

STANDARD TERMS AND CONDITIONS OF SALE

1. Operation

- 1.1 Unless agreed by NetComm Wireless Limited in writing, these terms and conditions override any inconsistent terms and conditions.
- 1.2 This document supersedes any previous agreement in respect of NetComm Wireless Limited's terms and conditions of sale.

2. Price

- 2.1 NetComm Wireless Limited's prices are exclusive of delivery, insurance and installation costs and taxes, duties and other imposts unless specifically advised otherwise in writing by NetComm Wireless Limited. The Purchaser agrees to pay any such amounts whether they are imposed or effected before or after lodgement of an order.
- 2.2 Unless specified otherwise in writing by NetComm Wireless Limited, prices will be as per the current NetComm Wireless Limited price list which is subject to change without notice.
- 2.3 Prices stipulated by NetComm Wireless Limited may be increased by the amounts of any increase affecting the cost of production and/or delivery due to circumstances beyond the control of NetComm Wireless Limited between the date of quotation and the delivery date.
- 2.4 Customers whose purchase orders are affected by such a price change will be advised by NetComm Wireless Limited and may either cancel the order or confirm acceptance of the variation in writing.

3. Payment

- 3.1 Payment in immediately available funds must accompany an order unless NetComm Wireless Limited agrees in writing to grant credit.
- 3.2 At NetComm Wireless Limited's absolute discretion and on the terms required by NetComm Wireless Limited, NetComm Wireless Limited may agree to grant credit.
- 3.3 If the Purchaser fails to pay the price or any other amount when due, without prejudice to NetComm Wireless Limited's other rights and remedies, the Purchaser shall pay the amounts of any loss, claim or cost of NetComm Wireless Limited incurred in recovering such amount including legal and administrative costs. NetComm Wireless Limited shall also have the right to charge interest on the overdue amount calculated daily at the Commonwealth Bank Corporate Overdraft Reference Rate (Monthly Charging Cycle) from time to time (or similar or replacement rate if this interest rate no longer exists).

- 3.4 If the Purchaser fails to make the payment as per agreed terms & conditions NetComm Wireless may seek legal advice to recover the amount & may register the Purchaser as “Default” with D&B and other global credit reporters.

4. Delivery

- 4.1 Delivery dates and times are estimates only. NetComm Wireless Limited shall not be liable for any loss or claim arising from breach of delivery dates and times.
- 4.2 Delivery will be deemed to be complete when the goods are made available at a dispatch point nominated by NetComm Wireless Limited or if agreed in writing with NetComm Wireless Limited, at the place nominated by the Purchaser. NetComm Wireless Limited shall have the right to repossess any goods not picked up within 14 days of being made available.
- 4.3 NetComm Wireless Limited may deliver goods in instalments determined by NetComm Wireless Limited.
- 4.4 NetComm Wireless Limited shall not be liable to the Purchaser for any loss or damage directly or indirectly arising out of or in connection with any delay in delivery or failure to perform any other term or condition of an agreement or contract where such delivery or failure is caused directly or indirectly by an act of God, fire, armed conflict, labour dispute, civil commotion, intervention of a government, inability to obtain labour or manufacturing facilities, accidents, interruptions or delay in transportation or any other cause beyond NetComm Wireless Limited’s control.

5. Risk and title

- 5.1 Notwithstanding clause 5.3, retention of title clauses in contracts whereby a purchaser has possession of property until title to the property in the goods has been passed to the Purchaser:
- (a) the Purchaser shall keep the goods free from all third party interests including charges, liens and encumbrances;
 - (b) store the goods separately from its own goods and goods of other persons and in a manner which makes them readily identifiable;
 - (c) the Purchaser shall hold the goods on trust and as bailee for NetComm Wireless Limited;
 - (d) the Purchaser agrees not to sell, modify or alter the goods or use them to produce other goods;
 - (e) NetComm Wireless Limited shall be entitled to recover or require immediate redelivery of the goods and be permitted to enter any premises on which the goods are stored;
 - (f) NetComm Wireless Limited may maintain an action for the price of the goods notwithstanding that property in the goods may not have passed to the Purchaser; and

- (g) the Purchaser agrees to indemnify NetComm Wireless Limited against all losses including damage to the goods and death or injury to any person arising out of the Purchaser's possession of the goods.

5.2 All risk in relation to the goods, including risk of damage or loss, passes to the Purchaser on shipment of the goods.

5.3 The Purchaser shall indemnify NetComm Wireless Limited against and pay to NetComm Wireless Limited immediately upon demand all and any loss, damage, cost, charge, expense or other liability (including but not limited to consequential loss, loss of profits and legal costs) incurred or sustained by NetComm Wireless Limited in exercising any of its rights under this clause on a full indemnity basis.

5.4 Nothing in this clause shall confer a right upon the Purchaser to return the goods or to refuse or delay payment.

6. Claims

6.1 Any claim, including claims for defects, deficiencies and returns, must be in writing and received by NetComm Wireless Limited within seven days of delivery.

6.2 NetComm Wireless Limited shall have no liability, risk or responsibility whatsoever in regard to goods the subject of a claim until NetComm Wireless Limited expressly accepts the claim by refunding the purchase price, replacing the goods, repairing the goods or otherwise accepts the claim by written notice.

