

General Conditions of Sale



Sustainable Organic Solutions Pty Ltd
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1. DEFINITIONS

ACL means schedule 2 of the *Competition and Consumer Act 2010* (Cth).

Business Day means a day that is not a weekend or public holiday in Brisbane, Queensland.

Consumer has the same meaning as in the ACL.

Consumer Guarantees means the statutory guarantees in the ACL.

Credit Facilities are defined in clause 8.b.

Default Interest means interest at a rate of 1% per month.

Delivery Receipt means a receipt prepared by the Company to be signed by the Customer or its agent when collecting or otherwise taking delivery of the Goods.

Goods mean any goods supplied by the Company to the Customer.

GST means a tax, levy, duty, charge or deduction, together with any related additional tax, interest, penalty, fine or other charge, imposed by or under the GST Law.

GST Law means *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

Insolvency Event includes the winding up, dissolution or cessation of business, appointment of an administrator, liquidator, receiver or official manager, assignment for the benefit of creditors, scheme or arrangement with creditors, insolvency and bankruptcy of a person.

Order means the Customer's order for the purchase of Goods as communicated by the Customer to the Company.

PPSA means the *Personal Property Securities Act 2009* (Cth).

Customer means the buyer acquiring Goods on these Terms.

Customer Credit Application means the Company's credit account application executed by the Customer.

Security Interest has the meaning attributed to that term in the PPSA.

The Company, we, our, us means Sustainable Organic Solutions Pty Ltd (ABN 56 612 413 402) and its successors and assigns.

Terms includes these general conditions of sale and the Customer Credit Application.

2. ORDERS FOR GOODS

- a. We agree to sell and the Customer agrees to buy Goods in accordance with the Terms.
- b. The Customer acknowledges that these Terms are deemed to be incorporated into all Orders accepted by us and all supplies of Goods to the Customer.
- c. These Terms will prevail over any inconsistent terms in any other documents and will supersede all previous negotiations and representations, whether oral or written between the parties.
- d. Any quotation for Goods prepared by us is not an offer by us and it may be withdrawn or altered without notice. Unless we withdraw a quotation it is valid for the stated period, or if no period is stated, 5 days from the date of quotation.
- e. All Orders will constitute an offer to buy the Goods specified and will be subject to acceptance by us in our absolute discretion.
- f. If the Customer submits an Order or otherwise enters into a contract with us for Goods, and those Goods are dispatched or delivered to the Customer, we invoice the Customer for those Goods, or the Customer makes any payments to us for those Goods, the Customer is taken to have accepted these Terms.
- g. An Order cannot be varied or cancelled by the Customer once accepted by us without our written consent.
- h. We will not agree to any variation or cancellation of an Order unless the Customer agrees to indemnify us for any reasonable costs and expenses incurred as a result of or in connection with the variation or cancellation and must pay any reasonable variation or cancellation charge set by us.

- i. Once we have accepted an Order, we will use reasonable endeavours to supply the Goods to the Customer. We reserve the right to vary or cancel an Order upon written notice to the Customer, however, if we vary or cancel that order we will indemnify you for any reasonable cost and expenses.

3. POSSESSION AND TITLE OF GOODS

- a. Risk in the Goods will pass to the Customer when the Goods are delivered to the Customer's nominated delivery address.
- b. Title to the Goods will not pass to the Customer unless and until the Customer has made full payment for the Goods.
- c. The Customer acknowledges that until title in the Goods passes to the Customer, we have the right to call for or recover the Goods at our option and the Customer is obliged to deliver up the Goods if so directed by us.
- d. The Customer agrees to indemnify us for any personal or property damage arising from the Company lawfully entering the Customer's premises to recover the Goods in accordance with these Terms.

4. COLLECTION OR DELIVERY OF GOODS

- a. We will arrange delivery and insurance on the Customer's behalf and at the Customer's sole cost unless the Customer notifies us in writing at the time of placing the Order that the Customer will collect the Goods from us.
- b. We will use our best endeavours to provide you with an accurate delivery date and time, and to update you on any changes. To the extent the law permits, the Customer acknowledges that we are not liable to the Customer for any loss or damage arising from late delivery.
- c. In the event that we procure delivery of the Goods for the Customer in accordance with these Terms, the Customer must accept delivery of the Goods.
- d. We have sole discretion as to the method, charges and carrier for delivery of the Goods.
- e. To the full extent permitted by law, the Customer must indemnify us against any and all claims, loss or damage suffered by us, or as a result of us becoming liable to any third party (directly or indirectly) as a result of entry into any premises for the purpose of delivering the Goods by us or our employees, contractors or agents or as a result of the Customer's refusal or attempted refusal to accept delivery of the Goods, except to the extent that the loss or damage is caused by the act, omission or negligence of The Company or its subcontractor or employee.
- f. If the Customer fails to provide instructions sufficient to enable us to dispatch the Goods to the Customer or the Goods are not collected by the Customer within 14 days of the notification in clause 4a, the Customer will be deemed to have taken delivery from such date and will be liable to us for reasonable storage charges payable monthly on demand.
- g. The Customer indemnifies us against any loss or damage suffered by us, our sub-contractors or employees as a result of delivery, except where caused by the negligence of the Company or a sub-contractor or employee.
- h. The Customer or the Customer's agent will be required to sign a Delivery Receipt upon delivery or collection of the Goods and such signature will be sufficient proof that the Customer has taken possession of the Goods.
- i. If we determine that we are or may be unable to dispatch or deliver the Goods described in an accepted Order to the Customer's nominated delivery address within a reasonable time (or at all) such Order may be cancelled by us in our sole and absolute discretion by giving the Customer notice in writing of our intention of doing so.
- j. To the extent the law permits, if an accepted Order is cancelled, neither party will have a claim against the other for any loss or

damage (including consequential loss or damage) arising from the cancellation.

5. INSPECTION OF GOODS

- a. The Customer must inspect the Goods it receives from us and must within 5 Business Days after the collection or delivery of the Goods give written notice to us of any claim in the event that the Goods are defective, supplied in error, or if there are any discrepancies in the quantity delivered (including particulars of the claim).
- b. The Customer must:
 - i. Preserve the Goods in the state in which they were delivered to the Customer or its end buyer; and
 - ii. Allow the Company (or its nominated agent) access to the Customer's Premises or other location to inspect the Goods.
- c. If the Customer fails to give us written notice together with supporting evidence pursuant to clause 5.a, then to the extent permitted by law, the Customer is deemed to have waived any and all entitlement to bring a claim against us in respect of the defect, error or discrepancies related to the Goods and the Goods are deemed to have been accepted by the Customer in accordance with the Terms.
- d. Subject to clause 5.a, the Customer will be deemed to have both accepted the Goods and confirmed that the Goods reflect those specified in the Order at the expiration of 5 Business Days from the time of collection or delivery.

6. RETURN OF GOODS

- a. We may accept a return of Goods from the Customer in our absolute discretion.
- b. To the extent permissible by law, we will only accept Goods for return if they do not comply with the Order or are defective or faulty as a direct result of manufacture.
- c. In the event that we approve the return of the applicable Goods, we may, at our option, either replace the Goods or refund to the Customer the price paid (if any) by the Customer for the Goods.
- d. We will only accept Goods that are returned to us if they are sent by the Customer to our approved freight forwarder at our nominated address.
- e. Returned Goods which are not faulty, soiled or damaged must be returned to us:
 - i. in their original packaging and in good condition;
 - ii. with details of the invoice number upon which the Goods were originally invoiced to the Customer.
- f. We will return to the Customer, at the Customer's sole expense, any and all Goods returned to us where the Customer has failed to comply with this clause 6. We will invoice the Customer for freight costs incurred by us in dealing with any such returned Goods.
- g. We will accept the freight charges in respect of Goods returned in accordance with this clause 6.
- h. If credits are to be issued to the Customer's account for approved returned Goods, those credits will be provided at the same price paid (if any) by the Customer for the returned Goods.

