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Terms & Conditions of Supply

The Customer and Vertilux agree that these Terms and Conditions of Supply apply exclusively to all goods supplied by Vertilux to the Customer unless expressly varied in writing and signed by the Customer and Vertilux.

TERMS AND CONDITIONS OF SUPPLY

WHAT THIS DOCUMENT DOES

1. This document applies to the sale of window covering products, whether finished products or components and any other kinds of goods supplied by Vertilux (**‘goods’**) and to the supply of any services in respect of goods.
2. This document contains the terms and conditions (**Terms**) on which Vertilux agrees to supply goods and services to customers in or out of Australia (the **“Customer”**). If Vertilux accepts an order from the Customer these Terms and conditions apply to the supply. Vertilux may decline to accept any order.
3. These Terms bind the Customer when the Customer signs it, submits an order to Vertilux or otherwise adopts or accepts them. Except as otherwise expressly agreed upon in writing between a duly authorised officer of Vertilux and the Customer, these Terms shall apply notwithstanding any provisions to the contrary which may appear on any order form or other document issued by the Customer.
4. These Terms are binding on upon the Customer and their respective heirs, executors, administrators, successors, transferees, assigns, agents, attorneys or other legal representatives.
5. Vertilux may at any time, and from time to time alter these Terms and such altered terms and conditions shall apply to any order placed with Vertilux after notification by Vertilux to the Customer. Alterations to these Terms amend a continuing agreement.
6. If the Customer purchases goods or services from a related body corporate (as defined in the Corporations Act 2001 Cth) of Vertilux the terms of this document will also apply between the Customer and that body corporate unless specifically agreed to the contrary.

CUSTOMER NOT A CONSUMER

7. The Customer warrants that the Customer purchases all goods from Vertilux for the purposes of:
 - (a) resupplying them; or
 - (b) using them up or transforming them, in trade or commerce, in the course of:
 - a process of production or manufacture; or
 - repairing or treating other goods or fixtures on land.

ORDERS AND DELIVERIES

8. No quotation by Vertilux shall constitute an offer. All orders placed with Vertilux shall only be accepted subject to these Terms.
9. If a Customer cancels or alters any order or part order for the goods at any time after Vertilux has received the order then Vertilux reserves the right to charge to the Customer the costs of any goods or materials already acquired or manufactured for the order together with the cost of any labour and tooling expended up to and including the date of such cancellation or alterations.

SECURITY DEPOSIT:

10. Vertilux may require payment by the Customer of a security deposit (**“Deposit”**). If so then the Customer must pay to Vertilux the amount of that Deposit when Vertilux requires it. Vertilux may retain control of the Deposit and apply it to compensate its reasonably incurred loss and damage it in respect of any breach of these terms and conditions by the Customer and/or towards payment in respect of goods, for example under clause 9.

PRICES

11. All prices shall be those referred to in Vertilux’s price lists and/or arrangements current at the date of invoice and prices shall be subject to change without notice except in respect of orders already placed.
12. Unless otherwise stated on a relevant price list, invoice or statement, prices are “ex-factory” and do not include the cost of delivery to the Customer.

13. TERMS OF PAYMENT

- (a) The granting and continuation of credit to a Customer shall be at the absolute discretion of Vertilux. Credit may be withdrawn at any time but this does not apply to any order placed on and accepted by Vertilux on the basis that a specified period for payment will be allowed. Unless another period is agreed by Vertilux the Customer shall make payment of all amounts payable within thirty (30) days after the end of the month of delivery.
- (b) Subject to clause 32, the Customer shall not be entitled to withhold payment or part payment of any account by reason of any account query, dispute or set off.
- (c) Customers having overdue accounts will be precluded from participating in any special deals,

discounts, bonus payments, redemptions, rebates and all other incentive programs until their accounts are no longer overdue.

14. If the Customer fails to make payment in accordance with Clause 13 Vertilux shall be entitled to:
 - (a) require the payment of cash on delivery of any further goods;
 - (b) charge an interest charge at the rate of one point seven five per centum (1.75%) per month on a compounding basis on all overdue amounts (including late payment charges and amounts other than the price) calculated on a day to day basis on any monies due but unpaid, such interest charge to be computed from the due date for payment AND the parties agree that such interest charge is not a penalty but is a true measure of damages incurred by Vertilux. Interest shall be payable on demand by Vertilux. Payments received from the Customer will be credited first against any interest charge;
 - (c) claim from the Customer all reasonable costs, expenses and charges incurred on any account whatsoever including but not limited to any action taken by Vertilux to recover monies or goods due from the Customer including but not limited to any mercantile agents costs and legal costs and disbursements on a solicitor-client basis; and
 - (d) cease any further deliveries to the Customer and to terminate immediately these Terms including in relation to goods that have not been delivered.

DELIVERY

15. Unless it is specifically agreed by Vertilux in writing that time of delivery is critical, any date or time quoted for delivery is an estimate only. Vertilux shall endeavour to effect delivery at the time or times required by the Customer. Failure to deliver by the indicated time shall not confer any right of cancellation or refusal of delivery on the Customer provided delivery is made within a reasonable time.

Australian Customers

16. Vertilux's obligation to deliver shall be discharged on arrival of the goods at the Customer's nominated delivery destination, transport company or agent. The Customer shall unload the goods on delivery, provided that if the

Customer is unable or unwilling to accept delivery of the goods when the goods are ready for delivery, Vertilux shall be entitled to charge a fee for any delay experienced or arrange for the storage of the goods at the risk and cost of the Customer including all transportation, storage and other consequential costs.

Export Customers

17. For export Customers outside Australia, Vertilux shall deliver the goods into the custody of the carrier or another person (e.g. a freight forwarder) named by the Customer, at the named place or point in Melbourne (e.g. transport terminal or other receiving point) on the date or within the period agreed for delivery and in the manner agreed or customary at such point. If no specific point has been agreed, and if there are several points available, Vertilux may select the point at the place of delivery which best suits its purpose. Failing precise instructions from the Customer, Vertilux may deliver the goods to the carrier in such a manner as the transport mode of that carrier and the quantity and/or nature of the goods may require. Delivery to the carrier is completed when the goods have been handed over to the carrier or to another person acting on its behalf.
18. The Customer must accept or ensure acceptance of delivery of goods in accordance with this document. The Customer shall pay any additional costs incurred, either because it fails to name the carrier or agent, or the carrier or agent named by the Customer fails to take the goods into its charge at the agreed time, or because the Customer has failed to give reasonable notice and details of the carrier or time and place for Vertilux's delivery or has failed to take delivery.
19. Vertilux may, at its discretion, make and invoice partial deliveries and each partial delivery shall be a separate sale pursuant to these Terms.

PROPERTY AND RISK

20. Notwithstanding delivery of the goods or their installation or affixation to other goods, Vertilux shall own the goods until the Customer has paid for them and also discharged any other present and future, actual or contingent indebtedness to Vertilux. Any payment made by or on behalf of a Customer which is later avoided by the application of any statutory provision shall be deemed never to have discharged the Customer's indebtedness for these purposes.
21. The risk in the goods (including the risk of loss or damage) shall pass to the Customer upon delivery by Vertilux in accordance with these Terms.

Should the Customer or any agent or carrier named by the Customer fail to take the goods into its charge, the Customer shall bear all risks of subsequent loss of or damage.

22. The Customer acknowledges that it is in possession of the goods solely as a bailee for Vertilux until payment and discharge as defined in clause 20 has been made in full to Vertilux and until then:
 - (a) the Customer shall be fully responsible to Vertilux for any loss or damage to the goods whatsoever and howsoever caused following delivery and the Customer shall store the goods separately from its own goods and those of any other party and in a manner which clearly identifies the goods, whether as separate chattels or as components, as the property of Vertilux; and
 - (b) the Customer shall maintain records of goods owned by Vertilux identifying them as Vertilux's property, of the persons to whom the goods are sold or disposed to and of the payments made by such persons for such goods. The Customer shall allow Vertilux to inspect these records and the goods themselves on request by Vertilux.
23. The Customer hereby irrevocably grants to Vertilux, its agents and servants, an unrestricted right and licence, without notice to enter premises occupied by the Customer to inspect, identify and/or remove any of the goods to which Vertilux is entitled without in any way being liable to the Customer or any person claiming through the Customer. Vertilux shall have the right to sell or otherwise dispose of any such goods removed in its sole discretion and shall not be liable for any loss occasioned thereby.
24. The Customer shall be at liberty to agree to sell the goods in the ordinary course of its business (but not to any of its affiliates) subject to the condition that, until payment and discharge has been made in accordance with clause 20, if Vertilux so directs, the entire proceeds from the sale of the goods shall be held by the Customer in a separate account on trust for Vertilux.
25. The right to on-sell, deal or otherwise dispose of the goods in the ordinary course of business may be revoked at any time by Vertilux and shall also automatically cease if a receiver is appointed over any of the assets or the undertaking of the Customer or if a winding up order is made against the Customer or if the Customer goes into voluntary liquidation (otherwise than for the purpose of solvent reconstruction or amalgamation) or administration or calls a meeting of, or

makes any arrangement or composition with, creditors or commits any act of bankruptcy or where the Customer is in default of any of its obligations to Vertilux in connection with these Terms.

PPS LAW

26. This clause applies to the extent that the Personal Property Securities Act 2009 (Cth) ("**PPS Law**") operates in relation to any "security interest" (as defined in PPS Law) under these Terms including under clause 20. The security interest under clause 20 is a purchase money security interest ("PMSI") to the extent that it can be under section 14 of the PPS Law. Money paid by the Customer must be applied in the order provided for in section 14 of the PPS Law unless Vertilux agrees otherwise.
27. The Customer agrees to do anything (such as obtaining consents and signing documents) which Vertilux requires for the purposes of:
 - (a) ensuring that Vertilux's security interest is enforceable, perfected and otherwise effective under the PPS Law;
 - (b) enabling Vertilux to gain first priority (or any other priority agreed to by Vertilux in writing) for its security interest; and
 - (c) enabling Vertilux to exercise rights in connection with the security interest,and to assure performance of its obligations, the Customer hereby gives Vertilux an irrevocable power of attorney to do anything Vertilux considers the Customer should do under this clause.
28. The rights of Vertilux under this document are in addition to and not in substitution for Vertilux's rights under other law (including the PPS Law) and Vertilux may choose whether to exercise rights under this document, or under such other law, as it chooses.
29. To the extent allowed by PPS Law including by section 115, the parties contract out any obligation of Vertilux to provide notice, allow time or indulgence or provide any account that would otherwise be required under Chapter 4 of the PPS Law. In relation to section 128 (secured party may dispose of collateral), section 129 (disposal by purchase) and 134(1) (retention of collateral) the Customer agrees that in addition to its rights under PPS Law Vertilux shall have the power to retain, deal with or dispose of any goods in the manner specified in those sections but also under this document in any other manner it deems fit.
30. The Customer waives its rights to receive a verification statement in relation to registration events in respect

of commercial property under section 157 of the PPS Law.

31. Solely for the purpose of allowing to Vertilux the benefit of section 275(6) of the PPS Law, Vertilux and the Customer agree that neither of them must disclose information of the kind that can be requested under section 275(1) of the PPS Law. However, Vertilux's aggregate liability for disclosure in breach of this clause shall be limited to \$1.00.

VERTILUX'S LIABILITY

32. Laws including the Australian Consumer Law provide consumers with guarantees that cannot be excluded, restricted or modified. This document does not affect any rights the Customer has under the ACL or any other legal rights which cannot be excluded or modified. However, to the extent permitted by the ACL and subject to any other legal restriction, Vertilux excludes:

- (a) any terms, conditions, warranties, guarantees or other liability that might apply; and
- (b) any liability for any indirect, special, consequential or economic loss or damage whether or not arising from default or negligence by Vertilux or its employees or agents.

33. For goods other than those of a kind ordinarily acquired for personal, domestic or household use or consumption, Vertilux limits its liability, as permitted by the ACL, at its option to:

- (a) the replacement of the goods or the supply of equivalent goods;
- (b) the cost of replacing the goods or the cost of acquiring equivalent goods;
- (c) the repair of the goods or payment of the cost of repair of the goods.

34. For services other than those of a kind ordinarily acquired for personal, domestic or household use or consumption Vertilux limits its liability, as permitted by the ACL, at its option, to the re-supply of the services or the payment of the cost of having the services supplied again.

35. Subject to clause 32, the Customer acknowledges and agrees that in entering into an agreement the subject of these Terms it has not relied in any way on Vertilux's representations and that it has satisfied itself as to the suitability of goods or services for the Customer's purposes.

36. Subject to clause 32 the Customer must examine the goods immediately after delivery and provide to Vertilux details of any defect or non-

compliance in writing within seven (7) days of the date of delivery of the goods. For Export Customers outside Australia the Customer shall pay, unless otherwise agreed, the costs of pre-shipment inspection.

37. Subject to clause 32, if goods do not correspond with the description of them on the invoice or are defective, then provided that the goods are preserved intact and made available for inspection by a representative of Vertilux and are returned to Vertilux in the same order and condition as that in which they were delivered, Vertilux shall at its option replace those goods or reimburse the Customer for the amount of the purchase price paid for them. Claims in this respect should be made in writing to Vertilux within seven (7) days of the date of delivery of those goods.

38. Subject to clause 32, the Customer agrees that it has not relied on any inducement, representation or statement made by or on behalf of Vertilux in purchasing the goods and there are no implied conditions or warranties herein and no collateral contracts in connection herewith (except such as may be in writing and signed by a duly authorised representative of Vertilux).

39. Subject to clauses 33 and 34, Vertilux's maximum aggregate liability to the Customer in respect of any claim under or in connection with the activities covered by these Terms, whether arising in or for breach of contract, negligence or other tort, breach of statutory duty, or under an indemnity or otherwise is limited to an amount equal to the amount of \$500.

FORCE MAJEURE

40. Vertilux shall not be liable for any failure or delay to supply or deliver the goods where such failure or delay is wholly or partly due to any cause or circumstance whatsoever outside the reasonable control of Vertilux including, but not limited to, a failure to obtain supply from Vertilux's usual source or supplier, war, strikes, lockouts, industrial disputes or unrest, government restrictions or intervention, transport delays, fire, act of God, breakdown of plant, shortage of supplies or labour, storm or tempest, theft, vandalism, riots, civil commotions or accidents of any kind.

TERMINATION

41. If the Customer fails to comply with any of these Terms or being a natural person or persons commits any act of bankruptcy, or being a corporation passes a resolution for winding up or liquidation (other than for the purposes of solvent reorganisation or reconstruction) or administration or enters into any composition or

arrangement with creditors or if a receiver or manager or administrator or controller is appointed for any property or assets of the Customer or the Customer becomes liable to be wound up by reason of insolvency or if any petition is presented for its winding up, or if a liquidator or provisional liquidator or administrator is appointed, Vertilux may, in addition to exercising all or any of its rights against the Customer, terminate any incomplete or undelivered orders and these Terms and/or immediately suspend any further deliveries and/or immediately recover possession of any goods not paid for in accordance with these terms and conditions.

42. Vertilux may also terminate any incomplete or undelivered orders and these Terms with the Customer for convenience at any time by notice to the Customer.

COURTESY RETURNS

43. Subject to clause 32 and except as expressly provided in this document, Vertilux shall not be liable to accept any returned goods, provided that such goods shall if accepted only be accepted:

- (a) for credit;
- (b) with the prior written approval of a duly authorised representative of Vertilux;
- (c) only if approval is sought within seven (7) days of delivery of the products to the Customer (and the Invoice Number is quoted by the Customer when requesting the return); and
- (d) only if the goods are found to be in the same condition as at the time of delivery to the Customer and in unsoiled packaging ready for immediate resale when examined on their return to Vertilux.

44. Subject to clause 32 no returns of the goods or cut-to-measure goods will be accepted. Goods returned for credit will be subject to an administration charge equivalent to fifteen percent (15%) of the invoiced value of the returned products plus GST and transportation and handling costs and expenses but if that amount would be less than fifty dollars (\$50.00) (excluding GST), then a minimum charge of fifty dollars (\$50.00) plus GST shall apply instead.

GOVERNING LAW

45. These Terms are governed by the law of Victoria, Australia and the Customer submits to the non-exclusive jurisdiction of the courts in Victoria.

SERVICE OF DOCUMENTS

46. The Customer agrees that service of any notices or Court documents may be effected by forwarding the notice by pre-paid post or email to the last known address, email address or facsimile number of the Customer.

GST

47. If Vertilux makes a taxable supply under GST law under this agreement then, unless it is clear that the consideration quoted or agreed by Vertilux includes GST, the Customer must pay additional consideration equal to the GST payable in respect of that supply, in addition to any other amounts that it must pay in respect of the supply, provided that Vertilux provides a tax invoice. A reference to GST includes a reference to any analogous tax or impost affecting Vertilux in respect of the supply of goods and services that may be introduced after the date these terms and conditions are agreed. Where the context permits, a reference to Vertilux also includes the representative member of any GST group to which Vertilux belongs.

FOR EXPORT CUSTOMERS OUTSIDE AUSTRALIA –

The following additional terms and conditions are applicable to Export Customers outside Australia

Checking - Packaging - Marketing

48. Vertilux shall pay the costs of those checking operations (such as checking operations, checking quality, measuring, weighing, counting) which are necessary for the purpose of delivering the goods to the carrier. Unless otherwise stated on a relevant price list, the invoice or statement, Vertilux shall provide at its own expense, packaging which is required for the transport of the goods, to the extent that the circumstances relating to the transport (e.g. Modalities, destination) are made known to Vertilux before the contract of sale is concluded. Packaging is to be marked appropriately.

Vertilux assistance

49. Vertilux shall render the Customer at the latter's request, risk and expense, every assistance in obtaining any documents or equivalent electronic messages issued or transmitted in the country of shipment and/or of origin which the Customer may require for the importation of the goods and, where necessary, for their transit through another country. Vertilux shall provide the Customer, upon request, with the necessary information for procuring insurance or other contracts of indemnity.

Licences, Authorisation and Formalities for Importation

50. The Customer shall obtain at its own risk and expense any import licence or other official authorisation and carry out all customs formalities for the importation of the goods and, where necessary, for their transit through another country.

51. The Customer shall pay all duties, taxes and other official charges as well as the costs of carrying out customs formalities payable upon importation of the goods and, where necessary, for their transit through any other country.

TRUSTS

52. If the Customer acts as trustee of any trust the Customer warrants and undertakes to Vertilux that:

- (a) all the powers and discretions conferred by the deed establishing the trust are capable of being validly exercised by the Customer as trustee and have not been varied or revoked and the trust is a valid and subsisting trust;
- (b) the Customer is and will remain the sole trustee of the trust and has full and unfettered power under the terms of the deed establishing the trust to enter into and perform this agreement;
- (c) no restriction on the Customer's right of indemnity out of or lien over the trust's assets exists or will be created or permitted to exist and that right of indemnity will have priority over the right of the beneficiaries to the trust's assets; and
- (d) it enters into this document both in its personal capacity and its capacity as trustee.

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