

MAYA ENTERPRISES

TERMS OF TRADE

1. APPLICATION AND VARIATION OF TERMS OF TRADE

- 1.1 These Terms of Trade apply to the supply of all goods (“Goods”) or services by **MAYA ENTERPRISES** (“Maya”) to the customer (“the Customer”). Any changes by Maya to these Terms of Trade will be notified to the Customer by Maya in writing by email or fax. Any variation of these Terms of Trade by the Customer requires the written consent of Maya’s principal, Nagarajan Natarajan
- 1.2 By agreeing to these Terms of Trade the Customer acknowledges and warrants that they are purchasing the Goods in trade for business purposes and not for personal, domestic or household use.

2. PRICE

- 2.1 Unless otherwise agreed in writing, the price for all Goods (or services, if applicable) will be invoiced to the Customer and are payable to Maya in cleared funds at the price invoiced at the time of delivery.
- 2.2 Unless otherwise stated prices are exclusive of Goods and Services Tax (“GST”), any other taxes, duties, charges, delivery and packaging costs (“other applicable charges”). GST and any other applicable charges will be payable by the Customer in addition to the price.

3. PAYMENT – IF ON CREDIT TERMS

- 3.1 An invoice will be issued and sent to the Customer within a fortnight from despatch of the Goods from MAYA for delivery to the Customer. At the end of the month in which the Goods are delivered MAYA will send a statement of account to the Customer (“the

Statement”). The Customer must pay for the Goods within 30 days from the date of the Statement.

- 3.2 Failure to pay for the Goods by the due date may result in MAYA delaying further deliveries being despatched until the overdue payments have been made.
- 3.3 Interest on overdue accounts will be charged at the rate equal to 10% per annum over MAYA’s bank overdraft rate on any debt outstanding not paid by the due date. MAYA may in its sole discretion agree to waive (and/or reinstate) any such interest charges.
- 3.4 The Customer is liable for any costs incurred by MAYA in collection of any payment due by the Customer to MAYA including MAYA’s lawyer/client costs, debt collection agency fees and any other reasonable costs incurred by MAYA.
- 3.5 The Customer may not set off against the price payable for the Goods any claims which the Customer may have against MAYA. MAYA may accept and apply payments from the Customer in respect of any indebtedness but MAYA will not be bound by any conditions or qualifications attaching to such payments for example (but not limited to) “in full and final settlement”.
- 3.6 Where the Customer is a company or other non natural legal person MAYA requires personal guarantees from the directors/trustees/agents of the entity if purchases are to be made on credit.

4. SECURITY INTEREST, RISK AND OWNERSHIP

- 4.1 The Customer grants MAYA a security interest as defined in the Personal Property Security Act 1999 (“PPSA”) in any Goods supplied by MAYA to the Customer as security for all amounts owing by the Customer to MAYA and the performance of the Customer’s obligations under these Terms of Trade.
- 4.2 The Customer shall ensure that it is ALWAYS able to identify:
 - a) the Goods from any other goods that may be in the Customer’s possession; and
 - b) the particular Goods to which any invoice relates.

- 4.3 Title to all Goods supplied by MAYA shall remain with MAYA until there are no longer any amounts owing to MAYA for such Goods.
- 4.4 Until title to the Goods passes to the Customer, the Customer shall:
- a) hold those Goods as MAYA's bailee;
 - b) return those Goods to MAYA on request; and
 - c) hold any cash proceeds of the Goods on trust for MAYA in a separate account.
- 4.5 Even though title to any particular Goods remains in MAYA, the Customer may sell those Goods on the Customer's own account provided that:
- a) any such sale is conducted at arms length and is for full market value of those Goods; and
 - b) MAYA has not requested the return of those Goods;
 - c) the Customer holds any cash proceeds of those Goods on trust for MAYA in a separate account.
- 4.6 The Goods shall be at the Customer's risk from delivery (whether to the Customer or another person on the Customer's behalf) and the Customer shall insure the Goods for their full replacement value.
- 4.7 If the Customer fails to comply with any term of these Terms of Trade or any other agreement with MAYA, MAYA or its agent may exercise any and all remedies available under Part 9 of the PPSA. The Customer grants to MAYA an irrevocable licence to enter any building or premises owned, occupied, or used by the Customer to search for and retake possession of the Goods.
- 4.8 Further, the Customer indemnifies MAYA fully for the costs of recovering and/or retaking possession of the Goods.

- 4.9 The Customer further waives any right to receive from MAYA a copy of any financing statement, financing change statement or verification statement that is registered, issued, or received at any time in relation to these Terms of Trade.

5. CHANGE OF NAME OR ADDRESS

- 5.1 The Customer shall notify Maya as soon as possible of any change of name or address.

6. ORDERS, DELIVERY AND SUPPLY

- 6.1 In no circumstances will the relationship between MAYA and the Customer be construed as a “supply agreement”. The Customer acknowledges that MAYA is in no way obliged to supply the Goods to the Customer on an on-going basis.
- 6.2 Further to clause 7.1, no contract for the supply of the goods is formed between MAYA and the Customer until each order is accepted by MAYA and the Customer receives the Confirmation.
- 6.3 Every order by the Customer and acceptance (of that order by MAYA) is made in accordance with and subject to these Terms of Trade unless agreed in writing by both parties.
- 6.4 Delivery dates given by MAYA are only on a best efforts basis and in no circumstances shall MAYA be liable to the Customer or any other third party for late delivery to the Customer, whether:
- a) in contract; or
 - b) in tort; or
 - c) for the negligence of MAYA; or
 - d) for any loss of profits, consequential or economic loss or special damages resulting from late delivery.

7. GENERAL EXCLUSIONS AND LIMITATIONS OF LIABILITY

- 7.1 No warranty is given and MAYA (and any of its officers, employees and agents) will not be liable in any circumstances for:
- a) damage caused by unusual or non recommended use;
 - b) any and all losses, costs and damages or expenses caused by any circumstances beyond MAYA's control;
 - c) any special, consequential or economic loss or damage or loss of profits whether in contract or tort suffered by the Customer or any other third party resulting from any act, omission, or negligence of MAYA.
- 7.2 MAYA's total liability for defective or damaged Goods is limited at MAYA's discretion to either:
- a) replacing the defective or damaged Goods; or
 - b) refunding the price of the defective or damaged Goods.
- 7.3 MAYA excludes and contracts out of all statutory conditions, guarantees and warranties expressed or implied by the law to the fullest extent permitted by law.

8. DEFECTIVE GOODS / RETURNS

- 8.1 MAYA may in its sole discretion give the Customer a replacement, credit or refund for any faulty or defective Goods. Any claim by the Customer must be made no later than 10 working days after receiving delivery of the Goods and any claim must specifically identify the Goods and the defect or fault. Any returned Goods must be returned to MAYA in their delivered state.
- 8.2 The Customer agrees to pay any costs incurred in returning the Goods, including MAYA's administration and handling charges and that MAYA may deduct these expenses from any eventual credit (if any).

- 8.3 The Customer agrees not to withhold any payment due to MAYA in respect of any other Goods order while the Customer waits for the resolution of a claim for defective or faulty Goods.
- 8.4 Goods which the Customer receives from MAYA and which do not match the relevant purchase order may be returned to MAYA within 10 working days of receiving the Goods provided the Goods are returned in the same condition as they were delivered and that the Customer notifies MAYA of the discrepancy within 10 working days after delivery and BEFORE the Goods are returned.

9. PRIVACY

- 9.1 The Customer agrees to the collection and storage of the Customer's personal information by Maya as recorded on the Credit application for or otherwise. The Customer acknowledges that MAYA may:
- a) use this collected information for its own reasonable business purposes including but not limited to, verifying the Customer's identity, securing payment and for MAYA's internal research purposes;
 - b) provide this information to any relevant authority if the Customer does anything illegal or malicious.
- 9.2 MAYA will not allow third parties access to the Customer's personal information unless authorised by the Customer to do so, except where necessary to comply with the law, or to enforce these Terms of Trade, to facilitate legal proceedings or protect the property, rights or safety of MAYA (or any of its officers, employees, agents).
- 9.3 The Customer may contact MAYA to request any information held about that Customer and the Customer may request MAYA to correct any information the Customer considers to be inaccurate.