



A covetrus Company

## Provet Group Terms and Conditions of Trade

### 1. Definition

This document (the "Agreement") sets out the Terms and Conditions of Trade ("Terms") between the Provet Group of Companies (collectively "Provet") which includes: Provet Queensland Pty Ltd ABN 52 076 437 280; Provet VMS Pty Ltd ABN 79 001 236 568; Provet NSW Pty Ltd ABN 98 003 946 941; Provet IT Pty Ltd ABN 54 094 987 185; Provet Riverina Pty Ltd ABN 20 087 560 003; Provet Victoria Pty Ltd ABN 84 109 602 404; Provet SA Pty Ltd ABN 71 120 608 620; Provet WA Pty Ltd ABN 14 009 288 546; and any other subsidiary of Provet Pty Ltd ABN 46 076 468 481, and any person or corporation ("Customer") acquiring goods and services from Provet.

### 2. Acceptance

- a. Any instruction received by Provet from the Customer for the supply of goods/ and/or the customer's acceptance of services and/or goods supplied by Provet shall constitute acceptance of these Terms.
- b. Upon acceptance of these Terms by the Customer the Terms are irrevocable and can only be rescinded as detailed herein or with the written consent of the Chief Operations Officer of Provet.
- c. None of Provet's agents or representatives is authorized to make any representations, statements, conditions or agreements not expressed by the management of Provet in writing nor is Provet bound by any such unauthorized statements.
- d. Customer hereby disclaims any right to rescind, or cancel the contract or to sue for damages or to claim restitution arising out of any misrepresentation made to Customer by any servant or agent of Provet and the Customer acknowledges that he/she buys the Goods relying solely upon their own skill and judgment.

### 3. Description of Goods

- a. In these Terms, the term "Goods" means those goods which the Customer requests Provet to supply.
- b. The Goods, the subject of this Agreement, shall be those Goods (including any product, stock or other items supplied by Provet) described in Provet's written quotation or, in the absence of written quotation, on Provet's delivery slip or invoice. If the description on Provet's document(s) differs from the description on any document provided by Customer, the description on the Provet document shall prevail.
- c. Specifications of Goods given in any brochures, letters, price lists, data sheets, or other documents of Provet or supplied by Provet are given to identify the Goods generally and do not form part of the description of the Goods.

### 4. Orders

- a. Orders may be placed by Customer by telephone, or in writing by facsimile or letter, or via email.
- b. Provet reserves the right to insist upon written confirmation of any order placed by Customer.
- c. Customer must order the minimum shipping quantity shown on Provet's price list which is in effect at the order date or in a multiple of the minimum shipping quantity. Provet has the right to supply a quantity equal to the nearest or lower multiple.
- d. Provet has no obligation to accept an order for Goods placed by the Customer by one of the methods in section 4(a). Supply of the Goods ordered by Customer by Provet constitutes acceptance of the order.

- e. Provet shall make every commercially reasonable endeavour to satisfy Customer's order in accordance with the Customer's requirements. Customer acknowledges and agrees that Provet does not warrant or represent the availability of further or larger quantities of the Goods.

### 5. Delivery and Freight

- a. Provet will use all commercially reasonable efforts to deliver Goods to the address specified on the delivery slip, on or before any estimated date, but Provet does not represent or warrant that it will do so.
- b. Provet shall under no circumstances be held liable whether for direct, indirect or consequential loss or damage arising by reason of any delay in delivery of the Goods or any failure to deliver the Goods ordered by the Customer for whatever reason
- c. Provet will arrange transportation of the Goods to Customer at Provet's cost, unless Customer is advised prior to delivery that Customer is required to pay for the delivery. Any additional freight costs arising due to the unavailability of Customer to accept delivery shall be borne by Customer.
- d. Provet may however in its absolute discretion, allow Customer to arrange transport of the Goods. If Customer arranges its own transport of the Goods, Provet may invoice Customer for any differential in freight cost, between the actual freight cost, and that which Provet would have incurred.
- e. On delivery of the Goods, Customer shall check the quantity, quality, and description of the Goods delivered against the description on the delivery slip(s) and shall give written notice to Provet of any alleged deficiency or irregularity in quantity, quality or description within forty-eight (48) hours from the time of delivery. Should such notice not be given within that time, the Goods actually delivered shall be deemed to be in accordance with the delivery slip and free from any patent defect or damage and Customer shall not thereafter make any such claim or take any action in relation to any alleged deficiency or irregularity.
- f. Delivery of the Goods to a carrier either named by Customer or, if Customer fails to name a carrier, the carrier chosen by Provet at its sole discretion, is deemed to be a delivery of the Goods to Customer.
- g. Provet may deliver the Goods by separate installments if agreed upon by Customer and Provet. Each separate installment shall be invoiced and paid for in accordance with this Agreement.
- h. Delivery of the Goods to a third party designated by Customer is deemed to be delivery to the Customer for the purpose of this Agreement.
- i. The failure of Provet to deliver shall not entitle either party to treat this Agreement as repudiated

