

# ROBOT COUPE AUSTRALIA PTY LIMITED ABN 20 003 907 220 TERMS AND CONDITIONS OF SALE

## 1.APPLICATION

- 1.1 These Terms and Conditions of Sale ("Terms") apply to all goods sold by Robot Coupe Australia Pty Limited (ABN 20 003 907 220) («the Company»). «Goods» means all goods sold and/or delivered by the Company to the Customer from time to time and includes goods delivered on consignment.
- 1.2 No amendment, alteration, waiver or cancellation of any of these Terms is binding on the Company unless confirmed by the Company in writing.
- 1.3 The Customer acknowledges that no employee or agent of the Company has any right to make any representation, warranty or promise in relation of the Goods or the sale of the Goods other than as contained in these Terms.

## 2.TERMS OF PAYMENT

- 2.1 Prices quoted are ex Company's premises and are subject to change without notice.
- 2.2 Payments are to be made direct to the Company, strictly net, without any deduction or discount other than as stated herein or in the relevant invoice or statement.
- 2.3 Payments are to be made before the goods are delivered, otherwise noted in writing or indicated on our company's invoices.
- 2.4 Payment by cheque will not be deemed to be made until and unless the relevant cheque is cleared.
- 2.5 Interest is payable on all overdue accounts calculated on a daily basis at the rate of 2% per month as from the due date for payment until payment is received by the Company.
- 2.6 A handling fee as determined by the Company from time to time will be charged for each invoice.

## 3.PROPERTY IN GOODS

Legal and beneficial ownership of Goods supplied by the Company will not pass to the Customer until such time as the Goods so supplied and all other goods supplied by the Company to the Customer from time to time, have been paid in full in cash or cleared funds.

## 4.RE-SALE OF GOODS

- 4.1 Should the Customer be a re-seller then, subject to sub-clause 4.2.4, the Customer has the right to sell the Goods in its own name at full market value and in the ordinary course of business.
- 4.2 Until the amount payable to the Company in respect of the Goods, and in respect of all other goods previously supplied by the Company to the Customer, has been paid in full in cash or cleared fund:
  - 4.2.1 The Customer will hold the Goods only as bailey for the Company;
  - 4.2.2 The Goods must be stored in such manner that they are readily distinguishable from other goods owned by the Customer or other persons and so as to clearly show that they are the property of the Company;
  - 4.2.3 The Customer must indemnify the Company from and against any claim, action, proceeding, damage, loss, cost, expense or liability incurred or suffered by the Company arising out of the possession, use or disposal of the Goods by the Customer or repossession or attempted repossession of them by the Company; and
  - 4.2.4 Any sale of the Goods under clause 4.1 will only be affected by the Customer as trustee for the Company and the proceeds of such sale and the rights of the Company's Customer against its Customer arising from such sale will be held on trust for the Company. The said proceeds must be held in a separate account or otherwise clearly identified in the books and records of the Customer.
- 4.3 If the Customer resells any Goods then, unless the Goods are clearly identifiable by serial numbers or other distinguishing marks, the Customer is deemed to have disposed of the Goods in the chronological order of supply by the Company to the Customer (oldest to most recent).

## 5.DEFAULT

If:

- 5.1 The Goods are not paid for in accordance with these Terms or any other written agreement between the Company and the Customer; or
- 5.2 The Company receives notice of, or reasonably believes that a third party may attempt to levy execution against or attach the Goods; or
- 5.3 Any other event occurs which is likely to adversely affect the Customer's ability to pay for the Goods (including but not limited to the appointment of a receiver, receiver and manager, administrator, controller, liquidator, provisional liquidator, trustee or similar person (each an "insolvency representative") to the Customer's undertaking), then the Company may at any time thereafter, without notice to the Customer and without prejudice to any other rights which it may have against the Customer, terminate any contract relating to the Goods and the bailment referred to in clause 4.2.

