

## **CONDITIONS OF SALE**

### **1. Company**

The Company as indicated in these refers to Hettich New Zealand Limited.

### **2. Contract**

Any orders placed on the Company shall be deemed to be an initial offer and no contract between the Company and the Purchaser shall be binding until such offer is formally accepted by a responsible officer of the Company. No order may be cancelled or amended without the Company's prior approval, and then only on such terms as the Company may specify. The Company may decline an order or accept an order in whole or in part at the Company's sole discretion.

### **3. Delivery**

Dates given for delivery are only approximate. No responsibility is undertaken to effect delivery by a special date although the Company will endeavour to carry out Purchaser's requirements in this respect. The Company agrees to replace any goods that do not conform to the contract or that are established to be damaged prior to delivery so long as the Purchaser complies with the procedures in clause 12 below.

### **4. Warranty**

The Company warrants that all goods manufactured or produced by the Company are of merchantable quality and of sound material and workmanship. However, with respect to all goods sold by the Company, whether manufactured or produced by the Company or not, no warranty or condition is given as to the quality or fitness of the goods for any particular purpose nor is warranty or condition given that the use or sale of the goods will not infringe any Letters Patent, Registered Design, Copyright or other Intellectual Property or other rights, except on specific terms agreed between the Company and the Purchaser or confirmed in writing by the Company. All representation or terms, including any condition or warranty and whether expressed or implied by law or otherwise, not expressly included in these conditions are hereby excluded. The Company shall not in any circumstances and for any reason be liable for any damage or injury of any kind suffered by any person or entity arising directly or indirectly from any use of goods supplied by the Company to the Purchaser. If notwithstanding these conditions, the company is found liable for damages for misrepresentation, breach of contract or otherwise, howsoever, then without prejudice to the other conditions herein the absolute limit of such liability shall be lesser of the purchase price for the goods or the actual loss or damage suffered. The Company will not in any circumstance and for any reason be liable (whether in contract or tort) for any indirect, consequential or economic loss (including loss of profits, loss of opportunity and similar loss) suffered by the Purchaser or any other party.

### **5. Guarantees**

The Purchaser acknowledges that where goods are acquired for business purposes the Customer Guarantees Act 1993 does not apply to this contract. Nothing in these terms is intended to have the effect of contracting out of the provisions of the Consumer Guarantees Act, and these terms are to be modified to the extent necessary to give effect to that intention.

### **6. Freight Charges**

The Company shall determine whether freight charges shall apply to sales of goods. Where such freight charges apply, unless otherwise agreed in writing between the parties, freight charges shall be an additional charge made to the Purchaser's account.

### **7. Payment**

(a) Unless otherwise stated by the company payment net payable to the Company Office on the 20th day of the month following that in which the goods are invoiced.

(b) Interest may be charged on any amount owing after the due date at the rate of 2.5% per month or part month.

(c) Any expenses, disbursements and legal costs incurred by Hettich NZ 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.

## **8. Sales Tax/GST**

Unless separately stated Sales Tax and Goods and Service Tax are not included in the quoted prices(s) and where applicable are additional charges.

## **9. Prices**

All prices quoted for goods manufactured or procured by the Company are based on wages and award conditions and material costs as the date of quotation and all prices quoted for overseas goods are based on current manufacturer's prices, freight charges, insurance, exchange rates and customs duties, as at the date of quotation. The Company reserves the right to adjust quoted prices to compensate for any alteration therein and any such adjustments will be made to the Purchaser's account.

## **10. Property Reservation**

(a) The risk in the goods supplied by the Company to the Purchaser shall pass to the Purchase on delivery to the Purchaser but the ownership of the goods shall not pass to the Purchaser until the Purchaser has discharged all outstanding indebtedness to the Company whatsoever ('the total indebtedness')

(b) If the Purchaser shall make a default in the payment of the total indebtedness or any part thereof or if the Purchaser commits any act of bankruptcy or compounds or makes any arrangements with his creditors or if any execution or distress is levied upon the assets of the Purchaser or if the Purchaser being a company a petition is presented or an effective resolution passed or an order made for the liquidation of the Purchaser or a receiver is appointed of the Purchaser's assets or any part thereof then the Company may immediately recover and/or resell the goods or any part thereof.

(c) The Company's ownership of the goods shall not be prejudiced or affected in any way as a result of the goods being wholly or partially attached to or incorporated into any other goods, chattels or machinery by the Purchaser.

(d) Nothing in the clause shall be construed as allowing the Purchaser to return the goods or any part of them because they are surplus to requirements or for non-payment or for any other reason whatsoever.

## **11. Installation**

The Purchaser agrees to indemnify the Company against any claim whatsoever resulting from the Purchaser's installation and use of the goods.

## **12. Product Returns**

The Company will only accept returns of goods (including goods to be replaced under clause 3 above) if:

(a) The goods have a value of more than \$10.00;

(b) The goods are returned within 10 days of their invoice date;

(c) The goods (other than those to be replaced under clause 3 above) are in original and unbroken packaging and are in saleable condition; and

(d) The Purchaser has completed the Company's credit request procedures (which the Company may change from time to time).

Except for goods to be replaced under clause 3 above:

(a) The Purchaser shall be liable for all delivery and insurance costs incurred in respect of goods returned;

(b) The Company may, at its discretion, charge the Purchaser a restocking fee in respect of goods returned of an amount not exceeding 15% of the price of such goods.

## **13. Use of Information**

The Purchaser consents to the Company obtaining and using information about the Purchaser from any person or entity (including any credit or debt collecting agencies) in the course of the Company's business. If the Purchaser is an individual, i.e. a natural person, the Purchaser has rights under the Privacy Act 1993 to access and request the correction of any personal information that the Company holds about the Purchaser.

## **14. Other Agreements**

If there is any inconsistency between these terms and any other order submitted by the Purchaser (whether in writing, verbally or by Electronic Data Interchange (EDI) or any other arrangement between the parties, these terms prevail unless otherwise agreed in writing by the parties.

**15. Personal Property Securities Act**

The Customer acknowledges that these conditions constitute a security agreement for the purpose of section 36 of the Personal Property Securities Act 1999 ("PPSA") and that a security interest exists in all Goods (and their proceeds) previously supplied by the Company to the Customer (if any) and in all future Goods (and their proceeds).

The Customer is to execute documents and do such further acts as may be required by the Company to register the security interest granted to the Company under these conditions under the PPSA.