

**JAYBEN AUSTRALIA PTY LTD
JAYBEN-RUSSELL PTY LTD T/A SEWELL SWEEPERS AND T/A SUPERIOR BROOM AUSTRALASIA
STANDARD TERMS AND CONDITIONS OF PURCHASE**

1. Definitions

- a) "Customer" means Jayben Australia Pty Ltd or Jayben-Russell Pty Ltd (trading as Sewell Sweepers and/or trading as Superior Broom Australasia), as specified in the Order;
- b) "Deliverables" means all documents, products and materials developed by the Supplier or its agents, contractors and employees as part of or in relation to the Services in any form or media, including drawings, maps, plans, diagrams, designs, pictures, computer programs, data, specifications and reports (including drafts);
- c) "Goods" means the goods to be provided by the Supplier to the Customer as set out in the Order;
- d) "Intellectual Property Rights" means copyright, trade mark, moral rights, confidential information, design, patent, trade, business or company names, or other proprietary rights, or any rights to the registration of those rights and any applications to register those rights (anywhere in the world);
- e) "Order" means the Customer's order for the supply of Goods and/or Services attached to these Terms or the Customer's written acceptance of the Supplier's quotation as the case may be;
- f) "Services" means the services, including any Deliverables, to be provided by the Supplier to the Customer as set out in the Order;
- g) "Supplier" means the person or firm from whom the Customer purchases the Goods and/or Services as detailed in the Order; and
- h) "Terms" means these terms and conditions.

2. General

- a) The Order constitutes an offer by the Customer to purchase Goods and/or Services from the Supplier in accordance with these Terms.
- b) The Order is deemed to be accepted on the earlier of: (i) the Supplier issuing written acceptance of the Order; or (ii) any act by the Supplier consistent with fulfilling the Order.
- c) Unless otherwise agreed and signed in writing by the Customer and the Supplier, to the extent permitted by law, these Terms are the only terms that apply to the supply of Goods and Services by the Supplier to the Customer.
- d) Without limiting clause 2.c), these Terms and the relevant Order constitute the entire terms of the agreement for the supply of the Goods and Services to the exclusion of all other terms and conditions (whether written or verbal), including any terms and conditions set out in any printed document issued by the Supplier.
- e) Any additions to or variations of these Terms are only effective if they are signed in writing by the Customer.
- f) This contract is governed by and is constructed in accordance with the laws of the State of Tasmania, Australia. The parties hereby submit to the non-exclusive jurisdiction of the courts of Tasmania.
- g) The application of the Sale of Goods (Vienna Convention) Act 1987 (Vic) is excluded.

3. Price and Payment

- a) The Supplier and the Customer agree that the price payable for the Goods and/or the Services is the price shown in the Order, which includes any governmental taxes except Goods and Services Tax and also includes the cost of good quality packing to be provided by the Supplier, insurance and carriage ("Price").
- b) No extra charges will be effective unless agreed in writing and signed by the Customer.
- c) Unless the order specifies any other invoicing terms:
- (i) in respect of the Goods, the Supplier will invoice the Customer on or at any time after completion of delivery and acceptance; and
- (ii) in respect of Services, the Supplier will invoice the Customer on completion and acceptance of the Services.
- d) Each invoice must include such supporting information required by the Customer to verify the accuracy of the invoice, including but not limited to the relevant purchase order number.
- e) In consideration of the supply of Goods and/or Services by the Supplier, the Customer will pay the invoiced amounts in accordance with the payment terms in the Order or if none are stated within 60 days of the date of receipt of a correctly rendered invoice to a bank account nominated in writing by the Supplier.

4. Goods and Services Tax

- a) In this clause 4:
- (i) "GST" means GST as defined in A New Tax System (Goods and Services Tax) Act 1999 as amended ("GST Act") or any replacement or other relevant legislation and regulations;

- (ii) words or expressions used in this clause which have a particular meaning in the "GST law" (as defined in the GST Act), any applicable legislative determinations and Australian Taxation Office public rulings, have the same meaning, unless the context otherwise requires;
- (iii) any reference to GST payable by a party includes any corresponding GST payable by the representative member of any GST group of which that party is a member; and
- (iv) any reference to an input tax credit entitlement by a party includes any corresponding input tax credit entitlement by the representative member of any GST group of which that party is a member.
- b) Unless GST is expressly included, the consideration to be paid or provided under any Order or other clause of these Terms for any supply made under or in connection with these Terms (including the Price at which the Goods are sold and/or Services are supplied) does not include GST.
- c) To the extent that any supply made under or in connection with these Terms (including the supply of the Goods and/or Services) is a taxable supply, the GST exclusive consideration otherwise to be paid or provided for that taxable supply is increased by the amount of any GST payable in respect of that taxable supply and that amount must be paid at the same time as the GST exclusive consideration is otherwise to be paid or provided.
- d) A party's right to payment under clause 4c) is subject to a valid tax invoice being delivered to the recipient of the taxable supply.
- e) To the extent that 1 party is required to reimburse or indemnify another party for a loss, cost or expense incurred by that other party, that loss, cost or expense does not include any amount in respect of GST for which that other party is entitled to claim an input tax credit.

