

WHAT THIS DOCUMENT DOES

This document sets out the terms and conditions (“**Terms**”) we agree with you the customer (“**you**”) in respect of all present and future sales of goods (“**Goods**”) and all delivery and carriage services (“**Carriage**”) provided by Royalwolf Trading New Zealand Limited, Company No. 1062072 (“**we**” or “**us**”). If you wish to purchase Goods or obtain Carriage from us we may ask you to sign or otherwise approve or assent to a quote or other document we present to you (“**Quote**”). The Quote is not a separate contract but is part of and must be read together with these Terms. You enter into this agreement by signing or otherwise approving or assenting to a Quote. A Quote may include special conditions which apply in addition to these Terms. We may decline to Quote Goods to you in our discretion.

1. PAYMENT

You agree to pay the specified price and related charges (“**Purchase Price**”) of the Goods before delivery or by the due date, as we determine. We reserve the right to add a credit card surcharge reflecting our actual costs of offering payment by credit card. We accept Visa and Mastercard payments.

2. LATE PAYMENTS

If any amount is not paid on the due date, you must pay interest on the amount not paid (“**Overdue Amount**”). Interest on any Overdue Amount will be calculated monthly, at the rate of eight (8%) percent per annum, from and including the due date to and including the date we receive the full Overdue Amount.

3. RISK AND USE

3.1 Unless you notify us in writing to the contrary within 2 business days of taking possession of the Goods, you acknowledge delivery and acceptance of the Goods in good condition. Risk in the Goods passes to you on delivery to you, your agent or carrier.

3.2 You must use and operate the Goods safely, in compliance with all applicable laws, regulations, standards, Codes of Practice, Building Codes, local, provincial and national requirements, and only for their intended use.

4. RETENTION OF TITLE

4.1 You agree that title to the Goods will only be transferred to you when we receive payment in full of all money owing to us in relation to the Goods. Until we receive payment of such money you will hold the Goods as bailee only. Prior to receipt by us of the amount owing you must:

- (a) not intermingle the Goods with any other property;
- (b) not change the Goods in any way;
- (c) not change or obscure in any way any identification marking that we have placed on the Goods by lettering and numbering;
- (d) not sell the Goods except to a bona fide purchaser for full value;
- (e) keep all proceeds from the sale of the Goods on our behalf in a separate trust account;
- (f) promptly pay the proceeds of any sale of the Goods to us.

4.2 The payment of the proceeds from the sale of the Goods by you does not relieve you of your obligation to pay to us the balance of the Purchase Price plus any interest or other amounts payable.

4.3 We own all intellectual property rights attributable to the Goods or anything we do in connection with these Terms including in any inventions, drawings, designs or other work. Drawings provided are our property and are conditionally loaned to you and you agree not to reproduce them in whole or in part, nor make any use of them that has not been approved in writing by us.

5. PERSONAL PROPERTY SECURITIES ACT

5.1 You grant to us a security interest in all present and after acquired Goods and their proceeds.

5.2 On our request you must promptly execute any documents and do anything else required by us to ensure that the security interest over the Goods and their proceeds including providing any information we reasonably require to complete a financing statement or a financing change statement. You waive any right to receive a copy of a verification statement under the Personal Property Securities Act 1999 (“**the Act**”). You and we agree that nothing in sections 114(1)(a), 133 and 134 of the Act will apply to these Terms.

5.3 You and we also agree that your following rights as debtor will not apply:

- (a) to receive a statement of account under section 116;
- (b) to recover surplus under section 119;
- (c) to receive notice of a secured party’s proposal to retain collateral under section 120(2);
- (d) to object to a secured party’s proposal to retain collateral under section 121;
- (e) not to have goods damaged when a secured party removes an accession under section 125;
- (f) not to be reimbursed for damage caused when a secured party removes an accession under section 126;
- (g) to refuse permission to remove an accession under section 127;
- (h) to receive notice of the removal of an accession under section 129;
- (i) to apply to the Court for an order concerning the removal of an accession under section 131;
- (j) to redeem collateral under section 132.

6. WHAT ARE OUR RIGHTS IF YOU COMMIT A BREACH?

If you (i) fail to pay any amount payable by you to us under these Terms on the due date and you do not remedy your failure within two (2) business days of the date that we notify you in writing of your failure, or (ii) you fail to perform any other obligation under these Terms and you do not remedy your failure within five (5) business days of the date that we notify you in writing of your failure or, (iii) you cease doing business, have a liquidator, administrator, receiver and manager, controller or other like officer appointed over any or all of your assets, become insolvent, commit an act of bankruptcy or become the subject of a proceeding under any bankruptcy act, or its counterpart under the law of any territory outside of the jurisdiction of New Zealand, then without limiting our rights or remedies in any way we may (but are not obliged to) immediately and without releasing you from any accrued obligations do one or more of the following:

- (a) terminate this agreement including any sale of the Goods to you;
- (b) declare the balance of the Purchase Price due and payable by you;
- (c) retake possession of the Goods; and
- (d) remedy any default that you commit under these Terms (at your cost).

7. YOUR RIGHTS TO POSSESSION OF THE GOODS CEASE

If we terminate this agreement for the sale of the Goods to you, you will no longer be entitled to possession of the Goods and you must immediately return the Goods to us (at your cost). After we terminate this agreement, nothing in these Terms gives you any express or implied right or entitlement to, and you must not attempt

or purport to, sell, hire, lease, encumber, grant any right or interest (of any nature) in or over the Goods.

8. RIGHT TO RECOVER GOODS

If we are entitled to retake possession of the Goods, you hereby irrevocably authorise us to enter upon any premises where the Goods are located, and to use such reasonable force as may be necessary, for the purpose of removal of any Goods and to do so at your cost.

