

1. Interpretation

- 1.1 In these terms and conditions:
- a) "Company" means Alfex CNC Australia Pty Ltd (ACN 120 731 268);
 - b) "Express Warranty" means an express written warranty that is provided by the Company or the manufacturer of the Goods to the Purchaser outside of these Terms, if any.
 - c) "Purchaser" means the Purchaser of the Goods specified in the quotation;
 - d) "Goods" means the products and, if any, services acquired by the Purchaser;
 - e) "PPS Register" means the Personal Property Securities Register established under s 147 of the PPSA;
 - f) "PPSA" means the Personal Property Securities Act 2009 (Cth);
 - g) "Terms" means these general terms and conditions;
 - h) Nothing in these conditions shall be read or applied so as to exclude, restrict or modify or have the effect of excluding, restricting or modifying any condition, warranty, guarantee, right or remedy implied by law (including the Fair Trading Act 1999 or the Competition and Consumer Act 2010) and which by law cannot be excluded, restricted or modified.

2. Application of these terms

- 2.1 The Goods and all other products sold by the Company are sold subject to these Terms and the Purchaser adopts and accepts these Terms by accepting and retaining the Goods.
- 2.2 These Terms (which may only be waived or varied in writing) prevail over any conditions of the Purchaser's purchase order to the extent of any inconsistency.

3. Quotations and payment

- 3.1 A quotation issued by the Company to the Purchaser is not an offer but is instead an invitation to treat.
- 3.2 The Company reserves the right to accept or reject in its absolute discretion any orders which may be received by it.
- 3.3 Subject to any other provision contained herein (including the immediately preceding and the immediately following clauses), the price in a quotation is valid for 14 days from the date of the quotation. A further quotation must be sought if this period expires.
- 3.4 All prices listed in any quotation issued by the Company are subject to and will be increased on account of:
- a) exchange rate variation;
 - b) customs clearance and handling fees;
 - c) customs or excise duty, and any value added tax applicable to the supply.
- 3.5 Unless agreement in writing is reached to the contrary:
- a) The Company requires a 10% deposit as confirmation of any order, with the full balance to be paid prior to the delivery of the Goods.
 - b) The Company may, in its absolute discretion, require a higher deposit as confirmation of an order. An order will not be processed until the required deposit is received.
- 3.6 It is the Purchaser's responsibility to ensure that any financing arrangements for the acquisition of the Goods are in place so as to allow time for the price to be paid in full in cleared funds prior to delivery.
- 3.7 The Purchaser shall be responsible for, and indemnifies the Company against, any loss or damage suffered by the Company due to delayed or non-delivery of the Goods if such delay or non-delivery is the result of the Purchaser being unable or unwilling to pay the agreed price for the Goods on the anticipated delivery date.

4. Delivery, installation and risk

- 4.1 Delivery, installation and training are not included with the Goods unless specifically provided for in the quotation.
- 4.2 Removal of packaging is not included with the Goods. Any costs incurred for the removal of packing will be to the Purchaser's account.
- 4.3 This clause 4.3 applies only if delivery, installation or training (as applicable) are expressly included with the Goods in the quotation:
- a) The Company will not unload and move into position the Goods at the Purchaser's premises. However, a Company technician may supervise the offloading and placement of the Goods if required.
 - b) A Company technician may provide the required setup and training for the Goods and connect it to a suitable and dedicated computer (not included unless specifically listed in the quotation). Any specific requirements for installing the Goods including but not limited to building works, crane or lifting equipment is not included. Connection of the Goods to the Purchaser's chosen extraction system is only included if purchased through the Company. Any additional plumbing requirements are not included in the quoted price and must be arranged by the Purchaser prior to delivery and installation of the Goods.
 - c) The Purchaser is required to provide one car space should they require any onsite service or support. Any parking charges incurred by the Company or its representatives will be charged to the Purchaser's account at cost.
 - d) If the Purchaser is located outside of metropolitan areas additional travel and / or accommodation charges may apply for a Company technician to travel to the Purchaser's premises.
- 4.4 The delivery timeframes made known to the Purchaser are estimates only and the Company will not be liable for late delivery or non-delivery.
- 4.5 The Company will not be liable for any loss, damage or delay occasioned to the Purchaser or its customers arising from late or non-delivery or late installation of the Goods.
- 4.6 Risk in the Goods passes to the Purchaser at the point of off-loading to the Purchaser, as agreed in these Terms or any applicable written agreement.
- 4.7 The Goods will be fully insured by the Company up to the point of off-loading to the Purchaser, where upon the Goods and insurance of same becomes the responsibility of the Purchaser.

5. Specifications and suitability

- 5.1 The Purchaser alone is responsible for examining the Goods before accepting them and for satisfying themselves about them, including:
- a) their compliance with their description; and
 - b) their condition, suitability and fitness for the specific purposes and requirements of the Purchaser.
- 5.2 The Purchaser acknowledges that the ability of the Goods to operate satisfactorily in accordance with their specifications is dependent upon the proper layout and maintenance of the Goods and all parts thereof, proper material control and other environmental factors:
- a) for which the Purchaser is responsible; and
 - b) which are beyond the control of the Company.
- 5.3 The Company will not be held liable if the Goods do not meet the specific requirements of the Purchaser – the Purchaser must undertake its own prior due diligence in this regard.
- 5.4 Unless otherwise agreed in writing, the Goods will be supplied to the manufacturer's standard finish and dimensions. The Company does not accept any responsibility or liability whatsoever should the colour,

Alfex CNC Australia Pty Ltd – Terms and Conditions of Trade

designs or dimensions of the Goods vary from the colour, designs or dimensions contained in any product catalogue, brochure or other promotional or information document in respect of the Goods, which are a guide only.

