

# Outgoing Product Terms

## 1. Outgoing Product Terms

- 1.1 These Outgoing Product Terms apply to the supply of Product and form part of all Contracts (together with the Credit & General Terms) for the provision of Product by Resourceco.
- 1.2 These Outgoing Product Terms takes precedence over any terms provided by the Customer, to the extent of any inconsistency.
- 1.3 The Customer will be deemed to have accepted and be bound by the Contract by ordering Product from Resourceco.
- 1.4 These Outgoing Product Terms do not consider transport of Product by Resourceco. Please consider Resourceco's Transport Terms if Transport Services are required.

## 2. Supply of Product

- 2.1 In consideration for the Price, Resourceco will supply the Product to the Customer as described in the Contract Particulars.
- 2.2 Resourceco will use reasonable endeavours to ensure that the Product complies with the Product Specifications. The Product Specifications may only be varied by written agreement between Resourceco and the Customer.
- 2.3 The Customer acknowledges that recycled Product is not produced using virgin materials and may have inclusions.

## 3. Orders

- 3.1 The Customer shall order the Product by submitting an order ('Order') in writing (including through Resourceco's website) to Resourceco. Any Order made by telephone will be confirmed by the Customer or Resourceco in writing.
- 3.2 Resourceco will either accept or reject the Order at its absolute discretion.
- 3.3 The Customer's Order must include the following details:
  - 3.3.1 the quantity of the Product ordered;
  - 3.3.2 whether the Customer will collect or arrange for collection of the Product, or whether it requires Resourceco to deliver the Product; and
  - 3.3.3 any timeframe for collection or delivery of the Product.
- 3.4 A Customer may cancel an Order not less than 24 hours from estimated collection or delivery time.
- 3.5 If a Customer cancels an Order less than 24 hours from estimated collection or delivery time Resourceco may charge a fee in accordance with its Price List.

## 4. Price and payment

- 4.1 The Customer will pay Resourceco the Price for the Products in the manner nominated or agreed by Resourceco.
- 4.2 Prices for Product will be based on weight using Resourceco's nominated weighbridge, unless otherwise determined by Resourceco.
- 4.3 Unless expressly stated otherwise, all amounts payable or consideration to be provided under the Contract are exclusive of GST. The amounts payable for each taxable supply under the Contract must be increased by the rate of GST imposed by law.

## 5. Weighbridge

- 5.1 Unless otherwise agreed by the parties in writing, a weighbridge nominated or utilised by Resourceco from time to time will be used to determine the quantity of Product supplied.
- 5.2 If the weighbridge nominated or utilised by Resourceco is unavailable, Resourceco may direct the Customer vehicles or the Resourceco vehicles (as the case may be) to use an

alternative weighbridge utilised by Resourceco or the Customer (as the parties may agree).

- 5.3 Resourceco has absolute discretion to determine the weight of Product passing over a weighbridge that is utilised by it, and its decision is final.

## 6. Collection or delivery of Product

- 6.1 Where the Customer requires Resourceco to deliver the Product, the Transport Terms will apply.
- 6.2 Where the Customer collects or arranges for the collection of Product (except by Resourceco), Resourceco must:
  - 6.2.1 advise the Customer of the date, time and place for collection of Product; and
  - 6.2.2 provide or procure that the Customer's Personnel have access to the Premises for the purposes of collecting the Product.
- 6.3 Where the Customer collects or arranges for the collection of Product (except by Resourceco), the Customer must and must ensure that its Personnel:
  - 6.3.1 comply with Resourceco's reasonable directions in relation to the loading of Product; and
  - 6.3.2 complete and comply with any site induction required by Resourceco.

## 7. Risk and title

- 7.1 Risk in the Product will pass to the Customer immediately once the Product has left the Premises.
- 7.2 Title in the Product will pass to the Customer on payment for the Product being received by Resourceco.

## 8. Returns

- 8.1 Notwithstanding that title to the Product may have passed to the Customer, the Customer may reject unused Product within two (2) business days of receipt of the Product where the Product:
  - 8.1.1 fails in material respects to meet the Specifications; or
  - 8.1.2 the Product is supplied in error, otherwise the Customer will have no claim against Resourceco.
- 8.2 If the Customer does not advise Resourceco of any fault or defect in the Product within two (2) business days, the Customer will be deemed to have accepted the Product.
- 8.3 On the Customer notifying Resourceco that the Product is rejected in accordance with **clause 8.1**, Resourceco will inspect the rejected Product within a reasonable period of time, and where Resourceco agrees with the Customer's reasons for rejection (acting reasonably), Resourceco's will, at its election:
  - 8.3.1 collect the Product at its cost and re-supply the Product;
  - 8.3.2 negotiate a price adjustment with the Customer (both parties acting reasonably) for the Customer to accept the rejected Product, or reach another settlement with the Customer, for example which may require the rejected Product undergoing further screening or processing such that the Product materially meets the Specification.
- 8.4 The Customer releases Resourceco from any Loss suffered by the Customer as a result of the Customer rejecting Product in accordance with **clause 8.1** (including but not limited to any Loss suffered by the Customer due to delays in receiving the re-supplied Product), provided that Resourceco complies with **clause 8.3**.