5. Supply of Goods

- a) The Supplier warrants to the Customer that the Goods:
- (i) are and will remain free from any Security Interest (as that term is defined in the Personal Property Securities Act 2009 (Cth), or other security, charge or encumbrance;
- (ii) correspond with their description in the Order and any applicable specifications;
- (iii) correspond with the sample in quality, where the Goods are supplied by reference to a sample;
- (iv) where they are manufactured products, be free from defects in design, materials and workmanship and remain so for 12 months (or such other warranty period specified in the Order) after delivery; and
- (v) are of merchantable quality; and
- (vi) comply with all legislation, regulations and other governmental requirements in Australia relating to the manufacture, labelling, packaging, storage, handling of the Goods and to the relevant "Australian standard" issued by Standards Australia.
- b) The Supplier warrants to the Customer that the Supplier knows the particular purposes for which the Goods are being acquired by the Customer and the Goods are reasonably fit for those purposes and that it is reasonable for the Customer to rely on the skill or judgment of the Supplier;
- c) The Customer may, but is not obliged to, inspect and test the Goods at any time before delivery. The Supplier will remain fully responsible for the Goods despite any such inspection or testing and any such inspection or testing will not reduce or otherwise affect the Supplier's obligations under these Terms.
- d) If following such inspection or testing the Customer considers that the Goods do not comply or are unlikely to comply with the Supplier's obligations in clause 5a), the Customer will inform the Supplier and the Supplier will immediately take such remedial action as is necessary to ensure compliance.

6. Delivery of Goods

- a) The Supplier will deliver the Goods to the delivery place nominated in the Order ("the Place of Delivery") during the Customer's normal hours of business.
- b) The Supplier will deliver the Goods on the date specified in the Order or, if no such date is specified, then within 30 days of the date of the Order.
- c) The Supplier will ensure that:
- (i) the Goods are properly packed and secured in such manner as to enable them to reach the Place of Delivery in good condition; and
- (ii) each delivery of the Goods is accompanied by a delivery note which shows the date of the Order, the Order number (if any), the type

and quantity of the Goods (including the code number of the Goods (where applicable)), special storage instructions (if any) and, if the Goods are being delivered by instalments, the outstanding balance of Goods remaining to be delivered.

d) Title and risk in the Goods will pass to the Customer on completion of delivery.

7. Supply of Services

a) The Supplier will perform the Services:

(i) in accordance with the scope, duration and description of the Services as set out in the Order; and

(ii) with the best care, skill and diligence in accordance with best practice in the Supplier's industry, profession or trade.

b) The Supplier must meet any performance dates for the Services specified in the Order or that the Customer notifies to the Supplier and time is of the essence in relation to any of those performance dates.

c) In providing the Services, the Supplier warrants that it will:

(i) co-operate with the Customer in all matters relating to the Services, and comply with all instructions of the Customer;

(ii) use personnel who are suitably skilled and experienced to perform tasks assigned to them, and in sufficient number to ensure that the Supplier's obligations are fulfilled in accordance with these Terms and the Order;

(iii) ensure that the Services and Deliverables will conform with all descriptions and specifications set out in the Order, and that the Deliverables will be fit for any purpose that the Customer expressly or impliedly makes known to the Supplier;

(iv) provide all equipment, tools and vehicles and such other items as are required to provide the Services;

(v) use the best quality goods, materials, standards and techniques, and ensure that the Deliverables, and all goods and materials supplied and used in the Services or transferred to the Customer, will be free from defects in workmanship, installation and design;

(vi) obtain and at all times maintain all licences and consents which may be required for the provision of the Services;

(vii) comply with all applicable laws, regulations, regulatory policies, guidelines or industry codes which may apply to the provision of the Services;

(viii) observe all health and safety rules and regulations and any other security requirements that apply at any of the Customer's premises;

(ix) hold all materials, equipment and tools, drawings, specifications and data supplied by the Customer to the Supplier ("Customer Materials") in safe custody at its own risk, maintain the Customer Materials in good condition until returned to the Customer, and not dispose or use the Customer Materials other than in accordance with the Customer's written instructions or authorisation; and

(x) not do or omit to do anything which may cause the Customer to lose any licence, authority, consent or permission upon which it relies for the purposes of conducting its business, and the Supplier acknowledges that the Customer may rely or act on the Services.

