

1. Definitions

- 1.1 "Supplier" shall mean Plastec Australia Pty Ltd its successors and assigns or any person acting on behalf of and with the authority of Plastec Australia Pty Ltd.
- 1.2 "Client" shall mean the Client or any person acting on behalf of and with the authority of the Client.
- 1.3 "Guarantor" means that person (or persons), or entity, who agrees to be liable for the debts of the Client on a principal debtor basis.
- 1.4 "Products" shall mean Products supplied by the Supplier to the Client (and where the context so permits shall include any supply of Services as hereinafter defined) and are as described on the invoices, quotation, work authorisation or any other forms as provided by the Supplier to the Client.
- 1.5 "Services" shall mean all services supplied by the Supplier to the Client and includes any advice or recommendations (and where the context so permits shall include any supply of Products as defined above).
- 1.6 "Price" shall mean the cost of the Products as agreed between the Supplier and the Client subject to clause 4 of this contract.

2. Acceptance

- 2.1 Any instructions received by the Supplier from the Client for the supply of Products and/or the Client's acceptance of Products supplied by the Supplier shall constitute acceptance of the terms and conditions contained herein.
- 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 Upon acceptance of these terms and conditions by the Client the terms and conditions are irrevocable and can only be amended with the written consent of the Supplier.
- 2.4 The Client undertakes to give the Supplier at least fourteen (14) days notice of any change in the Client's name, address and/or any other change in the Client's details.

3. Orders

- 3.1 The Client acknowledges that drawings and images in the Supplier's Price list are indicative only and are subject to change without notice and to availability of supply.
- 3.2 Products will be supplied to Clients on receipt of a written order quoting an order number, details and quantities of the Products required, and the Supplier's code for the Products.
- 3.3 Minimum order amounts and freight are outline in the Supplier's Price list.

4. Price And Payment

- 4.1 At the Supplier's sole discretion the Price shall be either;
- (a) as indicated on invoices provided by the Supplier to the Client in respect of Products supplied; or
- (b) the Supplier's current Price as at the date of delivery of the Products, according to the Supplier's current Price list; or
- (c) the Supplier's quoted Price (subject to clause 4.2) which shall be binding upon the Supplier provided that the Client shall accept the Supplier's quotation in writing within thirty (30) days.
- 4.2 The Supplier reserves the right to change the Price in the event of a variation to the Supplier's quotation.
- 4.3 At the Supplier's sole discretion a deposit may be required.
- 4.4 Time for payment for the Products 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.
- 4.5 At the Supplier's sole discretion;
- (a) payment shall be due on delivery of the Products; or
- (b) payment shall be due before delivery of the Products; or
- (c) payment for approved Clients shall be made by instalments in accordance with the Supplier's payment schedule; or
- (d) payment for approved Client's shall be due thirty (30) days following the end of the month in which a statement is posted to the Client's address or address for notices.
- 4.6 Payment will be made by cash, or by cheque, or by bank cheque, or by direct credit, or by any other method as agreed to between the Client and the Supplier.
- 4.7 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.

5. Delivery Of Products

- 5.1 At the Supplier's sole discretion delivery of the Products shall take place when;
- (a) the Client takes possession of the Products at the Client's address (in the event that the Products are delivered by the Supplier or the Supplier's nominated carrier); or
- (b) the Client's nominated carrier takes possession of the Products in which event the carrier shall be deemed to be the Client's agent.
- 5.2 At the Supplier's sole discretion the costs of delivery are;
- (a) included in the Price, or
- (b) in addition to the Price, or
- (c) for the Client's account.
- 5.3 The Client shall make all arrangements necessary to take delivery of the Products whenever they are tendered for delivery. In the event that the Client is unable to take delivery of the Products as arranged then the Supplier shall be entitled to charge a reasonable fee for redelivery.
- 5.4 Delivery of the Products to a third party nominated by the Client is deemed to be delivery to the Client for the purposes of this agreement.
- 5.5 The Supplier may deliver the Products by separate instalments. Each separate instalment shall be invoiced and paid for in accordance with the provisions in these terms and conditions.
- 5.6 The Client shall take delivery of the Products tendered notwithstanding that the quantity so delivered shall be either greater or less than the quantity purchased provided that;
- (a) such discrepancy in quantity shall not exceed 5%, and
- (b) the Price shall be adjusted pro rata to the discrepancy.
- 5.7 The failure of the Supplier to deliver shall not entitle either party to treat this contract as repudiated.
- 5.8 The Supplier shall not be liable for any loss or damage whatever due to failure by the Supplier to deliver the Products (or any of them) promptly or at all.

6. Risk

- 6.1 If the Supplier retains ownership of the Products nonetheless, all risk for the Products passes to the Client on delivery.
- 6.2 If any of the Products 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 Products. 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.

