

EIREKA PTY LIMITED (“EIREKA”)

Terms & Conditions for Sale - (“Terms”)

1. Sale and Purchase

Upon you agreeing to purchase goods from Eireka, Eireka will issue an invoice indicating the price payable for the goods and the sale will be subject to the terms hereunder.

2. GST

All prices are GST exclusive unless otherwise stated by Eireka.

3. Deposit

3.1 Upon the issuing of an invoice for the purchase of goods from Eireka, you agree to immediately pay the deposit indicated on the invoice.

3.2 The deposit is non refundable except in the circumstances outlined in subparagraph 3.3 below.

3.3 Eireka will refund the deposit to you if you require finance to purchase the goods and such finance is refused.

4. Payment of Balance

You agree to pay the balance of the purchase price within 14 days of the date of the invoice.

5. Interest

You agree to pay interest on the outstanding balance of the purchase price at the rate of 10% should such payment not be made in accordance with Paragraph 4 above.

6. Mode of Payment

You agree to pay all sums by cash, bank cheque or electronic funds transfer.

7. Passing of Title

Title to the goods free of all encumbrances and other adverse interests shall pass to you upon the payment of the balance of the purchase price and the delivery of the goods.

8. Risk

The risk in the goods remains Eireka's until delivery of the goods to you.

9. Return of Goods

You must not return the goods to Eireka unless Eireka consents to the return of the goods.

10. Exclusion from Price

Prices do not include Stamp Duty, Transfer Fees or other statutory charges that may apply. You shall pay any Stamp Duty and other statutory charges when and where applicable under the relevant Law.

11. Liability & Indemnity

You acknowledge and warrant to Eireka that:-

- a) You have the full authority to engage in this transaction with Eireka.
- b) You will be liable for all costs, fees, charges, losses and other sums that may become payable to Eireka as a result of any breach of subparagraph a) above.

12. Exclusion of Implied Terms

You acknowledge that:-

- a) Prior to the entering of this transaction you conducted a thorough examination of the subject goods; and
- b) No warranty, condition, description or representation in relation to the goods is given by Eireka expressly or impliedly; and
- c) All warranties, terms and conditions in relation to the state, quality or fitness of the goods and of every other kind whether expressed or implied by you, statute or otherwise are excluded, save as for the circumstances set out in subparagraph d) below.

d) In circumstances where Eireka have purchased goods from an original equipment manufacturer, to the fullest extent possible, Eireka will pass on any warranties offered with the goods by the manufacturer on the same terms and conditions as specified and offered by the manufacturer.

13. Exclusion of Negligence

Eireka is not liable to you in contract or in tort arising out of or in connection with or relating to:-

- a) The performance of the goods or any breach of these conditions; or
- b) Any fact, matter or thing relating to the goods; or
- c) Any error (whether negligent or in breach of contract or not) in information supplied to the buyer or user before or after the date of your use of the products.

14. Indemnity

You indemnify on a full indemnity basis Eireka from and against any liability, loss, expense or demand for or arising from any false, misleading, deceptive or misdescriptive representation or statement made by you in respect of the goods to any person. This indemnity survives termination of this agreement by either party for any reason.

15. Force Majeure

If by reason of any fact, circumstance, matter or thing beyond the reasonable control of Eireka or you, either is unable to perform in whole or in part any obligation under these terms and conditions that party is relieved of that obligation under these terms and conditions to the extent and for the period that it is so unable to perform and is not to be liable to the other party in respect of such inability.

16. General

16.1 These terms may only be amended or supplemented in writing signed by Eireka and you.

16.2 The non exercise of or delay in exercising any power or right relating to these terms does not operate as a waiver of that power or right nor does any single exercise of any power or right preclude any other or further exercise of it or the exercise of any other power or right. A power or right may only be waived in writing signed by you and Eireka.

16.3 If two or more parties are involved in the purchase of goods from Eireka then:-

- a) A liability of those persons under these terms is a joint liability of all of them and a several liability of each of them;
- b) A right given to those persons under this agreement is a right given severally to each of them; and
- c) A representation, warranty or undertaking made by each of them is made by each of them in respect of itself;
- d) You acknowledge that these terms are the entire terms of the transaction between you and Eireka on the subject matter. The only enforceable obligations and liabilities of you and Eireka in relation to the subject matter are those that arise out of the provisions contained in these terms.
- e) All representations, communications and prior negotiations in relation to the subject matter are merged in and superseded by these terms.

16.4 You acknowledge that Eireka may vary these terms from time to time by making an updated set of terms and conditions available. Any new terms take effect from the date stated or, where no date is stated, from the time they are provided.

16.5 Any provision in these terms which is invalid or unenforceable in any jurisdiction is to be read down for purposes of that jurisdiction, if possible, so as to be valid and enforceable and is otherwise capable of being severed to the extent of the invalidity or unenforceability without affecting the validity or enforceability of any provision in any other jurisdiction.

16.6 Neither you nor Eireka may assign or transfer any of its rights or obligations under these terms without the prior written consent in writing of the other.

16.7 No provisions of these terms:-

- a) Merge on or by virtue of completion; or
- b) Is in any way modified, discharged or prejudiced by reason of any investigations made or information acquired by or on your behalf.

16.8 You and Eireka must do, sign, execute and deliver and must ensure that each of its employees and agents does sign, execute and deliver all deeds, documents, instruments and acts reasonably required of it or them by notice from the other party effectively to carry out and give full effect to the terms and rights and obligations of you and Eireka under it before and after completion.

16.9 These terms are to be governed by the Law in force in New South Wales and you and Eireka submit to the non exclusive jurisdiction of the Courts of NSW and any Courts which may hear appeals from those Courts in respect of any proceedings in connection with these terms.