

# TERMS AND CONDITIONS ARCHITREND SERVICES PTY/LTD ABN 13 232 332 879

These Terms and Conditions of sale shall apply to all sales made by the Seller and are deemed to be incorporated in any contract for sale of goods entered into by the Seller whether arising from an order received from the Buyer or resulting from a Quotation or arising from oral acceptance of request or further orders for the same or similar goods and shall terminate, cancel and supersede any previous written or oral agreements and understandings entered into between the Buyer and Seller.

## 1. Interpretation

In those conditions, unless the context otherwise requires:

- Buyer means the person or company named in the sales invoice or quotation and, in the case of an individual, his executors, administrators and assigns, and of a company its successors and assigns.
- Seller means Architrend Pty Ltd.
- Quotation means the form of quotation submitted by the Seller to the Buyer.
- Sales invoice means the document called adjustment note or tax invoice issued by the Seller to the Buyer.
- Any special condition set forth in the quotation shall be read and construed so as to vary these printed forms and conditions but only to the extent of any inconsistency.

## 2. Quotations

- A quotation given is not an offer. An order placed by the Buyer pursuant to a quotation is not binding on the Seller (including any purported variation to these Terms and Conditions of Sale contained in that Order) unless and until such order is accepted by the Seller.
- Prices in quotation on the Seller's price list are subject to change without notice.

## 3. Price and Taxes

- Any price appearing on packaging is a recommended price only. There is no obligation to comply with these recommendations.
- Goods and Services Tax (GST), if applicable, shall be to the Buyer's account. When added, GST is based on the rate and method of assessment ruling at the date of invoice.
- Between the date of order and delivery, if there is an increase in the cost to the Seller to supply the goods which is beyond the control of the Seller, then this shall be to the account of the Buyer.
- All prices are in Australian dollars, unless stated otherwise.
- This price list supersedes all previous price lists which should now be destroyed.

## 4. Delivery

### Victorian orders;

- Melbourne metro: \$10.00 net per 20kg.
- All other areas: \$18.00 net per 20kg.

### Express service;

- Melbourne metro 3 hour service: \$45.00 net per 20kg.
- Melbourne metro direct service: \$80.00 net per 20kg.

### Interstate orders for metropolitan areas of Australia and capital cities including Newcastle;

### Standard Service;

- \$18.00 net for all invoices under \$400.00 net.
- No freight charge if net invoice value is \$400 or greater.
- All other areas P.O.A.

### Express Service;

- Overnight air bag up to 3kg \$18.00 net.
- Overnight air bag up to 5kg \$33.00 net
- Overnight air service for 5kg plus \$10.00 net per kg.
- All other areas P.O.A.

### Back orders;

- Incur freight charges.

### International;

- All prices ex-factory.
- Door to door service available P.O.A.

## 5. Part Deliveries

Unless agreed to the contrary in writing, the Seller reserves the right to make part deliveries of any order. Failure to make delivery of the total order shall not invalidate the sale. Where delivery is affected by part delivering the goods, the seller shall be entitled to invoice the customer for the goods delivered.

## 6. Indemnity

The buyer shall be responsible for; and shall indemnify the Seller for; loss of or damage; to the goods from the time of delivery until paid for in full.

## 7. Retention of Title

All risk in the goods passes to the Buyer upon delivery. Property in the goods remains with the Seller until all debts owing to the Seller by the Buyer (including payment for the goods) has been made in full and notwithstanding any intermediate payment in settlement for any particular account. Until property of the goods passes to the Buyer, the Buyer possesses goods solely as bailee for the Seller and will store the goods separately from other items and will mark them so that they are clearly identifiable as the Seller's property. The Buyer as fiduciary may in the ordinary course of business, sell or deal with the goods and may, for that purpose, part with possession of the goods but only on the condition that the proceeds of any such sale or dealing will be kept separate from other funds and immediately applied in payment to the Seller.

The Buyer may process or incorporate the goods with any other property only on the condition that the Seller retains ownership of the product of such process or incorporation, that the product of such process or incorporation is stored separately and marked as mentioned above and that such product may, in the ordinary course of business, be sold but so that the proceeds of sale will be kept separate from other funds and immediately applied in payment to the Seller.

## 8. Cancellation of Order

- Unless expressly provided in writing the Buyer shall have not right to cancel any order.
- Without prejudice to any other rights the Seller may have, the Buyer shall indemnify the Seller for any loss, damage or expense incurred by the Seller should the Buyer cancel any order or part of an order.
- Custom and special products will incur a cancellation fee.

## 9. Dimensions, Minimum Orders and Other

- As the goods are the subject of continuous evaluation and improvement and the production methods subject to change, the Seller reserves the right to change without notice the construction, design, dimensions and performance date of the goods.
- A minimum order value of \$55.00 (GST inclusive) applies. Back-orders are exempt from this charge.
- Certain finishes which are applied to goods are protective coatings which may wear off. The Seller is not liable for any tarnishing or excessive wear of such finishes. Such tarnishing or excessive wear is not a defect in the goods and the Seller is not liable to accept the return of such goods under any warranty.

## 10. Warranty

- All implied conditions, warranties and undertakings other than those implied by Part V of the Trade Practices Act are expressly excluded,
- The Seller's liability pursuant to these Terms and Conditions or for breach of warranty whether express or implied shall be limited, at the Seller's option, to any one or more of the following: (i) the replacement of the goods or the supply of equivalent goods (ii) the repair of the goods; (iii) the repayment of the cost of replacing the goods or acquiring equivalent goods, but excluding the cost of fitting those goods; (iv) the payment of the reasonable cost of having the goods repaired.
- The Buyer expressly acknowledges and agrees - (i) that the Seller is not liable for any advice given by its agents or employees in relation to the suitability for any purpose of goods or materials supplied by the Seller and all such advice relied upon is at the Buyer's own risk; (ii) that the warranty contained in 10(a) or 10(b) applies only within Australia.

## 11. Acceptance/Returns

- The Buyer shall be deemed to have accepted the goods to be of a description, quality and quantity ordered unless particulars of a claim to the contrary

- An authority number for the return of goods must accompany all returns. Credits will be issued on the basis of inspection and acceptance by the Seller. The Seller reserves the right to impose a 30% handling charge on goods returned.
- Custom specials are not returnable under any circumstances and orders in respect of such shall not be cancelled by the Buyer.

## 12. Outside Interference

The Seller shall not be liable to the Buyer for any defect, loss, damage or delay caused by strikes, lock-outs, damage to or breakdown of plant, Government Interference, acts of God, earthquake, civil commotion, war, fire, force majeure or any other cause beyond the control of the Seller.

## 13. Terms of Payment

Payment for all goods purchased shall be net and be made within 30 days from the end of the month of the date of the Sale invoice. Payment is to be made by Electronic Funds Transfer, Cash or cheque. Accounts may be placed on stop supply without notice if payment is not received by the due date.

## 14. Account Clients

The Seller reserves the right to cancel or, at its option, suspend all trade facilities, discounts or rebates in the event that the Buyer fails to comply with these Terms and Conditions of Sale.

## 15. Non-Account Clients

Payment for all goods must be made in full prior to dispatch of order. A 30% deposit is required upon placement of order, which acknowledges confirmation of order and acceptance of items and conditions. Payments made by cheque require a three day clearance. dD also accepts payments by credit card and Eftpos, as well as direct bank deposit. All parcels will attract a freight charge. Couriers deliver during business hours and insurance is available upon request.

## 16. Default by Buyer

If the Buyer should default; then: Credit facilities may be withdrawn at the Seller's sole discretion, without notice. The Buyer agrees to pay all reasonable collection costs, including commission and legal charges, on all monies outstanding to the credit of the Buyer's account. An act of insolvency including Bankruptcy, Liquidation, Receivership or Administration is deemed to be a default under these terms.

## 17. Seller's Right to Charge Interest

In the event that the Buyer fails to make payment of any monies due under any invoice issued by the Seller within the due time for payment specified therein, the Buyer hereby agrees to pay interest at the rate equivalent to 90 day bank bills as published by the Australian Financial Review on the due date plus one (1) percent calculated and charged on daily rates from the due date until payment is made in full.

## 18. Credit Enquiries

The Buyer acknowledges and agrees that if the Seller considers it relevant to assessing any application for credit sought or extended or collecting overdue payments, subject always to the provisions of the Privacy Act 1988, the Seller may obtain from or provide to a credit reporting agency, another credit provider or other authorized party, a report containing personal information or personal consumer credit information of the type permitted by law and may use such information in any purpose allowed by law.

## 19. Applicable Law

The contract shall in all respects be construed in accordance with the laws in force from time to time in the State of Victoria and the parties agree to submit themselves to the Courts of the State of Victoria. The clause headings shall not effect the construction. If any of the provisions are found to be unlawful or invalid under any applicable statute or rule of law, they are to that extent deemed omitted.

## 20. Credit Limit

If Architrend grants any credit facility or nominates a credit limit, this is an indication only of its intention at the time. Architrend can vary or