

GENERAL TERMS AND CONDITIONS OF TRADE

1. The whole of the agreement between N.Ieraci & Sons Pty Ltd ABN 97 004 573 871 ("Company") and the Purchaser is set out in these Terms and Conditions as amended by from time to time and those, if any, which are implied and which cannot be excluded by law ("Terms"). Any other contractual terms of the Purchaser (whether upon the Purchaser's order or elsewhere) that are contrary to or inconsistent with these Terms will not apply nor will they constitute a counter-offer. By receiving delivery and/or supply of all or a portion of the goods and/or materials and/or equipment and/or parts and/or labour and/or services ("goods"), the Purchaser will be deemed to have accepted these Terms and to have agreed that they will apply to the exclusion of all others. All goods are charged at the price ruling at the date of invoice and any Goods and Services Tax within the meaning of the *A New Tax System (Goods and Services Tax) Act 1999* ("GST") or other government imposts will be payable by the Purchaser.
2. The Purchaser undertakes to notify the Company immediately of any change of address and such notification shall be given in writing.
3. The Purchaser warrants that the personal information supplied to the Company is true and correct and not misleading in any respect.
4. Interest at the rate of 2% per month will be charged in all payments in arrears (compounded monthly).
5. Delivery means delivery to the Purchaser at the business premises, home premises or at the option of the Purchaser to the railway station or transport company. The Purchaser acknowledges that should delivery be requested by rail transport or transport company then the rail transport company or transport company is the Purchaser's appointed agent to receive the goods. Risk of damage, loss or deterioration of any goods will pass to the Purchaser from the time that the goods are delivered to the gate of the Purchaser's nominated business premises, home premises, railway station or transport company and prior to unloading.
6. All payments must be made to the Company at the address shown on the face of the relevant invoice or such other address as the Company may advise in writing.
7. The Purchaser shall advise the Company in writing within seven (7) days of receipt of any goods purchased from the Company of any defects herein, failing which they shall be deemed to be free of defects and the Purchaser releases the Company from all further liability in that regard.
8. The Purchaser acknowledges that the Company's trading terms are strictly 7 days (or such other terms as the Company agree in writing). Should the Purchaser default in payment of any amount due and payable, the Purchaser shall be liable for all costs incurred by the Company in recovery for the amount due, including solicitors costs on a full indemnity basis.
9. A certificate signed by the Company's secretary or his or hers nominee shall be sufficient proof of any amount due to the Company by the Purchaser.
10. The Company shall be entitled at any time without notice to the Purchaser, to assign or novate all or any of its rights hereunder to any third party and in such event the Purchaser agrees to be bound by such assignment or novation.
11. The Purchaser acknowledges and agrees that these terms and conditions constitute a security agreement for the purposes of the *Personal Properties Securities Act 2009* (Cth) ("PPSA") and create a security interest in all of the Purchaser's present and after-acquired goods supplied by the Company.
12. Until full payment has been made for all goods, and any other sums in any way outstanding from the Purchaser to the Company from time to time:
 - (a) the goods are inventory for the purposes of the PPSA and the property in the goods will not pass to the Purchaser, and the Purchaser holds the goods as bailee for the Company (returning the same to the Company on request) and the Company retains a security interest in all goods previously supplied by the Company to the Purchaser (if any) and all goods that will be supplied in the future by the Company to the Purchaser during the continuance of the parties' relationship;
 - (b) the Purchaser agrees to store the goods on its premises separate from its own or any other person's goods, and in a manner which makes them readily identifiable as the Company's goods;
 - (c) the Company is irrevocably authorised to enter any premises where the goods are kept, and to use the name of the Purchaser and to act on its behalf, if necessary, to recover possession of the goods, and any property to which the goods are attached, or in which the goods are incorporated; and
 - (d) The Purchaser is only authorised to sell the goods (or any portion of them) to third parties as the fiduciary agent of the Company provided that there will be no right to bind the Company to any liability to such third party by contract or otherwise. All payments (direct or indirect) received from such third parties by the Purchaser for the goods (or any portion of them) shall be held on trust for the Company pursuant to the fiduciary relationship.
13. In the event that the goods (or any portion of them) are attached, fixed, transformed or incorporated into any other goods or products produced by the Purchaser (or a third party), then title in the goods shall remain with the Company until the Purchaser has made payment for all goods, and the Company will have a security interest in those goods or products, and the Purchaser must hold a proportion of any payment (relevant proportion) received by the Purchaser for such goods or products on trust for the Company, and the Company will have a security interest in that relevant proportion. The Purchaser expressly acknowledges that the relevant proportion shall be equal to the dollar value of the portion of the goods incorporated or transformed and the Purchaser further acknowledges that any part payment (not exceeding the relevant proportion) received by the Purchaser for such goods or products is received as payment first of the relevant proportion.
14. The Purchaser must:
 - (a) Not register, or permit to be registered, a financing change statement or a financing change statement in respect of a security interest without the prior written consent of the Company and must give the Company at least 14 days prior written notice of any proposed change in the Purchaser's name or any other change in the Purchaser's details.
 - (b) Immediately advise the Company of any material change in its business practices of selling the goods that would result in a change in the nature of proceeds derived from such sales.
15. The Company and the Purchaser agree that nothing in sections 130(1)(a) and 143 of the PPSA will apply to these terms and conditions. Unless otherwise agreed to in writing by the Company, the Purchaser waives its right to receive a verification statement in accordance with section 157 of the PPSA. The Purchaser further agrees that where the Company has rights in addition to those under Chapter 4 of the PPSA, those rights will continue to apply.
16. In the event of the signatory signing on behalf of a company, partnership, firm or association of any kind whatsoever, then such persons by his or her signature on behalf of the Purchaser on the reverse side hereof, expressly also binds him or herself personally in favour of the Company for all or any amounts which the Purchaser may be indebted to the Company and which are otherwise unpaid by the Purchaser.
17. Any time quoted for delivery and/or supply are estimates only and the Company shall not be liable for failure to deliver or for delay in delivery. The Purchaser shall not be relieved of any obligation to accept or pay for goods by reason of any delay in delivery. The Company reserves the right to stop or suspend supply, without notice, for any reason.
18. To the extent permissible at law, all warranties in relation to the goods are hereby expressly excluded. Where a law implies a warranty that cannot be excluded, the Company's liability to the Purchaser shall be limited to resupplying the goods again or paying or crediting the Purchaser for the costs of acquiring similar goods.
19. The contract shall be governed and construed in accordance with the laws of Victoria and the Courts of Victoria shall have non-exclusive jurisdiction on all matters arising here from.