

GREENCHEM INDUSTRIES PTY LTD TRADING TERMS

The following terms and conditions (**Trading Terms**) apply to all purchases of goods by you, (the **Purchaser**), from Greenchem Industries Pty Ltd ABN 85 616 846 818 (**Greenchem**). Placing an order with Greenchem will constitute deemed acceptance by the Purchaser of these Trading Terms. Modifications of or deviations from these Trading Terms must be agreed in writing by Greenchem.

1. Orders

- 1.1. Orders will be initiated by you making a request for goods from Greenchem. When placing an order with Greenchem, you will comply with any ordering procedures (including the required form of any order) notified to you from time to time by Greenchem.
- 1.2. Greenchem reserves the right to accept or reject any order in whole or in part for any reason, including without limitation the unavailability of any goods.

2. Pricing and payment

- 2.1. Greenchem will invoice all orders at its current prices, which may alter without notice to the Purchaser.
- 2.2. If Greenchem agrees to supply goods outside of its normal trading hours, Greenchem may then increase the Purchase Price of the goods supplied and/or charge an additional out-of hours call out or service fee. Greenchem will process the order once the Purchaser has agreed in writing to such increase.
- 2.3. The Purchaser agrees to pay the Purchase Price for the goods supplied to the Purchaser by Greenchem.
- 2.4. Should it be considered necessary by Greenchem to incur legal and/or other expenses, including any debt collection expenses, in obtaining or attempting to obtain payment of any amount due by the Purchaser, the Purchaser shall be liable for such expenses.
- 2.5. If requested by Greenchem, payment by cash or equivalent must be received by Greenchem before processing an order.
- 2.6. The purchaser must pay the full amount (including GST) of goods and/or services from Greenchem, without deduction, set-off or counterclaim immediately on receipt of a valid tax invoice at the time of delivery of the goods and/or services, except on a Credit Account of Greenchem.

If goods are supplied to a Purchaser on credit by way of a Credit Account:

- (a) such credit is offered subject to the conditions set out in Greenchem's application for Credit Account form; and
- (b) payment of the Purchase Price is strictly required 30 days from the end of the month of the date of the Invoice issued by Greenchem.

- 2.7. The Purchaser is not entitled to withhold payment in whole or in part, or claim any right to set off in respect of the Purchase Price.

3. Interest

- 3.1. If the Purchase Price or any part of the Purchase Price remains unpaid after the payment date required by the Contract, the outstanding Purchase Price shall be subject to interest at the rate that is three percent (3%) per annum above the rate charged from time to time by Greenchem's principal banker for unsecured overdrafts of less than \$100,000.

- 3.2. Interest shall accrue daily, from the day the relevant Invoice was due up to and including the day that it is paid in full. Any amount of interest, together with the outstanding Purchase Price is payable by the Purchaser on demand.

4. Credit Accounts

- 4.1. Greenchem may refuse to supply goods to the Purchaser if there is an Event of Default.
- 4.2. Upon the occurrence of an Event of Default all outstanding amounts become payable immediately, notwithstanding the terms of the Credit Account.
- 4.3. The Purchaser agrees that Greenchem, in its absolute discretion, may withdraw or vary the Credit Account facility at any time.
- 4.4. The Purchaser agrees to pay on demand all sums owing in connection with the Credit Account at any time.
- 4.5. If there is a change in ownership of the Purchaser which Greenchem deems to be material, Greenchem may withdraw the Credit Account facility in accordance with clause 4.3 and require that the Purchaser submit a new Credit Account application form.

5. Gas cylinders

- 5.1. Subject to approval by Greenchem, the Purchaser may hire a gas cylinder from Greenchem at a price notified by Greenchem from time to time (**Hire Fee**).
- 5.2. The hire period must not exceed 90 days from the date the Purchaser collects the gas cylinder from Greenchem or the gas cylinder is delivered to the Purchaser (**Hire Period**).
- 5.3. If the Purchaser:
 - (a) fails to return the gas cylinder before the expiry of the Hire Period;
 - (b) returns a contaminated gas cylinder (containing any gas, chemicals, or fluids which were not originally supplied by Greenchem as part of the goods); or
 - (c) returns a gas cylinder that is damaged (such damage to be determined by Greenchem in its absolute discretion),

Greenchem will be entitled to charge the Purchaser the difference between the current price that Greenchem sells new gas cylinders (holding the same volume of gas) and the Hire Fee.

- 5.4. If the Purchaser returns the gas cylinder within 90 days of collection or delivery, Greenchem will reimburse the Purchaser the total amount of the Hire Fee.
- 5.5. The Purchaser is responsible for all costs associated with collecting and returning (including any delivery costs) the gas cylinder.

6. Ownership and risk

- 6.1. All risk in the Goods will pass to the Purchaser when the Goods leave Greenchem's premises, regardless of how delivery is effected.
- 6.2. Ownership of each unit of the Goods will remain with Greenchem until all amounts owing by the Purchaser to Greenchem on any account whatsoever (including the Purchase Price for the Goods) (**Amounts Owing**) have been paid in full.

- 6.3. Until the Amounts Owing have been paid in full, the Purchaser:
- (a) may, subject to clause 6.4, take possession of the Goods and hold them as trustee and agent for Greenchem;
 - (b) must ensure that the Goods are insured and stored or identified so that they are readily distinguishable from other goods held by the Purchaser or other persons.
- 6.4. Until the Amounts Owing have been paid, the Purchaser has the right to move, sell and otherwise use the Goods in the ordinary course of its business, subject to the following:
- (a) the Purchaser may sell the Goods, but only as trustee and agent for Greenchem;
 - (b) the Purchaser must hold the proceeds it receives from any sale of the Goods as trustee and agent for Greenchem; and
 - (c) if the Goods become part of a product or mass through manufacturing, processing, assembly or becoming commingled, Greenchem's security interest continues in that product or mass (**Commingled Property**) to the extent permitted by law.
- 6.5. Despite clause 6.4(a), the Purchaser must not represent to any third parties that it is acting as agent of Greenchem and Greenchem will not be bound by any contracts with third parties to which the Purchaser is a party.
- 6.6. If the Purchaser fails to comply with any part of these Trading Terms in relation to the payment of any Amount Owing or otherwise, then:
- (a) immediately on Greenchem's request the Purchaser must return to Greenchem any Goods acquired from Greenchem on which there are outstanding Amounts Owing;
 - (b) Greenchem may by its agents or authorised persons enter the premises at which those Goods are stored, and seize possession of them; and
 - (c) Greenchem may retain, sell or otherwise dispose of those Goods.
- 6.7. The Purchaser must not assign or grant a security interest in respect of any accounts owed to it in relation to the Goods without Greenchem's prior written consent.
- 6.8. Without limiting the meaning of Amounts Owing, if the Purchaser makes a payment to Greenchem at any time whether in connection with these Trading Terms or otherwise Greenchem may, at its absolute discretion, apply that payment to first satisfy obligations that are not secured, then obligations that are secured, but not by a purchase money security interest, in the order in which those obligations were incurred, and then obligations that are secured by a purchase money security interest in the order in which those obligations were incurred.
- 6.9. If Chapter 4 of the PPSA would otherwise apply to the enforcement of these Trading Terms the Purchaser agrees the following provisions of the PPSA will not apply to the enforcement of these Trading Terms: section 95 (notice of removal of accession), to the extent that it requires Greenchem to give a notice to the Purchaser; section 96 (when a person with an interest in the whole may retain an accession); subsection 121(4) (enforcement of liquid assets – notice to grantor); section 125 (obligation to dispose of or retain collateral); section 130 (notice of disposal), to the extent that it requires Greenchem to give a notice to the Purchaser; paragraph 132(3)(d) (contents of statement of account after disposal); subsection 132(4) (statement of account if no disposal); section 135 (notice of retention); section 142 (redemption of collateral); and section 143 (reinstatement of security agreement).
- 6.10. Notices or documents required or permitted to be given to Greenchem for the purposes of the PPSA must be given in accordance with the PPSA.
- 6.11. The Purchaser consents to Greenchem effecting a registration on the PPSA register (in any manner Greenchem considers appropriate) in relation to any security interest contemplated by these Trading Terms and the Purchaser agrees to provide all assistance reasonably required to facilitate this. The Purchaser waives the right to receive notice of a verification statement in relation to any registration on the register.
- 6.12. In this clause 6:
- (a) a reference to **Goods** means the original goods supplied as described in each Invoice and also includes proceeds and Commingled Property when the context permits;
 - (b) **paid** means receipt of cash or cleared funds by Greenchem in full satisfaction of the Amounts Owing;
 - (c) **PPSA** means the Personal Property Securities Act 2009 (Cth) and any regulations made pursuant to it; and
 - (d) the following words have the respective meanings given to them in the PPSA: account, commingled, proceeds, purchase money security interest, register, registration, security interest and verification statement.
- ## 7. Delivery
- 7.1. Greenchem will only deliver goods to a Purchaser after the goods have been inspected by Greenchem, including the passing of a leakage test.
- 7.2. Goods will be delivered to the address specified in the order. Delivery costs are included in the total purchase price, unless otherwise specified by Greenchem.
- 7.3. The Purchaser must sign all delivery documentation requested to be signed by Greenchem and/or the carrier.
- 7.4. Greenchem shall use its reasonable endeavours to deliver the goods by the estimated time frame (if an estimate is given), but does not guarantee the availability of goods nor that delivery will be effected by such time.
- 7.5. The delivery of any goods will be conducted at the Purchaser's sole risk. Greenchem is not responsible for the destruction, damage or loss of goods in transit. It is the responsibility of the Purchaser to arrange and pay for transit insurance if required.
- 7.6. For the avoidance of doubt, the Purchaser will bear all risks in relation to the destruction, loss or damage of any goods at all times from the time any goods are dispatched by Greenchem to the Purchaser.
- ## 8. Return of goods
- 8.1. Immediately upon receipt of the goods, the Purchaser must inspect the goods and undertake their own leakage test.
- 8.2. The Purchaser must notify Greenchem in writing within 24 hours of receipt of the goods by the Purchaser (**Return Period**) of any fault, defect or failure to pass a leakage test conducted by the Purchaser in the delivered goods (**Rejection Notice**). The Purchaser acknowledges that the short duration of the Return Period is appropriate as leakage of the goods may cause serious damage to property, the environment or persons. The Purchaser will be deemed to have accepted delivered goods unless Greenchem receives a Rejection Notice within the Return Period.
- 8.3. Greenchem will not provide a refund for any returned goods purchased from Greenchem unless the goods contain a manufacturer's fault or defect, such fault or defect determined by Greenchem in its absolute discretion.
- 8.4. All goods returned for refund or credit must:
- (a) be a standard item that Greenchem has in stock on a regular basis;
 - (b) except for faulty or defective goods, be accompanied by original packaging, remain unused and in original condition;

- (c) be accompanied by the original proof of purchase or other relevant original documentation.

8.5. Freight to and from Greenchem on all returns is to be borne by the Purchaser.

8.6. In the case of all goods returned to Greenchem, Greenchem is under no obligation to issue a refund or credit note to the Purchaser if the Purchaser owes any money to Greenchem.

9. Compliance, licences and accreditations

9.1. The Purchaser warrants and represents to Greenchem that it has obtained and holds all necessary consents, accreditations, licences and approvals of all government, semi-government, statutory, public or other authorities, including without limitation the Australian Refrigeration Council (AFC) required to purchase and use the goods.

