



An MHG Company

P O Box 656, Moorebank, NSW 1875

ACN 006 396 078

Email: ar@solosglass.com.au

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# APPLICATION FOR COMMERCIAL CREDIT ACCOUNT

## SOLOS GLASS PTY LIMITED PRODUCTION/SALES SITES:

### **Dandenong VIC**

1-9 Hedderwick Road,  
Dandenong, VIC 3175  
T: +61 (03) 9791 2333  
F: +61 (03) 9791 2030  
E: vicsales@SOLOSglass.com.au

### **Geelong VIC**

24 Mackey Street,  
North Geelong, VIC 3215  
T: +61 (03) 5279 6222  
F: +61 (03) 5278 6080  
E: vicsales@SOLOSglass.com.au

### **Moorebank NSW**

3 Moorebank Avenue,  
Moorebank, NSW 2170  
T: +61 (02) 9824 0999  
F: +61 (02) 9824 2369  
E: nswsales@SOLOSglass.com.au



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**An MHG Company**  
 ABN 27 006 396 078

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**DATE OF APPLICATION:** .....

**TRADING NAME FOR ACCOUNT/BUYER:** .....

**BUYER'S FULL or LEGAL NAME:** .....  
**COMPANY/PARTNERSHIP/TRUST/SOLETRADER ("Buyer")** (complete as applicable); please tick applicable box as to the legal entity which is the principal Buyer and then complete the details within the appropriate section directly below.

- Company       Partnership       Sole Trader

**NB:** if the Buyer is a partnership, then the names of all partners and their details must be completed, whether made up of company/ies and/or individuals. Each partner or trustee who is not a company, as well as sole traders, must also complete all of the details below as "individuals".

<b>Company Name</b>	Date of Incorporation: .....
ACN of Company / Trading Entity	*** Please provide a copy of Certificate of Incorporation
ABN of Company / Trading Entity	<b>Trust ABN? : Y / N</b>
Registered Office of Company	***Please provide Proof of Registered Office detailed herein

or

<b>Partnership Name</b>	
ABN of Partnership	
ARBN of Partnership	

or

<b>Sole Trader's full name</b>	
ABN of Sole Trader	
ARBN of Sole Trader	

### ALL BUYERS TO COMPLETE

<b>Requested Credit Limit: \$</b> .....	<b>Expected Monthly Purchases: \$</b> .....
<b>Principal Contact Name:</b> .....	<b>Email:</b> .....
Ph: ..... Fax: .....	<b>Mobile:</b> .....
<b>Sales Contact Name:</b> .....	<b>Email:</b> .....
Phone: ..... Fax: .....	<b>Mobile:</b> .....
<b>Accounts Contact Name:</b> .....	<b>Email:</b> .....
Phone: ..... Fax: .....	<b>Mobile:</b> .....
<b>Street Address:</b> .....	<b>Billing/Postal Address:</b> .....
.....	.....
.....	.....
State: ..... Postcode: .....	State: ..... Postcode: .....

**DETAILS OF OWNER (if Sole Trader), ALL PARTNERS (if Partnership), ALL TRUSTEES OR ALL DIRECTORS**

**Full Name:** ..... Home Phone: .....  
.....  
Home Address: ..... Mobile: .....  
Date of Birth: ..... Drivers Licence No: .....

**Full Name:** ..... Home Phone: .....  
.....  
Home Address: ..... Mobile: .....  
Date of Birth: ..... Drivers Licence No: .....

**Full Name:** ..... Home Phone: .....  
.....  
Home Address: ..... Mobile: .....  
Date of Birth: ..... Drivers Licence No: .....

**Full Name:** ..... Home Phone: .....  
.....  
Home Address: ..... Mobile: .....

**TRADE REFERENCES**

**Business Name 1:** ..... Phone No: .....  
.....  
Address: ..... Fax No: .....  
Accounts Contact Email Address: .....

**Business Name 2:** ..... Phone No: .....  
.....  
Address: ..... Fax No: .....  
Accounts Contact Email Address: .....

**Business Name 3:** ..... Phone No: .....  
.....  
Address: ..... Fax No: .....  
Accounts Contact Email Address: .....

**ADDITIONAL INFORMATION FOR ACCOUNT/ORDER PROCESSING**

Email address to which Order Acknowledgements are to be sent:  
.....

Email address to which Invoices are to be sent:  
.....

Mobile Phone Contact for Site Deliveries: Name:..... Mobph: .....  
.....

Any other information for deliveries, contacts,  
ect:.....  
.....

**DECLARATIONS AND CONSENTS**

**APPLICANT'S DECLARATION**

By signing the below Consent, the Buyer requests SOLOS Glass Pty Limited (ABN 27 006 396 078), (hereinafter called the "Seller" which includes reference to any subsidiary or related body corporate which will be requested to supply goods or services to the applicant in a credit account) to open an account upon the terms & conditions of trading set out in the SOLOS Glass Pty Limited's Standard Terms and Conditions of Trade and acknowledges having read and understood such terms & conditions of trading and agrees to be bound by the same. The Buyer and the Signatory to this application further acknowledge that the information provided in this application is true and correct and has been relied upon by the Seller to determine whether to grant the Buyer credit and that the Signatory has full authority to complete this application on behalf of the Buyer,

**BUSINESS PURPOSE DECLARATION**

By signing the below Consent, the Buyer hereby acknowledges for the purpose of section 13 of the National Consumer Credit Code ("Code"), as having made this declaration before entering into the Agreement, and that the credit (if any) which is to be provided under the Agreement (if entered into) is to be applied wholly or predominantly for a purpose that is not a Code purpose.

**PRIVACY & PROTECTION OF INFORMATION – PRIVACY ACT 1988**

The Seller is committed to protecting the privacy and confidentiality of information it collects from Buyers and is bound by the Privacy Act 1988 (as amended) and therefore must comply with the National Privacy Principles which govern the collection, use, handling and disclosure of personal and sensitive information.

The Seller requires information from you, the guarantors and directors to properly assess your application for a Commercial Credit Trading Account and/or to assess the creditworthiness of a guarantor. If the Seller is unable to obtain all the relevant information it requires it may not be able to approve your application for a trading account. Accordingly, the Seller asks you, the guarantors and directors to provide your consent for the Seller to obtain information about you, the guarantors and directors and about each of your credit history and for the Seller to use and/or disclose such information for the purpose of assessing your application and, if approved, for monitoring of your account. The Seller may, in the course of assessing your Commercial Credit Trading Account application and/or monitoring your account if approved, obtain information about you, the guarantors and directors and disclose information about you, the guarantors and directors to a Credit Reporting Agency, credit providers who may have provided credit to you, the guarantors and directors and other suppliers who may have supplied goods to you, the guarantors and directors on credit.

The information obtained by the Seller with each of your consent will be held by the Seller and each of you can obtain details of the information about each of you held by the Seller by contacting the Credit Manager, SOLOS Glass Pty Limited. Under the Privacy Act 1988 (as amended) each of you has the right:

- (a) to have access to your personal information except in certain circumstances where denial of access to your information is allowed under the Privacy Act 1988 (as amended);
- (b) to have any amendment made to your information so that such information is complete, accurate and up-to-date; and
- (c) where the Seller denies each of you access to your information, to receive a reason for such denial.

**CONSENTS**

I/We acknowledge that I/We have;

- (a) made an application for credit from the Seller in the form of a Commercial Credit Trading Account and/or
- (b) been asked to provide a Guarantee in relation to an application for credit from a member of the Seller in the form of a Commercial Credit Trading Account

I/We hereby consent to the Seller undertaking any of the following at any time:

1. **Commercial Credit Information:** seek and use commercial credit information about me/us to assess an application for a Commercial Credit Trading Account and monitor any such account.
2. **Consumer Information:** seek and use consumer credit information about me/us to assess an application for a Commercial Credit trading Account and monitor any such account.
3. **Collection and Overdue Payments:** seek and use a credit report about me/us provided by a credit reporting agency to collect overdue payments from me/us.
4. **Exchange Information between Trade Suppliers:** seek from and use or give to another Trade Supplier any information about my/our credit worthiness, credit standing, credit history and/or credit capacity.
5. **Exchange of Information with Advisors:** seek from and use or give to any financial consultant, finance broker, accountant, lawyer or other advisor acting in connection with any application by me/us for a Commercial Credit Trading Account or the monitoring of same.
6. **Provide Information to Credit Reporting Agencies:** give to a Credit Reporting Agency personal or commercial information about me/us. The information may include (but is not limited to) identity particulars, the fact that I/we have made an application for a Commercial Credit Trading Account, the fact that the Seller is a current creditor of me/us, details of any payments which have become overdue by more than forty-five (45) days, details of any payments which are overdue and for which action has been commenced, details of any payments made and/or which are no longer overdue, advice that cheques drawn by you have been dishonoured and/or any other details of non-adherence, or otherwise, to payment terms offered by the Seller to the applicant..
7. **Provision of Information to Guarantors:** provide information to any person who proposes to guarantee or who has guaranteed the payment of any amounts due from the applicant to the Seller.
8. **Disclosure of Personal Information:** disclose personal information about me/us to any parent or affiliate company, associate, contractor or agent of the Seller involved in the day to day assessment and/or monitoring of the Commercial Credit Trade Account provided to me/us.

