



# Conditions of Sale

## 1. Interpretation

“Company” means Holland Hitch (Aust.) Ltd. “Customer” means the person to or for whom Goods are supplied by the Company. “Delivery Date” has the meaning given in clause 4(b). “Goods” means the goods, which are the subject matter of these terms. “Implied Warranties,” mean any term, condition or warranty implied law.

## 2. Operation

- (a) All orders for and supply of Goods shall be governed by these conditions of sale.
- (b) A Customer shall be deemed to have accepted these conditions of sale by placing an order with the Company.

## 3. Orders

- (a) The Customer may order Goods only by completing the order forms approved by the Company from time to time.
- (b) The Company is not obliged to accept any order for Goods. The Company may accept an order only by notifying the Customer in writing or by delivering the Goods described in the order to the Customer or to a carrier.
- (c) The Customer authorises the Company to complete any uncompleted order form received from the Customer and agrees to be bound by the terms of such a completed order form.
- (d) The Customer cannot cancel an order, which has been accepted by the Company, without prior written consent of the Company. The Customer acknowledges that if the Company accepts the cancellation, the Company may charge a cancellation fee.

## 4. Delivery and Risk

- (a) Delivery of goods is conditional upon availability. The Customer acknowledges that the Company shall be under no liability for late delivery.
- (b) Delivery shall be deemed to take place at the time of physical taking of the Goods by the Customer or by a carrier whether engaged by the Company or by the Customer (“Delivery Date”).
- (c) Goods shall be at Customer’s risk on and from the Delivery Date.
- (d) Subject to Implied Warranties, which are not capable of exclusion or limitation, the Company’s responsibility for damage or shortage ceases on and from the Delivery Date.
- (e) All delivery and return costs shall be borne by the Customer, unless otherwise specified.

## 5. Prices and Payment

- (a) The provision of a price list is not to be construed as an offer to sell.
- (b) Prices are subject to withdrawal or change without notice.
- (c) If partial delivery is made proportionate payment shall apply. If the Customer is in breach of any obligation, the Company has the right not to fulfil any unexecuted part orders may not be fulfilled.
- (d) The prices charged for the Goods will be those ruling at the Delivery Date.
- (e) Unless stated to the contrary, prices do not include taxes, duties, levies, imports or charges for which the Customer will be responsible.
- (f) The Company may recover from the Customer interest on any unpaid amounts at a rate (set out on the invoice).
- (g) Subject to clause 5(h) payment of the full purchase price for the Goods is due and payable within 30 days of the date specified on the invoice.
- (h) The full purchase price for the Goods shall become immediately due and payable if the Customer, takes or has taken or instituted against it any action or proceeding whether voluntary or compulsory which has object or may result in the bankruptcy or winding up of the Customer (other than a voluntary winding up for the purposes of amalgamation or reconstruction) or is placid under official management or a receiver, receiver and manager or administrator is appointed over the whole or any part of its undertaking or the Customer is unable to pay its debts if and when they fall due.

## 6. Returns

- (a) Subject to any Implied Warranties which are not capable of exclusion or limitation, credit will not be issued for Goods returned unless the Company believes it appropriate, and:
  - i. Invoice numbers are quoted; and
  - ii. The Customer notifies the Company immediately on receipt of Goods.
- (b) Subject to any Implied Warranties which are not capable of exclusion or limitation, credit will not be issued for Goods made to order.
- (c) The Customer must provide the reasons for return upon request by the Company.
- (d) Subject to any Implied Warranties which are not capable of exclusion or limitation, a penalty restocking fee of 15% of the value of the goods being returned will be charged on all goods returned after the expiration of 30 days from the original delivery date.



- (e) Subject to any Implied Warranties, which are not capable of exclusion or limitation, no goods will be returned without the customer firstly obtaining goods return number from the Company.
- (f) Subject to any Implied Warranties, which are not capable of exclusion or limitation, no goods will be accepted as being returned for credit upon the expiration of six (6) calendar months from the original delivery date.

## **7.Risk and Insurance**

- (a) The Customer at its own expense must insure Goods on and from the Delivery Date.

## **8.Property**

- (a) Title to Goods remains in the Company until:
  - i. The full purchase price and all other sums payable by the Customer to the Company in respect of the Goods are paid; or
  - ii. The Customer sells or disposes of the Goods to its customers in the ordinary cause of business.
- (b) While title to the Goods remains in the Company, the Customer shall have no ownership or rights in the Goods and shall, while possesses of the same, hold only as a mere bailee for the Company.
- (c) Until the full purchase price and all other sums payable by the Customer to the Company in respect of the Goods are paid the Customer shall store the Goods separately so that they are clearly identifiable and shall label the Goods in a way which clearly manifests the Company's title (and shall not transform the Goods or incorporate the Goods into other products).
- (d) Notwithstanding anything in this clause the Customer may sell or dispose of the Goods to its customers in the ordinary course of business in which case the Customer shall:
  - i. Hold the process of sale for the Company and shall not mix any of the proceeds of sale with its own money but shall ensure that all receipts are kept separate and identifiable; and
  - ii. Where requested by the Company assign to the Customer the benefit of any claim against a third party.
- (e) If the Customer fails to pay the full purchase price for the Goods by the due date and the Goods are in the Customer's possession or control, the Company or its representative may enter the Customer's premises or any premises where the Company reasonably believes the Goods are kept and remove the Goods and the Customer shall assist and indemnify the Company in relation to such removal.

## **9.Packaging**

The Company recommends that deliveries to country areas be packed in timber crates to prevent transit damage.

## **10.Warranties**

- (a) If the liability of the Company to the Customer for any breach of any Implied Warranty is capable of exclusion it is excluded.
- (b) If the liability of the Company to the customer for any breach of any Implied Warranty is capable of limitation it is limited to resupplying or replacing the Goods.
- (c) Subject to any Implied Warranties which are not capable of exclusion or limitation:
  - i. The Company makes no warranties in relation to the Goods;
  - ii. The Company, its servants, agents and contractors shall not be liable for any loss, damage or injury (including without limitation any loss of profit, indirect or consequential loss) arising from the supply or use of the Goods or for any act or omission (including negligence) of the Company;
  - iii. The Customer indemnifies the Company from any loss, damage or injury resulting from any claims or demands by any third party relating in any way to the Goods.
- (d) These conditions of sale supersede and exclude all prior and other discussion and arrangements relating to the supply of the Goods.

## **11.General**

- (a) Special conditions embodied in Customer's orders are not considered binding unless specifically agreed to in writing by the Company.
- (b) These conditions of sale are governed by the law of Victoria and the Customer agrees to submit to the jurisdiction of Victorian courts and tribunals.
- (c) Subject to any Implied warranties which are not capable of exclusion or limitation, the Company reserves the right to charge a restocking fee of 15%.
- (d) The Customer acknowledges that the minimum amount of any order is \$100.00.
- (e) The Customer acknowledges some Goods are not kept as stock lines. It is the Customer's responsibility to check lead times for Goods they have ordered.