

Roadking Chassis Pty Ltd. A.C.N. 134 620 232
Standard Terms and Conditions of Contract

1. Preliminary

These are Roadking Chassis Pty Ltd's ("**Roadking Chassis**") Standard Terms and Conditions, which will apply to every contract whereby you as the Customer (**the "Customer"**) order and purchase the items of the Products (as set out in the Order) from Roadking Chassis.

2. Terms and Conditions

- 2.1 The Terms of the Contract between Roadking Chassis and the Customer for the manufacture, sale and supply of items of the Products Ordered are contained collectively in all of the following:
- a) The Credit Application Request;
 - b) The duly completed Order;
 - c) These Standard Terms and Conditions; and
 - d) The relevant parts of Roadking Chassis' Current Price List.
- 2.2 An Order once placed where acceptance has been communicated may only be cancelled by the Customer if Roadking Chassis agrees in writing to its cancellation. Cancellation may be conditional on the Customer paying the costs and expenses incurred by Roadking Chassis up to the date of cancellation. The Customer must provide its valid ABN number on the completed Order Form unless already provided.
- 2.3 Where the Products have to be made or adapted to the Customer's particular specifications or requirements then the Customer must also pay for all work in progress up to the date of cancellation.

3. Defined Terms

In these Standard Terms and Conditions and any related documents, unless the context otherwise requires, the following words and phrases mean:

"ABN" means Australian Business Number.

"COD" means cash upon delivery.

"Communicates" means all tenses of the verb and any act of communication and includes written communications, electronic communications and facsimile communications but does not include oral communications unless confirmed in writing electronically or by facsimile.

"Contract" means this contract for the manufacture, sale, purchase and supply of the Ordered Products.

"Current Price List" means the price list published by Roadking Chassis from time to time as the current prices of the Products to its Customers, exclusive of GST.

"EFT" means electronic funds transfer from the Customer to Roadking Chassis that are received by Roadking Chassis as cleared funds by its bank.

"GST" means Goods and Services Tax.

"GST Act" means *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

“Intellectual Property” means all copy right in all designs, plans and drawings of the Products, all Designs whether registered or unregistered, all trade marks and logos whether registered or unregistered, all patents granted and patents pending and all know-how and information pertaining to the manufacturer of the Products.

“Order” means an Order placed by the Customer on an Order Form for the purchase of an item or items of the Products duly completed and signed by the Customer and Communicated to Roadking Chassis containing:

- a) The Price of the items of Products ordered;
- b) The Customer’s full details; and
- c) The full details of the Products ordered.

“Order Form” means Roadking Chassis’s Order Form from time to time.

“Parties” means Roadking Chassis (including officers and/or employees) and the Customer (including officers and/or employees).

“Person” means any individual, company or entity not being a Party and not being an employee of a Party.

“Price” means the purchase price of the Products exclusive of GST determined by reference to the Current Price List and as set out in the Order.

“Products Ordered” means the Products ordered by the Customer and indemnified on the Order as signed by the Customer.

“Specifications” means any of Roadking Chassis’ specifications applicable to an item of the Products.

“Tax Invoice” means a tax invoice that complies with the GST Act.

4. Price

- 4.1 Roadking Chassis agrees to manufacture, sell and/or supply and the Customer agrees to buy the Products ordered by the Customer for the Price. The Price must be paid COD or at such other time as Roadking Chassis and the Customer may in writing agree.
- 4.2 Roadking Chassis will render a Tax Invoice to the Customer on or prior to Delivery. This may be emailed or faxed to the Customer at the Customer’s place of business. The Customer must provide Roadking Chassis with its ABN number at the time the Customer places its Order on the Order Form.

5. Warranties and Indemnities

- 5.1 Roadking Chassis warrants to the Customer that:
 - 5.1.1 The Products will be manufactured by Roadking Chassis using good and suitable materials and components;
 - 5.1.2 The Products Ordered as manufactured will be fit and merchantable having regard to the purposes (if any) communicated by the Customer to Roadking Chassis at or simultaneously with the placement of the Order. If no purposes have been communicated, the Products will be fit and merchantable for their general purposes having regard to the nature of the Products Ordered;
 - 5.1.3 The Products Ordered will conform in all material respects with any Specifications;

- 5.1.4 Roadking Chassis will replace or remedy any faulty part or component of any item of the Products Ordered that the Customer communicated to Roadking Chassis as faulty or requiring replacement within forty-eight (48) hours of delivery. The Customer must return the faulty part or component of the Products Ordered for modification or correction to Roadking Chassis. The Customer must not provide the faulty part or component of the Products Ordered to another Person for modification or correction;
- 5.1.5 The Products Ordered will be manufactured so that they are safe if properly used for their intended purposes;
- 5.1.6 Where the Products Ordered are to be installed, added to or modified by the Customer, that those Products will be suitable and capable of being so installed, added to or modified in accordance with the Specifications.
- 5.2 Roadking Chassis will not be responsible for any damage to the Products which occurs at any time after delivery unless the Customer can provide reasonable evidence that the damage was a direct result of any fault or defect:
 - 5.2.1 In the manufacture of the Products Ordered;
 - 5.2.2 In the materials or components used in the manufacture of the Products Ordered;
 - 5.2.3 In the packing of the Products Ordered;
 - 5.2.4 In the products ordered which the Customer can show was caused prior to delivery.
- 5.3 Roadking Chassis will not be liable to the Customer for any damages or destruction of the Products caused by:
 - 5.3.1 Any failure by the Customer to properly or safely store the Products;
 - 5.3.2 Any failure by the Customer to properly move the Products after delivery;
 - 5.3.3 Any failure by the Customer to properly install, add to or modify the Products;
 - 5.3.4 Any failure by the Customer to use the Products for their purpose;
 - 5.3.5 Any use by the Customer or any other Person of the Products contrary to their Specifications;
 - 5.3.6 Any act or omission by the Customer or any Person after delivery;
 - 5.3.7 Any failure to properly repair or maintain the Products by the Customer or any other Person.
- 5.4 Subject to the express terms of these Terms and Conditions and or Contract and to any statute or regulations (State or Federal) which cannot be excluded contractually, the Parties expressly agree that:
 - 5.4.1 Roadking Chassis does not accept any liability whatsoever in respect of any loss or damage (including injury, death, loss of profits or repudiation, economic loss and consequential loss or other damage) however caused (including Roadking Chassis' negligence) which may be suffered or incurred or which may arise either directly or indirectly in respect of any use of the Products;

5.4.2 All Warranties implied by any Statute that can be excluded are hereby expressly excluded.

5.5 Where the Customer and/or any Person suffers loss, damage or injury (including personal injury) as a direct or indirect result of any failure referred to in Clause 5.3 or 5.4 above or as a direct or indirect misuse of the Products then the Customer hereby fully and effectually indemnifies Roadking Chassis against any liability (including costs) of Roadking Chassis to the Customer and/or to that Person.

5.6 The Customer does hereby waive, release, discharge and relinquish any and all claims that the Customer has or may have against Roadking Chassis, their affiliates, subsidiaries, parents, shareholders, directors, officers, employees, agents and representatives ("**Indemnified Parties**") which are connected with, arise out of, relate to or a incidental to the manufacture, sale and/or supply of the Products.

5.7 The Customer does hereby indemnify and defend Roadking Chassis and the Indemnified Parties and hold harmless from and against any and all claims, loss, damage, tax, liability and/or expense that may be incurred by the Indemnified Parties arising out of or in connection with the performance of their obligations as described in this Contract and including costs, fees, and expenses of defending ourselves against any claim by any or all of the parties to any transaction and/or by any other person and/or as a result of the Customer's negligent act or omission on a full indemnity basis.

6. Delivery

6.1 Roadking Chassis will deliver the Products safely and securely packed.

6.2 The Customer or the Customer's representative must be present on delivery to inspect and confirm the Products Ordered and sign for acceptance of the Products on delivery.

7. Payment

7.1 Unless otherwise agreed in writing, payment for the Products Ordered must be made COD on delivery or by prior EFT.

7.2 Where payment is made with a credit card facility, the merchant fee is at the Customer's cost.

7.3 Roadking Chassis always reserves the right at any time to require whole or partial payment of the Price by the Customer at any time before delivery.

