

STANDARD TERMS AND CONDITIONS OF CONTRACT

D A Christie Pty Ltd (ABN 31 004 637 138)

Our goods come with guarantees that cannot be excluded under the Australian Consumer Law. You are entitled to a replacement or refund for a major failure and for compensation for any other reasonably foreseeable loss or damage. You are also entitled to have the goods repaired or replaced if the goods fail to be of acceptable quality and the failure does not amount to a major failure

The benefits under the D. A. Christie Pty Ltd.'s warranties are in addition to other rights and remedies under applicable laws in relation to the Goods.

The following terms and conditions of sale (**Sale Terms**) apply to and form part of any contract for the supply of goods and services (**Goods**) by D. A. Christie Pty Ltd trading as Christie Barbecues (**Company**) to another party (**Purchaser**). Unless agreed in writing with the Company, the supply of Goods will be solely on the basis of the Sale Terms. Where the Purchaser Purchases Goods on credit, the Company's Credit Terms will also apply.

1. QUOTATION

- 1.1. No quotation given by the Company to the Purchaser will constitute an offer or invitation to sell. Any order from the Purchaser to the Company for the supply of Goods will not be binding upon the Company until accepted by the Company in writing.
- 1.2. Prices given in any quotation by the Company are applicable to that quotation only and will not apply in any other instance.
- 1.3. The Company reserves the right to make any corrections to prices quoted.
- 1.4. Quotations are valid for a period of thirty (30) days from date of issue by the Company or as otherwise specified in the quotation, but, prior to acceptance, are subject to change or withdrawal at any time.

2. PURCHASE ORDERS

- 2.1. When ordering, an official order is to be submitted by the Purchaser to the Company quoting an order number or other means of identifying it, a full description of the Goods to be purchased and the delivery address. Reference to the Company's quote number to the Purchaser should also be made (where applicable).
- 2.2. A contract will only be or be deemed to have been entered into between the Company and the Purchaser for the supply of the Goods when the Purchaser's order has been accepted by the Company in writing or performance of it (whichever occurs first) (Contract).
- 2.3. The Company may, in its sole discretion, agree to a written request from the Purchaser for cancellation or variation of a Contract.
- 2.4. If in the Company's opinion the Purchaser's status or financial position is adverse, the Company may refuse to make a delivery or cancel the Contract.

3. PAYMENT TERMS

- 3.1. The amount payable for the Goods will be the price on the Company's invoice plus any duties, fees, taxes (including GST), delivery charges arising out of the Contract.
- 3.2. The Purchaser must pay the Company for the Goods:
 - 3.2.1. as required by the Credit Terms; or

- 3.2.2. within thirty (30) days of invoice date or as otherwise specified on the invoice, whichever earlier.
- 3.3. The Company will not consider an application for credit unless the Purchaser completes the Company's credit application.
- 3.4. Notwithstanding extension of credit to the Purchaser, the Company may impose any payment term it desires including without limitation, requiring the Purchaser to a deposit upon acceptance of an order in which case acceptance of the order is conditional upon receipt of the deposit.
- 3.5. The time specified for payment is of the essence.

4. PURCHASER'S BREACH

- 4.1. If the Purchaser breaches any of the Sale Terms or commits an act of bankruptcy or insolvency, then without limitation to any of its other rights, the Company may:
 - 4.1.1. terminate or suspend any Contract;
 - 4.1.2. require immediate payment of all money outstanding from the Purchaser to the Company;
 - 4.1.3. immediately re-possess any Goods to which title has not passed; and/or
 - 4.1.4. charge interest to the Purchaser at the rate prescribed from time to time in the Penalty Interest Rates Act 1983 (Victoria) calculated daily on any overdue amount.
- 4.2. The Company may in its sole discretion apply any payment received from the Purchaser towards any debt owed by the Purchaser to the Company at any time.

5. GUARANTEE AND INDEMNITY

- 5.1. At the request of the Company, the Purchaser must provide a guarantee for payment of the Goods and in a form acceptable to the Company.
- 5.2. Without prejudice to any other rights the Company may have against the Purchaser, and to the extent permitted by law, the Purchaser will indemnify the Company for, and save it harmless from, any loss, damage or expense (including, without limitation, costs, whether or not the subject of a court order) incurred by it arising out of the Purchaser's breach any of the Sale Terms or any Contract.

6. DELIVERY

- 6.1. Lead times for dispatch of Goods are for reference only and are subject to change.
- 6.2. The Purchaser will in its order advise the Company of a nominated delivery point which is manned during normal business working hours.
- 6.3. Notwithstanding the Purchaser's inability to accept delivery of the Goods, the Company is deemed to have delivered the Goods when they are made available for unloading at the Purchaser's nominated delivery point or have been loaded onto the Purchaser's collecting vehicle (as the case requires). Goods may require unloading by forklift. The provision and cost of a forklift will be the responsibility of the Purchaser.
- 6.4. Any costs incurred by the Company due to the delivery or any failure by the Purchaser to accept the Goods at the time of delivery must be reimbursed by the Purchaser to the Company.
- 6.5. The Company is not liable for any claims for non-fulfilment or late delivery of Goods or for any loss or damage (including consequential loss or damage) suffered by the Purchaser arising from the delivery, the delay in delivery or failure to deliver. The Purchaser must accept and pay for the Goods notwithstanding late delivery.
- 6.6. The risk of any loss or damage to the Goods passes from the Company to the Purchaser when the Purchaser takes possession of the Goods or if delivered, when the Goods are available for unloading by the Purchaser, whichever earlier.

7. STORAGE

If the Company notifies the Purchaser that the Goods are ready for delivery and the Purchaser requests the Company to hold the Goods on its behalf, the Goods will be held by the Company at the Purchaser's risk, and the Company will be entitled to charge storage fees in respect of the Goods so stored after 30 days.

