

**J R PRODUCTION ENGINEERING PTY LTD
TERMS AND CONDITIONS OF SALE**

1. DEFINITIONS

"JR PROD" means JR PRODUCTION ENGINEERING PTY LTD ABN 70 061 980 470

"CONTRACT" means the contract entered into between JR PROD and the customer and includes any purchase orders submitted by the Customer whether verbal or written and approved by JR PROD.

"Customer" means the Customer purchasing or offering to purchase goods from JR PROD (including any successors, nominees and any insolvency Administrator appointed to take control of the Customers business), and where there is more than one Customer the Customer covenants and obligations are joint and several.

"DATE of Delivery" is the date in which the goods leave the premises of JR PROD.

"Goods" include Goods manufactured, imported, supplied and/or delivered by JR PROD to the customer or as the customer may direct.

"Invoice" means Tax invoice.

2. PAYMENT

Payment for goods supplied by JR PROD to the customer shall become due on the date of delivery of the goods or otherwise on the date specified by JR PROD invoice.

Payment shall be made to JR PROD as directed on the tax invoice.

Time for payment shall be of the essence of the contract.

If payment is not made on the due date then JR PROD shall without prejudice to any other remedy be entitled to charge interest and administration charges of 2% above the overdraft rate charged to J R PROD by its bankers from time to time on the monies outstanding. The customer will also be liable for any legal or other costs incurred by JR PROD in attempting to recover the outstanding amounts owed by the customer.

If the customer delays making payment under the terms of the contract, JR PROD may, without prejudice to any other remedy, suspend supply or delivery of goods to the customer until such payment is made and JR PROD shall be entitled to increase the contract price to cover any extra expense as a result of the customer's default.

3. GOODS AND SERVICE TAX

3.1 All prices are GST inclusive amounts.

3.2 The price for supply of any goods, services and other things by JR PROD to another party ("Customer") shall increase in line with the GST rate set by the Government from time to time.

3.3 JR PROD will provide Tax invoices at the time the goods are delivered under this contract, or upon request.

3.4 DEFINITIONS

a. "GST" means GST under the GST Act.

b. "GST Act" means A New Tax System (Goods and Services Tax) Act 1999.

c. "Supply" and "Tax Invoice" have the meaning as set out in the GST Act.

4. DELIVERY OF GOODS

4.1 JR PROD shall make all reasonable efforts to deliver the Goods on the date agreed between the parties, but shall not be responsible for any consequential, indirect or other loss arising as a result of any failure by JR PROD to deliver goods at any agreed time or within a reasonable period. Where no date for delivery has been agreed upon, JR PROD shall deliver the goods within a reasonable period.

Where delivery is to be made during a certain period, JR PROD may at its option deliver the goods in instalments during that period.

4.2 Where delay in the delivery or non-delivery is due to the customer failing to obtain any necessary approvals, clearances or other prerequisites to delivery or arises as a result of any occurrence reasonably beyond JR PROD control, JR PROD shall within 30 days of becoming aware of such occurrence notify the customer in writing of JR PROD inability to deliver and may terminate the contract if JR PROD shall so determine.

4.3 Unless otherwise agreed, Goods supplied shall be of ordinary commercial quality and all standards including but not limited to tolerances of dimensions, strength and weight, shall be of such standard as JR PROD generally applies to such type of Goods.

- 4.4 Any measures requested by the Customer to protect the goods in storage or transit shall be at the customer's expense.

5. **PROPERTY IN THE GOODS**

- 5.1 "Insolvency Event" shall occur when
- a. The customer is late or fails to make payments to JR PROD in accordance with JR PROD payment terms.
 - b. An application or order is made, a resolution is made or proposed or other steps are taken for the winding up, dissolution, official management or voluntary administration of the Customer.
 - c. The customer enters into an arrangement, compromise or composition or assignment for the benefit of its creditors or any class of them.
 - d. The customer ceases, suspends or threatens to cease or suspend the conduct of its business or disposes of or threatens to dispose of its assets other than in the ordinary course or business.
 - e. The customer is deemed unable to pay its debts as and when they fall due or stops or suspends payments of its debts.
 - f. A receiver, a receiver and manager, administrator, liquidator, or other officer is appointed to the Customer or any part of its property, or a third party attempts to levy execution against the company's property or the goods, or the customer (being a natural person) commits an act of bankruptcy.
- 5.2 Title of goods delivered by JR PROD to the customer will not pass to the customer until such time as JR PROD has received payment in full of the purchase price of the said goods. ("Debts")
- 5.3 Notwithstanding anything in this clause, Risk in the goods shall pass to the customer at the date of delivery.
- 5.4 The customer shall have the right to sell the goods (in its own name and not as an agent of JR PROD) by way of bona fide sale at full market value and in the ordinary course of its business.
- 5.5 Until the Debts have been paid:
- a. The customer shall hold the Goods as bailee and fiduciary agent for JR PROD and shall safely and securely store the goods separately from other goods of the customers in such a manner as to show clearly that the goods are the property of JR PROD
 - b. The customer shall indemnify JR PROD against any claim, action, loss, cost, expense or liability incurred or suffered by JR PROD arising out of the possession, use or disposal of the goods by the customer or repossession or attempted repossession by JR PROD.
 - c. any sale of the goods under sub clause 5.4 shall be effected as fiduciary for JR PROD and the proceeds of such sale and the rights against the customer arising from such sale shall be held in trust for JR PROD. The proceeds of such sale must be held in a separate account until the liability to JR PROD has been fully discharged.
- 5.6 In the event that:
- a. the debts are not paid in accordance with these conditions and any other agreement between JR PROD and the customer
 - b. JR PROD receives notice of or reasonably believes that a third person may attempt to levy execution against the Goods: or
 - c. An insolvency Event occurs,
Then JR PROD may at any time, without notice to the customer and without prejudice to any other rights which it may have against the customer, terminate any contract relating to the goods and the bailment/agency referred to in sub clause 5.5 and enter upon any premises occupied by the customer where JR PROD reasonably believes the goods may be stored, repossess the goods without being liable for any damage caused, and subsequently dispose of the goods at JR PROD discretion.
- 5.7 If an insolvency event occurs, the customer shall bear the onus of proving that the goods supplied by JR PROD in the customers possession (whether mixed with other goods or not) have been paid in full by the customer. If the Customer is unable to prove to the satisfaction of JR PROD, that the goods identified as JR PROD Goods

have been paid in full by the customer, then those Goods shall be deemed to relate to unpaid invoices outstanding from time to time and such goods are deemed to be the property of JR PROD and may be repossessed by JR PROD.

- 5.8 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 shall hold such part of the proceeds of such manufacturing or construction process as relates to the goods in trust for JR PROD in a separate account until the liability to JR PROD has been fully discharged. Such part shall be deemed to be equal in dollar terms the amount owing by the customer to JR PROD at the time of the receipt of such proceeds.

6. WARRANTIES AND INDEMNITIES

- 6.1 Subject to this condition of sale, JR PROD warrants the goods to be of merchantable quality. The liability of JR PROD to this warranty or any other warranty implied by the operation or a statute including the Trades Practices Act 1974 (as amended) shall be limited to the cost or replacing defective goods, the cost of obtaining equivalent Goods, or the cost of repairing the goods, or the cost of repairing the goods at JR PROD discretion provided that in all such cases freight costs and costs of dismantling and assembly shall be borne by the customer.
- 6.2 Subject to paragraph 6.1, this agreement shall exclude JR PROD from any liability arising out of or in connection with the supply, resupply, use or reuse of the Goods, however arising and whether for consequential loss or otherwise, including but not limited to any liability JR PROD may otherwise have had by virtue of any representation, warranty, condition or term whether expressed or implied.
- 6.3 The Customer hereby indemnifies and agrees to hold JR PROD harmless against all costs, claims, expenses or other liability arising out of or in connection with the delivery to the customer or the Goods prepared, manufactured or dispatched in accordance with drawings, models, descriptions, analyses, prescriptions or other specifications submitted to JR PROD by the customer. including but not limited to actions for alleged infringement of copyright, patents, registered designs or trademarks.
- 6.4 JR PROD shall take all reasonable steps to care for and maintain any tools or models supplied to it by the customer, provided that all such tools and models shall be insured by, and where necessary repaired at the expense of the customer.

7. ADVICE

Subject to clause 6, any advice, recommendations, information, assistance or service provided by JR PROD in relation to Goods supplied or manufactured by it in respect of their use or application is given in good faith and shall be accepted without liability on tite part of JR PROD and it shall be the responsibility of the customer to confirm the accuracy and reliability of the same in light of the use to which the Customer makes or intends to make of the goods.

8. HAZARDOUS MATERIALS

- 8.1 Where JR PROD sells potentially hazardous material ("hazardous material") to the customer, JR PROD shall endeavour to provide a Material Safety Data Sheet ("MSDS") applicable to those hazardous materials. If not provided, the onus is on the Customer to request the MSDS from JR PROD.
- 8.2 The Customer agrees to follow the instructions for use and handling of the hazardous materials, and accepts it is the customer's responsibility to ensure that its employees, contractors, agents or customers comply with the instruction for use and handling as stipulated in the MSDS and/or Warning Labels supplied by JR PROD
- 8.3 The customer hereby indemnifies and agrees to hold JR PROD harmless against losses, damages, claims or other liability arising out of or in connection with supply of the hazardous materials by JR PROD to the customer and the use and handling of the hazardous materials by the customer, its employees, contractors, agents or customers.
- 8.4 The information supplied by JR PROD in the MSDS or Warning Labels is often obtained from JR PROD own suppliers or other sources, and JR PROD will not be held liable in contract and/or in tort for any reliance on such information.

8.5 JR PROD reserves the right to withdraw further supply of any hazardous materials if the Customer, its employees, contractors, agents or customers fail to comply with the conditions of use and handling as stipulated in the MSDS and/or Warning Labels

9. CANCELLATION

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

10. APPLICABLE LAW

This contract shall be deemed to have been made in Victoria and is governed by the law of Victoria.

The parties agree to submit to the exclusive jurisdiction of the courts of Victoria.

Date 01 July 2014