

## Terms and Conditions of Sale

### Definitions

In these General Terms and Conditions of Supply:

"Concept AV" means Concept AV Australia Pty Ltd or any of its related bodies corporate.

"Customer" means the person or entity to whom Goods are supplied by Concept AV.

"Delivery" means the delivery to or collection by the Customer of the Goods as provided for in these Terms or as otherwise agreed in writing between Concept AV and the Customer.

"Goods" means all goods, products, equipment, components and other materials the subject of an Order by the Customer or otherwise under this Agreement provided that:

- a) unless the context provides otherwise, any reference to 'Goods' includes all proceeds of such Goods; and
- b) for the purpose of the Personal Property Securities Act 2009 (Cth) only, where Goods are supplied to a Customer as inventory, then all references to the Goods will be to them as inventory only while they are held as inventory by the Customer.

"GST" means goods and services tax as defined by A New Tax System (Goods and Services Tax) Act 1999

"Order" means any purchase order, request, instructions, direction to proceed in any form used by the Customer from time to time for ordering Goods.

"Price" means the total of the amounts charged by Concept AV for each of the Goods, exclusive of GST. "PPSA" means the Personal Property Securities Act 2009 (Cth).

"Terms" means these General Terms and Conditions of Supply and as amended by Concept AV in writing from time to time.

### Interpretation:

In these Terms unless the context otherwise requires:

- a) references to 'Person' include a reference to an individual, firm, partnership, corporation, association or body of people (whether incorporated or not), any public body authority or government or semi government body or authority, agency or department;

### Orders:

By placing an Order with Concept AV for Goods, the Customer agrees as follows:

- a) each Order constitutes an unconditional and irrevocable offer to acquire the Goods by the Customer subject to these Terms and the terms of any Concept AV quotation except as otherwise agreed in writing between the Customer and Concept AV, and to the exclusion of any other terms and conditions (including any terms and conditions contained in any Order or document of the Customer);
- b) all orders are subject to acceptance by Concept AV at its discretion and such acceptance may be written, oral or constituted by Delivery of the Goods;
- c) Concept AV may, in its absolute discretion, decline any Order either in whole or in part and is not liable to any person for any loss or damage arising as a result of exercise of this discretion.

### Terms of Trade

Unless Terms of Trade are specified through an executed contract between Concept AV and the Customer, Concept AV will issue an invoice to the Customer as per the following schedule:

If any project runs for greater than a single calendar month, Concept AV reserve the right to issue an invoice to the Customer at the end of each Calendar month for the work carried out on site and 75% of any committed material costs within the same calendar month. The Concept AV quotation is based on no retention being withheld for the project. All invoices are expected to be paid within 30 days of receipt. If any goods are committed to by Concept AV and subsequently not required at the Customers instruction, a restocking fee may apply.

The Customer agrees:

- a) Payment is to be made within 30 days from the date of invoice, unless otherwise agreed to in writing by Concept AV.
- b) If payment is not made when due, Concept AV may do any or all of the following:
  - withdraw any credit; and
  - refuse any further credit; and
  - stop supply; and
  - charge interest on all amounts owing by the Customer to Concept AV on a daily basis at a rate equal to two [2]% per annum above the rate currently known as the Overdraft Base Rate of the National Australia Bank Limited or any other rate replacing that rate, accruing and calculated on a daily basis, and the Customer agrees to pay this interest to Concept AV.

### Retention of Title

The Customer agrees that:

- a) until full payment has been made of the Price of any Goods purchased from Concept AV in accordance with these Terms and any other sums whatsoever outstanding from the Customer to Concept AV from time to time or otherwise:
  - the Price and any other sums payable to Concept AV in accordance with these Terms or otherwise, shall become immediately due and payable if the Customer makes default in paying or if the Customer shall become bankrupt or commit any act of bankruptcy or compound with its creditors or have judgment entered against it in any court or, being a company, have a liquidator, administrator, provisional liquidator, receiver and / or manager or controller appointed;
  - the property and title in the Goods shall not pass to the Customer;
  - the Customer shall keep the Goods as bailee for Concept AV (returning the same to Concept AV upon request).
  - Concept AV is irrevocably authorised to enter any premises where the Goods are kept, and to use the name of the Customer and to act on the Customer's behalf, if necessary, to recover possession of the Goods.