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## 9. Access to the Premises

- 9.1 The Customer:
- 9.1.1 acknowledges that it and its Personnel enter the Premises at their own risk during normal business hours for the sole purpose of collecting Product from the Premises;
  - 9.1.2 agrees to abide by and ensure that its Personnel abide by all Resourceco Policies and reasonable directions provided by Resourceco or its Personnel with respect to access to the Premises; and
  - 9.1.3 warrants that it will maintain appropriate Workcover and other insurance with regard to the circumstances set out in **clause 9.1.2** in respect of it and its Personnel.
- 9.2 The Customer indemnifies Resourceco for any Loss incurred by Resourceco arising from the Customer and its Personnel accessing the Premises or for any breach of this **clause 9**.

## 10. Warranties

- 10.1 Except for any condition or warranty the exclusion of which could be void or otherwise contravene the Competition and Consumer Act 2010 (Cth) or any other equivalent competition or consumer law in the Australia ('**Non Excludable Condition**'), Resourceco disclaims all conditions, warranties and representations, either express or implied with respect to the Products.
- 10.2 Subject to any warranty provided by Resourceco in respect of the Products and notwithstanding where legislation implies into these Outgoing Product Terms a Non-Excludable Condition, to the fullest extent permitted by law:
- 10.2.1 the liability of Resourceco to the Customer for any reason related to the Products under these Outgoing Product Terms is to be limited (at the election of the Resourceco) to the replacement or repair of the Products or the amount paid or payable by the Customer in respect of the particular Products; and
  - 10.2.2 in no event will Resourceco be liable to the Customer for:
    - (a) other than in respect of **clause 10.2.1**, any claim or damage arising out of or in connection with the supply of the Product or these Outgoing Product Terms; or
    - (b) indirect loss or consequential loss, loss of profits, loss of revenue, loss of goodwill, exemplary damages, punitive damages in connection with or arising out of these Outgoing Product Terms and the supply of the Products even if advised of the possibility of such damages or if such loss ought reasonably to have been in the contemplation of both parties on entering into these Outgoing Product Terms.
- 10.3 If Resourceco supplies Product to a specification provided by the Customer, the Customer releases Resourceco from claims relating to faults in the specification. The Customer also indemnifies Resourceco if Resourceco infringes a third party's rights in using the specification provided by the Customer or if Resourceco suffers loss arising out of using the Customer's specification.

## 11. Limitation on liability

- 11.1 The Customer releases Resourceco from any claim, proceedings or action by the Customer against Resourceco in connection with the Customer's or their Personnel's or any other person's use of the Products.

- 11.2 To the maximum extent permitted by law, Resourceco's liability to the Customer or its Personnel under or in connection with the Contract is limited to the Price paid by the Customer to Resourceco for the Products.

## 12. Definitions

- 12.1 Except where the context otherwise requires, capitalised terms used but not defined in these Outgoing Product Terms have the same meanings given to them in the Credit & General Terms.
- 12.2 In these Outgoing Product Terms, unless the contrary intention appears, the following terms have the following meanings:
- 12.2.1 '**Credit & General Terms**' means the terms upon which Resourceco provides credit and goods and/or services to its customers available at <https://resourceco.com.au/terms-and-conditions/> (at the time of entry into the Contract).
  - 12.2.2 '**Outgoing Product Terms**' means these terms and conditions.
  - 12.2.3 '**Price List**' means the current price lists published by Resourceco for Products and associated charges.
  - 12.2.4 '**Product Specifications**' means (as applicable):
    - (a) the specification relating to the applicable Product in the Quality Assurance Brochure; or
    - (b) such other specifications as agreed by the parties in writing.
  - 12.2.5 '**Quality Assurance Brochure**' means Resourceco's brochure setting out Products supplied by Resourceco, as available at [https://resourceco.com.au/app/uploads/2020/09/C\\_D5043\\_QualityDoc-UpdateSep2020\\_A4\\_16PP\\_CMYK\\_%C6%92\\_WEB.pdf](https://resourceco.com.au/app/uploads/2020/09/C_D5043_QualityDoc-UpdateSep2020_A4_16PP_CMYK_%C6%92_WEB.pdf) (at the time of entry into the Contract).