

Fern Marketing Ltd

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Terms and Conditions of Trade

1. PRICES and TERMS

The goods shall be purchased or quoted on these Terms and Conditions and at prices prevailing at the time the goods are dispatched. All prices quoted exclude GST. These Terms and Conditions shall prevail unless varied in writing.

2. TERMS OF PAYMENT

1. Payment shall be either; by cash or at time goods are ordered, or with prior approval, by 20th month following supply of goods.

2. If payment is not received by the due date, then Fern Marketing Ltd may refuse delivery of further goods and stop further credit facilities.

3 The Customer will pay all collection and legal costs actually incurred by the Fern Marketing Ltd(including actual solicitor/client costs) that are related to the collection or recovery of any unpaid account.

3. INTEREST

Payments not made on due date may, at Fern Marketing Ltd's sole discretion, bear interest from the date of the invoice at the rate of 2% per month until paid (or at such rate as shall be in force at the date of purchase).

4. CREDIT LIMIT

Fern Marketing Ltd may cancel orders in respect of any undelivered goods or may withhold delivery of future orders if the Customer's account exceeds the credit terms set by Fern Marketing Ltd.

5. NON RECEIPT OR DAMAGE

All goods must be checked on receipt as to quantity and/or damage. Non receipt or damage must be reported by the Customer to both the Carrier and Fern Marketing Ltd within 3 days from the date of delivery, otherwise the claim may be rejected by Fern Marketing Ltd. Fern Marketing Ltd will replace goods covered by approved claims.

6. RETURNED GOODS

No goods shall be returned for credit without Fern Marketing Ltd's prior written approval.

7. CLAIMS

All claims regarding goods supplied or allegations regarding goods not having been supplied as per invoice/packing slip shall be made within 3 days of delivery of the goods and in the absence of any claim the Customer shall be deemed to have accepted the terms of the invoices as correct and accept that the goods specified are as delivered.

8. CLAIMS RETURN POLICY

1. Goods supplied in error are returnable for replacement or credit, providing the error is notified to Fern Marketing Ltd in writing within 3 days of delivery.

2. No claim will be recognized unless the goods are returned with the original invoice/packing slip, or the

number and date of the invoice/packing slip are enclosed.

3. No claim will be recognized unless the returned goods are in saleable, undamaged and clean condition, and in the original packaging, complete with detachable accessories and instruction manuals.

4. Fern Marketing Ltd may at its sole discretion accept the return of goods surplus to the requirements of the Customer in which event the credit may not exceed 75% of the original amount charged for those goods.

9. RISK AND DELIVERY

Risk passes to the Customer on delivery of the goods. Delivery shall be deemed complete when Fern Marketing Ltd gives possession of the goods directly to the Customer, or possession of the goods is given to a carrier, courier, or other bailee for the purposes of transmission to the Customer.

10. WARRANTY

1. Except as provided in the Consumer Guarantees Act 1993 and by the manufacturer's written warranty (if any) Fern Marketing Ltd makes no representation, condition, warranty or promise, express or implied, in respect of goods supplied to the Customer.

2. Except as provided in the Consumer Guarantees Act 1993, Fern Marketing Ltd shall not be liable for any loss of any kind whatsoever suffered by the Customer as a result of a breach of any of Fern Marketing Ltd's obligations regarding the supply of goods or any negligence on the part of Fern Marketing Ltd, its servants, agents or contractors, nor shall Fern Marketing Ltd be liable for any loss damage or injury caused to the Customer's servants,agents,contractors, customers or other persons. The Customer will indemnify Fern Marketing Ltd against any claim by such persons.

3. The liability of Fern Marketing Ltd arising from a breach of any of Fern Marketing Ltd's obligations regarding the supply of goods, or from any negligence on Fern Marketing Ltd part, its servants, agents or contractors (but not from any liability under the Consumer Guarantees Act 1993), will be limited to damages which will not exceed the price of the goods supplied.

4. Where the Customer purchases goods for a particular purpose, it is the Customer's sole responsibility to ensure that the goods will be suitable for the Customer's purpose, and Fern Marketing Ltd shall have no liability whatsoever in the event that the goods are not fit for the Customer's purpose, notwithstanding any statements made to the Customer by Fern Marketing Ltd or its officers or employees.

