

TERMS AND CONDITIONS OF SALE

DEFINITION In these terms and conditions: "PBP" refers to PB Packaging (Aust) a division of Plastic Bottles Pty Ltd. "Goods" means all the products and services agreed to be supplied by PBP to the Buyer under any contract, arrangement or understanding between PBP and the Buyer; "Buyer" means the person to whom any quotation is made, and any person offering to contract with PBP on the terms and conditions and any person who purchases Goods from PBP; "Contract" means any contract for the sale or supply of Goods entered into between PBP and the Buyer; "PBP" means all related corporations or assigns. "Quote date" means the date of delivery as agreed between the Buyers and PBP.

1) THESE TERMS AND CONDITIONS SHALL:

- a) Unless PBP otherwise agrees in writing, be the only terms and conditions of sale to which PBP agrees to supply its Goods;
- b) Supersede and exclude all prior and other discussions, representations (contractual or otherwise) and arrangements relating to the supply of Goods including, but not limited to, those related to the performance of the Goods or the results that ought to be expected from using the Goods.

2) PBP LIABILITY

- a) PBP under this Agreement is limited to:
 - i. The replacement of Goods or the supply of equivalent Goods;
 - ii. The repair of Goods or payment of the cost of having the Goods repaired; or
 - iii. The refund of the price paid by the Buyer for the Goods;
 - iv. The extent of PBP's product and public liability policies of insurance.
- b) The Buyer will examine the Goods for defects and shall notify PBP of any defects in writing within 14 days of delivery. If the Buyer does not notify PBP within 14 days of delivery the Buyer shall be deemed to have accepted the Goods whereupon PBP shall have no liability to the Buyer.
- c) To the extent the law permits and notwithstanding any other clause of these terms and conditions, PBP excludes all liability whatsoever to the Buyer arising out of or in any way connected with any consequential or indirect losses of any kind however arising and whether caused by breach of statute, breach of contract, negligence or other tort.
- d) Consequential or indirect losses will be taken to include but not limited to:
 - i. Any loss to income, profit or business;
 - ii. Any loss in the nature of overhead costs; and
 - iii. Any loss of reputation.

3) DELIVERY

PBP will make all reasonable efforts to have Goods delivered to the Buyer on the date agreed between the parties as at the Quoted date, but PBP shall not be liable for any failure to deliver or delay delivery for any reason.

4) QUANTITY OF GOODS

- a) Where the order value is less than the minimum amount of \$200.00 AUD then a surcharge may apply in the sole discretion of PBP;
- b) If the total purchases are less than \$5,000 per annum the account may be closed and serviced on a payment prior to despatch basis.
- c) Orders placed on unique items or non stock items are to be supplied as per quantities run at time of production + /- 10% of the total agreed quantity ordered, by both PBP and customer.

5) RISK

- a) Unless otherwise agreed in writing, all risk in and to the Goods purchased shall pass to the Buyer upon delivery to the Buyer or his agent or to a carrier commissioned by the Buyer.
- b) Without in anyway limiting the operation of the foregoing, upon delivery of the Goods to the Buyer or his agent or to a carrier commissioned by the Buyer, the Buyer covenants and warrants to PBP that, in the storage and handling of the Goods, the Buyer and his agent and carriers shall comply with all relevant environmental laws and regulations, and do comply with all necessary and/or relevant permits or licenses pertaining to the storing and handling of the Goods, and the Buyer shall ensure that the Buyer and his agent and carriers are familiar with and adhere to all necessary and appropriate precautions and safety measures relating to the storing and handling of the Goods.

6) TITLE

- a) Title in and to the Goods shall not pass to the Buyer until payment in full for all Goods is made
- b) The Buyer acknowledges that until title in and to the Goods passes to the Buyer in accordance with this clause, the Buyer holds the Goods as trustee for PBP and that a fiduciary relationship exists between the Buyer and PBP in relation to Goods held in trust by the Buyer for PBP.
- c) Until title in and to the Goods passes to the Buyer in accordance with this clause the Buyer shall store the Goods separately and in such a manner that they are clearly identified as the property of PBP. PBP shall be entitled at any time until title in and to the Goods passes to the Buyer to demand the return of the Goods and

shall be entitled without notice to the Buyer and without liability to the Buyer have the right to enter any premises occupied by the Buyer in order to search for and remove the Goods.

- d) The Buyer acknowledges that if it sells the Goods before title in and to the Goods has passed to the Buyer in accordance with this clause, it sells the Goods as a trustee for PBP provided that such sales shall not give rise to any obligations on the part of PBP and the Buyer shall hold the proceeds of sale on trust for PBP in a separate account and account to PBP forthwith. The Buyer will forthwith notify PBP of any insolvency event being the appointment of an administrator, trustee or any liquidator.

7) PRICE

Unless otherwise agreed in writing, the price charged for the Goods shall be the price as determined by PBP at the date of delivery. Any price indications or price lists are subject to alteration in accordance with the price ruling at that date.

8) FORCE MAJEURE

Deliveries may be totally or partially suspended by PBP during any period which PBP may be prevented or hindered from manufacture, delivery or supply through any circumstances outside PBP's reasonable control, including but not limited to strikes, lockouts, or other labour difficulty, inability to obtain any necessary materials, equipment, facilities, services, power or water shortage, accidents or breakdowns of plant, machinery, software, hardware or communication network. PBP shall not incur any liability to the Buyer in respect of such suspension.

9) PAYMENT AND CREDIT

Payments for Products supplied by PBP to the Customer shall become due and payable on the date of delivery or dispatch unless otherwise specified in PBP invoice. Payments must be in cash or any other form acceptable to PBP from the due date until payment in full is received. We also accept payment by credit card (Visa, Mastercard and American Express). Please note credit card payments incur a 1.5% surcharge for Visa and Mastercard and a 2.75% surcharge for American Express. Any legal or other costs incurred by PBP in recovering amounts owed by the Customer to PBP must be paid by the Customer. PBP in it's absolute discretion, may refuse to proceed with any contract at any time, or refuse to extend credit, if the Customer's credit is or becomes unsatisfactory to PBP. The Buyer:

- i. acknowledges that if it defaults or is late in making payments under the Contract terms, the full amount owing becomes immediately due and payable, and credit facilities may be withdrawn at any time without prior notice;
- ii. agrees to pay upon demand all costs, fees and charges incurred by PBP in recovering any monies due to PBP pursuant to this Application;
- iii. agrees that an account service fee of 1.5% per month may be charged on all purchases exceeding the agreed terms of trade.
- iv. These provisions are essential terms hereof.

10) CLAIMS AND RETURNS

The Customer will be deemed to have accepted the Goods unless PBP receives a claim in writing as to any defects, damage, shortage, non conformity with the contract within 14 days from the date of delivery. The claim must include a copy of the carrier's receipt clearly endorsed with details of any alleged shortage or damage. Returns will not be accepted without the prior written approval of PBP. PBP reserves the right to reduce the credit for any return by 15% of the original invoiced price as a handling / restocking fee.

11) PALLETS

Unless otherwise agreed to in writing all pallets on which Goods are delivered remain the property of PBP and must be returned to PBP at the Buyers expense in good order and condition to the factory or store of PBP from which they were delivered. Pallets will be deemed to be the Buyers possession until received at such factory or store. To the extent the law permits, all risks whatsoever associated with the pallets vests in the Buyer and the Buyer agrees to indemnify PBP in respect or pallets that are not returned in good order and condition to PBP within one month of delivery of the Goods.

12) SEVERANCE

If any provisions of these Terms and Conditions or this Application to any person or circumstances is or becomes invalid, illegal or unenforceable the provision shall so far as possible to read down to such extent as may be necessary to ensure that it is not invalid, illegal or unenforceable. If any provision or part of it cannot be so read down the provision or part of it shall be deemed to be void and severable and the remaining provisions of these terms and conditions shall not in any way be affected of impaired.

13) APPLICABLE LAW

This contract shall be deemed to have been made in the State of New South Wales, and shall be governed by the laws of New South Wales.

14) TRANSACTION TAX

Where a transaction tax, including Goods and Service Tax "GST" and any transaction taxes that come into existence after the date of these terms and conditions, applies to any supply made under these terms and conditions, PBP may recover from the Buyer an additional amount on account of that transaction tax in accordance with clause 10.