

Juvana Pty. Ltd. Terms and Conditions

1. INTRODUCTION

1.1 Application of these Terms and Conditions

These Terms and Conditions are incorporated into any contract between Juvana Pty. Ltd. and the customer for the supply of goods and/or services by Juvana Pty. Ltd. to the customer.

1.2 Interpretation

In these Terms and Conditions:

"Business Day" means a day on which banks are open for general banking business in the State or Territory in which the customer's premises are located;

"Estimate" means the estimate referred to in sub-clause 2.1 (as amended in accordance with clause 2.4);

"Goods" means the goods supplied by Juvana Pty. Ltd. by completing the Order;

"GST" means A Tax System (Goods and Services Tax) Act, 1999;

"Order" means goods supplied in order to fulfill the customer's requirements;

"Purchase Order" means the acceptance of the Quotation described in clause 2.2

"Quotation" means the quotation described in clause 2.1.

1.3 General

In these Terms and Conditions, unless the context otherwise requires:

- (a) the singular includes the plural and vice versa;
- (b) a reference to a clause is a reference to a clause of these Terms and Conditions;
- (c) a reference to a party to these Terms and Conditions or any other document or arrangement includes that party's executors, administrators, successors and permitted assigns;
- (d) where an expression is defined, another part of speech or grammatical form of that expression has a corresponding meaning;
- (e) a reference to a period of time (including, without limitation, a year, a quarter, a month and a day) is to a calendar period.

1.4 Headings

In these Terms and Conditions, headings are for convenient reference only and do not affect interpretation.

1.5 Business Day

If the day on which any act, matter or thing is to be done under this agreement is not a Business Day, that act, matter or thing:

- (a) if it involves a payment other than a payment which is due on demand, must be done on the preceding Business Day; and
- (b) in all other cases, may be done on the next Business Day.

2. QUOTATIONS

2.1 Juvana Pty. Ltd. to supply quotation

Where Juvana Pty. Ltd. supplies an Estimate of the costs of supply, such Quotation is valid for the time specified on the quotation.

2.2 Acceptance by customer

Where Juvana Pty. Ltd. has supplied the customer a Quotation:

- (a) Juvana Pty. Ltd. will not commence processing the order until the Quotation has been accepted by the customer.
- (b) The customer may accept the Quotation by issuing Juvana Pty. Ltd. a written Purchase Order.
- (c) Acceptance by the customer of the Quotation will constitute acceptance by the customer of these Terms and Conditions.

2.3 Purchase Order evidence of instructions

When a Purchase Order is issued by the customer, the goods will be supplied in accordance with the Quotation together with an Invoice and the customer shall pay for the goods in accordance with these Terms and Conditions.

2.4 Juvana Pty. Ltd. may revise Quotation

Juvana Pty. Ltd. may amend the Quotation before the Order has been supplied to take into account any rise or fall in the cost of supplying the Order and Juvana Pty. Ltd. shall notify the customer of such amendment as soon as practicable thereafter. Upon Juvana Pty. Ltd. giving the customer notification of such amendment such amended estimate shall be and be deemed to be the Quotation for the purposes of these Terms and Conditions.

3. CHARGES

3.1 Invoice

Subject to clause 5.3, when the Order has been completed, Juvana Pty. Ltd. will issue an invoice to the customer for the amount of the Quotation and for any of the other charges specified in clause 3.2.

3.2 Additional Charges

In addition to the amount of the Quotation, Juvana Pty. Ltd. may charge the customer:

- (a) freight costs and charges;
- (b) other charges, fees, outlays or disbursements referred to in these Terms and Conditions and not specified in this clause;

3.3 For the purposes of these Terms and Conditions:

"freight costs and charges" includes all costs and expenses incurred by Juvana Pty. Ltd. in removing the Goods from its premises, whether by way of actual or attempted delivery to the customer or otherwise.

4. DELIVERY

4.1 Delivery

Juvana Pty Ltd agrees to deliver all goods as per quotation and if the delivery of goods needs to be expedited, additional freight charges will be incurred.