7. Title

- 7.1 It is the intention of the Supplier and agreed by the Client that ownership of the Products shall not pass until:
- (a) the Client has paid all amounts owing for the particular Products; and
- (b) the Client has met all other obligations due by the Client to the Supplier in respect of all contracts between the Supplier and the Client.
- 7.2 Receipt by the Supplier 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 the Supplier's ownership or rights in respect of the Products shall continue.
- 7.3 It is further agreed that:
- (a) where practicable the Products shall be kept separate and identifiable until the Supplier shall have received payment and all other obligations of the Client are met; and
- (b) until such time as ownership of the Products shall pass from the Supplier to the Client the Supplier may give notice in writing to the Client to return the Products or any of them to the Supplier. Upon

- such notice the rights of the Client to obtain ownership or any other interest in the Products shall cease; and
- (c) the Supplier shall have the right of stopping the Products in transit whether or not delivery has been made; and
- (d) if the Client fails to return the Products to the Supplier then the Supplier or the Supplier's agent may enter upon and into land and premises owned, occupied or used by the Client, or any premises as the invitee of the Client, where the Products are situated and take possession of the Products; and
- (e) the Client is only a bailee of the Products and until such time as the Supplier has received payment in full for the Products then the Client shall hold any proceeds from the sale or disposal of the Products on trust for the Supplier; and
- (f) the Client shall not deal with the money of the Supplier in any way which may be adverse to the Supplier; and
- (g) the Client shall not charge the Products in any way nor grant nor otherwise give any interest in the Products while they remain the property of the Supplier; and
- (h) the Supplier can issue proceedings to recover the Price of the Products sold notwithstanding that ownership of the Products may not have passed to the Client; and
- (i) until such time that ownership in the Products passes to the Client, if the Products are converted into other products, the parties agree that the Supplier will be the owner of the end products.

8. Client's Disclaimer

- 8.1 The Client hereby disclaims any right to rescind, or cancel the contract or to sue for damages or to claim restitution arising out of any misrepresentation made to the Client by the Supplier and the Client acknowledges that the Products are bought relying solely upon the Client's skill and judgement.

9. Defects

- 9.1 The Client shall inspect the Products on delivery and shall within seven (7) days 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 Products within a reasonable time following delivery if the Client believes the Products are defective in any way. If the Client shall fail to comply with these provisions the Products shall be presumed to be free from any defect or damage. For defective Products, 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 Products or passing a credit for the Price of the Products.

10. Returns

- 10.1 Returns will only be accepted provided that:
- (a) the Client has complied with the provisions of clause 9.1; and
- (b) the Supplier has agreed in writing to accept the return of the Products; and
- (c) the Products are returned at the Client's cost within three (3) days of the delivery date; and
- (d) the Supplier will not be liable for Products which have not been stored or used in a proper manner; and
- (e) the Products are returned in the condition in which they were delivered and with all packaging material, brochures and instruction material in as new condition as is reasonably possible in the circumstances.
- 10.2 The Supplier may (in its discretion) accept the return of Products for credit but this may incur a handling fee of 15% of the value of the returned Products plus any freight.

11. Warranty

- 11.1 Subject to the conditions of warranty set out in Clause 11.2 the Supplier warrants that if any defect in any Products becomes apparent and is reported to the Supplier within twelve (12) months of the date of delivery (time being of the essence) then the Supplier will either (at the Supplier's sole discretion) replace the Products or pass a credit for the Price of the Products.
- 11.2 The conditions applicable to the warranty given by Clause 11.1 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 Client to properly maintain any Products; or
- (ii) Failure on the part of the Client to follow any instructions or guidelines provided by the Supplier; or
- (iii) Any use of any Products otherwise than for any application specified on a quote or order form; or
- (iv) The continued use of any Products 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 the Supplier shall thereafter in no circumstances be liable under the terms of the warranty if the Products are repaired, altered or overhauled without the Supplier's consent.
- (c) In respect of all claims the Supplier shall not be liable to compensate the Client for any delay in either replacing or repairing the Products or in properly assessing the Client's claim.
- 11.3 For Products not manufactured by the Supplier, the warranty shall be the current warranty provided by the manufacturer of the Products. The Supplier 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 Products.

12. The Commonwealth Trade Practices Act 1974 and Fair Trading Acts

- 12.1 Nothing in this agreement is intended to have the effect of contracting out of any applicable provisions of the Commonwealth Trade Practices Act 1974 or the Fair Trading Acts in each of the States and Territories of Australia, except to the extent permitted by those Acts where applicable.

13. Intellectual Property

- 13.1 Where the Supplier has designed, drawn or written Products for the Client, then the copyright in those designs and drawings and documents shall remain vested in the Supplier, and shall only be used by the Client at the Supplier's discretion.
- 13.2 The Client warrants that all designs or instructions to the Supplier will not cause the Supplier to infringe any patent, registered design or trademark in the execution of the Client's order and the Client agrees to indemnify the Supplier against any action taken by a third party against the Supplier in respect of any such infringement.

14. Default & Consequences Of Default

- 14.1 Interest on overdue invoices shall accrue from the date when payment becomes due daily until the date of payment at a rate of 2.5% per calendar month and such interest shall compound monthly at such a rate after as well as before any judgement.
- 14.2 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. 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, or exceeding any approved credit limit) the Supplier may suspend or terminate the supply of Products 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 exercised its rights under this clause.
- 14.4 If any account remains overdue after thirty (30) days then an amount of the greater of \$20.00 or 10.00% of the amount overdue (up to a maximum of \$200) shall be levied for administration fees which sum shall become immediately due and payable.

- 14.5 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 unperformed and all amounts owing to the Supplier shall, whether or not due for payment, become immediately payable in the event that:

- (a) 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
- (b) 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
- (c) a receiver, manager, liquidator (provisional or otherwise) or similar person is appointed in respect of the Client or any asset of the Client.

15. Security And Charge

- 15.1 Despite anything to the contrary contained herein or any other rights which the Supplier may have howsoever:
- (a) where the Client and/or the Guarantor (if any) is the owner of land, realty or any other asset capable of being charged, both the Client 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 the Supplier or the Supplier's nominee to secure all amounts and other monetary obligations payable under the terms and conditions. The Client and/or the Guarantor acknowledge and agree that the Supplier (or the Supplier's nominee) shall be entitled to lodge where appropriate a caveat, which caveat shall be released once all payments and other monetary obligations payable hereunder have been met.
- (b) should the Supplier elect to proceed in any manner in accordance with this clause and/or its sub-clauses, the Client and/or Guarantor shall indemnify the Supplier from and against all the Supplier's costs and disbursements including legal costs on a solicitor and own client basis.
- (c) the Client and/or the Guarantor (if any) agree to irrevocably nominate constitute and appoint the Supplier or the Supplier's nominee as the Client's and/or Guarantor's true and lawful attorney to perform all necessary acts to give effect to the provisions of this clause 15.1.

16. Cancellation

- 16.1 The Supplier may cancel these terms and conditions or cancel delivery of Products at any time before the Products are delivered by giving written notice. 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 whatever arising from such cancellation.
- 16.2 In the event that the Client cancels delivery of Products 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.

17. Privacy Act 1988

- 17.1 The Client and/or the Guarantor's agree for the Supplier to obtain from a credit reporting agency a credit report containing personal credit information about the Client and Guarantor's in relation to credit provided by the Supplier.
- 17.2 The Client and/or the Guarantor's agree that the Supplier may exchange information about the Client and the Guarantor's with those credit providers either named as trade referees by the Client or named in a consumer credit report issued by a credit reporting agency for the following purposes:
- (a) to assess an application by Client; and/or
- (b) to notify other credit providers of a default by the Client; and/or
- (c) to exchange information with other credit providers as to the status of this credit account, where the Client is in default with other credit providers; and/or
- (d) to assess the credit worthiness of Client and/or Guarantor's.
- 17.3 The Client consents to the Supplier being given a consumer credit report to collect overdue payment on commercial credit (Section 18K(1)(h) Privacy Act 1988).
- 17.4 The Client agrees that personal credit information provided may be used and retained by the Supplier for the following purposes and for other purposes as shall be agreed between the Client and Supplier or required by law from time to time:
- (a) provision of Products; and/or
- (b) marketing of Products by the Supplier, its agents or distributors in relation to the Products; and/or
- (c) analysing, verifying and/or checking the Client's credit, payment and/or status in relation to provision of Products; and/or
- (d) processing of any payment instructions, direct debit facilities and/or credit facilities requested by Client; and/or
- (e) enabling the daily operation of Client's account and/or the collection of amounts outstanding in the Client's account in relation to the Products.
- 17.5 The Supplier may give information about the Client to a credit reporting agency for the following purposes:
- (a) to obtain a consumer credit report about the Client; and/or
- (b) allow the credit reporting agency to create or maintain a credit information file containing information about the Client.

18. Unpaid Supplier's Rights

- 18.1 Where the Client has left any item with Supplier for repair, modification, exchange or for the Supplier to perform any other Service in relation to the item and Supplier has not received or been tendered the whole of the Price, or the payment has been dishonoured, the Supplier shall have:
- (a) a lien on the item;
- (b) the right to retain the item for the Price while the Supplier is in possession of the item;
- (c) a right to sell the item.
- 18.2 The lien of the Supplier shall continue despite the commencement of proceedings, or judgement for the Price having been obtained.

19. General

- 19.1 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.
- 19.2 These terms and conditions and any contract to which they apply shall be governed by the laws of Queensland and are subject to the jurisdiction of the courts of Queensland.
- 19.3 The Supplier shall be under no liability whatever to the Client for any indirect 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.
- 19.4 In the event of any breach of this contract by the Supplier the remedies of the Client shall be limited to damages. Under no circumstances shall the liability of the Supplier exceed the Price of the Products.
- 19.5 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.
- 19.6 The Supplier may license or sub-contract all or any part of its rights and obligations without the Client's consent.
- 19.7 The Supplier reserves the right to 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.
- 19.8 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.
- 19.9 The failure by the Supplier to enforce any provision of these terms and conditions shall not be treated as a waiver of that provision, nor shall it affect the Supplier's right to subsequently enforce that provision.