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1. Listed Prices

- 1.1 All prices listed in the published Stoddart price guides are full recommended retail price excluding GST
- 1.2 Prices may be subject to change without notice.
- 1.3 All listed prices exclude GST unless otherwise stated.
- 1.4 With the exception of Visualine, Halton, and some custom fabricated made to measure Culinaire items, prices include freight to metropolitan state capitals (surcharges & conditions apply, see Delivery - item 9).

2. Payment of Goods

- 2.1 If credit facilities are in place the transaction will be governed by the terms and conditions set out in the credit application. Customers without credit facilities are required to pay in full for the goods at time of order.

In the event of the customer having not met their terms of payment, Stoddart reserves the right to:

- a) Refuse to despatch any goods on order
- b) Refuse to hold any goods on order
- c) Refuse to hold any goods on order
- d) Charge the account holder interest accrued as per our terms and conditions contained in the credit application.

3. Dealer (Distributor) Discounts

Stoddart may choose to provide its regular dealers (distributors) with a percentage discount of the recommended retail price. This discount will be provided in writing and is subject to the following:

- a) Discount is applied to the retail price excluding GST. The dealer must add GST at time of purchase to their order.
- b) The discount only applies to items listed as standard in our published price lists and does not apply to transport, service, spare parts or specially quoted or custom items.
- c) Stoddart reserves the right to change or withdraw the discount at any time
- d) For orders that contain products for delivery to metropolitan state capitals of Perth, Hobart and Darwin, a 5% surcharge will apply to cover additional freight costs. This surcharge is applied to the purchase price, that being the retail price less the dealer discount if applicable.
- e) Where a surcharge applied this is listed at the bottom of the relevant page in each published price book

4. Multiple Purchase Discounts

- 4.1 Where Stoddart offers discounts for multiple orders, this discount applied to individual products over the wholesale value (dealer price) of \$150 plus GST on the one purchase order to the same delivery address at the same time.
- 4.2 Stoddart reserves the right to change or withdraw this discount at any time

5. Order Procedures

- 5.1 Stoddart requires a written official purchase order for all orders.
- 5.2 This order must be made out to Tom Stoddart Pty Ltd and clearly state the products required (including the product code), the quantity required and the dollar value of the goods at the customer's buying price (the retail price less the dealer discount), and any special instructions including required date and means of delivery.
- 5.3 For account customers this purchase will be processed under their credit account (subject to the account still being open and within their credit terms). Customers without account facilities are required to pay in full for the goods at time of order.
- 5.4 Upon receipt of the order, the product codes, product pricing, delivery details and approximate delivery dates will be checked. Stoddart may query certain parts of the order should any items be unclear. Stoddart will forward back to the customer a sales order acknowledgment for this purpose.
- 5.5 Unless the customer responds to the order confirmation within 4 hours of transmission, Stoddart will proceed with the order according to the sales order acknowledgment sent. Failure to question pricing or delivery conditions at this time will void the right to claim credit or alter conditions for these items at a later date.
- 5.6 The order will be processed as soon as possible according to the delivery instructions. Stoddart cannot guarantee delivery times and makes no assurance that quoted delivery times can be met.



TERMS & CONDITIONS

DEALER SPECIFIC TERMS & CONDITIONS

6. Advanced & Held Orders

- 6.1 Stoddart cannot guarantee to hold stock of pre-orders for any longer than two weeks. Should you choose to delay delivery for whatever reason, Stoddart reserves the right to reallocate stock to other orders as it sees fit.
- 6.2 For orders placed in advance, Stoddart will attempt where possible to meet the requested delivery date. However, as we cannot predict future demand, supply cannot always be guaranteed by the requested date.

7. Cancelled Orders

- 7.1 Any orders cancelled after the goods have been despatched incur a 30% restocking fee. This is to cover costs of order processing, despatch, delivery and re-warehousing.
- 7.2 For any orders for special/customised products (including accessorised Culinaire, Halton exhaust hoods or Visualine products), returns are not accepted. Orders placed for these items cannot be cancelled and the items will be delivered and invoiced in full.
- 7.3 Dealers must pay for the return freight to our store for cancelled orders.

8. Office, Order and Despatch Times

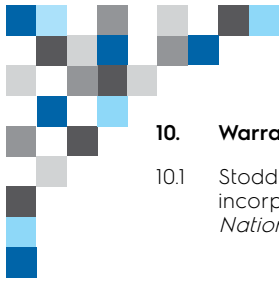
- 8.1 Stoddart standard office hours are 8.00 am to 5.00 pm Monday to Friday in each state
- 8.2 Stoddart will process orders for same day despatch when orders are received by 12 noon on standard working days (subject to stock and freight availability). Please mark orders as urgent to speed up processing time.
- 8.3 For despatch or freight details please contact our office.

9. Delivery

- 9.1 Stoddart offers free into dealers store (FIS) deliveries (on selected products) to our regular dealers (distributors) in metropolitan Sydney, Melbourne, Brisbane, Adelaide, Perth*, Hobart*, & Darwin* for orders over a total value of \$500 + GST (wholesale price). This offer is only available for deliveries to the same state as the dealer's home location where the order originated from. If the order is to be transported interstate, the full delivery charges from your normal Stoddart office to the interstate location will apply.
- 9.2 Stoddart may also, at the request of customers, deliver directly to end users in Sydney, Melbourne, Brisbane, Adelaide, Perth*, Hobart*, & Darwin* metropolitan areas. Stoddart reserves the right to withdraw this site-delivery offer on any order and deliver only to the dealer's store for any reason it sees fit. Charges may apply for this service.
- 9.3 Where deliveries are made to site, the delivery is to kerbside (or dock) of the delivery address in the metropolitan areas of Sydney, Melbourne, Brisbane, Adelaide, Perth*, Hobart*, & Darwin* only unless special conditions are agreed in advance. It is not the responsibility of Stoddart to unload the product, unless special conditions are agreed in advance by Stoddart. For deliveries outside the metropolitan areas listed, all transport is at the customer's expense and must be organised by the customer (unless otherwise arranged by Stoddart).
- 9.4 The customer acknowledges that it is their responsibility to provide labour and equipment to unload and position the goods on site at their own expense.
- 9.5 Should a tailgate lifting service be required as part of the delivery, an additional charge subject to the size and weight of the item being freighted will apply in addition to any other delivery costs. The tailgate lifter is only to get the product from the truck to ground level. The customer must provide labour and equipment to unload and position the goods on site at their own expense. Stoddart reserves the right to increase the cost of tailgate services without notice should an increase be passed by freight companies or for any other reason. Tailgate services are not available in all areas.
- 9.6 Insurance for goods in transit is not included in the purchase price. If insurance is required by the customer, it must be arranged by the customer either direct with the carrier or their insurance agent.
- 9.7 Purchase price or delivery fees do not include unpacking, placement or positioning of equipment or connection to services or removal of rubbish and packing crates.
- 9.8 In cases where the customer (including the dealer's end user) fails to take delivery of the product, for whatever reason, an additional charge of \$250 + GST will be charged to the customer for each failed delivery.
- 9.9 Delivery times cannot be guaranteed under normal terms of delivery. If the customer requires a specific delivery time a surcharge will apply and be payable in full. This surcharge will vary according to delivery costs.
- 9.10 Stoddart will choose the carrier (transport company) with whom the freight is forwarded. Should the dealer or customer require the freight to be delivered using a particular carrier then the goods will be supplied free on board your transport company at our Brisbane factory or stores in Sydney, Melbourne or Perth.
- 9.11 Where FIS special terms are agreed in advance for single or ongoing deliveries for customers outside Brisbane, Sydney, Melbourne, Adelaide, Perth*, Hobart* or Darwin* the above conditions (9.1 to 9.10) also apply.

***Subject to payment of 5% surcharge on some products**





10. Warranty Policy & Procedure

- 10.1 Stoddart is committed to providing a comprehensive and fair warranty for all of its equipment. The warranty incorporates a commercial manufacturer's warranty, together with the consumer warranty provisions of the *National Consumer Protection Act (2009)*.

11. Commercial Warranty

- 11.1 Stoddart warrants to the original purchaser ("**Customer**") of equipment manufactured or distributed by Stoddart that for 12 months from the date of installation of the equipment by Customer (the "**Warranty Period**"), any defect in workmanship or material will, subject to clauses 11.2 and 13, be:
- Repaired without charge; or
 - In respect of any **Major Failure** which cannot be repaired, replaced or the purchase money refunded.
- 11.2 Stoddart will not be liable for any associated loss, damage or compensation claim resulting from any defect in workmanship or material, and such liability is expressly excluded from the operation of clause 11.1.

12. Consumer Warranty

- 12.1 Subject to clause 13, equipment supplied by Stoddart to Customer for personal, domestic or household use or consumption comes with guarantees that cannot be excluded under the Australian Consumer Law. Customer is entitled to a replacement or refund for a **Major Failure** and compensation for any other reasonably foreseeable loss or damage. Customer is entitled to have the equipment repaired, or replaced if the equipment fails to be of an **Acceptable Quality** and that failure does not amount to a Major Failure.

13. Warranty Clarification

- 13.1 Customer acknowledges and agrees:
- A **Major Failure** occurs when the equipment suffers repeated and/or unexpected failure that cannot be repaired to Stoddart's satisfaction (acting reasonably) or which Stoddart considers (acting reasonably) renders the equipment unsafe or inoperable;
 - Stoddart can only warrant the equipment will be of an **Acceptable Quality** when Customer uses the equipment in accordance with Stoddart's manufacturer's instructions or user manual ("**Instructions**"). Acceptable Quality does not imply a lifetime guarantee for the equipment;
 - Certain components have a finite expected life, especially in a commercial or high-use environment. For example components such as refrigeration compressors, elements, thermostats/simmerstats, switches, fans, and temperature controllers can be expected to last up to 12 months when used in accordance with the instructions;
 - In a commercial environment, components such as lamps, light bulbs, fluorescent tubes, glass, silicone seals, gaskets and plastic components will require regular replacement. This is not covered by warranty and is at Customer's cost;
 - The life of equipment may be adversely affected by misuse, neglect, unauthorised alteration, incorrect installation, power surges, accident, use of inappropriate chemicals, flooding, and acts of God;
 - Proper maintenance and cleaning of equipment in accordance with the Instructions is essential to the equipment's effective operation;
 - On site warranty services are limited to sites within 50km from the nearest Stoddart authorised service agent and service agent's reasonable travel costs must be paid by Customer prior to the commencement of the repairs;
 - Additional labour costs will apply for service outside standard business hours of 8.00am to 4:30pm, Monday to Friday and on public holidays;
 - Stoddart cannot guarantee the performance of equipment made specifically to Customer's design or specifications. Stoddart will, where reasonably possible, draw any issues arising from Customer's design or specifications to Customer's attention during the commissioning and/or manufacturing process; and
 - Customer must pay additional costs incurred by Stoddart as a result of Customer failing to provide suitable access to the equipment for inspection and service.
- 13.2 Stoddart's warranty liability under clauses 11 and 12 of these Terms exclude or do not cover:
- The matters acknowledge by Customer in clause 13.1;
 - Situations where Stoddart is not satisfied (acting reasonably) the equipment or any part of the equipment has been used in accordance with the Instructions including misuse, neglect, unauthorised alteration, incorrect installation, power surges, accident, use of inappropriate chemicals, flooding, fire or act of God;
 - Any consequential loss, damage or expense arising directly or indirectly from use of the equipment otherwise than in accordance with the Instructions;
 - Any damage or malfunction arising from, or relating to, Customer's failure to properly maintain or clean the equipment in accordance with the Instructions;



TERMS & CONDITIONS

WARRANTY POLICY & PROCEDURE

Warranty Clarification continued

- e) Damage caused to equipment during transportation, which is outside Stoddart's standard delivery conditions.
- f) Breakage of lamps, light bulbs, fluorescent tubes, glass, silicone seals, gaskets, and plastic components.
- g) Maintenance, repair or other works not undertaken by a Stoddart authorised service agent
- h) Where remote refrigeration is connected by a person other than Stoddart to equipment produced by Stoddart, Stoddart cannot accept claims for repair of TX valves and control components, as the fault may arise from the installation of the remote refrigeration lines, equipment, and gas, by a party over which Stoddart has no control.
- i) Transportation costs associated with transporting the equipment to a Stoddart authorised service agent where Stoddart considers (acting reasonably) that repairs cannot be undertaken on-site; and
- j) Unless agreed to by Stoddart in writing to the contrary, warranty is not included in the scale price for goods sold to or installed in an overseas location.

