

Terms and Conditions of Sale

SPLIT SECOND TIMING PTY LIMITED

PO Box 1322

Dee Why NSW 2099 Australia

ABN 16 101 159 095

1 APPLICATION

- 1.1 These Terms and Conditions of Sale ("Terms") apply to all goods sold by Split Second Timing Pty Limited ("the Company"). "Goods" means all goods sold and/or delivered by the Company to the Customer from time to time.
- 1.2 No amendment, alteration, waiver or cancellation of any of these Terms is binding on the Company unless confirmed by the Company in writing.
- 1.3 The Customer acknowledges that no employee or agent of the Company has any right to make any representation, warranty or promise in relation of the Goods or the sale of the Goods other than as contained in these Terms.

2 TERMS OF PAYMENT

- 2.1 Prices are subject to change without notice.
- 2.2 Payments are to be made direct to the Company, strictly net, without any deduction or discount other than as stated herein or in the relevant invoice.
- 2.3 Payments are to be made in accordance with the term specified on the Company's invoice.
- 2.4 Interest is payable on all overdue accounts calculated on a daily basis at the rate of 2% per month as from the due date for payment until payment is received in full by the Company.

3 PROPERTY IN GOODS

Legal and beneficial ownership of Goods supplied by the Company will not pass to the Customer until such time as the Goods so supplied and all other goods supplied by the Company to the Customer from time to time, have been paid in full in cash or cleared funds.

4 RE-SALE OF GOODS

- 4.1 Should the Customer be a re-seller then, subject to sub-clause 4.2.4, the Customer has the right to sell the Goods in its own name at full market value and in the ordinary course of business.
- 4.2 Until the amount payable to the Company in respect of the Goods, and in respect of all other goods previously supplied by the Company to the Customer, has been paid in full in cash or cleared fund:
 - 4.2.1 the Customer will hold the Goods only as bailee for the Company;
 - 4.2.2 the Goods must be stored in such manner that they are readily distinguishable from other goods owned by the Customer or other

persons and so as to clearly show that they are the property of the Company;

4.2.3 the Customer must indemnify the Company from and against any claim, action, proceeding, damage, loss, cost, expense or liability incurred or suffered by the Company arising out of the possession, use or disposal of the Goods by the Customer or repossession or attempted repossession of them by the Company; and

4.2.4 any sale of the Goods under clause 4.1 will only be effected by the Customer as trustee for the Company and the proceeds of such sale and the rights of the Company's Customer against its Customer arising from such sale will be held on trust for the Company. The said proceeds must be held in a separate account or otherwise clearly identified in the books and records of the Customer.

4.3 If the Customer resells any Goods then, unless the Goods are clearly identifiable by serial numbers or other distinguishing marks, the Customer is deemed to have disposed of the Goods in the chronological order of supply by the Company to the Customer (oldest to most recent).

5 DEFAULT

If:

5.1 the Goods are not paid for in accordance with these Terms or any other written agreement between the Company and the Customer; or

5.2 the Company receives notice of, or reasonably believes that a third party may attempt to levy execution against or attach the Goods; or

5.3 any other event occurs which is likely to adversely affect the Customer's ability to pay for the Goods (including but not limited to the appointment of a receiver, receiver and manager, administrator, controller, liquidator, provisional liquidator, trustee or similar person (each an "insolvency representative") to the Customer's undertaking),

then the Company may at any time thereafter, without notice to the Customer and without prejudice to any other rights which it may have against the Customer, terminate any contract relating to the Goods and the bailment referred to in clause 4.2

6 RIGHT TO ENTER PREMISES

In any of the circumstances referred to in the preceding clause, the Customer:

6.1 authorises the Company by itself, its agents or representatives at all reasonable times, without notice, to enter onto (with force if reasonably necessary) and at all necessary time(s), to remain in and on any premises where the Goods are located in order to collect the Goods, without being guilty of any manner of trespass; and

6.2 assigns to the Company all the Customer's rights to enter onto and remain in and on such premises until all the Goods have been collected.

