

Livingstone International Pty Ltd (The Company)

Conditions of Trade (Version 200707)

In this Conditions of Trade, 'The Company' refers to the supplier of goods and/or services'. Customer' means any person, legal entity or company, who has the approval of the Company to purchase goods or services from the Company, it also includes the customer's successors and permitted assignees.

1. The ownership of goods supplier shall not pass to the buyer but shall remain with the Company until such time as payment in full for the goods shall have been received and no other sums are then outstanding from the buyer to the seller on any accounts whatsoever, whether or not such sums shall have become due for payment.
2. The Company shall retain ownership and title to all goods supplied to the customer, until receipt of payment in full for such goods, whereupon ownership and title shall transfer to the customer, in relation to all such goods owned by the Company, the customer shall hold the goods as bailee of the Company; the customer shall store the goods in such a manner that they are identifiable as goods owned by the Company; the customer is authorised to sell the goods, but only as an undisclosed agent of the Company and on condition that the customer is responsible for the enforcement of any contract for the sale of the goods to a third party; if the goods are incorporated in composite goods ("Composite Goods"), title to the Composite Goods shall vest in the Company until receipt of payment in full for the goods; and the customer shall hold the proceeds of sale of, and the proceeds of any insurance claims in respect of the goods and of the Composite Goods in a separate bank accounts on Trust for the Company. If customer fails to make any payments to the Company by the due date or if customer enters into bankruptcy, liquidation, a composition with its creditors, has a receiver or manager appointed over all or any part of its assets or becomes insolvent ("Insolvency Event"), the Company shall be entitled, without prejudice to any other right or remedy, to repossess the goods and the composite goods and to enter any premises, without notice, for that purpose, and to trace the proceeds of any sale or insurance claims in respect of the goods or of Composite Goods. Nothing in these terms and conditions of sale shall affect the Company's rights as an unpaid seller.
3. The cost of recovering and default of payments will be borne by the customer. Customer agrees to pay all costs, fees, charges and disbursements (including collections agency commissions, and legal costs on a Solicitor/Client basis) incurred or to be incurred by the Company in recovering any monies due to the Company pursuant to this application. If payment is not made in accordance with the Company's terms and conditions then interest and administration charges of 1% per month or part of on the monies due shall be incurred and payments shall be credited firstly against any interest and administration charges due. Customer submits to the exclusive jurisdiction of the courts of the State of New South Wales.
4. We reserve the right to rectify prices of items and/or freight amount quoted in the invoice, if found to be incorrect and /or superseded.
5. If back ordered item is no longer required, please advise us immediately.
6. Insurance is always the responsibility of the customers. We do not insure consignments unless requested to do so in writing.
7. Any claim for incorrect shipments, faulty or damaged goods, must be made within five working days of receipt of goods.
8. The Company warrants that all goods supplied to customer will be free from defects for the shelf life of the goods indicated on the label of the goods.
 - 8.1 The warranty in clause 9 is conditional upon:
 - (a) The goods being used strictly in accordance with the Company's instructions set out in the label of the goods or in the Company's literature;
 - (b) The goods being properly stored;
 - (c) The damage to or malfunction or failure of the goods not arising as a result of any misuse, abuse or neglect of the goods by customer or use of the goods for a purpose of which they were not designed or suited, or modification or adaptation by customer, unauthorised by the Company; and
 - (d) Prompt notification of the defect to the Company's After Sales staff and assessment of the defective goods by the Company's Quality Assurance Department whereupon, if assessed as defective, an RA shall be issued and the goods must be returned to the Company.
 - 8.2 In the event of a breach of the warranty in clause 9, the Company's sole liability shall be to repair or replace, at the Company's option, the defective goods;
 - 8.3 The warranty in clauses 9 is in substitution for all other items, conditions, warranties and representations, express or implied, by statute or otherwise, whether as to description, merchantable quality fitness for purpose or otherwise in relation to the goods, which terms, conditions, warranties and representations are hereby excluded.
 - 8.4 Certain legislation, including the Trade Practices Act 1974, as amended, may imply warranties or conditions or impose obligations upon the Company which cannot be excluded, restricted or modified, or cannot be excluded, restricted or modified except to limited extent. These terms and conditions must be read and construed subject to any statutory provisions. If such statutory provisions apply, to the extent to which the Company is entitled to so, its liability shall be limited at its option to:
 - (a) In the case of a supply of goods; and the replacement of the goods or supply of equivalent goods; or the payment of the cost

of having the goods repaired, or the repair of the goods or the refund of purchase price; and

- (b) In the case of services: the supply of the service again, or the payment of the cost of having the service performed again.
- 8.5 To the extent permitted by law, and subject only to any express exceptions contained in these terms and conditions, the Company shall under no circumstances be liable in any way whatsoever to customer for any loss, damage or expense sustained or incurred by the customer or any other party in consequence of or resulting directly or indirectly out of the supply, performance or use of any goods supplied by the Company, out of any breach of the Company under any contract incorporating these terms and conditions or out of the negligence of wilful acts or omissions of the Company, its servants or agents.
9. The customer hereby agrees and warrants:
- 9.1 That it has all necessary authorities, permits, licences or other permissions necessary, pursuant to statute or otherwise, to lawfully buy the goods from the Company;
 - 9.2 Any advice, recommendation, information or services provided to the Customer by the Company, its employees, servants or agents is based on information provided to the Company and on its own research, and that of others whose work the Company believes is reliable. However, the Customer must satisfy himself that the goods meet his requirements. **The Customer expressly acknowledges and agrees that the Company is not liable for any advice given by its agents or employees in relation to the suitability for any purpose of the goods or products supplied by the Company and all such advice relied upon is at the Customer's risk.**
 - 9.3 The Company shall not be liable to the Customer for loss of profits or for any loss, damage, cost or expense suffered by the Customer and arising from the use of the goods or the failure by the Company to observe and fulfil its obligations hereunder. The Company's liability for any breach of a condition or warranty implied by the Trade Practices Act, 1974, as amended (and which cannot be excluded) shall be limited to any one or more of the following (as determined by the Company in its absolute discretion):
 - (a) The replacement of the goods or the supply of equivalent goods;
 - (b) The repair of the goods;
 - (c) The payment of the cost of replacing the goods or of acquiring equivalent goods; or
 - (d) The payment of the cost of having the goods repaired within a reasonable time after any such breach.
 - 9.4 The Company gives no warranty of freedom from patent infringement in relation to the use of any formula, information or advice given by it.
10. The Company will try to fill every order to customer's satisfaction. However, due to unforeseen and/or unexpected circumstances there is always a possibility that the Company may run out of stock. Unless otherwise instructed by you, the Company will exercise its discretion and supply an alternative brand of comparable quality to save customer the inconvenience of backordering.

Return of Goods and Credit Policy (Version 200707)

1. Goods returned
 - (a) Prior approval must be obtained from our After Sales Service staff on 1300 556 556 before returning goods.
 - (b) A Return Authority (R.A) number will be issued to customer once the return has been authorised. This RA number is to be put on or attached to the returned goods, together with a copy of our invoice and any other relevant correspondence.
 - (c) Goods returned must be in their original packaging.
 - (d) Goods will be accepted for credit or replacement at the sole discretion of the management of the Company.
2. Collection of goods
 - (a) The Company will arrange or authorise the customer in writing to arrange for the goods to be collected.
 - (b) If customer returns the goods without any written authorisation by the Company, the company will not be responsible for any freight charges or lost goods (for any reason).
3. Claims for breakages
Claims for breakages must be referred to your insurers. We do not insure consignments.
4. 10% Restocking fee
Goods returned due to orders placed incorrectly will be subjected to a 10% restocking fee (with a minimum fee of \$10.00) plus any return freight charges incurred.
5. Issuance of credit
The Company reserves the right to refuse and/or delay credit and/or replacement unless the procedure for the return of goods has been followed.