

Terms and Conditions of Sales

1. Your purchase of products from ACL Company Pty Ltd ABN 57 075 657 715 ("ACL") is subject to these Terms and Conditions of Sale ("Terms"). In these Terms, "we", "us" or "our" means ACL and "you" and "your" means the purchaser of products from ACL pursuant to these Terms.
2. **Contract** Review these Terms carefully as they constitute a contract between you and ACL and apply to all products purchased by you from us. If you do not agree with any of these Terms, you should not make a purchase. These Terms are subject to change, in our discretion. Any amendments to these Terms will take effect from publishing on ACL websites.
3. **Payment** (a) You must pay us within 30 days of the end of the month for which we give you an invoice, or within the period that we agree with you in writing from time to time. If we do not give you credit you must pay us, at our option, before or when we deliver to you. (b) You must pay a deposit for an order in the amount and at the time we ask. (c) You must pay us in immediately available funds, without set-off, counterclaim or any withholding and free and clear of and without deduction for any taxes. (d) You must pay us interest on all amounts not paid when due at 25% per annum from the due date up until the time of actual payment (whether before or after any judgment). We may capitalise interest monthly from the due date. (e) If any GST is payable in connection with a supply under these terms the amount payable for the supply is increased by the same amount of GST that is payable on the supply. (f) We will apply any money you pay us in the order we choose.
4. **Fees** You must pay us, when we ask any fees and charges, including but not limited to small order handling fees, freight administration fees, any return charges and credit cash administration fees, in the amounts and at the times we publish from time to time.
5. **Goods** We sell goods to you on the basis of the description we apply to them and no other description applies. You rely on your own knowledge, experience and testing in selecting the goods. You do not rely on our skill or judgment.
6. **Orders** You authorise your employees and agents to place orders for you. Each time you make an order you warrant that you are solvent and there are no circumstances which suggest that you may not be able to pay us on time. We may accept your orders in full, partially or we may reject them.
7. **Title and Personal Property Securities Act 2009 ('the Act')**: Until you pay us in full for the goods: (a) we retain full legal and equitable title in them; (b) you hold the goods for us as bailee or fiduciary and you must store them securely and separately from other items and mark them clearly as our goods; (c) you must not dispose of the goods or any interest in them or alter or use them in any manufacturing process; and (d) if you dispose of the goods, alter or use them in a manufacturing process, you must hold the proceeds of sale of the goods or the products they become, on trust for us and pay them to us when we ask. Possession of the goods supplied to you by us is transferred to you on the basis that we may retain a purchase money security interest pursuant to the Act in the goods and we may require the facilitation of a registered Financing Statement under the Act. You agree to execute any documents, provide all necessary information and do anything else required by us to ensure that the security interest constitutes a "Perfected Security Interest" as defined in the Act and which will have priority over all other security interests in the goods. You will, upon demand, pay all of our expenses and legal costs on a solicitor/client basis in or in connection with the registration of a financing statement or financing change statement relating to the security interest created by this agreement.
8. **Risk** Risk in the goods passes to you when they leave our warehouse. You are liable for their loss and must adequately insure them. If we ask you must give us evidence of their insurance.
9. **Delivery** We will deliver the goods you order to the Delivery Address or the other place you specify in writing at the time of ordering. The goods are taken to be delivered if we or our agent obtain a receipt or delivery docket signed by a person at the destination. If the destination is unattended we may deliver the goods by leaving them at the destination. If we give you a delivery time, it is an estimate only. We will attempt to achieve it, but we are not liable for any delay caused by ACL delivery or by a third-party.
10. **Faulty Goods** We will rectify our failure to deliver goods of the quantity or description you order if: (a) you notify our office of the failure within 14 days of our delivery giving us the details we request; (b) you have not cut or used the goods; and (c) you return the faulty goods to us promptly or when we ask.
11. **Our Liability** Unless these terms specify otherwise: (a) all warranties and implied terms are excluded, except if the exclusion would avoid this provision. If a warranty is not excluded, our obligation under it is limited, at our option to: (i) in the case of services, supplying the services again or paying the cost of having those services supplied again; and (ii) in the case of goods, replacing the goods or supplying equivalent goods or paying the cost of either, or repairing the goods; (b) we are not otherwise liable to you for any loss or damage in connection with our dealings with you. In no case are we liable to you for any indirect, consequential or special loss or damage including loss of income, profit or economic loss.
12. **Returns and Cancellations** You may only return goods unless we authorise the return in writing. You may not cancel an order unless we agree in writing. We will accept returns by way of credit note if: (a) you notify our office of the return within 14 days of our delivery; and (b) you have not open or used the goods; and (c) you return the goods to us promptly or when we ask. No return is allowed for custom products except for faulty products.
13. **Not Supply** We may at any time refuse to supply you with goods or services on credit or accept orders from you.
14. **Default** If you do not pay any amount when due or you otherwise breach a provision of these terms; you have an administrator, receiver or receiver and manager appointed to you or any of your property, a mortgagee takes possession of any of your property, any step is taken to wind you up, you enter into a compromise or arrangement with your creditors or any class of them, you cannot pay your debts when due or you commit an act of bankruptcy, you are liable to pay all amounts you owe us and we may: (a) terminate any contract with you; (b) require you to return to us any goods for which payment is not made; (c) without notice enter into any premises where the goods are stored and do all things necessary to retake possession of them; and (d) retain or sell the goods.
15. **Intellectual Property** You grant us the right to use the Intellectual Property relating to the goods (and the right to allow other persons to use it) to make the goods you order and if you do not pay for them on time, to market and sell them to other persons without recourse to us. You warrant that you have the right to have us make goods to the specification you order from us and to grant us these Intellectual Property rights. You will sign all documents we require to give effect to this clause. **Intellectual Property** includes trade marks, copyrights, know-how, and design.
16. **Indemnity** You must pay us, on demand any loss or damage we suffer or cost or expense we incur because: (a) you cancel an order or return any goods; (b) of your breach of these provisions; (c) you do not pay us on time; (d) of any action we need to take against you; or (e) of any claim that we have infringed any Intellectual Property in connection with the goods.
17. **Charge & Security** In this clause, property means: (i) prior to the Registration Commencement Date pursuant to the Act both real and personal property or (ii) real property after the Registration Commencement Date pursuant to the Act. You hereby charge in our favour all of its estate and interest in any property that it owns now or in the future with due payment to us of all monies owing or may become payable in accordance with this agreement. You irrevocably appoint us (from time to time) as its duly constituted attorney to execute in its name, any real property mortgage, bill of sale or consent to any caveat we may choose to lodge against real property that it may own in Australia to secure any amount advanced on credit, notwithstanding that such sum may not be due for payment. The Customer hereby charges in our favour all monies due and payable to the Customer under any contract held by it in respect of which the Customer purchased goods from us and here-by assigns all rights, powers and remedies conferred upon sub-contractors under any legislation or otherwise as if all monies due and owing by you to us were monies due and owing under the sub-contract. You undertake to disclose all charges or encumbrances granted over its property and agrees not to grant any further charges or encumbrances over its property without first obtaining our written consent.
18. **General** (a) Our records are conclusive about the amount you owe us. (b) Any certificate we or one of our employees sign showing the amount you owe us as at a time is conclusive. (c) You may not assign any of your rights under these terms. (d) We may add to or vary these terms, except in relation to the agreed price for ordered goods, at any time by giving you at least 7 days' notice. Any other change must be in a document signed by you and us. (e) A waiver is only effective if it is in writing. (f) If you are the trustee of a trust, you are liable to us personally as well as in your capacity as trustee. If you are a corporation, you must notify us when there is a change to your directors or a material change in your shareholders. (g) These terms are governed by New South Wales law and you are subject to the jurisdiction of its courts.