- b) pending payment in full for the Goods, the Customer:
- must not supply any of the Goods to any person outside of its usual course of business;
  - must insure the Goods for their full insurable or replacement value (whichever is higher) with an insurer licensed or authorised to conduct the business of insurance in the place where the Customer carries on business.
- c) despite above, if the Customer supplies any of the Goods to any person before all monies payable by the Customer have been paid to Concept AV, the Customer agrees:
- Concept AV retains title to any proceeds, including but not limited to sale proceeds or an account for such monies or rent monies and insurance monies;
  - to either pay the amount of the proceeds of re-supply to Concept AV immediately when they are received or pay those proceeds into an account with a bank or a financial institution or deposit-taking institution as trustee for Concept AV.

#### **Cancellation of Orders**

Any committed purchase orders may be cancelled or rescheduled up to a maximum of three (3) calendar months from the scheduled installation start date. Any cancellation or rescheduling within the three month period may be subject to a cancellation or restocking fee to a maximum of 15% of the total project value. Concept AV will on every occasion of cancellation attempt to return all equipment at no cancellation fee to the Customer. There is however no commitment to this by Concept AV.

#### **Limiting Liability**

The Customer agrees not to hold Concept AV liable for incidental or consequential damages (including any loss of profit) of any nature arising out of or related to the supply, documentation, installation or workmanship or the performance of use of any products or workmanship.

- a) any loss of profit, revenue, business, contracts or anticipated savings;
- b) any loss or expense resulting from a claim by a third party;
- c) any special, indirect or consequential loss or damage of any nature whatsoever caused by Concept AV's failure to complete or delay in completing the Order to deliver the Goods or arising out of use of the Goods or occurring in respect of the Goods
- d) loss or damage due to fair wear and tear and negligence or improper use, operation, storage or handling of the Goods other than strictly in accordance with the Concept AV's written instructions as supplied with the Goods;
- e) loss, injury or damage (including consequential loss) arising from fire, accident, industrial dispute, civil disturbance or any other act of accidental default interfering with the manufacture, despatch or delivery of the Goods and beyond the control of Concept AV.

#### **Warranty**

New Products: Concept AV warrants that the products and any spare parts under normal use and service will be free from defects in material and workmanship for the period of the manufacturers warranty period. Concept AV will, without costs being incurred by the Customer, repair or replace at Concept AV's discretion, any parts which are found to be defective within this warranty and which are returned to Concept AV, provided that:

- The Customer has made Concept AV aware of the defective product within the specified manufacturers warranty; and
- The product has not been damaged, subject to misuse, altered or repaired or improperly maintained by the Customer or any other party in a manner which Concept AV reasonably determines to have adversely affected performance or reliability.

Any item replaced under warranty will carry a new product warranty from the date of original purpose only.

#### **Applicable Law**

The validity, interpretation and performance of this agreement shall be governed by the law of the state of Western Australia.

#### **Prices**

Concept AV may issue price lists and schedules for its Goods and any other lists from time to time and the

Prices, lists and schedules are subject to change by Concept AV at any time without notice.

Any Prices quoted by Concept AV are exclusive of GST.

If GST is payable in relation to the Goods provided or to be provided by Concept AV, then the Customer is liable for and agrees to pay to Concept AV the amount of any GST in addition to the Price.

#### **Pricing Validity**

This quotation is valid for a period of 30 days unless modified in writing by an authorized Concept AV representative prior to the acceptance of the Customer's order commitment.

#### **Exclusions**

Any works not specifically mentioned in the quote are not provided by Concept AV.

**No Set-off & Deductions** The Customer agrees payment will be made by the Customer to Concept without set-off or deduction, unless otherwise agreed to in writing by Concept AV.

#### **Risk and Insurance**

The responsibility for risk and insurance for Goods in transit is to be determined by the Delivery terms.

The provisions of Incoterms 2000 shall apply to the supply and Delivery of Goods unless otherwise defined in these Terms or specified in any quotation or Order confirmation provided by Concept AV.

