

STANDARD TERMS AND CONDITIONS OF SUPPLY (AUSTRALIA)

The supply of Goods & Services by Callington Haven Pty Ltd (ABN 28000632404) to the Buyer will be subject to these terms and conditions of supply.

1. APPLICATION OF THESE CONDITIONS

These Terms and Conditions, subject to any variations agreed to in writing, apply to all supplies made by the company specified in the invoice, or the contract, as the Seller to the entity specified in the invoice, or the contract, as the Buyer. These conditions, in their present form or as changed, pursuant to these conditions, together with the relevant credit application form (if applicable), Invoices and Purchase Orders exchanged between the parties form the contract. Unless otherwise agreed, prior written agreements remain in force and take precedence over these Terms and Conditions.

2. DEFINITIONS

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

- 2.1. "GST" means Goods and Services Tax GST as defined in the New Tax System (Goods and Services Tax) Act 1999 (Cth) or other tax that is substituted or replaces the GST
- 2.2. "Seller" means Callington Haven Pty Ltd. A company registered in New South Wales, Australia under ABN 28000632404 whose registered office is at 30 South Street, Rydalmere, NSW, 2116.
- 2.3. "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.
- 2.4. "Goods" means the goods or products supplied or sold by the Seller to the Buyer from time to time.
- 2.5. "Services" means any services provided by the Seller.
- 2.6. "PPSA" means the Personal Property Securities Act 2009 (Cth) as amended from time to time.
- 2.7. "Quote" or "Quotation" means any quote that remains valid for 30 days and includes only the Goods
- 2.8. "Order" means a Purchase Order issued by the Buyer to the Seller in writing.

3. GENERAL

- 3.1. These Terms and Conditions will be deemed to have been accepted by the Buyer when the Buyer issues a Purchase Order and the Seller issues an Order Confirmation, 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 the Buyer and the Seller.
- 3.2. Where the supply purports to be made on or subject to terms and conditions other than these conditions, the Buyer agrees that such other terms and conditions are disregarded and form no part of the Contract unless the Seller agrees otherwise in writing.
- 3.3. Any quotation by the Seller is not and shall not be interpreted as an offer capable of acceptance or as creating an obligation to sell.
- 3.4. If the 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 the 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, or a 10% cancellation fee, whichever is higher.
- 3.5. All drawings, specifications & details furnished by the Seller or contained in catalogues, price list or website are by way of general description only and shall not form part of this contract.
- 3.6. Words imparting the singular number include the plural and vice-versa
- 3.7. The Seller may assign or transfer this Agreement and/or any security under the PPSA to a related body corporate at any time by notice to the Buyer. A party must not otherwise assign or transfer the benefit or obligations of this Agreement without the prior written consent of the other party.

4. PRICE AND QUOTATIONS

- 4.1. The price (Price) of the Goods is set out in the Seller's quotation current at the date of the Buyer's Order, or such other price as may be agreed in writing.
- 4.2. Unless otherwise confirmed in writing, quotations are valid for thirty (30) days and represent no obligation until the Seller accepts the Purchaser's Order.
- 4.3. The Price is inclusive of fees for packaging and dispatch but exclusive of transportation/delivery unless otherwise stated.
- 4.4. Prices quoted are based on the full quantities specified and do not necessarily operate pro rata for any greater or less quantities.
- 4.5. Price quoted is exclusive of GST, the Buyer is required to pay the applicable GST to the Seller along with the Price when the Price is due as per the sale terms & conditions.
- 4.6. If the cost of the Goods to the Seller increases due to any factor beyond the Seller's control including, but not limited to, material costs, labour costs, alteration of exchange rates or duties, or changes to delivery rates, the Seller can increase the Price prior to delivery.
- 4.7. In the event of the suspension of manufacture or supply on the Buyer's instruction, or lack thereof, or due to the inability of the Buyer to accept the Goods for any reason, on or after the date on which they are ready for delivery, the Buyer shall be liable for all extra costs and losses thereby incurred by the Seller.
- 4.8. Any increase in the Price under this clause 4 will only take place after the Seller has informed the Buyer.
- 4.9. Fees, including but not limited to Delivery and Credit Card fees, may be charged in addition to the Price.

5. PAYMENT

- 5.1. The Seller will invoice the Buyer for the Price either:
 - a on or at any time after delivery of the Goods; or
 - b where the Goods are to be collected by the Buyer; or
 - c where the Buyer wrongfully does not take delivery of the Goods, at any time after the Seller has notified the Buyer that the Goods are ready for collection or the Seller has tried to deliver.
- 5.2. The Buyer must pay the Price prior to delivery or collection of the Goods or otherwise according to any previously agreed credit terms. Callington's standard credit terms are 30 days from invoice.

- 5.3. If the Buyer does not pay within the period set out above, the Seller will suspend any further deliveries to the Buyer and without limiting any of the Seller's other rights or remedies for statutory interest, charge the Buyer interest at the General Interest Charge (GIC) Rates as specified by the Australian Tax Office for the period from the due date to the date of actual payment (both dates inclusive).
- 5.4. Time for payment will be of the essence of the Contract between the Buyer and Seller.
- 5.5. All payments must be made in Australian Dollar unless otherwise agreed in writing.
- 5.6. 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.

6. DELIVERY

- 6.1. The Seller will arrange for the delivery of the Goods to the address specified in the quotation, or the Buyer's order or to another location as agreed in writing between the Buyer & Seller.
- 6.2. If the Buyer does not specify a delivery address or if both the Buyer & Seller agree, the Buyer must collect the Goods from the Seller's premises.
- 6.3. The Seller may, at its discretion, agree to act as agent for the Buyer for delivery beyond store or works and all costs of carriage and insurance shall be paid by the Buyer.
- 6.4. The Seller shall not be liable for any damages caused to the Goods whilst they are in transit, unless otherwise agreed in writing.
- 6.5. 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 5 pm.
- 6.6. If the Buyer does not take delivery of the Goods the Seller may, at the Seller's discretion and without prejudice to any other rights:
 - a store or arrange for the storage of the Goods and will charge the Buyer for all associated costs and expenses including, but not limited to, transportation, storage, and insurance; and/or
 - b make arrangements for the redelivery of the Goods and will charge the Buyer for the costs of such redelivery; and/or
 - c after 10 business days, resell or otherwise dispose of part or all the Goods, and charge the Buyer for any shortfall below the price of the Goods.
- 6.7. If redelivery is not possible as set out above, the Buyer must collect the Goods from the Seller's premises and will be notified of this. The Seller can charge the Buyer for all associated costs including, but not limited to, storage and insurance.
- 6.8. Any dates quoted for delivery are approximate only, and the time of delivery is not of the essence. The Seller will not be liable for any delay in delivery of the Goods that is caused by a circumstance beyond the Seller's control or the Buyer's failure to provide the Seller with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.
- 6.9. The Seller can deliver the Goods by instalments, which will be invoiced and paid for separately. Each instalment is a separate contract. Any delay in delivery or defect in an instalment will not entitle the Buyer to cancel any other instalment.

7. INSPECTION, ACCEPTANCE & RETURN OF GOODS

- 7.1. It is the Buyer's responsibility when accepting this contract, or ordering, to ensure that:
 - a The buyer holds the relevant permits or registrations to take possession of the goods.
 - b The Goods ordered conform to the Buyer's requirements and are suitable and sufficient for the Buyer's purpose.
- 7.2. The Buyer must inspect the Goods on delivery or collection. Acceptance of the Goods will be deemed to be upon inspection by the Buyer or within 1 day after delivery, whichever occurs first.
- 7.3. If the Buyer identifies any damages or shortages, they must inform the Seller in writing within 7 days of delivery, providing details.
- 7.4. Other than by agreement, the Seller will only accept returned Goods if satisfied that those Goods are defective and, if required, have carried out an inspection.
- 7.5. No goods are to be returned to the Seller without an RGA number (Returned Goods Authorisation) issued by the Seller. A copy of the RGA and the terms and conditions can be obtained by ringing the Seller's office or emailing request to customerservice@callington.com.
- 7.6. Agreed Returns must be at purchaser's expense in original condition and original packaging.
- 7.7. A restocking fee of 15% applies for returned Goods unless it is mutually agreed in writing that the Goods are defective.
- 7.8. Subject to the Buyer's compliance with this clause 7 and/or the Seller's agreement, the Buyer may return the Goods and the Seller will, as appropriate, repair, replace or refund the Goods, or part of them.
- 7.9. The Seller will be under no liability or further obligation in relation to the Goods if the:
 - a Buyer fails to provide notice as set above; and/or
 - b Buyer makes any further use of such Goods after giving notice under the clause above relating to damages and shortages; and/or
 - c defect arises because the Buyer did not follow the Seller's oral or written instructions about the storage, commissioning, installation, use and maintenance of the Goods; and/or
 - d defect arises from normal wear and tear of the Goods; and/or
 - e defect arises from misuse or alteration of the Goods, negligence, wilful damage or any other act by the Buyer, the Buyer's employees, agents or any third parties.

8. RISK & TITLE

- 8.1. The Seller's rights under this clause 8 secure:
 - a the Seller's right to receive the price of all Goods sold under this Contract.
 - b all other amounts owing to the Seller under this Contract or any other contract.
- 8.2. All payments received from the Buyer must be applied in accordance with section 14(6)(c) of the PPSA.
- 8.3. The risk in the Goods will pass to the Buyer on completion of delivery.
- 8.4. Title to the Goods will not pass to the Buyer until the Seller has received payment in full (in cash or cleared funds) for:
 - a the Goods and/or
 - b any other goods or services that the Seller has supplied to the Buyer in respect of which payment has become due.
- 8.5. The Buyer bears the risk and cost of returning the Goods, unless it is mutually agreed in writing that the Goods are defective.
- 8.6. The Buyer must not sell the Goods except in the ordinary course of the Buyer's business.

- 8.7. The Buyer acknowledges and warrants that the Seller has a security interest (for the purposes of the PPSA) in the Goods and any proceeds until title passes to the Buyer in accordance with this clause 8. The Buyer must do anything reasonably required by the Seller to enable the Seller to register its security interest with the priority the Seller requires and to maintain that registration.
- 8.8. Until title to the Goods has passed to the Buyer, the Buyer must:
- a hold the Goods on a fiduciary basis as 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.
- 8.9. As long as the Goods have not been resold, or irreversibly incorporated into another product, and without limiting any other right or remedy the Seller, the Seller may have, or can at any time ask, the Buyer to deliver up the Goods and, if the Buyer fail to do so promptly, enter any of the Buyer's premises or of any third party where the Goods are stored in order to recover them.

9. TERMINATION

- 9.1. The Seller can terminate the sale of Goods under the Contract where the Buyer:
- a commits a material breach of its obligations under these Terms and Conditions.
 - b is, becomes, or is about to become, or in our reasonable opinion, the subject of a bankruptcy order or take advantage of any other statutory provision for the relief of insolvent debtors including but not limited to:
 - enters a voluntary arrangement under Part 1 of the Insolvency Act 1986;
 - or any other scheme or arrangement is made with the Buyer's creditors;
 - convenes any meeting of the Buyer's creditors;
 - has a receiver, manager, administrator, or administrative receiver appointed in respect of the Buyer's assets or undertakings or any part thereof;
 - has any documents filed with the court for the appointment of an administrator;
 - notice of intention to appoint an administrator is given by the Buyer or any of the 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 the Buyer's affairs or for the granting of an administration order; or
 - any proceedings are commenced relating to the Buyer's insolvency or possible insolvency.

