

The supply of Goods & Services by Ekam Global Pty Ltd (ABN 33 616 188 875) to the Buyer will be subject to these terms and conditions of supply.

1. DEFINITIONS

In these terms and conditions, unless the context otherwise requires:

- 1.1. "GST" means Goods and Services Tax or other tax that is substituted or replaces the GST tax.
- 1.2. "Seller" means Ekam Global Pty Ltd (Australia)
- 1.3. "Buyer" means any person or persons, company or business entity to whom the Seller sells or supplies, or proposes to sell or supply, Goods or Services.
- 1.4. "Goods" means the goods or products supplied or sold by the Seller to the Buyer from time to time.
- 1.5. "Supplier" means the Seller.
- 1.6. "Services" means any services provided by the Supplier.
- 1.7. "PPSA" means the Personal Property Securities Act 2009 (Cth) as amended from time to time.
- 1.8. "Quote" means any quote that remains valid for 30 days and includes only the Goods
- 1.9. "Order" means a purchase order issued by the Buyer to the Supplier in writing via email or a system generated document or any other suitable media
- 1.10 "GST Law" means the New Tax System (Goods and Services Tax) Act 1999 (Cth)

2. GENERAL

- 2.1 These Terms and Conditions will apply to the purchase of the goods detailed in Seller's quote or order by the Buyer from Seller Ekam Global Pty Ltd a company registered in Victoria, Australia under ABN 33 616 188 875 whose registered office is at PO Box 1040, Epping, VIC, Australia, 3076 (we or us).
- 2.2 These Terms and Conditions will be deemed to have been accepted by Buyer when Buyer issues an order or any act by the Seller which indicates fulfilment of order or from the date of any delivery of the Goods (whichever happens earlier) and will constitute the entire agreement between Buyer and Seller
- 2.3 These Terms and Conditions and the quotation (together, the Contract) apply to the purchase and sale of any Goods between Buyer and Seller, to the exclusion of any other terms that Buyer try to impose or incorporate, or which are implied by trade, custom, practice or course of dealing
- 2.4 Any quotation by Seller is not and shall not be interpreted as an offer capable of acceptance or as creating an obligation to sell.
- 2.5 All drawings, specifications & details furnished by Seller or contained in catalogues, price list or website are by way of general description only of the Goods and shall not form part of this contract.
- 2.6 If a Buyer cancels or modifies any Order or part Order for Goods with specifications requested by the Buyer or standard Goods with non-standard materials at any time after the Seller has received the Order then without prejudice to any other rights the Seller has against the Buyer the Seller reserves the right to charge the Buyer costs and charges for materials already acquired for the Order together with the cost of any labour and tooling expended to the date of such cancellation or alterations.
- 2.7 Words imparting the singular number include the plural and vice-versa

3. PRICE

- 3.1 The price (Price) of the Goods is set out in Seller's quotation current at the date of Buyer's order or such other price as we may agree in writing.
- 3.2 If the cost of the Goods to Seller increases due to any factor beyond Seller's control including, but not limited to, material costs, labour costs, alteration of exchange rates or duties, or changes to delivery rates, Seller can increase the Price prior to delivery.
- 3.3 Any increase in the Price under the clause above will only take place after Seller has informed the Buyer about it.
- 3.4 The Price is inclusive of fees for packaging and transportation / delivery unless otherwise stated.
- 3.5 Prices quoted are based on the full quantities specified and do not necessarily operate pro rata for any greater or less quantities.
- 3.6 In the event of the suspension of manufacture or supply on the Buyer's instruction, or lack thereof, or due to the inability of Buyer to accept the Goods for any reason on or after the date on which they are ready for delivery, Buyer shall be liable for all extra costs and losses thereby incurred by Seller.
- 3.7 Price quoted is exclusive of GST, the Buyer is required to pay the applicable GST to the Seller along with the Price at the same time when the Price is due as per the sale terms & conditions

4. PAYMENT

- 4.1 Seller will invoice Buyer for the Price either:
 - 4.1.1 On or at any time after delivery of the Goods; or
 - 4.1.2 Where the Goods are to be collected by Buyer or where Buyer wrongfully do not take delivery of the Goods, at any time after Seller has notified Buyer that the Goods are ready for collection or Seller has tried to deliver them.
- 4.2 Buyer must pay the Price within 1 day of the date of our invoice or otherwise according to any credit terms agreed between us.
- 4.3 If Buyer does not pay within the period set out above, Seller will suspend any further deliveries to Buyer and without limiting any of Seller's other rights or remedies for statutory interest, charge Buyer interest at the rate of 18% per annum on the amount outstanding until Buyer pay in full.
- 4.4 Time for payment will be of the essence of the Contract between Buyer and Seller.
- 4.5 All payments must be made in Australian Dollar unless otherwise agreed in writing between us.
- 4.6 Both parties must pay all amounts due under these Terms and Conditions in full without any deduction or withholding except as required by law and neither party is entitled to assert any credit, set-off or counterclaim against the other in order to justify withholding payment of any such amount in whole or in part.

