN 005 589 588)

1. Interpretation

In these terms and conditions:

- (1) "Company" means Mirfak Pty Limited ACN 005 589 588 which is the seller of the Goods.
- (2) "Buyer" means the purchaser of the Goods specified in the Schedule.
- (3) "Goods" means the products and, if any, services specified in the Schedule.
- (4) Nothing in these conditions shall be read or applied so as to exclude, restrict or modify or have the effect of excluding, restricting or modifying any condition, warranty, guarantee, right or remedy implied by law (including the Competition and Consumer Act 2010 and amendments thereto) and which by law cannot be excluded, restricted or modified.

2. General

These terms and conditions (which shall only be waived in writing signed by the Company) shall prevail over all terms and conditions of the Buyer's order to the extent of any inconsistency.

3. Terms of Sale

The Goods and all other products sold by Company are sold on these terms and conditions.

4. Rights in relation to Goods

- (1) In connection with the Goods while they remain the property of the Company, the Buyer agrees with the Company that:
 - (a) the Buyer has no right or claim to any interest in the Goods to secure any liquidated or unliquidated debt or obligation the Company owes to the Buyer;
 - (b) the Buyer cannot claim any lien over the Goods;
 - (c) the Buyer will not create any absolute or defeasible interest in the Goods in relation to any third party except as may be authorised by the Company; and
 - (d) where the Buyer is in actual or constructive possession of the Goods:
 - (i) the Buyer will not deliver them or any document of title to the Goods to any person except as directed by the Company; and
 - (ii) it is in possession of the Goods as a bailee of those Goods and owes the Company the duties and liabilities of a bailee.
- (2) The Company and the Buyer agree that:
 - (a) the property of the Company in the Goods remains with the Company until the Company has been paid in full for the Goods under all individual contracts for the supply of the Goods between the Company and the Buyer;
 - (b) the Buyer is a bailee of the Goods until such time as property in them passes to the Buyer and that this bailment continues in relation to each of the Goods until the price of the Goods has been paid in full; and
 - (c) pending payment in full for the Goods, the Buyer:
 - (i) must not supply any of the Goods to any person outside of its ordinary or usual course of business;
 - (ii) must not allow any person to have or acquire any security interest in the Goods;
 - (iii) must insure the Goods for their full insurable or replacement value (whichever is higher) with an insurer licensed or authorized to conduct the business of insurance in the place where the Buyer carries on business; and

- (iv) must not remove, deface or obliterate any identifying plate, mark or number on any of the Goods.
- (3) Despite clause 4.(2), if the Buyer supplies any of the Goods to any person before all moneys payable by the Buyer have been paid to the Company (and have not been claimed or clawed-back by any person standing in the place of or representing the Buyer), the Buyer agrees that:
 - (a) it holds the proceeds of the Goods on trust for and as agent for the Company immediately when they are receivable or are received;
 - (b) it must either pay the amount of the proceeds of the Goods to the Company immediately when they are received or pay those proceeds into an account with a bank or a financial institution or deposit-taking institution as trustee for the Company;
 - (c) any accessory or item which accedes to any of the Goods by an act of the Buyer or of any person at the direction or request of the Buyer becomes and remains the property of the Company until the Company is paid in accordance with clause 4.(2)(a) when the property in the Goods (including the accessory) passes to the Buyer; and
 - (d) if the Buyer fails to pay for the Goods within the period of credit (if any) extended by the Company to the Buyer, the Company may enter any site occupied, used, owned, possessed or controlled by the Buyer or any premises where the Goods are situated and may recover possession of the Goods and the Buyer agrees that the Company has an irrevocable licence to do so.
- (4) Receipt by the Company of any form of payment other than cash shall not be deemed to be payment until that form of payment has been honoured, cleared or recognised and until then the Company's ownership or rights in respect of the Goods shall continue.
- (5) The Buyer agrees that where practicable the Goods shall be kept separate and identifiable until the Company shall have received payment and all other obligations of the Buyer are met.
- (6) The Buyer agrees that until such time as ownership of the Goods shall pass from the Company to the Buyer the Company may give notice in writing to the Buyer to return the Goods or any of them to the Company. Upon such notice the rights of the Buyer to obtain ownership or any other interest in the Goods shall cease.
- (7) The Company shall have the right of stopping the Goods in transit whether or not delivery has been made.
- (8) The Buyer shall not deal with the money of the Company in any way which may be adverse to the Company.
- (9) The Company can issue proceedings to recover the price of the Goods sold notwithstanding that ownership of the Goods may not have passed to the Buyer.

