

Standard Terms and Conditions of Sale

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1 Interpretation

- 1.1 In these conditions the following words and expressions have the following meanings:
- "Buyer" means any person, body corporate or entity which purchases or orders the Goods from the Seller.
 - "Conditions" means these terms and conditions for the supply of the Goods by the Seller to the Buyer, as amended or varied in writing by the Seller.
 - "Contract" means a contract between the Seller and the Buyer for the sale of the Goods.
 - "Goods" means all goods, products or materials supplied by the Seller to the Buyer.
 - "Seller" means Hazquip Australia Pty Ltd ABN 21 115 432 954.
- 1.2 Words in the singular include the plural, and vice versa.
- 1.3 Any reference in these Conditions to a statute or a provision of a statute shall be construed as reference to the statute or provision as amended, re-enacted or extended at the relevant time.
- 1.4 Headings may be used to interpret the provisions of these Conditions where there is uncertainty or ambiguity.
- 1.5 References to a clause, is a reference to a clause of these Conditions.

2 Application of Conditions

- 2.1 All quotations, tenders, offers, orders and contracts are made or accepted and all Goods are subject to acceptance by the Seller and, if accepted, are supplied subject to these Conditions and any special terms and conditions which are imposed or agreed to by the Seller from time to time, unless varied in writing by the Seller.
- 2.2 The Seller may withdraw, revoke or vary a written quotation at any time.
- 2.3 No terms stated by the Buyer in making an order will be binding upon the Seller, unless accepted in writing by duly authorised officer of the Seller.
- 2.4 These conditions supersede all terms and conditions of sale previously issued by the Seller.

- 2.5 Any quotation issued by the Seller is not and will not be construed as an offer capable of acceptance by the Buyer and is a price estimate only.
- 2.6 Unless otherwise agreed in writing these Conditions will be deemed to be incorporated in any contract between the Seller and the Buyer. Any terms and conditions contained in any order offer acceptance or other document of the Buyer which are inconsistent with these Conditions are expressly excluded.
- 2.7 The use and disposal of the Seller's products are not within its control, regardless of any assistance provided. The Seller assumes no obligation or liability for the suitability of its products in any specific end use application. It is the Buyer's responsibility to determine whether the Seller's products are appropriate for the Buyer's use and to comply with all regulations in this regard.
- ### 3 Seller may decline order
- 3.1 The Seller reserves the right, in its sole discretion, to decline any order or part thereof. Any order or part thereof not accepted by the Seller is deemed cancelled. The Seller requires that any order of Goods be in writing.
- ### 4 Governing law
- 4.1 These Conditions are governed by the laws in force in the State of Queensland and each party submits to the jurisdiction of the courts of the State in relation to any dispute arising out of any contract.
- ### 5 Cancellation of order
- 5.1 An order accepted by the Seller cannot be cancelled without the Seller's prior written consent (in its sole discretion). No application for cancellation or delay in delivery will be considered, unless made by the Buyer in writing to the Seller.
- 5.2 The Seller will consider an application for cancellation or delay in its sole discretion.
- ### 6 Price
- 6.1 All prices are based on the quantity of Goods indicated by the Seller. The Seller reserves the right to change the price where the quantity of Goods change for any reason.
- 6.2 If between the date of acceptance of an order and the issue of an invoice, there is an increase in the cost to the Seller of supplying the Goods which is beyond the control of the Seller, the Seller may increase the amount of the invoice in line with the increase in cost.
- 6.3 Unless otherwise agreed, the price for any Goods does not include the costs of delivery of the Goods and all costs, charges or expenses incurred by the Seller in relation to delivery are payable by the Buyer.
- 6.4 If for any reason the Goods ordered are unavailable, the Seller reserves the right to substitute alternative goods provided that they are reasonably equivalent in all respects (unless agreed otherwise in writing).
- 6.5 Any GST payable by the Seller in respect of the supply of the Goods will be paid by the Buyer to the Seller. The Buyer must supply the Seller with its ABN prior to, or at the time of, placing an order with the Seller.
- ### 7 Payment
- 7.1 Unless an account is held with the Seller, payment terms are cash or electronic funds transfer upon delivery or collection of the Goods.
- 7.2 Unless otherwise agreed in writing by the Seller, payment by the Buyer to the Seller must be made in full within 30 days from the invoice date.
- 7.3 Time for payment is of the essence of the Contract. Where payments are overdue, the Seller may, in addition to any

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other rights it may have, in its sole discretion, either cancel or suspend undelivered orders.

