

TERMS AND CONDITIONS OF SALE

IMPORTANT INFORMATION

The following information is required to be disclosed under NSW Fair Trading legislation to all Buyers based in New South Wales.

Does IMPREG provide any warranties?

IMPREG only provides warranties under the manufacturer's warranty (if any) and warranties that cannot be excluded by law (such as the consumer guarantees under the Australian Consumer Law). IMPREG does not provide any other warranties to the Buyer.

Is IMPREG's liability excluded or limited?

Yes. IMPREG's liability in connection with any breach of consumer guarantees is limited at IMPREG's discretion to the replacement of the products, the supply of equivalent products, the payment of the cost of replacing the products or acquiring equivalent products, the payment of the cost of having the products repaired or the repair of the products.

To the maximum extent permitted by law, IMPREG is not liable to the Buyer for any indirect, special, economic or consequential loss and no action can be brought by the Buyer against IMPREG more than 12 months after delivery of the products or, if the Buyer is a consumer, such longer period as may be applicable under the Australian Consumer Law.

Are there any conditions or limitations for making a claim against IMPREG?

Yes. No claim can be made by Buyer against IMPREG, unless Buyer inspects the products within 7 days of delivery, notifies IMPREG of any alleged defects within 10 days after such inspection or later discovery of a latent defect and, at IMPREG's option, returns any allegedly defective products to IMPREG.

Does the Buyer provide any indemnities to IMPREG?

Yes. The Buyer must indemnify IMPREG (and certain parties related to IMPREG) against any losses or damages arising out of the Buyer's breach of this Agreement or any other agreement between the Buyer and IMPREG, the improper use of the products by Buyer or the modification, alteration or repair of the products by Buyer.

1. Offer and Agreement

1.1 These terms and conditions of sale (**Terms**) apply to the sale of the products (**Products**) and provision of services by IMPREG Australia Pty Ltd, ABN 35 647 231 249 (together with its affiliates, "**IMPREG**") to any person or entity placing an order with IMPREG (together with its successors and permitted assigns, the "**Buyer**"). Any order placed by the Buyer is deemed to incorporate these Terms irrespective of any inconsistencies which may be introduced in the order or any other document provided by the Buyer to IMPREG. Any additional or differing terms or conditions proposed by the Buyer are expressly rejected by IMPREG.

1.2 Upon IMPREG providing an order confirmation (**Order Confirmation**) to the Buyer, a binding agreement for the supply of the Products specified in the Order Confirmation is concluded between IMPREG and the Buyer on the terms and conditions set out in the Order Confirmation and these Terms (**Agreement**). All orders are confirmed by IMPREG on the assumption that the Buyer has carefully considered all technical and commercial issues relating to the purchase of the Products. Requests for changes made after the issuance of the Order Confirmation can only be made by the Buyer after reimbursing IMPREG for all expenses incurred by IMPREG in connection with such change request.

1.3 None of any past practice, industry standards, course-of-dealing or usage of trade constitutes a modification of, or addition to, any term or condition contained in this Agreement. No additional or different terms or conditions will be binding upon IMPREG unless specifically agreed to in writing and signed by an authorised representative of IMPREG. Failure of IMPREG to object to conditions contained in any other communication from the Buyer is not to be construed as a waiver of this Agreement nor acceptance of any such other provisions.

2. Definitions and Interpretation

2.1 In this Agreement:

Australian Consumer Law means Schedule 2 of the *Competition and Consumer Act 2010* (Cth) and any equivalent State or Territory legislation;

Consumer has the meaning given in section 3 of the Australian Consumer Law;

Consumer Guarantee means a guarantee provided under Division 1 of Part 3-2 of the Australian Consumer Law;

Delivery means the delivery of Products to a common carrier at IMPREG's principal place of business within Australia or at any other loading point outside Australia, unless otherwise agreed in the Order Confirmation;

