



TRADING TERMS AND CONDITIONS

The goods for sale by ASH are sold under the following terms and conditions, and may only be sold or offered for sale under these conditions to the Customer. The placing of an order or acceptance of the goods is deemed to constitute an agreement to observe and be bound by such conditions and any concession, latitude or waiver that may be or may have been allowed by ASH at any time shall not prevent ASH subsequently exercising its full rights under these Trading Terms.

1. DEFINITIONS

- a. "The Customer" shall mean the individual or company named below.
- b. "ASH" shall mean Australian Sustainable Hardwoods Pty Ltd.
- c. "Due date" shall have the meaning given pursuant to clause 6 (a) herein.
- d. "Goods" shall mean any products sold by ASH under its own name or any other trademark owned or controlled by ASH.
- e. "PPS Act" means the Personal Property Securities Act 2009.
- f. "Small Business Commissioner" means the person appointed as such under the Small Business Commissioner Act 2003.

2. ON-SELLING OF GOODS

- a. The Customer shall only be permitted to sell the goods for purchase by the general public in Australia unless otherwise agreed in writing by ASH.
- b. The Customer shall not on-sell the goods at a wholesale level to any other person or entity.
- c. Failure to observe any provision in this clause may lead to suspension or cancellation of any commercial credit trading account pursuant to clause 5.

3. PRICES

- a. The Customer acknowledges and accepts that all prices quoted by ASH are subject to change with thirty (30) days' notice. ASH reserves the right to invoice goods supplied to the Customer at revised prices.

4. ACCOUNTS AND COLLECTION COSTS

- a. Accounts are due for payment in full within 30 days from the date stated on the invoice.
- b. Full payment must be made in the form of cleared funds and received by ASH within 30 days from the date stated on the invoice.
- c. Any goods returned by the Customer must be returned at the expense of the Customer.
- d. Interest will be charged at a rate of 1% per month on any amount not paid by the due date stated on the invoice.
- e. In the event payment is not made by due date printed on the invoice, ASH may claim any costs associated with collection of monies due.

5. SUSPENSION AND CANCELLATION OF A COMMERCIAL CREDIT TRADING ACCOUNT

- a. An account will be subject to suspension of supply and / or immediate and permanent closure if any of the following occurs:
 - i. The account is not paid in full by the due date; or
 - ii. if the Customer engages in deceptive or illegal conduct that has an adverse effect on ASH; or
 - iii. On-sells or supplies ASH products in any manner other than permitted under the Trading Terms
 - iv. the Customer fails to observe any ASH Trading Term or other guideline or policies issued from time to time whatsoever.
- b. In the event of suspension of an account, ASH may, at its sole discretion:
 - i. Cancel the balance of the current and any future month's order-hold;
 - ii. Refuse to process any further orders;
 - iii. Take any legal action necessary to recover the monies owing; or
 - iv. Elect to close the account permanently.

6. TITLE

- a. Title and ownership to the goods shall remain with ASH until all monies owing by the Customer to ASH have been paid in full (whether such monies are in respect of the monies payable under a specific contract or any other account whatsoever.)
- b. Until title and ownership has passed in accordance with clause 6 (a), the Customer shall hold the goods as bailee thereof.

- c. The Customer shall have rights to deal with the goods in the ordinary course of business on the basis that the monies received as a result of such dealing shall be held by the Purchaser upon trust on behalf of ASH until monies owing by the Customer to ASH have been paid in full.
- d. If the Customer has not paid ASH by the due date, ASH shall be entitled to immediately recover possession of all or any of its goods sold to the Customer (and the Customer grants its irrevocable permission for ASH or its authorised representatives to enter upon its premises to conduct a stocktake and recover all or any goods delivered by ASH form part of the Customer's inventory and proof of supply of individual ASH goods shall not be required).

7. PPS ACT - AGREEMENT AND REGISTRATION

- a. The Customer agrees that the effect of clause 6(a) is to grant ASH a Security Interest, being a Purchase Money Security Interest, in any goods supplied and in any proceeds of goods sold, under these Trading Terms.
- b. These Trading Terms constitute a Security Agreement as defined in the PPS Act.
- c. Should ASH elect to perfect its Security Interest, the Customer hereby consents to ASH perfecting its Security Interest, without further notice to the Customer, in any goods supplied, and in any proceeds of goods sold, by registration under the PPS Act.
- d. The Customer agrees to do anything, within (3) business days of receiving written request from ASH, to enable it to register the Security Interest.
- e. Ash may allocate any amounts received from the Customer in any manner it determines, including in any manner to preserve any Security Interest it has in any goods, but in default will apply same first payment of any unsecured amount owing to ASH, next as to any reasonable enforcement expenses and then as to any secured balance owing to ASH.

8. ENFORCEMENT

- a. For the purposes of the PPS Act and insofar as permitted under the PPS Act:
 - i. The customer and ASH contract out of each provision which, under section 115(1) and 115(7) of the PPS Act, they are permitted to contract out of;
 - ii. The Customer waives its right to receive each notice of registration event under which section 157(3) of the PPS Act, if permitted to waive; and
 - iii. The Customer waives its right to receive anything from ASH under section 275 of the PPS Act.

9. DEBT

- a. The Customer acknowledges the debt on the invoice upon delivery of goods, irrespective of invoice date and / or payment terms.

10. ACCEPTANCE AND RETURN OF GOODS, DAMAGE ETC.

- a. The issuing of a delivery docket to the Customer is to be regarded as evidence that the Customer has received an order.
- b. The Customer acknowledges upon receipt of an order that they have inspected the goods delivered, and that the goods are fit for the Customer's purpose.
- c. No returned goods will be accepted unless previously agreed by ASH.
- d. The Customer must bring any claim relating to the order to the attention of ASH within 30 days from the date stated on the invoice, including proof to establish any alleged deficiency with the goods.
- e. No liability whatsoever (except as provided by law) will be accepted by ASH for any direct or indirect loss or damage relating to the delivery of products, account suspension or closure or any other act or omission on the part of ASH or of any servant, agent, or contractor of ASH in relation to these Trading Terms unless the same occurs because of the wilful act or default or negligence of ASH, its servants, agents or contractors in which case liability is limited at ASH's discretion to the replacement of goods or the payment of the cost of having the goods resupplied.

11. RIGHT TO WITHHOLD DELIVERY

- a. If any of the Customers' accounts shall become overdue, then until the overdue monies have been paid, ASH is entitled to withhold delivery of the goods or any part thereof.

12. WAIVER

- a. The failure of ASH at any time to require performance by the Customer of any provision of these Trading Terms or the acceptance of payment of any sum after its due date does not waive ASH's rights.

13. SEVERANCE

- a. If any provision of these Trading Terms is found by a court of competent jurisdiction to be invalid or unenforceable in whole or in part, the validity of the other provisions of these Trading Terms shall not be affected and shall continue to be valid and enforceable to the fullest extent permitted by law or equity.

14. NO VARIATION OF THESE CONDITIONS OF SALE PERMITTED

- a. No variations or additions to these conditions of sale will be recognised by ASH unless accepted and confirmed in writing.
- b. ASH shall have the right, upon thirty (30) days' notice to the Customer, to vary all or any of these Trading Terms and variations shall apply to all subsequent orders placed by the Customer.
- c. Clerical errors are subject to correction without notification.

15. ENTIRE AGREEMENT

- a. These Trading Terms shall constitute the entire Agreement between ASH and the Customer in relation to the sale and delivery of product and any previous agreements, understandings, negotiations and all express or implied warranties to the extent permitted by law shall cease to have any legal status or effect.

16. ASSIGNMENT

- a. The Customer shall not assign or transfer any of its rights or obligations under these Trading Terms.

17. CHANGE OF OWNERSHIP

- a. ASH shall be notified in writing by the Customer of any material change in the Customer's legal organisation, ownership or group affiliations, prior to such change.
- b. Notwithstanding subclause 23 (a), the Customer shall remain liable for payment for any ASH goods supplied by ASH.

18. DISPUTE RESOLUTION

- a. In the event of a dispute between ASH and the Customer, the complainant is first required to serve the other party to the dispute a written notice specifying the nature of the dispute and the outcome sought.
- b. Secondly, each part must make a good faith attempt to resolve the dispute by negotiation.
- c. Failing resolution of the dispute, the parties shall have the dispute heard by the Small Business Commissioner.

19. FORCE MAJEURE

- a. Any delay in the performance of ASH's obligations caused by an event or circumstance outside its reasonable control shall not be attributable to ASH nor constitute a breach of these Trading Terms and ASH shall have the right to extend the estimated delivery time by a period sufficient to take account of the relevant event or circumstance, subject to ASH and/ or the Customer cancelling orders where the extension continues for an uninterrupted period of three (3) months.

20. TIME IS OF THE ESSENCE

- a. Stipulations as to time in these Trading Terms for performance by the Customer are of the essence.

21. CONFIDENTIALITY AND PRIVACY

- a. ASH and the Customer hereby agree that, notwithstanding any other clause of these Trading Terms, they will not disclose any information of the type referred to in section 275(1) of the PPS Act unless they are required to do so under section 275(7) of the PPS Act.
- b. The Customer acknowledges that all pricing information and any other commercially sensitive or confidential information relating to this Agreement is strictly confidential (Confidential Information).
- c. Except as stated in this Agreement below or where required by the PPS Act, the parties to this Agreement are under an obligation to not and must not permit any of their officers, employees, agents, contractors or related bodies corporate to disclose any Confidential Information to any person, other than their professional advisors or as required by law, without the prior written consent of the party to whom the Confidential Information relates.
- d. This clause operates for the benefit of all parties and continues despite the termination of this Agreement.

22. GOVERNING LAW & JURISDICTION

- a. These Trading Terms shall be deemed to have been made in the State of Victoria and shall be governed by the laws of that State and the laws of the Commonwealth of Australia as they apply. The parties further submit to the non-exclusive jurisdiction of the courts with jurisdiction.