- 7.4 If the Buyer fails to make payment when due pursuant to these Conditions, the amount unpaid will incur compound interest at the rate of 1.5% per cent per month on the amount outstanding, compounding daily, in respect of each day that the amount outstanding remains unpaid until the date payment is received

8 Payment default

- 8.1 If the Buyer defaults in payment or breaches these Condition, then it will be liable for all costs incurred by the Seller and will indemnify the Seller against any loss, liability, charge, expense, outgoing or payment which the Seller suffers, incurs or is liable for in respect of the recovery of monies owing by the Buyer to the Seller.

9 Delivery

- 9.1 The Seller will deliver the Goods purchased by the Buyer to the Buyer's nominated warehouse or location within the capital city in which the Buyer predominantly carries on business, or to such other place as the Buyer specifies and the Seller agrees.
- 9.2 For the avoidance of doubt, the Buyer is responsible for arranging collection or delivery of the Goods unless otherwise agreed, and the Seller will not be liable in any way for any failure or delay in delivery or for any loss or damage resulting directly or indirectly from any failure or delay in delivery of the Goods irrespective of whether such failure or delay is negligent or within the Seller's control or otherwise.
- 9.3 The Seller reserves the right to make deliveries of any order by instalments in which case each instalment will be deemed to be the subject of a separate contract governed by these Conditions for which the Buyer must separately pay.
- 9.4 If, due to any act, matter or thing beyond the control of the Seller, the address for delivery is unattended, delivery cannot otherwise be effected or the Goods cannot be dispatched, the Seller, in its sole discretion, may store the Goods at the Buyer's risk and expense or take such other steps as it considers appropriate.
- 9.5 If the Seller delivers the Goods then, unless otherwise agreed in writing by the Seller, the Goods must be unloaded by the Buyer immediately on arrival at the specified destination.
- 9.6 The Seller reserves the right to withhold deliveries if:
- the Seller, in its sole discretion, considers that the financial condition of the Buyer so warrants and that such action is advisable to protect the Seller's interest; and
 - the terms of payment for any Goods are not strictly adhered to by the Buyer.

10 Acceptance

- 10.1 The Buyer must inspect the Goods immediately upon delivery or collection and must, within 2 days from the time of delivery or collection, give written notice to the Seller with particulars of any claim that the Goods are damaged, defective, non-conforming or otherwise not in accordance with the contract.
- 10.2 If the Buyer fails to give notice to the Seller, then to the extent permitted by law, the Goods must be treated as having been accepted by the Buyer and shall be deemed to be in all respects in accordance with the contract. The Buyer will be bound to accept same.

11 Return of Goods

- 11.1 To the fullest extent permitted by law, no Goods will be returned unless:
- prior authorisation has been given by the Seller;

- the correct invoice number is quoted on the Buyer's return docket;
- the returns are made within five (5) Business Days after delivery; and
- the reason for return is clearly stated on the Buyer's return docket.

- 11.2 The Buyer and Seller acknowledge that the Buyer holds the Goods as from the date of delivery as bailee and agent for the Seller for the purpose of sale of the Goods in the ordinary course of the Buyer's business.
- 11.3 The Buyer will not be entitled to return the Goods to the Seller, except as stated above or with the written consent of the Seller, at the discretion of the Seller.
- 11.4 All Goods returned may be subject to a handling charge and the Buyer will pay all return freight costs.
- 11.5 Without limiting the foregoing, the Seller and the Buyer agree that, to the fullest extent permitted by law, the Buyer will not be entitled in any circumstances to return Goods which the Seller has acquired specifically for and at the request of the Buyer.

