

GENERAL COMMERCIAL TRADING TERMS & ACCEPTANCE

The Supplier agrees to supply and the Buyer agrees to purchase the Goods and Services on the following Terms of Trade:

A reference to:

Contract Price means the agreed price for goods and services supplied as defined in the purchase order provided to the supplier by the buyer.

'Capital Equipment' means all the goods specified as Capital Equipment by The Supplier.

'Goods' means the goods supplied by the Supplier as set out on the Invoice, including Capital Equipment;

Security Interest refers to goods supplied and registered under the Personal Property Securities Act 2009.

The Invoice means the Tax Invoice issued by the Supplier to the Buyer in respect of the purchase of Goods;

'Services' means the services provided by the Supplier as set out on the Tax Invoice.

'The Supplier / Cargotec' means Cargotec Australia Pty Ltd ABN 72 097 663 431.

Please read the under mentioned terms carefully.

1. PAYMENT:

- 1.1 The Buyer must pay the Supplier for the Goods and Services within the period as detailed on the Tax Invoice and/or of the receipt of the Statement. All Cash sales must be paid in full with cleared funds prior to despatch or delivery of the goods.
- 1.2 The Buyer hereby agrees & acknowledges that at the absolute discretion of the Supplier, an account- keeping fee of 2% per month will be levied on any or all amounts in default of the agreed Terms of Sale.
- 1.3 The Buyer agrees to pay all or any costs associated with the collection of overdue accounts, including but not limited to reasonable legal costs, commissions to debt collectors, location costs and process serving.
- 1.4 The Supplier reserves the right to stop supply and place the account on hold until the account is returned to the agreed Terms of Sale.
- 1.5 The Preferred payment method is EFT and if no remittance advice is provided, payment will be set off against oldest outstanding debt.

2. INDEMNITY:

Except to the extent that a defect exists in the Goods and Services, at the time of sale, the Supplier will bear no liability to the Buyer or any third party for the Goods and Services after delivery to the Buyer. The Buyer indemnifies and keeps indemnified the Supplier and its associates from and against any and all loss, liability, damage, fee, costs (including legal costs), expense, suit, claim, demand, judgment and prosecution arising directly or indirectly out of or in connection with the personal injury or death, or loss of property to any person as a result of the Buyer's use of the Goods and Services after delivery or acceptance.

3. TERMS OF SALE:

These Terms of Sale apply to all transactions for which the Buyer is supplied Goods and Services. If any future contract is established between the Supplier and Buyer which is inconsistent with these Terms of Sale, then these Terms of Sale will apply unless the subsequent contract refers to and specifically alters these Terms of Sale in writing, and which alteration is agreed by the Supplier and the Buyer to in writing. Any deeming or verbal contracts will be regarded as invalid.

4. PURCHASE ORDER :

The Buyer agrees to provide a purchase order for all spare parts, equipment and service orders. Orders for non-stocked and specially imported equipment will require a 10% deposit at the point of order.

5. RISK AND TITLE:

- 5.1 Risk in the Goods and Services will pass to the Buyer upon delivery to the Buyer or their nominated agent, as defined in term 9, or varied, as agreed in writing.
- 5.2 Title in the Security Interest to the Goods and Services shall pass from the Supplier to the Buyer upon receipt by the Supplier of cleared funds for the full price of the Goods and Services supplied.
- 5.3 Until such time as full Security Interest in the property and ownership of the Goods and Services passes to the Buyer in accordance with term 5.2 the Buyer must hold the Goods and Services as the Supplier's fiduciary agent and Bailee and must keep the Products stored separately from all other goods

(including any products owned by the Buyer or third parties).

if:

- the Buyer fails to pay any amount of the Buyers
 - total indebtedness to the Seller under these conditions of sale, as and when it is due, to the Seller;
 - a receiver and manager, liquidator, provisional liquidator or other insolvency administrator is appointed in respect of the Buyer or a scheme of arrangement is proposed or approved in respect of the Buyer or a mortgagee enters into possession of any of the Buyer's assets or an application is made for the winding up of the Buyer; or
 - the Buyer is otherwise in default of these conditions of sale; or
 - there is at any time on any account whatsoever money owing by the Buyer to the Seller whether due to be paid or not,
The Seller may without notice and without prejudice to any of its other rights and remedies retake possession of the goods and may enter upon the Buyer's premises by its servants or agents for that purpose.
- 5.4 The Buyer consents to, on request, allow the Supplier reasonable access to its premises in order to retake possession of Goods and Services in accordance with these Terms of Trade and the Supplier has the right of re-sale of the Goods and Services in the event the Supplier retakes possession of them.
 - 5.5 The Buyer indemnifies and save harmless the Supplier, its servants or agents in relation to any loss or damage as a result of the retaking of possession of the said Goods and Services. Further, in the event the Supplier exercises its right of retaking possession of the said Goods and Services, the Buyer grants power of sale to the Supplier to resell the said Goods and Services, and the Buyer further acknowledges that any shortfall owing after the said Goods and Services are resold will be the responsibility of the Buyer.