6.3 Any goods returned to NetComm Wireless Limited shall be complete as sold, in their original packaging, and accompanied by the original invoice for the goods.

6.4 The Purchaser shall be liable for packaging, transport and insurance costs for the goods the subject of a claim until the goods are returned to NetComm Wireless Limited and NetComm Wireless Limited accepts the claim.

6.5 NetComm Wireless Limited holds a complete discretion to accept or reject any claim and determine any liability of NetComm Wireless Limited.

7. Implied terms and limitations of liability

7.1 Except as required by local law, all express or implied conditions, warranties, undertakings and covenants not provided by NetComm Wireless Limited in writing to the purchaser are hereby excluded. To the extent that such conditions, warranties, undertakings and covenants cannot be excluded, the Purchaser's sole and exclusive remedy for any breach of a condition, warranty, undertaking or covenant shall be limited to any one of the following as determined by NetComm Wireless Limited:

- (a) the replacement of the goods or the supply of equivalent goods;
- (b) the repair or the cost of repair of the goods; or

(c) the payment of the cost of replacing the goods or acquiring equivalent goods.

7.2 Except as provided by clause 7.1, NetComm Wireless Limited shall not be liable to the Purchaser or any other person for any direct, indirect or consequential loss, damage or expense arising out of or in connection with, the performance or breach of these terms and conditions or any matter relating to the supply of the goods or any related services or any error in information supplied by NetComm Wireless Limited.

7.3 Any liability of NetComm Wireless Limited to the Purchaser in contract or tort in relation to performance of the goods, supply of the goods, these terms and conditions or supply of the goods, related services or information shall not exceed the purchase price of the goods.

7.4 NetComm Wireless Limited provides no warranty on goods supplied by NetComm Wireless Limited but not manufactured by NetComm Wireless Limited. NetComm Wireless Limited will endeavour to pass on the warranty of the original manufacturer.

7.5 NetComm Wireless Limited will not be liable for any damage, defect or failure in goods caused by acts of nature, transport, packaging, impact with objects or liquids, attachments, accessories; unauthorised repairs, maintenance or service; or power supplies.

8. Cancellation

8.1 If the Purchaser cancels an order without NetComm Wireless Limited's written consent, NetComm Wireless Limited is entitled to claim, as a genuine loss arising from such breach of contract, liquidated damages.

9. Dealing with goods

9.1 The Purchaser agrees not to act or omit to act in any way damaging to the intellectual property of NetComm Wireless Limited and its related entities including removing or altering trademarks on goods.

9.2 The Purchaser acknowledges that all intellectual property associated with the goods is the property of NetComm Wireless Limited, related entities or relevant manufacturers or suppliers; and that it acquires no right or interest in any such intellectual property.

9.3 All resale prices are recommendations only. The Purchaser agrees only to resell goods in their original packaging and condition, and not to resell used or defective goods as new goods.

9.4 The Purchaser agrees not to export the goods from Australia without the written consent of NetComm Wireless Limited.

10. Default

10.1 Upon:

(a) the Purchaser failing to pay any amount to NetComm Wireless Limited when due;

- (b) the Purchaser breaching these terms and conditions;
- (c) NetComm Wireless Limited having reasonable grounds to believe the Purchaser will be unable to pay amounts due or to become due to NetComm Wireless Limited; or
- (d) the Purchaser dying or being deregistered; committing an act of bankruptcy; having any action taken by or against it for the winding up or placing of the Purchaser under official management or receivership; having a receiver, trustee, assignee, liquidator or controller appointed; or a transfer in ownership or control of the Purchaser occurring;

NetComm Wireless Limited shall have the right to:

- (a) cease supplying goods to the Purchaser;
- (b) otherwise cease to perform any of its obligations to the Purchaser;
- (c) terminate this agreement;
- (d) enter into the premises on which the goods are stored and repossess any goods already delivered whether or not title in such goods has passed to the Purchaser; and
- (e) recover from the Purchaser all amounts due to NetComm Wireless Limited, without incurring any liability and without prejudice to its rights to recover any amount owing to it by the Purchaser including any damage.

11. Specifications

11.1 NetComm Wireless Limited may at any time change the documented specifications of goods and the Purchaser will accept the goods delivered in fulfilment of its order unless otherwise agreed in writing by NetComm Wireless Limited.

11.2 This document shall be conclusive evidence of the matters stated herein.

12. Privacy disclosure and consent

12.1 The customer acknowledges and agrees that NetComm may:

- a) verify customer information with third parties,
- b) give relevant information to various credit reporting agencies.

12.2 The information which may be provided for reasonably related purpose

- a) Identity particulars,
- b) the credit facts,
- c) overdue amount and debts collection facts,
- d) dishonoured payment advice, and

e) Update of debts collection related progress.

13. Governing law

13.1 This contract is governed by the law of the New South Wales, Australia and the Parties submit to the exclusive jurisdiction of the courts in Sydney.

14. General

14.1 Any indulgence, waiver or extension of time shall not in any way prejudice, interfere with or constitute a waiver of NetComm Wireless Limited's rights.

14.2 The provisions of these terms and conditions and the rights and liabilities conferred by them are distinct and severable and any invalidity shall not effect another term, condition, liability or right.

14.3 NetComm Wireless Limited reserves the right to change these Terms and Conditions at any time.