12 Risk

- 12.1 Risk in the Goods passes to the Buyer on collection or delivery of the Goods or on dispatch of the relevant invoice, whichever is the earlier and from that time the Buyer assumes all risk of loss and damage to the Goods, including without limitation all loss or damage in the course of unloading the Goods following delivery.

13 Title to Goods

- 13.1 Notwithstanding any other provision in these Conditions, the title to any Goods supplied by the Seller will remain with the Seller and no legal or equitable interest or property in the Goods whatsoever will pass to the Buyer until the Buyer has paid the full invoice price for all Goods supplied by the Seller under all invoices.
- 13.2 Until title passes, the Buyer must:
- refrain from encumbering the Goods;
 - store, mark and keep appropriate records for the Goods so that they can at all times be identified and distinguished as the property of the Seller and in particular must refrain from mixing the Goods with any goods owned by the Buyer or any other person;
 - allow the Seller full and free access to the Buyer's premises where the Goods are located to retake possession of such Goods if the Buyer is in any way in breach of these Conditions;
 - not dispose of the Goods unless all of the following conditions are satisfied:
 - the Goods are disposed to a bona fide sub-purchaser in the ordinary course of the Buyer's business;
 - no event as specified in clause # (a), (b) or (c) has occurred in respect of the Buyer; and
 - the Buyer maintains records of all disposals of the Goods and permits inspection of the records by the Seller promptly upon request.
- 13.3 The Buyer indemnifies the Seller against any claim, action, damage, loss, liability, cost, expense or payment which the Seller suffers, incurs or is liable for in respect of the Seller's exercise of its rights under this clause 13.

14 Warranty

- 14.1 The Seller warrants that the Goods supplied will, under proper use, be free from defects in materials and be of merchantable quality and workmanship.

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14.2 The Seller's obligation under this warranty will be limited to making good by repair or replacement, at the Seller's option, of any Goods which any defect appears and is notified by the Buyer to the Seller before the expiry of a period either:

- (a) ending 12 months after the Goods are delivered or collected; or
- (b) in the event the Seller is a reseller, the Seller will pass through the manufacturer's warranty period applicable to the Goods.

14.3 The Seller's obligation under this warranty will not extend to any failure caused by fair wear and tear, designs, specifications and items within are outside the Seller's scope of supply, accidents, misuse, neglect, lack of proper use or repairs or modifications to the Goods which have been made without the Seller's approval. The Seller's obligation is subject to being given prompt notice by the Buyer of the appearance of the defect and a reasonable opportunity to inspect it.

14.4 The Seller's liability and the Buyer's remedies in respect of defects in the Goods and any loss or damage resulting therefrom are solely and exclusively as stated in this clause 14, and the Seller will have no liability for any defect, omission or damage unless notified by the Buyer to the Seller prior to expiry of the warranty period stated above.

14.5 The undertaking and obligations of the Seller under this clause 14 are in place of and excluded to the fullest extent permitted by law all other warranties and conditions, whether oral, written, statutory, express or implied.

15 Limitation of liability

15.1 Notwithstanding any other provision of these Conditions, the liability of the Seller to the Buyer, whether arising under or in connection with these Conditions or anything incidental thereto, and whether by way indemnity, by statute (to the extent that it is possible to exclude such liability) in tort (for negligence or otherwise), or on any basis in law or equity is limited to the Buyer's remedies under clause 14.2.

15.2 The Seller will have no liability whatsoever to the Buyer for indirect, special or consequential loss or damage, including without limitation loss of use, production, profit, income, business, contract or anticipated savings, or for any delay, financing costs or increase in operating costs or any other financial or economic loss or damage.

