



## TERMS AND CONDITIONS OF QUOTATION AND SALE

These are the terms and condition upon which the Seller sell and quote for the sale of goods.

### 1. DEFINITIONS AND INTERPRETATION

#### 1.1 Definitions

- a. "Buyer" means the Person named in the relevant Sales Invoice
- b. "GST" means the goods and services tax as imposed by the GST Law together with any related interest, penalties, fines or other charge.
- c. "GST Amount" means any Payment (or the relevant part of that Payment) multiplied by the appropriate rate of GST.
- d. "GST Law" has the meaning given to that term in A New Tax System (Goods and Services Tax) Act 1999, or, if that Act does not exist for any reason, means any Act imposing or relating to the imposition or administration of a goods and services tax in Australia and any regulation made under that Act.
- e. "Payment" means any amount payable under or in connection with a Sales Invoice including any amount payable by way of indemnity, reimbursement or otherwise and includes the provision of any non-monetary consideration.
- f. "Person" includes an individual, the estate of an individual, a body politic, a corporation, an association (incorporated or unincorporated) and a statutory or other authority.
- g. "Purchase Price" means the price for the goods set out in the relevant Sales Invoice.
- h. "Quotation" means the form of quotation submitted by the Seller to the Buyer in which these terms and conditions are deemed to be incorporated.
- i. "Sales Invoice" means the sales invoice issued by a Seller to the Buyer in which these terms and conditions are deemed to be incorporated.
- j. "Seller" in relation to any Sales Invoice means LADDER SOLUTIONS PTY LIMITED ABN 96 100 927 848
- k. "Tax Invoice" has the meaning given to that term by the GST Law.
- l. "Taxable Supply" has the meaning given to that term by the GST Law.

#### 1.2 Interpretation

Any special conditions specified on a Quotation or Sales Invoice shall, to the extent they are inconsistent with these terms and conditions, take precedence over these terms and conditions.

### 2. TERMS OF PAYMENT

**Payment for goods delivered and accepted is due within 30 calendar days from the Invoice Date.** If the Buyer fails to make payment in accordance with this clause, all amounts owing by the Buyer to the Seller shall immediately become due and payable.

### 3. INSPECTION AND ACCEPTANCE

The Buyer shall inspect all goods upon delivery and shall within 48 hours of delivery give notice to the Seller of any matter or thing by which the Buyer alleges that the goods are not in accordance with the Buyer's order. Failing such notice, subject to any non-excludable condition implied by law, such as those in the Trade Practices Act 1974 (Cth), the goods shall be deemed to have been delivered to and accepted by the Buyer.

### 4. RETURNS

- a. Returns will be accepted for faulty or defective goods.
- b. Returns other than those referred to in (a) above, must be approved by the Seller. These authorised returns must be freight prepaid and will only be accepted if they are in a saleable condition. The Seller reserves the right to charge a handling fee of 10% of the price of the goods returned under this provision. Products specifically purchased, manufactured, machined or cut to size or to the Buyer's specification are not returnable unless they are of the kind referred to in (a) above.

### 5. QUOTATIONS

- a. Unless previously withdrawn, a quotation is valid for 30 days or such other period as stated in it. A quotation is not to be construed as an obligation to sell but merely an invitation to treat and no contractual relationship shall arise from it until the Buyer's order has been accepted in writing by the Seller which provided the Quotation.
- b. No Seller shall be bound by any conditions attaching to the Buyer's order or acceptance of a Quotation and, unless such conditions are expressly accepted by the Seller in writing, the Buyer acknowledges that such conditions are expressly negated.
- c. Every Quotation is subject to and conditional upon obtaining any necessary import, export or other license.

### 6. PURCHASE PRICE AND GST

The parties agree that:

- a. The Purchase Price is exclusive of GST and freight;
- b. Each party will comply with its obligations under the Trade Practices Act 1974 when calculating the amount of any Payment and the amount of any relevant Payments will be adjusted accordingly;
- c. If the whole or any part of any Payment is the consideration for a Taxable Supply (other than for payment of the Purchase Price) for which the payee is liable to GST, the payer must pay to the payee an additional amount equal to the GST Amount, either concurrently with that Payment or as otherwise agreed in writing.
- d. Any reference to a cost or expense in this Agreement excludes any amount in respect of GST forming part of the relevant cost or expense when incurred by the relevant party for which that party can claim an Input Tax Credit; and the payee will provide to the payer a Tax Invoice.

### 7. PASSING OF PROPERTY AND RISK

- a. Goods supplied by the Seller to the Buyer shall be at the Buyer's risk immediately upon deliver to the Buyer, into the Buyer's custody or at the Buyer's direction (whichever happens first). The Buyer shall insure the goods from the time of that delivery at its cost against such risks as it thinks appropriate, shall note the interest of the Seller on the insurance policy and shall produce a certificate to this effect to that Seller upon request.
- b. Property in goods supplied by the Seller to the Buyer under these terms and conditions shall not pass to the Buyer until those goods and other goods have been paid for in full.
- c. Until the goods have been paid for in full:
  - i. The Buyer shall store the goods in a manner which shows clearly that they are the property of the Seller which supplied them; and
  - ii. The Buyer may sell the goods, in the ordinary course of its business, as agent for the Seller which supplied them and shall account to that Seller for the proceeds of sale (including any proceeds from insurance claims). These proceeds must be kept in a separate bank account.
- d. The Buyer irrevocably authorises the Seller at any time to enter onto any premises upon which:
  - i. The Seller's goods are stored to enable the Seller to inspect the goods and/or if the Buyer has breached these terms and conditions, reclaim the goods;
  - ii. The Buyer's records pertaining to the goods are held to inspect and copy such records.
- e. The Buyer and the Seller agree that the provisions of this clause apply notwithstanding any arrangement under which that Seller grants credit to the Buyer.