7. PRICING AND PAYMENT TERMS

- a. The prices for the Goods will be as stated in our quote and acceptance of purchase Order. Prices and product specifications are subject to change without notice, but a change that occurs after a quotation is provided and an Order is placed and accepted will not affect the quotation or Order.
- b. We will make an invoice available to the Customer with respect to each accepted Order when the Goods are dispatched from the warehouse.
- c. Unless we have granted Credit Facilities to the Customer in accordance with clause 8, payment for the Goods must be paid in full by the Customer on or before delivery or collection of the Goods.
- d. No payment will be deemed to be paid until the payment has been received by us in cleared funds.
- e. Without prejudice to our other rights, if the Customer breaches these Terms, we reserve the right to:
 - i. withhold supply of Goods and cancel any accepted Orders;
 - ii. charge Default Interest on all overdue amounts calculated daily and compounded monthly on any overdue amounts

not paid by the Customer by the date for payment on and from the date the monies first became due to us until such time as the overdue amount is settled in full;

- iii. institute legal action for recovery of the outstanding balance of all overdue amounts, Default Interest accrued and costs incurred; and/or
- iv. terminate the Customer's Credit Facilities.
- f. The Customer acknowledges and agrees that:
 - i. we will not be liable to the Customer for any loss or damage (including, indirect or consequential loss or damage) resulting from the actions described in clause 7e.
 - ii. nothing will entitle the Customer to withhold payment of any sum which has become due and payable to us; and
 - iii. nothing will entitle the Customer to any right of set-off unless, and until, we have approved any such amount in writing.

8. CREDIT FACILITIES AND PAYMENTS

- a. If the Customer submits a Customer Credit Account Application to us, the Customer irrevocably authorises us, our employees, contractors and agents to make such inquiries as we deem necessary to investigate the creditworthiness of the Customer from time to time.
- b. Pursuant to a successful Customer Credit Application (to be assessed and approved at our sole and absolute discretion) and subject always to clause 8.c, payment by the Customer (up to a limit specified in the Customer Credit Account Application) for Goods will be due and payable in accordance with the terms specified on the invoice unless we have agreed to alternative terms (**Credit Facilities**).
- c. The Customer acknowledges and agrees that:
 - i. we may vary the monetary limit for the Customer's Credit Facilities at any time upon written notice to the Customer;
 - ii. the Customer's Credit Facilities will have a monetary limit and we may request payment when the limit is reached or exceeded;
 - iii. we may terminate or suspend the Credit Facilities at any time;
 - iv. we will assess and advise for each individual Order if Credit Facilities will be made available to the Customer in our sole and absolute discretion; and
 - v. it is liable to pay our reasonable costs with respect to collecting any overdue monies, including legal fees, debt collection costs and payment of our administrative costs.
- d. We may demand immediate payment of all amounts outstanding (whether or not then due and payable) if:
 - i. the Customer does not comply with these Terms;
 - ii. we consider that the creditworthiness of the Customer has become unsatisfactory,
 - iii. the Credit Facilities are terminated by us.
- e. If we have granted Credit Facilities to the Customer and we (acting reasonably) are of the opinion that the Customer's creditworthiness is or has become unsatisfactory, we may require additional security be provided by the Customer. We will be entitled to withdraw the Credit Facilities until such security or additional security is obtained.
- f. Without limiting any of our rights, we may charge Default Interest calculated daily and compounded monthly on any overdue amounts not paid by the Customer by the date for payment on and from the date the monies first became due to us.

9. LIMITATION OF LIABILITY

- a. We exclude to the full extent possible under law, all implied terms and warranties whether statutory or otherwise, relating to the subject matter of these Terms.
- b. Agricultural, horticultural and pastoral preparations in their application involve varying factors such as differing conditions, soil, climate and methods of application over which the Company does not have control. Whilst the Company believes the Goods sold by it are true to label and effective and safe for the purpose indicated, the Company its employees, contractors and/or agents will not (subject to these Terms and any other applicable laws) be liable to the Customer for any expense or injury (including indirect and consequential loss such as loss of revenue, profits, anticipated savings, goodwill or business opportunity or injury to the Customer's reputation) in contract, tort, under statute or

otherwise, except to the extent that it is caused by the act, omission or negligence of the Company.

- c. The Consumer Guarantees only apply in circumstances where the Customer acquires the Goods as a Consumer in accordance with the ACL. In circumstances where the Consumer Guarantees are applicable, to the maximum extent permitted by law our liability for a breach by us of a Consumer Guarantee is limited to replacing the relevant Goods or refunding the price paid (if any) by the Customer for the relevant Goods (at our election).
- d. Nothing in these Terms intends to exclude, restrict or modify any of our statutory obligations if that cannot lawfully be effected.
- e. We are not liable to the Customer for any third party loss or damage to persons or property (including indirect or consequential loss or damage), for death or injury caused, or contributed to by the Goods, except to the extent that the loss or damage is caused by the act, omission or negligence of The Company.

10. GST

- a. In addition to any amounts payable (that exclude GST) by the Customer to us, the Customer must pay us an additional amount for GST. We will issue the Customer a tax invoice in the form required by the GST Law.
- b. The Customer must pay GST, without deduction or set-off of any other amounts, at the same time and on the same basis as the Customer pays for the Goods.

11. GENERAL

- a. The Terms together with any relevant Customer Credit Account Application constitutes the entire agreement between us and the Customer and supersede all prior representations, contracts, statements and understandings (both verbal or in writing). All other terms and conditions are excluded to the fullest extent permitted by law.
- b. These Terms are governed by and construed in accordance with the law in force in the State of Queensland and the parties accept the exclusive jurisdiction of the Courts of Queensland.
- c. An amendment to this Agreement is only effective if it in writing and signed by the parties.
- d. Any provision of these Terms which is unenforceable or partly unenforceable is, if possible, severed to the extent necessary to make these Terms enforceable, unless this would materially change the intended effect of these Terms.
- e. The Customer must not assign its benefits or novate its obligations under these Terms without our prior written consent. We may assign our rights and novate our obligations under these Terms to another person without the consent of the Customer.
- f. Any right of ours may only be waived in writing and signed by us. No other conduct operates as a waiver or prevents the exercise of the right.

12. PPSA

- a. To secure payment of monies due to us under these Terms, the Customer grants us a Security Interest in the Goods and the proceeds of sale of those Goods. While any amount or obligation of the Customer in these Terms remains to be unsatisfied, the Customer:
 - i. warrants that the Goods are not and will not be used for any personal, household or domestic purpose;
 - ii. authorises us (at the sole cost of the Customer) to do anything which we consider reasonably necessary or desirable to affect the registration of the Security Interest granted pursuant to this clause on the Personal Property Securities Register established under the PPSA to ensure that it is enforceable, perfected and otherwise effective and the Customer agrees to provide all assistance required to facilitate this;
 - iii. must immediately provide us with a copy of any notice the Customer receives under section 64 of the PPSA;
 - iv. irrevocably authorises us, if we become entitled to repossess any or all of the Goods, to enter upon any premises where we reasonably believe any of the Goods are located and remove them; and
 - v. acknowledges that we may immediately upon the Customer breaching these Terms or any other agreement between us and the Customer relating to payment for any Goods that are subject to the Security Interest granted to us under this clause take any action to enforce the Security Interest without demand or notice (to the extent permitted by law).
- b. To the extent the law permits, the Customer waives its rights to receive from us any notice required to be provided under the PPSA and agrees that sections 142 and 143 of the PPSA do not apply to these Terms and that we need not comply with sections 95, 125, 130, 132(3)(d), 132(4) of the PPSA.