15.3 The Competition and Consumer Act 2010 (Cth) (**Act**) implies warranties, terms and conditions in consumer contracts which cannot be excluded or modified, except as permitted under the Act. In the event that the Seller may be in breach of any such warranty, term or condition as is implied in under these Conditions, the liability of the Seller is limited at the Seller's option to either repair or replace the Goods or the cost of repairing or replacing the Goods.

16 Termination by the Seller

16.1 Without limiting any other rights the Seller may have under these Conditions, the Seller may cancel any order for the supply of Goods and terminate any contract governed by these Conditions if:

- (a) the terms for payment for any Goods delivered or supplied to the Buyer by the Seller have not been strictly adhered to by the Buyer;
- (b) the Buyer defaults under any of its obligations under these Conditions; or
- (c) the Buyer becomes insolvent, commits an act of bankruptcy or, being a company, a liquidator, provisional liquidator, receiver, administrator or official manager is appointed in respect of the Buyer, an application is made to appoint a liquidator or to have the company wound up, the Buyer enters a scheme of arrangement with its

creditors or if anything analogous occurs in respect of the Buyer, in which case, the Seller will be released from all liability under the contract.

17 Intellectual property

17.1 The supply of Goods to the Buyer does not constitute a transfer of any intellectual property rights in the Goods or any part thereof. The Buyer must not do anything inconsistent with or in infringement of such intellectual property rights.

17.2 The Seller does not warrant that the supply by it and the use by the Buyer of the Goods does not and will not infringe the intellectual property rights of any third parties.

18 Seller's obligations

18.1 Notwithstanding any other provision of these Conditions, if the Buyer breaches a term of these Conditions, the Seller is not bound to perform its obligations under the Contract until the breach is remedied by the Buyer.

18.2 The Seller is not liable for any failure to observe its obligations under these Conditions where such failure is wholly or substantially due to a force majeure event, which includes any cause beyond the control of the Seller, including strike, industrial action, war sabotage, terrorist activity, national emergency, blockade or governmental action, inaction or request, an act of God, pandemic and epidemic.

19 Specifications

19.1 Where, at the Buyer's request, the Seller manufactures Goods (or engages a manufacturer of Goods) to design, specification, on in compliance with the Buyer's instructions or suggestions as to design, materials, method of construction or otherwise, the Seller will not be liable for the practicability or performance of (in part or in whole) the output or result of such designs, specifications, instructions or recommendations and will not be liable for any loss or damage caused to the Buyer or any other person as a result of defects or inaccuracies caused by reliance on such design, specifications or recommendations.

20 Exclusions

20.1 Unless stated otherwise in writing, no allowance has been made in any price quoted (and it is assumed the following will be supplied by the Buyer, if necessary, free of charge) for:

- (a) tests required by the Buyer;
- (b) special packaging or tooling requirements not made know to the Seller and/or not included in any Seller's offer made to the Buyer; and
- (c) insurance for Goods, whether fixed or unfixed.

21 Assignment

22.1 The Buyer must not assign any rights under any contract entered into with the Seller, without the Seller's written consent.

22 PPSA

22.1 Unless the context requires otherwise, terms and expressions used in this clause have the meanings given to them in, or by virtue of, the Personal Property Securities Act 2009 (Cth) (**PPSA**).

22.2 The Buyer grants the Seller a security interest in all Goods to which the Seller retains title under these Conditions.

22.3 The Buyer agrees to do all things necessary and execute all documents required by the Seller to register each security interest in the Goods, and ensure the Seller acquires a perfected security interest in the Goods.

22.4 Until title to the Goods passes to the Buyer, the Buyer waives its rights under sections 95, 118, 121(4), 129, 130, 132(3)(d), 132(4), 135, 142, 143, 151(7) and 157(3) of the PPSA as



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determined by the Seller from time to time, provided that is also permitted under the PPSA.

- 22.5 The Buyer must notify the Seller in writing of any proposed change in the Buyer's ownership or to its name or address at least 7 days before the change takes effect.