

# Terms and Conditions

## 1. General

Unless the context otherwise requires:

**Agreement** means the agreement between Wormald and Customer for the supply of Goods by Wormald to Customer and shall be constituted in its entirety by these Terms and Conditions of Sale;

**Australian Consumer Law** means Schedule 2 of the *Competition and Consumer Act 2010*;

**Customer** means the party to whom Wormald has agreed to supply Goods pursuant to the Agreement;

**Goods** means the goods agreed to be supplied by Wormald and purchased by Customer pursuant to the Agreement;

**GST** has the meaning given by the *A New Tax System (Goods and Services Tax) Act 1999 (Cth)* or, if that Act does not exist means any Act imposing or relating to the imposition or administration of a goods and services tax in Australia and any regulation made under that Act;

**Proprietary Information** means any and all information and intellectual property relating to the Goods;

**Wormald** means Wormald Australia Pty Limited ABN 80 008 399 004; and

**Wormald Store** means the website located at [www.wormald.com.au](http://www.wormald.com.au).

## 2. Orders for Goods

- a. Orders for Goods must be placed on the Wormald Store using the Customer's credit card and are subject to confirmation and acceptance by Wormald.
- b. The price of the Goods is the price listed in the Wormald Store at the time of the order being placed and are expressed as being exclusive of GST. The cost of packaging and delivery will be calculated on the size, weight and destination of the Goods for standard delivery and will be added to the total purchase price, as shown on the Wormald Store when placing an order.
- c. Any conditions or terms of purchase submitted by Customer will not bind Wormald, notwithstanding any statement or otherwise by the Customer in making an Order.

## 3. Cancellation of Orders

Customer may not alter or cancel an order placed through the Wormald Store without Wormald's prior written consent. If Wormald agrees to alter or cancel an order, Customer will indemnify Wormald against any loss, damage and expense incurred by Wormald in relation to the alteration or cancellation.

## 4. Return of Goods and Credits

- a. Customer is deemed to have accepted the Goods unless it makes a claim in accordance with the clause immediately below.
- b. Customer may reject any Goods that are wrongly supplied or oversupplied by notifying Wormald of the claim and providing full particulars of the claim in writing within 5 days of receipt of those Goods. Wormald may dispute any such claim.
- c. Goods referred to in the clause immediately above may be returned to Wormald for credit if all of the following is complied with:
  - a. the Goods are returned to Wormald's premises by prior arrangement and with Wormald's written approval within 7 days of delivery, at no cost to Wormald, unless delivered as the result of an error by Wormald, in which case Wormald will bear the cost of return of the Goods by ordinary post within Australia and refund to the Customer the cost paid for delivery by the Customer relating to wrongly supplied or oversupplied Goods;
  - b. the Goods are accompanied by a dispatch note stating Wormald's original invoice number and reason for return; and
  - c. the Goods are returned in an unsoiled, undamaged and resaleable condition in their original packing
- d. Wormald is not required to refund, credit, exchange Goods if the customer:
  - a. changes its mind about purchasing the Goods, doesn't like the Goods or has no use for them;
  - b. discovers that the Goods can be bought elsewhere for a cheaper price; or
  - c. ordered the wrong Goods or overordered the Goods.

## 5. Delivery and Use

- a. Goods ordered by the Customer are available for delivery within Australia only and cannot be delivered to a PO Box.
- b. Wormald will use its best endeavours to dispatch Goods to the Customer (to its nominated address) as soon as possible after receiving an Order by standard delivery. Any delivery date(s) provided are estimates only, and Wormald will not be liable to Customer by reason of delays caused by any reason whatsoever.
- c. Wormald may deliver the Goods by instalments (where, in Wormald's opinion, this is reasonable).
- d. The risk in the Goods passes to Customer at the time of Delivery.
- e. The Customer acknowledges that it has the sole responsibility to confirm the suitability of the Goods for their intended purpose and that Wormald makes no representation or warranty in this regard.

## 6. Title and Risk

- a. Title to the Goods shall remain with Wormald until all monies owing by Customer to Wormald for the Goods have been paid in full.
- b. If:
  - a. a payment is not made in accordance with the Agreement;
  - b. Customer commits any other breach of the Agreement;
  - c. Customer becomes bankrupt, has an administrator, a receiver or a receiver and manager appointed, goes into liquidation (whether voluntarily or otherwise), or is wound up, dissolved or declared insolvent,  
then Wormald may at any time, without notice to Customer and without prejudice to any other rights that it may have against Customer:
- d. terminate the Agreement; or
- e. suspend some or all its obligations to Customer under the Agreement.
- c. Wormald reserves the right to register a security interest for the purposes of the *Personal Property Securities Act 2009*, as amended. The Customer agrees to provide Wormald with all such information that Wormald requires in order to register a security interest at anytime. The Customer will immediately advise Wormald of any changes which may affect Wormald's security interest.

## 7. Warranty and Limitation of Liability for Goods

- a. Other than is provided for in this clause 7, Wormald makes no warranties or representations to Customer. The warranty in this clause 7 is in addition to any other rights or remedies which may be available to Customer at law.
- b. Wormald warrants the Goods to be free from defects in workmanship and materials under normal use and service for a period of 1 calendar year from the Delivery (**Warranty Period**). This warranty does not cover costs of claiming under this warranty or of recovery of the Goods from the site or damage, fault, failure or malfunction due to external causes including accident, abuse, misuse, mechanical or electrical overload, abrasion, corrosion, incorrect installation, failure to comply with Wormald's or the original manufacturer's instructions (including any installation, operating or maintenance instructions or manuals), failure to perform required preventative maintenance or normal wear and tear.
- c. During the Warranty Period, to the extent permitted by law, Customer's sole remedy with respect to breach of warranties set out in the clause immediately above will be to repair or replace (as Wormald may elect) any such defective Goods at Wormald's expense. The replacement or repaired Goods shall be covered by the unexpired

portion of the Warranty Period in respect of the original Goods or for a period of 90 days, whichever is the greater.

- d. For equipment forming part of the Goods, which equipment is not manufactured by Wormald, the original manufacturer's warranty will apply. Wormald's liability for such equipment shall not exceed the liability of the manufacturer.
- e. In respect of Goods that are not ordinarily acquired for personal, domestic or household use or consumption, the liability of Wormald for a breach of any condition or guarantee applied by law is limited at Wormald's option to the repair of the Goods, the supply of replacement Goods or payment of the cost of having the Goods supplied again.
- f. Wormald's liability under the Agreement will be reduced by the amount of any contributory loss or damage to the extent caused by Customer's act or omission.
- g. To the extent that the Goods are supplied to a 'consumer' as defined in the Australian Consumer Law, Wormald will comply with any applicable consumer guarantees and the following statement will apply:

"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."

- h. Customer acknowledges and agrees that, to the extent permitted by law, Wormald has no liability in contract, tort (including negligence or breach of statutory duty), by statute or otherwise for loss or damage (whether direct or indirect) of profits, opportunity, revenue, goodwill, bargain, production, contracts, business or anticipated savings, corruption or destruction of data or for any indirect, special or consequential loss or damage whatsoever.
- i. Subject to clause 7(g), Wormald's total liability under any contract and the Agreement shall not exceed the total dollar amount of the Goods purchased by Customer.

## **8. Proprietary Information**

- a. Customer acknowledges that all Proprietary Information and all right, title and interest therein are the sole property of or licensed by Wormald and Customer shall gain no right, title or interest in the Proprietary Information whatsoever. Customer specifically acknowledges Wormald's exclusive rights to ownership of any modification, translation or adaptation of the Proprietary Information and any other improvement or development based thereon, whether developed, supplied, installed or paid for by or on behalf of Customer or any buyer of Customer or otherwise.
- b. Customer must not and must not permit any person reasonably within its control nor procure any person to modify, copy, clone or reverse engineer the Goods, or copy, modify or decompile any of Wormald's documentation relating to the Goods.

## 9. Miscellaneous

- a. The Agreement is governed by and must be interpreted in accordance with the laws of New South Wales. Customer unconditionally submits to the non-exclusive jurisdiction of the courts of New South Wales.
- b. The Wormald Store hosting environment and ecommerce software packages are Payment Card Industry Data Security Standard (PCI DSS) compliant. The hosting service undergoes an annual PCI compliance review.
- c. Wormald will comply with its Privacy Policy, which is available on its website ([www.wormald.com.au](http://www.wormald.com.au)) and is otherwise available from Wormald upon request.

## 10. Enquires

The Customer may enquire about its Order by emailing [onlinesales@wormald.com.au](mailto:onlinesales@wormald.com.au) or calling 1300 781 184.