

Norizon Pty Ltd ACN 655 600 954 (the "Company") - TERMS AND CONDITIONS OF TRADE ("the terms")

1. **Definitions** - In these conditions:

"Company" means Norizon Pty Ltd ACN 655 600 954.

"Customer" means the party to whom the Company supplies Goods pursuant to a Purchase Order.

"Goods" means the goods and/or services supplied by the Company to the Customer.

"Purchaser Order" means a purchase order supplied to the Company by the Customer pursuant to a quotation supplied by the Company to the Customer.

2. **Application and Variation of these Terms**

These terms shall be deemed to be incorporated in all contracts for the sale of Goods by the Company to the Customer and will apply in place of and prevail over any terms or conditions contained or referred to elsewhere or implied by trade custom, practice or course of dealing.

3. **Formation of Contract**

- The Company's catalogues, price lists and quotations do not constitute offers made by the Company. The Customer's Purchaser Order will be deemed to be an offer to the Company under these terms. Acceptance by the Company of a Purchase Order will constitute acceptance or confirmation of previous acceptance of these terms to the exclusion of all other terms or provisions.
- The Customer is not entitled to cancel any Purchase Order or materially vary any specification without the Company's previous consent in writing.
- Any terms set out in the Customer's Purchase Order deviating from or inconsistent with these terms of trade or with any quotations supplied by the Company will not bind the Company notwithstanding any statement by the Customer in its Purchaser Order and no variation or modification or substitution of these terms shall be binding on the Company unless specifically accepted by the Company in writing.

4. **Prices And Quotations**

The Company reserves the right to vary or withdraw (whether before or after the Company's acceptance of the Customer's Purchase Order) any quotation given by it in order to correct any error or omission affecting the purchase price quoted therein or its calculation generally. The Customer shall be responsible to ensure that the quantity, type and description of the Goods specified in any quotation correspond with the Goods required by the Customer. The Company shall be under no obligation whatsoever to the Customer for any discrepancies not drawn to the Company's attention prior to the acceptance by the Company of any Purchase Order placed on the basis of a quotation.

5. **Terms Of Payment**

- Payment for Goods shall be net cash within thirty (30) days from the end of month in which Delivery of Goods occurs or as otherwise specified in the invoice.
- The Company reserves the right to withdraw credit at any time and substitute cash on delivery or any other terms.
- Unless otherwise expressly appropriated by the Company, payment shall be deemed to discharge the Customer's oldest debt and shall first reduce any costs or interest outstanding before reducing the principal debt.
- If payment is not made by the due date, the Company may in addition to any other available remedy, charge interest on all overdue payments at the rate of two percent (2%) above the rate prescribed under s100 of the *Civil Procedure Act (NSW)* as varied from time to time.

6. **Delivery and Passing of Risk**

- The Company's responsibility for delivery ceases at the pre-agreed point of delivery.
- Any period or date for delivery stated by the Company is intended as an estimate only and is not a contractual commitment. The Company will use its best endeavors to meet any estimated delivery dates but in no circumstances whatsoever will the Company be liable for any loss or damage suffered by the Customer or any other person for failure to meet an estimated delivery date.
- The Customer must take any action necessary on its part for timely delivery of the Goods. The Company will not be liable for any loss or damage suffered by the Customer if the Customer has failed to provide the necessary access and personnel to accept delivery of the Goods at the agreed delivery point.
- The Company shall be entitled to make delivery of Goods by installments and determine the manner of delivery. At its discretion, the Company shall be entitled to deliver Goods to the premises notified by the Customer for delivery even though those Premises are unattended at the time of delivery and the parties acknowledge that the Company's delivery record shall be prima facie proof of delivery of the Goods to the Customer.
- If the Company is prevented from delivering Goods for any reason including acts of God, strike, lock outs, trade disputes, fire, breakdown, interruption of transport, the Company will be under no liability whatsoever to the Customer and shall be entitled at its option to either terminate the Contract or extend the time for performance.
- Risk in the Goods shall pass to the Customer upon delivery of the Goods to the Customer or collection of the Goods by the Customer's agent or courier as the case may be.

7. **Passing of Risk and Retention of Title**

Whilst risk in the Goods shall pass on Delivery, legal and equitable title shall remain with the Company until payment in full for all debts accrued or owed to the Company is made.

The Customer may sell or deal in the ordinary course of business with the Goods and with the interest of the Company in the Goods and may for the purpose of such sale or dealing part with possession thereof but the proceeds of any sale or dealing will be held by the Customer on trust for the Company. The Customer hereby agrees to accept this appointment as bailee and fiduciary.

Notwithstanding the above the Company reserves the following rights in relation to the Goods until all amounts owed by the Customer to the Company are fully paid:

- legal and equitable ownership of the Goods;
- to enter the Customer's premises (or the premises of any associated company or agent where the Goods are located) without liability for trespass or any resulting damage and retake possession of the Goods; and
- to keep or resell any of the Goods repossessed pursuant to (b) above.

The Customer must so long as the Company is entitled to the property in the Goods, store the Goods so that they are clearly identifiable as the property of the Company.

In the event that the Goods are resold by the Customer, the Customer holds on trust such part of the proceeds of any such sale as represents the invoice price of the Goods sold or used in the manufacture of the Goods sold in a separate identifiable account as the beneficial property of the Company and must pay such amount to the Company upon request. Notwithstanding the provisions above the Company is entitled to maintain an action against the Customer for the purchase price of the Goods.

If payment for the Goods is not made by the Customer by the due date specified by the Company the Customer shall return the Goods to the Company on demand. If the Customer does not return the Goods to the Company within 48 hours of receipt of demand, the Customer expressly agrees that the Company shall be entitled to enter upon the Customer's premises at any time to do all things necessary to recover the Goods. The Customer shall be liable for all costs associated with the exercise by the Company of its rights under this clause, which will be payable on demand.

8. **DEFAULT**

Should the Customer fail to make due payment for any Goods supplied by the Company or commit a breach of any term of the sale or being a natural person commit an act of bankruptcy or being a corporation by act of omission enable the appointment of an administrator, scheme manager, trustee, official manager, receiver, receiver and manager, liquidator or any other person authorised to enter into possession or assume control of any property of the Customer pursuant to a mortgage or other security, then

- the right of the Customer to sell the Goods in the ordinary course of business or otherwise immediately terminates without the need for the Company to provide written confirmation; and
- the Company may without prejudice to any other rights it may have do any or all of the following:
 - forthwith withdraw any credit facilities which may have been extended to the Customer and require immediate payment of all moneys accrued or owing to the Company;
 - withhold any further deliveries of Goods or performance of services required under the contract;
 - in respect of Goods already delivered, enter onto the Customer's premises to recover and resell same for its own benefit;
 - cancel all rebates (which includes any subsidy, discount, price incentive, promotional assistance or the like) ("Rebates") which would normally be allowed to the Customer in respect of the 12 months preceding such default.

9. **FORCE MAJEURE**

The Company shall not be liable for any claims for non-fulfillment or late delivery should actual delivery of the Goods or any parts be delayed in consequence of unforeseen events such as strikes, unforeseen breakdown of machinery, suspension of electricity or other relevant power supply, riots, war, robbery, civil commotion, adverse non foreseeable weather conditions, disaster caused by fire and/or water, action of government or port authority, delay of vessel, rail-road embargoes, inability to obtain transportation facilities or due to a failure of an original equipment manufacturer to supply components by the due date.

10. **MISCELLANEOUS**

- A certificate signed by an officer of the Company stating the amount due and payable by the Customer under any contract shall be prima facie evidence thereof.
- The Company will not be deemed to have waived any of its rights under the contract unless such waiver is in writing signed by an officer,
- If any part of the contract is or becomes unenforceable, void or voidable that provision shall be severed from the contract so that the validity and enforceability of the remaining provisions of the contract will not be affected.

11. **INDEMNITY**

In addition to any other rights the Company may have against the Customer and to the extent permitted by law, the Customer shall indemnify the Company for and save it harmless from, any loss, damage or expense incurred by the Company should the Customer cancel any order (or part thereof) for the Goods or breach these terms.

The Customer acknowledges that the Company is under no liability for any defects in Goods resulting from or arising out of the production of the same in accordance with information, designs and drawings provided by or approved by the Customer and furthermore will not be liable to the Customer in respect of any claim that the Goods or any of them were not in accordance with the contract unless the claim is lodged with the Company within seven days of delivery of the Goods. All conditions, warranties and representations unless expressly set out in these terms of sale are hereby expressly excluded.

The Customer acknowledges that the Company is under no liability for any loss, injury or damage (including consequential loss, injury or damage suffered or caused as a result of or arising out of any act or omission whether negligent or otherwise) by the Company, its servants or agents. The Customer will indemnify the Company against any claims made against the Company by any third party in respect of any such loss, injury or damage.

12. **LIMITED WARRANTY**

During the period of 12 calendar months from the date of delivery of the Goods to the Customer, the Company may, in its absolute discretion, replace or repair any defect in the Goods due to bad workmanship or materials without charge provided that such defect does not arise from:

- improper adjustment, calibration or operation by the Customer;
 - in the use of accessories including consumables, hardware, or software which were not manufactured by or approved in writing by the Company;
 - any contamination or leakages caused or induced by the Customer;
 - any modifications of the Goods which was not authorized in writing by the Company;
 - any misuse of the Goods;
 - any use or operation of the Goods outside of the physical, electrical or environmental specifications of the Goods;
 - inadequate or incorrect site preparation; and
 - inadequate or improper maintenance of the product,
- and all transportation charges incurred in returning such defective goods or parts thereof for repair together with the cost of returning them to the Customer shall be paid by the Customer and provided that this warranty shall not entitle the Customer to recover damages for any losses alleged to have been caused either directly or indirectly by reason of a claim for repair or replacement of Goods under this warranty.

13. **DAMAGE TO AND LOSS OF GOODS IN TRANSIT**

Where insurance of Goods is covered by us under our own insurance policy, any damage to Goods must be notified to the carrier immediately and to us within 3 days of delivery. The Goods are not to be used or disposed of until the loss has been surveyed. Non delivery of Goods must be notified to us within 14 days of dispatch from our premises. Goods will not be covered by our insurance policy unless specially arranged. Where good are not covered by our insurance policy, no claim for damage in transit or non delivery will be accepted by the Company in any circumstances.

14. **LIMITATION OF LIABILITY**

To the extent that any legislation permits the Company to limit its liability for the breach of any of the terms of this contract or warranty applying by virtue of that legislation then the Company's liability for any such breach shall be limited to the extent permitted and subject thereto, to, in the case of Goods, such one or more of the following as the Company in its absolute discretion determines:

- the replacement of the Goods or the supply of equivalent Goods;
- the repair of the Goods;
- the payment of the cost of replacing the Goods or of acquiring equivalent Goods;
- the payment of the cost of having the Goods repaired and all other conditions and warranties which might otherwise be implied by law and which may be expressly excluded.

15. **INTERPRETATION AND LAW**

- If any part of these conditions should be held unenforceable or in conflict with the law of any relevant jurisdiction, it shall be read down to the minimum extent necessary to render it enforceable and valid and, if incapable of being read down will be severed from the remainder of these conditions which shall not be affected by such severance.
- These conditions represent the complete agreement between the Company and the Customer with regard to the Goods and contain all agreements, warranties, conditions, representations and other terms agreed, made or relied upon by either party in connection with the Goods.
- The rights of the Company will not be prejudiced or restricted by any indulgence or forbearance extended to the Customer and no waiver or any breach operates as a waiver of any subsequent breach.
- These conditions and every contract connected therewith shall be governed exclusively by the law of the state in which the order for Goods is received by the Company.
- Notwithstanding the foregoing, the Company and the Customer agree that before resort is made to any court they will each make a genuine effort to resolve any dispute by a face-to-face meeting convened by the Company at a convenient time and place between senior management, and failure to do so is agreed to justify a court awarding costs against the party who has failed to make such a genuine effort.