5. Terms of Payment

- (1) Payment shall be made for the Goods purchased within thirty (30) days from the end of the month during which goods were purchased. Time shall be of the essence for payment.
- (2) In the event that the Buyer fails to make any payment to the Company when payment falls due, the Company shall have the right, without prejudice to any other right or remedy to which the Company may be entitled, to charge interest on any overdue invoice at the rate of 20% (twenty per centum) per annum.
- (3) The Buyer must pay all costs and expenses (including legal costs on a full indemnity basis), which may be incurred whether involving the issue of legal proceedings or not by the Company in the attempted recovery of the overdue amounts. Any payment by the Buyer shall be credited first against any interest so accrued, any such costs and

expenses and the balance of payment, if any, shall be applied in reduction of the outstanding balance of the price.

- (4) The extension of credit facilities and the terms upon which such credit is provided are, in all cases, at the sole discretion of the Company and are subject to confirmation on the receipt of an order. In any event the Company retains the right to withdraw credit facilities at any time prior to delivery of Goods

6. Disputed invoice

- (1) If the Buyer disputes any amounts stated in an invoice for payment, then the Buyer shall pay to the Company the undisputed amount in accordance with the usual terms of payment extended to the Buyer.
- (2) The Buyer must:
 - (a) immediately notify the Company upon receipt of the disputed invoice or disputed amount that there is a dispute; and
 - (b) provide the Company with a notice in writing within seven (7) days setting out particulars of the dispute, and those specific items within the invoice that are disputed.
- (3) Notice served pursuant to this clause may be delivered by hand, by registered mail, or by facsimile to the Company at its street or postal address provided that:
 - (a) in the case of hand delivery or registered mail, upon written acknowledgment of receipt by a duly authorised employee of the Company; or
 - (b) in the case of facsimile upon completion of a successful transmission.
- (4) If notice of dispute is not given within the time required by this section, then the invoice is deemed to be accepted as submitted.

7. Risk

- (1) Irrespective of whether the Company retains ownership of the Goods, all risk for the Goods passes to the Buyer on delivery.
- (2) Where the Buyer expressly requests the Company to leave the Goods outside the Company's premises for collection or to deliver the Goods to an unattended location then such Goods shall be left at the Buyer's sole risk and it shall be the Buyer's responsibility to ensure the Goods are insured adequately or at all. In the event the Goods are returned to the Company's premises rather than being left unattended, then a calling card will be left and it will be the Buyer's responsibility to arrange re-delivery at their own cost or to pick up the Goods from the Company's premises.

8. Cost Recovery

- (1) All expenses, costs, charges, fees or disbursements incurred in or reasonably incidental to:
 - (a) recovering or attempting to recover any outstanding monies;
 - (b) exercising or attempting to exercise any right, power, privilege, authority or remedy of the Company under these terms or any agreement entered into by the Buyer and the Company pursuant to these terms; or
 - (c) repossessing or attempting to repossess any property of the Company from the Buyer under terms,are to the extent allowed by law payable by the Buyer to the Company. On demand by the Company all such expenses, costs, charges, fees or disbursements must be paid by the Buyer to the Company.

9. Amendment

The Company reserves the right to amend, vary, replace, add to or remove these Terms and Conditions following five business days' written notice by the Company to the Buyer.

10. Personal Property Securities Act 2009 ("PPSA")

- (1) In this clause:
 - (a) "proceeds" has the same meaning as in the PPSA;
 - (b) "Goods" means the Goods the Company supplies to the Buyer at any time as specified in the Schedule or otherwise under the terms of ~~this~~ the agreement between the Buyer and the Company and as described on invoices, quotations, work authorisations or any other forms provided by the Company to the Buyer as well as each or any replacement, altered or substitute part and all appliances, parts, components, instruments, appurtenances, accessories and other equipment which may from time to time be incorporated or installed in or attached to the Goods and, except where the context otherwise requires, includes any part of such Goods, but does not include intellectual property or services;
 - (c) "PPSA" means the Personal Property Securities Act 2009 (Cth) and any regulations made pursuant to it;
 - (d) "PPSR" means the Personal Property Securities Register;
 - (e) "Security Interest" has the same meaning as in the PPSA.
- (2) Upon assenting to these terms in writing the Buyer acknowledges and agrees that these terms:
 - (a) constitute a security agreement for the purposes of the PPSA: and
 - (b) create a security interest in:
 - (i) all Goods previously supplied by the Company to the Buyer (if any);
 - (ii) all Goods that will be supplied in the future by the Company to the Buyer.
- (3) The Buyer acknowledges that the Company's security interest:
 - (a) includes the Goods and all proceeds of the Goods of any kind; and
 - (b) includes all registration and enforcement costs incurred by the Company.
- (4) The Buyer consents to the Company effecting a registration on the PPSR (in any manner the Company determines) of any Security Interest arising under or in connection with these terms and conditions and the Buyer agrees to provide all assistance reasonably required by the Company to facilitate this, including but not limited to
 - (a) promptly signing any further documents and/or providing any further information (such information to be complete, accurate and up-to-date in all respects) which the Company may reasonably require to:
 - (i) register a financing statement or financing change statement in relation to a security interest on the Personal Property Securities Register;
 - (ii) register any other document required to be registered by the PPSA; or
 - (iii) correct a defect in a statement referred to in clause 11.4(a)(i) or 11.4(a)(ii).
 - (b) indemnifying, and upon demand reimbursing, the Company for all expenses incurred in registering a financing statement or financing change statement on the PPSR or releasing any Goods charged thereby;
 - (c) not registering a financing change statement in respect of a security interest without the prior written consent of the Company;
 - (d) not registering, or permit to be registered, a financing statement or a financing change statement in relation to the Goods in favour of a third party without the prior written consent of the Company; and

- (e) immediately advising the Company of any material change in its business practices of selling the Goods which would result in a change in the nature of proceeds derived from such sales.
- (5) The Buyer agrees that:
 - (a) these terms and conditions and any other related document(s), including in particular any information of the kind mentioned in section 275(1) of the PPSA, are confidential; and
 - (b) the contents of these terms and conditions and any other related document(s) will not be disclosed (except to the extent and for the purposes such disclosure is expressly permitted by these terms or required by law (other than under section 275(1) of the PPSA)).
- (6) Where a person is a controller in relation to the Goods, the parties agree that Part 4.3 of the PPSA will not apply to the enforcement of any security interest in the Goods by that controller.
- (7) If Chapter 4 of the PPSA does apply to the enforcement of a security interest arising under or in connection with these terms and conditions, the Buyer agrees the following provisions of the PPSA will not apply to the enforcement of that security interest: Section 95; section 96; section 118; section 121(4); section 125; section 130; section 132(3)(d); section 132(4); section 142; and section 143.
- (8) The Buyer agrees to and hereby waives its right to receive any notice under the PPSA (including notice of a verification statement) unless the notice is required by the PPSA and cannot be excluded.
- (9) If any provisions of these terms and conditions are inconsistent with the PPSA, the PPSA shall prevail to the extent of that inconsistency.

11. Privacy Act

- (1) The Buyer and/or the Guarantor/s (herein referred to as the Buyer) agree the Company may obtain from a credit reporting agency a credit report containing personal credit information about the Buyer in relation to credit provided by the Company.
- (2) The Buyer agrees that the Company may exchange information about the Buyer with those credit providers either named as trade referees by the Buyer or named in a consumer credit report issued by a credit reporting agency for the following purposes:
 - (a) to assess an application by the Buyer; and/or
 - (b) to notify other credit providers of a default by the Buyer; and/or
 - (c) to exchange information with other credit providers as to the status of this credit account, where the Buyer is in default with other credit providers; and/or
 - (d) to assess the creditworthiness of the Buyer.

The Buyer understands that the information exchanged can include anything about the Buyer's creditworthiness, credit standing, credit history or credit capacity that credit providers are allowed to exchange under the Privacy Act 1988.
- (3) The Buyer consents to the Company being given a consumer credit report to collect overdue payment on commercial credit.
- (4) The Buyer agrees that personal credit information provided may be used and retained by the Company for the following purposes (and for other purposes as shall be agreed between the Buyer and Company or required by law from time to time):
 - (a) the provision of Goods; and/or
 - (b) the marketing of Goods by the Company, its agents or distributors; and/or
 - (c) analysing verifying and/or checking the Buyer's credit, payment and/or status in relation to the provision of Goods; and/or
 - (d) processing of any payment instructions, direct debit facilities and/or credit facilities requested by the Buyer; and/or

- (e) enabling the daily operation of the Buyer's account and/or the collection of amounts outstanding in the Buyer's account in relation to the Goods.
- (5) The Company may give information about the Buyer to a credit reporting agency for the following purposes:
 - (a) to obtain a consumer credit report about the Buyer; and
 - (b) to allow the credit reporting agency to create or maintain a credit information file containing information about the Buyer.
- (6) The information given to the credit reporting agency may include:
 - (a) personal particulars (the Buyer's name, sex, address, previous addresses, date of birth, name of employer and driver's licence number);
 - (b) details concerning the Buyer's application for credit or commercial credit and the amount requested;
 - (c) advice that the Company is a current credit provider to the Buyer;
 - (d) advice of any overdue accounts, loan repayments and/or any outstanding monies owing which are overdue by more than sixty (60) days, and for which debt collection action has been started;
 - (e) that the Buyer's overdue accounts, loan repayments and/or any outstanding monies are no longer overdue in respect of any default that has been listed;
 - (f) information that, in the opinion of the Company, the Buyer has committed a serious credit infringement (that is, fraudulently or shown an intention not to comply with the Buyer's credit obligations);
 - (g) advice that cheques drawn by the Buyer for one hundred dollars (\$100) or more, have been dishonoured more than once; and
 - (h) that credit provided to the Buyer by the Company has been paid or otherwise discharged.

12. Goods sold

All Goods to be supplied by the Company to the Buyer are as described on the purchase order agreed by the Company and the Buyer and the description on such purchase order modified as so agreed prevails over all other descriptions including any specification or enquiry of the Buyer.

13. Force Majeure

If the Company is prevented either directly or indirectly from performing any of its obligations herein, including without limitation, making a delivery of the Goods or any part thereof by reason of Force Majeure, it shall be entitled, at its option, by notice to the Buyer, to either extend the time for delivery of the Goods for a reasonable period or to cancel the contract for supply of the Goods, and The Buyer shall not in consequence have any claim against the Company for damages or any other remedy for breach of contract.

For the purposes of this clause "Force Majeure" shall mean an act of God, war, fire, strike, lockout, trade or industrial disputes, government interference, transport delays, accidents, breakdown of plant or machinery, non-delivery or shortage of supplies or any other cause beyond the Company's control.

14. Cancellation

No order may be cancelled except with consent of the Company in writing and on terms which will indemnify the Company against all losses.

15. Place of contract

The Law of the State of Victoria governs this Agreement and the Company and Buyer submit

all disputes arising between them to the courts of such state and any court competent to hear appeals from those courts of first instance.

16. Guarantee and Indemnity for the supply of Goods to Corporate Buyer

- (1) The undersigned warrants that he/she/they is or are a director or directors of the Buyer and is/are authorised and lawfully permitted by the Buyer to commit and pledge to these Terms and Conditions of Trade.
- (2) In consideration of the Company agreeing at my/our request to supply the Buyer with the Goods, I/we agree to be responsible and liable (and if more than one person jointly and severally) to the Company for the price of all the Goods as the Company may supply from time to time from the date of this guarantee so that my/our liability to the Company is in respect of the whole debt.
- (3) I/we shall upon demand received from the Company pay to the Buyer any such amount of monies due and outstanding under these Terms and Conditions of Trade.
- (4) This guarantee is a continuing guarantee and security even if the amounts guaranteed or indemnified are not recoverable from the Buyer for any reason, and my/our liability under it is not affected by the Company giving time or any other indulgence to the Buyer.
- (5) I/we acknowledge and agree to be bound by the Terms and Conditions found herein.
- (6) I/we indemnify the Company against any loss, cost or expense, including but not limited to principal, interest, costs, expenses and taxes of any kind, which the Company suffers or incurs due to the Buyer's default under these Terms and Conditions, and on demand must pay to the Company any such loss cost or expense.
- (7) I/we agree to pay the Company the reasonable expenses reasonably incurred to enforce this Guarantee and Indemnity.

I/we confirm that the information supplied is true and correct to the best of my/our knowledge and belief.

(1) Print name in full Signed

(2) Print name in full Signed

Print witness name Signed

Address of witness

Phone Number () Date:

SCHEDULE

Buyer:

Goods supplied: