

# Remedial Membranes Standard Terms of Business

Remedial Membranes takes pride in the quality of its products and its services to customers. In using Remedial Membranes products, you, (the client) are deemed to have read and agreed to the following terms and conditions. If you would like any further information or clarification of these terms and conditions please contact us. The following terms and conditions may be amended or modified at any time without any prior notice to an individual. Special Note: Goods Warranty supplied by Remedial Membranes, Services Warranty supplied by Accredited Installers (third party).

## 1 Business customers and consumers

1. Some of these terms apply to consumers only; some apply to business customers only. Those terms and are marked as such. All other terms apply to all customers.
2. You are classified as a business customer if are an accredited installer purchasing the product from us or a Distributor.
3. If you are not a business customer, you are a consumer. You have certain statutory rights as a consumer, which are not affected by these terms. Refer to Clause 17 for more information.

## 2 Price

1. The price quoted excludes GST (unless otherwise stated). GST will be charged at the rate applying at the time of purchase for Australian only customers.
2. Our quotations lapse after 30 days (unless otherwise stated).
3. The price quoted excludes delivery (unless otherwise stated).
4. Business customers: unless otherwise stated, the price quoted to business customers is an illustrative estimate only and the price charged will be our price current at the time of delivery.
5. Business customers: rates of tax and duties on the goods will be those applying at the time of delivery.
6. Business customers: at any time before delivery we may adjust the price to reflect any increase in our costs supplying the goods.

## 3 Delivery

- 1) All delivery times quoted are estimates only.
- 2) If we fail to deliver within a reasonable time, you may (by informing us in writing) cancel the contract, however:
  - a) you may not cancel if we receive your notice after your goods have been dispatched; and
  - b) if you cancel the contract, you can have no further claim against us under that contract.
- 3) If you accept delivery of the goods after the estimated delivery time, it will be on the basis that you have no claim against us for delay (including indirect or consequential loss, or increase on the price of the goods).
- 4) We may deliver the goods in instalments. Each instalment is treated as a separate contract.
- 5) We may decline to deliver if:
  - a) we believe that it would be unsafe, unlawful or unreasonably difficult to do so; or
  - b) The premises (or access to them) are unsuitable for the vehicle.

## 4 Risk

1. The goods are at your risk from the time of delivery.
2. Delivery takes place either:
  - a) at our premises (if you are collecting them or arranging carriage); or
  - b) at your premises or address specified by you (if we are arranging carriage)
3. You must inspect the goods on delivery. If any goods are damaged or not delivered you must write to tell us within 7 days of delivery or the expected delivery time. You must give us (and any carrier) a fair chance to inspect the damaged goods.

## 5 Understanding Product Limitations

1. **Trafficability**: CWS Membrane is tough and durable and can withstand general foot traffic. However, as the membrane is flexible, it can be damaged by point loads, heavy weights, sharps, scuffing, dragging items across the surface and general excessive abuse and should be protected against these. It is not suitable for vehicular traffic.
2. **Staining**: As we are unable to test for all manner of stains and sources of stains, as a precaution given that the membrane is clear and is most likely more susceptible to showing stains than a coloured coating, the membrane should be protected from possible sources of stains such as chemicals, dyes, leaves, certain wines etc. Spills should be immediately cleaned with a suitable detergent.
3. **Anti Slip**: once applied the surface of CWS may be slippery when use in conjunction with soapy surfaces, anti slip applications are provided with all kits and should be installed as instructed.
4. **Rising Damp**: CWS is not designed to prevent rising damp
5. **Care after installation**: CWS has anti mould additive similar to silicone however to ensure best practice in areas where there is limited natural sunlight care should be taken to ensure that water is removed from the surface immediately i.e. showers are wiped down after use
6. Please refer to Customer Care Instructions available from downloads.

## 6 Payment terms

1. All orders for Goods and Services shall be deemed to be an offer by the Customer to purchase the Goods & Services pursuant to these Terms and Conditions and are subject to acceptance by Remedial Membranes. Remedial Membranes may choose not to accept an order for any reason.
2. Unless the Supplier agrees to credit terms, the Buyer shall make payment in full when placing the order for the supply of the Product. The amount payable shall include General Sales Tax and all handling and freight costs if applicable. The Buyer has the right to arrange its own freight.
3. If delivery is organised by the Purchaser delivery will be deemed completed and all risk shall be the responsibility of the Buyer as soon as the Product has been loaded on to the appropriate transport at the Supplier's premises.
4. Terms: Credit Card details are required upon booking with full payment withdrawn and payable to Remedial Membranes on completion of the Services unless other arrangements have been made. Credit Card Surcharge based on the carrier fees will be

