



TERMS & CONDITIONS

Quotation & Sale of Goods

1. DEFINITIONS:

"**The Company**" shall mean Norm Engineering Pty Ltd, its agents or employees.

"**The Buyer**" shall mean the purchaser of the Goods who is party to the Conditions.

"**The Goods**" means any goods, items or products which are sold by the Company to the Buyer.

"**GST**" means any goods and services tax imposed under the Goods & Services Act 1985 (NZ) or 1999 (AU).

"**These Conditions**" means these Standard Conditions of Quotation.

"**Contract**" means any agreement with the Buyer for the provision of Goods.

Australian Consumer Law means the Australian Consumer Law set out in schedule 2 of the Competition and Consumer Act 2010 (Cth);

Authorisation means an approval, consent, declaration, direction, exemption, notarisisation, licence, permit, certificate, waiver or other authorisation, however described, required by any Law and includes any renewal or amendment;

Authority means any:

- (a) government, government department or government agency;
- (b) governmental, semi-governmental or judicial person including a statutory corporation; or
- (c) other person (whether autonomous or not) charged with the administration of a Law;

Consumer has the meaning given in section 3 of the Australian Consumer Law.

The Purchaser will be acquiring goods/services as a Consumer if:

- (a) the amount paid or payable for the goods does not exceed \$40,000; or
- (b) the goods are of a kind ordinarily acquired for personal domestic or household use or consumption;

Notwithstanding the above, the Purchaser will not be acquiring goods and/or services as a Consumer if the Purchaser acquires the goods and/or services:

- (a) for the purposes of re-supply; or
- (b) for the purposes of using them up or transforming them, in trade or commerce
 - (i) in the course of a process of production or manufacture; or
 - (ii) in the course of repairing or treating other goods or fixtures on land;

Business Day means Monday through Friday (inclusive) excluding gazetted public holidays in the State or Territory where the Manufacturing facility is located;

Defect means an error or defect in the Equipment due to faulty material or workmanship for which Norm Engineering is responsible;

Defects Liability Period means the first to expire of:

- (a) 12 months after the risk in the Equipment has been transferred to the Purchaser.

Equipment means all goods or other materials to be supplied by Norm Engineering under the Contract;

Force Majeure Event means any event beyond the reasonable control of a party including the following events:

- (a) acts of war, invasion, acts of foreign enemies, hostilities (whether war be declared or not), civil war, revolution, insurrection, military or usurped power or terrorism;
- (b) ionising radiation or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel;
- (c) contamination caused by any hazardous or toxic materials or waste (including asbestos) existing on the Delivery Site prior to the date of the Contract or brought onto the Delivery Site after this date by or on behalf of the Purchaser (other than contamination caused by Norm Engineering or Norm Engineering' Personnel);
- (d) shipping congestion at port of loading/unloading, blockades, embargos, shortage of transport, import restrictions or currency restrictions;
- (e) act (or failure to act) of Authorities (unless such act is the requirement of Authorities to either party to comply with any mandatory Law in force at the time of signature of the Contract), non-approval of export licence for the work under the Contract, or epidemic;
- (f) sabotage, strikes, lockouts, go-slow or any other industrial dispute or disturbance; and
- (g) Acts of God including all severe weather conditions, natural disasters, earthquakes, volcanic activity, hurricanes, cyclones, floods, fires, tsunamis and lightning strikes;

"**PPSA**" means the Personal Property Securities Act 1999 (NZ) & 2009 (AU)

2. GENERAL:

2.1 Unless otherwise agreed in writing, these Conditions shall be deemed incorporated in each Contract and any acceptance of a quotation from the Company is subject to these Conditions. In the event of any conflict arising between these Conditions and any conditions which the Buyer might additionally seek to impose in relation to an order, the Conditions shall prevail. These Conditions override and replace any other conditions of the Buyer.

2.2 The Conditions may be changed at any time by written notice to the Buyer and the changes will be effective upon the first order by the Buyer following the date of the notice and thereafter.

2.3 It is agreed that the Company shall be permitted to obtain a credit agency report or such similar information regarding the Buyer or any guarantor.

3. QUOTATIONS AND ORDERS:

3.1 Except where the quotation is expressly designated otherwise written quotations are valid for thirty (30) days are subject to re-quotation thereafter.

3.2 Each order placed by the Buyer will constitute an offer to purchase goods from the Company. The Company has absolute discretion to refuse to accept any order.

3.3 The Buyer cannot withdraw an order once it is accepted by the Company.

3.4 Gift, import duty and any other taxes, duties and charges (if any) included in the quotation are based upon the rates of those taxes, duties and charges at the time of quotation. All variations in the rates of such taxes, duties and charges as a result of amendment of the relevant Acts or Regulations, or changes of interpretation of the relevant Acts, Regulations, By-laws or Classifications shall be to the Buyer's account.

3.5 Variations in rates of exchange on imported goods affecting the amount paid by the Company for Goods shall be to the Buyer's account.

3.6 Notwithstanding the Company's acceptance of an order, all supplies of Goods are subject to availability at the time of delivery.

3.7 Quotations and orders are reliant on correct information being provided to the company. If specifications are incorrect the quotation is not valid for another product or other specifications provided. Once deposits or payments are made and the product has started or finished production and an error in specifications has been discovered, monies or products cannot be returned unless approved by the company and meets the requirements of this contract.

4. TERMS OF PAYMENT & DEPOSITS:

4.1 If credit is given, the settlement of the account is payable within 30 days of the end of the month of dispatch or collection of the Goods regardless of the date the Buyer receives an invoice or statement for the Goods from the Company unless otherwise agreed in writing. Any payments or part thereof remaining unpaid after such period of thirty (30) days shall in the absolute discretion of the Company may carry interest.

4.2 If the Buyer does not have a credit account, it must pay for the Goods in full before delivery of the Goods.

4.3 The Company reserves the right to charge a surcharge for payment of any monies owed by the Buyer via credit or debit cards.

4.4 Time is of the essence regarding the making of all payments.

4.5 Each payment shall be by way of cleared funds.

4.6 Notwithstanding the imposition of interest charges pursuant to this clause 4, such interest charges shall not be regarded as allowing time for payment of any amount owing but are agreed as constituting compensation payable to the Company because of delay in payment.

4.7 Notwithstanding the Imposition of any interest charges in respect of monies unpaid, all such monies that remain immediately due and payable to the Company and the Company shall be entitled to take legal proceedings at any time for recovery of any monies bearing interest charges pursuant to this clause 4.

4.8 In addition to the Company's other rights set out in this clause 4, the Buyer agrees that the Company shall have the right (although it shall not be bound to do so) to suspend delivery to the Buyer of all or any outstanding orders if the Buyer is in default of any clause in any Contract.

4.9 Norm Engineering may provide credit facilities in its discretion. Norm Engineering reserves the right to withdraw credit facilities at any time prior to delivery.

4.10 Payment shall become due immediately upon the Purchaser suffering an Insolvency Event.

4.11 Norm Engineering will reimburse the consumer for any deposits or payments no later than 30 days from the day on which Norm Engineering receive the cancellation notice prior to the attachment going into production. We will use the same means of payment as the used for the Order, and the consumer will not incur any fees for such reimbursement.

4.12 Deposits cannot be returned if the product has started production in the workshop, this is to cover the costs of processing, steel and labour and full payment must be made if the order is a custom attachment, cannot be returned to stock or the purchaser has not fulfilled their duties of this contract.

5. DELIVERY AND TRANSPORT:

5.1 Unless otherwise agreed in writing the Company reserves the right to charge the Buyer the cost of transportation of the Goods to the destination which appears on the Buyer's order. In all cases the Buyer warrants that in cases where delivery is to be made by road transport sufficient and suitable access to the said destination including a road surface capable of withstanding the weight and size of the transport and loads involved is available. In the event of any additional costs or expenses being incurred by the Company the full amount thereof will be payable on demand by the Buyer.

5.2 Whilst every effort is made to deliver Goods on the dates or within the periods mentioned in any quotation or order such dates or periods shall be deemed to be for information purposes only and shall not form part of the Contract unless specifically agreed in writing to be of the essence and in absence of such a special agreement the Company accepts no liability whatever for any loss or damage of whatsoever nature and howsoever arising which may be suffered by the Buyer as a result of any failure on the part of the Company to deliver Goods on or within such dates or periods. For imported products, the Company agrees to

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notify the Buyer of shipping/delivery dates as soon as practicable after they become available.

5.3 The Company may make part delivery of Goods and may invoice the Buyer for the Goods provided.

5.4 The Buyer agrees to provide at its expense (if requested by the Company) assistance to the Company's driver or Contract Carrier in off-loading heavier items.