7 ADMINISTRATION, RECEIVERSHIP ETC.

- 7.1 In any of the circumstances referred to in clause 5.3, neither the Customer nor its insolvency representative or any other person acting for the Customer and/or its creditors is entitled to sell, charge, remove, dispose of, use or otherwise deal with the Goods in any way inconsistent with the Company's ownership of the Goods, without the Company's prior written approval.
- 7.2 The Customer, its insolvency representative or any other person acting for or on behalf of the Customer and/or its creditors is obliged to re-deliver the Goods to the Company immediately or immediately on his appointment at its or his expense.
- 7.3 If the Goods are returned to or collected by the Company, the Company will within 28 days, account to the Customer or its legal representative for all monies received for the Goods from the Customer less the Company's reasonable administration charges, expenses incurred and loss of profits involved.

8 CUSTOMER AS TRUSTEE

If the Customer carries on business as trustee of a trust then the Customer warrants that:

- 8.1 the Customer enters into the contract as trustee of a trust;
- 8.2 the Customer has all requisite powers to enter into the contract;
- 8.3 the beneficiary of the trust approves the purchase of the Goods on the terms of the contract; and
- 8.4 the assets of the trust are available to the Company in satisfaction of any debt incurred by the Customer.

9 SALES TAX AND GOODS AND SERVICES TAX

- 9.1 Sales tax and Goods and Services tax ["GST"] are not included in the quoted price unless otherwise indicated.
- 9.2 If GST is imposed on the Company in respect of the Goods then the Customer must pay to the Company the amount of such GST in addition to the quoted price.
- 9.3 The Company must give the Customer written notice of the amount of any GST payable under this clause and provide a tax invoice showing the amount of GST payable.

10 CUSTOMS DUTIES, TARIFFS AND LEVIES

All applicable customs duties, tariffs and levies are payable by the Customer unless the order, order confirmation, invoice or other writing indicates otherwise.

11 DELIVERY

- 11.1 Availability dates are estimates only, but the Company will use its best endeavours to maintain these estimates.
- 11.2 At the Customer's request, the Company will arrange for the delivery of the Goods into the Customer's store at the Customer's expense.

12 DELIVERY BY INSTALMENTS

- 12.1 The Company reserves the right to deliver the Goods in whole or by instalments, as well as to deliver prior to the date for delivery and in such event the Customer must not refuse to take delivery of the Goods.
- 12.2 Where the Goods are delivered by instalments, each instalment is sold under a separate contract.
- 12.3 Any failure on the part of the Company to deliver instalments within any specified time does not entitle the Customer to repudiate the contract with regard to the balance remaining undelivered.

13 RISK

The Goods are entirely at the risk of the Customer from the moment the Goods leave the Company's premises.

14 INSPECTION

Unless the Customer has inspected the Goods and given written notice to the Company within seven (7) days after collection or delivery that the Goods do not comply with the relevant specifications or descriptions, the Goods are deemed to have been accepted in good order and condition.

15 RETURN OF GOODS

- 15.1 No returns will be accepted unless the Company has previously agreed in writing. If the Company agrees to the return of Goods, they must be unsoiled, undamaged and in a resaleable condition (or Customer pays for all costs of replacement or repair) and delivered free to the Company's premises unless otherwise agreed by the Company in writing.
- 15.2 Goods imported especially for the Customer or non-standard equipment made to special order cannot under any circumstances be returned and/or credited.

16 CANCELLATION OF ORDER

No order may be cancelled, modified or deferred without the prior written consent of the Company (which is at the Company's sole discretion) and if such consent is given, it is at the Company's election, subject to the Company being reimbursed all losses, including loss of profits, and paid a cancellation and restocking fee (being not less than 10% of the invoice value of the Goods).

17 COMPANY'S LIABILITY LIMITED

- 17.1 These Terms do not affect the rights, entitlements and remedies conferred by the Trade Practices Act (1974).
- 17.2 The Company is not subject to, and the Customer releases the Company from any liability (including but not limited to consequential loss or damage, removal costs or re-installation costs or liability for loss of use or profit) because of any

delay in delivery or fault or defect in the Goods. The Customer acknowledges that the Company is not responsible if the Goods do not comply with any applicable safety standard(s) or similar regulation(s), and that the Company is not liable for any claim, cost, damage or demand resulting from such non-compliance.

17.3 If any statutory provisions under the Trade Practices Act 1974 or any other statute(s) apply to the Agreement then, to the extent to which the Company is entitled to do so, the Company's liability under the statutory provisions is limited, at the Company's option, to:

17.3.1 replacement or repair of the Goods or the supply of equivalent Goods; or

17.3.2 payment of the cost of replacing or repairing the Goods or of acquiring equivalent goods,

and in either case, the Company will not be liable for any consequential or other direct or indirect loss or damage.

18 WARRANTY

18.1 The Company warrants that the Goods are free from defects in workmanship and materials for a period of twelve months from the date of purchase. The Company shall repair and/or replace defect goods:

- (a) if the Goods are returned to the Company's premises at the Customer's expense, then free of charge; or
- (b) if the Company is required to undertake repairs or placement on site, then subject to payment of the Company's current hourly rate for time spent, in travelling to and from and attending at the site of the Works plus reasonable travel expenses.

18.2 It is a condition of the warranty in clause 18.1 that:

- (a) failure of the Goods must not be due to misuse, power surge, connection to wrong voltage or other abuse; and
- (b) the Company will not be responsible for damage or loss caused during the transporting of the Works by the Customer to the Company's premises.

18.3 On discovery of any defect in the Goods, the Customer must notify the Company in writing of such defect. All warranty claims relating to delivery defects must be received by the Company within thirty (30) days of the day of delivery.

18.4 The Customer must not carry out any remedial work to alleged defective Goods without first obtaining the written consent of the Company to do so. The Customer's failure to provide written notice to the Company within the required time of any alleged breach of the above warranty will release and discharge the Company from any obligation or liability for that breach of warranty. The above warranty extends only to the Customer and to no other person.

18.5 The provisions of any act or law (including but not limited to the Trade Practices Act 1974) implying terms, conditions and warranties, or any other terms, conditions and warranties which might otherwise apply to or arise out of the agreement between the Company and the Customer in relation to the Goods (the "Agreement") are hereby expressly negated and excluded to the full extent permitted by law.

18.6 The Customer expressly acknowledges and agrees that it has not relied upon, and the Company is not liable for any advice given by the Company, its servants, agents, representatives or employees in relation to the suitability for any purposes of the Goods.

18.7 If the Works are found to be faulty due to misuse as referred to in clause 18.2 (a), their repair or replacement will be charged to the Customer at the Company's current hourly rate plus parts.

19 CATALOGUES

Particulars in leaflets, catalogues, drawings, brochures and other printed material are illustrations only, from no part of the contract between the Company and the Customer, and are not binding on the Company.

20 SAMPLES

Any sample inspected by the Customer is solely for the Customer's convenience and does not constitute a sale by sample. All samples remain the property of the Company.

21 SPECIFICATIONS

22.1 Unless otherwise agreed in writing, the Goods are supplied subject to any specification as to weight, quantity, size, dimensions, finishes, chemical composition and physical properties as may be published generally by the Company or as may be set out in any specification issued by the Company in relation to the Goods, or, if no such specification has been published or set out, subject to such specification as is normally regarded as being commercially acceptable.

22.2 Where any specification for the Goods are to be supplied by the Customer, they must be supplied in a reasonable time to enable the Company to complete delivery by the date for delivery.

23 CONTRACT

23.1 The terms of contract between the parties are wholly contained in these Terms and any other writing signed by both parties. The contract is deemed to have been made at the Company's place of business in Sydney and any cause of action is deemed to have arisen there.

23.2 The provisions of the United Nations Convention on contracts for the International Sale of Goods adopted at Vienna, Austria on 10 April 1980 does not apply to any Goods supplied by the Company to the Customer.

24 FORCE MAJEURE

The Company will not be liable for any breach of contract due to any matter or thing beyond the Company's control (including but not limited to transport stoppages, transport breakdown, fire, flood, earthquake, acts of God, strikes, lock-outs, work stoppages, wars, riots or civil commotion, intervention of public authority, explosion or accident).

25 WAIVER OF BREACH

No failure by the Company to insist on strict performances of any of the terms in these Terms is a waiver of any right or remedy which the Company may have, and is not a waiver of any subsequent breach or default by the Customer.

26 NO ASSIGNMENT

Neither the Agreement nor any rights arising under the Agreement may be assigned by the Customer without the prior written consent of the Company which is at the Company's absolute discretion.

27 SEVERABILITY

If any provision contained in these Conditions of Sale is held by a court to be unlawful, invalid or unenforceable, the validity and enforceability of the remaining provisions are not affected.