

1 Terms of Trade

- 1.1 These terms of trade set out the contractual basis upon which the Seller will provide goods and/or services to the Customer.
- 1.2 Our invoices, quotes, order confirmations and rental agreements are incorporated into and form a part of these terms.

2 Definitions

- 2.1 "RBM" shall mean RBM Plastic Extrusions Pty Ltd (ABN 64 000 464 960) its successors and assigns or any person acting on behalf of and with the authority of RBM Plastic Extrusions Pty Ltd
- 2.2 "Customer" shall mean the Customer (or any person acting on behalf of and with the authority of the Customer) as described on any quotation, work authorisation or other form as provided by RBM to the Customer.
- 2.3 "Guarantor" means that person (or persons), or entity, who agrees to be liable for the debts of the Customer on a principal debtor basis.
- 2.4 "Goods" shall mean plastics, plastic extrusion products and/or any other Goods supplied by RBM to the Customer (and where the context so permits shall include any supply of Services as hereinafter defined) and are as described on the invoices, quotes, order confirmations, work authorisation or any other forms as provided by RBM to the Customer.
- 2.5 "Services" shall mean all Services supplied by RBM to the Customer and includes any advice or recommendations (and where the context so permits shall include any supply of Goods as defined above).
- 2.6 "Price" shall mean the price payable for the Goods as agreed between RBM and the Customer in accordance with clause 6 of these terms of trade.

3 The Competition and Consumer Act 2010 ("ACL") and Fair Trading Acts ("FTA")

- 3.1 Nothing in this agreement is intended to have the effect of contracting out of any applicable provisions of the ACL or the FTA in each of the States and Territories of Australia, except to the extent permitted by those Acts where applicable.

4 Application of these terms and conditions to consumers

- 4.1 Clause 9 (Defects) and clause 10 (Warranty) shall NOT apply to the Customer where the Customer is purchasing Goods or Services not for resale or hire where the Price of the Goods or Services does not exceed \$40,000, or where the Price of the Goods or Services does exceed \$40,000 and are of a kind ordinarily acquired for personal, domestic or household use or consumption, or where the Customer is in any other way a consumer within the meaning of the ACL or the FTA of the relevant state or territories of Australia.

5 Acceptance & Responsibilities

- 5.1 Any instructions received by RBM from the Customer for the supply of Goods and/or the Customer's acceptance of Goods supplied by RBM shall constitute acceptance of the terms of trade contained herein.
- 5.2 Where more than one Customer has entered into this agreement, all Customers shall be jointly and severally liable for all responsibilities under these terms including payment of the Price.
- 5.3 Upon acceptance of these terms and conditions by the Customer the terms and conditions are binding and can only be amended with the written consent of RBM.
- 5.4 The Customer shall give RBM not less than fourteen (14) days prior written notice of any proposed change of ownership of the Customer or any change in the Customer's name and/or any other change in the Customer's details (including but not limited to, changes in the Customer's address, facsimile number, or business practice). The Customer shall be liable for any loss incurred by RBM as a result of the Customer's failure to comply with this clause.
- 5.5 It is the Customer's responsibility to ensure that all information, (written & verbal) provided to RBM is complete and accurate. The Customer acknowledges and agrees that RBM is relying upon the accuracy of the information provided to them by the Customer in supplying the Goods and/or Services. RBM may refuse to provide Goods and/or Services to the Customer if the Customer refuses to provide all information requested by RBM or RBM discovers that any information provided to it by the Customer is inaccurate or incomplete.

6 Price And Payment

- 6.1 At RBM's sole discretion the Price shall be either:
 - (a) as indicated on invoices provided by RBM to the Customer in respect of Goods supplied; or
 - (b) RBM's quoted Price (subject to clause 6.2) which shall be binding upon RBM provided that the Customer accepts the relevant quoted Price in writing within thirty (30) days of the Customer receiving RBM's quote.
- 6.2 RBM reserves the right to change the quoted Price in the event of there being any variation to the Goods originally requested by the Customer, including but not limited to the quantity, dimensions, quality and/or type of Goods supplied.
- 6.3 At RBM's sole discretion a deposit may be required.
- 6.4 Time for payment for the Goods shall be of the essence and will be stated on the invoice or any other forms. If no time is stated then payment shall be due seven (7) days following the date of the invoice.
- 6.5 Payment will be made by electronic funds transfer, credit card, bank cheque, or by any other method as agreed to between the Customer and RBM.
- 6.6 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.

7 Delivery Of Goods

- 7.1 At RBM's sole discretion delivery of the Goods shall take place when:
 - (a) the Customer takes possession of the Goods at RBM's premises; or
 - (b) the Customer takes possession of the Goods at the Customer's nominated

address (in the event that the Goods are delivered by RBM or the RBMs nominated carrier); or

- (c) the Customer's nominated carrier takes possession of the Goods in which event the carrier shall be deemed to be the Customer's agent.
- 7.2 At RBM's sole discretion the costs of delivery are:
 - (a) in addition to the Price; or
 - (b) for the Customer to bear separately.
- 7.3 The Customer shall make all arrangements necessary to take delivery of the Goods whenever they are tendered for delivery. In the event that the Customer is unable to take delivery of the Goods as arranged then RBM shall be entitled to recovery in full its costs of redelivering the Goods.
- 7.4 Delivery of the Goods to a third party nominated by the Customer is deemed to be delivery to the Customer for the purposes of these terms of trade.
- 7.5 RBM may deliver the Goods by separate instalments. Unless otherwise authorised in writing by RBM, each separate instalment shall be invoiced and paid in accordance with the provisions in these terms of trade.
- 7.6 The failure of RBM to deliver the Goods on a nominated date for delivery shall not entitle either party to treat the agreement to supply Goods as repudiated.
- 7.7 RBM shall not be liable for any loss or damage whatever due to failure by RBM to deliver the Goods (or any of them) promptly or at all due where such failure is the result of circumstances beyond the control of RBM.

8 Risk

- 8.1 Regardless of whether RBM retains ownership of the Goods following delivery, all risk for the Goods passes to the Customer upon delivery.
- 8.2 If any of the Goods are damaged or destroyed following delivery but prior to ownership of the Goods passing to the Customer, RBM is entitled to receive all insurance proceeds payable in respect of the Goods. The Customer agrees that the production of these terms and conditions by RBM shall be sufficient evidence of RBM's right to receive any such insurance proceeds.

9 Defects

- 9.1 The Customer shall inspect the Goods on delivery and shall within fourteen (14) days of delivery (time being of the essence) notify RBM of any alleged defect, shortage in quantity, damage or failure to comply with the description of Goods provided in the relevant quote or purchase order.
- 9.2 In the event that the Customer believes the Goods are defective in any way, RBM shall be entitled (and the Customer must allow RBM the opportunity) to inspect the Goods following delivery.
- 9.3 Should the Customer shall fail to comply with this clause 9, the Goods shall be presumed to be free from any defect or damage.
- 9.4 In respect of any defective Goods which RBM has agreed in writing that the Customer is entitled to reject, RBM's liability is limited to either (at RBM's discretion) replacing the Goods or repairing the Goods.
- 9.5 Goods will not be accepted for return other than in accordance with 9.1 above.

10 Warranty

- 10.1 RBM warrants that all Goods sold are free from defects in materials and workmanship as at the date of dispatch by RBM. To the extent permissible by law, RBM excludes all representations or warranties not expressly set out in these terms of trade.
- 10.2 To the extent permissible by law, RBM's liability for breach of any warranty set out in these terms or any warranty which RBM is not entitled to exclude is limited to, at the option of RBM, the:
 - (a) replacement of the Goods, or
 - (b) refund of the cost of the relevant Goods.
- 10.3 The Customer may exercise its rights under this clause by notifying RBM of any Defects in accordance with clause 9 of these terms.
- 10.4 The benefits provided to the Customer by the warranties contained in this clause 10 are in addition to other rights and remedies available under the law.
- 10.5 RBM's goods come with guarantees that cannot be excluded under the Australian Consumer Law. The Customer is entitled to a replacement or refund for a major failure or for compensation for any other reasonably foreseeable loss or damage. The Customer is also entitled to have the Goods repaired or replaced if the Goods fail to be of acceptable quality and the failure does not amount to a major failure.
- 10.6 The Customer acknowledges and agree that RBM has made no warranty or representation that the Goods are suitable for any purpose or application.
- 10.7 Subject to the conditions of warranty set out in this clause 10, RBM warrants that if any defect in any workmanship of RBM becomes apparent and is reported to RBM within ninety (90) days of the date of delivery (time being of the essence) then RBM will either (at its sole discretion) replace or remedy the workmanship.
- 10.8 The conditions applicable to the warranty given by clause 10.7 are:
 - (a) the warranty shall not cover any defect or damage which may be caused or partly caused by or arise through:
 - (i) failure on the part of the Customer to properly maintain any Goods; or
 - (ii) failure on the part of the Customer to follow any instructions or guidelines provided by RBM; or
 - (iii) any use of any Goods otherwise than for any application specified on a quote or order form; or
 - (iv) the continued use of any Goods after any defect becomes apparent or would have become apparent to a reasonably prudent operator or user; or
 - (v) fair wear and tear, any accident or act of God.
 - (b) the warranty shall cease and RBM shall thereafter in no circumstances be liable under the terms of the warranty if the workmanship is repaired, altered or overhauled without RBM's written consent.

(c) in respect of all claims RBM shall not be liable to compensate the Customer for any delay in either replacing or remedying the workmanship or in properly assessing the Customer's claim.

- 10.9 For Goods not manufactured by RBM, the warranty shall be the current warranty provided by the manufacturer of the Goods. RBM shall not be bound by nor be responsible for any term, condition, representation or warranty other than that which is given by the manufacturer of the Goods.

11 Intellectual Property

- 11.1 Where RBM has designed, drawn, written or otherwise created Goods for the Customer, the copyright in those designs and drawings and documents shall remain vested in RBM and that copyright shall only be used by the Customer with RBM's written consent.
- 11.2 The Customer warrants that no designs and/or instructions provided to RBM by the Customer will cause RBM to infringe any patent, registered design or trademark in the execution of the Customer's order and the Customer agrees to indemnify RBM against any action taken by a third party against RBM in respect of any such infringement arising from or related to the supply of Goods to the Customer.

12 Default & Consequences of Default

- 12.1 Interest on overdue invoices shall accrue daily from the date when payment becomes due, until the date of payment, at a rate of ten per cent (10%) per annum.
- 12.2 If the Customer defaults in payment of any invoice when due, the Customer shall indemnify RBM from and against all costs and disbursements incurred by RBM in pursuing the debt including legal costs on a solicitor and own client basis and RBM's collection agency costs.
- 12.3 Without prejudice to any other remedies that RBM may have, if at any time the Customer is in breach of any obligation (including those relating to payment), RBM may suspend or terminate the supply of Goods to the Customer and any of its other obligations under these terms of trade. RBM will not be liable to the Customer for any loss or damage the Customer suffers as a result of RBM exercising its rights under this clause.
- 12.4 Without prejudice to RBM's other remedies at law, RBM shall be entitled to cancel all or any part of any order of the Customer which remains unfulfilled and all amounts owing to RBM shall, whether or not due for payment, become immediately payable in the event that:
- any money payable to RBM becomes overdue, or in RBM's opinion the Customer will be unable to meet its payment obligations to RBM as they fall due; or
 - the Customer 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
 - a receiver, manager, liquidator (provisional or otherwise) or similar person is appointed in respect of the Customer or any asset of the Customer.

13 Cancellation & Termination

- 13.1 RBM 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 Customer.
- 13.2 Other than where cancellation is the result of the Customer's default of these terms of trade, upon giving notice of the cancellation RBM shall repay to the Customer any sums paid in respect of the Price. RBM shall not bear any further liability in respect of any loss or damage whatever arising from such cancellation.
- 13.3 In the event that the Customer cancels delivery of Goods the Customer shall be liable for a cancellation fee of thirty (30%) of the price quoted to the Customer for the Goods cancelled.
- 13.4 In the event that RBM has taken a deposit for the provision of the Goods, in the event that delivery of the Goods is subsequently cancelled by the Customer after the deposit has been paid, the Customer shall forfeit the deposit paid to RBM. The deposit retained by the Customer under this clause will include and incorporate the cancellation fee set out at clause 13.3 above.
- 13.5 Either party may terminate any contract to which these terms of trade applies upon the provision to the other party of thirty (30) days' written notice.

14 Privacy Act 1988

- 14.1 The Customer and/or the Guarantor/s agree that RBM will be entitled to obtain from a credit reporting agency a credit report containing personal credit information about the Customer and/or the Guarantor/s in relation to credit provided to the Customer by RBM.
- 14.2 The Customer and/or the Guarantor/s agree that RBM may exchange information about the Customer and/or the Guarantor/s with those credit providers either named as trade referees by the Customer or named in a consumer credit report issued by a credit reporting agency for the following purposes:
- to assess an application by Customer; and/or
 - to notify other credit providers of a default by the Customer; and/or
 - to exchange information with other credit providers as to the status of this credit account, where the Customer is in default with other credit providers; and/or
 - to assess the credit worthiness of Customer and/or Guarantor/s.
- 14.3 The Customer consents to RBM being given a consumer credit report to collect overdue payment on commercial credit (Section 18K(1)(h) Privacy Act 1988).
- 14.4 The Customer agrees that personal credit information provided may be used and retained by RBM for the following purposes and for other purposes as shall be

agreed between the Customer and RBM or required by law from time to time:

- provision of Goods; and/or
 - marketing of Goods by RBM, its agents or distributors in relation to the Goods; and/or
 - analysing, verifying and/or checking the Customer's credit, payment and/or status in relation to provision of Goods; and/or
 - processing of any payment instructions, direct debit facilities and/or credit facilities requested by Customer; and/or
 - enabling the daily operation of Customer's account and/or the collection of amounts outstanding in the Customer's account in relation to the Goods.
- 14.5 RBM may give information about the Customer to a credit reporting agency for the following purposes:
- to obtain a consumer credit report about the Customer; and/or
 - allow the credit reporting agency to create or maintain a credit information file containing information about the Customer.

15 Unpaid Seller's Rights

- 15.1 Where the Customer has left any item with RBM for repair, modification, exchange or for RBM to perform any other Service in relation to the item and RBM has not received or been tendered the whole of the Price, or the payment has been dishonoured, RBM shall have:
- a lien on the item;
 - the right to retain the item for the Price while RBM is in possession of the item;
 - a right to sell the item.
- 15.2 The lien of RBM shall continue despite the commencement of proceedings, or judgment for the Price having been obtained.

16 Title

- 16.1 RBM and Customer agree that ownership of the Goods shall not pass until:
- the Customer has paid RBM all amounts owing for the particular Goods; and
 - the Customer has met all other obligations due by the Customer to RBM in respect of all the particular Goods.
- 16.2 Receipt by RBM of any form of payment other than cash shall not be deemed to be payment until that form of payment has been honoured, cleared or recognised and until then RBM's ownership or rights in respect of the Goods shall continue.
- 16.3 It is further agreed that:
- where practicable the Goods shall be kept separate and identifiable until RBM shall have received payment and all other obligations of the Customer are met; and
 - until such time as ownership of the Goods passes from RBM to the Customer, RBM may give notice in writing to the Customer to return the Goods or any of them to RBM. Upon such notice the rights of the Customer to obtain ownership or any other interest in the Goods shall cease; and
 - RBM shall have the right of stopping the Goods in transit whether or not delivery has been made; and
 - if the Customer fails to return the Goods to RBM then RBM or RBM's agent may enter upon and into land and premises owned, occupied or used by the Customer, or any premises as the invitee of the Customer, where the Goods are situated and take possession of the Goods; and
 - the Customer is only a bailee of the Goods and until such time as RBM has received payment in full for the Goods and until then the Customer shall hold any proceeds from the sale or disposal of the Goods on trust for RBM; and
 - the Customer shall not deal with the money held on behalf of RBM in any way which may be adverse to RBM; and
 - the Customer shall not charge the Goods in any way nor grant nor otherwise give any interest in the Goods while they remain the property of RBM; and
 - RBM can issue proceedings to recover the Price of the Goods sold notwithstanding that ownership of the Goods may not have passed to the Customer; and
 - until such time that ownership in the Goods passes to the Customer, if the Goods are converted into other products, the parties agree that RBM will be the owner of the relevant end products.

17 Security And Charge

- 17.1 Despite anything to the contrary contained herein or any other rights which RBM may have:
- where the Customer and/or the Guarantor (if any) is the owner of land, realty or any other asset capable of being charged, both the Customer and/or the Guarantor agree to mortgage and/or charge all of their joint and/or several interest in the said land, realty or any other asset to RBM or to RBM's nominee to secure all amounts and other monetary obligations payable under these terms of trade. The Customer and/or the Guarantor acknowledge and agree that RBM (or RBM's nominee) shall be entitled to lodge where appropriate a caveat, which caveat shall be withdrawn once all payments and other monetary obligations payable hereunder have been met.
 - should RBM elect to proceed in any manner in accordance with this clause 17 and/or its sub-clauses, the Customer and/or Guarantor shall indemnify RBM from and against all of RBM's costs and disbursements including legal costs on a solicitor and own client basis.
 - the Customer and/or the Guarantor (if any) agree to irrevocably nominate constitute and appoint RBM or RBM's nominee as the Customer's and/or Guarantor's true and lawful attorney to perform all necessary acts to give effect to the provisions of this clause.

18 Personal Property Securities Act 2009 (PPSA)

- 18.1 The Customer agrees and acknowledge that these Conditions:
- constitute a security agreement for the purposes of the PPSA; and
 - create a security interest in all goods previously supplied to the Customer by RBM (if any) and all goods that will be supplied to the Customer in the future by RBM.
- 18.2 The Customer undertakes to:
- promptly sign any further documents and/or provide any further information which RBM may reasonably require to:
 - register a financing statement or financing change statement in relation to a security interest on the Personal Property Securities Register;
 - register any other document required to be registered by the PPSA; or
 - correct a defect in the statement referred to in this clause;
 - indemnify and upon demand reimburse, RBM for all expenses incurred in registering a financing statement or financing change statement on the Personal Property Securities Register established by the PPSA or releasing any goods charged thereby;
 - not register a financing change statement in respect of a security interest without the prior written consent of RBM;
 - not register, or permit to be registered, a financing statement or a financing change statement in relation to the goods in favour of a third party without the prior written consent of RBM;
 - immediately advise RBM of any material change in its business practices of selling the goods which would result in a change in the nature of proceeds derived from such sales; and
 - immediately advise RBM of any proposed change in the Customer's name and/or any other changes in the Customer's details.
- 18.3 The Customer agrees that sections 96, 115 & 125 of the PPSA do not apply to the security agreement created by these Conditions.
- 18.4 The Customer hereby waives the Customer's rights to receive notices under sections 95, 118, 121(4), 130, 132(3)(d) & 132(4) of the PPSA.
- 18.5 The Customer waives its rights as a grantor and/or a debt or under sections 142 & 143 of the PPSA.
- 18.6 Unless otherwise agreed to in writing by RBM, the Customer waives the Customer's right to receive a verification statement in accordance with section 157 of the PPSA.
- 18.7 The Customer must unconditionally ratify any actions taken by RBM under this clause.

19 Limitation of liability

- 19.1 Except as expressly provided in these Conditions, to the maximum extent permitted by law RBM shall not be liable to the Customer by way of indemnity or by reason of any breach of these Conditions or any statutory duty or any common law duty for any direct, punitive, exemplary, special, indirect or consequential loss or damages suffered by the Customer.
- 19.2 The Customer indemnifies RBM against all claims, losses, costs, suits or expenses for damage to property or injury to or death of any person arising from the Goods or their use or application.
- 19.3 This clause does not exclude or modify any condition or warranty implied into any contract or these terms of trade by any law (including the Competition and Consumer Act, 2010 (Cth)) where to do so would contravene that law or cause any part of this clause to be void.
- 19.4 To the maximum extent permitted by law, RBM excludes all conditions and warranties implied into these terms of sale and limit its liability for breach of any non-excludable condition and warranty, at RBM's option, to:
- in respect of Goods:
 - repairing the relevant Goods;
 - paying the cost of having the relevant Goods repaired;

(iii) request the return of the Goods and tender to the Customer the purchase price paid by the Customer; or

(iv) resupplying the relevant Goods or equivalent Goods;

(b) in respect of Services, resupplying the relevant Services.

- 19.5 RBM's total liability under any contract and these terms of sale shall not exceed the total dollar amount of the Goods and/or Services purchased by the Customer under the contract.
- 19.6 The Parties agree that if any limitation or exclusion of liability under these terms of sale is held to be invalid under any applicable statute or rule of law, it will to that extent be omitted.

20 Guarantee

- 20.1 The person noted at the end of these terms of trade as personally guaranteeing the performance of the Customer's obligations under these terms of trade (**the Guarantor**) guarantees to RBM that the Customer will comply with all its obligations under these terms of trade at the time they should be complied with.
- 20.2 The Guarantor agrees that they are liable for all of the Customer's obligations to RBM under these terms of trade. For the avoidance of doubt the Guarantor acknowledges that RBM is entitled to pursue the Guarantor for the performance of any of the obligations of the Customer that arise under these terms of trade.
- 20.3 The Guarantor agrees to indemnify RBM for any loss or costs that RBM suffers or incurs as a result of the Customer not complying with its obligations under these terms of trade.
- 20.4 The guarantee and indemnity in this clause is a continuing guarantee and indemnity and the guarantees do not come to an end until released in writing by RBM.
- 20.5 The Guarantor agrees and acknowledges that the guarantee they are providing under operates even if the Customer ceases trading or becomes insolvent, or any agreement between RBM and the Customer is or becomes unenforceable for any reason or if RBM does not act promptly to enforce its rights under these terms of trade.
- 20.6 The Guarantor acknowledges that for the purposes of providing this guarantee RBM may obtain from any credit reporting agency a credit report containing personal information about the Guarantor and that RBM will have the right to report the Guarantor to a credit rating authority should they default under the guarantee.

21 General

- 21.1 If any provision of these terms and conditions shall be invalid, void, illegal or unenforceable the validity, existence, legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired.
- 21.2 These terms and conditions and any contract to which they apply shall be governed by the laws of New South Wales and are subject to the jurisdiction of the courts of New South Wales.
- 21.3 The Customer shall not be entitled to set off against or deduct from the Price any sums owed or claimed to be owed to the Customer by the Seller.
- 21.4 RBM may license or sub-contract all or any part of its rights and obligations without the Customer's consent.
- 21.5 The Customer agrees that RBM 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 RBM notifies the Customer in writing of such change.
- 21.6 Neither party shall be liable for any default due to any act of God, war, terrorism, strike, lock-out, industrial action, fire, flood, drought, storm or other event beyond the reasonable control of either party.
- 21.7 The failure by RBM to enforce any provision of these terms and conditions shall not be treated as a waiver of that provision, nor shall it affect RBM's right to subsequently enforce that provision.