7.4 Where the whole or partial payment of the Price is required by Roadking Chassis before delivery, any failure by the Customer to make such payment when required by Roadking Chassis entitles it to:

7.4.1 Suspend manufacture of the Products Ordered; and/or

7.4.2 After seven (7) days' prior written notice to the Customer, terminate this Contract and claim any damages. Damages will include the actual cost of work in progress up to termination plus Roadking Chassis' loss of gross profit on the Products Ordered.

7.5 If the Customer has not paid an invoice issued by Roadking Chassis to the Customer for a period of fourteen (14) days, Roadking Chassis reserves the right to seek debt recovery services at the Customer's cost and charge interest for non payment of the invoice/s.

8. Variations

- 8.1 Roadking Chassis does not agree to any variations to this Contract and does not oblige Roadking Chassis to accept any variation in the Products to be supplied.
- 8.2 Roadking Chassis will however (without obligation) reasonably consider any variations sought by the Customer.
- 8.3 The terms of any variation will not be binding unless and until they are agreed in writing and signed by Roadking Chassis and the Customer. They will then and only then constitute a variation to this Contract.
- 8.4 Where the Customer has requested a variation to the Products and such variation delays delivery, Roadking Chassis reserves the right to invoice the Customer and receive payment prior to and/or on the agreed date of delivery.

9. Time of Delivery and Delay

- 9.1 Roadking Chassis will take all reasonable commercial endeavours to ensure that the Products Ordered are delivered on the agreed date for delivery set out in the Order.
- 9.2 Where there is a schedule of times for delivery referred to in the Order then Roadking Chassis will take all reasonable commercial endeavours to ensure that the Products are delivered on the agreed scheduled dates for delivery.
- 9.3 If Roadking Chassis is unable to deliver the Products to the Customer by the date or dates of delivery set out in the Order, then Roadking Chassis must promptly notify the customer in writing to that effect with estimates of the revised time for delivery of the Products Ordered.
- 9.4 Provided Roadking Chassis has used all reasonable commercial endeavours to deliver the Products to the Customer in accordance with the date or dates for delivery in the Order, Roadking Chassis will not be liable to the Customer for any delay in delivery of the Products or any part thereof.
- 9.5 Roadking Chassis will not be responsible for the failure of third party delivery service providers where we have taken all reasonable steps to ensure on time delivery.
- 9.6 The Customer acknowledges that Roadking Chassis may be dependent upon various supplies of materials and components from third parties in order to be able to deliver the Products to the Customer by the agreed date or dates for delivery. Any delay in the manufacture of the Products Ordered caused by any shortage or unavailability of materials or components may give rise to a delay in delivery and the Customer acknowledges and agrees that in such circumstances Roadking Chassis will not thereby be in breach of its deliver obligations.
- 9.7 Roadking Chassis reserves the right to invoice the Customer and receive payment for the Products even though delivery has not occurred through the Customer's failure to take delivery of the Products Ordered.
- 9.8 If the Customer fails to pay for the Products Ordered then Roadking Chassis may sue the Customer for the Price as a debt immediately due and owing to Roadking Chassis by the Customer, even though delivery has been suspended because of the Customer's failure to pay the Price when due.

10. Title

- 10.1 Unless otherwise agreed in writing by Roadking Chassis and the Customer, title in the Products Ordered will not pass to the Customer until the Products are fully paid for by the Customer. Where the Products have been delivered to the Customer prior to having been fully paid for, the Customer will hold the Products until full payment has been made as a bailee at will for Roadking Chassis.
- 10.2 Where the Products are to be installed by the Customer, the Customer acknowledges and agrees that in the event that payment is not made in accordance with this Contract then no installation will take place without Roadking Chassis' prior written consent until the Products have been fully paid for.
- 10.3 The Parties agree that the full risk of damage, loss or destruction to the Products will pass to the Customer on delivery of the Products even if title has not passed to the Customer at the time of such damage, loss or destruction. In the event that the Products are damaged, lost or destroyed after delivery but before title has passed, the Customer will continue to be liable to Roadking Chassis to pay any balance of the Price.

