

TERMS AND CONDITIONS

The following terms and conditions form part of any contract for the sale of goods by Knight Projects Pty Ltd ABN 83 604 789 586 trading as Race Products (**Company**), to any person, firm, company, body corporate, association or other entity who requests the Company to supply goods (**Customer**).

1. Offer and acceptance

- (a) The Company may offer to sell goods to the Customer by rendering to the Customer an invoice (**Invoice**) showing:
 - (i) the description and quantity of goods to be sold; and
 - (ii) the price payable for the goods.
- (b) The Customer may accept the offer and purchase the goods within 30 days of the date of the Invoice by:
 - (i) paying the Invoice; or
 - (ii) otherwise notifying the Company of its acceptance in a manner acceptable to the Company.
- (c) The Company is not bound to sell the goods described in an Invoice to the Customer until the Customer accepts the offer and pays the purchase price for the goods. Until that time, the Company may sell the goods to any other person.
- (d) Nothing in any document given by the Customer to the Company shall have the effect of varying any provision contained in these terms and conditions or creating or altering the rights, liabilities or obligations of any party as expressly set out in these terms and conditions.

2. Purchase Price and Payment

- (a) The purchase price for the goods and services is as specified in the Invoice and is:
 - (i) 'ex-works' and excludes the costs associated with freight, shipping, handling, delivery, insurance and taxes; and
 - (ii) valid for 30 days from the date of the Invoice.

unless otherwise agreed by the parties in writing.

- (b) The Customer agrees to pay the full amount specified in the Invoice to the Company in the manner and at the time required by the Company.
- (c) The Company may require the Customer to pay a deposit in respect of goods to be provided prior to the Company ordering those goods or customising them in accordance with the Customer's specifications.
- (d) The Customer acknowledges that goods will not be delivered to the Customer unless and until payment has been rendered in accordance with clause 2(b).

3. Delivery

- (a) The goods are at the risk of the Customer during shipping and transport.
- (b) The Company shall use its best endeavours to have the goods delivered by the agreed time, but will not be liable to the Customer for late delivery, non-delivery or damage occasioned to the Customer for such late or non-delivery.
- (c) Despite clause 3(b), the Company shall use reasonable endeavours to assist the Customer with any claim the Customer may have against the shipping company for damage to the goods during transit or delivery.
- (d) If the Customer is not in attendance at the site and at the time arranged for delivery of the goods, the Customer shall be liable for any and all costs associated with the offloading, storage and/or redelivery of those goods.

4. Title and Risk

- (a) Legal and equitable title in the goods will remain with the Company until full payment is made in accordance with clause 2(a).
- (b) Any tooling, equipment or fixtures acquired by the Company for the purposes of supplying any goods to the Customer will remain the property of the Company, unless the Invoice expressly indicates that such tooling, equipment or fixtures are sold to the Customer.
- (c) The Customer acknowledges and agrees that:
 - (i) these terms and conditions constitute a Security Agreement that creates a Security Interest in all goods sold by the Company to the Customer from time to time; and

- (ii) each Security Interest created under or in connection with these terms and conditions or any transaction contemplated by them:

- A. extends to and acts as a Security Interest in respect of any Accession to the goods and any proceeds derived from, or from a dealing with, the goods, and continues in the goods if the goods become an Accession; and
- B. is a continuing Security Interest which will operate (despite any intervening payment or settlement of account) until the Company has signed a release.

Words used in this clause that are defined in the *Personal Property Securities Act 2009* (Cth) have the meaning given to them in that Act.

- (d) The Customer assumes all risks and liabilities in relation to the goods and the use, installation, maintenance, repair and storage of them from the time at which they leave the premises of the Company.

