

Terms and Conditions of Sale



- 1. Definitions**

"Conditions" means these Conditions of Sale (which are subject to change from time to time without notice to any customer);
"Customer" means a person, firm or corporation (and includes their agents and/or representatives), jointly and severally if there is more than one, acquiring goods from the Supplier;
"goods" means goods supplied by the Supplier to the Customer;
"GST" means the goods and services tax as defined in A New Tax System (Goods and Services Tax) Act 1999 as amended; and
"Supplier" means **SHIPMAN KING PTY LTD** (ACN 006 667 812) of 109 McEwan Road, West Heidelberg, Victoria 3081.
- 2. Basis of Contract**
 - 2.1** Unless otherwise agreed by the Supplier in writing, these Conditions apply exclusively to every contract for the sale of goods by the Supplier to the Customer and cannot be varied or supplanted by any other condition without the prior written consent of the Supplier.
 - 2.2** Any written quotation provided by the Supplier to the Customer concerning the proposed supply of goods is valid for 30 days and is an invitation only to the Customer to place an order based upon that quotation. The Conditions may include additional terms in the Supplier's quotation provided that such additional terms are not inconsistent with these Conditions.
- 3. Payment**
 - 3.1** Payment for goods supplied by the Supplier is to be made in full upon delivery.
 - 3.2** If credit terms are extended by the Supplier, payment for goods must be made within 30 days of the end of month in which the Supplier's invoice is raised.
 - 3.3** If requested by the Supplier, the Customer must present the Supplier with a letter of credit at the time of order of the goods for the value of goods supplied.
 - 3.4** Credit terms may be revoked or amended at the sole discretion of the Supplier upon the giving of written notice to the Customer.
 - 3.5** Payment by the Customer will be subject to the Supplier providing a tax invoice for GST purposes.
- 4. Payment Default**
 - 4.1** If the Customer defaults in payment by the due date of any amount payable to the Supplier, then all money which would become payable by the Customer to the Supplier at a later date on any account, becomes immediately due and payable without the requirement of any notice to the Customer, and the Supplier may, without prejudice to any other remedy available to it:
 - (a)** charge the Customer interest on any sum due at the prevailing rate pursuant to the Penalty Interest Rates Act 1983 plus 4 per cent for the period from the due date until the date of payment in full;
 - (b)** charge the Customer for all expenses and costs (including legal costs on a solicitor/own client basis) incurred by it resulting from the default and in taking whatever action it deems appropriate to recover any sum due;
 - (c)** cease or suspend for such period as the Supplier thinks fit, supply of any further goods to the Customer; and
 - (d)** by notice in writing to the Customer, terminate any contract with the Customer so far as unperformed by the Supplier; without effect on the accrued rights of the Supplier under any contract.

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4.2 Clauses 4.1(c) and (d) may also be relied upon, at the option of the Supplier:

- (a)** where the Customer is an individual and becomes bankrupt or enters into any scheme of arrangement or any assignment or composition with or for the benefit of his or her creditors or any class of his or her creditors generally; or
- (b)** where the Customer is a corporation and, it enters into any scheme of arrangement or any assignment or composition with or for the benefit of its creditors or any class of its creditors generally, or has a liquidator, provisional liquidator, administrator, receiver or receiver and manager appointed, or any action is taken for, or with the view to, the liquidation (including provisional liquidation), winding up or dissolution without winding up of the Customer.

5. Passing of Property

Until full payment in cleared funds is received by the Supplier for all goods supplied by it to the Customer, as well as all other amounts owing to the Supplier by the Customer:

- (a)** title and property in all goods remain vested in the Supplier and do not pass to the Customer;
- (b)** the Customer must hold the goods as fiduciary bailee and agent for the Supplier;
- (c)** the Customer must keep the goods separate from its goods and maintain the labelling and packaging of the Supplier;
- (d)** the Customer is required to hold the proceeds of any sale of the goods to a third party ("Purchaser") on trust for the Supplier and in the event that the Purchaser uses the goods in some manufacturing or construction process of its own or some other third party, the Purchaser shall hold such part of the proceeds of such manufacturing or construction process as relates to the goods in trust for the Supplier; and
- (e)** the Supplier may without notice, enter any premises where it suspects the goods may be and remove them, and for this purpose the Customer irrevocably licences the Supplier to enter such premises and also indemnifies the Supplier from and against all costs, claims, demands or actions by any party arising from such action.

