

Terms & Conditions of Trade

These are the entire Terms and Conditions of Sale (“the Terms”) of all products, merchandise and services (“the products”) supplied by PERFEKT PTY LTD (ABN 79 125 944 293) (“we”, “us” or “our”) to any person, firm or company placing an order with us for the purchase of any products (“you”). Except as otherwise expressly agreed upon in writing between a duly authorised office of PERFEKT PTY LTD and the Customer, these Terms and Conditions shall apply notwithstanding any provisions to the contrary which may appear on any order form or other document issued by an Customer. These conditions supersede any prior version.

1. Quotation, Orders and Pricing

A quotation by us is not an offer to sell. We reserve the right to revise a quotation within 30 days of issue. All prices quoted are exclusive of GST.

Any quotation provided to you by us is valid only for the period of time specified in the quotation or 30 days and only in respect of the matters set out in the quotation.

Our quotations are confidential and must not disclose the information in our quotations to any other person without our prior consent.

An order placed by you constitutes an offer to purchase by you subject to the Terms.

We are not obliged to accept any orders from you.

2. Delivery

The times quoted for delivery are estimates only and we accept no liability for failure or delay in delivery of products. You are not relieved of any obligation to accept or pay for products by reason of any delay in delivery. Products may be delivered by instalments at our discretion or where you have agreed to partial shipments.

You must examine the goods immediately after delivery. We shall not be liable for any misdelivery, shortage, defect or damage unless we receive details in writing within seven (7) days of the date of delivery of the products.

Our prices are shown exclusive of delivery costs unless specified on the quotation. Delivery and associated costs are payable in addition to the price of our product and must be paid by you at the same time as you pay for our product.

Any date for delivery of our product indicated by us is an estimated date for delivery only. We are under no liability for any loss or damage, however it arises, and you may not treat the relevant purchase order or these terms and conditions as terminated, if the product is not delivered by that date.

We may charge you storage, handling and re-delivery fees if you are unable to take delivery of our product at the time our product is delivered to you.

3. Risk and Insurance

At all times from the date of delivery, our product is at your risk of loss or damage and you are responsible for its safe custody. You must keep our product insured and promptly provide us with evidence of such insurance and its currency as and when requested by us from time to time.

4. Acceptance and Returns

You must inspect the products immediately upon receipt of delivery. You must report to us in writing any damage or incorrect supply which must be received by us within seven (7) days of receipt of delivery.

If you wish to return to us product which we have correctly supplied to order you must let us know within seven (7) days of the date of delivery. If we agree to the return of such product we may charge you a handling or re-stocking fee of between \$50.00 per product or 15% of the price of product returned plus any delivery costs. If we accept the return of product which was specifically produced to your specifications or has been damaged or altered by you, we will not credit you with the price paid for it.

If you have a dispute with us, you must notify our credit department in writing of your dispute prior to the due date of your payment for our product. You may not set off against or deduct from the price of product you have ordered from us any money you claim we owe you.

You agree that you shall make no claim against us for any delay in delivery or any damaged product delivered to you as a direct or indirect result of events beyond our control.

We reserve the right, subject to the extent permitted by statute, to refuse any claim you make if not made in accordance with the Terms.

5. Limitation of Liability

We shall not be responsible for any loss or damage howsoever caused to the property or person of yours or any third party as a result of any defect in the products whether patent or latent, and you indemnify us against any claims made against it by any third party arising out of any such defects.

6. Warranty

We make no warranty in relation to the products or services other than as contained in these Terms or as prescribed by a law which cannot be excluded or, in the case of products, as provided by the products’ respective manufacturers. Defects in services which are reported to us within 30 days of delivery of the service will be rectified by us at no charge to you. We will not provide claimed warranty services for defects or deficiencies in products or services which are caused by:

- a) external causes including natural disaster, fire, accident, neglect, misuse, vandalism, water, lightning, power surge or spike;
- b) the use of a product for other than its intended purpose;
- c) the use with or connection of a product to items not approved by us or the manufacturer;
- d) the performance of maintenance or attempted repair by persons other than us or as authorised by us;
- e) any configuration or reconfiguration by you.

Products validly returned will only be credited to your account if they are returned in the same condition as delivered to you and if received by us within 21 days from delivery.

7. Payment

If you have a pre-approved account limit with us, our terms are strictly 30 days from the date of invoice. If you do not have a pre-approved account limit, payment in advance by cash, cheque, EFT or credit card is required and must be paid within 48 hours of placing an order (failing which, we will be entitled to cancel the order without notice to you). Payments by cheque will not be considered received by us until the cheque is cleared by our bank. If any payment by you is dishonoured, you must pay us an additional account processing fee of \$40.00.

These terms of payment also apply to any work we perform or service we provided to you on request which is separate from your purchase of product.

8. Credit Card Fees

An account processing fee will be charged, unless otherwise agreed, for payments made by credit card, up to 1.5% for payments made by credit card. Maximum credit card transaction limit is AUD 10,000 inclusive of GST and only Visa or Mastercard is accepted.

9. Account Limit

We allow you to purchase and continue to purchase our product as long as the total of your account does not exceed your pre-approved account limit (if any) and you have provided us with three (3) satisfactory written trade references and/or a satisfactory trade or status report from a credit rating agency acceptable to us.

We may require fresh references/reports from time to time and additional information if you apply to increase your account limit.

If we perform work or provide a service to you separate from your purchase of product, our fee for providing such work or service is added to your account.

You agree that you will, if we request, also provide us further supporting documentation which may include (but is not limited to) any or all of the following:

- a) evidence that you have been incorporated for at least 12 months; and
- b) a copy of your Financial Statements (which must not be more than 12 months old).

In no circumstances are we obliged to accept any application for an increase in the limit of your account and we are not obliged to give you reasons for our decision.

If any account is not settled within our trading terms, you agree that, in addition to any other right we may have, we may suspend all sales and delivery of our product to you or close your account with us.

You acknowledge that we may decline your application to purchase our products if we are advised by our insurers that they will not grant us appropriate cover in relation to you.

10. Default

On any past due invoice, we may, at our discretion, charge interest from the payment due date to the date of payment (at the annual percentage rate charged by our principal Australian bankers for overdraft facilities above \$100,000 plus 2%), plus reasonable legal fees on a solicitor/client basis and collection costs. You acknowledge that such interest and other costs is not a penalty, and is a true measure of damages. Payments received from you shall be credited first against any interest charges and all such fees and charges shall be payable on demand.

Any payment made by or on your behalf which is later avoided by the application of any Statutory Provision shall be deemed not to discharge your indebtedness and, in such an event the parties are to be restored to rights which each respectively would have had if the payment had not been made.

11. Personal Property Securities Act & Title

For the purposes of these terms and conditions, "PPSA" means the Personal Property Securities Act 2009 (Cth) as amended from time to time. Where a particular section or term existing or defined in the PPSA is used in this Agreement, it is deemed to be that section or term as used or defined in the PPSA as amended, renumbered or replaced from time to time.

You agree that these terms and conditions create a Purchase Money Security Interest ("PMSI") in the product (and their proceeds) supplied presently and in the future by us to you, in accordance with the PPSA.

You agree to do all things necessary and execute all documents reasonably required by us to register the PMSI granted by you under these terms and conditions and to ensure that we acquire a perfected security interest in the Product under the PPSA.

You agree to pay, upon demand, all of our costs in relation to or in connection with the registration of the PMSI or any other security interest and all other costs associated with protection and enforcement of the PMSI or any other security interest created by these terms and conditions or by undertaking an audit under the provisions of the PPSA, or the repossession of the Product the

subject of these terms and conditions or the exercise, enforcement or preservation of any right or interest under these terms and conditions or any contract that we have with you. This PMSI does not lose its priority as a result of the renewal, refinancing, consolidation or restructure of the subject matter of these terms and conditions and any purchase money obligations.