## 6.RIGHT TO ENTER PREMISES

In any of the circumstances referred to in the preceding clause, the Customer:

- 6.1 authorises the Company by itself, its agents or representatives at all reasonable times, without notice, to enter onto (with force if reasonably necessary) and at all necessary time(s), to remain in and on any premises where the Goods are located in order to collect the Goods, without being guilty of any manner of trespass; and
- 6.2 assigns to the Company all the Customer's rights to enter onto and remain in and on such premises until all the Goods have been collected.

## 7.ADMINISTRATION, RECEIVERSHIP ETC.

- 7.1 In any of the circumstances referred to in clause 5.3, neither the Customer nor its insolvency representative or any other person acting for the Customer and/or its creditors is entitled to sell, charge, remove, dispose of, use or otherwise deal with the Goods in any way inconsistent with the Company's ownership of the Goods, without the Company's prior written approval.
- 7.2 The Customer, its insolvency representative or any other person acting for or on behalf of the Customer and/or its creditors is obliged to re-deliver the Goods to the Company immediately or immediately on his appointment at its or his expense.
- 7.3 If the Goods are returned to or collected by the Company, the Company will within 28 days, account to the Customer or its legal representative for all monies received for the Goods from the Customer less the Company's reasonable administration charges, expenses incurred and loss of profits involved.

## 8.CONSIGNMENT

If the Company supplies goods on consignment ("Consignment Goods") then:

- 8.1 the Customer must bear all risk of loss and/or damage to the Consignment Goods and must, in addition, effect and maintain insurance against loss, fire and theft of the Consignment Goods, in an amount adequate to cover the Company's interest as owner of such Consignment Goods;
- 8.2 the Customer must keep the Consignment Goods free from liens, encumbrances and adverse claims of all kinds which might otherwise diminish or adversely affect the Company's exercise of its full rights of ownership of the Consignment Goods;
- 8.3 if the Consignment Goods are lost or damaged while in the Customer's possession or care, the Customer undertakes to reimburse the Company, within 30 days of date of replacement or repair, as the case may be, the full cost of such replacement or repair; and
- 8.4 the Customer must provide to the Company, a monthly statement by the 15th of the following month, listing in full all Consignment Goods supplied to the Customer as well as full details of all purchasers of the Consignment Goods sold during the preceding month, together with the quantities of the Consignment Goods purchased and the relevant prices paid.

## 9.CUSTOMER AS TRUSTEE

If the Customer carries on business as trustee of a trust then the Customer warrants that:

- 9.1 the Customer enters into the contract as trustee of a trust;
- 9.2 the Customer has all requisite powers to enter into the contract;
- 9.3 the beneficiary of the trust approves the purchase of the Goods on the terms of the contract; and
- 9.4 the assets of the trust are available to the Company in satisfaction of any debt incurred by the Customer.

## 10.SALES TAX AND GOODS AND SERVICES TAX

- 10.1 Sales tax and Goods and Services tax ("GST") are not included in the quoted price.
- 10.2 Unless the Customer produces a Sales Tax Exemption Certificate applicable to the Goods and quotes its Sales Tax Exemption Number, the Customer must pay all sales tax payable for the Goods at the date of invoice.
- 10.3 If GST is imposed on the Company in respect of the Goods then the Customer must pay to the Company the amount of such GST in addition to the quoted price.
- 10.4 The Company will give the Customer written notice of the amount of any GST payable under this clause and provide a tax invoice showing the amount of GST payable.

## 11.CUSTOMS DUTIES, TARIFFS AND LEVIES

All applicable customs duties, tariffs and levies are payable by the Customer unless the order, order confirmation, invoice or other writing indicates otherwise.

## 12.DELIVERY

- 12.1 Availability dates are estimates only, but the Company will use its best endeavours to maintain these estimates.
- 12.2 At the Customer's request, the Company will arrange for the delivery of the Goods into the Customer's premises at the Customer's expense.
- 12.3 Customer machine orders will NOT be delivered directly to End User's premises.

## 13.DELIVERY BY INSTALMENTS

- 13.1 The Company reserves the right to deliver the Goods in whole or by instalments, as well as to deliver prior to the date for delivery and in such event the Customer must not refuse to take delivery of the Goods.
- 13.2 Where the Goods are delivered by instalments, each instalment is sold under a separate contract.
- 13.3 Any failure on the part of the Company to deliver instalments within any specified time does not entitle the Customer to repudiate the contract with regard to the balance remaining undelivered.

## 14.RISK

The Goods are entirely at the risk of the Customer from the moment the Goods leave the Company's premises.

## 15.INSPECTION

Unless the Customer has inspected the Goods and given written notice to the Company within seven (7) days after collection or delivery that the Goods do not comply with the relevant specifications or descriptions, the Goods are deemed to have been accepted in good order and condition.

## 16.RETURN OF GOODS

- 16.1 No claim for credit or damaged goods shall be considered unless notification is made within 7 days in writing to the Company.
- 16.2 Any costs incurred with the return of incorrectly ordered goods will be born by the Customer.
- 16.3 Any goods returned for credit will automatically be subject to a 20% re-stocking fee.

## 17.CANCELLATION OF ORDER

No order may be cancelled, modified or deferred without the prior written consent of the Company and if such consent is given, the Company will be reimbursed for all losses, including loss of profits, and paid a cancellation and re-stocking fee (being not less than 20% of the invoice value of the Goods).

## 18.COMPANY'S LIABILITY LIMITED

- 18.1 These Terms do not affect the rights, entitlements and remedies conferred by the Trade Practices Act (1974).
- 18.2 The Company is not subject to, and the Customer releases the Company from any liability (including but not limited to consequential loss or damage, removal costs or re-installation costs or liability for loss of use or profit) because of any delay in delivery or fault or defect in the Goods. The Customer acknowledges that the Company is not responsible if the Goods do not comply with any applicable safety standard(s) or similar regulation(s), and that the Company is not liable for any claim, cost, damage or demand resulting from such non-compliance.
- 18.3 If any statutory provisions under the Trade Practices Act 1974 or any other statute(s) apply to the Agreement then, to the extent to which the Company is entitled to do so, the Company's liability under the statutory provisions is limited, at the Company's option, to:
  - 18.3.1 replacement or repair of the Goods or the supply of equivalent Goods; or
  - 18.3.2 payment of the cost of replacing or repairing the Goods or of acquiring equivalent goods; or
  - 18.3.3 refund of the purchase price, and in any case, the Company will not be liable for any consequential or other direct or indirect loss or damage.

## 19.WARRANTY

- 19.1 The Company warrants to the Customer that the Goods will be supplied in an undamaged condition and will be free from defects in material and workmanship.
- 19.2 On discovery of any defect in the Goods, the Customer must notify the Company in writing of such defect. All warranty claims must be received by the Company within seven (7) days of the day of delivery.
- 19.3 The Company provides a warranty on parts and labour against faulty material or workmanship for a period of 24 months from the date of delivery unless otherwise stated in writing. The warranty covers faulty workmanship on the equipment. The warranty covers all components contained within the equipment housing but does not include consumable items that are effected by normal use wear, such as: bowls, blades, seals, bearings, power cords. Equipment must be correctly installed in accordance with the manufacturer's instructions, placed level and properly positioned in relation to clearances, heat /cold sources and airflow.
- 19.4 The warranty is void if the Goods have not been maintained as per the Instruction Manual, or if the Goods have been subject to misuse, negligence or accident, operated incorrectly, suffered by unauthorised persons or at the date of the claim the Goods have not been paid in full. • If more information is required on any warranty prerequisite, please contact the Company.
- 19.5 The Customer must not carry out any remedial work to alleged defective Goods without first obtaining the written consent of the Company to do so. The Customer's failure to provide written notice to the Company within the required time of any alleged breach of the above warranty will release and discharge the Company from any obligation or liability for that breach of warranty. The above warranty extends only to the Customer and to no other person.
- 19.6 The provisions of any act or law (including but not limited to the Trade Practices Act 1974) implying terms, conditions and warranties, or any other terms, conditions and warranties which might otherwise apply to or arise out of the agreement between the Company and the Customer in relation to the Goods (the «Agreement») are hereby expressly negated and excluded to the full extent permitted by law.
- 19.7 The Customer expressly acknowledges and agrees that it has not relied upon or on, and the Company is not liable for any advice given by the Company, its servants, agents, representatives or employees in relation to the suitability for any purposes of the Goods.
- 19.8 The warranty covers defects and faulty workmanship under normal use (single shift) with recommended service maintained on the equipment.
- 19.9 Warranty work is to be undertaken during normal business working hours ( 8:30am to 5:00pm Monday to Friday except for Public Holidays) and does not include travel to and from the equipment's location.
- 19.10 Delivery to and from the Company or service agents, is at the Customer's care. Credit on replacement parts will ONLY be issued on receipt and examination of damaged parts and determined by the Company to be defective.
- 19.11 All warranty / service work is a return to base for all machines unless otherwise agreed to by the Company prior to any work being carried out.
- 19.12 All large machines to be commissioned and installed by a licenced technician.

## 20.CATALOGUES

Particulars in leaflets, catalogues, drawings, brochures and other printed are illustrations only, and form no part of the contract between the Company Customer, and are not binding on the Company.

## 21.SAMPLES

Any sample inspected by the Customer is solely for the Customer's convenience does not constitute a sale by sample. All samples remain the proper Company.

## 22.SPECIFICATIONS

- 22.1 Unless otherwise agreed in writing, the Goods are supplied specification as to weight, quantity, size, dimensions, finishes, composition and physical properties as may be published generally by the Company or as may be set out in any specification issued by in relation to the Goods, or, if no such specification has been set out, subject to such specification as is normally regarded commercially acceptable.
- 22.2 Where any specification for the Goods are to be supplied by, they must be supplied in a reasonable time to enable the Company to complete delivery by the date for delivery.
- 22.3 NOTE : Goods with a rating of 240VAC, 10 Ampere or 15 Ampere are fitted with the correct plugs and any 415V are NOT supplied with plugs. Plugs and installation are at the Customers expense.

## 23.CONTRACT

- 23.1 The terms of contract between the parties are wholly contained Terms and any other writing signed by both parties. The contract to have been made at the Company's place of business in Sydney cause of action is deemed to have arisen there.
- 23.2 The provisions of the United Nations Convention on contracts International Sale of Goods adopted at Vienna, Austria on 10 does not apply to any Goods supplied by the Company to the Customer.

## 24.FORCE MAJEURE

The Company will not be liable for any breach of contract due to any matter beyond the Company's control (including but not limited to transportation issues, fire, flood, earthquake, acts of God, strikes, lock-outs, stoppages, wars, riots or civil commotion, intervention of public authority or accident).

## 25.WAIVER OF BREACH

No failure by the Company to insist on strict performances of any of the Terms is a waiver of any right or remedy which the Company may have, waiver of any subsequent breach or default by the Customer.

## 26.NO ASSIGNMENT

Neither the Agreement nor any rights arising under the Agreement can be changed by the Customer without the prior written consent of the Company, with the Companys absolute discretion.

## 27.SEVERABILITY

If any provision contained in these Conditions of Sale is held by a court of law, invalid or unenforceable, the validity and enforceability of the remaining provisions are not affected.

## 28.CREDIT ACCOUNT

- 28.1 The Company will provide credit on sales to Customers, that are approved after completion of the Company's Account Application Form.
- 28.2 The Company reserves discretion the right to refuse credit to any Customer.
- 28.3 The Company reserves the right to cancel an approved Credit Account without notice.