



Tassal Group Limited
ABN 15 106 067 270
Tassal Operations Pty. Ltd.
ABN 38 106 324 127
De Costi Seafoods Pty Ltd
ABN 81 606 307 804
email: tassal@tassal.com.au
website: www.tassal.com.au

CONDITIONS OF SALE OF GOODS

1. In these Conditions:
 - a. **Agreement** means these Conditions and any invoice issued by the Vendor to the Purchaser from time to time;
 - b. **Conditions** means the conditions of sale between the Purchaser and the Vendor as set out in this document;
 - c. **Goods** means the goods described in the relevant invoice;
 - d. **PPSA** means the *Personal Property Securities Act 2009* (Cth);
 - e. **Purchaser** means the person to whom the relevant invoice is addressed; and
 - f. **Vendor** means Tassal Operations Pty. Ltd. (ABN 38 106 324 127) or De Costi Seafoods Pty Ltd (ABN 81 606 307 804).
2. Accepting Goods
 - (a) By accepting delivery of the Goods in whole or in part the Purchaser agrees to purchase the Goods subject to these Conditions to the exclusion of all other terms except those required by statute.
 - (b) Supply of Goods or services may be withheld should the Vendor deem it appropriate or if payment is not received within the agreed terms.
3. Payment

All sums payable for the Goods (and delivery of the Goods in the circumstances described in clause 5 below) shall be paid in full by the Purchaser to the Vendor by the date or time specified on the invoice and, if no such date or time is specified, by the date which is 7 days from the invoice date.
4. Interest

The Purchaser shall pay interest at ten per cent per annum on such part of the amount payable as is not paid in accordance with clause 3, calculated daily.
5. Delivery of Goods
 - (a) The Vendor shall at the Vendor's expense deliver the Goods to the Purchaser in any capital city in Australia excluding Darwin.
 - (b) If delivery of the Goods is required by the Purchaser to a location outside a capital city in Australia, to Darwin or if the mode of delivery of the Goods required by the Purchaser is air transport then the Purchaser shall, unless otherwise agreed in writing, pay to the Vendor the delivery costs incurred by the Vendor for the delivery of the Goods.
 - (c) The Vendor shall use all reasonable endeavours to meet agreed delivery dates and times.
 - (d) The Vendor shall not be liable to the Purchaser for any loss or damage whatsoever should it be delayed or prevented from delivery Goods, supply and services or

otherwise performing any of its contractual obligations due to any cause or circumstance whatsoever.

- (e) The Vendor agrees to use its best endeavours to fill the Purchaser's orders as agreed from time to time.
- (f) The Purchaser accepts full responsibility for any Goods delivered to the premises, and agrees to pay for such Goods whether or not they are actually received and/or in good and merchantable condition where the Goods are required to be delivered to premises which are unoccupied or unattended at the time of delivery.
- (g) The Vendor warrants that the Goods sold by it are in good and merchantable condition at the time of delivery.

6. Seasonal Goods

- (a) All orders placed with the Vendor are accepted on the basis that the Vendor will use its best endeavours to complete the orders in a timely manner.
- (b) The Purchaser understands and acknowledges that some Goods are seasonal in nature and depend on stocks availability.
- (c) Unless otherwise agreed in writing, pricing and availability of the Goods will be confirmed at the time of placing the order.
- (d) The Purchaser accepts that prices of the Goods will vary on a daily basis depending on supply of product and the season.

7. Claims

- (a) All claims in respect of the quantity of Goods delivered and/or quality of the Goods must be made to the Vendor within twenty-four hours of receipt of delivery in respect of fresh Goods and within forty eight hours of the date of delivery of frozen or smoked Goods.
- (b) All claims in respect for non-deliveries must be made to the Vendor within twenty-four hours from expected receipt of the Goods.

8. Title

- (a) Title to the Goods shall not pass to the Purchaser until the price payable by the Purchaser for the Goods, including any freight, has been paid in full.
- (b) Until such time as title in the Goods passes to the Purchaser the Goods shall be held by the Purchaser as bailee and in a fiduciary capacity for the Vendor and the Purchaser shall store the Goods separate from Goods owned by the Purchaser in a manner which enables them to be clearly identified.
- (c) The Vendor is entitled to regain possession of the Goods title in which has not passed to the Purchaser and for that purpose the Purchaser authorises the Vendor to enter any premises or property of the Purchaser where the Goods may be stored, without notice, and without being in any way liable to the Purchaser or any third party, and the Purchaser indemnifies the Vendor from any claim made by any third party as a result of the exercise of this right.
- (d) The Purchaser acknowledges that if the Purchaser sells the Goods before title in the Goods has passed the Purchaser shall sell the Goods as agent for the Vendor and shall hold the proceeds of sale in a separate account in trust for the Vendor.

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- (e) It is further agreed that the Purchaser has the Vendor's authority to convert the Goods into other products and if the Goods are so converted, the parties agree that the Vendor will be the owner of the end products.

9. PPSA

- (a) Unless the context requires otherwise, the terms used in this clause 9 have the meanings given to them in, or by virtue of, the PPSA.
- (b) In consideration of the Vendor agreeing to supply the Goods to the Purchaser, the Purchaser:
 - i grants to the Vendor, at the Vendor's discretion, a security interest or purchase money security interest (**PMSI**) in the Goods;
 - ii agrees that any of the Goods or proceeds of sale of the Goods supplied to the Purchaser at any time will be supplied subject to:
 - a. the security interest or PMSI granted in this Agreement; and
 - b. the terms of this Agreement;
 - iii agrees that the security interest or PMSI has attached or will attach to all Goods previously supplied by the Vendor to the Purchaser (if any) and to all Goods supplied now or in the future to the Purchaser when the Purchaser takes possession of the Goods and that the attachment of the security interest or PMSI has not in any way been deferred or postponed from the date of this Agreement.
- (c) The Vendor may, by notice to the Purchaser at any time, require the Purchaser to take all steps that the Vendor considers necessary or desirable to:
 - i ensure that this Agreement or any security interest or PMSI arising under it, is enforceable against the Purchaser or any third party; and
 - ii protect, perfect, record, or better secure the Vendor's position under this Agreement as a first ranking security.
- (d) The Purchaser acknowledges that the Vendor reserves the right to register a financing statement in respect of any Goods supplied by the Vendor to the Purchaser under this Agreement and that the cost and expense of registering a financing statement or financing change statement is to be paid by the Purchaser.
- (e) The Purchaser agrees:
 - i not to allow any person to register a financing statement over any of the Goods supplied by the Vendor without the Vendor's prior written consent;
 - ii that the Purchaser must immediately notify the Vendor if the Purchaser becomes aware of any person taking steps to register a financing statement in relation to the Goods; and
 - iii to perfect and maintain any security interest or PMSI that the Purchaser may have in the Goods under the PPSA.
- (f) If Chapter 4 of the PPSA would otherwise apply to the enforcement of a security interest arising out of this Agreement, the Vendor and the Purchaser agree that each of the provisions of the PPSA which section 115 of the PPSA permits parties to contract out of, other than sections 117, 118, 123(1), 134(1) and 135, do not apply to the enforcement of that security interest. This clause 9(f) does not apply if the Goods supplied by the Vendor are to be used by the Purchaser predominantly for personal, domestic or household purposes.

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- (g) The Purchaser further agrees that where the Vendor has rights in addition to those under Part 4 of the PPSA, those rights will continue to apply.
- (h) The Purchaser waives the right to receive a copy of any notice, verification statement confirming registration of a financing statement or a financing change statement relating to the security interest or PMSI under this Agreement, unless the notice or statement is required by law and cannot be excluded.
- (i) Until ownership of the Goods passes to the Purchaser, the Purchaser must not give the Vendor a written demand or allow any other person to give the Vendor a written demand requiring the Vendor to register a financing change statement under the PPSA or enter into or allow any other person to enter into the register of personal property securities a financing change statement under the PPSA.
- (j) The Purchaser agrees that any time that the Purchaser makes a payment to the Vendor, irrespective of whether the payment is made under or in connection with this Agreement, that the Vendor may apply that payment in any manner that the Vendor sees fit.
- (k) If the Purchaser becomes insolvent, without prejudice to any of the Vendor's other rights:
 - i the Purchaser's right to dispose of the Goods in the ordinary course of business in accordance with the PPSA and any of the Purchaser's other rights in respect of the Goods immediately cease; and
 - ii the Purchaser must immediately return the Goods to the Vendor in which title has not passed.

10. General Lien

- (a) In addition to any right of Lien which the Vendor may be entitled under the common law, the Vendor shall be entitled to exercise a general lien over all items in its possession belonging to the Purchaser until the Purchaser has paid in full for all Goods supplied by the Vendor to the Purchaser. The Vendor may in its sole discretion sell any item that is subject to the said lien, provided that the Vendor shall pay to the Purchaser any surplus proceeds that are realised by it from a sale of any such items after discharging in full any monies outstanding to the Vendor in respect of Goods that have been delivered by it to the Purchaser and all reasonable costs of sale incurred by the Vendor.
- (b) The Purchaser acknowledges that the Vendor has a security interest (for the purpose of the PPSA) in these items and the proceeds of these items, until the Purchaser has paid in full for all Goods supplied by the Vendor in accordance with this clause 10. The Purchaser will do anything required by the Vendor to enable the Vendor to register this security interest, with the priority the Vendor requires, and maintaining that registration. Despite this requirement for registration of this security interest, and regardless of whether or not it is actually registered, the Vendor may perfect this security interest by possession of the relevant items.

11. Capacity

The Purchaser agrees that:

- (a) it enters into this Agreement both in its personal capacity and as trustee of any trust of which it is now trustee or may become trustee during the term of this Agreement; and

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- (b) if the Purchaser enters into this Agreement as the trustee of any current or future trust it does so with complete and valid authority pursuant to the relevant trust and warrants that it has the power to grant security over any trust property.

12. Risk in the Goods

Notwithstanding any other provisions in these Conditions risk in the Goods shall pass to the Purchaser upon delivery of the Goods to the location nominated by the Purchaser as stated in the invoice.

13. Recovery of costs

The Vendor reserves the right to recover any and all costs associated with the collection of overdue monies including, but not limited to Solicitor and client or other fees for legal representation on a full indemnity basis, Court costs and any costs and/or disbursements levied by a third party acting as agent for the Vendor.

14. Variation

No variation of these terms and conditions shall be binding on the Vendor unless agreed to in writing. Any time or other indulgence that the Vendor may grant the Purchaser shall not affect the rights of the Vendor except to the extent that the Vendor expressly waives the same in writing, and no waiver in respect of any breach on the Purchasers part of any stipulation binding on the Purchaser shall affect the rights of the Vendor in respect of any breach.

15. Confidentiality

The Purchaser agrees that it must not disclose any information of a kind referred to in section 275(1) of the PPSA that is not in the public domain.

16. Governing Law

This Agreement is governed by the laws of Tasmania and the Vendor and Purchaser submit to the jurisdiction of the courts of Tasmania.

17. Privacy

The Vendor complies with the Australian Privacy Principles imposed by law in relation to the collection and disclosure of information regarding individuals. For more information visit www.tassal.com.au

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