



TERMS AND CONDITIONS OF TRADE

Definitions

"General Optical" means GENERAL OPTICAL PTY LIMITED (ABN 15 003 292 466) its subsidiaries and assigns.

"Customer" means the party placing the Order with General Optical.

"Order" means an offer by a Customer to purchase Products from General Optical.

"Products" includes any goods, services or materials.

"Rebate" means any volume, advertising or other rebate as may be agreed by the Customer and General Optical in writing.

"Settlement discount" means any discount for early payment as may be agreed by the Customer and General Optical in writing.

"Trade discount" means any discount for "Trade Customers" as may be agreed by the Customer and General Optical in writing.

1. Acceptance of Order

General Optical may accept any order in whole or in part. Shipping by General Optical of Products for delivery pursuant to an order (whether by single or multiple delivery) shall be taken as acceptance to the extent shipped. Accepted orders may not be varied or cancelled by the Customer and (subject to the conditions set out herein) there is no right of return.

2. Credit granting

General Optical may accept an order and allow credit for part or all of its value or may accept an order and require pre payment as a condition of delivery. Credit approval once granted may be withdrawn at any time. Where credit approval has not been granted, or is withdrawn, payment of all Products supplied is required before delivery. Where credit has been approved for the Customer, all invoices issued by General Optical are due and payable no later than 30 days after the date of General Optical's invoice (or such other date for payment as the Customer and General Optical may agree in writing).

3. Price

The price of the Products shall be as agreed between the parties or otherwise such amount as indicated on invoices provided by General Optical to the Customer regarding Products ordered. Prior to acceptance of an order, General Optical may change its published prices at any time without notice.

Products ordered from General Optical are quoted F.O.B. Rosebery, Sydney, NSW.

Administrative fees may be charged for sales below certain dollar values as may be determined by General Optical from time to time.

4. Freight and Handling charges

General Optical may charge for freight and handling at rates dependent on distance and volume of Products supplied. The rates are subject to change at any time without notice.

5. Discounts and Rebates

Any discount or rebate will only apply if the Customer and General Optical agree in writing.

A credit adjustment advice will be issued for all approved rebate claims.

Any trade discounts will be indicated on invoices provided by General Optical to the Customer for Products supplied.

Any settlement discounts will be credited to the Customer account when the associated payment is received.

6. Taxes

General Optical reserves the right to recover from the Customer any Goods and Services Tax (GST) payable in respect of supply of Products. Unless expressly included all amounts expressed or described in any agreement, price list or in invoices are GST exclusive.

7. Delivery

Delivery of Products may not be refused by the Customer after an order has been accepted by General Optical. Where prices are stated as inclusive of delivery, delivery is to the delivery point accepted by General Optical. The Customer shall make all arrangements necessary to accept delivery of the Products whenever they are tendered for delivery. In the event that the Customer is unable to accept delivery of the Products as arranged, then General Optical shall be entitled to charge a reasonable fee for redelivery. Delivery of the Products to a third party nominated by the Customer is deemed to be delivered to the Customer for the purposes of this agreement. The failure of General Optical to deliver by a time specified by the Customer shall not entitle the Customer to treat that contract as breached or repudiated. General Optical shall not be liable for any loss or damage or expense arising from failure by General Optical to deliver the Products promptly or at all.

8. Retention of Title to the Products Pending Payment

Orders are accepted on condition that ownership of the Products shall remain with General Optical and shall not pass to the Customer until General Optical has received in full (cash or cleared funds) all sums due to it in respect of the Products and all other sums which are or which become due to General Optical from the Customer on any account. Until ownership of the Products has passed to the Customer; the Customer shall keep the Products in question as fiduciary agent and bailee for and on behalf of General Optical. The Customer shall store and segregate the Products (at no cost to General Optical) in such a way that they can be identified as General Optical's property, shall keep them properly stored, protected and insured and shall deliver them to General Optical upon request and General Optical shall be entitled to enter the premises where they are stored to retrieve them at any time and may resell such Products without the Customer's consent. The Customer will however be entitled to sell such Products within the ordinary course of business on condition that so long as title to such Products remain with General Optical, that General Optical shall legally and beneficially be entitled to the proceeds of sale that the Customer shall hold on trust for General Optical.

9. Passing of Risk

The Risk (but not title) in respect of Products sold passes to the Customer immediately upon delivery of the Products to the Customer or upon collection of the Products by the Customer, the Customer's agent or any courier as the case may be.

10. Manufacturer or Licensor of the Products

The Customer acknowledges that General Optical is not the manufacturer or Licensor of the Products and the Customer will not hold General Optical out to the public as the manufacturer or Licensor of the Products. The Customer acknowledges that the manufacturer or Licensor of the Products may retain intellectual property and licensing rights in the Products. The Customer accepts the Products subject to the terms and conditions specified by the manufacturer or Licensor of the Products and the Customer agrees to indemnify General Optical for any liability suffered by it to a manufacturer or Licensor that may arise from the breach thereof.

The Customer agrees to promptly notify General Optical if the Customer becomes aware of the actual or possible infringement of any intellectual property or licensing rights in the Products by any person.

11. Customer approval

Products sought on Customer approval must be clearly so requested in the Order. Products sent on Customer approval must be returned within 21 days of delivery to be eligible for return. The Customer may not return Products that are not in a saleable condition and must include each original packaging (including case) of the Products with any returns.

12. Indent and Special Ordered Product

Any Product that has been specially ordered for a Customer (whether locally or from overseas) or which does not form part of the range in the current General Optical published price list shall not in any case be eligible for return.

13. Mail Order and Internet

All Products purchased from General Optical are prohibited from resale by mail order or through the internet unless prior written consent is given by General Optical.

14. Credit Card recovery of costs

A service fee may be added to the price where payment is made by way of a credit card.

15. Warranty

General Optical warrant that for the warranty period listed in paragraph 16, from the date of purchase it will replace or repair, at its sole discretion, any of its Products that are defective in materials or workmanship, as follows:

- a. General Optical endeavours to keep spare parts and replacement frames for a number of years. However, due to the fashion nature of many of its Products, General Optical reserve the right to replace any faulty frame or sunglasses with what it fairly judges to be a similar style as available, should this be necessary;
- b. This warranty does not apply to Products that have been altered, broken or damaged by misuse, tampered with in any way or where the fault arises from a failure to follow the recommended glazing, product care or maintenance instructions provided with the Products;
- c. General Optical does not warrant against normal wear and tear, accidental frame damage or scratched or broken lenses that were not defective when shipped for delivery;
- d. Note that General Optical provides a replacement parts service where goods are not covered by warranty;
- e. In no event shall the liability of General Optical for defective goods exceed the invoiced price of the Products concerned.

16. Warranty Periods

- a. Ophthalmic frames – all brands 2 years from the date of delivery
- b. Sunglasses – all brands 1 year from the date of delivery

17. Claims and Returns

The Customer shall inspect the Products on delivery and shall within 48 hours thereof notify General Optical of any apparent defect, shortage in quantity, damage or failure to comply with the order or quote. Any Products which are apparently defective, or which are not in accordance with the Customer's order, must be returned within fourteen (14) days of delivery. The Customer must include each original packaging (including case) of the Products with any returns.

No credit or replacement shall be given unless and until Products so returned have been verified as being defective or otherwise valid for return. The Customer shall be liable for the reasonable costs and handling fees of General Optical where the returned Products prove not to be defective or otherwise valid for return.

All freight, handling and other charges in relation to returning goods (other than goods defective or not ordered) are the responsibility of the Customer.

18. Set-off

The Customer shall not be entitled to set off against or deduct from the price of Products sold any sums owed or claimed to be owed to the Customer by General Optical.

19. Disputed Charges

If the Customer objects to any invoiced item, the Customer may withhold payment of the disputed amount, but only if on or before payment or the due date for payment (whichever first occurs), the undisputed amount is paid in full and notice in writing of the dispute is given to General Optical, setting out the details of the amount disputed, the reasons for the dispute, and the basis for calculating the disputed amount. General Optical will investigate all disputes. If the amount is found to be payable (in whole or in part) then the Customer must pay the

due amount within 7 days of receiving notice and the basis of the decision. Invoiced amounts that are not objected to in writing within 30 days of the invoice date will be deemed to be correctly charged.