6. Pricing

6.1 Prices quoted for the supply of goods exclude:

- (a)** GST; and
- (b)** the cost of freight, insurance and other charges arising from the point of dispatch of the goods to the Customer to the point of delivery.

6.2 Unless otherwise agreed between the Supplier and the Customer, in addition to the price for goods, the customer must pay to the Supplier any amounts specified in clauses 6.1(a) and (b).

6.3 Prices quoted for the supply of goods are subject to change without notice.

7. Risk and Insurance

The risk in the goods and all insurance responsibility for theft, damage or otherwise in respect of the goods will pass to the Customer immediately upon delivery of the goods to the premises nominated by the Customer.

8. Performance of contract

8.1 Any period or date for delivery of goods or provision of services stated by the Supplier is intended as an estimate only and is not a contractual commitment. The Supplier will use its best reasonable endeavours to meet any estimated dates for delivery of the goods or completion of the services.

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8.2 A completed driver's delivery docket whether signed by the driver or by the Customer or its employee or agent will be proof of delivery of goods invoiced.

8.3 Where goods are collected by the Customer from the Supplier's premises, the Supplier's delivery docket signed by the Customer or its employee or agent will be proof of delivery of goods invoiced.

9. Warranties

Refer to Shipman King Pty Ltd Standard Warranty Clause

10. Cancellation

10.1 If, through circumstances beyond the control of the Supplier, the Supplier is unable to effect delivery of or provide the goods, then the Supplier may cancel the Customer's order (even if it has already been accepted) by notice in writing to the Customer.

10.2 No purported cancellation or suspension of an order or any part thereof by the Customer is binding on the Supplier after that order has been accepted by the Supplier.

11. Guarantee and Indemnity

11.1 If the Customer is a corporation then the corporation will procure the directors of the Customer at the time of entering this agreement, to agree and to undertake to act as guarantors ("guarantors") to ensure the performance of the Customer under this agreement. By signing this agreement, the directors of the Customer accept the terms of this agreement and guarantee.

11.2 The guarantors named in the contract unconditionally and irrevocably jointly and severally guarantee to the Supplier the performance by the Customer of its obligations under these Conditions.

11.3 The guarantors jointly and severally indemnify the Supplier against all liabilities which may be incurred by the Supplier caused by the Customer's failure to perform any of its obligations under these Conditions.

11.4 The guarantee and indemnity will be a continuing guarantee and indemnity and will not be discharged and the liability of the guarantors will not be affected by any time, waiver or indulgence or admission granted by the Supplier to the Customer.

12. Indemnity

The Customer indemnifies and will keep indemnified the Supplier from any liability, loss, expense or demand arising from any act or omissions by the Supplier including but not limited to false, misleading, deceptive or mis-descriptive representation or statement made by the Supplier regarding the goods to any person.

13. No Set Off

The Customer is not entitled to set off against the price payable under these Conditions any amount which is owed or the Customer believes is owed to it by the Supplier.

14. Jurisdiction

The law of Victoria from time to time governs the Conditions and the parties agree to the non-exclusive jurisdiction of the courts of Victoria and of courts entitled to hear appeals from those Courts.

Warranty Clause



- 1.0** Shipman King Pty Ltd warrants that products manufactured or supplied by it will meet their published specifications and will be free from defects under normal use and maintenance for a period of 12 months from the date of supply. This is subject to the following conditions and limitations and applies to the original installation only:
 - 1.1** The products must be installed in accordance with the manufacturer's published installation instructions and prevailing governmental regulations and codes and must be used in accordance with the manufacturer's specifications.
 - 1.2** The products must be used exclusively for the purpose for which they were manufactured or supplied.
 - 1.3** Shipman King shall not be liable for damage to or defects in any products caused by improper transportation, storage or other misuse, neglect or accident. Nor does this guarantee apply to products which have been repaired or altered in any way which, in the sole judgement of Shipman King affects the performance, stability or general purpose for which the products are manufactured.
- 2.0** Shipman King liability for products manufactured by it is limited to making good any defects by repairing the defects or, at Shipman King option by replacement, within a period, not exceeding 12 months after the products have been dispatched so long as:
 - (i)** the defect has arisen solely from faulty materials or workmanship;
 - (ii)** the product has not received maltreatment, inattention or interference; and
 - (iii)** the defective product is promptly returned free of cost to Shipman King.
- 2.1** If the product is not manufactured by Shipman King the guarantee of the manufacturer of the product is accepted by the Buyer and is the only guarantee given to the Buyer in respect of the product. Shipman King agrees to assign the Buyer, on request made by the Buyer, the benefit of any warranty or entitlement to the product that the manufacturer has granted to Shipman King under any contract or by implication or operation of law to the extent that the benefit of any warranty or entitlement is assignable.
- 3.0** Shipman King is not liable for, and the Buyer releases Shipman King from, any claims in respect of the faulty or defective design of any product supplied unless such design has been wholly prepared by Shipman King and the responsibility for any claim has been specifically accepted by Shipman King in writing. In any event Shipman King liability under this paragraph is limited strictly to the replacement of the defective products in accordance with paragraph 5.1 of this guarantee.
- 4.0** Except as provided in this guarantee, all expressed and implied warranties, guarantees and conditions under statute or general law as to merchantability, description, quality, suitability or fitness of the products for any purpose or as to design, assembly, installation, materials or workmanship or otherwise are expressly excluded. Shipman King is not liable for physical or financial injury, loss or damage or for consequential loss or damage of any kind arising out of the supply, layout, assembly, installation, commissioning or operation of the products or arising out of Shipman King negligence in any way whatsoever.