#### **Delivery**

The Customer agrees:

- a) Delivery terms shall be as nominated in the Order confirmation provided by Concept AV in accordance with Incoterms 2000;

- b) *method of Delivery shall be as nominated in the Order confirmation provided by Concept AV;*
- c) *unloading of Goods on Delivery to the Customer shall be the responsibility of the Customer;*
- d) *Concept AV reserves the right to withdraw an Order confirmation at any time before Delivery and will not be liable for any loss whatsoever as a result of a failure to deliver;*
- e) *Goods returned may be subject to a 15% restocking fee.*

**Claims and Returns**

*All Claims in relation to the Goods (other than those for a breach of a condition or warranty implied by Part 3.2, sub divisions A and B of the Australian Consumer Law in Schedule 2 of the Competition and Consumer Act 2010 (Cth.) must be made in writing within 7 days of actual or deemed Delivery.*

*No returns, other than those permitted for a breach of a condition or warranty implied by Part 3.2, sub divisions A and B of the Australian Consumer Law in Schedule 2 of the Competition and Consumer Act 2010 (Cth.), will be accepted without the written authority of Concept AV. The original invoice or Delivery docket number and serial numbers must be quoted on all correspondence.*

*The requirements of this clause operate to the fullest extent permitted by law.*

*All returned products accepted by Concept AV are to be returned in the original packaging with all supplied manuals, discs and leads provided,*

*Concept AV's liability for a breach of a condition or warranty implied by the Australian Consumer Law in Schedule 2 of the Competition and Consumer Act 2010 (Cth.) or under these Terms, for the Goods and / or Services supplied by Concept AV (other than goods and / or services of a kind ordinarily acquired for personal, domestic or household use or consumption, or if the Customer establishes that reliance on it would not be fair and reasonable) is limited, to the fullest extent permitted by law (in Concept AV's discretion), in the case of Goods, any one or more of the following:*

- a) *the replacement of the Goods or the supply of equivalent Goods;*
- b) *the repair of the Goods;*
- c) *the payment of the cost of replacing the Goods or acquiring equivalent Goods;*
- d) *the payment of the cost of having the Goods repaired, or*

*To the extent permitted by law, all other warranties whether implied or otherwise, not set out in these Terms are excluded and Concept AV is not liable in contract, tort (including, without limitation, negligence or breach of statutory duty) or otherwise, to compensate the Customer for: any increased costs or expenses;*

**Terms**

*Concept AV may from time to time, in its absolute discretion, vary these Terms.*

- a) *In the event of a variation of these Terms, Concept AV will notify the Customer and / or may post any varied copy of these Terms on its website ('Notification').*
- b) *Notification of the varied Terms as referred to above, will be deemed to be accepted by the Customer continuing to place Orders or entering into agreements with Concept AV.*

**PPSA**

*Defined terms in clauses 16 - 19 have the same meaning as given to them in the PPSA.*

- a) *Concept AV and the Customer acknowledge that this agreement constitutes a Security Agreement and gives rise*
- b) *to a Purchase Money Security Interest (PMSI) in favour of Concept AV over the Goods supplied or to be supplied to the Grantor pursuant to this agreement.*
- c) *The Goods supplied or to be supplied under this agreement fall within the PPSA classification of "Other Goods" acquired by the Customer pursuant to these Terms.*
- d) *Concept AV and the Customer acknowledge that Concept AV, as Secured Party, is entitled to register its interest in the Goods supplied or to be supplied to the Customer as Grantor under this agreement on the PPSA Register as Collateral.*

*The Customer waives its right to receive notification of or a copy of any Verification Statement confirming registration of a Financing Statement or a Financing Change Statement relating to a Security Interest granted by the Customer, as Grantor, to Concept AV.*

*The Customer agrees to indemnify Concept AV on demand for all costs and expenses, including legal costs and expenses on a solicitor / client basis, associated with the;*

- a) *registration or amendment or discharge of any Financing Statement registered by or on behalf of Concept AV;*
- b) *enforcement or attempted enforcement of any Security Interest granted to Concept AV by the Customer.*