

TERMS AND CONDITIONS OF TRADING

1. General

1.1 In these terms and conditions:

“**Amplus**” means Amplus Auto Body Pty Limited ABN 20 103 847 589

“**Products**” means goods and/or services supplied to a Customer.

1.2 The mere ordering of Products from Amplus or signing of a manifest, delivery docket, invoice or packing slip for Products received by or on behalf of the Customer constitutes acceptance of these conditions.

1.3 These conditions prevail over any other conditions (whether set out in the Customer's purchase order or any other document) and no variation or waiver of these conditions will be binding upon Amplus or of any force or effect unless expressly noted and agreed by Amplus in writing.

1.4 If any of these conditions are for any reason whatsoever declared or become unenforceable, invalid, or illegal for any reason whatsoever, the other provisions of the conditions will remain in force and effect as if these conditions had been executed without the invalid provisions of appearing therein.

1.5 Amplus is not bound to accept any order.

1.6 Amplus will not be bound by the terms of the Customer's order, acceptance or quotation or other document unless Amplus agrees otherwise in writing.

2. Confidentiality

The Customer will not, and will ensure that its officers, employees, agents and permitted sub-contractors will not without Amplus' prior written consent:

2.1 Disclose to any third party; and/or

2.2 Use in any way other than as contemplated under these conditions, any confidential information acquired by or on behalf of the Customer at any time which concerns, relate to or arises from the Products, methods, processes, research, activities, anticipated programs or other such operations of Amplus or its associated companies.

3. Terms

3.1 Amplus reserves the right at any time in its sole discretion to revise and amend the price and or specification of any of its Products from time to time, without notice.

3.2 Any leniency, indulgence or extension of time which may be granted by Amplus to the Customer shall not prejudice any of Amplus' rights in any way, not shall same constitute a variation of these conditions or waiver of any of Amplus' rights.

4. Payment by Cheque

4.1 Where the Products are paid for by cheque, property in the Products shall not pass until such time as the cheque has been honoured by the Customer's bank or other financial institution.

4.2 The Customer will reimburse Amplus for any costs it incurs in relation to dishonoured and “present again” cheques.

5. Cash on Delivery Orders

5.1 Unless the Customer operates an approved Credit Account with Amplus, payment for the Products must be made on or before delivery of the Products by Amplus.

5.2 The Customer must pay interest calculated on daily balances to Amplus all overdue amounts from when such amounts are due for payment until paid at the rate of 2% per annum above the rates quoted on the day payment was due by Amplus' bankers on unsecured overdraft accommodation over \$100,000.00.

6. Delivery

6.1 Amplus will make all reasonable efforts to have the Products delivered on the agreed delivery date but Amplus shall be under no liability whatsoever should delivery not be made on this date or if it is unable to fill any order within a reasonable time or at all.

6.2 Amplus reserves the right to make part deliveries of any of the Products and each part delivery shall entitle Amplus to invoice the Customer for same whereupon payment shall be made in accordance with the terms and conditions for Credit Accounts or clause 5 of these conditions (as applicable).

7. Freight

7.1 Freight will be charged for all Products that are to be delivered by Amplus.

7.2 The Customer has the right to elect the method and urgency of delivery. All delivery charges are to be borne by the Customer.

7.3 Freight charges will apply for any back order deliveries.

8. Change of Ownership and Address

The Customer undertakes to advise Amplus of any change of its ownership, share holding and or address prior to such a change.

9. Goods Return

9.1 Goods sold are on the basis of firm sales. Products may only be returned to Amplus if Amplus first agrees and then provided they:

(a) are in good condition, suitable for resale;

(b) have not been altered, damaged (including damage caused by negligence or accident), worn or used in any way;

(c) are accompanied by an authorisation number obtained by contacting Amplus prior to the return.

9.2 Subject to clause 9.1 above, Products must be returned within seven (7) days from date of invoice.

9.3 All Products to be returned must refer to Amplus' official invoice number, the date of the invoice and the reason for the claim.

9.4 Products returned without an authorisation number or valid reason will be returned to the sender and freight charged.

9.5 Products approved for return must be securely packed in such a way as to withstand the rigours of transportation. Damaged parcels will be returned to the Customer and freight charged.

