

TERMS AND CONDITIONS OF SALE

Diplomat Blades (Aust) Pty Ltd ABN 83 104 799 617 ("Diplomat") supplies Goods to you on, and subject to, the following terms and conditions.

1 DEFINITIONS AND INTERPRETATION

1.1 Definitions

In these Terms, unless the context otherwise requires, the following words shall have the following meanings:

- a. "Purchaser" means any person, corporation, association (incorporated or unincorporated), authority or other entity (howsoever formed) that has ordered Goods from Diplomat.
- b. "Business Day" means a day other than a weekend or public holiday in the State of Victoria.
- c. "Goods" means any items supplied by Diplomat to the Purchaser following the placement of a Purchase Order and includes an Customised Goods.
- d. "Customised Goods" mean any Goods which are, at the Purchaser's request, branded, embellished, printed, or modified specifically for the Purchaser.
- e. "GST" means goods and services tax (GST), charged as a sales percentage in Australia on the supply of relevant goods, services and other things.
- f. "Payment" means any amount payable in connection with Sales Invoice.
- g. "Purchase Price" means the price for any Goods or services rendered or to be rendered, exclusive of GST, applicable tax or duties, and any third party fees.
- h. "Purchase Order" means any order placed by the Purchaser to purchase Goods or services from Diplomat.
- i. "Quotation" means any cost estimate or price guide provided by Diplomat to the Purchaser for the supply of Goods.
- j. "Sales Invoice" means any sales invoice rendered by Diplomat to the Purchaser for Goods supplied following a Purchase Order.
- k. "Terms" means these Terms and Conditions of Sale (as may be varied from time to time).

1.2 Interpretation

- a) Terms referencing the singular shall include the plural (and vice versa).
- b) If any provision of these Terms is held to be invalid or unenforceable by any court of competent jurisdiction, the relevant provision shall be severed and, to the maximum extent possible, all other provisions of these Terms will remain in full force and effect.

2 APPLICATION OF TERMS

- a. Unless otherwise agreed in writing by Diplomat, all Purchase Orders are regulated by these Terms. If there is any inconsistency between these Terms and any other arrangement between Diplomat and the Purchaser, these Terms shall prevail.
- b. Nothing in these Terms shall operate to exclude or limit any rights the Purchaser may have at law, including under the Australian Consumer Law.

3 PRICE

- a) Diplomat is not bound by any Quotation and may increase the quoted cost of any Goods as a result of any increase to Diplomat in relation to the cost of supply, production and/or delivery of the Goods, costs associated with the introduction of any legislation, regulation or governmental policy, and the Purchaser agrees to pay the Purchase Price as stated in the Sales Invoice.
- b) No Purchase Order may be cancelled by the Purchaser without Diplomat's prior written approval.
- c) Any alteration to any price list for Goods supplied by Diplomat shall be effective from the date specified by Diplomat.

4 PAYMENT

- a) Payment to Diplomat for Goods is due and payable upon issue of a Sales Invoice by Diplomat.
- b) Credit applications may be granted by Diplomat, and suspended, varied or cancelled, in Diplomat's absolute discretion. Where Diplomat grants Purchaser credit, Payment shall be made within 30 days of the date the Goods are delivered to the Purchaser, unless otherwise specified by Diplomat.
- c) All Payments must be made by credit card, EFT, cheque, or bank deposit unless otherwise agreed in writing by Diplomat. Any Payments made by credit card may attract additional charges as specified by Diplomat from time to time.

5 INSPECTION AND ACCEPTANCE

- a) The Purchaser has two (2) Business Days from the date of delivery to inspect the Goods and advise Diplomat, in writing, if the Goods delivered do not meet the Sales Invoice or are otherwise defective or are not fit for purpose.
- b) In the absence of any such notice, and subject to any non excludable guarantees implied under the Australian Consumer Law, the Goods shall be deemed to have been delivered to and accepted by the Purchaser.

6 RETURNS

- a) Diplomat will only accept the return of any Goods where it must do so pursuant to any applicable law (including the Australia Consumer Law) or it agrees to do so, in its absolute discretion.
- b) Subject to any express requirement in the Australian Consumer Law, authorised returns must be freight prepaid by the Purchaser and will only be accepted if they are in a saleable condition (as determined by Diplomat) and, unless otherwise agreed with Diplomat, returned within 14 days of delivery to the Purchaser.
- c) If you wish to return goods because you have changed your mind (or for other reasons outside of your statutory rights) or incorrectly ordered, you may request return of goods for exchange or account credit subject to restocking fee of \$10 or 10% of the invoice value (whichever is the greater).
- d) The Purchaser shall not carry out any remedial work to allegedly defective Goods without first obtaining the written consent of Diplomat to do so.

7 GST:

- The parties agree that
- a) The Quotation and Purchase Price is exclusive of GST.
 - b) Diplomat and the Purchaser will comply with all regulatory and legislative obligations for calculating and paying any relevant amount of GST.
 - c) If any Payment, in whole or part is liable to GST, the Purchaser must pay to Diplomat an additional amount equal to the GST amount payable with that Payment.
 - d) Diplomat will provide with all Goods a tax invoice, stating the GST amount incurred on the supply.

8 SUPPLY

Diplomat reserves the right to suspend or discontinue the supply of Goods to the Purchaser and will notify the Purchaser as soon as practicable after the placement of a Purchase Order of the suspension or discontinued supply of any Goods.

9 DIMENSIONS, PERFORMANCE DESCRIPTIVE DETAILS DATA AND OTHER

- a) All specifications, dimensions and/or any other details given in a Quotation, descriptive literature or a catalogue may be subject to alteration by Diplomat without notice.
- b) Diplomat reserves the right to supply an alternative or substitute product that has characteristics that are materially consistent with the Goods at the time of order.

10 SHIPMENT AND DELIVERY

- a) If a Purchase Order is placed prior to 2pm on a given Business Day, Diplomat will endeavour to dispatch the ordered Goods prior to close of business that same Business Day. Any time stated by Diplomat for delivery of Goods is an estimate only and Diplomat will not be liable for any loss to the Purchaser as a result of any delay in delivery.
- b) The Purchaser must advise Diplomat where delivery is to be made and Diplomat shall deliver, or arrange delivery, of the Goods to the place so specified.
- c) Diplomat may deliver the Goods by instalments.
- d) If the Purchaser refuses to accept delivery of any Goods, Diplomat may charge the Purchaser for any additional costs incurred by Diplomat as a result including, but not limited to, storage and transportation costs. Diplomat will use all reasonable endeavours to deliver the correct quantity of Goods ordered; however the Purchaser will be liable and must will be liable and must pay for all Goods delivered, provided that the quantity of the delivered Goods is not greater than 10% of the ordered quantity.
- f) A delivery charge will apply to all deliveries that do not meet the requirements for free delivery as stated below:
 - a. Victorian Metropolitan and most regional deliveries require minimum order value of \$150 AUD (Ex GST) to be free of any delivery charge; and
 - b. Interstate (outside Victoria) require a minimum order value of \$300 AUD (Ex GST) to be free of any delivery charge.

Freight pricing by state	Delivery Time	Order Value (EXCL GST)	
		\$150-300	\$300+
Victoria	Standard 1-2 Days:*	FREE	FREE
Tasmania	Standard 2-3 Days:*	\$15	FREE
New South Wales	Standard 1-3 Days:*	\$20	FREE
Australian Capital	Standard 1-3 Days:*	\$20	FREE
South Australia	Standard 1-3 Days:*	\$20	FREE
Queensland	Standard 2-5 Days:*	\$25	FREE
Western Australia	Standard 3-5 Days:*	\$30	FREE
Northern Territory	Standard 4-8 Days:*	\$40	FREE

Minimum order value - All state: AUD \$150 (EXCL GST)

Express post & Airbags - additional cost

*Business days. Delivery time is an estimation and may vary. Regional areas may require extra delivery time.

11 FORCE MAJEURE

Diplomat shall not be liable for any loss or damage including, without limitation, direct, indirect or consequential loss or damage) in the event that it suspends, varies or cancels the supply of any Goods for any reason beyond Diplomat's reasonable control including, without limitation, any Act of God, war, strikes, lock-outs, fire or flood.

12 DEFAULT

- a) If the Purchaser fails to comply with these Terms or any other agreement with Diplomat or is, or at risk of becoming, insolvent or bankrupt, Diplomat may, in its absolute discretion, withhold or cancel any current or further Purchase Orders and without any liability to the Purchaser for loss as a result of any such withholding or cancellation.
- b) If an event as described in paragraph 12(a) occurs, all amounts payable by the Purchaser to Diplomat shall immediately become due and payable, not with standing that the due date for such payment may not yet have arisen.

13 TITLE

- a) Title to the Goods remains with Diplomat and does not pass to the Purchaser until the Purchaser pays all amounts owing to Diplomat in full.
- b) At all times before title in the Goods passes to the Purchaser, the Purchaser must
- I. store the Goods so that they are clearly identified as the property of Diplomat;
 - II. hold the Goods as bailee for Diplomat; and
 - III. keep proper records of account with respect to its purchase, receipts, sale and parting with possession of the Goods.
- c) Upon any default by the Purchaser, Diplomat is entitled to retake possession of the Goods and resell them and for that purpose the Purchaser authorises Diplomat to enter the Purchaser's premises and remove the Goods. Diplomat must use reasonable care in entering and removing such Goods, but will not be liable for any damages caused if it has acted reasonably.
- d) If any Goods are resold by the Purchaser before ownership of those Goods has passed to the Purchaser, the proceeds of such sale will be received and held by the Purchaser on trust for Diplomat (to the extent of the Purchaser's indebtedness to Diplomat) and the Purchaser (to the extent of the balance if any).
- c) Diplomat may bring an action for recovery of the price of the Goods even where ownership of the Goods may not have passed to the Purchaser.
- f) The Purchaser agrees that this 'retention of title' clause amounts to a security interest ("Security Interest") within the meaning of the Personal Property Securities Act 2009 (Cmlth) ("PPSA") and applies to all current and future Purchase Orders.

14 PPSA

- a) The Purchaser acknowledges and agrees that these Terms:
- (i) constitute a security agreement for the purpose of the PI' SA; and
 - (ii) create a Security Interest in:
 - (A) all Goods supplied by Diplomat to the Purchaser; and
 - (B) all Goods that will be supplied in the future by Diplomat Blades to the Purchaser.
- b) Diplomat may, in its discretion, do any of the following:
- (i) register or give any notification in connection with any Security Interest and exercise any rights in connection with any Security Interest; and
 - (ii) give notice to the Purchaser requiring it to do anything which Diplomat requires for the purpose of registering any Security Interest on the PPSA register.

- c) The Purchaser undertakes to:
- i. sign any further documents and/or provide any further information (which information the Purchaser warrants to be complete, accurate and up-to-date in all respects) which Diplomat may require to enable registration of a financing statement or financing change statement on the Personal Property Securities Register ("PPSR");
 - ii. not register a financing change statement as defined in section 10 of the PPSA or make a demand to alter the financing statement pursuant to section 178 of the PPSA in respect of the secured Goods without the prior written consent of Diplomat;
 - iii. be responsible for all costs incurred by Diplomat in obtaining an order pursuant to section 182 of the PPSA; and
 - iv. waive any rights it may have under sections 115 of the PPSA upon enforcement.
- d) Pursuant to section 157 of the PPSA, unless otherwise agreed to in writing by Diplomat, the Purchaser waives the right to receive a verification statement in respect of any financing statement or financing change statement relating to any Security Interest.
- e) Any terms used in this clause that are defined in the PPSA shall have the same meaning.

15 PURCHASER'S CANCELLATION :

Unless otherwise agreed by Diplomat in writing, the Purchaser shall have no right to cancel any Purchase Order.

16 WARRANTY AND LIABILITY:

- a) Diplomat accepts no liability, other than any liability it must accept pursuant to the Australian Consumer Law or other applicable law, for any claim of any kind whatsoever (including without limitation for loss of profits or consequential or indirect loss) by the Purchaser or any other person arising out of or in connection with:
- (i) any conditions, warranties, descriptions, representations, conditions as to fitness or suitability for any purpose, tolerance to any conditions, merchantability or otherwise, whether express or implied by law, trade custom or otherwise; or
 - (ii) any representations, warranties, conditions or agreement made by any agent or representative and Diplomat expressly excludes all such conditions, warranties, representations, descriptions and agreements to the maximum extent permitted by law.
- b) Diplomat's liability shall not, in all circumstances, exceed the price paid by the Purchaser for the Goods which have been purchased by the Purchaser.
- c) Without limiting the generality of clause 16(a), Diplomat will not be liable for any:
- (i) defects or damage caused in whole or part by misuse, abuse, neglect, electrical or other overload, unsuitable lubricant, improper installation, repair, alteration or accident;
 - (ii) transportation, installation, removal, labour or other costs; or
 - (iii) technical advice or assistance given or tendered by Diplomat to the Purchaser in connection with the manufacture, construction or supply of Goods.
- d) Nothing in these Terms excludes, restricts or modifies any condition, warranty or liability which is implied by the Australian Consumer Law or other applicable laws.

17 ALTERATION TO CONDITIONS

Diplomat may, at any time, vary or replace these Terms.

18 WAIVER

- a) If Diplomat exercises or fails to exercise any right or remedy available to it under these Terms, this will not prejudice its rights to exercise that right or remedy in the future.
- b) Waiver of any of these Terms by Diplomat will only be effective if specified in writing and signed by an authorised representative of Diplomat.

19 NO ASSIGNMENT

The Purchaser may not transfer or assign its rights under these Terms without the prior written consent of Diplomat, which consent may be given or withheld at Diplomat's absolute discretion.

20 GOVERNING LAW

These Terms shall be governed by and construed in accordance with the laws of the State of Victoria. Diplomat and the Purchaser submit to the non-exclusive jurisdiction of the Courts of Victoria and the Federal Court of Australia and agree that any legal proceedings may be heard in these Courts.