

Terms and Conditions of Ducor Australia Pty. Ltd.

ABN 70 119 769 185

of 418-432 South Gippsland Highway, Dandenong South, Victoria Australia 3175 ("the Supplier")

1. Quotations

- 1.1 The Customer as identified overleaf ("the Customer") has accepted the quotation for the supply of goods as set out overleaf ("the goods").
- 1.2 Subject to clause 1.3 herein, the Customer acknowledges that the quotation provided is only valid for seven (7) days from the date of the quotation.
- 1.3 The Customer acknowledges that the quotation is based on the Supplier's costs of materials, labour and transportation and that the Supplier reserves the right to increase its prices if such costs are subject to increases beyond the Supplier's control.
- 1.4 In the event that the Supplier decides to increase the price quoted in the quotation section overleaf, the new price will be effective upon the giving of seven (7) days notice to the Customer in accordance with clause 4.3 whereupon these terms and conditions shall be read as having been amended pursuant to clause 13.2

2. Agreement to supply and purchase

- 2.1 The Customer acknowledges that its signature, in the case of individuals or in the case of a corporation, the signature of its officer, as appears in the Orders Section ("the Order") constitutes acceptance of the Supplier's offer in the quotation and upon the signing thereof, the Customer is bound by the terms and conditions herein.
- 2.2 In consideration of payment in accordance with the terms as set out herein, the Supplier agrees to sell and the Customer agrees to purchase the goods on the terms as set out herein.

3. The Price

- 3.1 The price quoted in the Order is expressed in the currency of the Commonwealth of Australia ("the price") and does not include any levies, duties, goods and services tax ("GST"), taxes or any other charges imposed by the Commonwealth of Australia or any State or Territory in which are referable to or payable in respect of the goods. All such levies, duties, GST and taxes shall be borne by and be the responsibility of the Customer.
- 3.2 Any amount to be paid by the Customer on account of any GST shall appear as a separate item on the invoice for the transaction on which the GST is levied.

4. Payment

- 4.1 Unless otherwise specified overleaf, the Customer shall pay the price within 30 days of the last day of the calendar month in which the invoice is issued.
- 4.2 The Supplier shall be entitled to payment of and to recover from the Customer interest at the rate prescribed by the Penalty Interest Rates (Vic) Act 1983 as amended from time to time on any part of the price that remains unpaid by the Customer to the Supplier with such interest to accrue daily and on so much of the price as may remain outstanding and unpaid from time to time.
- 4.3 In the absence of any written advice to the contrary being received from the Customer by the Supplier, all invoices and other notices required to be given by the Supplier pursuant to these terms and conditions may be sent by ordinary pre-paid post or delivered by the Supplier to the address of the Customer shown overleaf and shall in the case of posting be deemed to have been received by the Customer two (2) business days following such posting.

5. Performance and Delivery

- 5.1 All performance and delivery times quoted by the Supplier are quoted in good faith and are estimates only.
- 5.2 The Supplier shall not be liable for any loss, damage, expense of whatsoever nature suffered by the Customer whether directly or indirectly arising from the delay in delivery or performance of goods.
- 5.3 If proofs are not returned promptly to the Supplier after the Customer receives them then the scheduled delivery times may be adversely affected. If this occurs the Supplier will not be liable for any loss or damage whatsoever suffered by the Customer on account of the delay.
- 5.4 Once the Customer accepts a proof (by signing it) or gives any other authorisation to the Supplier to print or otherwise undertake work toward the delivery of the goods then the Customer accepts full responsibility for the accuracy and completeness of the goods.
- 5.5 Any and all alterations or changes that the Customer proposes with respect to submitted copy, agreed materials or processes or any other specifications in regard to the delivery of goods must be in writing and the cost of same shall be at the Customer's expense.
- 5.6 If the Customer refuses to accept delivery of the goods then the risk in the goods shall pass to the Customer from the time of such refusal. In such an event, the Supplier shall be entitled to payment for the goods as if they were delivered and in addition to any of its rights and remedies (including the right to sell the goods), the Supplier may arrange to store the goods at the Customer's expense.
- 5.7 The Customer shall within seven days of receiving delivery of goods inspect the goods and give a notice of any error or defect in the goods or in any respect in which the goods do not correspond with the Order. If the Customer fails to give such notice the goods shall for all purposes be deemed to have been delivered by the Supplier entirely in accordance with the Order.
- 5.8 Notwithstanding the Customer's refusal or failure to accept delivery the price of goods shall become due and payable thirty days after the last day of the calendar month in which the invoice is issued.

6. Property and Risk

- 6.1 Any and all goods that are delivered by the Supplier to the Customer shall be and remain the absolute property of the Supplier as legal and beneficial owner thereof until such time as the Customer shall have paid and the Supplier shall have received payment of all amounts due and owing by the Customer to the Supplier.
- 6.2 The Customer shall indemnify the Supplier in full for any loss or damage occasioned to the goods between the time that risk in the goods passes to the Customer and the time that the entirety of the price of the goods is received by the Supplier from the Customer.
- 6.3 This clause shall survive the termination of any contract into which these conditions are incorporated.