11. Suspension of Delivery

- 11.1 Roadking Chassis may suspend delivery of the Products without being in breach of this Contract if:
 - 11.1.1 where the Customer must make a pre-payment or instalment and fails to pay any pre-payment or instalment of the Price for Products ordered until such payment is made;
 - 11.1.2 the Customer fails to inspect the Products Ordered promptly upon being required by Roadking Chassis to do so but only until such inspection occurs;
 - 11.1.3 whilst any dispute between the Customer and Roadking Chassis remains unresolved;
 - 11.1.4 the Customer owes any money to Roadking Chassis on any account whatsoever;
 - 11.1.5 in the reasonable opinion of Roadking Chassis, the Customer will be unable to pay the Price or balance of the Price to Roadking Chassis.
- 11.2 Roadking Chassis must give seven (7) days' prior written notice to the Customer of its intention to suspend delivery and the reasons for such suspension.

12. Installation

Unless otherwise agreed in writing, installation of the Products Ordered is not part of this Contract. Installation of the Products Ordered is the Customer's exclusive responsibility and Roadking Chassis will not be responsible for any damage done to the Products Ordered during, or as a consequence of, their Installation or during or as a consequence of the Customer taking delivery of the Products Ordered at the site of installation and attempting to install them.

13. Ownership of Intellectual Property

- 13.1 Nothing in the Contract between the Parties gives the Customer any interest or right to the Intellectual Property in the Products Ordered which Intellectual Property the Customer acknowledges is exclusively owned by Roadking Chassis.

- 13.2 All copyright in all manuals, diagrams, drawings, plans and specifications that are provided to the Customer with the Products Ordered remains the sole and exclusive property of the Seller and such items are not to be reproduced without prior written permission of Roadking Chassis.

14. Inspection of the Products

- 14.1 It is the Customer's obligation to inspect and confirm the Products Ordered at such reasonable dates, times and places as Roadking Chassis notifies in writing to the Customer.
- 14.2 If the Customer fails to inspect and confirm the Products Ordered within seven (7) days of written notification from Roadking Chassis that the Products Ordered are ready to be inspected, then the Customer will be deemed to have accepted the Products, waived all rights of inspection and consequent to inspection to have waived all rights in respect to all visible defects and to have those defects rectified.
- 14.3 If on inspection the Customer does not accept the Products Ordered as being in accordance with the Contract, then the Customer shall within two (2) days of such inspection, send to Roadking Chassis by facsimile, email or letter full details of all rectifications the Customer requires in respect to those defects. If the Customer fails to do this within the said two (2) days of inspection, then notwithstanding that the Customer has orally or formally failed notified Roadking Chassis of the defects, the Customer will be deemed to have accepted the Products pursuant to the inspection and to have waived the Customer's rights to have such defects rectified.
- 14.4 Where the Customer provides to Roadking Chassis the full details of rectification work consequent upon inspection within the time provided, Roadking Chassis will, if it accepts that such defects exist and require rectification, promptly at its own cost carry out all those requirements so as to cure the defects in the Products Ordered. Where the Products Ordered do not, because of such defects, comply with any specifications, Roadking Chassis must rectify the Products Ordered so that they comply with the terms of the specifications.
- 14.5 If in the reasonable opinion of Roadking Chassis the details of the rectification sought by the Customer are outside the specifications, Roadking Chassis shall within two (2) working days of receiving full details of rectification inform the Customer in writing or by facsimile or email of those parts of the details which Roadking Chassis says are not required in order for the Products Ordered to comply with specifications.
- 14.6 If the Customer and Roadking Chassis cannot agree on the details of rectification then either Party may require the Products to be returned to Roadking Chassis and the costs of such return and the risk involved will be borne by the Customer.
- 14.7 The Customer must return the faulty part or component of the Products Ordered for modification or correction to Roadking Chassis. The Customer must not provide the faulty part or component of the Products Ordered to another Person for modification or correction.

15. Waiver

- 15.1 The failure by either the Customer or Roadking Chassis to exercise or enforce any rights conferred hereunder shall not, except where there is an express term to the contrary, be construed or deemed to be a waiver of any such right not operate so as to bar the exercise or enforcement thereof at any time or other times thereafter.

