



— P A C K A G I N G —

## TERMS & CONDITIONS

“We, us or our” means Ausipack Pty Ltd supplying the Products to you (as stated in our quote or invoice), and “you” or “your” means the entity ordering the Products (as stated in the relevant credit application form or invoice).

### 1. Acceptance of Terms

1.1 You are bound by these Terms and any additional terms specified in our quotation each time you place an Order with us – unless you have signed a written supply agreement with us for the Products, in which case that agreement applies. Any additional terms or conditions you include in an Order (or in any documentation) do not apply and are void.

### 2. Orders & Deliveries

2.1 (Orders) Each of your Orders must be accompanied by a purchase order number and comply with minimum order quantities notified by us. An Order is binding on us once we notify you that it is accepted. Subject to clause 11 (force majeure), you may not cancel an Order once accepted.

2.2 (Delivery) We will use all reasonable endeavours to deliver the Products to the Delivery Location on or before the Delivery Date. You acknowledge:

(a) we may deliver the Products in one or more lots and at different times and by separate shipments. Each lot must be accepted and paid for by you, notwithstanding any late delivery or non-delivery of any other lot.

(b) the quantity of Products delivered by us under an Order may vary by up to 15% of the quantity ordered; and

(c) if you request delivery by a means other than our normal method of delivery, you must pay all additional costs we incur. If your requested means of delivery becomes impractical (as determined by us), we may choose another method.

2.3 You must ensure that you are able to take delivery of the Products on or before the Delivery Date. If you are unable or unwilling to take delivery of an Order, then we may charge you for any costs of holding incurred, and hold the Products in stock for 45 days after which time we may, at our discretion:

- (a) continue to hold the Products and charge you reasonable storage costs.
- (b) invoice you and deliver the Products to the Delivery Location, even if you are not present or unwilling to accept the Products.
- (c) treat the Order as having been repudiated by you and invoice you for the Products plus other costs we reasonably incur.

### 3. Forecasts

3.1 Where you provide us with forecasts of your demand for Products, you acknowledge that we rely on those forecasts to enable us to order sufficient materials and arrange our resources and production to meet those forecast requirements. As a result, any stock of Products made to forecast, and which is older than three (3) months from the date of manufacture may be invoiced to you.

Such Products will be delivered to you (at your cost) and title will pass to you on payment in full.

### 4. Prices & Payment

4.1 (Price) The Price for the Products is as per our written quote (which expires after 30 days). We may update the quote at any time (prior to acceptance by you) if there is a change to our wages, materials, or any other input costs.

Unless otherwise specified in the quote, all Prices are:

- (a) in Australian dollars for supplies in Australia
- (b) quoted on a Delivery Duty Paid (DDP) basis and exclusive of GST.

4.2 (Payment) We will issue you with a valid tax invoice for the Price (usually on delivery). You must pay each invoice on or before the last business day of the month following the month of invoice unless our quote stipulates other payment terms (eg cash on delivery).

4.3 (Late Payment) If you do not pay an invoice more than 10 Business Days after the due date, we will charge you a one off \$100 administration fee and 10% PA of the total amount owing. This amount will be invoiced weekly.

4.4 (GST) If a party is liable to pay for a Taxable Supply, it will also pay the amount of any GST in respect of the Taxable Supply. All rebates, discounts or other reductions in price will be calculated on the GST exclusive price. Any amount to be reimbursed or indemnified in connection with an Order must be reduced by an amount equal to any corresponding input tax credit to which the party being reimbursed is entitled.

## 5. Risk & Title

5.1 (Risk) Risk in the Products passes to you in accordance with the relevant Incoterm. For example, for DDP, risk in the Products passes to you on delivery to the Delivery Location. To the extent permitted by law, we are not required to give you any notice of transport of Products by sea.

5.2 (Title) Title to the Products passes to you on your payment in full (in cleared funds). However, this does not prevent you from selling the Products in the normal course of your business before title passes). You must keep the Products separate from other goods, so they are identifiable as supplied by us.

5.3 (Pallets) All pallets (used to deliver Products) are held at your risk on delivery, and you indemnify us for all costs incurred by us in relation to pallets which are lost, damaged or otherwise not returned in good condition. You must comply with all relevant third-party pooling arrangements (e.g. CHEP) in relation to the pallets.

5.4 (Tooling) Where we agree any amortised tooling charges, the tooling remains our property unless otherwise agreed in writing.

## 6. Product Warranties

AusiPack Packaging in no way warrants the suitability of the packaging quoted/sold with a Customer Product, and will not be held liable for failures due to lack of compatibility. It is the recommendation of AusiPack that Customers conduct any necessary or reasonable stability trials/testing prior to order commitment

6.1 (Consumer Products) If you are purchasing Products as a Consumer:

- (a) our goods come with guarantees that cannot be excluded under Consumer Law;
- (b) you are entitled to a replacement or refund for a major failure and compensation for any other reasonably foreseeable loss or damage; and
- (c) you are also entitled to have the goods repaired or replaced if the goods fail to be of acceptable quality and the failure does not amount to a major failure.

