

CONDITIONS OF SALE

B&R Enclosures Pty Ltd ABN 97 007 587 082 | B&R Ex Systems Pty Ltd ABN 18 063 472 640
(collectively referred to as the Company)



1. Definitions

In these Conditions of Sale:

"Conditions" means these Conditions of Sale as amended from time to time.
"Company" means B&R Enclosures Pty Ltd and/or B&R Ex Systems Pty Ltd.
"Goods" means all goods, materials, products and/or services supplied by the Company.
"Purchaser" means the person or entity acquiring Goods from the Company.
"Quotation" means a written or electronic quotation issued by the Company.
"Order" means a purchase order or request for Goods submitted by the Purchaser.
"Authorised Officer" means a Director or Secretary of the Company or a Commercial Manager as appointed by the Company.
"ACL" means the Australian Consumer Law contained in Schedule 2 of the Competition and Consumer Act 2010 (Cth).
"Guarantor" means the guarantor listed in the Guarantee and Indemnity document is applicable.

2. Application of Conditions

- 2.1. These Conditions apply to all Quotations, Orders and supplies of Goods by the Company and prevail over any terms proposed by the Purchaser.
- 2.2. Any Order placed with the Company constitutes acceptance of these Conditions.
- 2.3. No variation to these Conditions is binding unless agreed in writing by an authorised officer of the Company.
- 2.4. If any provisions are unenforceable, they are severed without affecting the remaining provisions.

3. Precedence (Conflict)

- 3.1. In the event of conflict between these Conditions and any term included in, or implied by, any document forming part of an enquiry, specification, order or contract, these Conditions prevail except to the extent expressly varied by the Company in writing.

4. Quotations

- 4.1. Quotations are valid for 14 days from the date of issue unless withdrawn earlier.
- 4.2. A Quotation is not an offer capable of acceptance and does not create a binding contract.
- 4.3. The Company may withdraw or amend a Quotation at any time prior to acceptance of an Order.
- 4.4. A Quotation includes only those goods or services specified in it.

5. Orders and Acceptance

- 5.1. An Order is deemed accepted when the Company:
 - (a) issues a written order confirmation; or
 - (b) commences manufacture or supply of the Goods; or
 - (c) delivers the Goods.
- 5.2. Acceptance may occur electronically, including via email or other digital systems used by the Company.
- 5.3. The Company may reject any Order at its discretion.

6. Prices

- 6.1. Prices are quoted in Australian Dollars unless otherwise stated.
- 6.2. Prices exclude freight, insurance, duties, levies, GST and other government charges unless expressly included.
- 6.3. Prior to acceptance of an Order, the Company may adjust quoted prices to reflect increases in:
 - (a) material costs;
 - (b) labour costs;
 - (c) freight or logistics costs;
 - (d) exchange rates; or
 - (e) government charges or taxes.
- 6.4. Once an Order has been accepted by the Company, the quoted price is fixed except where the Purchaser requests a variation to scope, specification, or delivery requirements. The Company will provide written notice of any price adjustment prior to acceptance. If the Purchaser does not accept a notified price adjustment, the Purchaser may cancel the Quotation prior to placing an Order at no cost.

7. Payment Terms

- 7.1. If a credit application has not been accepted, Goods must be paid for prior to dispatch.
- 7.2. Where a credit application has been accepted, payment terms are 30 days from invoice date, unless otherwise agreed in writing.
- 7.3. The Company may require payment in advance or suspend supply where the Purchaser fails to comply with payment terms.
- 7.4. Interest accrues on overdue amounts at 2% per annum above the Company's principal trading bank overdraft rate, calculated daily.
- 7.5. The Purchaser must reimburse the Company for all reasonable costs incurred in recovering overdue amounts, including legal and debt collection costs.

