

SPEEDIMPEX AUSTRALIA PTY LIMITED ABN 52 138 437 984
TERMS AND CONDITIONS OF SUPPLY
(for Commercial Customers)

1. APPLICATION

- 1.1. These Terms apply to all Goods sold or supplied by Speedimpex.
- 1.2. All orders placed with Speedimpex will only be accepted subject to these Terms.
- 1.3. No amendment, alteration, waiver or cancellation of any of these Terms is binding on Speedimpex unless confirmed in writing by Speedimpex.

2. PURCHASE ORDERS AND CONTRACT

- 2.1. In order to purchase the Goods, the Customer must place a Purchase Order with Speedimpex setting out a description of the Goods to be purchased, the anticipated delivery date and the Delivery Point.
- 2.2. The Purchase Order may be accepted or rejected by Speedimpex at Speedimpex's sole discretion.
- 2.3. Speedimpex may, at its option, request further information in order to carry out the Purchase Order.
- 2.4. A Contract will be formed upon Speedimpex accepting a Purchase Order from the Customer pursuant to clause 2.2. The Contract will be governed by these Terms.
- 2.5. These Terms will take precedence over any other representations, agreements, arrangement or understandings relating to the Goods and any matters in connection with the Goods.
- 2.6. Any conditions or terms of purchase submitted by the Customer deviating from or inconsistent with these Terms will not bind Speedimpex except and then only to the extent as agreed in writing by Speedimpex and notwithstanding any statement by the Customer in its Purchase Order or otherwise that its terms and conditions will prevail over these Terms.

3. PRICES

- 3.1. Prices are determined by Speedimpex's price list which is subject to change in accordance with Speedimpex's delivery note or invoice or, if there is none or if nothing in regard to price change is stated on such document then on thirty (30) days notice.
- 3.2. Prices include GST, the cost of packaging, delivery, freight and insurance to the Delivery Point unless specifically agreed otherwise by Speedimpex in writing.

4. TERMS OF PAYMENT

- 4.1. Payments are to be made directly to Speedimpex, strictly net, without any deduction or discount other than as stated in these Terms or in the relevant invoice or statement.
- 4.2. Payments are also to be made within thirty (30) days of the date of Speedimpex's invoice or statement, whichever is earlier, or in accordance any other terms in same invoice or statement or with the Customer's Credit Arrangement, if any, even if delivery of the Goods is delayed.
- 4.3. In the absence of any specific written direction to the contrary, payments will be credited against the oldest outstanding account of the Customer with Speedimpex to the most recent.
- 4.4. The presence of minor defects which do not seriously affect the use or presentation of the Goods does not entitle the Customer to a reduction or a delay in payment.
- 4.5. Bank charges occurring from dishonoured cheques must be paid by the Customer.

4.6. Interest is payable on all overdue accounts calculated on a daily basis at the Interest Rate as from the due date for payment until payment is received by Speedimpex.

5. **PROPERTY IN GOODS**

Neither legal nor beneficial ownership of Goods supplied by Speedimpex will pass to the Customer until such time as the Goods so supplied by Speedimpex have been paid in full by cash or cleared funds.

6. **PERSONAL PROPERTY SECURITY**

Until Speedimpex receives payment in full by cash or cleared funds, Speedimpex may register its security interest in the Goods and their sale proceeds pending payment in the applicable official registers of any national or local jurisdiction where the Goods are collected or delivered or physically located. Promptly upon Speedimpex's request, the Customer will execute all documents and take all actions as Speedimpex reasonably directs at Speedimpex's expense to enable Speedimpex to exercise its security rights under this clause.

7. **RISK AND INSURANCE**

7.1. The Goods are entirely at the risk of the Customer from the moment the Goods leave Speedimpex's Premises or physical custody even though property in and title to the Goods have not passed to the Customer.

7.2. The Customer must at its own expense, maintain the Goods and insure them for the benefit of Speedimpex for their full replacement value against theft, destruction, fire, water and other risks, as from the moment of delivery to the Delivery Point until property in and title to the Goods have passed to the Customer.

