

TR Corporation New Zealand Limited

Conditions of Sale TCSNZ1

1 GENERAL

- 1.1 Orders are accepted and equipment and services sold by TR Corporation New Zealand Limited ("TR Corporation") on the following terms and conditions. The placing of an order whether orally, by facsimile, by telephone, by e-mail, by mail or otherwise with TR Corporation will incorporate these terms and conditions as forming part of the contract of sale of the equipment ("Sale Agreement"). No variation or modification of, or substitution for, these terms and conditions shall be binding unless expressly accepted by TR Corporation in writing.
- 1.2 The word "Equipment" in this Sale Agreement shall be taken to mean any equipment as referred to in the Sale Agreement or the services referred to in the Sale Agreement and where applicable all equipment, articles, accessories, documents (including operating manuals) or items supplied with the Equipment or the services. Further, Equipment includes reference to any individual item as well as to a number of items whether or not included in a single quote or agreement.
- 1.3 The Sale Agreement shall be governed in all respects by the laws of New Zealand and the jurisdiction of New Zealand shall apply to any dispute arising out of this Sale Agreement.
- 1.4 Nothing in these terms and conditions shall restrict, modify or exclude any conditions, warranties, rights or liabilities which may at any time be implied in the Sale Agreement by any New Zealand Act or law.
- 1.5 Unless otherwise expressly stated all Equipment sold is ex-rental.

2 ORDERS

An order placed whether orally, by facsimile, by telephone, by e-mail, by mail or otherwise can not be cancelled or altered other than with the written consent of TR Corporation. The Purchaser acknowledges that in placing the order with TR Corporation and TR Corporation accepting that order, it has entered into a legally binding contract with TR Corporation subject to these terms and conditions.

3 PRICES/EXCHANGE FLUCTUATIONS

All prices quoted by TR Corporation are quoted excluding GST, duty and freight and packaging costs and all are subject to adjustment in favour of TR Corporation if there is any adverse exchange rate fluctuation.

4 VALIDITY

Subject to clause 3 any quotation given for the sale of Equipment is valid for a period of thirty (30) days from its date or such other period (if any) stated in the quotation.

5 EX-STOCK EQUIPMENT

Any Equipment quoted "ex-stock" is subject to availability and prior sale or rental.

6 DELIVERY & INSURANCE

- 6.1 Equipment sold is available for collection at the location specified in the Sale Agreement.
- 6.2 At the Purchaser's request TR Corporation will arrange packing and delivery of the Equipment to the Purchaser with packaging and delivery charges being invoiced to the Customer.
- 6.3 Unless otherwise agreed by TR Corporation in writing, the Purchaser shall collect the Equipment from the location specified in the Sale Agreement within 7 days of TR Corporation notifying the Purchaser that the Equipment is ready for collection.
- 6.4 If the Purchaser fails to take delivery in accordance with this condition the Purchaser shall pay TR Corporation for all storage and handling charges and other consequential loss or damage arising from that delay.
- 6.5 TR Corporation is not responsible to the Purchaser for any damage to or loss of the Equipment whilst being delivered to the Purchaser. The Purchaser acknowledges that any Equipment delivered by TR Corporation is not covered by insurance by TR Corporation unless agreed in writing by TR Corporation. If the Purchaser requires insurance cover to be effected by TR Corporation over the Equipment, then all details required by TR Corporation must be supplied with the Order and the charges for such insurance borne by the Purchaser.
- 6.6 If there is any defect in the Equipment upon delivery TR Corporation is to be notified by the Purchaser within 7 days otherwise the Equipment will be deemed to have been delivered in good order and condition and in full compliance of these terms and conditions.
- 6.7 Once delivered equipment is at purchaser's risk.

7 WARRANTY

- 7.1 Where the Equipment is sold from ex-rental stock, the warranty applying to it in respect of a fault with the Equipment will be for a period of 120 days from the date of delivery unless otherwise stated in the Sale Agreement.
- 7.2 Where the Equipment is sold new, the warranty and period of warranty in respect of any fault in the Equipment will be the warranty and period of warranty permitted by the manufacturer of the Equipment unless otherwise specified in the Sale Agreement.
- 7.3 The warranty in clause 7.1 and 7.2 does not apply:
- in respect of vacuum tubes, lamps, fuses, test leads and batteries or copyrighted or licensed works in respect of the Equipment or any part of the Equipment.
 - where the plaintiff is in breach of any of these terms and conditions.
 - where any fault of the Equipment has been caused by misuse, neglect, accident or abnormal conditions of operation or use contrary to the manufacturer's recommendations or operating instructions.
 - where the Equipment was the subject of a rental agreement with the Purchaser or a related entity to the Purchaser.
 - TR Corporation will at its sole and absolute discretion determine whether any warranty under the Sale Agreement applies to any fault claimed in respect of the Equipment and if TR Corporation determines that the warranty applies it will at its sole and absolute discretion either:
 - at its own expense, repair or replace the Equipment and return the Equipment to the Purchaser at the Purchaser's expense freight pre-paid; or
 - refund to the Purchaser the purchase price upon return of the Equipment.

