



Integrated ducting and diffusion systems

**BRADFLO PTY LTD**  
20 GARLAND AVENUE, ALBURY NSW 2640  
ABN 54 152 437 137

## **TERMS AND CONDITIONS OF TRADE**

### **1. DEFINITIONS**

- 1.1 'the Customer' means a person or entity who acquires Goods from Bradflo Pty Ltd ("**Bradflo**");
- 1.2 'Goods' means the goods offered for sale by Bradflo to the Customer;
- 1.3 'Price List' means the price list in relation to the Goods on offer for sale by Bradflo; and
- 1.4 'Terms and Conditions' means the terms and conditions contained in this document.

### **2. TERMS AND CONDITIONS**

Receipt of an order or instruction to proceed will be deemed acceptance by the Customer of these Terms and Conditions. The Terms and Conditions may be varied only in writing by a director of Bradflo ("**Special Conditions**"). In the event that these Terms and Conditions are varied on written instruction by a director of Bradflo, the changes will be confirmed to the Customer within 7 working days from date of receipt of such instruction. No representatives, warranties, guarantees or other statements not contained herein shall be binding on the Company (other than those contained in applicable legislation or the Special Conditions).

Unless otherwise stated, any quotation and prices provided by the Company to the Customer are valid for 30 days from date of quotation. The Price List is subject to alteration without notice.

### **3. PAYMENT TERMS**

- 3.1 Subject to clause 3.2, payment in full for Goods ordered by the Customer from Bradflo must be made at the time of order, and no Goods shall be delivered to the Customer until Bradflo has received such payment.
- 3.2 Where a Customer has been approved by Bradflo for the provision of credit, payment in full for Goods purchased and received by the Customer from Bradflo is to be made within 30 days from the end of the month in which the Customer was provided with an invoice for those Goods. To the extent permitted by law, if payment in full is not received within these terms of trade, Bradflo reserves the right to withdraw credit and supply, and interest will be charged. Interest will be calculated daily, and charged on the outstanding balance of the Customer's account (including interest charges incurred), at the rate of 15% per annum, for every day or part thereof that the account remains outstanding.

### **4. RETENTION OF TITLE AND PERSONAL PROPERTY SECURITIES**

- 4.1 Ownership in the Goods shall remain vested in Bradflo until the Customer has made payment in full for all Goods supplied by Bradflo to the Customer, together with all interest and monies due.
- 4.2 Until payment in full is made in accordance with the terms of clause 3 of these Terms and Conditions:
  - 4.2.1 the Customer shall hold the Goods on trust for Bradflo as bailee of Bradflo;
  - 4.2.2 the Customer shall store the Goods on the Customer's premises in such a manner as to make them readily identifiable as belonging to Bradflo and shall display such identification as may from time to time be requested by Bradflo;
  - 4.2.3 if the Goods are sold by the Customer, then all proceeds of sale shall be the property of Bradflo and shall be retained in a separate account by the Customer in trust for Bradflo and shall not be intermingled with any other monies or paid into any overdrawn bank account and shall at all times be kept identifiable as monies held in trust for Bradflo;
  - 4.2.4 if before it becomes the owner of the Goods, the Customer makes any new object from the Goods or incorporates them into or with other goods, those other or new goods or objects shall be held on trust for Bradflo;
  - 4.2.5 the Customer will, on demand by Bradflo, assign to Bradflo all proceeds of sale of the Goods by the Customer and will upon request disclose to Bradflo full details of the sale and the proceeds;
  - 4.2.6 where Bradflo has reasonable cause to believe the Customer has not strictly complied with these Terms and Conditions or that the Customer has or will commit an act of bankruptcy or (being a company) has had a liquidator, administrator or receiver appointed or about to be appointed, Bradflo may repossess any or all of the Goods supplied to the Customer (which have not been paid for in full by the Customer), and for such purpose may at any time day or night enter, by force if necessary, upon any premises where such goods are reasonably thought to be stored.
- 4.3 The Customer acknowledges and agrees that by assenting to these Terms and Conditions, the Customer grants a security interest to the Company in all Goods supplied by the Company to the Customer and all other Goods that will be supplied in the future by the Company to the Customer (or to its account) during the continuance of the relationship between the Company and the Customer.
- 4.4 The Customer will do such acts and provide such information (which information the Customer warrants to be complete, accurate and up to date in all respects) as in the opinion of Bradflo (acting in its absolute discretion) may be required or desirable to enable Bradflo to perfect under the Personal Property Securities Act 2009 (Cth) (as amended or replaced from time to time) ("**PPSA**") the security interest created.
- 4.5 The Customer waives any right to receive a copy of a verification statement under the PPSA and agrees as to any contract between Bradflo and the Customer for the supply of Goods governed by these Terms and Conditions, to the extent permitted by law, to contract out of section 115 of the PPSA, except section 115(1)(g) to the intent that Bradflo will preserve its right to seize collateral, and the Customer agrees to waive its rights referred to in section 115(1)(1).
- 4.6 The Customer agrees to pay the costs, charges and expenses of and incidental to the need for, or desirability of registration of, a financing statement or financing change statement or any action taken by Bradflo to comply with the PPSA or to protect its position under the PPSA. The Customer agrees to pay any costs incurred by Bradflo, including, but not limited to, legal costs on a solicitor-own client basis, arising from any disputes or negotiations with third parties claiming an interest in any Goods supplied by Bradflo to the Customer.
- 4.7 The Customer shall reimburse Bradflo for all liabilities and expenses (including legal expenses) incurred by it in enforcing or attempting to enforce any rights it has under this clause 5.