15.2 A waiver of any right must be in writing signed by the Party waiving that right.

16. Termination

16.1 If the Customer:

16.1.1 enters into a deed of arrangement or commits an act for bankruptcy or compounds with its creditors or becomes insolvent, or has a trustee appointed to any of its assets or has a summons for its winding up filed, goes into liquidation or has a receiver appointed to the whole or any part of its assets or if an Administrator is appointed under Section 436A of the *Corporations Act 2001*; or

16.1.2 is in breach of any of the terms and/or conditions of this Contract then,

Roadking Chassis may immediately stop manufacture of any of the Products, stop any of the Products in transit, suspend delivery and any further performance of this Contract and/or any other agreement with the Customer without prejudice to any of Roadking Chassis' other rights and remedies and without being in breach of any of the Roadking Chassis' obligations under this Contract.

16.2 Roadking Chassis may also upon the happening of any event or circumstance in Clause 16.1 by notice in writing to the Customer terminate this Contract. Such termination will be in addition to and will not affect or modify in any way Roadking Chassis' legal rights to seek damages or other relief.

17. Notice

17.1 Any notice required to be served must be in writing and may be served personally by facsimile or by email addressed to the recipient. A notice served by pre-paid post shall be deemed served two (2) days after posting (whether received or not) to the recipient's registered office or place of business.

17.2 A notice served by email or by facsimile must be addressed to the Party concerned at its facsimile or email address and shall be deemed received the day after sending. An email or facsimile report shall be conclusive evidence of it having been sent and served.

18. Governing Law

18.1 This Contract shall be governed by and construed and interpreted in accordance with the laws of the Victoria, Australia. Any dispute will be subject to the exclusive jurisdiction of the Courts of that State.

19. Interpretation

19.1 Where words importing the singular number or the plural number are used they include the plural number and singular number respectively and where words are used importing the neuter, female or masculine gender they include if applicable the masculine, feminine or neuter gender respectively.

19.2 Any reference to Roadking Chassis or the Customer includes their respective lawful successors and assigns.

19.3 The reference to any statute, by-law, code of conduct or standard is a reference to any and all applicable amendments, vacations or replacements thereof.

20. Disputes

- 20.1 In the event of any dispute arising between Roadking Chassis and the Customer as to any Parties rights or obligations under the Contract or as to whether either party has breached or failed to meet its obligations then both Parties agree to meet together and in good faith seek to resolve the dispute.
- 20.2 If notwithstanding this clause the dispute remains unresolved the Parties must engage a mediator to resolve the dispute. The costs of such mediator shall be borne by the Parties equally.

21. Whole Agreement

- 21.1 The content of the documents in Clause 2 constitute the whole of the terms of this Contract. Except to the extent the law provides as mandatory requirement a term to be implied, no term is to be implied into this Contract.
- 21.2 All prior representations, undertakings and statements made by either Party to the other and not expressly included in this Contract are hereby expressly excluded from this Contract and each Party expressly hereby states that it has not relied in any way on such prior representations, undertakings or statements in deciding to enter into this Contract.

22. Privacy

Roadking Chassis may collect, use, store, record and transmit personal information collected by you. For further details, please refer to our Privacy Policy.

23. Security

- 23.1 The Customer grants Roadking Chassis a Security Interest in any Products manufactured, sold or provided by Roadking Chassis to the Customer. The Customer grants Roadking Chassis authority to register on the Personal Property Securities Register established under the *Personal Property Securities Act 2009* (Cth) ("PPSA") a Security Interest in favour of Roadking Chassis on any Products manufactured, sold or supplied to the Customer. The Customer agrees to be the Grantor pursuant to the PPSA. Security Interest has the same meaning as in the PPSA.
- 23.2 The Customer grants Roadking Chassis authority to register a Mortgage and/or Caveat with the Department of Natural Resources and Mines on any real property of the Customer. The Customer will sign all documents and complete all steps required of the Customer to assist Roadking Chassis in registering a Mortgage or Caveat. The Customer also irrevocably appoints Roadking Chassis and, as a separate and independent appointment, irrevocably appoints each Offer of Roadking Chassis severally as attorney for the purposes of signing documents, and to complete all requirements in registering such Mortgage and/or Caveat.