



TERMS AND CONDITIONS OF SALE
BLINDWARE PTY LTD ACN 122 203 061

All quotations and offers contained on the face hereof, or to which this schedule is attached, are made by the Company or orders are accepted by the Company (whether express or implied) only on condition that the within terms and conditions shall apply to the exclusion of all other terms and conditions, save insofar as any special terms and conditions are expressly agreed to in writing by the Company and the Customer.

INTERPRETATION:

- 1) Whenever stated "Company" means BLINDWARE PTY LTD, ACN 122 203 061, and any related Corporation as that term is defined by Section 7 of the Corporations Act, 2001 (Cth), including a corporation which becomes a related corporation after the date of this application, together with the successors and assigns of BLINDWARE PTY LTD and any related corporation. "Customer" shall mean the person, persons, firm or company to whom the quotation is addressed or making the offer for this sale and shall include their legal representatives, administrators, successors and/or permitted assignees. Delivery to the Customer shall be deemed to have occurred on the date upon which the Items are delivered to a carrier for conveyance to the Customer. "Goods" means goods supplied by the Company to the Customer. "Items" shall include, materials, products, equipment, installations, samples, prototypes and experimental or preliminary work or the provision of services. "PPSA" means the *Personal Property Securities Act 2009* (Cth) in Australia and the *Personal Property Securities Act 1999* in New Zealand and their associated Regulations, each as amended. "Terms" means these Terms and Conditions of Sale. Paragraph headings following paragraph numbers do not form part of the Company's terms and conditions and are provided only for ease of reference.

VALIDITY:

- 2) The Company's offer will remain open for acceptance for the period stated in the Company's offer dating from the tender closing date, or from the date of this quotation, whichever is the later. If the validity period has expired, the Company's offer shall lapse and prices quoted will be subject to review at the time the order is placed. The Company's offer may be revised in whole or part, or withdrawn prior to expiration of the validity period or acceptance of the offer by the Customer.

ACCEPTANCE:

- 3) An offer or quotation by the Company shall become binding upon the Company only upon receipt of an unconditional written acceptance in such terms as the Company may require. Order forms and other documents provided to the Company by the Customer as confirmation of orders previously placed must be clearly marked with the word "Confirmation". Confirmation documents not so marked will be treated as original orders. No confirmation or purchase order issued by or on behalf of the Customer, including the terms on any pre-printed purchase order form, will vary or form part of this Agreement.

SUBSTITUTION OF ITEMS:

- 4) The Company, unless otherwise expressly agreed to in writing, reserves the right in cases where Items requested by the Customer are not available from the supplier at the time the order is accepted to substitute, for one make or brand requested by the Customer, another make or brand with equivalent characteristics and abilities or to change design details and methods of meeting specifications provided that the interchangeability of items is not affected thereby.



DESCRIPTION:

- 5) The description hereinbefore given of the said goods has been given by way of identification thereof only and the use of such description shall not constitute this a contract of sale by description.

DELIVERY DURATION AND QUOTED DELIVERY TIMES:

- 6)
- a) Delivery time or times stated by the Company are estimated based on present order commitments, availability of materials, labour, transport and other contingencies.
 - b) Delivery estimates should be checked on placement of the order. Such times are to be treated merely as estimates not involving any contractual obligation, unless the Company has expressly confirmed its agreement in writing and any such contract shall be subject to the Company not being delayed by instructions, or lack of instructions, or by industrial dispute, or by any cause whatsoever beyond its reasonable control.
 - c) The said goods shall be delivered free into store within metropolitan areas or F.O.B. to a nominated carrier provided nevertheless that from time of despatch thereof from the Company's premises and until such delivery the risk of loss, damage or deterioration of the said goods from whatever cause arising shall be borne by the buyer.

