

## CONDITIONS OF SALE

### Interpretation

1. In these conditions: 'Retail Solutions' means hangers and other retail accessories, whether new or used, which are supplied by the Seller to the Buyer.  
  
'Seller' means Pact Group Holdings Ltd and its Related Bodies Corporate (which has the meaning given to that term in the *Corporations Act 2001* (Commonwealth of Australia)).  
  
'Buyer' means the purchaser of the Retail Solutions
2. Nothing in these conditions shall be read or applied so as to exclude, restrict or modify or have the effect of excluding, restricting or modifying any condition, warranty, guarantee, right or remedy implied by law (including the applicable competition and consumer laws) and which by law cannot be excluded, restricted or modified.

### General

3. The Buyer is bound by these Conditions of Sale each time an order is placed with the Seller, unless otherwise agreed in writing between the parties.
4. These Conditions of Sale (which shall only be waived in writing signed by the Seller) shall prevail over all conditions of the Customer's order to the extent of any inconsistency.
5. Unless otherwise agreed in writing, the Seller or its affiliates will own the intellectual property rights in the Retail Accessories (including the design, mould and documentation) and any other materials, products, documentation or items which the Seller or its affiliates create for the Buyer in connection with the Services. Any breach of the Seller's intellectual property rights may be the subject of legal action.
6. Buyers have a duty of care to ensure Retail Solutions selected from the Pact Group range can withstand the particular transport, distribution and handling environments they will be subjected to. Please contact Seller if you require assistance with the selection of hangers or accessories.

### Seller's quotations

7. Unless previously withdrawn, Seller's quotations are open for acceptance within the period stated in them or, when no period is so stated, within 30 days only after its date.

### Packing

8. The cost of any special packing and packing materials used in relation to the Retail Accessories are at the Buyer's expense notwithstanding that such cost may have been omitted from any quotation.

### Shortage

9. The Buyer waives any claim for shortage of any Retail Solutions delivered if a written claim in respect of the shortage has not been lodged with the Seller within seven (7) days from the date of receipt of the Retail Solutions by the Buyer.

### Delivery

10. (a) The delivery times made known to the Buyer are estimates only and the Seller will not be liable for late delivery or non-delivery.  
  
(b) The Seller is not be liable for any loss, damage or delay occasioned to the Buyer or its customers arising from late, or non-delivery or late installation of the Retail Solutions.  
  
(c) The Seller may at its option deliver the Retail Accessories to the Buyer in any number of instalments unless the parties have agreed otherwise in writing.

- (d) If the Seller delivers any of the Retail Solutions by instalments, and any one of those instalments is defective for any reason:
- (1) it is not a repudiation of the contract of sale formed by these conditions; and
  - (2) the defective instalment is a severable breach that gives rise only to a claim for compensation.

#### **Loss or damage in transit**

11. (a) The Seller is not responsible to the buyer or any person claiming through the Buyer for any loss or damage to Retail Solutions or other goods in transit caused by any event of any kind by any person (whether or not the Seller is legally responsible for the person who caused or contributed to that loss or damage).
- (b) The Seller must provide the Buyer with such assistance as may be necessary to press claims on carriers so long as the Buyer:
- (1) has notified the Seller and the carriers in writing immediately after loss or damage is discovered on receipt of Retail Solutions; and
  - (2) lodges a claim for compensation on the carrier within three (3) days of the date of receipt of the Retail Solutions.

#### **Prices**

12. (a) Unless otherwise stated all prices quoted by the Seller are net, exclusive of Goods and Services Tax (GST)
- (b) Prices quoted are those ruling at the date of issue of quotation and are based on rates of freight, insurance, customs duties, exchange, shipping expenses, sorting and stacking charges, cartage, rate of wates, cost of materials and other charges affecting the cost of production ruling on the date is made.
- (c) If the Seller makes any alterations to the price of the Retail Solutions or to any of their inputs either before acceptance of or during the currency of these Conditions of Sale, these alterations are for the Buyer's account.

#### **Payment**

13. The purchase price in relation to the Retail Solutions is payable net and payment must be made on or before thirty days from date of the invoice issued by the Seller, unless other terms of payment are expressly stated in these conditions in writing.

#### **Rights in relation to goods**

14. The Seller reserves the following rights in relation to the Retail Solutions until all accounts owed by the Buyer to the Seller are fully paid:
- 1) ownership of the Retail Solutions;
  - 2) to enter the Buyer's premises (or the premises of any associated company or agent where the goods are located) without liability for trespass or any resulting damage and retake possession of the Retail Solutions; and
  - 3) to keep or resell any Retail Solutions repossessed pursuant to (b) above.
15. If the Retail Solutions are resold by the Buyer, the Buyer shall hold such part of the proceeds of any such sale as represents the invoice price of the Retail Solutions sold in a separate identifiable account as the beneficial property of the Seller and shall pay such amount to the Seller upon request. Notwithstanding the provisions above the Seller shall be entitled to maintain an action against the Buyer for the purchase price and the risk of the Retail Solutions shall pass to the Buyer upon delivery.

#### **Buyer's property**

16. Any property of the Buyer under the Seller's possession, custody or control is completely at the Buyer's risk as regards loss or damage caused to the property or by it.

#### **Storage**

17. The Seller reserves the right to make a reasonable charge for storage if delivery instructions are not provided by the Buyer within fourteen days of a request by the Seller for such instructions. The parties agree that the Seller may charge for storage from the first day after the Seller requests the buyer to provide delivery instructions.

## Returned goods

18. (a) The Seller is not under any duty to accept Retail Solutions returned by the Buyer and will do so only on terms to be agreed in writing in each individual case.
- (b) If the Seller agrees to accept returned Retail Solutions from the Buyer under paragraph (a) of this clause, the Buyer must return the Retail Solutions to the Seller's place of business.

## Goods sold

19. All Retail Solutions to be supplied by the Seller to the Buyer are as described on the purchase order agreed by the Seller and the Buyer and the description on such purchase order modified as so agreed prevails over all other descriptions including any specification or enquiry of the Buyer.

## Termination

20. A party may terminate an order where:
- (a) the other party is in breach of these Conditions of Sale, and fails to remedy that breach within 10 business days of written notice of its breach; and
- (b) to extent permitted by law, an application is made to a court to wind up the other party, or a receiver or administrator is appointed to manage the affairs of the other party.
21. Any rights or obligations in these Conditions of Sale which by their nature are continuing, will survive termination or expiration (eg obligations of reimbursement, confidentiality, limitation of liability).

## Default

22. If the Buyer defaults in payment of any monies due to the Seller the Buyer shall at the option of the Seller pay to the Seller interest on the monies in respect of which default in payment has been made calculated at the 90 day Bank Bill Swap Bid Rate (as quoted on Reuters page BBSY at 10.45am) plus 5% commencing from the due date of payment (with interest accruing daily until all monies owing are paid in full), together with and in addition to all costs and expenses including legal costs on a solicitor/client basis incurred by the Seller in recovering from the Buyer monies due as a consequence of the default by the Buyer in payment of monies on the due date for payment.

## Liability

23. To the extent permitted by law, the Seller's liability arising under or in connection with the supply of the Retail Solutions (whether arising in contract, negligence or otherwise) is limited (at the Seller's option) to:
- (a) the resupply or replacement of the Retail Solutions;
- (b) the payment of the cost of the supply of equivalent Retail Solutions; or
- (c) refunding the amount paid by the Buyer for the relevant Retail Solutions.
24. The above limitation will not apply to the Seller's liability for death, personal injury or tangible property damage to the Buyer's premises, to the extent that liability is caused by the Seller's negligence or wilful misconduct, or by the Seller's liability for fraud.
25. The Seller will not be liable to the Buyer (whether in contract, negligence or otherwise) for any loss of revenue or profits, goodwill or reputation, loss of or interruption to business, or any other indirect or consequential loss.

## Force Majeure

26. Neither party shall be liable for non-performance of its obligations (other than a failure to make payment) to the extent caused by a Force Majeure Event. The party affected by the Force Majeure Event must notify the other promptly on its occurrence and use reasonable endeavours to overcome it. If a Force Majeure Event continues for a period of 60 days or more, either party may terminate the relevant Order.
27. Force Majeure Event means any event or circumstance which is beyond a party's reasonable control, including acts of God and natural disasters, acts of war, terrorism, epidemic, general unavailability or failures of the internet or public utilities (eg electricity), breakdown of machinery (where not caused by gross negligence), denial of service attacks and other intentional acts of harm by third parties, strikes and industrial action, acts of any government or governmental agency, and international trade embargoes and restrictions.

## Place of contract

28. (a) These Conditions of Sale will be governed by laws of Victoria, Australia.
- (b) The parties submit all disputes arising between them to the courts of Victoria and any court competent to hear appeals from those courts of first instance.