

SMEC Holdings Ltd
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CUSTOMER TERMS AND CONDITIONS FOR USE OF SMEC'S INTERNET ORDERING SYSTEM AND PURCHASE OF SMEC MERCHANDISE

The Customer must carefully read all of these terms and conditions and will be bound by them.

1. Definitions

1.1

- (a) **"SMEC"** means SMEC Holdings Ltd (ABN 84 057 274 049).
- (b) **"Customer"** means the party to whom SMEC has supplied its Goods, including but not limited to, its subsidiaries, affiliates, associated companies, related company successors or assigns.
- (c) **"Goods"** means the goods (or any part thereof) available in, and ordered through, SMEC's Internet Ordering System.
- (d) **"Notice"** means a letter, hard copy or soft copy with an authorised signature.
- (e) **"Price"** means the purchase price for the Goods and other charges set out in SMEC's Internet Ordering System.

1.2 Headings are for convenience and shall not affect interpretation.

2. Payment

Unless otherwise specified, all payments must be made upfront by Visa or Mastercard credit card via SMEC's Internet Ordering System.

3. Property

Even if SMEC grants any credit facility and/or time to pay, property in Goods shall not pass to the Customer until payment is made in full of all monies owed. SMEC reserves the right to take possession and dispose of Goods as it sees fit at any time until full payment is received and the Customer grants permission to SMEC to recover possession wherever the Goods may be and the Customer shall assist and indemnify SMEC in relation to such recovery.

4. Limitation of Liability

4.1 The Customer agrees to limit any claim it makes to the cost of replacement of the subject Goods.

4.2 SMEC shall not be liable for any loss or expense arising after fourteen (14) days from delivery (or at all once Goods have been unpacked or otherwise used) after which it shall be deemed to be unqualified acceptance.

4.3 SMEC will not be liable for any contingent, consequential, direct, indirect, special or punitive damage, whether due to negligence or otherwise and the Customer acknowledges this limit of liability and agrees to limit any claim accordingly.

4.4 No other term, condition, agreement, warranty, representation or understanding whether express or implied, in any way extending to, otherwise relating to or binding upon SMEC, other than these terms, is made or given by or on behalf of SMEC except for any such term, condition, agreement, warranty, representation or understanding which is implied by law and which cannot legally be excluded.

5. Exclusions

- 5.1 No dealing between SMEC and the Customer shall be or be deemed to be a sale by sample.
- 5.2 The Customer will rely on its own knowledge and expertise in selecting any Goods for any purpose and any advice or assistance given by or on behalf of SMEC shall be accepted at the Customer's risk and shall not be deemed given as expert or adviser to have been relied upon.

6. Refund Policy

- 6.1 SMEC may elect to take back Goods in saleable condition or otherwise within thirty (30) days of delivery on terms agreed.
- 6.2 Any Goods which SMEC has elected to accept back must be returned by way of a SMEC approved carrier.
- 6.3 SMEC is not obliged to provide a refund for Goods purchased.
- 6.4 SMEC will replace any Goods which are damaged or defective at the time of delivery to the Customer.

7. Orders

- 7.1 The Customer agrees that each order it places shall be deemed to include a representation that it is solvent and able to pay all of its debts as and when they fall due.
- 7.2 From the time of SMEC taking an order, the Customer is obliged to accept and pay for the Goods in accordance with these terms and conditions and a cancellation of the order or change in mind on the part of the Customer as to the content of the order shall not discharge this obligation to accept the Goods and make payment.

8. Prices

- 8.1 Unless otherwise stated, all monetary figures in these Terms and Conditions, SMEC's Internet Ordering System, invoices and any other communications related to the Goods are in Australian dollars.
- 8.2 Unless otherwise stated in SMEC's Internet Ordering System, Prices are inclusive of freight and any applicable GST (Goods and Services Tax) and other Australian taxes, imposts and duties but exclusive of any taxes, imposts or duties of any kind chargeable by any jurisdiction outside Australia for Goods to be delivered outside Australia including for clearance of the Goods through customs into any other country and the Customer agrees to pay such amounts in addition to the Price.

9. Delivery Policy

- 9.1 SMEC will arrange for delivery of the Goods to the Customer to the address specified by the Customer into SMEC's Internet Ordering System using commercial delivery services.
- 9.2 SMEC will not be liable for delay, failure or inability to deliver.
- 9.3 Goods shall be deemed delivered as soon as they are presented for delivery at the specified address.
- 9.4 A charge may be made for frustrated delivery to cover SMEC's costs of attempts etc.

10. Other Terms and Conditions

No terms and conditions sought to be imposed by the Customer upon SMEC shall apply.

11. Jurisdiction

The Customer agrees that all Contracts made with SMEC shall be deemed to be made in the State of Victoria, Australia.

12. Forward Orders

The Customer agrees:

12.1 to pay for so much of any order as is from time to time invoiced by SMEC; and

12.2 that no delay or failure to fulfil part of such order will entitle any cancellation or variation of that order or delay or reduce any payment.

13. Force Majeure

13.1 SMEC shall not be liable for any loss or damage of any kind whatsoever caused directly or indirectly, wholly or partially, by force majeure. Force majeure shall mean acts or conditions beyond SMEC's reasonable control, including but not limited to Acts of God, strikes, lockouts, boycotts, labour disturbances, war, riot, civil commotions, flood, governmental or municipal laws, regulations, bylaws, or actions taken thereunder, acts omissions or delays of the Customer, delays or defaults of SMEC's subcontractors or suppliers in supplying materials for all or any part of the Goods, shortages of labour, materials, power, fuel, water, transport or any other requirement.

13.2 If an event of force majeure arises, SMEC may, by written notice to the Customer, cancel the Contract or Delivery either wholly or partially. Such termination shall be without prejudice to the parties' accrued rights. SMEC shall not be liable for any damages or penalty by reason of such cancellation.

14. Severability

Any part hereof being a whole part of a clause shall be capable of severance without affecting any other part of these terms and conditions.

15. Special Conditions Related to SMEC's Internet Ordering System

15.1 The Customer shall be solely responsible for the accuracy and correctness of, and assumes sole responsibility for, its use of SMEC's Internet Ordering System and all orders placed, and SMEC shall not have any responsibility or liability with respect thereto. The Customer shall employ all control procedures of which it is advised, shall verify all output received and shall promptly advise SMEC of any errors or mistakes in information generated by SMEC's Internet Ordering System.

15.2 Ordering

(a) Catalogue items shall be ordered only upon placement by the Customer of an irrevocable order ("Order") using SMEC's Internet Ordering System in accordance with system procedures.

(b) The Customer acknowledges and agrees that the Order is an offer to purchase the selected catalogue item(s).

(c) The Customer is solely responsible for any errors or omissions contained in the variable data required by SMEC's Internet Ordering System. Any such errors or omissions must be communicated to Waivestar (by emailing Bianca McDowall: bmcdowall@waivestar.com.au) within one (1) hour of the original Order placement. As a gesture of goodwill, Waivestar will attempt to correct such errors and omissions prior to processing the order and delivery, but cannot guarantee the outcome.

16. Privacy Policy

SMEC will not use any business, personal or payment information collected for any purpose that is not related to the Goods and services it provides or for any purpose which would not reasonably be expected by the Customer. SMEC may send to the Customer communications relating to SMEC and its affiliated entities unless the Customer expresses to SMEC a wish not to receive any further such communications. The Customer may make such a request by email to SMEC at smecbook@smec.com.

17. Acceptance

Placing an order in SMEC's Online Ordering System is acceptance of SMEC's Quotation and will be acceptance of these terms and conditions.

18. Acceptance and changes to SMEC's Terms and Conditions

You acknowledge and accept that your use of the SMEC Internet Ordering System indicates your acceptance of these Terms and Conditions. These are the current Terms and Conditions. It replaces any other Terms and Conditions published on the SMEC Internet Ordering System to date. SMEC may, at any time, make amendments to the Terms and Conditions by publishing the new Terms and Conditions on the SMEC website or in SMEC's Internet Ordering System. You accept that by doing this, SMEC has provided you with sufficient notice of the amendments. It is your responsibility to check the Terms and Conditions each time you visit the SMEC Internet Ordering System.