CANCELLATION OR DEFERRAL OF ORDER:

- 7) Should an order be placed it cannot be cancelled or delivery deferred except with the prior agreement in writing given by the Company and then only on terms which will indemnify the Company against loss. In the case where the Customer has placed an order that has required the Company to import goods specifically for the customer, i.e. "Indent Order", then there will be a cancellation charge applicable which will be a minimum of 20% of the order value, including the GST component. Depending upon the type of goods included in the order the Customer wishes to cancel and entirely at the discretion of the Company, the cancellation fee may exceed 20% up to a maximum of 100% of the full value of the order, including the GST component, so as to fully indemnify the Company against any loss as a result of the cancellation.

RETURN FOR CREDIT:

- 8) Except for defective Items supplied by the Company, Items returned for credit will only be accepted subject to the following conditions:
- a) Items returned must not be obsolete, incomplete, damaged or otherwise imperfect.
 - b) The amount of credit allowed in respect of Items returned, if any, will be subject to a service charge at the Company's rate currently in effect, unless the Agreement specifically states otherwise.
 - c) No responsibility is accepted by the Company for Items lost or damaged in transit during return to the Company.
 - d) The Customer agrees to pay the Company's reasonable charges relating to the return of the goods (being additional charges for the purpose of this contract) including the cost of freight, costs of re-packing the goods upon presentation of our invoice(s) therefore.
 - e) Items cannot be rejected unless damaged, defective or incorrectly supplied. Items specially produced or procured to the Customer's order cannot be rejected as being unsuitable or because they are no longer required by the Customer.



- f) All returns must be made within 21 days of delivery.

Any claim that the Items are not in accordance with these Terms (including if they are defective, damaged during delivery, are short delivered) must be made at the time of delivery in writing to the Company within 2 (two) business days after the delivery of the Items to the Customer. If the Customer fails to make a claim then to the extent permitted by law, the Items are deemed to have been accepted by the Customer and the Customer must pay for the Items in accordance with these Terms.

PROTOTYPES, SAMPLES, DRAWINGS, TOOLS:

- 9) The Company agrees to submit at the Customer's request prototypes, samples, preliminary work and/or work, produced in an experimental way provided that these Items are available. Such items will be considered an order and will be charged to the Customer's account unless otherwise specified.

All drawings, specifications and schedules prepared by the Company shall remain the property of the Company. Copyright is reserved accordingly and no copies may be made to extracts taken without the prior written consent of the Company. Should an order be placed, all tools, dies, jigs and other equipment used in the manufacture of Items by the Company for the Customer remain the sole property of the Company and may, unless otherwise agreed to by the Company, be used by the Company in manufacturing Items for other Customers.

OTHER CHARGES, GST:

- 10) All Items may be subject to additional charges on the basis of the following provisions:
- a) Carriage will be charged extra at the Company's rate currently in effect on the date the order is despatched unless otherwise specified in the Company's offer. Where the Customer nominates a method of carriage the Customer will be responsible for all charges.
 - b) Insurance during transit will be charged at the rate currently in effect on the date the order is despatched unless specified in the Company's offer. Where the Customer nominates the arrangements for insurance, the Customer will be responsible for all charges.
 - c) A service charge at the Company's rate currently in effect on the date the order is despatched will be applied to each invoice below the total net value determined by the Company from time to time.
 - d) Deferred delivery which is specifically requested by the Customer or due to the inability of the Customer to accept the goods for any reason on or after the due date for delivery or owing to some other cause beyond the control of the Customer in circumstances where the Company is able to deliver and or install the Items then the Customer shall be liable for any extra charges, losses or expense incurred by the Company.
 - e) The Company reserves the right to make a reasonable charge for storage if delivery instructions are not provided by the Customer at the time of placement of the Order or within seven days of a request from the Company for such instructions. The parties agree that the Company may charge for storage from the first day after the Company requests the Customer to provide delivery instructions.
 - f) The Company may charge an administration fee for any payments by credit card.

Prices quoted exclude GST unless otherwise specified. Where applicable, GST will be charged at the rate in effect on the day of despatch and will be shown as a separate line on the invoice.

PACKING METHOD OF DELIVERY AND POINT OF DELIVERY:

- 11) Should an order be placed, the sale of all Items will be subject to the following conditions:



- a) For ease of handling and protection during transit, selected Items, at the Company's option, shall be packaged.
- b) The method of delivery will be nominated in the Company's offer unless otherwise specified.
- c) Unless otherwise specified, the point of delivery will be as nominated in the Company's offer provided that access is reasonable in the opinion of the Company.
- d) The Customer at his own expense shall provide all necessary facilities, labour and equipment to off-load the Items at the nominated point of delivery unless otherwise specified.
- e) If a delivery date is specified, that date is an estimate only and the Company will not be liable for any delay in delivery.

ERRORS IN COMPANY DOCUMENTS:

- 12) Clerical errors and misprints in computation, typing or otherwise in the Company's documents including catalogues, price lists, delivery dockets, invoices, statements, or credit notes shall be subject to correction by the Company by means of reissue of the document or by adjusting dockets with reference to the original transaction.

PAYMENT & DEFAULT:

- 13) The Customer's credit facility shall remain in the name stated by the Customer on the Company's application for credit facilities until the Company is notified in writing and consent is given in writing by the Company. The Customer shall notify the Company as soon as practicable should there be any change in the trading address, ownership, legal entity, or structure of management of the Customer. The Customer shall not be entitled on any ground whatsoever either wholly or in part to withhold payment when it becomes due.

Unless otherwise agreed, if the Customer has an approved credit account with the Company, the Customer must pay for the goods and services ordered within 30 days of the statement date or earlier if the approved credit limit is exceeded. If the Customer exceeds the credit limit or is in default in payment or commits a breach of the terms and conditions of this Agreement or an insolvency event in respect of the Customer arises or is reasonably suspected by the Company, the Company is entitled to suspend deliveries or cancel undelivered portions of the order and to take proceedings for the collection of outstanding amounts, without prejudice to any subsequent claim the Company may enter for non-fulfilment of the Terms, and the Company may additionally do all or any of the following:

- a) Vary or withdraw any approved credit limit and/or terms of sale;
- b) Cancel or suspend any unfulfilled orders;
- c) Charge interest calculated at a daily rate calculated at 2% per month from the date the payment was due until the date payment is made, both dates inclusive;
- d) Charge the Customer for, and the Customer must indemnify the Company from, all costs and expenses (including without limitation all legal costs and expenses) incurred by it resulting from the default or in taking action to enforce compliance with the Terms or to recover any goods;
- e) Lodge a caveat or other similar instrument over any of the real property of the Customer;



RETENTION OF TITLE BY CUSTOMER:

- 14) The Company will not, unless expressly confirmed in writing by the Company at the time an order is accepted or a sale is made agree to any retention clauses of the Customer's order forming part of the Terms. Where the Customer's order contains retention conditions, the Company shall only agree to payment retention if the Customer accepts an undertaking by the Company to provide a bank guarantee for an amount equivalent to the amount of the retention on payment of the full amount owing to the Company.

PASSING OF PROPERTY:

- 15) Until the Company receives full payment in cleared funds for all goods and services supplied by it to the Customer, as well as all other amounts owing to the Company by the Customer:
- a) title and property in all goods remains vested in the Company and does not pass to the Customer;
 - b) the Customer must hold the goods as fiduciary bailee and agent for the Company;
 - c) the Customer must keep the goods separate from its own goods and maintain the Company's labelling and packaging;
 - d) the Customer must hold the proceeds of sale of the goods on trust for the Company in a separate account with a bank to whom the Customer has not given security however failure to do so will not affect the Customer's obligation as trustee; and
 - e) in addition to its rights under the PPSA, the Company may without notice, enter any premises where it suspects the goods are and remove them, notwithstanding that they may have been attached to other goods not the property of the Company, and for this purpose the Customer irrevocably licences the Company to enter such premises and also indemnifies the Company from and against all costs, claims, demands or actions by any party arising from such action.
 - i) pending payment in full for the items, the Customer:
 - (A) must not supply any of the items to any person outside of its ordinary or usual course of business;
 - (B) must not allow any person to have or acquire any security interest in the items;
 - (C) must insure the items for their full insurable or replacement value (whichever is the higher) with an insurer licensed;
 - (D) must not remove, deface or obliterate any identifying plate, mark or number on any of the items;