14. Warranty Claim Procedure

The following procedure must be followed to claim under Stoddart's warranties:

- a) Refer to the trouble-shooting section of the Instructions to establish the nature of the fault. Check the equipment is plugged-in, turned-on or has no other valid reason for not operating.
- b) If step (a) does not overcome the issue, you should report the fault with the equipment to our service department (phone 1300 307289 or fax 07 3344 6166). Our service department will assist you with further trouble-shooting. If our service department is unable to resolve the fault with the equipment they will request you complete a Stoddart Warranty Request Form and fax (fax 07 3344 6166) or email (service@stoddart.com.au) it to us.
- c) To complete a Stoddart Warranty Request Form you will require the following information:
 - i. Proof of purchase stating model number and date of purchase;
 - ii. The serial number of the equipment (this is located on the ratings plate sticker);
 - iii. A description of the fault/problem;
 - iv. Your company details including the exact location of the equipment; and
 - v. Any restrictions on times or methods of access to the equipment.

Stoddart will not arrange a warranty call out until it receives the above information from you in writing.

- d) Upon receipt of a properly completed Stoddart Warranty Request Form, Stoddart will check its records to confirm whether the equipment is eligible for warranty repair. If warranty repair is required, Stoddart will issue an OFFICIAL AUTHORISATION NUMBER and details of work to be carried out by a Stoddart authorised service agent. This authorisation number MUST be obtained before any work is carried out. Stoddart will not accept invoices for work carried out without an official authorisation number or by an unauthorised service agent.
- e) Customer must quote the official authorisation number on all correspondence and invoices relating to a warranty claim to ensure prompt processing by Stoddart.
- f) Customer must pay all costs associated with a call-out for work that is not related to warranty repairs or outside Stoddart's Terms immediately.

15. Timing of Warranty Services

- 15.1 Stoddart will comply with its warranty liabilities contained in these Terms in a timely manner

16. General Maintenance & Repairs

- 16.1 The equipment must be repaired and maintained by a qualified technician. Stoddart's authorised service agents are experienced technicians who understand the equipment and carry commonly used spare parts. Contact Stoddart's national service number listed below for details of your nearest Stoddart authorised service agent.

For Warranty, maintenance, spare parts and repairs, contact:

Tel: 1300 307 289

Fax: 07 33446166

Email: service@stoddart.com.au





Stoddart supplied products are designed to offer customers a combination of functionality, reliability and value for money. We are also committed to providing dealers with the products, service and tools to help effectively sell our products.

This is why it is necessary for you to know the product you are selling and to give your customer's confidence in your advice and the products they are buying. Please try to follow the guidelines given below to assist your customer and to protect yourself during the sale of your Stoddart supplied product.

1. KNOW THE PRODUCT

We produce a range of literature and product information which will helpfully assist you in providing a service to the customer which meets their information requirements. However should you find that you require additional information please feel free to contact one of our sales representatives or administrative staff. Ultimately as the vendor of the product to the end user you are their main source of information. At all times ensure it is accurate and clear so as they are best placed to make the right decision.

2. LET THE CUSTOMER DECIDE

Whilst you should always provide as much accurate advice as possible to your customer it is ultimately their responsibility as to which product they choose. Please provide them with all appropriate information to help them make this decision including their individual needs in relation to power or other service requirements for particular items (such as: Do they have a 15 amp power point on their premises?), their expected yield from the selected product and the product suitability to local regulations.

3. BE MINDFUL OF HEALTH AND FOOD REGULATIONS

It is the customer's responsibility to ensure that the product they purchase complies with local health and food regulations. Please make your customer aware of their responsibility in this regard before they place an order for a product.

4. HELP THE CUSTOMER SET UP AND USE THEIR MACHINE

All Stoddart supplied products come with an instruction manual detailing the correct procedure for using and maintaining the machine. Please acquaint yourself with these instructions in order to provide a greater level of assistance to your customers. The dealer should make every effort to provide operating instructions to their customers when possible. This includes providing appropriate advice on how to clean and maintain the product to ensure it is in full working order and provides the best possible results for the customer.

5. ASSIST WITH SERVICE AND WARRANTY

All Stoddart products are covered by a parts and labour warranty and subject to our Terms and Conditions of Trade. On many occasions you will find that reported faults can be rectified easily through appropriate advice to assist with usage and operation. Should you receive a warranty or service call please try and ascertain the nature of the problem as this may help you identify any common problems such as a loose connection to power, the machine is not turned on properly, a faulty power point or operator error or use outside its intended purpose. If you can identify a problem over the phone it will prevent a service call which helps yourself, your customer and the supplier. If you do believe a service call is still appropriate follow the instructions for warranty work included in section 14 of this book.

6. COMPETITION AND CONSUMER ACT 2010 (CTH) ("AUSTRALIAN CONSUMER LAW")

Dealers need to be aware of their responsibilities under Australian Consumer Law and in any event should not make any representation or give any guarantee, warranty or other undertaking in relation to the goods unless that representation, guarantee, warranty or undertaking is approved by Stoddart.



TERMS & CONDITIONS

GENERAL TERMS & CONDITIONS OF TRADE



1. Application of Trading Terms and Conditions

- 1.1 All orders placed by Customer (“**Customer**”) with Tom Stoddart Pty Ltd (“**Stoddart**”) will be subjected to these Terms.
- 1.2 Stoddart may vary these Terms from time to time in writing and such variations will be deemed accepted by Customer and operate as a variation of these Terms by Customer placing a subsequent order for goods with Stoddart.
- 1.3 Stoddart may determine in its sole discretion any credit limit granted to Customer from time to time.
- 1.4 Stoddart may withdraw or reduce Customer’s credit limit at any time of Customer breaches these Terms and/or Stoddart considers, acting reasonably, that it is likely Customer will breach these Terms. For the avoidance of doubt, Stoddart is not obliged to give prior notice of any such withdrawal or reduction to Customer or any Guarantor(s).