8. No Set-Off

- 8.1. To the extent permitted by law, the Purchaser must not withhold, delay or set off payment of any amount due to the Company against any claim, counterclaim, alleged defect, back-charge or dispute, whether arising under these Conditions or otherwise.
- 8.2. Nothing in this clause limits any non-excludable rights the Purchaser may have under the ACL.

9. Delivery

- 9.1. Delivery dates are estimates only.
- 9.2. The Company is not liable for delay in delivery caused by events beyond its reasonable control.
- 9.3. Risk in the Goods passes to the Purchaser upon dispatch from the Company's premises.
- 9.4. Delivery may be made in instalments.

10. Freight

- 10.1. Unless otherwise agreed in writing:
 - (a) For deliveries outside Australia, all freight costs will be charged to the Purchaser.
 - (b) For deliveries within Australia:

- (i) within Australian Capital City metropolitan areas, the costs of freight will be to the account of the Company.
 - (ii) outside Australian Capital City metropolitan areas, all freight costs will be charged to the Purchaser. Where the Purchaser requires freight to be prepaid, all expenses will be to the Purchaser's account.
- (c) For all orders less than \$600, the Purchaser must nominate its preferred freight method and be responsible for all freight charges. Goods can be shipped on the Company's nominated freight carrier with a \$100 charge applicable. Freight charge to be noted on Purchaser's Order.
 - (d) Freight on returned Goods will only be paid by the Company where Goods are returned using the Company's nominated carrier (where the Company accepts responsibility for the return);
 - (e) Risk in the Goods passes in accordance with clause 9.3 regardless of freight arrangements.

11. Packing

- 11.1. Unless stated otherwise in the relevant quotation the price quoted includes packing in accordance with the Company's standard practice. Any other packing request by the Purchaser or deemed necessary by the Company will be charged in addition to the price quoted.

12. Acceptance

- 12.1. Without limiting the Purchaser's obligations under 9, Purchaser must inspect the Goods immediately upon delivery and must within seven (7) days from the date of inspection give written notice to the Company of any alleged defect in the Goods, or other alleged breach of contract by the Company. The Purchaser waives any claim for shortage of any Goods delivered if a claim in respect of short delivery has not been lodged with the Company within 7 days from the date of receipt of the Goods by the Purchaser.
- 12.2. The Purchaser waives any claim for shortage of any Goods delivered if a claim in respect of short delivery has not been lodged with the Company within 7 days from the date of receipt of the Goods by the Purchaser.

13. Credits

- 13.1. Goods which are not defective may not be returned to the Company for credit unless prior consent has been given by the Company and then will only be accepted under the following conditions:
 - (f) freight and packing are prepaid, and a packing list is enclosed with the returned Goods; and
 - (g) the Goods are in new condition and are approved as such, on receipt, by the Company's quality controller.
 - (h) the Goods can only be returned accompanied by a GRA (Goods Return Authorisation) provided by the Company
- 13.2. Credit will only be allowed on the original invoiced price (less any applicable discount) less a restocking fee of fifteen (15) per cent of the net price.
- 13.3. No credit will be allowed for non-standard or specifically procured Goods.

14. Damage or Loss in Transit

- 14.1. Where carriage is the responsibility of the Company, the Company will repair or replace free of charge Goods lost or damaged in transit to the point of delivery provided written notice of such loss or damage is given to the Company within three days of delivery or expected delivery, or within such times as will enable the Company to comply with the carrier's conditions of carriage relating to loss or damage in transit (whichever is the earlier).

15. Purchaser Specification

- 15.1. The Company is not deemed to have agreed to comply with any specifications, drawings or technical requirements referred to in any Order unless such documents are provided to the Company prior to acceptance of the Order and expressly acknowledged in writing by the Company.

16. Product Design / Continuous Improvement

- 16.1. The Company engages in a policy of continuous development and improvement of its products and may make minor changes to design and/or specifications that do not materially reduce performance or compliance, without incurring liability.

