

Terms and Conditions

1. General

Orders are accepted subject to the following terms and conditions and the placing of an order with Ad-Tek Pty Limited (Company) is deemed to be acceptance of these terms and conditions by the party purchasing the goods (customer). No variation or modification of, or substitution for, these terms and conditions will be binding unless expressly accepted by an authorised officer of the Company in writing.

2. Quotations and Price Lists

Quotations and/or the Company price list are not an offer by the Company to supply the goods referred to in such quotations or price lists, and no order placed in response to a quotation or price list will be binding unless accepted by the Company in writing. All such acceptances by the Company are subject to availability of the necessary materials and to the Company being able to obtain any necessary authorisation and/or licences and to the same remaining valid.

3. Prices and Terms of Payment

- a) All prices given in quotations are provisional only until the order has been accepted by the Company. Prices are based upon the prices and costs of materials, labour, fuel, transport and overhead expenses current at the date of the quotation and may be varied by the Company at any time either before or after acceptance of the order to correspond with any variation in such prices or costs which may occur at any time before delivery of the order to the customer is completed. All prices shown in price lists are subject to alteration without notice.
- b) Unless otherwise stated in the Company's quotations or price lists current at the time of the Company's acceptance of an order, prices quoted are strictly net. All goods or services delivered to the customer by the supplier in any Calendar month must be paid for in full in Australian dollars by the customer on or before the Supplier's last trading day in the month following in which the goods or services were delivered or provided ("the Due Date").
- c) To secure payment of all monies which are or may become payable by the Customer under this agreement the Customer (or where the Customer is comprised of two or more persons then each person jointly and severally) hereby charges with the due payment of all of those monies all of the Customer's interest in real property wherever located both present and future and the Customer consents to the Supplier lodging a caveat or caveats over such property to protect its interest.

- d) All payments made using a credit card will be subjected to standard processing fee as follows: Mastercard Visa cards 2%, American Express and Diners Club 3%. The charges will apply to GST inclusive value.

4. Goods and Services Tax

- a) In this clause
 - I. "GST" means GST as defined in A New Tax System (Goods and Services Tax) Act 1999 as amended ("GST Act") or any replacement or other relevant legislation and regulations;
 - II. words used in this clause which have a particular meaning in the "GST law" (as defined in the GST Act, and also including any applicable legislative determinations and Australian Taxation Office public rulings) have the same meaning, unless the context otherwise requires;
 - III. any reference to GST payable by a party includes any corresponding GST payable by the representative member of any GST group of which that party is a member; and
 - IV. if the GST law treats part of a supply as a separate supply for the purpose of determining whether GST is payable on that part of the supply or for the purpose of determining the tax period to which that part of the supply is attributable, such part of the supply is to be treated as a separate supply.
- b) Unless GST is expressly included, the consideration expressed to be payable under any other clause of these terms and conditions for any supply made under or in connection with these terms and conditions (including the price at which the goods are sold) does not include GST.
- c) To the extent that any supply made under or in connection with these terms and conditions (including the supply of the goods) is a taxable supply, the GST exclusive consideration otherwise payable for that supply is increased by an amount equal to that consideration multiplied by the rate at which GST is imposed in respect of the supply, and is payable at the same time.
- d) Each party agrees to do all things, including providing tax invoices and other documentation, that may be necessary or desirable to enable or assist the other party to claim any input tax credit, adjustment or refund in relation to any amount of GST paid or payable in respect of any supply made under or in connection with these terms and conditions.
- e) If a payment to a party under these terms and conditions is a payment by way of reimbursement or indemnity and is calculated by reference to the GST inclusive amount of a loss, cost or expense incurred by that party, then the payment is to be reduced by the amount of any input tax credit to which that party is entitled in respect of that loss, cost or expense before any adjustment is made for GST pursuant to paragraph c).

5. Title

Notwithstanding that risk in the goods passes to the customer upon delivery to the customer or into the customer's custody, whichever is earlier, title to the goods remains with the Company until all moneys owing by the customer to the Company have been paid in full, whether such moneys are in respect of moneys payable under a specific contract or on any other account whatsoever and, until such time, the customer must, if required by the Company, store the goods in a manner which clearly indicates that the goods are owned by the Company and the customer will in any event hold the goods as bailee subject to its right to deal with the goods in the ordinary course of its business on the basis that it is dealing with the goods as undisclosed agent of the Company and any moneys received as a result of such dealings will be held by the customer for the benefit of the Company. In the event that the customer does so deal with the goods but does not obtain payment therefore then the customer must, at the Company's request, assign to the Company any debt owing to the customer in relation to such dealing and the customer hereby irrevocably appoints the Company as its attorney with all powers permitted by law for the purpose of effecting any such assignment and to effect a recovery of any such debt in the name of the customer for the benefit of the Company. If the customer uses the goods in a manufacturing or similar process and sells the resulting product the customer holds that part of the proceeds of such sale relating to goods sold to the customer by the Company on trust for the Company. That part of the proceeds held on trust, for this purpose alone, is deemed to be the amount owing to the Company at the time of receipt by the customer of the proceeds. In the event that the customer fails to pay for the goods as provided in these terms and conditions, the Company will be entitled without prior notice to enter upon the customer's premises at any time and retake possession of the goods. The provisions of this clause will apply notwithstanding any subsequent or other agreement between the parties under which the Company or a related body corporate gives the customer credit. The Company may commence legal action against the customer if the goods are not paid for, notwithstanding that property in the goods has not passed.

