

HG Trailers Pty Ltd
ABN 65 616 241 199

As at October 2017

Trading as Holroyd Utowpia

TERMS AND CONDITIONS OF SALE

1 Interpretation

In these conditions, unless the contrary intention appears:

contract	means any contract or agreement whatsoever made by HG Trailers Pty Ltd to supply any goods or services to the customer, whether resulting from the acceptance by HG Trailers Pty Ltd of an order given by the customer or otherwise
contract price	means the total of the prices specified for the Supply by HG Trailers Pty Ltd to the customer
customer	means the customer of HG Trailers Pty Ltd who buys goods or to whom HG Trailers Pty Ltd supplies any services
goods	means any or all of the products that are the subject of Supply by HG Trailers Pty Ltd to a customer
GST	in relation to a Supply, has the same meaning as in the A New Tax System (Goods and Services Tax) Act 1999 (Cth)
HG Trailers Pty Ltd	means HG Trailers Pty Ltd (ABN 65 616 241 199) of 122 Bamfield Road, Heidelberg West, Victoria, 3081
Holroyd Utowpia	means the trading name of HG Trailers Pty Ltd
order	means any offer to purchase goods from HG Trailers Pty Ltd made by a customer
price	means, in relation to any goods, the price of those goods; services means any or all of the services (if any) the subject of Supply by HG Trailers Pty Ltd to a customer
Supply	means the supply of any goods, services or other things the subject of any contract
Tax	means sales tax, GST, value added tax, retail tax or any other tax or duty that may be imposed on or in relation to any Supply made by HG Trailers Pty Ltd

Terms and Conditions of Sale means this document

2 Conditions

These conditions:

- (a) will form part of any contract and constitute a complete and exclusive statement of the agreements between HG Trailers Pty Ltd and the customer with respect to their subject matter (despite any conditions to a contrary effect which may be expressed in any of the customer's order forms or other documents);
- (b) will apply to any Supply by HG Trailers Pty Ltd, whether in accordance with any order, contract, or otherwise; and
- (c) may be varied only by writing signed by an authorised officer of HG Trailers Pty Ltd.

3 Terms of Payment

Time for payment of the price for any Supply is of the essence in any contract. If HG Trailers Pty Ltd:

- (a) accepts an order, and HG Trailers Pty Ltd has not agreed in writing to extend credit to the customer, the customer must pay the contract price to HG Trailers Pty Ltd in full on delivery of the goods or services; or
- (b) has agreed in writing to extend credit to the customer, the customer must pay the contract price to HG Trailers Pty Ltd in full prior to the end of the month following the date of the invoice sent by HG Trailers Pty Ltd in relation to that Supply.

4 Delivery and Costs

HG Trailers Pty Ltd may, but is not obliged to, deliver the goods to the customer's premises, in accordance with HG Trailers Pty Ltd usual practices, but if:

- (a) the customer requests another method of delivery; or
- (b) HG Trailers Pty Ltd elects to use an independent courier to deliver the goods, HG Trailers Pty Ltd may arrange another form of transport with that independent courier by a separate contract, and the customer must pay to HG Trailers Pty Ltd on demand any costs of that courier incurred by HG Trailers Pty Ltd.

5 Title and Property

The title to and property in the goods will not pass from HG Trailers Pty Ltd to the customer until the customer has paid the contract price in full (other than the costs of any independent courier referred to in clause 4) to HG Trailers Pty Ltd in accordance with these conditions. Until then, the customer holds the goods in a fiduciary relationship with HG Trailers Pty Ltd as bailee only, must keep the goods separate from other items it holds and must not resell or transfer possession of the goods.

If the customer:

- (a) fails to pay the contract price in full when due;
- (b) commits any act of bankruptcy, becomes bankrupt, or is insolvent under administration, as defined in section 9 of the Corporations Act;
- (c) is or becomes insolvent within the meaning as given by any of section 9 and subsection 95A (2) of the Corporations Act or regulation 7.5.02 of the Corporations Regulations; or
- (d) has a controller appointed, as defined in section 9 of the Corporations Act, in respect of any of the customer's property;

HG Trailers Pty Ltd may:

- (1) enter onto the premises where the goods are situated; and
- (2) repossess the goods, notwithstanding that the goods may have been affixed to any structure by HG Trailers Pty Ltd or the customer, and if necessary for that purpose, may sever the goods from any structure to which they may have been affixed. If HG Trailers Pty Ltd repossesses the goods, it reserves the right to resell them. The customer must also indemnify and keep HG Trailers Pty Ltd indemnified against, and pay to HG Trailers Pty Ltd, all expenses, losses and damages incurred or sustained by HG Trailers Pty Ltd as a result of, or in relation, to HG Trailers Pty Ltd exercising its rights under:
 - (a) this clause;
 - (b) under any other term, express or implied, of these conditions; or
 - (c) otherwise at law or in equity, and any bank or other costs, charges or expenses incurred by HG Trailers Pty Ltd resulting from any customer's cheque not being met on presentation.

6 Returns Policy

Subject to the requirements of any law, HG Trailers Pty Ltd:

- (a) may consider, but is not obliged to allow, goods to be returned for credit, if:
 - (1) the goods are returned in good and resalable condition, in the original packaging;
 - (2) the customer first pays all freight and other charges to deliver the goods to HG Trailers Pty Ltd premises and HG Trailers Pty Ltd will not accept any goods sent, or pay for, "freight forward"; and
 - (3) the customer first supplies to HG Trailers Pty Ltd the original invoice number and date of supply.
- (b) may, in its sole discretion, allow the following credits for goods returned:
 - (1) for goods returned within 30 days of invoice – full credit;
 - (2) for goods returned between 30 and 60 days of invoice – invoice value less 15%; and
 - (3) for goods returned after 60 days – no credit (unless HG Trailers Pty Ltd agrees otherwise, in its sole discretion).
- (c) will not allow credits for:
 - (1) any goods:
 - specifically cut to length;
 - specially made, treated or purchased for the customer;
 - damaged or altered in any way by the customer; or
 - being electrical or non-stock lines; or
 - (2) any freight and delivery fees. If HG Trailers Pty Ltd accepts any goods returned for credit:

HG Trailers Pty Ltd may issue a credit note after it has inspected the goods and found them satisfactory, in its sole discretion; and if HG Trailers Pty Ltd decides not to issue a credit note, HG Trailers Pty Ltd will:

- (1) so inform the customer; and
- (2) make the goods made available at HG Trailers Pty Ltd premises for the customer to collect.

7 Shortage

The customer must report all shortages of goods from the quantities described in the invoice within 24 hours of delivery of the goods otherwise the customer may not make any claim against HG Trailers Pty Ltd for any such shortages.

8 Consequential Loss

The customer's sole remedy for any defective goods or services will be the repair or replacement of the defective goods or for the re-supply of the defective services. HG Trailers Pty Ltd liability for any breach of any warranty or of any term, express or implied, of any contract in relation to any Supply, will not extend in any circumstances to loss of profits, or other economic loss, or to loss arising from negligence or any other tort, in any case, whether direct, indirect, special, consequential or otherwise.

9 Risk and Insurance

Notwithstanding clauses 4 and 5, the goods will be at the customer's risk after they leave HG Trailers Pty Ltd premises. If the customer requests it in writing, HG Trailers Pty Ltd may, at the customer's expense, insure the goods.

10 Taxes

Unless otherwise expressly agreed by, or shown on an invoice issued by, HG Trailers Pty Ltd, the prices specified do not include Taxes. The customer will be liable for all such Taxes and in the case of GST or any other amount payable by the customer on account of Taxes, the customer will reimburse to HG Trailers Pty Ltd, on demand, the full amount of such Taxes.

11 Warranty Replacement

Any Supply by HG Trailers Pty Ltd to the customer is covered by a standard warranty for a period of one year from the date of purchase, unless otherwise specified by HG Trailers Pty Ltd, or subject to the points outlined in clause 12 ('12 Limitation of Liability') of this document. If a defect or malfunction occurs during the warranty period, our standard warranty covers repair or replacement of the item and does not include compensation for any loss arising. Any goods thought to be faulty can be returned to HG Trailers Pty Ltd for investigation at the customer's expense. HG Trailers Pty Ltd reserve the right to determine whether the goods are faulty or have been incorrectly used or mistreated.

12 Limitation of Liability

Except as otherwise expressly provided in these conditions, and subject to the succeeding paragraphs, HG Trailers Pty Ltd excludes all statements, representations, warranties, conditions, promises, undertakings, covenants and other provisions, express or implied (and whether implied by law (including Act of Parliament) or otherwise), relating to the order, the goods or services (whether as to their quality, fitness for any purpose, correspondence with any description or sample or otherwise), or their delivery being provisions that might otherwise form part of these conditions, or any contract, or be collateral to or form part of any agreement that is collateral to these conditions, or any contract.

Subject to the next paragraph, HG Trailers Pty Ltd will not be liable to compensate or indemnify the customer for any loss or damage suffered or incurred by the customer in relation to the order, the goods, or the services, or their delivery, mis-delivery or non-delivery (including but not limited to any loss of profits or other economic loss or to loss arising from negligence or any other fault, in any case, whether direct, indirect, consequential or otherwise).

These conditions do not, and no provision of these conditions purports to exclude, restrict or modify or have the effect of excluding, restricting or modifying:

- (a) the application in relation to the supply of the goods or services of any provision of the Trade Practices Act 1974 or of any similar State or Federal legislation that may not be excluded, restricted or modified;
- (b) the exercise of a right conferred by such provision; or
- (c) subject to the next paragraph, any liability of HG Trailers Pty Ltd for breach of a condition or warranty implied by such a provision. HG Trailers Pty Ltd liability for a breach of a condition or warranty implied by a provision of Division 2 of Part V of the Trade Practices Act 1974, or of any similar State or Federal legislation where HG Trailers Pty Ltd may similarly limit its liability, will be limited to any one of the following:
 - (a) in the case of goods:
 - (1) the replacement of the relevant goods or the supply of equivalent goods;
 - (2) the repair of the relevant goods;
 - (3) the payment of the costs of replacing the relevant goods, or of acquiring equivalent goods;
 - or
 - (4) the payment of the costs of having the relevant goods repaired; and
 - (b) In the case of services:
 - (1) the supply of the services again; or
 - (2) the payment of the cost of having the relevant services supplied again, and HG Trailers Pty Ltd may in its sole discretion determine which of the foregoing limits will apply in any case.

13 Governing Law

Any Supply by HG Trailers Pty Ltd to the customer, and these conditions, will be governed by the laws of or applicable in the Australian state or territory where the goods are delivered or the services are supplied to the customer (or if outside Australia, then by the laws applicable in the Australian state or territory from which the goods or services are supplied).

14 Severability

Subject to clauses 12 and 13 ('12 Limitation of Liability' and '13 Governing Law') of this document, if any part of these Terms and Conditions of Sale are or become illegal, invalid or unenforceable in any relevant jurisdiction, that or those provisions will be: (a) interpreted in that jurisdiction, as nearly as possible, to reflect the intentions of the parties; and (b) if necessary to maintain the effectiveness of these Terms and Conditions of Sale, be severed for the purposes of that jurisdiction, with the remaining provisions remaining in full force and effect.

15 Waiver

Our failure to exercise or enforce any one or more of its rights under the Terms and Conditions of Sale will not constitute a waiver of such rights unless such waiver is granted by HG Trailers Pty Ltd in writing.

16 Amendment

HG Trailers Pty Ltd may amend, update or change the website including these Terms and Conditions of Sale. Revised terms will be posted on the website and will be effective immediately unless otherwise stated. Any Supply after any amendment becomes effective is bound by the Terms and Conditions of Sale as amended. You should periodically visit this page to determine the current Terms and Conditions of Sale to which you are bound.

17 Termination

The Terms and Conditions of Sale are effective until terminated by HG Trailers Pty Ltd . HG Trailers Pty Ltd may terminate these Terms and Conditions of Sale at any time without notice. In the event of termination, all restrictions imposed upon you and all disclaimers and limitations of liability set out in the Terms and Conditions of Sale shall remain effective despite termination.

As at 24 October 2017