



Effective date: 07/05/2024

## TERMS OF TRADE

### Application of Terms

- These Terms set out the contractual basis upon which we agree to supply you with Goods and Services and apply whenever Goods or Services are quoted for, sold, or supplied by us to you. Any terms or conditions included in, attached to, or referenced in your Order, or any other document provided by you (including any purchase order terms subsequently given to us by you) deviating from, or inconsistent with, these Terms, are expressly rejected by us and will not vary or supplement these Terms.
- Each supply which we make following our acceptance of an Order will be regarded as a separate Contract, which is subject to these Terms.
- Where we have granted you a credit facility, our Credit Facility Terms apply. In the event of any conflict or inconsistency between these Terms and our Credit Facility Terms, our Credit Facility Terms prevail to the extent of the conflict or inconsistency.

### Quotations and orders

- Orders may be submitted to us by email, phone or EDI data interchange. You need to specify your account number, the ISBN of each book, its title and qty. Unless you otherwise advise we will back order any goods that are out of stock at the time of receiving the order. Backorders will automatically expire after 12 months.
- Backorders can be cancelled with one month's notice by contacting customer service.
- Multiple orders will be merged on the same delivery and invoice unless otherwise specified.
- Quotations made by us are estimates only and will not be construed as an offer or obligation to supply any Goods or perform any Services.
- Unless stated otherwise, quotations made by us:
  - are exclusive of GST;
  - are exclusive of the costs of delivery; and
  - will remain valid for a period of thirty (30) days from the date of quotation.
- You acknowledge and agree that quotations made by us may include additional terms or conditions, which will supplement (and are intended to be read in conjunction with) these Terms.
- We reserve the right to withdraw, vary, or extend the time for acceptance in respect of any quotation made by us at any time prior to the formation of a Contract in accordance with clause 14.

### Formation of Contract

- You may accept these Terms (and you will be deemed to accept these Terms) if you, following receipt of a copy of these Terms:
  - confirm your acceptance of these Terms; or
  - place an Order with us.
- We reserve the right to not accept your Order, without having to provide reasons to you for doing so. For clarity, nothing in these Terms obliges us to supply you with any Goods or perform any Services at any time.
- Any Order placed by you will be construed as an offer. A binding Contract will only come into existence, if:
  - we communicate our acceptance of your Order, whether in writing or by electronic means; or
  - we supply you with any Goods or perform any Services following receipt of your Order.
- For clarity, a Contract is formed at the location of ours where your Order is placed.

### Price and payment terms

- Subject to clause 17, the Price payable for the Goods or Services will be in accordance with our then prevailing price list (as notified by us to you from time to time), as applicable as at the date of your Order.
- Where we have issued you a quotation, the Price will be our quoted price (subject to clauses 9 and 29 to 32) which will be binding on us provided you accept our quotation in writing within the period it is valid for acceptance.
- Unless we have granted you a credit facility, the terms of payment are strictly cash before delivery.
- Payment may be made by Electronic Funds Transfer (EFT), Visa, and MasterCard credit cards. We reserve the right to change the payment methods that we accept at any time.
- You acknowledge that we will be at liberty to charge a payment surcharge for applicable transactions equal to our reasonable cost of acceptance.
- We reserve the right to require payment of a non-refundable deposit. The amount of the deposit will be specified in our quotation or will be advised by us and will immediately become due and payable upon the formation of a Contract in accordance with clause 11, unless otherwise agreed in writing. For clarity:
  - where we require payment of a deposit, we are under no obligation to supply any Goods or perform any Services until the deposit has been received by us in cleared funds; and
  - the deposit will be refundable in circumstances where:
    - you are entitled to a refund under the Australian Consumer Law; or
    - where you terminate a Contract because of our breach.
- Our Australian price includes GST, our NZ prices are ex GST.
- Reference to retail prices (Usually RRP) on books are recommendations only and there is no obligation on us or you to comply with these.
- If GST is imposed on a Taxable Supply made by us to you under any Contract of which these Terms form part, the price of the Taxable Supply will be equal to the GST-exclusive consideration that you must pay to us for the Taxable Supply under the Contract increased by an amount (the "GST Amount") equal to the amount of GST payable on that Taxable Supply. The GST Amount is, subject to us issuing a Tax Invoice to you, payable at the same time and in the same manner as the consideration to which it relates. If we become liable to pay any tax, duty, excise, or levy in connection with any Contract of which these Terms form part, you must pay us these additional amounts upon written demand.
- You must check all Tax Invoices and advise us of any errors or omissions within seven (7) days of receipt. Failing advice from you that a Tax Invoice contains any errors or omissions, the Tax Invoice may be deemed accepted by us.
- Any sums owed to us by you will be made free of any set-off or counterclaim whatsoever, and without deduction or withholding whatsoever.
- We are entitled to deduct or set off against any monies owing to you by us on any account whatsoever.

