

Terms & Conditions of manufacture and supply

These terms and conditions ("Terms") are applicable to the Supply of Goods and/or Services pursuant to Purchaser Orders issued by the Customer to Ecoboxtec Pty Ltd ABN 55 647 230 902 of 2/115 Frederick Street, Northgate, Qld 4013 ("Ecoboxtec").

Upon Ecoboxtec agreeing to Supply to the Customer the Goods and/or Services specified in a quotation ("the Quote"), the parties shall be bound by the terms and conditions contained in the Quote (including any document or material attached thereto) and these Terms ("Agreement").

1. Provision of Goods and Services

- (a) In consideration of payment of the Fees by the Customer, Ecoboxtec must Supply to the Customer the Goods and/or Services and any associated Materials in accordance with the Agreement.
- (b) Ecoboxtec must commence manufacturing the Goods and/or Services from the Commencement Date and complete the Supply of the Goods and/or Services by the Completion Date and in accordance with any other dates for the Supply of the Goods, Services and/or Materials specified in the Quote.
- (c) Ecoboxtec must at all times Supply the Goods and/or Services promptly, carefully, with all due care, skill and judgement.

2. Fees

- (a) The Fees payable by the Customer to Ecoboxtec for the Goods and/or Services are set out in the Quote and are fixed.

3. Cancellation

- (a) Ecoboxtec may cancel all or part of the Quote at any time for any reason (for example, inability to obtain major

components of the Goods), by written notice to the Customer.

- (b) If Ecoboxtec cancels any part of the Quote, it will refund the Customer that part of the Fees already paid for the portion of the Quote which is cancelled. No other costs whatsoever shall be payable to the Customer in relation to such cancellation (including, without limitation loss of profits).

4. Invoicing and payment

- (a) Ecoboxtec must submit to the Customer a valid, itemised tax invoice (as defined in the GST Act) in respect of the Goods and/or Services upon acceptance of a Quote by Ecoboxtec.
- (b) Due to the nature of the Goods, the Customer agrees to pay the Fees in installments as follows:
 - i. Deposit – payable immediately upon Quote acceptance by the Customer;
 - ii. Progress installments – payable by the due date specified in the tax invoice.
- (b) The Customer acknowledges and agrees that the Fees are not refundable.

5. Warranties

- (a) The Customer warrants that it has the power to enter into this agreement and has obtained all necessary authorisations to allow it to do so, it is not insolvent and that this agreement creates binding and valid legal obligations on it.
- (b) Ecoboxtec warrants that:
 - i. it has the capacity, experience and resources to Supply the Goods and/or Services to the Customer in accordance with the Quote and these Terms.
 - ii. during the Term, it holds all authorisations, consents, permits and licences required under any Law necessary to Supply the Goods and/or Services.

- iii. the provision of the Goods and/or Services (including and any and all Material), comply with the requirements of all Laws of any kind and will not infringe any third party's intellectual property rights.
- iv. where Ecoboxtec Supplies Goods that have been procured from a third party, it will assign to the Customer, to the extent practicable and permitted by Law, the benefits of the warranties given by the third party in connection with those Goods.
- (c) All Services, Materials and Goods Supplied to Customer will, during the Term and for a period of 12 months following the completion of the Supply of the Goods and/or Services ("Warranty Period"), conform to the specifications contained in the Quote and these Terms.
- (d) Ecoboxtec will promptly rectify any defect in the Goods, Services and/or Materials arising during the Warranty Period at no charge to the Customer.

6. Title and Risk

- (a) Title in the Goods passes to the Customer upon payment of the Fees in full to Ecoboxtec.
- (b) Risk in the Goods passes to the Customer when the Goods are delivered to the Customer.

7. Warranty against defects

- (a) Upon delivery of the Goods, the Customer will be required to complete and sign a Site Acceptance Test Form ("SAT") regarding the state of the Goods.
- (b) Under applicable State, Territory and Commonwealth Law (including, without limitation the Australian Consumer Law), certain statutory implied guarantees and warranties (including, without limitation the statutory guarantees under the Australian Consumer Law) may be

implied into these terms and conditions ("Non-Excluded Guarantees").

- (c) Nothing in these Terms purports to modify or exclude the Non-Excluded Guarantees.
- (d) Where the Customer is entitled to a statutory guarantee under Chapter 3 Division 1 of the Australian Consumer Law then to the extent that Ecoboxtec fails to comply with a statutory guarantee, Ecoboxtec's liability for a failure to comply with such statutory guarantee is limited to one of the following, at Ecoboxtec's option:
 - i. supplying the Goods or Services again; or
 - ii. payment of the cost of having the Goods or Services supplied again, unless it is not fair or reasonable for Ecoboxtec to rely on this term of the Terms.

8. Limitation of liability

- (a) Ecoboxtec shall not be liable (and the Customer acknowledges any warranty may be voided) for any defect or damage which may be caused or partly caused by or arise as a result of:
 - i. the Customer failing to properly maintain the Goods;
 - ii. the Customer using the Goods for any purpose other than that for which they were designed;
 - iii. the Customer continuing the use of any Goods after any defect became apparent or should have become apparent to a reasonably prudent operator or user;
 - iv. the Customer failing to follow any instructions or guidelines provided by Ecoboxtec;
 - v. the Customer making alterations to the Goods; and/or

- vi. fair wear and tear, any accident, or act of God.
- (b) Unless otherwise prohibited at law, Ecoboxtec's aggregate liability to the Customer arising out of or in connection with this Agreement (whether under contract, in tort, under statute or otherwise at law or in equity) is limited to the Fees paid by the Customer under this Agreement.
- (c) Neither party will be liable for any indirect or consequential damages.

9. Termination

- (a) A party ("Terminating Party") may immediately terminate this Agreement by written notice to the other party ("Defaulting Party") if:
 - i. the Defaulting Party is the Customer, and the Customer does not pay any money due for payment under this Agreement on the due date and the Customer does not pay that money within a further period of 10 Business Days after Ecoboxtec serves written notice on the Customer requiring payment;
 - ii. the Defaulting Party is Ecoboxtec, and Ecoboxtec does not carry out any obligation under this Agreement and in the case of a default which is capable of remedy, does not remedy that default within 10 Business Days after the Customer serves written notice on Ecoboxtec requiring it to be remedied;
 - iii. an Insolvency Event occurs in relation to the Defaulting Party.
- (b) As soon as is reasonably practicable after termination under clause 9(a)(i) or 9(a)(iii), the Customer must pay Ecoboxtec the sum certified by Ecoboxtec for Goods built or Services carried out prior to the date of termination, plus any loss or damage

incurred by Ecoboxtec as a consequence of any breach of this Agreement by the Customer.

10. Intellectual Property Rights

- (a) Intellectual Property Rights in the RVM Intellectual Property and Material remains the property of Ecoboxtec or its licensors, and nothing in this Agreement operates to assign any rights in RVM Intellectual Property to the Customer.
- (b) Subject to clause 10(c) Ecoboxtec grants to the Customer a non-exclusive, royalty-free, non-transferrable licence to use the RVM Intellectual Property for the purposes of operating the Goods.
- (c) The Customer must:
 - i. not copy or modify RVM Intellectual Property for any purpose;
 - ii. not purport to sell, let for hire, lease, transfer, assign, sub-license, dispose of or part with possession of RVM Intellectual Property, or any of it, except as expressly permitted in this Agreement;
 - iii. not create or, to the extent within the Customer's control, allow to be created, any lien, charge, mortgage or encumbrance over RVM Intellectual Property;
 - iv. not commercially exploit RVM Intellectual Property;
 - v. not attempt to reverse engineer software which forms part of the Goods.

11. Insurance

- (a) Ecoboxtec will at all relevant times maintain the following insurance cover in connection with provision of the Goods and/or Services:
 - i. Public liability insurance in the amount of \$20,000,000.00 for any one occurrence;

- ii. Workers compensation as required by Law.

12. Confidentiality

- (a) A recipient must:
 - i. at all times maintain the confidentiality of the discloser's Confidential Information and not directly or indirectly disclose or communicate the discloser's Confidential Information to any third party other than as expressly permitted in these Terms;
 - ii. not use any or all of the discloser's Confidential Information for any reason other than the performance of its obligations under this Agreement;
 - iii. not copy, reproduce or take extracts of any of the discloser's Confidential Information except to the extent necessary to perform its obligations under this Agreement; and
 - iv. take all reasonable steps and do all things as may be necessary or desirable to safeguard the confidentiality of the discloser's Confidential Information.
- (b) These Terms do not prevent a recipient from disclosing the discloser's Personal Information:
 - i. if that disclosure is required by law or the rules of a stock exchange. The recipient must give the discloser notice of any such disclosure of the discloser's Confidential Information; or
 - ii. to employees, legal advisers, auditors and other consultants of the Recipient requiring the information for the purposes of this Agreement.
- (c) Upon termination or expiration of this Agreement, the recipient must immediately return to the discloser or

destroy, at the discloser's option, all of the discloser's Confidential Information within the recipient's possession or control.