11. OWNERSHIP

1. **Ownership reserved:** It is expressly agreed that ownership is reserved and legal and equitable title to and property in all goods supplied by Fern Marketing Ltd is and remains vested in Fern Marketing Ltd until

payment in full has been received by Fern Marketing Ltd.

2. Recovery of Goods: Fern Marketing Ltd may at any time before sale of any goods by the Customer recover and take repossession of such goods and otherwise exercise in relation to those goods any of its rights where those rights are also covered by common law, contract, statute or in any other way.

12. PERSONAL PROPERTY SECURITIES ACT 1999 ('PPSA')

1. The Customer grants to Fern Marketing Ltd a purchase money security interest in all present and after-acquired goods, supplied by Fern Marketing Ltd to the Customer described in any:

- (a) quotation from Fern Marketing Ltd to the Customer;
- (b) contract between Fern Marketing Ltd and the Customer including, without limitation, documentation (electronic or otherwise) supplementary to that contract and incorporated into that contract by reference or otherwise;
- (c) purchase order or any other order for goods from the Customer;
- (d) dispatch order, invoice, statement or remittance advice from Fern Marketing Ltd to the Customer.

2. At the request of Fern Marketing Ltd, and until all and any amounts due to the Customer have been paid in full, the Customer will promptly execute any documents and do anything else required by Fern Marketing Ltd to ensure that any security interest created constitutes a perfected security interest over all goods supplied by Fern Marketing Ltd. This obligation extends to providing the information required by Fern Marketing Ltd to complete and register a financing statement or financing change statement.

3. The Customer will not, without the prior written consent of Fern Marketing Ltd, agree to allow any person (including the Customer) to file a financing statement over any goods supplied by Fern Marketing Ltd while the Customer is liable to Fern Marketing Ltd for any debt.

4. The Customer will notify Fern Marketing Ltd immediately if the Customer becomes aware of any person taking any steps to file a financing change statement against any goods supplied to the Customer by Fern Marketing Ltd.

5. The terms 'security interest', 'purchase money security interest', 'perfected security interest', 'personal property', 'financing statement' and 'financing change statement' referred to in the above clauses have the meanings given by the PPSA.

13. PRIVACY ACT

1. The Customer authorises Fern Marketing Ltd:

(a) To collect and retain and use personal information about the Customer (the information contained in this document) for the following:

- (i) Assessing the Customer's credit worthiness.
- (ii) Administering the financing, whether directly or indirectly of the Customer contracts(s) and enforcing Fern Marketing Ltd's rights there under.
- (iii) Marketing goods and services provided by Fern Marketing Ltd.

(b) To provide the information:

- (i) to any person for the foregoing purposes
- (ii) to employees and agents of Fern Marketing Ltd and any other person, in the ordinary course of business, for any of the foregoing purposes
- (iii) to credit agencies for the purpose of maintaining effective credit records.

2. The Customer acknowledges:

(a) that the information is held by Fern Marketing Ltd at the address specified in this document, notwithstanding that it may also be held elsewhere by Fern Marketing Ltd and other persons for the purposes described above.

(b) that where information can be readily retrieved the Customer shall have access to it, the right to request correction and the right to be notified of action taken in response to any such request, subject to payment of any reasonable charge.

(c) that the aforesaid authorisations are irrevocable.

14. PERSONAL GUARANTEE OF COMPANY DIRECTORS OR TRUSTEES

If the Customer is a Company or trust, the director(s) or trustee(s) signing this contract, in consideration of Fern Marketing Ltd agreeing to supply goods and grant credit to the Customer at their request, also sign this contract in their personal capacity and jointly and severally personally undertake as principal debtors to Fern Marketing Ltd the payment of any and all monies now or hereafter owed by the Customer to Fern Marketing Ltd and indemnify Fern Marketing Ltd against non-payment by the Customer. Any personal liability of a signatory hereto shall not exclude the Customer in any way whatsoever from the liabilities and obligations contained in this contract. The signatories and Customer shall be jointly and severally liable under the terms and conditions of this contract and for payment of all sums due hereunder.

15. VALIDITY

If a term or condition herein is held by a Court to be unenforceable then such term or condition shall be severed from all other terms and conditions without affecting the enforceability of those other terms and conditions.

I/We	accept the above Terms and Conditions of Trade
(Name of Company or Account Name).....	
Full Name:	Designation.....Date:
Signature.....	Address.....
Postal Address.....	
Ph.....	Fax.....Email.....