

Terms and Conditions of Sale as detailed below relate to Nuvo Australia Pty Ltd.

**1. Buyers Statutory Rights**

These terms and conditions of sale shall not exclude, limit, restrict or modify the rights, entitlements and remedies conferred upon the Buyer or the liabilities imposed upon the Seller, by any condition or warranty implied by a Commonwealth, State or Territory Act or Ordinance, rendering void or prohibiting such exclusive, limitation, restriction or modification.

**2. Warranties**

The Seller undertakes that the goods shall be of the quality and kind specified in its standard specification for goods of the description ordered and no other warranty condition or representation on the part of the Seller is given or implied by the Seller, all statutory and other warranties conditions express or implied of any nature whatsoever including but without limiting the generality of the foregoing any warranties conditions or presentations as to the state, quality or fitness of the goods for any purpose or the performance of the goods or any part thereof or the results that ought to be expected from using the goods are hereby expressly negated and excluded except where the Trade Practices Act or mandatory State legislation applies.

**3. Advice**

Subject to Condition 1, any advice, recommendation, information, assistance or service provided by the Seller in relation to goods sold by it or their use or application is given in good faith and is believed by the Seller to be appropriate and reliable. However, any advice, recommendation, information, assistance, or service provided by the Seller in relation to any goods supplied by the Seller is provided without liability or responsibility on the part of the Seller.

**4. Delivery**

- (a) The Seller will make all reasonable efforts to have goods delivered to the Buyer on the date agreed between the parties as the delivery date, but the Seller shall be under no liability whatsoever should delivery not be made on this date.
- (b) Notwithstanding that the Seller may have delayed or failed to deliver the goods (or any of them) promptly the Buyer shall be bound to accept delivery and to pay for the goods in full provided that delivery shall be tendered at any time within Ninety Days (90) of the delivery date.

**5. Risk**

The risk in the goods purchased shall unless otherwise agreed in writing pass to the Buyer upon delivery to the Buyer or his agent or to a carrier commissioned by the Buyer.

**6. Property**

- a) In spite of delivery having been made, property of the goods shall remain with the Seller and the Seller reserves the right to dispose of the goods until such time as full payment is made for all amounts owing by the Buyer to the Seller so that the Buyers total indebtedness to the Seller under these Conditions of Sale is discharged.
- b) Notwithstanding that the Goods (or any of them) remain the property of the Seller the Buyer may sell or use the Goods in the ordinary course of the Buyer's business at full market value for the account of the Seller. Any such sale or dealing shall be a sale or use of the Seller's property by the Buyer on the Buyer's own behalf and the Buyer shall deal as principal when making such sales or dealings. Until property in the Goods passes from the Seller the entire proceeds of sale or otherwise of the Goods shall be held in trust for the Seller and shall not be mixed with other money paid into any overdrawn bank account and shall be at all material times identified as the Seller's money.
- c) If any goods are used in a manufacturing process or mixed with other materials, the Buyer shall record the value of goods so consumed in relation to each unit of finished product and upon sale of any unit of finished product immediately remit that amount from the proceeds of sale to the Seller.
- d) If the Buyer fails to pay an amount of the Buyer's total indebtedness to the Seller under these Conditions of Sale when it is due to the Seller or, in the event that a default as specified in sub-clause (d) hereof occurs the Seller may without notice and without prejudice to any of its other rights and remedies recover and/or re-sell the goods or any of them and may enter upon any premises owned occupied or controlled by the Buyer where the goods are situated by its servants or agents for that purpose.

- e) Notwithstanding the provisions of these Conditions of Sale and in particular clause 8 hereof payment shall become due immediately upon the Buyer (being a natural person) committing any act of bankruptcy or the Buyer (being a company) committing any act which entitles any person to apply to wind up the Buyer or, an Administrator, or a Receiver or Receiver and Manager of the Buyer is appointed or upon the Buyer pledging or charging by way of security for any indebtedness any of the goods which are the property of the Seller.
- f) Until full payment the Buyer shall store the goods separately from all other goods in its possession and marked in a way that clearly manifests the Sellers title.
- g) The Buyer acknowledges that until the Buyer's total indebtedness under these Conditions of Sale to the Seller is discharged he holds the goods as bailee for the Seller and that a fiduciary relationship exists between them.

**7. Price**

The price charged shall be the price ruling at the Date of Delivery unless otherwise agreed in writing. Any price indications or price lists are subject to alteration to the price ruling at the Delivery Date.

**8. Payment and Default**

Unless otherwise agreed expressly in writing the terms of payment shall be net monthly, on or before the date as per the Statement of Account that is issued by the Seller. If the Buyer fails to make payment for the Goods in accordance with this contract or execution shall be levied upon any of the Buyer's goods or if the Buyer offers to make any arrangements with its creditors or commits an act of bankruptcy or if any petition in bankruptcy is presented against the Buyer or the Buyer is unable to pay its debt as they fall due or being a limited company passes a resolution for winding up (except for the purpose of reconstruction) or a petition is presented for its winding up of if any of the events referred to in Section 364 of the Companies(Victoria) Code occur then all monies owing and outstanding to the Seller on any account whatsoever and irrespective of whether the due date as per the Statement of Account has occurred shall become immediately due and payable. In addition the Seller may without prejudice to its other rights either suspend further deliveries require payment in advance for all such deliveries or terminate any contract forthwith by written notice to the Buyer.

**9. Containers**

Containers in which goods are delivered and for which a deposit charge is made, remain the property of the Seller and must not be used for any other commodity that that contained therein at the time of delivery. On their return in good order and condition by the Buyer and the Buyers expense to the store of the Seller from which the goods were delivered the full amount of the deposits will be repaid to the Buyer.

**10. Pallets**

At all times the Seller retains the right of possession of any pallets used for delivery of the goods and the Buyer agreed to indemnify the Seller in respect of any pallets not returned in good order and condition to the Seller within 7 days of delivery of the goods.

**11. Force Majeure**

Deliveries may be totally or partially suspended by Nuvo Australia during any period in which Nuvo Australia may be prevented or hindered from delivering by Nuvo Australia's normal means of supply or delivery by normal route through any circumstances outside Nuvo Australia's reasonable control, including but not limited to strikes, lockouts, raw material shortages, shipping delays, accidents or breakdowns of plant or machinery. Nuvo Australia shall not incur any liability to the Buyer in respect of such suspension.

**12. Interest**

Without prejudice to any other rights or remedies that Seller may have against the Buyer, the Buyer agrees that in the event of any default by the Buyer in payment to the Seller in accordance with the terms hereof the Buyer shall pay to the Seller interest on the amount outstanding from time to time at the rate of eighteen percent (18%) per annum calculated daily from the due date for payment until payment and all outstanding monies together with all interest shall be recoverable forthwith from the Buyer.

**GLOSSARY**

Buyer:	Company or person that places an order with the Seller.
Seller:	Nuvo Australia Pty Ltd.
Goods:	Any products supplied by the Seller to the Buyer.
Date of Delivery:	The date that the Goods are dispatched from the Seller's stores.