



THE DRAKE GROUP OF COMPANIES

**Drake Trailers PTY LTD**  
**Terms and Conditions of Sale**  
**SAL-TERM-001.01**

## 1. DEFINITIONS AND INTERPRETATION

### 1.1 Definitions in these terms:

**ACL** means Schedule 2 of the Competition and Consumer Act 2010 (Cth), being the Australian Consumer Law.

**Agreement** means: (a) these Terms and Conditions; (b) any Quote; (c) any Purchase Order accepted by Drake; and (d) any document expressly incorporated by reference.

**Business Day** means a day other than a Saturday, Sunday or public holiday in the relevant state.

**Customer** means the person, company, partnership, trust or other entity purchasing Goods or Services from Drake.

**Deposit** means any deposit, placeholding payment, progress payment or other advance payment required by Drake.

**Delivery Date** means the date specified by Drake for delivery or collection of Goods.

**Goods** means all products supplied by Drake including trailers, dollies, spare parts, engineering products, merchandise and related items.

**GST** has the meaning given in the A New Tax System (Goods and Services Tax) Act 1999 (Cth).

**Order** means a confirmation from the customer that they assign Drake to provide goods or services referring to a time and/or materials

**PPSA** means the Personal Property Securities Act 2009 (Cth).

**Purchase Price** means the amount payable by the Customer for Goods and Services excluding GST unless otherwise stated.

**Quote** means any written quotation issued by Drake.

**Services** means repair, maintenance, engineering, fabrication, warranty, technical or other services supplied by Drake.

**Terms** means these Terms and Conditions of Sale.

## 2. APPLICATION OF TERMS

2.1 These Terms apply to the sales process, as well as all Goods and Services supplied by Drake.

2.2 Any terms contained in a Customer purchase order, procurement document or other document are expressly excluded unless agreed in writing by Drake.

2.3 Acceptance of delivery of Goods, payment of a Deposit, issue of a Purchase Order or acceptance of a Quote constitutes acceptance of these Terms.

## 3. QUOTES

3.1 Quotes remain valid for 30 days for trailers and dollies. For all other goods and services, quotes are valid for 14 days unless otherwise stated.

3.2 Drake may withdraw or amend a Quote at any time before acceptance.

3.3 A Quote does not constitute a binding agreement until accepted by Drake.

3.4 Drawings, specifications, dimensions, weights, capacities and illustrations are approximate only unless expressly stated otherwise.

## 4. ORDERS

4.1 An Order becomes binding when: (a) accepted by Drake in writing; or (b) Drake commences work on the Order.

4.2 Drake may reject any Order without providing reasons.

4.3 No cancellation, variation or suspension of an Order is effective unless approved in writing by Drake.

## 5. DEPOSITS AND PRODUCTION ALLOCATION

5.1 Drake may require payment of a Deposit before production commences.

5.2 Production scheduling is not guaranteed until cleared funds are received.



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5.3 Any estimated production dates are indicative only.

5.4 Delay in payment of a Deposit may result in allocation loss and revised completion dates.

## 6. PRICE

6.1 Prices, unless stated otherwise are exclusive of:

- GST;
- registration charges;
- stamp duties;
- insurance;
- freight;
- delivery costs; and
- government charges.

6.2 The Customer must pay all applicable additional charges.

6.3 Drake may adjust pricing where: (a) design changes occur; (b) material costs materially increase; (c) regulatory requirements change; or (d) Customer specifications change.

## 7. PAYMENT TERMS

### Trailers and Dollies

7.1 Cleared funds must be received before release of Goods.

### Trade Accounts

7.3 Approved credit accounts are payable within 30 days from invoice date unless agreed otherwise.

7.4 Drake may revoke credit terms at any time.

7.5 Drake may suspend future supply where accounts become overdue.

## 8. LATE PAYMENT

8.1 Overdue accounts may attract interest calculated daily at:

**RBA Cash Rate + 4% per annum**

8.2 The Customer must indemnify Drake for all reasonable debt recovery and legal costs incurred in recovering unpaid amounts.

8.3 Payments received will be applied: (a) collection costs; (b) interest; then (c) principal debt.

## 9. CANCELLATION

9.1 Where Drake permits cancellation, Drake may charge:  
(a) all costs incurred; (b) work completed; (c) committed supplier costs; and (d) an administration fee of up to 10% of the contract value.

## 10. DELIVERY

10.1 Delivery dates are estimates only.

10.2 Drake is not liable for delays, as we cannot control issues such as:

- material shortages;
- labour shortages;
- transport delays;
- supply chain disruptions;
- acts of government; or
- force majeure events.

10.3 Delivery occurs when: (a) Goods are collected; or (b) delivered to the nominated address.

## 11. RISK

11.1 Risk passes to the Customer upon: (a) collection; or (b) dispatch for delivery.

11.2 Drake recommends that the Customer insures the Goods from the time risk passes.



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## 12. RETENTION OF TITLE

12.1 Legal title remains with Drake until payment is received in full.

12.2 Until title passes, the Customer: (a) holds the Goods as bailee; (b) must properly store them; (c) must identify them as Drake property.

12.3 Drake may enter premises where Goods are located and recover Goods where payment remains outstanding.

## 13. PPSA

13.1 The Customer grants Drake a Purchase Money Security Interest.

13.2 Drake may register its interest on the PPSR.

13.3 The Customer must do all things reasonably required to protect Drake's security interest.

13.4 To the extent permitted under the PPSA, the Customer waives rights to notices and statements.

## 14. CUSTOMER RESPONSIBILITIES

14.1 The Customer is responsible for determining suitability of Goods for its purposes.

14.2 To retain warranty, the Customer must:

- operate Goods safely;
- maintain Goods appropriately;
- comply with all legislation; and
- follow operating instructions.

## 15. WARRANTY

15.1 Manufacturer warranties apply according to published warranty documents.

15.2 Warranty claims must: (a) be submitted in writing; (b) include supporting evidence; (c) comply with warranty requirements.

15.3 Warranty exclusions include:

- misuse;
- neglect;
- unauthorised modifications;
- accident damage;
- overloading;
- improper maintenance.

## 16. AUSTRALIAN CONSUMER LAW

16.1 Nothing in these Terms excludes, restricts or modifies any rights, guarantees or remedies that cannot be excluded under the ACL.

16.2 Where permitted by law, Drake's liability for breach of a non-excludable guarantee is limited to:

(a) replacement; (b) repair; (c) resupply; or (d) payment of repair or replacement costs.

## 17. LIMITATION OF LIABILITY

17.1 To the maximum extent permitted by law, at the time of writing Drake is not liable for events such as

- loss of profit;
- loss of revenue;
- loss of production;
- downtime;
- loss of business opportunity;
- indirect loss;
- consequential loss.

17.2 Drake's aggregate liability is limited to the amount actually paid by the Customer for the relevant Goods or Services.

17.3 This clause does not apply to:

- fraud;
- wilful misconduct;
- liability that cannot be limited by law.

## 18. INTELLECTUAL PROPERTY

18.1 All intellectual property remains vested in Drake.



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18.2 No intellectual property rights are assigned to the Customer.

18.3 The Customer must not reproduce, modify or disclose Drake designs without written consent.

## 19. CONFIDENTIALITY

19.1 Each party must keep confidential all commercially sensitive information disclosed by the other.

19.2 Confidential information may only be used for purposes related to the Agreement.

19.3 This obligation survives termination.

## 20. PRIVACY

20.1 Drake may collect, use and disclose personal information in accordance with the Privacy Act 1988 (Cth).

20.2 The Customer consents to credit assessments and credit reporting checks.

20.3 Drake may disclose information to:

- financiers;
- insurers;
- credit providers;
- debt recovery agencies;
- professional advisers.

## 21. CREDIT REPORTING

21.1 The Customer authorises Drake to obtain and exchange credit information regarding the Customer and its directors.

21.2 Any personal guarantees required by Drake must be executed under a separate guarantee document.

## 22. FORCE MAJEURE

22.1 Drake is not liable for delays caused by events beyond its reasonable control. At its discretion, Drake may terminate any order in the event of a Force Majeure event.

22.2 Affected obligations are suspended for the duration of the event.

## 23. DEFAULT

23.1 A default occurs where: (a) payment becomes overdue; (b) insolvency occurs; (c) a material breach remains unremedied.

23.2 Drake may:

- suspend supply;
- terminate Orders;
- recover Goods;
- recover damages.

## 24. DISPUTE RESOLUTION

24.1 Parties must first attempt to resolve disputes through senior management negotiations.

24.2 If unresolved within 21 days, either party may refer the dispute to mediation.

24.3 If mediation fails, court proceedings may commence.

## 25. TERMINATION

25.1 Drake may terminate immediately where: (a) insolvency occurs; (b) payment default occurs; (c) a material breach remains unremedied.

25.2 Rights accrued before termination survive termination.

## 26. NOTICES

26.1 Notices must be in writing.

26.2 Notices may be delivered by: (a) email; (b) courier; (c) registered post.

26.3 Email notices are deemed received on the next Business Day.



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## 27. ELECTRONIC EXECUTION

27.1 Documents may be executed electronically.

27.2 Electronic signatures and digital acceptance methods are binding.

## 28. GENERAL

28.1 Invalid provisions are severable.

28.2 Drake may subcontract obligations.

28.3 This Agreement constitutes the entire agreement.

28.4 Amendments must be in writing.

## 29. GOVERNING LAW

29.1 These Terms are governed by the laws of Queensland.

29.2 The parties submit to the exclusive jurisdiction of the courts of Queensland.



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