

Sparky 4 You PTY LTD Terms and Conditions of Sales and Service.

1. APPLICATION OF TERMS

1.1 Definitions

The term "Company" throughout these terms and conditions defines "Sparky 4 You PTY LTD". The term "Customer" throughout these terms and conditions defines the client that has requested the Goods and/or Services from the Company.

1.2 Services

Sparky 4 You agree to provide Goods and/or Services on the following terms:

1.3 Terms and conditions applicable

Unless there is express written agreement to the contrary signed by the Company, the parties agree that the provision of the Goods and/or Services is made subject to these terms and conditions. Any terms provided by the Customer to Sparky 4 You PTY LTD (including order forms or documents accompanying or referred to any purchase order) from time to time which conflict with or purport to vary or modify the terms and conditions set out in this agreement well have no effect and will not be binding on the Company.

2. DELAY

The performance by the Company under these terms and conditions is subject to the availability of materials necessary to enable the Company to fulfil its obligations. The Company will make reasonable endeavours to fill accepted orders in accordance with delivery dates specified by the Customer or if no delivery dates are specified, as soon as practicable but in no event will the Company be liable for any claim, cost, loss, expense or damage resulting from any delay in delivery or performance or for any failure to deliver due to causes beyond its reasonable control. In no circumstances will the Company be liable for any delays caused by the failure of the Company to provide necessary site access or information in a timely manner.

3. SALES TERMS AND PAYMENT

3.1 Variations

The Company is not obliged to perform any variations to the Goods or Service. If the Customer requests any variations or if any variations become necessary (including due to the matters set out below), then such variations are subject to mutual agreement between the Company and the Customer. If such agreement cannot be reached within a reasonable time, the Company will be entitled to payment for all Goods and/or Services supplied up to the time that it is determined by the Company that agreement cannot be reached.

3.2 Basis of price

Unless otherwise agreed in writing by the Company any price provided by the Company has been calculated on the basis that the provision of the Goods and/or Service will be fulfilled during the Company's usual working hours; normal soil conditions prevail and the Company is not required to comply with site specific environmental restrictions (including fire ants). If there is any departure from these assumptions then the Company is entitled to reasonable compensation for the additional cost of performing the Service and/or providing the Goods. The Company may postpone delivery or performance of any Goods and/or Service without being liable for any losses or damages suffered by the Customer until an appropriate increase in the price has been agreed with the Company and the Customer.

3.3 Payment

Payment terms are strictly cash on delivery, unless otherwise agreed by Sparky 4 You PTY LTD.

3.4 Credit Terms

Subject to the satisfactory completion of the Company's credit approval process, the Company may at its sole discretion offer the Customer alternative payment terms. The Company reserves the right to withdraw credit previously available to the Customer at any time and to require payment on or before delivery.

3.5 Set Off

Under no circumstances are outstanding monies to be retained or set off by the Customer for any reason without first obtaining written consent by the Company.

3.6 Default of payment

The Customer indemnifies the Company against all costs and disbursements which the Company may incur in

recovering any sums due to be paid by the Customer to the Company under these terms and conditions, including debt recovery agency fees, legal fees and/or court fees. The Company has the right to refuse to supply Goods and/or Services; or suspend the Goods and/or Services if the Customer does not strictly observe the terms of payment set out in these terms and conditions or under any alternate payment terms offered by the Company, irrespective of whether an order has been accepted or not and will not be liable for any losses or damages resulting directly or indirectly from such action.

4. WARRANTIES

The Company's warranties are limited to the express warranties set out in these terms and conditions, those warranties that cannot be excluded by law and any further warranties contained in any manufacturer's warranty, the benefit of which can be passed to the Customer. To the full extent permitted by law, the express warranties provided in this clause are in substitution for all other terms, conditions, warranties and representations, implied by statute or otherwise and all other terms, conditions, warranties and representations are expressly excluded and no oral or written information or advice given by the Company, its 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. The Company's liability for Services provided or Goods manufactured by it is limited to making good any defects by repair, replacement or resupply at the Company's option, within a period not exceeding six months after the Goods have been dispatched or the Services have been provided by the Company. The warranties provided for in this agreement will not apply and the Company will not be responsible for the non-performance or malfunction of or damage to any Goods or Services if a failure or defect is due in whole or in part to: (a) the interference with (including alteration, modification or repair by any person not previously approved by the Company) the Goods and/or Services or its installation; (b) the improper use, application, operation or maintenance of the Goods and/or Services; (c) the failure of ancillary equipment not part of the Goods and/or Services; or (d) fair wear and tear of the Goods and/or Services.

5. LIABILITY

5.1 Limitation of Liability

Subject to the above clauses, other circumstances may arise where, because of the default of the Company or other liability, the Customer is entitled to recover damages and other costs from the Company or its officers, employees, agents or contractors. In those circumstances the Company will be liable for: (a) Bodily injury (including death), damage to real or tangible personal property arising directly from the Company's negligence; (b) the amount of any actual direct damages or loss, capped at the lower of: (i) The proceeds of any claim in relation to the loss or damage, which the Company's insurer accepts under a policy of insurance which the Company holds; and (ii) any actual payments, which the Customer has made to the Company for the Goods and/or Services that are the subject of the claim.

5.2 No Liability

Under no circumstances will the Company be liable for any of the following: (a) Third party claims against the Customer for losses or damages (other than losses set out in clause 5.1(a) above which arise directly from the Company's negligence); or (b) Any liability, losses, damages or costs incurred to the extent that they were caused or contributed to by, the Customer's failure to perform its obligations under these terms and conditions or any wrongful or negligent act or omission of the Customer, its officers, employees or agents; or (c) Any indirect, economic, incidental, special or consequential loss (including loss of profits, savings or funds) even where the Company was informed of their possibility. This limitation of liability extends to include any of the Company's officers, employees, and agents. It is the maximum for which the Company, its officers, employees or agents will be collectively responsible.

6. RETENTION OF TITLE

Notwithstanding delivery and passing of risk, title in the Goods does not pass to the Customer until payment in full of all amounts owing to the Company and the Customer will keep the Goods as bailee for the Company. The customer irrevocably authorises the Company or its officers, employees or agents to enter any premises and recover where the Goods or any part of the Goods are installed, stored or kept or is reasonably believed to be kept and dispose of the Goods and the Customer will not make any claim against the Company to recover and/or dispose of the Goods.

7. **TERMINATION** If the Customer: (a) fails to comply with any of these terms and conditions; (b) fails to make payment in accordance with these terms and conditions or any payment terms offered to the Customer by the Company; (c) an insolvency event of any kind (including without limitation, external administration, appointment of a receiver, bankruptcy or entering into an agreement with its creditors) occurs in relation to the Customer, then the Company may at its sole discretion suspend or postpone any delivery or performance of any Services or Goods without being liable for any loss or damages suffered by the Customer in that regard or terminate the agreement by notice in writing to the Customer. Upon termination and in addition to any other rights the Company may have, the Company shall be entitled to recover all costs incurred by it including, payment for all deliveries of Goods already made or Services performed and the cost of materials already obtained or ordered for the purpose of future deliveries (whether or not such materials have been incorporated into Goods or Services being purchased by the Customer). Termination pursuant to this clause shall not affect any other rights or remedies that the Company may have. The parties acknowledge and agree that clause 5,6 and 7 shall survive termination of this agreement.

8. **WORKPLACE HEALTH & SAFETY**
Where the Customer has specific site safety requirements, the Customer will provide the relevant induction process of the Company's relevant employees and contractors.