

Standard Terms and Conditions of Sale

1 GENERAL

- a) These terms and conditions will apply to any contract which may from time to time come into existence between **IAC Acoustics Australia Pty Ltd ("the Company")** and a purchaser of **Goods or Services** from the **Customer** and in the event of any inconsistency between these terms and conditions and any prior agreement or purported agreement or any terms and conditions in any purchase order received from the **Customer**, these terms and conditions will prevail.
- b) These terms and conditions are subject to variation by the **Company** from time to time. Notice of such variation will be given in writing to the **Customer** and such variation will be effective from the date upon which the **Customer** receives notice of such variation.
- c) The **Goods** supplied under these terms and conditions are either standard product, normally available ex-stock in industry standard packs ("**Stock Orders**"), or products specially manufactured to a specification supplied by the **Customer** ("**Special Orders**"). The **Services** supplied under these terms and conditions are the provision of installation **Services** relating to certain **Goods**.
- d) No contract will arise between the **Company** and the **Customer** until such time as the **Company** accepts the **Customer's** purchase order.
- e) An order which has been in whole or in part by the **Company** cannot be cancelled by the **Customer** without the prior written approval of the **Company** which is may refuse in its absolute discretion.

2 PRICES

- a) Prices are subject to change without notice. Prices prevailing at the time of delivery of the **Goods or Services** will apply to those **Goods and Services**. **Goods and Services Tax ('GST')** and other government imposts will be shown as a separate amount on the invoice, if applicable.
- b) All prices are quoted excluding 'GST' or any other tax, levy, Government impost or the like imposed on the sales of **Goods or Services**. If tax exemption is claimed, it will be the **Customer's** responsibility to furnish the **Company** with a duly authorised statement of exemption. If the **Company** receives no such statement, the relevant tax will be added to the price as applicable.
- c) The **Customer** will indemnify the **Company** in respect of the GST paid and payable by the **Company** in respect of the sale of the **Goods** and any **Services** provided.

3 DELIVERY

- a) **Goods** will be delivered and **Services** provided during normal working hours to the address specified by the **Customer**.
- b) The **Customer** acknowledges that the delivery date given by the **Company** on acceptance of the order is a bona fide estimate only. The **Company** will not be responsible for any delay due to circumstances beyond its control including, but not limited to, acts of God, strikes or lockouts.
- c) If a delay occurs due to circumstances beyond the **Company's** control, the **Company** may, as its option, either extend the time of delivery for a reasonable period or determine the contract, and the **Customer** will not have any claim for damage relating thereto and the **Company** will be entitled to recover all sums owing to it in respect of deliveries made prior to such determination.
- d) If no shipping address has been specified or if for any reason, not the fault of the **Company**, shipment cannot be made, delivery will be deemed to be affected by the setting aside by the **Company** of the **Goods** at the **Company's** premises or by the placement by the **Company** of the **Goods** in storage in the name of the **Customer**. In this event the **Company** reserves the right to charge the **Customer** storage fees.
- e) The **Company** reserves the right to make partial deliveries of **Goods** and to invoice for such partial deliveries as is they were separate orders.
- f) All claims for faulty workmanship, storage, damage or failure to supply **Goods** in accordance with the **Customer's** orders must be made within seven (7) days of delivery of the **Goods** or the provision of the **Services**.

4 PAYMENT

- a) Payment for **Goods or Services** supplied must be made within thirty (30) days of the date of the relevant invoice.
- b) If the **Customer** fails to pay the amount(s) invoiced when due:
 - i) The **Company** is entitled to charge, and the **Customer** is liable to pay, interest on the overdue amount at the rate of four percent (4%) per annum above the prime rate quoted by the **Company's** bankers from time to time. Any payment subsequently made will be credited firstly against the interest accrued and thereafter against the principal overdue; and
 - ii) The **Company** may at its option withhold further deliveries or cancel any contract with the **Customer** without prejudice to any of its existing rights

5 TITLE AND RISK

- a) Property in the title to the **Goods** will not pass the **Customer** until all amounts owing to the **Company**, pursuant to any contract between the **Company** and the **Customer**, have been paid in full. Unless and until property in and title to the **Goods** has passed to the **Customer**, the **Customer** must not pledge or give the **Goods** as security and until the **Goods** have

been sold by the **Customer** in the ordinary course of the **Customer's** business, the **Customer** will hold the **Goods** as baille for the **Company**.