### 6. Pricing

- a. Provet will invoice Customer for the Goods at the price shown on the price list which is in effect at the date of the date of the written quotation, unless Customer is otherwise notified. Provet may update the price list at any time without notice to Customer.
- b. Any special or promotional prices ("Special Pricing") will apply only to the Goods specified in the promotion. Special Pricing will be effective until the date specified in the material in which the Special Pricing was promoted, or until Provet sells out of the Goods to which the Special Pricing applies, whichever

- occurs first.
- c. Provet shall not be bound by any typographical errors in the current price list, newsletter, invoice, statements or any other document published by Provet, with regard to price of Goods.
- d. The price shall be increased by the amount of any GST and other taxes and duties which may be applicable, except to the extent that such taxes are expressly included in any quotation given by Provet.

## 7. Payment

- a. Customer may pay invoices by cash on delivery, credit card, cheque or direct entry into the Provet bank account. The due date for payment will be shown on all invoices and statements and will differ depending on the payment method used.
- b. At Provet's sole discretion, payment by credit card for approved customer's shall be due on 10th of each month following posting of a statement to the Customer's address. Customer acknowledges that paying by credit card may result in a credit card surcharge and Customer agrees to be responsible for any such surcharge.
- c. At Provet's sole discretion, payment by cheque and direct debit for approved customers shall be done on 28th of each month following the posting of a statement to the Customer's address.
- d. If Customer is operating a cash only account (VCA) as a private person or individual, Customer will be required to pay for the Goods at the time of ordering. Operating a VCA account does not entitle Customer to convert automatically to a normal trading account. Normal conditions of the trading account, such as trade references, are required to be met before opening a normal trading account regardless of size or turnover of a VCA account. Where turnover is expected to be less than \$1,000 per month no trading account will be made available and Customer will be required to purchase goods using a VCA account.
- e. Non-receipt of an invoice or statement does not constitute a reason for late payment. It is Customer's responsibility to ensure that Goods ordered are paid for within the required time.
- f. Provet may at its absolute discretion enter into a payment arrangement with Customer for any overdue amounts. The arrangement must be in writing, signed by Customer and an authorized Provet employee and must not exceed a period of six months. Provet reserves the right to vary this limit at its absolute discretion.
- g. Any payment to Provet by Customer which is not specifically allocated by Customer will be credited first against interest charged and then against amounts owed to Goods supplied with oldest balances being discharged first.
- h. Interest on overdue invoices shall accrue from the date when payment becomes due daily until the date of payment at a rate of 1.5% per calendar month and shall accrue at such a rate after as well as before any judgment.
- i. If Customer defaults in payment of any invoice when due, Customer shall indemnify Provet from and against all of Provet's costs and disbursements, including costs and fees for a solicitor and external collection agency costs.
- j. Without prejudice to any other remedies Provet may have, if at any time Customer is in breach of any obligation (including those relating to payment), Provet may suspend or terminate the supply of Goods to Customer and any of its other obligations under this Agreement. Provet will not be liable to Customer for any loss or damage Customer suffers because Provet exercised its rights under this section.