5. DELIVERY

- 5.1 Seller will arrange for the delivery of the Goods to the address specified in the quotation, or Buyer's order or to another location as agreed in writing between the Buyer & Seller.
- 5.2 If Buyer does not specify a delivery address or if both Buyer & Seller agree, Buyer must collect the Goods from Seller's premises.
- 5.3 Seller may at its discretion agree to act as agent for Buyer for delivery beyond store or works and all costs of carriage and insurance shall be paid by the Buyer. The Seller shall not be liable for any damages caused to the Goods whilst they are in transit.
- 5.4 The Buyer shall at the Buyer's expense provide labour, cranes or forklift and reasonable access to point of delivery for offloading of Goods without delay.
- 5.5 Subject to the specific terms of any special delivery service, delivery can take place at any time of the day and must be accepted at any time between 8 am to 8 pm.
- 5.6 If Buyer does not take delivery of the Goods Seller may, at Seller's discretion and without prejudice to any other rights:
 - 5.6.1 store or arrange for the storage of the Goods and will charge Buyer for all associated costs and expenses including, but not limited to, transportation, storage and insurance; and / or
 - 5.6.2 make arrangements for the redelivery of the Goods and will charge Buyer for the costs of such redelivery; and/or
 - 5.6.3 after 10 business days, resell or otherwise dispose of part or all of the Goods and charge Buyer for any shortfall below the price of the Goods.
- 5.7 If redelivery is not possible as set out above, Buyer must collect the Goods from Seller's premises and will be notified of this. Seller can charge Buyer for all associated costs including, but not limited to, storage and insurance.
- 5.8 Any dates quoted for delivery are approximate only, and the time of delivery is not of the essence. Seller will not be liable for any delay in delivery of the Goods that is caused by a circumstance beyond Seller's control or Buyer's failure to provide Seller with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.
- 5.9 Seller can deliver the Goods by installments, which will be invoiced and paid for separately. Each installment is a separate contract. Any delay in delivery or defect in an installment will not entitle Buyer to cancel any other installment.

6. INSPECTION & ACCEPTANCE OF GOODS

- 6.1 It is Buyer's responsibility when accepting this contract or ordering to ensure the Goods ordered conform to Buyer's requirements and are suitable and sufficient for Buyer's purpose.
- 6.2 Buyer must inspect the Goods on delivery or collection.
- 6.3 If Buyer identifies any damages or shortages, you must inform us in writing within 7 days of delivery, providing details.
- 6.4 Other than by agreement, Seller will only accept returned Goods if Seller is satisfied that those Goods are defective and if required, have carried out an inspection.
- 6.5 Subject to Buyer's compliance with this clause and/or Seller's agreement, Buyer may return the Goods and Seller will, as appropriate, repair, or replace, or refund the Goods or part of them.
- 6.6 Seller will be under no liability or further obligation in relation to the Goods if:
 - 6.6.1 if Buyer fails to provide notice as set above; and/or
 - 6.6.2 Buyer makes any further use of such Goods after giving notice under the clause above relating to damages and shortages; and/or

6.6.3 the defect arises because Buyer did not follow Seller's oral or written instructions about the storage, commissioning, installation, use and maintenance of the Goods; and/or

6.6.4 the defect arises from normal wear and tear of the Goods; and/or

6.6.5 the defect arises from misuse or alteration of the Goods, negligence, wilful damage or any other act by Buyer, Buyer's employees or agents or any third parties.

6.7 Buyer bears the risk and cost of returning the Goods.

6.8 Acceptance of the Goods will be deemed to be upon inspection of them by Buyer and in any event within 1 day after delivery.

7. RISK & TITLE

7.1 The risk in the Goods will pass to Buyer on completion of delivery.

7.2 Title to the Goods will not pass to Buyer until Seller has received payment in full (in cash or cleared funds) for: (a) the Goods and/or (b) any other goods or services that Seller has supplied to Buyer in respect of which payment has become due.

7.3 Until title to the Goods has passed to Buyer, Buyer must (a) hold the Goods on a fiduciary basis as our bailee; and/or (b) store the goods separately and not remove, deface or obscure any identifying mark or packaging on or relating to the Goods; and/or (c) keep the Goods in satisfactory condition and keep them insured against all risks for their full price from the date of delivery.

7.4 As long as the Goods have not been resold, or irreversibly incorporated into another product, and without limiting any other right or remedy Seller may have, or can at any time ask Buyer to deliver up the Goods and, if Buyer fail to do so promptly, enter any of Buyer's premises or of any third party where the Goods are stored in order to recover them.

7.5 The Buyer covenants to the Seller that it shall sign anything and do anything the Seller requires to further or more effectively secure the Seller's rights over the applicable Goods or under these terms and conditions. This includes anything the Seller requires in order for it to:

(1) register and maintain (including renew before expiry) one or more financing statements in relation to any Security Interest in the relevant Goods created by these terms and conditions and/or any Order;

(2) remove any financing statement which is registered against the Buyer or in relation to a Security Interest which is not a Permitted Security Interest; and

(3) obtain possession or control of any Goods for the purposes of perfecting any Security Interest in that property by possession or control for the purposes of the PPS Act.

