

K-Line Industries

ABN: 34 486 499 532

General Terms and Conditions of Sale

All quotations and contracts are subject to the following conditions:

1. SELLER means K-Line Industries Pty Ltd (ACN 153 231 068) ATF each of RJ & AW Larsen Trust, J & RR Larsen Trust, WA & RE Larsen Trust, and D & CA Larsen Trust, trading as K-LINE INDUSTRIES (ABN 34 486 499 532) and BUYER means the Buyer whose order for the purchase of goods is accepted by Seller.

2. ACCEPTANCE OF BUYER'S ORDER: These terms and conditions shall apply to every sales contract and sale of goods between Seller and Buyer; any terms and conditions of Buyer's order deviating from or inconsistent with these terms and conditions are expressly rejected by Seller. This rejection also extends to any statement by Buyer that Buyer's terms and conditions shall prevail and to any stipulation by Buyer as to the manner of declaring such rejection. A contract shall only be or be deemed to have been entered into between Seller and Buyer for the supply of goods when, upon an order having been placed upon Seller for goods, that order has been accepted by Seller. (Such acceptance of order may be made and communicated by Seller in writing or by overt act of acceptance.) The provisions of this Clause 2 shall apply to every quotation or offer by Seller for the supply of goods.

3. ORDERS:

(a) Any quotation made by Seller to Buyer from time to time, shall not be construed as an offer or obligation to sell but shall be an invitation to treat only, and Seller reserves the right to accept or reject in its absolute discretion any order which may be received by it from Buyer.

(b) Until such time as Seller accepts in writing a written order submitted by Buyer, it shall not be obliged to supply to Buyer the goods so ordered provided always that if at any time Buyer defaults in respect of its payment obligations under these Terms and Conditions of Sale, Seller may cancel or suspend any incomplete order that has been accepted by Seller, without being liable to Buyer in any way whatsoever.

(c) Seller shall not be obliged to sell goods to Buyer if:

- (i) Buyer defaults in its payment obligations to Seller; and/or
- (ii) Buyer becomes bankrupt or goes into liquidation or goes into voluntary administration or is unable to pay its debts as and when they fall due.

(d) Seller shall not be responsible to Buyer if unable to supply any goods due to reasons beyond its reasonable control (including but without being limited to acts of God, acts of any government, war or other hostility, national or international disaster, the elements, fire, explosion, flood, power failure, equipment failure, strikes or lockouts, inability to obtain necessary supplies and raw materials, transportation delay, inability to obtain government or quasi-government approvals, permits or licences and the like and other 'force majeure' occurrences).

(e) If Seller is unable to supply Buyer's total order these Terms and Conditions of Sale will apply to the supply of all or part of the order.

4. PRICES:

(a) Quotations are to be treated as estimates only and subject to withdrawal, correction or alteration at any time before acceptance of Buyer's order by Seller without notice.

(b) PRICES ARE EX SELLERS WAREHOUSE UNLESS OTHERWISE AGREED IN WRITING.

(c) Prices are subject to Goods and Services Tax (GST) where applicable. Buyer shall pay the Price plus the GST on the price.

5. TIME OF THE ESSENCE: In respect of Buyer's obligation to make payment for goods sold by Seller to Buyer, time shall be of the essence for the entire contract.

6. PAYMENT: Ten per cent (10%) deposit, unless otherwise stated, to accompany official order with further progress payments as requested and balance on completion or on advice from Seller that completed goods are ready for delivery. If Seller shall extend credit to Buyer, payment for all goods sold will be within Seven (7) days from the date of despatch. Interest shall be payable by Buyer on all amounts overdue to Seller at the rate of Two (2) per centum per month.

7. TIMING OF PAYMENT: Payment shall be deemed to have been made:

- (a) If cash is tendered – on the date it is tendered; and
- (b) If a cheque (bank or otherwise) or other negotiable instrument is tendered – on the date upon which such cheque or other negotiable instrument is negotiated and cleared by Seller's bankers.

