



Standard Terms And Conditions Of Sale For Commercial

1. DEFINITIONS

In these Terms:

“**ACL**” means the Australian Consumer Law;

“**Business Day**” means a day other than a Saturday, Sunday or public holiday in Victoria;

“**Customer**” means a person, firm or corporation, jointly and severally if there is more than one, acquiring goods from the Supplier;

“**goods**” means glassware and other glass products, offered for sale by the Supplier from time to time;

“**GST**” means the Goods and Services tax as defined in A New Tax System (Goods and Services Tax) Act 1999 as amended from time to time;

“**Intellectual Property**” means all copyright, trade marks, designs, specifications, confidential information (whether registered or not) owned or licensed by the Supplier in respect of the goods or their design;

“**Supplier**” means M Dore Glass Pty Ltd ACN 150 414 529 of Unit 6, 8 Garden Road, Clayton, Victoria, 3168;

“**PPSA**” means the Personal Property Securities Act” 2009 (Cth);

“**Price List**” means any price list issued by the Supplier from time to time in relation to the price payable for the goods;

“**Order**” means any request or order to purchase the goods, whether made through the Supplier’s website, or through any other means;

“**Terms**” means these Standard Terms and Conditions of Sale.

2. BASIS OF AGREEMENT AND ORDERS

- 2.1. Unless otherwise agreed by the Supplier in writing, the Terms apply exclusively to every Order and cannot be varied, altered or replaced by any other terms, including the Customer’s terms and conditions of purchase (if any).
- 2.2. An Order is only accepted by the Supplier when the Supplier confirms its acceptance of an Order from the Customer in writing or provides the Customer with the goods. Receipt of payment for goods by the Supplier does not in itself constitute acceptance by the Supplier of an Order.
- 2.3. The Supplier in its absolute discretion may refuse to accept any Order or may cancel any Order at any time, for any reason whatsoever. If the Supplier cancels an Order prior to delivery to the Customer, then any prepayment of the goods will be refunded.
- 2.4. Apart from where expressly provided in these Terms, the Customer cannot cancel an Order once it is placed.
- 2.5. The Supplier may vary the terms and conditions of these Terms from time to time by publishing new terms and conditions on the Supplier’s website or by otherwise making them publicly available.
- 2.6. The Supplier will not be bound by any typographical, clerical or other errors or omissions in any sales literature, Price Lists, invoices or other documents issued by the Supplier.

3. GOODS BEING SOLD

- 3.1. Descriptions and specifications for the goods are set out on the Supplier’s website at the time of the Order or the Supplier’s catalogue from which an Order may be placed provided the catalogue is current at the time of the Order.
- 3.2. The goods are generally made to order. If any goods or their underlying components or ingredients are unavailable or out of stock then the Supplier may cancel the Order in whole or in part and refund any monies paid, issue a credit note or otherwise vary the Order with the Customer’s approval.



4. SLIGHT VARIATIONS

The Customer acknowledges that as the goods are handmade, original and distinctive there may be some slight variations including but not limited to the colour, shape, design and/or pattern of the product listed on the website or catalogue, to the goods actually received by the Customer.

5. TRAVEL, CONSULTANCY AND DESIGN COSTS AND FEES

5.1. The Customer acknowledges and agrees that as the goods are handmade, original and distinctive and may be made to Order, there may be need for the Supplier to travel, consult and design individual products for specific Orders by the Customer or any of its customers. The Customer agrees to reimburse the Supplier for all travel, consulting and design expenses and fees incurred by the Supplier in connection with the Order.

6. PRICING

6.1. All prices are quoted in Australian Dollars.

6.2. Unless otherwise agreed in writing, prices specified whether by verbal agreement, listed on the website or in a Price List, for the supply of goods may exclude:

- (a) taxes, duties or imposts on or in relation to the goods, including, without limitation GST or other broad-based consumption tax or value-added tax; and
- (b) the cost of freight, delivery, insurance and other charges arising from the point of dispatch of the goods from the Supplier's Melbourne warehouse to the Customer.

6.3. In addition to payment of the price of goods, the Customer must pay to the Supplier all amounts specified in clause 6.2.

7. TERMS OF PAYMENT AND PAYMENT METHODS

7.1. Current prices for goods are available on the Supplier's website or its latest catalogue. Prices may change from time to time. Occasionally, there may be a difference in price between the Supplier's website and its hardcopy catalogues. Apart from where required by law, the Supplier is under no obligation to honour a website price if the Order is placed through the catalogue. The Supplier is under no obligation to honour prices advertised in old catalogues.

7.2. Payment for the Order shall be made to the Supplier by any of the options listed on the Supplier's website, its catalogue or by written agreement between the Supplier and the Customer, in the following installments:

- (a) An initial deposit of 60% of the total value of the Order will be due and payable immediately upon placing of an Order;
- (b) 40% of the total value of the Order to be paid upon delivery of the Order, as detailed in clause 8 of this Agreement; and
- (c) Full payment of any travel, consultancy and design costs or fees as referred to in clause 5 of this Agreement.

7.3. All Order's may be subject to further credit or security checks before they are accepted or fulfilled.

8. DELIVERY

8.1. The Supplier will arrange for the delivery of the goods to the Customer, at the Customer's cost and delivery of the goods will be deemed to have occurred at the point of handing the goods over to the Customer.

8.2. Full delivery prices and options are listed on the Supplier's website or catalogue and are subject to change from time to time.

8.3. Offshore or remote deliveries will attract higher delivery prices and delivery times will be longer, depending on the delivery location.

8.4. Any period or date for delivery of goods stated by the Supplier is intended as an estimate only and is not a contractual commitment. The Supplier will use its reasonable endeavours to meet any estimated dates for delivery of the goods.



- 8.5. Unless otherwise agreed in writing, the risk in the goods and all insurance responsibility for theft, damage, or otherwise in respect of the goods will pass to the Customer immediately upon the goods leaving the Supplier's warehouse for delivery. The Customer is responsible for insuring the goods whilst they are in transit to the Customer.
- 8.6. The Customer assumes all risk and liability for loss, damage or injury to persons or to property of the Customer, or third parties arising out of the use or possession of any of the goods supplied by the Supplier.
- 8.7. If the Customer will not or does not accept delivery when the goods are ready for delivery, the Customer will be deemed to have taken delivery of the goods and the Supplier may store the goods until actual delivery, in which case, the Customer will be liable to the Supplier for all related costs, such as re-delivery charge, storage and insurance.

9. PASSING OF PROPERTY

- 9.1. Until the Supplier receives full payment in cleared funds for all goods and services supplied by it to the Customer, as well as all other amounts owing to the Supplier by the Customer:
- (a) title and property in all goods remains vested in the Supplier and does not pass to the Customer;
 - (b) the Customer must hold the goods as fiduciary bailee and agent for the Supplier;
 - (c) the Customer is required to hold the proceeds of any sale of the goods on trust for the Supplier in a separate account however failure to do so will not affect the Customer's obligation to deal with the proceeds as trustee; and
 - (d) the Supplier may without notice, enter any premises where it suspects the goods may be and dismantle, detach and remove them (notwithstanding that the goods may have been attached to other goods not the property of the Supplier), and for this purpose the Customer irrevocably licences the Supplier to enter such premises and also indemnifies the Supplier from and against all costs, claims, demands or actions by any party arising from such action.
- 9.2. In addition to any rights the Supplier may have under Chapter 4 of the PPSA, until payment of all and any amounts owing by the Customer to the Supplier are received:
- (a) the Customer will keep the goods separate until the Supplier has received payment in full and any other obligations owed by the Customer to the Supplier are met;
 - (b) the Supplier may give notice to the Customer to return the goods to the Supplier. Upon receipt of such or upon such notice being given, any rights of the Customer to obtain ownership or any other interest in the goods will cease;
 - (c) the Customer will not encumber or charge the goods or register any Security Interest or permit any other person to register a Security Interest in the goods or grant or otherwise give any interest in the goods whilst the goods remain the property of the Supplier;
 - (d) if there is any inconsistency between the Supplier's rights under this clause 9 and its rights under Chapter 4 of the PPSA, then this clause 9 prevails to the extent permitted by law.

10. PERSONAL PROPERTIES SECURITIES ACT

- 10.1. The Customer acknowledges and agrees that these Terms are an accepted and adopted security agreement between the parties. Unless otherwise stated, a term contained in clauses 9 and 10 of these Terms that is defined in the PPSA (but not otherwise defined in these Terms) has the meaning given to it in the PPSA.
- 10.2. The Customer acknowledges and agrees that these Terms create and that the Supplier has a Security Interest for the purposes of the PPSA:
- (a) in all goods and any proceeds previously supplied by the Supplier to the Customer; and
 - (b) in all goods and any proceeds that will be supplied in the future by the Supplier to the Customer.
- 10.3. The Customer acknowledges and agrees that this Security Interest is registrable in the Personal Property Securities Register and this Security Interest secures all moneys owing by the Customer to the Supplier under these Terms or otherwise.



- 10.4. The Customer grants to the Supplier where and when applicable, a purchase money Security Interest (PMSI) to the extent that it secures payment of the amounts owing in relation to the relevant goods in accordance with, and to the extent prescribed by, section 14 of the PPSA.
- 10.5. The Customer acknowledges and agrees the Security Interest is a continuing and subsisting interest in the goods with priority over any registered or unregistered general (or other) Security Interest and any unsecured creditor.
- 10.6. The Customer acknowledges that the Security Interest over the goods or their proceeds arising under this clause 10 is a PMSI under the PPSA to the extent that it secures payment of the amounts owing in relation to the goods.
- 10.7. The Customer will do everything reasonably required of it by the Supplier to enable the Supplier to register its Security Interest with the priority the Supplier requires and to maintain those registrations including:
 - (a) signing any documents and/or providing any information which the Supplier may reasonably require to register a financing statement or a financing change statement in relation to a Security Interest; or
 - (b) correcting a defect in a statement referred to in clause 10.7(a).
- 10.8. The Security Interests arising under this clause 10 will be perfected by the Supplier prior to or when the Customer obtains possession of the goods and the parties confirm they have not agreed that any Security Interest arising under this clause 10 attaches at any later time.
- 10.9. The Supplier does not need to give the Customer any notice under the PPSA (including notice of the financing statement or verification statement) unless the notice is required by the PPSA and that requirement cannot be excluded.
- 10.10. If Chapter 4 of the PPSA would otherwise apply to the enforcement of the Security Interests created under these Terms, the Customer agrees that sections 95, 96, 120, 121(4), 123, 125, 128, 129, 130, 132(3)(d), 132(4), 134(1), 135, 142 and 143 of the PPSA will not apply to the enforcement of the Security Interest(s).
- 10.11. The Customer agrees not to disclose to an 'Interested person' (as defined in section 275(9) of the PPSA) or any other person, any Information of the kind described in section 275(1) of the PPSA including the security agreement between the Supplier and the Customer,
- 10.12. The Customer agrees to keep and maintain all goods free of any charge, lien, or Security Interest except as created under these Terms and not otherwise to deal with the goods in a way that will, or may, prejudice the rights of the Supplier under these Terms or the PPSA.
- 10.13. The Customer irrevocably grants to the Supplier the right to enter any premises or property of the Customer without notice, and without being in any way liable to the Customer or any other person, if the Supplier has cause to exercise any of its rights under the PPSA, and the Customer agrees to indemnify the Supplier against any such liability.
- 10.14. The Customer must notify the Supplier immediately in writing if the Customer changes its name and address for service, contact details or if there are any changes to data required to register a financing statement under the PPSA in respect of these Terms.

11. WARRANTY

- 11.1. The Supplier offers a limited warranty for its goods against defects and workmanship and materials, subject to the limitations and exclusions set out in the warranty provided herein which is given subject to and in addition to other rights and remedies the Customer has under any law in relation to the goods to which this warranty relates, including but not limited to the rights provided by the ACL. This warranty does not limit or restrict the Customer's rights under the ACL.
- 11.2. Where the ACL applies, the goods come with guarantees that cannot be excluded under the ACL. The Customer is entitled to a replacement or a refund for a major failure and for compensation for any other foreseeable loss or damage. The Customer is also entitled to have the goods repaired or replaced if the goods fail to be of acceptable quality and the failure does not amount to a major failure.



- 11.3. The Supplier warrants that, subject to the exclusions and limitations set out in these Terms, the goods provided by the Supplier will be free from defects in materials and workmanship under normal usage (“Warranty”), for the period of one year from the later of the date that the goods are delivered to the Customer or if the Customer has purchased the goods solely for the purpose of resale, the date of sale to any person to whom the Customer resells the goods to (“Warranty Period”).
- 11.4. To the maximum extent permitted by law, this Warranty does not cover:
- (a) placing hot goods into cold water or other cold substances; use of the goods in a microwave or oven; subjecting the goods to any other thermal stress which might ordinarily cause damage to glass goods;
 - (b) products packaged or labelled by someone other than the Supplier or its authorised agents;
 - (c) products not used in compliance with the specifications or goods not cared for or used, serviced or maintained in accordance with the product manuals provided by the Supplier;
 - (d) any products used in conjunction with the goods not specified for use with same or not authorised for use with same by the Supplier;
 - (e) defects due to misuse, reprocessing, alteration, unauthorised repair or negligent handling, or defects due to lack of care, neglect or accident by the Customer, or assigned user or agent of the Customer, including but not limited to storage, handling or cleaning of the goods;
 - (f) personal injury, property damage, consequential or economic loss, however caused;
 - (g) the goods being modified, repaired or serviced by someone other than the Supplier;
 - (h) the Supplier being unable to establish any fault in the goods after testing;
 - (i) the goods being subject to abnormal conditions, whether of temperature, water, humidity, pressure, stress or similar; or
 - (j) the defect in the goods has arisen as a result of the drawings, designs, specifications or instructions supplied by the Customer.
- 11.5. To the maximum extent permitted by law and other than the Warranty stated above, the Supplier makes no representations or warranties of any kind whatsoever express or implied in respect of the goods.
- 11.6. All Warranty claims must be made within the timeframe stipulated in these Terms for the Warranty to be honoured by the Supplier.
- 11.7. If a defect appears in the goods before the end of the Warranty Period and the Supplier finds the goods to be defective in materials or workmanship, or if the goods or their supply breach any implied warranty under the Competition and Consumer Act 2010 (Cth) or the ACL, which cannot be excluded by law, then the Supplier will, in its sole discretion, either:
- (a) replace or repair the goods or the defective part of the goods free of charge;
 - (b) cause the goods or the defective part of the goods to be repaired or replaced by a qualified repairer free of charge; or
 - (c) refund the purchase price of the goods to the Customer.
- 11.8. If a fault covered by the Warranty occurs, the Customer must contact the Supplier and provide details of the warranty claim and proof of purchase. The Supplier will, where possible, assess the claim over the telephone and explain to the Customer how to return the defective goods to the Supplier. The Supplier will send replacement goods to the Customer, where appropriate, free of charge. The Supplier’s contact details are set out on its website.
- 11.9. Provided that the claim is made within the Warranty Period and the Warranty applies, the goods will be returned to the Supplier by the Customer and all costs associated with the return and repair of the goods will be borne by the Supplier.
- 11.10. The cost of repaired or replaced goods and all labour associated with same, including the recommissioning of the goods will be borne by the Supplier.
- 11.11. The Warranty is limited to defects in the materials or workmanship of the goods and does not cover slight variations as specified in clause 4 of these terms.
- 11.12. This warranty is in addition to any statutory warranties available to the Customer that cannot be excluded.
- 11.13. The Customer will provide a copy of the warranty contained in this clause 11 to any person to whom it re-sells the goods to.



12. LIMITATION OF LIABILITY

Subject to clause 11:

- (a) To the fullest extent permitted by law, the goods are provided by the Supplier “as is” and “as available” without representation, warranty or condition of any kind by the Supplier, either express or implied, including, but not limited to implied representations, warranties or conditions of merchantability, or fitness for a particular purpose.
- (b) To the fullest extent permitted by law, the Supplier’s liability and responsibility to you under or incidental to these Terms is excluded in respect of any and all loss or damage, whether direct or indirect, including, without limitation, loss of profits, loss of data, loss of business or anticipated savings, general and special damages, and consequential and incidental loss.
- (c) If, notwithstanding the provisions of this clause, a court of competent jurisdiction holds the Supplier liable in respect of any matters arising under or incidental to these Terms, to the fullest extent permitted by law, such liability will be limited to the purchase price you have paid for the goods pursuant to these Terms.

13. RETURN, REPAIRS AND/OR EXCHANGE

13.1. Subject to the ACL and to clause 13.3, the Supplier will not be liable for any defects, shortages, damage or non-compliance with the specifications in the Order unless:

- (a) the Customer notifies the Supplier with full details within 2 Business Days of delivery specifying the shortage or defect; and
- (b) the Supplier is given the opportunity to inspect the goods and investigate the complaint before any further dealing.
- (c) Notification of faulty, damaged, incorrect or missing products must be received by our Customer Service Department within 48 hours of the goods being signed for. Should your parcel contain a damaged or faulty item, M DORE GLASS PTY LTD will provide instructions on how to return goods in an appropriate manner. These details can be obtained by email customerservice@margueritedore.com.au
Please attach photo of packaging and product damages to the email.

13.2. If the Customer fails to give the notice as required in clause 13.1, it is deemed to have accepted the goods and will be bound to pay for them.

13.3. Where the Supplier accepts any claim for defects, shortages, damage or non-compliance with the Order, the Supplier may, at its option, repair or replace the goods, or refund the price of the goods.

13.4. The Supplier will not, under any circumstances, accept goods for return that:

- (a) have not been stored or handled in accordance with the Supplier’s instructions or any legislative requirements; or
- (b) have been altered in any way.

13.5. The Customer must obtain the Supplier’s prior written approval for the return of goods and pay all freight charges associated with return.

14. FORCE MAJEURE

14.1. The Supplier shall have no liability whatsoever for a breach of these Terms to the extent that the breach is caused or contributed to by circumstances beyond its reasonable control, including but not limited to:

- (a) industrial disputes, strikes, lockouts;
- (b) accident or breakdown;
- (c) import or export restrictions and embargoes;
- (d) act of God, explosion, flood, tempest or fire;
- (e) act of terrorism, act of war, sabotage, insurrection, civil disobedience or requisition; or
- (f) difficulties in obtaining raw materials, labour, fuel, parts or machinery.

14.2. If an event of force majeure described above occurs, the Supplier may terminate the Order by written notice to the Customer.



15. INTELLECTUAL PROPERTY RIGHTS AND CONFIDENTIALITY

- 15.1. The Customer acknowledges that it has no proprietary right or interest in the Intellectual Property.
- 15.2. The Customer must not register or record or attempt to register or record anywhere in the world, the Customer as the owner of the Intellectual Property or any part thereof, or anything similar to it, or aid or abet anyone else to do so.
- 15.3. Any Intellectual Property provided to the Customer by the Supplier remains the Supplier's exclusive property and must be returned to the Supplier on demand and must not be copied or communicated to any third party without the Supplier's express written consent.
- 15.4. The Customer must not at any time (and must not direct any other party to) create, sell, manufacture or process any goods using or taking advantage of the Intellectual Property.
- 15.5. The Supplier reserves the right to change the specifications of the goods at any time without notice and without liability.
- 15.6. If goods are supplied in accordance with any particular drawings, designs, specifications or instructions provided by the Customer, then the Customer agrees to indemnify the Supplier from and against any losses, expenses, claims, demands or actions awarded against or incurred by the Supplier in connection with any third party claim for infringement of intellectual property rights.

16. MISCELLANEOUS

- 16.1. The law of Victoria governs these Terms. The parties consent to the jurisdiction of the Courts of the State of Victoria and their Courts of Appeal in relation to these Terms.
- 16.2. A failure by the Supplier to enforce any of these Terms shall not be construed as a waiver of any of the Supplier's rights hereunder. Any such waiver will only be valid if made in writing.
- 16.3. If any of these Terms are unenforceable, the unenforceable provisions must be read down so as to be enforceable or, if it cannot be so read down, the provision must be severed from these Terms without affecting the enforceability of the remaining terms.
- 16.4. A notice given under these Terms must be in writing and handed personally or sent by facsimile, email or prepaid mail to the last known address of the addressee. Notices sent by pre-paid post are deemed to be received upon posting. Notices sent by facsimile or email are deemed to be received upon the sender's communications machine confirming such transmission.
- 16.5. The parties may agree for the Supplier to provide additional goods from time to time. Any varied or additional goods will be provided in accordance with these Terms and such other terms as may be agreed.

The Parties agree to be bound by the terms and conditions of sale.

Providers Information	Recipients Information
Date:	Date:
Company: M DORE GLASS PTY LTD	Company:
ABN: 48 150 414 529	ABN:
Address: Unit 6/8 Garden Road, Clayton, Vic 3168	Address:
Contact: Marguerite Dore	Contact:
Position: Director/Designer	Position:
Signed For M DORE GLASS PTY LTD	Signed For:
Print Name:	Print Name:
Witness:	Witness:
Print Name:	Print Name: