

1. PARTIES

Specular Pty Ltd (ACN 122 084 226) ("Specular") and the Customer.
All sales of goods and services by Specular are concluded on the following

2. PRICES AND PAYMENTS

(a) Special order items require a 25% deposit.

(b) Payment terms are payment on delivery. Products and pre-delivery Services will be invoiced at dispatch of the Products from Specular. Other Services will be invoiced on completion.

(c) All prices are subject to confirmation and may change prior to dispatch due to manufacturer or supplier price increases, exchange rate fluctuations, freight costs, taxes, duties or other circumstances beyond Specular's reasonable control.

(d) All Products are subject to availability and manufacturer or distributor allocation. Delivery dates are estimates only.

(e) A Customer's order constitutes an offer to purchase only. Specular accepts an order only when it confirms allocation of the Product or dispatches the Product. An order acknowledgement, tax invoice or payment receipt does not constitute acceptance.

(f) If a Product becomes unavailable, cannot be supplied within a reasonable time, or the manufacturer's or supplier's cost increases before Specular receives the Product into stock, Specular may:

- (i) cancel the order and refund any monies paid; or
 - (ii) offer the Customer the option to proceed at the revised price.
- (g) The following forms of payment are accepted:
- (i) electronic funds transfer (EFT) to account name: Specular Pty Ltd; BSB: 013 435; Account No: 4914 17686. Goods will be released upon receipt of cleared funds;
 - (ii) Credit Card: American Express, Visa and MasterCard only. A surcharge applies to card payments at the rate advised by Specular at the time of purchase;
 - (iii) Cash; or
 - (iv) Bank cheque.

3. CREDIT

Credit will not be provided without the completion and approval of a Credit Application. Credit limits may not be exceeded without Specular's written consent.

4. OVERDUE PAYMENTS

If any amount is not paid by the due date, the entire balance then outstanding shall immediately become due and payable without any notice. The Customer agrees that a service charge of 0.05% per day on overdue balances may be charged to the Customer's account at Specular's discretion.

5. COLLECTION CHARGES

(a) If Specular instructs its solicitors to collect an overdue amount all legal fees and collection charges and tracing agents fees as between solicitor and client shall be borne by the Customer.

(b) All payments made by the Customer shall firstly be allocated towards recovery fees and charges thereafter to interest and finally to reduction of the debt.

6. RECOVERY.

The Customer hereby consents to the jurisdiction of the Laws of Victoria for all actions, which may be instituted against it for the recovery of any amounts owing to Specular.

7. **GUARANTEE.** The Signatory/ies hereby binds himself/themselves jointly and severally as surety and co-principal debtor/s in with the Customer in favour of Specular, its order or assigns, for payment of any amount which is now or in the future becomes due or owing by the Customer to Specular.

8. RISK, TITLE AND THE PERSONAL PROPERTY SECURITIES ACT

(a) Products supplied by Specular to the Customer will be at the Customer's risk upon delivery to the Customer or into the Customer's custody (whichever is the sooner).

(b) Ownership of each unit of the products will remain with Specular until all amounts owing by the Customer to Specular (including without limitation the purchase price of the products and other debts between the Customer and Company) have been paid in full.

(c) If the Customer becomes insolvent or does not comply with any terms of this Agreement in relation to the payment of any amount owing to Specular or otherwise, then:

- (i) Immediately on Specular's request, the Customer must return any products acquired from Specular;
- (ii) Specular is irrevocably authorised to enter any premises (or where the products are stored) to recover possession of the products without liability for trespass or any resulting damage; and
- (iii) Specular may retain, sell or otherwise dispose of the products.

(d) If the Customer makes a payment to Specular at any time whether in connection with this Agreement or otherwise Specular may, at its absolute discretion, apply that payment to first satisfy obligations that are not secured, then obligations that are secured, but not by a purchase money security interest, in the order in which those obligations were incurred, and then obligations that are secured by a purchase money security interest in the order in which those obligations were incurred.