- k. In the event any money payable to Provet becomes overdue; in Provet's opinion Customer will be unable to make its payments as they come due; Customer becomes insolvent, convenes a meeting with its creditor or proposes to enter into an arrangement with creditors, or makes an assignment for the benefit of its creditor; or a receiver, manager, liquidator (provisional or otherwise) or similar person is appointed in respect of Customer or any asset of Customer; or Customer defaults under this Agreement, Provet may:
  - i. Cancel all or any part of any order of Customer which remains unperformed in addition to and without prejudice to any other remedies;
  - ii. Terminate this Agreement;
  - iii. Require payment in advance for any future deliveries, whether existing order or orders placed by Customer in the future; and/or
  - iv. Require Customer to immediately pay all amounts owed to Provet.

## 8. Risk and Title

- a. Ownership of the Goods shall remain with Provet and Provet reserves the right to dispose of the Goods until payment in full is made for all amounts owed by Customer to Provet so that Customer's total indebtedness to Provet is discharged.
- b. In addition to the remedies detailed in section 7(k), if Customer defaults under this Agreement, Provet may without prejudice to any of its other rights and remedies require the return of all Goods not paid for at the expense of Customer and, in default of compliance, Provet is hereby irrevocably authorized by Customer to enter Customer's premises or premises controlled by Customer and use reasonable force to take possession of the Goods without liability for the torts of trespass, negligence or payment of any compensation to Customer whatsoever.
- c. Customer acknowledges that until its total indebtedness to Provet is discharged, Customer holds the Goods as bailee of Provet and that a fiduciary relationship exists between the Customer and Provet.
- d. Customer may pay Provet the proceeds of the sale of any Goods for which Provet has not yet received payment. Proceeds of such sale will be paid into a separate bank account and held in trust for Provet until the proceeds are paid to Provet.
- e. The risk in the Goods purchased will, unless otherwise agreed by Provet in writing, pass to Customer upon delivery to Customer, Customer's agent, or to a carrier commissioned by Customer.
- f. If any of the Goods are damaged or destroyed prior to the risk passing to the Customer, Provet is entitled, without prejudice to any of its other rights or remedies under this Agreement (including the right to receive payment of the balance of the price of the Goods), to receive all insurance proceeds payable for the Goods. This applies whether or not the price has become payable under this Agreement. The production of this Agreement by Provet is sufficient evidence of Provet's rights to receive the insurance proceeds without the need for any person dealing with Provet to make further enquiries.
- g. It is further agreed that:
  - i. Customer shall not deal with the money of Provet in any way which may be adverse to Provet.
  - ii. Receipt by Provet of any form of payment other than cash shall not be deemed to be payment until that form of payment has been honored, cleared or recognized and

until then, Provet's ownership rights in the Goods shall continue.

- iii. Customer shall not change the Goods in any way nor grant nor otherwise give any interest in the Goods while they remain the property of Provet.
- iv. Provet can issue proceedings to recover the price of the Goods sold whether or not the ownership of the Goods has passed to Customer.

#### 9. Credits and Returns of Goods

- a. All Goods are sold on the basis of "no return for credit" unless:
  - i. Subject to section 8(f), the Goods are received in a damaged state;
  - ii. The Goods are supplied in the incorrect quantity;
  - iii. Incorrect Goods are received by Customer; or
  - iv. The Goods are faulty
- b. Other specific circumstances for the return of Goods for credit may be approved by Provet in its absolute discretion.
- c. Claims for credit must be made within seven (7) days of receipt of the Goods and a copy of the invoice from which the Goods were supplied must be presented. If Customer fails to notify Provet within said period, such claims are deemed to be waived.
- d. Goods that have passed their expiry date will only be accepted for credit where the manufacturer of that particular product gives credit for expired stock.
- e. Any return of Goods by Customer must be made to Provet using the procedures determined by Provet. Customer will be advised of such procedures by Provet when Provet agrees to the return of the Goods for credit.
- f. All Goods that carry a warranty or guarantee of the manufacturer shall be credited or exchanged only when so agreed by the manufacturer
- g. Provet will not be liable for Goods which have not been stored or used in a proper manner.
- h. The Goods must be returned in the condition in which they were delivered and with all packaging material, brochures and instruction material in as new condition as is reasonably possible in the circumstances.

