

TERMS AND CONDITIONS

These Terms and Conditions apply to the Customers use of our website and Prior Designs Pty Ltd (ACN 640 312 830) provision of services or supply of Drawings to the Customer. Before using this website and the services of Prior Designs, it will be taken that the Customer has read and agreed to the following terms and conditions.

DEFINITIONS

- A. Customer** refers to the user of the Prior Designs website and Services.
- B. Email** means the email provided to Prior Designs by the Customer which is to be used for communication regarding the Drawings and services.
- C. Intellectual Property** means all inventions, know-how, ideas, innovations, developments, improvements, copyright, designs, trademarks and patents.
- D. Prior Designs** refers to Prior Designs Pty Ltd (ACN 640 312 830)
- E. Drawings** means any drawings, electronic files, CAD, renders and 3D models created and delivered by Prior Designs pursuant to the terms of these terms and conditions.
- F. Project Intellectual Property** means the Intellectual Property in any Drawing created as part of this agreement.
- G. Services** means the services of creating the Drawings for the Customer.

1) Engagement with our Website

- 1.1. To use our Website and Services you must complete a registration form and provide certain information to allow us to identify you for the purpose of providing the Services and completed Drawings.
- 1.2. You agree to ensure that the registration and contact details provided to you are accurate at all times. You agree to accept all communications by email for the purposes of the Drawings and Services provided under these terms and conditions, including accepting notifications from our website in relation to the Drawings and Services.
- 1.3. Our fees are shown in Australian Dollars (AUD) and are exclusive of GST. We endeavor to ensure that our price list is current, and we reserve the right to amend our prices at any time.
- 1.4. When you visit our website, we give you a limited license to access and use our information for personal use.
- 1.5. You are permitted to download a copy of the information on this website to your computer for your personal use only provided that you do not delete or change any copyright symbol, trademark or other proprietary notice. Your use of our content in any other way infringes our intellectual property rights.
- 1.6. The license to access and use the information on our website does not include the right to use any data mining robots or other extraction tools. The license also does not permit you to metatag or mirror our website without our prior written permission. We reserve the right to serve you with notice if we become aware of your metatag or mirroring of our website.
- 1.7. Prior Designs reserves the right to change its terms and conditions at any time and will notify the customer via email.

2) Intellectual Property

- 2.1. All Drawings that are produced by Prior Designs including Drawings, Prototypes, 3D files and Concepts remain the intellectual property of Prior Designs and strictly cannot be copied, used to make Products, or reproduced in anyway without the prior written permission from the owner.
- 2.2. The Customer remains the Intellectual Property owner to all material supplied to Prior Designs to create the Drawings for this Agreement. The Customer grants Prior Designs a non-revocable license to its Intellectual Property for the sole purpose of providing the Services.
- 2.3. Prior Designs grants the Customer a worldwide, non-exclusive and transferable license to the Customer to use the Project Intellectual Property to use, exploit and enjoy the full benefit of the Drawings.
- 2.4. Prior Designs may assign full ownership of the Project Intellectual Property rights to the Customer for a fixed fee indicated at clause 5.1(d). The Customer must make the full payment specified before the right and title to the Project Intellectual Property pass to the Customer.
- 2.5. All trademarks, brands and logos generally identified either with the symbols TM or ® which are used on our Drawings, website or services are either owned by us or we have a license to use them.
- 2.6. Except as permitted under the Copyright Act 1968 (Cth), you are not permitted to copy, reproduce, republish,

distribute, or display any of the information on this website without our prior written permission.

3) Disclaimer

- 3.1. Prior Designs are not Engineers. Prior Designs recommend that all Customers test all the drawings, prototypes and concepts that Prior Designs provides, with an Engineer.
- 3.2. Whilst we take all due care in providing our services, we do not provide any warranty, either express or implied, including without limitation warranties of merchantability or fitness for a particular purpose.
- 3.3. To the extent permitted by law, any condition or warranty which would otherwise be implied in these terms and conditions is excluded.
- 3.4. Our website may from time to time contain hyperlinks to other websites, such links are provided for convenience only and we take no responsibility for the content and maintenance of or privacy compliance by any linked website. Any hyperlink on our website to another website does not imply our endorsement, support, or sponsorship of the operator of that website nor of the information and/or products which they provide.
- 3.5. We take all due care in ensuring that our website is free of any virus, worm, Trojan horse and/or malware, however we are not responsible for any damage to your computer system which arises in connection with your use of our website or any linked website.

4) Warranties

- 4.1. The Customer assumes all responsibility to ensure that any resulting products are tested, manufactured, labeled, (including adequate warnings) and are used in a safe and careful manner and are in compliance with all applicable laws, regulations and all industry standards. It is assumed by Prior Designs that the customer is the expert in the field/or market where the resulting product/service will be used and therefore is solely responsible for making sure their product/service is "Fit for purpose". Prior Designs accept no liability for any loss whatsoever including consequential loss suffered by you arising from the Services we have supplied.
- 4.2. The Customer is solely responsible for obtaining all applicable and necessary approvals. Prior Designs will not be liable for any delays, damage or loss resulting from the Customer not obtaining all necessary approvals to use the Drawings or create derivative products.
- 4.3. The Customer assumes all responsibility for any information and or specification it provides to Prior Designs and that unless otherwise agreed to by both parties, Prior Designs may rely on such information/specification without independent verification.
- 4.4. To the full extent permitted by law, our liability for breach of an implied warranty or condition is limited to the supply of the services again or payment of the costs of having those services supplied again.

