



General Terms and Conditions of Sale of Goods and Services

1. **These Terms** These terms apply in any contract of supply of goods or services made between Holville Pty Limited as Supplier and you as Buyer. Placing an order with us (the Seller) will constitute deemed acceptance by you (the Buyer) of these terms. These terms prevail over any terms put out by you, unless we agree in writing to vary these terms. No employees, agent or contractor of ours may vary or add to these terms without the prior written authority of a Director of Holville Pty Limited. Our failure to object to any terms or condition contained in any communication from you shall not be deemed a waiver of these terms and conditions
2. **Goods and Services** We may alter our range of Goods and Services on offer without notice to you. We follow a policy of continual product development and reserve the right to alter the design or specification of any product without notice and without affecting the validity of this agreement.
3. **Prices** Price lists are subject to change without notice and the invoice price will be based on the price list current on the date of invoice. Unless otherwise stated all prices quoted are in Australian Dollars (AUD\$) and do not include any tax, duty or impost levied over the Goods in Australia or elsewhere.

All prices are quoted 'Ex Works', no allowance has been made in the price list for freight, insurance or unloading costs. Should you require us to arrange these services the cost of these services shall be payable by you.

Quotes shall be valid for 14 days and thereafter are subject to confirmation before acceptance.
4. **Orders** An order you give us is subject to our acceptance and we may decline an order. We reserve the right to supply an order in full or only in part. You may not cancel an order, nor delay delivery, once we accept your order, unless we agree. If we agree to cancel an order the Buyer will be liable for any costs incurred by the Seller in respect of filling the order to the date at which the Seller agrees to the cancellation of the order.
5. **Delivery.** All delivery dates are approximate only and although every reasonable effort will be made by us to deliver Goods by the estimated delivery date, any failure to by us to deliver by a particular date will not entitle you to cancel your order or void any of these Terms of Sale or claim compensation. The Seller shall not be liable for any loss or damage (including consequential loss) should delivery be delayed or prevented due to any cause or circumstance beyond Seller's control, including non-availability of stock. We may deliver Goods by instalment. All such instalments when separately invoiced shall be paid for when due in accordance with the invoice without regard to subsequent deliveries.
6. **Payment** Unless a credit account is held by you with us, all Goods are supplied on a Cost Before Delivery (CBD) basis. If a credit account is held by you then all invoices are payable 30 days from the date of invoice. The Buyer shall have no right of set-off in respect of any claim against Seller. Payments are only deemed to have been made once the amount is credited to our bank account. Except where varied in writing, we may at the end of each month submit to you progress invoices for work completed, or material (including imported items) in transit which is purchased by us prior to completion of delivery to you of the Goods. Should payment not be made in accordance with our credit terms we reserve the right to charge interest on a weekly basis based on the CBA's business overdraft rate plus 3%.
7. **Credits** We may in our absolute discretion provide credits for standard stock items provided the Goods are returned within 14 days to our premises at your expenses and that the Goods are undamaged and saleable and accompanied by a delivery docket stating our original invoice number and reason for return. A 20% restocking fee may be charged. Goods manufactured to your specification may only be returned at our discretion.
8. **Risk** The goods are at risk of the Buyer as soon as the Goods have been delivered to or into the custody of the Buyer or Buyer's agent or otherwise at direction of Buyer. Delivery to the Buyer's nominated carrier shall constitute delivery to Buyer.
9. **Warranty of Goods** Unless otherwise stated in our quotation or agreed by us at the time of acceptance of your order, the warranty period for the supply of Goods shall be one year from the date of manufacture of the Goods. The warranty shall exclude;
 - (a) Replacement or repairs which are required as a result of improper installation, misuse, maladjustment, modification or lack of routine maintenance by others;
 - (b) Items subject to deterioration or consumption in normal service (such as lamps, bulbs, fuses, batteries);
 - (c) Goods, materials or parts supplied or manufactured by unrelated third parties and provided to you at your specific request. Such Goods, materials or parts will be repaired or replaced only to the extent of the original supplier's warranty; and
 - (d) any defective Goods or components thereof which have been repaired or modified without our prior written consent;
 - (e) Warranty claims which are not notified to us in writing within the defects liability period; or
 - (f) all other terms, conditions and warranties or guarantees implied by statute, common law or otherwise in relation to the Goods are hereby excluded, except to the extent otherwise provided by law.
10. **Warranty of Services** Unless otherwise required by law or stated in our quotation or agreed by us at the time of acceptance of your offer, the warranty period for the supply of services shall be three months from the date of completion of the service. However, except to the extent otherwise required by law we will not be liable for any failure to provide the services as aforesaid unless you notify us in writing of your claim within the defects liability period.
11. **Warranty Conditions** Site repair is at our option. The cost of returning any defective Goods to us shall be borne by you. The decision to replace, resupply or return the invoiced price of the Goods or Services shall be made at our discretion and will be your sole remedy in respect of a warranty claim. We will not be liable to you for any loss, damage (whether direct or indirect, special or consequential) or injury resulting from any breach of warranty or any defective material, faulty workmanship or otherwise howsoever



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arising out of this Agreement or the installation or use of the Goods or their resale or the provision of any services, whether or not caused by our negligence or default or by the negligence or default of our employees or agents or otherwise.

12. **Retention of Title** Until each payment is made in full, ownership of the Goods remains with the Seller. Title to the Goods for each separable portion shall pass to you on the full payment of each respective portion. Until the Goods have been paid for:
 - (a) Buyer must deliver up the Goods to Seller on demand
 - (b) To the extent (if any) that the property and legal title to the Goods has passed to the Buyer by operation of law, then Seller has a specific lien over the Goods until paid for in full; and
 - (c) If Buyer receives any proceeds from the sale and or lease of the Goods from any other party, buyer receives those proceeds on trust for the Seller to be applied in payment of the purchase price for the Goods until the proceeds have been paid to the Seller. The whole of this clause applies notwithstanding any arrangements under which Seller grants credit to Buyer. Buyer indemnifies Seller from and against all costs or damages which may be incurred by Seller arising out of its taking possession of the Goods.
13. **Assignment of Rights** The Seller is entitled at any time to assign our rights under a Commercial Credit Application to our successors, nominated transferees or assigns (including but not limited to where applicable, Personal Guarantees) and that these Terms of Trade shall not in any way be affected or discharged pursuant to such assignment.
14. **Intellectual Property** In placing your order for Goods with us, you acknowledge and agree that all intellectual property rights in respect to the Goods or their manufacture (as applicable) are owned exclusively by us, except for copyright in designs, specifications or drawings provided by you.

You must not without our prior written consent decompile, disassemble, reverse engineer, manufacture, duplicate or modify any of the Goods or components thereof, nor reproduce, copy or disclose nor permit others to reproduce, copy or disclose any of our designs, specifications or drawings.

You warrant that any specification, design or instructions specified or provided by you or on your behalf to us will not cause us to infringe any rights of another party (including but not limited to intellectual property rights) and you agree to indemnify us and keep us indemnified for and against any loss or damage suffered by us arising from any breach of that warranty.

In the event of any claim for infringement of intellectual property (including but not limited to a registered design, trade mark, copyright, letters patent, or rights of confidentiality) relating to any Goods or components thereof (other than Goods or components based on a specification or design provided or specified by you), we will either replace or modify such Goods or component with non-infringing Goods or components or procure for you the right to use such Goods or components, provided we are given the full opportunity to conduct all negotiations in respect of such claims. In no event will we be liable for any losses arising from use or non-use of any such infringing Goods or components.
15. **Regulation** You must ensure that the installation and use of the Goods comply at all relevant times with every applicable law, including all regulatory requirements of any Government or other relevant authority, and that all necessary licences or permits required in connection with such installation or use have been obtained.
16. **Indemnity** If we suffer any damage, loss, claim, action or expense as a result of your installation, use, application or resale of the Goods, or your failure to comply with clause 14 or any other obligation under this Agreement, you must indemnify us and keep us indemnified in respect of such damage, loss, claim, action or expense.

You further agree to indemnify us for any legal costs and disbursements on a lawyer and own client basis incurred by us in respect of this Agreement, or other documentation required while credit is being offered in consequence of this Agreement, and you further agree to indemnify us for any dishonoured cheque fees incurred and in the event that your account is in default of the Terms of Trade, to indemnify us against its collection fees and legal costs.
17. **Waiver** Where you are in breach of any of the terms stated herein and we do not enforce our right to remedies, this does not constitute a waiver of our rights.