



STAREAST INTERNATIONAL PTY LTD (ABN 81 067 397 059) TERMS AND CONDITIONS OF SALE

1 Definitions

- 1.1 **Claim** means any action, claim, suit or demand of any nature whatsoever.
- 1.2 **Custom goods** means goods which are manufactured and/or assembled to order or otherwise manufactured and/or assembled to your specific requirements or are a Special Order
- 1.3 **Customer Information** means any specifications and other information, instructions, material, documents and other data which is provided by you for use in the supply of and/or incorporation into the goods, and may include Third Party Material.
- 1.4 **Defect** means a manufacturing error or defect in the goods due to faulty materials or workmanship and **Defective** has a corresponding meaning.
- 1.5 **goods** mean any goods supplied by us to you as described in any invoice, quotation, purchase order or any other forms provided by us to you.
- 1.6 **in writing** includes email, facsimile or any other form of electronic communication agreed to by the parties.
- 1.7 **Loss** means any costs, losses, penalties, damages, liabilities and expenses and in relation to a Claim, includes amounts payable on a Claim (whether or not the Claim is successful) and legal costs and expenses on a solicitor and own client basis.
- 1.8 **Price List** means our list of ordinary prices for our goods as applying from time to time.
- 1.9 **PPSA** means the *Personal Property Securities Act (2009)*, any regulations made under it and any amendments made to other legislation by them.
- 1.10 **Special Order** means an order placed by you for goods that are not normally stocked by us.
- 1.11 **Terms** mean these terms.
- 1.12 **Third Party Material** means proprietary third party materials which are incorporated into the goods.
- 1.13 **we/us/our** means Stareast International Pty Ltd (ABN 81 067 397 059)
- 1.14 **you/your** means the customer/purchaser of goods/services from us.

2 Binding contract

- 2.1 Except as otherwise agreed in writing by us, these Terms are incorporated into each order for the supply of our goods/services.
 - 2.2 Any provision of a purchase order placed by you which is inconsistent with or additional to these Terms is excluded from contracts between us.
 - 2.3 Any purchase order received by us constitutes your acceptance of these Terms.
- ### 3 Orders and Acceptance
- 3.1 Purchase orders may be placed by telephone, facsimile, email, via our website or in store.
 - 3.2 We reserve the right to accept or reject orders placed by you. If we accept your order, we will notify you of that fact.
 - 3.3 Subject to clause 8.5 (change of mind returns), once we have accepted an order placed by you, you may only cancel that order on terms that indemnify us for all Claims and Loss which we suffer or incur in connection with that cancellation. We may also, in our discretion, charge a restocking fee of \$10.00 or 15% of the price of the order cancelled, whichever is the greater.
- ### 4 Pricing and GST
- 4.1 The prices for our goods are set out in our Price List, and are current at the time of display on our website.
 - 4.2 If we quote a price that is less than our Price List, the quoted price will remain current for 7 days only or such shorter period specified by us, and will only become binding upon receipt of an unconditional written purchase order submitted within the specified quote period, and in such form as we may require.
 - 4.3 We reserve the right to vary our prices at any time before we accept an order placed by you. We reserve the right to vary our prices after we accept an order placed by you to reflect increases in the cost of source materials, cost of labour, freight and delivery costs, insurances, currency fluctuations or in connection with legislative or regulatory changes which impact on the supply of our goods/services and any other increases to costs incidental to or in connection with the manufacture/assembly or purchase from our suppliers, of Custom goods and Special Orders, upon giving you 14 days' prior written notice, with the price change to take effect at the end of that 14 day notice period.
 - 4.4 Unless expressly stated in writing, our prices do not include:
 - a. all freight/delivery charges; and
 - b. installation charges;which are payable in addition.
 - 4.5 Unless otherwise stated in writing, all prices and other consideration for any supply made under or in connection with these Terms does not include GST.
 - 4.6 If a supply made under or in connection with these Terms is a taxable supply upon which the supplier is required to pay GST, the recipient must pay to the supplier an additional amount equal to the amount of GST payable by the supplier in connection with that taxable supply.

- 4.7 The additional amount is payable at the same time and in the same manner as the first part of consideration for the supply to which the additional amount relates. However, the additional amount need not be paid until the supplier provides a tax invoice to the recipient.
- 4.8 If a party is entitled to be reimbursed or indemnified under or in connection with this agreement, the amount to be reimbursed or indemnified does not include any amount attributable to GST for which the party is entitled to an Input Tax Credit.

5 Payment terms

- 5.1 Unless otherwise agreed by us in writing, payment is required in full upon us accepting your purchase order. We may, in our discretion:
 - a. require you to pay a deposit of 30% upon us accepting your order with the balance payable on the issue of a bill of lading; or
 - b. grant credit terms to you following receipt of an acceptable credit application, with or without security (as may be specified by us in our discretion).
- 5.2 We may vary or withdraw your approved credit limit at any time in our discretion. If credit terms are granted, you must pay our invoices within the time period and credit limit agreed in writing by us.
- 5.3 We accept payment by cash, cheque, EFTPOS, Visa and MasterCard. If you pay by credit card, we will charge a credit card surcharge at cost calculated on the GST inclusive amount payable.
- 5.4 All payments to us must be made in cleared funds, without set-off or deduction.
- 5.5 We may charge you interest on all overdue payments at the rate of 2% per month from the due date for payment until the date that payment is made (both dates inclusive).
- 5.6 If you default in any payment or if you breach any of these Terms, or if you commit any act of bankruptcy, appoint an administrator or commit an act which entitles a third party to make an application to wind you up or to appoint a receiver or receiver and manager to you or any of your assets or if you pass a resolution to wind yourself up or you enter into any arrangement or compromise with any of your creditors or if any event occurs which in our reasonable opinion is likely to adversely affect your ability to perform your obligations under these Terms ("**Events of Default**"), then:
 - a. the date for payment of all moneys owing and outstanding to us, irrespective of whether the due date as per the invoice has passed, will accelerate and become immediately due and payable;
 - b. we may invoice you for the value of any goods supplied and other out of pocket expenses incurred, but not yet invoiced, which amounts will be immediately due and payable upon issue of our tax invoice;
 - c. we may cancel or suspend any unfilled orders or suspend the supply of further goods/services to you, which are not yet supplied as at the date of the Event of Default.
- 5.7 All payments must be made in the agreed currency.
- 5.8 You agree to indemnify us against all Claims and Loss that we suffer or incur in connection with the recovery of any monies due and payable but unpaid by you.

6 Delivery

- 6.1 Where we are to deliver the goods, we will make all reasonable efforts to deliver the goods on the date agreed between us to the delivery address nominated by you. Any changes to the nominated delivery address after we have accepted your order must be agreed by us and may incur an additional delivery fee.
- 6.2 You have no Claim against us for any delays (however caused) in supplying the goods.
- 6.3 Delivery of our goods occurs when:
 - a. the goods are delivered by us to your nominated delivery address in your order regardless of whether you accept delivery; or
 - b. you collect the goods from our premises.
- 6.4 You are responsible for unloading of goods at the delivery address.
- 6.5 If the nominated delivery address is unattended, or if delivery cannot otherwise be effected, then we may in our discretion store the goods at your risk and expense.
- 6.6 We reserve the right to select or vary the method and route of transportation and handling of goods. If you request a different method or route, the additional cost will be borne by you.
- 6.7 The supply of goods is subject to availability. If we are unable to supply your total order for goods, we may deliver the order in instalments and you must pay an amount for that instalment as notified by us in our tax invoice.

7 Custom goods and Special Orders

- 7.1 Where you submit an order for Custom goods or a Special Order, you must, unless otherwise agreed in writing, pay a deposit of 50% of the price payable before manufacturing and/or assembly commences or before we place an order with our suppliers in respect of your Special Order, with the balance payable on completion of manufacture and/or assembly and/or received from our suppliers of the Special Order and before delivery to you.
- 7.2 You are responsible for:



- a. determining the specifications for the Custom goods and Special Orders and that those specifications meet your requirements for their intended function and application; and
 - b. providing us with accurate, complete and detailed Customer Information concerning the Custom goods.
- 7.3 You acknowledge and agree that:
- a. we are reliant on the accuracy and completeness of the Customer Information that you provide;
 - b. we assume no responsibility for the adequacy of your Customer Information;
 - c. we are not required to review or confirm the accuracy or completeness of your Customer Information; and
 - d. we are not liable for, and we disclaim all liability in connection with any errors or omissions in your Customer Information.
- 7.4 You warrant that you own or have the right to use all Customer Information that you provide to us, and that the Customer Information does not infringe the rights of any third party.
- 7.5 You agree to pay us additional fees for any variations that you request to Custom goods and Special Orders and their method of manufacture and/or assembly after the date of placing your order, and for any additional costs and expenses incurred by us in connection with any Customer Information which you submit which contains errors or omissions or is insufficient to facilitate the supply of the Custom goods or Special Order, or which result in alterations to them. Additional fees will be as agreed in writing, and failing agreement will be calculated on a time and materials basis according to our standard hourly rates, which we will supply upon request.
- 7.6 You must promptly provide any approvals relating to Custom goods and Special Orders that we reasonably request. We may delay or suspend the manufacture or assembly of Custom goods or the purchase of your Special Order from our suppliers, if you fail to provide any requested approvals.
- 7.7 Unless otherwise agreed in writing, you are responsible for testing Custom goods and Special Orders. We disclaim all liability in connection with any Custom goods or Special Orders failing to function or perform as intended, except to the extent that they do not comply with the specifications for them provided by you in the Customer Information.
- 7.8 Custom goods and Special Orders may not be returned after they have been delivered for change of mind.
- 8 Inspection, acceptance of goods and returns**
- 8.1 You must inspect the goods immediately upon delivery, for any obvious damage suffered during delivery, and to confirm that the goods supplied are not different from the goods ordered.
- 8.2 Subject to applicable laws, any Claim that the goods supplied are damaged or are different from the goods ordered must be given in a written notice within 30 days of delivery. The notice must give sufficient details of the Claim, attach a copy of our invoice and include photographic evidence. If you fail to give such a notice, you will be taken to have accepted the goods and subject to applicable laws, you will not be entitled to make any Claim against us.
- 8.3 If we are satisfied (acting reasonably) that the goods are damaged or are different from the goods ordered, we will provide you with a Goods Return Authority code and arrange for the return of the goods at our cost. You must return the incorrectly supplied or damaged goods with our Goods Return Authority form. Upon return of the goods, we will, at our option, repair, replace or resupply the relevant goods or refund you the cost of the goods (including any freight/delivery charges).
- 8.4 We will not consider any Claim and disclaim all liability:
- a. for any damage occurring to goods after delivery;
 - b. for any modifications, alterations or changes made to goods by you or any third party after delivery;
 - c. if the goods have been installed or used after delivery.
- 8.5 Change of mind - except for Custom goods and Special orders, you may return any other goods for any reason (including change of mind) within 30 days after delivery, subject to the following:
- a. the goods must be unused, undamaged and in original condition;
 - b. you are responsible for returning the goods are at your cost, in their original packaging, accompanied by a Goods Return Authority Form and a copy of our invoice;
 - c. you will be offered a credit to your account or full refund (less any freight/delivery charges);
 - d. you may be liable to pay us a restocking fee of \$10.00 or 15% of the original purchase price of the returned goods, whichever is the greater.
- 9 Defects liability and warranty**
- 9.1 If you are taken to acquire goods to which these Terms apply, as a *consumer* for the purposes of the *Australian Consumer Law* ("ACL"), 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 for 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*. The benefits given by this product warranty are in addition to all other rights and remedies that you, the consumer has under any law in respect of our goods.
- 9.2 We warrant that our goods are free from Defects for a period of 12 months from the date of delivery, subject to the following terms.
- 9.3 If you claim that a good sold is Defective, you must give us written notice within 30 days of first becoming aware of the Defect, time of the essence. The notice must give sufficient details of the Claim, and be accompanied by a Goods Return Authority form and a copy of our invoice. We may require you to send digital photos of the Defect or return the goods to us. We will pay the cost of returning the goods to us if on our examination the goods are found to be Defective.
- 9.4 We will repair or replace any good sold which upon our examination is found to be Defective.
- 9.5 Our product warranty does not cover:
- a. installation, operation or maintenance of the good sold, which is contrary to instructions issued by us, or if no instructions are issued, in accordance with generally accepted industry standards;
 - b. unauthorised repairs or alterations to the good sold, other than by our recommended service agents;
 - c. fair wear and tear;
 - d. misuse, abuse, accident or absence of care or improper storage;
 - e. Defects caused or contributed to by our use of or reliance on your Customer Information.
- 9.6 You are responsible for all labour costs for installing replacement goods.
- 9.7 Any repair or replacement of the good sold, does not extend the original 12 months Defect warranty period.
- 9.8 If we determine that a good sold is not Defective, we will charge you for the cost of any replacement and any labour required (including attendance at your premises for assessment and installation) at the rate of \$200/hour + GST.
- 10 Technical Materials**
- 10.1 All advices, recommendations, information, assistance or services ("**Advice**") provided by us in relation to our goods, is given in good faith and is believed by us to be appropriate, accurate and reliable. However, you acknowledge that in purchasing the goods, you have not relied upon the Advice as provided by us or our agents.
- 10.2 You acknowledge and agree that:
- a. all technical data supplied by us in relation to the Goods is approximate only unless we specify in writing otherwise; and
 - b. our goods may include codes or other identifiers relating to third party goods. These code or identifiers are for our reference only. We are not liable for any Loss suffered by you because of your reliance on that code or identifier; and
 - c. you are satisfied from your own enquiries that the specifications of the goods are correct and appropriate for the purpose for which you require them.
- 11 Risk**
- 11.1 Risk in the goods will pass to you on delivery.
- 12 Retention of Title**
- 12.1 This clause 12 applies when goods are supplied to you before we receive full payment.
- 12.2 Property in the goods does not pass to you but remains with us until full payment is made by you for the goods and there are no other amounts owing to us by you. In the meantime, you take custody of the goods and hold the goods on trust and as a fiduciary bailee for us.
- 12.3 Where you do not make payment in respect of specific goods, payment will be treated as having been made first in respect of goods which have passed out of your possession, and then in respect of whatever goods are still in your possession, as we elect.
- 12.4 Until the goods have been paid for in full:
- a. you must store the goods in such manner as to show clearly that they are our property;
 - b. you may sell the goods in the ordinary course of your ordinary business, but only as our trustee and fiduciary. Any right to bind us to any liability to a third party by contract or otherwise is expressly negated;
 - c. you must not sell, assign, charge or otherwise encumber or grant any security interest over any obligations which any third party may owe to you from the re-sale of the goods, other than in our favour.
- 12.5 You irrevocably authorise us at any time to enter any premises:
- a. upon which our goods are stored to enable us to inspect them and/or exercise the rights in clause 12.6; and
 - b. upon which your records relating to the goods are held to inspect and copy them.
- 12.6 If you make default in any payment of an amount due to us or an Event of Default occurs, we may without notice and without prejudice to any other rights and remedies, enter upon any of your premises and recover and/or re-sell the goods or any part of them and do all things necessary to take possession of the goods.



