

Terms of Sale

1. General

1.1 The following terms shall apply to all quotations by and orders placed with Abolish Pty Ltd and subsidiary companies (The Company) unless otherwise agreed in writing by the Company and such items shall be terms of any contract between the Company and any purchaser from the Company (The Purchaser). And terms appearing in the Purchaser's order insofar as they are inconsistent with these terms shall not be part of any contract between the Company and the Purchaser.

2. Quotations

2.1 Any quotations made or given by the Company shall, unless otherwise specified remain valid for a period of 28 days from the date of such quotation and shall be referable only to such goods, equipment and/or accessories ('Goods') and/or services (if any) as are specified therein.

2.2 Every quotation made or given by the Company is by way of invitation to treat only and shall in no circumstances constitute or be deemed to constitute an offer by the Company.

2.3 Every quotation placed with the Company, whether or not referable to a quotation made or given by the Company, is made or given subject to these terms.

2.4 The Company reserves the right to withdraw or revise any quotation at any time before acceptance of any order.

3. Payment and Credit

3.1 Payment for all Goods and/or services (if any) the subject of any contract between the Company and the Purchaser shall be made at the times and on the terms expressed in the Company's quotation (if any).

3.2 In the absence of provisions as to payment being set out in the Company's quotation then all accounts must be paid within 30 days of invoice date. If at that date on which the Company is ready to deliver the Goods the Purchaser delays delivery for any reason the Company may present invoices for full settlement within 30 days of that date.

3.3 The Purchaser shall pay interest on any overdue amounts at the rate of 2% per month (or such other rate as the Company may specify in any quotation) from the due date until date of payment, calculated on daily rests.

3.4 In default of payment and without prejudice to any other rights or remedies available to the Company reserves the right to demand payment of all outstanding balances whether or not due and/or to cancel any or all outstanding orders.

3.5 The Purchaser shall not be entitled to withhold payment to the Company or make any deduction from the purchase price in respect of any set-off or counterclaim or for any other reason whatsoever.

3.6 If the purchaser fails within the period specified in Clause 3.2 to pay the purchase price the seller shall be entitled to retake possession of and resort the Goods and shall be released from all other obligations under any contract between the Company and the Purchaser. For the purposes of this clause if payment is not made on time the Purchaser hereby irrevocably authorises the Company to enter the Purchaser's premises and retake possession of such Goods and the cost of any damage arising from the Company's reasonable enforcing its rights hereunder shall be to the account of the Purchaser.

4. Warranties

4.1 The Purchaser's attention is drawn to the provisions of the Trade Practices Act 1974 (Cth) and to all other relevant laws which have the effect of implying these conditions or warranties in certain contracts and which also gives parties to those contracts certain other rights against suppliers. Where the effect of such laws is that such conditions, warranties and other rights are implied or given in respect of any contract between the Company and the Purchaser and it is not lawful or possible to exclude the same, then such conditions, warranties or other rights shall (but only to the extent required by law) apply to such contract but save as aforesaid all such implied conditions, warranties and rights are hereby excluded.

4.2 Subject to any statutory provisions to the contrary all quotations are made or given and orders are accepted without any guarantee, warranty or conditions, express or implied as to the purpose(s) for which the Goods the subject of such quotations and/or orders are to be supplied for the purpose(s) for which the Goods are required by the Purchaser or that Goods to be supplied are suitable for use under any specific conditions notwithstanding such conditions may be known to the Company at the time nor is any guarantee given as to the life and wear of such materials.

4.3 Any performance data mentioned in the quotation or associated documents (including relevant product brochures) are indicative only and only those figures which are specifically stated as guaranteed are warranted.

4.4 Unless otherwise expressly stated in writing, the Company gives the following warranty:

(a) In the case of the Goods of the Company's own manufacture, the Company will within a period of 12 months repair or replace at its option any defective Goods or part thereof provided that:

- (i) such defect is due to faulty workmanship or materials;
- (ii) notice of such defect is given to the Company within 7 days of discovery of the defect, such defect does not arise from accident, ordinary wear and tear or faults arising from careless operation or maintenance, failure to comply with the Company's operating instructions, unskilled or faulty installation (where not undertaken by the Company), startup or maintenance (other than by the Company) overloading, insufficient lubrication or similar cause; and
- (iii) the Purchaser shall not have modified any of the Goods or have carried out any repairs thereon without having obtained the Company's prior written consent.

(b) in the case of Goods which are purchased by the Company and not of its own manufacture, the Company will give such warranties as are given by the supplier thereof to the Company.

4.5 Subject to the foregoing no warranty, condition, description or representation on the part of the Company is given or implied or has been given or is to be implied from anything said or written in the negotiations between the Purchaser and the Company or their representatives and all guarantees, warranties, conditions or terms (including any guarantees, warranty, condition or term as to state, quality fitness for any particular purpose or for use under specific conditions notwithstanding that such purpose or conditions may be known or made known to the Company) whether express or implied by statute, common law or otherwise are expressly excluded and are hereby negated to the maximum extent permissible by law. The Company shall not under any circumstances whatsoever be liable to the Purchaser whether in contract, tort or otherwise, and the Purchaser shall indemnify and hold the Company harmless against "claim made against the Company, or any loss damage or injury to any person, property or any other thing for any consequence of any such loss, damage or injury howsoever

caused, including, without limiting the generality of the foregoing, whether or not the same is caused by the negligence or willful act or default of the Company or others or any malfunctioning of or defect in or failure of any or all of the Goods and/or services (if any) the subject of any contract between the Company and the Purchaser and whether or not the same arises or is occasioned by, whether directly or indirectly, the use, operation, possession or installation of any or all such Goods or the provision of such services (if any) and whether or not the same occurs in the course of performance by the Company of any contract between the Company and the Purchaser or in events or circumstances which are in the contemplation of the Purchaser and/or the Company or in events or circumstances which would, but for these terms, constitute a fundamental breach of such a contract or a breach of a fundamental term thereof.

4.6 The Company shall under no circumstances be liable to the Purchaser for any form of incidental or consequential damages in connection with the arising from the furnishing, performance or use of the Goods of any part thereof and the Company's total liability for a breach of any of the terms hereof and of any warranty or condition express or implied shall be in all circumstances limited, at the option of the Company, to either the replacement of the defective Goods or part thereof or the repair of such defective Goods or part thereof. For the purposes of this clause 'incidental or consequential damages' include but is not limited to loss of profit, use of goodwill, (or like financial loss), payment made or due to any other person and any loss or damage caused by delay in the performance of any obligation, together with any expenses incurred by the Purchaser in connection therewith, arising there from or incurred in mitigation or attempted mitigation of such loss or damage.

5. Delivery

5.1 The times or dates of delivery indicated by the Company to the Purchaser in any quotation are estimates only and although every reasonable attempt will be made by the Company to deliver within time specified no liability shall arise for tenure by the Company to deliver within such time nor shall the Purchaser have any right to cancellation rescission of any contract between the Company and the Purchaser for late delivery.

6. Title Retention

6.1 Until the purchase price of Goods and/or services (if any) the subject of any contract between the Purchaser and the Company shall have been paid or satisfied in full the following provisions shall apply.

6.2

(a) The property in such Goods remains the vested in the Company (notwithstanding the delivery of the same and passing of the risk therein.)

(b) The Purchaser shall hold such Goods as bailee for and on trust for the Company.

(c) The Purchaser shall store such Goods in such a way that they can be readily identified as being the Company's property.

(d) The Purchaser shall on request inform the Company of the precise location of each item of such materials, identified where applicable by serial number, by supplying the Company at the Purchaser's expense a written schedule of said locations within 7 days of such request.

(e) The Purchaser may sell such Goods as the Company's agent in the normal course of the Purchaser's business and may pass Goods title to the Purchaser's customer being a bona fide purchaser for value without notice of the Company's rights on the following conditions:

(i) The proceeds of such sale up to the Purchaser's maximum indebtedness to the Company shall be held by the Purchaser as bailee for and on trust for the Company;

(ii) In the event of such sale the Purchaser shall up to its maximum indebtedness to the Company account to the Company on demand for the said proceeds of sale provided that no such demand shall be made by the Company in the absence of the Company having reasonable cause to believe the Purchaser might default in making payment for such goods and/or services (if any) in accordance with 'terms of sale';

(iii) The Company shall be entitled to make a claim directly against the Purchaser's customer for any purchase monies unpaid by such customer provided that the Company shall return to the Purchaser the monies recovered in excess of the amount then owed by the Purchaser to the Company (the Company being entitled to deduct from such excess the costs and expenses incurred by making such a claim);

(iv) The Company may at any time revoke the Purchaser's said power of sale;

(v) The Purchaser's said power of sale shall automatically cease if the Purchaser at any time is in default of payment of monies due to the Company pursuant to any contract between it and the Company;

(vi) The Purchaser shall notify the Company without delay of any attachment of such Goods or actions by third parties which might infringe the Company's title to such materials.

(f) Upon termination of the Purchaser's power of sale the Company shall be entitled by itself, its servants or agents to enter upon any of the Purchaser's premises for the purpose of removing and repossessing such Goods or (subject to the limit specified in clauses 6 (e) and (ii) the proceeds of their sale.

(g) Until title in such Goods has passed to the Purchaser, the Purchaser shall not purport to be the owner of such Goods and 'it not show such Goods as stock in its accounts'

(h)(i) The Purchaser shall insure such Goods against theft or any other damage howsoever caused until their price has been paid or until sale, whichever shall first occur, and the Company shall be entitled to call for details of the insurance policy; and

(ii) If the Purchaser does not insure the Goods or fails to supply details of its insurance policy on demand to the Company the Purchaser shall reimburse the Company for the cost of any insurance which the Company may reasonably arrange in respect of such Goods or part thereof during the whole or any part of the period from the date of its delivery of such Goods until the day of payment to the Company of their full purchase price.

6.3 Nothing in these terms of sale shall:

(a) Entitle the Purchaser to return such Goods or to delay payment therefore; or

(b) Constitute or be deemed to have constituted the Purchaser as the Company's agent otherwise than for the purpose of Clause 6.2, or

(c) Render the Company liable to any third party for any unauthorised representation or warranty made or given by the Purchaser to such third party in relation to such materials.

6.4 Notice of termination is 30 working days in writing to the Wollongong office. If no notice period is given the set contract in place or past agreement will anniversary for 12 months automatically. Any regular site visits or service more than 12 months past will constitute an arrangement.

6.5 Payments claim issued under the security and construction industry security of payments act 1999 NSW