Intellectual Property Rights means any and all intellectual and industrial property rights anywhere in the world, including but not limited to the rights comprised in any patent, copyright, design, trade mark, plant breeders rights, eligible layout or similar right whether at common law or conferred by statute, rights to apply for registration under a statute in respect of those or like rights and rights to protect trade secrets and know how, throughout the world for the full period of the rights and all renewals and extensions;

Manufacturer's Warranty means the manufacturer's warranty provided by IMPREG for the Products under a separate document;

Purchase Price means the amount of the total purchase price and all fees, charges and taxes payable for the Products as stated in the relevant Order Confirmation; and

Small Business Contract means a small business contract as that term is defined and interpreted under the Australian Consumer Law from time to time.

2.2 Headings used in this Agreement are for convenience only and are not to be considered in interpreting any of its provisions.

3. Products

3.1 The Products are sold with the features and characteristics and the intended use as specified in the applicable IMPREG product description. Any additional features and/or characteristics and/or any uses that are beyond the stated specifications of the Products are only valid with express written confirmation from IMPREG. References to standard commercial quality designations and samples do not constitute a basis for liability as to condition and/or durability. The same also applies to information about features of the Products in IMPREG's processing instructions. Furthermore, IMPREG reserves the right to revise and discontinue Products at any time and without prior notice.

3.2 IMPREG reserves the right, but is not obliged, to make changes, modifications or adjustments to the Products at any time without the Buyer's consent which:

(a) do not affect physical or functional interchangeability or performance of the Products; or

(b) are required for purposes of safety; or

(c) are required to comply with the current technical rules or standards.

If this Agreement is a Small Business Contract, IMPREG must notify the Buyer of any such changes.

4. Prices and Payment

4.1 If Products are shipped from IMPREG's principal place of business or from any other location within Australia, the quoted price is Ex Works (Incoterms 2010) from IMPREG's principal place of business or the location of shipment, as applicable, unless otherwise agreed in the Order Confirmation. If Products are shipped from outside Australia, the quoted price is DDP – Delivered Duty Paid (Australian port of entry) (Incoterms 2010), unless otherwise agreed in the Order Confirmation.

4.2 The quoted price of Products does not include any taxes, freight costs, packaging or similar charges, all of which must be borne by Buyer, unless otherwise agreed in the Order Confirmation. All prices are subject to change prior to IMPREG's issuance of an Order Confirmation. For all prices and Products, IMPREG reserves the right to make adjustments due to changing market conditions, Product discontinuation or other extenuating circumstances.

4.3 IMPREG is responsible for any insurance and shipping charges from outside Australia to an Australian port of entry. Buyer is responsible for any insurance and shipping charges of domestic shipments of Products within Australia and must reimburse IMPREG for any such charges paid by IMPREG, unless otherwise agreed in the Order Confirmation. Further, in the case of Products shipped from outside Australia, Buyer is responsible for any insurance and shipping charges of Products from the Australian port of entry and must reimburse IMPREG for any such charges paid by IMPREG, unless otherwise agreed in the Order Confirmation.

4.4 Unless otherwise specified in the Order Confirmation, the Purchase Price must be paid by the Buyer within ten (10) days of the issuance of the Order Confirmation.

4.5 For the avoidance of doubt, upon issuance of the Order Confirmation, the order is non-cancellable and non-returnable except as otherwise provided in clause 7.3.

4.6 IMPREG may charge the Buyer interest on all overdue amounts at the lower of:

(a) eight percent (8%) per annum; or

(b) the NSW Supreme Court Post Judgment Interest Rate applicable during the relevant time.

4.7 Buyer has no right of set-off for any alleged or proven counterclaims. Any assignment of Buyer's counterclaims to a third party without IMPREG's prior written consent is void.

4.8 Buyer agrees to reimburse IMPREG for any costs and expenses (including reasonable legal costs or costs of collection agencies on a full indemnity basis) in connection with the collection of any amounts owed to IMPREG under this Agreement.

