

1. Interpretation

In these Terms and Conditions:

- 1.1. "Customer" shall mean the person or entity named on the Invoice annexed hereto or the Applicant on the credit application annexed hereto, as may be applicable, or any other person or entity that purchases or offers to purchase the Products from the Vendor.
- 1.2. "GST" shall mean Goods and Services Tax as defined in *A New Tax System (Goods and Services Tax) Act 1999 (Cth)*.
- 1.3. "Products" means the goods and/or services acquired by the Customer to which these Terms and Conditions apply.
- 1.4. "Vendor" means Rollease Acmeda Pty. Ltd. (ACN 602 498 395) trading as Rollease Acmeda (ABN 69 602 498 395).

2. Offer and acceptance

- 2.1. Any quotation made by the Vendor is not an offer to sell or to provide the Products.
- 2.2. The Vendor shall not be bound by any order given in pursuance of any quotation until it is accepted in writing at the Vendor's absolute discretion.
- 2.3. These Terms and Conditions shall be deemed to be incorporated into any agreement between the Vendor and the Customer.
- 2.4. Any terms and conditions contained in any order, offer, acceptance or other document of the Customer and all representations, statements, terms and conditions and warranties (whether implied by statute or otherwise) not embodied herein are expressly excluded to the fullest extent permitted by law.
- 2.5. No order may be cancelled by the Customer except with consent in writing and on terms which will indemnify the Vendor against all losses.

3. Payment

- 3.1. Where a credit account has not been approved by the Vendor, cash on delivery (COD) will apply.
- 3.2. Where a credit account has been approved by the Vendor, COD will apply to the first purchase by the Customer. Subsequent purchases on the Customer's credit account will require payment by net cash within 30 days of the date of the Vendor's invoice for all Products, unless these terms are specifically varied in writing by both parties, or shown specifically on invoices.
- 3.3. The withholding or extension of credit shall be at the absolute discretion of the Vendor.
- 3.4. The Customer shall not withhold or set off payment of any amount due to the Vendor notwithstanding any claim for faulty or defective Products or any other reason.

4. Tax

- 4.1. Unless expressly stated otherwise, all prices, quotes or estimates provided by the Vendor do not include any sales tax, GST or any other value added tax.
- 4.2. Unless an invoice expressly states to include any sales tax, GST or any other value added tax, the Customer shall simultaneously pay to the Vendor the amount of such tax in addition to the sales price stated to be owing on the invoice.

5. Title

- 5.1. The Vendor and the Customer acknowledge and agree that the Vendor shall retain legal and equitable right to title in the Products (i.e. ownership) until the Customer has paid the full purchase price of the Products and any other sums in any way outstanding from the Customer.
- 5.2. Until then, upon the Customer taking actual or constructive possession of the Products, the risk in the Products shall pass to the Customer and the Customer agrees to hold the Products only as bailee and fiduciary agent for the Vendor.
- 5.3. The Vendor and the Customer agree that the Vendor takes a Security Interest (as defined in clause 5.11) in all of the Customer's present and after acquired property until the Customer has paid the Vendor any sums in any way outstanding from the Customer.

- 5.4. The Customer agrees to keep the Products safe and store them in a manner which enables the Products to be identified and ascertainable as the property of the Vendor and agrees to insure the Products on behalf of the Vendor at the Customer's expense.
- 5.5. The Vendor agrees that the Customer may sell or deal with the Products in its ordinary course of business, but only as the fiduciary agent and bailee of the Vendor. At all times the Customer shall keep a record of the Products sold or dealt with, which enables the Products to be identified, and the Customer shall keep any proceeds of such sale of the Products in a separate account until the Customer has paid the full purchase price of the Products to the Vendor.
- 5.6. If the Products are sold by the Customer, used by the Customer to make or manufacture any product which is sold by the Customer, or used by the Customer as part of services offered by the Customer to its own customers, the Customer shall, upon the receipt of the proceeds of such sale of product or services, hold in trust for the Vendor that amount from the proceeds of sale which represents the purchase price of the Products. Upon receipt by the Customer of the said proceeds of sale, the Customer shall pay that sum, which represents the amount owing to the Vendor for the Products, to the Vendor forthwith; or if a period of credit has been extended, pay the sum owing to the Vendor within the period of credit.
- 5.7. The Vendor may revoke the authority given to the Customer to use the Products or sell the Products that have not been paid in full by giving written notice at any time if the Vendor in its absolute unfettered discretion deems the credit of the Customer to be unsatisfactory or if the Customer is in default of its obligations under these Terms and Conditions or any other agreement between the Vendor and the Customer.
- 5.8. In any event, where the Products remain unpaid for by the Customer, the Customer hereby grants to the Vendor an irrevocable full and free licence to enter the premises of the Customer or its agents and remove such Products relating to the unpaid amount, without the Vendor incurring any liability to the Customer or any person claiming through the Customer.
- 5.9. The Customer releases and indemnifies the Vendor from and against all claims, demands, actions, liability, damages, loss, cost and expense whatsoever arising out of or in connection with such entry, repossession and removal and any damage necessarily caused thereby.
- 5.10. While the Products remain the property of the Vendor, the Customer agrees that it has no right or claim to any interest in the Products to secure any liquidated or unliquidated debt or obligation the Vendor may owe to the Customer and the Customer cannot claim any lien over the Products.
- 5.11. **Personal Property Securities Act (PPSA)**
 - (a) In this clause:
 - "Financing Statement" and "Financing Change Statement" each have the meaning given to them by the PPSA;
 - "Purchase Money Security Interest" has the same meaning as under the PPSA;
 - "PMSI" means a Purchase Money Security Interest under the PPSA;
 - "PPSA" means the Personal Property Securities Act 2009 (Cth) as amended or any Act succeeding it;
 - "PPSR" means the Personal Property Securities Register established under the PPSA;
 - "Security Agreement" means the security agreement under the PPSA created between the Vendor and the Customer by these Terms and Conditions;
 - "Security Interest" has the same meaning as under the PPSA.

Any other words and phrases used in this clause which are defined in the PPSA have the same meaning given to them under the PPSA.
 - (b) Upon agreeing to these Terms and Conditions, the Customer acknowledges that these Terms and Conditions are a Security Agreement and create a PMSI and other Security Interests in favour of the Vendor.
 - (c) To the extent permitted by the PPSA, the Vendor takes a PMSI in all Products previously supplied to the Customer by the Vendor (if any) and in any and all Products that will be

supplied in the future by the Vendor to the Customer failing which the Vendor takes a Security Interest in such Products.

- (d) The Security Agreement is a continuing security and will operate irrespective of any intervening payment or settlement of account until the Vendor has signed a release.
- (e) The Customer shall inform its creditors of the terms upon which it buys the Products from the Vendor including that the Vendor may create and register a PMSI over the Products and shall also inform any trustee in bankruptcy or liquidator of the Customer, or any receiver of the Customer's business or assets, of the rights of the Vendor and title to the proceeds from the sale of the Products.
- (f) The Customer undertakes to:
 - (i) promptly sign any further documents and/or provide any further information (such information to be complete, accurate and up-to-date in all respects) which the Vendor may reasonably require to:
 - (A) register a Financing Statement or Financing Change Statement in relation to a Security Interest on the PPSR;
 - (B) register any other document required to be registered by the PPSA; or
 - (C) correct a defect in a statement referred to in paragraph (A) and (B) hereof;
 - (ii) indemnify, and upon demand reimburse, the Vendor for all expenses incurred in registering a Financing Statement or Financing Change Statement on the PPSR established by the PPSA or releasing any Products charged thereby;
 - (iii) not register a Financing Change Statement in respect of a Security Interest without the prior written consent of the Vendor;
 - (iv) not register, or permit to be registered, a Financing Statement or a Financing Change Statement in relation to the Products in favour of a third party without the prior written consent of the Vendor;
 - (v) immediately do all things necessary and comply with all requests by the Vendor, to assist the Vendor in perfecting its Security Interest;
 - (vi) give the Vendor at least seven (7) days written notice prior to any material change in its business practices of selling the Products which may result in a change in the nature of proceeds derived from such sales;
 - (vii) give the Vendor at least seven (7) days written notice prior to any proposed change in the Customer's details that is likely to affect a registration, including but not limited to any change to the Customer's address, facsimile number, email address, business or trading name, or other contact details.
- (g) The Vendor and the Customer agree that so far as is permitted by the PPSA, sections 96 and 125 of the PPSA do not apply to the Security Agreement created by these Terms and Conditions.
- (h) So far as is permitted by the PPSA, the Customer hereby waives its right to receive any notices provided for under the PPSA, including but not limited to, notices under sections 95, 118, 121(4), 130, 132(3)(d), 132(4) and 135 of the PPSA.
- (i) The Customer waives its rights as a grantor and/or a debtor under sections 142 and 143 of the PPSA.
- (j) Unless otherwise agreed to in writing by the Vendor, the Customer waives its right to receive a Verification Statement in accordance with section 157 of the PPSA. The Customer shall unconditionally ratify any actions taken by the Vendor under this clause.
- (k) The Customer shall fully indemnify the Vendor for any costs incurred by the Vendor (including legal fees on a full indemnity basis and disbursements) in obtaining an Order pursuant to section 182 of the PPSA, or other costs incurred by the Vendor in respect of any action for recovery of monies or repossession of the Products.

- (l) The Customer warrants that all information and representations made to the Vendor by the Customer, or a person acting on the Customer's behalf are true, complete and correct and agrees to indemnify the Vendor for any loss, claims or costs incurred as a result of a breach of any of these warranties by the Customer.

5.12. Money paid by the Customer must be applied in the following order unless the Vendor agrees otherwise:

- (a) to obligations that are not secured, in the order in which those obligations were incurred;
- (b) to obligations that are secured, but not by PMSIs, in the order in which those obligations were incurred;
- (c) to obligations that are secured by PMSIs, in the order in which those obligations were incurred.

6. Risk

6.1. Risk in the Products shall pass to the Customer:

- (a) for Products that are to be picked up by the Customer or the Customer's agent, the earlier of:
 - (i) the time of arrival of the Customer or the Customer's agent for the purposes of pick-up; or
 - (ii) at 5pm on the day on which the Customer is advised that the Products are available for pick-up.
- (b) for Products that are to be delivered to the Customer, at the time of acceptance by the carrier for the purposes of delivery.

6.2. The Products shall remain at the Customer's risk at all times thereafter unless and until the Vendor retakes possession of the Products pursuant to these Terms and Conditions.

7. Claim

- 7.1. The Customer must notify the Vendor in writing of any claims for damage in transit within two (2) business days of receipt of delivery.
- 7.2. The Customer must notify the Vendor in writing of any claims for shortages within seven (7) days of delivery or pick-up.
- 7.3. The Customer must notify the Vendor in writing of any claims of Products lost in transit within seven (7) days from the date of invoice.
- 7.4. Products are deemed to be received in good order, condition and quantity if no claim is received by the Vendor within the time limits set out in this clause.

8. Goods returned for credit

- 8.1. Products will be accepted from the Customer for credit only by prior written agreement with the Vendor, or to the extent that they have been wrongly or over supplied. Any claims must be reported to the Vendor within seven (7) days from receipt of delivery.
- 8.2. If the Vendor accepts a return of any Product in accordance with clause 8.1, the Product shall be returned to the Company:
 - (a) at the Customer's cost in good order and condition, unused and in its original packaging;
 - (b) accompanied by a dispatch note stating the original invoice number, date of supply and the reason for return.
 - (c) and, except where the Products have been wrongly or oversupplied, the Vendor will apply a charge of 15% of the list price of the Products or \$50.00, whichever is greater, to the Customer's account to cover handling and restocking costs.
- 8.3. Products made to special order by the Vendor cannot be returned nor credited unless they do not meet specification, or otherwise are not in accordance with the specific terms of the contract.

9. Warranty

- 9.1. Except as provided herein or prohibited by law, there are no express or implied warranties, guarantees, conditions or other terms regarding the supply of the Products and the Vendor shall not be liable to the Customer for physical or financial injury, loss or damage or for any indirect or consequential loss or damage of any kind arising out of the supply, layout, assembly, installation,

