



Hanita Pacific

Hanita Pacific Pty Ltd  
ABN: 11 148 885 143

Unit 4, 50 Rooks Rd Nunawading VIC 3131  
PO Box 3011 Nunawading VIC 3131

Phone 1300 456 700

Fax 1300 456 600

info@hanitapacific.com.au

www.hanitapacific.com.au

## Terms and Conditions of Trading

### Definitions:

"Buyer" means the person/company named in the relevant Sales Invoice or Quotation

"Seller" means for the purposes of Quotation/Sale as HANITA PACIFIC PTY LTD ABN: 11 148 885 143

### 1. General

These terms and conditions shall apply to the exclusion of all others including any Terms and Conditions of the Buyer (whether in the Buyer's order form or otherwise). No goods or services will be supplied by the Seller on any terms or conditions other than those set out herein and by taking delivery of the goods the Buyer shall be deemed to agree to these Terms and Conditions. No change to these General conditions shall be binding unless agreed to in writing by the Seller.

### 2. Prices

Prices are exclusive of GST, unless otherwise indicated and are in Australian Dollars. GST is calculated at 10% on goods and services.

### 3. Payment

Payment to the Seller for goods and services delivered and accepted is due thirty (30) from date of Statement. If the Buyer fails to make payment in accordance with this clause, all amounts owing by the Buyer to the Seller shall immediately become due and payable. The Seller shall have the right to impose interest of the rate of 18% per annum calculated on a daily basis for each outstanding amount from the day it falls due until the day it is paid. Should payment remain outstanding beyond the Seller's payment terms the Buyer is liable for all costs including legal costs (solicitor/own client basis/mercantile agency) incurred by the Seller in recovering the amount outstanding. The Buyer shall not be entitled to withhold payment on the grounds that it has a claim or set-off against the Seller. The Seller has the right to pass on any dishonour fees to the Buyer.

If any payment to be made herein becomes overdue, or the Buyer does not comply with this obligations herein or under any other contract in force between the Seller and/or any of its affiliates and the Buyer; or if the Buyer shall suspend payment or give notice that it is about to suspend payment of its debts; or commit an act of bankruptcy, whether voluntary or involuntary; or being a company shall be unable to pay its debts, either in fact or in law; or have an order made or pass a resolution for winding up or liquidation (other than for the purpose of reconstruction or amalgamation); or have a receiver appointed then the Seller may (without prejudice to any other right or remedy available to it), until payment in full thereof has been made or until the Buyer has fulfilled all its obligations, suspend all further deliveries or cancel the contract as regards any goods which remain to be delivered there under or any other contract in force.

### 4. Delivery

Delivery Dates are intended as estimates only. The Seller shall not be liable for any loss or damage whether arising directly or indirectly from the delay in delivery. A delivery charge will apply to all deliveries with the exception of back order deliveries which are part of an original order that has been partly fulfilled. Delivery charges are listed in our current price list and are subject to change without notice. The Seller reserves the right to nominate the means of delivery, however the buyer can opt for goods to be sent via a different method, such as air or other means at an additional charge. The Seller is only responsible for delivering the goods to the location specified in the contract. Each delivery shall be considered a separate contract and the failure of any delivery shall not invalidate the balance of an order. If delivery is delayed or declined by the buyer the Seller has the right to either

i) sell the goods for Seller's account and/or

ii) cancel the contract without prejudice. The Seller shall not be liable for the freight costs on goods returned by the Buyer.

### 5. Acceptance Of Goods and Liability

The Buyer shall inspect all goods upon delivery and shall within seven (7) Business days of delivery give notice to the Seller named in the relevant Sales Invoice, which the buyer alleges that the goods are not in accordance with the Buyers order. Failing such notice, subject to any non-excludable condition implied by law, such as those in the Competition and Consumer Act 2010 (Cth) the goods shall be deemed to have been delivered to and accepted by the Buyer. The Buyer, in the case of defective products, will make sure that the whole consignment in respect of which a claim will be lodged, remains available for inspection by the Seller. In case only part of the product is available for inspection, the same will constitute a waiver by the Buyer of any claim in respect of the other part of the consignment. No return of allegedly defective or faulty goods will be accepted by the Seller unless the Seller has given prior written authorisation for the return.



Hanita Pacific

Hanita Pacific Pty Ltd  
ABN: 11 148 885 143

Unit 4, 50 Rooks Rd Nunawading VIC 3131  
PO Box 3011 Nunawading VIC 3131

Phone 1300 456 700

Fax 1300 456 600

info@hanitapacific.com.au

www.hanitapacific.com.au

## 6. Returns

Return of goods (other than in situations where the Seller is required to accept a return of goods under the Australian Consumer Law) must be approved by the Seller in writing. These authorised goods must be freight prepaid and will only be accepted if they are in as new condition, and returned within 14 days of supply. The Seller reserves the right to charge a restocking fee of 15% of the price of the goods returned. The Seller will not accept the return of goods specifically purchased, manufactured, machined or cut to size or to the Buyer's specifications other than in situations where the Seller is required to accept a return of such goods under the Australian Consumer Law.

## 7. Supply

The Seller reserves the right to suspend or discontinue the supply of goods to the Buyer on reasonable grounds without being obliged to give any reason for its actions.

## 8. Warranties

The Seller warrants that material delivered herein meets the Seller's standard specifications for the material or such other specifications as have been expressly agreed between the Seller and buyer and that such material is adequately contained, packaged, and labelled and conforms to the premises and affirmations of fact made on the container and label. All warranties whether expressed or implied and whether statutory or otherwise with regards to the goods supplied by the Seller as to quality, fitness for purpose or any other matter and hereby excluded except insofar as any such warranties are incapable of exclusion at law. The Buyer shall immediately notify the Seller in writing of any defect in the goods supplied by the Seller. The Buyer shall not carry out any remedial work to allegedly defective goods without first obtaining the written consent of the Seller to do so. This warranty is specifically made and limited to the Buyer in respect of the goods actually manufactured by the Seller, and in respect of other goods sold, but not manufactured by the Seller, to the extent of the liability assumed by the Seller's supplier. No warranty is made to any other person, firm or company, whether subsequent Buyer or user, or to any bailee licensee, assignee, employee, agent or otherwise.

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. A copy of our product warranty policies can be viewed in our current pricelist.

## 9. Quotations

Unless previously withdrawn, a quotation is valid for 30 Days or such other period as stated in it. A Quotation is not to be construed as an obligation to sell but merely an invitation to treat and no contractual relationship shall arise from it until the Buyer's order has been accepted in writing by the seller. The Seller shall not be bound by any conditions attached to the Buyer's order or acceptance of a Quotation and, unless such conditions are expressly accepted by the Seller in writing the Buyer acknowledges that such conditions are expressly negated.

## 10. Installations

The Sellers Quotation or Sale Invoice is made on a supply basis only. Installation and commissioning (if any) is at the expense of the Buyer unless otherwise specified in the Quotation or Sales invoice by the Seller.

## 11. Dimensions, Performance Data and Other Descriptive Details

Photographs, drawings, illustrations, weights, dimensions, and any other particulars accompanying, associated with or given in a Quotation, descriptive literature or a catalogue approximate the goods offered but may be subject to alteration by the manufacturer or supplier without notice. To the extent permitted by statute, any performance data provided by the Seller, a supplier, or manufacturer is an estimate only and should be construed accordingly. Unless agreed to the contrary in writing, the Seller reserves the right to supply an alternative brand or substitute product that has characteristics that are materially consistent with the goods offered when necessary.

## 12. Manufacturers' Changes

Where the Seller is acting as agent for a manufacturer or supplier, to the extent permitted by statute, the Seller shall not be liable for any alteration or variation in the goods made by this manufacturer or supplier.

## 13. Contingencies

Any charge, duty, impost, sales tax or other expenditure/tax which is not applicable at the date of the Quotation or Sales Invoice but which subsequently levied upon the Seller in relation to a Quotation or Sales Invoice as a result of the introduction of any legislation, regulation or government policy, shall be to the Buyer's account.



Hanita Pacific

Hanita Pacific Pty Ltd  
ABN: 11 148 885 143

Unit 4, 50 Rooks Rd Nunawading VIC 3131  
PO Box 3011 Nunawading VIC 3131

Phone 1300 456 700

Fax 1300 456 600

info@hanitapacific.com.au

www.hanitapacific.com.au

#### 14. Force Majeure

If the Seller is prevented from producing or delivering goods or part thereof, of any cause beyond reasonable control of the Seller (whether or not the circumstances in question could have been foreseen at the time), including without limitation, governmental action, acts of God, insurrection, riots, war, hostilities, piracy, arrest, restraints, or detentions of an competent authority, strikes or lock-outs of workers, floods, droughts, earthquakes, mechanical breakdowns, failure by national utilities to supply utilities, shortage of or inability to obtain materials, equipment or transportation at usual or reasonable prices, the obligation of the Seller to effect deliveries shall be suspended whilst such prevention shall continue. The Seller shall not be liable for any loss or damage of any kind resulting from the cause mentioned above.

#### 15. Retention of Title

Notwithstanding anything to the contrary express or implied, property in the goods shall remain with the Seller and shall not pass to the Buyer until the Seller has received payment in full for the goods and the Buyer has discharged in full all its accounts with the Seller. If payment is made by way of cheque, ownership does not pass to the Buyer until the Cheque has been honoured. Until the goods are paid for in full the Buyer shall hold the goods as a trustee for the Seller. In the event that the Buyer fails to pay the Seller for the goods by the due date required for payment under the Seller's Terms and Conditions, the Buyer (without prejudice to the Seller's rights as an unpaid Creditor or any of its other rights and remedies to retake possession of the Seller's goods from the Buyer) hereby agrees to deliver up the goods to the Seller upon demand by the Seller and consents to the Seller retaking possession of the goods which remain unpaid. The parties acknowledge that by supplying or accepting goods on the terms herein specified, it is not intended to create a charge, mortgage, or other security interest over any of the goods supplied.

#### 16. Power to Sell Goods

Nothing herein shall prevent the Buyer from selling the goods to any third party provided that the proceeds of any such sale shall be held in trust by the Buyer for the Seller until the Seller has received payment in full for the goods.

#### 17. Certificate

A Certificate signed by an officer of the Seller will be prima facie evidence of the Buyer's liability to the Seller at the date of the Certificate.

#### 18. Cancellation

Orders placed with the Seller cannot be cancelled without the written approval of the Seller. In the event that the Seller accepts the cancellation of any order placed with it shall be entitled to charge a reasonable fee for any work done on behalf of the Seller to the date of cancellation including a fee for the processing and acceptance of the Buyer's order and request for cancellation. Unless otherwise agreed between the Buyer and the Seller, upon cancellation prior to shipment any deposit paid by the Buyer will be forfeited to the Seller. Despite cancellation of any order for any reason, the Buyer must still purchase from the Seller any goods ordered by the Buyer which constitutes Exclusive Goods (whether in store, in transit or being manufactured) which were procured or ordered by the Seller before such cancellation, unless otherwise agreed in writing by the Seller.

#### 19. Change of Ownership

The Buyer agrees to notify the Seller in writing of any changes of ownership within 7 days from the date of such a change and indemnifies the Seller against any loss or damage incurred by a result of the Buyer's failure to notify the Buyer of any change.

#### 20. Assignment

The Buyer shall not assign or transfer or purport to assign or transfer any contract to which these general conditions apply or benefit thereof to any other person, firm or company without the written notification to the Seller and written approval of the Seller. Notwithstanding anything to the contrary contained in these general conditions or in any other agreement or instrument between the Buyer and the Seller, the Seller may assign all or any portion of amounts due to it from the Buyer to any third party without any limitation and without notice.

#### 21. Governing Law

These terms and conditions and any contract including them shall be governed by and construed in accordance with the laws of the state of Victoria and the Seller and the Buyer submit to the non-exclusive jurisdiction of the courts of Victoria.