2. Prices

- 2.1 Where goods and/or services ordered are sold on a GST exclusive basis, Customer must also pay Stoddart an amount equivalent to Stoddart’s GST liability in addition to the GST exclusive purchase price payable for those goods.
- 2.2 Where goods and/or services ordered are subject to any State or Federal tax or duty (other than GST), then any price quoted by Stoddart will include such taxes or duties.
- 2.3 If Customer varies any order, Stoddart may charge Customer additional reasonable costs incurred by Stoddart as a consequence of such variation.
- 2.4 Prices quoted by Stoddart do not include delivery costs unless expressly confirmed in writing by Stoddart and Customer must pay or reimburse Stoddart for Stoddart’s reasonable delivery costs.
- 2.5 Stoddart may request, at its sole discretion, Customer to pay a portion of the purchase price (“**Deposit**”) before Stoddart manufactures the goods.
- 2.6 Customer acknowledged the Deposit is non-refundable and, if Customer fails to pay the balance purchase price to Stoddart in accordance with these Terms, Stoddart will be entitled, after 7 days written notice to forfeit and apply the Deposit to any costs or expense incurred by Stoddart in manufacturing or preparing to manufacture the goods.

3. Invoices

- 3.1 Subject to clause 3.2, Stoddart will invoice Customer upon the collection, delivery or installation of the goods ordered.
- 3.2 Notwithstanding clause 3.1, Stoddart reserves the right to invoice Customer:
 - a) At any time for the work in progress on any order; and/or
 - b) Prior to the collection, delivery or installation of goods or the performance of services the subject of any order.
- 3.3 Where goods or services are supplied by Stoddart, Customer acknowledges and agrees that any tax invoice or (where elected by Stoddart) progress claim issues by Stoddart will be a “payment claim” for the purposes of the *Building & Construction Industry Payments Act 2004* (Qld) or any equivalent legislation.

4. Payment

- 4.1 If Stoddart agrees to supply goods and/or services to Customer on credit terms:
 - a) Customer must pay for goods and/or services ordered during a given month within 30 days of the end of the month in which the goods and/or services are delivered or supplied to Customer by Stoddart or within such other period as confirmed in writing by Stoddart.
 - b) If payment is not made by Customer in accordance with clause 4.1 (a), Stoddart may (in addition to any other rights it has) charge Customer interest at the rate of 16% per annum (or such other rate as Stoddart notifies Customer from time to time) on each overdue account. Interest shall accrue from the due date for payment of each account until the date of payment.
 - c) Customer acknowledges and agrees that, regardless of any security held or any action taken by Stoddart against another person to recover any payment due but unpaid, including without limitation under the *Subcontractor’s Charges Act 1974* (Qld), Customer remains liable to pay Stoddart in accordance with clauses 4.1 (a) and 4.1 (b) and Stoddart will be entitled to take such recovery action it considers appropriate against Customer and any Guarantor under these Terms.
- 4.2 If Stoddart agrees to supply goods and/or services other than on credit terms Customer must pay in full before the goods will be supplied or manufactured or the services performed. This clause 4.2 is for Stoddart’s benefit and may be waived by Stoddart, in which case clause 4.1 applies.
- 4.3 Stoddart may, in its sole discretion, elect to waive the requirements in clause 4.2 and instead agree for Customer to pay for goods and/or services by cheque or credit card after the goods or services have been supplied/performed. If this clause 4.3 applies Customer warrants by signing these Terms that there will be no impediment to clearance of funds immediately upon Stoddart presenting Customer’s cheque or processing Customer’s credit card.



5. Collection and Delivery of Orders

- 5.1 For the purposes of these Terms, the expression "delivery" in relation to goods supplied by Stoddart includes delivery:
- a) To the business address of Customer's nominated transport company;
 - b) To the address of Customer's nominated agent;
 - c) To Customer's nominated delivery address; or
 - d) To the address appearing on any purchase order or invoice for the goods.
- 5.2 If Stoddart agrees to deliver goods ordered by Customer, then that obligation and every obligation of Stoddart in these Terms are to the maximum extent possible discharged upon delivery.
- 5.3 Any date or time quoted by Stoddart for the collection or delivery of goods is, unless otherwise agreed by Stoddart, an estimate only. Stoddart may, in its sole discretion, agree to fix a time for collection or delivery of goods if the request is made by Customer at the time the order is placed.
- 5.4 Any failure by Stoddart to allow collection or effect delivery of goods at the time or times requested by Customer will not entitle Customer to:
- a) Cancel any order; or
 - b) Refuse to collect or accept delivery of any order; or
 - c) Terminate any agreement for the supply of the goods or to claim damages for any loss, including consequential loss, or to raise any set-off against Stoddart whatsoever.
- 5.5 Stoddart reserves the right, at its sole discretion, to deliver goods by installments and each installment will be deemed to be sold under a separate contract. Any failure by Stoddart to deliver any installment on time or at all will not entitle Customer to terminate or repudiate these Terms in whole or in part.
- 5.6 Stoddart reserves the right to:
- a) Sell or dispose of any goods:
 - (i) Not collected by Customer; or
 - (ii) Where Customer refuses to accept delivery of those goods, within 60 days of Stoddart notifying Customer goods are available for collection and/or delivery;
 - b) Apply the proceeds of sale of any goods sold or disposed in accordance with clause 5.6 (a) of these Terms to the costs incurred by Stoddart in manufacturing and/or selling the goods; and
 - c) Recover charges for storage if Customer fails to collect or accept delivery of any goods on time.
- 5.7 Notwithstanding clause 5.6, any shortfall will remain a debt owed by Customer to Stoddart which Stoddart will be entitled to enforce.

6. Cancellation

- 6.1 If Customer cancels an order for goods Customer must, within 14 days of receipt of a written notice from Stoddart, reimburse Stoddart for all costs incurred by Stoddart in manufacturing or preparing to manufacture those goods.
- 6.2 Any failure by Customer to reimburse Stoddart in accordance with clause 6.1 of these Terms will result in a debt owed by Customer to Stoddart which Stoddart will be entitled to enforce.

