



TERMS AND CONDITIONS

1 Interpretation

1.1 Unless otherwise inconsistent with the context the word “person” shall also mean corporation;

1.2 “Goods” shall include services.

1.3 Words importing the singular number shall be deemed to include the plural and vice versa. Words importing the male gender shall be deemed to include the female and neuter gender and vice versa.

1.4 “RCR” shall mean LUDER CORP Pty Ltd trading as Rubber and Coating Removal its successors and assigns.

1.5 “Invoice” means a Tax Invoice if GST applies to the items in the invoice, otherwise a non-Tax Invoice.

1.6 “PPSA” means the Personal Property Securities Act 2009 (Cwlth) and the regulations thereunder.

1.7 “PPSR” means the Personal Property Securities Register.

1.8 “Contract” means the Terms of Trade and the relevant Order.

1.9 “Order” means any agreement (verbal and/or written) between Rubber and Coating Removal and the purchaser for the sale of goods.

1.10 “Terms of Trade” means these Terms and Conditions of Trade (as may be varied from time to time).

1.11 “Tax Invoice” means an invoice that complies with the GST Act.

2 Offer and Acceptance

2.2 Our warranty does not cover faults or damage which are not directly due to defective materials or workmanship, for example, faults caused by improper use, normal wear and tear, improper installation or damage caused whilst the product is being transported.

To claim under warranty, the purchaser shall inspect goods on delivery and shall within seven (7) days of delivery (time being of the essence) notify RCR of any alleged defect, shortage in quantity, damage or failure to comply with the description or quote.

Where goods are unable to be repaired, the goods are to be returned at the purchaser’s cost.



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Your rights under the Australian Consumer Law are not limited by a defined time. However, the Australian Consumer Law does recognise that the relevant time period can vary from product to product, depending on factors such as the nature of the product and the price. Rubber and Coating Removal adopts the same approach.

For Rubber and Coating Removal manufactured goods, Rubber and Coating Removal warrants that, subject to the limitations and conditions in this document, goods will be free from defects in workmanship and materials for the applicable warranty term of 12 months. You may have additional rights under the Australian Consumer Law.

Insofar as goods or services supplied by Rubber and Coating Removal are not of a kind ordinarily acquired for personal domestic or household consumption, and unless the purchaser establishes that reliance on this provision would not be fair and reasonable, the liability for breach of a condition or warranty; implied into this contract by the Competition and Consumer Act 2010 (Cth.) (other than a condition implied by Section 69) is limited to any one of the following as determined by Rubber and Coating Removal ;

- (i) the replacement of the goods or the supply of equivalent goods; or
 - (ii) the repair of the goods; or
 - (iii) the payment of the cost of replacing the goods or of acquiring equivalent goods; or
 - (iv) the payment of the costs of having the goods repaired;
- b) in the case of services to any one of the following as determined by Rubber and Coating Removal ;
- (i) the supplying of the services again or
 - (ii) the payment of the cost of having the services supplied again.

3 Delivery

3.1 Any date quoted for delivery is an estimate only and unless a guarantee shall have been given by Rubber and Coating Removal in writing, the purchaser shall accept and pay for goods if and when tendered notwithstanding any failure by Rubber and Coating Removal to deliver by the quoted date. Written advice to the purchaser that goods are ready for delivery whether in whole or in part shall constitute tendering and the terms of payment shall apply.

3.2 Rubber and Coating Removal shall not be liable to any purchaser or any other party for any loss or damage including direct or indirect or consequential injury loss



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or damage whatsoever by reason of any delay in delivery whether the same is due to the negligence of Rubber and Coating Removal's Equipment or actions constituting fundamental breach of contract or any other party, strike or any other industrial action, or any other cause whatsoever.

3.3 Rubber and Coating Removal's reserves the right to deliver by instalments and if delivery is made by instalments the purchaser shall not be entitled to terminate or cancel the contract.

3.4 Any quotation containing a provision to supply goods "ex stock" is subject to fulfilment of prior orders at the date of receipt of the purchaser's order.

4 Payment

4.1 Unless otherwise agreed in writing payment terms are net cash 30 days from the date of the invoice in which the goods are invoiced to the purchaser.

4.2 This term as to the payment shall be of the essence of the contract.

4.3 Credit Card Payments will attract a processing fee (not exceeding 2%).

5 Title

5.1 Notwithstanding the delivery of the goods or part thereof the goods remain the sole and absolute property of Rubber and Coating Removal as full legal and equitable owner until such time as the purchaser shall have paid Rubber and Coating Removal the full purchase price together with the full price of any other goods the subject of any other contract with Rubber and Coating Removal.

