

# Supplementary Terms of Delivery and Sale for New Zealand

VERSION DATE 1.10.12

SIA ABRASIVES AUSTRALIA PTY LTD ABN 16 005 616 302  
of 958 Stud Road, Rowville, Victoria 3178 (the "Company")



## 1. Application Of Supplementary Terms

The Supplementary Terms of Delivery and Sale (NZ) (**Supplementary Terms**) vary and/or supplement (as the context requires) the Terms of Delivery and Supply (**Terms**) located at [http://www.sia-abrasives.com/corporate/en/sg\\_unternehmen\\_au.php?txtcountry=true](http://www.sia-abrasives.com/corporate/en/sg_unternehmen_au.php?txtcountry=true). The Supplementary Terms apply to supplies of the Company's products or services to a buyer (**Buyer**) in New Zealand. Except to the extent the context otherwise requires, terms used in the Supplementary Terms have the same meaning as ascribed to such term in the Terms themselves.

## 2. Personal Property Securities Act 1999 (NZ) (PPSA NZ)

- 2.1 The Buyer grants to the Company a security interest in all products supplied by the Company as security for payment of the purchase price of the products and all other moneys payable to the Company by the Buyer (whether pursuant to an order under these Terms and Supplementary Terms or under the terms of any specific contract relating to the supply of products by the Company to the Buyer) and for the performance by the Buyer of all of its other obligations to the Company.
- 2.2 The Buyer agrees to do anything that the Company requires and promptly give the Company all assistance and information (including signing any documents) as the Company requests to ensure that the Company has a perfected first ranking security interest in all products (and the proceeds thereof) supplied by the Company.
- 2.3 The Company may register a financing statement on the New Zealand Personal Property Securities Register (as defined in the PPSA NZ) at the Buyer's cost at any time before or after delivery of the products by the Company.
- 2.4 The Company may allocate all amounts received by the Buyer in any manner it determines including any manner required to preserve any purchase money security interest in the products.
- 2.5 The Buyer waives the right to receive a copy of any verification statement confirming registration of a financing statement relating to the security interest created by these Terms.
- 2.6 The Buyer agrees not to change its name without notifying the Company in writing of the Buyer's intention to change its name at least 10 business days prior to doing so.
- 2.7 The Buyer agrees that it has no rights under sections 114(1)(a), 116, 120(2), 121, 125, 126, 127, 129, 131, 133 of the PPSA NZ.
- 2.8 The Buyer agrees to indemnify the Company for any costs incurred by the Company under this clause.

## 3. Consumer Guarantees Act 1993 (NZ) (CGA)

- 3.1 Nothing in the Terms is intended to have the effect of contracting out of the provisions of the CGA except to the extent permitted by that Act and all provisions of the Terms including these Supplementary Terms shall be read as modified to the extent necessary to give effect to that intention.
- 3.2 The parties agree that where the supply of products or services by the Company to the Buyer will be for the purposes of a business, the CGA does not apply in respect of the supply of those products or services to the Buyer.
- 3.3 Where the Buyer supplies the products to a person acquiring them for business purposes, the Buyer shall ensure that it is a term of the Buyer's contract with that person that the CGA does not apply in respect of the supply of those products to that person.
- 3.4 The Buyer shall not, in relation to the supply by the Buyer of the products, give or make an undertaking, assertion or representation in relation to the products without the prior approval in writing of the Company, and the Buyer shall indemnify the Company against any liability or cost incurred by the Company as a result of any breach by the Buyer of this provision.

## 4. Goods and Services Tax Act 1985 (NZ) (GST Act NZ)

- 4.1 If goods and services tax under the GST Act (**GST**) is chargeable on a supply of products or services made pursuant to the Terms then: (A) the Buyer shall pay such GST in addition to the GST exclusive consideration that is payable for the supply; and (B) the Company will issue to the Buyer with a "tax invoice" (as defined in the GST Act NZ).
- 4.2 The Company and the Buyer agree that, if applicable, section 8(4) of the GST Act NZ does not apply to supplies made by the Company to the Buyer (if registered for GST), and accordingly such supplies will be made in New Zealand (for the purposes of the GST Act NZ) and chargeable with GST.

## 5. NZ Governing Law

- 5.1 Clause 21.1 of the Terms shall not apply to orders for or the supply of products or services in New Zealand.
- 5.2 All orders placed by the Buyer with the Company, and any agreement by the Company with the Buyer, for the supply of goods or services to the Buyer in New Zealand, shall be construed, enforced and performed in accordance with the laws of New Zealand. Each party irrevocably and unconditionally submits to the exclusive jurisdiction of the courts of New Zealand in respect of all such agreements.