- 5.5 Product information supplements or similar are provided for marketing and purposes only and do not form part of the contract between the Company and the Purchaser.

6. Shortage damage and misdescription

- 6.1 The Purchaser waives any claim for shortage, damage or misdescription of any Goods delivered if a claim for short delivery, damage or misdescription has not been lodged with the Company within seven (7) days of delivery of the Goods.

7. Limitations on liability

- 7.1 The Purchaser acknowledges that:
- a) the Company has not made any representation, warranty or undertaking about the condition or the quality of the Goods, their suitability or fitness for purpose or their safety unless:
 - a. expressly provided in writing (i.e. an Express Warranty for the purposes of these Terms); or
 - b. implied by legislation including the Competition and Consumer Act 2010 (Cth) (to the extent it applies and cannot be excluded);
 - b) whether or not the relevant provisions of the Competition and Consumer Act 2010 (Cth) or any law to a similar effect applies, the Company's liability for anything in relation to the Goods, their use, or their installation, including damage or economic loss to anyone, is limited as much as it can be. Whatever happens, the Company's liability is limited in its discretion to either:
 - a. replacing the Goods with the same or equivalent Goods, or paying the cost of such replacement; or
 - b. repairing the Goods or paying for their repair.

However, if the manufacturer of the Goods has given the Company warranties for the Goods then, to the full extent permitted by law, the Purchaser may make any claim on the manufacturer the Company could have made.

- 7.2 To the full extent permitted by law, all warranties, guarantees or similar implied by statute (including the Competition and Consumer Act 2010 (Cth), the Goods Act 1958 (Vic) and any similar legislation) or common law are excluded.
- 7.3 Components subject to wear during normal use and over time, such as paint, window finish and condition, light bulbs, seals etc., are excluded from any Express Warranty (if any).
- 7.4 Unless expressly stated to the contrary, manufacturer Warranties do not include freight costs – they are parts only warranties.
- 7.5 Any Express Warranty will be void if:
- a) manufacturer specified maintenance procedures are not adhered to and recorded; or
 - b) the Goods have been subjected to neglect, accident, improper installation, maintenance or operation (other than by a Company technician); or
 - c) the damage to or failure of the Goods has been caused by environmental factors (including but not limited to inadequate cooling, power supply issues, ambient air temperatures outside of the recommended range for the Goods and inadequate ancillary hardware such as extractors etc).

8. Retention of Title

- 8.1 Ownership of the Goods does not pass from the Company to the Purchaser until all amounts owing by the Purchaser to the Company in any way relating to the Goods or the supply or delivery thereof are fully paid.
- 8.2 If the Purchaser fails to make any payment relating to the Goods or the supply or delivery thereof, the Purchaser will permit the Company (or its representatives) to:
- a) enter the Purchaser's premises to retake possession of the Goods without liability for trespass or any resulting damage; and
 - b) keep or resell the repossessed Goods to recover any and all losses associated with the Purchaser's breach.
- 8.3 The Purchaser agrees to do anything the Company reasonably considers necessary for the purposes of ensuring that a security interest created and / or registered under these Terms is enforceable, perfected and otherwise effective.
- 8.4 The Company may, at the Purchaser's expense, apply for any registration, or give any notification, in connection with a security interest created under these Terms.

9. Cancellation

- 9.1 No order may be cancelled by the Purchaser except with consent in writing and on terms which will indemnify the Company against all losses.

10. Default

- 10.1 If the Goods are not paid for in accordance with these Terms or any other applicable written agreement, then the Company may at any time thereafter, without prior notice to the Purchaser and without prejudice to any other rights which it may have against the Purchaser, terminate any agreement relating to the Goods
- 10.2 If the Purchaser breaches these Terms or any other applicable written agreement, it must pay to the Company on demand:
- a) compensation for any reasonably foreseeable cost, loss or damages incurred or suffered by the other party resulting from the default; and
 - b) interest on any money overdue during the period of default at a rate 2% higher than the rate for the time being fixed under section 2 of the *Penalty Interest Rates Act 1983* (Vic) as at the date of the default; without affecting the rights of the Company.

11. Miscellaneous

- 11.1 If any provision of these Terms is invalid due to the operation of any statute or rule of law, then such provision is severed from these terms.
- 11.2 If the Purchaser enters into these Terms as trustee of a trust, the Purchaser acknowledges that both it (in its capacity as trustee) and the trust are liable under these Terms.
- 11.3 The Company may transfer its interest in these Terms, without the Purchaser's consent.
- 11.4 This Agreement is governed by the laws of Victoria and the parties submit to the non-exclusive jurisdiction of the Courts of Victoria.
- 11.5 These Terms, or a right created under them, may not be waived or varied except in writing, signed by the parties to be bound.
- 11.6 In the event of an inconsistency between these Terms and a validly accepted quote from the Company, the terms of the Company's quote shall prevail to the extent of the inconsistency.
- 11.7 In the interpretation of this Agreement:
- a) parties must perform their obligations on the dates and times fixed by reference to the state of Victoria;
 - b) References to a party are intended to bind their executors, administrators and permitted transferees;
 - c) Obligations affecting more than one party bind them jointly and each of them severally.

