

## EDINGTON AGENCIES PTY LTD TERMS AND CONDITIONS OF SALE

### 1. Definitions

"Company" means EDINGTON AGENCIES PTY LTD A.B.N. 91 010 168 055 "Purchaser" means the person, partnership or body (howsoever incorporated) purchasing the Products and/or Services specified in this proposal; "Products" means the equipment or other goods specified in this document supplied by the Company to the Purchaser under an agreement of which these conditions form part; "Services" means the repair of Products agreed to be provided by the Company to the Purchaser (where applicable).

### 2. Effect

These terms and conditions of sale apply to all contracts for the sale of Products solely or for Products and Services and unless expressly approved in writing by the Company, any term or condition of an order placed by the Purchaser which conflicts with or purports to vary or modify these terms and conditions will have no effect whatsoever and will not be binding on the Company.

### 3. Order Cancellation and Goods Return Charges

Any order for Products, or Products and Services will be binding on the Purchaser unless rejected by the Company within two (2) business days of receipt of such order. After the two (2) business day period, orders can only be cancelled by mutual agreement and upon payment by the Purchaser of a cancellation charge (if applied by the Company) equal to fifteen percent (15%) of the total purchase price for the Products and/or Services ordered together with an amount sufficient to indemnify the Company for its actual and prospective loss, damage and expense consequent upon the cancellation. The Company will not accept the return of or give a credit for Products supplied with non-original modifications. All Products returned may be subject to a handling charge of 20% of the invoiced price except in the case of defective Products or Products incorrectly supplied. In the case of buy-ins (non-stocked items) against the Purchaser's order, credit will only be allowed if and to the extent that the original manufacturer/supplier also accepts the return.

### 4. Prices

All prices quoted for Products or Services are firm for a period of sixty (60) days only unless advised in writing to the contrary. Where the order value of the Products is less than \$40 (inclusive of GST) the Company may apply a surcharge of \$10 inclusive of GST.

### 5. Payment

Payment terms are strictly C.O.D. unless otherwise specified on invoice. If the Purchaser does not pay the full invoiced amount by the due date the Company will, in addition to other remedies it may have at law, be entitled to charge interest on the overdue amount at the rate of 2% per month. Interest will accrue on a daily basis from the due date up to the date of actual payment and will be payable by the Purchaser on demand by the Company. The Company may apply monies received first in satisfaction of accrued interest on overdue amounts and second in diminution of the unpaid price. Payment by other than Cash or Cheque (by prior arrangement) may attract additional administration charges. Where the Purchaser trades outside of the Terms and Conditions of the Purchaser's credit facilities or the supply of Products to the Purchaser will result in the Purchaser trading outside such terms, the Company may among other things, refuse to supply Products to the Purchaser on terms other than C.O.D. irrespective of whether an order has been accepted or not and will not be liable for any loss resulting directly or indirectly from such an action.

### 6. Delivery and risk

The performance by the Company of the terms of this agreement is subject to the availability of the necessary Products and Services to enable the Company to fulfil the order. The Company will use its best efforts to fill all accepted orders in accordance with delivery dates specified by the Purchaser or, if no delivery dates are specified, as soon as practicable but in no event will the Company be liable for any claim, cost, loss, expense or damage resulting from any delay in delivery or performance or for any failure to deliver due to causes beyond its control. Unless agreed otherwise, Products ordered by the Purchaser will be consigned by the Company to the Purchaser's premises or to such other premises as the Purchaser directs. All freight, delivery and insurance charges will be the Purchaser's responsibility, except where the Company offers and charges for a carrier service to ship the Purchaser's consignment. Risk of loss or damage to the Products will pass to the Purchaser upon delivery of the Products to the Purchaser or its agent or the carrier (irrespective of whether the Company arranges for and/or pays for the carrier). Delivery in accordance with this clause will be deemed to constitute delivery to the Purchaser.

### 7. Passing of Title

Property in the Products will remain with the Company and will not pass to the Purchaser unless and until payment in full is made by the Purchaser to the Company. In the event that payment in full is not made by the Purchaser, the Purchaser hereby authorises the Company together with its officers and employees and duly authorised agents to enter upon the Purchaser's premises where the Products are situated and to use such reasonable force as is necessary to recover such Products. The Purchaser will be liable to the Company for all and any loss or damage to any Products in which the Company retains title and which are in the Purchaser's possession custody or control and whether or not caused by any act or omission of the Purchaser. The Purchaser acknowledges that until such time as the property in and ownership of the Products passes to the Purchaser in accordance with this clause, the Purchaser is in possession of the products for and on behalf of the Company as a fiduciary bailee and agent.

### 8. Warranties and Limitation of Liability

(a) Whilst the Company will comply with the obligations imposed upon it by any manufacturer's warranties given with the Products, such warranties and/or those that are implied or included by law are the only warranties given by the Company. Other than such warranties, all other undertakings, inducements or representations whether express or implied relating in any way to the Products are excluded and no oral or written information or advice given by the Company, its servants, agents or employees shall create a warranty or in any way increase the scope of any warranty given by a manufacturer or implied by law. Repairs or replacements under the terms of warranty do not give the right to extension or revised commencement date of the warranty.

