

TRADING TERMS**1. Status of this document**

These Trading Terms constitute an agreement between Platform Sales Australia ABN 14 128 586 167 (trading as Platform Sales) and the Customer, as identified in the signature block. The agreement applies to all supplies to the Customer by Platform Sales Australia. These Trading Terms may also be agreed to by a representative of the Customer, placing an order with Platform Sales Australia after being given this document. Platform Sales Australia will not be bound by any conditions attached to the Customer's order and unless those conditions are expressly agreed by Platform Sales Australia in writing, the Customer acknowledges that those conditions are expressly excluded and always displaced by the terms of this document.

2. Return of Goods

- a. Platform Sales Australia will accept goods returned to it at its warehouse at the cost of the Customer within ten (10) days of supply provided that Platform Sales Australia determines they have not been used and are in new condition.
- b. Such goods will only be accepted for return by Platform Sales Australia subject to a restocking fee (currently 10%) being charged to the Customer, to the extent that is permitted by law.

3. Warranty Claims

- a. Requests for possible warranty parts or services are to be accompanied by an official customer order number to cover the value of the parts or services should the fault not be found to be a valid warranty claim.
- b. Where a part is supplied as a replacement for a faulty part which is under warranty, if the faulty part is not returned for warranty claim assessment within ten (10) days after the supply of the replacement then, an invoice will be raised for the value of the part and become payable within a period of thirty (30) days from the date of supply.
- c. Legislation may imply warranties or conditions or impose obligations upon Platform Sales Australia which cannot be excluded, restricted or modified or except to a limited extent. These terms and conditions must be read subject to those statutory provisions. If those statutory provisions apply, to the extent to which Platform Sales Australia is entitled to do so, its liability will be limited and its option to:
 - i. in the case of goods, the replacement or resupply, repair or the payment of the cost of replacing the goods or acquiring equivalent goods; or the payment of the costs of having the goods repaired; and,
 - ii. in the case of services, the supply of the services again; or the payment of the costs of having the services supplied again.

4. Interpretation of Warranty

- a. The standard manufacturer's warranty shall apply to goods hereby sold and the conditions relating to that warranty are deemed to form part of this agreement. A copy of the applicable warranty will be forwarded on request.

5. Acceptance

- a. All goods must be finally inspected by the Customer within ten (10) days after arrival of goods at point of delivery and the Customer shall, within that period give notice to Platform Sales Australia of any matter or thing by which the Customer alleges that the goods is not in accordance with the Customer's order.

Failing such notice and, to the extent permitted by law, the goods shall be deemed to have been delivered and accepted by the Customer.

- b. CUSTOMER'S FAILURE TO SO INSPECT AND PROMPTLY SUBMIT A CLAIM SHALL SPECIFICALLY WAIVE THE CUSTOMER'S RIGHT TO MAKE ALL CLAIMS FOR DAMAGES OF OTHER RELIEF AGAINST PLATFORM SALES AUSTRALIA, OTHER THAN UNDER THE TERMS OF MANUFACTURER'S WARRANTY.

6. Shipment, Risk of Loss and Title

- a. Until payment in full has been received by Platform Sales Australia for all money due to Platform Sales Australia for all goods supplied by Platform Sales Australia or otherwise due to Platform Sales Australia on any other account, and despite any credit arrangement between Platform Sales Australia and the Customer:
 - i. title in the goods shall remain in Platform Sales Australia;
 - ii. the Customer shall not attempt to sell, hire out, charge or otherwise deal with the goods, or part with possession thereof, nor permit or suffer any execution or distress to be levied to used against the goods or permit or suffer the goods to be seized or affected by any distress, execution or other legal process;
 - iii. where the Customer is a retailer/reseller, the Customer may only sell the goods in its ordinary course of business by a bona fide sale, in its own name, and not as the agent of Platform Sales Australia;
 - iv. the Customer shall be responsible at all times for the goods while it is in Customer's custody, and be liable to Platform Sales Australia for any loss or damage to the goods (except in so far as it can be shown that any such loss or damage is attributable to the negligent act or omission of Platform Sales Australia and shall notify Platform Sales Australia immediately of any such loss or damage, or any other noticeable defects in the goods;
 - v. the Customer must effect and maintain suitable insurance in respect of all relevant risks relating to the goods to cover any potential liability and otherwise in terms approved by Platform Sales Australia, and shall also ensure that Platform Sales Australia's name is endorsed on the relevant policy or policies as an insured party and provide a certificate of currency to Platform Sales Australia upon request;
 - vi. the Customer shall not add to, modify, interfere with or cause any attachments to be fitted to the goods except as authorised in writing by Platform Sales Australia;
 - vii. the Customer shall keep the goods marked as the property of Platform Sales Australia;
 - viii. the Customer shall permit Platform Sales Australia or its authorised representative(s) to inspect the goods at all reasonable times;
- a. Without prejudice to the terms of this Clause, Platform Sales Australia shall be entitled to maintain an action for the price of the goods at any time after payment becomes due.
- b. This Clause shall survive termination of these Trading Terms for any reason.

7. Delivery and Risk

- a. Any delivery dates agreed to by Platform Sales Australia are only approximate and are subject to reasonable variation.
- b. All goods are at the Customer's risk immediately upon delivery to the Customer.
- c. For the purposes of these Trading Terms delivery of the goods is deemed to occur at the earliest time when the goods are delivered to the Customer (including its nominees or agents) or are placed at the disposal of the Customer (including its nominees or agents) at Platform Sales Australia's premises.
- d. In any event, Platform Sales Australia shall not be liable for any loss caused by its delays or failures in performance of an order, or default in delivery arising out of or resulting from causes beyond its control and without its fault or negligence, including a force majeure.

8. Price

- a. Unless otherwise stated, the purchase price excludes any additional packaging, freight and insurance. These additional costs are to be paid by the Customer.
- b. Unless otherwise stated, the quoted price is valid for 7 days.

9. Taxes and Other Government Levies

The Customer must pay to Platform Sales Australia on demand any tax (other than income tax) payable on this agreement, any matter or thing done under this agreement or any payment, receipt, or other transaction contemplated by this agreement, including without limitation any goods and services or value added tax, customs duty, sales tax, excise duties, stamp duty, other duty, government charge, fee levy, or impost (together with any fine, penalty or interest payable because of a default of the Customer). The Customer must pay any amount it is required to pay under this clause in full despite any right of set off that it has. The Customer must pay to Platform Sales Australia an amount that leaves in the hands of Platform Sales Australia following payment of any relevant tax or other amount the same amount whether the tax or other amount is payable or not.

10. Payment

- a. Payment for prefabricated Goods and/or Equipment including spare parts, is cash in advance of the total amount payable, via EFT, unless otherwise agreed in writing by Platform Sales.
- b. Payment for all made-to-order Goods and/or Equipment is cash in advance via EFT in accordance with the following progress payment schedule:
 - i. 30% deposit of total amount due at order of Goods and/or Equipment.
 - ii. 40% deposit of total amount due at build completion of Goods and/or Equipment.
 - iii. 30% deposit of total amount due when Goods and/or Equipment has landed in Australia.
- c. The Customer agrees that Platform Sales may charge interest on any amount outstanding. Interest commences to accrue from the day after the invoice due date until payment is received by Platform Sales in cleared funds. Interest is calculated daily on the basis of a 365-day year at the rate equal to the Reserve Bank of Australia's cash target rate from time to time plus a margin of 5% per annum. Interest is payable on demand.
- d. The Customer agrees, in addition, to pay any other amount whether legal costs or expenses or other fees, that Platform Sales Australia may incur in collection of any amount due.

11. Personal Property Security

- a. In this clause PPS Act means the Personal Property Securities Act 2009 (Cth) as amended, repealed or replaced from time to time.
- b. The Customer agrees that this agreement is a security agreement under the PPS Act. The Customer acknowledges and agrees that the collateral is the goods supplied by Platform Sales Australia, including those described in any purchase order, invoice, receipt or any other document provided in connection with the supply of goods to the Customer. The collateral includes material handling and access equipment including equipment such as telescopic material handlers, elevating work platforms, boom and other lifts and hoists and all parts and accessories and tools for all such equipment.
- c. Despite any other term or condition of this agreement, Platform Sales Australia will be entitled to all rights and remedies of a secured party and an owner (including but not limited to a secured party and owner after default) under the PPS Act or any other applicable law. For the avoidance of doubt, such rights and remedies will not limit and will be in addition to all other rights provided to Platform Sales Australia under this agreement or by law (including in equity). They include the right to retain, deal or dispose of the goods in any way Platform Sales Australia sees fit.
- d. All goods supplied by Platform Sales Australia pursuant to this agreement will forever remain personal property and will not become or be deemed a fixture or a part of any real estate on which it may be located.
- e. The Customer must do everything (including providing information, executing any security agreement or other document, and granting any other or substitute security interest) requested by Platform Sales Australia to perfect a security interest in:
 - a) collateral supplied by it pursuant to this agreement; and
 - b) the proceeds of such collateral, so as to maintain an effective and first priority security interest in favour of Platform Sales Australia.

