

PRYDA NEW ZEALAND

STANDARD TERMS AND CONDITIONS OF SALE

A. Terms and Conditions of Sale & Supply

The Terms and Conditions of Sale & Supply set out in this document (Terms and Conditions) represent the only terms and conditions authorised and accepted by Pryda, and shall apply to form part of any contract arising from any order placed by the Customer and accepted by Pryda when Pryda commences fulfilling that order.

B. Definitions

'Pryda' means Pryda New Zealand – a Division of ITW New Zealand (NZCN 276686).

'Customer' means any person to whom Pryda has agreed to supply Goods.

'Goods' means the goods, including Services, which Pryda has agreed to supply to the Customer.

'Services' means any services requested by the Customer, including technical advice and use of software.

'FIS' means free into store deliveries to Sites within a city or a metropolitan area in New Zealand or to a nominated carrier for other areas.

'Site' means owned/leased property of the Customer. For Customers with multiple Sites, Sites must be greater than 1 kilometre apart.

C. Offer and Acceptance

Any quotation made by Pryda is not an offer to sell or to provide Goods and no order given in pursuance of any quotation shall bind Pryda until accepted by Pryda by commencing to fulfil that order. All orders are subject to acceptance by Pryda within 30 days of receipt by it of the Customer's order and these Terms and Conditions shall be deemed to be incorporated in any agreement between Pryda and the Customer. Any terms and conditions contained in any order, offer acceptance or other document of the Customer and all representations, statements, terms, conditions and warranties (whether implied by statute or otherwise) not embodied herein are expressly excluded to the fullest extent permitted by law. The Customer's acceptance of Goods or Services ordered in a purchase order shall constitute its acceptance of these Terms and Conditions.

D. Price/Payments

Unless otherwise expressly agreed by Pryda in writing all Goods will be charged for at, and the Customer will pay, Pryda's then current list prices for such Goods at the date or dates of order. If a raw material, component, or service provider raises its prices, or imposes a surcharge on Pryda, or any tax is imposed or increased in connection with the supply of any Goods or Services by Pryda (including any carbon or emissions related tax), Pryda reserves the right to increase prices and the Customer agrees to accept such price increase.

The Customer shall make payment to Pryda within thirty (30) days after the end of the month in which the Goods are delivered, unless expressly agreed otherwise. In addition to and without limiting Pryda's other remedies for late payment, Pryda is entitled to charge and the Customer is liable to pay interest on any payment that is overdue calculated at a rate of 15% per annum from the date payment is due up to and including the date of payment in full of the due amount (including any interest incurred). Prices are subject to change without notice. Surcharge or order value can be changed without notice.

Pryda reserves the right to offset any amounts receivable from the Customer against any amounts payable to that Customer or any company affiliated with the Customer or any related company (as that term is defined in the Companies Act 1993) of the Customer. This right exists irrespective of the date the liability has been created or debt incurred with Pryda.

E. Delivery

- a. Any variation in quantities shipped over or under the quantities ordered (not to exceed 10%) shall constitute compliance with the Customer's order and the stated price per item will continue to apply.
- b. Pryda will make all reasonable efforts to deliver the Goods to the Customer on the agreed date(s), but shall be under no obligation or liability to the Customer for any delays in or failing to comply

with delivery dates if such delay or non-compliance is due to causes or events beyond Pryda's control or where caused or contributed to by any act or omission by or on behalf of the Customer.

- c. Delivery shall be effected upon:
 - i. physical delivery of the Goods to the Site of the Customer; or
 - ii. pick up by Customer; or
 - iii. physical delivery to the Customer's nominated carrier.

Notation by Pryda's carrier on the delivery docket shall be conclusive evidence of delivery to a Site or to the Customer's nominated carrier. The Customer shall be responsible for any loss or damage occurring during unloading of the Goods at the Customer's Site or to the Customer's nominated carrier.