5. Warranty and liability

- (a) The Customer acknowledges and agrees that:

- (i) the Company has not made any representations or warranties in relation to the goods;
- (ii) it is the responsibility of the Customer to satisfy itself that goods supplied are of the description, quality and character ordered and the Company is not liable for any loss or damage, direct or indirect, arising from the failure of the Customer to satisfy itself;
- (iii) it does not rely on the skill or judgement of the Company or any of the Company's employees in relation to the suitability of any goods for any particular purpose and it is the Customer's sole responsibility to satisfy itself whether the goods ordered are or will be suitable for any such purpose;
- (iv) the operating life of certain goods may be reduced depending on the conditions in which they are operated;
- (v) where the goods supplied are a prototype or experimental product, or a product manufactured in accordance with a design provided by the Customer, those goods are experimental in nature and the Company is unable to provide any warranties regarding their suitability, use or performance;
- (vi) in relation to any goods which the Customer intends to use for any form of motorsport (competitive or otherwise), product development, experimentation or any similar application, such goods may be subjected to extreme loads and conditions and the Customer is solely responsible to ensure that such goods are not subjected to excessive loads;
- (vii) without limiting the preceding paragraphs in this clause, the Customer acknowledges that any goods supplied are not intended to achieve any special purpose associated with the safety of operation of any vehicle or other equipment onto which the goods are installed, and the Company does not warrant that the goods will assist in preventing any injury or death to any person

- (b) The parties acknowledge that, under the Australian Consumer Law, certain conditions and warranties may be implied in any contract into which these terms and conditions are incorporated and there are rights and remedies conferred on the Customer in relation to the provision of goods which cannot be excluded, restricted or modified by agreement (**Non-excludable Rights**).

- (c) The Company disclaims all conditions and warranties expressed or implied, and all rights and remedies conferred on the Customer, by statute, 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.

- (d) The Company is not liable for any damage, injury (including personal injury or death) or loss (including consequential loss) arising directly or indirectly from:

- (i) the supply of any goods by the Company to the Customer;
- (ii) any use, assembly, installation, fitting, maintenance of the goods (or any failure to do so properly).

- (e) The Company's liability for breach of any Non-excludable Rights is limited (to the extent permitted by law) at the Company's discretion to:

- (i) replacing the goods or supplying equivalent goods; or
 - (ii) paying the cost of replacing the goods or acquiring equivalent goods.
- (f) Without limiting the generality of the foregoing, the Customer acknowledges and agrees that in the event of breach of any Non-excludable Rights, the Company is not liable for:
- (i) any costs associated with the removal of the relevant goods from any vehicle or other equipment onto which they have been installed; nor
 - (ii) any costs of installation of any replacement goods.

- (g) Where goods supplied by the Company are subject to a manufacturer's warranty, the Company does not, itself, make any representations or warranties in relation to those goods and the Customer acknowledges that, to the fullest extent permitted by law, the Company is not liable for any loss or damage arising as a result of any breach of any manufacturer's warranty.

6. Assembly, Installation and Maintenance

- (a) The Customer acknowledges and agrees that it is solely responsible and liable for the assembly, installation and maintenance of goods supplied by the Company.
- (b) The Customer acknowledges that any modification to goods or installation other than in accordance with the manufacturer's specifications may result in the voiding of the warranties from manufacturers, and indemnifies the Company for any loss or damage arising from the voiding or loss of such a warranty.
- (c) The Customer acknowledges that the Company is not liable for the any costs associated with the assembly or installation of the goods (including any assembly or installation of replacement goods supplied under clause 5(e)).
- (d) Without limiting clause 6(a), the Customer acknowledges that it is solely responsible for ensuring that goods supplied by the Company are correctly fitted, inspected, adjusted and maintained at all times to suit the conditions in which they may be used.

7. Returns Policy

- (a) If the Customer is entitled to have goods repaired, replaced or refunded by the Company by reason of a Non-excludable Right, the Customer must promptly notify the Company.
- (b) Subject to clause 7(d), the Customer may return goods to the Company for a refund, credit or exchange (excluding delivery charges) within 60 days of the date of purchase (as shown on the relevant Invoice) by reason of Customer ordering error, change of mind or unsuitability. The Company may charge a restocking fee of 20% of the purchase price of the goods if returned for these reasons.
- (c) The Customer acknowledges that it is solely liable for any and all costs associated with disassembly, deinstallation and delivery of the goods to facilitate their return to the Company.
- (d) Subject to clause 5(b), the Customer is not entitled to return goods to the Company that:
- (i) are special order goods (i.e. are not maintained in stock by the Company in the ordinary course and have been specifically ordered by the Company in order to supply them to the Customer); or
 - (ii) have been customised or modified by the Company in accordance with the Customer's specifications prior to delivery; or
 - (iii) have been modified by the Customer following delivery; or
 - (iv) have been fitted or test-fitted following delivery; or
 - (v) are in a condition such that they are not re-saleable by the Company at its usual retail prices.

8. Confidentiality

- (a) The Customer must not disclose the contents or terms of any agreement between the Customer and the Company or any information or documents received by it in connection with any such agreement (including any technical or other information relating to any goods sold by the Company to the Customer) without prior consent of the Company, unless:
- (i) disclosure is expressly permitted by the documents comprising the agreement between the Customer and the company;
 - (ii) the information is available to the public generally (except as a result of a previous breach of this clause);
 - (iii) the Customer is required to make the disclosure by law; or

- (iv) the disclosure is made on a confidential basis to the representatives or professional advisors of that party for the purpose of obtaining professional advice.

9. GST

- (a) Unless expressly stated to the contrary:
- (i) all amounts are exclusive of GST; and
 - (ii) all terms in this clause 8, unless otherwise defined, have the same meaning as those terms have in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) and/or associated Commonwealth legislation, regulations and publicly-available rulings **GST Law**.
- (b) If a party (**the Supplier**) is obliged pursuant to the GST Law to pay an amount of GST in respect of a Taxable Supply made by the Supplier to another party (**the Recipient**) pursuant to the provisions of an agreement for the supply of goods by the Company to the Customer, the Recipient shall pay the Supplier on demand that amount of GST upon production of a valid Tax Invoice by the Supplier in addition to the moneys otherwise payable by the Recipient to the Supplier on account of that Taxable Supply.

10. General

- (a) The Invoice, together with the terms and conditions in this document (as amended in accordance with clause 10(b)), supersede all prior representations, arrangements, understandings and agreements between the parties and represent the entire, complete and exclusive agreement between the parties relating to the subject matter of the Invoice. Any terms or conditions in any document given by the Customer to the Company are of no force or effect and the Customer expressly acknowledges that the Company does not accept any such terms or conditions.
- (b) The Company may change these Terms and Conditions at any time by notice in writing to the Customer.
- (c) If any of the terms of these Terms and Conditions are held to be invalid, unlawful or unenforceable for any reason whatsoever, by a Court of competent jurisdiction, such invalidity, unenforceability or illegality will not affect the operation, construction or interpretation of any other terms and the invalid, unenforceable or illegal term will be treated for all purposes as severed.
- (d) This contract shall be governed by and construed in accordance with the law in effect in Queensland and the parties accept the jurisdiction of the courts of Queensland in relation to any dispute between them.
- (e) The Customer shall not assign or otherwise deal with any part of their rights or obligations under this agreement without the prior written consent of the Company.
- (f) A right in favour of the Company under this agreement, subject to any express provision of this agreement to the contrary, may only be waived by the Company in writing.
- (g) No other act, omission or delay by the Company will constitute a waiver of a right.
- (h) A single or partial exercise or waiver by the Company of any right relating to this agreement will not prevent any other exercise of that right or the exercise of any other right.
- (i) The rights provided under this agreement are cumulative and not exclusive of any rights provided by law.
- (j) Time is of the essence in respect of any obligation of the Customer under this agreement.
- (k) Amounts that are payable by the Customer to the Company must be paid without any set-off, withholding or deduction whatsoever.