- f. Platform Sales Australia may at its absolute discretion effect and maintain a registration on the register under the PPS Act (in any manner it considers appropriate, including as a purchase money security interest) in relation to any security interest arising or contemplated by this agreement. The Customer waives the right to receive notice of a verification statement in relation to any registration event. The Customer must not register a financing change statement in respect of a security interest contemplated by this agreement without the prior written consent of Platform Sales Australia. The Customer agrees that such consent may be given or withheld by Platform Sales Australia in its absolute discretion.
- g. If Chapter 4 of the PPS Act applies to the enforcement of a security interest under this agreement, the parties irrevocably agree to contract out of the following provisions of the PPS Act (and therefore such provisions will not apply and the Customer agrees it will forever have no rights under them): s.95; s.121(4); s.125; ss.129(2) and 129(3); s.130; s.132(3)(d); s.132(4); s.135; s.142; and s.143.
- h. To the fullest extent permitted by the PPS Act, and unless otherwise agreed in writing, Platform Sales Australia and the Customer agree not to disclose information of the kind referred to in section 275(1) of the PPS Act to an interested person, or any other person requested by an interested person. The Customer unconditionally agrees to waive any right it has or would have had but for this clause, under section 275(7)(c) of the PPS Act to authorise the disclosure of the above information.
 - i. Despite any other term or condition of this agreement, Platform Sales Australia may unconditionally apply the whole or any part of any amounts received by it in connection with this agreement, to satisfy or partly satisfy any obligations secured by a security interest in any way it determines in its absolute discretion.
 - j. The Customer must not dispose or purport to dispose of or create or purport to create or permit to be created any 'security interest' (as defined in the PPS Act) in the collateral other than with the express written consent of Platform Sales Australia. The Customer must not lease, hire, bail or give possession ('on-hire') of the collateral to anyone else unless Platform Sales Australia (in its absolute discretion) first consents in writing. Any such on-hire must be in writing in a form acceptable to Platform Sales Australia and must be expressed to be subject to the rights of Platform Sales Australia under this agreement. The Customer may not vary an on-hire without the prior written consent of Platform Sales Australia (which may be withheld in its absolute discretion).
- k. The Customer must ensure that Platform Sales Australia is provided at all times with up-to-date information about the on-hire including the identity of the on-hirer, the terms of and state of accounts and payment under the on-hire and the location and condition of the collateral.
- l. The Customer must take all steps including registration under the PPS Act as may be required to:
 - a) ensure that any security interest arising under or in respect of the on-hire is enforceable, perfected and otherwise effective under the PPS Act;
 - b) enabling the Customer to gain (subject always to the rights of Platform Sales Australia first priority (or any other priority agreed to by Platform Sales Australia in writing) for the security interest; and
 - c) enabling Platform Sales Australia and the Customer to exercise their respective rights in connection with the security interest.
- m. To assure performance of its obligations under this agreement, the Customer hereby gives Platform Sales Australia an irrevocable power of attorney to do anything Platform Sales Australia considers the Customer should do under this document. Platform Sales Australia may recover from Customer the cost of doing anything under this clause (Personal Property Security), including registration fees.
- n. The Customer indemnifies Platform Sales Australia in respect of all loss, damage or expense (including legal and other professional fees and disbursements):
 - a) incurred by Platform Sales Australia (Australia) in enforcing or seeking to enforce its rights or alleged rights (whether or not such enforcement action is completed or successful); and

- b) resulting or arising from any breach or failure by the Customer to comply with its obligations under this clause (Personal Property Security), the PPS Act and any similar legislation.