## **5. WITHDRAWAL OF CREDIT**

To the extent permitted by law, Bradflo may in its sole and absolute discretion withdraw any credit facilities granted to the Customer, without notice.

## **6. DEFAULTS**

If the Customer defaults in paying any amount owed by the Customer to Bradflo under these Terms and Conditions, then without limiting clause 3, 4 or 5, any amount invoiced to or owed by the Customer to Bradflo becomes immediately payable and the Customer agrees to indemnify Bradflo against all costs (including, but not limited to, legal costs, commercial agent commissions, freight, insurance, loss of profit and interest on a full indemnity basis) incurred by Bradflo as a result of the Customer's default.

## **7. PAYMENT**

Bradflo may, at its sole and absolute discretion, appropriate any payment received from the Customer against whatever amount is owing and due by the Customer to Bradflo under these Terms and Conditions.

## **8. RIGHT TO REFUSE TO SUPPLY**

Bradflo reserves the right to accept or decline in whole or in any part any order made by the Customer for the supply of Goods and to supply the Goods ordered in whole or in part.

## **9. DELIVERY**

- 9.1 Notwithstanding that an appropriate date is stipulated in the order for delivery of the Goods, the time for delivery of the Goods shall not be regarded as of the essence.
- 9.2 Subject to this clause, Bradflo shall make all reasonable and commercial efforts to have the Goods delivered to the Customer on the day agreed between the parties but Bradflo, its agents and servants shall be under no liability whatsoever, nor shall the Customer be entitled to treat the contract as repudiated should delivery not be made at that time.
- 9.3 Subject to this clause, the Customer acknowledges that Bradflo does not warrant or represent that the goods will be delivered on the day specified on the face of the invoice and Bradflo is at liberty to make deliveries within a reasonable period before or after the proposed date for the delivery.

## **10. RECEIPT**

Under no circumstances may the Customer deny signature evidencing receipt of the Goods by any employee, agent or carrier utilised or employed by the Customer as the case may be.

## **11. INSURANCE AND RISK**

- 11.1 Notwithstanding anything else herein contained, the risk in any and all Goods supplied shall pass to the Customer on dispatch of the Goods from Bradflo's premises and, in particular, the Customer shall be responsible for all Goods in transit and shall fully insure them.
- 11.2 It is solely the Customer's responsibility to ensure that all Goods supplied under any invoice are insured to their full value, in the name of the Customer and Supplier jointly, from the time of delivery of the Goods by Bradflo for shipment to the Customer, with a reputable insurance company until those Goods are either sold or paid for in full.

## **12. CLAIMS**

To the extent permitted by law:

- 12.1 Claims in respect of faulty Goods (other than a warranty claim pursuant to clause 15 of these Terms and Conditions) or deficient packaging, labelling or delivery must be made in writing to Bradflo within 14 days of delivery in order to be recognised or binding upon Bradflo; and
- 12.2 Only after Bradflo has confirmed that it will accept return of the faulty Goods and provided the Customer with written authority to return the faulty Goods, may the Customer do so. Any costs incurred or loss suffered by Bradflo in respect of or arising as a result of any unauthorised return by the Customer may be deducted by Bradflo from any credit granted by it to the Customer or added as a cost to the then amount outstanding.

## **13. EXCLUSION OF LIABILITY**

To the extent permitted by law, and without prejudice to any other provisions hereof, Bradflo shall be absolved from all liability or responsibility for any delay in performance or failure to perform any of its obligations under any contract for the supply of Goods to the Customer, due to force majeure or any other cause beyond Bradflo's control.

## **14. ADVICE**

Any advice, recommendations, information, assistance or service provided by Bradflo in relation to the performance, application or appropriateness of use of the Goods is given in good faith but is given without liability or responsibility on Bradflo's part unless provisions of the Competition and Consumer Act 2010 (Cth) ("the Act"), the Consumer Guarantees Act 1993 (NZ) or any other applicable legislation provide otherwise.

## **15. LIABILITY FOR DAMAGES AND WARRANTIES**

- 15.1 To the extent permitted by law, the Customer and Bradflo agree that Bradflo accepts no responsibility or liability whatsoever or howsoever arising whether in contract or tort or otherwise for loss of profits, business or savings or for any indirect or consequential loss of any nature arising out of or from the use, custody, supply or purchase of the Goods, and the Customer forever discharges Bradflo from all such responsibilities and liability, claims, demands or action in respect thereof.
- 15.2 Bradflo warrants the Goods it manufactures against defective materials and workmanship for a period not exceeding 10 years from the date of invoice. However, where the Goods (or part of the Goods) supplied are plastic products, the warranty period will be 5 years from date of invoice, and where the Goods supplied (or part of the Goods) are electrical products, the warranty period will be 1 year from date of invoice.
- 15.3 Grilles and louvres, which may form part of the Goods acquired by the Customer, are expressly excluded from the operation of this clause 15 (unless covered under clause 15.4) and are instead subject to the Certificate of Warranty provided with those parts.
- 15.4 Subject to clauses 15.2 and 15.3, the Customer acknowledges that any warranty provided in relation to the Goods is provided by the manufacturer of those Goods ("Manufacturer") and not by Bradflo. Bradflo will take all reasonable steps to ensure that the benefit of the warranty provided by the Manufacturer to Bradflo is assigned to the Customer. Please see the warranty statement provided by the Manufacturer (where applicable) for the full terms and conditions of the warranty.
- 15.5 Subject to clauses 15.2, 15.3 and 15.4, the warranties provided in these Terms and Conditions are provided by Bradflo to the Customer in addition to the Customer's rights and remedies in relation to Bradflo under the Australian Consumer Law or any other applicable legislation.
- 15.6 Defective Goods (which are covered under a warranty provided by Bradflo) shall, at the option of Bradflo, be either repaired, replaced or credited to the Customer's account, at the expense of Bradflo.
- 15.7 No claim shall be accepted, and no Goods will be deemed to be defective if:
  - 15.7.1 any attempt to repair the defective Goods or any installation work is made by any person not authorised by Bradflo to affect such repairs, or
  - 15.7.2 the defective Goods have been modified or incorrectly stored, maintained, installed or operated.

15.8 In order to make a warranty claim under these Terms and Conditions, the customer will need to provide proof of purchase to Bradflo's authorised representative at the time of making the warranty claim. Defective Goods can be returned to Bradflo at the addresses below (with a copy of any warranty provided with the Goods, and a proof of purchase). Where defective Goods are returned to Bradflo the Customer will be responsible for its own costs in delivering the defective Goods to Bradflo, and will not be reimbursed for any expenses incurred, whether direct or indirect, arising out of or in relation to returning the defective Goods to Bradflo. Any defective Goods delivered to Bradflo must be accompanied by a notice or letter setting out the nature and details of the apparent defect. For further details on how to make a warranty claim, the Customer should contact Bradflo on the phone numbers or email addresses provided below

Cairns	07 4035 2477	351 Spence Street Bungalow QLD 4870	cairns.sales@ab-mintec.com
Townsville	07 4725 7500	5 Greg Jabs Court Garbutt QLD 4814	townsville.sales@ab-mintec.com
Brisbane	07 3216 9611	Acacia Gate Complex, Bld 2, 29-41 Lysaght Street Acacia Ridge QLD 4110	brisbane.sales@bradflo.com
Sydney	02 9735 7000	5-7 Salisbury Street Silverwater NSW 2128	sydney.sales@bradflo.com
Canberra	02 6239 3400	3.1 Dairy Road Fyshwick ACT 2609	canberra.sales@bradflo.com
Riverina	02 6040 6034	920 Metry Street Albury NSW 2640	riverina.sales@bradflo.com
Melbourne	03 9314 7211	22 Westside Drive Laverton VIC 3028	melbourne.sales@bradflo.com

15.9 Some Goods supplied by Bradflo may not be capable of removal, or removal of those Goods may be impractical for either Bradflo or the Customer, in which case an authorised representative of Bradflo will attend the Customer's premises to inspect the allegedly defective Goods, and should those Goods be determined by Bradflo (in its absolute discretion) to be defective and covered under warranty, Bradflo shall elect to either repair, replace or credit the defective Goods to the Customer's account, in accordance with clause 15.6 of these Terms and Conditions.

15.10 To the extent permitted by law, and subject to clauses 15.2, 15.3 and 15.4, Bradflo excludes all other conditions, guarantees, warranties, liabilities or representations relating to the Goods supplied. Where Bradflo becomes liable to the Customer in any manner for any breach of any condition or warranty expressed or implied in relation to the supply of Goods then Bradflo's liability will be limited, at Bradflo's sole and absolute discretion to either:

- (a) the replacement of the goods or the supply of equivalent goods; or
- (b) the price paid by the Customer for the goods; or
- (c) the cost of repair to the goods; or
- (d) the cost of the resupply of the goods.

**16. AUSTRALIAN CONSUMER LAW GUARANTEE**

Our goods come with guarantees that cannot be excluded under the Australian Consumer Law. You are entitled to a replacement or refund for a major failure and compensation for any other reasonably foreseeable loss or damage. You are 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.

**17. GST**

- 17.1 For the purpose of these Terms and Conditions, each of "Taxable Supply", "GST", "GST Rate", "Tax Invoice", "Adjustment Note" and "GST Law" have the meanings given to those terms in section 195-1 of the A New Tax System (Goods and Services Tax) Act 1999 (Cth).
- 17.2 Unless stated otherwise, if a Taxable Supply is made by the Company under these Terms and Conditions, the Company may, in addition to the amount payable under these Terms and Conditions, recover from the Customer an additional amount on account of GST, calculated by multiplying the amount payable by the GST Rate.
- 17.3 Where a Taxable Supply is made under these Terms and Conditions, the Company shall issue the Customer with a Tax Invoice or an Adjustment Note in accordance with the GST Law.
- 17.4 For the avoidance of doubt, all prices listed in any document which is subject to these Terms and Conditions is exclusive of GST, unless otherwise indicated.

**18. SERVICE**

Service of any notice, document or court proceeding on the Customer shall be deemed to have occurred if they are served to the business address of the Customer specified on the invoice provided for the sale of the Goods.

**19. CREDIT REPORTS**

Bradflo may at its discretion use any credit report concerning or relating to the Customer to facilitate collection of any overdue payment and the Customer agrees and consents to Bradflo receiving from any credit reporting agency of Bradflo's choosing any credit report containing personal information about the Customer in relation to the collection of any outstanding amount due to Bradflo or any other supplier to the Customer.

**20. PRIVACY ACT AUTHORITY**

The Customer agrees and consents to Bradflo seeking from and giving to any credit provider any details concerning or relating to the Customer's credit worthiness. The Customer agrees to sign the attached Privacy Act Acknowledgment pertaining to same.

**21. SUCCESSION IN TITLE**

Where the Customer is a company, and any change in the shareholding or directorship altering the effective control of the Customer or the holding company of the Customer, if any, occurs, the signatories herewith shall immediately advise Bradflo of such change in the shareholding and/or directorship and complete all necessary further documentation that is required by Bradflo.

**22. FORCE MAJEURE**

If delivery is prevented or delayed, in part or all, by reason of acts of God, or the consequence thereof including, but not limited to, fire, flood typhoon, earthquakes, or by reason of riots, wars, hostilities, government restrictions, trade embargos, strikes, lockouts, labour disputes, boycotting of goods, ship shortage, manufacturer's bankruptcy, delays or damage in transportation or other causes beyond Bradflo's control, Bradflo may, at its option, perform the contract (for the sale of Goods to the Customer), or the unfulfilled portion thereof within a reasonable time from the removal of the cause preventing or delaying performance, or rescind unconditionally and without liability, the contract or the unfulfilled portion thereof

**23. COMPANY APPLICANTS**

Where the Customer is a company the Directors of the Customer agree to guarantee all of the company debts to Bradflo as if it were their own personal debt and shall sign the Guarantee Form attached to these Terms and Conditions.

**24. JURISDICTION**

This contract shall be construed and governed by the laws of New South Wales.

Signature ..... Date / / 20