- b) The **Customer** is deemed to be in default immediately upon the happenings of any of the following events:
 - i) If any payment to the **Company** is not made promptly before the due date for payment;
 - ii) If the **Customer** ceases to carry on business or stops or suspends payment or states its intention of so doing or is unable to pay its debts as they fall due or if any cheque or bill of exchange drawn by the **Customer** payable to the **Company** is dishonoured.
- c) In the event of a default by the **Customer** then without prejudice to any other rights which the **Company** may have at law or under this contact:
 - i) The **Company** or its agents may without notice to the **Customer** enter the **Customer's** premises or any premises under the control of the **Customer** for the purpose of recovering the **Goods**.
 - ii) If the **Customer** uses the **Goods** in some manufacturing or construction process of its own or some third party, then the **Customer** must hold such part of the proceeds of sale of such manufacturing or construction process as relates to the **Goods** in trust of the **Company**. The **Customer** will pay the **Company** such funds held in trust upon the demand of the **Company**.
- d) Until payment has been made in accordance with the clause 5(a), the **Customer** will insure the **Goods** against all risks. The proceeds of any insurance claims in respect of damage or destruction to the **Goods** are hereby assigned be the **Customer** to the **Company**. The **Customer** will indemnify the **Company** against all loss or damage to or caused by the **Goods** however arising.
- e) Risk in the **Goods** will pass to the **Customer** upon delivery to the **Customer**.

6 LIABILITY

To the fullest extent permitted by law all express and implied warranties and conditions under statute or general law as to merchantability, description, quality, suitability or fitness for any purpose or otherwise with respect to the **Goods** delivered or **Services** supplied are expressly excluded and the **Company** shall not be liable for any physical or financial injury, loss or damage or for consequential loss or damage of any kind arising out of the supply of the **Services** or supply or operation of the **Goods** or arising out of the **Company's** negligence or in any other way whatsoever.

The **Company's** liability for a breach of a condition or warranty, which by law is incapable of exclusion, is limited (but

- a) only to the extent permitted by law) at the **Company's** option to: a) Refunding the price paid for the **Goods** or **Services**; or
- b) Replacement of the **Goods** or the supply of equivalent **Goods** or resupply of the **Service**; or
- c) Repair of the **Goods**; or
- d) The cost of repairing the **Goods** and replacing the **Goods** with equivalent **Goods** and resupply of the **Services**.

7 WARRANTIES

IAC Acoustics Australia Pty Ltd products are guaranteed for one year from date of purchase by the consumer against defects due to materials and the **Company's** workmanship only, as either and both of which the **Company** shall be the sole judge.

The sole obligation of the **Company** to the consumer shall be to repair, or at the **Company's** option to replace products as aforesaid, provided same are returned "Transportation Prepaid" to the **Company's** nearest plant within the said period.

Other defects or failures due to improper or careless installation, storage or handling or usage contrary to manufacturer's directions, design or specifications, as to any and all of which the **Company** shall be the sole judge, are specifically excluded for the guarantee. No liability is accepted for return transportation charge, following repair or replacement as aforesaid or for reinstallation costs. No liability for loss or damage of any nature or kind, whether arising out of or from the use of the product, whether or not defective, is assumed. No other expressed or implied warranties exist in the absence of special agreement.

8 PATENTS AND DESIGNS

In respect of specifications supplied by the **Customer** for a Special Order, the **Customer** hereby indemnifies and agrees to keep indemnified the **Company** from and against liability in respect of any loss or damage whether direct or indirect arising from infringement of any patent, registered design or other intellectual property rights.

9 RETURNS

- a) Returns of **Goods** supplied against Stock Orders will only be accepted with the prior agreement of the **Company** within seven (7) days of delivery and in standard packs only. Subjects to **Goods** being returned into the **Company's** store in a condition suitable for resale, the invoice price will be credited to the **Customer** less payment of a re-stocking fee of 20% of the invoice price
- b) Returns of Special Orders will not be accepted.

10 NOTICE

Any notice will be in writing and will be taken as sufficiently served if delivered at or sent by ordinary pre-paid post or by facsimile or by email to the business address of the **Customer** or the **Company**.

11 APPLICABLE LAW

These terms and conditions will be constructed in accordance with the laws of the State of New South Wales for the time being in force and the parties hereto submit to the non-exclusive jurisdiction of the Courts of that State. Any condition found to be void, unenforceable or illegal may, to that extent, be served from the contract

12 WAIVER

The failure of the **Company** at any time to require performance of any provision of these terms and conditions will not affect in any way the full right of the **Company** to require such performance at any time thereafter nor shall waiver of a breach of any provision hereof be deemed a waiver of the provision itself or any other provision hereof.