

STANDARD TERMS AND CONDITIONS OF SALE

1. Acknowledgement: The Customer acknowledges that:

- a. all Goods are provided subject to, and will be governed by, these Conditions; and
- b. these Conditions will apply to the exclusion of any other terms and conditions that may appear on any purchase order of the Customer from time to time.

2. Definitions: In these Conditions:

"Conditions" means these Standard Terms and Conditions of Sale (International Sales); "BFM® Australia" means BFM® Australia Pty Ltd;
"Force Majeure" means inability to obtain supplies or labour, industrial disputes, delays, act of God, fire, flood, storm, adverse weather conditions, or other matters beyond BFM® Australia's reasonable control; and
"Goods" means all products or other goods that BFM® Australia may agree to supply to the Customer from time to time.

3. Quotations: No quotation for Goods given by BFM® Australia will be valid unless the Customer accepts it by placing an order for the relevant Goods within 45 days from the date it is given, unless otherwise agreed in writing by BFM® Australia. BFM® Australia may withdraw any quotation given by it at any time before acceptance by the Customer. No quotation will be binding on BFM® Australia if such quotation was given based on incomplete, inaccurate or misleading information provided by the Customer.

4. Price:

- a. The prices for the Goods will be the prices as specified in a binding quotation. If no binding quotation is in place, the prices will be as notified by BFM® Australia to the Customer from time to time in writing.
- b. All prices are in Australian dollars.
- c. BFM® Australia reserves the right to vary the price for the Goods at any time by giving written notice to the Customer, to reflect changes in exchange rates, materials, delivery, freight costs, costs of labour, or other costs incurred by BFM® Australia that are outside of its control.
- d. Pricing errors may be corrected at any time.

5. Ordering procedure:

- a. The Customer will place orders for the Goods with BFM® Australia. Each order will be in writing, will be in a format approved by BFM® Australia, will be sent by email or other electronic means approved by BFM® Australia and will specify:
 - i. the date of the order; and
 - ii. the volume and type of Goods ordered.
- b. BFM® Australia will acknowledge to the Customer in writing all orders received by it under clause 5(a).
- c. BFM® Australia is not obliged to accept any order received from the Customer and may refuse to do so without being obliged to state a reason. BFM® Australia may, without any liability on BFM® Australia's part, cancel any order for Goods before pickup of the Goods.

6. No cancellation by Customer: Upon receipt by the Customer of a written acknowledgement by BFM® Australia under clause 5(b), a binding contract to supply such Goods will exist, and the Customer may not cancel such order without BFM® Australia's written consent.

7. Invoicing and payment: Unless otherwise specified by BFM® Australia in writing, the terms of payment for the Goods will be as follows:

- a. BFM® Australia will issue an invoice to the Customer for the Goods on the date the Goods are shipped from the premises of BFM® Australia or its agent; and
- b. the Customer must pay the invoiced price in full by the end of the month following the month of invoice.

8. Payment terms: All sums due to BFM® Australia under these Conditions:

- a. are exclusive of any sales tax or value added tax which, where applicable, will be payable by the Customer to BFM® Australia in addition on the rendering by BFM® Australia of an appropriate tax invoice;
- b. will be paid in Australian dollars to the credit of our bank account as designated in writing by BFM® Australia; and
- c. will be paid in cleared funds without deduction or set-off of any kind and by the due date, failing which:
 - i. BFM® Australia may charge interest on any outstanding amount on a daily basis at an annual rate equivalent to the rate being BFM® Australia's banker's standard annual interest rate for commercial overdrafts plus 5%, from the due date until the date of actual payment; and
 - ii. if BFM® Australia incurs any costs or expenses by reason of the Customer's failure to pay any amount required to be paid by it to BFM® Australia by the due date, the Customer will reimburse BFM® Australia for all costs and expenses that BFM® Australia incurs in connection with any actions or proceedings for recovery of such amounts, including all reasonable accounting costs, attorney costs (on a solicitor and own client basis), court costs and debt collection costs.

9. Delivery of Goods – all Australian-based Customers:

- a. Delivery of Goods shall take place when the Customer takes possession of the Goods at the Customer's nominated address in Australia.
- b. BFM® Australia will manage the shipment and the associated costs will be added directly to the Customer's invoice. Any projected delivery times given by BFM® Australia will be estimates only. BFM® Australia will not be liable to the Customer for any delay in delivery.
- c. The Customer shall make all arrangements necessary to take delivery of the Goods whenever they are tendered for delivery. In the event the Customer is unable to take delivery of the Goods as arranged then BFM® Australia shall be entitled to charge a reasonable fee for re-delivery.

10. Shortfalls: In the event of an alleged shortfall in any Goods picked up, the Customer will submit a written claim to BFM® Australia within seven days of the date of receipt by the Customer. In the absence of such a written claim from the Customer, the Goods will be deemed to have been supplied in accordance with these Conditions. In no event will the Customer be entitled to refuse to accept any order by reason only of a shortfall.

11. Force Majeure: BFM® Australia will not be liable for any failure to perform the contract or any part of it due to and event of Force Majeure. BFM® Australia may cancel an order if the cost to BFM® Australia of supplying any Goods is increased materially as a result of such Force Majeure and the parties cannot agree on how the additional cost is to be borne.