10. LIMITATION OF LIABILITY

- 10.1. The Seller's liability under the Contract, in breach of statutory duty, and in tort, misrepresentation or otherwise, will be limited to this clause.
- 10.2. 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.
- 10.3. The Seller's total liability will not, in any circumstances, exceed the total amount of the Price payable.
- 10.4. If the Seller does not deliver the Goods, the Seller liability is limited, subject to the clause below, to the costs and expenses incurred by the Buyer in obtaining replacement goods of similar description and quality in the cheapest market available, less the price of the Goods.
- 10.5. The Seller will not be liable (whether caused by our employees, agents or otherwise) in connection with the Goods, for any:
- a indirect, special, or consequential loss, damage, costs, or expenses; and/or
 - b 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
 - c failure to perform any of the Seller's obligations if such delay or failure is due to any cause beyond the Seller's reasonable control; and/or
 - d losses caused directly or indirectly by any failure or breach by the Buyer in relation to the Buyer's obligations; and/or
 - e loss relating to the choice of the Goods and how they will meet the Buyer's purpose or the use by the Buyer of the Goods supplied.
- 10.6. The exclusions of liability contained within this clause will not exclude or limit the Seller's liability for death or personal injury caused by the Seller's negligence; or for any matter for which it would be illegal for the Seller to exclude or limit the Seller's liability; and for fraud or fraudulent misrepresentation.

11. INTELLECTUAL PROPERTY

- 11.1. Any technical information, knowledge, or processing methods at any time transmitted either orally or in writing by the Seller to the Buyer shall remain the property of the Seller and shall be considered absolutely confidential by the Buyer who shall not use them for any purpose nor sell transfer or divulge them in any manner to anyone without the prior written consent of the Seller.
- 11.2. The Buyer warrants that the use by the Seller of any designs or instructions supplied by the Buyer will not infringe the patents, trademarks, designs or copyright ("intellectual property") of any other person and the Buyer agrees to indemnify the Seller against any claim relating to or arising from the infringement of any intellectual property of any other person.
- 11.3. If at any time a claim is made against the Seller, or the Seller becomes aware that a claim is likely to be made against the Seller for infringing any intellectual property or contributing to any such infringement by the Seller, or any other person, as a result of supplying Goods, the Seller may immediately terminate or suspend this Contract.
- 11.4. The Seller will be entitled to the full and unrestricted right, including the right to apply for patent or other protection in the Seller's own name, to exploit any invention, technical information or know-how arising from or developed in the course of carrying out this Agreement.
- 11.5. Callington, Callington Haven, and the Callington logo are trademarks and/or service marks of Callington Haven Pty Ltd. The Buyer has no right under this Agreement to use any trademark, service mark, logo, and/or trade name of Callington or its affiliates, suppliers, advertisers, or agents or sponsors.

12. CONFIDENTIALITY

- 12.1. The Buyer acknowledges that all pricing information and any other commercially sensitive or confidential information relating to this Agreement is strictly confidential (Confidential Information).
- 12.2. Except as stated in this Agreement, or where required by PPSA, the parties to this Agreement are under an obligation to not, and must not, permit any of their officers, employees, agents, contractors, or related bodies corporate to disclose any Confidential Information to any person, other than their professional advisers or as required by law, without the prior written consent of the party to whom the Confidential Information relates.
- 12.3. This clause 12:
 - a operates for the benefit of all parties; and
 - b continues despite the termination of this Agreement.
- 12.4. The Buyer agrees that the Seller may obtain from, and provide to, third parties information about their creditworthiness and payment record. The Buyer agrees that the Seller may use, for purposes related to this Agreement, any personal information the Seller holds on the Buyer.

13. COMMUNICATIONS

- 13.1. 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).
- 13.2. Notices will be deemed to have been duly given:
 - a when delivered, if delivered by courier or other messenger (including registered mail) during the normal business hours of the recipient.
 - b when sent, if transmitted by fax or email and a successful transmission report or return receipt is generated.
 - c on the fifth business day following mailing, if mailed by AUSPOST.
- 13.3. 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.

14. FORCE MAJEURE

- 14.1. 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.

15. NO WAIVER

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

16. SEVERANCE

- 16.1. 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).

17. LAW & JURISDICTION

- 17.1. 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.