

# TERMS AND CONDITIONS OF SALE

## 1 Interpretation

In these conditions, unless the contrary intention appears:

**contract** means any contract or agreement whatsoever made by CGL to supply any goods or services to the customer, whether resulting from the acceptance by CGL of an order given by the customer or otherwise;

**contract price** means the total of the prices specified for the Supply by CGL to the customer;

**CGL** means Coventry Group Ltd (ABN 37 008 670 102) of 525 Great Eastern Highway, Redcliffe, Western Australia, trading as Artia;

**customer** means the customer of CGL who buys goods or to whom CGL supplies any services;

**goods** means any or all of the products the subject of Supply by CGL to a customer;

**GST** in relation to a Supply, has the same meaning as in the A New Tax System (Goods and Services Tax) Act 1999 (Cth);

**order** means any offer to purchase the goods from CGL made by a customer;

**price** means, in relation to any goods, the price of those goods; services means any or all of the services (if any) the subject of Supply by CGL to a customer;

**Supply** means the supply of any goods, services or other things the subject of any contract; and

**Tax** means sales tax, GST, value added tax, retail tax or any other tax or duty that may be imposed on or in relation to any Supply made by CGL.

## 2 Conditions

These conditions:

- (a) will form part of any contract and constitute a complete and exclusive statement of the agreements between CGL and the customer with respect to their subject matter (despite any conditions to a contrary effect which may be expressed in any of the customer's order forms or other documents);
- (b) will apply to any Supply by CGL, whether in accordance with any order, contract, or otherwise; and
- (c) may be varied only by writing signed by an authorised officer of CGL.

## 3 Terms of Payment

Time for payment of the price for any Supply is of the essence in any contract. If CGL:

- (a) accepts an order, and CGL has not agreed in writing to extend credit to the customer, the customer must pay the contract price to CGL in full on delivery of the goods or services; or
- (b) has agreed in writing to extend credit to the customer, the customer must pay the contract price to CGL in full prior to the end of the month following the date of the invoice sent by CGL in relation to that Supply.

## 4 Delivery and Costs

CGL may, but is not obliged to, deliver the goods to the customer's premises, in accordance with CGL usual practices, but if:

- (a) the customer requests another method of delivery; or
- (b) CGL elects to use an independent courier to deliver the goods, CGL may arrange another form of transport with that independent courier by a separate contract, and the customer must pay to CGL on demand any costs of that courier incurred by CGL.

## 5 Title and Property

The title to and property in the goods will not pass from CGL to the customer until the customer has paid the contract price in full (other than the costs of any independent courier referred to in clause 4) to CGL in accordance with these conditions. Until then, the customer holds the goods in a fiduciary relationship with CGL as bailee only, must keep the goods separate from other items it holds and must not resell or transfer possession of the goods. If the customer:

- (a) fails to pay the contract price in full when due;
- (b) pays for the goods by cheque (in whole or in part) and that cheque is not met on presentation;
- (c) commits any act of bankruptcy, becomes bankrupt, or is insolvent under administration, as defined in section 9 of the Corporations Act;
- (d) is or becomes insolvent within the meaning as given by any of section 9 and subsection 95A (2) of the Corporations Act or regulation 7.5.02 of the Corporations Regulations; or
- (e) has a controller appointed, as defined in section 9 of the Corporations Act, in respect of any of the customer's property;

CGL may:

- (1) enter onto the premises where the goods are situated; and
- (2) repossess the goods, notwithstanding that the goods may have been affixed to any structure by CGL or the customer, and if necessary for that purpose, may sever the goods from any structure to which they may have been affixed.

If CGL repossesses the goods, it reserves the right to resell them.

The customer must also indemnify and keep CGL indemnified against, and pay to CGL, all expenses, losses and damages incurred or sustained by CGL as a result of, or in relation, to CGL exercising its rights under:

- (a) this clause;
- (b) under any other term, express or implied, of these conditions; or
- (c) otherwise at law or in equity, and any bank or other costs, charges or expenses incurred by CGL resulting from any customer's cheque not being met on presentation.