7.6 The Buyer waives its rights to receive a verification statement in respect of any financing statement or financing change statement registered by or on behalf of the Seller under the PPSA to the extent permitted by the PPSA and agrees to that as between the Seller and the Buyer, to the extent permitted by the PPSA, the Buyer will have no rights under (or by reference to) sections 95, 96, 117, 118, 120, 121(4), 123, 125, 126, 128, 129, 130, 132(3)(d), 132(4), 134(1), 135, 142 and 143 of the PPSA.

8. TERMINATION

8.1 Seller can terminate the sale of Goods under the Contract where:

8.1.1 Buyer commits a material breach of his obligations under these Terms and Conditions;

8.1.2 Buyer is or become or, in our reasonable opinion, are about to become the subject of a bankruptcy order or take advantage of any other statutory provision for the relief of insolvent debtors;

8.1.3 Buyer enters into a voluntary arrangement under Part 1 of the Insolvency Act 1986, or any other scheme or arrangement is made with Buyer's creditors; or

8.1.4 Buyer convene any meeting of Buyer's creditors, enter into voluntary or compulsory liquidation, have a receiver, manager, administrator or administrative receiver appointed in respect of Buyer's assets or undertakings or any part thereof, any documents are filed with the court for the appointment of an administrator, notice of intention to appoint an administrator is given by Buyer or any of Buyer's directors or by a qualifying floating charge holder, a resolution is passed or petition presented to any court for the winding up of Buyer's affairs or for the granting of an administration order, or any proceedings are commenced relating to Buyer's insolvency or possible insolvency.

9. LIMITATION OF LIABILITY

9.1 Seller's liability under the Contract, and in breach of statutory duty, and in tort, misrepresentation or otherwise will be limited to this clause.

9.2 Subject to the clauses above on Inspection and Acceptance and Risk and Title, all warranties, conditions or other terms implied by statute or common law are excluded to the fullest extent permitted by law.

9.3 Seller total liability will not, in any circumstances, exceed the total amount of the Price payable by you.

9.4 If Seller does not deliver the Goods, Seller liability is limited, subject to the clause below, to the costs and expenses incurred by Buyer in obtaining replacement goods of similar description and quality in the cheapest market available, less the price of the Goods.

9.5 Seller will not be liable (whether caused by our employees, agents or otherwise) in connection with the Goods, for:

9.5.1 any indirect, special or consequential loss, damage, costs, or expenses; and/or

9.5.2 any loss of profits; loss of anticipated profits; loss of business; loss of data; loss of reputation or goodwill; business interruption; or, other third party claims; and/or

9.5.3 any failure to perform any of Seller's obligations if such delay or failure is due to any cause beyond Seller's reasonable control; and/or

9.5.4 any losses caused directly or indirectly by any failure or breach by Buyer in relation to Buyer's obligations; and/or

9.5.5 any loss relating to the choice of the Goods and how they will meet Buyer's purpose or the use by Buyer of the Goods supplied.

9.6 The exclusions of liability contained within this clause will not exclude or limit Seller's liability for death or personal injury caused by Seller's negligence; or for any matter for which it would be illegal for Seller to exclude or limit Seller's liability; and for fraud or fraudulent misrepresentation.

10. COMMUNICATIONS

10.1 All notices under these Terms and Conditions must be in writing and signed by, or on behalf of, the party giving notice (or a duly authorised officer of that party).

10.2 Notices will be deemed to have been duly given:

10.2.1 when delivered, if delivered by courier or other messenger (including registered mail) during the normal business hours of the recipient;

10.2.2 when sent, if transmitted by fax or email and a successful transmission report or return receipt is generated;

10.2.3 on the fifth business day following mailing, if mailed by AUSPOST

10.3 All notices under these Terms and Conditions must be addressed to the most recent address, email address or fax number notified to the other party.

11. FORCE MAJEURE

11.1 Neither party shall be liable for any failure nor delay in performing their obligations where such failure or delay results from any cause that is beyond the reasonable control of that party. Such causes include, but are not limited to: power failure, internet service provider failure, industrial action, civil unrest, fire, flood, storms, earthquakes, acts of terrorism, acts of war, governmental action or any other event that is beyond the control of the party in question.

12. NO WAIVER

12.1 No waiver by Seller of any breach of these Terms and Conditions by Buyer shall be considered as a waiver of any subsequent breach of the same or any other provision.

13. SEVERANCE

13.1 If one or more of these Terms and Conditions is found to be unlawful, invalid or otherwise unenforceable, that / those provisions shall be deemed severed from the remainder of these Terms and Conditions (which will remain valid and enforceable).

14. LAW & JURISDICTION

14.1 These Terms and Conditions are governed by and interpreted according to Australian law. All disputes arising under these Terms and Conditions are subject to the exclusive jurisdiction of the Australian courts.