LASERBOND LTD
ABN 24 057 636 692
TERMS AND
CONDITIONS OF SALE

All goods are supplied to the Purchaser on the following Terms and Conditions which shall apply to, and form part of, any contract for the supply of goods by Laserbond Ltd to another party.

1. DEFINITIONS

In these terms:

1.1 "Business Day" means a day that is not a Saturday, Sunday or public holiday in New South Wales.

1.2 "Consumer Law Rights" means any rights, warranties, guarantees and remedies conferred on the Purchaser under the Australian Consumer Law or similar consumer protection legislation which cannot be excluded, restricted or modified.

1.3 "Consequential Loss" means, whether under statute, contract, equity, tort (including negligence), indemnity or otherwise: (a) any loss or damage that cannot be considered to arise according to the usual course of things from the relevant breach, act or omission, whether or not such loss or damage may reasonably be supposed to have been in the contemplation of the parties at the time they entered into these Terms as the probable results of the relevant breach, act or omission; and/or (b) without limiting paragraph (a), any real or anticipated loss of profit, loss of benefit, loss of revenue, loss of business, loss of goodwill, loss of opportunity, loss of savings, loss of reputation, loss of use and/or loss or corruption of data. However, the Purchaser's obligation to pay the Price under these Terms does not constitute "Consequential Loss".

1.4 “Contract” means the contract entered into between the Supplier and the Purchaser for the supply of goods created when the Supplier accepts purchase orders submitted by the Purchaser whether verbal or written and these terms and conditions apply to and form part of the entire agreement between the Supplier and the Purchaser.

1.5 Date of delivery” is the date on which the goods leave the premises of the Supplier.

1.6 "Force Majeure Event" means any event or circumstance beyond a party's reasonable control, including acts of God, fire, flood, earthquake, civil unrest, war, terrorism, epidemic or pandemic, or government-imposed restrictions.

1.7 “Goods” means the goods, products and materials manufactured, imported, supplied and / or delivered by the Supplier to the Purchaser.

1.8 "Liability" means any expense, cost, liability, loss, damage, claim, notice, entitlement, investigation, demand, proceeding or judgment, however arising, whether under statute, contract, equity, tort (including negligence), indemnity or otherwise.

1.9 "Price" means the price for the Goods as set out in the Supplier's quote, order confirmation or invoice, as adjusted in accordance with these Terms, and includes any deposit payable.

1.10 “Purchaser” means the person firm or company agreeing to purchase the goods (including any successors, nominees and any Insolvency Administrator appointed to take control of the Purchaser’s business), and if there is more than one Purchaser, the Purchaser’s covenants and obligations are joint & several.

1.11 "PPSA" means the Personal Property Securities Act 2009 (Cth).

1.12 "Security Interest" has the meaning given in the PPSA.

1.13 “Supplier” means Laserbond Ltd (ABN 24 057 636 692)

2. PAYMENT

2.1 Payment for the Goods is due in full prior to delivery, unless the Purchaser holds an approved credit account with the Supplier, in which case payment is due in accordance with the credit terms notified by the Supplier from time to time.

2.2 Time for payment is of the essence of the Contract.

2.3 The Purchaser must pay all amounts due under these Terms in full, without set-off, deduction or counterclaim of any kind.

2.4 If the Purchaser fails to pay any amount by its due date, the Supplier may, without notice: (a) suspend or cease supply and delivery of any Goods (including under other contracts with the Purchaser) until payment is made in full; (b) charge interest at the Reserve Bank of Australia's cash rate plus 2% per annum, calculated daily and compounding monthly, on the overdue amount; and (c) recover all reasonable costs (including legal and debt recovery costs) incurred in recovering the debt.

2.5 The Supplier may, at its discretion, require the Purchaser to pay a deposit or provide security (including a director's guarantee or PPSA security interest) as a condition of accepting an order.

3. TAX

3.1 Unless otherwise agreed in writing the price charged for the Goods is exclusive of any transaction tax including the goods and services tax as well as any new transaction taxes which come into existence after the date of these terms and conditions;

3.2 Where a transaction tax applies to any supply made under a contract between the Supplier and the Purchaser, the Supplier may recover from the Purchaser an additional amount on account of and calculated by reference to that transaction tax.

4. DELIVERY OF GOODS

4.1 Unless otherwise agreed in writing the price charged for the Goods is exclusive of any charges for the Supplier to deliver the Goods to the Purchaser’s requested point of delivery. Delivery charges are additional unless the Purchaser requests the Supplier to utilise the Purchaser’s own freight company or associated accounts.

4.2 Prices quoted are based on costs prevailing at the date of quotation. If the Supplier's costs increase between the date of the Purchaser's order and the date of delivery due to factors beyond the Supplier's control (including but not limited to increases in the cost of materials, labour, freight or currency fluctuations), the Supplier may adjust the Price to reflect that increase by written notice to the Purchaser prior to delivery.