To the extent that Chapter 4 of the PPSA applies to any security interest under these terms and conditions, you waive your rights under the following provisions of the PPSA, to the maximum extent that it is permitted by law, to:

- a) s.95 (receive a notice of intention to remove an accession);
- b) s.96 (when a person with an interest in the whole may retain an accession);
- c) s.121(4) (receive a notice of enforcement action against liquid assets);
- d) s.125 (obligation to dispose of or retain collateral)
- e) s.130 (receive a notice of disposal)
- f) s.132(3)(d) (contents of statement of account after disposal)
- g) s.132(4) (statement of account if no disposal);
- h) s.142 (redemption of collateral);
- i) s.143 (reinstatement of security agreement);
- j) s.157(1) and 157(3) (receive any verification statement in relation to any registration event)
- k) s.127 (seizure by higher priority parties – notice);
- l) s.129(2) and (3) (disposal by purchase);
- m) s.132 (secured party to give statement of account);
- n) s.134(2) (proposal of secured party to retain collateral);
- o) s.135 (notice of retention of collateral);
- p) s.136(3), (4) and (5) (retaining collateral free of interest); and
- q) s.137 (persons entitled to notice may object to proposal).

To the extent permitted by the PPSA, these terms and conditions exclude any provisions of the PPSA which may be excluded in our discretion and which would otherwise confer rights on you.

You further agree that where we have rights in addition to those under Part 4 of the PPSA, those rights shall continue to apply.

Your right to possession of goods still owned by us under these terms and conditions shall cease if:

- r) you being an individual, commit an act of bankruptcy, or ,
- s) you being a company, circumstances arise where a receiver, manager, administrator or controller becomes entitled to take possession of any of your assets, any proceedings are instituted for your winding up, or you enter into a Deed of Company Arrangement, or
- t) you cease or threaten to cease conducting business in the normal manner or apply for deregistration or receive a deregistration notice, or
- u) any cheque you provide to us is dishonoured for payment, or
- v) you fail to comply with any demand for payment issued by us, or
- w) you breach any of the terms and conditions contained herein and/or are in default of any other agreement between us and you.

You agree that we are entitled to enter any premises where the product supplied by us and still unpaid for is located and to repossess, remove and sell such product. You agree to indemnify and keep us indemnified in respect of any claims, actions and costs that may arise against us in relation to the removal, repossession and sale of the product pursuant to these terms and conditions including any claims brought by third parties.

You agree that repossession and retention of the product pursuant to the PPSA will only satisfy so much of the monies which may become payable to us by you, as is equivalent to our estimation of the market value of the product as it is at the date of repossession and the repossession and retention will immediately extinguish any rights for interest you have on the product value of product recovered.

Until ownership of the product passes, you must not give us a written demand or allow any other person to give us a written

demand requiring us to register a financing change statement under the PPSA or enter into or allow any other person to enter into the personal property securities register a financing change statement under the PPSA.

You agree not to change your name or undertake any changes to any documents that we have registered, require to be registered or are capable of being registered without our prior written consent.

12. Intellectual Property Rights

These terms and conditions do not give you any intellectual property rights in our product. If we source, produce or manufacture any product samples or prototypes specifically for you, you do not acquire any intellectual property rights in such samples and prototypes.

Your details and information that you provide us about yourself may be retained by us on our database. You have no rights in that database. We may use such database in the conduct of our business, subject to privacy and other relevant laws.

We are not liable for any infringement or unauthorised use of any intellectual property rights arising from these terms and conditions. If any dispute or claim is made in respect of any infringement or unauthorised use of intellectual property rights we may terminate these terms and conditions by notice to you and without liability to you or any other person.

In these terms and conditions, intellectual property rights includes the full benefit of any rights in any copyright, trademark, registered design, patent, trade and business names, know-how, inventions, improvements, discoveries and confidential processes and includes without limitation artistic works, images, illustrations and photographs and any adaptation or concept relating to it.

13. Waiver

We do not waive any right, power, privilege or remedy because of any failure, delay, relaxation or indulgence on our part; nor does any single or partial exercise of any right, power, privilege or remedy preclude any other or further exercise of that or any other right, power, privilege or remedy. No waiver is valid or binding on us unless in writing, duly signed by one of our authorised officers.

14. Privacy

Our Privacy Policy is available on our website or upon request to us and forms part of these terms and conditions.

In accordance with the Privacy Policy, you agree that we may use or disclose information to third parties for the purpose of providing the product, providing information about product; sending information on our services; performing our administrative and marketing operations; complying with legislative and regulatory requirements or as otherwise permitted or authorised by law; considering any other application you may make to us; managing our rights and obligations in relation to external payment systems, e.g. credit card schemes and debit payment schemes; conducting market research or customer satisfaction research; developing, establishing and administering arrangements (including rewards programs) with other organisations in relation to the promotion, administration and use of our products; and developing and identifying products and services that may interest you.

15. Termination

If at any time you:

- a) default in any payment or breaches any of these terms;
- b) become unable to pay your debts as and when they fall due; or
- c) declare bankruptcy or, being a company, enter into liquidation or provisional liquidation whether compulsory or voluntary or compounds with your creditors generally or has a receiver or receiver manager or administrator appointed over all or part of your assets or passes a resolution for winding-up or a petition is presented for winding-up,

We may without prejudice to any of our rights or remedies under these terms or otherwise by notice to you:

- d) suspend further supply and require payment in advance for future supply;
- e) recover possession of any product for which payment has not been made;
- f) terminate all or any purchase orders for products or services which have been accepted;
- g) claim immediate payment of all moneys due in respect of all products and/or services which will then be immediately due and payable notwithstanding the due date or dates for payment or any terms agreed by us; and/or
- h) continue to enforce our rights and recover from the you such payments and any other amounts owing as and when they fall due.

16. Notices

All notices you and we give each other must be in writing and signed. A notice from us may be signed by any of our directors or solicitors. Notices must either be delivered by hand or sent by prepaid post. Notices must be given at our registered office (for us) or (for you), any address shown for you in anything you have supplied to us, or a changed address of which due notice has been given. Notices are deemed given on the day of delivery if delivered between 9am and 5pm on a day in which banks are open in Melbourne that is not a Saturday, Sunday or public holiday, or on the next such day following delivery if delivered at some other time, or two days after posting if given by prepaid post. Notices must not be given by facsimile.

17. Force Majeure

We shall not be liable for any failure or delay in supply or deliver of the goods where such failure or delay is wholly or partly due to any cause or circumstance whatsoever outside our reasonable control including, but not limited to, war, strikes, lockouts, industrial disputes or unrest, government restrictions or intervention, transport delays, fire, act of God, breakdown of plant, shortage of supplies or labour, storm or tempest, theft, vandalism, civil commotions or accidents of any kind.

18. No Representation

You acknowledge that we has not made any warranty or representation, express or implied, in relation to the products or the services, including whether they are suitable for a particular purpose (whether such purpose was made known to us or not), unless provided in writing.

19. Governing Law

These terms and conditions are governed by, and you agree to submit to, the laws applicable in the State of Victoria, Australia and the Commonwealth Personal Property Securities Act 2009 (PPSA).

20. Agreement and Variation

These terms and conditions form the entire agreement on which we are willing to trade with you and all or any previous agreements or understandings we may have had with you are superseded by these terms and conditions. We may vary these terms and conditions at any time by giving you notice whether in writing or in or by way of a general notification on our website. All transactions after the date specified in such notice will be subject to the altered terms and conditions. If you continue to trade with us after the date such alterations become effective you will be deemed to have agreed to the altered terms and conditions.

21. General

We may in our sole discretion assign, subcontract or sub licence any or all of our obligations under these terms and conditions from time to time.

Any time, indulgence, waiver or non-exercise by us of any of these terms and conditions shall not affect any of our rights under these terms and conditions nor shall it be deemed a waiver by us of any provision of these terms and conditions or subsequent breach of these terms and conditions.