5.2 The purchaser acknowledges that he receives possession of and holds goods delivered by Rubber and Coating Removal solely as bailee for Rubber and Coating Removal until such time as the full price thereof is paid to Rubber and Coating Removal together with the full price of any other goods then the subject of any other contract with Rubber and Coating Removal.

5.3 Until such time as the purchaser becomes the owner of the property, he will;

(a) store them on the premises separately;

(b) ensure that the goods are kept in good and serviceable condition;

(c) secure the goods from risk, damage and theft; and

(d) keep the goods fully insured against such risks that are usual or common to insure against in a business of a similar nature to that of the purchaser.



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5.4 (i) Until the goods are paid for in full, Rubber and Coating Removal authorizes the purchaser to sell the goods as its agent. However, the purchaser shall not represent to any third parties that it is acting in any way for Rubber and Coating Removal. Rubber and Coating Removal will not be bound by any contracts with third parties to which the purchaser is a party.

(ii) Records shall be kept by the purchaser of any goods owned by Rubber and Coating Removal.

(iii) The proceeds of any sale of the goods shall be paid into a separate account and held in trust for Rubber and Coating Removal. The purchaser shall account to Rubber and Coating Removal from this fund for the full price of the goods.

(iv) The purchaser is entitled to a period of credit, but if prior to the expiration of the period of credit the goods are sold and the proceeds of sale received, the purchaser shall account forthwith to Rubber and Coating Removal for the price of the goods forthwith.

(v) Should the purchaser die, stop payment or call a meeting of its creditors or become insolvent or subject to the bankruptcy laws or being a company calls a meeting for the purpose of or to go into liquidation or has a winding-up petition presented against it or has a receiver or administrator appointed, Rubber and Coating Removal may at its option notwithstanding its waiver of such default or failure and without prejudice to its other rights under this contract suspend or cancel this contract or require payment in cash before or on delivery or tender of goods or documents notwithstanding terms of payment previously specified or may repossess and take over the good and dispose of the same in its own interest without prejudice to any claim it may have for damages for any loss resulting from such resale.

5.5 In the event that the purchaser uses the goods/product in some manufacturing or construction process of its own or some third party, then the purchaser shall hold such part of the proceeds of such manufacturing or construction process as relates to the goods/product in trust for Rubber and Coating Removal. Such part shall be deemed to equal in dollar terms the amount owing by the purchaser to Rubber and Coating Removal at the time of the receipt of such proceeds.

6 Personal Property Securities Act 2009 (“PPSA”)

6.1 In this clause:

(a) financing statement has the meaning given to it by the PPSA;

(b) financing change statement has the meaning given to it by the PPSA;

(c) security agreement means the security agreement under the PPSA created between the Applicant and Rubber and Coating Removal by these terms and conditions; and



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(d) security interest has the meaning given to it by the PPSA.

6.2 Upon assenting to these terms and conditions in writing the Applicant acknowledges and agrees that these terms and conditions:

(a) constitute a security agreement for the purposes of the PPSA; and

(b) create a security interest in all Goods being transported by Rubber and Coating Removal.

6.3 The Applicant undertakes to:

(a) 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 Rubber and Coating Removal may reasonably require to:

(i) register a financing statement or financing change statement in relation to a security interest on the PPSR;

(ii) register any other document required to be registered by the PPSA; or

(iii) correct a defect in a statement referred to in clause 21.3 (a) (i) or 21.3 (a) (ii).

(b) indemnify and upon demand reimburse Rubber and Coating Removal for all expenses incurred in registering a financing statement or financing change statement on the PPSR established by the PPSA or releasing any Goods charged thereby.

(c) not register a financing change statement in respect of a security interest without the prior written consent of Rubber and Coating Removal.

(d) not register, or permit to be registered, a financing statement or a financing change statement in relation to the Goods in favour of a third party without the prior written consent of Rubber and Coating Removal.

6.4 Rubber and Coating Removal and the Applicant agree that sections 96, 115 and 125 of the PPSA do not apply to the security agreement created by these terms and conditions.

6.5 The Applicant hereby waives its rights to receive notices under sections 95, 118, 121(4), 130, 132(3)(d), 132(4) and 157 of the PPSA.

6.6 The Applicant waives its rights as a grantor and/or a debtor under sections 142 and 143 of the PPSA.



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6.7 Unless otherwise agreed to in writing by Rubber and Coating Removal, the Applicant waives its right to receive a verification statement in accordance with Section 157 of the PPSA.

6.8 The Applicant shall unconditionally ratify any actions taken by Rubber and Coating Removal under clauses 21.3 to 21.5.

7 Risk

Unless otherwise agreed in writing, risk in the goods shall pass to the purchaser at the time when the goods have been placed on the vehicle which is to effect delivery from Rubber and Coating Removal's store or warehouse or delivery to the purchaser whichever is the sooner. The goods shall remain at the purchaser's risk at all times unless and until Rubber and Coating Removal retakes possession of the goods pursuant to these terms and conditions.

8 Claims

8.1 Subject to clause 2.2 herein, Rubber and Coating Removal shall not be liable for any loss or damage whatsoever and howsoever arising whether direct indirect or consequential or in respect of any claim whenever and however made for any loss or damage deterioration efficiency or other fault or harm in the goods manufactured, work executed or services provided by or on behalf of or in any arrangement with Rubber and Coating Removal or occasioned to the purchaser or any third or other party or to his or their property or interest and whether or not due to the negligence of Rubber and Coating Removal its servants or agents.

8.2 As soon as any of the facts or matters which form any part of any claim or complaint whatsoever become known to the purchaser, the purchaser shall within seven days notify Rubber and Coating Removal in writing of the same.

8.3 Rubber and Coating Removal shall not be liable in any circumstances for any:

(i) defects or damages caused in whole or in part by misuse, abuse, neglect, electrical or other overload, non-suitable lubricant, improper installation repair or alteration (other than by Rubber and Coating Removal) or accident.

(ii) any transport freight charges installation removal labour or other costs;

(iii) defects in goods not manufactured by it but Rubber and Coating Removal will endeavour to pass on to the purchaser the benefit of any claim made by Rubber and Coating Removal and accepted by the manufacturer or such goods under a warranty given by the manufacturer of such goods provided that nothing contained in this subparagraph shall limit the rights of the purchaser to proceed against Rubber and Coating Removal pursuant to the Competition and Consumer Act 2010 (Cth.).



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(iv) technical advice or assistance given or rendered by it to the purchaser or not in connection with the manufacture construction or supply of goods for or to the purchaser provided always that Rubber and Coating Removal has rendered such services with due care and skill and that any material supplied in connection with those services are reasonably fit for the purpose for which they are supplied.

8.4 The exemptions, limitations, terms and conditions shall apply whether or not the loss or damage is caused by negligence or actions constituting fundamental breach of contract.

9 Force Majeure

If by reason of any fact, circumstance, matter or thing beyond the reasonable control of Rubber and Coating Removal, Rubber and Coating Removal is unable to perform in whole or in part any obligation under this agreement Rubber and Coating Removal shall be relieved of that obligation under this agreement to the extent and for the period that it is so unable to perform and shall not be liable to the purchaser in respect of such inability.

10 Default

Upon the occurrence of default by the purchaser in compliance with the terms or any other agreement with Rubber and Coating Removal herein;

10.1 Rubber and Coating Removal may at its discretion withhold further supplies of goods or cancel this agreement or vary the terms of this agreement without prejudice to its rights hereunder PROVIDED HOWEVER that Rubber and Coating Removal may at any time and from time to time upon such terms as it may determine waive any of its rights under this Clause, but without prejudice to its rights thereafter of any of the events herein-before referred to or upon the continuation after any such waiver of any state of affairs the subject of such waiver.

10.2 The Purchaser shall pay to Rubber and Coating Removal interest at the rate of 1.5% per month on daily balances in respect of any amounts as may from time to time be overdue until paid and such money together with all interest shall be recoverable forthwith from the purchaser.

10.3 Without prejudice to any other right or remedy the purchaser shall indemnify Rubber and Coating Removal against any costs fees charges and disbursements charged by any solicitor engaged for the purpose of the collection of recovery of moneys due and payable by the purchaser to Rubber and Coating Removal on an indemnity basis and any fees, charges, disbursements or commissions charged by any mercantile agency or debt collection firm.



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10.4 The purchaser shall pay to Rubber and Coating Removal an administration fee of \$50.00 on the occurrence of every event of default.

11 Charge

The Purchaser hereby charges with payment of any indebtedness to Rubber and Coating Removal all beneficial interest (freehold and leasehold) in land and personal property held now or in the future by the Purchaser. The Purchaser agrees that if demand is made by Rubber and Coating Removal, the Purchaser receiving such a demand will immediately execute a mortgage or other instrument of security, or consent to a caveat, as required and against the event that the Purchaser fails to do so within a reasonable time of being so requested, the Purchaser hereby irrevocably and by way of security appoints any credit manager or solicitor engaged by Rubber and Coating Removal to be its true and lawful attorney to execute and register such instruments. Notwithstanding any other provision in this clause, Rubber and Coating Removal may lodge a caveat on any property of the Purchaser whenever it so wishes.

12 GST

The Purchaser may pay to Rubber and Coating Removal any amount which is payable by Rubber and Coating Removal in respect of any supply to the Purchaser on account of GST. Each charge or fee for a supply rendered by Rubber and Coating Removal does not include an amount to cover the liability of Rubber and Coating Removal for GST on any supplies made under this agreement which are taxable supplies within the meaning of the GST Act. In relation to taxable supplies made under this agreement Rubber and Coating Removal agrees to issue the Purchaser with a tax invoice in accordance with the GST Act or a document satisfying the minimum information requirement set out in GSTR2000/2003 to entitle a recipient of a taxable supply to claim an input tax credit without holding a tax invoice. "GST" means GST as defined in a New Tax System (Goods and Services Tax Act 1999). "Supply" means supply(s) defined in a New Tax System (Goods and Services Tax Act 1999).

13 Trusts

13.1 This clause applies if the Purchaser is a trustee and whether or not Rubber and Coating Removal has notice of the Trust.

13.2 Where the Purchaser comprises two or more persons and any of those persons is a Trustee this clause applies to such Trustee.

13.3 The Purchaser agrees that even though the Purchaser enters into this Agreement as Trustee of the Trust, the Purchaser also shall be liable personally for



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the performance and observance of every covenant to be observed and performed by the Purchaser expressed or implied in this Agreement.

13.4 The Purchaser warrants its complete, valid and unfettered power to enter into this Agreement pursuant to the provisions of the Trust including power to obtain the credit facility from Rubber and Coating Removal and to enter into the covenants to be observed and performed by them expressed or implied in this Agreement and warrants that its entry into this Agreement is in the due administration of the Trust.

13.5 The Purchaser covenants that the rights of indemnity which it may have against the property of the Trust have not been and in the future will not be excluded, modified, released, lost or diminished (whether by agreement, breach of trust or otherwise).

13.6 The Purchaser shall not, without Rubber and Coating Removal's prior written consent:

(i) resign or be removed as Trustee of the Trust or appoint or allow the appointment of a new or additional Trustee of the Trust;

(ii) amend or revoke any of the terms of the Trust;

(iii) vest or distribute the property of the Trust or advance or distribute any capital of the Trust to a beneficiary or resettle any of the property of the Trust;

(iv) permit a beneficiary to have the use, occupation, employment or possession of the property of the Trust;

(v) do or permit or omit to do an act or thing in breach of the Trust or which would permit the Trustee to be removed as Trustee of the Trust;

(vi) exercise or permit or allow to be exercised a power to change the vesting date of the Trust or provide for an early determination of the Trust;

(vii) lend any money, give any guarantee or incur any debt other than in the ordinary course of business of the Trust; of

(viii) pay any of the income of the Trust to any beneficiary of the Trust if such payment will prejudice or affect the Purchaser's ability to pay all monies due to Rubber and Coating Removal.

14 Service

The parties agree that service of any notices, demands, proceedings summons suits or actions (process) upon the Purchaser may be effected by Rubber and Coating Removal or its solicitors sending such process by prepaid post to the address given



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in the Credit Application as the address of the Purchaser. Service shall be deemed to have been effected two business days after the posting of the process.

15 Goods Returned for Credit

No goods will be accepted for return before approval by Rubber and Coating Removal. All returned goods shall be delivered to Rubber and Coating Removal (where Rubber and Coating Removal so approves the return) at the Customer's cost in good order and condition, unused and in the original packaging accompanied by the dispatch notes stating the original invoice number, date of supply and reason for return. Except where goods have been wrongly or oversupplied, a re-stacking charge of 20% will be charged to the Customer unless otherwise agreed by Rubber and Coating Removal to cover handling and administrative costs.

16 General

Any leniency, indulgence or extension of time granted by Rubber and Coating Removal to the Customer will not prejudice any of Rubber and Coating Removal's rights in any way and will not constitute a waiver of any of Rubber and Coating Removal's rights under any of these Conditions or otherwise.

These Conditions are governed by the laws of the State of Western Australia and Rubber and Coating Removal and the Customer submit to the jurisdiction of the courts of that State.

If any term(s) of these Conditions are for any reason declared to be or become unenforceable, invalid or illegal, the other terms remain in full force and effect as if the unenforceable, invalid or illegal term(s) had not been included in these Conditions.

These Conditions constitute the entire agreement between the parties and no variation of or addition to these conditions is binding unless reduced to writing and signed by the parties or their duly authorized representatives.