9.2. The Purchaser agrees to provide Greenchem with all necessary documentation on demand as proof of its compliance with clause 9.1 or for Greenchem to comply with AFC's or any of its statutory reporting requirements.

10. Appropriate use of goods

The Purchaser warrants and represents to Greenchem that at all times it shall:

10.1. use the goods for its intended purpose;

10.2. follow all safety procedures and recommendations provided by Greenchem from time to time;

10.3. not commit any act or omission which may adversely affect the reputation of Greenchem; and

10.4. not sell the goods or any component of the goods to a third party without the prior written consent of Greenchem, which consent may be withheld in Greenchem's absolute discretion.

11. Limitation of liability

To the maximum extent permitted by law Greenchem excludes all liability, whether arising out of contract, tort or otherwise and all warranties and representations, whether express or implied, in relation to the goods, including without limitation any warranty regarding merchantability or fitness for a particular purpose. To the extent that Greenchem cannot exclude liability, Greenchem's liability is limited, to the maximum extent permitted by law (at Greenchem's election), to the re-supply of the goods, or refund of the Purchase Price.

12. Trustee provision

If the Purchaser enters into a Contract as trustee of any trust, the Purchaser enters into the Contract as trustee of the relevant trust and also in its personal capacity.

13. Releases

13.1. To the maximum extent permitted by law, the Purchaser releases Greenchem from all losses, damages (including consequential loss or damage), costs and expenses (including legal costs on a full indemnity basis) incurred or suffered by the Purchaser directly or indirectly out of or in connection with these Trading Terms, the goods supplied by Greenchem or any other cause whatsoever.

13.2. The Purchaser releases Greenchem from all liability, in respect of personal injury or death or damage or loss of property of any person including the Purchaser or the Purchaser's employees, agents or contractors, arising wholly or in part from the Purchaser's acts, omissions, negligence, breach of duty, breach of contract, or breach of the Contract.

14. Indemnity

The Purchaser acknowledges that improper use of the goods may result in property or environmental damage, serious injury or death. The Purchaser shall be responsible for and indemnify and hold harmless Greenchem from and against all Claims, damages, costs (including without limitation legal costs on a full indemnity basis), losses, liabilities and expenses suffered or likely to be suffered by Greenchem that are caused or contributed to by the Purchaser's negligent or improper use of the goods. The indemnity in this

clause will be subject to the extent to which Greenchem caused the loss.

15. Purchaser's acknowledgement

15.1. The Purchaser acknowledges that it has the sole responsibility of satisfying itself that the goods supplied by Greenchem are suitable for the use of the Purchaser or any contemplated use of the Purchaser and that it has conducted its own investigations and has not relied upon any information, statement, advice or representation by Greenchem of or in relation to:

- (a) the operating and/or performance parameters of the goods;
- (b) the outcomes that the goods may achieve; and
- (c) the suitability of the goods to any particular application, installation or physical environment.

15.2. The Purchaser acknowledges and agrees that:

- (a) any representation as to the operating parameters of the goods provided by Greenchem are representative of laboratory conditions;
- (b) the actual performance of the goods in situ might be affected by external factors (including without limitation environmental conditions) beyond Greenchem's control;
- (c) incorrect and/or negligent installation, application or use of the goods may cause loss of life, injury and/or damage to property; and
- (d) Greenchem makes no representation, warranty or assurance as to any of the matters listed in clause 15.1 and that Greenchem shall not be liable for any loss or cost arising from those matters to the maximum extent permitted by law.

16. Intellectual Property

16.1. The Purchaser must not deface or remove any mark, label or plate affixed by Greenchem on the goods.

16.2. The Purchaser acknowledges that all Intellectual Property in the goods is the property of Greenchem.

16.3. The Purchaser must not and must not cause, permit or assist any other person directly or indirectly to:

- (a) copy any Intellectual Property in the goods or record or replicate it by any other means;
- (b) make copies of or replicate the goods;
- (c) translate, reverse engineer, decompile or disassemble the goods; or
- (d) copy, publish, disclose or distribute any documentation associated with the goods (including without limitation, operating instructions and manuals).