8. CLAIMS

- 8.1. The Purchaser will inspect the Goods immediately upon delivery
- 8.2. The Purchaser must notify the Company of any claim in writing within:
 - 8.2.1. forty-eight hours of the date of delivery, in relation to a claim that the Goods supplied do not accord with those ordered or if the Goods are damaged or defective; or
 - 8.2.2. fourteen days of receiving an invoice if there is a dispute regarding the invoice; and the Purchaser's will be deemed to have accepted the Goods or invoices if the Purchaser fails to notify the Company.
- 8.3. Where the Company is responsible for carriage of goods the Company will replace free of charge goods lost or damaged in transit to the contractual point of delivery provided written notice of such damage is given to the Company within forty-eight (48) hours of delivery, or notice of such loss is given within seven (7) days of expected delivery.

9. RETENTION OF TITLE

- 9.1. Whilst the risk in the Goods passes on delivery, legal and equitable title remains with the Company until payment in full for all debts accrued or owed to the Company is received.
- 9.2. Until title to the Goods passes, the Purchaser must:
 - 9.2.1. insure the Goods for their full replacement value;
 - 9.2.2. not create or allow to be created any security interest (as defined by the *Personal Property Securities Act 2009*) or any other form of encumbrance over the Goods;
 - 9.2.3. not claim any lien or interest in the Goods to secure any debt or obligation that the Company may owe to the Purchaser; and
 - 9.2.4. must not remove, deface or obliterate any identifying plate, mark or number on any of the Goods.
- 9.3. The Purchaser consents to the Company registering its security interest on the Personal Property Securities Register (as defined under Personal Property Securities Act 2009) to note its interest under this clause.
- 9.4. If required by the Company, the Purchaser agrees to immediately execute a charge over all of its circulating and non-circulating assets (as defined in the Personal Property Securities Act 2009) and/or any other instrument of security, in terms satisfactory to the Company.
- 9.5. The Company's title to the Goods remains absolute even if the Goods have become fixtures to the premises of the Purchaser or another party.
- 9.6. If payment for the Goods is not made by the Purchaser by the due date specified to the Purchaser by the Company, then the Purchaser must return the Goods to the Company on demand. If the Purchaser does not return the Goods to the Company within 48 hours of the demand, the Company is hereby authorised to enter upon the Purchaser's premises at any time and do all things necessary to recover the Goods. The Purchaser will be liable for all costs associated with the exercise by the Company of its rights under this clause, which will be repayable on demand.

10. WARRANTIES

- 10.1. The Company warrants that the products manufactured by it are of merchantable quality. The warranty is not transferable and applies only to the original Purchaser. It does not

- cover faults which arise from negligent use or accident or misuse or damage or normal wear and tear or the use of the product for any purpose not intended by the Company.
- 10.2. The duration of the warranty is for a period of 12 months from date of delivery to the original Purchaser.
 - 10.3. The Company accepts no responsibility for repairs made other than by the Company or its accredited agent. Items used in the manufacture of the Company's products and items not of the Company's manufacture are sold subject to the warranty given by the manufacturer of those goods.
 - 10.4. This warranty does not apply to any of the Company's products which are modified in any way by any person other than a person authorised by the Company, including, but not restricted to, products tampered with, altered, modified, repaired, or not installed in accordance with the Company's published installation instructions. This warranty is in addition to and not in substitution for any warranty given by Law.
 - 10.5. Warranty service may be obtained by contacting the Company at Ph:1300 135 227, 1/5 Lakewood Boulevard, Carrum Downs VIC 3201. The freight to the Company will be at the Purchaser's expense but return freight will be at the Company's expense.

11. EXCLUSIONS AND LIMITATIONS

- 11.1. Nothing in these conditions will be read or applied so as to exclude, restrict or modify or have the effect of excluding, restricting or modifying any condition, warranty, guarantee, right or remedy implied by law (including the Competition and Consumer Act 2010). and which by law cannot be excluded, restricted or modified.
- 11.2. To the extent permitted by law, the Company's obligations to the Purchaser in respect of a breach of any Contract or warranty (whether implied by statute or otherwise) will at the Company's option, limited to:
 - 11.2.1. the repair or replacement of the Goods;
 - 11.2.2. paying for the cost of repair or replacement of the Goods; or
 - 11.2.3. the supply of equivalent Goods.
- 11.3. To the extent permitted by law, the Purchaser waives its rights under sections 95, 118, 121(4), 130 and 135 (right to receive notice) and sections 125, 132(3)(d), 132(4). 142 and 143 of the Personal Property Securities Act 2009.
- 11.4. The Purchaser waives its rights to receive notice from the Company of a registration event under section 157(1) of the Personal Property Securities Act 2009.

12. GENERAL MATTERS

- 12.1. These terms and any contract between the Company and the Purchaser are governed by and will be interpreted in accordance with the laws of Victoria Australia.
- 12.2. The Company may vary or waive any or all of the Sale Terms at any time
- 12.3. The Purchaser must not assign any of its rights or obligations under the Sale Terms without the prior approval of the Company.
- 12.4. The Purchaser will not assert any right of set-off against the Company and will pay all sums due and payable to the Company without deduction.
- 12.5. If all or part of a clause in these Sale Terms is void, illegal or unenforceable, it may be severed without affecting the enforceability of any other provision.
- 12.6. A breach of these Sale Terms is a breach of the Credit Terms.
- 12.7. Where Goods are purchased on credit, in the event of an inconsistency between the Sale Terms and the Credit Terms, the Credit Terms will prevail to the extent required to resolve the inconsistency.