



TERMS AND CONDITIONS

1. DEFINITIONS

- 1.1 "Royal" means Royal International Commerce Pty Ltd ACN 605 424 851 (ABN 68 605 424 851).
- 1.2 "Customer" means the individual or entity that has contracted with Royal for Goods and/or Services.
- 1.3 "Goods" means any goods supplied by Royal to the Customer (or ordered by the Customer but not yet supplied) including, and in no way limited to, food products.
- 1.4 "Price" means the cost of the Goods and/or Services as agreed between Royal and the Customer and includes all out of pocket expenses Royal incurs on the Customer's behalf subject to clause 5 of this contract.
- 1.5 "Services" means any services provided by Royal to the Customer.

2. ACCEPTANCE

- 2.1 Any instructions received by Royal from the Customer for the supply of Goods and Services shall constitute a binding contract and acceptance of the terms and conditions contained herein.

3. PRECEDENCE

- 3.1 The Customer acknowledges that these Terms and Conditions take precedence over any terms and conditions contained in any document provided by the Customer.

4. PRIVACY ACT 1988 (CTH) (AS AMENDED)

- 4.1 Royal collects personal information about the Customer (if a sole trader, individual trustee, or partnership of individuals) for the purposes set out in its Privacy Policy. This policy may be located at <http://www.royalinternational.net.au/>. A hardcopy of this policy can also be provided to the Customer free of charge, upon request.
 - 4.1.1 The Privacy Policy sets out: the personal information Royal collects; how Royal collects and uses this information; how the Customer may access or correct it; and how the Customer may make a complaint in respect of Royal's management of the information;
- 4.2 By the Customer providing instructions to Royal for the supply of Goods and Services, the Customer is consenting to Royal collecting, handling, using, disclosing, and otherwise dealing with the Customer's personal information (including credit related personal information) in accordance with the terms of Royal's Privacy Policy, and in accordance with Australia's privacy laws.

5. PRICE

- 5.1 The Price shall, at Royal's sole discretion, be:
 - 5.1.1 as stated on any invoice provided by Royal to the Customer; or
 - 5.1.2 Royal's quoted price (subject to clause 7).

6. PAYMENT

- 6.1 Unless otherwise agreed in writing, all accounts must be paid in full on the date specified on the invoice provided by Royal to the Customer.
- 6.2 If payment is not received by the date specified on the invoice, Royal may suspend the delivery of any Goods ordered by the Customer.
- 6.3 Payment for any amount outstanding shall be deemed immediately due and payable in any of the following circumstances:
 - 6.3.1 there is non-payment of any sum by the due date;
 - 6.3.2 Royal forms the view that the Customer will not pay any sum by its due date;
 - 6.3.3 the Customer is bankrupted or enters administration, liquidation or receivership;
 - 6.3.4 a Court judgment is entered against the Customer and remains unsatisfied for seven (7) days;
 - 6.3.5 any material adverse change in the financial position of the Customer.
- 6.4 Interest accrues on any amount owing after the due date at the rate of 10% per annum, calculated daily from the first day overdue until payment.
- 6.5 All payments to be made by the Customer will be made without set-off (whether arising at law or in equity) or counterclaim (whether arising at law or in equity) and free and clear of any withholding or deduction whatsoever, unless prohibited by law.
- 6.6 The Customer shall pay (on a full indemnity basis) any and all expenses, disbursements, collection costs and legal costs which Royal has incurred or is liable to pay, in connection with the enforcement of any rights and/or preservation of any rights contained in this contract.
- 6.7 For the purposes of clause 6.6, the Customer acknowledges that collection costs may be calculated on a commission basis at a percentage rate of the amount due (as agreed by Royal and the collection agent) and the Customer expressly

agrees to pay for those expenses as liquidated damages on demand, irrespective of whether (a) Royal is not liable to pay the collection agent the commission, until the Customer has made payment of the Customer's overdue debt (or any portion thereof) and/or (b) the amount of work actually performed by the collection agent before the Customer makes a payment for an overdue debt.

6.8 Receipt of a cheque, bill of exchange, or other negotiable instrument shall not constitute payment until it results in Royal receiving cleared funds for the entire amount of the negotiable instrument.

7. QUOTATION

7.1 Where a quotation is given by Royal for Goods and Services:

7.1.1 unless otherwise agreed, is not an offer to sell or provide Goods and Services;

7.1.2 Royal will not be bound by any quotation given until accepted in writing;

7.1.3 Royal reserves the right to alter the quotation because of circumstances beyond its control including and, in no way limited to, increases in the price charged by its suppliers for products and/or services.

7.2 Where Goods and Services are required in addition to the quotation, the Customer agrees to pay for the additional cost of such Goods and Services.

7.3 All process quoted are based on current prices at the time of the quotation.

8. RISK TO GOODS AND DELIVERY

8.1 Risk in any Goods shall pass to the Customer at the time when the Goods have been delivered (or collected) to/by the Customer;

8.2 Any date quoted for delivery by Royal is an estimate only;

8.3 Unless a guarantee is given by Royal in writing, providing for liquidated damages for failure to deliver by the date quoted for delivery or completion, Royal will not be liable to the Customer for any loss or damage howsoever arising even if arising out of the negligence of Royal for failure to deliver or complete the relevant Services on or before the date quoted for same;

8.4 Royal reserves the right to deliver the Goods to the Customer by instalments. If delivery is made by instalments the Customer is not entitled to:

8.4.1 terminate or cancel the order following its acceptance by Royal;

8.4.2 terminate these Terms and Conditions;

8.4.3 any claim, loss or damage howsoever arising from the failure of Royal to deliver any instalments on or before the date quoted for delivery/completion.

8.5 Where special freight requirements are requested by the Customer such charges for freight will be paid by the Customer.

9. TITLE AND PERSONAL PROPERTY SECURITIES ACT 2009 (CTH) (PPSA)

Goods

9.1 Whilst risk in the Goods passes on delivery, legal and beneficial title in the Goods shall remain with Royal until it has received payment in full for all monies owed by the Customer.

9.2 Until Royal has received payment in full for all monies owed by the Customer, Royal reserves the following rights:

9.2.1 legal and beneficial ownership of the Goods;

9.2.2 the right to enter the Customer's premises and retake possession of the Goods;

9.2.3 the right to keep or resell any Goods repossessed under sub-clause 9.2.2; and

9.2.4 any other rights it may have at law or under the PPSA.

9.3 Where, pursuant to sub-clause 9.2.3:

9.3.1 Royal resells the Goods repossessed, it is agreed that Royal may credit the Customer's account with the net proceeds of sale (after deduction of all repossession, storage, selling and other costs); or

9.3.2 Royal retains possession of the repossessed Goods, it is agreed that Royal may credit the Customer's account with the invoice value less such sum as Royal reasonably determines on account of wear and tear, depreciation, obsolescence, loss of profit and costs.

9.4 Royal shall not be liable for any costs, damages, expenses, or losses incurred by the Customer or any third party as a result of any action taken to repossess the Goods.

9.5 If the Goods are attached, fixed, or incorporated into any property of the Customer, title in the Goods shall remain with Royal until the Customer has made payment for all monies owed to Royal and where those Goods are mixed with other property so as to be part of or a constituent of any new product, title to these products shall be deemed to be assigned to Royal as security for the full satisfaction by the Customer of the full amount owing between Royal and the Customer.

9.6 Until Royal receives payment for Goods in full, the Customer acknowledges that Royal has a Purchase Money Security Interest ("PMSI") which attaches over the Goods and their proceeds and a Security Interest in relation to other amounts owed by the Customer to Royal.

General

9.7 Upon assenting to these Terms and Conditions, the Customer acknowledges and agrees that these Terms and Conditions constitute a Security Agreement for the purposes of the PPSA.

9.8 The Customer undertakes to do anything (such as obtaining consents, producing documents, producing receipts, and getting documents completed and signed) which Royal asks and considers reasonably necessary for the purposes of:

- 9.8.1 ensuring that a PMSI and/or Security Interest is enforceable, perfected and effective;
- 9.8.2 enabling Royal to apply for any registration, or give any notification, in connection with the Security Interest created under this Agreement so that the PMSI and/or Security Interest has the priority required by Royal.
- 9.9 To the extent permitted by law, the Customer irrevocably waives its right to:
 - 9.9.1 receive notices or statements under sections 95, 121(4), 125, 130, 132(3)(d), 132(4) and 135 of the PPSA;
 - 9.9.2 redeem the Goods under section 142 of the PPSA;
 - 9.9.3 reinstate the Agreement under section 143 of the PPSA;
 - 9.9.4 receive a Verification Statement.
- 9.10 Nothing in clause 9 prevents Royal from taking collection or legal action against the Customer to recover any monies owed from time to time.

10. DISPUTES

- 10.1 No claim relating to Goods or Services will be considered unless made in writing within 2 days of delivery or other service as provided by Royal to the Customer.

11. LIABILITY

- 11.1 All implied conditions, warranties and undertakings other than are expressly excluded to the extent permitted by law.
- 11.2 Where the Goods are of a kind other than goods ordinarily acquired for personal, domestic, or household use, then Royal's liability is limited, at its option, to anyone or more of the following:
 - 11.2.1 the replacement or supply of the equivalent of the Goods;
 - 11.2.2 the repair of the Goods;
 - 11.2.3 the payment of the costs of replacing the Goods or acquiring their equivalent; or
 - 11.2.4 the payment of the costs of having the Goods repaired.
- 11.3 Subject to the Customer's rights under Schedule 2 of the *Competition and Consumer Act 2010* ("CCA"), Royal shall not be liable for:
 - 11.3.1 any loss or damage of any kind whatsoever, arising from the Goods, including consequential loss whether suffered or incurred by the Customer or another person and whether in contract or tort (including negligence) or otherwise and irrespective of whether such loss or damage arises directly or indirectly from the Goods; and
 - 11.3.2 the Customer shall indemnify Royal against all claims and loss of any kind whatsoever however caused or arising and without limiting the generality of the foregoing of this clause whether caused or arising as a result of the negligence of Royal or otherwise, brought by any person in connection with any matter, act, omission, or error by Royal, its agents or employees in connection with the Goods.

12. WARRANTY

- 12.1 Manufacturer's warranty applies to the Goods where applicable.

13. CHARGE

- 13.1 The Customer hereby charges in favour of Royal all of the Customer's estate and interest in any land, freehold or leasehold, in which the Customer now has or which it may later acquire any such interest in, with payment of all monies owing by the Customer to Royal from time to time and hereby consents to Royal lodging a caveat or caveats which note Royal's interest.

14. JURISDICTION

- 14.1 These terms and conditions and all matters concerning the business relationship between Royal and the Customer shall be governed by the law of the State of New South Wales and the parties submit to the non-exclusive jurisdiction of the Courts of New South Wales for the conduct of any litigation.

15. ASSIGNMENT

- 15.1 The Customer cannot assign these terms and conditions without the prior written consent of Royal.
- 15.2 Royal can assign these terms and conditions to a third party without the consent of the Customer.

16. MISCELLANEOUS

- 16.1 If by reason of any fact, circumstance, matter or thing beyond the reasonable control of Royal, Royal is unable to perform in whole or in part any obligation under these terms and conditions, including delay in delivery, Royal shall be relieved of that obligation under these terms and conditions to the extent and for that period that it is so unable to perform and shall not be liable to the Customer in respect of such inability.
- 16.2 Failure by Royal to enforce any of the terms and conditions contained in this contract shall not be deemed to be a waiver of any of its rights or obligations under this contract.
- 16.3 If any provision of this contract shall be invalid, void or illegal or unenforceable, the validity, existence, legality and enforceability of the remaining provisions shall not be affected.
- 16.4 The Customer will notify Royal in writing of any change of ownership of the Customer or its business, or of directorships in the case of a corporate Customer, or of any other change whatsoever affecting these terms and conditions within seven (7) days from the date of such a change.
- 16.5 The Customer indemnifies Royal from and against any loss or damage incurred by it as a result of the Customer's failure to notify Royal of any change in ownership.
- 16.6 Any variation of the terms and conditions contained in this contract must be agreed to in writing by Royal for it to have any legal effect.

- 16.7 Sale by Samples: If the Customer approves a sample supplied by Royal and subsequently makes an order for such Goods of the nature of the sample, Royal does not warrant that the Goods supplied will be of identical quality to the sample but in so far as it is reasonably possible, Royal shall supply Goods of a quality similar to the sample and the Customer shall not have any cause of action against Royal for any such difference in quality.
- 16.8 Electronic Signatures shall be deemed to be accepted by either party providing that the parties have complied with section 9 of the *Electronic Transactions Act 2000* (NSW) and any other applicable provisions of that Act, or any Regulations referred to in that Act.
- 16.9 Sending Material Electronically: Pursuant to sections 7, 13-13B and 14E of the *Electronic Transactions Act 2000* (NSW), the parties to this Agreement consent to both give and receive information by electronic communication as defined in that Act. We are able to send and receive documents electronically. However, as such transmission is not secure it may be copied, recorded, read or interfered with by third parties while in transit. If you ask us to transmit any document electronically (or you accept any document electronically), you release us from any claim you may have as a result of any unauthorised copying, recording, reading or interference with that document, for any delay or non-delivery of any document and for any damage caused to your system or any files.