

**Brice Australia (NSW) PTY. Ltd. (ABN
83 055 370 539) Terms and
Conditions of Trade**

1. **EFFECT** These terms and conditions prevail over any terms and conditions issued by the Purchaser unless Brice Australia Pty. Ltd. (hereafter called Brice Australia) otherwise agrees in writing.

2. **PRICES** All prices listed in this Catalogue are fixed for 12 (twelve) months from the date of issue or until superseded, whichever is the lesser. All prices are exclusive of handling charges, GST and other Government charges. All prices are F.O.B. List prices may be subject to alteration by Brice Australia without notice.

3. **QUOTATION** All quotations given by Brice Australia are valid for 30 days from the date of such quotation unless withdrawn or varied by Brice Australia by notice in writing to the Purchaser prior to acceptance by the Purchaser.

4. **PAYMENT** Except where Brice Australia grants its prior approval in writing to credit terms pursuant to this Clause, payment for all Products shall be immediate against invoice presented on or before delivery. Brice Australia may grant credit to approved Purchasers on the basis of a credit application form approved by Brice Australia and completed by the Purchaser. Where so granted, payment shall be made within 30 days from the date of the invoice. Such credit facility may be withdrawn or varied by Brice Australia at any time without notice to the Purchaser and if withdrawn payment shall be immediate against invoice presented on or before delivery. Where no orders have been made by the Purchaser for 6 months, the credit facility shall be deemed to have been withdrawn by Brice Australia and may only be reinstated on the basis of a new credit application form completed by the Purchaser and accepted by Brice Australia. No deduction to the invoice amount shall be allowed by way of set off, counterclaim or otherwise without the prior express written authority of Brice Australia. Where delivery is by instalment, Brice Australia may withhold indefinitely any further instalments until full payment for prior instalments has been made. Unless proof to the satisfaction of Brice Australia of exemption from GST is provided by the Purchaser, GST on the Products shall be paid to Brice Australia at the time of payment for the Products. All other Government charges in respect of the Products shall be paid at the time of payment for the Products.

5. **INTEREST ON OVERDUE ACCOUNTS** The Purchaser shall unless otherwise agreed in writing by Brice Australia pay interest on all overdue accounts at the rate of 1.5% above the Westpac Banking Corporation Indicator Lending Rate from time to time. Such interest is payable from the due date for payment until the date of actual payment.

6. **DELIVERY & RISK** All times quoted for delivery are estimates only and while Brice Australia will use its best reasonable endeavours to meet quoted delivery times, Brice Australia shall not be liable for any loss or damage to the Purchaser or any other person (including consequential loss or damage) for any failure for whatever reason to meet quoted delivery times. Brice Australia may deliver by instalment but any failure to deliver any particular instalment by the date specified shall not entitle the Purchaser to rescind the instalment contract. The Product shall be at the Purchaser's risk from the time and place of despatch by Brice Australia from Brice Australia's premises. The Purchaser shall arrange for insurance of the Products in transit for the full insurable value of the Product and shall bear all proper costs including freight and insurance in respect of delivery of products to or at the direction of the Purchaser. The method of delivery shall be specified by the Purchaser but if not specified such delivery shall be at Brice Australia's discretion provided that all carriers engaged to deliver the Product shall be agents of the Purchaser.

7. **CANCELLATION OF ORDERS** The Purchaser shall not at any time cancel any orders except with the prior written consent of Brice Australia.

8. **CLAIMS & RETURNS** No claim for shortage or damage to Products shall be considered by Brice Australia unless received in writing by Brice Australia within 7 days of delivery. No claim for non-delivery shall be considered by Brice Australia unless received by Brice Australia in writing within 7 days of invoice date. Products may only be returned by the Purchaser prepaid within 21 days of delivery and only with Brice Australia's written consent prior to despatch by the Purchaser and Brice Australia shall not be responsible for any loss or damage to the Products arising out of any refusal by Brice Australia to accept return of the goods where such authorisation has not been given. Returns will only be credited where goods are received in good order and condition. Where Products are returned because of an ordering mistake by the Purchaser or some reason other than as a result of fault in the Products or by Brice Australia, a restocking fee of 10% shall apply to such return which shall be payable by the Purchaser on such return.

9. **DEMONSTRATION STOCK** Brice Australia may on the Purchaser's written request supply Products for demonstration purposes and such written request and Brice Australia's appropriately noted copy of its despatch advice shall (in the absence of obvious error) be conclusive proof of supply of Products on such basis. Where Products are so supplied, title shall remain with Brice Australia but risk shall pass to the Purchaser on despatch until return freight prepaid to Brice Australia on or before the date specified on the despatch advice. If not returned by such date, the Purchaser shall pay to Brice Australia the cost of the Products. If returned in

damaged condition, the Purchaser shall pay the cost of repair, or if incapable of repair, the full cost of replacement.

10. **PLANS, DRAWINGS & SPECIFICATIONS** All plans, drawings, illustrations and specifications supplied by, or on behalf of, Brice Australia to the Purchaser shall be kept confidential by the Purchaser and shall remain the exclusive property of Brice Australia and copyright in such materials shall vest at all times in Brice Australia. Where Brice Australia, at the request of the Purchaser, manufactures Products to the design, specifications, or in compliance with suggestions of the Purchaser, Brice Australia will not be liable for the practicability or performance of such designs, specifications or suggestions or for any loss or damage caused to any person caused by reliance on them.

11. **WARRANTY** Brice Australia warrants to the Purchaser that the Products will, under proper use, care and maintenance, be free from defects due solely to faulty workmanship or materials for a period of 12 months from the date of delivery to the Purchaser to the extent that upon return to Brice Australia (freight pre-paid) during that period, Brice Australia shall, at its option, give a credit, repair or supply a replacement. Goods or parts not manufactured by Brice Australia shall be subject only to that manufacturer's warranty (if any). Except for this warranty or as required by mandatory operation of law including under the Trade Practices Act 1974 and equivalent State legislation, all conditions or warranties in respect of the products, express or implied, statutory or otherwise (including without limitation any warranties as to fitness for any particular purpose), are hereby excluded. Except where required under such legislation Brice Australia shall not be liable to any person for any injury, loss or damage, however arising. Where the above legislation allows, Brice Australia's liability is limited (at Brice Australia's option) to replacement of the Products of the supply of equivalent Products, payment of the cost of replacing the Products or supplying equivalent Products or the repair or the cost of the repair of the Products. Any modifications or repairs made to the Products without the prior written authorisation of Brice Australia shall invalidate this warranty. Replacement of parts pursuant to the repair of Products under Brice Australia's warranty shall not extend the warranty for the products beyond the original 12 month period and no separate warranty is provided for such parts.

12. **INSTALLATION** Where Brice Australia is required under a contract for the supply of Products to install the Products or any of them at the Purchaser's nominated premises, or sites, the Purchaser shall ensure that Brice Australia and its employees and agents are given reasonable and unimpeded access to such premises or sites, at the times specified by Brice Australia for such installation. The Purchaser shall also provide Brice Australia reasonable use of any facilities or equipment on the premises or sites for the purposes of such installation.

13. **REPRESENTATIONS** No employee, agent or contractor of Brice Australia (except where authorized in writing by the Managing Director of Brice Australia) has any authority to give any warranties or make any representations about the performance specifications or fitness for purpose of the Products other than those specified in Brice Australia's authorized written material. All such unauthorized warranties and representations are expressly excluded.

14. **TITLE** Title to the Products shall not pass to the Purchaser until the Purchaser pays all monies owing to Brice Australia in respect of such products. Until full payment is made by the Purchaser for the Products, the Purchaser shall hold the unpaid Products UPON TRUST for Brice Australia absolutely and shall as far as practicable store the Products in such a way that they can be separately identified from other products. Brice Australia is entitled to enter the premises of the Purchaser to take possession of goods in respect of which payment is overdue. The Purchaser may as trustee for and on behalf of Brice Australia sell to a third party Products in respect of which payment has not been made and the Purchaser shall hold the book debt arising from such sale and, upon payment of such debt, the proceeds of the sale (but only to the extent of the monies and any outstanding interest owing to Brice Australia in respect of the Products) UPON TRUST for Brice Australia absolutely and the balance of the book debt of proceeds shall belong to the Purchaser absolutely.

15. **INSOLVENCY** Brice Australia may terminate any contract made under these terms and conditions if the Purchaser becomes bankrupt or insolvent or makes any arrangement with its creditors or suffers a receiver to be appointed or, being a body corporate, enters into liquidation.

16. **ASSIGNMENT** The Purchaser shall not assign its interest in any contract with Brice Australia without the prior written consent of Brice Australia.

17. **GOVERNING LAW** These terms and conditions shall be governed by the Law of NSW and the parties hereby submit to the non-exclusive jurisdiction of the courts of NSW in respect of any dispute under the contracts.

18. **VARIATION** No employee, agent or contractor of Brice Australia has any authority to alter these terms and conditions without the prior written authorisation of the Managing Director of Brice Australia.