(e) If Chapter 4 of the Personal Property Securities Act 2009 (Cth) (PPSA) would otherwise apply to the enforcement of a security interest arising in connection with this Agreement the Customer agrees the following provisions of the PPSA will not apply to the enforcement of this Agreement:

- (i) section 95 (notice of removal of accession), to the extent that it requires Specular to give a notice to the Customer;
- (ii) section 96 (when a person with an interest in the whole may retain an accession);
- (iii) subsection 121(4) (enforcement of liquid assets – notice to grantor);
- (iv) section 125 (obligation to dispose of or retain collateral);
- (v) section 130 (notice of disposal), to the extent that it requires Specular to give a notice to the Customer;
- (vi) paragraph 132(3)(d) (contents of statement of account after disposal);
- (vii) subsection 132(4) (statement of account if no disposal);
- (viii) section 135 (notice of retention);
- (ix) section 142 (redemption of collateral); and
- (x) section 143 (reinstatement of security agreement).

(f) Notices or documents required or permitted to be given to Specular for the purposes of the PPSA must be given in accordance with the PPSA.

(g) The Customer consents to Specular effecting a registration on the PPSA register (in any manner Specular considers appropriate) in relation to any security interest contemplated by this Agreement and the Customer agrees to provide all assistance reasonably required to facilitate this. The Customer waives the right to receive notice of a verification statement in relation to any registration on the register.

9. GST COMPONENT PAYABLE

(a) In addition to any amount payable by the Customer by reference to the price (the "base consideration"), the Customer must pay to the Supplier an additional amount of consideration ("GST consideration") calculated by multiplying the GST Rate by the base consideration. The GST consideration is payable at the same time and subject to the same conditions as the base consideration.

(b) Any amounts payable under these Terms are inclusive of GST.

(c) If there is an adjustment in relation to a supply under this Agreement, which results in the amount of GST or a supply being different from the amount received in respect of GST recovered by a party, as appropriate, that party:

- (i) may recover from the recipient of the supply the amount by which the amount of GST on the supply exceeds the amount
 - (ii) must refund to the recipient of the supply the amount recovered exceeds the amount of GST on the supply.
- (d) Each party must do all things necessary so that it is registered for GST purposes by the date GST is first imposed.

(e) "GST" means the tax imposed by the GST law.

(f) "GST law" has the meaning attributed in the A New Tax System (Goods and Services Tax) Act 1999 (Cth).

(g) "GST Rate" is the percentage of the value of a Taxable Supply (as defined in the GST law) calculated as GST under the GST law.

10. AGREEMENT

The terms and conditions contained herein constitute the entire Agreement between the parties and no amendment or variation shall be of any force and effect unless to writing and signed by both Specular and the Customer.

11. GENERAL

No relaxation or indulgence granted by Specular to the Customer shall be deemed as a waiver of any rights of Specular in terms of this Agreement and such relaxation or indulgence shall not be deemed a variation of any terms and conditions of this Agreement.

12. LIMITATION OF LIABILITY

(a) Except to the extent:

- (i) that the exclusion, restriction or modification of certain conditions, warranties, liabilities and rights is prohibited by the Australian Consumer Law; and
- (ii) of any express warranty against defects, then:

(A) any conditions, warranties or rights implied to your benefit by legislation, conduct or common business practice are hereby excluded to the maximum extent permissible;

(B) Specular will not be liable for any defects or damage caused in whole or in part through our Supply by misuse, abuse, neglect, or accident;

(C) Specular will not be liable for any consequential or pure economic loss howsoever arising (including negligence); and

(D) Specular total maximum liability in relation to any Supply is the re-supply of that delivery again.

(b) Where any service is not of a kind ordinarily acquired for personal, domestic or household use or consumption, the Customer's remedy under Part 3-2 of the Australian Consumer Law is limited to the extent of section 64A.

13. SUPPLY

Specular agrees to supply the requested goods ("Products") and/or services ("Services") to the Customer only on these standard terms and conditions ("these Terms")

14. PURCHASE ORDERS

Only these Terms (not other terms and conditions which may be attached to or incorporated in a purchase order) form part of the agreement between the parties. Specular's acceptance of a purchase order will not be acceptance of any such terms or conditions.

15. WARRANTY

(a) Specular makes no warranty, or representation, express or implied 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 Specular within 7 days of delivery of the Service will be rectified by Specular at no charge to the Customer. Specular will not provide claimed warranty services for defects or deficiencies in Products or Services which are caused by:

- (i) external causes including natural disaster, fire, accident, neglect, misuse, vandalism, water, lightning, power surge or spike;
- (ii) the use of a Product for other than its intended purpose;
- (iii) the use with or connection of a Product to items not approved by Specular;
- (iv) the performance of maintenance or attempted repair by persons other than Specular or as authorised by Specular; or
- (v) any configuration or reconfiguration by the Customer.

(b) Products validly returned will only be credited to the Customer's account if they are returned in the same condition as delivered to the Customer and if received by Specular within 14 days from delivery. Special order items returned may incur a re-stocking fee.

16. INDEMNITY

The Customer will indemnify Specular against any loss, liabilities, expenses or costs arising from the Customer's breach of these Terms.

17. DELIVERY

(a) Specular will use its reasonable endeavours to deliver the Products and supply the Services by the date agreed but is not liable for any delays in delivery caused by matters beyond its control. Freight charges incurred by Specular in delivering Products to the Customer will be invoiced to the Customer at cost unless agreed otherwise.

(b) For Products which are to be collected, an email will be sent (and/or a telephone call made) to the Customer when the Products become available. Any orders not collected within 14 business days may be returned to stock, a re-stocking fee may apply.

18. ACCEPTANCE

Unless the Customer gives Specular, written notice of any aspect of a deliverable which is alleged by the Customer to be otherwise than in accordance with these Terms or any applicable specifications within 48 hours of the date of delivery of that deliverable, the Customer is deemed to have accepted that deliverable on delivery.

19. CONFIDENTIALITY

Specular and the Customer agree that they will keep at all times as strictly confidential any confidential information that is disclosed or provided by one party to the other. In this clause, "confidential information" means information in any form but does not include information that is already in the public domain at the time that it is disclosed or becomes part of the public domain otherwise than as a result of an unauthorised disclosure by Specular or the Customer.

20. INTELLECTUAL PROPERTY

The Customer acknowledges that all intellectual property rights attaching to the Products or arising out of the provision of Services are and will remain the property of Specular (or its supplier, where such rights are owned by that supplier). Software will be licensed to the Customer on the terms of the relevant licence agreement provided with the Products. Any rights to be conferred on Customer will only commence on payment of all charges payable in connection with those rights.

STANDARD TERMS AND CONDITIONS OF SALE

...continued

21. TERMINATION

(a) If the Customer:

- (i) makes default in any payment or breaches any of these Terms;
 - (ii) becomes unable to pay its debts as and when they fall due; or
 - (ii) commits an act of bankruptcy or, being a company, enters into liquidation or provisional liquidation whether compulsory or voluntary or compounds with its creditors generally or has a receiver or receiver manager or administrator appointed over all or part of its assets or passes a resolution for winding-up or a petition is presented for its winding-up, Specular may without prejudice to any of its rights or remedies under these Terms or otherwise by notice to the Customer:
 - (i) suspend further supply and require payment in advance for future supply;
 - (ii) recover possession of any Product for which payment has not been made;
 - (iii) terminate all or any purchase orders for Products or Services which have been accepted by Specular;
 - (iv) claim immediate payment of all moneys due by the Customer 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 Specular; and/or
 - (v) continue to enforce its rights and recover from the Customer such payments and any other amounts owing as and when they fall due.
-