8. APPLICATION OF PAYMENTS: Any payments tendered by Buyer to Seller shall be applied as follows:

- (a) Firstly, as reimbursement for any collection costs incurred by Seller;
- (b) Secondly, in payment of any interest charged to Buyer on any overdue account at the rate of 2% per month from the date of default;
- (c) Thirdly, in relation to obligations that are not secured under the *Personal Property Securities Act 2009* (Cth) ('PPSA'), in the order in which those obligations were incurred;
- (d) Fourthly, in relation to obligations that are secured, but not by purchase money security interests (as defined in the PPSA), in the order in which those obligations were incurred, then,
- (e) Fifthly, in relation to obligations that are secured by purchase money security interests, in the order in which those obligations were incurred.

9. CONFIRMATION ORDERS: Confirmation orders must be marked as such by Buyer, if not Seller will consider Buyer's order as original.

10. RETURNS

(a) All returns of goods or cancellations of orders must be approved by

Seller.

(b) Upon approval by Seller all returns of goods must be made within seven (7) days.

(c) Authorised returns must be freight prepaid. Seller will credit returned goods only if they are in saleable condition.

(d) Seller preserves the right to impose a handling charge equivalent to 10% of the price of goods returned unless Buyer is a 'consumer' for the purposes of the *Competition and Consumer Act 2010* (Cth).

(e) Buyer will reimburse and indemnify Seller for all losses in excess of 10% including freight, bankcharge or other expenses.

11. CANCELLATION: Orders accepted by Seller cannot be countermanded or delivery deferred or goods returned except with the written consent of Seller and upon terms that reimburse and indemnify Seller against all loss including cartage, bank charges and other incidental expenses on any part of the order that is cancelled. Where Seller agrees to accept goods for return a re-stocking charge of 10% of the price of the goods returned will be made.

12. ACCEPTANCE:

(a) Acceptance of the goods delivered shall be deemed for all purposes to have taken place at the expiration of seven (7) days from the date of each delivery.

(b) Buyer shall inspect the goods forthwith upon delivery and shall within 7 days from the date of delivery give written notice to Seller of any matter or thing by reason whereof Buyer alleges that the goods are not in accordance with the contract.

(c) If Buyer fails to give such notice then to the extent permitted by statute the goods shall be deemed to have been accepted by Buyer and Buyer shall pay for the goods in accordance with the provisions hereof.

13. CLAIMS:

(a) Seller shall not be obligated to recognise nor shall it be responsible in law or in equity for any credit claims for short delivery or claims for damaged goods, unless Buyer has given written notice to Seller within seven days of the date on which the goods in question were delivered to or collected by Buyer. If a claim is made within this time limit, acknowledgement and payment of the claim shall be at the complete discretion of Seller.

(b) Should Buyer consider that it has any claim having regard to these Terms and Conditions of Sale it is entitled to make, it shall:

- (i) Immediately upon becoming aware of the circumstances giving rise to such a claim, notify Seller of the nature of the claim; and
- (ii) Allow Seller, its servants or agents full and free access to the goods in relation to which the claim is made (or the place where the goods have been applied or used) for the purpose of conducting such tests and examinations as Seller may in its absolute discretion consider necessary to determine whether the claim is justified or not.

(c) Buyer acknowledges and agrees with Seller that:

- (i) Use of the goods supplied are beyond the control of Seller; and
- (ii) Any advice, recommendation, information or services provided by Seller, its employees, servants or agents regarding the goods sold and their use shall not be construed as contractual guarantees, conditions or warranties.

14. DELIVERY AND RISK:

(a) At cost to be effected approximately 8-11 weeks from acceptance of this order schedule. Subject at all times to factors outside Seller's control, holidays, fire, strikes, lockouts, other contingencies and in all cases subject to confirmation or alteration if and when offered order is accepted by Seller.

(b) Unless Buyer has requested Seller to make special delivery arrangements the risk in respect of the goods shall pass to Buyer upon delivery to Buyer's premises or the nominated carrier's depot. Buyer shall provide or cause to be provided full and clear access for delivery and will at its own expense provide all necessary assistance in unloading the goods at the nominated place of delivery.

(c) Where Buyer has requested special delivery arrangements (i.e. other than Seller delivering to premises of Buyer) risk in respect of goods shall pass to Buyer upon the goods leaving the premises of Seller in Cowra. Seller will not in any circumstances accept liability for damage, shortage or loss during transit.

(d) If delivery of the goods by Seller is delayed for a cause other than its own negligence Buyer shall be liable for extra charges, losses or expenses incurred by Seller and Buyer shall not be entitled to cancel this contract by reason thereof.

