



## APPENDIX A

### LAYBY PURCHASE AGREEMENT - ADDITIONAL TERMS & CONDITIONS

In this "Layby Purchase Agreement", "we", "our" and "us" means Premier Enterprises Limited, trading as Salbro.

"You" refers to you, our customer.

By signing the front page of this Layby Purchase Agreement, you agree to purchase the goods described on the front page of this Layby Purchase Agreement ("**Goods**") on the terms and conditions of the Layby Purchase Agreement and you acknowledge to us that you are aware of, and agree to, all terms and conditions in this Layby Purchase Agreement.

#### 1. Payment Terms

- 1.1 The Goods are to be paid for by you in accordance with the "Payment Schedule" on the front page of this Layby Purchase Agreement, but in any event shall be made in not less than two (2) instalments.
- 1.2 Payment is to be made by direct debit. You authorise us, our agent(s) or our employees to debit your account or credit card in accordance with the "Payment Schedule" on the front page of this Layby Purchase Agreement.
- 1.3 We are not responsible for any charges imposed from your bank resulting from declined transactions.
- 1.4 Failure to pay any instalment by its due date will be deemed to be a breach of a material term for the purposes of section 36G (a) of the Fair Trading Act 1986.

#### 2. Ownership of Goods

- 2.1 Ownership of the Goods supplied under the Layby Purchase Agreement remains with us until payment for the Goods is made in full.

#### 3. Risk and Delivery

- 3.1 Delivery of the Goods will not take place until the minimum number of payments are received, unless we agree otherwise. We will endeavor to have the Goods delivered to you within 10 working days of the date your final payment is made.
- 3.2 Delivery occurs at the time possession of the Goods passes to you (or a person nominated by you) from us.
- 3.3 The risk in the Goods passes to you on delivery

#### 4. Cancellation

- 4.1 You may cancel this Layby Purchase Agreement for any reason at any time before you take possession of the Goods in any way (including oral or written) that shows your intention to cancel or withdraw from this Layby Purchase Agreement.

- 4.2 We may cancel this Layby Purchase Agreement if you have breached a material term of this Layby Purchase Agreement; or owing to circumstances beyond our control, the Goods are no longer available and no satisfactory substitute goods can be reasonably obtained; or we have ceased trading (other than in the circumstances described in section 36I (1) of the Fair Trading Act 1986).
- 4.3 The cancellation charge specified in "**Special Terms**" with clause [4.1] or we cancel the Layby Purchase Agreement in accordance with clause [4.2].
- 4.4 For the purposes of section 36F(4) of the Fair Trading Act 1986 you acknowledge that the cancellation charges specified in the "**Special Terms**" on the front page of Layby Purchase Agreement is not more than our reasonable costs arising from this Layby Purchase Agreement and its cancellation, and includes the loss in value of the Goods between the date of the Layby Purchase Agreement and the date of cancellation of the Layby Purchase Agreement, our reasonable costs incurred in storing and insuring the Goods while the Layby Purchase Agreement was in force, and/or our reasonable administration costs of the Layby Purchase Agreement (which may include office expenses, salaries or wages directly attributable to the Layby Purchase Agreement).
- 4.5 Where this Layby Purchase Agreement is cancelled for any reason in accordance with this clause [4] we will within 10 days of such cancellation repay to you all money paid by you to us under the Layby Purchase Agreement, less the Cancellation Charge. Where the amounts paid by you under the Layby Purchase Agreement are insufficient to cover the Cancellation Charge, we will be entitled to recover the balance of that charge from you as a debt.

## 5. Limitation of liability

- 5.1 The Consumer Guarantees Act 1993, the Fair Trading Act 1986, and other statutes may impose warranties, conditions or obligations upon us which cannot by law (or which can only to a limited extent by law) be excluded. We exclude all such imposed warranties, conditions or obligations to the extent permitted by law and exclude any warranty, condition or obligation imposed or implied under common law, equity or otherwise.
- 5.2 The guarantees contained in the Consumer Guarantees Act 1993 are excluded where you acquire Goods from us for business purposes in terms of sections 2 and 43 of that Act.
- 5.3 To the extent permitted by law, we shall not be liable for any loss or damage or liability of any kind (including consequential loss or lost profit or business) suffered or incurred by you or another person and whether in contract, or tort (including in negligence), or otherwise and whether such loss or damage arises directly or indirectly from Goods provided by us to you.
- 5.4 To the extent permitted by law, you shall indemnify us against all claims and losses of any kind however caused or arising which is brought by any person in connection with any matter, act, omission, or error by us, our agents or our employees in connection with the Goods.
- 5.5 To the extent that we are liable for any reason for any loss suffered or liability incurred by you arising from any breach of this Layby Purchase Agreement or for any other reason, such liability is limited to the "**Total Price**" of the **Goods specified on the front page of Layby Purchase Agreement**. If the Goods are returned by you, or if you make a claim in writing to us in relation to the Goods provided, we may in our discretion repair or replace the Goods, or refund the amount of those Goods to you, provided that:

- (a) the Goods must be returned or the claim must be made in writing to us within fourteen (14) days of the Goods being provided; and
- (b) you must supply the date and number of any invoice relating to the Goods; and
- (c) we have had a reasonable opportunity to inspect the Goods.

## 6. Further Disclosure

6.1 Any time after this Layby Purchase Agreement is signed, you may request from us a written statement that we will provide to you within five (5) working days of the date of the request which sets out:

- (a) the total purchase price that is, or (if the Layby Purchase Agreement has been cancelled) was, payable under the Layby Purchase Agreement; and
- (b) the amount paid by you as at the date of the statement; and the amount of the cancellation charge (if any) that, as at the date of the statement, you are required to pay to us (if the Layby Purchase Agreement has been cancelled), or would be required to pay to us (if you were to cancel the Layby Purchase Agreement); and
- (c) the amount of the cancellation charge (if any) that, as at the date of the statement, you are required to pay to us (if the Layby Purchase Agreement has been cancelled), or would be required to pay to us (if you were to cancel the Layby Purchase Agreement); and
- (d) the outstanding amount (if any) that you are required to pay to us and when and how that amount is to be paid.

## 7. Assignment

7.1 You must not subcontract or assign any of your rights, powers or obligations under this Layby Purchase Agreement.

## 8. Jurisdiction

8.1 This Layby Purchase Agreement is governed by the current laws of New Zealand and the parties agree to submit to the non-exclusive jurisdiction of the Courts of New Zealand for any disputes or proceedings arising out of or in connection with Layby Purchase Agreement.

## 9. Notices

9.1 Any notice may be given by phone, in person, posted, or sent by fax or email to you (or where you are a company, to any of your directors) in accordance with the details you provide on the first page of this Layby Purchase Agreement.

9.2 You must advise us if any of your details change from those shown on the front page of this Layby Purchase Agreement.

## 10. Disputes

10.1 Any claim or dispute arising under this Layby Purchase Agreement shall be determined by arbitration under the Arbitration Act 1996 if the parties are unable to resolve such dispute themselves within one (1) month of the dispute arising. However, nothing in this clause prevents either party from taking immediate steps to seek any equitable relief before the New Zealand Courts.