

Terms & Conditions of both Supply and Purchase of Goods and Services and Services

STANDARD TERMS AND CONDITIONS OF SUPPLY OF GOODS AND SERVICES AND SERVICES

1. Definitions

- a) "Seller" means HomeFirst Services Australia Pty Ltd, ABN 59 668 216 411
- b) "Customer" means any person, body corporate or entity which purchases or orders the Goods and Services or Services from the Seller.
- c) "Conditions" means these terms and conditions for the supply of the Goods and Services by the Seller to the Customer, as amended or varied in writing by the Seller.
- d) "Contract" means a contract between the Seller and the Customer for the sale of the Goods and Services.
- e) "Price" means the Contract price as detailed in the quotation.
- f) "Goods and Services" means all Goods and Services delivered by the Seller to the Customer or to be delivered by the Seller to the Customer.
- g) "Payment Dates" means the payment dates as specified on the Contract or as otherwise agreed in writing by the parties.

2. Application of Conditions

These Conditions apply to all orders placed by the Customer with the Seller unless otherwise agreed in writing by a duly authorised officer of the Seller.

Any order made by the Customer is not binding on the Seller until accepted by the Seller in writing. A Contract will be formed upon the written acceptance by the Seller of an order for the Goods and Services and Services by the Customer. The Customer acknowledges that it will be bound by these Conditions which will form part of the Contract. The Contract may only be varied with the Seller's prior written consent. To the extent any conflict exists between these Conditions and any other documentation or correspondence forming part of the Contract, these Conditions are paramount and prevail.

No terms stated by the Customer in making an order will be binding upon the Seller unless accepted in writing by a duly authorised officer of the Seller.

These Conditions supersede all terms and conditions of sale previously issued by the Seller.

Seller may decline order

The Seller reserves the right, in its sole discretion, to decline any order or part thereof. Any order or

part thereof not accepted is deemed cancelled. The Seller requires that any order of Goods and Services be in writing.

3. Cancellation of Orders

Cancellation of Orders must be advised in writing to Seller, and cancelled Orders will incur a ten percent penalty surcharge.

4. Price

Unless otherwise agreed in writing by the parties, prices are as set out in the current price list issued from time to time by the Seller plus any GST payable by the Seller and are subject to variation by the Seller without notice.

5. Payment

The Seller will invoice the Customer on delivery of the Goods and Services.

Unless otherwise agreed by the Company in writing, the Customer must pay:

- 5.1. the Deposit to the Company upon accepting the Contract; and
- 5.2. the total Price without deduction in accordance with these Terms and the payment terms set out in the Contract.
- 5.3. If the Customer selects on the Contract to pay the Price by way of credit card payments, the Customer authorises the Company to debit the Price instalments as set out in the Contract from the Customer's credit card on the Payment Dates unless otherwise advised in writing by the Customer to the Company. If the credit card payment is declined, the Company will issue a notice to the Customer at the details provided in the Contract ("Final Notice"). If the Final Notice is not paid within seven days of the date of the Final Notice, the Company will render a further invoice to the Customer for the total amount outstanding.
- 5.4. Allowance to the Customer of additional time to pay the Price will not constitute a waiver by the Company of any of these Terms.
- 5.5. In the event of non-payment of the Price in accordance with these Terms or the Contract, the Customer will pay all reasonable collection expenses, legal costs and any other reasonable expenses incurred by the Company in connection with the non-payment.
- 5.6. If the Customer fails to pay the Price to the Company in accordance with these Terms, the Company will issue a default notice in relation to any amount due and not paid and give the Customer not less than 14 days' notice within which to remedy the non-payment. If the non-payment is not remedied within the period stipulated within such notice, then the Company may in its absolute discretion acting reasonably;
 - 5.6.1 charge the Customer monthly interest on the portion of the Customer's account overdue from time to time at the annual percentage rate of 5% per annum from the date on which the default arose; and/or

5.6.2 charge an administrative fee equal to an amount up to or equivalent to 5% of the amount of credit provided by the Company to the Customer.

6. Payment Default

If the Customer defaults in payment or breaches these Conditions then it will be liable for all costs incurred by the Seller and will indemnify the Seller against any loss, liability, charge, expense, outgoing or payment which the Seller suffers, incurs or is liable for in respect of the recovery of monies owing by the Customer to the Seller.

7. Risk

Risk in the Goods and Services passes to the Customer on delivery of the Goods and Services and from that time the Customer assumes all risk of loss and damage to the Goods and Services including without limitation all loss or damage in the course of unloading the Goods and Services following delivery.

8. Title to Goods and Services

Notwithstanding any other provisions in these Conditions and notwithstanding that the Customer has possession of the Goods and Services, title to any and all Goods and Services supplied by the Seller will remain with the Seller and no legal or equitable interest or property in the Goods and Services whatsoever will pass to the Customer until the Customer has paid the full invoice price for all Goods and Services supplied by the Seller under all invoices.

Until title passes the Customer must:

- (a) refrain from encumbering the Goods and Services;
- (b) store, mark and keep appropriate records for the Goods and Services so that they can at all times be identified and distinguished as the property of the Seller and in particular must refrain from mixing the Goods and Services with any Goods and Services owned by the Customer or any other person;
- (c) allow the Seller full and free access to the Customer's premises where the Goods and Services are located to retake possession of such Goods and Services if the Customer is in any way in breach of these Conditions;
- (d) not dispose of the Goods and Services unless all of the following conditions are satisfied:

9. Warranty and Liability

The Company does not exclude or limit the application of any provision of any statute (including the Competition and Consumer Act 2010 (Cth)) where to do so would contravene that statute or cause any part of these Terms to be void.

9.1. The Company warrants that any Goods forming part of the Services will be:

9.1.1 of merchantable quality using proper materials; and

9.1.2 reasonably fit for their purpose as designed.

9.2. The Company excludes from the Agreement all conditions, warranties and terms implied by statute or general law or custom except any implied condition or warranty the exclusion of which would contravene any statute or cause these Terms to be void ("Non-Excludable Condition").

9.3. To the maximum extent permitted by law, the sole liability of the Company to the Customer in respect of any defective Goods or Services (at the election of the Company) is limited to:

9.3.1 the re-supply of the defective Goods or Services to the Customer;

9.3.2 a refund of the price paid by the Customer for the defective Goods or Services.

9.4. If the Customer is a consumer, as defined under the Competition and Consumer Act 2010 (Cth), the Company does not exclude liability to the Customer for breach of any Non-Excludable Condition in respect of the Services obtained for personal, domestic or household use and consumption. However, otherwise to the maximum extent permitted by law, neither party will be liable to the other for any indirect or consequential loss or damage.

9.5. The Customer warrants that it has not relied on any representation made by the Company which has not been stated expressly in the Agreement or upon any descriptions, illustrations or specifications contained in any document including catalogues or publicity material produced by the Company.

9.6. To the maximum extent permitted by law, the Customer will indemnify and will continue to indemnify the Company, its officers, employees and contractors ("Company Indemnified Parties") against any liability, loss, damage, claim, action, demand, costs, or expenses incurred or suffered by the Company Indemnified Parties, including, but not limited to:

9.6.1 any breach of these Terms;

9.6.2 any breach of any laws by the Customer;

9.6.3 any act or omission (negligent or otherwise) by the Customer; or

except to the extent that the claim results from the negligence, fault or wilful misconduct of the Company Indemnified Parties.

9.7. To the maximum extent permitted by law, the Company indemnifies and keeps indemnified the Customer against any and all claims suffered or incurred by the Customer arising out of:

9.7.1 any negligent act or omission of the Company;

9.7.2 any breach by the Company of these Terms or any applicable law,

except to the extent that the claim results from the negligence, fault or wilful misconduct of the Customer.

9.8. The limitations and indemnities contained in the Warranty and Liability clause continue after the expiration or termination of these Terms.

10. Defects

10.1. Subject to any statutory provisions to the contrary, if after completion of the Services the Customer considers that the Services are not in accordance with the Authorisation or defective in any way, the Customer must give the Company written notice together with reasons within seven days of completion of the Services, and unless such notice is given, the Services shall be deemed to comply with the Contract in all respects.

10.2. Upon receipt of a notice and subject to the Company being satisfied (acting reasonably) that the Services do not comply with the Authorisation or are defective, the Company in its absolute discretion may elect to either:

10.2.1 re-supply the non-conforming or defective Services or;

10.2.2 provide the Customer with a refund or credit in respect of the non-conforming or defective Services.

11. Termination

11.1. Either party may terminate these Terms upon 48 hours' notice in writing to the other party.

11.2. Either party may terminate these Terms immediately by written notice to the other if:

11.2.1 the other party commits a material breach of these Terms and that breach is not rectified within seven days of being notified; or

11.2.2 the other party becomes or is presumed insolvent or bankrupt.

11.3. In addition to giving notice to terminate the Contract the Company may:

11.3.1 retain any moneys paid by the Customer for Services already rendered;

11.3.2 be regarded as discharged from any further obligations under these Terms; and

11.3.3 pursue any additional or alternative remedies provided by law.

12. Privacy

The privacy of the Customer's personal information is important to the Company. The Company is committed to respecting the Customer's right to privacy and protecting the personal information and credit related information ("personal information") of the Customer. The Company is bound by the Australian Privacy Principles in the Privacy Act 1988 (Cth).

13. Intellectual Property

All information provided by the Company and its authorised representatives is confidential.

Any plans, drawings specifications and estimates given by the Company must not be disclosed to any third party without the written consent of the Company or used by the Customer other than for the purposes of these Terms. Copyright in all plans, drawings, designs and Services and any reproductions remain with the Company.

All plans, drawings and designs remain the property of the Company and must be returned to the Company immediately upon demand.

14. Variation

The Company may add or vary these Terms from time to time by uploading the varied Terms to the Website and notifying the Customer that the Terms have been varied.

15. Sub-contract

The Company may sub-contract any or all of its rights and obligations under these Terms without the Customer's consent.

16. Governing law

These Terms are to be governed and interpreted in accordance with the laws of the State of Victoria. The parties agree to submit themselves to the non-exclusive jurisdiction of the courts of Victoria and any competent appellate courts.

17 Notices

Any notice to be given by one party to the other must be signed by the party giving the notice or by one of its duly authorised officers. The notice may be faxed to the intended recipient's facsimile number or e-mailed to the intended recipient's e-mail address. The notice will be deemed to have been received by the intended recipient upon receipt by the sender of a successful facsimile transmission answerback or, in the case of e-mail, on the day of transmission provided that the sender is able to give evidence of transmission and the intended recipient does not give evidence of non-receipt.

18. Force Majeure

No party is liable for any failure to perform and delay in perform its obligations under these Terms if failure or delay is due to anything beyond that party's reasonable control. If that failure or delay exceeds 60 days the other party may terminate these Terms with immediate effect by giving notice to either party. This clause does not apply to any obligation to pay money.