

TRADING TERMS AND CONDITIONS

1. DEFINITION AND APPLICABILITY

- 1.1. In these terms unless inconsistent with the context "Goods" means all goods, equipment, wares, merchandise and chattels of whatsoever nature supplied or to be supplied by the Supplier to or at the request of the Customer.
- 1.2. The terms "Supplier" and "Customer" shall include their respective personal representative and successors in title and if more than one person be included in the term Customer then the obligations and their part shall bind them jointly and each of them severally.
- 1.3. The supplier may vary these terms by notice in writing to the Customer.
- 1.4. These terms prevail over any consistent terms contained in any documents of the Customer.
- 1.5. Any agreement for sale of Goods by the Supplier is subject to these terms.
- 1.6. If the Customer places an order, accepts delivery of the Goods or makes any payment or otherwise performs any of these terms, the Customer will be taken to have accepted these terms.

2. TERMS OF PAYMENT

- 2.1. Invoices will be sent to the Customer and payment of the amount outstanding as shown on the invoice shall be made by the Customer, within the terms or agreed account status.
 - (a) Mardo Account customers – 30 days from End of Month.
 - (b) CBD customers – Payment prior to Delivery.
- 2.2. All moneys shall become immediately due and payable to the Supplier without the necessity of the Supplier making any demands or serving any notice if:
 - (a) Default is made in the payment of any moneys in accordance with 2.1 above;
 - (b) Any particulars completed in the credit application form are incorrect;
 - (c) The Supplier is not notified within 14 days of any change of particulars completed in the credit application form;
 - (d) Default is made in the observance and performance of any of the obligations set out on any credit application form or in these terms of supply on the part of the Customer required to be observed and performed;
 - (e) Any action is taken for the winding up of the Customer or the appointment of a receiver or receiver manager or entering any arrangement or composition with any of the customer's creditors or for placing the Customer under administration or the Customer is unable to pay its debts as they fall due or otherwise commits any act of bankruptcy.
- 2.3. If any moneys remain unpaid after falling due for payment or if by reason of any default all moneys become due and payable then interest at the Suppliers current bank overdraft interest rate shall be charged on a daily basis on such moneys owing from the due date for payment or the date of default until payment.
- 2.4. The Customer shall reimburse the Supplier and shall indemnify the Supplier in respect of all claims, costs and expenses incurred or payable by the Supplier either arising from or incidental to any breach by the customer of its obligations under these terms, or under the terms of any credit application by the Customer, in recovering any outstanding moneys owing including without limiting the generality of the foregoing all solicitors and debt collection agency fees charged to the Supplier.
- 2.5. The certificate of the Supplier or an authorised officer of the Supplier as to the moneys owing by the Customer to the Supplier at any time shall be conclusive evidence of the facts stated in that certificate.
- 2.6. All Credit Card payments will incur a Surcharge of 2% for all Visa & MasterCard and 3% for Diners & American Express Cards.

3. UNCOLLECTED GOODS

Should the Customer provide the Supplier with any goods in the course of the Supplier supplying services to the Customer and the Customer fails to take redelivery of those goods within 60 days of the Suppliers invoice as to completion of those services then the Supplier may offer the Customers goods for sale by auction or otherwise without further notice to the Customer and the Supplier may apply the proceeds of sale, firstly towards payment of all costs and expenses incurred on such sale and, secondly in reduction of the Customers account, and all surplus moneys (if any) then remaining shall be forwarded to the Customer.

4. TITLE TO THE GOODS

- 4.1. The Customer acknowledges that the Goods shall remain the property of the Supplier until the earlier of the date upon which the Supplier has received payment of all amounts owing to the Supplier on any account whatsoever. Notwithstanding the foregoing risk in and to the Goods shall pass to the Customer on delivery. The Customer shall not hold the goods as trustee for the Supplier until title passes to the Customer and shall ensure that the Goods are kept in a good and serviceable condition, secure from the risk of damage or theft and fully insured against such risk as is usual or common to insure against in businesses of a similar nature to that carried on by the Customer. Until title passes to the Customer, the Customer shall not charge, mortgage, assign, transfer or otherwise deal with the Goods or its right to Services other than in the ordinary course of business of the Customer.
- 4.2. In addition to the Supplier's other rights and remedies, in the event that the Customer shall be in default of its obligations under these terms, then the Supplier may at its discretion at any time and without giving any notice, retake possession of the Goods and for such purpose the Customer hereby irrevocably authorises the Supplier and all persons authorised by the Supplier in that behalf to enter the premises upon which the Goods are located for the purpose of so retaking possession of the same and the Customer indemnifies and agrees to keep the Supplier indemnified for all costs, losses, damages and other expenses incurred by the Supplier or any other party of the Supplier. The value of all goods retaken by the Supplier under the provisions of this clause shall be assessed by the Supplier (whose decision shall be conclusive) and the Customer shall be liable to the Supplier as and by way of liquidated damages for the difference between the purchase price payable by the Customer to the Supplier for the Goods and the assessed value of the Goods so retaken as aforesaid but after credit has been granted for the purchase price (if any) paid by the Customer for those Goods. The Supplier shall be entitled to sell the Goods retaken or otherwise dispose of them in its discretion.

5. WARRANTIES BY CUSTOMER

The Customer warrants:

- 5.1. That the information contained in any credit application form is true, correct and accurate and is intended to be relied upon by the Supplier to induce the Supplier to grant the aforementioned credit facilities.
- 5.2. That there is no other material circumstance or event that if known by the Supplier would be likely to affect any consideration by the Supplier as to whether or not to grant or amend any credit facilities.

6. SECURITY

- 6.1. As and by way of security to the Supplier for any moneys owing the Customer hereby charges all that the right and interest of the Customer in and to the premises upon which the Goods may from time to time be situated or the Services may from time to time be carried out, and all other real property now registered or at any time hereafter registered in the name of the Customer or to which the Customer is or may become entitled.
- 6.2. At the request of the Supplier the Customer shall execute such mortgages or other securities (containing such terms and conditions as the solicitors for the Supplier shall consider desirable for the protection of the interest of the Supplier under these terms) to better secure to the supplier as against the property mentioned in sub-clause (1) any moneys owing.
- 6.3. The customer authorises the Supplier (at the expense of the Customer) to register a caveat over any property mentioned in sub-clause (a) to better secure to the Supplier the charge contained in this clause.

7. TRUSTEES

Where the Customer is or becomes a trustee then as such trustee he agrees to be liable on the Customer's account and further agrees that:

- (a) The assets of the trust shall be available to meet the payment of the Goods; and
- (b) The trustee and/or the beneficiaries of the trust may be required to enter into a formal guarantee of payment by the Customer for the Goods.

8. JURISDICTION

This agreement shall be interpreted, construed, enforced and governed by the laws of Western Australia irrespective of where the goods or services are supplied in Australia.

9. REFUND POLICY

- 9.1. No claim for refund of the price paid for faulty goods allowed after 28 days from receipt of Goods, except as required by law.
- 9.2. Products must be returned within seven (7) days of credit being authorized.
- 9.3. No liability for faulty Goods will be accepted until the Goods have been inspected by a Mardo Representative, and that representative has determined that the Goods were faulty.
- 9.4. Replacement of faulty Goods will be invoiced to the Customer, when conditions in subsection 9.3 have been fulfilled a refund will be issued for the purchase price paid for the faulty Goods.
- 9.5. A copy of the Invoice on which Goods were originally supplied must be attached to the credit document and sent to Head Office before any refund is issued.
- 9.6. Any stock returned to Mardo that is not faulty (ie incorrectly ordered, overstocked etc) will not be received back by Mardo unless at the discretion of the National Manager only. The application must be made in writing; if accepted it will attract a 20% restocking fee. The cost of returned freight will be at the discretion of the National Manager.
- 9.7. No refund will be given on cut fabric. It is the Customers responsibility to check the fabric for faults.

10. ORDERING

- 10.1. All orders must be ordered on the Mardo official order form. This can be faxed or emailed to the Mardo office nominated, quoting your ABN. Order forms are downloadable from www.mardo.com.au.
- 10.2. Under no circumstances will verbal telephone orders be accepted.
- 10.3. Pricing is exclusive of GST. GST will be applied all taxable supplies.
- 10.4. All Goods ordered by the Customer will be supplied in full packs only.

11. FREIGHT AND DELIVERY

- 11.1. Goods to the value greater than \$300 (or by previous arrangement) shall be delivered free into store by the Supplier, otherwise freight will be charged by the Supplier.
- 11.2. Delivery times which the Supplier makes known to the customer are estimate only. The Supplier shall not be liable to the Customer for any loss or damage (including any consequential loss or damage) arising from late delivery.
- 11.3. The Supplier may delay or cancel delivery or reduce the amount delivered if the Supplier is delayed in delivering the Goods through circumstances beyond its reasonable control (including but not limited to strikes, block outs, accidents, war, fire, flood, explosion, shortage of power, breakdown of plant or machinery, shortage of raw materials from normal source of supply, act of God or any order or direction of any local State or Federal Government, Government authority or instrumentality).
- 11.4. The Supplier shall not be liable for any loss or damage or deterioration of the Goods after dispatch from the Suppliers premises even if transport is arranged by Supplier.

12. LIMITATION OF LIABILITY AND INDEMNITY

- 12.1. The Supplier expressly excludes all warranties, conditions, liabilities or representations as to the quality of fitness of the Goods and services or the correctness of Information, advice or other services concerning the Goods and Services or otherwise. Any rights which by law cannot be excluded, restricted or modified ("non-excludable rights") are not affected.
- 12.2. The liability of the Supplier and its employees or agents for a breach of any of the nonexcludable rights referred to in clause 12(a) or any express warranty is limited under this clause. The limitation applies to the extent permitted by law. Liability is limited, at the Supplier's discretion, to:
 - (a) The replacement of the Goods or Services or the supply of equivalent Goods or Services;
 - or
 - (b) The payment of the costs of replacing the Goods or Services or of acquiring equivalent goods or services.

12.3. The Customer indemnifies the Supplier from all liabilities, losses, damages, costs or expenses directly or indirectly incurred or suffered by the Supplier of any of the followings:

- (a) The Supplier complying with any instructions of the Customer about the Goods;
- (b) The Customer's failure to:
 - (i) ensure that any safety markings on the Goods are adequately displayed;
 - (ii) take any other reasonable precautions either to bring to the attention of any potential users of the Goods any dangers associated with Goods, or to detect any matters in relation to which the Supplier may become liable, including, without limitation, liability under part VA of the Trade Practices Act; or
 - (iii) comply with any laws, rules, standards or regulations applicable in relation to the Goods or the use of the Goods;

12.4. The Customer making any statement about the Goods or their performance or characteristics without the Suppliers approval; or

12.5. Any other negligence or other breach of duty by the Customer.

13. DEDUCTION AUTHORITY

Where the Customer is in default of payment to the Supplier and where the Customer shall at any time be entitled to recover or receive moneys from any person or company the Supplier shall be entitled to demand, sue for, recover and receive such moneys from that other person or company and the customer hereby appoints the Supplier as its attorney for the duration of this agreement with the full power to take such action. Upon receipt of the moneys the Supplier shall be entitled to deduct the equivalent of all reasonable costs incurred by the Supplier in the recovery of the same and all moneys and interest then outstanding on the Customers account with the Supplier. All moneys left over after such deduction shall be remitted to the Customer without further deduction.

14. CHILD SAFETY

14.1. Customers of the Supplier must comply with the applicable Federal/State legislation in regard to the installation of Curtain & Blind Cord Safety Devices. Offenders caught may be prosecuted and/or made to pay heavy fines for non compliance to this legislation. It is imperative that Customers seek further clarification, and/or information on its legal obligations when installing window coverings with regard to Curtain & Blind Cord Safety.

15. GENERAL

15.1. If the Supplier does not insist on strict performance of any provision of these Terms the Supplier will not be taken to have waived its rights to later require strict performance.

15.2. Any provision of these Terms which is invalid or unenforceable in any jurisdiction is to be read down, if possible, so as to be valid and enforceable or severed to the extent of the invalidity or un-enforceability. The remaining provisions will not be affected.