

AUSTRALIA - TERMS AND CONDITIONS OF SALE

1. DEFINED TERMS

In these terms and conditions:

- (a) "PPSA" means the *Personal Property Securities Act 2009* (Cth);
- (b) "Purchase Money Security Interest" has the meaning given in the PPSA;
- (c) "Register" has the meaning given in the PPSA;
- (d) "Security Agreement" has the meaning given in the PPSA; and
- (e) "Security Interest" has the meaning given in the PPSA

2. FORMATION OF CONTRACT

Where the customer delivers an order to Waterco, a binding contract ("**Contract**") for sale of goods in accordance with the order and these Terms and Conditions of Sale comes into existence upon the earlier of:

- (a) Acceptance in writing of the order by Waterco; or
- (b) Waterco commencing the necessary actions on its part to supply goods ordered by the customer.

In the event of any inconsistency between the order and these Terms and Conditions of Sale, these Terms and Conditions of Sale will prevail.

3. PRICE CHANGES

Waterco reserves the right to alter prices without prior notice.

4. PAYMENT

- (a) Payment of goods is strictly Cash-On-Delivery unless credit arrangements have been approved by Waterco in writing. Payments for goods purchased on credit must be made within 30 days of date of invoice.
- (b) Overdue accounts may, at Waterco's discretion, incur interest at the rate of 1.5% per month. The customer must pay any commission, legal and/or mercantile agent or collection agents costs or expenses Waterco incurs in collecting overdue moneys owed by the customer.
- (c) Waterco reserves the right to require Cash-On-Delivery where there has been a failure by the Customer to meet the terms of credit previously provided.

5. DELIVERY ARRANGEMENTS

Waterco will only deliver to the Customer's business premises or to a location nominated by the Customer within twenty five (25) kilometres from the Customer's business premises. Freight costs will be handled in accordance with clause 7. If the Customer requests delivery outside these areas, it may or may not be provided, at the relevant Waterco branch manager's discretion and on terms to be agreed with the relevant Waterco branch manager.

6. RETURNED GOODS

Goods can only be returned for credit with Waterco's prior approval. Goods returned for credit must be accompanied by written details of the original delivery date and all other information requested by Waterco. Returns may be subject to a handling charge at Waterco's discretion according to the circumstances. Waterco will not be responsible for the freight charges for the return of such goods.

7. FREIGHT COSTS

All prices quoted are Free-Into-Store* in the metropolitan areas of Sydney, Melbourne, Brisbane, Gold Coast and Perth as defined by Waterco. Deliveries to all other areas are on ex Waterco Warehouse basis. Where freight forward costs and charges are reversed to Waterco by a freight forwarder for any reason, these costs and charges will be applied to the Customer's Trading Account.

* Customers are responsible for the cost of returning returnable jars to Waterco.

8. DELIVERY AND HANDLING FEES

Orders with an invoice value of less than \$250.00 (ex GST and not including jar deposit) will incur a delivery and handling fee of \$25.00, upon delivery of goods. All orders with an invoice value of less than \$20.00 will be on a cash sale basis only. Cash Sales picked up will not incur any handling charges. Waterco reserves the right to vary the amounts mentioned in this paragraph without prior notice.

9. OWNERSHIP OF GOODS

- (a) Risk in all goods supplied by Waterco to the Customer will pass:
- (i) when goods are delivered to the Customer where delivery is within the metropolitan areas as defined by Waterco and delivery is provided by Waterco; or
 - (ii) where delivery is outside the metropolitan area as defined by Waterco, then the risk will pass immediately the goods leave Waterco premises and the Customer must ensure that appropriate transit insurance cover has been taken out in respect of such goods.
- (b) Property and title to the goods supplied by Waterco to the Customer remains with Waterco until payment is received in full for such goods and for all other goods supplied by Waterco to the Customer.
- (c) The Customer may sell or otherwise dispose of the goods in the ordinary course of the Customer's business.
- (d) Where the Customer processes or commingles the goods into other property, Waterco takes title to that other property as well.
- (e) Where the Customer disposes of the goods before payment of the full purchase price to Waterco, the sale proceeds of such disposal are the property of Waterco and the Customer holds the proceeds on trust for Waterco. Further, the Customer, in disposing of the goods before payment to Waterco, does so as Waterco's fiduciary agent.
- (f) In the event that the Customer fails to make payment within the due time as stipulated by Waterco, Waterco has the right to enter the premises of the Customer and to regain possession of the said goods and the Customer waives the right to receive any PPSA notice.
- (g) The Customer acknowledges and agrees each Contract constitutes a Security Agreement for the purposes of the PPSA and that Waterco will Register its Security Interest in the goods and in the proceeds of sale of the goods as a Purchase Money Security Interest on the Register.
- (h) Where the PPSA applies to action taken by Waterco in relation to the goods, the Customer waives its right to receive any notices required under section 95, 118, 121, 130, 132 and 135 of the PPSA.

10. FURTHER SECURITY

The customer hereby agrees that:

- (a) Waterco may at any time at Waterco's option take a security interest over assets of the customer.
- (b) The security interests or documents the customer may take include:
- (i) a general security agreement or other similar personal property security;
 - (ii) a mortgage over the customer's real and/or other property; and
 - (iii) any other security interests or documents Waterco deems appropriate in the circumstances.
- (c) Waterco may withdraw previously-approved credit terms from the customer and refuse to supply further goods, or require that the customer pay Cash-on-Delivery for further orders, if customer does not comply with a request for further security under this clause.

11. ORDER

The Customer must, within seven (7) days after receipt of an order, report to Waterco, in writing, all incorrect deliveries. All deliveries are assumed to be correct and no adjustment will be made unless such notice is provided to Waterco within seven (7) days of the date of delivery.

12. PROOF OF DELIVERY

Proof of delivery may be available, as an exception document, up to three (3) months after dispatch, without charge. Thereafter a fee of \$10.00 per P.O.D. will apply.

13. GOVERNING LAW

- (a) Each Contract is governed by the laws of New South Wales.
- (b) The customer and Waterco agree to submit to the non-exclusive jurisdiction of the courts of New South Wales and the courts of appeal from them.

14. INTELLECTUAL PROPERTY

The customer must not use Waterco's intellectual property (Trade Marks / Logos / Images) without Waterco's written permission.