5. Taxes and Other Charges

5.1 Any tax, assessment, duty, custom or other fee of any nature imposed upon the Products, their sale, transportation, delivery, use or consumption imposed by any governmental authority, domestic or foreign, on or measured by the transaction between IMPREG and Buyer must be paid by Buyer in addition to the price quoted or invoiced. In the event that IMPREG is required to pay any such tax, duty, fee or charge, Buyer must reimburse IMPREG therefore unless otherwise agreed upon in writing.

5.2 All quoted prices for the Products are exclusive of GST (as defined in *A New Tax System (Goods and Services Tax) Act 1999 (Cth)*). If any supply of the Products made by IMPREG

to the Buyer is subject to GST, the Buyer must pay to IMPREG, in addition to any amount or consideration payable by the Buyer in relation to that supply, the amount of any GST payable in respect of the supply at the time the consideration for the supply is payable.

5.3 This clause 5 survives the expiration or termination of the Agreement.

6. Suspension and Cancellation

6.1 If any of the following occurs:

- (a) Buyer fails to comply with any delivery instructions or fails to accept Delivery;
- (b) Buyer fails to make any payment under this Agreement when it becomes due or commits any other breach of this Agreement;
- (c) a resolution is passed or proposed or a petition is presented or an application filed for the winding up of the Buyer;
- (d) a liquidator, administrator, receiver, controller or receiver and manager is appointed over the property or any part of the property of the Buyer;
- (e) the Buyer makes or proposes to make any arrangement with its creditors; or
- (f) the Buyer becomes insolvent, is wound up or enters into bankruptcy

then, subject only to sections 415D, 434J and 451E of the *Corporations Act 2001* (Cth), IMPREG may at its sole option and discretion, suspend or cancel any further deliveries or services and treat this Agreement or any other agreement between IMPREG and Buyer as terminated, but such termination shall be without prejudice to IMPREG's right to payment of any unpaid price for Products delivered or cost of work done under this Agreement and to damages for loss suffered in consequence of such termination.

7. Delivery and Risk of Loss or Damage

7.1 Risk of loss and/or damage to the Products (but not title in the Products) will pass to Buyer upon Delivery or deemed delivery of the Products in accordance with the applicable Incoterms whichever occurs first. The Buyer is responsible for insuring the Products from the time risk passes to the Buyer.

7.2 If Buyer is responsible for any shipment delay, IMPREG's written notification to Buyer that the Products are ready for shipping constitutes delivery to the Buyer, and all further risk of loss or damage as well as all costs for handling, transportation and storage must be borne by Buyer.

7.3 In case of delays, for which IMPREG is the sole cause, IMPREG's liability for same will be limited to a 1% discount of the Purchase Price for each week of delay up to an aggregate discount not greater than 5% of the Purchase Price. If the order is delayed more than ten (10) weeks due to IMPREG's gross negligence or wilful act, then Buyer may cancel the order as Buyer's sole remedy.

7.4 IMPREG is not liable for any damages as a result of any delay or failure to deliver due to any cause beyond IMPREG's reasonable control, including without limitation, any act of God, endemic or pandemic, including but not limited to the COVID-19 pandemic, any act or omission of Buyer, embargo or other governmental act, regulation or request, fire, accident, strike, slowdown, war, terrorism, riot, delay in transportation or inability to obtain necessary labour, materials or manufacturing facilities or delays in deliveries by sub-contractors or suppliers by any such circumstance as referred to above. IMPREG reserves the right from time-to-time to substitute a Product with a product that has the same function as such Product, or to delete a Product.

7.5 Unless otherwise agreed in the Order Confirmation, the estimated date of delivery must not be regarded as a binding condition of this Agreement. If a delay is expected, IMPREG will promptly inform Buyer of such delay or inability to perform. In the case of an inability to perform, any part of the Purchase Price previously received by IMPREG will be promptly refunded to Buyer.

8. Storage

8.1 If Products are not shipped within thirty (30) days after notification to the Buyer that they are ready for shipping, including as a result of the Buyer's failure to give shipping instructions, IMPREG may store such Products at the Buyer's sole risk in a warehouse or other storage facility or upon IMPREG's premises and the Buyer must pay all handling, transportation and storage costs at the prevailing commercial rates promptly upon demand by IMPREG.

9. Limited Warranties

9.1 Other than the Manufacturer's Warranty and any warranties that cannot be excluded by law, IMPREG provides no warranties, including any warranty against defect, to the Buyer in respect of any Products supplied by IMPREG to the Buyer.

9.2 If the Buyer is a Consumer, IMPREG acknowledges that the Buyer may have certain rights under the Australian Consumer Law in respect of the Consumer Guarantees as they apply to the Products supplied by IMPREG and nothing in this Agreement should be interpreted as attempting to exclude, restrict or modify the application of any such rights. In circumstances where the rights under the Australian Consumer Law are greater than the rights under this Agreement or any applicable Manufacturer's Warranty, IMPREG will always honour the Buyer's rights under the Australian Consumer Law.

9.3 If the Buyer is a Consumer, IMPREG's liability to the Buyer in connection with any breach of the Consumer Guarantees in respect of the Products is limited (at IMPREG's discretion) to the following:

- (a) the replacement of the Products or the supply of equivalent products;
- (b) the payment of the cost of replacing the Products or acquiring equivalent products;
- (c) the payment of the cost of having the Products repaired; or
- (d) the repair of the Products.

9.4 Subject to any applicable law which cannot be excluded, no claim can be made by the Buyer against IMPREG, unless the Buyer:

- (a) inspects the Products within seven (7) days of Delivery; and
- (b) notifies IMPREG of any alleged defect within ten (10) days after:
 - (i) such inspection; or,
 - (ii) if applicable, discovery of a latent defect; and
- (c) at IMPREG's option, returns any allegedly defective Products.

9.5 Upon IMPREG's request, Buyer must promptly provide samples and other evidence of, and allow IMPREG's representatives access to, the allegedly defective Products. Claiming an alleged defect does not relieve Buyer of any of its payment obligation to IMPREG. Use of allegedly defective Products must be suspended until written clearance is issued by IMPREG for continued use. Buyer must not return any allegedly defective Products without first being issued a return material authorisation letter from IMPREG. Buyer agrees to reimburse IMPREG for all costs and expenses associated with any return of Products

unauthorised by IMPREG. Receipt or inspection of returned Products by IMPREG will not be deemed an admission of any alleged defect.

- 9.6 To the maximum extent permitted by law and subject to the Australian Consumer Law, IMPREG's obligations under this clause 9 do not apply to any Products which:
- (a) are not used in accordance with IMPREG's operating or processing instructions or used for a purpose not indicated in such instructions or on the labelling;
 - (b) are consumed by normal wear;
 - (c) have been damaged due to negligent or faulty use, alteration, maintenance, storage or handling by Buyer and/or third parties;
 - (d) have been damaged due to failure to use approved components for maintenance and replacement parts; or
 - (e) have been damaged due to storage which is not in accordance with storage requirements as stated in IMPREG's storage manual (a PDF copy of the storage manual will be provided to the Buyer together with the Order Confirmation).
- 9.7 Any recommendation by IMPREG or IMPREG's agents regarding use, application or suitability of Products must not be construed as an express warranty unless confirmed to be such in the Order Confirmation.
- 9.8 To the maximum extent permitted by applicable law, other than the Consumer Guarantees (if applicable), IMPREG does not give any warranties, expressed or implied, including, without limitation, any implied warranties or conditions of merchantability or fitness for a particular purpose.
- 9.9 Any Products which by agreement of the parties are of less than IMPREG's standard quality are sold "as is".

10. Limitation of Liability

- 10.1 To the maximum extent permitted by law and subject only to clause 10.4, IMPREG is not liable to Buyer in contract, tort (including negligence), law or otherwise for any of the following:
- (a) any loss, cost, damage or expense to the extent that it is for indirect, special, economic or consequential loss, where consequential loss means any loss, cost, damage or expense beyond the normal measure and beyond that which every person in a like situation would suffer;
 - (b) any loss of revenue, business or profits or any nature whatsoever, loss of expected savings, loss of chance or business opportunity, business interruption, loss or reduction of goodwill or damage to reputation or any loss of value of intellectual property;
 - (c) any defects or damage caused in whole or in part by Buyer by misuse, abuse, neglect, non-suitable storage, improper installation, repair or alteration of the Products (other than to the extent caused or contributed to by IMPREG); or
 - (d) any cosmetic faults, i.e. minor deviations from the required quality of the Products which are insignificant for the value and functional soundness of the Products.
- 10.2 The maximum cumulative liability of either party and its affiliates to the other party and its affiliates for all actions arising out of or related to this agreement or the transactions contemplated hereby, regardless of the form of the action or the theory of recovery, must in no case exceed the Purchase Price paid by Buyer for the Products which give rise to the claim.

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- 10.3 To the extent permitted by law, no action, whether in contract or tort including negligence, may be brought by Buyer against IMPREG more than twelve (12) months after delivery of the goods or provision of the services or, to the extent that Buyer is a consumer, such longer period as applicable under the Australian Consumer Law.
- 10.4 If, and to the extent that, Buyer is a consumer, nothing contained in this clause 10 will limit the rights of Buyer against IMPREG under the Australian Consumer Law.
- 10.5 This clause 10 survives termination or expiration of this Agreement.
- 11. Retention of Title and Security Interest**
- 11.1 IMPREG retains title to the Products until it has received full payment for the Products and all other amounts owing by the Buyer to IMPREG for any other products or services provided by IMPREG to the Buyer.
- 11.2 The terms “*Security Interest*”, “*Proceeds*” and “*Purchase Money Security Interest*” used in this clause have the respective meanings given to those terms in the *Personal Property Securities Act 2009 (Cth) (PPSA)*.
- 11.3 The Buyer acknowledges and agrees that:
- (a) the retention of title under clause 11.1 creates a Security Interest in the Products and their Proceeds in favour of IMPREG and that Security Interest is a Purchase Money Security Interest;
 - (b) until the date of final payment of all amounts referred to in clause 11.1, the Buyer must:
 - (i) not allow anything to be done or act in a way that might adversely affect the Security Interest in the Products that is granted to IMPREG;
 - (ii) not dispose of the Products except in the ordinary course of the Buyer’s business;
 - (iii) not move the Products from the Site without IMPREG’s prior written consent;
 - (iv) not allow any person other than IMPREG to have or acquire any Security Interest in the Products;
 - (v) insure the Products for their full insurable or replacement value (whichever is higher) with a reputable insurer; and
 - (vi) not remove, deface or obliterate any identifying mark or number on any of the Products; and
 - (c) the Buyer indemnifies IMPREG against all of IMPREG’s reasonable direct costs associated with enforcing its Security Interest (including reasonable legal fees on a full indemnity basis).
- 11.4 To the extent permitted by law, the parties agree to contract out of sections 95, 118, 121(4), 125, 130, 132(3)(d), 132(4), 135, 142 and 143 of the PPSA or their equivalent in any amendment to the PPSA.
- 11.5 Without limiting clause 11.4, IMPREG does not need to give the Buyer any notice required under the *Personal Property Securities Act 2009 (Cth)*, including a notice of a verification statement, unless the requirement for the notice cannot be excluded.
- 11.6 Until such time as title in the Products passes to the Buyer, IMPREG is entitled to enter any premises where it suspects the Products may be located in order to search for and remove

the Products without committing a trespass (even though they may be attached or annexed to other the Products or land not the property of the Buyer) and for this purpose the Buyer irrevocably licenses IMPREG to enter such premises and undertakes that it will procure any necessary authority to enter from any relevant person and also indemnifies IMPREG from and against all loss suffered or incurred by IMPREG as a result of exercising such rights.

12. Buyer's Indemnity

12.1 The Buyer must indemnify, defend, and hold harmless IMPREG and its affiliates, agents, employees, officers, directors, shareholders and contractors from any claims, losses, liabilities, expenses, costs, suits or damages, including reasonable legal fees, and court costs arising out of:

- (a) the Buyer's breach of this Agreement and of any other agreement between the parties;
- (b) the improper use of the Products by Buyer or its agents or employees; or
- (c) the modification, alteration or repair of the Products by Buyer or its agents or employees.

13. Intellectual Property Rights and Confidentiality

13.1 The Buyer acknowledges and agrees that all Intellectual Property Rights in the Products and in any material relating to the Products are and will remain the property of IMPREG or any of its affiliates (as the case may be).

13.2 All specifications and all other information furnished by IMPREG to the Buyer with respect to the Products are proprietary to IMPREG and confidential (**Confidential Information**). Such Confidential Information has been developed at substantial expense and contains trade secrets that are the exclusive property of IMPREG. Buyer may not reproduce or distribute such Confidential Information except to such of Buyer's employees who are required to have such Confidential Information in order to perform their duties and agree, in writing, to keep such Confidential Information confidential.

13.3 The Buyer must hold all Confidential Information in strict confidence and must not disclose any Confidential Information, except for information that:

- (a) was generally available to the Buyer from public or published sources, provided publication did not take place in violation of this Agreement or through fault or omission of the Buyer,
- (b) was lawfully obtained by the Buyer from a source under no obligation of confidentiality, directly or indirectly; or
- (c) was disclosed to the general public with the written approval of IMPREG.

13.4 Buyer acknowledges and agrees that IMPREG will not have adequate remedy at law for breach or threatened breach by Buyer, or its, agents, employees, representatives or subcontractors, of any one or more of the covenants set forth in this clause 13. Buyer further agrees that in the event of any such breach or threatened breach, IMPREG may, in addition to (but not in substitution for) the other remedies which may be available to it either at law or in equity, initiate proceedings in the applicable courts, without any requirement for security or posting of any bond, to seek injunctive or interlocutory relief.

13.5 This clause 13 survives termination or expiration of this Agreement.

14. Governing law and jurisdiction

14.1 The validity, interpretation, enforceability, and performance of this Agreement are governed by and must be construed in accordance with the laws applicable in New South Wales,

Australia without reference to provisions concerning conflicts of law and under exclusion of the *United Nations Convention on Contracts for the International Sale of Goods 1980* (CISG).

14.2 Each of the parties irrevocably submits to the non-exclusive jurisdiction of the courts of the State of New South Wales, Australia.

15. Miscellaneous

15.1 The failure by IMPREG to enforce at any time any provision of this Agreement is not to be construed to be a waiver of such provision or the right thereafter to enforce each and every provision. No waiver by IMPREG, either expressly or implied, of any breach of any of this Agreement is to be construed as a waiver of any other breach of such Terms.

15.2 The Buyer must not assign or otherwise transfer its rights or obligations hereunder without the prior written consent of IMPREG.

15.3 IMPREG may sub-contract the whole or any part of the production or delivery of the Products or the performance of the services agreed to be supplied by IMPREG to the Buyer.

15.4 If a provision of this Agreement would, but for this clause, be unenforceable, that provision must be read down to the extent necessary to avoid that result and, if the provision cannot be read down, must be severed without altering the validity and enforceability of the remainder of this Agreement.

15.5 This Agreement constitute the entire agreement between the parties and supersede all previous terms and conditions imposed by IMPREG.

Name of Buyer:	
Address of Buyer:	
Signature of authorised representative of Buyer:	
Name of authorised representative of Buyer:	
Date signed:	