

GENERAL TERMS, CONDITIONS AND SECURITY AGREEMENT OF SALE

HMS Equipment Pty Ltd (ABN 57 161 971 240).& HMS Servicing Pty Ltd (ABN 28 161 870 739) trading as Hetronic Australasia

These terms and conditions of supply apply to customers (Customer) of HMS Equipment Pty Ltd and HMS Servicing Pty Ltd trading a Hetronic Australasia (HMS). By placing an order with HMS, the Customer is deemed to have accepted these terms and conditions and that these terms and conditions (together with the terms and conditions in any quotation) override any other terms and conditions including any purchase order provided by the Customer.

Quotation and Orders

1. Any order by the Customer is subject to HMS's acceptance and HMS may decline an order. HMS reserves the right to supply an order in full or only in part. All orders made by the Customer must be made in a manner approved by HMS and are able to be cancelled only with the agreement of HMS. If HMS agrees to the cancellation of an order, HMS will issue an invoice to the Customer for all costs of any work completed prior to the cancellation.
2. Where HMS sends an order confirmation and no response is received in two hours the order is deemed as approved by the customer.

Variations

3. If the Customer varies the order after receipt of an invoice, quotation or order placement, HMS reserves the right to vary the price and present an additional invoice for any extra amount caused by the variation.

Payment

4. All Cash sale payments are cash BEFORE delivery, unless otherwise agreed in writing.
5. HMS will not commence manufacturing of Goods until deposit is paid.
6. Subject to approval and/or minimum monthly purchases, if the Customer wishes to make payment on a credit basis, the Customer must complete an application for 30 Day Credit Form, including an authority for HMS to seek credit information concerning the Customer. Terms and conditions of credit-based payment by the Customer are subject to change by notice in writing by HMS Equipment. If a credit account is approved all accounts are due and payable within (30 days) of the end of the month in which the invoice is issued or as arranged and confirmed in writing by the company.
7. The Customer must not offset any amount owed to the Customer by HMS against any amount owed by the Customer to HMS.
8. If payment in full is not made in accordance with these terms and conditions, the following will apply:
 - a. Interest of 15% per annum, calculated daily, will be charged on all unpaid amounts from the due date until payment is made.
 - b. All deliveries that have not been made, including deliveries of Goods ordered separately from the Goods to which the unpaid amount relates, will be suspended until the full amount payable, including GST and interest, is paid in full.
 - c. HMS may terminate any contracts in relation to any undelivered Goods or impose additional conditions of payment before delivery in relation to those undelivered Goods.
 - d. Any credit arrangements may be terminated.
 - e. Legal proceedings may be instituted for the recovery of the Goods or the unpaid amount and the costs of such recovery; and
 - f. HMS may exercise its rights pursuant to the clause Property in Goods.
9. In the event of any dispute of any of the costs or charges by HMS, the Customer must make full payment of the invoice price.
10. The Customer charges all of the customers rights, title and interest in any land and personal property held now or in the

future by the customer to secure the payment of the Guaranteed debt. The Customer consents to HMS lodging a caveat or caveats to note HMS's interest under this clause. If a demand is made by HMS the customer agrees to immediately execute a mortgage and/or other instrument of security, in terms satisfactory to HMS to further secure payment of the Guaranteed debts.

Delivery and Risk

11. Delivery shall be made by HMS at the Customer's expense to the Customer's premises or in accordance with the Customer's instruction by such transport at HMS's discretion.
12. Risk shall be passed to the Customer on delivery of the Goods notwithstanding that property shall remain with HMS until those goods are paid for.
13. Insurance against all risks whatsoever shall be maintained by the Customer from delivery.
14. Time and dates of delivery are estimates only and subject to the availability of the Goods, and HMS shall not be liable to the customer for any delays in delivery.
15. Where goods remain at HMS's premises for more than a month from the customer requested delivery date, the goods will be invoiced to the customer and stored at the customer's own risk.
16. Returns – We will only accept stocked consumables in prime condition within 28 days of purchase. Credit will be issued less \$25.00 or 20% charge (whichever is greater). No liability is accepted for a return until the goods are inspected by HMS. Any items made to order cannot be returned. The customer will pay all associated freight costs to return.

Claims

17. Any claim by a Customer for under quantity, delivery of damaged Goods or non-delivery must be made within 7 days of receipt of the Goods by the Customer. The Customer must supply the order number, invoice number and receipt number (if applicable) and all details relating to the claim. If the claim is for damaged goods, the Goods must also be supplied to HMS.
18. Liability for any claim against HMS is limited, at HMS's sole option, too:
 - a. resupplying the Goods.
 - b. providing payment for the cost of resupplying the Goods; or
 - c. repairing the Goods.