12. Changes by Manufacturer

It is acknowledged by the Customer that the manufacturers of goods reserve the right to make changes in design of additions to or improvements in their goods without liability and to install such change, addition or improvements in any goods previously manufactured.

13. Default and Termination

- a. Without prejudice to any rights that Platform Sales Australia may have under these Trading Terms, Platform Sales Australia may terminate its agreement with the Customer upon seven (7) days' notice, if the Customer is in breach of these Trading Terms.
- b. If the Customer becomes subject to any form of insolvency administration, or any application is made to subject it to any form of insolvency administration and such proceedings are not dismissed within twenty one (21) days from filing of such proceedings, or a person is in a position to attempt to levy execution against the goods, or if any reason, in Platform Sales Australia's reasonable opinion, the Customer is unlikely to be able to make payment for the goods on the due date, Platform Sales Australia may immediately, at its election, and without prejudice to its other legal rights and remedies;
 - i. terminate any purchase order of the Customer;
 - ii. suspend further deliveries of goods;
 - iii. require payment in advance for all or any further deliveries of goods to the Customer;
 - iv. repossess any goods held by the Customer to which Platform Sales Australia has title and enter onto any premises on which the goods are stored, without notice, for this purpose.

14. Privacy and disclosure

- a. The Customer and each guarantor of the Customer's obligations agree that Platform Sales Australia may, at any time when credit is or may be extended to the Customer;
 - i. obtain a banker's opinion about them;
 - ii. obtain and use a credit report and any related information about them for any purpose and in any way that is permitted by any law including the Privacy Act 1988, and the Customer and any guarantor each hereby provide their consent accordingly. The purposes include assessing whether credit can be provided or continued to the Customer and whether to accept or require any guarantee, and for purposes in connection with collecting any overdue payment; and
 - iii. disclose credit information including to a credit reporting agency in any way and for any purpose that is permitted by any law including the Privacy Act 1988, and the Customer and guarantor each hereby provide their consent accordingly. This includes reporting any default in payment and any purposes in connection with collecting any overdue payment.

15. Liability of Platform Sales Australia

- a. To the extent permitted by law, Platform Sales Australia will under no circumstances be held liable to the Customer for any loss, damage, injury or debt sustained or incurred by the Customer or any other party including any indirect, consequential, punitive, exemplary, incidental damages, loss of profits resulting directly or indirectly out of any negligence of Platform Sales Australia, the supply, performance or use of any goods or services of Platform Sales Australia or out of any breach of Platform Sales Australia under any contract incorporating these terms and conditions.

16. Trade Ins

- a. Any trade-in machines will only be accepted on terms agreed to by Platform Sales Australia and the Customer will be responsible to ensure that full unencumbered title in the trade-in

passes to Platform Sales Australia at time of delivery of the trade-in to Platform Sales Australia.

- b. Should Platform Sales Australia suffer any loss or damage as a result of the Customer's oversight (whether intentional or unintentional) to disclose any encumbrances, charge and/or lien, the Customer and/or the officers of the purchasing company will fully indemnify Platform Sales Australia of such loss or damage including any legal fees and expenses incurred.

17. Financing of Purchases

- a. If the Customer chooses to purchase goods from Platform Sales Australia through external funding whether by lease, hire purchase, rental or otherwise, the Customer must notify the financier of these terms and in particular of the fact that title in goods sold by Platform Sales Australia is retained on the terms of this document.

18. General

- a. These Trading Terms shall be governed by the law of New South Wales and the parties to these terms submit to the jurisdiction of the Courts of that State
- b. Any indulgence or extension of time which Platform Sales Australia may grant to the Customer in relation to these Trading Terms or any other matter will not prejudice or interfere with Platform Sales Australia's rights under these Trading Terms and will not constitute a waiver of rights of Platform Sales Australia.
- c. If any provision of the Trading Terms is held invalid, unenforceable or illegal for any reason, these Trading Terms will remain otherwise in full force apart from such provision which will be deemed otherwise deleted.
- d. References to any statutory provision include references to a provision that amends or replaces it.
- e. The person signing below warrants and represents that s/he has the power and authority to sign this document on behalf of the Customer and to have these terms be legally binding on the Customer.