

# CONDITIONS OF SALE (EEP -1)

## 1. GENERAL

These Conditions of Sale apply to the sale of items (not, unless stated herein, to conditions of usage and/or installation) included in the current issues of the Emerald Emergency Products. (hereinafter referred to as the Company) price lists or, where a quotation is made, they shall form part of that quotation. No variation or cancellation of any of these Conditions of Sale shall be binding on the Company unless agreed to in writing by a duly authorised person of the Company.

## 2. PRECEDENCE

In the event of conflict between these conditions and those which may be included in, or implied by, any document forming part of any enquiry, specification, quotation, order or contract, then these conditions shall prevail except in as far as they are expressly varied by the Company in writing or otherwise by law.

## 3. QUOTATIONS AND ACCEPTANCES

Any quotation given by the Company shall be construed as an invitation to treat only and not an offer and shall represent no obligation until the Company shall have accepted the Purchaser's offer. Quotations include only such goods as specified therein.

## 4. VALIDITY

Unless otherwise stated, quotations are open for acceptance for a period of 30 days from date of quotation and thereafter are subject to confirmation before acceptance.

## 5. TITLE & RISK

(i) The Company reserves the following rights in relation to the goods until all accounts owed by the Purchaser to the Company have been paid in full:

- legal ownership of the goods;
  - to enter the Purchaser's premises (or those 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;
  - to keep or resell any goods repossessed under this clause.
- (ii) If the goods are resold by the Purchaser, or products manufactured using the goods are sold by the Purchaser, the Purchaser shall hold the proceeds of sale in trust for the Company and will keep such proceeds in a separate identifiable account as the beneficial property of the Company and shall pay such amount to the Company on demand. Notwithstanding this provision, the Company shall be entitled to maintain an action against the Purchaser for the purchase price of the goods, or for possession of the goods.
- (iii) Risk in the goods shall pass to the purchaser when the goods sold leave the Company's premises. When carriage of the goods sold is the responsibility of the Company, this obligation shall be subject to the provisions of clause 14. (including existing 5 (ii) and (iii) here.)

## 6. PAYMENT TERMS

- Unless on other terms as stated by the Company, and subject to Clause 13 payment for approved credit sales must be made within 30 days of the statement date or such other period of time stipulated by a duly authorised person of the Company.
- The Company shall have the right in addition to all other rights at law to charge interest on all overdue accounts, from 30 days after the statement date until full and final payment is received by the Company (and if by cheque until the cheque becomes cleared funds) at the rate of 10% p.a.
- The Company shall have the right to be reimbursed for any costs associated with the recovery of any outstanding monies, namely but not limited to debt collection agency fees, solicitor costs.

## 7. PRICES

All prices are subject to change without notice. Orders are accepted by the Company at the price quoted by the Company (provided that quotation is not older than 30 days). All prices shown in published catalogues or price lists are recommended selling prices only and there is no obligation on the part of any reseller to maintain the same prices.

## 8. GST

All prices quoted are exclusive of GST. The Company will issue a Tax Invoice for all sales which are GST supplies and the amount payable to the Company includes that GST. The GST is due and payable at the same time the payment for the goods sold is due and payable.

## 9. DELIVERY CHARGE

All quotations, unless otherwise stated, are exclusive of delivery charges. A delivery charge per order, charged at the rate applicable at the time of delivery, will be applied on all orders (unless otherwise agreed) which are delivered to a customer's premises. This amount will be shown as a separate item on all invoices. The delivery charge will not be applied to the supply of product back ordered from an original order, which is beyond the control of a customer.

## 10. CREDITS

The Company may at its discretion accept the return of products listed in the current published price lists for credit with the payment of a restocking fee of 15% of the original net invoiced value or \$50 net, whichever is the greater, provided the goods:-

- Are returned within 7 days of delivery, free to the Company's warehouse.
- Are accompanied by a delivery docket stating the Company's original invoice number - and a reason for return.
- Are returned in an unsoiled, undamaged and resalable condition, in their original packing. Goods will not be accepted for return after 7 days from date of delivery unless by prior arrangement.

## 11. PACKING

Unless stated otherwise in the quotation, the price quoted includes packing in accordance with the Company's standard practice. Any other packing requested by the purchaser will be charged for in addition to the price quoted.

## 12. LICENCES & PATENTS

Licences, patents and design rights remain the property of the Company and shall not be available in any form to third parties, nor re-used by the purchaser, unless agreed to in writing by a duly authorised officer of the Company. The sale of the goods and publication of any information or technical data relating thereto does not imply freedom from patent or registered design or other industrial property rights in respect of any particular application of the goods.