9. WHAT HAPPENS TO PROPERTY ATTACHED TO THE GOODS?

If we retake possession of all or any part of the Goods, you authorize us to take possession of any property in, on or attached to the Goods which is not our property.

10. YOUR RIGHT TO TERMINATE

You may terminate this agreement by written notice if: (i) we are in breach of this agreement and the breach is not remedied within five (5) business days of written notice being received by us requiring the breach to be remedied; or (ii) we cease doing business or a liquidator, administrator, receiver and manager, controller or other like officer is appointed over any or all of our assets.

11. WARRANTIES

11.1. State of the Goods

You acknowledge and agree that you have inspected or had an opportunity to inspect the Goods prior to their delivery to you; and you accept them in their current state.

11.2. Specific warranties excluded

Without limiting clause 11.1, we make no express or implied warranty in relation to:

- (a) the fitness of the Goods for any particular purpose;
- (b) the merchantability of the Goods; or
- (c) the description, state, quality or condition of the Goods.

11.3. Exclusion of warranties

To the full extent permitted by law, we exclude and are not liable for any condition or warranty (of any kind) which is not expressly set out in these Terms.

11.4. Limitation of Liability

You agree that if you suffer any loss (including economic loss), damage, cost, expense or claim howsoever arising as a result of the use or purchase of the Goods including without limitation any defect in the Goods, our liability to you is limited to the repair or replacement of the Goods.

11.5. Consequential Loss

We are not liable for any indirect, economic, special or consequential loss or damage of any nature, including, without limitation, any loss of business or revenue, loss of profits, loss of opportunity, loss of goodwill, anticipated savings or expenses, in connection with or arising out of these Terms or a Quote or the supply of the Goods or Carriage services.

11.6. Miscellaneous

You specifically acknowledge that where the Goods are held to be of a kind not ordinarily acquired for personal, domestic, or household use or consumption then the provisions of the Consumer Guarantees Act 1993 and clause 12.6 below are excluded, and this clause 11 applies.

You and we agree that if you are in business then we are both in trade and that sections 9, 12A, 13 and 14(1) of the Fair Trading Act 1986 are excluded and will not apply.

These Terms are governed by the laws of New Zealand.

The parties consent to the non exclusive jurisdiction of the courts of New Zealand. These Terms override and exclude any terms and conditions provided by you.

These Terms may only be modified or varied if agreed by the parties in writing.

11.7. Expenses

Should it be necessary for us to incur legal and/or other expenses (including commercial agent and private enquiry fees) in enforcement of our rights under these Terms or in obtaining or attempting to obtain payment of any amount due by you, you undertake to reimburse us on an indemnity basis the whole amount of such expenses and fees. You are responsible for payment of any futile Carriage costs and charges incurred which are beyond the control of RW.

11.8. Carriage Services

- (a) Where we or our subcontractors provide Carriage services for you, it is agreed to the fullest extent legally permitted that pursuant to the *Contract and Commercial Law Act 2017* (CCLA), this agreement will be a contract for carriage at limited carrier's risk, we and our subcontractors are not liable for any amount in excess of the sum set out in section 259(2) of the CCLA and are not liable for any liability referred to in section 259(3)(b) or (c) of the CCLA.
- (b) As we and our subcontractors are not liable for any amount in excess of the sum set out in section 259(2) of the CCLA you will bear the loss for any amount in excess of this sum and are therefore recommended to arrange insurance for your goods.
- (c) You must not tender for Carriage any dangerous, explosive, flammable, hazardous or damaging goods without presenting a full description of those goods.
- (d) We and our subcontractors are not liable for failure to deliver, delay in delivery of, or misdelivery of the Goods or their contents. In this event we or our subcontractors will deliver as soon as reasonably possible.

12. GENERAL

12.1 Notices

All notices under these Terms must be in writing and be given to the address shown in the Quote, or to such other address as may be designated in writing by either party to the other.

12.2 Binding

These Terms are binding upon you and us, your and our successors and assigns. If you take possession of or retain any Goods, these acts will be treated as performance and acceptance of the Terms and these Terms are valid and binding on you whether or not you have signed them.

12.3 Waiver of rights

A failure to exercise or delay in exercising any right, power or remedy by us does not operate as a waiver.

12.4 Cumulative rights

Our rights under these Terms are in addition to, and do not exclude, any rights at common law, equity or any other agreement between you and us.

12.5 Further Assurances

You agree to:

- (a) execute and deliver any instruments; and
 - (b) do such other things,
- as we may at any time request in connection with the enforcement of our rights under these Terms.

12.6 Foreseeable loss

We are only responsible for losses suffered by you if the losses are a foreseeable consequence of our breach of these Terms. We are not liable for any business losses suffered by you such as lost profits or business interruption.

12.7 Privacy

If you enter into these Terms in a private capacity, you authorise the disclosure of personal information regarding your creditworthiness by any other party to us and that this personal information may be used by us in deciding whether to sell Goods and/or advance credit to you. You have the rights of access to and correction of personal information held by us subject to the provisions of the Privacy Act 1993.

13. CONSUMER GOODS

Where the Goods are of a kind ordinarily acquired for personal, domestic, or household use or consumption then this clause will apply:

- (a) Clause 11.8(d) will not apply and the following clause will apply instead: We and our subcontractors will endeavour to deliver the Goods within any agreed timeframes, and will not be liable for failure to deliver, a delay in delivery of, or misdelivery of the Goods or their contents, due to weather or other circumstances beyond our or our subcontractors' control. In this event we or our subcontractors will deliver as soon as reasonably possible.