

Leonhard Kurz (Aust.) Pty Ltd Terms and Conditions of Sale Effective August 2019
(Edition 08/2019)

1. Application of Conditions

- 1.1. These Conditions of Sale ("Conditions") apply to all quotations, offers and purchase orders made or accepted by Leonhard Kurz (Aust.) Pty Ltd ABN 74 000 810 800 ("Company") and to deliveries of all goods manufactured or supplied by the Company ("Products") to any person, firm or company which enters into an agreement with the Company ("Customer").
- 1.2. So far as applicable these Conditions also apply to the provision of any services including advice accompanying the supply of, or provided in relation to, Products ("Services") and, where the context allows, any reference to the supply of Products includes the provision of such Services.
- 1.3. These Conditions (which can only be waived or varied in writing by the Company) shall prevail over all conditions of the Customer to the extent of any inconsistency.

2. Orders

- 2.1. Neither a Customer's quotation nor any order submitted or placed by a Customer ("Order") shall be binding on the Company unless and until the Company has given written acknowledgement of its acceptance ("Order Confirmation"). Any quotation by the Company is merely an invitation for you to place an order with the Company on terms which include these Conditions.
- 2.2. Each supply which the Company makes in response to an Order will be regarded as a separate contract for sale.
- 2.3. Unless previously withdrawn, all quotations by the Company are valid for:
 - a) 45 days from the date of the quotation, if the Products ordered are foil-based products (including but not limited to decorative foil, functional foil and labels), consumables (including ink, varnishes, adhesives and paints) or ribbons (together "**Non Machine Products**") and/or services relating to Non Machine Products;
 - b) 90 days from the date of the quotation, if the Products ordered are machines and spare parts ("**Machines**") and/or services relating to Machines; or
 - c) or such other period as stated in that quotation.

3. Specification

- 3.1. Products are supplied in accordance with a technical specification and test results proving conformance with the specification (if any) ("Technical Specification"). Any additions and alterations requested to be made to a Technical Specification by the Company at the request of the Customer shall be subject to an additional charge as specified by the Company. The description, illustration and performance of any Product contained in a catalogue, marketing material, price list or advertising does not form part of any Technical Specification unless expressly described in an Order Confirmation.
- 3.2. The Customer is solely responsible, and must itself examine and test the Products at its cost, to ensure they are fit or suitable for the Customer's purposes. Save as provided in clause 9 of these Conditions (for New Zealand customers only), the Company accepts no liability for the fitness or suitability of the Products for the Customer's particular purposes.

4. Prices and Payment

4.1. The prices of the Products are the prevailing prices at the time of delivery, whether expressly set out in an Order Confirmation or in a price list published by the Company ("Prices").

4.2. Unless otherwise specified all Prices are:

- a) Quoted in the Customer's local currency (Australian or New Zealand Dollar) ex-factory, exclusive of GST and freight charges;
- b) Quoted Ex Works (INCOTERMS 2010) for the Company's nominated warehouse, factory or depot; and
- c) exclusive of all import charges, including customs duties, imposts and levies relating to the import, supply or use of the Products ("Import Charges").

The Company reserves the right to charge for delivery and an additional handling fee of AUD\$50 for orders of Products valued at less than AUD \$800.

4.3. Unless otherwise agreed by the Company in writing, payment is due in full **30 days from the end of the month following the date of invoice ("Payment Date")**.

4.4. The Company may charge interest at the rate which is 2% higher than that applied to commercial overdraft balances of over AUD \$100,000 by the Company's principal bank (CBA in Australia and ASB Bank in NZ as at the date of these terms), such rate to be compounded and calculated daily on the amount outstanding after the Payment Date until it has been paid in full. In addition, without limiting any right contained above, the Customer will be liable to indemnify the Company for all expenses incurred by it in recovering any amounts which the Customer fails to pay by the Payment Date (including any commission payable to any commercial or mercantile agents and legal costs).

4.5. If payment is not made in accordance with clause 4.3, or if at any time the credit standing of the Customer, in the opinion of the Company, is at risk or has been impaired, the Company may place your account on credit hold and refuse delivery of any Products ordered until alternative arrangements as to payment or credit in terms satisfactory to the Company have been agreed.

4.6. The Customer must pay or reimburse the Company all Import Charges. The Customer is responsible for paying any costs associated with the remittance of funds to the Company, including charges by the Company's bank ("Remittance Costs"), and the Company reserves the right to charge the Customer for any shortfall of payment due to Remittance Costs.

4.7. If GST is imposed on a Taxable Supply made by the Company to the Customer under or in connection with these Conditions, the Price of the Taxable Supply shall be equal to the GST-exclusive consideration that the Customer must pay to the Company for the Taxable Supply under these Conditions increased by an amount (the GST Amount) equal to the amount of GST payable by the Customer on that Taxable Supply and the GST Amount is, subject to the Company issuing a Tax Invoice to the Customer, payable at the same time and in the same manner as the consideration to which it relates. In these Conditions "GST" means the goods and services tax or similar value added tax levied or imposed in Australia under the GST Act or in New Zealand under the NZ GST Act and includes any replacement or subsequent similar tax; "GST Act" means A New Tax System (Goods and Services Tax) Act 1999 (Cth), "NZ GST Act" means the New Zealand Goods and Services Tax Act 1985", and "Taxable Supply" and "Tax Invoice" have the same meaning as in the GST Act or NZ GST Act, as applicable.

4.8. The Customer may not withhold or set off any payment or make deductions from any amount owing to the Company without the Company's prior written consent.

5. Cancellation

- 5.1. A notice of cancellation or variation of an Order must be submitted by the Customer in writing and is only effective upon to written approval by the Company, whereby such approval can be withheld by the Company in its discretion.
- 5.2. When a Customer gives written notice of cancellation or variation and the Company approves such a request in accordance with clause 5.1, without prejudice to its other rights, the Company reserves the right to charge for all Products and Services it has performed and shall need to perform in fulfilling the Order or, if the work is substantially complete or the Products were made to order or are otherwise not immediately available for sale to another customer at an equivalent price, to charge for the full amount set out in the applicable Order Confirmation in addition to any other costs the Company incurs on the Customer's behalf.

6. Delivery

- 6.1. Unless the Company otherwise agrees, delivery of Products shall be made to the delivery point specified in the applicable Order Confirmation.
- 6.2. Stated delivery times are no more than an estimate by the Company and shall not be binding upon the Company. The Company will not be liable for any consequential or other loss resulting partly or wholly from late delivery.
- 6.3. If the quantity of Products delivered does not correspond with the quantity stated in an Order Confirmation, the Customer shall only be liable to pay for the quantity delivered, provided that in no event shall such short or over-delivery entitle the Customer to damages or give the Customer a right to rescind the agreement of which these Conditions form part. The Customer expressly acknowledges that, if the Customer orders Products that are Non Machine Products, the Company may deliver such Non Machine Products, with the quantity that is 5% more or less than the quantity stated in an Order Confirmation.
- 6.4. Any surplus Products delivered shall remain the property of the Company and the Customer shall take all necessary precautions for the safe custody and protection of such surplus Products until the time of their removal by the Company.
- 6.5. In no circumstances shall any Products be returned to the Company without its prior written consent. If Products are to be requested to be returned, the Customer must provide details of the seal tape system relating to Delivery (batch number, bar code).

7. Passing of Risk and Title

- 7.1. Unless otherwise agreed by the Company in writing, risk in the Products shall pass to the Customer when the Products are delivered in accordance with clause 6.
- 7.2. Notwithstanding that risk passes to the Customer under clause 7.1, legal and beneficial title ("Ownership") in the Products shall remain with the Company until the Price for the Products as well as any other amounts the Customer may owe the Company have been paid in full.

7.3. Until such time as Ownership in the Products passes to the Customer, the Customer shall:

- a) be in a fiduciary relationship with the Company;
- b) store the Products in a manner which makes them readily identifiable as the property of the Company;
- c) store the products in compliance with the Storage Conditions & Workability specifications detailed in the Product's Technical Specification.
- d) hold the Products as bailee of the Company;
- e) keep, and provide the Company at any time on reasonable request, proper and complete stock records covering the receipt, identification, storage, location, sale and movement of the Products; and
- f) keep the Products insured against theft, damage and destruction.

7.4. Notwithstanding clauses 7.2 and 7.3 the Customer is entitled until notified by the Company or until the happening of any of the events set out in clause 7.7 to:

- a) sell the Products in the normal course of its business, in which case the proceeds of resale must be held in trust for the Company in a separate account; or
- b) convert the Products into other products or attach, affix or incorporate the Products to or with other products, in which case the Parties agree that Company shall have co-ownership of such other products, and the proportion of such co-ownership shall be in accordance with the ratio of the value of the Products against such other products.

7.5. The Company is entitled at any time while any debt remains outstanding by the Customer, any Products not paid for or if there are any Products held on consignment or not yet invoiced, to notify the Customer of its intention to take possession of the Products and for this purpose the Customer irrevocably authorises and licenses the Company and its servants and agents to enter upon the land and buildings of the Customer with all necessary equipment to take possession of the Products. The Company is not liable for damage or injury to any premises caused by the Company exercising its rights under this clause.

7.6. On receipt of notice from the Company or on the happening of any of the events set out in clause 7.7, the following applies:

- The Customer's authority to sell or otherwise deal with the Products as set out in clause 7.4 is withdrawn;
- The Company may withhold delivering further Products;
- The Customer must immediately deliver to the Company all Products which are in the Ownership of the Company.

7.7. The Customer shall give immediate notice to the Company of:

- a) any notice to the Customer that a receiver or manager is to be or has been appointed over its assets or any part of its business or undertakings;
- b) any notice to the Customer that a petition to wind up the Customer is to be or has been presented or any notice of a resolution to wind up the Customer;

- c) a decision by the Customer that it intends to make any arrangements with its creditors;
- d) any act of bankruptcy as defined in section 40 of the Bankruptcy Act 1966 (Cth.) or, in New Zealand, the Insolvency Act 2006; or
- e) in New Zealand, the fact that the Customer has become insolvent within the meaning of the Companies Act 1993, or a liquidator has been appointed to the Customer.

8. Personal Property Securities Act 2009 ("PPSA") - AUSTRALIAN CUSTOMERS

8.1. The Customer acknowledges and agrees that it grants the Company a security interest in the Products and their proceeds by virtue of the Company's retention of title pursuant to clause 7 and that each sale is a security agreement for the purposes of the PPSA.

8.2. The Customer undertakes to:

- a) do all things necessary and provide the Company on request all information the Company requires to register a financing statement or financing change statement on the Personal Property Securities Register ("PPSR"); and
- b) not to change its name in any form or other details on the PPSR without first notifying the Company.

8.3. The Customer waives its rights to receive a verification statement in respect of any financing statement or financing change statement in respect of the security interest created by these Conditions.

8.4. To the maximum extent permitted by law, the Customer waives any rights it may have pursuant to, and the Parties contract out of, the following sections of the PPSA:

- a) section 95 (notice of removal of accession);
- b) section 123(2) (notice of seizure);
- c) section 125 (obligation to dispose of or retain collateral);
- d) section 129(2) (notice of disposal by purchase);
- e) section 130 (notice of disposal);
- f) section 132(3)(d) (contents of statement of account after disposal);
- g) section 132(4) (statement of account if no disposal);
- h) section 135 (notice of retention);
- i) section 142 (redemption of collateral); and
- j) section 143 (reinstatement of security agreement).

8.5. The Customer shall reimburse the Company for any fees payable by the Company in relation to the registration of the security interest created by these Conditions, including registration fees and maintenance fees.

8.6. Unless otherwise defined in these Conditions, the terms and expressions used in this clause 8 have the meanings given to them, or by virtue of, the PPSA.

9. Personal Property Securities Act 1999 (“NZ PPSA”) - NEW ZEALAND CUSTOMERS

9.1. The Customer acknowledges and agrees that it grants the Company a security interest in the Products and their proceeds by virtue of the Company's retention of title pursuant to clause 7 and that each sale is a security agreement for the purposes of the NZ PPSA.

9.2. The Customer undertakes to:

- a) do all things necessary and provide the Company on request all information the Company requires to register a financing statement or financing change statement on the New Zealand Personal Property Securities Register ("NZ PPSR"); and
- b) not to change its name in any form, or other details as contained in the financing statement registered on the NZ PPSR without first notifying the Company.

9.3. The Customer waives its rights under section 145 of the NZ PPSA to receive a verification statement in respect of any financing statement or financing change statement in respect of the security interest created by these Conditions.

9.4. To the maximum extent permitted by law, the Customer waives any rights it may have pursuant to, and the Parties contract out of, the following sections of the NZ PPSA:

- a) Section 114(1)(a) (to receive notice of a proposal to sell collateral);
- b) Section 116 (to receive a statement of account);
- c) Section 120(2) (to receive notice of any proposal of the Company to retain collateral);
- d) Section 121 (to object to any proposal of the Company to retain collateral);
- e) Section 125 (to not have goods damaged if the Company removes an accession);
- f) Section 129 (to receive notice of the removal of an accession);
- g) Section 131 (to apply to the Court for an order concerning the removal of an accession);
- h) Section 132 (to redeem collateral); and
- i) Section 133 (to reinstate the security agreement).

9.5. The Customer shall reimburse the Company for any fees payable by the Company in relation to the registration of the security interest created by these Conditions, including registration fees and maintenance fees.

9.6. Unless otherwise defined in these Conditions, the terms and expressions used in this clause 9 have the meanings given to them, or by virtue of, the NZ PPSA.

10. Conditions and Warranties

10.1. Save as expressly provided in these Conditions or the agreement of which these Conditions form part or in the Competition and Consumer Act 2010 (Cth.) ("Act") and equivalent State and Territory or New Zealand legislation:

- a) all conditions, warranties or consumer guarantees (whether express or implied by statute or common law or arising from conduct or by previous course of dealing or trade custom or trade usage or otherwise) as to the quality of the Products or their fitness for any particular purpose (even if that purpose is made known expressly or by implication to the Company) or any other matter covered by the conditions and warranties implied by Part 3-2 Div. 1 of the Act (other than sections 51, 52 and 53) are hereby expressly excluded; and
- b) the Company accepts no liability for any loss, damage, cost, loss of profits, anticipated savings, wasted expenditure, loss of contracts with third parties, goodwill or any type of special, indirect or consequential loss ("**Loss**") whether suffered by the Customer or by any third party and whether or not the Company was aware that such Loss was possible or such Loss was otherwise foreseeable, whether such Loss arises from any representation, recommendation or advice made or given in relation to the Products, the use of the Products, or the failure by the Company to observe and fulfil its obligations under these Conditions or otherwise.

10.2. To the fullest extent permitted by law, the Company's liability for any breach of a consumer guarantee implied by the Competition and Consumer Act 2010 (Cth) or, in New Zealand, the Consumer Guarantees Act 1993, (and which cannot be excluded) shall be limited to any one or more of the following (as determined by the Company in its absolute discretion:

- a) in the case of Products, the replacement repair or payment of the cost of replacement or repair of the Products; and
- b) in the case of Services, supplying the Services again or payment of the cost of having the Services supplied again.

11. Warranty for Defective Products

11.1. Subject to clause 11.2, the Company undertakes that if the Products are found upon inspection by or on behalf of the Company not to conform to the applicable Technical Specification, the Company shall (at its option):

- a) replace the Products found not to conform to the Technical Specification;
- b) bring the Products into conformity with the Technical Specification; or
- c) take back the Products found not to conform to the Technical Specification and refund the appropriate part of the purchase Price,

provided that:

- d) the Customer must inspect the Products and notifies the Company that the Products do not conform to the applicable Technical Specification, within 7 days of the delivery date of such Products;
- e) the liability of the Company shall in no event exceed the purchase Price of the Products; and
- f) the Customer has performed all its contractual obligations under these Conditions.

11.2. The warranty does not cover: in transit damage; failure to comply with the original supplier's or manufacturer's warranty; willful abuse or misuse; general wear and tear. This warranty is voided and does not cover any damage caused by the use of other than genuine original manufacturer's parts and consumables. This warranty does not cover any products sold 'as is' or used in breach of manufacturer's warranty, any damage from cleaning or repair by anyone without written authorisation from the Company, any damage caused by Products not used according to product instructions, consequential damage or incidental damages (except as provided for in the ACL or New Zealand Consumer Guarantees Act 1993, in either case, which cannot be excluded), personal injury, lost profits, lost savings or other economic damages, loss of use of the goods, rental or hire use, damage from prolonged exposure to fire or heat, damage from fraud, intentional acts, war, hostilities, terrorism or vandalism or acts of God.

11.3. The warranty set out in clause 11.1 does not apply unless:

- a) the Products have been properly handled, stored, used and/or maintained and any instructions by the Company in relation to the Products have been fully observed;
- b) The Customer gives written notice to the Company of the alleged defect in the Products, such notice to be received by the Company within 7 days of the date when such defect appeared or ought to have been discoverable;
- c) The Customer gives the Company a reasonable opportunity to inspect the Products; and
- d) the Customer makes no further use of the Products that are alleged to be defective, or any plant, machinery or other equipment into which the Products have been incorporated, after the Customer discovers or ought to have discovered that the Products were defective.

11.4. With respect to any resupply of Products by the Customer, or to the extent that the Products used are outside the ordinary purpose of the Products in the manufacturing or supplier process, the Company is not liable for any liability, claims, damage, loss, costs and expenses incurred by the Customer. The Customer must indemnify the Company against all liability, claims, damage, loss, costs and expenses (including, without limitation, legal fees, costs and disbursements on a full indemnity basis), whether incurred against or by it in respect of any:

- a) personal injury;
- b) damage to tangible property; or
- c) a claim by a third party;

in connection with the Products or the usage of Products delivered under these conditions

11.5. For the avoidance of any doubt, notwithstanding anything stated in these Conditions, if the Customer is a "consumer" within the meaning of the Australian Consumer Law (being Schedule 2 of the Competition and Consumer Act 2010 (Cth)), the Company agrees that:

The Company's Products and Services come with guarantees that cannot be excluded under the Australian Consumer Law. For major failures with the Service, the Customer is entitled:

- (1) to cancel their Service contract with the Company; and
- (2) to a refund for the unused portion, or to compensation for its reduced value.

The Customer is also entitled to choose a refund or replacement for major failures with Products. If a failure with the Products or a Service does not amount to a major failure, the Customer is entitled to have the failure rectified in a reasonable time. If this is not done, the Customer is entitled to a refund for the Products and to cancel the contract for the Service and obtain a refund of any unused portion. The Customer is also entitled to be compensated for any other reasonably foreseeable loss or damage from a failure in the Products or Service.

12. Force Majeure

- 12.1. The Company shall not be liable for any loss or damage caused by delay in the performance or non-performance of any of its obligations under these Conditions occasioned by any cause whatsoever that is beyond the Company's control including but not limited to: Act of God; war; civil disturbance; requisitioning governmental restrictions, prohibitions or enactments of any kind; import or export regulations; strikes; lockouts or other industrial disputes (whether involving its own employees or those of any other person); difficulties in obtaining workmen or materials; breakdown of machinery; breakdowns in production or other plant interruptions, traffic problems; fires; or accident or other comparable circumstances for which the Company is not responsible. If any such event occurs the Company may vary, cancel or suspend any Order Confirmation or agreement of which these Conditions form part without incurring any liability for any such loss or damage.

13. Intellectual Property

- 13.1. The Company for and on behalf of itself and its related bodies corporate reserves ownership in any intellectual property rights, relating to the Products. Nothing in these Conditions operates or is intended to deny the Company or its related bodies corporate, or confer on the Customer, such rights or any other intellectual property rights in the Products.
- 13.2. If a third party asserts a claim for breach of its intellectual property rights arising from the supply or use of the Products the Customer shall immediately inform the Company and the Company shall be solely responsible for the defense, resolution and settlement of any such claim. The Customer shall at the Company's cost and request render such reasonable assistance as the Company requires in defending any such claim. In no circumstances shall the Customer acknowledge or concede the validity of any such claim except with the Company's express written consent. If any such claim against the Company succeeds, the Company shall at its option use its best endeavours to obtain a right to use or license any such intellectual property rights or modify the Products or replace them at its cost.
- 13.3. The Customer shall indemnify the Company for and in respect of claims by any third party in relation to the Products which arise from, or can be attributed to, the special requirements or specifications of the Customer, including the use or transfer of designs, logos, trademarks, holograms and stamping tools in the manufacture, production and labelling of the Products.

13.4. In this clause 13 a reference to intellectual property rights includes patents, trademarks, copyright, registered designs and licenses and applications in respect of any of the above.

14. Confidentiality

14.1. The Customer shall not without the written consent of the Company disclose to any third party or use for any purpose other than contemplated under the agreement of which these Conditions form part any proprietary or confidential documents, knowledge and information, prices, tools, molds, samples, models, profiles, drawings, data standard sheets, manuscripts and other technical documentation supplied or made known to the Customer by the Company.

15. General

15.1. The Company becomes the owner of parts that are replaced. Replacement parts may not be exactly the same as the originals. The Company may use reconditioned parts rather than new parts, as replacements.

15.2. The Customer must allow the Company to take goods away to its workshop, if that is reasonably required, so the Company can carry out any maintenance or warranty repairs.

15.3. The Customer agrees and understands that the Company shall not be responsible or liable for any loss, damage, corruption, disclosure or alteration of any files, folders, data, programs or any of confidential, proprietary, business and/or personal information or removable media (**Data**) during installation or service of any Product. The Customer is responsible for any and all restoration and reconstruction of lost, damaged, corrupted or altered data.

15.4. Both Parties shall observe the applicable laws, legislations and regulations. The Customer must not be committed into any kind of corruption or bribe activities, and must respect the basic human rights and the ban on child labour and forced labour, take responsibility for the health and safety of its employees, and use its best efforts to promote the observance of these principles on social responsibility among its suppliers.

16. Assignment

16.1. The agreement of which these Conditions form part is personal to the Customer and may only be assigned by the Customer with the prior written and informed consent of the Company.

17. Waiver

17.1. No neglect, delay or indulgence on the part of the Company in enforcing these Conditions shall prejudice the rights of the Company or be construed as a waiver of any such rights.

18. Severability

18.1. If anyone or part of these Conditions is illegal, invalid or unenforceable it shall be read down so far as necessary to give it a valid and enforceable operation or, if that is not possible, it shall be severed from these Conditions, but in any event the remaining Conditions and any other provisions of the agreement of which these Conditions form part shall remain in full force and effect.

19. Governing Law

- 19.1. The Conditions and any agreement of which they form part are governed by and must be construed in accordance with the laws which apply in the State of New South Wales. The Parties submit to the non-exclusive jurisdiction of the courts of that State and the Commonwealth of Australia in respect of all matters or things arising out of these Conditions.

Additional Terms if Products are provided on Consignment

20. Consignment

- 20.1. The Customer shall by no later than 2 days before the end of each month furnish the Company with monthly statements indicating all Products used by the Customer during that month and the extent of the current inventory of Products held but not yet used or paid for.
- 20.2. The Company shall invoice the Customer for those Products used during each respective month.
- 20.3. Products are determined as having been used:
- a) once the packaging has been opened for whatever reason whether or not the Product has in fact been utilised by the Customer; or
 - b) if they are lost or damaged; or
 - c) 3 months from the date of delivery.
- 20.4. The Company shall replenish inventory as is required but in any event such inventory shall not exceed 3 months average use by the Customer or as is otherwise agreed.
- 20.5. Prices for Product shall be those prevailing at the time of use and not at the time of delivery.