17. Retention of Title and PPSA

- 17.1. Title to the Goods remains with the Company until payment is received in full.
- 17.2. Until title passes, the Purchaser:
 - (a) holds the Goods as bailee for the Company;
 - (b) must not encumber or dispose of the Goods;
 - (c) grants the Company the right to enter premises to recover the Goods.
- 17.3. The Purchaser must insure the Goods to full replacement value against all usual risks until title passes, noting the Company's interest on the policy, and holds any insurance proceeds on trust for the Company to the extent of monies owing.
- 17.4. Where reasonably practicable, the Purchaser must store the Goods separately and clearly identify them as the Company's property, so they can be readily identified and cross-referenced to invoices
- 17.5. These Conditions constitute a Purchase Money Security Interest (PMSI) under the Personal Property Securities Act 2009 (Cth) and the Purchaser consents to the Company registering its security interest on the PPS Register and waives rights to receive verification statements to the extent permitted by law.
- 17.6. If payment is not made when due, the Company may demand the immediate return of the Goods and the Purchaser must comply within 48 hours of demand. The Purchaser is liable for all reasonable costs incurred by the Company in enforcing its rights under this clause, payable on demand.
- 17.7. If the Purchaser sells or disposes of the Goods before title passes, the Purchaser does so as fiduciary agent for the Company and holds the proceeds of sale on trust for the Company to the extent of the amount owing for those Goods.

18. Consumer Guarantees

- 18.1. Nothing in these Conditions excludes, restricts or modifies any consumer guarantee, right or remedy that cannot lawfully be excluded under the ACL.

CONDITIONS OF SALE

B&R Enclosures Pty Ltd ABN 97 007 587 082 | B&R Ex Systems Pty Ltd ABN 18 063 472 640
(collectively referred to as the Company)



- 18.2. Where the ACL applies and the Goods are not of a kind ordinarily acquired for personal, domestic or household use, the Company's liability is limited to one or more of the following (at the Company's option):
- replacement of the Goods;
 - repair of the Goods;
 - payment of the cost of replacing or repairing the Goods.

19. Warranties and Liability

- 19.1. Goods which are the Company's own are guaranteed against faulty workmanship, materials or design, for a period of twelve (12) months from the date of delivery, after which all liability on the part of the Company ceases.
- 19.2. The guarantee does not apply in the following cases: -
- defect arising from materials supplied by the Purchaser or from a design requested by the Purchaser;
 - replacements or repairs resulting from normal wear of units and machinery, corrosive atmosphere, damage or injury caused by lack of care, insufficient inspection or maintenance, or improper use of the Goods;
 - defects arising from an event outside of our control such as fire, flood, earthquake or other natural calamity, motor vehicle or other accident, strike, civil unrest, terrorism or war.
- 19.3. In the case of Goods not of the manufacture of the Company or its principals, the Company undertakes that it will, if requested in writing by the Purchaser, make all reasonable endeavours in assisting the Purchaser to obtain from the manufacturer the benefit of any guarantee or warranty which the manufacturer may have expressly given as to the quality or fitness for any purpose of the Goods, except as may otherwise be provided for by law.
- 19.4. Except as expressly stated, all warranties, representations and conditions are excluded to the maximum extent permitted by law.
- 19.5. The Company is not liable for indirect or consequential loss, loss of profit, revenue, business or opportunity, or delay/failure caused by events beyond its control.
- 19.6. Total liability of the Company is limited to the value of the Goods supplied under the relevant Order, except where prohibited by law.

20. Returns and Cancellations

- 20.1. Orders may not be cancelled without the Company's written consent.
- 20.2. Approved cancellations or returns may be subject to restocking, handling and administration fees.
- 20.3. Custom or made-to-order Goods are non-refundable.

21. Default, Insolvency and Acceleration

- 21.1. The Company may, without prejudice to any other rights under these Conditions or at law, immediately by written notice to the Purchaser exercise any one or more of the rights set out in clause 22.2 if:
- the Purchaser fails to pay any amount owing when due;
 - the Purchaser breaches any material term of these Conditions and fails to remedy that breach within a reasonable time after notice;
 - the Purchaser becomes insolvent, enters administration, liquidation, voluntary administration, receivership, has a controller appointed (as defined in the Corporations Act 2001 (Cth)), or enters any arrangement or composition with creditors;
 - any distress, execution or other legal process is levied against the Purchaser's assets; or
 - the Company reasonably believes the Purchaser's creditworthiness or ability to pay has materially deteriorated.
- 21.2. In such circumstances, the Company may:
- suspend supply or delivery of Goods;
 - terminate any contract formed under these Conditions;
 - require payment in advance for any further Goods;
 - cancel any outstanding Orders; and/or
 - declare all amounts owing by the Purchaser to the Company immediately due and payable, whether or not previously invoiced.

22. Guarantors and Trusts

- 22.1. Trustee capacity: If the Purchaser enters into these Conditions as trustee of a trust, the Purchaser warrants that it enters into these Conditions in both its capacity as trustee and in its personal capacity, has authority to bind the trust, and will not retire or appoint a new or additional trustee without notifying the Company in writing.
- 22.2. Guarantor acknowledgement: Where any Guarantor provides or has provided a guarantee and/or indemnity for the Purchaser's obligations, the Purchaser and Guarantor acknowledge those obligations are enforceable according to their terms and (unless the guarantee provides otherwise) are intended to be joint and several.
- 22.3. The Company may require replacement or additional guarantors where there is a change in trustee, ownership, control, or credit risk profile of the Purchaser, acting reasonably.

23. Force Majeure

- 23.1. The Company is not liable for failure or delay caused by events beyond its reasonable control, including pandemics, government restrictions, supply chain disruption, cyber incidents, labour shortages, natural disasters, and trade sanctions or embargoes

24. Privacy and Data

- 24.1. The Purchaser consents to the Company collecting, using and disclosing Personal Information (as defined in the Privacy Act 1988 (Cth)) for credit assessment, account management, supply of Goods and legal compliance.
- 24.2. The Company may disclose such information to credit reporting bodies, related entities and service providers (including overseas) and may exchange information for credit reporting purposes.
- 24.3. The Company handles Personal Information in accordance with the Australian Privacy Principles and its Privacy Policy, and the Purchaser warrants it has obtained all necessary consents.
- 24.4. The Purchaser acknowledges that information may be transmitted and stored electronically and the Company does not warrant its systems are free from cyber incidents or data loss.

- 24.5. To the extent permitted by law, the Company is not liable for loss or corruption of data supplied by the Purchaser or transmitted electronically, except for wilful misconduct.

25. Dispute Resolution

- 25.1. The parties will use reasonable efforts to resolve disputes through good-faith negotiation before commencing legal proceedings.
- 25.2. Nothing in this clause prevents urgent injunctive relief.

26. Notices

- 26.1. Any notice, consent or other communication under these Conditions must be in writing and may be given by email.
- 26.2. A notice is deemed received on the next Business Day after transmission, unless the sender receives and automated notice of non-delivery
- 26.3. Unless otherwise specified by the Company, notices should be addressed to the Company's Commercial Manager (or nominee)

27. Governing Law

- 27.1. These Conditions are governed by the laws of Australia and, to the extent applicable, the laws of the State or Territory in which the relevant supply is made or the Purchaser is located.
- 27.2. The parties submit to the non-exclusive jurisdiction of the courts of Australia, including the courts of the State or Territory in which the Purchaser is located, or the relevant supply is made. Nothing in this clause limits the Company's right to commence proceedings in any jurisdiction.

28. General

- 28.1. If any provision is unenforceable, it is severed without affecting the remaining provisions.
- 28.2. The Company may update these Conditions from time to time. The version current at the date an Order is placed will apply to that Order. Updated Conditions will be published on the company website or otherwise notified to the Purchaser and will apply to Orders after the date of notification.