



## ACCO AUSTRALIA PTY LIMITED

### STANDARD TERMS OF SALE

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THESE TERMS GOVERN ALL DEALINGS BETWEEN US AND YOU. NO OTHER TERMS GOVERN OUR RELATIONSHIP EXCEPT THOSE TERMS VARIED BY US AS AGREED BY US IN WRITING.

#### 1. DEFINITIONS

'additional charges' means and includes delivery expenses, charges for services, storage, termination, cancellation and/or repossession, taxes of whatsoever nature payable in relation to the supply of goods generally (excluding income taxes) and any ancillary charges of any nature whatsoever payable by you under this contract.

'Goods' means the goods we supply you from time to time.

'Authorisation' means a Goods Return Authorisation Number ('GRN') which is supplied by us in the case of Goods being returned to us for credit.

#### 2. PRICES AND PRICE VARIATION

2.1 *The prices quoted in our price lists and advertising literature from time to time are for guidance only. Unless otherwise agreed in writing, the price of the Goods will be as stated in our price list current on the date of delivery of the Goods. Prices quoted do not include any additional charges which will be added to the price of the Goods, where applicable.*

2.2 *Where an order for Goods is less than \$400 (excluding additional charges) we will charge you a handling fee of \$25 per order.*

#### 3. TERMS

3.1 *Terms of payment are strictly thirty (30) days calculated from the end of the month in which the Goods were delivered.*

3.2 *All credit which we afford you is entirely at our discretion. We have the right to withdraw any credit facility with immediate effect at any time by notice in writing to you due to any non-adherence by you of these Standard Terms of Sale*

3.3 *Your entitlement to any rebate, discount or incentive offered by us from time to time is conditional upon you not being in breach of any obligation in relation to any uncompleted transaction to which you and we may be a party at the time the benefit is to be received by you.*

#### 4. GST

4.1 *All Goods sold are subject to GST which will be added to the price of the Goods and any additional charges.*

#### 5. ORDERS

5.1 *We reserve the right to accept any order in whole or in part or decline any order. All orders must be for at least standard pack quantities or minimum quantities as shown in our price list from time to time.*

5.2 *We reserve the right to accept any order subject to product specifications being altered by us.*

#### 6. DELIVERY

6.1 *Subject to clause 6.2, we will deliver the Goods to you FIS by such carrier and in such form of transportation as we consider appropriate to the address stated in your order or as agreed by us in writing. Risk in and to the Goods passes to you on delivery to your nominated address.*



## ACCO AUSTRALIA PTY LIMITED

### STANDARD TERMS OF SALE

---

- 6.2 *Where you specify the carrier and the means of carriage, risk in and to the Goods will pass to you immediately when such Goods are collected by your carrier. The cost of such carrier to be for your account.*
- 6.3 *We will not be responsible for any consequences arising from any part delivery or delay in delivery of the Goods whether as a result of events occurring beyond our control or otherwise.*
- 6.4 *All orders will be satisfied by us in the ordinary course of our business. Where a delivery date is specified in an order, we will try to effect delivery by the date specified. Delivery times may be affected by stock availability. We will not be responsible for any such delays occurring. You will be deemed to accept delivery of an order when made even if a different delivery date is specified in your order.*
- 6.5 *Delivery will nevertheless be deemed to be effected in accordance with these Standard Terms of Sale in relation to fulfilment of a part order.*
- 7. DAMAGE AND SHORT DELIVERY**
- 7.1 *We accept no liability for short delivery or damage to Goods unless you notify us in writing within five (5) days after delivery of the Goods to you and a satisfactory inspection of the Goods is carried out by us subsequently.*
- 7.2 *Our liability for non-delivery, short delivery or damaged Goods (other than through damage caused by you) is limited to the replacement of the Goods in question within a reasonable time.*
- 8. RETURN OF DAMAGED GOODS**
- 8.1 *We will not accept return of the Goods for credit or any other purpose unless we agree by means of a GRN to accept return of the Goods within five (5) days of delivery to you or as otherwise agreed to by us in writing*
- 8.2 *No Goods returned will be accepted by us (even if we have previously agreed to do so) where the Goods have been tampered with or if they are Goods expressly sold on a non-return basis, or if they are not accompanied by a GRN. We will make a final determination once the Goods have been returned and inspected by us.*
- 8.3 *If we do not subsequently accept return of the Goods, you agree to pay to us upon presentation of our invoice, our reasonable charges relating to the return of the Goods plus GST*
- 9. PASSING OF RISK**
- 9.1 *Goods will be at your risk:*
- (a) *where Goods are delivered FIS, from the time of delivery to your nominated address; and*
  - (b) *where Goods are collected by you or your carrier from us, from the time of such collection by you or your carrier.*
- 9.2 *You must, at your own expense, insure the Goods against all loss or damage (howsoever caused) from the time at which risk passes to you until such time as property in the Goods passes to you. The benefit of any insurance claim in respect of damage or destruction to the Goods is hereby assigned to us until the Goods are paid for in full. You hereby indemnify us against any loss or damage to the Goods howsoever arising until the Goods are paid for in full by you*
- 10. TITLE**
- 10.1 *Property in any Goods delivered to you remains with us and will not pass to you unless and until you have paid for the Goods in full.*