## 13. CANCELLATION OR VARIATION

The Company may, whether before or after it has accepted an order, require payment (full or in part) in advance of the goods being supplied. In addition a contract may, at the Company's option, be terminated in the event of insolvency of the purchaser or of execution being levied against any of the goods of the purchaser or of the purchaser being placed in liquidation, whether voluntarily or otherwise.

An order may be varied only if such variation is accepted by the Company in writing and any variation or cancellation by the purchaser (whether or not it has been agreed to by the Company) may only occur on terms which will provide for the Company to be indemnified by the purchaser against any loss or damage.

Cancellation charges shall be payable by the Purchaser in any case where the Company agrees to cancellation of the order - in whole or in part.

## 14. DAMAGE OR LOSS IN TRANSIT

Where carriage is the responsibility of the Company, the Company will repair or may replace free of charge contract goods lost or damaged in transit to the contractual point of delivery provided written notice of such loss or damage is given to the Company within 3 days of delivery or expected delivery.

## 15. DELIVERY

The delivery period quoted commences from the date the Company receives sufficient information to proceed with supply or from the date the Company receives the purchaser's written order, whichever is the later date. Delivery times quoted are subject to prior sale and are without engagement. Quoted delivery dates are subject to confirmation when placing the order. The Company shall not in any event be liable to the purchaser for any loss of profits or any other consequential loss or damage caused to the purchaser by any delay in the delivery or any non-delivery of the goods or any part of them. Claims for shortages in deliveries must be advised to the Company in writing within 7 days of receipt of the goods.

## 16. INFORMATION & DRAWINGS

Although every effort has been made to ensure the accuracy of information and data published by or supplied through the Company, no responsibility is accepted for damage injury loss or expense resulting from any error or omission in such information or data and the right is reserved to incorporate design changes without notice.

Where information concerning usage and installation is provided, the goods must be used/installed in that manner.

## 17. WARRANTY

This warranty applies only to the original Purchaser to whom the goods were first sold. All goods which are the Company's own are guaranteed against faulty workmanship, materials or design for a period of twelve months from the date of despatch unless expressly varied by the Company in writing, after which all liability on the part of the Company ceases. The Company's liability for any loss, injury or damage attributable thereto shall be limited to making good by replacement or repair of defects which appear therein under proper use provided that the Company is permitted to inspect defects before replacement; the defective goods being returned free into the Company's store complete with a description of the fault. The fulfilment of this undertaking shall constitute the Company's sole liability for any loss of profits or any other consequential loss or damage suffered by the purchaser in consequence of any defect in material or workmanship of the goods (whether of the manufacture of the Company or its principals or otherwise), or the failure of the goods to perform in accordance with any performance figure stated. Repaired or exchanged goods shall be returned freight free to the original point of delivery and the warranty shall continue for the remainder of the original warranty period, or ninety days, whichever is the greater. No liability is assumed for expendable items such as fuses, lamps and strobe tubes. Abuse, misuse, accident, alteration, neglect, unauthorised repair or installation involving non approved equipment and/or accessories shall invalidate this warranty. This warranty does not exclude any condition or warranty implied by the Trade Practices Act 1974 or separate State Laws and is in addition to any other right that the original purchaser or any subsequent purchasers may have at law.

## 18. LIABILITY

Save as provided in Clause 15 the Company shall not be under any liability (whether in contract tort or otherwise and whether or not resulting from our negligence or that of our employees) in respect of defects in goods delivered or for any damage loss or expense resulting from such defects. The Company shall not be under any liability for damage loss or expense resulting from the failure to give advice or information or the giving of incorrect advice or information whether or not due to our negligence or that of our employees. In no circumstances shall any breach of contract or tort (including negligence) or failure of any kind on our part or that of our employees or contractors give rise to any liability for loss of revenue or any consequential loss or damage arising from any cause whatsoever.

## 19. STORAGE

When delivery is delayed for reasons attributable to the purchaser storage and other additional costs shall be charged to the purchaser from a period 7 days after the date on which the purchaser is notified that the contract goods are ready for delivery and the goods will be at the purchaser's risk from commencement of such date. The Company reserves the right to invoice the goods on the original delivery date which will be the date of commencement of the warranty under Clause 17.

## 20. LAW

Any question relating to any goods or any contract subject to these conditions (or any agreed amendment of these conditions) shall be determined in all respects by the Law of NSW and the venue for such proceedings shall be in NSW.

## 21. FORCE MAJEURE

The Company shall have no liability in respect of failure to deliver or perform or delay in delivering or performing any obligations under the contract due to any cause outside the reasonable control of the Company including (but not limited to) act of God fire flood war and other civil disturbance or riot act of Government current restriction labour dispute strike unavailability of materials or failure of supplier carrier or subcontractor to deliver on time.