6. TAXES AND DUTIES:

The amounts payable by the Buyer to the Supplier for, or in connection with, any supply made under these Terms of Trade do not include any GST or other taxes or duties. In the event that any GST or other taxes or duties are payable, the Buyer must pay such amounts to the Supplier at the same time and in the same manner as the price payable for the Goods and Services.

7. INSURANCE: THE SUPPLIER PROVIDES NO INSURANCE:

It is the responsibility of the Buyer to ensure the goods are fully insured at the point of delivery.

8. Delivery

- 8.1 The Seller's Delivery times will be as generally agreed, at the time of the order being placed, subject to delays beyond the Sellers control, including Force Majeure, or as agreed with the Buyer, if circumstances change.
- 8.2 All goods are at the Buyer's risk immediately upon receipt by the Buyer or his nominated agent.
- 8.3 Delivery will be deemed to have occurred once the goods have been picked up by the Buyer, his nominated agent, delivered by the Seller to the Buyer's nominated receiving point or varied, as agreed by the Seller and Buyer, in writing.
- 8.4 In any event, Cargotec shall not be liable for any loss caused by its delays or failures in performance of an order or default in delivery arising out of or arising from causes beyond its control and without its fault or negligence.

9. RETURN OF, OR CANCELLATION OF GOODS ORDERED:

In the event the Buyer elects to return goods or cancel goods on order, the Supplier at its absolute discretion reserves the right to charge a minimum handling fee of \$25.00 or 10% on the amount involved, whichever is the greater. No return of goods will be accepted without prior written approval of the Supplier. Further, all goods returned will only be accepted if returned within 7 days of receipt, all freight is prepaid by the Buyer and the goods are in their original merchantable condition.

10. CREDIT CLAIMS:

It is the responsibility of the Buyer to inspect the goods immediately upon receipt. Credit claims will

only be recognised if made in the first instance by phone within 48 hours of receipt of the goods, and in writing within 7 days. Claims outside this period will be at the absolute discretion of the Supplier, and its decision final and binding on the Buyer. Product Warranty conditions will apply for Product with faults and the Warranty department should be contacted.

11. Termination and Suspension

Either party may terminate this Contract, with immediate effect if:

The other party breaches the Contract and has not remedied the situation within 30 days from receipt of written notice thereof;

The buyer becomes insolvent, bankrupt, enters into reorganisation or a threat thereof is evident;

The Buyer becomes subject to any form of insolvency administration and such proceedings are not dismissed within twenty one (21) days from filing such proceedings, or a person is in a position to attempt to levy execution against the equipment, or if for any reason, in Cargotec's reasonable opinion, the Buyer's unlikely to be able to pay their outstanding debts as and when they fall due. Further, Cargotec may immediately, at its election, and without prejudice to its other legal rights and remedies;

- 1) Terminate any purchase order(s) of the Buyer
- 2) Suspend any further deliveries of equipment or services
- 3) Require payment in advance for all or any further deliveries of equipment and / or services to the Buyer
- 4) Repossess any equipment held by the Buyer to which Cargotec has title and enter onto any premises on which the equipment are stored, without notice, for this purpose.

12. OFF-SET:

The Buyer agrees that, for the purpose of debt recovery, HIAB may Set-Off any credit amount that HIAB owes to the Buyer, against any debt due by the Buyer to HIAB.

13. LIMITATION OF LIABILITY:

- 13.1 The Supplier excludes any and all conditions, warranties and terms implied by statute, general law, international convention or custom, except any implied condition or warranty the exclusion of which would contravene the provisions of any statute (including the Trade Practices Act 1974) or cause any part of these Terms of Trade to be void.
- 13.2 If the Supplier is liable for a breach of any condition or warranty implied by the Trade Practices Act in respect of the Goods and Services, the Supplier's liability is limited to: in respect of the Services, at the election of the Supplier either the resupply of the Services or the payment of the cost of having the Services resupplied; and in respect of the Goods, at the election of the Supplier either the replacement or repair of the Goods, in respect of which the breach occurred.
- 13.3 Subject to term 13.1, the Supplier's liability for any loss or damage suffered by the Buyer in connection with the supply of the Goods and Services by the Supplier, shall be limited to the price paid for the Goods or Services and the Supplier under no circumstance will be liable for consequential or indirect damages arising out of or in connection with these Terms of Trade, including without limitation, loss of profits and damage suffered as a result of claims by any third person.

14. GOVERNING LAW:

These Terms of Trade are governed by the laws of Victoria and the Commonwealth of Australia.

15. DUTY OF DISCLOSURE :

The Buyer Warrants not to be in receipt of any information, notice or court proceedings that may lead to Bankruptcy, Appointment of an Administrator, Controller or Managing Controller, Receiver or Receiver Manager or Liquidator, and that the Buyer does not intend to enter into any scheme of arrangement with creditors whether formally through a court, or otherwise.