

Independent Photographic Supplies Pty Limited ACN 105 600 351 (Trading as iphoto®)
STANDARD TERMS OF TRADE (“Terms of Trade”)

Effective 12th Dec, 2022

All Goods are sold and supplied by Independent Photographic Supplies Pty Limited ACN 105 600 351 (“iphoto”) on the following terms:

1. Orders

- (a) Each order is subject to acceptance by iphoto.
- (b) “Customer” means the person or entity to or for whom the Goods are to be supplied by iphoto.
- (c) “Goods” means the goods and services sold and supplied by iphoto to the Customer.

2. Prices

- (a) The prices charged will be those prices prescribed by iphoto at date of despatch.
- (b) Unless otherwise advised by iphoto in writing:
 - (i) Prices do not include GST and other taxes;
 - (ii) Prices include delivery to the metropolitan areas of Sydney, Melbourne, Brisbane, Adelaide, Perth and Hobart, subject to the **Handling Charges** outlined in **Clause 10**. The additional cost of delivery to all other areas will be at the Customer's cost.

3. Payment

iphoto only accepts payment by cheque, direct deposit, American Express, MasterCard or Visa card. There is no extra charge for the use of MasterCard & Visa credit cards, however use of American Express does attract a subsidised transaction rate fee of 1.9%.

4. Credit

In order to keep costs down, iphoto does not offer credit facilities other than by prior agreement with iphoto's management.

5. Retention of Title

(a) Notwithstanding delivery of the Goods, title in any particular Goods will remain with iphoto until the Customer has paid and discharged any and all monies owing pursuant to any invoice issued by iphoto for the Goods, including all applicable GST and other taxes, levies and duties. Until the date of such payment, the Customer holds the Goods as bailee for iphoto. In the event that the Customer uses the Goods in some manufacturing or construction process of its own or some third party, then the Customer must hold such part of the proceeds of sale of such manufacturing or construction process as relates to the Goods in trust for iphoto. Such part will be an amount equal in dollar terms to the amount owing by the Customer to iphoto at the time of the receipt of such proceeds. The Customer will pay iphoto such funds held in trust upon demand by iphoto.

(b) Any payment made by or on behalf of the Customer which is later avoided by the application of any statutory provisions will be deemed not to have discharged iphoto's title in the Goods nor the Customer's indebtedness to iphoto and, in such an event, the parties are to be restored to the rights which each respectively would have had if such payment had not been made.

(c) Risk in the Goods will pass to the Customer upon delivery.

(d) Delivery will occur when the Goods are provided to the Customer or its agent or to a transport company nominated by the Customer.

(e) The Customer is fully responsible for any loss or damage to the Goods whatsoever and howsoever caused following delivery.

(f) The Customer hereby irrevocably grants to iphoto the right to remove or repossess any Goods from the Customer and to sell or dispose of them and iphoto will not be liable for any loss occasioned thereby nor be liable to the Customer or any person claiming through the Customer, and iphoto will be entitled to retain the proceeds of any Goods sold and apply same towards the Customer's indebtedness to iphoto.

(g) If the Customer commits an act of bankruptcy, enters into any form of administration or liquidation, makes any composition or arrangement with its creditors, ceases to carry on business or breaches any term of these Terms of Trade, iphoto may, without prejudice to any other remedies it may have, repossess any Goods delivered by iphoto to the Customer on any account that have not been sold and commence proceedings to recover the balance of any monies owing to iphoto by the Customer on any account.

6. Personal Property Securities Act ("PPSA")

(a) Defined terms in this clause that are not defined in these Terms of Trade have the same meaning as given to them in the PPSA.

(b) Iphoto and the Customer acknowledge that these Terms of Trade constitutes a Security Agreement and gives rise to a Purchase Money Security Interest ("PMSI") in favour of iphoto over the Goods supplied or to be supplied to the Customer as Grantor pursuant to the Terms of Trade.

(c) The Goods supplied or to be supplied under these Terms of Trade fall within the PPSA classification of "Other Goods" acquired by the Customer pursuant to these Terms of Trade.

(d) Iphoto and the Customer acknowledge that iphoto as a Secured Party, is entitled to register its interest in the Goods supplied or to be supplied to the Customer as Grantor under the Terms of Trade on the PPSA Register as Collateral.

(e) To the extent permissible at law, the Customer:

(i) waives its right to receive notification of or a copy of any Verification Statement confirming registration of a Financing Statement or a Financing Change Statement relating to a Security Interest granted by the Customer, as Grantor, to iphoto;

(ii) agrees to indemnify iphoto on demand for all costs and expenses, including legal costs and expenses on a solicitor / client basis, associated with the;

(A) registration or amendment or discharge of any Financing Statement registered by or on behalf of iphoto; and

(B) enforcement or attempted enforcement of any Security Interest granted to iphoto by the Customer.

(iii) agrees that nothing in sections 130 to 143 of the PPSA will apply to the Terms of Trade or the Security under the Terms of Trade;

(iv) agrees to waive its right to do any of the following under the PPSA:

(A) receive notice of removal of an Accession under section 95;

(B) receive notice of an intention to seize Collateral under section 123;

(C) object to the purchase of the Collateral by the Secured Party under section 129;

(D) receive notice of disposal of Collateral under section 130;

(E) receive a Statement of Account if there is no disposal under section 132(4);

(F) receive a Statement of Account under section 132(3)(d) following a disposal showing the amounts paid to other Secured Parties and whether Security Interests held by other Secured Parties have been discharged.

(G) receive notice of retention of Collateral under section 135;

(H) redeem the Collateral under section 142; and

(I) reinstate the Security Agreement under section 143.