4.3 The Supplier shall make all reasonable efforts to deliver the Goods on the date agreed between the parties, but shall not be responsible for any consequential, indirect or other loss arising as a result of any failure by the Supplier to deliver the Goods at any agreed time or within a reasonable period. Where no date for delivery has been agreed upon, the Supplier shall deliver the Goods within a reasonable time. Where delivery is to be made during a certain period, the Supplier may at its option deliver the Goods in instalments during that period.

4.4 Where delay in delivery or non-delivery is due to the Purchaser failing to obtain any necessary approvals, clearances or other prerequisites to delivery or arises as a result of any occurrence reasonably beyond the Supplier’s control, the Supplier shall within 30 days of becoming aware of any such occurrence notify the Purchaser in writing of the Supplier’s inability to deliver and may terminate the contract if the Supplier shall so determine.

4.5 Unless otherwise agreed, Goods supplied shall be of ordinary commercial quality and all standards including but not limited to tolerances of dimension, strength and weight, shall be of such standard as the Supplier generally applies to such type of Goods. The Supplier shall not be liable for over or under delivery of bulk Goods provided that such delivery does not exceed 10% of the ordered quantity.

4.6 The Purchaser waives any claim including but not limited to for shortages in quantity, lengths or weight of any Goods delivered if any claim including for short delivery is not lodged with the Supplier within seven (7) days from delivery and/or receipt of the Goods.
4.7 Any measures requested by the Purchaser for non-standard packaging, storage or transit shall be at the Purchaser's expense.

5. PASSING OF RISK AND RETENTION OF TITLE

5.1 Risk in the Goods passes to the Purchaser on delivery or collection (whichever occurs first). Legal and equitable title in the Goods does not pass to the Purchaser until the Supplier has received payment in full of all amounts owing by the Purchaser to the Supplier on any account whatsoever.

5.2 Until title passes, the Purchaser acknowledges and agrees that:
(a) these Terms are a 'security agreement' for the purposes of the PPSA;
(b) this clause creates a security interest in all present and after-acquired Goods supplied by the Supplier to the Purchaser, and any proceeds of sale or disposal of those Goods, as security for all amounts owing by the Purchaser to the Supplier;
(c) the Supplier may register that security interest on the Personal Property Securities Register as a purchase money security interest;
(d) the Purchaser must not grant, or allow any person to acquire, any security interest in the Goods without the Supplier's prior written consent;
(e) the Purchaser waives its right to receive any notice required under the PPSA, including under sections 157, 95, 118, 121, 130, 132 and 135, to the extent the law permits;
(f) and the Supplier may enter any premises where the Goods are located (without liability for trespass) to repossess the Goods if the Purchaser defaults, and the Purchaser grants the Supplier an irrevocable licence to do so.

5.3 Despite paragraph 5.1 the Purchaser may sell the Goods as fiduciary agent for the Supplier to a third party in the normal course of the Purchaser's business by way of bona fide sale at full market value provided that where the Purchaser is paid by the third party the Purchaser holds the proceeds of such sale to the extent of the amount owing by the Purchaser to the Supplier at the time of receipt of such proceeds on trust for the Supplier. The proceeds of such sale must be held by the Purchaser in a separate account on trust for the Supplier and not mix those proceeds with any other monies until payment in full for all debts accrued or owed to the Supplier on any account whatsoever.
5.4 In the event that the Purchaser uses the Goods in some manufacturing or construction process of its own or some third party, then the Purchaser shall hold such part of the proceeds of such manufacturing or construction process as relates to the Goods on trust for the Supplier. Such part shall be deemed to be equal in dollar terms to the amount owed by the Purchaser to the Supplier at the time of the receipt of such proceeds. The Purchaser must keep that part of the proceeds separate on trust for the Supplier and not mix those proceeds with any other monies.

5.5 Notwithstanding the above, the Supplier is entitled to maintain an action against the Purchaser for the purchase price of the Goods and further reserves the following rights in relation to the Goods until all amounts owed by the Purchaser to the Supplier are fully paid:
(a) legal and equitable ownership of the Goods;
(b) to enter the Purchaser's premises (or the premises of any associated company or agent where the Goods are located) without liability for trespass or any resulting damage and retake possession of the Goods and keep or resell any of the Goods so repossessed.