6. Exclusion of Warranties

- a) The only conditions and warranties which are binding on the Company in respect of the state, quality or condition of the goods or services supplied by it to the customer are those imposed and required to be binding by law (including the Trade Practices Act, 1974) and to the extent permitted by law the liability, if any, of the Company arising from the breach of such conditions or warranties will, at the Company's option, be limited to and completely discharged by:
 - I. in the case of goods, either the replacement or the repair by the Company of the goods supplied to the customer; and
 - II. ii) in the case of services, either the supplying of the services again or paying to have the services supplied again,and otherwise all other conditions and warranties whether expressed or implied by law in respect of the state, quality or condition of the said goods which may apart from this clause be binding on the Company are hereby expressly excluded and negatived.
- b) Except to the extent provided immediately above the Company will have no liability (including liability in negligence) to any person for any loss or damage consequential or otherwise howsoever suffered or incurred by any such person in relation to the goods and/or services and without limiting the generality thereof in particular any loss or damage consequential or otherwise howsoever suffered or incurred by any such person caused by or resulting directly or indirectly from any failure, breakdown, defect or deficiency of whatsoever nature or kind of or in the goods and/or services.

- c) Any drawings, description, weights, or dimensions submitted by the Company are approximate only and intended merely as a general guide and the Company will not be liable for any error or omission therein or with regard thereto.
- d) No representation in relation to Company products will be binding on the Company unless in writing and signed by the Managing Director.
- e) The Company's obligation under sub-clause a) to repair or replace such goods is subject also to the customer having complied with all instructions given by the Company concerning the manner in which such goods should be used.
- f) The Company reserves the right to change the formulae of products if results of research require this. Every reasonable precaution is taken in the manufacture of Company products and the compilation of information about them, but results cannot be guaranteed.
- g) Normal precautions must be taken in handling Company chemical products to protect the skin and eyes. On no account should Company products be taken internally or used otherwise than for the purpose prescribed by the Company. No liability can be accepted by the Company in the event of misuse. Should a mishap occur - contact a hospital, the Poisons Information Centre or the Company.

7. Intellectual Property

The Company will not be liable in respect of any claim which may be made against the Company for infringement of letters patent, registered designs or any other intellectual property which may arise as a result of the Company carrying out instructions given by the customer and the customer agrees to indemnify and keep indemnified the Company from and against all or any such claims and against all costs, damages and expenses incurred by or recovered against the Company in respect of any such claims.

8. Delivery

Delivery is on the terms and conditions as in the Company's current price list. The Company reserves the right to apply a delivery charge depending on quantity of goods and freight distance. Any delivery dates given by the Company are approximate only and no liability can be accepted for any loss, injury, damages or expenses consequent upon any delay in delivery from any cause whatsoever. Any such delay will not entitle the customer to cancel any order or to refuse to accept delivery at any time.

The customer must inspect goods immediately upon delivery and must within 7 days of inspection give written notice to the Company, with particulars, of any claim that the goods are not in accordance with the contract. If the customer fails to give that notice, then to the extent permitted by law the goods will be treated as having been accepted by the customer.

9. Packing

All containers mentioned in the current price list are standard Company sizes, free of extra charge and non-returnable. Special packaging is charged extra.

10. Shortage, Damage or Loss in Transit

The Company will not be liable for shortage, loss or damage to goods or materials in transit in or elsewhere unless written notice is given to the Company in accordance with the terms and conditions of the insurance cover effected in respect of

the particular consignment, and in the absence of any such insurance cover requirements:

- a) All, shortages and damage must be reported to the carriers and the Company in writing within 3 days of receipt of goods.
- b) In the case of loss, must be reported to the carriers and the Company in writing within 14 days of the scheduled arrival date or in such other manner as may be specified in the covering documents.

No claims for any deficiencies will be considered unless the above conditions are adhered to.

11. Sale of Goods Act

The Sale of Goods (Vienna Convention) Act 1986 NSW is excluded.

12. Return of Goods

The Company will not accept the return of goods supplied against orders except by prior written agreement and only if the goods are in good and saleable condition. Any such return must be freight/cartage prepaid by the customer. The Company reserves the right to make a restocking charge for the goods returned which may be deducted from any credit or refund given.

13. Resale

If the customer sells any of the goods which the customer purchases from the Company the customer must do so under the trade marks or trade names registered by the Company, and the customer must ensure that such goods are only sold subject to the terms and conditions as are herein contained unless otherwise expressly agreed in writing by the Company.

14. Force Majeure

If the Company is delayed in or prevented from making delivery owing to an event beyond the Company's reasonable control, the Company will be at liberty to cancel or suspend the contract without incurring any liability for any loss or damage resulting.

15. Legal Construction

These terms and conditions are to be governed and interpreted according to the laws of Victoria and the Company and the customer consent and submit to the jurisdiction of the Courts of Victoria and of the Commonwealth of Australia.

16. Extent of Conditions

These terms and conditions supersede and prevail over general or special terms or conditions imposed or sought to be imposed by the customer at any time in relation to any order. The Company and customer have entered into these terms and conditions without relying on any representation by the other.