7. Delivery

(a) Delivery dates or times indicated by iphoto on acceptance of order are estimates only and do not constitute a guarantee of delivery or delivery by such date or time.

(b) If an order covers a number of Goods, iphoto will be entitled to amend the order in respect of all or any such Goods in which event the normal terms of payment will apply and no claim will arise in respect of the shortfall.

(c) Goods placed on back order will be supplied immediately when they are available, unless prior written advice of cancellation is received from the Customer.

8. Warranty

(a) The liability of iphoto in respect of a breach of a consumer guarantee or any warranty made under these Terms of Trade for any Goods not of a kind ordinarily acquired for personal, domestic or household use is limited, to the extent permitted by law, and at the option of iphoto to:

(i) in relation to goods, to:

(A) replacing the Goods or the supply of equivalent Goods;

(B) the repair of the Goods;

(C) the payment of the cost of replacing the Goods or of acquiring equivalent Goods; or

(D) the payment of the cost of having the Goods repaired.

(ii) in relation to services, to:

(A) the supply of the services again; and

(B) the payment of the cost of having the services supplied again.

(b) To the extent permitted by law, all other warranties whether implied or otherwise, not set out in these Terms of Trade are excluded and iphoto is not liable in contract, tort (including, without limitation, negligence or breach of statutory duty) or otherwise to compensate the Customer for:

(i) any increased costs or expenses;

(ii) any loss of profit, revenue, business, contracts or anticipated savings;

(iii) any loss or expense resulting from a claim by a third party; or

(iv) any special, indirect or consequential loss or damage of any nature whatsoever caused by iphoto's failure to complete or delay in completing the order to deliver the Goods.

9. Claims - Return / Credit Authorisation

No claim of any nature whatsoever (other than relating to warranty) will be recognised unless made in writing under the following conditions:

(a) All requests for credit against an invoice must:

- Be made in writing via email
- Be sent to sales@iphoto.net.au
- Include details of originating transaction
- Include detailed reason for return
- Be made within the following time frame:
 - Damaged or incorrectly ordered stock (within 1 day of delivery)
 - Manufacturing fault (within 2 days of detection – max. 30 days)
- Include digital photo images of any damaged stock claimed

Incorrectly ordered stock will only be accepted at the discretion of iPhoto's Customer Service Manager and must be returned in original resalable condition and will incur a 20% restocking fee (max. \$25.00 per item)

(b) All claims (other than relating to warranty) must be made in accordance with this clause.

(c) Goods can only be returned if accompanied by a duly completed copy of iphoto Returned Authorisation form.

10. Handling Charges – Order Deliveries

(a) Orders for not less than \$750.00 (+GST) are freight free for NSW, QLD, WA, SA, VIC, & TAS (Northern Territory and all other remote destinations the minimum is \$950.00 +GST).

(b) Order requested by the Customer and accepted by iPhoto under \$750.00 (+GST) for NSW, QLD, WA, SA, VIC, & TAS will be subject to a minimum order surcharge of \$35.00 (+GST) OR \$55 (+GST) if the Order (under \$750) includes Dangerous Goods (DG) Chemistry

(b) Order requested by the Customer and accepted by iPhoto under \$950.00 (+GST) for Northern Territory and all other remote destinations will be subject to a minimum order surcharge of \$50.00 (=GST) OR \$70 (+GST) if the Order (under \$950) includes Dangerous Goods (DG) Chemistry

(d) An urgent order charge of \$30.00 (GST exclusive) per order applies for orders requiring pick up or despatch outside normal cut off times. Normal cut off time for orders being despatched for next day delivery or picked up on the same day is 12 noon.

(e) If the Customer returns Goods ordered by the Customer in error, a restocking fee will apply of 20% (max. \$25.00 per item - GST exclusive).

11. Delays

iphoto will use its reasonable endeavours to perform its obligations under these Terms of Trade but failure to do so by reason of but not limited to the inability of iphoto to obtain supplies from its usual sources, strike, combination of workmen, lockout, riot, revolution, war, mobilisation, epidemic, fire, act of God or any other cause of like or different character whatsoever beyond the control of iphoto will not constitute a breach of contract, nor will iphoto be under any liability to the Customer but the contract will be deemed to be suspended with liberty to iphoto at any time to cancel the contract or any unfulfilled part or to renew the contract upon the cessation of the cause preventing performance.

12. General

(a) No variation of these Terms of Trade will be binding on iphoto unless approved in writing by iphoto.

(b) Any time or other indulgences that iphoto may grant to the Customer will not affect the rights of iphoto except to the extent that iphoto expressly waives the same in writing and no waiver in respect of any breach on the Customer's part of any stipulation binding on the Customer will affect the rights of iphoto in respect of any breach.

(c) Any condition contained in the Customer's order or other documentation which may be contrary to or differ from these Terms of Trade will to the extent of any inconsistency be invalid.

(d) The headings of the clauses of the Terms of Trade are intended for convenience only and will in no way affect the construction thereof.

(e) In the event that any provision of these Terms of Trade is held invalid or unenforceable, the remaining provisions

of these Terms of Trade will remain in full force and effect.

(f) These Terms of Trade are governed by the laws of the State of New South Wales. Both the Customer and iphoto consent to any proceedings in relation to these Terms of Trade being instituted and heard by any appropriate Court sitting in the State of New South Wales and submit to the non-exclusive jurisdiction of the Courts of that State.

(g) iphoto may serve any notice on the Customer by forwarding it by pre-paid post or facsimile to the last known address of the Customer.