

OTARI GROUP LTD.

GENERAL TERMS AND CONDITIONS OF SALE V1.4

These terms and conditions between OTARI GROUP LIMITED (“the Company”) and the Purchaser (“the Purchaser”) shall apply to all orders for goods sold on cash payment, credit, loan, or consignment terms (“Goods”) and for repair and technical services (“Services”) undertaken by the Company. In case of conflict or dispute these terms and conditions take precedence over any verbal or written message from the Purchaser. Should the Company fail to enforce any terms and conditions described in this document, the Company will not be deemed to have waived its rights with respect to any term or condition.

A) RESPONSIBILITY

Without limiting any other clause in these terms and conditions, the Company will not be liable for any loss, damage, claim or expense caused or contributed to by any act or omission of the Purchaser or any of its employees, agents or contractors, or otherwise outside the reasonable control of the Company.

B) PRICING, QUOTATIONS, AND ORDERS

Quotations of Goods are made in either USD or NZD and are exclusive of GST, insurance, freight, and other handling charges, and unless designated are ex-works (EXW). Quotations are valid for ninety (90) days from the date of issuance unless otherwise stated. A quotation does not constitute an offer unless it is signed by the Company. The Company may withdraw any quotation before the Purchaser’s signed acceptance, for whatever reason it designates.

Purchase orders based on Quotation must be issued by the Purchaser prior to the expiration of the purchase order, and must reference the Quotation by reference number and date. Expired Quotations cannot form the basis of any Purchase Order from the Purchaser, and must be re-issued by the Company. For the purposes of expiry date, any date which references the expiry of either the whole quotation or the price, is to be regarded as the expiry date of the Quotation.

Purchase Orders issued on the Company by the purchaser with mutually signed document(s), are subject to only the terms referenced in these document(s).

Prices quoted by the Company are based on factors including the cost of materials, labour, and transport at the date of any quotation provided by the Company to the Purchaser. The price quoted may increase if there are cost increases beyond the control of the Company affecting the supply, production, and delivery of goods between the date of contract and the date of delivery. Similarly, the price may be increased if the Purchaser alters the specifications of the quotation.

Any order placed for Goods and Services by the Purchaser with the Company with a valid offer from the Company will be placed on the basis of these General Terms and Conditions of Sale, to the exclusion of all other terms. The Purchaser agrees that any terms and conditions on the Purchaser’s order form do not form any part of the Contract, unless those terms are expressly accepted by the Company in writing, and countersigned by both the Company and the purchaser.

Once the Purchaser’s order is accepted by the Company, it may not be cancelled and items supplied by the Company may not be returned, except with the written consent of the Company and in accordance with these terms and conditions.

C) DELIVERY

Where dates are quoted for delivery of Goods, these are the Company's best estimates as at the date of quotation. The Company will make every effort to ensure the delivery of Goods and Services on time, but delivery on these dates is not guaranteed and in no circumstances will the Company be liable for any loss or damage resulting from a delay in delivery.

Unless specified in the Company's quotation (or any order accepted by the Company), the point of delivery shall be ex works, Ohoka, New Zealand.

D) PAYMENT

The Purchaser must make full payment upon delivery of the Goods or provisioning of the Service, except where the Company has agreed to provide credit to the Purchaser, where payment shall be due the 20th of the month following the date of the invoice.

E) TITLE

Title to all Goods supplied by the Company to the Purchaser remains with the company and does not pass to the Purchaser until the full contract price is paid to and received by the Company in full. The Purchaser agrees to accept risk of loss or damage to the Goods at the time of the delivery of the Goods, and to properly store, protect, and insure the Goods.

F) DESIGN OF GOODS

From time to time developments in technology and changes in the operating environment of the Company's products require modifications to the design and construction of Goods. The Company reserves the right to modify the design and/or the construction of the Goods, including without limitation the right to alter the dimensions, capacity, graphic design, aesthetic appearance, and components and materials comprising the goods at any time prior to delivery, provided that the any such modifications do not change the goods to such an extent that they are no longer fit for the purpose for which the Purchaser requires the goods as communicated to the Company in writing prior to the date of the relevant order. The Company may make any such modification without prior notice to the Purchaser and without incurring any obligation or liability in respect of the modification, or in respect of any consequential modification required as a result of the modification. For the avoidance of doubt, any change to the goods made pursuant to this clause F, does not constitute a defect in material or workmanship for the purposes of clause G.

G) CLAIMS FOR DAMAGED OR DEFECTIVE GOODS UNDER WARRANTY

If the Purchaser believes that any part of the Goods delivered to it by the Company are defective in material or workmanship under ordinary use, the Company will, at its discretion, repair or replace any damaged or defective Goods supplied by the Company provided that the Purchaser makes a claim identifying the damaged or defective Goods within five (5) Business Days of the damage or defect occurring, and provided that the Company is provided reasonable opportunity to investigate the claim made by the Purchaser. The Purchaser must arrange at its own cost for the damaged or defective item to be returned to the Company's premises located in Ohoka, New Zealand.

Within ten (10) Business Days of such a claim being made and after receipt of the Returned Goods, the Company will, acting in good faith, notify the Purchaser as to whether it agrees or disagrees that there is an actual defect in the Goods which is covered by the warranty. If the claim is deemed valid by the

Company, the Company will then, at its own cost, repair or replace the defective item and return it to the original point of delivery. In no case can a claim for damaged or defective Goods be considered if the warranty period of the Goods has elapsed.

H) COMMISSIONING OF GOODS

Once Goods are received by the Purchaser, it is the Purchaser's duty to commission the Goods and confirm that the Goods are fit for the purpose for which the Purchaser requires the goods, as communicated to the Company by the Purchaser in writing prior to the date of the relevant order. If the Goods are deemed unfit for purpose by the Purchaser at this stage, the Purchaser must inform the Company within thirty (30) Business Days of receipt of the Goods. In this case, the Company will consider the claim and, if it accepts the claim, will work expeditiously to rectify the Goods.

I) WARRANTY AND TRIGGERING OF WARRANTY COVERAGE

The standard warranty period is one (1) year from date of dispatch from the Company's premises. The Warranty on the Goods applies only to workmanship and materials. Failures caused by incorrect handling, unexpected operational conditions, poor maintenance, installation or any other cause, are specifically excluded from warranty coverage. Loss, or damage sustained by the Goods in the removal and return process to the Company's premises is not covered by warranty. All Goods must be returned to the company securely packed and wrapped, and labelled to enable the Company to diagnose the reason for return.

J) LIMITATIONS OF LIABILITY

To the maximum extent permitted by law, the Company is not liable to the Purchaser or to any other person or company for:

- (a) any loss or damage of any kind caused by or resulting from any act or omission of the Purchaser or any of its employees, agents or contractors; or
- (b) any loss of profits or any loss of anticipated profits, any loss of revenue, any economic loss, any loss of business opportunity, any loss or damage resulting from wasted management time or any special, incidental, indirect or other consequential loss or damage, even if notified of the possibility of that potential loss or damage and irrespective of whether it is due to negligence, breach of contract or any other cause.

K) EXCLUSION OF IMPLIED WARRANTIES

Any warranty, representation, or undertaking that would be implied in these terms and conditions by legislation, common law, custom or usage is excluded to the maximum extent permitted by law. Nothing in these terms and conditions excludes any right or remedy conferred on the Purchaser by the Consumer Guarantees Act 1993 or any other applicable law that cannot be excluded, restricted or modified. Where the Purchaser acquires the Goods for business purposes, the parties agree to contract out of the provisions of the Consumer Guarantees Act 1993 to the extent permitted by that Act.

L) LIABILITY FOR BREACH OF NON-EXCLUDABLE RIGHTS

To the maximum extent permitted by law, the liability of the Company for a breach of a non-excludable right referred to in clause K is limited, at the Company's option and discretion, to the following:

- (a) in the case of goods:
 - (i) the replacement of the goods or the supply of equivalent goods; or
 - (ii) the repair of the goods;
- (b) in the case of services or software:
 - (i) the re-supply of services or software.

M) FORCE MAJEURE

A Force Majeure Event may prevent or delay the Company from complying with its obligations, therefore the obligations of the Company will be suspended during the time its activities are affected as a result of a Force Majeure Event. The Company will endeavour to provide the Purchaser with particulars of the Force Majeure Event and take all reasonable steps to minimize the Event's impact on its ability to comply with its obligations to the Purchaser.

N) INTELLECTUAL PROPERTY

The Purchaser acknowledges that all Intellectual Property Rights in the Goods and Services are owned by the Company or entitled to be owned by the Company. The Purchaser agrees that it shall not use the Company's Intellectual Property in any manner whatsoever without the express written consent of the Company. Where the company has followed specifications or instructions (either verbal or written) which have been provided by the Purchaser, the Customer agrees to indemnify the Company against damages, costs, and expenses to which the Company may become liable through the following of the Purchaser's specifications and instructions including those arising from infringement of trademarks, copyrights or patents by the Purchaser.

O) GROUNDS FOR TERMINATION

The Company may at any time terminate any contract entered into between itself and the Purchaser for any reason, by giving not less than one month's notice to the Purchaser. The Company may terminate the contract immediately by written notice to the Purchaser if an event of Default of Payments due to the company by the Purchaser occurs. Upon termination of the contract for any reason, all rights of the Purchaser under these terms and conditions shall terminate. The Purchaser must within five (5) Business Days pay the Company all monies owed by the Purchaser, whether due at that time or not.

P) DISPUTE RESOLUTION AND ARBITRATION

Any contract entered into between the Company and the Purchaser is governed by and construed in accordance with the laws of New Zealand. In the event of a dispute arising between the Company and the Purchaser, the dispute shall be referred to a Mediator agreed between the two parties. Mediation shall be on a shared cost basis. Should the parties fail to accept the resolution of a Mediator, the matter shall be referred to an Arbitrator agreed between the two parties, and arbitration shall be conducted in accordance with the New Zealand Arbitration Act 1996. All mediation and arbitration will take place in the vicinity of Christchurch, New Zealand.

DOCUMENT CHANGE LOG

This is version 1.4 of the Company's terms and conditions.

2008 – Version 1.0: Change to Clause H

2010 – Version 1.1: Change to Clause B

2015 – Version 1.2: Change to reflect change of company name to Otari Group Ltd

2016 – Version 1.3: Change to reflect Company's change in premises

2017 – Version 1.4: Minor change to Clause M.