(b) These express warranties will only apply if:-

(i) the Company is notified in writing within fourteen (14) days of the discovery of any relevant defect;

(ii) the Company is satisfied that after delivery the Product has been properly handled, carried, installed, stored, used and maintained and that the Purchaser has complied with any applicable recommendations of the Company and that the Product has not been altered or modified in any way by any person;

(iii) the Company has obtained from the supplier of the Products warranties in terms similar to the warranties contained herein; and

(iv) payment has been made strictly in terms of this agreement.

(c) In addition to the general exclusions contained in (b) above the Company will not be responsible for the non performance of malfunction of or damage to any Product or Service supplied to the Purchaser arising from:-

(i) malicious interference caused to the Product or its installation;

(ii) storm, tempest, flood, fire, earthquake and other acts of God;

(iii) war, invasion, act of foreign enemy, hostilities, civil war, rebellion, revolution, insurrection or military or usurped power;

(iv) modification or interference to the equipment by the Purchaser or on the Purchaser's behalf without the written authority of the Company;

(v) abnormal variations in electrical power supply;

(vi) failure of ancillary equipment not part of the Product;

(vii) fair wear and tear.

Any cost or expense incurred by the Company in detecting or isolating such non-performance malfunction or damage so caused will be borne by the Purchaser.

(d) Apart from these express warranties and SUBJECT TO PARAGRAPH (e) BELOW, the Company will not be bound by or subject to any term, condition, warranty, obligation or liability (including any liability for indirect or consequential loss or whatsoever to the person, property or business of the Purchaser or any third party) in respect of the Products or in respect of Services provided hereunder, of for any defect in, failure of, or unsuitability or unfitness for any purpose of the Products whether the same may be due to any act, omission, negligence or wilful default of the Company or its servants' or agents' workmanship, materials or infringement of rights or to any other cause whatsoever, and all other conditions or warranties, whether express or implied, statutory or otherwise, inconsistent with these conditions, are hereby expressly excluded.

(e) Paragraph (d) above does not exclude, restrict or modify any condition or mandatory warranty implied or imposed by virtue of any applicable Commonwealth or State legislation or any statutory rule or regulation made thereunder.

(f) To the extent permissible pursuant to Division 2 of Part V the Trade Practices Act, 1974 (as amended) the Company's liability for breach of any implied condition or warranty as set out herein is expressly limited:

(i) in relation to a Product, to the repair, replacement or supply of an equivalent Product or to the payment of the cost of repairing, replacing or of acquiring an equivalent product (at the Company's option); and

(ii) in relation to Services, (where applicable) to the supplying of the Services again or to the cost of supplying the Services again (at the Company's option).

(g) The Purchaser will indemnify and keep indemnified the Company against any and all action, proceedings, costs, damages, claims, demands and expenses whatsoever brought against or incurred by the Company arising out of or in connection with any act or omission or any negligent or wilful default by the Purchaser in connection with the re-supply of any Products by the Purchaser to any third party or the use of any Products by any such third party.

(h) All costs associated with returning Products to the Company under warranty claim for inspection or otherwise are the responsibility of the Purchaser.

### 9. Governing Law

This contract for the sale of the products and/or Services as specified in this document, will be governed by the laws in force for the time being in the State of Queensland.

### 10. General

If any Products are subject to the control of the Australian Customs Service, all customs duty, excise duty and costs which the Company becomes liable to pay and/or does pay in respect of the Products pursuant to any law relating to customs or excise shall be paid by the Purchaser. The Company will not be liable for any loss incurred as a result of delay or failure to observe any of these Terms and Conditions due to an event of force majeure, being a cause or circumstance beyond the Company's control, or due to any failure or delay in performance caused by lack of production capacity, machinery breakdown, failure of supply by suppliers of the Company, shortage of raw materials or components, any strikes, floods, lockouts, labour disputes, fires, acts of God or public enemy, malicious or accidental damage, delays in transport or restrictions or prohibitions by any government or any and all other causes beyond the control of the Company. Any and all information stated in product brochures, price lists, technical reports etc., in respect of weight, dimensions, capacity, performance and other technical data shall be for guidance only and not binding on the Company. It is the Purchaser's responsibility to obtain all necessary authorisations or approvals from any government body or statutory authority relating to use of the Product. These terms and conditions will prevail notwithstanding any other terms and conditions on any order submitted by the Purchaser. Any failure by the Company to enforce any term or condition hereof will not be deemed to be a waiver of future enforcement of that or any other term or condition. The provisions of these terms and conditions are severable. The Purchaser acknowledges and declares that no promise, representation or undertaking has been given by the Company in respect of the suitability of the Products or its installation (where applicable). The parties hereto consider the covenants, obligations and restrictions herein contained to be reasonable in all the circumstances and each and every one of such covenants, obligations and restrictions and each and every part thereof shall be deemed severable and an independent covenant, obligation or restriction to the intent that if taken together they shall be adjudged to go beyond what is reasonable in all the circumstances but would be adjudged reasonable with any one or more such covenants, obligations or restrictions or any one or part thereof deleted the covenants, obligations and restrictions herein contained shall be deemed to apply as if such covenants, obligations or restrictions or part thereof as are so adjudged unreasonable, were deleted.