20. Credit Policy and Default

General Optical may charge interest on all amounts not paid by the Customer within the term for payment at a rate of 2% per calendar month calculated from the due date and accruing monthly therefrom until the date of payment. If the Customer defaults in payment of any invoice when due and payable, the Customer shall indemnify General Optical from and against all expenses costs and disbursements incurred by General Optical in pursuing the debt including all reasonably charged legal costs on a "solicitor and own client" basis and the fees charged to General Optical by any mercantile agency. If the Customer fails to pay for the Products in accordance with invoices issued to the Customer, General Optical may at its sole discretion:

- a. cancel any provision of credit to the Customer;
- b. reverse any rebates and discounts allowed;
- c. require cash pre payment for any further Products ordered;
- d. provide to a credit reporting agency details of the payment default;
- e. commence legal proceedings against the Customer (and any guarantors) for all outstanding amounts, interest and costs;
- f. decline to supply Products to the Customer and terminate any other agreement with the Customer; and
- g. exercise any other rights at law.

A certificate of debt signed by a representative of General Optical shall be prima facie evidence and proof of money owing by the Customer to General Optical at that time.

21. Recovery

Notwithstanding any other provision to the contrary, if any amount is not paid by the Customer within the term for payment, General Optical reserves the following rights in relation to the Products until all amounts owed by the Customer to General Optical in respect of the Products and all other Products and services supplied to the Customer by General Optical at any time are fully paid:

- a. legal and equitable ownership of the Products;
- b. to retake possession of the Products; and
- c. to keep or resell any of the Products repossessed.

The Customer hereby grants full leave and irrevocable license without any liability to General Optical and any person authorised by General Optical to enter any premises where the Products may for the time being be placed or stored for the purpose of retaking possession of the Products.

22. Returned cheques

An administration fee of \$50 plus all associated bank charges may be applied to any cheque payment returned unpaid by the bank for whatever reason.

23. Disclaimer and Limitation of Liability

The Competition and Consumer Act 2010 CTH and various State Acts imply certain warranties into transactions which in certain circumstances cannot be excluded. Notwithstanding this (but subject to such laws as necessarily apply) the Customer acknowledges that it has not relied on any advice given or made by or on behalf of General Optical in connection with the Products. General Optical excludes all implied conditions and warranties from this agreement, except any conditional warranty (such as conditions or warranties implied by the Competition and Consumer Act 2010 CTH and State Acts) to the extent that they cannot be excluded ("Non Excludable Conditions"). General Optical limits its liability:

- a. for breach of any Non Excludable Conditions to the extent that liability for such breach can by law be limited to the invoice cost of the Products supplied; and
- b. for any error or omission in delivery of the Products caused by General Optical to (at General Optical's sole discretion) resupply of the Products affected by the breach, or the payment of the cost of resupply.

Subject to this Clause, General Optical excludes all other liability to the Customer for any costs, expenses, losses and damages suffered or incurred by the Customer in connection with this agreement whether that liability lies in contract, tort (including General Optical's negligence) or under statute. Without limitation, General Optical will in no circumstances be liable for any indirect or consequential losses, including loss of profits, loss of revenue and loss of business opportunity. The Customer indemnifies General Optical and its officers, employees, contractors and agents against any costs, expenses, losses, damages and liability suffered or incurred arising from the

Customer's breach of this agreement and any negligent or unlawful act or omission of the Customer in connection with the Products.

24. Assignment

The Customer may not assign or subcontract any contract for the purchase of Products or its obligations under this agreement.

25. Force Majeure

General Optical will have no liability to the Customer in relation to any loss, damage or expense caused by General Optical's failure to complete an order or delivery or contract as a result of fire, flood, tempest, earthquake, riot, civil disturbance, theft, crime, strike, lock out, war or the inability of General Optical's suppliers to supply necessary materials or any other matter beyond General Optical's control.

26. Privacy Information

General Optical may give information about the Customer, its guarantors, directors or proprietors to a credit reporting agency for the following purposes:

- a. to obtain a consumer credit report about the Customer, its guarantors, directors or proprietors;
- b. allow the credit reporting agency to create or maintain a credit information file containing information about the Customer, its guarantors, directors or proprietors; and
- c. to obtain commercial credit information about the Customer, its guarantors, directors or proprietors from a credit reporting agency.

27. Waiver of terms of agreement

The failure by General Optical to exercise, or delay in exercising, any right, power or privilege available to it under this agreement will not operate as a waiver thereof or preclude any other or further exercise thereof or the exercise of any right or power.

28. Proper Law

The agreement is governed by and will be construed in accordance with the laws of the State of NSW and the parties agree to submit to the exclusive jurisdiction of the Courts of the State of NSW.

29. Entire Agreement

This document represents the entire agreement between the parties and may not be amended except in writing signed by each of the parties.

30. General

General Optical may serve any notice or Court document on the Customer by forwarding it by ordinary pre-paid post to the address of the Customer last known to General Optical.

If any term of this agreement shall be invalid, void, illegal or unenforceable, the remaining provisions shall not be affected, prejudiced or impaired.

General Optical may assign or licence or subcontract all or any parts of its rights and obligations hereunder without the Customer's agreement or consent.

Except as otherwise agreed in writing, these terms and conditions shall apply to all sales to Customers by General Optical. To the extent that these terms and conditions (as published on the website of General Optical) may be varied over time by General Optical then the conditions current at the time of acceptance of any specific order or part of an order shall apply. General Optical shall not be required nor responsible to notify the Customer of the existence or content of any such variation.

In the event that the Customer sells its business, the Customer shall be responsible to notify General Optical in writing of such sale to enable the account to be closed. If the Customer fails to so notify then the Customer shall be jointly and severally liable to General Optical for the payment of Products subsequently sold to a third party on the Customer's account as if the Customer had ordered the Products itself.

31. Personal Properties Securities Act 2009 CTH ('PPSA')

a. **Creation of Security Agreement:** The Customer acknowledges that by accepting the terms of this Agreement and/or an associated agreement, the Customer also agrees to and accepts that an agreement (held within this Agreement or an associated agreement, whether severable or not), is created which gives rise to a 'security interest' pursuant to and for the purposes of the PPSA (whether it be a 'Purchase Money Security Interest' or a 'Personal Properties Securities Lease' or another form of interest as defined by the relevant legislation). Under this arrangement, the Customer will be the Grantor of the secured interest and General Optical will be the Secured Party. The Goods or Stock under the security agreement will be the Collateral.

b. The security interest will apply to all goods supplied under agreement and in all future goods supplied under agreement.

c. **Permission to Register Security Interest:** The Grantor consents to the registration of the Secured Parties' interest in the Personal Properties Securities Register and any details provided therein, including the registration of a financing statement.

d. The Grantor agrees that it will provide all the necessary information to allow for effective registration.

e. **Waiver of notice requirements under PPSA:** The Grantor expressly waives its rights to receive any notice under the PPSA (including notice of verification statement) unless the notice is required and cannot be excluded by the PPSA. In particular, the Customer agrees to waive rights under section 157 to receive a copy of the verification statement. This and any other material will be available to the Customer on specific request.

f. **Confidentiality Agreement:** The Grantor and the Secured Party agree to keep information required under the PPSA, and in particular required by section 275(1) of the PPSA confidential and will not disclose this information to any person or any interested person without written consent from the Secured Party. This clause constitutes a confidentiality agreement for the purposes of section 275(6)(a) of the PPSA. This clause is subject to the information allowed by section 275(7) of the PPSA, which is to be available to interested persons by law.

g. The Grantor is not permitted to do any of the following:

create or allow another interest (other than the present interest) in any Collateral to be created or dispose of;

1. assign or declare a trust over the Collateral;
2. lease or licence the Collateral;
3. change the nature of the Collateral;
4. permit any of the Collateral to become an accession to any goods except with permission from the Secured Party;
5. permit any of the Collateral to be commingled with any product or mass that is not Collateral or subject to the Security Agreement;
6. change the location of the Collateral from the Grantor carries on business;
7. remove or permit the removal of the Collateral to any place outside Australia; and/or
8. part with possession of any of the Collateral except with written agreement from the Secured Party.

h. The Grantor irrevocably grants to the Secured Party the right to enter the Grantor's premises to seize its Collateral if the Secured Party is exercising its rights under section 123 and/or 128 of the PPSA. If such an exercise takes place, the Grantor agrees to keep the Secured Party indemnified against any claims as a result of such exercise.