

## TERMS & CONDITIONS OF TRADE

### 1. DEFINITIONS

- 1.1. "HZL" shall mean Hazero Limited, or any agents or employees thereof.
- 1.2. "Customer" shall mean the Customer, any person acting on behalf of and with the authority of the Customer, or any person purchasing products and services from HZL.
- 1.3. "Goods" shall mean:
  - 1.3.1. all Goods of the general description specified on the front of this agreement and supplied by HZL to the Customer; and
  - 1.3.2. all Goods supplied by HZL to the Customer; and
  - 1.3.3. all inventory of the Customer that is supplied by HZL; and
  - 1.3.4. all Goods supplied by HZL and further identified in any invoice issued by HZL to the Customer, which invoices are deemed to be incorporated into and form part of this agreement; and
  - 1.3.5. all Goods that are marked as having been supplied by HZL or that are stored by the Customer in a manner that enables them to be identified as having been supplied by HZL; and
  - 1.3.6. all of the Customer's present and after-acquired Goods that HZL has performed work on or to or in which goods or materials supplied or financed by HZL have been attached or incorporated.
  - 1.3.7. The above descriptions may overlap but each is independent of and does not limit the others.
- 1.4. "Goods" shall also mean all goods, products, services and advice provided by HZL to the Customer and shall include without limitation the manufacture and supply of spill response equipment, related parts, accessories and all charges for labour, hire charges, insurance charges, or any fee or charge associated with the supply of Goods by HZL to the Customer.
- 1.5. "Price" shall mean the cost of the Goods as agreed between HZL and Customer and includes all disbursements eg charges HZL pay to others on the Customer's behalf subject to clause 4 of this contract.

### 2. ACCEPTANCE

- 2.1. Any instructions received by HZL from the Customer for the supply of Goods shall constitute a binding contract and acceptance of the terms and conditions contained herein.

### 3. COLLECTION AND USE OF INFORMATION

- 3.1. The Customer authorises HZL to collect, retain and use any information about the Customer, for the purpose of assessing the Customer's credit worthiness, enforcing any rights under this contract, or marketing any goods provided by HZL to any other party.
- 3.2. The Customer authorises HZL to disclose any information to any person for the purposes set out in clause 3.1.
- 3.3. Where the Customer is a natural person the authorities under clauses 3.1 and 3.2 are authorities or consents for the purposes of the Privacy Act 1993.

### 4. PRICE

- 4.1. Where no price is stated in writing or agreed to orally the Goods shall be deemed to be sold at the current amount as such Goods are sold by HZL at the time of the contract.

- 4.2. The price may be increased by the amount of any reasonable increase in the cost of supply of the Goods that is beyond the control of HZL between the date of the contract and delivery of the Goods.

### 5. PAYMENT

- 5.1. Payment for Goods shall be made in full on or before the 20th day of the month following the date of the invoice, or on receipt of delivery of Goods, whichever is the earlier ("the due date").
- 5.2. Interest may be charged on any amount owing after the due date at the rate of 2.5% per month or part month.
- 5.3. Any expenses, disbursements and legal costs incurred by HZL in the enforcement of any rights contained in this contract shall be paid by the Customer, including any reasonable solicitor's fees or debt collection agency fees.
- 5.4. Receipt of a cheque, bill of exchange, or other negotiable instrument shall not constitute payment until such negotiable instrument is paid in full.
- 5.5. A deposit may be required.

### 6. QUOTATION

- 6.1. Where a quotation is given by HZL for Goods:
  - 6.1.1. Unless otherwise agreed the quotation shall be valid for thirty (30) days from the date of issue; and
  - 6.1.2. the quotation shall be exclusive to Goods tax unless specifically stated to the contrary;
  - 6.1.3. HZL reserve the right to alter the quotation because of circumstances beyond its control.
- 6.2. Where Goods are required in addition to the quotation the Customer agrees to pay for the additional cost of such Goods.

### 7. RISK

- 7.1. The Goods remain at HZL risk until delivery to the Customer.
- 7.2. Delivery of Goods shall be deemed complete when HZL gives possession of the Goods directly to the Customer or possession of the Goods is given to a carrier, courier, or other bailee for purposes of transmission to the Customer.
- 7.3. The time agreed for delivery shall not be an essential term of this contract unless the Customer gives written notice to HZL making time of the essence.

### 8. AGENCY

- 8.1. The Customer authorises HZL to contract either as principal or agent for the provision of Goods that are the matter of this contract.
- 8.2. Where HZL enters into a contract of the type referred to in clause 8.1 it shall be read with and form part of this agreement and the Customer agrees to pay any amounts due under that contract.

### 9. TITLE AND SECURITY (PERSONAL PROPERTY SECURITIES ACT 1999)

- 9.1. Title in any Goods supplied by HZL passes to the Customer only when the Customer has made payment in full for all Goods provided by HZL and of all other sums due to HZL by the Customer on any account whatsoever. Until all sums due to HZL by the Customer have been paid in full, HZL has a security interest in all Goods.

- 9.2. If the Goods are attached, fixed, or incorporated into any property of the Customer, by way of any manufacturing or assembly process by the Customer or any third party, title in the Goods shall remain with HZL until the Customer has made payment for all Goods, and where those Goods are mixed with other property so as to be part of or a constituent of any new Goods, title to these new Goods shall be deemed to be assigned to HZL as security for the full satisfaction by the Customer of the full amount owing between HZL and Customer.
- 9.3. The Customer gives irrevocable authority to HZL to enter any premises occupied by the Customer or on which Goods are situated at any reasonable time after default by the Customer or before default if HZL believes a default is likely and to remove and repossess any Goods and any other property to which Goods are attached or in which Goods are incorporated. HZL shall not be liable for any costs, damages, expenses or losses incurred by the Customer or any third party as a result of this action, nor liable in contract or in tort or otherwise in any way whatsoever unless by statute such liability cannot be excluded. HZL may either resell any repossessed Goods and credit the Customer's account with the net proceeds of sale (after deduction of all repossession, storage, selling and other costs) or may retain any repossessed Goods and credit the Customer's account with the invoice valued thereof less such sum as HZL reasonable determines on account of wear and tear, depreciation, obsolescence, loss or profit and costs.
- 9.4. Where Goods are retained by HZL pursuant to clause 9.3 the Customer waives the right to receive notice under s.120 of the Personal Property Securities Act 1999 ("PPSA") and to object under s.121 of the PPSA.
- 9.5. The following shall constitute defaults by the Customer:
- 9.5.1. Non-payment of any sum by the due date.
- 9.5.2. The Customer intimates that it will not pay any sum by the due date.
- 9.5.3. Any Goods are seized by any other creditor of the Customer or any other creditor intimates that it intends to seize Goods.
- 9.5.4. Any Goods in the possession of the Customer are materially damaged while any sum due from the Customer to HZL remains unpaid.
- 9.5.5. The Customer is bankrupted or put into liquidation or a receiver is appointed to any of the Customer's assets or a landlord distrains against any of the Customer's assets.
- 9.5.6. A Court judgment is entered against the Customer and remains unsatisfied for seven (7) days.
- 9.5.7. Any material adverse change in the financial position of the Customer.
- 9.6. Personal Property Securities Act 1999
- 9.6.1. The Customer hereby acknowledges that these Terms and Conditions of Trade constitute a security agreement which creates a security interest in favour of HZL in all Goods previously supplied by HZL to the Customer (if any) and all after-acquired Goods supplied by HZL to the Customer (or for the Customer's account) to secure the payment from time to time and at a time, including future advances. The Customer agrees to grant a "Purchase Money Security Interest" to HZL, as that term is defined in the PPSA.
- 9.6.2. The Customer acknowledges and agrees that by assenting to these terms the Customer grants a security Interest (by virtue of the retention of title clause in these Terms and Conditions of Trade) to HZL and all Goods previously supplied by HZL to the Customer (if any) and all after-acquired Goods supplied by HZL to the Customer (or for the Customer's account) and these terms shall apply notwithstanding anything express or Implied to the contrary contained in the Customer's purchase order.
- 9.6.3. The Customer undertakes to:
- sign any further documents and/or provide any further information (which information the Customer warrants to be complete, accurate and up-to-date in all respects) which HZL may reasonably require to enable registration of a financing statement or financing change statement on the Personal Property Securities Register ("PPSR");
  - not register a financing change statement as defined in section 135 of the PPSA or make a demand to alter the financing statement pursuant to section 162 of the PPSA in respect of the Goods without the prior written consent of HZL;
  - give HZL not less than 14 days prior written notice of any proposed change in the Customer's name and/or any other changes in the Customer's details (including but not limited to changes in the Customer's address, facsimile number, email address, trading name or business practice);
  - be responsible for the full costs incurred by HZL (including actual legal fees and disbursements on a solicitor and client basis) in obtaining an order pursuant to section 167 of the PPSA.
  - The Customer waives any rights it may have under sections 116, 119, 120(2), 121, 125, 126, 127, 129, 131 and 132 of the PPSA upon enforcement.
  - Pursuant to section 148 of the PPSA, unless otherwise agreed to in writing by HZL, the Customer waives the right to receive the verification statement in respect of any financing statement or financing change statement relating to the security interest.
  - To the maximum extent permitted by law, the Customer waives its rights and, with HZL's agreement, contracts out of its rights under sections referred to in sections 107(2), 8(e) and (g) to (i) of the PPSA.
  - The Customer agrees that nothing in section 113, 114(1)(a), 117(1)(c), 133 and 134 of the PPSA shall apply to these terms, and, with HZL's agreement, contracts out of such sections.

- i. The Customer and HZL agree that section 109(1) of the PPSA is contracted Out of in respect of particular Goods if and only for as long as HZL Is not the secured party with priority over all other secured parties in respect of those Goods;
  - j. Compliance: The Customer shall be solely responsible for obtaining any necessary permits under and for compliance with all legislation, regulations, bylaws or rules having the force of law in connection with the installation and operation of the Goods.
- 10. PAYMENT ALLOCATION**
- 10.1. HZL may in its discretion allocate any payment received from the Customer towards any invoice that HZL determines and may do so at the time of receipt or at any time afterwards and on default by the Customer may reallocate any payments previously received and allocated. In the absence of any payment allocation by HZL, payment shall be deemed to be allocated in such manner as preserves the max value of HZL purchase money security interest in the Goods.
- 11. DISPUTES, DAMAGE AND RETURN OF GOODS**
- 11.1. No claim relating to Goods damaged in transit will be considered, unless;
- 11.1.1. HZL have been contacted within 24 hours of the Goods being signed for in good order and condition, or,
  - 11.1.2. HZL have been contacted within 3 working days of the Goods being signed for, and noted as damaged.
- 11.2. HZL will then determine the best course of action to remedy the situation.
- 11.3. No Goods will be accepted for return without the prior consent of HZL. A 15% restocking fee may apply to Goods accepted for return.
- 11.4. The Customer shall be deemed to have accepted the goods unless the Customer notifies HZL otherwise. HOWEVER, no goods may be returned to HZL where these goods have been processed, cut or their condition altered in any way.
- 11.5. If the goods are not accepted according to 11.3 of this contract the Customer shall pay for the delivery of the returned goods to HZL whereby the Customer shall be entitled to a credit for the purchase price of any such goods.
- 12. LIABILITY**
- 12.1. The Consumer Guarantees Act 1993, the Fair Trading Act 1986 and other statutes may imply warranties or conditions or impose obligations upon HZL which cannot by law (or which can only to a limited extent by law) be excluded or modified. In respect of any such implied warranties, conditions or terms imposed on HZL, HZL's liability shall, where it is allowed, be excluded or if not able to be excluded only apply to the minimum extent required by the relevant statute.
- 12.2. Except as otherwise provided by clause 12.1 HZL shall not be liable for:
- 12.2.1. Any loss or damage of any kind whatsoever, arising from the supply of Goods by HZL to the Customer including consequential loss whether suffered or incurred by the Customer or another person and whether in contract or tort (including negligence) or otherwise and irrespective of whether such loss or damage arises directly or indirectly from Goods provided by HZL to the Customer; and
  - 12.2.2. The Customer shall indemnify HZL against all claims and loss of any kind whatsoever however caused or arising and without limiting the generality of the foregoing of this clause whether caused or arising as a result of the negligence of HZL or otherwise,
- 12.2.3. brought by any person in connection with any matter, act, omission, or error by HZL its agents or employees in connection with the Goods.
- 13. WARRANTY**
- 13.1. Manufacturer's warranty applies where applicable.
- 13.2. No representation, condition, warranty or premise expressed or implied by law or otherwise applies to the Goods except where goods are supplied or services provided pursuant to the Consumer Guarantees Act 1993 or except where expressly stated in this contract.
- 13.3. HZL does not provide any warranty that the Goods are fit and suitable for the purpose for which they are required by the Customer and shall not be liable if they are not.
- 14. CONSUMER GUARANTEES ACT**
- 14.1. The guarantees contained in the Consumer Guarantees Act 1993 are excluded where the Customer acquires Goods from HZL for the purposes of a business in terms of section 2 and 43 of the Act.
- 15. PERSONAL GUARANTEE OF COMPANY DIRECTORS OR TRUSTEES**
- 15.1. If the Customer is a company or trust, the director(s) or trustee(s) signing this contract, in consideration for HZL agreeing to supply Goods and grant credit to the Customer at their request, also sign this contract in their personal capacity and jointly and severally personally undertake as principal debtors to HZL the payment of any and all monies now or hereafter owed by the Customer to HZL and indemnify HZL against non-payment by the Customer. Any personal liability of a signatory hereto shall not exclude the Customer in any way whatsoever from the liabilities and obligations contained in this contract. The signatories and Customer shall be jointly and severally liable under the terms and conditions of this contract and for payment of all sums due hereunder.
- 16. CANCELLATION**
- 16.1. HZL shall, without any liability, and without any prejudice to any other right it has in law or equity, have the right by notice to suspend or cancel in whole or in part any contract for the supply of Goods to the Customer if the Customer fails to pay any money owing after the due date or the Customer commits an act of bankruptcy as defined in section 19 of the Insolvency Act 1967.
- 16.2. Any cancellation or suspension of this agreement shall not affect HZL's claim for money due at the time of cancellation or suspension or for damages for any breach of any terms of this contract or the Customer's obligations to HZL under this contract.
- 17. MISCELLANEOUS**
- 17.1. HZL shall not be liable for delay or failure to perform its obligations if the cause of the delay or failure is beyond its control.
- 17.2. Failure by HZL to enforce any of the terms and conditions contained in this contract shall not be deemed to be a waiver of any of the rights or obligations HZL has under this contract.
- 17.3. If any provision of this contract shall be invalid, void or illegal or unenforceable the validity existence, legality and enforceability of the remaining provisions shall not be affected.