5.5 The Buyer indemnifies the Company against any loss or damage suffered by the Company, its sub-contractors or employees as a result of delivery, except where the Buyer is a consumer and the Company has not used due care and skill.

5.6 The Buyer is responsible for the assembly and installation of the Goods unless the Company agrees otherwise in writing.

6. RISK AND INSURANCE:

6.1 The risk in the Goods will pass to the Buyer immediately on the Goods being dispatched and where the Company gives notification that Goods have been dispatched, the Buyer shall insure and keep insured the Goods until such time as the Goods have been paid in full.

6.2 The Buyer assumes all risk and liability for loss, damage or injury to persons or to property of the Buyer, or third parties arising out of the use, installation or possession of any of the Goods, unless recoverable from the Company on the failure of any statutory guarantee.

7. GOODS WARRANTY:

7.1 Subject to the conditions and limitation below, the Company warrants the Goods to be free of defects in workmanship and/or materials at the time of delivery to the Buyer. Any part, assembly or portion of any Good found to be defective within one year from date of shipment from the Company, whichever is the sooner, unless expressly stated otherwise in the Company's Publications or Literature, will be repaired or exchanged F.O.B factory.

7.2 The Company reserves the right to replace defective parts of the Goods with parts and components of similar quality, grade and composition where an identical component is not available. The Company further reserves the right to supply goods that contain refurbished or repaired parts.

7.3 Goods presented for repair may be replaced by refurbished goods of the same type rather than being repaired. Refurbished parts may be used to repair the Goods.

7.4 Goods or parts that have been returned for repair or warranty assessment are deemed to have been abandoned by the Buyer if not collected within 30 days after the Company has notified the Buyer in writing of the warranty assessment outcome or the completed repair.

7.5 The Company reserves the right to dispose or otherwise deal with an abandoned product or part at its discretion.

7.6 The warranty in clause 7.1 does not apply if: (i) the Goods have not been paid for by the Buyer; or (ii) the Goods have not been installed in accordance with AS/NZS 3000/2000 Australian/New Zealand Wiring rules; or (iii) the Goods have been misused or neglected.

7.7 The Company assumes no responsibility under this warranty for the labour costs involved in the removal of defective parts, installation of new parts or service charges related thereto.

7.8 If a fault covered by the warranty in clause 7.1 occurs, the Buyer must first contact the Company before returning the Goods.

7.9 Any warranty claim must be accompanied by: (i) proof of purchase; (ii) written details of the alleged defect; and (iii) appropriate documentation (such as installation and maintenance records etc).

7.10 The Company shall have the option of requiring the return of the defective part (transportation prepaid by the Buyer) to establish the claim.

7.11 The Company makes no warranties or representations other than set out in this clause 7.

7.12 The repair or exchange of the Goods or part of the Goods, is the absolute limit of the Company's liability under the warranty in clause 7.1.

8. LIABILITY:

8.1 Except as expressly provided in these Conditions, all other conditions and warranties in respect of the state, quality or condition of the Goods, whether express or implied by statute, common law, trade usage, custom or otherwise which may, apart from this clause 8 be binding on the Company, are hereby expressly excluded and negated to the maximum extent permitted by law.

8.2 If the Company's liability is not excluded under these Conditions, to the maximum extent permitted by law, the Company's liability is, at the Company's option, limited to and will be completely discharged by, one or more of the following:

(i) The replacement of the Goods or the supply of equivalent goods;

(ii) The repair of the Goods;

(iii) The payment of the cost of repairing the Goods or of acquiring equivalent goods; or

(iv) The payment of the cost of having the Goods repaired.

8.3 Except as expressly provided herein, the Company shall not be liable to the Buyer for any liability (including liability in negligence), indirect or consequential or economic loss or expense including but not limited to loss of turnover, profits, damage to machine or transport mechanism, business or goodwill, howsoever suffered or incurred by the Buyer or any third party, caused by or resulting directly or indirectly from the Goods supplied.

8.4 The Buyer acknowledges that the Company's systems are designed, manufactured and tailored based on the information that the Buyer has supplied to the Company and the Company has relied on such information to design, manufacturer and tailor systems suitable for the Buyer. As such, the Company will not be liable to any extent whatsoever for the performance of the system.

8.5 Nothing in these Conditions is to be interpreted as excluding, restricting or modifying or having the effect of excluding, restricting or modifying the application of any law, statute, regulation or bylaw applicable to the sale of goods which cannot be excluded, restricted or modified including, except to the extent permitted, the Consumer Guarantees Act 1993 (NZ) and Law (AU) and the Fair Trading Act 1986 & Competition & Consumer Act 2010.

8.6 The parties agree that where the Goods are supplied to and acquired by the Buyer in trade for the purposes of a business, the Consumer Guarantees Act 1993 (NZ) and Law (AU) does not apply and that it is fair and reasonable that the parties are bound by this clause 8.6.

8.7 DEFECTS LIABILITY

Norm Engineering shall rectify any Defects which occur during the Defects Liability Period, at its option, by repair, replacement or supply of equivalent goods (or by payment of the cost of doing so), provided always that:

the Purchaser notifies Norm Engineering of the Defect in writing as soon as the Purchaser becomes aware of or should have become aware of the Defect;

such Equipment has been properly handled, used, operated and maintained in accordance with instructions issued by Norm Engineering or if no instructions have been issued, in accordance with good industry practice;

such Defects are not caused by incorrect use of operating material or lubricants, faulty civil or mechanical work, incorrect loading or transport of product or machine, unsuitable soil conditions or any other chemical, electrochemical and/or electrical influences which have not been provided for in the Contract;

the Equipment is not a consumable, not liable to deterioration or does not have a low rated service life including electric lamps, rubber items, intensifying screens, batteries, films, chemicals, flexible leads, x-ray tubes, vacuum elements and glass components;

no unauthorised repair or alteration to the Equipment has been made; the Defects have not resulted from any refusal by the Purchaser to accept an Update or Upgrade recommended by Norm Engineering;

such Defects are not caused by the use of equipment and/or material supplied by the Purchaser; and

such Defects are not due to fair wear and tear, improper storage, excessive heating, mechanical vibration, overloading or contravention of the rules established in standard electrical practice.

9. OFFER, ACCEPTANCE & VARIATIONS

9.1 Offer and acceptance

These Conditions form part of Norm Engineering' Offer in which they are referred to or to which they are attached. Notwithstanding any acceptance by Norm Engineering of any order from the Purchaser that may contain any provision inconsistent with or purporting to vary or reject any of these Conditions, any contract arising from any such acceptance shall be subject to these Conditions unless and to the extent only that Norm Engineering expressly agrees in writing to any variation.

Unless previously revoked by written notification to the Purchaser, Norm Engineering' Offer shall remain open for acceptance for the period stated in Norm Engineering' Offer or, where no such period is stated, for 30 days from the date of Norm Engineering' Offer after which it shall lapse unless extended by Norm Engineering in writing.

The Buyer shall inspect the Goods within 48 hours of delivery and shall within seven (7) days from the date of inspection give written notice to the Company of anything which the Buyer alleges makes the Goods not in accordance with the Contract or quotation. If the Buyer shall fail to give such notice then, subject to the extent permitted by statute, the Goods shall be deemed to have been accepted by the Buyer and the Buyer shall pay for the same in accordance with the provisions hereof.

9.2 Variations

The Purchaser may request Norm Engineering to vary the work to be performed by Norm Engineering under the Contract to an extent contemplated by, and capable of being carried out under, the provisions of the Contract. Norm Engineering shall as soon as practicable after receiving such request notify the Purchaser:

(a) whether the proposed variation can be effected; and

(b) if it can be effected:

(i) Norm Engineering' offer including its quote for the cost of performing the proposed variation, including any delay or disruption costs and payment terms; and

(ii) Norm Engineering' estimate of the impact of the variation on the Delivery Date.

If the Purchaser accepts Norm Engineering' Offer for the proposed variation, Norm Engineering shall perform the variation and the cost shall be added to or deducted from the Contract Price. The Delivery Date shall be extended as a result of any delay incurred by Norm Engineering due to the performance of the requested variation.

10. RESTOCKING FEES:

10.1 No Goods may be returned to the Company for credit unless prior approval has been given by the Company and then only on the following conditions:

(i) Freight and packaging are prepaid by the purchaser and a packing list enclosed with the Goods;

(ii) The Goods must be in as new condition, subject to approval by the Company's Quality Controller;

(iii) Credit will only be allowed on the original invoiced once, less a minimum restocking fee of twenty (20) per cent on the value. Higher restocking fees may apply subject to the type and condition of Goods returned; and

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(iv) No credit will be allowed for non-standard or specially procured Goods.

11. DEFAULT AND DAMAGES:

11.1 The following events are acts of default:

- (i) Any distress execution or other legal process being levied upon any of the Buyer's assets;
- (ii) The Buyer entering into any arrangements or composition with its creditors, committing any act of bankruptcy, or being a company entering into liquidation, or having a winding up petition presented against it, calling a meeting of its creditors, or suffering the appointment of a Receiver or Administrator in respect of the whole or any part of its undertaking or assets, or any other similar action occurs;
- (iii) Non-payments by the Buyer of any monies due from it to the Company;
- (iv) An order is cancelled by the Buyer after manufacture and/or picking of the order has commenced;
- (v) There is any breach of any contract between the Company and the Buyer;
- (vi) The Goods are seized by any other creditor of the Buyer or any other creditor intimates that it intends to seize the Goods;
- (vii) The Buyer parts with possession of the Goods or any of them otherwise than by way of sale to its customers in the ordinary course of business;
- (viii) A Court judgment is entered against the Buyer and remains unsatisfied for 7 days;
- (ix) There is a material adverse change in the financial position of the Buyer.

11.2 In the event of a default by the Buyer of these Conditions or any Contract the Company may terminate any or all Contracts and/or suspend any further deliveries and shall be entitled, without prejudice to any other rights it may have, to recover as damages from the Buyer the following:

- (i) The value including any work completed or goods manufactured at the date of termination;
- (ii) The value of any work begun or goods begun to be manufactured at the date of termination;
- (iii) The value of any work begun or goods begun to be manufactured but not completed at the date of termination, including the cost of materials, labour, overheads and profit in connection therewith;
- (iv) A sum representing any further profit which the Company would have made on the Contract but for its determination, such profit to be determined by the Company's Auditor whose decision shall be conclusive and binding on the Buyer except in the case of manifest error.

12. STORAGE:

12.1 If for any reason the Buyer fails to take possession of the Goods within seven (7) days from the date on which the Buyer is notified that the Goods or part thereof are ready for delivery, then notwithstanding clause 6.1 and 15.2, risk in the Goods shall forthwith pass to the Buyer and the Company shall be entitled to payment for the Goods in accordance with these provisions. In the event that the Buyer fails to take possession of the Goods within the said period of seven (7) days, the Company may arrange storage of the Goods at its warehouse or some other suitable place and all costs of, and of an incidental nature to, such storage shall be paid by the buyer at a minimum of \$50 a week to cover rental fees, labour costs and equipment.

12.2 The Disposal of Uncollected Goods Act 1967 covers inspection, custody, storage, repair and other treatment of goods. Under this Act, uncollected goods may be sold six months after the date on which they were ready for collection.

13. SETOFF:

13.1 The Buyer shall not be entitled to withhold or set off payment of any amount due to the Company under the terms of any Contract whether in respect of any claim of the Buyer in respect of faulty or defective Goods or for any other reason which is contested or liability for which is not admitted by the Company.

14. FORCE MAJEURE:

14.1 In the event of war, invasion, act of foreign enemy hostilities (whether war has been declared or not), civil war rebellion, revolution, insurrection or military or usurped power or earthquake, the Company shall be relieved of liabilities incurred under this Contract wherever and to the extent to which the fulfilment of such obligations is prevented, frustrated or impeded as a consequence of any such event or by any statute rules, regulations, order or requisitions issued by any government department, council or other duly constituted authority or from strikes lockouts breakdown of plant or any other causes (whether or not of a like nature) beyond the Company's control. If an event of force majeure occurs, the Company may suspend or terminate any Contract by written notice to the Buyer.

15. PERSONAL PROPERTY SECURITIES ACT 1999 & 2009 / RIGHTS IN RELATION TO GOODS:

15.1 Terms used in this clause 15 that are defined in the PPSA have the same meaning in this clause 15 as in the PPSA and these Conditions will be treated as a security agreement.

15.2 The property and title in the Goods shall not pass to the Buyer until:

- (i) Payment for those particular Goods has been received; and
- (ii) Payment in full on any account owing by the Buyer for all Goods provided by the Company has been received.

15.3 The Buyer shall stand in a fiduciary relationship to the Company as bailee and agent for the Company in respect of the Goods supplied but not paid for and the Company shall have the right to trace those Goods and the proceeds of the sale of those Goods. The Buyer shall at all times hold the Goods in such a way as to identify them at being Goods in which the title has not passed to the Buyer until payment is made in full.

15.4 Until all the Goods are paid for, and monies owing to the Company have been paid in full by way of cleared funds, the Company shall have a Purchase Money Security Interest in all the Goods and all other Goods or materials to which

they have been attached or incorporated and the Company may register that security interest on the Personal Property Securities Register.

15.5 The Buyer waives any rights to receive a copy of the verification statement of the PPSA and agrees, to the extent permitted by law, and in respect of any arrangement between the Buyer and the Company:

- (i) The provisions of the PPSA which are for the benefit of the Buyer or place obligations on the Company applies only to the extent that they are mandatory or the Company agrees to their application; and

15.6 In the event of a default by the Buyer of these Conditions or any Contract the Company shall have the right, without prejudice to any other rights it may have, to:

- (i) Without notice take possession at the Goods which are the subject to a security interest in favour of the Company and trace the proceeds of sale and recover the full amount owing to the Company together with any interest end costs;
- (ii) Exercise any of its rights to resume possession of any Goods which remain its property and over which has a security interest and without notice by its servants and agents enter upon the Buyer's premises, or any place where the Goods may be, without liability for trespassing or for any resulting damage to recover the Goods, notwithstanding that the Goods may have been attached to other goods which are not the Buyer's property, and the Buyer indemnifies the Company from and against all costs, claims, demands and actions by any party arising from such action.

15.7 The Company may recover the price of the Goods by auction and may apply to bankrupt the Buyer or put it into liquidation, if the Goods are not paid for in accordance with these Conditions notwithstanding that the property and the title of the Goods has not passed to the Buyer and if the Company shall do so it may deal with them in the terms of its security interest and shall not be required to give notice to the Buyer in terms of the Personal Properties Securities Acts.

15.8 This clause 15 applies notwithstanding any arrangement under which the Company provides credit to the Buyer. To the extent that there is any inconsistency this clause 15 shall prevail.

15.9 The supply of Goods to the Buyer does not transfer any rights, title or interest in any of the copyrights, trademarks, patents, designs or any other intellectual property rights in connection with the Goods to the Customer, except as expressly provided otherwise by any licence supplied with any software.

The Purchaser waives its rights to receive anything from Norm Engineering under section 275 of the PPSA and agrees to not make any request of Norm Engineering under that section.

16. GST AND OTHER TAXES:

16.1 If the Company makes a taxable supply pursuant to the Goods and Services Act 1985 (NZ) or 1999 (AU), except where indicated otherwise, the amount payable for the taxable supply will be expressed as a GST exclusive amount.

16.2 The Buyer is liable to pay for the taxable supply and must upon receiving a tax invoice, also pay for any amount of GST that accrues in respect of the taxable supply at the same time as payment for the taxable supply due.

16.3 In addition to the price of Goods and any other charges it is entitled to make the Buyer, the Company shall be entitled to charge the Buyer the amount of any sales tax, goods and services tax, excise, value added or other tax, impost or duty payable by the Company in respect of the Goods.

17. RECOVERY COSTS:

17.1 The Buyer shall pay all accounting fees, legal (on a solicitor-client basis) and administrative costs and expenses incurred by the Company, its advisers and agents in respect of overdue accounts or other defaults in respect of these Conditions or any Contract.

18. JURISDICTION:

18.1 These Conditions and each Contract shall be governed and interpreted according to the laws of Australia & New Zealand and the parties agree to submit to the non-exclusive jurisdiction of the courts of Australia & New Zealand.

19. CONFIDENTIAL INFORMATION

19.1 "Confidential Information" means all price lists, terms and conditions of sale, promotional strategies and information about the products supplied by the Company which may be disclosed by the Company to the Buyer at any time but does not include information which:

- (i) Is or has become publicly available otherwise than due to disclosure in breach of these Conditions or any other obligation of confidentiality of the Buyer;
- (ii) The Buyer can prove was received from a third party and was not acquired directly or indirectly in breach of any obligation of confidence.

19.2 The Buyer must:

- (i) Only use the Confidential Information for the benefit of the Company and for the purpose of ordering Goods from the Company;
- (ii) Keep the Confidential Information confidential except for disclosure required by law or to employees for the purpose of any Contract who have been directed to keep the Confidential Information confidential;
- (iii) Ensure that any employee to whom the Buyer discloses the Confidential Information, keeps the Confidential Information confidential and only uses it for the benefit of the Company and for the purpose of ordering Goods; and
- (iv) Return any Confidential Information on request of the Company.

20. VALIDITY:

20.1 If any covenant or obligations of this Contract shall be or become invalid or unenforceable, the remaining covenants and obligations shall not be affected thereby and each covenant and obligation of this Contract shall be valid and enforceable to the fullest extent by the law.

21. PRIVACY POLICY:

21.1 The Company complies with the Privacy Act 1988 & 1993 and is bound by the Australian & New Zealand Privacy Principles dealing with the collection, use and storage of personal information about individuals and the Company will only

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use personal information for the purpose for which it is provided, including for the purposes of supplying Goods, carrying out credit checks and debt collection and providing the Buyer information about goods the Company thinks might be of interest to the Buyer. The Buyer has the right to access personal information that the Company holds about the Buyer and to request correction of any incorrect information.

21.2 The Buyer agrees the Company can share credit information with credit providers, credit reporting agencies and collection agents, and can seek credit information from such agencies to establish the credit worthiness of the Buyer. The Buyer also agrees that the Company may conduct a search of the Personal Property Securities Register for the purpose of establishing the credit worthiness of the Buyer.

22. INTELLECTUAL PROPERTY RIGHTS

22.1 Ownership of Intellectual Property Rights

Title to the Software and all Intellectual Property Rights subsisting in the Equipment and the Software (including designs, drawings and patents) shall remain the exclusive property of Norm Engineering or Norm Engineering' third party suppliers or licensors. The Purchaser will not take any action that jeopardises such proprietary rights or acquire any right in the Software, other than pursuant to a Software licence of the type referred to in clause 22.3.

The Purchaser shall not remove any confidentiality, copyright, trademark or other proprietary notices appearing on the Equipment or included in the Software or any media upon which the Software is provided.

The Purchaser shall not permit any Intellectual Property Rights subsisting in the Equipment to be reproduced or disclosed in any way without Norm Engineering' prior written consent.

To the extent permitted by Law, as between the parties, Norm Engineering shall own all rights in any adaptation, copy, derivation, development, enhancement, improvement, modification, translation, Update or Upgrade of or to the Equipment or Software.

22.3 Goods & Software Licence & Rights

If any Goods or Software is supplied by Norm Engineering, the Purchaser's use of that Goods or Software shall be governed by the terms of the associated licence or rights. If there is no separate licence or rights, the Purchaser is hereby granted a non-exclusive, non-transferable licence to use that Software in conjunction with the Equipment. This licence or rights does not extend any right to the Purchaser in respect of source code to the Goods or Software and is without prejudice to any licence or rights fees provided for in the Contract.

The Purchaser shall not directly or indirectly reverse assemble or reverse compile the whole or any part of any Goods or Software or otherwise attempt to:

- defeat, avoid, bypass, remove, deactivate or otherwise circumvent any software or protection mechanisms in the Goods or Software; or
- derive any source code from the Goods or Software.

The Purchaser shall not (without Norm Engineering' prior written consent):

- modify the Goods or Software or merge all or any part of the Goods or Software with any other software or rights;
- copy or reproduce the Goods or Software by any means or in any

form; or make the Goods or Software available to any third party.

Subject to Norm Engineering' Defects Liability Period obligations under clause 13:

- Norm Engineering is not obliged to provide Updates or Upgrades under the Contract; and

Norm Engineering reserves the right to charge the Purchaser for any Updates or Upgrades supplied by Norm Engineering.

To the extent permitted by Law, Norm Engineering may refuse to provide maintenance or support services for the Equipment or Software if the Purchaser refuses to accept any Update or Upgrade recommended by Norm Engineering.

22.4 Indemnity

Norm Engineering shall indemnify the Purchaser against any claims which the Purchaser is legally liable for, in respect of any infringement of a third party's copyright or registered design, trademark or patent, the specification of which is published prior to the date of Norm Engineering' Offer, relating to any part of the work supplied by Norm Engineering (except if the part is based on a design specified by the Purchaser, or if the claim is due to use of the part not in accordance with the Contract or use of the part in conjunction with goods not supplied by Norm Engineering) ("Infringing Part"). Norm Engineering' obligation to indemnify the Purchaser against claims is subject to the Purchaser:

- giving Norm Engineering prompt written notice of the claim;
- not making any admission or prejudicing Norm Engineering' defence of the claim or Norm Engineering' ability to negotiate a satisfactory settlement;
- allowing Norm Engineering the opportunity to control (at Norm

Engineering expense) the conduct of the defence and any negotiations for the settlement of the claim; and

giving Norm Engineering (at Norm Engineering' expense) such assistance and information as may reasonably be required by Norm Engineering to assist Norm Engineering with the conduct of the defence and any negotiations for the settlement of the claim.

Norm Engineering' obligation to indemnify the Purchaser under the Contract shall be reduced to the extent that:

an act or omission of the Purchaser (or of the Purchaser's employees, officers, agents, consultants or other contractors), has contributed to the loss or damage; and

the Purchaser has failed to mitigate its loss; and shall cease two years after the earlier of termination or expiry of the Contract or completion of the work under the Contract.

22.5 Remedies

Norm Engineering shall, at its option, either replace or modify the Infringing Part with a non-infringing part or procure for the Purchaser the right to use such Infringing Part.

The remedies set out in this clause 5 shall be the sole and exclusive remedy of the Purchaser and represent the full extent of Norm Engineering' liability for infringement of intellectual property rights.

22.6 Warranty by Purchaser

The Purchaser warrants that use by Norm Engineering of any design materials, documents and methods of working provided or directed by the Purchaser to enable Norm Engineering to perform work under the Contract, will not cause Norm Engineering to infringe any third party's intellectual property rights and the Purchaser will indemnify Norm Engineering upon request for any loss or damage incurred by Norm Engineering in connection with such infringement.

23. WAIVER:

23.1 The Company's failure to enforce any of the terms of these Conditions or any Contract shall not be construed as a waiver of any of the Company's rights.

24. ASSIGNMENT:

24.1 The Company may assign and/or novate its rights and/or obligations under these Conditions and any Contract to any third party without the Buyer's consent.

24.2 The Buyer may not assign its rights and/or obligations under these Conditions and any Contract to any third party without the Company's consent. A change in control or in the beneficial ownership of the Buyer will be deemed to be an assignment

25 TRUSTS

25.1 In the case of a Trust, the Buyer acknowledges and represents that: (i) The trustees of the Trust will be liable for complying with these Conditions and each Contract; and (ii) The assets of the Trust will be available to meet payment for the Goods.

26. EXPORT CONTROL

26.1 If the Purchaser transfers goods (hardware and/ or software and/ or technology as well as corresponding documentation, regardless of the mode of provision) delivered by Norm Engineering or works and services (including all kinds of technical support) performed by Norm Engineering to a third party worldwide, the Purchaser shall comply with all applicable national and international (re-) export control regulations. In any event the Purchaser shall comply with the (re-) export control regulations of the European Union and of the United States of America.

26.2 If required to conduct export control checks, the Purchaser, upon request by Norm Engineering, shall promptly provide Norm Engineering with all information pertaining to particular end customer, destination and intended use of goods, works and services provided by Norm Engineering, as well as any export control restrictions existing.

26.3 The Purchaser shall indemnify and hold harmless Norm Engineering from and against any claim, proceeding, action, fine, loss, cost and damages arising out of or relating to any noncompliance with export control regulations by the Purchaser, and the Purchaser shall compensate Norm Engineering for all losses and expenses resulting thereof, unless such noncompliance was not caused by fault of the Purchaser. This provision does not imply a change in burden of proof

27 TERMINATION & SUSPENSION

27.1 Right to terminate

Either party may terminate the Contract with immediate effect, by notice to the other party, if the other party:

- (a) commits a material breach of the Contract; or
- (b) suffers an Insolvency Event and fails to diligently pursue a proper course of action to remedy the breach within 21 days (or such longer period as is reasonable given the nature of the breach) and 7 days respectively, after receipt of a notice from the non-defaulting party specifying the details of the breach and requesting remedy of same.

Without limiting the foregoing, Norm Engineering also may terminate the Contract with immediate effect, by notice to the Purchaser, if the Purchaser has not paid an amount due and owing under the Contract. Any action taken by Norm Engineering under this clause 15 shall not invalidate the Contract or prejudice any of the rights, powers and remedies of Norm Engineering, whether under the Contract or otherwise at law.