15. SPECIAL ORDERS: Buyer will place order in writing on Seller for non-stock items. Seller will not accept return of non-stock items unless Manufacturer agrees to accept return from Seller. Seller may deduct transport handling and restocking charges of 20% of the price of the goods from the credit due to Buyer.

16. RISK AND INSURANCE:

(a) Upon delivery to Buyer or into Buyer's custody (whichever is the sooner) the goods shall be at the risk of Buyer and Buyer shall, at its own cost, insure the goods (in its name) against all risks for which a prudent owner would insure his/her/its goods and for their full replacement value.

(b) This shall also apply to any partial delivery of goods. Buyer shall upon request provide a copy of the insurance policy to Seller.

(c) If delivery of goods is delayed due to any circumstances beyond the

control of Seller the risk passes to Buyer on the day when the goods were first ready for consignment from Seller's warehouse and this day is to be regarded as date of delivery for purposes of payment in clause 5 above.:

17. RETENTION OF TITLE:

(a) All goods delivered to Buyer by Seller remain the property of Seller until all debts owing by Buyer in respect of such goods have been paid in full. Until payment of such debts, Buyer may sell the goods only in the ordinary course of business and as Seller's fiduciary and agent (but Buyer shall not hold itself out as such), and may for the purpose of any such sale part with possession of the goods.

(b) If the goods are in Buyer's possession, Buyer holds the goods as trustee for Seller and must store the goods so that they are identifiable as the property of Seller and maintain a record of Seller's goods held by Buyer.

(c) Buyer shall in no way represent that it is acting for Seller and Seller will not be bound by the contracts with third parties to which Buyer is a party.

(d) In the event that Buyer sells the goods, all proceeds and/or moneys resulting from the sale are to be specifically accounted for as funds relating to that sale and placed into a separate account, either in Buyer's Bank account or the Bank account of Buyer's agreed agent, until payment in full to Seller under the contract.

(e) Buyer will invoice the sale of goods supplied by Seller separately and maintain a record of debtors outstanding in relation to the sale of goods supplied by Seller to Buyer.

(f) These provisions apply notwithstanding any arrangement under which Seller provides credit to Buyer and, to the extent there is any inconsistency, these provisions prevail.

(g) Seller may recover the price of the goods by such action as it considers appropriate including proceedings to appoint a liquidator to Buyer, if the goods are not paid for within Seller's usual credit terms, or any separate arrangement for credit made by Seller with Buyer, notwithstanding that property in the goods has passed to Buyer.

(h) Until payment of all debts owing to Seller in respect of the goods is made in full, Seller may, without prejudice to any of its other rights, without prior notice, re-take, resume possession and dispose of any goods which remain Seller's property in any way Seller sees fit, and, by its servants and agents, enter upon Buyer's premises, or any other place where the goods may be, for the purpose if:

- (i) There is a breach of any contract between Seller and Buyer; or
- (ii) Buyer is declared bankrupt or being a company commences to be wound up or is placed under official management, or a receiver, or a receiver and manager, or a voluntary administrator is appointed in respect of Buyer, its undertaking or property or any part thereof, or an encumbrancer, by itself or by an agent, takes possession of Buyer's undertaking or property or any part thereof; or
- (iii) Buyer parts with possession of the goods or any of them otherwise than by way of sale to a purchaser in the ordinary course of business.

18. GOODS ON CONSIGNMENT:

(a) Any goods delivered to Buyer on consignment shall remain the property of Seller until paid for in full.

(b) Any goods on consignment will be at the risk of Buyer from delivery.

(c) Buyer shall be responsible for the maintenance and repair of any goods on consignment.

(d) Buyer will forthwith return any goods on consignment to Seller on written demand.

19. SECURITY INTEREST UNDER THE PPSA:

(a) Buyer agrees that:

- (i) Each order accepted by Seller, being an order accepted under these Terms and Conditions of Sale, creates a registrable security interest under the PPSA in any goods supplied under it, including goods on consignment;
- (ii) Buyer acknowledges the right of Seller to register a financing statement under the PPSA with respect to the security interest created by these Terms and Conditions of Sale;
- (iii) If Seller registers a security interest under the PPSA, Seller may exercise any or all remedies afforded to Seller as a secured party under it without prejudice to any other rights or remedies arising out of a breach by Buyer of any agreement with Seller; and
- (iv) The goods, including goods on consignment, are collateral for the purposes of the PPSA.