Warranty Clause



- 5.0** Shipman King liability for breach of a condition or warranty implied by Division 2 of Part IV of the Trade Practices Act 1974 (other than section 69) is limited to :
- 5.1** in the case of products supplied by it, any one or more of the following:
- (a)** the replacement of the products or the supply of equivalent products;
 - (b)** the repair of the products;
 - (c)** payment of the cost of replacing the products or of acquiring equivalent products;
 - (d)** the payment of the cost of having the products repaired; or
- 5.2** in the case of services:
- (a)** the supplying of the services again; or
 - (b)** the payment of the cost of having the services supplied again.
- 6.0** Shipman King liability under Section 64(h) of the Trade Practices Act 1974 is expressly limited to pay to the Buyer an amount equal to:
- (i)** the cost of replacing the product;
 - (ii)** the cost of obtaining equivalent product; or
 - (iii)** the cost of having the product repaired. whichever is the lowest amount.
- 7.0** Shipman King shall not be liable for labour or other installation or replacement costs incurred in connection with the replacement products furnished in accordance with the terms of this warranty, nor shall Shipman King be liable for the costs of removal or reinstallation of any product.
- 8.0** The Buyer should inspect, where appropriate, the products at the premises of Shipman King and Shipman King accepts no liability for any loss arising from any alleged misdescription of the products.
- 9.0** Under no circumstances shall Shipman King liability under this guarantee exceed A \$10 million for an event or a series of events.

Quality Policy Statement

Shipman King Pty Ltd have successfully supplied services and products to the petroleum industry for many years. To continue this, we are constantly improving management and service strategies.

Shipman King Pty Ltd maintains a consistent and structured approach to Quality which is understood and observed by every member of the organisation.

It is the Quality Policy of Shipman King Pty Ltd to service the customers requirements by providing a quality product and a reliable service every time.

Assurance is given to our customers that the products and systems supplied by Shipman King Pty Ltd conform to all relevant Australian Standards and to all Industry Standards.

The Chief Executive Officer and all employees are responsible for Quality at Shipman King Pty Ltd....

Nigel Howlett
Chief Executive Officer



Shipman King Pty Ltd

OHS Policy Statement



Purpose

To improve and maintain the standard of occupational health and safety within Shipman King Pty Ltd, and to ensure the development of occupational health and safety policy is considered a joint venture between both management and the employees.

Aim

To improve safety performance within the company and gain compliance with all relevant occupational health and safety legislation.

Policy Statement

The management of Shipman King Pty Ltd is committed to providing a workplace that is safe and healthy, for all who come within our workplace.

Shipman King Pty Ltd recognizes that our people are our most valuable asset and as such we strive to provide them with a safe and productive environment.

In the unfortunate circumstances that one of our employees is injured, we will facilitate their return to work at the earliest possible time.

Actions

Shipman King Pty Ltd will achieve the purpose and aim of our policy by:

1. Working together with all relevant employees and key stakeholders in occupational health and safety matters.
2. Planning, implementing and maintaining an effective occupational health and safety system that takes into account all relevant occupational health and safety legislation.
3. Establishing safety rules, policies and procedures which all employees, contractors and visitors will be required to adhere to.
4. Investigating promptly any accident or near accident in order to undertake corrective actions as soon as possible. At all times, action will be taken immediately to correct any unsafe condition which arises.
5. Ensuring all levels of our company actively participate in occupational health and safety issues, including training and compliance with our occupational health and safety program.