6.2 (Non-Consumer Products) If you are not purchasing Products as a Consumer, we warrant that on delivery the Products will:

- (a) conform with their Specifications and
- (b) not infringe a third party's Intellectual Property Rights (unless Products are manufactured to Specifications or designs provided by you, or the infringement is caused by your branding or your other Intellectual Property Rights).

To avoid doubt, you are responsible for ensuring the Specifications are appropriate for your intended use of the Product (including any food safety or dangerous goods requirements) – as we do not give any fit for purpose warranty. Upon delivery the customer has **14 days** to inspect goods for any quality faults. After 14 business days the goods will be deemed to have passed all quality control testing.

If we breach the non-infringement warranty in (b), we must (at our cost and as your sole remedy) promptly (i) procure for you the right to continue use of the Products; (ii) modify such Products so that they become non-infringing but otherwise meet your requirements; or (iii) replace such Products with non-infringing Products.

6.3 (Your storage & handling) Once Products are delivered, you must ensure they are handled and stored appropriately (having regard to the nature of the Products). To the extent permitted by law, we are not liable for any loss of or damage to the Products (including any defect or non-conformance to Specifications), to the extent caused by the way you have handled or stored the Products. Unless otherwise advised by us in writing,

you must ensure that Products are stored in temperate control environment, between 13.3°C to 23.9°C with humidity between 30-60%

6.4 (Co-operation with investigations) You must reasonably co-operate with our investigations in relation to allegedly defective Products, including by providing us with all information reasonably requested by us, and allowing us to inspect relevant Products and storage facilities.

6.5 (Specification Tolerances & Changes) Products will be deemed to comply with their Specifications if any variation is within the established industry tolerance. Unless we are manufacturing to a Specification provided by you, we may change or improve the Specification, and will use reasonable endeavors to give you advance notice. If this change to our Specification occurs after your Order, you may cancel your Order without penalty within 5 Business Days of being advised of the change.

## 7. Liability and insurance

7.1 (Our liability) Subject to clause 7.2 and to the extent permitted by law, our liability to you (whether arising in contract, negligence or otherwise) is limited to (at our option):

- (a) the replacement of your Products or supply of Products which are equivalent;
- (b) the payment of the cost of replacing your Product or of the supply of an equivalent Product, or
- (c) Crediting the amount of your Order.

7.2 The above limitation will not apply to our liability for death, personal injury, or tangible property damage to your premises, to the extent that liability is caused by our negligence or wilful misconduct, or to our liability for fraud.

7.3 To the extent permitted by law, we will not be liable to you (whether in contract, negligence or otherwise) for any loss of revenue or profits, goodwill or reputation, loss of or interruption to business, loss of production or any other indirect or consequential loss.

7.4 (Mitigation) Each party must act reasonably to mitigate the loss or damage it suffers under or in relation to an Order.

7.5 (Insurance) We hold public and product liability insurance of \$20million per occurrence and in the annual aggregate.

## 8. Intellectual Property Rights

8.1 (Pre-existing IP) Each party always continues to own its Intellectual Property Rights that were in existence as at the date of this Agreement (Pre-existing IP). Nothing in this agreement transfers any Pre-existing IP of a party to the other.

8.2 , we continue to own all Intellectual Property Rights in our Product Specifications, designs, manufacturing processes, procedures, and trade secrets. You must not reverse engineer, replicate, copy or commercialise any of our Intellectual Property Rights.

8.3 To the extent you require us to use any of your Pre-existing IP in manufacturing the Products, you warrant that your Pre-existing IP does not violates a third party's Intellectual Property Rights, and you indemnify us for all loss, liability, damage, cost, or expense we suffer or incur as a direct result of your breach of this warranty.

8.4 (Developed IP) Unless otherwise agreed in writing, we own all Intellectual Property Rights which we develop in supplying the Products.

## 9. Confidentiality

9.1 (Confidentiality) Each party must (a) strictly maintain the confidentiality of the other party's Confidential Information and only use it for the purposes of this agreement; and (b) only disclose Confidential Information of the other party to its Personnel (including those of its Related Bodies Corporate) who need to know for the purpose of exercising rights and obligations in relation to an Order and who are subject to confidentiality obligations in relation to that information. These confidentiality obligations do not apply to information that is required to be disclosed by law or the rules of a publicly recognised stock exchange.

## 10. Termination

10.1 A party may terminate an Order where:

(a) the other party is in breach of these Terms, and fails to remedy that breach within 21 Business Days of written notice of its breach; and

(b) to extent permitted by law, an application is made to a court to wind up the other party, or a receiver or administrator is appointed to manage the affairs of the other party.

10.2 Any rights or obligations in these Terms which by their nature are continuing, will survive termination or expiration of this Agreement (eg obligations of reimbursement, confidentiality, limitation of liability).

## 11. Force Majeure

11.1 We are not liable for delay or non-performance of our obligations to the extent caused by a Force Majeure Event. We will notify you if we are impacted by a Force Majeure Event and use reasonable endeavours to overcome it. If a Force Majeure Event continues for a period of 60 days or more, either party may terminate the relevant Order.

## 12. Dispute Resolution

12.1 Except where a party seeks urgent interlocutory intervention (eg injunction) or where we seek to recover an amount you owe us, before a party commences legal proceedings: (a) a party must send a written notice to the other clearly describing the claim / dispute (Dispute Notice), and (b) a senior manager of each party must attempt to resolve the issue in good faith.

12.2 If the dispute is not resolved within 30 days of the Dispute Notice, the parties will refer the dispute to mediation in Melbourne (with the parties to agree an appropriate mediator in good faith). Each party will bear its own costs of the mediation (with the costs of the mediator to be shared equally).

12.3 If the dispute is not resolved within 90 days of the Dispute Notice (including as part of any mediation process), either party may commence legal proceedings.

## 13 Credit Notes

13.1 Credit notes are issued at AusiPack's discretion for approved claims, including but not limited to order discrepancies, damaged goods, incorrect invoicing, or other valid reasons as assessed by AusiPack.

13.2 All credit note requests must be submitted in writing within seven (7) days of the invoice date or delivery (whichever is applicable).

### Use of Credit Notes

13.2 Credit notes can only be used for future purchases with AusiPack.

13.3 Credit notes must be applied within twelve (12) months of the date of issuance, after which they will expire.

13.4 Credit notes are non-transferable and cannot be redeemed for cash.

### Difference Between Credit Notes and Refunds

- A credit note is not a refund and does not entitle the customer to a cash reimbursement.
- Refunds will only be provided where required under Australian Consumer Law or at AusiPack's sole discretion.

### Application for Credit Notes

- Credit notes will be applied to outstanding invoices first, unless otherwise agreed in writing.
- If a credit note exceeds the value of the new purchase, the remaining balance will remain in the customer's account for future use within the validity period.

## General Conditions

- AusiPack reserves the right to review, amend, or cancel credit notes at any time if misuse or errors are identified.
- These terms are subject to change without prior notice.

### 14. General

14.1 (Modern Slavery) We will use our best endeavours to ensure no Modern Slavery is involved in supply of the Products, and we comply with all laws relevant to us relating to Modern Slavery.

14.2 (Assignment) You must not assign, novate, or otherwise transfer an Order without our prior written consent.

14.3 (No adverse construction) To the extent permitted by law, nothing in these Terms is to be interpreted against a party solely because it drafted the Terms.

14.4 (Laws) This Agreement will be governed by laws of New South Wales, Australia for Products supplied in Australia.

14.5 (Waiver) The failure of a party to require performance of any obligation under these Terms is not a waiver of that party's rights.

14.6 (Notices & Interpretation) Any notices given under this agreement must be provided to each party using the contact details provided. Words importing the singular include the plural (and vice versa), and "including" means "including, without limitation".

### 15. Definitions

Business Days means Monday to Friday, excluding public holidays in New South Wales, Australia (for supplies in Australia)

Confidential Information means information of a party that is by its nature confidential, including information about a party's pricing, processes, product design, customers, and strategy.

Consumer has the meaning under the relevant Consumer Laws.

Consumer Law means in Australia, as set out in Schedule 2 of the Competition and Consumer Act 2010 (Cth)

Delivery Date means the date the Products are to be delivered, as confirmed by us.

Delivery Location means the delivery location agreed by the parties in writing.

Force Majeure Event means any event or circumstance which is beyond our reasonable control, including acts of God and natural disasters, acts of war, terrorism, epidemic, general unavailability or failures of the internet or public utilities (eg electricity), breakdown of machinery (where not caused by gross negligence), denial of service attacks and other intentional acts of harm by third parties, strikes and industrial action, acts of any government or governmental agency, and international trade embargoes and restrictions.

Modern Slavery means any form of coercion, threats, force, or deception used to exploit any person, and undermine or deprive them of freedom (e.g. human trafficking, slavery, servitude, child labour, forced marriage, or debt bondage).

AusiPack means AusiPack Pty Ltd and its Related Bodies Corporate.

Products means all products described in our quote or invoice.

GST has the meaning in for supplies in Australia – the A New Tax System (Goods and Services Tax) Act 1999 (Cth)

Price means the price for the Products as set out in our quote or invoice.

Intellectual Property Rights means all rights (whether created before, on or after the date of this Agreement and whether registered or unregistered) in respect of copyright, trademarks, patents, designs, protection of confidential information, circuit layouts, inventions, know-how, product or business concepts and any other identifiable result of intellectual endeavour, whether arising under statute or otherwise.

Order means each order for the Products which you place with us.

Personnel means the employees, representatives, agents, officers, contractors, and subcontractors of a party.

Specifications means our standard specifications for the Products, or any other specifications we have agreed with you in writing.

Taxable Supply has the meaning in the relevant GST legislation.

Terms means the terms and conditions in this document.