

**STANDARD TERMS OF TRADE****1. Definitions**

In these Standard Terms of Trading (**Terms**):

**Customer** means the person or entity purchasing any Goods from the Supplier the subject of these Terms.  
**Goods** means all goods and chattels, and all charges for work and labor done, hire charges, fees, service charges, repairs, materials, insurance charges of whatsoever nature, associated with the supply and manufacture, construction repair of the goods supplied to the Customer, and all the terms and conditions of this agreement shall relate to any charge imposed by the Supplier to the Customer.

**Supplier** means Roberts Designs International Pty Ltd.

**2. Warranty**

- (a) The Customer hereby warrants that the information comprised in the attached Application For Credit is true, accurate and correct and is supplied for the purpose of obtaining credit.
- (b) The Customer warrants that the person's signatures appearing on this application are duly authorised by the Customer to apply for credit on his/her/its behalf.

**3. Agreement**

The Customer agrees to adhere to the terms and conditions as set out in these Terms.

**4. Notice**

The Customer agrees that it is not entitled to any credit facilities until it receives verbal and/or written notice ("the notice") from the Supplier stating that credit facilities have been given and specifying the terms and conditions upon which such credit facilities are given.

**5. Waiver**

The parties agree that in the event of the Supplier, prior to approving credit, grant to the Customer time to pay for Goods supplied then such supply shall not amount to a waiver by the Supplier of any of the Terms nor be construed or be taken either directly or by implication as a granting by the Supplier of credit facilities shall be granted unless so stated in the notice.

**6. Statement as to Amount Owed**

A statement in writing made up from the books of the Supplier, setting out the amount due or owed by the Customer to the Supplier at the date mentioned in the statement will be prima facie evidence that such amount is due or owing by each and every one of the Customers and of all other matters outlined in the statement.

**7. Credit Terms**

In the event that the Supplier grants credit facilities to the Customer, the following terms will apply:

- (a) All accounts are to be settled in full within 30 days of the date of the Supplier's statement.
- (b) If the Customer defaults in the payment of any statement on the due date then all monies due to the Supplier will immediately become due and payable and must be paid by the Customer within forty-five (45) days of the date of demand and the Supplier will be entitled to charge interest on all overdue accounts from the date of due payment at the rate which equates to the overdraft interest rate charge to the Supplier by its bank from time to time.
- (c) Any expenses, costs or disbursements incurred by the Supplier in recovering any outstanding monies including debt collection agency fees and solicitor's costs must be paid by the Customer and

in the case of payments to the Supplier's solicitors, on an indemnity basis.

- (d) The Supplier is entitled without notice to terminate any credit arrangements with the Customer in the event of the Customer defaulting in any of these Terms.
- (e) The Supplier is entitled at any stage during the continuance of this agreement and these Terms, to request such security or additional security as the Supplier in its discretion thinks fit and is entitled to withhold supply of any Goods or credit arrangements until such security or additional security is obtained.

**8. Title and Property**

The Customer acknowledges that:

- (a) The Customer is to hold the Goods as the Supplier's fiduciary agent and bailee.
- (b) Insofar as the Customer is empowered to resell as principal in relation to any sub-purchaser, and has no right to commit the Supplier to any contractual relationship or liability to any third party. As between the Supplier and the Customer, the Customer is to sell as fiduciary agent.
- (c) Any resale by the Customer is to be on commercially reasonable terms.
- (d) The Customer is to keep the Goods separate from his own and those of third parties, properly stored, protected and insured.
- (e) The Customer is to account to the Supplier for all proceeds, tangible or intangible, including insurance proceeds and proceeds of proceeds.
- (f) The Customer is to keep all proceeds separate from his own and those of third parties and is to keep all tangible proceeds properly stored, protected and insured.
- (g) The Supplier is to have the power to appropriate payments to such Goods and accounts as the Supplier thinks fit, notwithstanding any purported appropriation by the Customer to the contrary.
- (h) Title to any products supplied by the Supplier to the Customer does not pass until all monies owing to the Supplier by the Customer have been paid in full. However the risk will pass to the Customer on delivery.
- (i) Until the Goods are paid for in full, the Supplier authorises the Customer to sell the Goods on, but as fiduciary agent for the Supplier. The Customer will not represent to any third parties that he is in any way acting for the Supplier, and the Supplier will not be bound by any contracts with third parties to which the Customer is party.
- (j) The Customer is entitled to a period of credit, but is required to account to the Supplier for the price of the once the Goods are on-sold, and the proceeds of sale received.
- (k) The Supplier is entitled to retake possession of any unpaid Goods in the event that the Customer defaults or commits an act of bankruptcy, or a Receiver is appointed, or the Customer goes into liquidation, or official management, or some other form of insolvency administration, whether formal or informal, or the Customer ceases to carry on business, or the Customer makes a scheme or compromises with his creditors, without prejudice to any other rights of the Supplier.
- (l) The Supplier has the right of resale of the Goods in the event that he retakes possession of them.
- (m) The Customer consents to allow the Supplier reasonable access to his premises in order to inspect the Goods at any time, or to retake possession of them in accordance with these Terms.

**9. Intellectual Property**

- (a) In these Terms, "Intellectual Property" means all copyright, patents and all other rights throughout the world in relation to inventions, registered and unregistered trademarks (including service marks) and registered designs, and includes all original works of authorship fixed in any tangible medium of expression.
- (b) To the extent that any Intellectual Property is embodied in or relates to the Goods, it is vested in and owned by the Supplier, and the Supplier grants to the Customer a royalty free, non-exclusive license to use the Intellectual Property in relation to the Goods in accordance with these Terms.
- (c) The Supplier makes no representation or warranty of any kind, expressed or implied, that the Goods supplied or the use of such Goods or articles made from the Goods either alone or in conjunction with other substances will not infringe any patent, trademark or any other intellectual property right. The Customer will notify the Supplier of any claim or suit involving the Customer in which such infringement is alleged and if the Supplier considers itself to be affected, it will be entitled completely to control the defense or compromise of any such allegation of infringement.

**10. Advice**

Subject to clause 9, any advice, representation, recommendation, information or assistance provided by the Supplier in relation to the Goods or their use or application (except to the extent that the Supplier has expressly agreed in writing to provide the same) is given in good faith and is believed by the Supplier to be appropriate and reliable. However, any such advice, recommendation, information or assistance is provided without liability or responsibility on the part of the Supplier.

**11. Customer's Liability and Default**

If the Customer:

- (a) fails to make any payment due under these Terms or commits any other breach of any of the Customer's obligations under these Terms;
- (b) is unable or deemed to be unable to pay its debts as and when they fall due;
- (c) suffers execution against it, or a mortgagee or agent of a mortgagee enters into possession of all or any part of the property of the Customer;
- (d) commits an act of bankruptcy;
- (e) makes any composition or arrangements with creditors; or
- (f) in the event that the buyer, being a company, passes any resolution or takes any step in connection with the appointment of an administrator or liquidator, or any step is taken by the holder of a security of all or nearly all of the property of the company to enforce its security, the Supplier (in addition to any other remedies hereby or by any statute conferred) may at its option withhold further deliveries and treat the contract as terminated and any monies owed to the Supplier then unpaid whether or not payable under these Terms will immediately become due and payable and such termination will be without prejudice to any claim or rights of the Supplier.

**12. Warranties**

- (a) The only conditions and warranties which are binding on the Supplier in respect of the state, quality or condition of any Goods supplied by it to the Customer are those imposed and required to be binding by statute (including the *Competition and Consumer Act 2010*). The liability, if any, of the Supplier arising from the breach of such conditions or warranties will, in the case of terms applying to the provision of goods and services not of a kind ordinarily acquired for personal, domestic or household use or consumption, at the Supplier's option, be limited to and completely

discharged by either the replacement or the repair by the Supplier of the Goods supplied to the Customer or payment of the cost of the same and otherwise, to the maximum extent permitted by law. Otherwise all other conditions and warranties whether express or implied or applied by law in respect of the Goods which may apart from this clause be binding on the Supplier are expressly excluded and negated.

- (b) Except to the extent provided immediately above, the Supplier will have no liability (including liability in negligence) to any person for any loss or damage consequential or otherwise however suffered or incurred by any person in relation to the Goods. Without limiting the generality of this clause, in particular any loss or damage consequential or otherwise however suffered or incurred by any person caused by or resulting directly or indirectly from any failure, breakdown, defect or deficiency of whatsoever nature or kind of or in the Goods.

**13. Indemnity**

- (a) To the extent permitted by law, the Customer hereby indemnifies the Supplier, its affiliates and their employees, agents and contractors and keeps them indemnified and held harmless from and against any liability, cost, claim, expense (including attorneys' fees and expenses) or any loss or damage of any other kind whatsoever including, without limitation, any material or immaterial damage in the form of personal injury, illness or death to any person or damage to any property, but excluding Consequential Loss arising directly from or in direct connection with any breach or failure to perform these Terms by Customer, its employees, agents or contractors.
- (b) The Customer assumes all risks and liability in respect of any use of the Goods, whether or not used alone or in conjunction with other goods or products.
- (c) The Supplier's liability for damages, whether based upon the Supplier's negligence, breach of contract, breach of warranty or otherwise, shall not exceed the purchase price of the Goods with respect to which a claim is based and shall not include liability for special, incidental, indirect, punitive or consequential damages including, but not limited to, lost profits, injury to good will, and damages for injuries to persons or to property. This limitation of liability shall include the Supplier's liability for damage to persons or property resulting from the use of the Goods in manufacturing processes, or in combination with other substances, or otherwise. The Supplier assumes no obligation or liability for any technical or safety advice it furnishes concerning the Goods, the parties agreeing that all such advice is given without charge or warranty and accepted at the Customer's risk.
- (d) The Customer shall make no claims relating to the Goods unless the Supplier receives sufficient written notification of the facts relating to such claims as soon as the Supplier becomes aware of those facts. Such written notification must also be adequately documented to the Supplier's satisfaction. Any action by the Customer for breach of contract must be commenced within one year of the date of delivery, or due date of delivery in the event of non-delivery.
- (e) Provisions of the Competition and Consumer Act 2010 (Cth) or any applicable State, Territory or Commonwealth legislation may imply warranties, confer statutory guarantees or impose other obligations on the Supplier which cannot be excluded, restricted or modified at all or except to a limited extent. To the extent permitted by law, the Supplier's liability under such provisions shall be limited at the Supplier's option to:
  - i. the replacement of any affected Goods;
  - ii. the refund of the Price paid for any affected Goods; or

- iii. the payment of any amount equal to the cost of replacing any affected Goods.

#### 14. Personal Property and Securities

- (a) The Customer grants retention of title security interest in the Collateral to the Supplier to secure payment of the Price. At the Supplier's cost the Customer must do all things reasonably required by the Supplier to register and perfect that interest under the terms of the PPSA or otherwise.
- (b) If the Customer does not comply with clause 14(a) and/or the Supplier's security interest in the Collateral is not fully registered or perfected for any reason whatsoever, a security interest will be created in favor of the Supplier in the form of a fixed charge over all Collateral which will operate to the extent that the Supplier's security interest in the Collateral is not fully registered or perfected.
- (c) To the extent the law permits:
  - i. For the purposes of Sections 115(1) and 115(7) of the PPSA:
    - (1) The Supplier need not comply with section 95, 118, 121(4), 125, 130, 132(3)(d), 132(4) or 135;
    - (2) Sections 142 and 143 are excluded;
  - ii. For the purposes of section 115(7) of the PPSA, the Supplier need not comply with sections 132 and 137(3);
  - iii. The Supplier must, at its expense, do all things reasonably necessary to remove the registrations of each security interest under this clause as soon as reasonably practicable after title in the Goods has passed to the Customer in accordance with these Terms.
  - iv. For the purposes of this clause 14:
    - (1) "**Collateral**" means the Goods; and
    - (2) "**PPSA**" means the *Personal Property Securities Act 2009* (Cth).

#### 15. Trustee Company

If the Customer acts as a Trustee it acknowledges that it shall be liable on the account and that in addition the assets of the trust shall be available to meet payment of the account.

#### 16. Force Majeure

- (a) The Supplier is not responsible for any failure to perform any obligation under these Terms if its performance has become impossible due to fire, lightning, explosion, flood, earthquake, storm, hurricane, action of the elements, riots, civil commotion, malicious damage, armed conflicts, acts of terrorism, war (declared or undeclared), blockade, revolution, sabotage, radioactive contamination, toxic or dangerous chemical contamination, natural catastrophes or any other events beyond the reasonable control of the Supplier (each a "Force Majeure Event").
- (b) If by reason of a Force Majeure Event, the delay or non-performance of the Supplier's obligations continues for more than ninety (90) consecutive days, the Customer may terminate the contract by written notice.

#### 17. Change of Ownership

The Customer shall no later than 14 days prior to any proposed changes of ownership, change in Registered particulars, alteration to the entity of the business, notify in writing the Supplier of any such changes, alteration or addition and shall provide full details of the proposed change, alteration or addition, to the Supplier and the Customer shall be liable for any Goods supplied by the Supplier after such change, alteration or addition unless the Supplier shall have acknowledged in writing acceptance of the intending changes, alteration or addition.

#### 18. GST

For the purposes of these Terms:

- (a) Adjustment Event, Adjustment Note and Tax Invoice have the same meaning as in the GST Law;
- (b) GST means a goods and services tax or similar tax imposed under GST Law; and
- (c) GST Law means the A New Tax System (Goods and Services Tax) Act 1999.
- (d) If GST has any application to any supply made under or in connection with these Terms, the party making the supply may in addition to any amount or consideration expressed as payable elsewhere in this Agreement, recover from the recipient of the supply an additional amount on account of GST, such amount to be calculated by multiplying the amount or consideration payable by the Recipient for the relevant supply by the prevailing GST rate.
- (e) Any additional amount on account of GST recoverable from the Recipient shall be calculated without any deduction or set-off of any amount, and is payable by the Recipient at the same time and in the same manner as paying the amount or consideration for the relevant supply under these Terms.
- (f) The Supplier must issue to the Recipient a Tax Invoice, and must do anything else which may be reasonably required to enable or assist the Recipient to claim or verify any input tax credit, set off, rebate or refund in relation to any GST payable under these Terms or in respect of any supply under these Terms.
- (g) Where an Adjustment Event in relation to a supply under this Agreement has occurred, the Supplier must issue an Adjustment Note to the Recipient no later than ten (10) Business Days after that Adjustment Event.

#### 19. Miscellaneous

- (a) These Terms contain the entire agreement and understanding between the parties with respect to the subject matter hereof and supersedes and replaces all prior agreements and understandings, whether written or oral, with respect to the same subject matter still in force between the parties.
- (b) The Customer cannot delegate, assign, subcontract or transfer any of its rights or obligations under these Terms, either in whole or in part to any third party or any affiliate(s) without the prior written consent of the Supplier (which consent will not be unreasonably withheld or delayed).
- (c) Whenever possible, the provisions of these Terms shall be interpreted so as to be valid and enforceable under applicable law. However, if one or more provisions of these Terms is found to be invalid, illegal or unenforceable (in whole or in part), the remainder of the provision and of these Terms shall not be affected and shall continue in full force and effect as if the invalid, illegal or unenforceable provision(s) had never existed. Moreover, in this case, the parties shall amend the invalid, illegal or unenforceable provision(s) or any part thereof and/or agree on a new provision that embodies as closely as possible the purpose of the invalid, illegal or unenforceable provision(s).
- (d) Any failure or delay by the Supplier in exercising any right under these Terms or under any order, the exercise or partial exercise of any right under these Terms, or any reaction or absence of reaction by the Supplier in the event of breach by the Customer of one or more provisions under these Terms or of order shall not operate or be construed as a waiver (either express or implied, in whole or in part) of its rights under these Terms or under said provision(s) or preclude the further exercise of any such rights. Any waiver of a right must be express and in writing. If there has been an express written waiver by the Supplier following a specific failure by the Customer, this waiver cannot be invoked by the Customer in favor of either a new failure, similar to the prior one, or a failure of another nature.
- (e) All issues, questions and disputes concerning the validity, interpretation, enforcement, performance or termination of these Terms or any order(s) shall

be governed by and construed in accordance with the laws of the State of Victoria, Australia.

- (f) Each Party irrevocably submits to the non-exclusive jurisdiction of the courts of the State of Victoria, Australia and courts of appeal from them. Each Party waives any right it has to object to any

action being brought in those courts, including, without limitation, by claiming that the action has been brought in an inconvenient forum or that those courts do not have jurisdiction.

**NOTES: THESE ARE IMPORTANT AND SHOULD BE READ**

- 1) The Terms form part of the Application and if the Application is accepted, an order placed by the Customer or delivery of the Goods and/or provision of the services in respect of the Goods to the Customer will constitute unqualified acceptance by the Customer of these Terms including any Credit Limit (if applicable) in the below clause 2.
- 2) The Credit Limit (if any) extended to the Customer will be solely at the discretion of the Supplier.
- 3) The Customer may be required by the Supplier to nominate a guarantor or guarantors to the Suppliers satisfaction, to secure the Customers obligations under these Terms, which guarantors may be required to sign a guarantee or guarantees collateral to this Application. The Customer agrees to pay the stamp duty in respect of such guarantee or guarantees.

The Customer and signatories below acknowledge that they have read the attached Terms and upon acceptance by the Supplier (by way of written notice or the supply of Goods) have agreed to be bound by the Terms.

SIGNED BY ALL PROPRIETORS/DIRECTORS

.....  
Name:

.....  
Name:

Dated: