

# ARROW PRODUCTS NZ LIMITED (“the Seller”)

## TERMS AND CONDITIONS OF SALE

### 1. APPLICABILITY

The conditions of sale set out below shall apply to all contracts for the supply of goods (“goods”) made with the Seller and the person purchasing the goods (“the Buyer”) and shall not be modified, except by written amendment by the parties in advance of any transaction to supply goods.

### 2. ACCEPTANCE

Acceptance of delivery of any goods will be deemed to be acceptance by the Buyer of these Terms and Conditions notwithstanding anything that may be stated to the contrary in the Buyer’s inquiries or on the Buyer’s orders.

### 3. PRICES

All prices unless otherwise stated, are exclusive of goods and services tax. GST freight and insurance charges where applicable, will be an extra charge.

### 4. PAYMENT

4.1 Payment of all accounts is to be made by the 20th of the month following the date of the invoice (“the payment date”). In the event that payment is not received by the payment date default interest may be charged by the Seller, at a rate of 2 per cent per month for the period during which the payment has been overdue.

4.2 No credit shall be extended on overdue accounts, except by prior written agreement with the Seller.

4.3 Individual deliveries or deliveries of separate instalments may be invoiced separately and shall be paid for accordingly.

4.4 All costs of collecting overdue accounts shall be met by the Buyer. An administration fee of \$40.00+GST shall be added after 1 month following the date of the invoice. Further administration fees of \$40.00+GST shall be added in subsequent months and all legal costs incurred in collecting overdue accounts will be payable by the Buyer.

### 5. DELIVERY

5.1 Dates given for delivery are stated in good faith but are not to be treated as condition of the sale. No claim shall be made by the Buyer on account of late delivery however caused.

### 6. UNANTICIPATED EVENTS

The Seller shall be entitled to cancel or suspend delivery of the goods in the event of any delay or non-performance due directly or indirectly to wars, strikes, lockouts, delays or defaults of manufacturers or suppliers, act of God, or any other cause (whether similar or dissimilar) beyond the reasonable control of the Seller. The Buyer shall have no claims whatsoever against the Seller in consequence of any such cancellation or suspension.

### 7. RISK

The risk in the goods shall pass to the Buyer upon delivery.

### 8. TITLE

8.1 Without prejudice to the liability of the Buyer to pay for goods supplied, such goods shall remain the property of the Seller as legal and equitable owner pending cleared payment in full of all moneys due under the contract or in respect of any other debt owed by the Buyer to the Seller. The Buyer acknowledges that the Buyer is in possession of such goods as bailee for the Seller pending payment in full.

8.2 The Buyer acknowledges that:  
(a) Clause 8.1 above creates a Security interest in favour of the Seller under the Personal Property Securities Act 1999 (“PPSA”); and  
(b) The Seller is entitled to register a financing statement on the Personal Property Securities Register over any or all goods supplied by the Seller to the Buyer, and exercise any or all of the rights conferred on the Seller by the PPSA.

8.3 To the extent permitted by law, the parties contract out of Sections 114(1)(a), 113 and 114, and the Buyer waives its rights under Sections 116, 119, 120(2), 121, 125, 129, 131, 132 and 148, all being sections of the PPSA.

### 9. CANCELLATION

9.1 Notwithstanding any other agreement as to the terms of payment, the total purchase price shall immediately become due and payable and the Seller shall have the right to forthwith cancel this contract (without prejudice to any other of its rights) upon the occurrence of any of the following events:

- (a) the Buyer ceases or threatens to cease to carry on business;
- (b) the Buyer enters into any negotiations for any arrangement or composition with its creditors;

- (c) the Buyer is unable to pay its debts (including contingent liabilities) as they fall due;
- (d) the Buyer becomes bankrupt or commits an available act of bankruptcy or proceedings are taken for liquidation of the Buyer’s affairs;
- (e) the Buyer, being a company, goes into liquidation whether voluntary or compulsory or does anything or fails to do anything which would allow a receiver or manager to take possession of any of the Buyer’s assets or which would entitle any person to present an application for winding up or is wound up or dissolved or placed under statutory management or enters into a scheme of arrangement with its creditors or any class thereof;
- (f) any distress or execution is levied on the Buyer;
- (g) breach by the Buyer of any other terms contained in this agreement.

9.2 Upon the happening of any one or more than one of the above events the Seller will be entitled to repossess and resell goods which remain the property of the Seller within the terms of Clause 8.

### 10. COSTS

If the Buyer defaults in performing its obligations under this agreement and the Seller incurs expenses in enforcing its rights under the agreement, the Buyer shall pay those expenses (including full legal costs) to the Seller on demand.

### 11. RETURNED GOODS

- 11.1 Monogrammed garments and items made to order are non-refundable.
- 11.2 Other goods delivered may be returned to the Seller provided that:
  - (a) the return is effected within 7 days of delivery; and
  - (b) the goods are returned in mint condition in original packaging; and
  - (c) the Buyer provides invoice numbers relating to the purchase; and
  - (d) the Seller’s Customer Services Manager gives prior written permission for the return of the goods.

11.3 The full price of the goods less courier and delivery charges will be refunded to the Buyer where goods are returned in accordance with 11.2 but otherwise the Buyer shall remain liable for the full purchase price.

11.4 No returns will be accepted after 7 days of invoice date. A restocking fee will be deducted for the cost of freight incurred; for any charges relating to representing garments not in original condition and for all items not returned quoting the invoice number.

### 12. CLAIMS

- 12.1 Advice by the Buyer that goods supplied are defective or that he has been invoiced for goods not received must be given 7 days from the date of invoice.
- 12.2 All claims of any nature must be accompanied by particulars of the claim and by invoice and delivery details.
- 12.3 In no circumstances whatever shall the Seller be liable for consequential losses whether suffered by the Buyer and/or any third party.

### 13. THE PRIVACY ACT 1993

- 13.1 The Buyer acknowledges that:
  - (a) personal information collected or held by the Seller is provided and may be held, used and disclosed for:
    - (i) administering, the Seller’s contracts;
    - (ii) marketing goods by the Seller;
    - (iii) ascertaining at any time the Buyer’s creditworthiness;
    - (iv) enabling the Buyer to communicate with the Seller for any purpose.
  - (b) Such personal information is collected by and will be held by the Seller’s normal business address.

13.2 the Buyer has the right under the Privacy Act 1993 to obtain access to and to request correction of any personal information concerning it held by the Seller.

13.3 Customer information is retained and used only for Arrow Products accounting and marketing purposes. It is treated as confidential and will not be forwarded to any other party.

### 14. CONSUMER GUARANTEES ACT 1993

The Buyer agrees and acknowledges that all supplies of goods and services from the Seller are/will be acquired for the Buyer’s business purposes and accordingly the provisions of the Consumer Guarantees Act 1993 will not apply as between the Buyer and the Seller.