PERSONAL PROPERTY SECURITIES ACT

- 16) Notwithstanding anything to the contrary contained in these Terms, the PPSA in Australia applies to these Terms for goods supplied in Australia, and the PPSA in New Zealand applies to these Terms for goods supplied in New Zealand.
- a) For the purposes of the PPSA:
 - i. terms used in clause 16 that are defined in the PPSA have the same meaning as in the PPSA;
 - ii. these Terms are a security agreement and the Company has a Purchase Money Security Interest in all present and future goods supplied by the Company to the Customer and the proceeds of the goods;



- iii. The security interest is a continuing interest irrespective of whether there are monies or obligations owing by the Customer at any particular time; and
 - iv. the Customer must do whatever is necessary in order to give a valid security interest over the goods which is able to be registered by the Company on the Australian or New Zealand Personal Property Securities Registers.
- b) The security interest arising under this clause attaches to the goods when the goods are collected or dispatched from the Company's premises and not at any later time.
- c) Where permitted by the PPSA in Australia:
- i. the Customer waives any rights to receive the notifications, verifications, disclosures or other documentation specified under sections 95, 118, 121(4), 130, 132(3)(d), 132(4), 135 and 157 of the PPSA; and
 - ii. The Company and the Customer agree to contract out of and nothing in the provisions of sections 96, 125, 129, 142 and 143 of the PPSA will apply to these Terms.
- d) Where permitted by the PPSA in New Zealand, the Customer waives any right to receive a copy of any verification statement under section 148 of the PPSA, and agrees, that the Customer shall have no rights under or by reference to sections 114(1)(a), 116, 120(2), 121, 125, 127, 129, 131, 133 or 134 of the PPSA.
- e) To the extent permitted by the PPSA, the Customer agrees that:
- i. the provisions of Chapter 4 of the PPSA (in Australia) or Part 9 of the PPSA (in New Zealand) which are for the benefit of the Customer or which place obligations on the Company will apply only to the extent that they are mandatory or the Company agrees to their application in writing; and
 - ii. where the Company has rights in addition to those in Chapter 4 of the PPSA (in Australia) and Part 9 of the PPSA (in New Zealand), those rights will continue to apply.
- f) The Customer must immediately upon the Company's request:
- i. do all things and execute all documents necessary to give effect to the security interest created under these Terms; and
 - ii. procure from any person considered by the Company to be relevant to its security position such agreements and waivers (including as equivalent to those above) as the Company may at any time require.
- g) The Company may allocate amounts received from the Customer in any manner the Company determines, including in any manner required to preserve any Purchase Money Security Interest it has in goods supplied by the Company.
- h) For the purposes of section 275(6) of the PPSA in Australia, the parties agree and undertake that these Terms and any information pertaining to the sale of goods and details of the goods shall be kept confidential at all times. Neither party may disclose any information pertaining to these Terms or the sale of the goods, except as otherwise required by law or that is already in the public domain.



LIABILITIES AND DISCLAIMERS

17)