7. Inspection

- 7.1 Customer will inspect the goods comprised in any order immediately upon collection or delivery.
- 7.2 To the maximum extent permitted by law, Stoddart will not consider any claim for misdelivery, shortage, defect or damage to goods supplied unless such claim is in writing and received within 7 days from the date of collection or delivery of the goods.

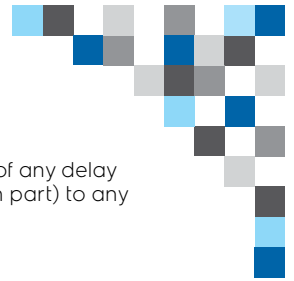
8. Title and Risk

- 8.1 Risk in all goods supplied by Stoddart shall pass to Customer upon their collection or delivery or, where Customer fails to collect or accept delivery of the goods on time, upon Stoddart first making the goods available for collection or attempting to effect delivery of the goods.
- 8.2 Stoddart will retain legal ownership of all goods supplied to Customer until Customer makes payment in full of all moneys owing to Stoddart.
- 8.3 Customer irrevocably grants to Stoddart, its agent and servants an unrestricted right and license to enter, without notice, premises occupied by Customer to identify and remove any goods the property of Stoddart including goods sold but not paid for.
- 8.4 Stoddart will have the right to sell or dispose of any goods removed pursuant to clause 8.3



TERMS & CONDITIONS

GENERAL TERMS & CONDITIONS



9. Force Majeure

Stoddart will not be liable for any loss, damage, cost or expense suffered by Customer as a result of any delay or failure by Stoddart to supply any goods where such delay or failure is due (whether in whole or in part) to any cause or circumstance beyond Stoddart's control.

10. Trusts and Trustees

10.1 If Customer is a Trustee of any trust, whether or not disclosed to Stoddart:

- a) Customer must produce a stamped copy of the trust deed (with any amending documents) with their Terms;
- b) Customer warrants that it has full power and authority to enter into any agreement with Stoddart on behalf of the trust and that Customer is bound by these Terms both personally and in its capacity as Trustee;
- c) Customer warrants that, in the case of default of these Terms, Stoddart can enforce any right or remedy accruing to it (under these Terms or otherwise) against any property in which Customer has an interest, whether in its own capacity or as a Trustee or beneficiary of any trust (including, but not limited to, under clause 18).

11. Means and Ability

11.1 Customer warrants that it has and will continue to have the ability to pay all of its debts as and when they fall due.

12. Default

12.1 Customer will be in default of these Terms if:

- a) Customer fails to comply with any of these Terms; or
- b) Customer, being a natural person or persons, commits any act of bankruptcy; or
- c) Being a corporation, passes a resolution for winding up or enters into any arrangement with creditors or a controller (as that term is defined in the *Corporations Act 2001* (Cth)) is appointed to any property or assets of Customer.

12.2 In the event of default by Customer under these Terms:

- a) All moneys owing to Stoddart shall, at the option of Stoddart, become immediately due and payable; and
- b) Stoddart may, without notice and in addition to any other rights it may have:
 - (i) Suspend or cancel any credit account provided to Customer;
 - (ii) Suspend or cancel any orders placed by Customer; or
 - (iii) Exercise its rights under clause 8.3; or
 - (iv) Forfeit any Deposit paid and apply the Deposit to any costs incurred by Stoddart for the purpose of manufacturing the goods; and
 - (v) Sell the goods and apply any proceeds from the sale of those goods to costs incurred by Stoddart in manufacturing the goods.

12.3 Clause 12.2 will apply:

- a) Irrespective of the date of supply of the goods or services; and
- b) Regardless of whether the goods ordered have been collected, delivered or installed.

12.4 Notwithstanding clause 12.2, any shortfall will remain a debt owed by Customer to Stoddart which Stoddart will be entitled to enforce.

13. Review of Credit Account

13.1 Stoddart may, at any time and in its sole discretion, review any credit account provided to Customer and may, at its option acting reasonably, do any one or more of the following:

- a) Seek further information from Customer regarding Customer's financial position;
- b) Allow the continuation of the account;
- c) Increase or decrease the credit limit provided to Customer;
- d) Amend payment terms; or
- e) Cancel or suspend credit to Customer.

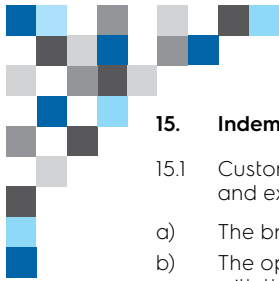
13.2 If Stoddart cancels, amends or suspends any credit account provided to Customer Stoddart will inform Customer of any such cancellation or amendment as soon as reasonably practical.

13.3 Customer must promptly provide Stoddart with any further information requested by Stoddart in accordance with clause 13.1 (a).

14. No Liability for Losses

Stoddart will not be liable for any loss, damage, costs (including legal costs) and expense suffered by Customer by reason of the operation of or the exercise by Stoddart of any rights, benefits or concessions exercisable in accordance with these Terms.





15. Indemnity by Customer

- 15.1 Customer indemnifies Stoddart against any loss, damage, costs (including legal costs on an indemnity basis) and expense which Stoddart suffers by reason of:
- a) The breach by Customer of these Terms; and
 - b) The operation of or the exercise by Stoddart of the rights, benefits and concessions exercisable in accordance with these terms

16. Building & Construction Industry Payment Act 2004

- 16.1 At Stoddart's sole discretion, if there is any dispute or claims for unpaid goods and/or services then the provisions of the Building and *Construction Industry Payments Act 2004* (Qld) (the "**Act**") may apply.
- 16.2 Nothing in this agreement is intended to have the affect of contracting out of any provisions of the Act, except to the extent permitted by the Act.

