

terms & conditions

1. INTERPRETATION

In these terms and conditions:

- 1.1 "Timber Revival" means Timber Revival Pty Ltd which is the supplier of the goods.
- 1.2 "Customer" means the purchaser of the goods specified in the quote/order/invoice.
- 1.3 "Goods" means all goods sold and/or delivered by Timber Revival to the Customer. "Goods" shall include services.
- 1.4 "Terms" means these terms and conditions of sale.
- 1.5 "GST" means any goods and services tax.

2. ORDERS AND ACCEPTANCE

- 2.1 Orders placed with Timber Revival by the Customer for the purchase of goods as specified are subject always to the acceptance of the order by Timber Revival, within 30 days of receipt by Timber Revival of the order.
- 2.2 These terms and conditions of sale shall apply to the exclusion of all others and any terms or conditions of the Customer (whether on the Customer's order form or otherwise) which are contrary to or inconsistent with these terms and conditions shall not apply nor shall they constitute a counteroffer or variation or waiver thereof.
- 2.3 Upon acceptance of the order by Timber Revival, these terms and conditions shall constitute the entire contract between the parties and no variation, modification or condition thereof shall have any effect unless made in writing and accepted by Timber Revival.

3. PRICE & PAYMENT

- 3.1 Unless otherwise agreed with Timber Revival the Customer shall make payment for the goods in full prior to the delivery of goods, or at the time of pickup of the goods.
- 3.2 If the Customer intends to pay for the goods via Cash on Delivery (C.O.D) the goods will not be unloaded from the delivery vehicle or otherwise released to the Customer unless payment has been made in full.
- 3.3 If the Customer intends to pay for the goods via a method other than C.O.D, the goods will not be released from Timber Revival to the Customer until payment has been received.
- 3.4 Payment for the goods may be made by cash, bank cheque, electronic funds transfer (bank details are included on our orders and tax invoices), or by debit or credit card (only Visa & MasterCard credit cards accepted, with all credit transactions subject to 1.35% surcharge).
- 3.5 In respect to any goods ordered, a minimum deposit of 60% of total order is required prior to manufacturing, or material being supplied from external sources.
- 3.6 Unless otherwise stated, all prices quoted by Timber Revival are net, exclusive of Goods & Services Tax (GST).
- 3.7 Interest is payable on all overdue accounts calculated on a daily basis at the rate of 1.5% per month as from the due date for payment until payment is received by Timber Revival.

4. DESCRIPTION OF GOODS

All goods to be supplied by Timber Revival to the Customer are as described on the purchase order and/or invoice, as agreed by Timber Revival and the Customer and such description prevails over any other description including any specification or enquiry of the Customer.

- 4.1 The Customer acknowledges sole responsibility for the accuracy of all specifications, drawings and particulars of weights and dimensions ("specifications") submitted to Timber Revival and Timber Revival shall not be liable or responsible in any way for any loss or damage occasioned to the Customer and/or any third party in consequence of a mistake, inaccuracy or incorrect description on the part of the Customer in submitting any specifications.
- 4.2 The descriptions, illustrations and performances contained in catalogues, price lists and other advertising material do not form part of the contract of sale of the goods or of the description applied to the goods.

5. DELIVERY

- 5.1 Where a delivery date is specified, Timber Revival shall endeavour to deliver the goods by the specified delivery date; however, Timber Revival shall not be liable or responsible in any way for loss or damage incurred by the Customer and/or any third party arising from any delay in or failure of delivery, whether such delay or failure arose from shortage of supplies, industrial stoppages, negligence of Timber Revival and/or any other event or circumstance whatsoever that is beyond reasonable control of Timber Revival. Written advice to the Customer that the goods are ready for delivery, whether in whole or part, shall constitute fulfilment of the order and the terms of payment shall apply.
- 5.2 Timber Revival reserves the right to deliver the goods to the Customer in any number of instalments. If the delivery is made in instalments the Customer shall not be entitled to terminate or cancel the contract, or to claim any loss or damage that may arise by failure of Timber Revival to deliver any instalments on or before the quoted delivery date.
- 5.3 The site of off-loading of the goods upon delivery will be at the discretion of Timber Revival and/or its driver and no claim for relocation will be accepted.
- 5.4 Any extension requested by the Customer of the specified delivery date is subject to the Customer paying the price for the goods in full and the Customer agrees to pay storage charges at the rate of \$100.00 for each week (or part thereof) for the period of any such extension.
- 5.5 Timber Revival may at its option deliver the goods to the Customer in any number of instalments unless there is an endorsement overleaf to the effect that the Customer will not take delivery by instalments.

6. TITLE

- 6.1 Timber Revival maintains legal and beneficial ownership of the goods until all amounts owed by the Customer are fully paid (in cash or cleared funds).
- 6.2 The Customer acknowledges that they receive possession of and hold goods delivered by Timber Revival solely as Bailee for Timber Revival, until the full price (including any GST) is paid.
- 6.3 Until such time as the Customer becomes the owner of the goods, they will;
 - (a) store them on the premises separately;
 - (b) ensure that the goods are kept in good and serviceable condition;
 - (c) secure the goods from risk, damage and theft; and
 - (d) keep the goods fully insured against such risks that are usual or common to insure against in a business of a similar nature to that of the Customer.

- 6.4 (a) Until the goods are paid for in full (including any GST), Timber Revival authorises the Customer to sell the goods as its agent. However, the Customer shall not represent to any third parties that it is acting in any way for Timber Revival. Timber Revival will not be bound by any contracts with third parties to which the Customer is a party.
- (b) The proceeds of any sale of the goods shall be paid into a separate account and held in trust for Timber Revival. The Customer shall account to Timber Revival from this fund for the full price of the goods including any GST.
- (c) The Customer is entitled to a period of credit, but if prior to the expiration of the period of credit the goods are sold and the proceeds of sale are received by the Customer then the Customer shall account to Timber Revival for the price of the goods (including any GST).
- (d) Should the Customer die, stop payment or call a meeting of its creditors or become insolvent or subject to the bankruptcy laws, or being a company, appoints an administrator or calls a meeting for the purpose of or to go into liquidation or has a winding-up application presented against it or has a receiver appointed, Timber Revival may at its option notwithstanding its waiver of such default or failure and without prejudice to its other rights under this contract, suspend or cancel this contract or require payment in cash before or on delivery or tender of goods notwithstanding the terms of payment previously specified, or may repossess and take over the goods and dispose of the same in its own interest without prejudice to any claim it may have for damages for any loss resulting from such resale.
- 6.4.1 (a) Until full payment in cleared funds is received by Timber Revival, in addition to any rights Timber Revival may have under Chapter 4 of Personal Properties and Securities Act 2009 (Cth) ("PPSA"), Timber Revival shall be entitled at any time until title in and to the goods passes to the Customer to demand the return of the goods and shall be entitled without notice to the Customer and without liability to enter any premises occupied by the Customer (or any premises where the Customer is holding the goods) in order to search for and remove the goods and for this purpose the Customer irrevocably licences Timber Revival to enter such premises and also indemnifies Timber Revival from and against all loss suffered or incurred by Timber Revival as a result of exercising its rights under this clause. If there is any inconsistency with Timber Revival's rights under this clause 6.5(a) and its rights under the PPSA this clause 6.5(a) prevails.
- (b) The Customer acknowledges and warrants that Timber Revival has a security interest for (the purposes of the PPSA) in the goods and any proceeds described in clause 5(a) until title passes in accordance with this clause 6. The Customer must do anything reasonably required by Timber Revival to enable Timber Revival to register its security interest with the priority that Timber Revival requires and to maintain that registration.
- (c) The security interest under this clause 6 attaches to the goods when the Customer obtains possession of the goods and the parties confirm that they have not agreed that any security interest arising under this clause 5 attaches at any later time.
- (d) If title in and to the goods has not passed to the Customer in accordance with this clause 5, the Customer's implied right to sell the goods shall immediately terminate upon the happening of any event of default by the Customer.
- 6.5 Timber Revival's rights under this Clause 6 secure Timber Revival's right to receive the price of the Goods and all amounts owing to Timber Revival under any other contract.
- 6.6 All payments received from the Customer must be applied by Timber Revival in accordance with section 14(6)(c) of the PPSA.
- 6.7 If the Customer does not pay for any goods on the due date then Timber Revival is hereby irrevocably authorised by the Customer to enter the Customer's premises (or any premises under the control of the Customer or as agent of the Customer in which the goods are stored) and use reasonable force to take possession of the goods without liability for the tort of trespass, negligence, assault and battery or payment of any compensation to the Customer whatsoever.
- 6.8 On retaking possession of the goods Timber Revival may elect to refund to the Customer any part payment that may have been made and to credit the Customer's account with the value of the goods less any charge for recovery of the goods, or to resell the goods.

7. RISK

- 7.1 The risk of the goods shall pass to the Customer from the moment of delivery to the Customer's point of delivery or on collection, even though title in the goods has not passed to the Customer at that time.
- 7.2 Timber Revival shall not be liable or responsible in any way for any loss or damage occasioned to the Customer and/or third party in consequence of the goods being mishandled, incorrectly stored and/or which may arise from the assembly, installation or operation of the goods and/or in respect of deterioration in the quality or condition of the goods in consequence of incorrect or inadequate storage.
- 7.3 Except as provided in these terms and conditions, all express and implied warranties, guarantees and conditions under statute or general law as to merchantability, description, quality, suitability or fitness of the goods for any purpose or as to design, assembly, installation, materials or workmanship or otherwise are expressly excluded. Timber Revival is not liable for physical or financial injury, loss or damage or for consequential loss or damage of any kind arising out of the supply, assembly, installation, or operation of the goods or arising out of the negligence of Timber Revival or in any way whatsoever.

8. INSPECTION & SHORTAGE

- 8.1 Unless the Customer has inspected the goods and given written notice to Timber Revival with two (2) days after collection or delivery that the goods do not comply with the relevant specifications or descriptions, the goods are deemed to have been accepted in the correct quantities, good order and condition.

9. RETURN OF GOODS

- 9.1 Any claim made for loss or damage, deterioration, deficiency or other fault in the goods provided by or on behalf of Timber Revival is required to be made by the Customer in writing within seven (7) days of the date of delivery of the goods. Any claim not received in writing within this time frame shall not be accepted or recognised.
- 9.2 Timber Revival shall not be liable or responsible for any loss or damage occasioned to the Customer and/or any third party or for any consequential loss arising from the shortage of goods and/or from defects or alleged defects therein.
- 9.3 Timber Revival shall not be liable in any circumstances for any defects or damages caused in whole or part by misuse, abuse, neglect, improper application, repair or alteration (other than by Timber Revival) or accident; or for any transport, installation, removal, labour or other costs.

10. CANCELLATION

- 10.1 No order may be cancelled, modified or deferred without the prior written consent of Timber Revival (which is at Timber Revival's sole discretion). If such consent is given it is, at Timber Revival's election, subject to Timber Revival being reimbursed all losses, including loss of profits, and paid a cancellation fee (being not less than 20% of the invoice price of the goods).

11. LIMITED LIABILITY

- 11.1 The liability for a breach of condition or warranty, implied into this contract by the Sale of Goods or the Trade Practices Act (other than a condition implied by Section 69) is limited to:
- a) in the case of goods to any one of the following as determined by Timber Revival
- i) the refund of the price paid by the Customer for the goods or the issue of a credit note for such an amount
 - ii) the replacement of the Goods or the supply of equivalent Goods; or
 - iii) the repair of the Goods; or
 - iv) the payment of the cost of replacing the Goods or at acquiring equivalent goods; or
 - v) the payment of the costs of having the goods repaired;
- b) in the case of services to any one of the following as determined by Timber Revival
- i) the supplying of the services again; or
 - ii) the payment of the cost of having services supplied again.

12. CONTRACT & GOVERNING LAW

12.1 The terms of the contract are wholly contained in these Terms and any other writing signed by both parties.

12.2 The contract for sale of the goods is made in the State of Victoria from which this document is issued.

12.3 The parties submit all disputes arising between them to the courts of such State and any court competent to hear appeals from those courts of first instance.

13. RIGHT TO ENTER PREMISES

13.1 Timber Revival reserves the right:

- a) to enter the Customer's premises (or the premises of any associated company or agent where the goods are located) without being guilty in any manner of trespass and without liability for any resulting damage and retake possession of the goods; and
- b) to keep or resell any goods repossessed.

13.2 Notwithstanding such rights, Timber Revival shall be entitled to maintain an action against the Customer for the price of the goods.

14. FORCE MAJUERE

14.1 Timber Revival will not be liable for any breach of contract due to any matter or thing beyond its control (including but not limited to transport stoppages, transport breakdown, fire, flood, earthquake, strikes, lock-outs, work stoppages, wars, riots or civil commotion, intervention or public authority, explosion or accident.

15. NO ASSIGNMENT

15.1 Neither the contract, nor any rights under the contract may be assigned by the Customer without prior written consent of Timber Revival, which is at Timber Revival's absolute discretion.

16. SEVERABILITY

16.1 If any provision contained in these Terms is held by a court to be unlawful, invalid or unenforceable, the validity and enforceability of the remaining provisions are not affected.