6. WARRANTIES, LIMITATION OF LIABILITY AND INDEMNITIES
6.1 Certain legislation, including the Australian Consumer Law and similar consumer protection laws and regulations, may confer on the Purchaser Consumer Law Rights. Nothing in these Terms excludes, restricts or modifies any Consumer Law Rights.
6.2 Subject to the Purchaser's Consumer Law Rights, the Supplier excludes all warranties, and the Goods are supplied without warranties, representations and guarantees of any kind, except where expressly provided in these Terms. This clause survives the termination or expiry of these Terms.
6.3 Despite anything to the contrary, but subject to the Purchaser's Consumer Law Rights, to the maximum extent permitted by law:
(a) the Supplier will not be liable for any Consequential Loss;
(b) the Supplier's liability for any Liability will be reduced proportionately to the extent it was caused or contributed to by the acts or omissions of the Purchaser (or its personnel), including any failure to mitigate loss;
(c) the Supplier will not be liable for, and the Purchaser waives and releases the Supplier from, any Liability caused or contributed to by loss or damage which is an inevitable and unavoidable part of supplying the Goods; and
(d) in respect of any failure by the Supplier to comply with a Consumer Law Right, the Supplier's liability is limited (at its sole discretion) to replacing the Goods, supplying equivalent Goods, or paying the cost of doing so, or repairing the Goods or paying the cost of repair.
6.4 Subject to clause 6.3(d) the Supplier's maximum aggregate liability for any Liability arising from or in connection with these Terms, however arising, is limited to 100% of the Price paid by the Purchaser for the relevant Goods.
6.5 Subject to the Purchaser's Consumer Law Rights, the Supplier will not refund any amounts paid by the Purchaser.
6.6 The Purchaser indemnifies the Supplier against all costs, claims, expenses or other liability in connection with the delivery to the Purchaser of the Goods prepared, manufactured or dispatched in accordance with drawings, models, descriptions, analyses, prescriptions or other specifications submitted to the Supplier by the Purchaser, including but not limited to actions for alleged infringement of copyright, patents, registered designs or trademarks.
6.7 The Supplier shall take all reasonable steps to care for and maintain any tools or models supplied to it by the Purchaser, provided that all such tools and models shall be insured by, and, where necessary repaired at the expense of, the Purchaser.

7. DEFAULT
7.1 The Supplier may terminate these Terms or cancel any order, in whole or in part, at any time by written notice to the Purchaser, without liability to the Purchaser for doing so, if the Purchaser is in breach of these Terms, becomes insolvent, or if the Supplier reasonably considers its interests are at risk.
7.2 On termination or cancellation under this clause:
(a) the Purchaser remains liable to pay for all Goods delivered and all costs incurred by the Supplier up to the date of termination;
(b) any amounts already paid by the Purchaser are non-refundable, subject to the Purchaser's Consumer Law Rights; and
(c) the Supplier may recover or repossess any Goods for which payment has not been received in full.

8. ADVICE
8.1 Subject to clause 6, any advice, recommendation, information, assistance or service provided by the Supplier in relation to Goods supplied or manufactured by it in respect of their use or application is given in good faith and shall be accepted without liability on the part of the Supplier and it shall be the responsibility of the Purchaser to confirm the accuracy and reliability of the same in light of the use to which the Purchaser makes or intends to make of the Goods.

9. CANCELLATION
9.1 No order may be cancelled except with the consent in writing of the Supplier and on terms which will indemnify the Supplier against all losses.

10. DISPUTE RESOLUTION

10.1 A party may not commence court proceedings relating to any dispute, controversy or claim arising from, or in connection with, these Terms (a Dispute) without first complying with this clause.

10.2 A party claiming that a Dispute has arisen must give written notice to the other party specifying the nature of the Dispute (Dispute Notice).

10.3 The parties must meet (in person, by telephone or by video conference) within 10 Business Days of service of the Dispute Notice to seek, in good faith, to resolve the Dispute.

10.4 If the Dispute is not resolved within 20 Business Days of service of the Dispute Notice, either party may refer the matter to mediation administered by the Australian Disputes Centre in accordance with its Guidelines for Commercial Mediation.

10.5 Nothing in this clause prevents a party from seeking urgent injunctive or equitable relief from a court of appropriate jurisdiction.

11. APPLICABLE LAW

11.1 This Contract shall be deemed to have been made by LaserBond Ltd and is governed by the law of New South Wales. The parties agree to submit to the exclusive jurisdiction of the courts of New South Wales.

12. GENERAL

12.1 Force Majeure: Neither party will be liable for any delay or failure to perform its obligations under these Terms if caused or contributed to by a Force Majeure Event. This clause does not apply to the Purchaser's obligation to pay any amount due and payable under these Terms.

12.2 Notices: Any notice given under these Terms must be in writing addressed to the relevant address last notified by the recipient. Notices may be sent by post or email, and are deemed served on the expiry of 48 hours (post) or at the time of transmission (email).

12.3 Privacy: Each party agrees to comply with the Australian Privacy Principles set out in the Privacy Act 1988 (Cth) and any other applicable privacy legislation.

12.4 Assignment of Debt: The Purchaser agrees that the Supplier may assign or transfer any debt owed by the Purchaser to the Supplier, arising under or in connection with these Terms, to a debt collector, debt collection agency, or other third party.