I/We authorise the Seller, their servants and agents to make enquiries and obtain references as they consider necessary or desirable in relation to my/our application. I/We understand and agree that the Seller may not be able to provide me/us with a Commercial Credit Trading Account if I/we do not supply/consent to the Seller obtaining personal information about me/us. This privacy consent applies to the applicant for commercial credit plus directors or officers or other persons signing the attached guarantee. Therefore this consent must be signed by or for the applicant as well as being signed by any person providing a guarantee.

	Signed	Print Name	Directors/Partners/Trustees/Sole Trader	Date Signed
1.				
2.				
3.				
4.				

In the presence of:

Witness's Signature	Witness's Name	Witness's Full Address	Date Witnessed

## FINANCIAL PARTICULARS

ADDRESS	APPROX VAL	MORTGAGES	EQUITY
1.....	\$.....	\$.....	\$.....
2.....	\$.....	\$.....	\$.....
3.....	\$.....	\$.....	\$.....

**TO ASSESS A CREDIT LEVEL FINANCIAL DETAILS ARE REQUIRED;**

If preferred attached your current balance sheet or financial statement as prepared by your accountant or may we contact your accountant for details?

YES / NO

NAME OF ACCOUNTANT: ..... PH NO: .....

ADDRESS: .....

ASSETS	\$	LIABILITIES	\$
Work in Progress	\$.....	Overdraft Limit	\$.....
Debtors Balance	\$.....	Creditors Balance	\$.....
Plant, Equipment, Tools	\$.....	Mortgages	\$.....
Stock	\$.....	HPA/Leases	\$.....
Furniture & Fittings	\$.....	Personal loans	\$.....
Motor Vehicles	\$.....	Bill of Sale	\$.....
Real Estate Value	\$.....	Debentures	\$.....
Cash at Bank	\$.....	Taxation owed	\$.....
Other (eg. Term deposit)	\$.....	Other	\$.....

BUSINESS BANK: ..... BRANCH (BSB): ..... ACCOUNT NO: .....

AUTHORISED CAPITAL \$..... PAID UP CAPITAL \$.....

SECURITY FOR OVERDRAFT IS: .....

TOTAL VALUE OF YEARLY CONTRACTS/SALES \$.....

AMOUNT OF MONTHLY CREDIT REQUIRED (APPROX) \$.....

**GUARANTEE AND INDEMNITY**

In consideration of the Seller agreeing to supply the following named Company/Partnership/Sole Trader –

TRADING NAME: \_\_\_\_\_ ACN: \_\_\_\_\_

(hereinafter referred to as “the Buyer”) with goods on credit -

I/We 1. \_\_\_\_\_ of \_\_\_\_\_  
(Name of Guarantor # 1.) (Address of Guarantor # 1.)

& 2. \_\_\_\_\_ of \_\_\_\_\_  
(Name of Guarantor # 2.) (Address of Guarantor # 2.)

& 3. \_\_\_\_\_ of \_\_\_\_\_  
(Name of Guarantor # 3.) (Address of Guarantor # 3.)  
(hereinafter referred to as “the Guarantor” or “the Guarantors” as the case may be)

1. Do hereby jointly and severally guarantee the due and punctual payment of all monies which may now or in the future be or become due and payable to the Seller by the Buyer on any account whatsoever.

2. **DECLARE** that this Guarantee shall be a continuing Guarantee and shall remain in full force and effect and the Guarantor/s shall remain liable hereunder notwithstanding the granting by the Seller of time, credit or any other indulgence or concession to the Buyer or the Guarantor/s or the waiver by the Seller of any breach by the Buyer of its obligations to the Seller or the Liquidation of the Buyer or the Bankruptcy or death of the Guarantor/s or all of them (as the case may be) or the liability of the Buyer ceasing or becoming extinguished for any reason other than payment in full, or due to any variation in the Buyer’s trading terms or any changes in the Buyer’s corporate structure.

3. **DECLARE** that I/we will make due and punctual payments to the Seller upon demand being made by notice or letter given to the Guarantor/s and such demand or notice or letter shall be deemed to be duly made or given if the same shall be in writing and left at or sent by pre-paid post to the address of the Guarantor (and if more than one Guarantor, the address of each of them) as set out above.

4. **DECLARE** that the Guarantor/s shall pay all costs, fees, charges and expenses including (but not limited to) legal costs on a solicitor and own client basis incurred by the Seller of and incidental to this Guarantee or any matter arising out of or incidental to this Guarantee or the performance of or failure to perform by the Guarantor/s of the covenants contained herein.

5. **DECLARE** that if any of the obligations hereby Guaranteed shall not be enforceable against the Buyer purported to be primarily liable then this Guarantee shall be construed as an indemnity and the Guarantor/s hereby indemnify and agree to keep indemnified the Seller in respect of any failure by the Buyer to make payment or perform or observe any covenant, obligation, term or condition of this Guarantee.

6. **DECLARE** that the proper law of Guarantee shall be the laws of the State of Victoria and/or New South Wales and that any proceedings to be taken by the Seller may be taken in the Courts of the State of Victoria and/or New South Wales. The Guarantor/s hereby grants a charge to the Seller over all and any of its present and after acquired property (“APAAP”) under the Personal Property Securities Act 2009 (Cth) as security for its indebtedness and obligations under this Guarantee. For the purposes of section 20(1) and (2) of the PPSA, and to ensure maximum benefit and protection for the Seller under the PPSA, the Buyer confirms and agrees that the Buyer intends to and does grant to the Seller, as security for your indebtedness and obligations, a charge over all of the Buyer’s present and after acquired property. The covenant to repay contained in this Guarantee is a charge over all real and personal property of the guarantor/s and consents to a caveat being lodged against the title to any real property or any interest in real property owned by the Guarantor/s, including that where the Guarantor/s is/are or becomes a trustee of a trust (whether or not such trust is disclosed herein), the Guarantor/s in such capacity hereby agree that this obligation creates an interest in the land and hereby charge all real and personal property of such trust (including all present and after acquired real or personal property) with the obligations contained herein and declare that such charge is given in consideration of the terms herein, SOLOS Glass Pty Limited (and/or any member of its group of companies) agreeing to sell or continue to sell to the Buyer and at the request of and for the benefit of such trust.

7. **AGREE** to be further bound by the terms of the trading terms set out below (and as amended from time to time) and make the declarations and give the consents and authorities contained therein as if they were the Buyer and the terms were repeated fully within this Guarantee and the Guarantor/s were the Buyer named therein.

8. **DECLARE** that I/we understand the nature and effect of the within Guarantee and Indemnity and I/we have had the opportunity of obtaining independent legal advice prior to signing this Guarantee and Indemnity.

9. **ACKNOWLEDGE** that this Guarantee and Indemnity is made for my benefit, that the Seller relies upon this Guarantee and Indemnity and would not provide the credit herein applied for if not for the provision of this Guarantee and Indemnity.

DATED the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_

SIGNED by the Guarantor # 1. }  
}

\_\_\_\_\_  
Guarantor # 1. Signature

In the presence of:

\_\_\_\_\_  
Witness Signature

\_\_\_\_\_  
Print Full Name of Witness

\_\_\_\_\_  
Full Address of Witness

SIGNED by the Guarantor # 2. }  
}

\_\_\_\_\_  
Guarantor # 2. Signature

In the presence of:

\_\_\_\_\_  
Witness Signature

\_\_\_\_\_  
Print Full Name of Witness

\_\_\_\_\_  
Full Address of Witness

SIGNED by the Guarantor # 3. }  
}

\_\_\_\_\_  
Guarantor # 3. Signature

In the presence of:

\_\_\_\_\_  
Witness Signature

\_\_\_\_\_  
Print Full Name of Witness

\_\_\_\_\_  
Full Address of Witness

# SOLOS GLASS PTY LIMITED STANDARD TERMS AND CONDITIONS OF TRADE

p.1

## These Trading Terms shall govern the sale and delivery of goods by SOLOS Glass Pty Limited to any Buyer

**1 We, Us, Seller** and similar expressions, refer to SOLOS Glass Pty Limited (ACN 006 396 078), and where applicable its Related Bodies Corporate (as defined in the Corporations Act 2001).

**You, Buyer** and similar expressions, refer to you, our proposed customer. The details specified within the Commercial Credit Account Application form apply.

**2 Our conditions always apply.** In return for us agreeing to consider your order you agree that these terms and conditions apply if we do accept your order or if we do supply you with goods or services (whether for cash, or on credit).

**3 Not obliged to accept orders.** We are not obliged to accept any orders from you, but if you do place an order with us then it becomes binding from the moment that we accept it even if we do not tell you that it has been accepted. Any quotation is merely an invitation to you to place an order with us. If you offer to purchase goods based on a quotation from us, then your offer is subject to these conditions.

**4 Our conditions overrule any other form.** These terms and conditions prevail even if they are inconsistent with anything in any earlier or later order form or similar document.

### PAYMENTS AND CREDITS

**5 Time for payment.** Unless we agree in writing to give you credit, if you offer to purchase goods, payment in full must be made prior to commencement of production of your order.

**6 Withdrawal of future credit.** At our discretion, we may decline to give you further credit at any time. If we do decline to give you further credit then that decision does not affect the credit terms which apply to any amounts you then owe to us.

Where goods are supplied to you on credit you irrevocably authorise us, our employees and agents to make such enquiries as we deem necessary to investigate the credit worthiness of you from time to time including the making of enquiries of persons nominated as trade referees, credit reporting agencies, the bankers of you or any other credit providers (the "Information Sources") and you hereby authorise the Information Sources to disclose to us such information concerning you which is within their possession and which is requested by us.

**7 Overdue payments.** If any amount you owe to us is not paid within 7 days of the due date then all of the monies that you owe us on any account becomes immediately due and payable; and without limiting our other rights we may suspend the supply of service and defer or cancel any outstanding orders. If you do not pay an invoice by the due date, a late payment fee of 2% above the prime overdraft rate charged from time to time by the National Australia Bank calculated and payable daily may be imposed. In addition, without limiting any right contained below, you will be liable to indemnify us for all expenses incurred by us in recovering any amounts which you fail to pay by the due date (including any commission payable to any commercial or mercantile agents and legal costs), and we may at our discretion report your default to any credit reporting agencies.

You agree that time for payment for the goods is of the essence. You acknowledge that where any one or more inter-related accounts fail to comply with these terms and conditions then all inter-related accounts shall be subject to suspension of supply and account cancellation procedures and invoices rendered to all inter-related accounts shall become immediately due and payable. For the purpose of this clause, "inter-related account" means an account of which either:

a) The relevant Buyer or guarantor(s) are the one and the same as those of another account held with the Seller, or

b) Is an account of which:

i. The Buyer or its guarantor(s) are a related entity of a second Buyer holding an account with the Seller, or

ii. The relevant second Buyer's guarantor(s) are a "related entity" (as defined in the Corporations Act 2001) to the relevant first Buyer or its guarantor(s).

**8 Prices and price variations.** We may increase any agreed sale price after we accept an order, to cover the full amount of any increases in indirect taxes and duties such as sales taxes, GST, consumption taxes and stamp duty which we incur in connection with a transaction after the date of your order. We may also impose a charge for accepting payments by credit card. We may set off against any credit owed to you any amount owing by you to us. We may require you to make a deposit before accepting an order.

### WARRANTIES AND LIMITATIONS

**9 Our warranty.** We may repair or replace any new item sold by us if there is any manufacturing defect in material or workmanship in respect of the goods, provided that you comply with your obligations under clause 18 regarding the return of goods. You acknowledge that we may choose whether to repair or replace, and that is the limit of our liability under this warranty. **Important Exclusions:** This warranty does not cover: anything not specifically listed in the "Our Warranty" section of this Warranty; in transit damage; failure to comply with the original supplier or manufacturer warranty; willful abuse or misuse; general wear and tear. Except as listed in the "Our Warranty" section of this Warranty this warranty does not cover any products sold "as is" or used in breach of manufacturer warranty, any damage from cleaning or repair by anyone without written authorisation from us, any damage caused by products not used according to product instructions, consequential damage or incidental damages, 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.

**10 Sale by specification.** We sell our products by specification. You decide what purpose to use them for or to re-supply them for.

**11 Unexpected delay.** This clause applies if something happens which is beyond our reasonable control which makes it impossible, more difficult or more expensive for us to perform our obligations in our usual way. In those cases we may wait until it is again possible for us to perform our obligations in our usual way without additional difficulty or expense and we are not liable for any delay which results. If delay or failure to deliver is caused by force majeure or labour dispute we may suspend delivery, supply or completion and/or terminate the contract. Force Majeure means an act of God, war, lightning, fire, earthquake, storm, flood explosion, unavailability or delay in availability of equipment materials or transport, and any other cause whether of the kind specifically enumerated or otherwise which is not within our control. Whilst we shall use reasonable endeavours to comply with your particular delivery requirements and order specifications, you will not be entitled to cancel the whole or part of an order or to claim compensation by reason of our failure to comply with your delivery requirements or minor variations to the goods as a result of changes to the manufacturing processes or specifications.

**12 Delivery.** Delivery is when the goods are collected or dispatched from our premises. Delivery times are estimates only and we are not liable for minor delays in delivery. In this respect you agree that time is not of the essence. If you fail to take delivery of, accept or collect the goods, we may charge you a reasonable fee for storage and re-delivery. You shall make all arrangements necessary to take delivery of the goods whenever they are tendered for delivery. The failure of you to accept delivery of, or collect, any completed order within seven days of order completion, and/or notification by us of order completion, will entitle us to invoice the completed order (pre-invoice order) on the last working day of the month of order completion. Payment for these orders will be sought in line with the provisions in these terms and conditions.

Delivery of the goods to a third party nominated by you, in writing, is deemed to be delivery to you for the purposes of these terms and conditions.

We may deliver the goods by separate instalments. Each separate instalment shall be invoiced and paid for in accordance with the provisions in these terms and conditions.

**13 Exclusion of implied conditions.** The law implies various terms, conditions and warranties which might apply to us supplying goods or services to you. We exclude all of those implied terms, conditions and warranties to the fullest extent permitted by law.

**14 Competition and Consumer Act etc. limits.** Provisions of the Competition and Consumer Act 2010 and other statutes in some cases either cannot be excluded, restricted or modified; or can only be restricted or modified to a limited extent. If any provisions of those types do apply, then to the extent permitted by law our liability under those provisions is limited as follows: Our liability in relation to goods is limited at our option to replacement of the goods or the supply of equivalent goods; or repair of the goods; or payment of the cost of replacing the goods or of acquiring equivalent goods; or payment of the cost of having the goods repaired. Our liability in relation to services is limited at our option to the supplying of the services again; or the payment of the cost of having the services supplied again.

**15 Other damages claims excluded.** We are not liable for any damage for breach or negligence or otherwise, except as stated. **Damage** includes lost profits, lost savings, lost time, loss of or damage to goodwill, loss of or damage to data or records, and claims made against you by others. Subject to the other provisions of this clause, we are not liable for any consequential, indirect or special loss or damage, loss of profits, loss of business, business interruption, costs or amounts that you are liable for arising out of any loss suffered by any person under or relating to these terms and conditions, whether in contract, tort (including without limitation negligence), in equity, under statute, under an indemnity, or on any other basis, whether or not such loss or damage was foreseeable and even if advised of the possibility of the loss or damage. To the fullest extent permitted by law, our aggregate and cumulative liability towards you under any agreement shall not exceed the value of goods we supplied.

**16 Indemnity.** You must indemnify us against all liability, claims, damage, loss, costs and expenses (including, without limitation, legal fees, costs and disbursements on a full indemnity basis) due to your breach of any of these terms and conditions, whether incurred against or by us in respect of:

- i) personal injury;
- ii) damage to tangible property; or
- iii) a claim by a third party.

### OWNERSHIP

**17 Ownership passes to you on payment.** We remain the owner of all of the goods covered by an order until you have paid the full price for those goods plus any associated charges. Payments by cheque do not count until we receive payment on the cheque. Until you become the owner of particular goods, we may enter into any premises or vehicle if we have reasonable grounds to expect that we may find any part of the goods there. If you default in paying any part of the price or associated charges in connection with an order we may re-take possession of the goods supplied under the order. That applies even if you hold some negotiable instrument or security for the amount unpaid. You acknowledge that at all times until full payment is received, we retain title (even if you go into liquidation or become bankrupt) and in no circumstances will the goods be deemed fixtures. If you resell any of the goods (even if mixed with other goods) before becoming the owner, you are acting as our selling agent and shall act as bailee although only to the absolute minimum extent necessary to protect our ownership. If the goods are sold in the ordinary course of business then you will hold the proceeds of sale on trust for us. Should we seek to recover the goods you hereby grant to us a license to enter onto your premises to facilitate recovery of the goods and indemnify us for any damage which has been caused to the goods. Risk with respect to the goods (including any loss, damage or deterioration) shall pass to you immediately when the goods leave our premises.

If any of the goods are damaged or destroyed following delivery but prior to ownership passing to you, we are entitled to receive all insurance payable for the goods. You acknowledge that the production of these terms and conditions by us is sufficient evidence of our rights to receive the insurance proceeds without the need for any person dealing with us to make further enquiries.

The Buyer hereby grants a charge to the Seller over all of its present and after acquired property ("APAAP") as security for its indebtedness and obligations under these terms and conditions. The Buyer agrees that the covenant to repay contained in these terms and conditions is a charge of any such interest in real property of the Buyer and consents to a caveat being lodged against the title to any such real property or any interest in such real property owned by the Buyer, including that where the Buyer/s is/are or becomes a trustee of a trust (whether or not such trust is disclosed herein), and agrees that this obligation creates an interest in the land and the Buyer in such capacity hereby charges all such real and personal property of such trust (including all present and after acquired property) with the obligations herein and declare that such charge is given in consideration of the terms herein, of the Seller agreeing to sell or continue to sell to the Buyer and at the request of and for the benefit of such trust.

**18 Returned Goods** No goods may be returned to us without our prior written approval and then only upon such terms as we may require which may include inspection, re-packaging and transport costs. You must inspect the goods immediately upon delivery and must within 7 days after the date of delivery give written notice to us of any alleged defect, shortage in quantity, damage or failure to comply with the description in the order. In particular, you must:

- (i) provide us with the invoice number of the order of the goods;
- (ii) return the goods with a claim form listing a description of any alleged defects/shortage in quantity/damage/failure to comply with the description in the goods; and
- (iii) obtain a return authorisation number from us.

If you fail to give that notice, then to the extent permitted by law the goods must be treated as having been accepted by you and the Customer must pay for the goods in accordance with the provisions of these terms and conditions.

Where you have returned goods in accordance with this clause and we agree that the goods are defective and/or that you are entitled to return the goods, our liability is limited to either (at our discretion) replacing or repairing, at our discretion, upon receiving the goods.

Unauthorised or unacceptable returns may be returned to you at your expense.

**19 Other credit claims.** Such as overcharge, oversupply, undersupply, ect, must be notified, in writing, within 30 days of the date of any invoice to which such claim relates. Failure to provide timely advice of claims may void the claim.

**20 PPSR.** You acknowledge that we have a security interest in the goods for the purposes of the Personal Property Securities Act (Cth) (PPSA) and to the extent applicable the PPS Act applies. To give effect to the above, you consent to us affecting a registration on the Personal Properties Securities Register (PPSR) (in any manner we consider appropriate) in relation to any security interest arising under or in connection with these terms and conditions and you agree to provide all assistance reasonably required to facilitate this. You also undertake to do all such things, including executing any new document or providing any information that is required by us so that we acquire and maintain a perfected security interest under the PPSA in respect of the goods and its proceeds, so that we may register a financing statement or financing change statement and to ensure that our security position, and rights and obligations, are not adversely affected by the PPSA.

You agree that you shall have no rights under sections 95, 118, 121(4), 125, 130, 132(3)(d), 132(4), 135 142 and 143 of the PPSA, and the application of Part 4.3 (other than sections 123, 124, 126, 128, 129(1), 133, 134(1) and 136) of the PPSA is contracted out of

# SOLOS GLASS PTY LIMITED STANDARD TERMS AND CONDITIONS OF TRADE

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if that Part would apply by virtue of section 116(2) of the PPSA; You waive your right to receive notice of a verification statement under section 157 of the PPSA.

**21 IP.** You acknowledge agree that, unless and to the extent expressly agreed by us to the contrary:

(i) all Intellectual Property in any goods is owned absolutely by us and vests in us immediately on creation; and

(ii) to the extent that you may at any time acquire any right, title or interest in any Intellectual Property in goods, you, by these terms and conditions, assign to us all such rights, title and interest in that Intellectual Property.

We will grant you a limited, non-exclusive and non-transferable licence under our Intellectual Property to use the goods for the purpose for which they are supplied under a purchase order provided that you have fully complied with these terms and conditions, and subject to any restrictions specified by us at our discretion from time to time.

You warrant that all designs or instructions to us will not cause us to infringe any person's Intellectual Property including any patent, registered design or trademark in the execution of your order and you agree to indemnify us against any claims or action taken by any person against us in respect of any such infringement.

For the purpose of these terms and conditions, "**Intellectual Property**" means all present and future rights conferred by statute, common law or equity in or in relation to any copyright, trademarks, designs, patents, circuit layouts, plant varieties, business and domain names, inventions, confidential information, and other results of intellectual activity in the industrial, commercial, scientific, literary or artistic fields, whether or not registrable, registered or patentable.

**22 Lien.** You hereby irrevocably grant us a general and specific lien and pledge over any and all goods belonging to you which are in our possession from time to time to secure payment of any amounts due and payable under these terms.

**23 Cancellation of orders.** You must not cancel an order unless expressly agreed by us. You acknowledge that special make-up orders (ie, orders for products made specifically for you) and custom product orders must not be cancelled in any circumstances. In the event that we accept the cancellation of an order we shall be entitled to charge any reasonable fees for the cost of work and materials and any administration costs incurred by us in preparing and managing the order.

**24 Change of control.** You shall give written notice to us within seven (7) days of any Change of Control to you. You hereby agree to indemnify and keep indemnified us against any loss, damage, cost or expense incurred by us as a result of your failure to notify us of any such change of ownership and/or control. We reserve the right to vary any order, hold or discount entitlements upon any Change of Control of you.

For the purpose of this clause, "**Control**" has the meaning given in section 50AA of the Corporations Act except that in addition an entity controls a second entity if:

(a) the first entity would be taken to control the second entity but for subsection 50AA(4); or  
(b) the first entity has voting power (as defined in section 610 of the Corporations Act) of at least 50% in the second entity.

A Change of Control occurs in relation to a body corporate or entity (the "body") where:(i) an entity that Controls the body ceases to Control the body; or (ii) an entity that does not Control the body comes to Control the body.

## GENERAL CONDITIONS

**25 Variations in specifications.** We reserve the right to vary the specifications or performance criteria of any product from time to time and to obtain products from different sources, at our absolute discretion. We may do that without telling you provided we have reasonable grounds for believing that the alternative product offered is substantially similar to that previously offered or represents an improvement.

**26 Certificate of debt.** You are bound by any certificate signed by any of our directors or solicitors which shows any amount or calculation relevant to what you owe us. The only exception is where you can prove the certificate is wrong.

**27 Finance company arrangements (if any).** If you wish to lease or finance the purchase of goods from us through a financier then these terms and conditions still apply (with only the minimum changes necessary) between you and us. These terms and conditions still regulate our rights, obligations and liabilities both to you and to the financier and you must indemnify (protect) us against any claim in connection with this order or those goods by the financier.

**28 Variation.** We reserve the right to vary all or any of these terms and conditions upon thirty (30) days notice to you. Clerical errors are subject to correction without notice.

**29 Applicable law.** These terms and conditions are governed by the law of New South Wales. The application of the Sale of Goods (Vienna Convention) Act 1986 (NSW) is excluded. These terms and conditions are the entire agreement and understanding between you and us on everything connected with the subject matter of these terms and conditions, and supersede any prior agreement or understanding on anything connected with that subject matter.

If any provision of these terms and conditions is found to be invalid or unenforceable then it is deemed to be severed and the remainder of these terms and conditions shall remain valid and in force.

**30 GST.** Despite anything else in these terms and conditions to the contrary, to the extent that we are liable to pay GST in connection with any taxable supply pursuant to these terms and conditions (*the affected supplies*) -

- We may add to each of the amounts payable by you for the affected supplies, an allowance in respect of GST as reasonably calculated by us (for past, present or future GST liabilities) and you must pay us the higher amount which results

- We may make a further charge after termination, being a further allowance in respect of any remaining GST as reasonably calculated by us, and you must also pay us that charge

- Any amount payable under these terms and conditions, including an amount payable because of the previous provisions, remains payable whether or not there is disclosure of any amount included on account of GST

- We must comply on demand with our obligations in relation to the issue of any relevant tax invoice to you.

Anything we might have said to you about GST in connection with these terms and conditions was only intended to reflect our current understanding and may not have been applicable in your particular circumstances. We recommend that you obtain and only rely on your own independent expert advice in relation to GST in particular.

GST, *tax invoice* and *taxable supply* in these terms and conditions have the meanings defined in A New Tax System (Goods and Services Tax) Act 1999 as may be amended or substituted from time to time. If those definitions are repealed, then those words have the meanings defined for such comparable terms as we may reasonably identify in any comparable legislation.

## 31 Confidentiality.

You acknowledge that all pricing information provided by us and any other commercially sensitive or confidential information relating to an order is strictly confidential (**Confidential Information**). Confidential Information does not include information that:

a) is in or enters the public domain through no fault of the receiving party or any of its officers, employees or agents;

b) is or was made available to the receiving party by a person (other than the disclosing party) who is not or was not then under an obligation of confidence to the disclosing party in relation to that information; or

c) is or was developed by the receiving party independently of the disclosing party and any of its officers, employees or agents.

Except as stated in these terms and conditions or where required by law, you are under an obligation to not and must not permit any of your officers, employees, agents, contractors or related bodies corporate to disclose any Confidential Information to any person, other than your professional advisors or as required by law, without the prior written consent of us. You acknowledge that damage may not be an adequate relief if this clause is breached, and we may seek urgent injunctive, interlocutory or declaratory relief from a court. This clause continues despite the termination of these terms and conditions.



Office Use Only:

Sales Rep:	
Price Band:	

Trade Referee 1	Pymt Terms:	Pymt Days:	Ave Mthly Sales:
Trade Referee 2	Pymt Terms:	Pymt Days:	Ave Mthly Sales:
Trade Referee 3	Pymt Terms:	Pymt Days:	Ave Mthly Sales:

Account Name	
Account Number	
Approved Credit Limit	

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Signed (Credit Manager)

Date: .....

Notes:

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