- charged on invoice total is payable if credit card is the method of payment.
5. The Customer must pay all amounts due to Remedial Membranes under these Terms and Conditions in full and without any set-off or deduction. Warranty certificates will not be issued until Remedial Membranes has received final monies. If not paying by credit card you are to pay us in cash or in cleared funds prior to delivery, unless you have an approved credit account.
  6. Business customers: if you have an approved credit account, payment is due no later than 30 days after the date of your invoice unless otherwise agreed in writing.
  7. If you fail to pay in full on the due date we may:
    - a) Suspend or cancel future deliveries.
    - b) Cancel any discount offered to you;
    - c) Charge you interest at the rate of 10% of the late payment of commercial debts (interest);
    - d) Calculated (on a daily basis) from the date of our invoice until payment;
    - e) Compounded on the first day of each month; and
    - f) Before and after any judgement (unless a court orders otherwise);
    - g) claim fixed sum compensation from you to cover our credit control overhead costs; and
    - h) Recover (under clause 6.8) the cost of taking legal action you may pay.
  8. if you have an approved credit account we may withdraw it or reduce your credit limit or bring forward your due date for payment. We may take any of these actions at any time and without notice.
  9. Business customers: you do not have the right to set off any money you may claim from us against anything you may owe us.
  10. Consumers you may only set off money you claim from us against money you owe us with our written agreement and on such terms we may state.
  11. While you owe money to us, we may have a right to keep any property we may hold of yours until you have paid in full (a lien).
  12. You are to indemnify us in full and hold us harmless from all expenses and liabilities we may incur (directly or indirectly and including finance costs and legal costs on a full indemnity basis) following any breach by you of any of your obligations under these terms.
  13. Consumers: clause 6.8 means that you are liable to us for losses we incur because you do not comply with these terms. We may claim those losses from you at any time and if we have to take legal action we will ask the court to make you make our legal costs.

## 7 Goods and Services Tax

1. Goods and Services Tax (GST) will be shown separately in the account for the sale of the Goods and the provision for service. The amount of GST payable in respect of the supply of the Goods is payable by the Customer. The Customer must indemnify Remedial Membranes in respect of GST paid and payable by Remedial Membranes in respect of the supply of the product and of the service.

## 8 Rights of the Seller

1. Remedial Membranes reserves the right to adjust the price and specifications of any Goods or Services available at its discretion
2. Remedial Membranes shall not be liable to anyone for withdrawing any Good and Services or for refusing to process an order.
3. Remedial Membranes warrants the product in use for 10 years if;

1. The original proof of purchase is retained along with
2. The product batch numbers as proof of purchase.
3. Maintenance is provided when needed with an annual inspections.
4. Dates and top coat re-application is installed with proof of purchase of products including batch numbers.
5. Product is installed as per written documentation

## 9 Title

1. Business customers: until you pay all debts you may owe us:
  - a) all goods supplied by us remain our property;
  - b) you must store them so that they are clearly identifiable as our property;
  - c) you must ensure them (against the risks for which a prudent owner would insure them) and hold the policy on trust for us;
  - d) you may use those goods and sell them in the ordinary course of your business, but not if:
    - e) we revoke that right (by informing you in writing) or;
    - f) you become insolvent
2. Business customers: you must inform us (in writing) immediately if you become insolvent
3. Business customers: if your right to use and sell the goods ends you must allow us to remove the goods.
4. Business customers: we have your permission to enter any premises where the goods may be stored:
  - a) at any time, to inspect them; and
  - b) after your right to sell them has ended, to remove them, using reasonable force if necessary
5. Despite our retention of title to the goods, we have the right to take legal proceedings to recover the price of goods supplied should you not pay us by the due date.
6. You are not our agent. You have no authority to make any contract on our behalf or in our name.

## 10 Warranties

1. We warrant the goods:
  - a) comply with their description on our acknowledgement of order form; and
  - b) are free from material defect at the time of delivery (as long as you comply with clause 6.3)
2. We do not offer a different length warranty on materials, subject to the system used.
3. Business customers: we give no other warranty (and exclude any warranty, term or condition that would otherwise be implied) as to the quality of the goods or their fitness for any purpose.
4. If you believe that we have delivered the goods which are defective in material or workmanship you must:
  - a) with full details, as soon as possible; and
  - b) Allow us to investigate (we may need access to your premises and product samples).
5. Repair Warranty – As the sub straight was already leaking at the time of installation the warranty to limited to rectifying faulty product only.
6. New Installation Warranty – All current Australia Standards and National Building Codes guidelines must be implemented with the installation of standard waterproofing, the use of Remedial Membranes applications on the surface is to allow the use of products that usually would not be fit for use in wet areas, (it does

not replace the requirement of normal waterproofing under the sub straight) Remedial Membrane's liability for damaged materials is limited to materials located in between Remedial Membranes products and required waterproofing

7. If the goods are found to be defective in material (following our investigations), and you have complied with all Remedial Membranes instruction in full, we will (at our option) replace (the goods and the affected materials limited in Clause 10.6) or refund the price paid.
8. For all other liabilities not referred to elsewhere in these terms our liability is limited in damages to the price of the goods.
9. Remedial Membranes is the supplier of the Goods only, and the warranty in relation to the Service of application is provided by the Accredited Installer based on the required warranty periods set out by the governing body in that state
10. Remedial Membranes does not have any liability to the Customer or to any other person for:
11. The acts or omissions of any other entity, including any third party;
12. If the membrane is damaged, by anyone other than Remedial Membranes, or its Accredited Installers the Guarantee shall be voided but the company can provide assistance in rectification for a charge which may reinstate the Product Warranty.
13. Review Remedial Membranes Residential Product Warranty for physical warranties on the Clear Waterproofing Membrane.

### **11 Accredited Installers / Business Customers**

1. All Accredited Installers are trained on use of the product and must insure that:
  - a) All installation instructions are observed accurately
  - b) The product is only fit for the purpose for which you intend to use them; and
  - c) Your installation of Remedial Membranes products must be used correctly in line with training and documentation provided, failure to do so will void the product warranty.
  - d) You shall not commence any project unless it has sufficient product to complete such project and it shall not rely on additional supplies from the Supplier from such project

### **12 Return of goods / Cancellations**

1. The Customer may cancel orders for Goods and Services at any time prior to the Good being dispatched, subject to the specific limitations on refunds detailed below;
  - a. by prior arrangement (confirmed in writing)
  - b. on payment of an agreed handling charge (unless the goods were defective when delivered) and;
  - c. where the goods are as fit for sale on their return as they were on delivery.
2. Any dispute raised by the Customer in relation to the Goods & Services must be made in writing via email to [info@remedialmembranes.com.au](mailto:info@remedialmembranes.com.au). Remedial Membranes operates between 7:00AM and 4:00PM EST Monday to Friday.
3. We may suspend or cancel the order, by written notice if:
  - a. you fail to pay us any money when due (under the order or otherwise)
  - b. You become insolvent.
  - c. You fail to honour the obligations under these terms.

### **13 Waiver and variations**

1. Any waiver or variation of these terms is binding in honour only unless:

- a) made (or recorded) in writing;
- b) signed on behalf of each party; and
- c) Expressly stating an intention to vary these terms.

2. All orders that you place with us will be on these terms (or any that we may issue to replace them). By placing an order with us, you are expressly waiving any printed terms you may have to the extent that they are inconsistent with our terms.

### **14 Force Majeure**

1. Remedial Membranes shall not be liable for any delay or failure to perform any of their obligations if the delay or failure results from events or circumstances outside its reasonable control, including but not limited to acts of God, national or local emergency, acts of government, acts of war or civil disorder, military operation, industrial disputes, weather damage, subsidence or earthquake, supply of raw material, floods, equipment failure or other events which are beyond the reasonable control of Remedial Membranes and Remedial Membranes shall be entitled to a reasonable extension of its obligations.

### **15 Severance**

1. If any term or provision of these Terms and Conditions is held invalid, illegal or unenforceable for any reason by any court of competent jurisdiction such provision shall be severed and the remainder of the provisions hereof shall continue in full force and effect as if these Terms and Conditions had been agreed with the invalid illegal or unenforceable provision eliminated.

### **16 Changes to Terms and Conditions**

1. Remedial Membranes shall be entitled to alter these Terms and Conditions at any time, but this right shall not affect the existing Terms and Conditions accepted by the Customer upon making a purchase.

### **17 Governing Law and Jurisdiction**

1. The proper law of this Deed shall be the law of the State of New South Wales and all parties hereto shall submit to the jurisdiction of each and every court of the State of New South Wales or of the Commonwealth of Australia having jurisdiction to hear the matters submitted to it..