

## GENERAL TERMS AND CONDITIONS OF SALE

### 1. GENERAL DEFINITIONS.

Detailed below is a summary of key terms used in this document, as well as their definition.

**Customer** - refers to any approved person or organization entering into a purchase transaction with AuraLec.

**Faulty Goods** - any good supplied by AuraLec that is defective resulting from faulty workmanship or materials, poor design and defective manufacturing.

**GST** - this refers to the Goods and Services Tax as levied by the Australian Government.

**Price** - this refers to either a price quoted in an AuraLec Price Guide, or any price quoted, or sale price applicable, as determined and set by AuraLec.

**Purchaser** - refer Customer as above.

**Sale** - this refers to the sale of products by AuraLec to the customer.

**The Conditions** - term used to describe this document

### 2. GENERAL

These Standard Terms and Conditions of Sale ("the Conditions") apply to any sale of products/items, equipment or services of AuraLec or, where a quotation is made, shall form part of that quotation. AuraLec may vary the Conditions from time to time, and the Conditions as varied shall be published on the AuraLec website ([www.auralec.com.au](http://www.auralec.com.au)).

The purchaser agrees that the ordering of any goods or services after the distribution of the variation of the Conditions will be an acceptance by the purchaser of the varied Conditions. No variation or cancellation of any of the Conditions shall be binding on AuraLec unless first agreed by AuraLec Management in writing. No agent, or representative has the authority to waive or alter these Conditions.

The purchaser or anyone purporting to act on behalf of the purchaser may place orders for goods or services with AuraLec by telephone, email, EDI, in writing, or by facsimile transmission.

### 3. PRECEDENCE

In the event of a conflict between the Conditions and those which may be included in, or implied by, any document forming part of any enquiry, specification, order or contract then the Conditions shall prevail unless they are expressly varied by AuraLec in writing. If any Condition is contrary to or excluded by law then the Conditions shall be modified but only to the extent of excluding that part of the Conditions so affected.

### 4. ACCEPTANCE

A quotation is not to be construed as an offer or obligation to sell and AuraLec reserves the right to decline any order for goods or services, either wholly or partially, at any time prior to the delivery of the goods or services, in which case AuraLec shall be under no obligation in respect of such order.

### 5. PRICES

All prices are subject to change without notice and orders are accepted by AuraLec on the condition that they will be invoiced at the prices ruling at the date of dispatch, but every endeavour will be made to give 30 days' notice of any change. All prices shown in the published catalogues or price lists are recommended selling prices only and there is no obligation on the part of any reseller to maintain such prices.

### 6. TERMS OF PAYMENT

The purchaser agrees to comply with the Conditions and payment for goods and services shall be made by the purchaser to AuraLec within 30 days from the end of the month of purchase, unless otherwise agreed to in writing by AuraLec. Note, AuraLec reserves the right to provide terms of payment at its discretion, to qualifying purchasers.

### 7. DELIVERY

AuraLec will endeavour to comply with the time of delivery of goods and services requested by the purchaser but delivery time is not guaranteed nor is time of the essence of the contract of sale of the goods and services. AuraLec will not be liable for any loss or damage of whatsoever nature arising out of a delay in the delivery of goods and services. The delivery period quoted commences

from the date AuraLec receives sufficient information to proceed with the supply or from the date AuraLec receives the purchaser's written order, whichever is the later. Quoted delivery dates are subject to confirmation when placing the order. Goods to most AuraLec customer locations are delivered 'Free Into Store' for orders in excess of \$250+GST. Orders that fall below this minimum value will incur a minimum \$25 surcharge per order at the discretion of AuraLec. AuraLec reserves the right to charge delivery costs at its discretion, including but not limited to a 'remote area surcharge' where applicable and in agreement with the purchaser.

#### **8. GOODS RETURNED FOR CREDIT**

Goods will not be accepted for return and credit without the prior approval of AuraLec Management in writing. A goods return consent (GRC) will be provided, and the GRC number must be quoted. Any goods returned must be delivered free into store, and in undamaged condition, in the original packaging, and the GRC quoted.

The purchaser cannot return goods that exceed 30 days from the date they received them unless otherwise agreed to in writing by AuraLec. Obsolete or specially built products will not be accepted for return.

A standard 15% restocking fee applies to any accepted return. No product made specifically to customers' requirements or that are in AuraLec's opinion superseded or special may be returned for credit unless not to specifications or otherwise not in accordance with any express or implied term of the contract of sale.

#### **9. CANCELLATION**

Any order may, at the option of AuraLec, be terminated in the event of insolvency of the purchaser or of execution being levied against any of the goods of the purchaser or the purchaser being placed into administration or liquidation, whether voluntary or otherwise, or of a mortgagee entering into possession of any assets of the purchaser or the purchaser's credit worthiness or credit standing alters, in the opinion of AuraLec, from that disclosed in its application for credit.

If a purchaser cancels an order for a non-stocked item, or a specially manufactured item, without the prior written consent of AuraLec, a cancellation fee of 100% of the value of the order applies.

#### **10. VARIATION**

A variation or cancellation of any order by the purchaser is subject to acceptance by AuraLec of such variation or cancellation and in the event of such agreement the purchaser hereby indemnifies AuraLec against any loss or damage as a result of such variation or cancellation.

#### **11. WARRANTIES LIMITED**

AuraLec warrants that the goods it supplies shall be of good and merchantable quality and its liability shall be limited only to the repair or replacement of any faulty or defective goods. This warranty does not cover accidental damage, or damage from misuse, improper use, poor maintenance, modification, or neglect.

AuraLec will transfer or assign all warranties that have been granted to the it to the purchaser for goods not produced (but supplied) by AuraLec

In no event shall AuraLec be liable either under statute, in equity, in contract or tort (including in negligence) or otherwise for any direct or indirect special consequential or punitive loss or damages (including loss of income, profits or business, loss of goodwill or reputation or loss of value of intellectual property) to persons or property, whether foreseeable or unforeseeable, arising from or caused in any way by such goods.

#### **12. DELIVERY, INSPECTION AND RISK**

AuraLec uses every care in packing and shipping of the goods. The purchaser has seven (7) days from the date of delivery or collection of the goods within which to provide AuraLec with written notice of any claim for alleged failure to comply with an order whether due to a shortfall, defect, incorrect delivery or otherwise. Shall the purchaser fail to provide such written notice within the stipulated time period then AuraLec shall be deemed to have complied with the purchaser's order in all respects including delivery, quality and quantity.

#### **13. FORCE MAJEURE**

AuraLec will not be liable for any delay or failure to undergo its obligation of the contract if due to a Force Majeure Event.

#### **14. PURCHASER'S SPECIFICATIONS**

AuraLec shall be under no obligation to comply with any specification or drawings referred to in any order unless such specifications or drawings have been produced to AuraLec prior to delivery of goods and signed by AuraLec. Otherwise AuraLec does not warrant nor represent that the goods are fit for a particular purpose and the purchaser agrees that it does not rely on the skill and judgment of AuraLec in relation to the suitability of the goods for a particular purpose. All such warranties are hereby excluded to the maximum extent permitted by law.

**15. RISK**

All goods sold shall be at the risk of the purchaser from the time of dispatch of the goods by AuraLec for delivery to the purchaser and the purchaser shall be solely responsible for insuring the goods in transit.

**16. CREDIT**

Any credit provided by AuraLec is totally at its discretion. AuraLec may at any time suspend or vary any credit extended to the purchaser or withhold the delivery of goods or services already ordered as AuraLec in its sole and absolute discretion determines.

**17. DEFAULT OF PURCHASER**

The purchaser expressly agrees that if the purchaser fails to pay AuraLec the invoiced price of any goods and services by the due date for payment then AuraLec;

- a. shall have the immediate right to bring an action against the purchaser for payment of the invoice price of the said goods and services, notwithstanding that ownership and property in the said goods and services shall not have passed to the customer;
- b. may refuse to supply any such goods and services to the purchaser;
- c. may claim the return of any goods in the possession of the purchaser where title in such goods has not passed to the purchaser;
- d. may determine the contract and/or suspend manufacture or delivery, installation, commissioning or testing of any goods then outstanding;
- e. may retain any security given or money paid by the purchaser or available through enforcement of guarantee or security bonds lodged and may apply such security or money against the loss and damages incurred by the failure of the purchaser to pay;
- f. may withdraw or vary any credit extended to the purchaser without notice to the purchaser;
- g. may without notice make all moneys owing by the purchaser to AuraLec on any account immediately due and payable;
- h. may take such steps as it deems necessary to mitigate any damage suffered including the putting to use, hiring out, sale or disposal of any goods in its possession supplied or to be supplied to the purchaser; and
- i. may charge interest on overdue accounts at the rate not exceeding the standard overdraft rate offered by the Commonwealth Bank of Australia on the day of the calculation.

**18. RETENTION OF TITLE**

The following applies;

- a. the legal and equitable title in the goods will only pass to the purchaser when all moneys owing by the purchaser to AuraLec on any account whatsoever have been paid in full.
- b. Until such payment in full, the purchaser acknowledges that the goods are held by the purchaser as bailee for AuraLec and that a fiduciary relationship exists between AuraLec and the purchaser in relation to the goods, which must be stored separately as a fiduciary of AuraLec in good condition and in such a way which clearly indicates the ownership of AuraLec in the goods.

- c. While AuraLec retains title in the goods the purchaser shall not bail, pledge, mortgage, charge, obtain or grant a lien over, lease or assign by any other way the goods or any security in the goods.
- d. The purchaser irrevocably authorizes AuraLec by its servants or agents to enter upon any site where the goods are located to take possession of the goods without any prior notice or for any purpose connected with or in relation to the protection or enforcement of the rights of AuraLec to the goods and indemnifies AuraLec against any loss or liability arising from the exercise of its rights to so enter and to take possession of the goods.
- e. If the purchaser pays for the goods by cheque then payment only occurs when the cheque or cheques have been presented, and cleared in full.

#### **19. DISPUTES**

If the purchaser disputes any charge appearing on an invoice, then the purchaser shall give written notice of such dispute to AuraLec immediately upon receipt of invoice and shall pay all other charges not in dispute on the invoice pending an investigation of the dispute.

#### **20. CONFIDENTIALITY**

The information contained within this agreement is confidential. Neither party are able to disclose any part of this agreement to others without the written consent given by the other party.