7.3. The Customer must take all reasonable measures to ensure that Speedimpex's title to the Goods is in no way prejudiced. If any of the Goods are lost, destroyed or damaged, any insurance proceeds relating to the Goods in respect of such event that are received by the Customer are held on trust for Speedimpex and must be paid to Speedimpex immediately on receipt but only up to the amount that the Customer owes Speedimpex in respect of those Goods.

8. **RE-SALE OF GOODS SUBJECT TO RETENTION OF TITLE**

8.1. The Customer has the right to sell the Goods subject to retention of title in its own name in accordance with this clause.

8.2. Until the amount payable to Speedimpex for the Goods has been paid in full by cash or cleared funds:

8.2.1. the Customer will hold the Goods only as bailee for Speedimpex, subject to the Customer's right to deal with the Goods in the ordinary course of the Customer's business;

8.2.2. the Goods must be stored in such a manner that they are readily distinguishable from other goods owned by the Customer or other persons and so as to clearly show that they are the property of Speedimpex;

8.2.3. any monies received or income generated by the Customer (up to the amount owing to Speedimpex) through the sale or use of such Goods will be deemed to be received on trust for Speedimpex;

8.2.4. the said monies must be clearly and separately identified in the books and records of the Customer; and

8.2.5. the Customer must indemnify Speedimpex from and against any Claim arising out of the possession, use or disposal of the Goods by the Customer or repossession or attempted repossession of them by Speedimpex.

- 8.3. If the Customer re-sells any of the Goods then, unless the Goods are clearly identifiable by serial numbers or other distinguishable marks, the Customer is deemed to have disposed of the Goods in the chronological order of supply by Speedimpex to the Customer (oldest to most recent).

9. **DEFAULT**

- 9.1. If:
 - 9.1.1. the Goods are not paid for in accordance with these Terms or any other written agreement agreed between Speedimpex and the Customer;
 - 9.1.2. Speedimpex receives notice of, or reasonably believes that a third party may attempt to levy execution against or attach the Goods; or
 - 9.1.3. any other event occurs which in Speedimpex's opinion is likely to adversely affect the Customer's ability to pay for the Goods (including but not limited to the appointment of an Insolvency Representative),then Speedimpex may at any time thereafter, without notice to the Customer and without prejudice to any other rights which it may have against the Customer, terminate any contract relating to the Goods and the bailee relationship, suspend some or all its obligations to the Customer under any agreement for the supply of Goods and charge interest at the Interest Rate.
- 9.2. The Customer will be liable on a full indemnity basis for legal and other costs of recovering or attempting to recover amounts owing to Speedimpex in any of the circumstances referred to in clause 9.1.

10. **RIGHT TO ENTER PREMISES**

- In any of the circumstances referred to in clause 9.1, the Customer:
- 10.1. authorises Speedimpex, its agents or representatives at all reasonable times, without notice, to enter (with force if reasonably necessary) and at all necessary time(s) remain in and on any premises owned or occupied by the Customer where Speedimpex reasonably believes that the Goods may be stored and repossess the Goods without being liable for trespass; and
 - 10.2. assigns to Speedimpex all the Customer's rights to enter onto and remain in and on such premises until all the Goods have been collected.

11. **ADMINISTRATION AND RECEIVERSHIP**

- In any of the circumstances referred to in clause 9.1.3:
- 11.1. neither the Customer nor its Insolvency Representative or any other person acting for the Customer and/or its creditors is entitled to sell, charge, remove, dispose of, use or otherwise deal with the Goods in any way inconsistent with Speedimpex's ownership of the Goods, without Speedimpex's prior written approval;
 - 11.2. the Customer, its Insolvency Representative and every other person acting for or on behalf of the Customer and/or its creditors is obliged to re-deliver the Goods to Speedimpex immediately on the appointment of the Insolvency Representative at the Insolvency Representative's expense;
 - 11.3. if the Goods are returned or collected by Speedimpex, Speedimpex will within twenty-eight (28) days, account to the Customer or its Insolvency Representative for all monies received for those Goods from the Customer, less Speedimpex's reasonable administration charges, expenses incurred and loss of profits involved; and
 - 11.4. the Insolvency Representative will become personally liable to Speedimpex on a full indemnity basis in respect of any dealings with or use of the Goods by the Customer or the Insolvency Representative occurring after the date of appointment of the Insolvency Representative and must account to Speedimpex or reimburse Speedimpex for all monies received as a result of such dealings or use of the Goods.

