



Allfix Fasteners Pty Ltd
ABN: 49 114 733 229
Unit 1, Compton Court
67 – 77 Compton Road
UNDERWOOD QLD 4119

Telephone: (07) 3290 1466
Facsimile: (07) 3290 1078

TERMS OF SALE

Definitions

1. In this Agreement:
 - 1.1 "Agreement" means the Application for Commercial Credit 30 Day Trading Account including General Credit Terms and Guarantee and Indemnity ;
 - 1.2 "Allfix Fasteners" means Allfix Fasteners Pty Ltd ACN 114 733 229 and any subsidiary or associated entity and as trustee of any trust of Unit 1, Compton Court, 67-77 Compton Road, Underwood, QLD 4119;
 - 1.3 "Business Day" means any day on which banks in the capital city of the State which governs the law of this Agreement are open;
 - 1.4 "Collateral" has the same meaning as in clauses 13 (j)(vi) and (viii) in the General Credit Terms;
 - 1.5 "Corporations Act" means the *Corporations Act 2001*;
 - 1.6 "Customer, you, them" means the Customer whose details appear in the Application for Commercial Credit and the Customer's subsidiaries, holding companies and other related entities;
 - 1.7 "Delivery" means the loading of products and services upon a transport vehicle;
 - 1.8 "Products and Services" includes all products and services supplied by Allfix Fasteners to the Customer;
 - 1.9 "GST" means the Goods and Services Tax levied on any supply made under this Agreement under A New Tax System (Goods and Products and Services) Act 1999 (Cth) as amended from time to time or any similar tax resulting in an increase in the tax payable on the supply of products and services by Allfix Fasteners to the Customer;

Acceptance

2. Allfix Fasteners may accept this application by notice in writing, or by giving credit.

Acceptance of Orders and Delivery of Products and Services

3. Each order of products and services by the Customer shall constitute an offer to purchase products and services from Allfix Fasteners. Each offer shall be accepted by Allfix Fasteners upon delivery of products and services. Subject to availability, Allfix Fasteners will use reasonable efforts to have products and services available for delivery, but Allfix Fasteners will not be liable for any delays.

Cancellation of Orders and Suspension of Further Supply by Allfix Fasteners

4. (a) Allfix Fasteners may in Allfix Fasteners' complete discretion and without incurring any liability to the Customer, cease or suspend supply of products and services to the Customer or amend these Credit Terms.
(b) Without limiting clause 8(a), if an Event of Default occurs, Allfix Fasteners may, without prejudice to Allfix Fasteners' other rights, call up moneys owed to Allfix Fasteners by the Customer, retain all moneys paid on account, or cease further deliveries and recover from the Customer all loss of profits and other costs arising from the Event of Default and/or take immediate possession of any products and services for which payment remains outstanding.

Non-Cancellation of Orders

5. The Customer may not cancel orders without consent from Allfix Fasteners. If the Customer attempts to cancel an order without consent from Allfix Fasteners, or refuses to accept delivery, Allfix Fasteners is entitled, upon making the products and services available for collection, in addition to all of its other remedies, to recover from the Customer the price of the products and services together with any freight and delivery costs incurred by Allfix Fasteners. All other rights, which Allfix Fasteners may have against the Customer, are reserved.

Passing of Risk

6. Risk in the products and services shall remain with Allfix Fasteners only to the point of loading of the products and services upon a transport vehicle, and from then on the products and services are deemed to be delivered and all risk of damage, loss or deterioration of the products and services from any cause whatsoever shall pass to the Customer. Allfix Fasteners is not liable for any damage, loss or deterioration to the products and services in transit.

Insurance by Customer

7. The Customer will insure the products and services from the time of loading of the products and services at Allfix Fasteners' premises under a comprehensive policy of insurance in the names of Allfix Fasteners and the Customer for the full value of the products and services against fire, accident, malicious damage and theft and such other risks as Allfix Fasteners may from time to time require. The Customer is to pay all premiums in respect of such policy and produce evidence of currency of the policy to Allfix Fasteners within seven (7) days of request by Allfix Fasteners. The Customer shall hold the proceeds of any insurance claim in respect of products and services in which Allfix Fasteners has title in trust for Allfix Fasteners and must account to Allfix Fasteners for the amount immediately without the need for demand from Allfix Fasteners.

Direct Debit Authority

8. Allfix Fasteners may require the completion of a direct debit authority (see Direct Debit Request) as a condition of supply.

Waiver/Variation

9. Any waiver by Allfix Fasteners must be in writing.
10. In the event that Allfix Fasteners elects not to exercise any of Allfix Fasteners' rights arising in connection with the Credit Terms, Allfix Fasteners' election will not constitute a waiver of any rights relating to any other breach of the Credit Terms.

Time of the Essence

11. Time is of the essence for the performance of the Customer's obligations.

Proper Law

- 12 This Agreement is governed by the laws of the State of Queensland and the customer consents to the jurisdiction of the Courts of the State of Queensland in Brisbane.

Retention of Title

13. Notwithstanding the risk in the products and services shall have passed to the Customer, title in all products and services shall remain with Allfix Fasteners until full payment is made to Allfix Fasteners for all monies owing by the Customer on all accounts and the Customer grants a security interest in the products and services over all present and after acquired products and services as collateral in favour of Allfix Fasteners and acknowledges that a PMSI may be registered over the products and services.
14. If the Customer fails to make payment for the products and services in accordance with this Agreement, Allfix Fasteners shall have the right to recover from the Customer all products and services it has supplied to the Customer in the customer's possession whether paid for or not, and for that purpose the servants or agents of Allfix Fasteners may enter upon the Customer's premises (or any premises under the control of the Customer or the Customer's agent if the products and services are stored at other premises) in order to effect recovery and use any reasonable force to effect recovery without liability for trespass or any resulting damage. Allfix Fasteners shall have the right to re-sell or otherwise dispose of the products and services recovered without reference to the Customer.
15. The Customer acknowledges that until the Customer's total indebtedness to Allfix Fasteners is discharged, the Customer shall hold the products and services as bailee for Allfix Fasteners.

16. In the event that the Customer sells the products and services to a third party before payment in full for the products and services has been made to Allfix Fasteners then the Customer hereby:

16.1 assigns to Allfix Fasteners the benefit of any claim against such third party;

16.2 holds any proceeds from sales on trust for Allfix Fasteners; and

16.3 will account fully to Allfix Fasteners for the proceeds of the sale of the products and services sold or any part thereof until the Customer's total indebtedness to Allfix Fasteners is discharged.

Liability of Allfix Fasteners

17. If either Allfix Fasteners or the Customer is unable to perform part or all of any obligation (except to pay any monies) under this Agreement due to an event beyond that party's (defaulting party) control and which the defaulting party could not have reasonably foreseen, then the defaulting party is relieved of that obligation to the extent and for the period that it is unable to perform and is not liable to the other party to this Agreement in respect of such liability.

18. If the Customer does not notify Allfix Fasteners in writing within 14 days of delivery of any claim in respect of the products and services, Allfix Fasteners will be deemed to have complied with its obligations in full in respect of the Customer's order.

19. Allfix Fasteners shall not be under any liability whether in contract, tort or otherwise from any cause, whether occasioned by negligence or otherwise, for any injury, damage or loss, including special, indirect or consequential damage or loss or whether to persons or property, arising out of this Agreement including any defects in the products and services.

20. All express and implied terms, conditions and warranties on the part of Allfix Fasteners which might otherwise apply to or arise out of the sale of the products and services by Allfix Fasteners to the Customer are excluded, except to the extent that any law (including the Competition and Consumer Act 2010) does not permit them to be excluded.

21. Risk in respect of the products and services passes to the customer upon delivery (as defined herein).

Licences and Permits

22. The Customer warrants that it holds all necessary licences and permits (if any) required to purchase products and services from Allfix Fasteners and it will supply any particulars relating to such licences and permits immediately upon request by Allfix Fasteners.

Warranty and Indemnity

23. The Customer warrants it has all necessary power and authority to enter into this Agreement, that it will not breach any agreement with a third party by ordering any products and services from Allfix Fasteners and that any person ordering products and services on behalf of the Customer from time to time is authorised to do so by the Customer. The Customer agrees to indemnify Allfix Fasteners for all costs, losses, damages and expenses which Allfix Fasteners may suffer or incur for any reason in consequence of or relating to the supply of products and services to the Customer, including by reason of any person purporting to place orders with Allfix Fasteners on behalf of the Customer without authority to do so.

Set Off

24. Allfix Fasteners may at any time set off amounts owed by Allfix Fasteners to the Customer against amounts owed by the customer to Allfix Fasteners.

Default

25. If the Customer breaches any term of this Agreement and fails to remedy that breach, including failure to pay to Allfix Fasteners any monies due to Allfix Fasteners by the due date for payment, or a receiver, manager, liquidator, provisional liquidator, administrator or official manager is appointed over all or any part of the assets or undertaking of the Customer, or if the Customer enters into or proposes to enter into a scheme of arrangement, or a petition is presented to wind up the Customer or the Customer is insolvent, (default) Allfix Fasteners may:-

25.1 demand immediate payment of all monies owed by the Customer to Allfix Fasteners whether due for payment or not; and/or

25.2 repossess any products and services supplied; and/or

25.3 sell any products and services which Allfix Fasteners has repossessed by public auction or private treaty for cash or on terms and in such manner as Allfix Fasteners thinks fit, and apply the net proceeds towards payment of the customer's debt to Allfix Fasteners; and/or

25.4 terminate this Agreement; and/or;

25.5 cease supply.

Service of Process

26. The Customer agrees that service of legal process may be made by prepaid post to the Customer's address stated in this Agreement or the Customer's registered office or such other address as may be notified in writing by the Customer and that service shall be deemed to have been effected 2 days after the date of posting.

Provide Information

27. Upon Allfix Fasteners' request, from time to time, the Customer will provide to Allfix Fasteners, information in the form and for the period required by Allfix Fasteners, in relation to the Customer's financial position, including a balance sheet, profit and loss statement and cash flow statement and where the Customer is a corporation, information in relation to any guarantors.

Electronic Communication

28. By visiting Allfix Fasteners' website or sending e-mails to Allfix Fasteners, the Customer is communicating with Allfix Fasteners electronically.

The Customer:-

28.1 consents to receive communications from Allfix Fasteners electronically;

28.2 agrees that all agreements, notices, disclosures and other communications that are provided to the Customer electronically satisfy any legal requirement that such communications be in writing.

29 Allfix Fasteners has made all reasonable efforts to ensure that all information provided on Allfix Fasteners' website is accurate at the time of inclusion but makes no representation or warranties, express or implied, except as imposed by law, regarding the information provided on the website, including any hypertext links or any other items used either directly or indirectly from the website and reserves the right to make changes and corrections at any time without notice. Allfix Fasteners takes no responsibility for and does not endorse, sponsor or recommend the contents, accuracy or performance of any links attached to the website. Allfix Fasteners accepts no responsibility for any inaccuracies or omissions in the website and any decisions based on information contained in the website are solely the responsibility of the Customer. Allfix Fasteners accepts no liability for any direct, indirect, special, consequential or other losses or damages of whatsoever kind arising out of access to, or the use of the website or any information contained therein.

Confidentiality

30. The Customer shall treat all information disclosed to it by Allfix Fasteners as confidential and shall not use such information other than in accordance with the directions from time to time given by Allfix Fasteners either in this Agreement or otherwise. The Customer acknowledges for the benefit of Allfix Fasteners that it has no proprietary right or interest in any information or system disclosed to it by Allfix Fasteners arising as a result of such disclosure or subsequent use. This provision does not apply to information which was in the public domain prior to its disclosure by Allfix Fasteners or which after such disclosure, enters the public domain through no act or omission by the Customer, or to information which the Customer is required to disclose by law or the rules of any stock exchange.

Severability

31. In the event that any clause or part of a clause of this Agreement is void, invalid, illegal, unlawful or otherwise unenforceable, that clause or part of a clause is deemed to be severed from this contract and of no force or effect so that all other clauses and parts of clauses of this Agreement continue to remain in full force and effect.