(b) Buyer waives any right Buyer has under the PPSA to receive notice in relation to registration events.

(c) Buyer and Seller agree that neither will disclose information of the kind specified in section 275(1) of the PPSA.

(d) At the election of Seller to be exercised at any time in its absolute discretion, any section of the PPSA specified in section 115 will not apply to the extent permitted by section 115.

20. SECURITY:

(a) To secure payment of all monies owed to Seller by Buyer, Buyer hereby gives Seller a fixed charge over all real property currently owned or later acquired by Buyer and consents to Seller registering a caveat in this regard.

(b) If Buyer is a trustee, Buyer represents to Seller that Buyer has authority under the relevant trust instrument to trade with Seller and to give Seller a charge and security interest pursuant to this clause in its capacity as trustee.

(c) Buyer hereby irrevocably appoints the Credit Manager from time to time of Seller as its attorney to do all things necessary to create and register each caveat and/or security interest.

21. DELIVERY TIME: Seller may deliver the goods by way of instalments or partial shipments and Buyer will accept each delivery. Requirements of Buyer shall not be a condition or of the essence of the contract. Seller shall be under no liability for direct or consequential loss or damage to Buyer arising from delay or postponement in delivery.

22. WARRANTY: The Seller shall only be bound by an Express Warranty or Guarantee if same is in writing. Goods sold shall only have the benefit of a manufacturer's warranty if the purchaser has complied with the manufacturer's instructions in relation to maintenance and operation of the said goods. All conditions and warranties implied by Law or Statute are hereby expressly excluded and negated so far as legally permissible. Seller is not otherwise liable for any direct, indirect or consequential loss or damage howsoever arising or occurring, whether founded in tort, contract, statute or otherwise.

23. NO IMPLIED SERVICE: Buyer acknowledges that excepting as provided by law this agreement does not entitle Buyer to demand to receive from Seller any site inspection or service of the goods supplied, delivered and installed if applicable. If the Buyer does require Seller's services in respect of site inspection and service of the goods, the subject of this agreement, then Buyer should arrange with Seller to enter a separate agreement in respect of same. In the event that no separate agreement in relation to site inspection and service is required by Buyer, then Buyer acknowledges that in the event of the goods supplied requiring to be serviced or inspected due to breakdown or otherwise, then Buyer shall rely solely on any benefit in respect of same provided by the manufacturer.

24. AGREED USE: Buyer acknowledges that the matters set out in the schedule hereto are a true description of the purposes for which the goods purchased hereby are to be applied in respect of work required to be performed by such goods and that Buyer may forfeit any rights if any he may have against ourselves for the supply of the subject goods if they are applied to any other use. Buyer forfeits any right or claim against the Seller if any alteration to the goods sold or quoted is carried out without Seller's written consent.

25. REPAIRS: Goods returned by Buyer to Seller for repair will be free of all charges to Seller and at Buyer's risk.

26. VARIATION BY BUYER: Should there be any variation in details, sizes and quantities, delivery instructions or any other item or matter on which the quotation or invoice is based Seller reserves the right to revise and amend the contract price accordingly.

27. CLERICAL ERRORS: Clerical errors in computations, typing or otherwise of catalogue, quotation, acceptance, offer, invoice, delivery docket, credit note, or specification by the Seller shall be subject to correction.

28. MODIFICATIONS: All modifications and amendments to these Terms and Conditions shall be in writing and if otherwise shall not be binding upon Seller.

29. If any of the provisions of this Contract are unlawful or invalid by reason of any applicable statute or rule of law, then such provision shall be severed from the rest of this Contract which shall remain valid and binding on the parties.

30. EXTENT OF SELLER'S LIABILITY:

(a) The only guarantees, conditions and warranties which are binding on Seller in respect of the state, quality or condition of the goods supplied by it to Buyer and/or in respect of advice, recommendation(s), information or services supplied by it, its employees, servants or agents to Buyer regarding the goods, their use and application are those imposed and required to be binding by statute (including the *Competition and Consumer Act 2010* (Cth)) and all other guarantees, conditions and warranties whether express or implied by law in respect of the state, quality or condition of the said goods which may apart from this clause be binding on Seller are hereby expressly excluded and negated.

(b) In the event that Seller is liable for damages, Seller can at its discretion choose to either repair or replace the damages or pay Buyer the reasonable cost of repairing or replacing the relevant goods.

(c) In the event of a breach of any condition other than one implied by Law, Buyer agrees that Seller can choose to supply, replace or repair the affected goods or pay the reasonable cost of supplying, replacing or repairing the affected goods.

(d) The liability of Seller in respect of any guarantee, condition or warranty that cannot be excluded by law shall be limited to:

(i) In the case of goods, to the repair or replacement of the goods or the supply of equivalent goods or the cost of such repair, replacement or supply; and

(ii) In the case of services, to having the service supplied again or payment of the cost of having the service supplied again.

(e) Seller excludes from this contract, as far as is permitted by law, all liability to Buyer in contract for consequential or indirect damage or damages arising out of or in relation to the goods or the supply of the goods and all the liability to Buyer for the negligence of Seller. If Buyer has not commenced legal action under this contract within 6 months from the date of the event that allegedly gave rise to such action, Buyer releases the seller from all liability. Buyer acknowledges that the maximum liability of Seller under this contract is the sale price of the goods, exclusive of GST, and Buyer shall not

be entitled to claim from Seller any amount greater than that amount.

(f) Except to the extent provided in this clause Seller shall have no liability (including liability in negligence) to any person for any loss or damage consequential or otherwise howsoever suffered or incurred by any such person in relation to the goods and/or advice, recommendation(s), information or services and without limiting the generality thereof in particular any loss or damage consequential or otherwise howsoever suffered or incurred by any such person caused by or resulting directly or indirectly from any failure, defect or deficiency of whatsoever nature or kind of or in the goods/or advice, recommendation(s), information or services.

In no event shall Seller be liable for any indirect, incidental or consequential damages including for economic loss, loss of profits or damage to goodwill.

31. Where the goods are installed by Buyer as an attachment to another machine, Seller is not responsible for any faulty attachment or any damage howsoever arising to either the goods supplied under this contract or the machine to which the goods are attached.

32. In the event of faulty or incorrect or negligent installation of the goods to another machine, Seller shall have no liability whatsoever to Buyer or any person claiming through under Buyer as a consequence thereof.

33. BACK ORDERS: Back orders will be supplied to Buyer on the Terms and Conditions applying at the time the original order is accepted by Seller. Delivery charges shall apply to back orders unless agreed to in writing and signed by Seller.

34. PRIVACY:

(a) Seller adheres to the National Privacy Principles in respect of any personal information collected from an individual before 12 March 2014 and adheres to the Australian Privacy Principles in respect of any personal information collected from an individual on or after 12 March 2014. In respect of such personal information, Seller discloses that:

(i) The identity of Seller and how to contact Seller are set out on the first page of this Application for Credit.

(ii) The individual is entitled to access to the personal information collected.

(iii) The personal information is collected for the purpose of processing the application for credit and the application for the supply of goods.

(iv) The only organisations to which Seller discloses the personal information are credit reporting agencies.

(v) The consequences if the personal information is not provided is that Seller will be unable to process the Application for Credit and/or the application for supply of goods.

35. VIENNA SALES CONVENTION: The United Nations Convention on Contracts for the International Sale of Goods ('Vienna 1980) known as the Vienna Sales Convention does not apply to goods supplied by Seller to Buyer under any contract nor do any terms or conditions express or implied by the Vienna Sales Convention form part of the contract.

36. WAIVER:

(a) No waiver by Seller of any one breach of these terms and conditions of sale shall operate as a waiver of another breach of the same or of any other conditions of sale and the doing and/or omission of any act, matter or thing whatsoever by Seller, its servants or agents (which but for this clause ought or might amount to a waiver of Seller's rights in respect of any such breach or default), shall not operate nor be deemed to be a waiver in any way of Seller's rights and powers in respect of such breach or default any rule of law or equity to the contrary notwithstanding.

(b) These conditions and any warranties or guarantees implied by law which are not capable of being excluded or modified, embody the entire understanding and the whole agreement between Seller and Buyer relevant to the subject matter hereof, subject to express written terms to the contrary on any written Buyer order and written acceptance of it (which shall only apply to that particular order), and all previous negotiations, representations, warranties, arrangements and statements (if any) whether expressed or implied, including any collateral agreement or warranty between Buyer and Seller or the intentions of either of the parties otherwise, are excluded and cancelled.