### 8. SUPPLY

The Seller reserves the right to suspend or discontinue the supply of goods to the Buyer without being obliged to give any reason for its action.

9. PART DELIVERIES

The Seller reserves the right to make part deliveries of any order and each part delivery shall constitute a separate sale of goods upon these terms and conditions. A part delivery of an order shall not invalidate the balance of an order.

10. DIMENSIONS, PERFORMANCE AND OTHER DESCRIPTIVE DETAILS

- a. Photographs, drawings, illustration, weights, dimension and any other particulars accompanying, associated with or given in a Quotation, descriptive literature or a catalogue approximate the goods offered but may be subject to alteration without notice.
- b. Any performance data provided by the Seller of a manufacturer is an estimate only and should be construed accordingly.
- c. Unless agreed to the contrary in writing, the Seller reserves the right to supply a substitute product when necessary.

11. SHIPMENT AND DELIVERY

- a. Upon acceptance of an order, the Seller will seek confirmation of the period of shipment or delivery. If any variation has occurred in the quoted period, the Seller will notify the Buyer. Unless the Buyer objects in writing within 7 days of that notification to the Buyer, the period of shipment or delivery notified to the Buyer will be contractual period for shipment of delivery.
- b. A delivery charge will apply to all deliveries within the exception of back order deliveries which are part of an original order that has been partly fulfilled.

12. CURRENCY

Where goods are imported into Australia, any adverse variation in the price arising from fluctuation in exchange rates between the date of the Buyer's order and the date of payment by the relevant Seller will be to the Buyer's account.

13. CONTINGENCIES

Any charge, duty, impost, sales tax or other expenditure which is not applicable at the date of Quotation or Sales Invoice but which is subsequently levied upon the Seller in relation to a Quotation or Sales Invoice as a result of the introduction of any legislation, regulation or governmental policy, shall be to the Buyer's account.

14. CHARGES BEYOND POINT OF DELIVERY QUOTED

Unless otherwise agreed in writing, if the Seller prepays freight, insurance, custom and import duties (if any), landing and delivery charges and all other charges in connection with shipment and delivery of goods, then any such charges shall be to the Buyer's account. The Seller reserves the right to nominate the means of delivery.

15. FORCE MAJEURE

If the performance or observance of any obligations of the Seller is prevented, restricted or affected by reason of a force majeure event including strike, lock out, industrial dispute, raw material shortage, breakdown of plant, transport of equipment or any other cause beyond the reasonable control of the Seller, the Seller may, in its absolute discretion give prompt notice of that cause to the Buyer. On deliver of that notice the Seller is excused from such performance or observance to the extent of the relevant prevention, restriction of affection.

16. DEFAULT OF BUYER

If these terms and conditions are not strictly observed by the Buyer, the Seller may in its absolute discretion, refuse to supply to the Buyer and the Seller shall not be liable to the Buyer for any loss or damage the Buyer may sustain as a result of such refusal. The costs of collection of any moneys are due and payable by the Buyer, including the fees of any mercantile agent or lawyer engaged by the Seller shall be payable by the Buyer.

17. BUYER'S CANCELLATION

Unless otherwise agreed in writing, the Buyer shall have no right to cancel an order which has been accepted by the Seller. If a right of cancellation is expressly reversed to the Buyer, such right of cancellation must be exercised by notice in writing from the Buyer to the Seller with which the order has been placed not later than 7 days prior to the estimated date of shipment by the manufacturer or that Seller as the case may be. Unless otherwise agreed between the Buyer and the Seller, upon cancellation prior to shipment any deposit paid by the Buyer shall be forfeited to the manufacturer or the Seller (as the case may be).

18. WARRANTY AND LIABILITY OF SELLER

- a. Upon discover of any defect in the goods supplied by the Seller, the Buyer shall immediately notify the Seller in writing. The Buyer shall not carry out any remedial work to allegedly defective goods without first obtaining the written consent of the Seller to do so.
- b. The Seller does not exclude or limit application of any provision of any statute (including the Trade Practices Act (Cth)) where to do so would contravene the statute of cause any part of this clause to be void.
- c. The Seller excludes all conditions, warranties and terms, whether expressed or implied by law or otherwise in respect of the goods which may apart from this clause be binding upon the Seller, except any implied conditions and warranties the exclusion of which would contravene any statute or cause this clause to be void.
- d. To the extent permitted by statute, the liability, if any, of the Seller arising from the breach of any implied conditions or warranties in relation to the supply of goods other than goods of a kind ordinarily acquired for personal, domestic or household use or consumption, shall at the Seller's option be limited to:
  - i. The replacement of the goods or resupply of the goods by the Seller;
  - ii. The repair of the goods;
  - iii. The payment of the cost of replacement of the goods; or
  - iv. The payment of the cost of repair of the goods.
- e. The Buyer expressly acknowledges and agrees that it has not relied upon, any advice given by the Seller, its agents or employees in relation to the suitability for any purpose of goods or materials supplied by the Seller.

19. ALTERATION OF CONDITIONS

The Seller may, at any time and from time to time, alter these terms and conditions.

20. GOVERNING LAW

These terms and conditions and any contract including them shall be governed by and construed in accordance with the laws of the State of New South Wales and the Seller and the Buyer submit to the non-exclusive jurisdiction of the Courts of New South Wales.