

TERMS AND CONDITIONS OF SALE

These Terms and Conditions of Sale shall apply to all sales made by Lidco Corporation Pty. Ltd, ABN 57 370 749 350, ("Lidco") and are deemed to be incorporated in any contract for sale entered into by Lidco whether resulting from an order from the Purchaser or resulting from a Quotation or arising from oral acceptance of repeat or further orders for similar goods ("Agreement"), and supersedes any previous written or oral agreements and understandings entered into between the Purchaser and Lidco.

1 Definitions

In these Terms and Condition of Sale, unless the context otherwise requires:

- (a) "Default event" means any of the following:
 - (i) The Purchaser does not make a payment due to Lidco under this or any other Agreement.
 - (ii) The Purchaser is unable to pay its debts as they fall due.
 - (iii) The Purchaser ceases or suspends conduct of its business, or threatens to.
 - (iv) A resolution is passed or proposed or a summons is presented to wind up the Purchaser.
 - (v) A receiver and/or manager, administrator or other form of insolvency administrator is appointed over all or part of the Purchaser's assets.
 - (vi) The Purchaser makes or proposes to make any arrangement with its creditors.
 - (vii) The Purchaser commits an act of bankruptcy, or execution is levied on any of the Purchaser's assets.
- (b) "Goods" means goods which Lidco sells to the Purchaser.
- (c) "Purchaser" means the person or company named in the Sales Invoice or Quotation and, in the case of an individual, their executors, administrators and assigns, and if a company its successors and assigns.
- (d) "Quotation" means the form of quotation submitted by Lidco to the Purchaser,
- (e) "Sales Invoice" means the document called tax invoice issued by Lidco to the Purchaser.
- (f) "Special Order" means an order of goods purchased or manufactured at the request of the Purchaser specifically for the Purchaser and/or which are not stocked items in the prevailing Lidco product catalogue.
- (g) "Standard Goods" means those items included in the prevailing Lidco product catalogue.
- (h) "Tooling" means any aid to fabrication and/or installation provided to the Purchaser or the Purchaser's nominee.

2 Quotations

- (a) A Quotation however given is not an offer. An order placed by the Purchaser pursuant to a Quotation is not binding on Lidco (including any purported variation to these Terms and Conditions of Sale contained in that order) unless and until that order is accepted by Lidco.
- (b) Prices in the Quotation are based on Lidco's current price list and are subject to change without notice.
- (c) Any special conditions set out in the Quotation are to be read and construed so as to vary these printed Terms and Conditions of Sale but only to the extent of any inconsistency.
- (d) All Quotations are valid for a maximum of thirty days.
- (e) Any costs associated with cutting dies for a Special Order shall be to the Purchaser's account, to which a service fee shall be added.
- (f) All Special Orders are subject to the shipping tolerances of the relevant supplier or manufacturer.

3 Prices and Taxes

- (a) All product prices quoted and shown are exclusive of Goods and Services Tax ("GST"). GST is calculated separately and added to the Sales Invoice. GST is based on the rate and method of assessment applying at the date of the Sales Invoice.
- (b) Between the dates of order and delivery, if there is an increase in the cost to Lidco of supplying the goods which is beyond the control of Lidco, then the additional cost shall be to the account of the Purchaser.
- (c) All prices are in Australian dollars.
- (d) Lidco reserves the right to alter its list prices without notice.
- (e) All sales are subject to such limits as to minimum quantity or cost for each order as Lidco fixes from time to time.

4 Terms of Payment

- (a) The Purchaser shall pay Lidco the invoiced price of Goods delivered by Lidco plus GST and freight charges 30 days from the end of the month on the Sales Invoice.
- (b) Where the Purchaser delays delivery or the Purchaser refuses to take delivery, the Purchaser shall pay the full amount of the invoice within 30 days of the date of the invoice.
- (c) All payments are to be made without retention or deduction.