## 6 Returns policy

Subject to the requirements of any law, CGL:

- (a) may consider, but is not obliged to allow, goods to be returned for credit, if:
  - (1) the goods are returned in good and resalable condition, in the original packaging;
  - (2) the customer first pays all freight and other charges to deliver the goods to CGL premises and CGL will not accept any goods sent, or pay for, "freight forward"; and

- (3) the customer first supplies to CGL the original invoice number and date of supply.
- (b) may, in its sole discretion, allow the following credits for goods returned:
  - (1) for goods returned within 30 days of invoice – full credit;
  - (2) for goods returned between 30 and 60 days of invoice – invoice value less 15%; and
  - (3) for goods returned after 60 days – no credit (unless CGL agrees otherwise, in its sole discretion).
- (c) will not allow credits for:
  - (1) any goods:
    - specifically cut to length;
    - specially made, treated or purchased for the customer;
    - damaged or altered in any way by the customer; or
    - being electrical or non-stock lines; or
  - (2) any freight and delivery fees.

If CGL accepts any goods returned for credit:

- (a) CGL may issue a credit note after it has inspected the goods and found them satisfactory, in its sole discretion; and
- (b) if CGL decides not to issue a credit note, CGL will:
  - (1) so inform the customer; and
  - (2) make the goods made available at CGL premises for the customer to collect.

## 7 Shortages

The customer must report all shortages of goods from the quantities described in the invoice within 24 hours of delivery of the goods otherwise the customer may not make any claim against CGL for any such shortages.

## 8 Consequential Loss

The customer's sole remedy for any defective goods or services will be the repair or replacement of the defective goods or for the re-supply of the defective services.

CGL liability for any breach of any warranty or of any term, express or implied, of any contract in relation to any Supply, will not extend in any circumstances to loss of profits, or other economic loss, or to loss arising from negligence or any other tort, in any case, whether direct, indirect, special, consequential or otherwise.

## 9 Risk and Insurance

Notwithstanding clauses 4 and 5, the goods will be at the customer's risk after they leave CGL premises. If the customer requests it in writing, CGL may, at the customer's expense, insure the goods.

## 10 Taxes

Unless otherwise expressly agreed by, or shown on an invoice issued by, CGL, the prices specified do not include Taxes. The customer will be liable for all such Taxes and in the case of GST or any other amount payable by the customer on account of Taxes, the customer will reimburse to CGL, on demand, the full amount of such Taxes.

## 11 Limitation of Liability

Except as otherwise expressly provided in these conditions, and subject to the succeeding paragraphs, CGL excludes all statements, representations, warranties, conditions, promises, undertakings, covenants and other provisions, express or implied (and whether implied by law (including Act of Parliament) or otherwise), relating to the order, the goods or services (whether as to their quality, fitness for any purpose, correspondence with any description or sample or otherwise), or their delivery being provisions that might otherwise form part of these conditions, or any contract, or be collateral to or form part of any agreement that is collateral to these conditions, or any contract.

Subject to the next paragraph, CGL will not be liable to compensate or indemnify the customer for any loss or damage suffered or incurred by the customer in relation to the order, the goods, or the services, or their delivery, mis-delivery or non-delivery (including but not limited to any loss of profits or other economic loss or to loss arising from negligence or any other tort, in any case, whether direct, indirect, consequential or otherwise).

These conditions do not, and no provision of these conditions purports to exclude, restrict or modify or have the effect of excluding, restricting or modifying:

- (a) the application in relation to the supply of the goods or services of any provision of the Trade Practices Act 1974 or of any similar State or Federal legislation that may not be excluded, restricted or modified;
- (b) the exercise of a right conferred by such provision; or
- (c) subject to the next paragraph, any liability of CGL for breach of a condition or warranty implied by such a provision. CGL liability for a breach of a condition or warranty implied by a provision of Division 2 of Part V of the Trade Practices Act 1974, or of any similar State or Federal legislation where CGL may similarly limit its liability, will be limited to any one of the following:
  - (a) in the case of goods:
    - (1) the replacement of the relevant goods or the supply of equivalent goods;
    - (2) the repair of the relevant goods;
    - (3) the payment of the costs of replacing the relevant goods, or of acquiring equivalent goods; or
    - (4) the payment of the costs of having the relevant goods repaired; and
  - (b) in the case of services:
    - (1) the supply of the services again; or
    - (2) the payment of the cost of having the relevant services supplied again, and CGL may in its sole discretion determine which of the foregoing limits will apply in any case.

## 12 Governing Law

Any Supply by CGL to the customer, and these conditions, will be governed by the laws of or applicable in the Australian state or territory where the goods are delivered or the services are supplied to the customer (or if outside Australia, then by the laws applicable in the Australian state or territory from which the goods or services are supplied).