

CARTER HOLT HARVEY WOODPRODUCTS (DISTRIBUTION) PTY LIMITED TERMS OF PURCHASE

1. **Parties:** In this agreement “**Buyer**” means Carter Holt Harvey Woodproducts (Distribution) Pty Limited and/or any of its subsidiary companies and “**Seller**” means the person whose name appears on the face of an order issued by the Buyer (an “**Order**”) as the person from whom the goods or services (as applicable) are ordered.
2. **Acceptance:** Any acceptance of an Order or any delivery made or service performed pursuant to an Order shall constitute acceptance of the terms of purchase contained in the Order, including these Terms of Purchase and any additional terms and specifications specified in writing by the Buyer on the face of the Order. The Order together with all such terms and specifications and any terms implied by law, shall constitute the entire agreement between the Buyer and the Seller in respect of the Order (the “**Agreement**”). The Agreement may not be added to or varied except with the prior written consent of the Buyer.
3. **Price:** The prices specified in the Order, or applying at the time of the Order, will apply without change unless authorised by the Buyer in writing.
4. **Payment:** The Buyer will pay the purchase price of the goods or services (as applicable) as per the payment terms on the Order.
5. **Charges:** There will be no charges other than those specified on the face of the Order. Unless otherwise specified in the Order, all packing, cartage and other costs of delivery and all taxes and other duties shall be shall be at the cost of the Seller.
6. **Confidential Information:** All specifications and other information provided by the Buyer to the Seller in connection with this Agreement are confidential to the Buyer and will be used by the Seller solely for the purposes of performing its obligations under this Agreement and shall remain the property of the Buyer and be returned to the Buyer on demand. This clause will survive the expiration or termination of this Agreement.
7. **Inspection:** The Buyer may, in the case of goods manufactured by the Seller, inspect at the Seller’s premises, all materials and goods used in the course of manufacture of the goods, prior to delivery to the Buyer. No such inspection will constitute an acceptance or approval of the goods or their compliance with the terms or specifications of the Order or affect the Buyer’s right to reject any goods at any time thereafter for any failure to comply with any terms or specifications of the Order.
8. **Delivery:** Delivery will be made by the dates and to the places specified in the Order. Time shall be of the essence in relation to any time for delivery of goods or performance of a service specified in the Order.
9. **Risk and property:** Risk of loss or damage to the goods from any cause whatsoever will remain with the Seller and will not pass to the Buyer until delivery of the goods to the place of delivery. Property in all goods will pass from the Seller to the Buyer upon delivery except where payment is due and made prior to delivery, in which event property in such goods will pass to the Buyer as soon as payment is made.
10. **Cancellation:** The Buyer may cancel an Order or any part thereof at any time by giving written notice to the Seller to that effect. Except where such cancellation is due to any breach by the Seller of any of the terms of this Agreement, and subject to clause 11, in the event of cancellation the Buyer will pay to the Seller: (a) if the Seller holds finished goods and the time for delivery of those goods is not more than 30 days after the date of the cancellation, the full purchase price of such goods. Such payment is to be made on delivery of the goods on the delivery date; (b) if the Seller holds raw materials or has placed orders for raw materials which cannot be cancelled and such raw materials have been purchased or ordered solely for the purpose of the Order and can only be used for such purpose, the cost to the Seller of such raw material. If the Buyer so requests, the Seller must deliver such raw materials to the Buyer and Payment is to be made on delivery of the raw material; and (c) if the Seller holds goods other than raw materials or finished goods which have been produced solely for the purpose of the Order, the actual cost to the Seller of such goods. If the Buyer so requests, the Seller must deliver such goods to the Buyer and payment is to be made on delivery of the goods.
11. **Disposal of Goods:** The Seller will take reasonable steps to reduce the payment made by the Buyer pursuant to clause 10 by allowing the Buyer to deduct the fair value of any of the goods or materials which the Seller may be able to re-use, sell or otherwise dispose of but the Seller will not re-use, sell or dispose of such goods or materials without the prior written consent of the Buyer.
12. **Warranties:** The Seller warrants, and it is a condition of this Agreement, that: (a) all goods supplied and all services performed will comply strictly with all terms and specifications forming part of the Order and with all other terms of this Agreement and that such goods and services will be fit for the use intended by the Buyer; (b) all goods supplied will be of merchantable quality; (c) the sale of the goods or the delivery or services covered by the Order to the Buyer will not infringe any patent, trademark, copyright, registered design, or other intellectual property right of any other person; and (d) all goods provided under this Agreement will be free and clear of any liens, charge and encumbrances of any nature.
13. **Defective Goods:** The Buyer may reject any goods which fail to comply with the terms of this Agreement. Any rejected goods may be returned by the Buyer at the cost of the Seller, with any moneys paid by the Buyer to be repaid immediately by the Seller. The rejected goods will upon rejection become the property of the Seller, and, if held by the Buyer, will be held at the Seller’s risk. Any rejected goods marked or identified by the Buyer’s trade mark may not be sold or otherwise disposed of by the Seller while so marked or identified.
14. **Site rules:** When entering the Buyer’s premises, the Seller shall comply with any on-site regulations imposed by the Buyer.
15. **Indemnity:** The Seller agrees to indemnify and hold harmless the Buyer, its directors, officers and employees against any loss, liability, damages, claim, suit, action, demand, expense or proceedings of whatever nature arising out of any breach by the Seller of its obligations under this Agreement (including any Order) and for any other act or omission on the part of the Seller, including breach of any legislation, regulation, by-law, code or standard and any term, condition or warranty implied by any such legislation, regulation, by-law, code or standard.
16. **Set-Off:** The Buyer may set-off any sums due to the Seller against the costs and expenses resulting from any breach by the Seller of its obligations under any Order or agreement with the Buyer and any losses sustained as a result.
17. **Assignment:** The Seller may not assign any of its rights or obligations under this Agreement, except with the prior written consent of the Buyer. Any change in the effective management or control of the Seller or any parent company of the Seller, through whatever means, will be deemed to be an assignment of this Agreement requiring the prior written consent of the Buyer.
18. **Insurance:** The Seller will ensure at all times that it holds valid insurance, including product liability insurance, public liability insurance and motor vehicle insurance for any vehicles that may be used on the Buyer’s premises. In each case, the insured sum must be for an amount equivalent to or greater than what would be prudent and reasonable for a business of the type operated by the Seller. On request by the Buyer, the Seller will provide evidence of the insurances required pursuant to this clause in the form of a certificate of currency (in form and substance acceptable to the Buyer) from the Seller’s insurance company.
19. **Waiver:** A waiver by the Buyer (which must be in writing) of any specific defaults by the Seller will not constitute a waiver of any other terms of this Agreement.
20. **Governing Law:** This Agreement shall be governed by and construed in accordance with the laws of the State in which the Buyer is incorporated and the parties submit to the exclusive jurisdiction of the courts of that State.