

Trade Application to Resell Original Products

Fax Transmission to Original Birthstone Pty Ltd + 61 7 5545 3898

Instructions: Please print this form from your browser, complete your credit card details in Section 2, sign and date in Section 3 and fax to + 61 7 5545 3898

SECTION 1	
Name of Business	_____
Physical address of Business	_____
Name of applicant	_____ Title _____
Address line 1	_____
Address line 2	_____
City/Town/Suburb	_____
State/Province	_____ Post code/ Zip _____
Country	_____
Telephone	_____ Fax _____
Email	_____
ABN (Australian Business No for Australian applicants)	_____
Authorised Contact name	_____ Last name _____
First name	_____

SECTION 2: CREDIT CARD DETAILS	
Type of card	VISA / MASTERCARD
Card no	_____
Currency type, eg USD, EU, AUD	_____
Cardholder's name Exactly as it appears on the card	_____
Valid from date (MM/YYYY)	_____ Expiry (MM/YYYY) _____
Security code (last 3 digits on back of card)	_____
Issue number (Switch only)	_____
If you have any questions regarding processing or storage of your credit card details, please read our privacy policy or feel free to contact us.	
Free call in Australia	1800 353 898

SECTION 3	
Card holder's signature	<div style="border: 1px solid black; width: 300px; height: 40px; margin: 0 auto;"></div>
Date	_____
Please note – Order will not commence until we have received your credit card details Thank you for making your purchase from Original Birthstone Pty Ltd Australia	

Original Birthstone Pty Ltd - ABN 62 108 688 786

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Queensland 4272
Australia

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1800 353 898
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admin@original.com.au

TERMS & CONDITIONS OF TRADE

ORIGINAL BIRTHSTONE PTY LTD

1. Definitions in these conditions:

"Agreement" means any agreement or contract entered into for the provision of goods and /or services by Original Birthstone Pty Ltd (Original) to the Customer.

"Terms" means these Terms and Conditions of Trade.

"Customer" means a person, Firm or corporation, jointly and severally if there is more than one, acquiring Goods or Services from Original.

"Delivery" means when Goods are delivered to the Customer's premises or when Services are provided.

"GST" means Goods and Services tax as defined in A New Tax System (Goods and services Tax) Act 1999 as amended.

"Intellectual Property" means all copyrights, patents, trademarks, designs, formulae, specifications, confidential information, manufacturing processes and or modifications, improvements and derivations (whether registerable or not) owned or licensed by Original Birthstone Pty Ltd in respect of the goods and services

"Services" means services supplied by Original to the customer

"Original" for the purposes of these Terms and Conditions means Original Birthstone Pty Ltd ABN 62 108 688 786

"Terms" means the terms and conditions of Trade

2. Basis of Agreement

- a. These Terms apply to the supply of all Goods and Services by Original to the Customer and cannot be varied except in writing signed on behalf of Original.
- b. The Customer shall supply Original with detailed and specific instructions as to the Goods & Services it requires.
- c. Any written quotation provided by Original to the Customer for the supply of Goods and Services is:
 - i) Valid for 3 months from its date
 - ii) An invitation to treat only:
 - iii) Subject to the Customer offering to enter into an Agreement in accordance with these terms.
- d. Original may include additional terms in its quotation to the customer. In the case of inconsistency between terms set out in Original's quotation and these Terms and terms set out in the quotation shall prevail.
- e. The Customer shall offer to purchase Goods by signing the quotation and returning to Original.
- f. The Customer's offer shall be deemed to be accepted by Original when:
 - i.) Original confirms its acceptance in writing or by electronic means, or
 - ii.) Original delivers the Goods and or Services the subject of the offer to the Customer
- g. Original may in its absolute discretion refuse to accept any offer to purchase.

3. Pricing

- a. Prices quoted for the supply of Goods and Services exclude GST and all other taxes or duties imposed on the Goods and Services in addition to paying the price of goods and services, the Customer may pay any GST and any other taxes or duty imposed on the Goods and Services.
- b. If the customer requests any variation to the Agreement, Original may vary the price of the Goods or Services for the variation.
- c. Where there is a substantial variation in the cost of materials or services used by Original in producing the goods or services Original may vary its price for Goods or Services by notifying the Customer.

