

Southern Cross Compressors (Australia) Pty Ltd (ACN 114 574 515)
TAC006 – USED OR SECOND HAND GOODS TERMS AND CONDITIONS

1. Definitions & Interpretations

- 1.1 " Seller " means Southern Cross Compressors (Australia) Pty Ltd or its related companies as indicated on the invoice.
- 1.2 " Goods " means the goods supplied by the Seller and specified on the Seller's sales invoice issued upon the Customer.
- 1.3 " Customer " means the person, firm, partnership, company or other legal entity upon whom the invoice is issued.
- 1.4 " Sales Invoice " means the invoice issued to the Customer by the Seller for Goods supplied to the Customer by the Seller
- 1.5 Headings are for convenience and do not affect the interpretation of the warranty terms
- 1.6 Words purporting the singular are deemed to include the plural and vice versa

2. Quality

The Seller warrants that the Goods

- 2.1 conform with the description provided by the Seller
- 2.2 conform with any applicable specifications agreed by the Seller
- 2.3 are of merchantable quality and are fit for the purpose for which they are sold
- 2.4 are used (unless otherwise) specified and are free from all liens and encumbrances and the Seller has good title thereto

These warranties are in addition to any other warranties or guarantees contained in the Sales Invoice or implied by law or provided by the Seller.

3. Acceptance & Limitations

- 3.1 The onus lies with the Customer to establish the validity of a warranty claim
- 3.2 The Seller and will not proceed to replace, repair, service, supply any Goods unless and until a written order has been received from the Customer
- 3.3 Any action, claim or request made by the Customer must be in writing and be received by the Seller within 30 days of the event giving cause to the claim first arising.
- 3.4 No warranty claim will be considered unless the Customer has complied in full with the terms and conditions of sale of the goods specified in the Seller's " Terms and Conditions of Sale " and/or the terms of payment specified in the quotation for supply of the Goods concerned.

- 3.5 The Seller and/shall be the arbiter of any warranty claim.
- 3.6 Upon acceptance of liability the Seller may, at its option, either
 - 3.6.1 Repair or replace the Goods
 - 3.6.2 Supply equivalent Goods
 - 3.6.3 Supply the service again
 - 3.6.4 Reimburse the customer for the costs of locally purchased materials and sub contract services
- 3.7 Title to goods replaced by the Seller will be transferred from the Customer to the Seller.
- 3.8 All goods covered by this warranty that are made subject to claim by the Customer must be returned to the Seller at the Customer's risk and cost
- 3.9 Warranty is limited to Goods and Labour only provided that in the case of Labour further limitations will apply as follows:
 - 3.9.1 Additional costs including but not limited to overtime and call outs applicable to work required to be done outside the normal working hours 7.30. a.m. to 4.00 p.m Monday to Friday excluding public holidays will be to the Customer's account.
 - 3.9.2 Mileage, accommodation, meals and all other costs including but not limited to transportation, freight, insurance, customs fees, local taxes, importation costs will be to the Customer's account
 - 3.9.3 Labour costs attributable to delays caused by the Customer will be to the Customer's account
 - 3.9.4 Labour costs attributable to the inaccessibility of the Customer's Goods will be to the Customer's account
 - 3.9.5 Labour costs attributable to the Customer's poor, unsafe or hostile environment will be to the Customer's account
- 3.10 If on inspection of the Goods the Seller determines that the Goods are not covered by the Seller's warranty then the Seller's normal and usual charges including labour will be to the Customer's account
- 3.11 The Seller's normal and usual charges including labour will be billed to the Customer's account. If on inspection of the Goods the Seller determines that the Goods are covered by the Seller's warranty then the Seller shall credit the account of the Customer an amount determined exclusively by the Seller provided that the Customer has completed and lodged with the Seller a request for credit in a form and manner determined by the Seller.

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3.12 Any performance or output figures supplied in respect of Goods are estimates.

4. Exclusions

Warranty will neither be considered nor accepted if in the opinion of the Seller any one of the following applies:

- 4.1 the Goods have not been used and maintained including regular and proper servicing in accordance with the Seller's instructions
- 4.2 the Goods have not been used and maintained including regular and proper servicing in accordance with the Seller's recommendations, manuals or specifications
- 4.3 the Goods have been misused, abused, neglected, improperly installed, improperly handled, improperly stored, improperly commissioned
- 4.4 the Goods are damaged due to any power surge or other fault in the supply of electricity
- 4.5 unauthorised repairs or alterations have been made to the Goods
- 4.6 the Goods have been affected by corrosion, erosion or normal wear and tear
- 4.7 parts ,accessories and materials used in conjunction with the Goods have not been approved by the Seller
- 4.8 the Goods have been involved in an accident
- 4.9 the Goods have been subjected to hostile or abnormal conditions including but not limited to temperature, humidity, pressure, stress.
- 4.10 service work has been undertaken by parties not authorized by the Seller
- 4.11 the Customer has failed to maintain a complete service log
- 4.12 the Customer has failed to carry out checks and functions according to the Seller's service and operating manuals
- 4.13 the Customer has failed to notify the Seller of any abnormalities or noises
- 4.14 the warranty shall not be suspended on the grounds of non – use, intermittent use or for any other reason

5. Warranty Period

Without limitation of operating hours the following shall apply to used Goods only::

- 5.1 the compressor unit is warranted for a period of 3 months from the date of delivery to the Customer
- 5.2 dryers, filters and accessories are warranted for a period of 3 months from the date of delivery to the Customer

- 5.3 genuine spare parts are warranted for a period of 3 months from the date of delivery to the Customer
- 5.4 service repairs are warranted for a period of 1 month from the date of the first repair.
- 5.5 no extension to any stated warranty period will be provided by the Seller as a consequence of any work being carried out or Goods replaced under the warranty policy or during the warranty period

6. Disclaimers

- 6.1 except as expressly provided in these Terms, all warranties, conditions, and guarantees implied by law as to merchantability, description, quality, suitability or fitness of the Goods for any purpose or as to design, assembly, installation, materials, workmanship or otherwise are hereby expressly excluded and the Seller shall not be liable for physical or financial injury , loss or damage or for indirect or consequential loss or damage to persons or property of any kind whatsoever and howsoever arising out of supply, layout and assembly of the Goods or in any other way
- 6.2 any statement, representation, agreement or understanding, whether oral or in writing , made or given by the Seller, the employees of the Seller which is not consistent with these Terms shall not be binding upon the Seller unless made in writing by a duly authorized officer of the Seller
- 6.3 acknowledgement and/or investigation initiated or put into action by the Seller with respect to any Goods shall not be construed as an admission of the Seller's liability nor acceptance of a warranty claim
- 6.4 these Terms of warranty are to be read in conjunction with the Seller's Terms and Conditions of Sale
- 6.5 failure by the Seller to enforce any of these warranty Terms shall not be construed as a waiver of its rights

7. Jurisdiction

To the extent permitted by law the remedies provided to the Customer in this warranty are sole and exclusive. The governance of these Terms shall be the exclusive jurisdiction of the courts and tribunals of Victoria and the Federal Court of Australia.