- 12.7 If you sell the goods, then you will, in your capacity as our trustee and fiduciary bailee:
- hold the proceeds of sale in a separate bank account on trust for us and not mix any other funds with those proceeds of sale; and
 - pay to us from those proceeds of sale, the amount which is owed by you to us at the time you receive those proceeds of sale.
- 12.8 If you breach clause 12.7 and mix other monies with the proceeds of sale being held on trust, then you will continue to hold on trust for us and as our fiduciary bailee, that part of the monies as relate to the goods supplied. That part will be deemed to be equal in dollar terms to the amount which is owed by you to us at the time you receive the proceeds of sale.
- 12.9 If:
- you use the goods in some manufacturing or processing process of your own or of some third party; and
 - the product resulting from the manufacturing or processing process is sold by you;
- then you will hold on trust for us and as our fiduciary bailee, such part of the proceeds of sale as relates to the goods supplied by us. Such part shall be taken to be equal in dollar terms to the amount which is owed by you to us at the time you receive such proceeds of sale.
- 12.10 We may commence a Claim against you if the goods are not paid for by their due date for payment, even though property in the goods has not passed to you.
- 13 Personal Property Securities Act**
- 13.1 This clause 13 applies if goods are supplied to you before we receive full payment.
- 13.2 You acknowledge and agree that:
- Capitalised words and phrases used in this clause 13 have the same meaning as in the PPSA;
 - these Terms constitute a security agreement for the purposes of the PPSA, and create a Security Interest which will continue until all your debts and obligations under these Terms are discharged in full;
 - the Security Interest created by these Terms, attaches as a Purchase Money Security Interest ("PMSI") under the PPSA, in all goods supplied by us to you under these Terms, including all future goods that may be supplied by us and in all products into which the goods are incorporated, processed or comingled;
 - this Security Interest applies to all Proceeds of such goods (including any Accounts); and
 - the Collateral is all goods supplied by us to you, and includes any Accounts in respect of that part of the Proceeds of the Collateral which will be held on trust by you for us as set out in clause 12.
- 13.3 You irrevocably authorise us and our agents to:
- apply for any registration or give any notification, in connection with the Security Interest created under these Terms;
 - complete any blanks in any other document associated with these Terms, including any Financing Statement or Financing Change Statement; and
 - do anything else required to obtain registration of the Security Interest created under these Terms, including any requisitions concerning lodgment.
- 13.4 You must not without our prior written consent, create or attempt to create a Security Interest in or affecting the Collateral described above, other than as set out in these Terms, provided this does not prevent you entering into a general security agreement with any financier in respect of any financial accommodation given to you.
- 13.5 You acknowledge and agree that:
- nothing in these Terms is intended as an agreement that the Security Interest under these Terms, Attaches at a later time than the time specified in s.19(2) of the PPSA; and
 - nothing in these Terms is intended as an agreement to subordinate any Security Interest that you have in the Collateral in favour of any other person.
- 13.6 To the extent that Chapter 4 of the PPSA would otherwise apply to the enforcement by us of our Security Interest in the Collateral, the parties agree that the following provisions of the PPSA are excluded:
- to the extent permitted by s.115(1) of the PPSA – sections 125, 132(3)(d), 132(4), 135, 142 and 143 of the PPSA; and
 - to the extent permitted by s.115(7) of the PPSA – sections 129(2) and (3), 132, 133(1)(b) (as it relates to our Security Interest), 134(2), 135, 136(3), (4) and (5) and 137.
- 13.7 To the extent permitted by law, you waive:
- your rights to receive any notice that is required by any provision of the PPSA (including notice under s.157(3)(b)) or that is required by any other law before we exercise a right, power or remedy; and
 - any time period that must otherwise lapse under any law before we exercise a right, power or remedy.
- However, nothing in this clause prohibits us from giving a notice under the PPSA or any other law.
- 13.8 Pursuant to section 275(6) of the PPSA, you agree that you will not disclose any Security Agreement or other documentation disclosing any Security Interest, nor any information of the kind described in section 275(1) of the PPSA without our prior written consent, unless required by law.
- 14 Warranty and Limitation of Liability**
- 14.1 If you are taken to acquire goods or services to which these Terms apply, as a consumer for the purposes of the ACL, you have the benefit of the consumer guarantees and other non-excludable rights set out in the ACL. Subject to those consumer guarantees and non-excludable rights, to the extent permitted by law, all representations, warranties and conditions of any kind, implied by statute, general law or custom relating to our goods/services are excluded, except as expressly set out in these Terms.
- 14.2 To the extent permitted by law, (including the provisions of the ACL in relation to "major failures"), our liability for breach of any consumer guarantees and non-excludable rights is limited at our option to any one or more of the following:
- in the case of goods - the repair of the goods, the replacement of the goods or the supply of equivalent goods or to the payment of the costs of repair, replacement or supply of equivalent goods; and
 - in the case of advice, recommendations, information or services, by supplying the advice, recommendations, information or services again, or by paying the cost of supplying the advice, recommendations, information services again.
- 14.3 To the extent permitted by law neither party is liable to the other for any loss of profits, failure to make anticipated savings, loss of goodwill or damage to reputation, business interruptions, business down time, loss of information/data, loss of business, loss of opportunity, or any indirect, incidental or consequential losses, irrespective of how they arise.
- 14.4 Subject to clauses 14.1 – 14.3 inclusive, our total cumulative liability under or in any way connected with any individual contract for the supply of goods/services to which these Terms apply, is limited in aggregate for all Claims to an amount equal to the total price paid or payable by you for the goods/services the subject of that contract.
- 14.5 The limitations and exclusion of liability under this clause 14 do not apply in respect of
- death or personal injury; or
 - damage to third party tangible property;
- to the extent caused by our negligence and then only to such extent that we are not otherwise released from liability under these Terms.
- 15 General**
- 15.1 Any failure or delay by a party in exercising any right, power or privilege available to it, will not operate as a waiver or variation of such right, power or privilege, nor will the exercise by a party of any other right, power or privilege prevent that party from exercising any other rights, powers or privileges available to it.
- 15.2 You acknowledge that these Terms may only be varied by agreement in writing signed by authorised representatives of both parties.
- 15.3 If any part of these Terms is held to be void or unlawful, these Terms will be read and enforced as if the void or unlawful provisions have been deleted.
- 15.4 Nothing in these Terms is intended to create an agency, partnership or joint venture relationship between us. Neither party has any authority to bind the other to any obligation to any third party unless otherwise agreed in writing.
- 15.5 If a party is prevented from or delayed in complying with an obligation (other than to pay money) by an event beyond its reasonable control, performance by it of that obligation is suspended during the time but only to the extent that compliance is prevented or delayed.
- 15.6 These Terms are governed by and construed in accordance with the laws of NSW and the parties submit to the non-exclusive jurisdiction of the courts of NSW.
- 15.7 Any notice to be given by a party to the other must be in writing.