Intellectual Property Rights

19. The Customer acknowledges that all intellectual property rights and all copyright in any works, made or created by HMS remains the property of HMS.

Property in Goods

20. Property in the Goods does not pass from HMS to the Customer until payment in full for the Goods and all monies owing by the Customer to HMS on any account whatsoever has been made in accordance with these terms and conditions.
21. The Customer is responsible for the Goods until title passes to the Customer or the Goods are repossessed and the Customer may be liable to HMS for any loss or damage to the Goods. Until payment has been made in full and property passes in accordance with clause 21.
22. Bailee and Storage: The Customer shall hold all Goods as bailee and as a fiduciary of HMS and shall securely store same separately from the Customer's other goods so as to clearly identify the Goods as HMS.
23. Disposal of Goods: The Customer is authorised to sell the Goods but shall hold the book debt and the proceeds of sale on trust for HMS and shall account to HMS for any overdue amount from the proceeds thereof, and the Customer acknowledges that HMS may collect the book debt arising from such sale as

HMS always remains the beneficial owner of the book debt.

24. Repossession of Goods: The Customer's right to possession of the Goods shall cease if the Customer:
 - a. fails to make payments of any outstanding amount due to HMS.
 - b. commits an act of bankruptcy or is declared insolvent or, if a company, the Customer does or omits to do anything which entitles the Customer or any person to appoint an external administrator pursuant to any Part of Chapter 5 of the Corporation Law; or
 - c. enters some arrangement or assignment for the benefit of creditors.
25. HMS shall be entitled to require the Customer to return all unpaid Goods failing which the Customer grants to HMS an irrevocable licence to enter the Customer's premises (or the premises of any associated companies or agents where the Goods are stored) to repossess any Goods in accordance with this clause (Property in Goods) without being liable for trespass or any resulting damage.
26. If either HMS reclaims the Goods, or the Goods remain undelivered, HMS may sell the Goods to a third party. The Customer remains liable for any difference between the amount received by HMS, the third party and the amount unpaid by the Customer.

Personal Properties Securities Act 2009 ('PPSA')

27. The terms 'Debtor', 'Financing Change Statement', 'Financing Statement', 'Grantor', 'Proceeds', 'Secured Party', 'Security Agreement' and 'Security Interest' have the meanings given in the PPSA.
28. 'Collateral' has the meaning given in the PPSA and for the purposes of these terms and conditions, any of the Goods that are not used predominantly for personal, domestic or household purposes to which the Security Interest has been attached.
29. The Customer acknowledges and agrees that these terms and conditions constitute a Security Agreement that covers the Collateral for the purposes of the PPSA and it is agreed that:
 - a. HMS holds (as Secured Party) a Security Interest over all of the present and after acquired Goods supplied by HMS to the Customer and any Proceeds of the sale of those Goods ('Collateral');
 - b. any purchase by the Customer on credit terms from HMS or retention of title supply pursuant to clause Property of Goods hereof will constitute a purchase money security interest as defined under section 14 of the PPSA ('PMSI');
 - c. The PMSI will continue to apply to any goods coming into existence or proceeds of sale of goods coming into existence.
 - d. HMS will continue to hold a Security Interest in the Goods in accordance with and subject to the PPSA, notwithstanding that the Goods may be processed, commingled or become an accession to other goods.
 - e. any HMS Security Interest will be fully a continuing and subsisting interest in the Collateral with priority permitted by law over all registered or unregistered Security Interests.
 - f. until title in the Goods pass to the Customer, it will keep all goods supplied by HMS free and ensure all such goods are kept free of any charge, lien or Security Interest and not otherwise deal with the Goods in a way that will or may prejudice any rights of HMS under these terms and conditions or the PPSA; and
 - g. in addition to any other rights under these terms and conditions or otherwise arising, HMS may exercise any and all remedies afforded to it as a Secured Party under Chapter 4 of the PPSA including, without limitation, entry into any building or premises owned, occupied or used by the Customer, to search for and seize, dispose of or retain those goods in respect to which the Customer has granted a Security Interest to HMS.
30. The Customer undertakes to:
 - a. sign any further documents and provide such information which HMS may reasonably require to register, amend or

update a Financing Statement or Financing Change Statement in relation to a Security Interest on the PPSA Register.

- b. indemnify and upon demand reimburse HMS for all expenses incurred in registering a Financing Statement or Financing Change Statement on the PPSA Register or releasing any Security Interests.
- c. not register or permit to be registered a Financing Change Statement in any Collateral without the prior written consent of HMS; and
- d. provide HMS not less than seven days prior written notice of any proposed change in the Customer's name, address, contact numbers, business practice or such other change in the Customer's details registered on the PPSA Register to enable HMS to register a Financing Change Statement if required.
31. HMS and the Customer agree that sections 95 (notice of removal of accession), 96 (when a person with an interest in the whole may retain an accession) and 125 (obligation to dispose of or retain Collateral) and 132(3)(d) (contents of statement of account after disposal) and 132(4) (statement of account if no disposal) of the PPSA do not apply to the Security Agreement created under these terms and conditions.
32. The Customer waives its rights to receive notices under sections 95 (notice of removal of accession), 118 (enforcing Security Interests in accordance with land law decisions), to the extent that it allows a Secured Party to give a notice to the Grantor, 121(4) (enforcement of liquid assets-notice to Grantor), 130 (notice of disposal), to the extent that it requires the Secured Party to give a notice to the Grantor, 132(3)(d) (contents of statement of account after disposal), 132(4) (statement of account if no disposal) and 135 (notice of retention) of the PPSA.
33. The Customer waives its rights as a Grantor and/or Debtor under sections 142 (redemption of Collateral) and 143 (reinstatement of Security Agreement) of the PPSA.
34. Unless otherwise agreed in writing by HMS, the Customer waives its rights to receive a verification statement in accordance with section 157 of the PPSA.
35. The Customer shall unconditionally ratify any actions taken by HMS under this clause.
36. This clause will survive the termination of these terms and conditions to the extent permitted by law.

Lien

37. HMS is entitled to claim a general Lien on all goods belonging to the Customer for all amounts owing to HMS by the Customer.

Warranty and Damages

38. 12month warranty against defective workmanship or materials.
39. Any other applicable Warranty shall be voided by:
 - a) If goods have been modified by any party other than HMS.
 - b) Failure to sufficiently maintain in line with any Maintenance Schedule.
 - c) Misuse or use in any manner other than that intended of any service performed by HMS, or misuse or use in any manner other than that intended of any Goods supplied by HMS.
40. Damages for the breach of any warranty shall be limited to replacement or repair of the Goods or the cost of the Goods only, at HMS's discretion, and shall not extend to any consequential damages whatsoever.
41. HMS is not liable to the Customer or any third party for any loss, damage or cost (including legal costs), whether direct, indirect or consequential, arising from:
 - a. the manufacture or delivery of any of the Goods.
 - b. any failure to manufacture or deliver any of the Goods.
 - c. late completion of the order or late delivery; or
 - d. the repossession or sale of any of the Goods and the Customer releases HMS from any such claim.

42. The Customer indemnifies HMS and continues to indemnify HMS from and against any claims from third parties in respect of all costs, suits, actions, damages and losses (whether direct or indirect, consequential or not) arising out of any of the following:

- the manufacture or delivery of any of the Goods.
- any failure to manufacture or deliver any of the Goods.
- late completion of the order or late delivery.
- the repossession or sale of any of the Goods.

Force Majeure

- HMS will not be liable for the consequences of any failure or delay in performing any of its obligations under this Agreement to the extent that such failure or delay is due directly or indirectly to any Force Majeure Event.
- If a Force Majeure Event arises, HMS will notify the Customer in writing of the Force Majeure Event and the likely impact it will have on the HMS's performance under this Agreement.

General

- Each clause in these terms and conditions must be read down to the extent necessary to be valid. If a clause cannot be read down to that extent, it must be severed.
- Any waiver of any clause of these terms and conditions is only valid if made in writing and signed by the relevant party.
- HMS retains the right to vary these terms and conditions from time to time with 30 days' notice to the customer (such notice may be inclusive on existing statements, invoices, quotes, confirmations).
- The governing law of these terms and conditions is the law of NSW, Australia.

Privacy

- To obtain a credit account, HMS will collect personal information from the Customer. HMS uses this personal information in accordance with the Privacy Act 1988 (Cth).
- The personal information you have disclosed in your application for credit with HMS will only be disclosed to the credit referees nominated by you and to our credit rating agency.

For further information regarding the privacy of your application please contact the Accounts Officer.

Disclaimer

- The Customer acknowledges that the information contained in any promotional material, brochures, and specifications or on its website is provided by HMS in good faith and is not to be relied upon as being complete, accurate, or up to date. Such information is subject to change by HMS at any time without notice.
- Subject to any terms implied by law which cannot be excluded, HMS accepts no responsibility for any loss, damage, cost or expense (whether direct or indirect) incurred by the Customer as a result of any error, omission or representation in any information contained in such information or on its website.
- HMS is not responsible for the content or the accuracy of any information of any site accessed from its website (including without limitation sites linked through advertisements or through any search engine). The content of any site accessed from its website is the responsibility of the owner of that site. For the avoidance of doubt, unless otherwise specified, a link from its website to another site should not be construed as an endorsement by HMS of that site or any of its products and services offered.
- HMS does not accept any responsibility or liability for any claims arising out of your use of these links or of the descriptions or information contained on such sites.