## ACCO AUSTRALIA PTY LIMITED

### STANDARD TERMS OF SALE

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- 10.2 Upon receipt of Goods from us, you will keep and store these Goods as bailee for and on our behalf separately from Goods supplied by third parties or Goods for which you have made payment to us in such manner that clearly identifies our Goods.
- 10.3 You acknowledge that if you sell Goods for which you have not made payment, you do so as our agent and the proceeds of sale are held by you on trust for us and you will hold them in a separate account pending your accounting to us.
- 10.4 You will disclose and account to us, upon request by us, all relevant information regarding the Goods for which you have not made payment, including details as to their location and delivery to third parties, and the proceeds of sale received by you upon the sale of those Goods.
- 10.5 If you do not pay us the total purchase price on the due date for payment, or you being a natural person, commits an act of bankruptcy and/or becomes insolvent, bankrupt, calls a meeting of your creditors or enters into an arrangement with creditors under Part X of the Bankruptcy Act 1966 (C'th), or you, being a company, becomes insolvent and or calls a meeting of your creditors, or goes into receivership, official management or liquidation (except for the purposes of voluntary re-organisation) or if we have reasonable grounds for suspecting that any of these things may occur, then without prejudice to any other remedy, we will be entitled to retake possession of the Goods or any part thereof without notice or demand to you.
- 10.6 You specifically authorise us, our servants and agents, to enter into any premises owned, leased or otherwise occupied by you or a third party for the purposes of taking possession of our Goods for which you have not made payment to us and authorise us to use all reasonable force to obtain such possession.
- 10.7 You acknowledge that the Goods supplied by us are specifically identified by individual barcodes applied to each item of the Goods. You further acknowledge that the Goods with a barcode identifying us as the distributor of those Goods have been supplied by us and remain our property until you pay us for the Goods so identified.
- 10.8 You must inform us immediately of any levy of execution or attempt to do so by any third party against the Goods.
- 10.9 You must notify any financier or third party in favour of whom you grant a charge over the assets of your business that all of our Goods which have not been paid for by you do not constitute your property. Such financier or third party will be deemed to be subject to our retention of title until our Goods are paid for in full.
- 10.10 If at any time you have Goods in your possession delivered by us and you owe us money for any Goods which we have sold you, the Goods in your possession will be deemed to be unpaid for unless the contrary is shown by you.
- 10.11 If you owe us money for Goods sold to you and you are in possession of Goods supplied by us and it is not possible to identify which Goods we have sold you are paid for and which are not, it will be presumed (unless the contrary is shown) that the Goods in your possession to the invoiced value of your indebtedness to us, have not been paid for.
- 10.12 You must do all things necessary as requested by us and take such action as we may direct in order to more fully preserve our rights and protect our interest in and to our Goods until paid for in full.

#### 11. WARRANTIES AND LIMITATIONS

- 11.1 We warrant that the Goods are of merchantable quality, free from defects in material and workmanship and conform to the manufacturer's applicable product descriptions and specifications effective as at the date of delivery of the Goods and for a period of ninety (90) days thereafter.
- 11.2 If the Goods are not of merchantable quality or do not conform to the specifications referred to, we will at our option either replace the Goods, obtain equivalent Goods for you, repair the Goods or pay or credit you with the cost of replacing or repairing the Goods subject to the following:
- (a) that you notify us in writing of the defect, the invoice number of the defective Goods and proof of the defect within seven (7) days of receipt thereof; and



## ACCO AUSTRALIA PTY LIMITED

### STANDARD TERMS OF SALE

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(b) *that the defect in the Goods is not the result of any default, negligence or tampering with the Goods on your part or by any third party.*

11.3 *We accept no further liability to you with respect to defective Goods except to the extent that any additional liability attaches to us by virtue of any binding Australian state, territory or federal legislation relating to the sale of Goods in Australia.*

11.4 *Any liability by us to third parties by contract or otherwise in the event of you reselling the Goods is expressly negatived.*

11.5 *You must advise third parties prior to or upon sale of the Goods to such third parties that we make or give no warranty or representation concerning or in relation to the Goods of any nature whatsoever to such third parties.*

#### **12. GENERAL**

12.1 *Any delay or forbearance on our part in protecting our rights does not in any way constitute a waiver of such rights.*

12.2 *Your non-adherence of any of the terms set out above does not in any way constitute an acceptance on our part or a waiver of our rights.*

12.3 *These Standard Terms of Sale will be interpreted according to the laws of New South Wales and the courts having such jurisdiction in New South Wales.*

12.4 *You will be liable for all of our costs of whatsoever nature (on a full indemnity basis) in the event of your non-payment of the Goods in accordance with these Standard Terms of Sale.*

12.5 *If any provision of this Agreement shall at any time become void, voidable or unenforceable, the remaining provisions of this Agreement shall nevertheless continue to be in full force and effect.*

12.6 *You agree to notify us forthwith of any change in your company or business structure including any change in directors, shareholders, partners, senior management and the like.*