- operation or use of the Products, whether caused by tort, breach of contract or arising out of the Vendor's negligence or in any way whatsoever.
- 9.2. If the Customer is not a consumer as defined under the *Competition and Consumer Act 2010*, and for the purposes of the Australian Consumer Law (ACL) contained therein, any warranty, guarantee, condition or other term arising out of or in connection with the supply of the Products which might apply or which might be implied into or incorporated into the contract by statute, common law, or otherwise (including, without limitation, any implied term or guarantee as to acceptable quality, fitness for purpose, due care and skill) is hereby expressly excluded to the maximum extent permitted by law.
- 9.3. If the Customer is a consumer as defined under the *Competition and Consumer Act 2010*, and for the purposes of the ACL, the Vendor is required to make certain guarantees regarding the supply of the Products (including guarantees as to acceptable quality, fitness for purpose, due care and skill) and the Vendor makes those guarantees to the extent it is required by law to do so. If these guarantees are not required to be made by the Vendor, the Vendor does not make them.
- 9.4. Where the Products are not of a kind ordinarily acquired for personal, domestic or household use or consumption, the Vendor's liability for failure to comply with a consumer guarantee implied by Division 1 of Part 3-2 of the ACL (other than a guarantee under ss. 51, 52 and 53) is hereby limited, at its option, to:
- (a) in the case of goods, any one or more of the following:
 - (i) the replacement of the goods or the supply of equivalent goods;
 - (ii) the repair of the goods;
 - (iii) the payment of the cost of replacing the goods or of acquiring equivalent goods;
 - (iv) the payment of the cost of having the goods repaired; or
 - (b) in the case of services:
 - (i) the supplying of the services again; or
 - (ii) the payment of the cost of having the services supplied again.
- 9.5. Notwithstanding all the above, to the maximum extent permitted by law, the Vendor shall not be liable to the Customer for any Products which have been installed, used, maintained or modified :
- (a) outside the Vendor's specifications;
 - (b) outside Product specifications;
 - (c) outside system specifications;
 - (d) and which are showing signs of normal wear and tear;
- and such installation, use, maintenance or modification of the Products will render any claim by the Customer null and void.
- 9.6. Nothing in this clause 9 affects any rights the Customer may have under the ACL.
- 9.7. In addition to the Customer's rights under the ACL (if any), the Vendor provides a Manufacturer's Warranty ("Warranty") in respect of certain Products. The terms of the Warranty are contained in a separate document and (where applicable) form part of, and are incorporated into, these Terms and Conditions. The Warranty contains exclusions and other obligations of the Customer and it is the Customer's responsibility to review the terms carefully. A copy of the Warranty (where applicable) is available upon request.
- 10. Default**
- Should the Customer fail to make a due payment for any Products supplied by the Vendor or commit an act of bankruptcy or by act or omission enable the appointment of a scheme manager, trustee, administrator, official manager, receiver, receiver and manager, liquidator or any other person authorized to enter into possession or assume control of any property of the Customer pursuant to a mortgage or any other security:
- 10.1. the right of the Customer to sell the Products in the ordinary course of business or otherwise terminates immediately without the need for the Vendor to provide written confirmation;
- 10.2. the Vendor may, without prejudice to any other rights it may have, do any or all of the following:

- (a) withdraw any credit facilities which may have been extended to the Customer and demand immediate payment of all moneys owing to the Vendor;
 - (b) withhold any further deliveries of goods or performance of services required under these Terms and Conditions;
 - (c) in respect of Products already delivered, enter onto the Customer's premises, either personally or through its agent, to recover same and sell for its own benefit, including to compensate the Vendor for the cost of recovering and selling the Products;
 - (d) suspend and/or terminate performance of any other contracts which the Vendor has with the Customer.
- 11. Indemnity**
- The Customer indemnifies the Vendor against any costs (compensation), fees, charges and disbursements:
- (a) incurred by the Vendor; or
 - (b) charged by any mercantile or collection agent or solicitor engaged;
- for the purpose of the collection or recovery of Products under clause 10.2(c) or moneys due and payable by the Customer to the Vendor on an indemnity basis and all such costs shall be recoverable as a liquidated debt.
- 12. Change of ownership**
- The Customer shall give the Vendor seven (7) days written notice prior to any change of ownership of the Customer or its business, or of directorships in the case of a corporate customer, which brings about a change in the effective control, or in the partnership, or of any other change whatsoever affecting this contract within seven (7) days from the date of such change and indemnify the Vendor against any loss or damage incurred by it as a result of the Customer's failure to notify the Vendor of any such change.
- 13. Disputes**
- In the event of any dispute between the Vendor and the Customer in relation to the contract for the supply of Products, either party may give written notice of such dispute to the other, following which the dispute shall be referred to mediation prior to any legal action being taken. The Vendor has the right to waive this clause.
- 14. No Variation**
- All Products sold by the Vendor are sold subject to these Terms and Conditions. No variation or modification or substitution of these Terms and Conditions shall be binding on the Vendor unless specifically accepted by the Vendor in writing. The Vendor may amend or replace these Terms and Conditions at any time by giving 7 days' notice to the Customer or alternatively by publishing updated Terms and Conditions on the Vendor's website (www.rolleseeacmeda.com).
- 15. Governing Law**
- These Terms and Conditions shall be governed and construed in accordance with the laws for the time being in force in the State of Victoria, Australia and the parties agree to the exclusive jurisdiction of the Victorian Courts and Tribunals.
- 16. Severability**
- A provision of these Terms and Conditions which is unenforceable in a jurisdiction shall be ineffective to the extent of the unenforceability without invalidating the remaining provisions of this Agreement or affecting the validity or enforceability of the provision in another jurisdiction.
- 17. Notices**
- Any notice to be served on any party must be in writing and sent to the party to whom it is addressed at the given address on the order form by prepaid post. Any notice sent by prepaid post shall be deemed received 48 hours after posting.
- 18. Time** wherever mentioned shall be of the essence.