

TERMS & CONDITIONS OF SALE

1. INTERPRETATION

1.1 In these terms and conditions of sale:

(a) "Agreement" means the agreement set out in Section A of the Application for Credit Account and Agreement for purchasing Goods on credit and incorporates these Terms and Conditions of Sale as amended from time to time.

(b) "Goods" means goods supplied by us to you from time to time including, but not limited to, goods described in any invoice we issue to you;

(c) "Loss" includes any loss, damage, liability, cost or expense (including any legal cost and expense on an indemnity basis) however it arises and whether it is present or future, fixed or unascertained, actual or contingent and including any indirect, economic, special or consequential loss or damage (such as loss of revenue, loss of production, loss of profit, loss of opportunity or losses of a similar kind beyond the normal measure of damages);

(d) "we", "us", "our" or "the Company" means Laminex Group Pty Limited (ABN 98 004 093 092) trading as The Laminex Group and any Related Body Corporate as defined in Section 9 of the Corporations Act 2001 (Cth)

(e) "you" means the Customer stated in the Application and any other person(s) acting on your behalf;

2. SUPPLY

2.1 You will purchase and we will supply goods to you on the following terms and conditions of sale. However, we are not obliged to supply goods to you when requested to do so.

2.2 You warrant that the Goods supplied to you under this Agreement will be for use in a commercial or business operation and not for personal, domestic or household use or consumption.

2.3 All additions and amendments to these terms and conditions must be in writing signed by us.

3. QUOTATIONS AND ORDERS

3.1 Any quotation or price list given by us to you does not constitute an offer to sell Goods to you. We reserve the right to alter the quote or price list without notice to you.

3.2 By ordering Goods, you are making a binding irrevocable offer to purchase those Goods. We will notify you of our acceptance of your order in writing. Alternatively, our manufacture of Goods or delivery of Goods pursuant to your order shall be deemed acceptance of your offer to purchase.

3.3 We reserve the right to modify the design of Goods, and cease to manufacture or supply Goods without notice.

4. PRICES, GST, FREIGHT AND INSURANCE

4.1 Unless otherwise expressly agreed in writing, the price of the Goods shall be the price specified in our invoice plus the amount which we are required to pay on account of any charges which may be levied by any government (domestic or foreign) plus any amount that reflects any increase in exchange rates, costs of labour, materials and overheads.

4.2 You are responsible for all freight costs. If you nominate a carrier, this must be advised to us in writing in the absence of which we will choose a carrier.

5. PAYMENT

5.1 You agree that until we confirm that credit terms have been granted to you, all Goods are supplied on a cash before delivery basis.

5.2 Unless otherwise agreed, all amounts owing to the Company on account of Goods supplied to you on credit are due and payable by the last working day of the month following dispatch of invoices to you.

5.3 You may pay by Visa and MasterCard. However, we reserve the right to charge a credit card handling fee for effecting payment by this method at the rate advised by us from time to time.

5.4 You agree that if you fail to pay in accordance with this clause 5, we may:

- a) charge a late payment fee of two percent (2%) plus GST on all amounts paid by credit card;
- b) charge interest on debts at four percent (4%) above the rate prescribed pursuant to the Penalty Interest Rates Act (Vic) 1983 from time to time;
- c) charge a dishonour handling fee at the rate advised by us from time to time where we are unable to obtain payment from your credit card provider or a cheque is not paid by your bank;
- d) recover all collection costs and expenses incurred in collecting overdue accounts;
- e) withhold supply;
- f) sue for the money owing on the Goods.

5.5 Any forbearance by us in charging any of the fees set out in clause 5 does not constitute a waiver of our right to do so in the future.

6. DELIVERY

6.1 We reserve the right to deliver Goods by instalments. Any delivery times notified to you are estimates only. If you request us to postpone delivery of the Goods beyond the delivery date or dates specified in your order, we may agree to do so if you agree to pay an additional fee for such postponement.

6.2 If we do not receive delivery instructions sufficient to enable us to dispatch the Goods within fourteen (14) days of you being notified that the Goods are ready for delivery, you shall from the fifteenth day after notification:

- (a) be deemed to have taken delivery of the Goods;
- (b) be liable for storage charges, payable monthly on demand;
- (c) assume risk in the Goods.

6.3 Containers (which includes but is not limited to stillages, formers and pallets) in or on which Goods are delivered and for which a deposit charge is made, remain our property. Upon the containers' return in good order the deposit will be returned to you. We reserve the right to deduct moneys from your deposit to compensate us for any damage to the container(s).

7. CLAIMS AND LIABILITIES

7.1 Any claim by you as to breach of these terms and conditions must be made to us in writing within seven (7) days of delivery, for which time is of the essence.

7.2 If you do not notify us of any claim within seven (7) days of delivery, the Goods are deemed accepted by you in compliance with these Terms and Conditions of Sale.

7.3 You have the benefit of conditions, guarantees and warranties implied by the Competition and Consumer Act 2010 (Cth) ("the CCA") and nothing in these terms and conditions is intended to exclude, restrict or modify any statutory obligation we have if that cannot lawfully be effected. References to specific provisions of and circumstances arising under the CCA are intended to include reference to equivalent or similar provisions of and circumstances arising under any State or Territory enactment.

7.4 Should we be liable for breach of a condition, guarantee or warranty implied by Schedule 2 of the CCA, our liability for the breach will, subject to Section 64A(3) of Schedule 2 of the CCA, be limited to one of the following as determined by us:

- a) the replacement or repair of the Goods or the supply of equivalent Goods; or
- b) the payment of the actual reasonable cost of replacing or repairing the Goods or of acquiring equivalent Goods.

7.5 Subject to any legislation to the contrary:

- a) to the fullest extent permitted by law, all express and implied terms, other than the ones set out in these terms and conditions are excluded;
- b) to the fullest extent permitted by law, we are not liable for any injury to or death of any person or Loss or damage to property arising from any act or omission by you, us or any other person (including any Loss arising from our negligence or wilful default);
- c) you indemnify us against:
 - i. any claims made against us by any third party in respect of any Loss, damage, death or injury as is set out in clause 7.4(b); and

- ii. any Loss or expense which we may suffer or incur due to your failure to observe fully your obligations under the Agreement incorporating the terms of the application; and
- d) we make no representation, warranty or undertaking about the compliance of the Goods with any statutory requirements relating to the marketing of Goods. You acknowledge that you alone are responsible for compliance of the Goods with this legislation.

7.6 We will not be responsible for non-delivery or delay in delivery of any Goods due to any cause beyond our reasonable control, notwithstanding that the cause may be operative at the time of entering the contract of sale. Where such non-delivery or delay occurs, we may deliver the Goods not delivered or delayed at any subsequent time and you must accept and pay for them.

7.7 Where we give a date of intended delivery, this will be subject to the Goods ordered being available and our being able to make the delivery on that date.

8. RETURNED GOODS

Where Goods are returned to us, credit will only be issued under the following conditions:

8.1 RETURN AUTHORISATION:

- a) A Goods Return Credit ("GRC") authority number must be obtained from the supply point prior to the return of any Goods. We may refuse to give a GRC authority or accept the return of any Goods;
- b) You must provide the invoice number and date of purchase before a GRC will be issued;
- c) The GRC authority number must be clearly marked on the packaging of Goods returned to us. Failure to comply with this requirement could result in our refusing to accept delivery of the returned Goods.

8.2 CREDIT:

All claims for credit must be supported by:

- a) carriers consignment note or similar receipt of delivery;
- b) our relevant invoice number; and
- c) the GRC number issued by us.

8.3 UNACCEPTABLE RETURNS:

Without in any way limiting our discretion to refuse to accept the return of any Goods, the following Goods will not be returnable:

- a) any Goods that have been held by you or your agent for more than seven (7) days; or
- b) any Goods which are not in original condition; or
- c) any Goods that are manufactured as made to order ("mto") items unless faulty. Any manufacturing surcharge is non-refundable.

8.4 FAULTY GOODS:

We will only recognise claims for faulty Goods that are lodged within seven (7) days of you receiving the Goods.

8.5 CARRIER:

Goods must be returned by the carrier specified by us.

8.6 RESTOCKING FEE

You agree to pay us a restocking fee at the rate advised by us from time to time.

9. OWNERSHIP & RISK

- a) Subject to clause 6.2, the risk of loss or damage to the Goods passes to you on the date and at the time that the Goods are delivered to your premises or at the date and time the Goods are collected from the Company's warehouse.

- b) Ownership of any Goods supplied by us will not pass to you until all amounts owing by you to us in respect of those Goods and all other Goods supplied by us have been received by us.
- c) Until ownership passes to you, the Goods supplied are held by you for us as bailee and, if required, you will store the Goods so that it is clear they belong to us.
- d) If you wish to resell any Goods before ownership passes, you may do so only by way of bona fide sale in the ordinary course of business and as our agent, but you must not represent to any other person that you are acting for, or have any authority to bind, us.
- e) You will hold the proceeds of sale on trust for us and you must account to us for the proceeds of any sale of the Goods.

10. PERSONAL PROPERTY SECURITIES ACT 2009

- a. You acknowledge that the Agreement constitutes a security agreement for the purposes of section 20 of the Personal Property Securities Act 2009 ("PPSA") and that a security interest exists in all Goods (and their proceeds) previously supplied by us to you (if any) and in all future Goods (and their proceeds).
- b. You will execute documents and do such further acts as may be required by us to register the security interest granted to us under the Agreement under the PPSA.
- c. Until ownership of the Goods passes, you waive your rights under the following provisions of Part 4 of the PPSA:
 - i. to receive a notice of intention of removal of an accession (section 95);
 - ii. to receive a notice that we decide to enforce our security interest in accordance with land law (section 118);
 - iii. to receive a notice of enforcement action against liquid assets (section 121(4));
 - iv. our obligation to dispose of or retain collateral (section 125);
 - v. to receive a notice of disposal of goods by us purchasing the Goods (section 129);
 - vi. to receive a notice to dispose of Goods (section 130);
 - vii. to receive a statement of account following disposal of Goods (section 132(2));
 - viii. to receive a statement of account if no disposal of Goods for each 6 month period (section 132(4));
 - ix. to receive notice of any proposal of ours to retain Goods (section 135(2));
 - x. to object to any proposal of ours to either retain or dispose of Goods (section 137(2));
 - xi. to redeem the Goods (section 142);
 - xii. to reinstate the security agreement (section 143);
 - xiii. to receive a notice of any verification statement (section 157(1) and section 157(3));
- d. You further agree that where we have rights in addition to those under Part 4 of the PPSA, those rights will continue to apply.
- e. Until ownership of the Goods passes, you must not give to us a written demand or allow any other person to give us a written demand requiring us to register a financing change statement under the PPSA or enter into or allow any other person to enter into the register of personal property securities a financing change statement under the PPSA.
- f. You acknowledge that you have received value as at the date of first delivery of the Goods and have not agreed to postpone the time for attachment of the security interest (as defined in the PPSA) granted to us under these Terms and Conditions.
- g. You irrevocably grant to us the right to enter upon your property or premises, without notice, and without being in any way liable to you or to any third party, if we have cause to exercise any of our rights under sections 123 and/or 128 of the PPSA, and you shall indemnify us from any claims made by any third party as a result of such exercise.

11. CHARGE

You hereby charge in favour of us:

11.1 any land that you own (or acquire after the date hereof) as security for any and all moneys owing to us and hereby authorise us to register a caveat over the land if you default in making payment of any amount due to us;

11.2 all your personal property including, without limitation, all the stock, motor vehicles, plant equipment and debtors that you own (or acquire after the date hereof) as security for any and all moneys owing to us and hereby authorise us to register, with any competent authority, including the register of personal property securities pursuant to the PPSA, the charge over the property if you default in making payment of any amount due to us.

12. SET OFF

You agree that:

12.1 we may set-off any credit amount that we owe to you against any debit due by you to us;

12.2 you are not entitled to withhold payment of any money in respect of any set-off or claim you might have against us.

13. WARRANTIES

13.1 Notwithstanding any other provision in these Terms and Conditions we warrant that any Goods sold by us will be free from defects under normal use for a period of twelve (12) months after delivery. This warranty does not cover any Goods which are not manufactured by us.

13.2 For the purpose of making any claim, you must immediately upon becoming aware of circumstances giving rise to a claim under this clause, notify us in writing setting out full particulars of the claim.

14. ACTS OF DEFAULT

If you:

14.1 fail to pay for any Goods on the due date; or

14.2 otherwise breach this Agreement and fail to rectify such breach within seven (7) day's notice; or

14.3 cancel delivery of the Goods; or

14.4 commit an act of bankruptcy; or

14.5 allow a trustee in bankruptcy or receiver and manager to be appointed to you or any of your property; or

14.6 allow distress to be levied or a judgment, order or security to be enforced, or to become enforceable against your property including under the PPSA; or

14.7 are a company and:

- a) proceedings are commenced to wind you up or any of your subsidiaries; or
- b) an controller, receiver, administrator, liquidator or similar officer is appointed to you or in respect of any part of your property,

14.8 then we and our agents may enter upon your premises (doing all that is necessary to gain access) where Goods supplied under this Agreement are situated at anytime and retake possession of any or all of the Goods we have supplied to you; and

14.9 we reserve the right to:

- a) resell the Goods concerned; and
- b) terminate the agreement.

15. RESALES

15.1 If we conduct a re-sale pursuant to clause 14:

- a) we may do so at our premises or place; and
- b) the re-sale may, at our discretion, be by public or private sale; and
- c) we may recover from you as liquidated damages for our loss of bargain, the difference between the re-sale price and the unpaid price (together with any incidental damages, such as holding expenses and charges but less expenses saved as a result of your breach).

15.2 If applicable Goods cannot be sold within three (3) months of the first attempted sale, those Goods will be deemed to have a re-sale price of nil.

16. GOVERNING LAW

This Agreement is governed by the laws of Victoria. You and the Company irrevocably submit to the exclusive jurisdiction of the Victorian courts and federal courts sitting in Victoria.

17. WHOLE AGREEMENT

These Terms and Conditions together with Section A of this Agreement embody the whole agreement between the parties and, subject to the express terms contained in any written order or written acceptance thereof, all previous dealings, representations and arrangements are hereby excluded and cancelled.

18. CESSATION OF SUPPLY

Our agreement to continue to deliver or sell goods to you is always conditional upon our being satisfied of your ability to pay and comply with these terms and conditions. If we cease to be satisfied we may suspend and/or terminate deliveries and shall not be liable in any way for any claim, damage, expense or cost suffered by you.

19. SEVERANCE

Should any part of these terms and conditions be held to be void or unlawful, these terms and conditions will be read and enforced as if the void or unlawful provisions have been deleted.

20. CONFIDENTIALITY

20.1 Except as required by law, this Agreement and subject to the PPSA, we and you agree to treat the terms of this Agreement as confidential.

20.2 We and you acknowledge and agree that sub-clauses 20.1, 20.3 and this sub-clause 20.2 constitute a confidentiality agreement pursuant to Section 275(6) of the PPSA.

20.3 Neither we or you will disclose, send or make available any of the information referred to in Section 275(1) of the PPSA to any person except as required by law, this Agreement and subject to the PPSA.

SCHEDULE OF FEES AND CHARGES

RESTOCKING FEE

A Return To Store ("RTS") fee calculated at ten percent (10%) of the invoiced value of the Goods returned with a minimum amount to be determined by us from time to time (exclusive of GST), where Goods are returned as a result of order errors made by the customer. Over ordered Goods may not be accepted after seven (7) days from the earlier date of delivery or invoice. Made to order, special order goods and half or cut down sheets will not be accepted for RTS.

RETURNED CHEQUE FEE

Where a cheque issued for payment of Goods or payment of a credit account is dishonoured by a customer's bank, a returned cheque fee for an amount to be determined by us from time to time (exclusive of GST) will apply.

CREDIT CARD ADMINISTRATION FEE

A credit card administration fee of two percent (2%) of the face value of the transaction will apply where payment of accounts is made by credit card outside agreed trading terms.

LOGISTICS FEE

A logistics fee may be charged on orders for an amount to be determined by us from time to time – details are available from branch of despatch.