12. **CUSTOMER AS TRUSTEE**
If the Customer carries on a business as trustee of a trust, then the Customer warrants that:
- 12.1. the Customer accepts these Terms as trustee of the trust;
 - 12.2. the Customer has all requisite powers to accept these Terms;
 - 12.3. the beneficiary of the trust approves the purchase of the Goods on these Terms; and
 - 12.4. the assets of the trust are available to Speedimpex in satisfaction of any debt incurred by the Customer for the Goods.
13. **DELIVERY**
- 13.1. Availability dates are estimates only, but Speedimpex will use its best endeavours to maintain the respective estimated date of delivery.
 - 13.2. The estimated date for delivery may be extended by an appropriate length of time as determined by Speedimpex in its discretion:
 - 13.2.1. if the Customer fails in good time to supply information required by Speedimpex to execute the Purchase Order, or if the customer changes the details of the Purchase Order;
 - 13.2.2. in the case of a Force Majeure Events; or
 - 13.2.3. if the Customer has not fulfilled any of the Customer's obligations under these Terms.
 - 13.3. Speedimpex is deemed to have delivered the Goods when the Goods are made available to the Customer for physical collection by or on behalf of the Customer at the Delivery Point. Any unloading or loading will be the Customer's responsibility unless Speedimpex otherwise agrees in writing.
 - 13.4. Speedimpex reserves the right to deliver prior to the anticipated delivery date and in such cases the Customer must not refuse to take delivery of the Goods.
 - 13.5. If the Customer is unable to take delivery of the Goods at the Delivery Point on or before the anticipated delivery date, Speedimpex may (at its option and without limiting its other rights and remedies) arrange suitable storage of the Goods, whether at its premises or elsewhere, and the Customer must pay or reimburse the costs and expenses of storage, insurance, demurrage, handling and other charges associated with such storage. Notwithstanding the Customer's inability to collect the Goods, delivery is deemed to have occurred on the actual delivery date.
14. **INSPECTION**
The Goods are deemed to have been accepted in good order and condition unless the Customer has inspected the Goods and given written notice to Speedimpex:
- 14.1. immediately after collection or delivery that the Goods have been damaged in or before transport; or
 - 14.2. within seven (7) days after collection or delivery that the Goods do not comply with the relevant specification or description.
15. **SALE AND RETURN OF GOODS**
- 15.1. Any Goods supplied to the Customer under these Terms may be returned for credit unless expressly stipulated otherwise, but then only under the following conditions:
 - 15.1.1. the Goods are returned in an unsoiled, undamaged and resaleable condition in their original packaging unless otherwise specified by Speedimpex (e.g. return by masthead);
 - 15.1.2. the Customer bears the risk of loss or damage of the Goods until either the full copies or mastheads (whichever is applicable) are in the possession of Speedimpex; and
 - 15.1.3. the Goods are returned by the return date(s) notified by Speedimpex, to the Customer.

- 15.2. Speedimpex will not allow return of the Goods if the Goods are imported especially for the Customer or if the Goods have been delivered pursuant to a special or discounted order.
- 15.3. Speedimpex will not allow return of any Goods which have been supplied to the Customer in order to fill a Subscription.

16. **WITHDRAWAL OF CREDIT**

Speedimpex reserves the right to alter any Credit Arrangement on thirty (30) days written notice to the Customer.

17. **CANCELLATION OF ORDER**

No order may be cancelled, modified or deferred without the prior written consent of Speedimpex (which is at Speedimpex's sole discretion). If such consent is given then, at Speedimpex's election, such consent may be subject to Speedimpex being reimbursed all losses, including loss of profits, return freight and paid a cancellation fee (being not less than 10% of the invoice value of the Goods if cancelled within 48 hours of placement of order and otherwise not less than 30% of the invoice value of the Goods).

