



# Micor Packaging Pty Ltd

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ABN: 33 643 627 561

Thank you for choosing Micor Packaging Pty Ltd as your packaging supplier. The following are our trading terms and conditions. Should you have any questions about them, please feel free to telephone us on 03 8795 6000.

## 1. DEFINITIONS

In these Terms & Conditions of Sale:

"**Customer**" means any person or entity which orders Products from the Company.

"**Company**" means Micor Packaging Pty Ltd ACN 643 627 561.

"**Intellectual Property Rights**" means all intellectual property rights, including without limitation, patents, copyright, registered designs, trade marks and the right to have confidential information kept confidential.

"**Products**" means goods manufactured and supplied by the Company.

## 2. GENERAL

These terms and conditions will apply to the exclusion of all others including any terms and conditions of the Customer (whether on the Customer's purchase order form or otherwise). The Customer acknowledges that these terms and conditions embody the whole agreement with the Company regardless of any future terms or conditions which may be proposed unless agreed to by the Company in writing. The Customer also acknowledges that by ordering Products from the Company the Customer agrees to be bound by these Terms & Conditions of Sale.

## 3. QUOTATIONS FOR PRICES

Written quotations for the price of Products which are provided by the Company to the Customer are fixed and valid for a period of 30 days from the date of the quotation.

## 4. PAYMENT

Payment must be made by the Customer to the Company for the full price (including GST) of all Products within 30 days from the end of the month in which the invoice for those Products is dated. An early settlement discount of 2% is offered for payment within 7 days of the invoice date. The Customer acknowledges that time is of the essence with regard to payment and that any breach of this term will enable the Company to exercise all of its rights contained herein including (but without in any way limiting its rights) the right to: (i) cancel further credit; (ii) refuse to supply the Customer with any further Products; (iii) take legal action for the recovery of all sums outstanding; (iv) charge interest on all amounts outstanding from the due date until the date of payment at the rate of fifteen percent (15%) per annum calculated daily; (v) charge the Customer for all costs (including legal costs and mercantile agents' fees) incurred by the Company in recovering the amount outstanding.

## 5. DELIVERY CHARGES & DATES

A delivery charge of \$110.00 (including GST) applies to all orders with an invoice value of less than \$550.00 (including GST) for Melbourne Metro delivery, on the basis of Truck Access and Forklift availability. Any scenario outside these parameters can be costed separately. In the event that a delivery date is specified by the Customer and the Company agrees that it will deliver the Products, the Company will use its reasonable endeavours to comply with the Customer's request. However, in no circumstances will the Company be liable for any loss or damage of any kind whatsoever (including, without limitation, consequential loss or loss of profits) in the event that it is not able to comply with the Customer's request for delivery on a certain date. The Customer acknowledges and agrees that it will not make any claim against the Company for any loss or damage suffered by the Customer as a result of late delivery.

## 6. QUANTITY

The Company will endeavour to supply the quantity of Products ordered by the Customer however the Customer acknowledges the difficulty of producing exact quantities of Products and agrees to allow a margin of 10% above or below that ordered by the Customer. The Company will only invoice the Customer for the number of Products delivered.

## 7. MANUFACTURE TO SPECIFICATION

- (a) The Company will endeavour to supply Products manufactured to the dimensions specified by the Customer; however, the Customer acknowledges the difficulty of manufacturing to exact dimensions and agrees to allow a margin of + or - 5 mm in all dimensions on each panel of any carton.
- (b) If the Customer specifies the measurements, method of construction or design of any Product to the Company and the Company supplies to the Customer Products which comply with those specifications, the Company will not be responsible for any loss suffered by the Customer if those specifications were incorrect or inappropriate.
- (c) The Customer acknowledges that:
  - (i) the liability of the Company for any defective Products or the Company's failure to supply Products that comply with the Customer's specification is limited (other than as provided by law) to an appropriate refund or credit or the replacement of the Products at no cost to the Customer; and
  - (ii) the Company is not liable for any consequential loss or loss of profits that the Customer may suffer as a result of the Customer purchasing defective Products from the Company or the Company's failure to supply Products that comply with the Customer's specification.

## 8. PALLETS

If the Company delivers Products to the Customer on standard pallets ("the Pallets"), the Pallets remain the property of the Company. However, the Customer may, at the time of delivery, give the Company an equal number of pallets of the same quality as those delivered by the Company in full exchange for the Pallets. If the Customer chooses not to exchange pallets for the Pallets, the Company will charge the Customer \$40.00 + GST at the end of the month for each Pallet not exchanged by the Customer at the time of delivery of the Products.

## 9. WARRANTY

The Customer warrants to the Company that to the best of the Customer's knowledge the production and supply of Products manufactured to the Customer's specification will not infringe the Intellectual Property Rights of any third party and the Customer agrees to indemnify the Company in respect of any loss sustained by the Company as a result of any breach of the Customer's warranty given under this clause.

## 10. INTELLECTUAL PROPERTY AND TOOLING

- (a) Any die, drawing, artwork or printing plate remains the property of the Company, even if a customer contribution has been made for its creation, use or storage.
- (b) Any Intellectual Property that exists in the design or in the method of construction of any Product, die, pattern or printing plate which is created by the Company in the course of designing or making a Product for the Customer will remain the exclusive property of the Company even if a charge is made for its creation or use.

## 11. CANCELLATION

Orders placed with the Company cannot be cancelled without the written approval of the Company. In the event that the Company accepts the cancellation of any order, it will be entitled to charge a reasonable fee for any work done on behalf of the Customer to the date of the cancellation including a fee for the processing and acceptance of the Customer's order and request for cancellation.

## 12. RISK

The risk of loss or damage to the Products will pass to the Customer upon delivery of the Products to the Customer.

## 13. OWNERSHIP AND TITLE

Ownership of any Products will not pass from the Company to the Customer until the Customer has paid for the Products in full and all cheques and other negotiable instruments have been cleared. If any payment for any Products is overdue or if the Customer pays the Company by cheque (in full or in part) and such cheque is not honoured by the Customer's bank, the Company reserves the right to retake physical possession of the Products in full or partial satisfaction of the debt and for this purpose the Customer consents to the Company or its employees or agents entering upon the Customer's premises. Monies owed by the Customer to the Company will become due immediately upon the commencement of any act or proceeding in which the Customer's solvency is involved. If, prior to the payment in full of the purchase price and any other amounts owing by the Customer to the Company, the Customer uses the Products to package goods or sells or disposes of the Products, the Customer will hold such part of the proceeds of such activity as relates to the Products in trust for the Company. Such part will be deemed to equal in dollar terms to the amount owing by the Customer to the Company at the time of receipt of such proceeds. In such a case, the Customer must account to the Company for such part of the proceeds. In addition, the Customer must keep complete records of all such activity.