

Outgoing Product Terms

1. Outgoing Product Terms

- 1.1 These Outgoing Product Terms apply to the supply of Product and form part of all Contracts (together with the Credit & General Terms) for the provision of Product by Tyrecycle.
- 1.2 These Outgoing Product Terms takes precedence over any terms provided by the Customer, to the extent of any inconsistency.
- 1.3 The Customer will be deemed to have accepted and be bound by the Contract by ordering Product from Tyrecycle.
- 1.4 These Outgoing Product Terms do not consider transport of Product by Tyrecycle. Please consider Tyrecycle's Transport Terms if Transport Services are required.

2. Supply of Product

- 2.1 In consideration for the Price, Tyrecycle will supply the Product to the Customer as described in the Contract Particulars.
- 2.2 Tyrecycle will use reasonable endeavours to ensure that the Product complies with the Product Specifications. The Product Specifications may only be varied by written agreement between Tyrecycle and the Customer.
- 2.3 The Customer acknowledges that recycled Product is not produced using virgin materials and may have inclusions.

3. Orders

- 3.1 The Customer shall order the Product by submitting an order in writing (including through Tyrecycle's website) to Tyrecycle ('Order').
- 3.2 Tyrecycle will either accept or reject the Order at its absolute discretion.
- 3.3 The Customer's Order must include the following details:
 - 3.3.1 the quantity of the Product ordered;
 - 3.3.2 whether the Customer will collect or arrange for collection of the Product, or whether it requires Tyrecycle to deliver the Product; and
 - 3.3.3 any timeframe for collection or delivery of the Product.
- 3.4 A Customer may cancel an Order not less than 24 hours from estimated collection or delivery time.
- 3.5 If a Customer cancels an Order less than 24 hours from estimated collection or delivery time Tyrecycle may charge a fee in accordance with its Price List.

4. Price and payment

- 4.1 The Customer will pay Tyrecycle the Price for the Products in the manner nominated or agreed by Tyrecycle.
- 4.2 Prices for Product will be based on weight using Tyrecycle's nominated weighbridge, unless otherwise determined by Tyrecycle.
- 4.3 Unless expressly stated otherwise, all amounts payable or consideration to be provided under the Contract are exclusive of GST. The amounts payable for each taxable supply under the Contract must be increased by the rate of GST imposed by law.

5. Weighbridge

- 5.1 If applicable, Tyrecycle's weighbridge (as nominated or utilised by Tyrecycle from time to time) will be used to determine the quantity of Product supplied.
- 5.2 If Tyrecycle's weighbridge is unavailable, Tyrecycle may direct the Customer vehicles to use an alternative weighbridge.
- 5.3 Tyrecycle has absolute discretion to determine the weight of Product and its decision is final.

6. Collection or delivery of Product

- 6.1 Where the Customer requires Tyrecycle to deliver the Product, the Transport Terms will apply.
- 6.2 Where the Customer collects or arranges for the collection of Product (except by Tyrecycle), Tyrecycle must:
 - 6.2.1 advise the Customer of the date, time and place for collection of Product; and
 - 6.2.2 provide or procure that the Customer's Personnel have access to the Premises for the purposes of collecting the Product.
- 6.3 Where the Customer collects or arranges for the collection of Product (except by Tyrecycle), the Customer must and must ensure that its Personnel:
 - 6.3.1 comply with Tyrecycle's reasonable directions in relation to the loading of Product; and
 - 6.3.2 complete and comply with any site induction required by Tyrecycle.

7. Risk and title

- 7.1 Risk in the Product will pass to the Customer immediately once the Product has left the Premises.
- 7.2 Title in the Product will pass to the Customer on full payment for the Product being received by Tyrecycle.

8. Returns

- 8.1 Notwithstanding that title to the Product may have passed to the Customer, the Customer may reject unused Product within two (2) business days of receipt of the Product where the Product:
 - 8.1.1 fails in material respects to meet the Specifications; or
 - 8.1.2 the Product is supplied in error,otherwise the Customer will have no claim against Tyrecycle.
- 8.2 If the Customer does not advise Tyrecycle of any fault or defect in the Product within two (2) business days, the Customer will be deemed to have accepted the Product.
- 8.3 On the Customer notifying Tyrecycle that the Product is rejected in accordance with **clause 8.1**, Tyrecycle will inspect the rejected Product within a reasonable period of time, and where Tyrecycle agrees with the Customer's reasons for rejection (acting reasonably), Tyrecycle's will, at its election:
 - 8.3.1 collect the Product at its cost and re-supply the Product;
 - 8.3.2 negotiate a price adjustment with the Customer (both parties acting reasonably) for the Customer to accept the rejected Product, or reach another settlement with the Customer, for example which may require the rejected Product undergoing further screening or processing such that the Product materially meets the Specification.
- 8.4 The Customer releases Tyrecycle from any Loss suffered by the Customer as a result of the Customer rejecting Product in accordance with **clause 8.1** (including but not limited to any Loss suffered by the Customer due to delays in receiving the re-supplied Product), provided that Tyrecycle complies with **clause 8.3**.

9. Access to the Premises

- 9.1 The Customer:
 - 9.1.1 acknowledges that it and its Personnel enter the Premises at their own risk during normal business hours for the sole purpose of collecting Product from the Premises

Outgoing Product Terms

- 9.1.2 agrees to abide by and ensure that its Personnel abide by all Tyrecycle Policies and reasonable directions provided by Tyrecycle or its Personnel with respect to access to the Premises; and
- 9.1.3 warrants that it will maintain appropriate Workcover and other insurance with regard to the circumstances set out in **clause 9.1.2** in respect of it and its Personnel.

9.2 The Customer indemnifies Tyrecycle for any Loss incurred by Tyrecycle arising from the Customer and its Personnel accessing the Premises or for any breach of this **clause 9**.

10. Warranties

10.1 Except for any condition or warranty the exclusion of which could be void or otherwise contravene the *Competition and Consumer Act 2010* (Cth) or any other equivalent competition or consumer law in the Australia ('**Non Excludable Condition**'), Tyrecycle disclaims all conditions, warranties and representations, either express or implied with respect to the Products.

10.2 Subject to any warranty provided by Tyrecycle in respect of the Products and notwithstanding where legislation implies into these Outgoing Product Terms a Non-Excludable Condition, to the fullest extent permitted by law:

10.2.1 the liability of Tyrecycle to the Customer for any reason related to the Products under these Outgoing Product Terms is be limited (at the election of the Tyrecycle) to the replacement or repair of the Products or the amount paid or payable by the Customer in respect of the particular Products; and

10.2.2 in no event will Tyrecycle be liable to the Customer for:

- (a) other than in respect of **clause 10.2.1**, any claim or damage arising out of or in connect with the supply of the Product or these Outgoing Product Terms; or
- (b) indirect loss or consequential loss, loss of profits, loss of revenue, loss of goodwill, exemplary damages, punitive damages in connection with or arising out of these Outgoing Product Terms and the supply of the Products even if advised of the possibility of such damages or if such loss ought reasonably to have been in the contemplation of both parties on entering into these Outgoing Product Terms.

10.3 If Tyrecycle supplies Product to a specification provided by the Customer, the Customer releases Tyrecycle from claims relating to faults in the specification. The Customer also indemnifies Tyrecycle if Tyrecycle infringes a third party's rights in using the specification provided by the Customer or if Tyrecycle suffers loss arising out of using the Customer's specification.

11. Limitation on liability

11.1 The Customer releases Tyrecycle from any claim, proceedings or action by the Customer against Tyrecycle in connection with the Customer's or their Personnel's or any other person's use of the Products.

11.2 To the maximum extent permitted by law, Tyrecycle's liability to the Customer or its Personnel under or in connection with the Contract is limited to the Price paid by the Customer to Tyrecycle for the Products.

12. Definitions

12.1 Except where the context otherwise requires, capitalised terms used but not defined in these Outgoing Product Terms have the same meanings given to them in the Credit & General Terms.

12.2 In these Outgoing Product Terms, unless the contrary intention appears, the following terms have the following meanings:

12.2.1 '**Credit & General Terms**' means the terms upon which Tyrecycle provides credit and goods and/or services to its customers available at [Terms and Conditions - Tyrecycle](#) (at the time of entry into the Contract).

12.2.2 '**Outgoing Product Terms**' means these terms and conditions.

12.2.3 '**Price List**' means the current price lists published by Tyrecycle for Products and associated charges.

12.2.4 '**Product Specifications**' means (as applicable):

- (a) the specification relating to the applicable Product in the Quality Assurance Brochure; or
- (b) such other specifications as agreed by the parties in writing.

12.2.5 '**Quality Assurance Brochure**' means Tyrecycle's brochure setting out Products supplied by Tyrecycle, as available at

https://resourceco.lbcdn.io/uploads/2020/09/CD504_3_QualityDoc-

[UpdateSep2020_A4_16PP_CMYK_f_WEB.pdf](#) (at the time of entry into the Contract).