18. **SPEEDIMPEX'S LIABILITY LIMITED**

- 18.1. The Customer acknowledges and agrees that:
 - 18.1.1. none of Speedimpex's employees, representatives or agents may make, and the Customer has not relied on any representation, warranty or promise in relation to the Goods other than as contained in these Terms;
 - 18.1.2. the Customer has determined that the Goods are fit for the purpose for which the Customer requires them; and
 - 18.1.3. the Customer has not relied on Speedimpex's skill and judgment in selecting the Goods.
- 18.2. Speedimpex is not subject to, and the Customer releases Speedimpex from any liability (including but not limited to Consequential Loss and Damage) arising from any delay in delivery or defect or fault in the Goods to the full extent permitted by law.
- 18.3. If any statutory provisions under the *Competition and Consumer Act 2010* (Cth), the *Sale of Goods Act 1923* (NSW) or any other statute apply to these Terms then, to the extent to which Speedimpex is permitted by law to do so, Speedimpex's liability under the statutory provisions is limited, at Speedimpex's option, to:
 - 18.3.1. replacement of the Goods; or
 - 18.3.2. supply of equivalent Goods,and in any case, Speedimpex will not be liable for any Consequential Loss or Damage or any other loss or damage and Speedimpex's total liability to the Customer is limited to the invoice value of the Goods.
- 18.4. Speedimpex's maximum liability for damages (whether arising from negligence, breach of contract, breach of express or statutory warranty, breach of other obligation, misrepresentation or otherwise) limited to the invoice value of the Goods.

19. **WARRANTIES AND GUARANTEES**

- 19.1. Subject to clause 14, if the Customer discovers any defect in the Goods or a wrong delivery has occurred, the Customer must notify Speedimpex in writing of the defect or incorrect delivery. If the Customer refuses or prevents replacement, the Customer is taken to have unconditionally accepted the original Goods as of acceptable quality.

- 19.2. Except for the warranties and/or guarantees imposed by the *Competition and Consumer Act 2010* (Cth) and the *Sale of Goods Act 1923* (NSW), the provision of any other act or law implying terms, conditions, guarantees and/or warranties which might otherwise apply to or arise out of these Terms in relation to the Goods supplied by Speedimpex are hereby expressly negated and excluded to the full extent permitted by law including but not limited to fitness for purpose and acceptable quality.
20. **CATALOGUES AND LISTS**
Particulars in leaflets, catalogues, lists, drawings, brochures and other printed material are for illustrative purposes only and form no part of the contract between Speedimpex and the Customer, and are not binding on Speedimpex.
21. **SAMPLES**
Any sample inspected by the Customer is solely for the Customer's convenience and does not constitute a sale by sample. All samples remain the property of Speedimpex.
22. **FORCE MAJEURE**
Speedimpex will not be liable for any breach of contract arising from or due to a Force Majeure Event.
23. **WAIVER OF BREACH**
No failure by Speedimpex to insist upon strict performance of any of the terms in these Terms is a waiver of any right or remedy which Speedimpex may have, and is not a waiver of any subsequent breach or default by the Customer.
24. **NO ASSIGNMENT**
Neither these Terms nor any rights arising under these Terms may be assigned by the Customer without the prior written consent of Speedimpex which is at Speedimpex's absolute discretion.
25. **SEVERABILITY**
If any provision contained in these Terms is held by a court to be unlawful, invalid or unenforceable, the validity and enforceability of the remaining provisions are not affected.
26. **ALTERATION TO TERMS AND CONDITIONS**
Speedimpex may, from time to time, amend these Terms. Upon notice in writing to the Consumer outlining any specific material alterations to these Terms, the altered terms will apply thirty (30) days after the notice, after which supply will be deemed to take place under the altered terms.
27. **NOTICES**
27.1. Any notice or document will be deemed to have been given and received on the earliest date of:
27.1.1. actual receipt;
27.1.2. confirmation of correct transmission of facsimile;
27.1.3. three (3) business days after posting; or
27.1.4. receipt via electronic communication,
and provided that where faxed, posted or emailed as above, it is the address as stated in the Purchase Order or the address last communicated in writing.
28. **GOVERNING LAW**
28.1. The Contract is deemed to have been made at Speedimpex's place of business in Sydney, New South Wales and any cause of action is deemed to have arisen there.