#### 10. Warranty

- a. Subject to the conditions set out in section 10(d) and where Customer is a consumer within the meaning of the Australian Consumer Law, Provet Goods and services come with guarantees that cannot be excluded under the Australian Consumer Law. For major failures with the service, you are entitled:
  - i. to cancel your service contract with us; and
  - ii. to a refund for the unused portion, or to compensation for its reduced value.
- b. You are also entitled to choose a refund or replacement for major failures with Goods. If a failure with the Goods or a service does not amount to a major failure, you are entitled to have the failure rectified in a reasonable time. If this is not done you are entitled to a refund for the Goods and to cancel the contract for the service and obtain a refund of any unused portion. You are also entitled to be compensated for any other reasonably foreseeable loss or damage from a failure in the Goods or service.
- c. If Customer its employees or agents become aware of any alleged latent defect in the Goods, unsuitability or unfitness for the proposed use of the Goods, or failure to comply with or to meet

specifications, Customer must notify Provet at 1800 777 707 or 48 Bell-Are Avenue, Northgate QLD 4013 within six (6) months of the date of delivery of the Goods or the date that the Goods ought to have been delivered and not thereafter. If such notice is not timely provided, the Goods are deemed to be accepted by Customer and suitable for the purpose for which they were supplied, or merchantable quality, in accordance with specifications, and otherwise free of any defects and Provet shall not recognize any claim in this regard.

- d. The warranty shall not cover any defect or damage which may be caused or partly caused by or arise through: (i) Failure on the part of the Customer to properly maintain any Goods; (ii) Failure on the part of the Customer to follow any instructions or guidelines provided by Provet; (iii) Any use of any Goods otherwise than for any purpose specified on a quote or order form; (iv) The continued use of any Goods after any defect becomes apparent or would have become apparent to a reasonable prudent operator or user; or (v) Fair wear and tear, any accident or act of God.
- e. The benefits provided to Customer by the warranty are in addition to other rights and remedies available to Customer under the law. Customer will be responsible for any expenses associated with a warranty claim under this section.

#### 11. Export Policy

- a. All Goods sold or supplied under these terms are packed and labeled in accordance with Australian regulatory requirements.
- b. All export orders must be paid for prior to the Goods being shipped.
- c. In the event that the Goods are exported, delivery of the Goods may be subject to either FOB Contract or CIF Contract.
- d. In the event of a FOB Contract the following shall apply:
  - i. The Goods shall be delivered to Customer by delivery on board the agreed upon mode of transport on the delivery date. Provet shall promptly notify Customer that the Goods have been delivered abroad. Title to and risk in the Goods shall pass to Customer upon such delivery being affected. Provet shall promptly provide the Customer with a clean shipped bill of loading in respect of the Goods.
  - ii. Customer shall reserve the necessary space on board the agreed upon mode of transport and give Provet due notice of the loading berth and any revised delivery dates. Customer shall bear any additional costs caused due to the failure of the agreed upon mode of transport to be available to load the Goods on the delivery date.
- e. In the event of a CIF Contract the following shall apply:
  - i. The Goods shall be delivered to Customer by delivery on board the agreed upon mode of transport on or before the delivery date. Provet shall procure a contract of carriage and insure the Goods from dispatch until delivery on terms current in the trade for the benefit of Customer. The Goods shall be at the risk of Customer as they are loaded on board. Provet shall promptly tender to the Customer a clean shipped bill of loading, the insurance policy, and an invoice in

respect of the Goods.

- i. The Customer shall accept the documents tendered by Provet if they correspond to this contract and take delivery of the Goods at the port of destination and bear all other costs and charges arising out of shipment of the Goods to the port of destination.

#### 12. Currency

- a. All quotations, invoices, statements or other documents issued by Provet to Customer are in Australian currency unless otherwise expressly stated.
- b. All payments by the Customer to Provet must be made in Australian currency unless otherwise specifically agreed.

#### 13. Intellectual Property

- a. Where Provet has designed or drawn Goods for Customer, the intellectual property rights in those designs and drawings shall remain vested in Provet, and shall only be used by Customer at Provet's discretion.
- b. Conversely, in such a situation, where Customer has supplied drawings, Provet may look for an indemnity (the specifications and design of the Goods, including the copyright, design right or other intellectual property in them, shall as between the parties be the property of Provet). Where any design or specifications have been supplied by the Customer for manufacturer by or to the order of Provet then the Customer warrants that the use of those designs or specifications for the manufacture, processing, assembly or supply of the Goods shall not infringe the rights of any third party.

#### 14. Governing Laws

- a. These Terms shall be construed and the rights and obligations of Customer and Provet determined according to the laws of the State of Queensland and Customer and Provet submit to the non-exclusive jurisdiction of the Courts of the State of Queensland.
- b. Nothing in this agreement is intended to have the effect of contracting out of any applicable provisions of the Commonwealth Trade Practices Act 1974 or the Fair Trading Acts in each of the States and Territories of Australia, except to the extent permitted by those Acts where applicable.

#### 15. Construction

- a. Any clause headings contained herein are for convenience only and shall not affect the construction of these Terms.
- b. If any of the provisions of these Terms are for any reason held by a court of competent jurisdiction to be unlawful or invalid under any application statute or rule of law, then that provision or part of a provision shall be deemed to be severable and omitted from these Terms and the validity and enforceability of the remainder of these Terms shall be in no way affected.

#### 16. Incorporation in Other Dealings

- a. Subject to any express contrary agreement in writing signed by Provet, these Terms shall, so far as is applicable and making all changes necessary having regard to the context, be incorporated in any contract arising from future orders placed by Customer with Provet.

#### 17. Amendment and Entire Agreement

- a. No variation, modification or alteration of any of these Terms shall be of any effect unless agreed to in

writing and signed by Provet.

- b. Subject to any such written variation, modification or alteration, these are all of the Terms applicable and any contrary terms which may appear on any documents issued by the Customer shall not be valid.

#### 18. Claims, Limit of Liability

- a. Section 10 does not apply where the Customer is not a consumer within the meaning of the Australian Consumer Law. If Customer is not a consumer, without deviating from any other term or condition in the Agreement:
  - i. Subject to the provisions of the Australia Consumer Law, Provet and Customer expressly agree that all conditions and warranties, implied or otherwise incorporated by statute, common law, equity, custom, usage or otherwise shall not apply and, to the maximum extent permitted by law are excluded.
  - ii. Notwithstanding the foregoing and subject to the below conditions, Provet warrants that if any defect in workmanship becomes apparent and is reported to Provet within six (6) months of the date of delivery (time being of the essence) then Provet will, at its sole discretion, repair the defect or replace the workmanship. The conditions applicable to the warranty are as follows:
    1. The warranty shall not cover any defect or damage which may be caused or partly caused by or arise through: (i) Failure on the part of the Customer to properly maintain any Goods; (ii) Failure on the part of the Customer to follow any instructions or guidelines provided by Provet; (iii) Any use of any Goods otherwise than for any purpose specified on a quote or order form; (iv) The continued use of any Goods after any defect becomes apparent or would have become apparent to a reasonable prudent operator or user; or (v) Fair wear and tear, any accident or act of God.
  - iii. The warranty shall cease and Provet shall in no circumstance be liable under the terms of the warranty if the workmanship is repaired, altered, or overhauled without Provet's consent.
  - iv. In respect to all claims, Provet shall not be liable to compensate Customer for any consequential loss or any delay in either replacing or repairing the workmanship.
  - v. In the case of second hand Goods, Customer acknowledges that Customer has had full opportunity to inspect the Goods and that Customer accepts the Goods with all faults and that no warranty is given by Provet as to the quality or suitability for any purpose and any implied warranty, statutory or otherwise, is expressly excluded. Provet shall not be responsible for any loss or damage to the Goods, or caused by the Goods, or any part thereof however arising.

#### 19. Security and Charge

- a. Notwithstanding anything to the contrary contained herein or other rights which Provet may have:

- i. Where Customer and/or any person who guarantees to pay Customer's debt in the event Customer defaults ("Guarantor") is the owner of the land, realty or other asset capable of being charged, both Customer and/or Guarantor agree to mortgage and/or charge all of their joint and/or several interest in the said land, realty or any other asset to Provet or Provet's nominee to secure all amounts and other monetary obligations payable under the terms and conditions. Customer and/or Guarantor acknowledge and agree that Provet (or Provet's nominee) shall be entitled to lodge, where appropriate, a caveat, which caveat shall be released once all payments and other monetary obligations payable hereunder have been met.
- ii. Should Provet elect to proceed in any manner in accordance with this clause and/or its sub-clauses, Customer and/or Guarantor shall indemnify Provet from and against all Provet's costs and disbursements, including legal costs on a solicitor and own client basis.

**20. Cancellation**

- a. Provet may terminate this Agreement or cancel delivery of any Goods at any time before the Goods are delivered by giving written notice. Provet shall not be liable for any loss or damage whatsoever arising from such cancellations and/or terminations.

**21. Privacy Act**

- a. Customer and/or Guarantor(s) agree for Provet to obtain from a credit reporting agency a credit report containing personal credit information about the Customer and Guarantor/s in relation to credit provided by Provet.
- b. Customer and/or Guarantor(s) agree that Provet may exchange information about Customer and Guarantor(s) with those credit providers named in the application for a Credit Account or named in a consumer credit report issued by a reporting agency for the following purposes:
  - i. To assess an application by Customer
  - ii. To notify credit providers of a default by the Customer
  - iii. To exchange information with other credit providers and credit reporting agencies as to the status of this credit account, where the Customer is in default with other credit providers; and
  - iv. To assess the credit worthiness of Customer and or Guarantor(s)
- c. Customer consents to Provet being given a consumer credit report to collect overdue payment on commercial credit (Section 18K(1) Privacy Act 1988).
- d. Customer agrees that Personal Data provided may be used and retained by Provet for the following purposes and for other purposes as shall be agreed between Customer and Provet or required by law from time to time: (i) provision of services and/or Goods; (ii) marketing of services and/or Goods by Provet, its agents or distributors in relation to the Services and Goods; (iii) analyzing, verifying and/or checking Customer's credit, payment and/or status in relation to the provision of services and/or Goods; or (iii) enabling the daily operation of Customer's account and/or the collection of amounts outstanding in Customer's account in relation to the services and/or Goods.

- e. Provet may give information about Customer to a credit reporting agency for the following purposes: (i) to obtain a consumer credit report about Customer; and/or (ii) allow the credit reporting agency to create or maintain a credit information file containing information about the Customer.

**22. Customer's Disclaimer**

- a. Customer hereby disclaims any right to rescind or cancel this Agreement or to sue for damages or to claim restitution arising out of any misrepresentation made to him by any servant or agent of Provet and the Customer acknowledges that he/she buys the goods relying solely upon his/her own skill and judgment and that Provet shall not be bound by nor responsible for any terms, condition, representation or warranty other than the warranty given by the manufacturer which warranty shall be personal to the Customer and shall not be transferable to any subsequent Customer.

**23. General**

- a. All services/Goods supplied by Provet are subject to the laws of the relevant state and Provet takes no responsibility for changes in the law which affect the services/Goods supplied.
- b. Provet shall be under no liability whatsoever to Customer for any indirect loss and/or expense (including loss of profit) suffered by Customer arising out of the breach by Provet of this Agreement.
- c. In the event of any breach of this Agreement by Provet, the remedies of Customer shall be limited to damages. Under no circumstances shall the liability of Provet exceed the price paid by Customer for services.
- d. Customer shall not set off against the price amounts due from Provet.
- e. Provet may license or sub-contract all or any part of this Agreement without Customer's consent.
- f. Neither party shall be liable for any default due to any act of God, war, strike, lock out, industrial action, fire, flood, drought, storm or other event beyond the reasonable control of either party.

Customer acknowledges that Customer has read and understood the above Terms.

Company Name \_\_\_\_\_

Signature \_\_\_\_\_

Name \_\_\_\_\_

Date \_\_\_\_\_

**We cannot accept electronic signatures**