- a) Product data, design details and performance figures contained in the Company's published literature and advice given by the Company is provided only as a guide to available information and the Company does not accept any liability whatsoever (including arising from negligence) for its accuracy and for injuries, expense or loss or for the results obtained, by the Customer. If the Customer relies on such information or advice it is entirely at the Customer's own risk.
- b) All orders are accepted on the understanding that the Customer will be responsible for determining that the Items sold or manufactured by the Company are suitable for a particular application.
- c) Customer's Items are accepted for processing by the Company or by the supplier the Company represents at the Customer's own risk. Whilst the Company will use its endeavours to carry out the instructions of the Customer, all Items are accepted, treated, processed and stored entirely at the risk of the Customer and no liability whatsoever (including arising from negligence) is accepted by the Company.
- d) Owing to the obligations placed upon it, the Company reserves the right not to accept liability for deficiencies, damaged or faulty items, or errors in despatch, unless notice in writing is given to the carrier and the Company within seven days from receipt of the consignment. Neither can it accept any claim for loss of items advised by the customer not delivered unless notice is given in writing to the Company and the carrier within twenty-one days of the date of the advice note, or in the case of exported items, within a reasonable time from date of shipment.
- e) No liability will be accepted by the Company or the supplier the Company represents nor is any guarantee or other undertaking given or implied in respect of any act of omission by the Company in respect of the following:
 - i. if performance figures are not obtained unless the specification to which the Company is working lays down such figures or unless the Company has made a specific guarantee in writing.
 - ii. for any injury loss or damage suffered by the Customer, which may in any degree be attributed to the use of items or installation supplied by it or to the adoption of data, design, materials or advice given by the Company as to the use of the Items or installation notwithstanding any want or care on the part of the Company in compiling or giving any advice or information.
 - iii. for liquidated damages suffered by the Customer or others consequent to the supply of Items later than the date of despatch confirmed by the Company, unless expressly confirmed in writing by the Company.
 - iv. for loss, damage, or delay caused by government order, war, civil commotion, force majeure, accidents, fires, strikes, lockouts, or delay.
 - v. in obtaining raw materials through shortage or advantage in price thereof or any other cause beyond the control of the Company.

for any loss or damage, direct or consequential (including without limitation loss of profit, loss of revenue, loss of contract, loss of goodwill or increased cost of production), or for any accident, or the effects of any accident or other expenses sustained by the Customer or any other person, arising from any defect or failure in items supplied by it where consumer legislation does not apply.



Where the Company's suppliers are prepared to offer the acceptance of any damages, this will be relayed to the Customer. In the event of non-payment of damages or dispute regarding damages, the Company shall advise details of the dispute to the supplier and shall pass any proposals for settlement to the Customer.

- f) The Customer's rights to indemnity or compensation shall, to the extent permitted by law be limited to the cost of replacement of the Items, obtaining equivalent Items, or having the Items repaired, whichever is the lowest.
- g) Subject to paragraph 19 the provisions contained in this paragraph 17 are in lieu of and exclude all other warranties, conditions, liabilities, expressed or implied, whether under common law statute or otherwise, in relation to Items supplied by the Company, and no variation of these provisions shall be binding on it unless expressly accepted in writing by the Secretary of the Company.

ALTERATION OF CONDITIONS AND OTHER AGREEMENTS:

- 18) No employee, servant or agent of the Company is authorised to alter, vary or waive these Terms or any one or more of them by oral agreement. The Customer acknowledges and agrees that nothing contained in any terms and conditions of purchase or acquisition which might apart from the provisions of this paragraph have been applicable to the purchase of Items by the Customer shall take precedence over or amend or in anyway affect these Terms. The Customer confirms his acceptance of this provision by taking delivery of the Items and agrees not to subsequently attempt to amend, add to, or override the provisions hereof, in particular, it is expressly agreed by the Customer that the contractual conditions (if any) of the Customer are excluded in their entirety.

These Terms are to be read as including any Terms and Conditions of Sale specified by the Company's suppliers. Where such conditions differ from the above Conditions, the Company's Terms shall override, unless objection is notified to the Company Secretary in writing within seven days after the date of this sale.

The Company may amend or vary these Terms by notifying the Customer in writing of the amendment or variation.

CUSTOMER STATUTORY RIGHTS

- 19) These conditions, warranties and disclaimers are subject to the rights and remedies in respect of the Items which the Customer has under the Competition and Consumer Act law and shall apply to the extent not otherwise expressly excluded by such legislation.

GOVERNING LAW:

- 20) All transactions between the Company and the Customer shall be construed and take effect in accordance with the Laws in force in the State of the Victoria and the Customer hereby irrevocably submits to the exclusive jurisdiction of the courts of Victoria.