13. Privacy

Each party must comply with the requirements of any Privacy Law in the state, territory or country in which the party (and/or the individual about whom the Personal Information relates) is located, and in any state, territory or country to which the Personal Information is to be sent, and only use, manipulate, store, process and handle Personal Information for the purposes of performing its obligations, or exercising its rights, under this Agreement or as may be required by law.

14. Sub-contracting

- (a) Ecoboxtec may sub-contract all or part of its obligations under the Agreement without the prior written consent of the Customer.
- (b) Ecoboxtec remains responsible to the Customer for the performance of any and all obligations under the Agreement and will be liable for all acts and omissions of the sub-contractor as if those acts or omissions were the actions of Ecoboxtec.

15. Interruption of service

- (a) Ecoboxtec does not guarantee that the Goods will always be free of fault.
- (b) Occasionally, for operational reasons, Ecoboxtec may have to:
 - i. interrupt the operation of the Goods; or
 - ii. make minor changes to certain technical specifications of the Goods;
 - iii. deploy updates to software of the Goods; or
 - iv. undertake upgrades or changes to maintain accreditation or compatibility of the Goods with Government container deposit

schemes program (if applicable), (“Works”).

- (c) Depending on the urgency of the Works, Ecoboxtec will use reasonable endeavours to undertake the Works:
 - i. outside of business hours; or
 - ii. at a time scheduled with the Customer; or
 - iii. in case of an emergency, without notice to the Customer.
- (d) The Customer agrees that Ecoboxtec is not liable to compensate the Customer for any loss arising from or in connection with:
 - i. temporary interruption of the Goods;
 - ii. Works; or
 - iii. interruption of the Goods beyond Ecoboxtec’s control.

16. GST

- (a) Terms used in this clause have the same meanings given to them in the GST Act.
- (b) Unless otherwise expressly stated, all Fees or other sums payable or consideration for a taxable supply made by the supplier under or in connection with the Agreement are exclusive of GST.
- (c) Subject to the recipient being provided with a valid tax invoice in respect of a taxable supply, if GST is imposed on any supply made under or in connection with the Quote, tax invoice or commercial offer, the recipient of that supply must pay to the supplier an amount equal to the GST payable in respect of the taxable supply, at the same time and in the same manner as the consideration payable for that supply.

17. General

- (a) Where there is any conflict, ambiguity or inconsistency between the provisions contained in these Terms and/or the Quote, to the extent of the

conflict, ambiguity or inconsistency (as the case may be), the Quote shall have priority over these Terms.

- (b) The Agreement is governed by, and are to be construed in accordance with, the Laws in force in Queensland.
- (c) Each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of Queensland and any courts which have jurisdiction to hear appeals from any of those courts and waives any right to object to any proceedings being brought in those courts.
- (d) The parties' relationship is one of supplier and customer and the parties are not partners, joint venturers, principal and agent or employer and employee. Nothing in these Terms imposes any fiduciary duties on a Party in relation to the other Party.
- (e) The failure by either party to enforce any provision of these terms and conditions shall not be treated as a waiver of that provision, nor shall it affect that party’s right to subsequently enforce that provision.
- (f) If any provision of these Terms shall be invalid, void, illegal or unenforceable the validity, existence, legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired.
- (g) Neither party shall be liable for any default due to any act of God, war, terrorism, strike, lock-out, pandemic, industrial action, fire, flood, storm or other event beyond the reasonable control of either party.
- (h) The Customer shall give Ecoboxtec fourteen (14) days prior written notice of any proposed change of ownership of the Customer and/or any other change in the Customer’s details (including but not limited to, changes in the Customer’s name, address, contact phone or email address.

- (i) The Customer consents to Ecoboxtec publishing the Customer's name and/or logo on Ecoboxtec's website or social media platforms to display it as a customer of Ecoboxtec.

18. Entire Understanding

- (a) The Quote and these Terms constitute the entire agreement in respect of the Supply of the Goods and/or Services.
- (b) All previous negotiations, understandings, representations, warranties, memoranda or commitments concerning the subject matter of the Agreement are merged in and superseded by these Terms and are of no effect.
- (c) In Supplying the Goods and/or Services the Customer has not relied on any representations made by Ecoboxtec apart from those expressly made in the Agreement.