7. Where the Customer is a Reseller of the Goods

- 7.1 The Supplier shall be entitled to affix or attach on the goods labels, notices or stickers ("the labels"), indicating that the property in those goods shall not pass from the Supplier to the Customer until the Supplier has received from the Customer the entire price of those goods and all other amounts due and owing by the Customer to the Supplier.
- 7.2 The labels shall not be removed and the Customer shall not be entitled to remove the labels from the goods (which shall be stored separately from other goods of the Customer) until such time as the entirety of the price of the goods and all other amounts due and owing by the Customer to the Supplier have been received by the Supplier from the Customer.
- 7.3 In the event that the Customer sells any goods in respect of which full payment has not been made, it shall hold all of the proceeds of any such sale upon trust for the Supplier and shall promptly account in respect of all of those proceeds to the Supplier.
- 7.4 Risk in respect of goods sold shall pass to the Customer immediately upon those goods being despatched from the premises of the Supplier for delivery to the Customer.

8. Exclusion of Implied Terms

The Customer acknowledges:

- 8.1 That prior to signing the Order, the Customer conducted a thorough examination of the proof or the goods as the case may be, and no warranty, condition, description or representation in relation to the goods is given by the Supplier, expressly or impliedly by these terms and conditions. All warranties, terms and conditions in relation to the state, quality or fitness of the goods and of every other kind, whether implied by use, statute or otherwise, is hereby excluded as is permissible by law.
- 8.2 That if the Trade Practices Act 1974 and/or equivalent to legislation ("the Act") applies to this sale, the Supplier's liability in the event of a breach of any implied warranties, terms and conditions imposed on this sale by virtue of the operation of the Act, shall be limited as is permissible by the Act and the option of the Supplier to:
 - (a) The replacement of the goods, or
 - (b) The costs of replacement of the goods
 - (c) The Supplier shall not be liable to the Customer in contract or in tort in connection with or relating to the performance of the goods or any facts, matter or thing relating to the goods or error (whether negligent or not) in information supplied to the Customer or a user before or after the date of the Customer's or user's use of the goods.

9. Waiver

- 9.1 The Supplier's failure to insist upon strict performance of any of these terms and conditions shall not be deemed a waiver of any rights that the Supplier may have in respect of any breach by the Customer of any of these terms.
- 9.2 No waiver by the Supplier of any particular breach of these terms and conditions by the Customer shall amount or be deemed to amount to any acquiescence by the Supplier to any subsequent breach of any of these terms and conditions by the Customer.

10. Insurance

- 10.1 The Customer shall at its own expense and cost insure and keep insured the goods to the full extent of their price at all times including but not limited between the time that risk in the goods passes to the Customer and the date that property in the goods passes to the Customer.

11. Expenses

- 11.1 The Customer shall pay the Supplier all fees and expenses including legal fees calculated on a solicitor/client basis of and incidental to the Supplier making demand of or bring any legal proceedings against a Customer in respect of any amount that is owing at any time for a period in excess of thirty days from statement.

12. Customers Warranties and Acknowledgements

- 12.1 In the event that the goods are to be printed from material supplied by the Customer, the Customer acknowledges that the Supplier is not liable for any errors or omissions affecting the goods, which are generated from any storage medium including computer discs, film and any other artwork provided by the Customer to the Supplier.
- 12.2 The Customer hereby releases the Supplier from any loss or damage the Customer may suffer whether directly or indirectly as a result of acts or omissions of the Supplier in its handling or treatment of any storage medium including computer disc, film, artwork provided by the Customer to the Supplier ("the Customer's goods").
- 12.3 The Customer warrants that either it is the owner of all intellectual property rights which subsist in the Customer's Goods and all information contained therein or it has authority from the intellectual property rights owner to commission the Supplier to reproduce or otherwise deal with the Customer's Goods and/or any information contained therein as requested by the Customer.
- 12.4 The Customer warrants to the Supplier that the Customer's goods, computer discs, computer files are free from all viruses or contaminants which may disrupt the operation of the Supplier's computer system.
- 12.5 The Customer indemnifies and will keep indemnified the Supplier against all costs, expenses, damages, proceedings of whatsoever nature whether directly or indirectly caused by breach of the Customer's warranties contained herein.

13. Amendment of Terms and Conditions

- 13.1 These terms and conditions shall not be varied, altered or amended unless such variation, alteration or amendment is in writing and signed by or on behalf of the Supplier by at least one of its Directors.
- 13.2 The Supplier shall have the right to amend, vary or alter these terms and conditions in any manner in which it thinks fit provided however that any such amendment, variation or alteration shall not be or become binding upon the Customer until such time as the Supplier has given notice thereof to the Customer.

14. Proper Law

- 14.1 All contracts between the Supplier and the Customer constituted by orders and acceptances shall be governed in accordance with the laws of the State of Victoria.

15. Time

- 15.1 Time shall in all respects be of the essence of the Customer's obligations under these terms and conditions.

16. Privacy Act 1988 ("Privacy Act")

To enable the Supplier to assess the Customer's application for credit, the Customer authorises the Supplier:-

- 16.1 To obtain from a credit reporting agency a credit report containing personal information about the Customer and its guarantors pursuant to Section 18(1)(b) of the Privacy Act; and
- 16.2 To obtain a report from a credit reporting agency and other information in relation to the Customer's commercial credit activities

AND in accordance with Section 18N(1)(b) of the Privacy Act the Customer authorises the Supplier to give to and obtain from any credit provider named in the accompanying credit application and credit providers that may be named in a credit report issued by a credit reporting agency information about the Customer's credit arrangements. The Customer understands that this information can include any information about its credit worthiness, credit standing, credit history or credit capacity that credit providers are allowed to give or receive from each other under the Privacy Act.

The Customer understands the information can be used for purposes of assessing its application for credit (Section 18L(4) Privacy Act), assisting it to avoid defaulting on its credit obligations, notifying other credit providers of a default by it and assessing its credit worthiness.

17. Where a current contract is in force, the Terms and Conditions of contract will apply.