- d. If the Customer refuses to accept delivery of the Goods then the risk in the Goods shall, unless otherwise determined by Pryda, pass to the Customer from the time of such refusal. In such an event, Pryda shall be entitled to payment for the Goods as if they were delivered and in addition to any of its rights and remedies (including its right to sell the Goods), Pryda may arrange to store the Goods at the Customer's expense.
- e. To the extent permitted by law, Pryda's liability for defective Goods is limited to the price paid to Pryda by the Customer for the relevant Goods or (at Pryda's option) the supply of replacement Goods.
- f. Deliveries are subject to availability of stock and Pryda will not be liable for any loss due to product unavailability.
- g. Pryda will provide the Customer two (2) FIS deliveries per Site per month. Additional deliveries within the month will be charged at \$50 per delivery.

F. Property and Risk

- a. Legal and equitable title in all Goods supplied by Pryda to the Customer shall remain vested in Pryda until Pryda has received payment for all monies outstanding due to Pryda for Goods supplied although the Customer shall have the right to sell such Goods in the ordinary course of trade provided that the Customer shall account to Pryda for all payments including payments by third parties in accordance with the Customer's fiduciary relationship.
- b. Goods supplied by Pryda to the Customer in which title remains vested in Pryda shall be held by the Customer as fiduciary bailee of Pryda and shall be stored so that the same are identifiable as Pryda's property and are not commingled with the other property of the Customer or a third party.
- c. Unless otherwise agreed in writing signed by Pryda, all material, equipment, facilities, and special tooling (which term includes but is not limited to tools, jigs, dies, fixtures, moulds, patterns, special taps, special gauges, special test equipment, and manufacturing aids and replacements thereof) used in the manufacture of Goods shall remain the property of Pryda. Any material, tooling, or equipment furnished to Pryda by the Customer shall be and remain the personal property of the Customer with the title to and right of possession remaining in the Customer. The Customer will separately store such property from any other property of Pryda or third parties and in a way that such property is clearly identifiable as property of Pryda. Pryda has the right to access any premises of the Customer from time to time to inspect or remove such property. The Customer shall take all risk in, and be responsible for any loss of or damage to, such property.
- d. Pryda shall have the right to repossess at any time Goods in which title remains vested in Pryda, and to enter the premises of the Customer for such purpose without liability and without prejudice to the pursuit of any other legal remedy available to Pryda.
- e. The risk and liability for loss, damage or destruction, as well as the results of any use or misuse (including by third parties who may acquire or use the Goods) shall pass to the Customer on delivery to or collection by the Customer of the Goods, as referred to in Clause F(d).

G. Security Interest

- a. In consideration for Pryda supplying Goods to the Customer under these Terms and Conditions, the Customer:

- (i) grants to Pryda a purchase money security interest as defined in the Personal Property Securities Act 1999 ("PPSA") in the Goods supplied to secure all monies outstanding to Pryda for Goods supplied;
 - (ii) agrees that the security interest granted herein will continue to apply to any Goods coming into existence or proceeds of sale of Goods or Goods coming into existence;
 - (iii) agrees, until title in Goods pass to it, to:
 - i. ensure all Goods are kept free of any charge, lien or security interest (as defined in the PPSA) except as created under these Terms and Conditions;
 - ii. not otherwise deal with Goods in a way that will or may prejudice any rights of Pryda under these Terms and Conditions or the PPSA;
 - iii. hold the Goods (to the extent practicable) clearly identifiable as Pryda's at all times; and
 - iv. do everything reasonably required by Pryda to ensure Pryda has a first ranking security interest in the Goods including obtaining any third party waivers.
- b. Pryda reserves the right to register a financing statement on the Personal Property Securities Register in respect of the Goods. Costs of registering a financing statement (or a financing change statement) will be paid by the Customer. The Customer waives its right to receive a copy of any financing statement, financing change statement or verification statement that is or may be registered, issued or received at any time by, or on behalf of, Pryda.
- c. The Customer irrevocably grants Pryda the right to enter any premises or property (without notice) and without being in any way liable to Pryda or any other person if the Customer has cause to exercise any of its rights under the PPSA (and the Customer will indemnify Pryda against any such liability).
- d. It is agreed that as between Pryda and the Customer (to the extent permitted by law) that:
- i. sections 114(1)(a), 133 and 134 of the PPSA will not apply;
 - ii. the Customer will have none of the rights set out in sections 116, 120(2), 121, 125, 129 and 131 of the PPSA; and
 - iii. where Pryda has rights in addition to, or existing separately from, those in Part 9 of the PPSA, those rights continue to apply.

H. Description and Specification

- a. To the extent permitted by law, whilst every effort is made to ensure their accuracy, the descriptions, illustrations and materials contained in any catalogues, price lists, brochures, leaflets or other descriptive matter provided by or on behalf of Pryda represents the general nature of the item described therein and shall not form any part of any order or agreement or amount to any representation or warranty.
- b. To the extent permitted by law, Pryda does not warrant or guarantee and it shall not be a term of any agreement between Pryda and the Customer that any Goods manufactured, constructed or supplied by Pryda which are based in whole or in part upon any designs or drawings or specifications supplied to Pryda by or on behalf of the Customer will achieve any standard or performance or any capacity whatsoever.

I. Product use

The Customer is solely responsible for determining whether any product is fit for a particular purpose and suitable for the Customer's method of application, accordingly, and due to the nature and manner of use of Goods. Pryda is not responsible for the results or consequence of use, misuse or application of its Goods by anyone.

J. Intellectual Property

- a. All drawings, know-how, designs, specifications, inventions, devices, developments, processes, copyrights and other information or industrial or intellectual property disclosed or otherwise provided to the Customer by Pryda or otherwise subsisting in Goods or Services and all rights therein, whether registered or unregistered (collectively, "Intellectual Property") will remain the property of Pryda and will be kept confidential by the Customer. The Customer shall have no claim to, nor ownership interest in, any Intellectual Property and such Intellectual Property, in whatever form and any copies thereof, shall be promptly returned to Pryda upon written request from Pryda. The Customer acknowledges that no license or rights of any sort are granted to the Customer hereunder in respect of any Intellectual Property,

other than the limited right to use Pryda's proprietary Goods purchased from Pryda.

- b. The Customer warrants that any of the Goods manufactured, constructed or supplied by Pryda which are based in whole or in part upon designs, drawings or specifications supplied to Pryda by or on behalf of the Customer shall not infringe any letters, patents or registered designs or any other intellectual property rights of any third party. The Customer shall indemnify and keep indemnified Pryda, its servants and agents against any action, loss, cost, claim, damage or liability of any nature that may be brought against or suffered by Pryda, its servants or agents for any breach of this warranty.

K. Confidential Information

All information furnished or made available by Pryda to the Customer in connection with the subject matter of these Terms and Conditions or Goods or the business or affairs of Pryda shall be held in confidence by the Customer. The Customer agrees not to use such information or disclose such information to others without Pryda's prior written consent. The obligations in this paragraph will not apply to any information which: (a) at the time of disclosure was or thereafter becomes, generally available to the public by publication or otherwise through no breach by the Customer of any obligation of confidentiality; (b) the Customer can show by written records was in the Customer's possession prior to disclosure by Pryda; (c) is legally made available to the Customer by or through a third party having no direct or indirect confidentiality obligation to Pryda with respect to such information; or (d) the Customer is required by law to disclose (but only to the extent of such requirement).

L. Cancellation

An order, once accepted by Pryda, may only be cancelled, varied or suspended with the consent of Pryda.

M. Warranty

- a. Pryda warrants to the Customer that Goods (other than Services) will be free of defects in material and workmanship at the time of delivery of those Goods to the Customer.
- b. Where any applicable legislation implies any term, condition or warranty into the relationship between Pryda and the Customer or into a contract of sale between Pryda and the Customer in relation to the sale or supply of Goods, or otherwise gives the Customer a particular remedy against Pryda, and the legislation or any legislation avoids or prohibits provisions excluding or modifying the application of, or exercise of, or liability under such term, condition, warranty or remedy, then that term, condition, warranty or remedy shall be deemed to be included in these Terms and Conditions, or, as the case may be, apply to the relationship. However, Pryda's liability for any breach of such term, condition or warranty or under such remedy shall be limited, at Pryda's option, in any one or more of the ways permitted by the legislation including, where so permitted:
 - i. If the breach relates to any Goods (other than Services) to:
 - a. the replacement of those Goods or the supply of equivalent Goods;
 - b. the repair of those Goods;
 - c. the payment of the cost of replacing those Goods or acquiring equivalent Goods; or
 - d. the payment of the cost of having those Goods repaired; and
 - ii. If the breach relates to any Services to:
 - a. the supplying of those Services again; or
 - b. the payment of the cost of having those Services supplied again.
- c. Except as expressly provided in Paragraph M(a) above, all terms, conditions, warranties, undertakings, inducements and representations, whether express or implied, statutory or otherwise, relating in any way to any Goods supplied by Pryda are excluded, including the provisions of the Consumer Guarantees Act 1993, sections 9, 12A, 13, and 14(1) of the Fair Trading Act 1986, Part 3 of the Contract and Commercial Law Act 2017 and the Vienna Convention. Without limiting any other provision of these Terms and Conditions, Pryda will not be under any other liability in respect of any loss or damage (including consequential loss or damage) however caused (whether by negligence of Pryda or any person or otherwise) which may be suffered or incurred or which may arise directly or indirectly in respect of any Goods supplied or not supplied by Pryda.

N. Claims and Returns

- a. Examination of the Goods shall be made by or on behalf of the Customer, and unless within seven days of delivery of the Goods, the Customer gives written notice that the Goods are not in accordance with the Customer's order(s), the Goods shall be deemed to be in all respects in accordance with the order(s) and the contract, and the Customer shall be bound to accept and pay for the same accordingly.

If the Goods are made to suit specifications provided by the Customer, an error in the specifications will not entitle the Customer to reject the Goods and the Customer shall be liable for the full price of the Goods and any costs involved in altering the Goods.

- b. Claims by the Customer for credit, other than claims in respect of return of Goods, will not be valid unless made in writing prior to the end of the payment period referred to in Clause D. Claims by the Customer for credit in respect of Goods which are defective or have not been supplied in accordance with these Terms and Conditions must first have prior written approval of Pryda's authorised representative who must be afforded a reasonable opportunity to inspect the Goods and will not be valid unless made within seven days of delivery of the Goods, and the Goods the subject of such claim(s), subsequently being returned to Pryda with a signed Return of Goods Authority on carrier(s) and to warehouse(s) nominated by Pryda.
- c. Pryda is under no obligation to accept claims for Goods returned which have been used, damaged or altered in any way. All Goods must be returned in their original packaging.
- d. Goods returned will be subject to a 20% rehandling charge. Goods are to be returned at the Customer's expense or costs of collection will be deducted from the amount to be credited.
- e. Except as expressly provided herein, Pryda will neither accept return of Goods, nor be responsible for its destruction.

O. Excusable Delays

Pryda shall not be liable for any failure to supply Goods or otherwise comply with these Terms and Conditions when such failure is caused by or arises out of any fact, matter or circumstance out of the reasonable control of Pryda, including any of the following:

- fire, storm, tempest, earthquake, inevitable accident or other act of God;
- any act of public enemy;
- any act of the government of New Zealand thereof or any local government or council or any instrumentality or authority;
- any act of any person engaged in subversive activity or sabotage;
- pandemic, epidemics or quarantine restrictions (including the pandemic known as Covid-19);
- strikes, slow-downs, lockouts or labour stoppages or disputes of any kind or freight embargoes; or
- any shortfall, delay or failure to supply by any of Pryda's suppliers.

P. Termination

- a. Without prejudice to any of its other rights, Pryda may at its option (and without liability or notice) require satisfactory security or payment in cash before delivery notwithstanding the terms of payment specified herein or agreed or may terminate an order or suspend further deliveries:
- if the Customer shall commit any breach of this or any other contract with Pryda including failure to make any payments on the due dates;
 - if being an individual, the Customer shall die or have a receiver appointed over his assets or becomes unable to pay his debts as and when they fall due or shall cease or threaten to cease to conduct business;
 - the Customer has made an application to a court for, or a resolution proposed for or any other step is taken in anticipation of, the appointment of an administrator or has an administrator appointed;
 - the Customer has gone into liquidation or a receiver or statutory manager is appointed in respect of itself or any material part of its assets;
 - the Customer threatens to cease or ceases to carry on its business or becomes insolvent (within the meaning of the Companies Act 1993 or any other applicable law) or otherwise becomes unable to pay its debts as and when they fall due or is presumed under section 287 of the Companies Act 1993 to be unable to pay its debts;

- if any distress execution or other legal process shall be levied upon the Customer; or
 - if in Pryda's sole judgment, the financial position of the Customer is or becomes unsatisfactory or the Customer becomes unable to pay its debts as and when they fall due.
- b. Upon termination or suspension of deliveries Pryda may recover and resell the Goods and the Customer hereby grants to Pryda a licence for access to the Customer's premises for the purposes of such recovery and to examine the Goods.

Q. Taxes

The Customer must in addition to the price, pay the amount of all fees, duties, licences, tariffs, GST (as defined in the Goods and Services Tax Act 1985) and all sales, use, privilege, occupation, excise, value added, consumption or similar taxes, local or foreign, which Pryda is required to pay or collect in connection with the Goods or Services sold to the Customer to the intent that the prices for the Goods are paid to Pryda as net amounts clear of such tax. Failure by Pryda to collect any such fees or taxes shall not affect the Customer's obligations hereunder and the Customer shall fully defend, indemnify and hold harmless Pryda with respect to such tax obligations.

R. Limitation of Actions

To the extent permitted by law, any cause of action for any alleged breach of these terms and conditions by Pryda shall be barred unless commenced by the Customer within one (1) year from the accrual of such cause of action.

S. Variation

Any variation to any order(s) placed by the Customer for Goods will only be effective if agreed in writing by an authorised representative of Pryda. Pryda reserves the right to vary these Terms and Conditions at any time, and these Terms and Conditions (as varied) will then apply to all order(s).

T. Waiver

Failure by Pryda to insist upon strict performance of any term or condition hereof shall not be deemed a waiver thereof or of any rights which Pryda may have and shall not, and nor shall any express waiver, be deemed to be a waiver of any subsequent breach of any term or condition.

U. Severability

If any provision herein shall be held to be unlawful or unenforceable, the unlawful or unenforceable provision may be severed from these Terms and Conditions and the remaining provisions shall herein remain in full force and effect.

V. Governing Law

All contracts shall be governed by and construed in accordance with the laws in force in New Zealand.

W. Declaration

- I/We the undersigned declare that the information provided by me/us in support of my/our application is true and correct in every particular.
- I/We agree to be bound solely by the Terms and Conditions as detailed above and I/we further agree that any terms or conditions of purchase that may be incorporated in any order, acceptance of quotation or any other document delivered by me/us shall, have no legal effect.
- I/We agree that any legal costs incurred by you on a solicitor and own client basis in the recovery of any monies due by me/us shall be recoverable in full from me/us.
- I certify that I am authorised to sign this application on behalf of the Customer.
- I/We warrant and represent that the entry into of a contract between me/us and Pryda on the terms of these Terms and Conditions does not and will not result in me/us being or becoming in breach of any other contract, agreement or understanding with any other person.
- I acknowledge that these Terms and Conditions are also available via the website www.pryda.co.nz and can change without notice.

Print Name:

Company:

Title:

Date:

Signature: