



TERMS AND CONDITIONS OF SALE

These are the entire Terms and Conditions of Sale of all goods merchandise and services (the goods) supplied by New Eye Company Pty Ltd (ABN 42 144963235) (ACN 144063235) (referred to as "New Eye Company"). To any person, firm or company placing an order with New Eye Company for the purchase of any goods /the Customer}. Except as otherwise expressly agreed upon writing between a duly authorized officer of New Eye Company 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 any Customer.

GENERAL:

1. No quotation by New Eye Company shall constitute an offer.
2. All orders placed with New Eye Company shall only be accepted subject to these Terms and Conditions. New Eye Company may at any time, and from time to time alter these Terms and Conditions of Sale and Such altered Terms and Conditions of Sale shall apply after notification by New Eye Company to the Customer.
3. If a Customer cancels or alters an order or part order for special goods or standard goods with special materials at any time after New Eye Company has received the order then New Eye Company reserves the right to charge to the Customer the costs of any special goods or materials already acquired for the order together with the cost of any labor and tooling expended to the date of such cancellation or alterations.
4. Goods and Services Tax ("GST") Sales Tax or any other applicable tax or duty payable shall be paid by or reimbursed by the Customer to New Eye Company on demand and the Customer shall indemnify and keep indemnified New Eye Company in respect of all taxes and duties including GST arising out of any sale of goods or the subsequent use of Goods after the sale to the Customer.

PRICES:

5. All prices shall be those referred to in New Eye Companies price list current at the date of dispatch of the goods. Prices shall be subject to change without notice.

TERMS OF PAYMENT:

6. The granting of credit to a Customer shall be at the absolute discretion of New Eye Company and unless otherwise demanded by New Eye Company the Customer shall make payment of all amounts payable within thirty days after the end of the month of delivery. Customers shall not be entitled to withhold payment of any account by reason of any account query, dispute or set off. The Customer agrees to pay New Eye Company Administration and Handling fees in respect of any copies of documents required or other processing involved in the conduct of the account and such fees will be charged to the Customer's account. Customers having overdue accounts will be precluded from participating in any special deals, discounts, bonus payments, redemptions, rebates and all other incentive programs until their accounts are no longer overdue. If the Customer fails to make payment in accordance with Clause 6, New Eye Company shall be entitled to: Require the payment of cash upon delivery of any further goods; Charge an interest charge at the rate of one point seven five per cent (1.75%) per month on a cumulative basis on all overdue amounts including late payment charges and amounts other than the price calculated on a day to day basis on any monies due but unpaid, such interest charge to be computed from the due date for *payment* and the parties agree that such interest charge is not a penalty but is a true measure of damages incurred by New Eye Company. Payments received from the Customer will be credited first against any interest charge and all such fees shall be payable on demand. Claim from the Customer all costs, expenses and charges incurred on any account whatsoever including but not limited to any action taken by New Eye Company to recover monies or goods due from the Customer including but not limited to any mercantile agents costs and legal costs and disbursements on a solicitor-client basis; and Cease any further deliveries to the Customer and to terminate any agreement in relation to goods that have not been delivered.

DELIVERY:

7. Any date or time quoted for delivery is an estimate only and New Eye Company shall endeavor to effect delivery at the time or times required by the customer but failure to do so shall not confer any right of cancellation or refusal of delivery on the Customer or render New Eye Company liable for any loss or damages directly or indirectly sustained by the Customer as a result thereof.
8. The Customer shall not be relieved of any obligation to accept or pay for goods by reason of any delay in delivery or any strike, lockout, unavailability of materials, accidents to machinery, differences with workmen, breakdowns, shortages of supplies or labor, fires, hoods, storm or tempest, transport delays, acts of God, restrictions or interventions imposed by any laws, regulations, government or agencies thereof and any other cause beyond the control of New Eye Company or any other cause whatsoever.

9. New Eye Company's obligation to deliver shall be discharged on arrival of the goods at the Customer's nominated delivery destination, nominated Transport Company, nominated agent or the address appearing on the invoice. The Customer shall unload the goods upon delivery, provided that if the Customer is unable or unwilling to accept physical delivery of the goods when the goods are ready for delivery. New Eye Company shall be entitled to charge a fee for any delay experienced or arrange for the storage of the goods at risk and cost of the Customer including all transportation, storage and other consequential costs. New Eye Company may, at its discretion, make and invoice partial deliveries and each partial delivery shall be a separate sale pursuant to these Terms and Conditions of sale.

INSPECTION:

- 10: The Customer shall examine the goods immediately after delivery and New Eye Company shall not be liable for any miss delivery, shortage, defect or damage unless New Eye Company receives details in writing within seven (7) days of the date of delivery of the goods. New Eye Company and the Customer agree that the failure by the Customer to advise New Eye Company in writing as referred to in this clause shall be deemed to be the Customer acceptance of the goods as satisfactory in all respects and the Customer will have no further claim on New Eye Company.

PROPERTY AND RISK:

11. Not with standing delivery of the goods or their installation, property in any given goods shall remain with New Eye Company until the Customer has paid and discharged any and all other indebtedness to New Eye Company on any account whatsoever, including all applicable GST and other taxes, levies and duties. Any payment made by or on behalf of a Customer which is later avoided by the application of any Statutory Provision shall be deemed not to discharge the Customer's indebtedness and, in such an event the parties are to be restored to rights which each receptively would have had if the payment had not been made. The risk in the goods shall pass to the Customer upon delivery as referred in clause 10. The Customer acknowledges that it is in possession of the goods solely as a bailey for New Eye Company until payment as defined in clause 6 has been made in full to New Eye Company and until such payment: The Customer shall be fully responsible for any loss or damage to all goods whatsoever and howsoever caused following delivery; and the Customer shall store the goods separately from its own goods and those of any other party and in a manner which clearly identifies the goods, whether as separate chattels or as components, as the property of New Eye Company. The Customer shall maintain records of goods owned by New Eye Company identifying them as New Eye Company's property, of the person to whom the goods are sold or disposed to and of the payments made by such persons for such goods. The Customer shall allow New Eye Company to inspect these records and the goods themselves on request. The Customer hereby irrevocably grants to New Eye Company its agents and servants, an unrestricted right and license, without notice to enter premises occupied by the Customer to identify and remove any of the goods the property of New Eye Company in accordance with the Terms and Conditions of Sale without in any way being liable to the Customer or any person claiming though the Customer. New Eye Company shall have the right to sell or dispose of any such goods Removed or otherwise in its sole discretion and shall not be liable for any loss accessioned thereby.
12. New Eye Company licenses the Customer to install the goods. If the goods are affixed to other materials, the totality there of shall be the sale and exclusive property of New Eye Company until payment as defined in clause 6 has been made in full to New Eye Company unless the other materials or part there of are or is the property of a party or parties other than the Customer in which case the totality there of shall be deemed to be owned as tenants in common with such other party or parties in shares corresponding to the respective amounts paid or payable by the Customer in respect of such other party or parties.
13. The Customer shall be at liberty to agree to sell the goods (independently or affixed to other materials) subject to the condition that until payment has been made in accordance with clause 6, the Customer shall sell as an agent for New Eye Company and that the entire process from the sale there of shall be held in a separate account on trust for New Eye Company.
13. The right to on-sell, deal or otherwise dispose of the goods in the normal course of trade may be revoked at any time by New Eye Company and shall automatically cease if a Receiver is appointed over any of the assets on the undertaking of the Customer or if a winding up order is made against the Customer or if the Customer goes into voluntary liquidation (Otherwise than for the purpose of reconstruction or amalgamation) or administration or calls a meeting of, or makes any arrangement or composition with, creditors or commits any act of bankruptcy or where the Customer is in default of any of its Obligations to New Eye Company.

WARRANTY:

14. Subject to payment in full being made as defined in clause 6, New Eye Company shall use its best endeavors to pass on to the Customer the benefit of any warranties or guarantees it receives in respect of goods or parts thereof supplied to the Customer.

LIMITATION OF LIABILITY:

15. These Terms and Conditions of Sale do not exclude, restrict or modify the application of any provisions of any Commonwealth, State or Territorial Law which by law cannot be excluded, restricted or modified.
16. Sale to Non-Consumers: **(I)** In case of goods supplied by New Eye Company to a Customer who is not a "consumer" (as defined in the Competition and Consumer Act 2010 (Qld) as amended from time to time ("The Act")), if the goods do not correspond with the description of them on the invoice or are defective, then provided that the goods are preserved intact and made available for inspection by a representative of New Eye Company and are returned to New Eye Company in the same order and condition as that in which they were delivered, New Eye Company shall at its option replace those goods or reimburse the Customer for the amount of the purchase price for them, but any claim in this respect must be made in writing seven (7) days of the date of the delivery of those goods. **(II)** Should the Customer seek indemnity from New Eye Company in respect of any claim by a consumer on the Customer as a result of a breach of condition or warranty implied by the Act in a contract for the supply of goods by the Customer to that consumer, sub-paragraph (I) will not apply and in respect of goods that are of a kind ordinarily acquired for personal, domestic or household use or consumption ("consumer goods") New Eye Company's liability is limited to indemnifying the Customer in accordance with the Act, limited to a liability to pay to the Customer an amount equal to the cost of replacing the goods or the cost of obtaining equivalent goods or the cost of having the goods repaired, whichever is the lesser amount. Sales to Consumers: In the case of goods supplied by New Eye Company to a Customer who is a consumer, to the extent that the goods are not consumer goods, the liability of New Eye Company to the Customer for breach of any warranty or condition (other than a warranty or condition implied by the Act) or for breach of any duty of care shall in all cases be limited, at the option of New Eye Company, to anyone or more of the replacement of the goods or the supply of equivalent goods, the repair of the goods or acquiring equivalent goods or the payment of the cost of having the product repaired. Except for those conditions and warranties implied by the Act or other sale of goods or consumer protection legislation which may not be excluded, the Customer agrees that: It has not relied on any inducement, representation or statement made by or on behalf of New Eye Company in purchasing the goods and there are no implied conditions or warranties herein and no collateral contracts in connection herewith (except such as may be in writing and signed by a duly authorized Representative of New Eye Company); and This clause sets out the entire liability of New Eye Company in respect of its liability under the Act or otherwise in respect of liabilities to a consumer for a breach of a condition or warranty with respect to the sale of goods or goods. In no circumstances will New Eye Company incur any liability in respect of or arising out of or connection with any special, consequential, direct or indirect loss, damage, harm or injury suffered or incurred by the Customer.

FORCE MAJEURE:

16. New Eye Company shall not be liable for any failure or delay in supply or delivery of the goods where such failure or delay is wholly or partly due to any cause or circumstance whatsoever outside the reasonable control of New Eye Company including, but not limited to, war, acts of terrorism, strikes, lockouts, industrial disputes or unrest, government restrictions or intervention, Transport delays, fire, act of God, breakdown of plant shortage of supplies or labor, storm or tempest, theft, vandalism, riots, civil commotions or accidents of any kind.

TERMINATION:

17. If the Customer fails to comply with any of these Terms and Conditions or being a natural person or persons commits any act of bankruptcy, or being a corporation passes a resolution for winding up or liquidation (other than for the purpose of reorganization or reconstruction) or administration or enters into any composition or arrangement with creditors of if receiver or manager or administrator or controller is appointed for any property or assets of the Customer or becomes liable to be wound up by reason of insolvency or if any petition is presented for winding up, or if a liquidator or provisional liquidator or administrator as appointed, New Eye Company may, in addition to exercising all or any of its rights against the Customer, suspend any further deliveries and immediately recover possession of any goods not paid for in accordance with these Terms and Conditions.

RETURNS:

18. Other than in respect of New Eye Company's Obligations pursuant to clause 21 hereof New Eye Company shall not be liable to accept any returned goods but may at its absolute discretion accept the return of goods, provided that such goods shall only be accepted for return with the prior written approval of a duly authorized representative of New Eye Company. Goods returned for credit pursuant to this clause will be subject to a handling and administration charge equivalent to 20% of the invoiced value of the returned goods. Return freight and other expenses will be paid by the Customer and no returns of special goods will be accepted. Any returned goods must be accompanied with the relevant invoice numbers and/or a Goods Return Authority. Under no circumstances will returns be accepted for goods which are custom made or per prescription or specification or non-standard or made to special order, goods not in their original shape, form or condition, goods with broken seals or in opened or used containers or packages goods returned by other than the original Customer, goods expressly sold on a non-return basis, goods returned later than 60 days from delivery.

GOVERNING LAW:

19. The Customer agrees that these Terms and Conditions of Sale shall be construed according to the laws of the State or Territory as New Eye Company may in its sole discretion determine. Proceedings by either New Eye Company or the Customer may be instituted and/or continued in such State or Territory as New Eye Company may in its sole discretion determine. Failing such determination the Customer consents to any proceedings being instituted and heard by any appropriate Court sitting in the State of Queensland Australia applying the laws of the State of Queensland.

SERVICE OF DOCUMENTS:

20. The Customer agrees that service of any notices or Court documents may be effected by forwarding same by pre-paid or facsimile to the last known address of the Customer.

STATEMENT OF DEBT:

21. A Certificate signed by a Director, Secretary, Financial Controller or Credit Manager of New Eye Company shall be prima facie evidence of the amount of indebtedness of the Customer to New Eye Company at that time.