5) Payment terms

- 5.1. Terms for full payment of invoices are 30 days from the date of invoice unless otherwise agreed in writing between both the Customer and Prior Designs. All prices are shown to the Customer prior to making an order:
 - a) CAD time, Drafting, Re-engineering, Renders etc., for the purpose of creating 3D models for tooling and product manufacturing quotes, original concept drawing 3D pdf charged at an agreed hourly.
 - b) Supply of 2D pdf, Supply 3D step file, also obtaining related material technical data or other information related to the product including engineer's reports, simulations and drawings. Prepare tooling quotes and finished part quotes,
 - c) Project management and Product development related to manufacturing including plastic injection molding tooling DFM (design for manufacture). Injection Moulding Consultancy and Training.
 - d) Passing on Intellectual property, providing designs for patent registration, providing 2D pdf with customers trademark logo.
- 5.2. **Non-Payment** – For invoices not paid by the due date in accordance with the invoice terms, Prior Designs reserves the right to charge interest in the amount of 10% p.a. or the maximum rate permitted by law, whichever is less.
- 5.3. Prior Designs may withhold any Drawings and refuse to take any further Customer orders so long as an invoiced amount remains outstanding. Customers agree that they are responsible for all delays that arise in relation to this clause 5.3 and holds Prior Designs harmless in relation to all loss or damages incurred because of delays caused by non-receipt of payment.

5.4. Prior Designs reserves the right to commence debt collection proceedings against any Customer whose invoices remain outstanding for over 3 months without payment. The Customer hereby accepts that they will be liable for all expenses incurred by Prior Designs in recovery of any debt and agrees that the Customer will accept service of any legal documents in relation to debt recovery by Prior Designs sending correspondence to the nominated Email of the Customer.

6) **Cancellation**

If Prior Designs is engaged to start on a project (by way of Email) the Customer has 7 days to cancel the job (by way of Email) at no charge. From that point the Customer will be charged at an hourly rate for work completed at the point of cancellation. Prior Designs will remain the Intellectual Property owner of all incomplete work, including concepts, prototypes, 3D models and all Drawings.

7) **Drawing fitness for purpose upon Completion:**

- 7.1. At the completion of any work carried out by Prior Designs, including Development, Drawings, or services (before Invoicing), it is the sole responsibility of the Customer to thoroughly check all measurements from the Drawings by signing off (giving approval via Email) and the Customer agrees from that point to assume responsibility, including future tooling costs, cost to any third parties because of time lost and labor costs if the resulting product fails to be fit for purpose based on the approved drawing.
- 7.2. Prior Designs accepts no liability for loss or damage incurred from resulting from products derived from the Drawings including all costs specified in clause 7.1.

8) **Indemnity**

- 8.1. The customer shall indemnify, defend and hold Prior Designs and its directors, officers, employees and agents harmless from and against all claims for illness, injury and property damage (including loss of use and loss of profits), actual or alleged, that may arise out of or in connection with this Agreement or the Services, work produced, Drawings, prototypes and incidental goods furnished or to be furnished to the Customer by Prior Designs. This obligation shall apply, without limitation, to claims of customer and any employee, invitee, or agent of customer, of any lessee or purchaser of customers goods or services and of any third party.
- 8.2. By accessing our website, the Customer shall indemnify and hold Prior Designs harmless from all claims, actions, damages, costs and expenses including legal fees arising from or in connection with your use of our website.
- 8.3. In the event of Non-payment in accordance with clause 5.2. the Customer agrees to indemnify and hold harmless Prior Designs and its directors, officers, employees and agents for its legal expenses such as legal costs and debt collector commissions incurred because of non-payment of Prior Designs invoices.

9) **Termination**

- 9.1. Prior Designs reserves the right to terminate any Services being supplied to a Customer immediately upon:
- a) Non-receipt of Payment which continues for more than 30 days from delivery of our invoice.
 - b) The Customer breaches any term of this Agreement and fails to remedy that breach within 7 days of being requested to do so by Prior Designs.
 - c) In a case where the Customer, being an individual becomes bankrupt.
 - d) If the Customer is a corporation, the Customer is wound up or there is an appointment of any Administrator or any receiver to any assets of the Customer or upon an official manager being appointed pursuant to the Corporations Act 2001 (Cth).
- 9.2. Either party may terminate this Agreement by giving 5 business days in the event of a force majeure event. A force majeure event means any act, circumstance or omission over which the parties could not have exercised reasonable control.

10) **Governing Law**

These terms and conditions are governed by the laws of New South Wales. Prior Designs and the Customer submit to the exclusive jurisdiction of the courts of the New South Wales.

11) **Privacy Notice**

Prior Designs collects personal information so that it can provide its services to the Customer. Prior Designs uses this personal information according to the *Privacy Act* 1988 and in accordance with the Australian privacy principles. All personal data collected from the Customers are exclusively used to the sole extent to process and complete orders by the Customer and complete our services.