- 12. Risk and title:** Risk in the Goods will pass to the Customer once they reach the Customer's site. However, title in the Goods will not pass to the Customer until such time as all Goods supplied to the Customer by BFM® Australia have been paid for in full. Until such title passes:
- the Customer will keep the Goods clearly labelled as the goods of BFM® Australia in a separate part of the Customer's premises;
 - the Customer will only sell or dispose of the Goods in the ordinary course of the Customer's business and will hold the proceeds of such sale or disposal in a separate account on trust for BFM® Australia; and
 - BFM® Australia may at any time require the Goods to be returned to it at the Customer's cost, and will be entitled to enter the premises of the Customer or any other place where the Goods are situated at any time in order to take possession of them, and the Customer will indemnify BFM® Australia against any claim or demand that may be brought in relation to such entry and taking of possession.
- 13. Intellectual Property Rights:**
- The Customer acknowledges that BFM® Australia owns or is the licensee of various intellectual property rights in or to some or all of the Goods ("Intellectual Property Rights"). The Customer agrees not to claim any right, title or interest in or to the Intellectual Property Rights, nor to copy, reproduce, or reverse engineer any Goods the subject of any such Intellectual Property Rights, without BFM® Australia's prior written consent.
 - Copyright in all drawings, designs, specifications and plans created or prepared by BFM® Australia for the Customer will remain with BFM® Australia.
- 14. Warranties:** BFM® Australia warrants that all Goods supplied to the Customer will, for the applicable warranty period from the date of dispatch notified by BFM® Australia to the Customer in writing, be of merchantable quality and free from manufacturing defects. If no such warranty period is notified, the warranty period will be 12 months.
- 15. Exclusion of warranty:** No warranty is given for Goods that are rendered not of merchantable quality or free from manufacturing defects, as a result of any of the following:
- use, installation, modification or alteration of the Goods other than as recommended or authorised in writing by BFM® Australia;
 - improper storage of the Goods by the Customer, its employees or contractors;
 - damage or defects caused by fire or excessive heat; or
 - physical damage caused to the Goods during loading onto the Customer's carrier or following pickup;
 - normal wear and tear;
 - use of abrasive or corrosive substances.
- 16. Invalidity of warranties:** Any attempt by any person to repair any Goods without the prior written authorisation of BFM® Australia will invalidate the warranties in clause 14.
- 17. Remedy:** The Customer's sole remedy against BFM® Australia for any Goods that do not comply with the warranties in clause 14 will be (at the option and cost of BFM® Australia) for BFM® Australia to repair or replace such Goods, or give to the Customer a full credit or refund for such defective Goods provided that:
- if requested by BFM® Australia, the Customer first returns the defective Goods to BFM® Australia to be examined, and gives BFM® Australia the opportunity to investigate the alleged defect; and
 - the Customer must notify BFM® Australia in writing of the relevant defect within the applicable warranty period for the Goods notified by BFM® Australia to the Customer in writing, and no later than seven days following the date the Customer first became aware of the defect.
- 18. No implied warranties:** The Customer acknowledges that except as expressly provided in these Conditions, BFM® Australia gives no warranties in relation to the Goods, either express or implied, including but not limited to any implied warranties relating to quality, fitness for any particular purpose or ability to achieve a particular result. All statements, technical information and recommendations about the Goods are believed to be reliable, but do not constitute a guarantee or warranty.
- 19. Consequential loss:** In no event will BFM® Australia be liable (whether in contract, tort, negligence or in any other way) to the Customer for:
- loss of revenue or profit, loss of anticipated savings, loss of goodwill or opportunity, loss of production, loss or corruption of data or wasted management or staff time; or
 - loss, damage, cost or expense of any kind whatsoever that is indirect, consequential, or of a special nature, arising directly or indirectly from any Goods supplied by BFM® Australia to the Customer, even if BFM® Australia had been advised of the possibility of such damages, and even if such loss, damage, cost or expense was reasonably foreseeable by it.
- 20. Maximum liability:** In no event will BFM® Australia's total liability under any claim of whatever nature arising directly or indirectly from the Goods supplied by BFM® Australia to the Customer exceed the price paid by the Customer for the specific Goods to which the relevant claim relates.
- 21. Exception:** None of the exclusions or limitations set out in these Conditions will have the effect of limiting or excluding any form of liability where such liability cannot be so limited or excluded under applicable law.
- 22. Indemnity:** The Customer will indemnify BFM® Australia from and against any and all liability, loss, damage and expense incurred by BFM® Australia arising out of or attributable to the Goods following the date of pickup (including, in particular, use of the Goods by any person), except where such liability, loss, damage and expense arose as a result of breach by BFM® Australia of any of its warranties or other obligations under these conditions.
- 23. General:**
- These Conditions embody the entire agreement of the parties in relation to the subject matter of these Conditions and supersede all prior understandings, communications and representations between the parties, whether oral or written.
 - No amendment to these Conditions will be effective unless in writing and signed by an authorised representative of BFM® Australia.
 - These Conditions will be governed by the laws of Australia and will be subject to the non-exclusive jurisdiction of the Australian courts.
 - The United Nations Convention on Agreements for the International Sale of Goods will not apply to the supply of any Goods under these Conditions.