5 Failure to Make Payment

- (a) Without prejudice to any other rights or remedies Lidco has, if any payment is not made within seven days of the due date, the Purchaser will be in default and the Purchaser agrees to pay to Lidco interest at a rate equivalent to 4% above the Reserve Bank Cash Rate Target applying from time to time on the amount outstanding calculated on a daily basis from the due date for payment until payment is made in full.
- (b) Where a price is quoted with a discount, the discount only applies if the invoice is paid by the due date.

6 Credit Limit

- (a) If Lidco grants any credit facility or nominates any credit limit, this is only an indication of its intention at that time.
- (b) Lidco may, at any time and for any reason change the extent of credit it provides and may, without limiting the foregoing, require the Purchaser to pay for further deliveries of product under the Agreement on a cash on delivery basis.

7 Delivery

- (a) Where the Agreement includes a delivery schedule, the delivery estimates are based on Lidco's best judgment and cannot be guaranteed. Such estimates are not to be legally binding.
- (b) Without limiting the above, Lidco shall not be liable for delay in delivery arising from any cause whatsoever. If Lidco fails to deliver any Goods to the Purchaser on time, or at all, Lidco's only obligation is to refund to the Purchaser any amount received from the Purchaser for Goods not delivered. Lidco will not be liable for any costs, damage or other loss, including consequential loss, the Purchaser or any other party suffers arising directly or indirectly from Lidco's failure to deliver the Goods on time or at all, whether or not due to Lidco's or its agents' negligence.
- (c) Where the Purchaser delays or refuses to take delivery of any Goods, the Purchaser's obligation to pay for Goods as set out in these terms remains unchanged and the Purchaser shall also pay any additional storage, freight, holding or handling charges incurred by Lidco.
- (d) Failure by Lidco to deliver any instalment of Goods shall not entitle the Purchaser to terminate the Agreement.
- (e) Unless otherwise agreed in writing, deliveries shall be to the Purchaser's premises between the hours of 7.30 am to 4.00 pm weekdays (excluding public holidays). Any additional costs Lidco incurs as a result of a change in delivery requirements, or as a result of delay in unloading, shall be added to the purchase price.
- (f) Lidco will deliver the Goods to the address specified by the Purchaser at Lidco's prevailing delivery rate charges. Each delivery will attract a separate delivery charge in accordance with the prevailing rates at the time of delivery.

8 Part Deliveries

- (a) Delivery shall be in such instalments and at such times as Lidco may determine at its sole discretion.
- (b) Failure to make delivery for the total order shall not entitle the Purchaser to terminate the Agreement.
- (c) Where delivery is effected by part delivery of the goods, Lidco shall be entitled to invoice for the goods delivered. Each partial delivery shall be deemed to be a separate sale pursuant to these Terms & Conditions of Sale and Lidco may invoice the Purchaser for each separate delivery.

9 Suspension of Delivery

Lidco may suspend delivery or cease manufacture if the Purchaser at any time:

- (a) fails to make payments in accordance with these Terms and Conditions of Sale, and/or
- (b) exceeds credit facilities as established by Lidco.

10 Finishing

- (a) The Purchaser acknowledges that some variation in colour may occur between batches.
- (b) Lidco shall incur no liability in circumstances where Lidco supplies finished goods and those goods are stored in an unsuitable environment.
- (c) In the event of failure of the finishing treatment the maximum liability of Lidco is limited to the lesser of the initial cost of the finishing treatment, the component, or the repair of the failure spot on site.
- (d) Where Lidco sells goods in mill finish to the Purchaser and delivers the goods to a finisher as directed by the Purchaser, Lidco bears no responsibility for any subsequent finishing process.

