



General Terms and Conditions of Sale H&R Malaysia Sdn Bhd

Scope

Asia

- H&R Malaysia Sdn Bhd

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For the sake of simplicity and easier reading, only the masculine form has been used.



1. Conditions

These Conditions of Sale govern the supply of goods by the Seller to the Buyer and all contracts for such supply of goods to the exclusion of any other terms or conditions (whether express or implied, oral or written, and whether set out on the Buyer's order or otherwise), except for any amendments or additions agreed to in writing by the Seller.

2. Buyer's Statutory Rights

These conditions of Sale shall not exclude, limit, restrict or modify the rights, entitlements and remedies conferred upon the Buyer or the liabilities imposed upon the Seller by any provision of the Trade Practices Act 1974 or by any other applicable legislation, the exclusion, limitation, restriction or modification of which is void or prohibited.

3. Warranties and Limitations of Liability

Subject to Condition 2.

- a) The Seller warrants that the goods supplied to the Buyer shall be of merchantable quality. Except for this warranty and for statutory representations, conditions and warranties which cannot be excluded, the Seller does not make and hereby excludes any representations, conditions or warranties, whether oral or written, express or implied, in respect of the supply of goods.
- b) The Seller shall have no liability for any loss, damage, claim or expense in excess of the price of the goods and no liability for any special indirect or consequential damages in respect of any loss or injury (including death) to any person or any loss or damage to any property in any way connected with the supply of goods by the Seller, including liability arising out of the re-supply, use or re-use of the goods whether alone or together with other materials or any alleged defects in the goods.
- c) The Seller's liability hereunder is conditional on the Buyer sending a written claim to the Seller within 30 days of the delivery of the goods setting out full particulars of the alleged defect and where possible returning a sufficient sample of the goods to enable a proper examination and test by the Seller.
- d) Where the supply by the Seller constitutes the supply of goods other than of a kind ordinarily acquired for personal, domestic or household use or consumption within the meaning of that term under the trade Practices Act 1974, the Seller's liability for breach of any representation, condition or warranty is expressly limited, at the Seller's option, to replacement of the goods or the supply of equivalent goods or payment of the cost of such replacement or equivalent supply or repair.

4. Advise

Subject to Condition 2, any advice, recommendation, information, assistance or service provided by the Seller in relation to goods sold by it or their use or application is given in good faith and is believed by the Seller to be appropriate and reliable but is otherwise provided without any warranty as to its accuracy and without any liability on the part of the Seller.

5. Price

All goods are supplied at the price stated on the Seller's quotation to the Buyer, if there is no quotation then at the price stated in the Seller's price list current at the delivery date. The cost of Sales Tax, all insurance, transport and other handling expenses from the Seller's place of works shall be borne by the Buyer.



6. Delivery

The Seller will make all reasonable efforts to have the goods delivered to the Buyer on the date agreed between the parties as the delivery date, but the Seller shall be under no liability whatsoever should delivery not be made on this date. Notwithstanding any delay by the Seller, the Buyer shall be bound to accept and pay for the goods in full provided that delivery is made at any time within 90 days of the original agreed delivery date.

7. Risk

The risk in the goods shall unless otherwise agreed in writing, pass to the buyer upon delivery to the Buyer or his agent or to any carrier selected by either the Seller or the Buyer. The Seller reserves the right to refuse to load any vehicles which the Seller believes are unsuitable for the carriage of its products for any reason.

8. Property

- a) Notwithstanding any prior passing of risk, properly in the goods shall remain with the Seller until the Buyer's total indebtedness to the Seller under this Condition of Sale is satisfied in full.
- b) Until the Buyer's total indebtedness to the Seller under these Conditions of Sale is satisfied in full, the Buyer shall store the goods in a way that clearly manifests the Seller's title and shall not mix the goods with any other materials, Until such time, the Buyer acknowledges it is in possession of the goods as bailey of the Seller, and accordingly, any sale of the goods by the Buyer to any third party shall be made by the Buyer as agent for the Seller and the sale proceeds will be held in trust by the Buyer for the Seller as the Seller's property and the Buyer shall account fully therefore to the Seller.

9. Force Majeure

- a) Deliveries may be totally or partially suspended by the Seller during any period in which the Seller may be prevented or hindered from delivering by the Seller's normal means of supply or delivering by normal route through any circumstances outside its reasonable control including but not limited to strikes, lockouts, raw material shortages, accidents or breakdowns of plant or machinery. However, during the period of total or partial suspension of delivery the Buyer may purchase elsewhere at its own cost and risk, such quantities of alternative goods as may be necessary to cover its requirements during such period in substitution for the goods not delivered by the Seller.
- b) Whether or not the Buyer makes these arrangements the Seller shall not be under any liability in respect of such suspension and in particular the Seller shall be under no obligation to deliver at any future date any goods not delivered during the period of suspension.

10. Payments and Default

Unless otherwise agreed expressly in writing, the terms of payment shall be on or before the last working day of the month following the month in which invoice was made. Further credit may be suspended if the account is not kept within terms. If the buyer makes any default in payment of any amount owing hereunder or (being an individual) commits an act of bankruptcy or (being a company) passes a resolution or has a petition presented or an order made for its winding up or for the appointment of a receiver or administrator or similar officer, the Seller may without prejudice to any of its other rights, and remedies and without prior notice suspend further deliveries or require payment in advance for such deliveries, or terminate any contract with the Buyer, or recover any goods not paid for by the Buyer and re-sell or dispose of same and enter upon the Buyer's premises for that purpose.



11. Containers and Pallets

- a) Containers in which goods are delivered and for which a deposit charge is made, remain the property of the Seller and must not be used for any other commodity that contained herein at the time of delivery. On their return in good order and condition by the Buyer at the Buyer's expense to the factory or store of the Seller from which the goods were delivered, the full amount of the deposits will be repaid to the Buyer.
- b) At all times the Seller retains the right of possession of any pallets used for delivery of the goods and the Buyer agrees to indemnify the Seller in respect of any pallets not returned in good order and condition to the Seller within 28 days of delivery of the goods.

12. Weight

In the absence of a proven defect in the Seller's system of weighing, the weight of goods sold hereunder shall be the last weight determined by the Seller's system of weighing prior to delivery.

13. Interest

Without prejudice to any other rights or remedies that the Seller may have against the Buyer, the Buyer agrees that in the event of any default by the Buyer in payment to the Seller in accordance with the terms hereof the Buyer shall pay to the Seller interest on the amount outstanding from time to time at the rate of eighteen percent (18%) per annum, calculated on daily rates from the due date for payment until payment and all outstanding monies together with any interest shall be recoverable forthwith from the Buyer.

14. Governing Law

The conditions of Sale and the contract between the Seller and the Buyer shall be governed by the laws of the State or Territory where the goods were supplied to the buyer.