

LOUVRECLAD GENERAL CONDITIONS

1 **We**, and similar expressions, refer to Louvreclad Pty Limited [ABN 39 163 928 194]. **You**, and similar expressions, refer to the entity placing an order with us. **Order Details** means the document to which these General Conditions are attached or incorporated by reference.

2 Our conditions always apply.

These trading conditions apply if we accept any order from you (whether for cash, or on credit). An accepted order is non-cancellable, subject to condition 13.

3 Not obliged to accept orders.

We are not obliged to accept any orders from you. If you do place an order with us, then these trading conditions become binding on you and us from the moment that we accept the order, even if we do not tell you that it has been accepted.

4 Our conditions overrule any other form.

These trading conditions prevail even if they are inconsistent with anything in any earlier or later order form or similar document provided by you.

5 Time for payment.

Payment for any goods supplied is due on delivery or, if credit terms are offered, in accordance with the Order Details.

6 Withdrawal of future credit.

You have no entitlement to credit unless in our sole discretion we extend credit to you. If in a particular case we give you credit we still reserve the right at any time and for any reason in our sole discretion to refuse to supply any goods or services to you and to refuse to supply any goods to you on credit terms.

7 Defaults.

If any amount you owe to us is not paid within 7 days of the due date then all of the monies that you owe us on any account become immediately due and payable. In that case, and also if at any time you default under any other agreement that we have with you, without limiting our other rights we may suspend the supply of any goods and defer or cancel any outstanding orders. Also, you must pay us interest on such overdue amounts, calculated on daily balances commencing from the due date for payment, at the rate of 15% per annum.

8 Prices and price variations.

We may increase any agreed sale price after we accept an order, to cover the full amount of any increases in GST or other taxes and duties such as customs duty, sales taxes, consumption taxes and stamp duty which we incur in connection with a transaction after the date of your order.

9 Installation.

Unless otherwise expressly agreed in writing, you must supply the following and hereby warrant the suitability of the site and existing works to receive the goods to be supplied pursuant to this agreement: 'FOR CONSTRUCTION' drawings

including all relevant revisions; current works program including sufficient time allowance for our work; clear access to work areas when required; all necessary craneage, safe lifting equipment and riggers as required; perimeter Scaffolding including hop-ups & adjustments as required to perform trade works safely; access equipment required to perform trade works safely; all necessary road closures and traffic control; 240V power supply at all times – 25 metres maximum distance from work area; site amenities, including toilets, water, site parking, lay down area, etc; roof edge protection, safety rails, barriers, fences, walkways as required for our works; prepared openings for louvres; finished substrates before installation commences; colour schedule; door hardware schedule; free-issue of all door hardware; warranting that the substructure is suitable for the installation method and that we will avoid any hidden construction joints, embedded steelwork, voids or other unsuitable support structure; all louvre openings to be clear of bolt heads, lugs and brackets. To the extent that you do not supply each of these, we may, at our election, defer delivery and/or installation of the goods until each of these items is supplied or else increase the price payable to us pursuant to this agreement by our cost of supplying the items not supplied.

10 Delivery.

Except as stated otherwise, prices include our standard packaging at our premises and delivery arrangements are by you at your cost. We are entitled to invoice you for alternative packaging or delivery arrangements. If we agree to arrange delivery elsewhere we will deliver any goods ordered by you at your cost. We may dispatch an order in one or more instalments. In that case you must pay separately for each instalment and each instalment becomes a separate contract. Non-delivery of one instalment does not affect the contracts for the other instalments that are delivered or are to be delivered. If part of an order of any goods is not collected or accepted by you for any reason we may place such goods or services in storage, including at or on our premises. You must pay us for all expenses incurred in relation to storing any goods not collected or accepted and in any case not less than the commercial value of the storage space occupied by the goods and also all costs incurred by us in connection with late

acceptance. You take all of the risk associated with the goods in all respects from the time of delivery or, if we store goods that are ready for delivery then from the time that we notify you that the goods are held in storage.

11 Our warranty.

We must repair or at our option, make a replacement available to you for any goods supplied by us if there is any material manufacturing defect in materials or workmanship provided you give notice to us in writing within 12 months after supply by us of the relevant product. The notice must state the warranty under which you are claiming and set out the facts that you consider have led to a breach of the warranty. You must bear the costs of making the claim. Our obligations under this warranty are limited to repair or the provision of a replacement and that is your sole remedy. Any costs incurred by you in substituting the defective product (including investigation and location of the defective product

and costs of any kind incurred in carrying out the substitution], are to be borne by you.

Statutory notice: consumer transactions. The following only applies if you are a deemed "consumer" under the Australian Consumer Law and may not apply in your particular case. In telling you the following, we do not vary or extend the remedies otherwise available to you.

Our goods come with guarantees that cannot be excluded under the Australian Consumer Law. You are entitled to a replacement or refund for a major failure and compensation for any other reasonably foreseeable loss or damage. You are also entitled to have the goods repaired or replaced if the goods fail to be of acceptable quality and the failure does not amount to a major failure.

12 Shortages and pre-delivery damage.

We will not be liable for any claim for a shortage in a delivery or for any item being delivered in a damaged state if the claim is not made within 7 days of delivery. When you sign any delivery or consignment note or similar document on receipt of a delivery, that is conclusive evidence that you received the delivery without any shortage or damage that would have been visible on taking delivery without unpacking the goods. You carry all risk of goods in transit where you arrange for carriage.

13 Limits on cancellation.

You do not have the automatic right to cancel an order or to return any goods for credit. This provision does not limit our warranty or the provisions of condition 21. We can never agree to vary from that position in the case of goods that are non-stock or produced to order, or for single items/cartons where the invoiced price was less than \$1,500, or more than 30 days after delivery. However, in other cases we deem special, we may on your request agree to you cancelling an order for, or the return of, goods. In that case you must pay a cancellation/re-stocking fee of 20% of the amount invoiced or that would be invoiced.

14 Full liability for injury and death.

We do not seek to exclude our legal liability [if any] for any death or personal injury which is caused by our negligence. However, even where we are liable for death or personal injury we are not liable for any associated Consequential Loss (as defined in condition 22). Also, we are not liable to the extent that something was caused or contributed to by your negligence or by the negligence of your contractors or agents or of any third party.

15 Sale by specification.

We offer our products by specification. You decide what purpose to use them or re-supply them for and you alone are responsible for determining your technical requirements. Also you alone are responsible for determining whether any product we supply is fit and suitable for your purpose although this does not limit any applicable consumer guarantee [if any, and subject to our other conditions]. Any performance figures we provide are approximations and only for general guidance: a particular performance figure, even after allowing an approximation tolerance, may not be obtainable continuously or in all circumstances. Dimensions and specifications are all subject to tolerances and are also subject to variations between similar items. You acknowledge that you do not rely on any

advice from or representation by us, any of our agents or a third party unless made in writing and signed by one of our directors.

16 Unexpected delay.

This condition applies if something happens which is beyond our reasonable control that makes it impossible, more difficult or more expensive for us to perform our obligations in our usual way. In those cases we may delay delivery or manufacture of goods until it is again possible for us to perform our obligations in our usual way without additional difficulty or expense, and we are not liable for any delay which results.

17 Estimated Lead times.

Lead times are estimates only and we are not liable for delays in delivery.

18 No other representations.

We rely on the following warranties from you as essential conditions. You have not relied on any representation made or implied by us or arising out of or implied by our conduct, nor upon any description, illustration or specification contained in any document produced by us, including any catalogue or publicity material, unless made in writing for the purposes of this transaction and signed by one of our directors. Nor have you relied on our skill and judgment in deciding whether, or what kind of goods, to purchase from us.

19 Manufacturer.

We will use our reasonable endeavours to obtain for you the benefit of any warranty from the manufacturer of any goods that we supply to you. This provision does not require us to commence legal proceedings or incur legal costs.

20 Exclusion of implied conditions.

All conditions, terms and warranties that are or might otherwise be implied by law, practice, trade usage or international convention, are excluded to the fullest extent permitted by law.

21 Australian Consumer Law.

Parts of the *Australian Consumer Law, Competition and Consumer Act 2010* [Cth], and other statutes in some cases either cannot be excluded, restricted or modified; or can only be restricted or modified to a limited extent. If any provisions of those types do apply, then to the extent permitted by law our liability under those provisions is limited as follows: Our liability is limited at our option – in the case of goods, to replacement of the goods or the supply of equivalent goods; or repair of the goods; or payment of the cost of replacing the goods or of acquiring equivalent goods; or payment of the cost of having the goods repaired; and in the case of services, to supplying the services again or the cost of having the services supplied again.

22 Limitation of liability.

Except as stated above, we are not liable for, and you do not rely on being able to claim against us for, any loss or damage or Consequential Loss (whether in contract or for negligence or any other tort or for breach of statutory, fiduciary or other

duty or on any other legal or equitable basis] in relation to the supply or non-supply of the goods or services to you or any order to supply goods or services or in relation to any representation or conduct before, under or in respect of any order, and whether or not the possibility or potential extent of the Consequential Loss was known or foreseeable and whether or not the act or conduct was authorised or required. Otherwise, our aggregate liability to you in respect of any losses that are not excluded in this condition 22 is limited to the price paid by you to us in respect of the goods giving rise to such liability. Without limiting the foregoing, we are not liable for, and you indemnify us against, any loss or damage arising from our compliance with an instruction or design given or prepared by or on your behalf, which is incompatible with any Australian Standard, Code or legislative requirement. **Consequential Loss** in these trading conditions means any loss of use, lost production, lost income or profits, loss of opportunity, lost savings, liquidated damages, delay or lost time, loss of or damage to goodwill, increased operating costs, increased financing costs, loss of or unavailability of or damage to property, claims made against you by others, losses or costs or expenses associated with identification, investigation, repair, replacement or servicing of any defective goods and any other economic loss or damage and any special, indirect or consequential loss or damage.

23 Variations in specifications.

We reserve the right to vary the specifications or performance criteria of any product from time to time and to obtain products from different sources, at our absolute discretion.

24 Personal information and privacy arrangements.

We may collect personal information in connection with our dealings with you. If so, we will abide by our privacy policy, a copy of which is available on request.

25 Governing Law.

Our agreement with you is governed by and is to be interpreted according to the laws in force in the jurisdiction identified in the Order Details to which these General Conditions are attached and you submit to the non-exclusive jurisdiction of the courts operating in that jurisdiction.

26 Security interests and ownership passing on payment.

Until you have paid the full price (including any associated charges), for all goods we have supplied (**Goods**), we remain the owner of the Goods. Until you become the owner of any Goods, we may enter into any premises or vehicle if we have reasonable grounds to expect that we may find any part of the Goods there. If you default in paying any part of the price or fee, or associated charges, in connection with an order or if you breach any of these conditions then we may re-take possession of all Goods. Until you become the owner of particular Goods, you must store those Goods separately from all other goods and in such a way as to allow the particular Goods to be identified and to allow them to be identified as ours and keep them fully insured against all usual risks of damage or loss at your expense. You must not do anything that makes any of the Goods a fixture to any land. The following further provisions apply in connection with the *Personal Properties Securities Act 2009* (the **PPSA**), to the extent if any that our interests are regulated security

interests. Terms used here that are defined in the PPSA have the same meaning as in the PPSA where the context permits. You acknowledge and agree that in each case we have a purchase money security interest attaching to the particular Goods

27 Notices.

All notices you and we give each other must be in writing and signed. A notice from us may be signed by any of our managers, directors or solicitors. Notices must be given at the address shown on the Order Details or a changed address of which due notice has been given. Notices are deemed given on the day of delivery if delivered between 9am and 5pm on a day that is not a Saturday, Sunday or public holiday in the jurisdiction identified in the Order Details or on the next such day following delivery if delivered at some other time, or two days after posting if given by prepaid post. Notices must not be given by facsimile. Notices delivered by email address to an email address identified in Order Details are deemed to be delivered when sent provided that the sender does not receive automated notification of delayed or unaffected delivery.

28 Trade Marks and IP Rights.

You do not acquire any right to any of our intellectual property. You must not incorporate any of our trade marks into your trademarks, company names, Internet addresses, domain names, or any other designations.

29 Publicity.

We may use your name, for the sole purpose of identifying you as our customer, in promotional materials, including press releases, presentations and customer references regarding the sale of any goods. You give us that permission free of charge for worldwide use in any medium. However, we will obtain your prior approval for publicity that contains quotes or endorsements attributed to you.

30 Assignment and Subcontractors.

We may, and you must not, assign any part or the whole of any right or benefit of any contract we have with you. We may choose to use one or more subcontractors to fulfil our obligations under any contract we have with you.

31 Quantity Take-offs.

We recommend you cross check & confirm our quantity take-offs.

32 Design.

Our prescribed design is subject to verification of your structural substrates adequacy. Changes in our design as result of verification of your substrate structural adequacy will result in additional charges for design, engineering and materials.