

## TERMS & CONDITIONS OF SALE

### 1. INTERPRETATION

In these Terms and Conditions:-

'goods' means the goods we agree to supply to you;

'us' and 'we' means Compact Group Pty Ltd or any one of the Compact group of companies as the case may be;

'you' means you, the customer.

### 2. SUPPLY ON TERMS AND CONDITIONS

The purchase and supply of goods shall be on the terms and conditions following (or if we have subsequently published other terms and conditions then on the terms and conditions current at the time we accept your order).

### 3. ORDERS

3.1 The publication or provision to you of a price list is not an offer by us to sell goods to you.

3.2 To purchase goods from us you must place an order with us.

3.3 By placing an order with us you are making an offer to purchase the goods specified in the order on the terms and conditions contained herein.

3.4 We may accept or reject your offer. However, delivery by us of goods to you in accordance with your order shall be deemed acceptance by us of your offer on the terms and conditions contained herein.

### 4. PRICE AND OTHER AMOUNTS PAYABLE BY YOU

4.1 For each accepted order you will have to pay to us:-

- (a) the price of the goods;
- (b) any amount we are required to pay on account of charges or taxes levied by any government including but not limited to GST in relation to the supply of the goods;
- (c) delivery fees in accordance with clause 5.2; and
- (d) interest on overdue payments in accordance with clause 7, if applicable;
- (e) a late payment fee in accordance with clause 7, if applicable; and
- (f) a dishonor handling fee and any expenses in accordance with clause 8, if applicable.

4.2 Unless otherwise agreed in writing the price of the goods shall be the price specified in our

published price list as at the date of our acceptance of your order.

### 5. COLLECTION / DELIVERY

5.1 Unless we have agreed to deliver the goods then:-

- (a) we shall supply goods to you by making them available for collection by you at our warehouse at 1/26 Strathwyn Street, Brendale in the State of Queensland;
- (b) we shall notify you when the goods are available for collection;
- (c) you must collect the goods from our warehouse within 7 days of notice that goods are available;
- (d) if you fail to collect the goods within the time required by clause (c) then we may in our sole discretion elect to treat the failure to collect the goods as a repudiation of the contract.

5.2 If we have agreed to deliver the goods the following applies:-

- (a) we will arrange for the goods to be delivered to you by courier;
- (b) you must pay to us a delivery fee;
- (c) the delivery fee will be:-
  - (i) the amount specified in our current published price list at the time you place your order for the relevant type and size of the goods and the location of the delivery address; or
  - (ii) where there is no amount specified in our current published price list having regard to the type and size of the goods and the location of the delivery address then such amount as is agreed between the parties at the time you place your order.

5.3 You may arrange for a courier to collect the goods from us at your own expense. Risk in the goods passes to you when your carrier or courier collects the goods from our warehouse.

### 6. PAYMENT

#### Cash

6.1 Unless otherwise agreed in writing you must pay for the goods using the following methods of payment:-

- (a) cash
- (b) eftpos
- (c) directly depositing cleared funds into our account

(d) cheque.

6.2 We shall not be required to deliver (ie allow you to collect) the goods until you have paid for them with cash or cleared funds.

#### **Credit Terms**

6.3.1 If we have agreed in writing to grant credit terms to you then you must pay for the goods supplied on credit by the last day of the month following the issue of our invoice. *Eg. invoices issued during April will be payable by 31 May.*

6.3.2 We may at any time and in our sole discretion cease to supply you with goods on credit terms.

#### **Invoices**

6.4 We will issue our invoice when the goods are dispatched.

#### **No set-off**

6.5 You are not entitled to withhold payment of any money in respect of any set-off or claim you might have against us.

### **7. LATE PAYMENT**

7.1 If you fail to make payment by the due date specified in clauses 6.1 or 6.3 as the case may be then without prejudice to any other right or remedy:-

- (a) all outstanding amounts carry interest on daily balances until paid at a rate of 1% per month;
- (b) in addition to interest we may charge and you will pay:-
  - (i) a late payment handling fee at a rate advised by us from time to time;
  - (ii) all collection costs and expenses incurred by us in collecting the overdue amount.
- (c) we may withhold delivery of the goods and refuse to supply you with any other goods.
- (d) we may sue you for the money owing.

### **8. WHERE PAYMENT FAILS**

8.1 If you attempt to make payment by providing us with a cheque which is not paid by your bank then we may charge and you will pay a dishonour handling fee at a rate advised by us from time to time and any expenses incurred by us including but not limited to bank fees.

### **9. RISK IN GOODS**

9.1 Risk in the goods passes to you on the date and at the time you or agent, carrier or courier collects the goods from our warehouse or if we deliver the goods on the date and at the time the goods are delivered.

### **10. OWNERSHIP OF GOODS - RETENTION OF TITLE**

10.1 Property in goods supplied to you by us shall remain with us until we have been paid in full for:

- (a) the goods;
- (b) all goods supplied previously or subsequently to you by us;
- (c) any other money owing by you to us.

10.2 Until property in the goods passes to you in accordance with clause 10.1 hereof:-

- (a) you will hold the goods as bailee for us;
- (b) you must not dispose of any of the goods except in the ordinary course of business on commercially reasonable terms;
- (c) you must not allow any person to acquire a security interest in the goods;
- (d) you must insure the goods for their full insurable or replacement value (whichever is higher) with an insurer licensed or authorised to conduct the business of insurance in the place where you carry on business;
- (e) must not remove, deface, obliterate any identifying plate, mark or number on any of the goods;
- (f) you must store the goods on your premises separately from your own goods and from the goods of others and in a way which makes them readily identifiable as our goods;
- (g) If you fail to pay for the goods within the time required by these terms and conditions then we, our employees and agents, are irrevocably authorised to enter upon your premises or any premises under your control and use reasonable force to take possession of the goods without liability to you or anyone claiming through you.

10.3 Despite the provisions of clause 10.2, if you dispose of goods before property in the goods has passed to you in accordance with clause 10.1 hereof then:-

- (a) you hold all proceeds received in respect of the disposal of the goods on trust for and as agent for us;
- (b) you must pay the amount of the proceeds of disposal of the goods immediately to us or pay those proceeds into an account with a bank or financial institution or deposit taking institution as trustee for

- us;
- (c) if you use the goods or part of the goods to produce any item or product or if you affix the goods or any part of the goods to another object then we will be given ownership of the item, product or object and the proceeds of disposal of such items, products or objects shall be dealt with in accordance with this clause 10.3.

## 11. CLAIMS AND LIABILITIES

### 11.1 Any claim by you in respect of:-

- (a) breach by us of these terms and condition; and
- (b) defective or faulty goods must be made by giving notice in writing to us within 7 days of supply (delivery) of the goods to you.

### 11.2 The law implies terms, conditions and warranties (>prescribed terms=) into contracts for the supply of goods and services and prohibits the exclusion, restriction or modification of certain terms, conditions and warranties. Some prescribed terms permit a supplier to limit its liability for a breach of the prescribed terms. Except as provided by the prescribed terms:

- (a) our liability in respect of a breach of a prescribed term relating to the goods or any part of the goods is limited at our option to the replacement or repair of the goods or part thereof or the cost of repairing or replacing the goods or part thereof;
- (b) you do not have under any circumstances any cause of action against or right to claim or recover from us for, or in respect of, any loss or damage of any kind whatsoever, caused directly or indirectly by:
- (i) any defect in material or workmanship of, or any other defect whatsoever in, or unsuitability for any purpose of the goods or part of the goods; or
- (ii) default or negligence on our part or on the part of any of our employees, contractors or agents.

### 11.3 To the fullest extent permitted by law:-

- (a) we shall not be liable to you in contract or in tort arising out of, or in connection with, or relating to:-
- (i) the performance of the products;
- (ii) any fact matter or thing relating to the products;
- (iii) any error (whether negligent or in breach of contract or not) in

information supplied to you at any time.

- (b) we make no representations about and give no warranty or undertaking regarding the:-
- (i) performance of the goods;
- (ii) results that might be expected from use of the goods;
- (iii) compliance of the goods with statutory requirements;
- (iv) suitability of the goods for any purpose.

## 12. RETURN OF GOODS

### 12.1 You must not return goods to us unless we have consented to the return of the goods to us. We may at our sole discretion accept or reject the return of goods.

### 12.2 Without in anyway limiting our discretion to accept or reject the return goods, we will not accept the return of goods which:-

- (a) have been held by you for more than 14 days;
- (b) are not in their original condition
- (c) were made or cut to order for you.

### 12.3 If we accept the return of goods from you, you must pay:-

- (a) if we delivered the goods to you then the cost of delivering the goods to you;
- (b) the cost of transporting the goods back to us; and
- (c) a restocking fee of 10% of the invoiced cost of the goods.

## 13. SUSPENSION/CESSATION OF SUPPLY

If at any time we are satisfied that you have not discharged, or are not likely to discharge, your obligations under these terms and conditions in a timely way we may suspend or terminate our dealings with you without incurring any liability to you arising out of such suspension or termination.

## 14. DEFAULT

### 14.1 Each of the following shall constitute an act of default on your part:

- (a) failure to pay for the goods when payment is due;
- (b) failure to remedy a breach of these terms and conditions within the time allowed in a notice requiring you to do so;
- (c) if you are an individual, committing an act of bankruptcy;
- (d) if you are a company, entry into a scheme of arrangement or the appointment of an administrator or a receiver or the making

of a winding up order under the Corporations Act.

14.2 If you commit an act of default in addition to any other remedy we may have under these terms and conditions or at law we may:

- (a) repossess and sell the goods; and
- (b) terminate this agreement, and sue you for damages.

## **15. RE-SALE**

15.1 Where we terminate this agreement due to your default under clause 14.1 then we may re-sell the goods.

15.2 If we re-sell the goods we may recover from you as liquidated damages:

- (a) where the goods are re-sold for less than the price of the goods under this agreement – the difference between the re-sale price and the price of the goods under this agreement; and
- (b) the costs and expenses of sale.

## **16. GOVERNING LAW**

This agreement shall be governed by and construed in accordance with law in the State of Queensland. The parties submit to the non-exclusive jurisdiction of the courts and tribunals of Queensland. Nothing in this clause is intended to oust the jurisdiction of the Federal Court of Australia.

## **17. WHOLE AGREEMENT**

These terms and conditions and any documents referred to herein contain the whole of the agreement between the parties and no understanding, arrangement or provision not expressly set forth in these terms is binding upon the parties.

## **18. AMENDMENT**

No variation, modification or alteration of any of these terms and conditions is binding unless in writing and signed by each of the parties.

## **19. WAIVER**

The failure of either party at any time to enforce any of the terms or provisions of this agreement or to exercise any right under this agreement does not constitute a waiver of any such right or affect the party's privilege to enforce that right.

## **20. SEVERANCE**

If any provision of these terms and conditions is deemed to be or is adjudicated to be unlawful or unenforceable, such provision is to be severed from this agreement and all other remaining provisions remain in force.