- 7.4 TR Corporation will at its sole and absolute discretion determine whether any warranty under the Sale Agreement applies to any fault claimed in respect of the Equipment and if TR Corporation determines that the warranty applies it will at its sole and absolute discretion either:

- at its own expense, repair or replace the Equipment and return the Equipment to the Purchaser at the Purchaser's expense freight pre-paid; or
- refund to the Purchaser the purchase price upon return of the Equipment.

TR Corporation will not be responsible for any indirect or consequential loss of the Purchaser and the warranty given in clause 7 extend only to the original Purchaser.

8 LIABILITY

The Purchaser acknowledges that it has not relied upon any statement or representation by TR Corporation in respect of the purpose for which the Purchaser desires to use the Equipment and that Tech- Rentals is not responsible or liable for any failure or unsuitability of the Equipment to perform the purposes required by the Purchaser.

9 THE COST OF REPAIRS

Where the warranty in clause 7 does not apply, any repairs requested by the Purchaser will be charged and invoiced to and paid for by the Purchaser.

10 DEFAULT

10.1 If the Purchaser:

- defaults in making any payment; or
- fails to carry out the terms of the sale; or
- repudiates this or any contract it has with TR Corporation; or
- dies; or
- stops payment; or
- calls a meeting of creditors, becomes insolvent or subject to the bankruptcy laws; or
- being a company, enters into any scheme of arrangement with creditors, or receivers and managers or administrators are appointed or has any winding up petition presented against it.

TR Corporation may at its sole discretion and option at any time prior to payment in full for the Equipment and for any other Equipment supplied by TR Corporation for which payment is outstanding:

- suspend or cancel the Sale Agreement;
- require payment in cash before delivery of the Equipment or services (irrespective of any terms of payment previously specified);
- take over or repossess the Equipment and dispose of the Equipment without prejudice to any claim TR Corporation may have for damages for any loss resulting from any re sale or disposal of the Equipment;
- exercise all rights to the Equipment as if it were the owner.

This clause shall apply notwithstanding any waiver by TR Corporation of any default or failure by the Purchaser to comply with these terms and conditions and without prejudice to its other rights under this Agreement.

- 10.2 If the Purchaser is in default of this Sale Agreement the Purchaser consents to TR Corporation its servants and agents entering the Purchaser's premises, or any other premises where the Equipment is located, using such force as is necessary in order to repossess the Equipment. The Purchaser must provide TR Corporation with all reasonable assistance in order to locate and collect the Equipment. If the Equipment is not available for collection at the nominated time and or place the Purchaser will be liable for any additional costs TR Corporation incur. TR Corporation will not be liable for any damage to property caused by any person in collecting the Equipment.

11 PAYMENT

Payment terms are strictly fourteen (14) days from date of invoice unless otherwise stated in the Sale Agreement.

12 RETENTION OF TITLE

At all times the property in the Equipment remains with TR Corporation (irrespective of delivery of the Equipment to the Purchaser) until the Purchaser has paid the full invoiced price and any other payments due to TR Corporation in respect of the Equipment arising out of this Sale Agreement.

13 PERSONAL PROPERTY SECURITY ACT 1999

The customer acknowledges that TR Corporation has a Security Interest (as that term is defined in the Personal Property Security (PPS) Act 1999) in all goods supplied. They will assist as required to ensure that that Security Interest becomes a "Perfected Security Interest" (as defined in the PPS Act 1999).

14 SPECIAL LICENCE

In the event that any item of Equipment or component of an item of Equipment contains a copyright work or other thing to which intellectual property rights subsist, usage thereof shall be by way of licence only upon the terms and conditions of the owners licence. The Purchaser shall not do or cause or permit to be done anything in contravention of such licence and subject to all limitations and obligations imposed by such licence.

15 RENTAL EQUIPMENT

Any quotation or any Sale Agreement for the Equipment which is currently or was previously on hire to the Purchaser shall be additionally subject to the conditions that all of the terms of the rental agreement are complied with. Rent will continue to accrue up to the date of payment of the sale invoice. Payment shall be applied first to rent and second to sale price.

16 CONSUMER GUARANTEES ACT 1993

Where the provisions of the Consumer Guarantees Act 1993 apply, nothing in these conditions limits any rights the buyer may have under that Act which is paramount. Where the goods are acquired for the purposes of a business (where "business" is as defined in the act), the buyer expressly agrees that the provisions of the Act do not apply.