8. Remedies

a) If the Supplier fails to deliver the Goods and/or perform the Services by the applicable date, the Customer may, without limiting or affecting other rights or remedies available to it, exercise one or more of the following rights:

(i) terminate the contract with immediate effect by giving written notice to the Supplier;

(ii) refuse to accept any subsequent performance of the Services and/or delivery of the Goods which the Supplier attempts to make;

(iii) recover from the Supplier any costs incurred by the Customer in obtaining substitute goods and/or services from a third party;

(iv) require a refund from the Supplier of sums paid in advance for Services that the Supplier has not provided and/or Goods that it has not delivered; and

(v) claim damages for any additional costs, loss or expenses incurred by the Customer which are in any way attributable to the Supplier's failure to meet such dates.

b) If the Supplier has delivered Goods that do not comply clause 5.a), then, without limiting or affecting other rights or remedies available to it, the Customer may exercise one or more of the following rights, whether or not it has accepted the Goods:

(i) terminate the contract with immediate effect by giving written notice to the Supplier;

(ii) reject the Goods (in whole or in part) whether or not title has passed and to return them to the Supplier at the Supplier's own risk and expense;

(iii) require the Supplier to repair or replace the rejected Goods, or to provide a full refund of the price of the rejected Goods;

(iv) refuse to accept any subsequent delivery of the Goods which the Supplier attempts to make;

(v) recover from the Supplier any expenditure incurred by the Customer in obtaining substitute goods from a third party; and

(vi) claim damages for any additional costs, loss or expenses incurred by the Customer arising from the Supplier's failure to supply Goods in accordance with clause 5.a).

c) These Terms extend to any substituted or remedial services and/or repaired or replacement goods supplied by the Supplier.

9. Warranty

The Supplier warrants to the Customer that the Supplier has the right to sell the Goods and supply the Services.

10. Intellectual property rights

a) All Intellectual Property Rights in or arising out of or in connection with the Services (other than Intellectual Property Rights in any Customer Materials) are owned by the Supplier.

b) The Supplier grants to the Customer, or will procure the direct grant to the Customer of, a fully paid-up, worldwide, non-exclusive, royalty-free perpetual and irrevocable licence to copy and modify the Deliverables (excluding Customer Materials) for the purpose of receiving and using the Services and the Deliverables.

c) The Customer grants the Supplier a fully paid-up, non-exclusive, royalty-free non-transferable licence to copy any materials provided by the Customer to the Supplier for the term of the contract for the purpose of providing the Services to the Customer.

d) All Customer Materials are the exclusive property of the Customer.

11. Indemnity

a) The Supplier will indemnify the Customer against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all professional costs and expenses) suffered or incurred by the Customer arising out of or in connection with:

(i) any claim made against the Customer for actual or alleged infringement of a third party's Intellectual Property Rights arising out of, or in connection with, the manufacture, supply or use of the Goods, or receipt, use or supply of the Services (excluding the Customer Materials);

(ii) any claim made against the Customer by a third party for death, personal injury or damage to property arising out of, or in connection with, defects in the Goods, as delivered, or the Deliverables; and

(iii) any claim made against the Customer by a third party arising out of or in connection with the supply of the Goods, as delivered, or the Services.

(iv) This clause 11 will survive termination of the contract.

12. Termination

a) Without affecting any other right or remedy available to it, the Customer may terminate the contract for convenience by giving the Supplier 1 months' written notice.

b) On termination of the contract, the Supplier will immediately deliver to the Customer all Deliverables whether or not then complete, and return all Customer Materials. If the Supplier fails to do so, then the Customer may enter the Supplier's premises and take possession of them. Until they have been returned or delivered, the Supplier will be solely responsible for their safe keeping and will not use them for any purpose not connected with the contract.

13. Sub-Contracting

The Supplier is not permitted to sub-contract the production, manufacture or supply of the whole or any part of the Goods or any of the materials or Services supplied to the Customer without the Customer's prior written consent.

14. Notices

Any notice to be given by the Supplier to the Customer must be delivered personally to the Customer. Notice to be given to the Supplier by the Customer may be delivered personally, or sent to the Supplier's last known address and, unless the contrary is proved, shall be taken as delivered on the second business day following posting. Invoices and statements are deemed received by the Supplier on the third business day after posting by priority prepaid post.