4. Payment

- a. Unless otherwise agreed in writing the Customer shall pay for Goods and Services supplied by Original prior to delivery or as specified in the Trade Application Terms.
- b. Payment by cheque is not deemed made until proceeds of the cheque have cleared.

5. Credit Facility

If Original allows the Applicant time to pay for Goods or Services then such credit facility shall be conducted upon the following terms:

- a The Customer shall pay for all Goods and Services supplied by Original according to the terms agreed
- b Late payments outside of the terms will incur penalties
- c Original may in its sole discretion at any time terminate the credit facility with the customer or require the Customer to provide security or additional security in support of the credit facility.
- d. Original may at any time cease or withhold the supply of goods to the Customer on Credit.
- e. If the Customer fails to pay all monies due to Original by the Due Date or is otherwise in breach of the credit facility then the Customer shall reimburse Original all expenses and costs incurred by Original in recovering monies not paid by the Applicant by the due date.

6. Risk and Insurance

- a. The Goods shall be deemed at the Customer's risk immediately following Delivery of the Goods.
- b. The Customer shall obtain all necessary licenses and permits in relation to the Goods under all relevant laws or regulations.
- c. From the time of Delivery the Customer assumes all risk and liability for the loss, damage or injury to persons or property of the Customer, or third parties arising out of the use of possession of any of the Goods whether such goods are used singularly or in combination with other substances, or any process.

7. Acknowledgements

The Customer acknowledges that

- a. It is solely responsible for satisfying itself that the goods or services are suitable for use of the Customer or any contemplated use by the Customer, whether or not such use is known by Original.
- b. Any description of the goods provided in a quotation or invoice is given by way of identification only and the use of such description does not constitute a contract of sale by description.

8. Performance of agreement

- a. Any period of date for delivery of goods or provision of services stated by Original is intended as an estimate only and is not a contractual commitment. Original will use its reasonable endeavours to meet any estimated date for delivery of the goods or completion of the services but will not be liable in any circumstances for any loss or damage suffered by the Customer or any third party for failure to meet any estimated date.
- b. A completed couriers or drivers' manifest or delivery docket, or Australia Post record whether signed by the driver or the Customer or its employee or agent will be proof of Delivery of goods invoiced.

9. Delivery

- a. Original will, at its discretion, arrange for the delivery of the goods to the customer and shall designate the route and means of transportation for the delivery of Goods or Services. In the event that the Customer requires a different route or form of transportation the Customer will reimburse Original for the extra costs involved.
- b. Unless otherwise agreed in writing by Original, the Customer will be responsible for all costs associated with delivery, including freight, insurance and other charges arising from the point of despatch of the goods to the Customer to the point of deliver.
- c. The Customer must provide reasonable and proper access to the location specified for deliver.
- d. the Customer authorizes Original in its absolute discretion to subcontract deliver.
- e. The Customer indemnifies Original against any loss or damage suffered by Original, its subcontractors or employees as a result of delivery, except where such a loss or damage is caused by the negligence of Original.

f. The obligation of Original to deliver goods shall be satisfied by the delivery by Original of the quantity of goods ordered (+/- 10%). The Customer shall only be required to pay for the actual quantity of the goods delivered by Original.

10. Packaging and use of Demonstration Kiosk/Unit

a. Packaging in which or on which goods are delivered remain the property of Original and must not be used for any Goods other than those originally contained in the packaging at the time of delivery. The Customer is encouraged to recycle all returnable packaging with credit applicable to returns.

11. Liability

a. Except as specifically set out herein, or contained in any warranty statement provided with the goods or services, any term, condition or warranty in respect of the quality, merchantability, fitness for purpose, condition, description, assembly, manufacture, design or performance of the goods or services, whether implied by statute, common law, trade usage, custom, or otherwise which may be lawfully excluded, is hereby expressly excluded.

b. Original's liability arising under or in connection with the sale, use of, shortage in delivery of or any other dealings with the Goods or Services by Customer or third party shall be limited to replacement or repair of the Goods or re supply of the Service.

c. Original shall not be liable for any loss damage suffered by the Customer where Original has failed to deliver goods or services or fails to meet any delivery date or cancels or suspends the supply of goods or services.

d. Nothing in the Terms is to be interpreted as excluding, restricting or modifying or having the effect of excluding, restricting, or modifying the application of any State or Federal legislation applicable to the sale of goods or supply of services which cannot be restricted or modified.

12. Cancellation

a. If, through circumstances beyond the control of Original, Original is unable to effect Delivery or provision of goods or services, then Original may cancel the Customer's order (even if it has already been accepted) by notice in writing to the customer.

b. No purported cancellation or suspension or any order or any part thereof by any Customer is binding on Original after that order has been accepted.

c. Original, in its absolute discretion may review, alter or terminate the Customer's credit limit or payment terms without notice.

14. Intellectual Property

a. the Customer acknowledges that it has no proprietary rights or interest in the Intellectual Property.

b. The Customer must not register or record or attempt to register or record anywhere in the world the Intellectual Property or any part of any patent, invention, trademark or design derived from or similar to the Intellectual Property or aid or abet anyone else in doing so.

c. The Customer must not at any time create, sell manufacture or process any goods or services using or taking advantage of the Intellectual Property unless express permission in writing has been given.

d. The Customer warrants that where it provides material for use by Original or provides demonstration directions, it is legally entitled to do so.

e. The Customer indemnifies and agrees to keep indemnified Original against all liabilities losses and expenses incurred by Original in relation to, or in any way directly or indirectly connected with, any breach of Intellectual Property rights in relation to the Customer's Demonstration processes or material provided by the Customer for the demonstration and sale or supply of the goods and services.

f. Any Intellectual Property provided to the Customer by Original in connection with the goods and services remains the exclusive property of Original and must be returned to Original on demand and must not be copied or communicated to any third party without the express written consent of Original, including the copying of Demonstration DVDs and manuals.

15. Warranty

a. Subject to clause 15c Original will replace any Goods or re-supply any Services which in its reasonable opinion do not meet the standards specified in the product description by more than an acceptable level of variance.

b. Provision of the Warranty is subject to:

i. Payment in full of the amount owing to Original by the Customer in accordance with this or any Agreement.

ii. Written notice from the Customer within 14 days of delivery of any Goods or Services that it believes such Goods or Services are defective.

iii. Correct use and storage of the Goods in accordance with instructions provided.

iv. Using the Goods and Services in accordance with their intended purpose.

c. The Customer warrants to use the goods in accordance with:

i. Any instruction provided to it by Original from time to time.

ii. All government and local regulations including but not limited to all relevant environmental laws and regulations governing the storage, use handling and maintenance of goods.*

iii. All necessary and appropriate precautions and safety measures relating to the storage, use, handling and maintenance of the goods.*

*Storage should be in cool dry temperature and out of direct sunlight.

16 Miscellaneous

a. Original Birthstone shall not be required to replace goods which are defective as a result of not being used for their proper or intended purpose or which have been treated, processed or changed in any manner without Original Birthstone's approval

b. The laws of Queensland from time to time govern this agreement and the parties agree to the non-exclusive jurisdiction of the courts of Queensland and the Federal Court of Australia

c. Failure by Original Birthstone to enforce any of these terms shall not be construed as a waiver of any of Original Birthstone's rights

d. Any provision herein contained which is found to be unenforceable shall be read down so as to be enforceable or, if it cannot be so read down, the condition shall be severed from these terms without affecting the enforceability of the remaining conditions

e. A notice must be in writing and handed personally or sent by facsimile or prepaid mail to the last known address of the addressee. Notices sent by prepaid post are deemed to be received two days after posting. Notices sent by facsimile are deemed to be received upon confirmation of transmission.