



TERMS & CONDITIONS

1. Application of Terms and Conditions

These terms and conditions (the "Terms and Conditions") shall govern the sale by E.B. Horsman & Son Ltd. (the "Seller") of any and all items (the "Product(s)") sold by the Seller to the Customer. The Customer agrees to be bound by these Terms and Conditions.

These Terms and Conditions represent the entire agreement between the parties with respect to the sale of the Products to you and supersede any previous written or oral orders, quotations or other communications or representations by either party related to the Products and may only be waived, modified or altered by written agreement signed by a duly authorized representative of the Seller prior to acceptance of these Terms and Conditions.

2. Governing Law

These Terms and Conditions and sales made hereunder shall be deemed to have been made in the Province of British Columbia and shall be governed by the laws of the Province of British Columbia and the applicable laws of Canada. In the event of a dispute, the parties hereby agree to attorn to the exclusive jurisdiction of the courts of the Province of British Columbia.

3. Orders and Payment

Quotations provided by the Seller will be valid for the period of time stated in the quotation and if no time period is stated for a period of 30 days from the date on the quotation. The minimum purchase price on any order or quotation shall be \$25.00. Orders shall not be binding on the Seller until accepted by the Seller.

Subject to credit department approval and unless otherwise agreed to in writing, the Customer will, on or before the 30th day of the month following the date on which the Product is invoiced, pay the Seller in Canadian Dollars in full for the Product so invoiced. The Customer agrees to pay interest on all amounts past due at a rate of 2% per month, or 26.8% per annum.

Terms of payment are within the Seller's sole discretion and regardless of any prior approval of credit, the Seller may modify the foregoing terms of payment, including, but not limited to, placing the account on a letter-of-credit basis, requiring full or partial payment in advance and/or suspending deliveries of the Product until the Customer provides assurance of performance reasonably satisfactory to the Seller if, in the Seller's sole judgment, the financial condition of the Customer at any time prior to shipment so warrants.

The Product shall remain personal property notwithstanding its mode of attachment to real or other property. If the Customer is in default of payments as outlined herein, the Seller may retain any partial payments which have been made as liquidated damages and the Seller shall be entitled to immediate possession of the Product and shall be free to enter the premises where the Product may be located and remove the Product as the Seller's property without prejudice to the Seller's right to recover any further expenses, including expenses arising from the removal or disassembly of the Product, or damages suffered by the Seller as a result of such non-payment by the Purchaser.

4. Prices and Applicable Taxes

Purchase prices and quotations do not include charges for shipping and handling and applicable federal and provincial taxes and the Customer agrees to pay all such shipping and handling charges and taxes.

The Seller reserves the right to alter the price applicable to any Product unshipped at the date of any such alteration. The Seller may increase the purchase price of the Product on any increase in the cost of raw materials to the Seller.

5. Delivery

Unless otherwise agreed to in writing the Product shall be considered delivered to the Customer when the Seller makes the Product available to the Customer at the Seller's warehouse or the Seller's suppliers' warehouse.

6. Title and Risk

Title in the Product and risk of loss shall pass to the Customer upon shipment from the Seller's Warehouse or the Seller's supplier's warehouse as the case may be. The Customer shall pay all transportation and other charges arising from the shipment of the Product.

7. Shipping

Any Product availability or shipment dates given by the Seller are estimates only and the Seller is not liable for any loss, damage, cost or expense arising from any delay in Product availability or shipment.

Any unshipped Product or balance of Product, resulting from the Purchaser's refusal or inability to take delivery, remaining in the Seller's possession after the expiry date of 30

days (the "Expiry Date") will be invoiced to the Customer on the usual terms, as though the Product had been shipped. If any Product remains unshipped after the Expiry Date, the Customer shall pay the Seller storage charges.

8. Returned Products

No Products may be returned to the Seller without the Seller's written authorization which authorization may be refused in the Seller's sole unfettered discretion. Product authorized to be returned by the Seller shall be returned at the Purchaser's expense. The Seller, having inspected the returned Product, may issue a credit for the returned Product in an amount determined by the Seller in accordance with the condition of the Product.

9. Third Party Product Warranty

Except as maybe required under consumer protection legislation, the Seller does not warranty any Products manufactured by others ("Third Party Products"). Any warranty provided on Third Party Products is provided by the original manufacturer and not by the Seller. Warranties on Third Party Products may vary from product to product.

10. Limitation of Liability

The Customer agrees that for liability in any way related to the purchase or sale of the Product, the Seller's sole and exclusive liability shall be limited to the purchase price of the Product pursuant to these Terms and Conditions.

In no event shall the Seller be liable to the Customer for consequential, incidental, special damages or economic loss arising from any claim or action, incidental or collateral to, or directly or indirectly related to the Product, whether such a claim is based in tort or breach of contract (including fundamental breach or breach of a fundamental term).

11. Force Majeure

The Seller shall not be liable for any delay or failure in performance caused by circumstances beyond its reasonable control including but not limited to any cause beyond the reasonable control of the Seller or the Customer, as the case may be, including any act of God, outbreak, or epidemic of any kind, communicable and virulent disease, strike, flood, fire, embargo, boycott, act of terrorism, insurrection, war, explosion, civil disturbance, shortage of gas, fuel or electricity, interruption of transportation, governmental order, unavoidable accident, or shortage of labour or raw materials.

12. Intellectual Property

Nothing in these Terms and Conditions shall be construed as transferring to the Customer any right, title or interest in or to any patent, trade mark, copyright, design, proprietary information, drawing, process or know-how (the "Intellectual Property") which is in the property of the Seller or its affiliates.

The Seller, on behalf of itself and its affiliates in Canada, shall retain all right to Intellectual Property relating to the Products.

13. Insolvency

The Seller may immediately terminate the Terms and Conditions without liability to the Customer on the happening of any of the following events or any other comparable event:

- insolvency of the Purchaser;
- filing of a voluntary petition and bankruptcy by the Purchaser;
- filing of any involuntary petition and bankruptcy against the Purchaser;
- appointment of a receiver or trustee for the Purchaser; or
- execution of an assignment for the benefit of creditors by the Purchaser.

14. Security Interest

The Customer hereby grants to the Seller a purchase money security interest in the Product supplied under these Terms and Conditions and their proceeds to secure payment of the monies owed by the Customer to the Seller for the Products. The Customer waives the right to receive copies of any financing statements and verification statement. The Customer acknowledges a copy of Application For Credit.

15. Personal Information and Privacy

The Seller may use your personal information to provide you with products, promotions and services as in compliance with Canadian privacy laws. To not receive these products, promotions or services, please contact the Seller at privacy.officer@ebhorsman.com.

16. United Nation Convention on Contracts for the International Sale of Goods (1980)

The parties hereto acknowledge that the United Nation Convention on Contracts for the International Sale of Goods (1980) shall have no application to the sale of the Products by the Seller or these Terms and Conditions.