17. Guarantee and Indemnity

- 17.1 This clause 17 applies where Stoddart requires additional guarantee and indemnity to supply goods and/or services of credit terms.
- 17.2 Guarantor promises:
- a) That Customer will comply in all respects with these Terms; and
 - b) To pay to Stoddart upon demand all moneys which Customer owes to Stoddart.
- 17.3 Guarantor indemnifies Stoddart against all loss, damage, costs (including legal costs on an indemnity basis) and expenses which Stoddart suffers by reason of Customer's breach of these Terms including any failure to pay and moneys due to Stoddart.
- 17.4 If Guarantor is a Trustee of any trust, whether or not disclosed to Stoddart:
- a) Guarantor must produce a stamped copy of the trust deed (with any amending documents) with these Terms;
 - b) Guarantor warrants that it has full power and authority to enter into any agreement with Stoddart on behalf of the trust and that Guarantor is bound by these Terms both personally and in its capacity as Trustee;
 - c) Guarantor warrants that, in the case of default of these Terms, Stoddart can enforce any right or remedy accruing to it (under these Terms or otherwise) against any property in which Guarantor has an interest, whether in its own capacity or as a Trustee or beneficiary of any trust (including, but not limited to, under clause).
- 17.5 Where this Guarantee is given by more than one person, their liability is both joint and several.
- 17.6 This Guarantee is a continuing guarantee and indemnity for the whole of the moneys owing to Stoddart from time to time and shall remain in full force and effect until discharged by Stoddart in writing.
- 17.7 This Guarantee may be enforced against Guarantor without Stoddart being first required to exhaust any remedies it may have against Customer or to enforce any security it may hold for the moneys owing.
- 17.8 Guarantor:
- a) Agrees to allow Stoddart to provide credit reporting agencies with all information regarding Guarantor permitted by the *Privacy Act 1988* (Cth) as amended and any other State or Federal legislation permitting the providing of information to certain persons or entities;
 - b) Consents to Stoddart obtaining information regarding Guarantor from credit reporting agencies; and
 - c) Agrees to provide Stoddart from time to time (upon request) with a list of the assets and liabilities of Guarantor.
- 17.9 Further, Guarantor must disclose in item B of the Items Schedule to these Terms full particulars of any current or past instance affecting Guarantor or Customer, or any company/business they have been involved with, whatsoever involving Customer/Guarantor/Company/Business being insolvent (whether subject to bankruptcy, administration or a liquidation), The appointment of a receiver or a Trustee to them or any property owned by them, entering into any arrangement with a creditor for compromise of a debt whether under the Corporations Act, the Bankruptcy Act or otherwise.
- 17.10 Guarantor acknowledges and agrees that, notwithstanding any action taken by Stoddart to recover or attempt to recover or attempt to recover all or part of any moneys owing by Customer from time to time (including, without limitation, by Stoddart proving for any debt in an administration, liquidation or other arrangement affecting Customer), nothing is to be construed as a waiver or compromise of Stoddart's rights to recover Customer's full liability as against Guarantor under this Guarantee.



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18. Charging of Interests in Land

- 18.1 In consideration of the acceptance of any credit application, and as an essential condition of any agreement by Stoddart to supply goods or services to Customer from time to time, Customer and any Guarantor(s) each jointly and separately, in their own capacities and as Trustees of any trust (whether disclosed or not), hereby:
- Charge all their interests in any real property (including any leasehold interest) present and future wheresoever situated with the amount of their liability to Stoddart from time to time;
 - Agree to sign immediately upon demand by Stoddart all documents and do all things that Stoddart may reasonably require to further secure to Stoddart the amount of the liability of each of Customer and Guarantor(s), including but not limited to executing any guarantee and/or indemnity instruments, mortgage debentures or consents to caveat over any real property (whenever acquired) requested by Stoddart;
 - For the purpose of giving effect to this clause or any action by Stoddart to enforce this clause, irrevocably appoint Stoddart or any person nominated by Stoddart from time to time to be the duly constituted attorney of each of Customer and Guarantor(s); and
 - The power of attorney in this clause is given by Customer and Guarantor by way of security and is irrevocable.

19. Privacy Act

- 19.1 Each of Customer and Guarantor(s) acknowledge that the information provided in any credit application or order, and to Stoddart from time to time, is the basis for the evaluation by Stoddart of Customer's and/or Guarantor's financial standing and creditworthiness and hereby:
- Certify that the information is true and correct;
 - Acknowledge that Stoddart has informed them, in accordance with the *Privacy Act 1988 (Cth)* (the "**Privacy Act**") that certain items of personal information, including an opinion about each of them, are permitted to be kept on a credit information file and may be disclosed by Stoddart to credit reporting agencies;
 - In accordance with the *Privacy Act*, agree to Stoddart obtaining from any source, information concerning their commercial activities and credit worthiness and using such information to assess whether to accept any credit application and/or to provide credit to Customer and/or supply goods or services to Customer from time to time; and
 - Agree that Stoddart may give and seek from any source reports and information that has any bearing on Customer's creditworthiness, credit standing or credit history insofar as Stoddart considers such action to be necessary or desirable to protect or exercise its rights hereunder.

20. Competition and Consumer Act 2010 (Cth) ("Australian Consumer Law")

- 20.1 If Customer is a company, partnership, sole trader or individual with an ABN, then Customer:
- Acknowledges that it is acquiring the goods for business purposes and that the provisions of the Australian Consumer Law are excluded to the maximum extent possible;
 - Will not do or omit to do anything which gives rise to any liability on Customer's part or on the part of Stoddart under the Australian Consumer Law; and
 - Will not make any representation or give any guarantee, warranty or other undertaking in relation to the goods unless that representation, guarantee, warranty or undertaking is approved by Stoddart.
- 20.2 If Customer has indicated in Item A of the Items Schedule to these Terms that it is purchasing the goods for personal, domestic or household use, then clause 20.1 of these Terms does not apply to the supply of goods to Customer under these Terms.

21. Set-off

Customer authorises Stoddart to set-off any amount due and payable by Stoddart to Customer under any agreement with Customer ("**Customer Contract**") against any amount due and payable by Customer to Stoddart under any Customer Contract. Any right of set-off under this clause is in addition to any other rights Stoddart may have at law, under these Terms and/or under any Customer Contract.

22. Changes to Business

Customer and each Guarantor agree to notify Stoddart immediately of any current or impending changes to Customer's business (that may affect Stoddart's access to or security of goods). Such changes may include, but are not restricted to, closure of the business, change of ownership or directors, movement of primary place of business, changes to operating hours and/or any financial action (voluntary or otherwise) such as administration, liquidation or receivership.



23. Personal Property Securities Act 2010 (Cth) (PPSA)

23.1 **Definitions:** the terms *accession*, *financing statement*, *personal property*, *verification statement*, *purchase money security interest*, and *security interest* have the meanings given to them under the PPSA.

23.2 In consideration of Stoddart supplying goods to Customer:

- a) **Registration:** Customer agrees Stoddart may register its security interest in goods, and all of Customer's present and future rights in relation to goods, on the Personal Property Securities Register established under the PPSA. Registration charges incurred by Stoddart when registering a financing statement or a financing change statement must be paid by Customer and may be debited by Stoddart against Customer's credit account with Stoddart.
- b) **Purchase Money Security Interest:** Customer grants to Stoddart a purchase money security interest ("PMSI") and agrees that any goods or proceeds of goods coming into existence after the date of these Terms will immediately be subject to Stoddart's PMSI without the need for any further action or agreement by any party.
- c) **Security Interest:** Customer agrees goods, and all Customer's present and future rights to goods, are subject to a continuing security interest in the form of a PMSI in favour of Stoddart for the payment of all amounts owing, and the performance of all Customer's obligations under these Terms and any Customer Contract.
- d) **Attachment:** Customer agrees it received and will continue to receive valuable consideration at the date of any delivery of goods and confirms Customer has not agreed to postpone or defer the time for attachment of the security interest created by these Terms.
- e) **Contracting Out:** Customer agrees (to the extent permitted under section 115 of the PPSA), that Customer waives its rights under sections 95, 96, 117, 118, 120, 121(4), 123, 125, 126, 128, 129, 130, 132(3)(d), 132(4), 134(l), 135, 138A-138C, 142 and 143 of the PPSA including its right to receive a copy of the verification statement confirming registration of a financing statement or a financing change statement relating to the security interest created by these Terms.
- f) **Provide Information:** Customer must promptly, on any request by Stoddart, execute all documents and do anything reasonably required by Stoddart to ensure the PMSI created by these Terms constitutes a perfected security interest over goods.
- g) **Financing Change Statements:** At any time any amount is payable by Customer to Stoddart or Customer has possession or control of any goods Customer must not:
- (i) In relation to any financing statement registered by Stoddart under the PPSA:
 - (A) Require Stoddart or permit any person other than Customer to require Stoddart to register a financing change statement; or
 - (B) Lodge a change demand or permit any person other than Customer to require Stoddart to allow any other person to lodge a change demand
 - (ii) Enter into or accept, or allow any other person to enter into or accept, a financing change statement in relation to a Stoddart financing statement relating to Customer.
- h) **Customer's Obligations:**
- (i) Customer must:
 - (A) Maintain and keep goods in its possession or control in good working order and condition any protected against theft, loss or damage;
 - (B) Ensure any proceeds of sale of goods are first applied in satisfaction of all Customer's indebtedness to Stoddart under these Term's
 - (C) Permit Stoddart at all reasonable times by its agents, employees or officers to enter upon any premises owned or occupied by Customer to view, inspect and remove goods without Stoddart being responsible for any damage caused doing so;
 - (D) Immediately notify Stoddart if Customer becomes aware of any person taking steps to register a financing statement in relation to goods.
 - (ii) Customer must not:
 - (A) Consent to or enter into any agreement which permits any person to register a security interest in relation to goods in priority to Stoddart's security interest as first ranking security holder over goods; or
 - (B) Except in the normal course of business, sell, lease, dispose of, create a security interest in, mortgage or part with possession of goods or any interest in goods (or purport or attempt to purport to do so).

24. Costs

24.1 Customer will pay or reimburse to Stoddart all costs, charges and expenses incurred by Stoddart, including legal costs on a solicitor- client basis, in enforcing any provision of these Terms, including the payment of the price by Customer.

24.2 Any costs incurred by Stoddart pursuant to this that are not paid by Customer, may be recovered from Customer by Stoddart as a liquidated debt.



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25. Governing Law and Submission to Jurisdiction

- 25.1 These Terms (including any Guarantee) shall be construed in accordance with the laws of Queensland.
- 25.2 Customer submits to the non-exclusive jurisdiction of the courts at Brisbane in the State of Queensland and all courts that hear appeals from those courts.

26. Severability

- 26.1 Any term of these Terms which is wholly or partially void or unenforceable is severed to the extent that it is void or unenforceable. The validity or enforceability of the remainder of these Terms is not affected.

27. Entire Agreement

- 27.1 These Terms together with any application for credit, order, delivery invoice or receipt constitute the entire arrangements between the parties with respect to its subject matter and supersede all previous agreements and arrangements, whether verbal or written, between the parties with respect to that subject matter.

28. Warranty Policy

- 28.1 Stoddart is committed to providing a comprehensive and fair warranty for all of its equipment. The warranty incorporates a commercial manufacturer's warranty, together with the consumer warranty provisions of the *National Consumer Protection Act (2009)*.

29. Commercial Warranty

- 29.1 Stoddart warrants to the original purchaser ("**Customer**") of equipment manufactured by Stoddart that for **12 months** from the date of installation of the equipment by Customer (the "**Warranty Period**"), any defect in workmanship or material will, subject to clauses 29.2 and 31, be:
 - a) Repaired without charge; or
 - b) In respect of any **Major Failure** which cannot be repaired, replaced or the purchase money refunded.
- 29.2 Stoddart will not be liable for any associated loss, damage, or compensation claim resulting from any defect in workmanship or material, and such liability is expressly excluded from the operation of clause 29.1.

30. Consumer Warranty

- 30.1 Subject to clause 31, equipment supplied by Stoddart to Customer for personal, domestic or household use or consumption comes with guarantees that cannot be excluded under the Australian Consumer Law. Customer is entitled to a replacement or refund for a **Major Failure** and compensation for any other reasonably foreseeable loss or damage. Customer is entitled to have the equipment repaired, or replaced if the equipment fails to be of an **Acceptable Quality** and that failure does not amount to a Major Failure.





31. Warranty Clarification

31.1 Customer acknowledges and agrees:

- (i) A **Major Failure** occurs when the equipment suffers repeated and/or unexpected failure that cannot be repaired to Stoddart's satisfaction (acting reasonably) or which Stoddart considers (acting reasonably) renders the equipment unsafe or inoperable;
 - (ii) Stoddart can only warrant the equipment will be of an Acceptable Quality when Customer uses the equipment in accordance with Stoddart's manufacturer's instructions or user manual ("Instructions"). Acceptable Quality does not imply a lifetime guarantee for the equipment;
 - (iii) Certain components have a finite expected life, especially in a commercial or high-use environment. For example components such as refrigeration compressors, elements, thermostat/simmerstats, switches, fans, and temperature controllers can be expected to last up to 12 months when used in accordance with the instructions;
 - (iv) In a commercial environment, components such as lamps, fluorescent tubes, light bulbs, glass, silicone seals, gaskets and plastic components will require regular replacement. This is not covered by warranty and is at Customer's cost;
 - (v) The life of equipment may be adversely affected by misuse, neglect, unauthorised alteration, incorrect installation, power surges, accident, use of inappropriate chemicals, flooding, and acts of God;
 - (vi) Proper maintenance and cleaning of equipment in accordance with the Instructions is essential to the equipment's effective operation;
 - (vii) On site warranty services are limited to sites within 50km from the nearest Stoddart authorised service agent and service agent's reasonable travel costs must be paid by Customer prior to the commencement of the repairs;
 - (viii) Additional labour costs will apply for service outside standard business hours of 8.00am to 4:30pm, Monday to Friday and on public holidays;
 - (ix) Stoddart cannot guarantee the performance of equipment made specifically to Customer's design or specifications. Stoddart will, where reasonably possible, draw any issues arising from Customer's design or specifications to Customer's attention during the commissioning and/or manufacturing process; and
 - (x) Customer must pay additional costs incurred by Stoddart as a result of Customer failing to provide suitable access to the equipment for inspection and service.
- 31.2 Stoddart's warranty liability under clauses 29 and 30 of these Terms exclude or do not cover:
- a) The matters acknowledged by Customer in clause 31.1;
 - b) Situations where Stoddart is not satisfied (acting reasonably) the equipment or any part of the equipment has been used in accordance with the Instructions including misuse, neglect, unauthorised alteration, incorrect installation, power surges, accident, use of inappropriate chemicals, flooding, fire or act of God;
 - c) Any consequential loss, damage or expense arising directly or indirectly from use of the equipment otherwise than in accordance with the Instructions;
 - d) Any damage or malfunction arising from, or relating to, Customer's failure to properly maintain or clean the equipment in accordance with the Instructions;
 - e) Damage caused to equipment during transportation, which is outside Stoddart's standard delivery conditions.
 - f) Breakage or replacement of lamps, fluorescent tubes, light bulbs, glass, silicone seals, gaskets and plastic components;
 - g) Maintenance, repair or other works not undertaken by a Stoddart authorised service agent.
 - h) Where remote refrigeration is connected by a person other than Stoddart to equipment produced by Stoddart, Stoddart cannot accept claims for repair of TX valves and control components, as the fault may arise from the installation of the remote refrigeration lines, equipment, and gas, by a party over which Stoddart has no control.
 - i) Transportation costs associated with transporting the equipment to a Stoddart authorised service agent where Stoddart considers (acting reasonably) that repairs cannot be undertaken on-site; and
 - j) Unless agreed to by Stoddart in writing to the contrary, warranty is not included in the sale price of goods sold to or installed in an overseas location.



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WARRANTY POLICY



32. Warranty Claim Procedure

32.1 The following procedure must be followed to claim under Stoddart's warranties:

- a) Refer to the trouble-shooting section of the Instructions to establish the nature of the fault. Check the equipment is plugged-in, turned-on or has no other valid reason for not operating
- b) If step (a) does not overcome the issue, you should report the fault with the equipment to our service department (phone 1300 307 289 or fax 07 3344 6166). Our service department will assist you with further trouble-shooting. If our service department is unable to resolve the fault with the equipment they will request you complete a Stoddart Warranty Request Form and fax (fax 07 3344 6166) or email (service@stoddart.com.au) it to us. This form can also be completed online (www.stoddart.com.au/warranty-claim).
- c) To complete a Stoddart Warranty Request Form you will require the following information:
 - a. Proof of purchase stating model number and date of purchase;
 - b. The serial number of the equipment (this is located on the ratings plate sticker);
 - c. A description of the fault/problem;
 - d. Your company details including the exact location of the equipment; and
 - e. Any restrictions on times or methods of access to the equipment.

Stoddart will not arrange a warranty call out until it receives the above information from you in writing.

- d) Upon receipt of a properly completed Stoddart Warranty Request Form, Stoddart will check its records to confirm whether the equipment is eligible for warranty repair. If warranty repair is required, Stoddart will issue an OFFICIAL AUTHORISATION NUMBER and details of work to be carried out by a Stoddart authorised service agent. The authorisation number MUST be obtained before any work is carried out. Stoddart will not accept invoices for work carried out without an official authorisation number or by an unauthorised service agent.
- e) Customer must quote the official authorisation number on all correspondence and invoices relating to a warranty claim to ensure prompt processing by Stoddart.
- f) Customer must pay all costs associated with a call-out for work that is not related to warranty repairs or outside Stoddart's Terms immediately.

33. Timing of Warranty Services

33.1 Stoddart will comply with its warranty liabilities contained in these Terms in a timely manner.

34. General Maintenance and Repairs

34.1 The equipment must be repaired and maintained by a qualified technician. Stoddart's authorised service agents are experienced technicians who understand the equipment and carry commonly used spare parts. Contact Stoddart's national service number listed below for details of your nearest Stoddart authorised service agent.

For Warranty, maintenance, spare parts and repairs, contact:

Tel: 1300 307 289

Fax: 07 3344 6166

Email: service@stoddart.com.au