17. Taxation and duties

Any amounts payable to Greenchem are exclusive of GST unless specified otherwise. Any government charges or duties, including sales tax, GST, use or excise taxes or similar taxes, are payable by the Purchaser.

18. Variation of Trading Terms

18.1. Greenchem reserves the right to change any of these Trading Terms (to apply to future purchases of goods) at any time in its sole discretion, to be effective on written notice to the Purchaser. If the Purchaser does not agree to such changes, any Credit Account that the Purchaser may have with Greenchem may be terminated.

18.2. For the avoidance of doubt, changes to these Trading Terms will not apply retrospectively to the purchase of goods made prior to the Purchaser receiving written notice of such changes from Greenchem.

19. Governing law

The Contract is governed by and construed in accordance with the law from time to time in the State of South Australia and the Purchaser agrees to submit to the non-exclusive jurisdiction of the courts of South Australia and the courts which hear appeals from them.

20. Miscellaneous

- 20.1. If any term of the Contract is void, voidable or unenforceable, the term will be read-down, limited or, if necessary, excluded to the extent necessary to make it not void, voidable or unenforceable, and all other terms will remain in full force and effect.
- 20.2. Greenchem may only waive a breach of these Trading Terms in writing signed by Greenchem and any such waiver is limited to the instance referred to in the writing (or if no instance is referred to in the writing, to past breaches only).
- 20.3. The Contract:
- (a) constitutes the entire agreement between Greenchem and the Purchaser; and
 - (b) may not be varied or waived except agreed to in writing by Greenchem.

21. Definitions

In these Trading Terms:

Claims means any cost, demand, legal proceedings, claims, actions, fines, penalties, obligation or liabilities of any nature;

Contract means:

- (a) the application for Credit Account form (if any); and
- (b) these Trading Terms;

Credit Account means the Purchaser's credit facility with Greenchem;

Event of Default means:

- (a) the Purchaser fails to pay the Purchase Price or any part of the Purchase Price outstanding and any accrued interest within two business days of receiving a written demand from Greenchem;
- (b) the guarantees provided by the directors, partners or proprietors of the Purchaser are not binding or any person alleges that the guarantees are not binding;
- (c) the Purchaser commits an act of Insolvency; or
- (d) the Purchaser ceases or threatens to cease to carry on business;

GST means a tax, duty, levy, charge or deduction, imposed by GST Law and any related interest, penalties, fines or other charges;

GST Law means the A New Tax System (Goods and Services Tax) Act 1999, or any other act imposing a goods and services tax in Australia;

Insolvency means:

- (a) the Purchaser, not being a company committing an act of bankruptcy, making a proposal to its creditors for a composition or arrangement under the *Bankruptcy Act 1966* (Cth) or if any other act or event occurs that would entitle a petition for a bankruptcy order to be made;
- (b) the Purchaser, being a company, having a receiver or administrator appointed or doing, or omitting to do anything which would permit such an appointment to occur.

Intellectual Property includes the rights comprised in any patent, copyright, future copyright, design, trade mark, eligible layout, business name, brand name, trading style or similar right whether at common law or conferred by statute and includes rights to apply for registration under a statute in respect of those or like rights as well as rights to protect trade secrets, know-how, confidential information or unpatented production methods or technical information throughout the

world for the full period of the rights and all renewals and extensions and all other rights with respect to intellectual property as defined in Article 2 of the July 1967 Convention Establishing the World Intellectual Property Organisation;

Invoice includes any invoice issued to the Purchaser for goods supplied to the Purchaser by Greenchem; and

Purchase Price means the amount or amounts specified in the Invoice and includes the actual cost of delivery of the goods to the Purchaser including any additional or unforeseen costs due to any delay, misinformation or error caused or contributed to by the Purchaser and GST in relation to the goods supplied pursuant to the Invoice.