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## 1 Definitions

- 1.1 "Supplier" shall mean KomboGrass, its successors and assignors or any person acting on behalf of and with the authority of KomboGrass.
- 1.2 "Client" shall mean the person or entity receiving the Goods and or Services (or any person acting on behalf of and with the authority of the Client) as described on any quotation, work authorisation or other form as provided by the Supplier to the Client.
- 1.3 "Goods" shall mean artificial grass, seam tape, glue, u-pins, nails and other items as described on the invoices, quotation, work authorisation or any other forms as provided by the Supplier to the Client.
- 1.4 "Services" shall mean all work performed by the Supplier or its agents to the Client and includes any advice or recommendations.
- 1.5 "Price" shall mean the amount payable for the Goods and Services as agreed between the Supplier and the Client as defined in clause 3 below.

## 2 Acceptance

- 2.1 Any instructions received by the Supplier from the Client including but not limited to part payments, deposits, email, SMS or verbal acceptance for the supply of Goods and/or Services is an acceptance of the terms and conditions contained herein. Upon acceptance by the Client, the terms and conditions are binding and can only be amended with the written consent of the Supplier.
- 2.2 Where more than one Client has entered into this agreement, the Clients shall be jointly and severally liable for all payments of the Price.
- 2.3 The Client acknowledges and agrees that the Goods installed can take up to two (2) months to completely settle, this is not a defect. Any balance payment owing is due on completion of the installation. The reason for any potential ripples in the artificial grass is that sand or rubber pellets are not installed on the surface of the artificial grass (which can provide immediate ballast, but will require ongoing maintenance). Any ripples after this 2 month period will be rectified as part of the standard 12 month warranty.
- 2.4 The Client acknowledges that the artificial grass shall be pegged with u-pins and nails approximately 450mm to 800mm apart. In the event that there are objects such as cement footings, pipes etc that prevent these pegs from being installed this distance apart, the pegs will be installed where possible.
- 2.5 The Client acknowledges that the artificial grass may require joins between sections of the artificial grass installed. The join between sections may include up to a 20mm gap as a result of the gauge used in the artificial grass and that this gap is classed as acceptable and not a defective Service.
- 2.6 Where edges are not bolstered into a solid border, the Client agrees a gap of up to 20 millimetres (20mm) may occur between the Goods and the edge of the area. The gap is caused from stretching and shrinking of the Goods in extreme weather conditions and/or the way the artificial grass blades lean when the Goods are cut, and that this gap is classed as acceptable and not a defective Service.
- 2.7 For edges with no formal boundary (such as tiles/pavers, round edges, concrete pads, rolled edges, retaining walls, besser blocks, informal rockery, etc) or boundaries that have damaged borders, the grass will be installed using industry general practice which can include gaps up to 30mm.



- 2.8 The Client acknowledges and agrees that it is acceptable for the Goods supplied, to exhibit a pile height difference, provided such a discrepancy shall not exceed five percent (5%) above or below the specified pile height.
- 2.9 The Client agrees that all public and other services (including, but not limited to, fire hydrants, phone pits, bore lids, termite treatment) will be left exposed and ground levels will be at the Supplier's discretion.
- 2.10 KomboGrass does not expose water drainage covers unless specifically requested by the Client in the scope of works.
- 2.11 The Client agrees that preparation levels will be as per site conditions and in-situ hardscapes unless otherwise agreed with the Supplier at the time of the quotation. Client specific finished floor heights must be in writing so that the levels can be taken into account during the installation.
- 2.12 The Client agrees that preparation of ground levels will not be to paving preparation screed level unless otherwise agreed in writing, however it will be as per industry general practice of good compaction and level standards.
- 2.13 The Client agrees that sloping levels and varied site heights will be contoured at the Supplier's discretion, unless otherwise agreed with the Supplier at the time of the quotation and in writing.
- 2.14 Where the Client is providing or installing borders and edging to the area, it is the responsibility of the Client to ensure that any back fill to these borders is completed. KomboGrass will not be responsible for repair to any site where the crusher dust we install sinks or washes away to these edges.
- 2.15 Although KomboGrass remove existing grass and soil for some installations, certain invasive weeds and grasses, such as Nutgrass (*Cyperus rotundus*) can still propagate through the newly laid artificial grass. KomboGrass do not provide any weed treatment as part of their installation services and will not be responsible for the treatment or removal of weeds after the artificial grass has been installed.
- 2.16 When the artificial grass is cut, small fibre offcuts occur. Although on completion of the installation works the area will be cleaned and rubbish and grass offcuts removed, it is not possible to remove all these small fibres. The client agrees that having these fibres in the grass surface is not a defect and will not be a reason to delay or withhold any outstanding payments.
- 2.17 Glass panels, windows, plastic bottles, plastic sheets, cafe style roller blinds and similar reflective materials can radiate heat onto the grass surface and damage the Goods. There is no warranty for any damage caused by radiated light or heat.
- 2.18 Sub-base subsistence is not covered by KomboGrass' warranty. KomboGrass will warrant the base that they install (typically 65mm of crusher dust) but in the event that the sub-base sinks this will not be covered by our warranty. Consequently and subsidence to the Artificial grass installed around newly built swimming pools, areas with trees removed, new homes built on cut/fill or where new services have been installed under the ground level will not be covered by our service warranty.
- 2.19 KomboGrass will prepare areas to ensure water runs towards existing drains or to follow any pre-existing channels. The Client is responsible to rectify any pre-existing drainage issues prior to KomboGrass undertaking their installation works.
- 2.20 Installation of KomboGrass around solid surfaces, such as existing cement paths, where the grass will be installed over the existing concrete and also over adjoining crusher dust, will result in, over time, exposure of the concrete edge to the crusher dust. Variation in levels between the concrete



and the crusher dust section may occur and will not be covered by any warranty. All efforts to minimise the sinking between the solid area and the section where the crusher dust is installed, including mixing cement with the crusher dust will be performed during the installation but there is no guarantee that the area next to the solid area will not sink and result in an edge between the two sections.

### 3 Price And Payment

- 3.1 At the Supplier's sole discretion, the Price shall be either:
  - 3.1.1 as indicated on invoices provided by the Supplier to the Client in respect of Goods supplied; or
  - 3.1.2 the Supplier's quoted Price which shall be binding upon the Supplier provided that the Client shall accept the Supplier's quotation in writing within thirty (30) days.
- 3.2 The Supplier reserves the right to change the Price in the event the Client has supplied the dimensions and specification for the area and on KomboGrass validating the area identifies discrepancies to the measurements supplied by the Client, OR, at the commencement of works, KomboGrass identifies material changes to the area that had not been disclosed, these may include works that were to be completed by the Client. All variations must be agreed to in writing prior to commencing any works. Payment for all variations must be made in full at the time of completion of the works.
- 3.3 For supply and installation a deposit of 50% will be required upon acceptance of the quoted Price in order to lock in the installation date (if applicable) and allocate the Goods to the Customer; Payment of the outstanding balance including any agreed variations is required at the time of completion of the installation works.
- 3.4 For supply only the full payment is required prior to any goods being allocated. No grass will be cut to length until full payment is received. For supply only, the length is cut with a 1% tolerance.
- 3.5 Time for payment for the Goods shall be of the essence and will be stated on the invoice or any other forms.
- 3.6 Payment to be made by cash, bank transfer or by credit card (plus a surcharge of up to two percent (2%) of the Price), or by any other method as agreed to between the Client and the Supplier.
- 3.7 GST and other taxes and duties that may be applicable shall be added to the Price except when they are expressly included in the Price.

### 4 Delivery Of Goods

- 4.1 At the Supplier's sole discretion delivery of the Goods shall take place when:
  - 4.1.1 the Client takes possession of the Goods at the Supplier's address; or
  - 4.1.2 the Client takes possession of the Goods at the Client's nominated address (in the event that the Goods are delivered by the Supplier or the Supplier's nominated carrier).
- 4.2 At the Supplier's sole discretion the costs of delivery are:
  - 4.2.1 included in the Price; or
  - 4.2.2 in addition to the Price;



- 4.3 The Client shall make all arrangements necessary to take delivery of the Goods whenever they are tendered for delivery. In the event that the Client is unable to take delivery of the Goods as arranged then the Supplier shall be entitled to charge a reasonable fee for re-delivery.
- 4.4 Delivery of the Goods to a third party nominated by the Client is deemed to be delivery to the Client for the purposes of this agreement.
- 4.5 The failure of the Supplier to deliver shall not entitle either party to treat this contract as repudiated.
- 4.6 The Supplier shall not be liable for any loss or damage whatsoever due to failure by the Supplier to deliver the Goods (or any of them) promptly or at all when due to circumstances beyond the control of the Supplier.

## 5 Risk

- 5.1 If the Supplier retains ownership of the Goods nonetheless, all risk for the Goods passes to the Client on delivery.
- 5.2 If any of the Goods are damaged or destroyed following delivery but prior to ownership passing to the Client, the Supplier is entitled to receive all insurance proceeds payable for the Goods. The production of these terms and conditions by the Supplier is sufficient evidence of the Supplier's rights to receive the insurance proceeds without the need for any person dealing with the Supplier to make further enquiries.
- 5.3 The Client acknowledges that Goods supplied may exhibit variations in shade, colour, style, texture, surface and finish, and may have minimal fade or colour change of up to four percent (4%) over eight (8) years which is deemed acceptable. The Supplier will make every effort to match batches of product supplied in order to minimise such variations but shall not be liable in any way whatsoever where such variations occur.
- 5.4 Due to the inherent nature of the Goods, high traffic areas and a lack of maintenance will cause the Goods to flatten. The Client acknowledges and agrees the Supplier shall not be held liable for any damages caused due to the Clients failure to maintain the Goods, or due to flattening issues caused by traffic over the area.
- 5.5 The Client agrees to have an adequate free source of power and water available to the site.
- 5.6 The Client agrees that the Supplier shall not be held liable for any damage to the installed surface due to existing or future drainage issues (whether disclosed or not), inadequate drainage caused by any unforeseen site conditions such as but limited to excessive water run-off, limestone, clay, gravel, rock, underground structures, tanks or sinking of the sub-base material (KomboGrass' site preparation warranty is limited only to the base material they have supplied and compacted).
- 5.7 The Client agrees that the number and size of waste removal bins quoted and invoiced for the installation is an estimate only. In the event additional bins are required, these shall be charged as a variation as per clause 3.2.
- 5.8 Any claims for dispute must be given in writing to the Supplier within seven (7) days of the installation date.
- 5.9 The Client acknowledges that whilst the Supplier undertakes to do their best to remove existing turf or landfill waste, the Supplier cannot guarantee that wild couch or weeds will not grow through the turf product, or on top of the product and cannot prevent airborne seeds from falling into the product and germinating.
- 5.10 Clay, root bases and other materials may only be discovered after the installation works have commenced. Our installation services are based on the removal of clean fill and surface grass to a



stated depth (typically 65mm). In the event on commencing the works clay, root bases or other material (in the case of new build sites, rubbish including tiles and cement waste) are discovered, the Supplier will notify the Client immediately and advise of any additional costs. No work will be completed until a mutual agreement is reached.

## 6 Damages

- 6.1 The Client shall ensure that the Supplier has clear and free access to the work site at all times to enable them to undertake the works. The Supplier shall not be liable for any loss or damage to the site (including, without limitation, damage to pathways, driveways and concreted or paved or grassed areas) unless due to the negligence of the Supplier.

## 7 Underground Locations

- 7.1 Prior to the Supplier commencing any work the Client must advise the Supplier of the precise location of all underground services on the site and clearly mark the same. The underground mains & services the Client must identify include, but are not limited to, electrical services, gas services, sewer services, pumping services, sewer connections, sewer sludge mains, water mains, irrigation pipes, telephone cables, fibre optic cables, and any other services that may be on site.
- 7.2 Whilst the Supplier will take all care to avoid damage to any underground services the Client agrees to indemnify the Supplier in respect of all and any liability claims, loss, damage, costs and fines as a result of damage to services not precisely located and notified as per clause 7.1.

## 8 Defects

- 8.1 The Client shall inspect the Goods on delivery and shall within three (3) days of delivery (time being of the essence) notify the Supplier of any alleged defect, shortage in quantity, damage or failure to comply with the description or quote. The Client shall afford the Supplier an opportunity to inspect the Goods within a reasonable time following delivery if the Client believes the Goods are defective in any way. If the Client shall fail to comply with these provisions the Goods shall be presumed to be free from any defect or damage. For defective Goods, which the Supplier has agreed in writing that the Client is entitled to reject, the Supplier's liability is limited to either (at the Supplier's discretion) replacing the Goods or repairing the Goods except where the Client has acquired Goods as a consumer within the meaning of the Trade Practices Act 1974 (Cwlth) or the Fair Trading Acts of the relevant state or territories of Australia, and is therefore also entitled to, at the consumer's discretion either a refund of the purchase price of the Goods, repair of the Goods, or replacement of the Goods.
- 8.2 Goods will not be accepted for return other than in accordance with 8.1 above.

## 9 Default & Consequences of Default

- 9.1 Interest on outstanding balances shall accrue daily from the date when payment becomes due, until the date of payment, at a rate of two and a half percent (2.5%) per calendar month (and at the Supplier's sole discretion such interest shall compound monthly at such a rate) after as well as before any judgment.
- 9.2 In the event that the Client's payment is dishonoured for any reason the Client shall be liable for any dishonour fees incurred by the Supplier.
- 9.3 If the Client defaults in payment of any invoice when due, the Client shall indemnify the Supplier from and against all costs and disbursements incurred by the Supplier in pursuing the debt including legal costs on a solicitor and own client basis and the Supplier's collection agency costs.



- 9.4 Without prejudice to any other remedies the Supplier may have, if at any time the Client is in breach of any obligation (including those relating to payment), the Supplier may suspend or terminate the supply of Goods to the Client and any of its other obligations under the terms and conditions. The Supplier will not be liable to the Client for any loss or damage the Client suffers because the Supplier has exercised its rights under this clause.
- 9.5 Without prejudice to the Supplier's other remedies at law the Supplier shall be entitled to cancel all or any part of any order of the Client which remains unfulfilled and all amounts owing to the Supplier shall, whether or not due for payment, become immediately payable in the event that:
- 9.5.1 any money payable to the Supplier becomes overdue, or in the Supplier's opinion the Client will be unable to meet its payments as they fall due; or
- 9.5.2 the Client becomes insolvent, convenes a meeting with its creditors or proposes or enters into an arrangement with creditors, or makes an assignment for the benefit of its creditors; or
- 9.5.3 a receiver, manager, liquidator (provisional or otherwise) or similar person is appointed in respect of the Client or any asset of the Client.

## 10 Cancellation

- 10.1 The Supplier may cancel any contract to which these terms and conditions apply or cancel delivery of Goods at any time before the Goods are delivered by giving written notice to the Client. On giving such notice the Supplier shall repay to the Client any sums paid in respect of the Price. The Supplier shall not be liable for any loss or damage whatsoever arising from such cancellation.
- 10.2 In the event that the Client cancels delivery of Goods the Client shall be liable for any loss incurred by the Supplier (including, but not limited to, any loss of profits) up to the time of cancellation.
- 10.3 Cancellation of orders for Goods made to the Client's specifications or non-stock list items will definitely not be accepted, once production has commenced.

## 11 General

- 11.1 The Supplier shall be under no liability whatsoever to the Client for any indirect and/or consequential loss and/or expense (including loss of profit) suffered by the Client arising out of a breach by the Supplier of these terms and conditions.
- 11.2 In the event of any breach of this contract by the Supplier the remedies of the Client shall be limited to damages which under no circumstances shall exceed the Price of the Goods.
- 11.3 The Client shall not be entitled to set off against, or deduct from the Price, any sums owed or claimed to be owed to the Client by the Supplier nor to withhold payment of any invoice because part of that invoice is in dispute.
- 11.4 The Supplier may license or sub-contract all or any part of its rights and obligations without the Client's consent.
- 11.5 The Client agrees that the Supplier may review these terms and conditions at any time. If, following any such review, there is to be any change to these terms and conditions, then that change will take effect from the date on which the Supplier notifies the Client of such change.
- 11.6 Neither party shall be liable for default due to any act of God, war, terrorism, strike, lock-out, industrial action, fire, flood, storm or other event beyond the reasonable control of either party.