

# QUATRO DESIGN PTY LTD GENERAL TERMS & CONDITIONS OF SALE

QUATRO DESIGN PTY LTD (Quatro) ABN 76 108 351 355 hereby agrees with the Customer that unless expressly amended in writing by Quatro these General Terms & Conditions of Sale comprise the sole terms and conditions of each contract and understanding between Quatro and the Customer in relation to the supply of goods in respect of each order accepted by Quatro notwithstanding anything that may be implied or expressed to the contrary in any of the Customer's inquiries, purchase order forms or other documents, and shall supersede all other conditions and agreements between the parties either written, oral or established through a course of dealings between the parties, and shall without further notice apply to all future transactions between the parties whether or not these Conditions of Sale are delivered or executed in the course of such transactions.

## A. QUOTATIONS AND CONTRACT

- a) A quotation by Quatro shall be an invitation to the Customer to trade with Quatro; it shall not constitute an offer. Quotations for GRC products will remain valid for thirty (30) business days from the date of the quotation after which date they are subject to alteration or withdrawal without notice. Any modification to a quotation will be effective only if it is expressed in writing by Quatro.
- b) Transport Quotes for the delivery of Quatro Design products are subject to change up to 30 days prior to dispatch
- c) The date of each contract shall be the date upon which Quatro accepts the Customer's order, as evidenced in writing by Quatro by issuing the pro forma invoice.

## B. DIMENSIONS, WEIGHTS AND MEASURES

- a) Quatro shall be allowed a tolerance of up to plus or minus (+/-) 2% in respect of all dimensions. All weights mentioned in catalogues, price lists and quotations or assessed from any samples provided are acknowledged by the Customer to be estimates only.

## C. PRICES

- a) All unit prices are expressed in Australian currency and exclude the costs of delivery. The price(s) charged to the Customer shall be the price(s) ruling as at the date Quatro accepts the Customer's order.
- b) If any statutory charge, duty or impost is levied in respect of the goods, and which has not been allowed for by Quatro in calculating the price, then provided it has been levied after the date of the Contract the same shall be borne by the Customer, and the price shall be increased accordingly.
- c) All prices quoted for Quatro manufactured goods are exclusive of goods and services tax. For all invoiced items, goods and services tax shall be charged as a separate item in accordance with the applicable rate at the time the invoice is raised.
- d) Quatro reserves the right to require the Customer to pay to Quatro at any time prior to the delivery of the goods, such part or whole of the contract as Quatro considers appropriate.

## D. MANUFACTURING

- a) Goods may at the discretion of Quatro be manufactured in whole or in part by any other

manufacturer.

- b) Upon receipt of payment of the deposit set out in the pro forma invoice, Quatro will commence manufacture of the goods unless Quatro, in its absolute discretion, has agreed to commence manufacture prior to the receipt of any monies.
- c) Quatro will make all reasonable efforts to complete manufacture on schedule, but accepts no responsibility for any delay in manufacturing.

## E. DELIVERY

- a) Quatro will only despatch goods to the Customer after it has received payment for the goods in full except where Quatro has agreed otherwise, in its absolute discretion.
- b) All costs of packing, freight and delivery to the agreed place of destination must be paid by the Customer as charged by Quatro, unless specified otherwise. Where mechanical unloading (e.g. by forklift, crane) of the goods is required by the Customer upon their arrival at the agreed place of destination, the Customer solely responsible for the risk and all costs associated with the mechanical unloading of the goods. Delivery is deemed to occur upon the arrival of the goods at the agreed place of destination.
- c) Freight and delivery charges include an allowance for reasonable time spent on-site by the freight company to complete delivery. Should additional delivery costs be incurred as a result of delays due to the actions of the Customer, the Customer is liable for any additional costs and must pay Quatro within seven (7) days of the date of invoice.
- d) If the Customer directs that the delivery of the goods be delayed or staggered over different times or to different addresses from those specified in the Contract, then the Customer will be liable for any additional charges incurred by Quatro in complying with the Customer's direction. Any such additional charges are payable within seven (7) days from the date of invoice.
- e) In the event that the Customer requests a delay in the scheduled delivery date following commencement of production, then all risk in relation to the goods shall pass to the Customer on the original scheduled delivery date and any costs (whether or not incurred through a third party) associated with insuring or storing the Customer's goods including but not limited to additional insurance costs, subsequent transportation of goods, storage at Quatro's premises or storage at external facilities, must be paid by the Customer. Any balance due on invoice is payable as per the original scheduled delivery date.
- f) If the Customer is unable or fails to accept delivery of the goods, Quatro may deliver the goods to a place of storage nominated by the Customer and failing such nomination to a place determined by Quatro in its absolute discretion. Such delivery shall be deemed to be delivery of the goods to the Customer at the agreed place of destination. The Customer is liable for all costs incurred by Quatro associated with the Customer's inability or failure to accept delivery of the goods.
- g) If the Customer makes its own transportation arrangements to collect the goods from Quatro, the delivery is deemed to have occurred at the point of collection by the Customer's transportation contractors and all risk passes on delivery to the Customer's transportation contractors.

## F. RISK AND INSURANCE

- a) All risk in the goods shall pass to the Customer upon the earlier of the scheduled delivery date and the date of delivery to the Customer at the agreed place of destination notwithstanding that delivery of the goods may be staggered or that the Customer may not have signed a receipt for the goods.

## G. DELAYS

- a) Quatro will make all reasonable efforts to have the goods delivered to the Customer on the date(s) agreed between the parties as the delivery date(s), but Quatro shall be under no liability whatsoever should delivery not be made on the date(s) agreed or by the period stated. Any delivery date specified is an estimate only.
- b) If Quatro is prevented or hindered from delivery of the goods (or any part thereof) by reason of any force majeure then:
  - (i) Any delay in manufacture, transportation or delivery thereby incurred shall not give rise to any cause of action by the Customer against Quatro;
  - (ii) during the period such delay continues Quatro and the Customer shall each have the option to suspend or cancel any subsequent obligations or balance of obligations of the Contract on either of their parts provided that:
    - 1) written notice shall be given by the party exercising such option;
    - 2) on any such suspension or cancellation by the Customer any goods attributable to the contract whether partly or fully manufactured at the time of such suspension or cancellation, must be accepted by the Customer when delivered by Quatro, and the Customer must pay for all such goods as invoiced by Quatro (acting reasonably) within seven (7) days of the date of the invoice;
    - 3) in the case of cancellation the Customer's account may be credited against orders in relation to any sums paid by the Customer in respect of goods subject to cancellation and not subsequently delivered by Quatro;
    - 4) the Customer shall not be entitled to cancel its obligations under the contract unless, in the reasonable opinion of Quatro, the Customer's interest in the contract has seriously suffered or has been totally impaired by the delay; and
    - 5) the Customer shall accept and pay for all of the goods which Quatro has delivered or which Quatro is ready, willing and able to deliver.
- c) For the purpose of this commitment force majeure shall include but is not limited to acts of god, wars, insurrection or internal disturbances, fire, floods, or accidents, break-downs, of plant or machinery, unavailability of or delays in shipping or other transport strikes or lock-outs of workmen, shortages or other default by suppliers of fuel, power or raw material, priority for supplies claimed by the Federal or State or Territory governments or the Commonwealth of Australia or any overseas government, or any other happening or event that is outside of the control of Quatro.

## H. CANCELLATION

- a) Quatro may agree to suspend or cancel any contract or any part thereof PROVIDED THAT the agreement of Quatro to suspend or cancel is expressed in writing by Quatro, and the Customer agrees to pay Quatro what Quatro considers to be a fair and reasonable amount to fully compensate Quatro for any costs, expenses, loss of profit and consequential damage that Quatro has or

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may suffer in relation to such suspension or cancellation.

## I. INVOICE/DEPOSIT/PAYMENT

- a) Quatro will issue a pro forma invoice on acceptance of the Customer's order.
- b) Quatro will issue an invoice for the balance of the payment for the goods upon completion of manufacture of the goods. The Customer must pay the balance of the payment within seven (7) days from the date of the invoice or if delivery is requested by the Customer prior to the due date for payment, the Customer must pay the invoice prior to the dispatch of the goods.
- c) In the event of late payment of any monies payable, interest on the balance payable will be incurred at the Reserve Bank of Australia cash rate plus 5%, accruing from the due date of invoice.
- d) Quatro's express or implied approval of a credit facility to the Customer as contemplated by clause I(a) hereof may be revoked or withdrawn by Quatro at any time.
- e) If the Customer becomes an insolvent under administration pursuant to any provision of the Corporations Act 2001 (Cth), all amounts then owing by the Customer to Quatro, whether or not those amounts are then due and payable, shall immediately become due and payable to Quatro by the Company and/or its directors.
- f) If the Customer fails to pay any amount due, then:-
- (i) the Customer shall, in addition to that amount and without prejudice to all or any of Quatro's other rights and remedies under the contract, pay all costs, charges and expenses incurred by Quatro in enforcing or attempting to enforce any of its rights under the contract including recovering any damages or unpaid amount(s). Such costs in the case of legal costs shall be charged on a solicitor and own client basis; and
- (ii) the Customer shall deliver up the goods to Quatro immediately upon receipt of a demand in writing to this effect from Quatro. If the Customer does not comply with the demand within two (2) business days or receipt of the demand, Quatro shall be entitled to enter upon the Customer's premises at any time to do all things necessary in order to take possession of the goods. The Customer shall be liable for all costs of and associated with exercise of Quatro's rights under this clause, which shall be payable on demand.
- g) In the event of a dispute, the Customer acknowledges that it shall not be entitled to withhold payment of any undisputed balance then due to Quatro for the goods, and agrees that it shall pay the whole of any undisputed balance pursuant to this clause.

## J. RETENTION OF TITLE

- a) Unless otherwise notified in writing, the Customer is authorised to sell or use the goods if it is in the ordinary course of its business to do so.
- b) Until full payment in cleared funds is received by Quatro for all goods sold by it to the Customer, as well as all other amounts owing to Quatro by the Customer:-
- (i) title and property in the goods shall remain vested in Quatro and shall not pass to the Customer;
- (ii) the Customer shall hold the goods as an agent for Quatro; and
- (iii) the Customer shall keep all goods supplied and delivered to it by Quatro separate from its other property, and in a

- manner to enable them to be identified.
- c) If the Customer sells, disposes of or uses the goods before full payment in cleared funds is made to Quatro, until such full payment is made, all monies resulting from such sale, disposal or use shall be held in trust for Quatro.
- d) Quatro shall have a lien on all goods of the Customer in its possession in the event that any amounts remain outstanding on account of those or any other of the Customer's goods.
- e) The Customer agrees that this contract constitutes a security agreement and clauses (a) to (d) above create purchase money security interests in all present and after acquired goods and any proceeds as security for the Customer's obligations to Quatro under each contract.
- f) Quatro is a secured party in relation to the goods and any proceeds of the goods and Quatro is entitled to and the Customer authorises Quatro to register its interest on the Personal Property Securities Register pursuant to the Personal Property Securities Act 2009 (Cth) (PPSA) as a purchase money security interest.
- g) Unless otherwise agreed to in writing by the parties, the Customer waives its right to receive any notices or verification statements under the PPSA.
- (h) If Chapter 4 of the PPSA applies to the enforcement of a security interest arising out of this contract, the Customer agrees that each of the provisions of the PPSA which s115 of the PPSA permits parties to contract out of do not apply to the enforcement of that security interest unless Quatro at its absolute discretion otherwise notifies the Customer in writing.

## K. LIMITATION OF LIABILITY AND INDEMNITY

- a) The Customer shall inspect the goods immediately on delivery and shall, within twenty-four (24) hours of receipt of the goods, give notice to Quatro in writing of any matter or thing by reason whereof the Customer alleges that the goods are not in accordance with the contract, failing which the Customer shall be deemed to accept the goods from the date of delivery.
- b) No claim shall be made against Quatro unless at the time of the claim all of the goods which are the subject of the relevant Contract remain intact as a whole. Disposal or use of any part of these goods shall constitute acceptance by the Customer of the whole and may not be the subject of a claim.
- c) The Customer hereby grants to Quatro full and free access to the premises of or occupied by the Customer to enable Quatro to investigate any claim by the Customer. Such investigation shall not constitute or be construed as an admission of liability by Quatro.
- d) Subject to the Customer complying with sub-clauses (a) to (c) and Quatro being satisfied there is a valid claim, Quatro may accept the return of the goods in its discretion. All returns must occur within seven (7) business days of date of acceptance of claim by Quatro and the invoice and/or the delivery note number must be supplied to Quatro at the point of return.
- e) The Customer may have the benefit of consumer guarantees under the Australian Consumer Law (ACL) as set out in the Competition and Consumer Act 2010 (Cth). Provisions of the ACL and other

statutes in some cases either cannot be excluded, restricted or modified or can only be restricted or modified to a limited extent. To the full extent permitted by law and subject to clause M(a), Quatro excludes all warranties, express or implied, in connection with the sale or supply of the goods to the Customer and limits its liability under any implied warranty which cannot be excluded by law to an amount equal to the cost of replacing the goods, the cost of obtaining equivalent goods or the cost of having the goods repaired, whichever is the lowest amount.

f) To the full extent permitted by law, Quatro will not be liable to the Customer or any other party for compensation, loss or damages including any Consequential Damages in connection with the goods or Quatro's obligations under the terms, whether arising from Quatro's negligence or otherwise. Consequential Damages includes but is not limited to loss of use, lost production, lost income or profits, loss of opportunity, lost savings, increased or wasted expenses, delay or lost time, loss of or damage to goodwill, increased operating costs, wasted or increased financing costs, loss of or damage to data or records, loss of or unavailability of or damage to tangible or intangible property, claims made against you by others, losses or costs or expenses associated with identification, investigation, assessment, repair, replacement, servicing, removal, transportation or disposal of the goods and any other economic loss or damage and any other special, indirect or consequential loss or damage.

## L. MISTAKE

- a) Any mistake on any quotation, order, invoice, delivery docket or other document issues by Quatro in relation to the Contract shall not be binding on Quatro, and Quatro may at its discretion issue such amended document as is required to rectify such mistake. The Customer shall comply with Quatro's amended document.

## M. EXPRESS WARRANTY

- a) Quatro Design warrants every product that leaves its factory to be structurally sound, in good condition and free of defects. Should any structural defect under normal usage become apparent within a period of four (4) years from the date of delivery or deemed delivery, Quatro Design will replace the product free of charge.

## O. LAW/INTERPRETATION

- a) The Contract is to be interpreted according to the laws of the State of New South Wales and the Commonwealth of Australia, and Quatro and the Customer agree that the courts in the State of New South Wales shall have exclusive jurisdiction to hear and determine all disputes of and incidental to the contract, including any claims in respect of monies due to Quatro whether on account of debts due, or on account of a claim for damages.