### Default

- If you default in the payment of any money due to us pursuant to any Contract of which these Terms form part by the date specified in our Tax Invoice, we are entitled to, without prejudice to any other rights which may be conferred upon us by law or equity, do any or all of the following:
  - charge you interest on the outstanding amount at the rate of 10% per annum, which interest will accrue and will be recoverable for each day (or part thereof), that the money remains outstanding until payment is received by us in full;

- require you to pay, in advance, for any Goods or Services (or any part of the Goods or Services) which have not yet been supplied; and
- suspend or cease the supply of any further Goods or Services to you.

### Variations

- If you request or direct that any Goods or Services be supplied that are not strictly in accordance with our quotation or your Order, then such Goods or Services will constitute a variation.
- A notice of variation must be submitted by you in writing and is only effective if accepted by us in writing.
- You understand and agree that:
  - all variations must be agreed in writing prior to the Goods or Services that are the subject of the variation being supplied; and
  - all variations will be, in our discretion, invoiced at the rates specified in our quotation, as specifically quoted, or in accordance with our then prevailing price list.
- Notwithstanding clauses 29 to 31, (and subject to any rights you might have under the *Competition and Consumer Act 2010* (Cth) or any other legislation, we reserve the right to vary the quoted Price, if:
  - the Goods or Services specified in your Order are varied from the Goods or Services specified in our quotation (or are otherwise varied following the formation of a Contract); or
  - otherwise as provided for in these Terms.

### Order cancellations.

- You may not cancel an Order (or any part of an Order) once a Contract has been formed, delivery of the Goods cannot be deferred, and Goods ordered cannot be returned, except with our prior written consent, and then only upon terms that you reimburse and indemnify us against all losses we have incurred or may incur as a result of the cancellation, deferral, or return, including third-party supplier restocking fees, cartage, bank charges, other incidental expenses incurred on any part of your Order, and loss of profits.

### Delivery

- Fixed or minimum order freight and handling charges may apply to small orders. Refer to the website for current conditions and charges.
- You must make all arrangements necessary to take delivery of the Goods whenever they are tendered for delivery.
- You acknowledge and accept that any period or date for delivery stated by us is intended as an estimate only and is not a contractual commitment. We will not in any circumstances be liable for any loss or damage suffered by you or any third party for failure to meet any estimated delivery date.
- Delivery will be made within Normal Working Hours on Business Days, unless otherwise agreed in writing.
- Delivery is deemed to occur at the time:
  - you, or any third party on your behalf, collects the Goods from us;
  - the Goods are delivered to the delivery location specified in your Order (or to such other location as otherwise agreed in writing);
  - your nominated carrier takes possession of the Goods, in which event the carrier will be deemed to be your agent.
- If requested by us, you or your duly authorised representative must sign our delivery docket as confirmation that the Goods ordered by you have been received by you in apparent good order and condition.
- If delivery of the Goods is deferred:
  - at your request; or
  - due to you being unable to accept delivery of the Goods (for whatever reason), when:
    - (where no date for delivery has been specified by you) we are ready to deliver the Goods;
    - (where a delivery date has been specified by you) the Goods are due to be delivered, then we will be entitled to charge you, and you must pay to us:
    - reasonable storage charges (which will accrue daily until such time as the Goods are delivered); and
    - a charge to re-deliver the Goods (where delivery has previously been attempted).
- You acknowledge and accept that:
  - we may deliver Goods by instalments and reserve the right to require payment for each separate instalment in accordance with these Terms; and
  - you are not relieved from any obligation arising under these Terms, or any Contract of which these Terms form part, by reason of any delay in delivery, and delay in delivery will not entitle you to rescind the Contract.

### Risk

- Risk of loss or damage to the Goods passes to you upon delivery to you or to your agent or to a carrier commissioned by you in accordance with clause 38.
- You must insure the Goods for their full replacement value on or before delivery against all losses which may be sustained as a result of the loss, damage, or destruction of the Goods (or any part thereof) by accident, theft, fire, explosion, flood, negligence, and such other insurable causes as may be available and must include us as co-insured.
- If you request that Goods are to be delivered either to an unattended location, left outside your premises, or left outside our premises for collection, you acknowledge that we may deliver the Goods as requested at your sole risk.

### Retention of title

- Until such time as you have made payment in full for the Goods and until such time as you have made payment in full of all other money owing by you to us (whether in respect of money payable under a specific Contract or on any other account whatsoever) title in the Goods does not pass to you, and you agree that property and title in the Goods will not pass to you, and we retain the legal and equitable title in those Goods supplied and not yet sold.

### Returns

- All goods are sold firm sale unless otherwise agreed prior to accepting the order, however in the event a stock return is required the following terms under this section will apply.
- You must, within seven (7) days of the date of delivery:
  - give us written notice, with particulars, of any claim that the Goods delivered are not in accordance with your Order (including any claim for shortfall, incorrect supply, or damage to the Goods); and
  - provide us with photographic evidence (to our satisfaction) of any alleged damage to the Goods.
- Unless otherwise agreed in writing, you must pay all costs associated with the return of any Goods (either to us or from us to you or any third party) including freight, insurance, handling, and other charges.

49. Goods cannot be returned to us without our prior written consent. To the permitted by law, Goods that have been specifically produced or procured at your request cannot be returned in any circumstances.
50. Goods to be returned to 'Woodslane Returns Dept' and must be unsoiled, undamaged, and packed and wrapped appropriately containing a copy of the return authorisation and the R.A. barcode on the outside of the box.
51. Goods returned which don't comply to the terms may charged a processing fee or rejected and sent back to the consignor.
52. We accept no liability for any damage that occurs to any Goods in return transit.
53. Any resultant credit that arises from the return of goods will be applied to current or future invoicing.
- Sale of Business or Cessation**
54. You undertake to give us written notice within 7 days of the sale or closure of your business.
55. If you sell your business, we will not accept returns beyond 25% of your annual turnover nor do we provide a cash-refund for returns credited beyond the existing account balance.
56. If a credit balance arises it can only be transferred to the new owner at the sole discretion of Woodslane.
57. Stock sold to the new owner becomes firm sale but may be accepted for return only at the sole discretion of Woodslane.
58. If you close your business returns will be accepted up to the returns cap of 25% or the balance of the account. Cash refunds are not provided.
- Indemnity**
59. You are liable for and indemnify us in respect of all liability, claims, damage, loss, costs, and expenses (including collection costs, debt recovery fees, and legal costs on an indemnity basis) that we may suffer or incur at any time, directly or indirectly, as a result of any default by you in the performance or observance of your obligations under any Contract of which these Terms form part.
60. Your liability to indemnify us will be reduced proportionally only to the extent that:
- any negligent act or omission by us or a breach of our obligations under any Contract of which these Terms form part has contributed to the liability, claim, damage, loss, cost, or expense which is the subject of the indemnity; or
  - these Terms make us specifically liable for any cost or expense or rectifying or repairing any defect in, malfunction of, or damage to the Goods.
61. Your liability to indemnify us is a continuing obligation separate and independent from your other obligations and survives the performance or termination of any Contract of which these Terms form part.
62. It is not necessary for us to incur any expense or make any payment before enforcing our rights of indemnity conferred by these Terms.
- Nature of relationship**
63. For the removal of doubt, nothing in these Terms, or any Contract of which these Terms form part, is to be construed as giving rise to a relationship of agency, partnership, joint venture, trust, or other relationship with duties or incidents different from those of parties to an arm's-length contract.
- Limitation of liability**
64. We will not be liable for any loss or damage, however caused (including by our negligence), suffered or incurred by you in connection with any incorrect information contained in an Order or otherwise provided by or on behalf of you to us from time to time.
65. Subject to clauses 64, 66, 67, and 69, our liability for any loss or damage, however caused (including by our negligence), suffered or incurred by you in connection with any Contract of which these Terms form part is limited to the sum paid to us by you in respect of that Contract prior to the date you first suffered loss or damage in connection with that Contract.
66. The limitation contemplated in clause 65 is an aggregate limit for all claims, whenever made.
67. Subject to clause 69, we are not liable for any Excluded Loss, however caused (including by our negligence), suffered or incurred by you in connection with any Contract of which these Terms form part.
68. For clarity, and without limiting clauses 64 to 67, the Parties agree that clauses 64 to 67 are to apply in connection with a breach of a Contract, anticipated breach of a Contract, and other conduct regardless of the seriousness or nature of that breach, anticipated breach, or other conduct.
69. If the *Competition and Consumer Act 2010* (Cth) or any other legislation provides that there is a guarantee in respect of any Goods or Services supplied in connection with any Contract of which these Terms form part and our liability for failing to comply with that guarantee cannot be excluded but may be limited, clauses 64 to 67 do not apply to that liability and instead our liability for such failure is limited to, in the case of a supply of Goods, us replacing the Goods or supplying equivalent Goods, or in the case of a supply of Services, us supplying the Services again or paying the cost of having the Services supplied again.
- Termination of Contract**
70. We may, with immediate effect, terminate any Contract of which these Terms form part by written notice to you, if:
- you fail to make payment of a deposit required by us or any amount owed to us as and when due;
  - you commit a material or persistent breach of these Terms and do not remedy the breach within seven (7) days of receipt of a notice identifying the breach and requiring its remedy; or
  - we are no longer able to, for whatever reason, supply the Goods or Services (or any part of the Goods or Services).
71. For clarity, termination of any Contract of which these Terms form part will not affect the rights which have already accrued to a Party at the time of termination, whether under that Contract or otherwise.
- Costs**
72. You will pay our costs and disbursements incurred in pursuing any recovery action, or any other claim or remedy, against you, including collection costs, debt recovery fees, bank disbursement fees, and legal costs on a full indemnity basis.
- Force majeure**
73. We are not liable to you for any delay or failure to perform any obligation under any Contract of which these Terms form part if such delay or failure to perform is due to a Force Majeure Event.
- Variation of Terms**
74. No variation of these Terms, or any Contract of which these Terms form part, requested by you will be effective, unless varied in writing and agreed between the Parties. Clerical errors (such as spelling mistakes, grammatical errors, or numerical errors) may be subject to correction by us without notification.
75. We may amend these Terms by notifying you in writing. The amended Terms will apply to any Order placed by you following us notifying you of the amendments.
- Assignment**
76. Neither Party may assign, transfer, or novate its rights or obligations under any Contract of which these Terms form part without the prior written and fully informed consent of the other (which consent must not be unreasonably withheld).
- Waiver**
77. A waiver of any provision or breach of these Terms, or any Contract of which these Terms form part, will only be effective if made by the affected Party in writing. If a Party elects not to enforce its rights arising as a result of a breach of a Contract, that will not constitute a waiver of any rights in relation to any subsequent or other breach.
- Severance**
78. If any provision of these Terms, or any Contract of which these Terms form part, is illegal, invalid, or unenforceable, it will be read down so far as necessary to give it a valid and enforceable operation or, if that is not possible, it will be severed from the Contract. Other provisions which are self-sustaining are, and will continue to be, enforceable in accordance with their terms.
- Entire agreement**
79. Subject to clause 4, the Contract constitutes the entire agreement and understanding between the Parties. All previous negotiations, understandings, representations, warranties, memoranda, or commitments about the subject matter of the Contract are merged in the Contract and are of no further effect. No oral explanation or information provided by a Party to
- another Party affects the meaning or interpretation of the Contract, or constitutes any collateral agreement, warranty, or understanding.
- Governing law**
80. These Terms, and any Contract of which these Terms form part, will be governed by and construed in accordance with the laws of New South Wales, and the laws of the Commonwealth of Australia in force in New South Wales.
81. The Parties submit to the non-exclusive jurisdiction of the courts of New South Wales and the relevant federal courts and courts competent to hear appeals from those courts.
- Definitions**
82. Unless the contrary intention appears, in these Terms:
- "Australian Consumer Law"** means the Australian Consumer Law as set out in Schedule 2 to the *Competition and Consumer Act 2010* (Cth).
- "Business Day"** means a day that is not a Saturday, Sunday, or public holiday in Sydney, Australia.
- "Contract"** means a contract for the supply of Goods or Services, as constituted by our quotation (if any), your Order, and these Terms.
- "Credit Facility Terms"** means our credit facility terms, as set out in the credit agreement executed by you (where applicable).
- "Customer," "you," "your"** means the corporation, partnership, person, or other entity acquiring Goods or Services from us.
- "Excluded Loss"** means any:
- consequential loss;
  - loss of revenues;
  - loss of reputation;
  - loss of goodwill;
  - loss of profits;
  - loss of bargain;
  - indirect loss;
  - special loss;
  - lost opportunities, including opportunities to enter into arrangements with third parties;
  - loss or damage in connection with claims against you by third parties; or
  - loss or corruption of data.
- "Force Majeure Event"** means any act of God, acts, decrees, or regulations of Government Authorities, casualty, fire, explosion, storm, flood, frost or snow, earthquake, embargo, industrial action, strike, lockout, civil commotion, riot, insurrection, war, epidemic or pandemic, damage to or destruction of facilities, equipment or mechanical breakdown, failure of a third-party supplier or service provider, or any other cause beyond our reasonable control.
- "Goods"** means all goods supplied by us to you (and where the context so permits includes any performance of Services) and as are described on our Tax Invoices, quotation, or any other forms as provided by us to you.
- "Government Authority"** means:
- a government or government department or other body;
  - a governmental, semi-governmental, or judicial person; or
  - a person (whether autonomous or not) who is charged with the administration of a law
- "GST"** has the meaning given to it by the GST Act.
- "GST Act"** means *A New Tax System (Goods and Services Tax) Act 1999* (Cth).
- "Normal Working Hours"** means 08:30am to 5:00pm.
- "Order"** means a written or oral order placed by you offering to acquire Goods or Services from us.
- "Parties"** means Woodslane and the Customer, and **"Party"** means either one of them.
- "Price"** means the price payable for the Goods or the Services, as notified by us to you from time to time.
- "Services"** means all services performed by us (and where the context so permits includes any supply of Goods).
- "Tax Invoice"** and **"Taxable Supply"** have the same meaning as in the GST Act.
- "Terms"** means these terms of trade.
- "Woodslane," "we," "us," "our"** means Woodslane Pty. Ltd. ACN 003 677 549.
- Interpretation**
83. If there is any conflict or inconsistency between any of the documents which comprise a Contract, it is expressly agreed the order of precedence will be (in descending order of precedence):
- any additional terms or conditions contained in our quotation (where applicable);
  - our Credit Facility Terms (where applicable);
  - these Terms; and
  - any other documents issued by us.
84. Unless the contrary intention appears, a reference to:
- these Terms or another document includes any variation or replacement of them notwithstanding any change in the identity of the Parties;
  - a reference to a clause is a reference to a clause contained in these Terms;
  - the singular includes the plural and vice versa;
  - "right" includes a benefit, remedy, authority, discretion, or power;
  - "information" is to information of any kind in any form or medium, whether formal or informal, written or unwritten (e.g. computer software or programs, concepts, data, plans, reports, drawings, specifications, ideas, knowledge, procedures, source codes or object codes, technology or trade secrets);
  - "person" includes a natural person, partnership, body corporate, association, joint venture, Government Authority, or other entity;
  - a person includes the person's successors, executors, administrators, substitutes (including a person who becomes a Party by novation), and assigns; and
  - any statute, ordinance, code, or other law includes regulations and other statutory instruments under any of them and consolidations, amendments, re-enactments, or replacement of any of them.
85. Headings are for convenience only and will not affect the interpretation of these Terms.
86. Words such as "includes", "including", and "for example" are not words of limitation and are to be construed as though followed by the words "without limitation".
87. The expressions "in writing" or "written" means any expression of information in words, numbers, or other symbols, which can be read, reproduced, and later communicated, and includes electronically transmitted and stored information.
88. Where two or more persons are defined as a Party in these Terms, that term means each of the persons jointly, each of them severally, and any two or more of them jointly.
89. An agreement, covenant, obligation, representation, or warranty on the part of two or more persons binds them jointly and severally and an agreement, covenant, obligation, representation, or warranty in favour of two or more persons is for the benefit of them jointly and severally.
90. Unless specified otherwise, all reference to sums of money is in terms of Australian currency (AUD), and all documents and correspondence between the Parties will be in the English language.
91. Nothing in these Terms is to be read or construed to purport to exclude, restrict, or modify or have the effect of excluding, restricting, or modifying the application in relation to the supply of Goods or Services all or any of the provisions the *Competition and Consumer Act 2010* (Cth) or any other law which cannot be excluded, restricted, or modified.