- 9.6 Cartons containing the returned goods are to be identified on the outside with the name and address of the Customer and multiple cartons within one consignment are to be identified appropriately.
- 9.7 No freight charges for goods returned at the volition of the Customer shall be accepted by Amplus unless so authorised prior to return of the goods and unless any carrier recommended by Amplus is used.
10. **Samples**
Once ordered by the Customer, samples will not be accepted back by Amplus and will be paid for by the Customer.
11. **Proof of Delivery**
Proof of delivery will not be provided unless requested within fourteen (14) days of dispatch of the relevant month's statement. In the absence of such request, Products will be deemed delivered to the Customer after the expiration of that time frame.
12. **Exclusion and Limitation of Liability**
- 12.1 Amplus excludes all conditions and warranties implied by statute (including the Trade Practices Act) general law or custom except any implied condition or warranty the exclusion of which would contravene any statute or cause any part of this clause to be void (non-excludable condition).
- 12.2 Except to the extent prohibited by the Trade Practices Act or any other applicable laws, Amplus:
- (a) excludes its liability for any loss or damage suffered by the Customer (whether direct, indirect or consequential) arising in any way out of any breach of these conditions or in connection with the supply of any Products, defective goods, delivery or use of any Products or any error or omission in the supply of any Products by Amplus or any negligent act or omission of Amplus including but not limited to lost profits and damage sustained or incurred as a result of a claim by any third person;
 - (b) limits its liability to the Customer for any non-excludable condition in Amplus' absolute discretion, to:
 - (i) in the case of goods, replacing the goods or supplying equivalent goods or refunding the cost of the goods; or
 - (ii) in the case of services, supplying the service again or refunding the cost of having the services supplied again for that part of the services in respect of which the breach occurred.
13. **Passing of Property and Risk**
- 13.1 Whilst risk in the Products shall pass on delivery, ownership of the goods shall remain with Amplus until it has received full payment for those goods and any previously delivered goods. Pending such payment:
- (a) the Customer shall hold the goods as bailee and fiduciary for Amplus and shall return the goods to Amplus if so requested;
 - (b) the Customer shall store the goods in such a way that it is clear that they remain the property of Amplus.
- 13.2 Should the goods be disposed of by the Customer prior to full payment, any monies received by the Customer in payment of same shall be held by the Customer in a separate account in trust for Amplus.
- 13.3 The Customers agrees to keep the goods free from any liens or encumbrances.
- 13.4 Should the Customer fail to make due payment for the goods or services, or by an act or omission any step is taken towards the appointment of a provisional liquidator, liquidator, receiver, administrator and/or official manager or any other external administrator or trustee or the entry into possession of any of the Customer's assets or business by a mortgage, or become insolvent or bankrupt or commit an act of bankruptcy, Amplus may, without prejudice to any other rights it may have and at its option do any or all of the following:
- (a) withhold any further deliveries of goods whether in transit or not and the supply of any services;
 - (b) where the goods have been delivered, Amplus shall be entitled and the Customer hereby grants to Amplus, its officers, servants or agents, full and irrevocable licence to enter (using reasonable force if necessary) the Customer's premises (or other premises to which the Customer has access any where any of the goods are stored) to search for and retake possession of goods in which title remains with Amplus, and then to resell them for its own benefit. Amplus shall not be responsible for any damage whatsoever and the Customer indemnifies Amplus in respect thereof and in respect of any losses suffered by Amplus arising from any change in the condition of the goods;
 - (c) suspend and/or terminate performance without penalty of any other contract for sale which Amplus has with the Customer;
 - (d) require the Customer to pay immediately all outstanding monies due to Amplus; and
 - (e) in the event of default the Customer shall be responsible for all legal fees, collection costs involved with the reclaiming of the goods, and all other fees associated with the enforcement of these conditions.
14. **Force Majeure**
Amplus shall not be liable for any failure or delay to supply any goods or services due to any cause or circumstances outside Amplus' reasonable control, including but not limited to acts of omissions of the Customer, breakdown of machinery, shortage of labour, strikes, lockouts, industrial disputes, fire or arson, storm or tempest, theft, vandalism, riots, civil commotions, wars, government restrictions, intervention and/or control, transport delays or accidents of any kind.
15. **Jurisdiction**
These conditions will be governed in accordance with the laws in force in the state of New South Wales.