

ADM AUSTRALIA PTY LTD (NZCN 1540765) - TERMS AND CONDITIONS OF SALE

- 1. Exclusive Terms and Conditions:** All orders by the Customer which are accepted by ADM for products manufactured, supplied, distributed or packaged by ADM or any associated company or contractor of ADM ("Products") are subject to these conditions. Any terms or conditions put forward by the Customer, whether in a purchase order, specification or otherwise, will not be binding on ADM insofar as they purport to amend, annul or augment any of these conditions unless specifically agreed to in writing by an authorised officer of ADM. These conditions constitute the entire understanding of the parties and there are no other terms, conditions, warranties or representations, whether written or oral, express or implied, which govern or constitute part of any contract incorporating these conditions other than those, if any, implied by law pursuant to Clause 5.
- 2. Prices and Payment:** Prices for Products quoted in published price lists or by representatives of ADM are subject to change without notice and are not binding on ADM. All prices for Products do not include any GST (or packing charges), which may be separately charged to the Customer. All sums owing to ADM must be paid by the Customer within 30 days of the end of the month in which Products are delivered. The Customer shall have no right of set-off in respect of any claim against ADM.
- 3. Retention of Title:** ADM will retain title to Products supplied to the Customer until it has received payment in full for same. Customer acknowledges that ADM is entitled to register a security interest on the Personal Property Securities Register in respect of the Products supplied to the Customer, and the Customer hereby waives its right to receive a verification statement in respect of any such registration. The fact that ADM retains the title to Products until it has been paid for will not affect its rights as an unpaid seller. Furthermore, if payment is overdue, or the Customer enters into bankruptcy, liquidation, a compromise with its creditors, has a receiver or manager appointed over all or any part of its assets or becomes insolvent, ADM will be entitled without prejudice to its other rights and remedies, to repossess Products belonging to it and to enter any premises, without notice, for that purpose. If any Products belonging to ADM are disposed of by the Customer or an insurance claim is made in respect of it, ADM will be entitled to trace the sale or insurance proceeds, which proceeds must be held by the Customer in a separate bank account on trust for ADM.
- 4. Delivery:** Products are sold F.I.S (free-into-store) mainland capital city or metropolitan area only, except that Delivery of Products to a carrier or store nominated by the Customer will constitute delivery to the Customer. ADM will use its reasonable endeavours to meet the Customer's requested delivery dates. However, ADM will not be liable to the Customer for any loss or damage whatsoever (including consequential loss) should it be delayed or prevented from delivering any Products. All risk in Products will pass to the Customer upon delivery to the Customer. It is the Customer's responsibility to inspect all Products promptly upon delivery and the Customer shall be deemed to have accepted delivery from seven (7) days after delivery unless the Customer submits a written claim to ADM within seven (7) days of the delivery.
- 5. Legislation:** Provisions of the Consumer Guarantees Act 1993 (as amended) and other laws enacted from time to time may imply warranties or conditions or impose obligations on ADM. If any such provisions apply then, to the extent permitted by law, ADM's liability will be limited at ADM's option to the replacement of Products or supply of equivalent Products; the payment of the cost of replacing the Products or requiring equivalent Products; or the payment of the cost of having the Products required or the repair of the Products.
- 6. Liability and Indemnity:** To the extent permitted by law, ADM will not be liable for any claim, loss or damage to any person or property directly or indirectly occasioned by or arising from the Customer's use or possession of the Products.
- 7. Non availability of Products:** While every effort will be made to fulfil the Customer's orders for Products, ADM will not be liable for any loss or damage arising as a result of non-availability of stock.
- 8. Governing Law:** The construction, validity and performance of any contract incorporating these Conditions, will be governed by the laws of New Zealand and the Customer and ADM submit to the jurisdiction of the courts of New Zealand.