28.2. The Customer irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of New South Wales and any courts which have jurisdiction to hear appeals from those courts about any proceedings in connection with these Terms and waives any right to object to proceedings being brought in those courts for any reason.

29. **INTERPRETATION**

In these Terms:

- 29.1. “**Claim**” means any claim, action, proceeding, damage, loss, cost, expense or liability incurred or suffered by Speedimpex.
- 29.2. “**Consequential Loss or Damages**” means all or any of the following:
- 29.2.1. loss of profit;
 - 29.2.2. loss or denial of opportunity;
 - 29.2.3. loss of use;
 - 29.2.4. loss of revenue;
 - 29.2.5. loss of production;
 - 29.2.6. loss of labour;
 - 29.2.7. loss of access to markets;
 - 29.2.8. loss of goodwill;
 - 29.2.9. loss of anticipated savings;
 - 29.2.10. loss of business reputation including future reputation;
 - 29.2.11. loss arising from adverse publicity;
 - 29.2.12. damage to credit rating;
 - 29.2.13. removal costs;
 - 29.2.14. re-installation costs;
 - 29.2.15. commissioning costs;
 - 29.2.16. increase in operating costs;
 - 29.2.17. increase in maintenance costs;
 - 29.2.18. financial costs;
 - 29.2.19. any indirect, remote, abnormal or unforeseeable loss;
 - 29.2.20. any consequential loss or damage not included in the above; and
 - 29.2.21. any similar loss whether or not in the reasonable contemplation of the parties at the time of entry into the Contract, and in any case whether arising out of contract or tort (including negligence) or by statute or otherwise, at law or in equity.
- 29.3. “**Contract**” means the contract for supply of the Goods by Speedimpex to the Customer.
- 29.4. “**Credit Arrangement**” means the credit terms available to the Customer pursuant to an application by the Customer for the provision of Goods on credit submitted to Speedimpex using Speedimpex’s standard credit application form or other form as agreed by Speedimpex and accepted in writing by Speedimpex.
- 29.5. “**Customer**” means the party to whom Speedimpex has agreed to supply Goods.
- 29.6. “**Delivery Point**” means the location to which Goods should be supplied or delivered, as nominated by the Customer in the Purchase Order or otherwise as agreed by Speedimpex and accepted in writing by Speedimpex.
- 29.7. “**End-User**” means any legal person who ultimately purchases the Goods.
- 29.8. “**Insolvency Representative**” includes, but is not limited to a receiver, receiver and manager, administrator, controller, liquidator, provisional liquidator, trustee or similar person.
- 29.9. “**Interest Rate**” means the rate of 2% per month (rounded to the end of the month).

- 29.10. **“Force Majeure Event”** means any event beyond Speedimpex’s reasonable control no matter where it arises (including but not limited to transport stoppages, transport breakdown, fire, flood, earthquake, acts of God, strikes, lock-outs, work stoppages, major disruptions to production, wars, riots or civil commotion, intervention of public authority, explosion or accident).
- 29.11. **“Goods”** means the goods agreed to be supplied by Speedimpex to the Customer.
- 29.12. **“GST”** means the Goods and Services Tax imposed by a *New Tax System (Goods and Services Tax) Act 1999* and any related act and/or regulations.
- 29.13. **“Premises”** means Speedimpex’s principal place of business as shown in the records of the Australian Securities and Investments Commission from time to time;
- 29.14. **“Publisher”** means an entity which prints and/or supplies the Goods to Speedimpex.
- 29.15. **“Purchase Order”** means the written purchase order made by the Customer to Speedimpex for the supply of Goods.
- 29.16. **“Speedimpex”** means Speedimpex Australia Pty Limited ABN 52 138 437 984 and its successors and assigns.
- 29.17. **“Subscription”** means an arrangement between an End-User and a Publisher pursuant to which the Publisher has agreed to supply a publication or publications to the End-User either for a fixed period or until that arrangement is terminated by appropriate notice given either by the End-User or the Publisher to the other.
- 29.18. **“Terms”** means these terms and conditions of supply as amended from time to time.