11 Defects

- (a) Upon delivery, the Purchaser shall inspect the Goods and give notice to Lidco within 14 days of delivery ("Defect Notice") if it believes that the goods supplied were not:
 - (i) of merchantable quality,
 - (ii) were not of the description, quality or quantity ordered,Notification is to be made by the Purchaser annexing to the delivery docket a Defect Notice, which sufficiently identifies defects.
- (b) If the Purchaser does not give a Defect Notice to Lidco within 14 days after delivery, or the Purchaser uses or installs any of the Goods, the Purchaser shall be deemed to have accepted that the goods supplied:
 - (i) were of merchantable quality,
 - (ii) were of the description, quality and quantity ordered.
- (c) Lidco shall have the right to inspect defects at the point of delivery or at any other location to which the Goods have been removed.

12 Returns

- (a) The Purchaser shall not return Goods unless it has given a Defect Notice within 14 days of delivery and Lidco has given its prior written approval.
- (b) Lidco may otherwise elect to take back Goods in saleable condition on such terms as Lidco considers to be reasonable.
- (c) The Purchaser shall in all cases pay to Lidco a restocking fee of 15% of the invoiced value of all returns.
- (d) Notwithstanding any other provisions of these Terms and Conditions of Sale, the Purchaser shall not return Goods without first providing to Lidco an original invoice as proof of purchase.
- (e) In no case shall Lidco take back any Special Orders.

13 Passing of Property and Risk

Risk in the goods shall pass on delivery. However, legal and equitable title shall remain with Lidco until Lidco has received payment in full for the Goods.

14. Personal Property Securities Act 2009 (“Act”)

- (a) The Agreement constitutes a Security Agreement under the Act.
- (b) Lidco may register its interest in the Goods on the PPSA Register. The Purchaser must provide all assistance reasonably required to facilitate this.
- (c) The Purchaser waives its right to receive notification or a copy of any Verification Statement confirming registration of a Financing Statement or a Financing Change Statement.
- (d) The Purchaser will indemnify Lidco for all costs and expenses, including legal costs and expenses on a solicitor / client basis, associated with the
 - (i) registration or amendment or discharge of any Financing Statement registered by or on behalf of Lidco, and
 - (ii) enforcement or attempted enforcement of any Security Interest granted to Lidco by the Purchaser.
- (e) The provisions referred to in Section 115 (a) to (r) of the Act do not apply to the Goods.
- (f) The Purchaser waives its right to receive any notice under the Act unless the requirement for the giving of the notice cannot be excluded.

15 Default Event

- (a) If a Default Event occurs:
 - (i) Lidco has the right to:
 - (A) withhold further deliveries of Goods including those in transit,
 - (B) withdraw any credit facilities,
 - (C) suspend and/or terminate performance without penalty of any other agreement which Lidco has with the Purchaser,
 - (D) terminate the Agreement.
 - (ii) all amounts outstanding to Lidco by the Purchaser, even if not otherwise due for payment, will become immediately due and payable.
- (b) If the Default Event is non-payment for the Goods:
 - (i) the right of the Purchaser to sell or deal with the Goods terminates immediately without the need for Lidco to provide written confirmation, and
 - (ii) where the goods have been delivered, the Purchaser irrevocably grants to Lidco, its agents and servants, an unrestricted right and licence without notice to enter premises occupied by the Purchaser to identify and remove any of the Goods the property of Lidco without in any way being liable for trespass or for payment of any compensation to the Purchaser. Lidco shall not be liable for any loss incurred by the Purchaser by Lidco taking possession of the Goods.
- (c) If Lidco terminates the Agreement the Purchaser shall be liable to meet all loss, damage, cost or expense, including loss of profits, incurred by Lidco as a result of the termination.

16 Termination by Purchaser

The Purchaser may terminate the Agreement with Lidco’s prior written consent which consent shall only be given on the basis that the Purchaser meets all loss, damage, cost or expense, including loss of profits, incurred by Lidco as a result of the agreed termination.

17 Indemnity

The Purchaser shall be responsible for and shall indemnify Lidco for loss of or damage to the Goods from the time of delivery to the time of payment in full.

18 Trustee's Indemnity

Where the Purchaser is a trustee of a trust, the Purchaser and any guarantor warrant that:

- (a) all materials ordered from Lidco are for the purposes of the trust,
- (b) the trustee is entitled to have resort to the trust assets to satisfy any debts owing to Lidco,
- (c) the trustee's right of indemnity against the trust or the trust fund is not excluded, and
- (d) the Purchaser will not release that right of indemnity without Lidco's prior written consent.

19 Testing and Reporting

- (a) Where the Purchaser requires the Goods to be subject to special test or inspection the Purchaser shall pay all costs of such testing or inspection.
- (b) Any inspector or other person attending Lidco's premises on behalf of the Purchaser shall be approved by Lidco and authorised in writing by the Purchaser.
- (c) The Purchaser shall provide Lidco with copies of all authorisations, test results, measurements and reports prepared by or for the Purchaser in relation to Lidco's Goods.

20 Measurement and Payment

Unless otherwise stated in the Agreement, the measurement of quantities for the purpose of calculating payments due to Lidco shall be on the basis of the quantities shown on the delivery docket.

21 Specifications and Tolerances

Unless otherwise stated, the goods will be supplied within the tolerances as to quantity, weight, dimensions, gauge, chemical composition, physical properties, finish, shearing and degree of flatness specified in Lidco's published product data current at the date of the Agreement and if none are specified those tolerances usually regarded as being commercially acceptable. In relation to Special Orders, the Purchaser agrees to accept shipping tolerances as to quantities delivered and acknowledges that quantities may vary and further agrees to accept delivery and make payment in accordance with such deliveries.

22 Tooling

All tooling supplied by Lidco to the Purchaser shall remain the property of Lidco.

23 No Warranty

Except as expressly provided in the Agreement or in any product warranty included in the Agreement, or as required by statute, Lidco provides no other warranty to the Purchaser in relation to the Goods.

24 Limitation of Liability

- (a) The Purchaser acknowledges that
 - (i) Any information including any design, description of use, capacity, durability, colour, manner of installation detail contained in drawings, data sheets, technical brochures or other documents provided by Lidco but not included in the Agreement are given as a general guide only and the Purchaser has satisfied itself as to the suitability of the Goods for the Purchaser's particular purpose, use or application and Lidco shall not be liable in these respects.
 - (ii) It has relied on its own knowledge and expertise in selecting the Goods. Any advice or assistance given by or on behalf of Lidco is at the Purchaser's risk and Lidco shall not be deemed to have given any advice or assistance as an expert or advisor. It has not relied on, nor will it rely on, any advice or assistance given by or on behalf of Lidco. This includes all technical data provided by Lidco, including technical manuals and data used as estimating and manufacturing aids, including electronic aids of any type.
 - (iii) Any sample inspected by the Purchaser is solely for the Purchaser's convenience and does not constitute a sale by sample. All samples remain the property of Lidco.
- (b) Except as provided in the Agreement or in any product warranty included in the Agreement, Lidco shall not be liable for any loss or expense arising once Goods have been affixed and/or otherwise used, applied or sold, at which time there shall be deemed to be unqualified acceptance.
- (c) Lidco shall not be liable for any loss or damage or injury howsoever arising for any reason of:
 - (i) use of the Goods for a purpose for which they are unfit or in a manner for which they are not suited,
 - (ii) any delay in delivery,
 - (iii) a failure to comply with any instructions or warnings with respect to doing anything with or in relation to the Goods.
- (d) If any Goods are defective and have not been accepted or deemed to have been accepted then, notwithstanding any other provision of the Agreement, Lidco's liability for any claim for defective Goods is limited to paying to the Purchaser an amount equal to the lowest of:
 - (i) the cost of replacing the Goods,
 - (ii) the cost of obtaining equivalent Goods, or
 - (iii) the cost of having the Goods repaired,
- (e) Lidco shall not be liable for the removal of any defective Goods or for the re-installation of any Goods or for any consequential loss or loss of profits.

25 Indemnity

To the fullest extent legally permissible Lidco shall not be liable for any damages for personal injury, any damage to property and/or any contingent, consequential, direct, indirect, special or punitive damages whether due to negligence or otherwise arising out of or in relation to the supply of the Goods ("Liabilities"). The Purchaser agrees to indemnify Lidco, and keep Lidco indemnified, in respect of the Liabilities.

26 Security for Payment

The Purchaser charges in Lidco's favour all of its estate and interest in any real and personal property that it owns either beneficially and/or as trustee of any trust at present and in the future with the due payment to Lidco of all monies that may become payable to Lidco under this or any other Agreement. The Purchaser irrevocably appoints as its duly constituted attorney any of the directors, secretaries, employees or solicitors nominated by Lidco from time to time to execute in its name, and as its act and deed, any company charge or any real property mortgage over any asset of the Purchaser even though there may not have been a Default Event.

27 Confidential Information

In this clause "Confidential Information" means all of Lidco's trade secrets, confidential business and technical information, illustrations, drawings and specifications, know how not generally known to the public, customer and supply lists, pricing policies and costing data base.

The Purchaser shall not at any time disclose to any person any Confidential Information except in so far as such disclosure is:

- (a) consented to by Lidco,
- (b) required by law,
- (c) to their legal, financial or taxation advisers for the purposes of obtaining advice, or
- (d) of information already in the public domain other than because of a breach of this Agreement by the Purchaser.

28 Intellectual Property

All of Lidco's Confidential Information, inventions, discoveries and novel designs (whether registered or not), registered and unregistered trademarks, all copyright works and all technical specifications and product test reports and illustrations, drawings and specifications provided by Lidco remain the property of Lidco or, in the case of Special Order Goods, become the property of Lidco.

29 Third Party's Intellectual Property

the Purchaser warrants that the drawing of any extruded shape for which a quotation has been issued and which has been endorsed by the Purchaser and supplied by the Purchaser to Lidco does not infringe the rights of any third party (whether copyright, registered design, patent, trade mark, confidential information or otherwise) or breach any applicable law. The Purchaser will indemnify Lidco in respect of any claim by a third party for infringement of any of their rights.

30 Costs

The Purchaser must pay Lidco all costs and expenses incurred by Lidco in connection with the recovery of monies owing by the Purchaser to Lidco or in otherwise enforcing Lidco's rights against the Purchaser under the Agreement including legal expenses on a solicitor-client basis.

31 Assignment

The Agreement and any benefit under it may not be assigned by the Purchaser in whole or in part without Lidco's consent in writing, which may be withheld, at its sole discretion.

32 Purchaser Restructure

The Purchaser will notify Lidco in writing of any change in its structure or management including any change in Director, Shareholder or Management or change in partnership or trusteeship within seven days of any such change.

33 Waiver

Failure by Lidco to insist on strict performance of any term, warranty or condition of the Agreement will not be taken as a waiver of it or of any rights Lidco may have and no waiver will be taken as a waiver of any subsequent breach of any term warranty or condition.

34 Governing Law

The Agreement is governed by the law of the State of New South Wales.

35 Force Majeure

Lidco shall not be liable for any delay, loss, damage or injury arising by reason of any event beyond its control and, without limiting the generality of the foregoing, such events include industrial disputes, the unavailability of equipment or materials, fire, flood, machinery breakdown, civil disturbance, acts of God or government action.

36 Void Provision

If any provision of these Terms & Conditions of Sale is void or unenforceable that provision shall be severed and the remaining provisions shall continue with full force and effect.



37 Entire Agreement

This Agreement including its schedules and any attachments:

- (a) constitutes the entire Agreement between the parties as to its subject matter,
- (b) in relation to that subject matter, supersedes any prior understanding between the parties and any prior condition, warranty, indemnity or representation imposed, given or made by a party, and
- (c) may only be amended in writing signed by both parties.

38 Notices

All notices given under or in connection with the Agreement shall be in writing and given or delivered to the recipient at its address specified in the Agreement, its registered office or principal place of business, or such other address as is notified to Lidco from time to time.

Customers Signature: Date: