

EUROVAP PRODUCTS LIMITED

Eurovap Products Limited ARBN 131 575 687 New Zealand
ABN 62 131 575 687

1. DEFINITIONS

- 1.1 "Eurovap" shall mean Eurovap Products Limited ARBN 131 575 687, or any agents or employees thereof.
- 1.2 "Customer" shall mean the person purchasing products and services from Eurovap as specified on the front of this agreement, and any person acting as agent of and with the authority of the Customer.
- 1.3 "Due Date" shall mean the 20th day of the month following the date of the invoice as per clause 5.2.
- 1.4 "Invoice" shall mean a Tax Invoice as provided by Eurovap to the Customer for the Products purchased by the Customer.
- 1.5 "Products" shall mean:
 - 1.5.1 all Goods and Services of the general description specified on the front of this agreement and supplied by Eurovap to the Customer; and
 - 1.5.2 all Goods and Services supplied by Eurovap to the Customer; and
 - 1.5.3 all Goods and Services supplied by Eurovap and further identified in any invoice issued by Eurovap to the Customer, which invoices are deemed to be incorporated into and form part of this agreement; and
 - 1.5.4 all Goods and Services that are marked as having been supplied by Eurovap or that are stored by the Customer in a manner that enables them to be identified as having been supplied by Eurovap.

The above descriptions may overlap but each is independent of and does not limit the others.

- 1.6 "Price" shall mean the cost of the Products as agreed between Eurovap and the Customer or if there is no prior agreement then as per clause 4 and includes all disbursements including but not limited to charges Eurovap pay to third parties on the Customer's behalf
- 1.7 "Terms and Conditions" shall mean this entire agreement including the front of this agreement.

2. ACCEPTANCE

- 2.1 Any instructions received by Eurovap from the Customer for the supply of Products shall constitute a binding contract and acceptance of the Terms and Conditions contained herein.

3. COLLECTION AND USE OF INFORMATION

- 3.1 The Customer authorises Eurovap in accordance with the Privacy Act 1988 (Cth) to collect, retain and use any information about the Customer, or for the purpose of assessing the Customer's credit worthiness, enforcing any rights under these Terms and Conditions, or marketing any Products provided by Eurovap to any other party.
- 3.2 The Customer authorises Eurovap to disclose any information obtained to any third party for the purposes set out in clause 3.1.

4. PRICE

- 4.1 Where no Price has been agreed in writing or orally the Price of the Products shall be no greater than the current amount that such Products are sold by Eurovap at the time of possession of the products being transferred to the Customer.
- 4.2 The Price may be increased by the amount of any reasonable increase in the cost of supply of the Products that is beyond the control of Eurovap between the date of the contract and delivery of the Products to the Customer.

5. PAYMENT

- 5.1 Eurovap will provide the Customer with an invoice specifying the Price of the Products.
- 5.2 Unless otherwise agreed payment for the Products shall be made in full on or before the 20th day of the month following the date of the invoice.
- 5.3 Interest may be charged on any amount owing after the Due Date at the rate of 2.5% per month or part thereof.
- 5.4 Any expenses, disbursements and legal costs incurred by Eurovap in the enforcement of any rights contained in the Terms and Conditions shall be paid by the Customer, including any reasonable solicitor's fees or debt collection agency fees.
- 5.5 Receipt of a cheque, bill of exchange, or other negotiable instrument shall not constitute payment until such negotiable instrument is paid in full.
- 5.6 A deposit of between 10% to 50% may be required at the discretion of Eurovap.

6. QUOTATION

- 6.1 Where a quotation is given by Eurovap for Products:
 - 6.1.1 Unless otherwise agreed the quotation shall be valid for thirty (30) days from the date of issue; and
 - 6.1.2 The quotation shall be exclusive of goods and services tax unless specifically stated to the contrary;
 - 6.1.3 Eurovap reserves the right to alter the quotation because of circumstances beyond its control.
- 6.2 Where Products are required in addition to the quotation the Customer agrees to pay the additional Price of such Products.

7. RISK

- 7.1 The Products remain at the risk of Eurovap until delivery to the Customer.
- 7.2 Delivery of the Products shall be deemed complete when Eurovap gives possession of the Products directly to the Customer or possession of the Products are given to a carrier, courier, or other bailee for the purposes of transportation to the Customer.
- 7.3 The time agreed for delivery shall not be an essential term of these Terms and Conditions unless the Customer gives written notice to Eurovap providing that time be of the essence.

8. AGENCY

- 8.1 The Customer authorises Eurovap to contract either as the principal or an agent for the provision of Products that are required to fulfil Eurovaps obligations under these Terms and Conditions.
- 8.2 Where Eurovap enters into a contract of the type referred to in clause 8.1 it shall be read with and form part of this agreement and the Customer agrees to pay any amounts due under that contract.

9. TITLE

- 9.1 Title in Products sold by Eurovap passes to the Customer only when the Customer has made payment of the Invoice in full for the Products and any fees or costs payable by the Customer to Eurovap under clause 5.4 of these Terms and Conditions.
- 9.2 Where the Customer has not paid for any Products in its possession title in such Products shall remain with Eurovap and:
 - 9.2.1 The Products shall be held by the Customer as bailee; and
 - 9.2.2 Title in the Products shall remain with Eurovap until the client has made payment for the Products under clause 5 of these Terms and Conditions; and
 - 9.2.3 The Customer must at all times be able to account to Eurovap for Products they hold as Bailee.
- 9.3 If the Products are attached, fixed, or incorporated into any property of the Customer, by way of any manufacturing or assembly process by the Customer or any third party, title in the Products shall remain with Eurovap until the Customer has made payment for the Products as per clause 5 of this agreement, and title of those Products that are mixed with other property so as to be part of a new Product shall be deemed to be assigned to Eurovap as security for the full satisfaction by the Customer of the amount owing on the Invoice.
- 9.4 The following shall constitute defaults by the Customer:
 - 9.4.1 Non payment by the Customer of the Invoice by the Due Date under clause 5.
 - 9.4.2 The Customer expressly states that it will not pay the Invoice by the Due Date under clause 5.
 - 9.4.3 Any Products are seized by another creditor of the Customer or any other creditor expressly states that it intends to seize Products.
 - 9.4.4 Any Products in the possession of the Customer are materially damaged while the Invoice remains unpaid under clause 5.
 - 9.4.5 The Customer becomes insolvent, is bankrupted, commits an act of bankruptcy, is wound up or a receiver is appointed to any of the Customer's assets.
 - 9.4.6 A Court judgment is entered against the Customer and remains unsatisfied for seven (7) days.
- 9.5 The Customer gives irrevocable authority to Eurovap to enter any premises occupied by the Customer or on which Products are situated at any reasonable time after default by the Customer and to remove and repossess any Products and any other property to which Products are attached or in which Products are incorporated. Eurovap shall not be liable for any costs, damages, expenses or losses incurred by the Customer or any third party as a result of this action, nor liable in contract or in tort or otherwise in any way whatsoever unless by statute such liability cannot be excluded. Eurovap may resell any repossessed Products and credit the Customer's account with the net proceeds of sale (after deduction of all repossession, storage, selling and other costs) or retain any repossessed Products and credit the Customer's account with the invoice value thereof less such sum as Eurovap reasonably determines on account of wear and tear, depreciation, loss of profit and costs.
- 9.6 Eurovap holds a lien over any property of the Customer that is in the possession of Eurovap and if the payment due to Eurovap by the Customer on any Invoice whatsoever is not paid in full within seven days of the Due Date, Eurovap may remove such property and store it in such place and manner as Eurovap thinks fit and at the risk and expense of the Customer.

10. PAYMENT ALLOCATION

- 10.1 Eurovap may in its discretion allocate any payment received from the Customer towards any invoice that Eurovap determines and may do so at the time of receipt or at any time afterwards and on default by the Customer may reallocate any payments previously received and allocated. In the absence of any payment allocation by Eurovap, payment shall be deemed to be allocated in such manner as preserves the maximum value of Eurovap's purchase money security interest in Products.

11. DISPUTES

- 11.1 No claim relating to Products will be considered unless the Customer notifies Eurovap of the dispute in writing within seven (7) days of delivery.

12. LIABILITY

- 12.1 In respect of any such implied warranties, conditions or terms imposed on Eurovap, Eurovap's liability shall, where it is allowed, be excluded or if not able to be excluded only apply to the minimum extent required by the relevant statute.
- 12.2 Except as otherwise provided by clause 12.1 Eurovap shall not be liable for:
 - 12.2.1 Any loss or damage of any kind whatsoever including consequential loss whether suffered or incurred by the Customer or another person and whether in contract, or tort (including negligence), or otherwise and whether such loss or damage arises directly or indirectly from Products provided by Eurovap to the Customer; and
 - 12.2.2 The Customer shall indemnify Eurovap against all claims and loss of any kind whatsoever however caused or arising and without limiting the generality of the foregoing of this clause whether caused or arising as a result of the negligence of Eurovap or otherwise, brought by any person in connection with any matter, act, omission, or error by Eurovap its agents or employees in connection with the Products.

13. WARRANTY

- 13.1 Manufacturer's warranty applies where applicable.

14. PERSONAL GUARANTEE OF COMPANY DIRECTORS OR TRUSTEES

- 14.1 If the Customer is a company or trust, the director(s) or trustee(s) signing this contract, in consideration for Eurovap agreeing to supply products and grant credit to the Customer at their request, also sign this contract in their personal capacity and jointly and severally personally undertake as principal debtors to Eurovap the payment of any and all monies now or hereafter owed by the Customer to Eurovap and indemnify Eurovap against non-payment by the Customer. Any personal liability of a signatory hereto shall not exclude the Customer in any way whatsoever from the liabilities and obligations contained in this contract. The signatories and Customer shall be jointly and severally liable under these Terms and Conditions and for payment of all sums due herein.

15. MISCELLANEOUS

- 15.1 Eurovap shall not be liable for delay or failure to perform its obligations if the cause of the delay or failure is beyond Eurovap's control.
- 15.2 Failure by Eurovap to enforce any of these Terms and Conditions shall not be deemed to be a waiver of any of the rights or obligations Eurovap has under these Terms and Conditions.
- 15.3 If any provision of these Terms and Conditions shall be invalid, void or illegal or unenforceable the validity existence, legality and enforceability of the remaining provisions shall have full force and effect.
- 15.4 These Terms and Conditions are to be construed according to the laws of the State of Queensland.
- 15.5 The parties submit all disputes arising between them under these Terms and Conditions to the Queensland Courts and any court competent to hear appeals from those courts of first instance.