

Terms and Conditions of Supply of Goods and/or Services on credit

1. Westan Pty Ltd and its related entities Westan Australia Pty Ltd, Westan NZ Ltd and Westan APAC Pte Ltd will be collectively referred to as Westan. In these conditions, the 'Supplier' shall mean Westan whose company registration number appears on the Westan invoice ("Westan").
2. Goods will be supplied in the quantity, at the country of origin currency/price and will be delivered to the location as specified in the Customer's invoice ("Goods"). Unless otherwise agreed by the Supplier in writing, these terms apply exclusively to every agreement with the Customer (the "Terms").
3. Goods and/or Services purchased by the Customer are subject to the following:
 - a) Terms and conditions of payment for the Goods and/or Services are strictly COD unless otherwise specified on invoice;
 - b) If any Goods are subject to the control of the Australian Customs Service, all customs duty, excise duty and costs which the Supplier becomes liable to pay and/or does pay in respect of the Goods pursuant to any law relating to customs or excise shall be paid by the Customer;
 - c) It is acknowledged that all Goods are fully described in writing overleaf including their name, nature and value;
 - d) All freight charges specified on any Customer invoice will be paid as part of the purchase price by the Customer;
 - e) Any special/additional rates of carriage incurred as a result of special or extraordinary carriage being requested by the customer, shall be paid by the customer;
 - f) The Supplier shall not be bound by any agreement purporting to vary these conditions unless that agreement shall be in writing and signed on behalf of the Supplier by an authorised officer of the Supplier;
 - g) In the event of any agreement between the Supplier and the Customer requiring any handling, installation, removal, assembly of any kind whatever, that service is undertaken strictly on the basis that the Supplier accepts no liability for any loss, damage or injury of any kind whatever however arising caused or incurred or occurring during the performance of that Service. This disclaimer extends to include not only loss of or damage to itemised Goods themselves, but loss, damage or injury to any person, property or thing damaged during the provision of such Services, and to include any loss consequently or otherwise arising from any such, damage or injury.
 - h) Any order placed by the Customer is an offer. An order will not be accepted until the Supplier communicates acceptance to the Customer in writing or by electronic means or it has provided the Goods.
 - i) Unless otherwise stated by the Supplier in writing, prices quoted are exclusive of:
 - (i) GST;
 - (ii) Transportation and delivery costs;
 - (iii) Insurance; and
 - (iv) Any other taxes, duties or imposts
4. Freight insurance will not be arranged by the Supplier except with the express instructions in writing from the Customer and then only with the written agreement of the Supplier and at the Customer's expense and on lodgement of a declaration by the Customer as to the value of the Goods prior to collection.
5. The Supplier will deliver the Goods only by special arrangement and then providing that suitable and safe transport, loading and unloading facilities are available at all requisite hours to enable delivery. Without limiting the generality of clause 13, the Supplier will not be responsible for any non-delivery due to strikes, lockouts, trade union action or any other such cause beyond its control.
6. Should the Customer not be in attendance at the delivery address specified on the Customer's invoice during normal trading hours when delivery is attempted, an additional charge may be made by the Supplier at the rate specified on the Customer's invoice for each call until delivery is accomplished.
7. The Customer authorises the Supplier (if the Supplier should think fit) to arrange with an independent contractor or sub-contractor the cartage, delivery, storage, handling, installation, removal, assembly or erection of the Goods.
8. The Customer shall not acquire any right title or interest in Goods until the Customer pays to the Supplier the purchase price of the goods in full. Until full payment in cleared funds is received by the Supplier for all Goods supplied by it to the Customer, title and property in all Goods remain vested in the Supplier.
- 8.1 Until a particular item sold is paid for in full, the Customer is a bailee of those Goods for the Supplier and will keep the Goods reasonably separate and identifiable from all other goods that the Customer may hold unless the Goods are sold for the purpose of incorporation into or are a component part of a finished product produced by the Customer.
- 8.2 The Customer will be liable to the Supplier for all and any loss, theft, destruction or damage to any Goods in which the Supplier retains title and which are in the Customer's possession custody or control and whether or not caused by any act or omission of the Customer. No such loss, theft, damage or destruction, nor any other event or circumstance of any nature whatsoever, shall impair or frustrate any obligation of the Customer under these Terms so that all such obligations shall, continue in full force and effect.
- 8.3 If any Goods in which the Supplier retains title are resold or incorporated into products manufactured or finished using the Goods and resold, the Customer shall hold such part of the proceeds of any sale as represents the invoice price of the Goods sold in a separate identifiable bank account as the beneficial property of the Supplier and shall pay such amount to the Supplier immediately on demand.
- 8.4 If the Customer has not paid for particular Goods when payment falls due, the Supplier may at any time thereafter enter the Customer's premises where those goods are or are reasonably suspected of being situated, without liability for trespass or any resulting damage, and retake possession of those goods using reasonable force to do so.
- 8.5 The Supplier is entitled to keep or re-sell any goods re-possessed pursuant to subclause 8.4 and will be entitled to maintain any action against the Customer for the purchase price of the Goods not withstanding any of the provisions of this clause.
- 8.6 The risk in the Goods and all insurance responsibility for theft, damage or otherwise in respect of the Goods will pass to the Customer immediately upon delivery of the Goods to the premises nominated by the Customer.
- 8.7 These Terms create a security interest in favour of the Supplier of the Goods pursuant to the Personal Property Securities Act as established in the country of invoice origin. The Customer undertakes to immediately do such acts and provide such information as in the Supplier's opinion may be necessary or desirable to enable the Supplier to perfect any security interest created or provided for by these Terms, as a perfected security interest with first priority. To the fullest extent permitted by law, the Customer waives any rights it may have now or in the future to receive a copy of any verification statement or other confirmation related to the interests created or provided for, or perfected in the manner contemplated by, these Terms.
- 8.8 A 15% Restocking fee will be applicable for all goods returned by the Customer and accepted only with prior agreement from Westan. Goods returned are to be in original condition with original packaging and all accessories and with original tax invoice as proof of purchase. Goods returned without prior agreement and original tax invoice from Westan will not be considered for restocking and therefore all amounts will be payable in full by the Customer.
- 8.9 Bespoke/Custom goods ordered across the range of brands distributed by Westan will be non returnable/non refundable.
9. If the Customer fails to pay any sum of money owing to the Supplier for the supply of Goods by the due date for payment, the Customer will on demand, pay to the Supplier the Penalty Interest Rate at a rate current at that time in the country of invoice origin computed on the sum of money overdue during the period of default and without prejudice to any other rights the Supplier may have against the Customer. The Customer will pay the reasonable expenses incurred by the Supplier as a result of late payment for Goods supplied by the Supplier, including the cost of service of notices or demands.
10. The Supplier will comply with the obligations imposed on it by any manufacturer's warranties given with the Goods, however such warranties and/or those that are implied or included by law are the only warranties on which the Customer may rely. Westan provides no other warranties in relation to the Goods and other than those specified in this clause. All warranties, undertakings, inducements or representations whether express or implied relating in any way to the Goods are excluded and no oral or written information or advice given by the Supplier, its servants, agents or employees shall create a warranty or in any way increase the scope of any warranty given by a manufacturer or implied by law. Repairs or replacements under the terms of warranty do not give right to extension or a new beginning of the period of warranty. Repairs or replacement may be carried out with functionally equivalent or reconditioned parts. This clause does not have the effect of excluding, restricting or modifying rights under any national or state fair trading legislation including the Competition and Consumer laws in the country of invoice origin which cannot be excluded, restricted, or modified by agreement.
11. In no event shall the Supplier be liable for any special, incidental, indirect or consequential damages including damages for loss of business profits, business interruption or loss of information which may be suffered or incurred or which may arise directly or indirectly as a result of the use of the Goods by the Customer and without limitation the Supplier shall not bear any liability for any loss or damage to the Goods or non-delivery, delay in delivery, concealed damage, deterioration, contamination or evaporation of Goods held in the Supplier's care custody or control or any consequential loss however caused apart from loss caused or occasioned by any criminal acts of the servants, agents or employees of the Supplier.
12. Limitation of Liability To the full extent permitted by law, all warranties, conditions and guarantees that may otherwise apply or be implied are excluded and the Supplier's only obligation resulting from a breach by it or of any condition, warranty or guarantee that cannot be excluded is limited to either:
 - a) In the case of goods the replacement of the Goods, the supply of equivalent goods or goods of equivalent value or the correction of any defect in the Goods as the Supplier may reasonably determine necessary; and
 - b) In the case of services the supplying of the Services again.
13. If the Supplier is unable at any time to perform any of its obligations whether wholly or partly by reason of any cause beyond its control (including without limitation, acts of God, inclement weather, strikes, lockouts, fires, riots, civil commotion or unrest, interference by civil or military authorities or act of war) the Supplier may give written notice to that effect to the Customer, giving full particulars of such force majeure in which case the obligations of the Supplier under these Terms shall, to the extent that they are affected by the force majeure, be suspended during the term of the force majeure. The Supplier shall not be liable for any loss or damage suffered by the Customer as a result of any delays caused by such force majeure events.
14. These conditions shall be governed by and construed in accordance with the laws of the State/Country from which the Supplier head office operates and any proceedings against the Supplier shall be brought in that State/Country and not elsewhere.
15. Payment other than by Cash or Cheque (by prior arrangement) will attract additional administration charges.
16. If any of the Terms becomes void or unenforceable for any reason then that part will be severed from these Terms to the intent that all other parts that do not become void or unenforceable will remain in full force and effect and be unaffected by any severance of other parts. Failure by the Supplier to insist upon strict performance of any of these Terms, or to exercise in whole or in part any right that it may have under these Terms or at law, shall not be deemed to be a waiver of any rights that the Customer may have and shall not be deemed a waiver of any subsequent breach by the Customer of any of these Terms.