

STEVENS PRODUCTS LTD – TERMS AND CONDITIONS OF SALE

1. As used in these Terms and Conditions:
 - a) “Act” means the Personal Property Securities Act 1999, including all amendments thereto.
 - b) “Buyer” means the buyer of the Goods, as specified in a credit application, invoice or Lightning Finance application.
 - c) “Goods” means all goods supplied, from time to time, by Stevens Products to Buyer.
 - d) “Lightning Finance Application” means an agreement between Buyer and the Lightning Finance Division of Stevens Products for the payment of Goods outside the normal payment terms specified in clause 4 of these Terms.
 - e) “Stevens Products” means Stevens Products Limited, including its Lightning Finance Division.
 - f) “Terms” means these Terms and Conditions of Sale of Stevens Products.
2. Orders are accepted by Stevens Products on these Terms only. Buyer shall be deemed to accept these Terms by placing an order. These Terms shall apply to the exclusion of any other terms or conditions of sale or purchase unless specifically varied at a later date in writing by Stevens Products.
3. The price to be paid for the Goods is the price current at the date of dispatch from Stevens Products’ premises. Stevens Products reserves the right to amend all or any prices at any time with or without notice.
4. Subject to clause 5, all payments are due on the 20th of the month following the date of invoice (or such other date as may be noted on any given invoice).
5. In its sole and absolute discretion, Stevens Products, through its Lightning Finance Division, may offer Buyer the Lightning Finance Application. Stevens Products would normally make such offer to a Buyer with an otherwise good payment history who requests terms outside the payment terms specified in clause 4 to cover floor stock until sold, to cover Goods sold by Buyer with a substantial trade-in allowance and to assist a Buyer with a temporary cash flow problem. If Buyer and Stevens Products sign a Lightning Finance Application, the payment terms in the Lightning Finance Application shall override the payment terms in clause 4 but only in respect to the Goods specified in such Lightning Finance Application.
6. All payments shall be net and Buyer shall have no right of setoff for any reason whatsoever.
7. In the event of payment not being received by due date, whether under these Terms or a Lightning Finance Application, Stevens Products shall be entitled to charge interest on any amount outstanding calculated on a daily basis at the rate of 2 percent per month from the due date until the date payment is made.
8. Liability and risk shall pass to Buyer at the time the Goods leave Stevens Products’ store notwithstanding that Stevens Products may arrange delivery. Any claims for damage arising during transit are the responsibility of Buyer and must be made in writing to the delivery company within seven days. Any claim for Goods received in a faulty condition, other than transport damage, must be received by Stevens Products in writing within seven (7) days of receipt of such Goods.
9. The Goods shall remain the sole and absolute property of Stevens Products as legal and equitable owner until such time as Buyer shall have paid to Stevens Products the purchase price and all other moneys due in respect of the Goods and Buyer acknowledges that it is in possession of the Goods solely as bailee for Stevens Products until such payment is made.
10. Until such payment is made in full:
 - a) Stevens Products shall have the right to immediately repossess the Goods and for such purpose is authorised by Buyer to enter into any premises where the Goods are likely to be kept and without being liable for damage thereby caused and Stevens Products shall have the right to resell such repossessed Goods to another party.
 - b) If Stevens Products so directs and Buyer is no longer in possession of the Goods, Buyer shall do all within Buyer’s power to cause return of the Goods to its premises.
 - c) If Stevens Products so directs, Buyer shall store the Goods separately as to be identifiable as Stevens Products property.
 - d) Stevens Products, its agents and employees, shall have a licence to enter Buyer’s premises from time to time during normal business hours for the purpose of carrying out stock takes of the Goods.
11. If any of the Goods are sold or otherwise disposed of by Buyer before title passes then Buyer shall hold the proceeds of such sale or disposition separate upon trust for Stevens Products and shall be accountable for such proceeds to Stevens Products.
12. Where Buyer pays money to Stevens Products without reference to any specific invoices or Goods, Stevens Products shall have the right to allocate moneys received to particular invoices and/or Goods at its discretion.
13. Stevens Products gives no undertaking or warranty that the Goods supplied are fit or suited for any particular purpose or process.
14. Stevens Products shall not be liable for delays in delivery, price increases or loss or damage occasioned to the Goods whilst in transit.
15. In no circumstances, whatsoever whether in contract, tort or otherwise will Stevens Products have any liability in respect of any indirect or consequential loss or loss of revenue or loss of profits suffered by Buyer. Under no circumstances will Stevens Products be liable, whether in contract, tort or otherwise, in respect of any claim for any amount which exceeds the sale price of the goods which gave rise to the applicable claim.
16. Any claims made by any Buyer with respect to damage or defective Goods must be made to Stevens Products in writing within seven days of the date of delivery of the Goods to Buyer. In the event of any claim being recognised and accepted by Stevens Products, Stevens Products shall at its option repair or replace the Goods as soon as possible, or alternatively give Buyer an appropriate credit. In all circumstances Stevens Products’ maximum liability for any claim shall be limited to the remedies set out above.
17. Buyer grants to Stevens Products a purchase money security interest in all present and after acquired Goods purchased from Stevens Products and their proceeds in terms of the Act, and all such Goods and proceeds shall constitute collateral. On the request of Stevens Products, Buyer shall promptly execute any documents and do anything else required by Stevens Products to ensure that the security interest created constitutes a first ranking perfected security interest over the Goods and their proceeds including providing any information Stevens Products reasonably requires registering one or more financing statements or financing change statements pursuant to the Act. Buyer waives any right to receive a copy of a verification statement under the Act.
18. Stevens Products and Buyer agree that nothing in sections 114 (1) (a), 117 (1) (c), 133 and 134 of the Act shall apply to these Terms. Stevens Products and Buyer also agree that the right of Buyer as debtor in sections 116, 119, 120 (2), 121, 125, 126, 127, 129, 131 and 132 of the Act shall not apply to these Terms.
19. Each provision in these Terms is severable in whole or in part if deemed to be invalid or unenforceable and the balance of these Terms shall continue in full force and effect.
20. If Stevens Products delays in enforcing an obligation or remedy under these Terms, such delay shall not result in a waiver or variation of such obligation or remedy.
21. Buyer acknowledges that it has received a copy of these Terms and in particular that the terms contained in these Terms constitute a security agreement for the purposes of the Act.