19. Interpretation

In these Terms, unless the context otherwise requires:

- (a) **Commencement Date** means the date specified in the Quote as the date that Ecoboxtec is required to commence the Supply of the Goods and/or Services.
- (b) **Completion Date** means the date specified in the Quote as the date that Ecoboxtec must complete the Supply of the Goods and/or Services or, if no date is specified, the earliest date which is reasonably practicable having regard to the usual time that it takes to Supply such Goods and/or Services.
- (c) **Confidential Information** means any information of whatever kind (whether or not in material form and whether or not disclosed before or after the date of this Agreement) disclosed by a discloser or a related body corporate of a discloser to the recipient that:
 - i. by its nature is confidential;

- ii. is designated by a discloser or a related body corporate of a discloser as confidential; or
- iii. the recipient knows or reasonably ought to know is confidential,

including the terms of the Quote and all ideas, concepts, research, methodologies, processes, trade secrets, know-how, technical information, marketing information, software, intellectual property or information regarding product, marketing, financial affairs or business methods of a discloser, a related body corporate of a discloser, members/customers of a discloser or members/customers of a related body corporate of a discloser, but excluding any information that:

- iv. becomes generally available to the public other than as a result of a breach of this Agreement by the recipient;
- v. was known to the recipient on a non-confidential basis before entering into this Agreement;
- vi. is obtained from a third party who has no obligation of confidentiality to discloser or a related body corporate of the discloser (as applicable); or
- vii. is independently developed without breach of this Agreement;

- (d) **Customer** means the entity named on the Quote as the entity purchasing the Goods and/or Services.
- (e) **Data** means any data (including Personal Information), datasets or databases created (including by modification of existing data, datasets or databases) by or on behalf of Ecoboxtec in the course of providing the Goods and/or Services.
- (f) **Fees** means the fixed fee payable to Ecoboxtec for the provision of the

- Goods and/or Services as specified in the Quote.
- (g) **GST Act** means the A New Tax System (Goods and Services Tax) Act 1999 (Cth).
- (h) **Goods and Services** means the Goods and/or Services to be Supplied by Ecoboxtec as specified in the Quote.
- (i) **Intellectual Property Rights** means all patents, copyrights and related rights, database rights, utility models, design rights, registered and unregistered trademarks, service marks, rights in undisclosed or confidential information (such as knowhow, trade secrets and inventions) (whether patentable or not) and other rights of a like nature (whether registered or unregistered) and all applications for such rights as may exist anywhere in the world.
- (j) **Insolvency Event** in relation to a Party means:
- i. committing an act of bankruptcy;
 - ii. notice is given of a meeting of creditors with a view to a party entering a deed of company arrangement;
 - iii. a party enters into any scheme of arrangement or composition;
 - iv. a mortgagee of a party's property takes possession of that property;
 - v. a receiver or administrator is appointed to any property of a party; or
 - vi. winding up or insolvency of a party.
- (k) **Laws** means the law in force in Australia and Queensland, including common law, legislation and subordinate legislation, and ordinances, regulations and by-laws of relevant government, semi-government or local authorities.
- (l) **Material** includes, but is not limited to, any report, memorandum or advice required by Ecoboxtec or provided to Ecoboxtec by the Customer as part of, or in connection with, the Supply of the Goods and/or Services.
- (m) **Personal Information** means any information or data that is subject to any Privacy Law.
- (n) **Privacy Law** means any law, regulation or common law which governs the use of information that is about, identifies or can be used to identify, any identifiable individual, or which is generally understood in the relevant jurisdiction to protect an individual's privacy and/or to govern the collection, use, disclosure or transmission of Personal Information or data.
- (o) **Personnel** means a party's:
- i. employees, partners, directors and shareholders; and
 - ii. agents, consultants and contractors (including all their employees) which are involved in any way in the Supply of the Goods and/or Services (if any).
- (p) **Quote** means a quotation for Goods and/or Services entitled 'Quote', issued by Ecoboxtec and accepted by the Customer, and includes any document, plan or material attached thereto which contains any specifications, particulars, designs, scope of works, timeframes, delivery addresses or other provisions of relevance to the Supply of the Goods and/or Services.
- (q) **RVM Intellectual Property** means any and all Intellectual Property Rights incorporated or comprised in the reverse vending machine, its hardware and software in existence at the Commencement Date or created by or on behalf of Ecoboxtec in the course of providing the Goods and/or Services.
- (r) **Supply** means:
- i. in respect of Goods, the supply and delivery of the Goods to the Customer; and
 - ii. in respect of Services, the performance and completion of

the Services, in accordance with the Quote and these Terms.

- (s) **Term** means the period commencing on the Commencement Date and ending on the earlier of the Completion Date as specified in the Quote or the date on which the Quote is cancelled pursuant to these Terms.
- (t) **Terms** means this document entitled Quote Terms and Conditions, which sets out terms and conditions on which the Customer has agreed to purchase, and Ecoboxtec has agreed to Supply, the Goods and/or Services.