4.2 Rejection

Subject to clause 7.1 the customer may only reject the Goods if they do not comply with the customer's instructions in the Purchase Order or as agreed with Juvana Pty Ltd. If the customer wishes to reject the Goods, the customer must notify Juvana Pty. Ltd. of the rejection in writing within 7 days of delivery (or such other time as is mutually agreed);

4.3 Risk

The risk in the Goods passes to the customer:

- (a) When Juvana Pty. Ltd. delivers the Goods to the customer's premises - at the time of delivery

If the customer is entitled to reject the Goods and rejects the Goods in accordance with these Terms and Conditions, risk reverts to Juvana Pty. Ltd. at the time the customer notifies Juvana Pty. Ltd. that the Goods are rejected.

5. PAYMENT

5.1 Time for payment

The customer must, within 30 days of the customer receiving an invoice from Juvana Pty Ltd, pay the total amount set out in the invoice. Juvana Pty. Ltd. reserves the right to forward the nonpayment to a debt collection agency following a failure to pay within 30 days. All debt collection, legal costs and all other charges due from this action will be payable by the customer.

5.2 Interest

Juvana Pty. Ltd. may charge interest on amounts not paid within the time specified in clause 5.1.

5.3 Advance and progress payments

- (a) Juvana Pty. Ltd may issue an invoice for the amount of the Quotation before Processing the Order where Juvana Pty. Ltd. has not previously carried out work for the customer or where Juvana Pty. Ltd. considers it otherwise prudent to do so;

- (b) If the Order is suspended for more than 30 days at the request of the customer or as a result of something for which the customer is responsible, Juvana Pty. Ltd. may issue an invoice for a particular sum (to be specified by Juvana Pty. Ltd.) for the work already done and for other costs incurred by Juvana Pty. Ltd. (such as storage costs).

5.4 Damages

The customer must pay Juvana Pty. Ltd. any costs, expenses or losses incurred by Juvana Pty. Ltd. as a result of the customer's failure to pay on invoiced amounts outstanding from the customer to Juvana Pty. Ltd. (including, without limiting the generality of the obligation set out in this clause, any debt collection and legal costs).

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6. NON-PAYMENT

6.1 Retention of ownership

Until the customer has paid all sums outstanding in relation to the Goods:

- (a) Title in the Goods shall not pass from Juvana Pty. Ltd. to the customer.
- (b) If the Goods are in the customer's possession, the customer shall hold the Goods as bailee and fiduciary agent for Juvana Pty. Ltd. and must store the Goods so that they are clearly identifiable as the property of Juvana Pty. Ltd.
- (c) Juvana Pty. Ltd. may call for and recover possession of the Goods (for which purposes Juvana Pty. Ltd. employees or agents may enter the customer's premises and take possession of the Goods without liability to the customer) and the customer must deliver the Goods to Juvana Pty. Ltd. if so directed by Juvana Pty. Ltd..
- (d) The customer may, in the ordinary course of the customer's business, sell the Goods to a third party but:
 - (i) the proceeds of sale to the third party shall be held by the customer as fiduciary agent for Juvana Pty. Ltd. and the customer shall account to Juvana Pty. Ltd. for those sums; and
 - (ii) if Juvana Pty. Ltd. requires, the customer shall assign to Juvana Pty. Ltd. the customer's claim against the third party and shall execute all documents necessary to effect that assignment.

6.2 Personal Property Securities Act 2009 (Cth) "PPSA"

- (a) the customer acknowledges that these terms and conditions constitute a security agreement for the purposes of the PPSA. A security interest is taken in all goods previously supplied by Juvana Pty Ltd to the customer and all goods that may be supplied in the future securing the performance by the customer of its obligations under these terms and conditions.
- (b) the customer must ensure that no security interest (within the meaning of PPSA) is created, exists or subsists over the goods (including a replacement part or other item that is incorporated into any of the goods) in the customer's possession or control prior to the title in the goods passing to the customer other than a security interest arising under these terms and conditions.
- (c) the customer must assist Juvana Pty Ltd to complete the registration of any financing statement in respect of the goods and will do all things and provide all information necessary to enable Juvana Pty Ltd to perfect the security interest in the goods and complete any financing change statement.
- (d) To the extent permitted by law, the customer irrevocably waives any rights the customer may have to receive notices under ss12(4), 130, 132(4) and 135 of the PPSA or to reinstate a security agreement following termination under s143.
- (e) the customer agrees that any rights that the customer may have to receive a verification statement (as defined in the PPSA) are waived.

7. LIABILITY

7.1 Non-excludable Rights

The parties acknowledge that, under applicable State and Commonwealth law, certain conditions and warranties may be implied in these Terms and Conditions and there are rights and remedies conferred on the customer in relation to the provision of the Goods or of services which cannot be excluded, restricted or modified by agreement ("Non-excludable Rights").

7.2 Disclaimer of Liability

Juvana Pty. Ltd. disclaims all conditions and warranties expressed or implied, and all rights and remedies conferred on the customer, by statute, the common law, equity, trade, custom or usage or otherwise and all those conditions and warranties and all those rights and remedies are excluded other than any Non-excludable Rights. To the extent permitted by law, the liability of Juvana Pty. Ltd. for a breach of a Non-excludable Right is limited, at Juvana Pty. Ltd. option, to the supplying of the Goods and/or any services again or payment of the cost of having the Goods and/or any services supplied again.

7.3 Indirect losses

Notwithstanding any other provision of these Terms and Conditions, Juvana Pty. Ltd. is in no circumstance (whatever the cause) liable in contract, tort (including, without limitation, negligence or breach of statutory duty) or otherwise to compensate the customer for:

- (a) any increased costs or expenses;
- (b) any loss of profit, revenue, business, contracts or anticipated savings;
- (c) any loss or expense resulting from a claim by a third party; or
- (d) any special, indirect or consequential loss or damage of any nature whatsoever caused by Juvana Pty. Ltd. failure to complete or delay in completing the Order or to deliver the Goods.

7.4 Force Majeure

Juvana Pty. Ltd. will have no liability to the customer in relation to any loss, damage or expense caused by Juvana Pty. Ltd. failure to complete the Order or to deliver the Goods as a result of fire, flood, tempest, earthquake, riot, civil disturbance, theft, crime, strike, lockout, breakdown, war, the inability of Juvana Pty. Ltd. normal suppliers to supply necessary materials or any other matter beyond Juvana Pty. Ltd. control.

7.5 Customer warranties and indemnity

The customer warrants to us that:

- (a) all necessary knowledge, permits, licences and approvals to receive handle and store the goods has been obtained and will be complied with; and
- (b) to the extent permitted by law, the customer indemnifies Juvana Pty Ltd against all losses, damages or costs (whether incurred by or awarded against Juvana Pty Ltd that it may incur whether directly or indirectly as a result of the customers
 - (i) use sale or handling of the goods; or
 - (ii) any loss of or damage to any property or injury to or death of any person caused by any negligent act or omission or willful misconduct by the customer or its agents or employees; or
 - (iii) any claim that the customer's use of the goods infringes on the intellectual property rights of any person; or
 - (iv) repossessing the goods or enforcing any rights that Juvana Pty Ltd has against the customer under Clause 6 and 7 of the Terms and Conditions, including without limitation, any claims from parties whose property has been incorporated into the Products.

8. GENERAL MATTERS

8.1

If the contract between Juvana Pty. Ltd. and customer relates to more than one issue of product:

- (a) Each issue will, for the purposes of these Terms and Conditions, be considered to be one Order.
- (b) Subject to sub-clause (c), a party may not terminate a contract to which these Terms and Conditions apply unless:
- (c) Notwithstanding sub-clause (b), Juvana Pty. Ltd. may terminate the contract at any time if the customer is in breach of any of provision of these Terms and Conditions relating to payment.

8.2 Severability

If part or all of any provision of these Terms and Conditions or its application to any person or circumstance is illegal or unenforceable, the provision will be construed as may be necessary to ensure it is not illegal or unenforceable. If any provision or part of it cannot be interpreted in that way, the provision or part of it will be severed from the Terms and Conditions and the remaining provisions continue in force.

8.3 Governing law and jurisdiction

These Terms and Conditions are governed by the law in force in the State or Territory in which Juvana Pty Ltd is located and the parties submit to the non-exclusive jurisdiction of the courts of that State or Territory and any courts which may hear appeals from those courts in respect of any proceedings in connection with these Terms and Conditions.

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I/We understand and agree to abide by these Terms and Conditions:

Company Name: _____

Signed: _____

Print Name of Signatory: _____

Date: _____

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