

AUSTRALIAN PURCHASE ORDER TERMS AND CONDITIONS

1. APPLICATION OF THESE TERMS & CONDITIONS

- 1.1 These terms & conditions (“**agreement**”) shall apply wherever Compass Group procures goods and/or services from the Supplier if there is no effective written agreement with Supplier signed by Compass Group. A binding contract under this agreement will be formed either upon the written acceptance by Compass Group of the Supplier’s quotation or the Supplier’s acceptance of a Compass Group purchase order, whichever is applicable, and the terms contained herein shall take precedence over and prevail to the extent of any inconsistency with the Supplier’s terms or conditions of trade.

2. THIS AGREEMENT

- 2.1 This agreement will constitute the entire agreement of the parties as to its subject matter and supersedes and cancel all prior oral or written agreements, understandings and negotiations in connection with it and may only be amended as agreed in writing signed by both parties. Any term and condition that may be stated in any other document issued by the Supplier that purports to amend the terms of this agreement, is not binding on Compass Group.

3. SCOPE OF THE AGREEMENT

- 3.1. Compass Group may place purchase orders with the Supplier for such quantities of products, services or a combination of products and services (together “**products**”), as Compass Group may require from time to time, throughout the period of time the parties perform under this agreement (“**Term**”). The Supplier must provide the products Compass Group orders in accordance with this agreement at the price specified in this agreement.
- 3.2. Despite anything else in this agreement, any volume rebates or discounts for products acquired by Compass Group will only become binding on the Supplier when products are accepted (either by acceptance of the products or confirmation in writing) by Compass Group, the Compass Group nominated distributor, or, in the case of direct deliveries, the person with the authority to accept delivery. Where any product is returned or otherwise found to be unfit for use, or as otherwise provided under clause 15, a corresponding adjustment will be made to the relevant volume rebate or discount.
- 3.3. Compass Group may specify an expected volume of products. Regardless of any estimate or periodic purchases, Compass Group does not give any undertaking, representation or guarantee that Compass Group will require any minimum volume or quantity of products from Supplier. The Supplier is not the exclusive supplier of the products to Compass Group and Compass Group may source products from third parties at any time for any reason.
- 3.4. The relationship between Compass Group and the Supplier is that of supplier and buyer and there is no agency, joint venture, employee relationship or partnership between the parties.

4. WARRANTIES

- 4.1. The Supplier warrants that as at the date of this agreement and during the Term:
- (a) it has the power and authority to enter into this agreement and to perform its obligations under this agreement and has not relied on any information provided by Compass Group to enter this agreement or gear up to provide the products;
 - (b) it will produce and provide all products in a diligent and professional manner with the degree of skill and care that is normally exercised by suppliers supplying products of a similar nature;
 - (c) the products shall, at the time of supply, match the description in this agreement and be of quality which is in the opinion of Compass Group satisfactory, fit for the purpose, the correct retail quantity and weight, produced in a competent manner of sound materials and of the nature, substance and quality specified by Compass Group and will at all times be of a standard which is in the opinion of Compass Group satisfactory;
 - (d) the products conform in every respect with the requirements of the Compass Group Supplier Requirements as advised from time to time;
 - (e) it has all licences, authorisations, consents, approvals and permits required by applicable laws in order to provide the product and perform its obligations under this agreement;
 - (f) the provision of products by the Supplier and the use thereof will not infringe the intellectual property of any third parties;
 - (g) it has effected all insurance as required by law and under this agreement;
 - (h) it will comply with this Anti-bribery warranty - as a matter of corporate policy and as strictly prohibited under the Compass CBC, Compass Group expressly prohibits payments or offers of bribes and/or facilitation payments (otherwise known as “grease” payments) in connection with Compass Group business operations by any supplier or agent engaged to provide goods or services to Compass.
 - (i) Supplier undertakes and agrees that in connection with this agreement and the transactions contemplated by this agreement, it will comply with all applicable laws, rules, regulations, decrees and/or official governmental orders of the United Kingdom, the United States of America and the country of operations relating to anti-corruption and anti-money laundering.
 - (ii) Supplier agrees, undertakes and confirms that it and each member of the Supplier Group, has not made, offered, promised to make, authorised the making of, and will not make, offer, or promise to make, or authorise the making of, any payment or other transfer of any financial or other advantage or anything else of value, including without limitation the provision of any funds, services, gifts or entertainment, directly or indirectly to any:
 - a. government official;
 - b. director, officer, employee or agent/representative of an actual or prospective counterparty, supplier or customer of Compass;
 - c. director, officer, employee or agent of Compass Group or its co-venturers or any of its or their affiliates;
 - d. political party, official of a political party, or candidate for public office;

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- e. agent or intermediary for payment to any of the foregoing; or
- f. other person or entity;

for the purpose of obtaining, rewarding or influencing the award of this agreement or for any improper advantage or improper purpose or where it would be improper for the person to accept such an advantage in connection with the performance of this agreement and the transactions contemplated hereunder or in connection with any other business transactions involving Compass, if and to the extent that to do so is or would be in violation of or inconsistent with the principles or requirements of any anti-bribery or anti-money laundering laws applicable to Compass Group or to Supplier, or to their respective parent companies, including, but not limited to, the *UK Bribery Act 2010*, the *UK Anti-Terrorism, Crime and Security Act 2001*, the *U.S. Foreign Corrupt Practices Act* and successor legislation, legislation implementing the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions or the United Nations Convention Against Corruption, and/or the anti-corruption or anti-money laundering laws of the country of operations.

- (i) Notwithstanding the foregoing undertakings, Supplier agrees to notify Compass Group promptly upon discovery of any instance where Supplier has failed to comply with any provisions of this clause.

5. QUALITY ASSURANCE

5.1. The Supplier will comply in all respects with all applicable legislation, health regulations and codes of practice. The Supplier will familiarise itself with the internal policies and procedures of Compass Group and its clients and shall at all times ensure due compliance by its employees, agents and contractors with those policies, procedures and all applicable laws, regulations and industrial awards and agreements, including all safety, health and environmental laws and regulations.

- (a) Compass Group has a Code of Business Conduct (the "Compass CBC") and Code of Ethics. Electronic copies can be downloaded from the following web site:

<https://www.compass-group.com.au/who-we-are/#s-corporate>

- (b) Supplier shall:

- (i) carefully review the Compass CBC and Code of Ethics;
- (ii) ensure that the Compass CBC and Code of Ethics is disclosed to all Supplier's personnel; and
- (iii) undertake and agree that, in connection with Supplier performance under this agreement, all Supplier personnel shall act consistently with the applicable principles of the Compass CBC and Code of Ethics in all material respects.

5.2. The Supplier shall:

- (a) at the request of Compass Group and at the Supplier's cost, submit samples of the product for testing, by an independent body of Compass Group's choosing, against applicable standards; and
- (b) allow Compass Group, its employees or agents, on the provision of reasonable notice to the Supplier, to conduct a quality audit on the premises of the Supplier and delivery vehicles as requested throughout the Term.

5.3. Compass Group reserves the right to suspend, vary or cancel any order for product or services if as a result of any audit, inspection or testing Compass Group requires any corrective action to be undertaken to ensure compliance with relevant legislation, health regulations, codes of practice and the Compass Group Supplier Requirements.

5.4. The Supplier shall deliver all product or services using registered vehicles which shall be compliant with all relevant legislation, health regulations, codes of practice and the Compass Group Supplier Requirements.

5.5. The Supplier shall respond within 2 (two) days in writing to any supplier service report (or similar) requested by a Compass Group's representative.

5.6. The Supplier shall control and measure its use of raw materials and natural resources connected with its activities, processes, products and services and shall also control and measure the resulting waste, pollution and greenhouse gas emissions in an environmentally responsible manner in accordance with accepted Australian Standards and laws.

6. PRICING AND PAYMENT TERMS

6.1. Prices shall be as per the agreed pricing set out in the Supplier's quotation or if there is no price specified then the price as agreed between the parties from time to time. Prices are inclusive of all costs, delivery charges, and taxes, unless expressly provided otherwise in this agreement.

6.2. Rebate calculations are to be on the basis of Compass Group's total purchases and shall not be attributable only to the purchase volume of any individual site or client of Compass Group. Compass Group will deduct from an invoice a rebate at the rate as set out in the Supplier's quotation, if any, or where otherwise agreed between Compass Group and the Supplier.

6.3. Without prejudice to any other rights, Compass Group may deduct from any monies which may be, or become, payable to the Supplier any money due from the Supplier to Compass Group pursuant to this agreement. Nothing in this Clause shall affect the right of Compass Group to recover from the Supplier the whole of the debt, or any balance of the debt, which remains owing after such a deduction has been made.

6.4. Payment will be made to the Supplier for all valid, processed, and approved tax invoices in the next payment run following 60 days from the end of each month products are supplied (unless otherwise agreed and signed in writing) for all invoices that have been assessed by Compass Group as valid, approved for payment and processed on or before the end of each month. The Supplier acknowledges that any proposed due date of payment in its invoice is not effective as the due date of payment of its invoice is governed by this clause.

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- 6.5. Invoices which do not comply with GST legislation or contain other errors will not be processed until corrected.
- 6.6. All payments made by Compass Group shall be by cheque or electronic funds transfer, followed by a copy of the remittance advice.
- 6.7. The Supplier agrees that Compass Group will have no responsibility or liability to pay any invoices provided by Supplier to Compass Group under this agreement, or any other liabilities claimed by Supplier against Compass Group whether under this agreement or otherwise, if Compass Group receives an invoice or claim for those amounts later than 6 months after the date the liability arose.

7. DELIVERY TERMS / FREIGHT

- 7.1. A tax invoice must accompany each delivery that the Supplier makes to a Compass Group Sourcing Site. Compass Group Sourcing Sites will be determined by Compass Group from time to time at its discretion.
- 7.2. The Supplier must send a copy of each priced invoice relating to a delivery made to any/all Compass Group Sourcing Sites to Compass Group AP Processing PO Box 5262, South Melbourne, Victoria 3205. To ensure payment is received within the agreed payment terms under clause 6, invoices must be sent to the post office box address on the same day as delivery of the product or completion of the services. For this invoice to be processed, the Compass Group Sourcing Site's 8-digit number must be included on the invoice.
- 7.3. All packaging and labelling must comply with all relevant legislation, health regulations and codes of practice, including but not limited to the *Competition and Consumer Act 2010*.

8. CONFIDENTIALITY

- 8.1. The parties agree not to disclose, or permit to be disclosed, any confidential information relating to this agreement without the prior written consent of the other party.
- 8.2. The obligation in this clause 8 survives termination or expiry of this agreement.

9. ASSIGNABILITY

- 9.1. This agreement is not assignable by the Supplier without the prior written consent of Compass Group. A change in the control of Supplier and any other disposal of rights and obligations of the Supplier is an assignment for the purposes of this clause.

10. TERMINATION AND SUSPENSION

- 10.1. If the Supplier:
 - (a) is in breach or default of any of the terms of this agreement and fails to rectify that breach or default (if capable of remedy) within 5 (five) days after being requested to do so in writing by Compass Group;
 - (b) is in breach or default of any material term that is incapable of being rectified;
 - (c) has a liquidator, provisional liquidator, receiver, receiver and manager, administrator or external controller appointed to it or such proceedings are threatened;
 - (d) resolves to wind up or is subject to an order to wind up or ceases to do business;
 - (e) enters into a scheme of arrangement with its creditors or otherwise comprises or compounds its debts with its creditors; or
 - (f) fails to comply with clause 5.1 or 16,then Compass Group may in its sole and absolute discretion and without prejudice to any other right or remedy it may have, immediately terminate this agreement by notice in writing to the Supplier.

11. REPORTS

- 11.1. The Supplier agrees to provide to Compass Group (upon verbal or written request) detailed reports pertaining to the supply of products.

12. MONTHLY STATEMENT ADDRESS

- 12.1. All of the Supplier's monthly statements should be sent to:
 - Compass Group (Australia) Pty Ltd
 - PO Box W2100
 - PERTH W.A. 6846
 - ATTN: Account Payables Manager

13. LAWS TO APPLY

- 13.1. The terms of this agreement shall in all respects be construed according to the laws of the State of New South Wales.
- 13.2. The parties each submit to the non-exclusive jurisdiction of the courts of New South Wales and the courts of appeal from them.

14. INVOICING

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- 14.1. The Supplier shall comply with all policies, procedures and requirements of Compass Group's electronic Invoicing system "e-Invoicing" details of which shall be communicated by Compass Group from time to time.
- 14.2. All e-Invoicing shall be in cxml format (refer to www.cxml.org for technical information relating to the required standard).
- 14.3. If the Supplier is unable to comply with 15.1, Compass Group may in its absolute discretion permit the Supplier to send a copy of each tax invoice to Compass Group AP Processing, Po Box 5262, South Melbourne, Victoria 3205, fax to (03) 9621 7410 or emailed in PDF or TIF format to: compass.invoices@converga.com.au. To ensure payment is made, tax invoices must be sent on the same day as delivery and have the Compass Group Sourcing Site's 8-digit number included.

15. DEFECTIVE PRODUCT OR SERVICE

- 15.1. If Compass Group claims that any products supplied to Compass Group under this agreement are defective, Compass Group may return or offer to return the product to the Supplier ("Returned Products") (or in the case of services, request the services be performed again by the Supplier), at no additional cost.
- 15.2. In addition to any other rights Compass Group may have at law or under any other term of this agreement, the Supplier will:
- (a) at Compass Group's option:
 - (i) replace the Returned Products free of charge, including delivery costs or perform the services again, free of charge; or
 - (ii) credit Compass Group with the invoiced cost of the Returned Products or the defective services; and
 - (b) reimburse Compass Group for the cost of returning the Returned Products.

16. INSURANCES

- 16.1. The Supplier warrants that it has in place the following insurances:
- (a) product and public liability insurance for the amount of \$10,000,000 (ten million dollars) per occurrence;
 - (b) motor vehicle liability insurance for the amount of \$10,000,000 (ten million dollars) per occurrence; and
 - (c) workers compensation insurance for the amount as required by law,
- and will provide Compass Group with the certificates of currency, upon demand and from time to time, in respect of each required insurance policy.

17. INDEMNITIES

- 17.1. The Supplier will, to the extent permitted by law, indemnify and keep indemnified and hold harmless Compass Group, its officers, employees, agents and contractors against:
- (a) any loss (including consequential loss) or damage of any kind whatsoever to any property (including, but not limited to, that of Compass Group); and
 - (b) claims by any person in respect of personal injury (which expression includes illness or disability) or death; and
 - (c) any other liability, loss (including consequential loss) or damage and any claims, actions, suits, demands, expenses costs (including legal costs on an indemnity basis) or proceedings of whatever nature in respect of breach of contract, breach of any warranties or representations (express or implied), breach of statutory duty or negligence, arising out of, or in any way in connection with the execution, performance or purported performance of the Supplier's obligations under this agreement except to the extent that any such liability, loss or damage has been caused by the negligent act or omission of Compass Group or anyone acting through Compass Group (other than the Supplier and its subcontractors).
- 17.2. Each indemnity in this agreement is a continuing obligation separate and independent from the Supplier's other obligations and survives termination for any reason of this agreement.
- 17.3. It is not necessary for Compass Group to incur expense or make payment before enforcing a right of indemnity conferred by this agreement.
- 17.4. Compass Group shall be entitled to retain out of any payment which would otherwise be payable to the Supplier whether in connection with this agreement or any other, such monies as Compass Group may reasonably require to meet any contingent claim, action, proceedings, loss (including consequential loss), damage, costs or expenses arising from or in connection with any breach by the Supplier of its obligations under this agreement.
- 17.5. Compass Group's right to set-off shall be cumulative and in addition to any other rights or remedies which it may have at law or equity.