

# Terms & Conditions of Sale and Manufacturing Tolerances (“Conditions”) of Rimex Metals Australia Pty Ltd (ABN 82 008 217 114) (“Rimex”)



## 1. General

- (a) These Conditions are entered into between Rimex Metals Australia Pty Ltd (ABN 82 008 217 114) (“Rimex”) and the entity detailed in Rimex’s Order Acknowledgement (“Customer”) that is attached to, and forms part of, these Conditions.
- (b) These Conditions contain the entire agreement between the parties. The Customer accepts these Conditions upon the earlier of:
  - (i) confirming by email that it accepts these Conditions;
  - (ii) instructing Rimex to proceed with the supply of the goods in accordance with these Conditions or Rimex’s Order Acknowledgement;
  - (iii) making part or full payment for the goods in accordance with these Conditions.
- (c) All orders for the supply of goods by Rimex will be subject to these Conditions to the exclusion of any addition, modification or variation except any addition, modification or variation that is agreed in writing by Rimex. The Customer acknowledges and agrees that Rimex will only be obliged to supply the goods specified in Rimex’s Order Acknowledgement, and such goods, and the supply of those goods, are subject to the conditions, tolerances, constraints, limitations and exclusions contemplated by these Conditions (**Tolerances**). Rimex will not be in breach of these Conditions to the extent the goods are inconsistent with these Tolerances.
- (d) Rimex follows the industry standards for the Technical Delivery Conditions of stainless steel products under BS EN 10088.2 and BS EN 9445.2. In Rimex’s operations these apply as standard to austenitic stainless steels in sheet sizes 2,000mm to 3,000mm and within the gauge range of 0.6mm to 2.0mm. Rimex has no obligation to follow any other standard.

## 2. Non-standard requirements

- (a) Non-standard requirements are available upon request including a cut to length service and it is possible to manufacture to tighter tolerances than stated herein, however, unless the Customer specifies in its order particular tolerance requirement(s) and supplies all necessary detail and these are accepted in writing by Rimex, the goods will be supplied in accordance with Rimex’s standard tolerances which are detailed herein and which are available upon request.
- (b) For products outside the parameters stated in clause 1(d) including for ferritic and duplex grades of stainless steels, metals other than stainless steel, gauges over 2.0mm and under 0.6mm, lengths less than 2,000mm, lengths over 3,000mm, other specific cut to length requirements, coil material etc. wider tolerances are applicable.
- (c) For certain project and contract work Rimex may issue in writing specific tolerances which will govern the supply of materials for a particular order and these tolerances will supersede standard manufacturing parameters.
- (d) For orders requiring non-standard tolerances there can be minimum order quantities and additional costs applicable that the Customer will be required to accept, and by proceeding with the supply of the goods, the Customer will be deemed to have accepted these requirements.

## 3. Grades of stainless steel and other metals

- (a) There are a number of grades of stainless steel available for supply. The most commonly used are the austenitic grades of AISI 304 / EN 1.4301 and AISI 316 / EN 1.4401. The tolerances stated herein apply to those grades as the standard format of supply.
- (b) Other grades of stainless steel include AISI 430 / EN 1.4016 and other ferritic and duplex options. These

grades of stainless steels do not have the same appearance and tolerances as the austenitic grades of AISI 304 / EN 1.4301 and AISI 316 / EN 1.4401 and will require different tolerances to be agreed with any order. Please enquire for details.

- (c) Other metals including aluminium and galvanised steels can require different manufacturing tolerances to those stated herein. Please enquire for details.

## 4. Samples

- (a) Samples supplied by Rimex are for promotional purposes only and are not to be used as target or control materials for goods supplied.
- (b) If control samples are required for a specific order, for these to be applicable Rimex must be notified in advance and have accepted this requirement in writing in Rimex’s Order Acknowledgement.

## 5. Gauge tolerances

Standard gauge tolerances are as per mill manufacturing standards under BS EN 9445.2.

## 6. Width tolerances

Standard widths are 1,000mm and 1,250mm. The OneTex® products are supplied 1,250mm to 1,260mm wide. Non-standard widths are available upon request.

Width tolerances are as per mill manufacturing standards under BS EN 9445.2.

## 7. Length tolerances

Standard sheet sizes are 2,500mm and 3,000mm. Non-standard lengths are available upon request. Standard length tolerances are -0mm +15mm and can be improved upon request by the Customer (but only to the extent included in Rimex’s Order Acknowledgement).

## 8. Flatness tolerances

For lengths up to and including 3,000mm, standard flatness tolerances are: Belly: 5mm maximum centre fullness of the sheet; Edge ripple: 5mm maximum edge ripple down the length of the sheet; and Crossbow: 5mm maximum across the sheet.

## 9. Batch Ordering

- (a) Material used by Rimex in its manufacturing processes can differ in tone and appearance. This is the nature of metals such as stainless steel, aluminium and other alloys.
- (b) Rimex is not responsible for any inconsistency of finish in material supplied unless it is notified of, and agrees in writing to, such a requirement in writing in Rimex’s Order Acknowledgement.
- (c) Batch ordering of material is always advised to assist the consistency of finish. Raw material should be ordered at the same time from the same batch from the same supplier. Rimex cannot guarantee that the manufacturing mill will provide material from the same cast or that that material will match if supplied from different batches.
- (d) Rimex cannot guarantee the matching of finishes of orders placed for different gauges and orders manufactured by instalments.

## 10. Yields & Overages

- (a) In the event that the quantity of material is ordered by the Customer by weight, the quantity to be supplied can be adjusted by Rimex to deviate by up to +/-10% from the agreed weight stated in Rimex’s Order Acknowledgement which will be adjusted accordingly.
- (b) This +/-10% yield differential is to be included in any order by the Customer for its yield purposes. Rimex is not responsible for costs caused to the Customer for any shortfall or high yield in the supply of materials.

## 11. Manufacturing Marks & Inspection Standard

- (a) Materials can be supplied with manufacturing marks. These are present in the raw material and will be kept to a minimum at all times (to the extent reasonably practicable). The Customer acknowledges and agrees

that the defects are unavoidable, and that the material is commercially acceptable as supplied and cannot be rejected.

- (b) When stainless steel is used in gauges of 2.0mm and thicker, defects in the raw material and the finish applied by Rimex can be of a lower standard than compared to gauges between 0.6mm and 1.5mm. The Customer acknowledges and agrees that this is inherent in the raw material, and is unavoidable, and the material is commercially acceptable as supplied and cannot be rejected.
- (c) Rimex will apply a 2m inspection standard for material to be used for commercial applications and 10m for cladding applications. Such inspection standard to be a 1-3 second front-on view of the material in daylight conditions at the point of manufacture.

## 12. 2B Stainless Steel

2B stainless steel can be supplied with defects which are present in commercial quality raw material as supplied to Rimex. This is the nature of 2B stainless steel. In such circumstances, the Customer acknowledges and agrees that these defects are inherent in the raw material, and are unavoidable, and the material is commercially acceptable as supplied and cannot be rejected. This is particularly relevant to Granex™ M1B and VorTex™ DS Soft which use 2B stainless steel. See clauses 13 and 14 below.

## 13. Granex™ Bead Blast product

- (a) The nature of Granex™ product is that the tone may vary between different sheets and batches of raw material. Unless target or control samples are agreed in writing in the Rimex Order Acknowledgement, Rimex is not responsible for differences in tone and appearance of the Granex™ product.
- (b) The Granex™ product can be supplied with defects which are present in the raw material.
- (c) Granex™ M1A is Rimex’s standard bead blast finish which is manufactured on a BA sub strate. Granex™ M1B is manufactured on a 2B stainless steel sub-strate and can contain defects which are in the raw material which are commercially acceptable. These defects will not always be hidden or removed by the application of the Granex™ M1B finish and in such circumstances, the Customer acknowledges and agrees that these defects are inherent in the raw material, and are unavoidable and as such are commercially acceptable as supplied and cannot be rejected.

## 14. VorTex™ multi-directional polish

- (a) The nature of the VorTex™ product is that the tone may vary between different sheets and batches of raw material. Unless target or control samples are agreed in writing in Rimex’s Acknowledgement Order, Rimex is not responsible for differences in tone and appearance of the VorTex™ product.
- (b) The VorTex™ product can be supplied with defects which are present in the raw material.
- (c) VorTex™ BS Soft is Rimex’s standard VorTex product and is manufactured on a BA sub strate. VorTex™ DS Soft is manufactured on a 2B stainless steel sub-strate and can contain defects which are in the raw material and which are commercially acceptable. These defects will not always be hidden or removed by the application of the VorTex™ DS Soft finish and in such circumstances, the Customer acknowledges and agrees that these defects are inherent in the raw material, and are unavoidable and as such are commercially acceptable as supplied and cannot be rejected.

## 15. Patterned products

- (a) Different patterns can have different parameters of manufacture.
- (b) All patterned products other than 6WL will increase in length by 0.002% - 0.004% for austenitic stainless steels depending upon gauge.
- (c) The 6WL pattern in 0.7mm and thinner will shrink by 0.001% - 0.003% for austenitic stainless steels and will increase in length for 0.8mm and thicker by 0.002% - 0.004%.

## 16. Pattern Definition

Pattern definition will change with gauges and can differ to issued samples. Pattern definition can also vary with different batch materials and with separate orders. The pattern can fall outside definition and registration requirements for gauges thicker than 1.5mm.

## 17. ColourTex® Coloured Stainless Steel

- (a) The standard colours of ColourTex® stainless steel are black, blue, bronze, charcoal and gold.
- (b) Interim colours are available. These are cannon bronze, champagne and rosy gold. The interim colours can be difficult to manufacture to a tight target range and a wider range of colour parameter is required to be accepted for these interim colours.
- (c) The nature of coloured stainless steel is that colour may vary in different lighting conditions and between batches of stainless steel and production runs and it is often necessary to agree target control samples prior to manufacture. ColourTex® is a metamerism product.
- (d) On larger orders it is advisable to agree target control samples to define an agreeable target colour range prior to the placing of an order. Unless target control samples are agreed in the Rimex Acknowledgement Order, Rimex is not responsible for differences in tone and appearance of the ColourTex® product.
- (e) Due to the nature of the manufacturing process all ColourTex® products will be supplied with holes approximately 5mm in diameter that run down the length of one side of each sheet approximately every 1,000mm. The Customer acknowledges and agrees that these may cause 20mm of this section of material to be unusable for some end uses.
- (f) The colouring process can leave streaking in the ColourTex® products and in particular with the ColourTex® Granex™ finishes. Rimex will reduce these to a minimum (to the extent reasonably practicable), however, this is deemed acceptable and within the manufacturing parameter of the product. In such circumstances, the Customer acknowledges and agrees that these defects are inherent in the raw material, and are unavoidable, and are commercially acceptable as supplied and cannot be rejected.
- (g) Rimex cannot guarantee the tone and / or colour matching of its finishes and products when goods are ordered by instalment or more than one order.
- (h) It is not always possible to match colour parameters to different gauges and Rimex cannot be held responsible where this occurs. In such circumstances, the Customer acknowledges and agrees that the difference in colour cannot be avoided and the materials are viable as supplied and cannot be rejected.
- (i) The standard ColourTex® product range is 0.6mm to 1.5mm. Gauges under 0.6mm and over 1.5mm are available but due to the quality of raw material in these gauges the finish of the ColourTex® product can be lower and contain defects and variation in finish. The Customer acknowledges and agrees that these defects and variations are inherent in the raw material, and are unavoidable, and are commercially acceptable as supplied and cannot be rejected.
- (j) The manufacturing process for Satin Polished ColourTex® and ColourTex® products in grade AISI 316 / EN 1.4401 stainless steel can require materials to be electro-polished. The electro-polishing process leaves manufacturing marks on one length of the material approximately 20mm in depth and spaced every

500mm. These may cause up to 20mm of this section of material to be unusable for some end uses.

- (k) Samples issued for promotional purposes are not accepted as target or control samples.

## 18. T22™ Finishes

- (a) The standard colours of T22™ stainless steel finishes are Emerald Green, Magenta, Onyx Black, Prestige Gold, Prestige Rosy Gold, Quartz Bronze and Sapphire Blue.
- (b) T22™ products can contain variation of colour and brightness between batches supplied. Defects in the raw material and / or the finish can be present which Rimex will reduce to a minimum (to the extent reasonably practicable), however, this is deemed acceptable and within the manufacturing parameter of the T22™ product. In such circumstances, the Customer acknowledges and agrees that these defects are inherent in the raw material or the manufacturing process, and are unavoidable, and are commercially acceptable as supplied and cannot be rejected.
- (c) The Customer acknowledges and agrees that, due to the nature of the manufacturing process marks and holes can occur on both lengths of the material up to 20mm from one or both lengths which may be unusable for some end uses.
- (d) On larger orders it is advisable to agree target or control samples to define an agreeable colour range prior to the placing of an order. Unless target control samples are agreed in Rimex's Order Acknowledgement, the Customer acknowledges and agrees that Rimex is not responsible for differences in tone and appearance of the T22™ product.
- (e) It is not always possible to match colour parameters to different gauges and Rimex cannot be held responsible where this occurs. In such circumstances, the Customer acknowledges and agrees that the difference in colour cannot be avoided and the materials are viable as supplied and cannot be rejected.
- (f) Samples issued for promotional purposes are not accepted as target or control samples.
- (g) Rimex promotes the T22™ finishes for internal use. External use is at the Customer's risk. All necessary steps to ensure that the T22™ product is suitable for external use are the responsibility and decision of the Customer. To the maximum extent permitted by law, Rimex does not provide warranty's or guarantees for the external use of T22™ products.

## 19. Highlighting

Highlighting is used with ColourTex® and pattern combination products such as Pearl, Pippin, etc. and for uncoloured patterned products such as Raindrop, Checks, etc. The depth of the polish highlight can vary depending upon the gauge and the hardness of the material. Consequently, the Customer acknowledges and agrees that slight variations in the highlighted shape and area are to be expected within order quantities.

## 20. Polished Finishes

- (a) There are numerous polished finishes that can be supplied. Unless stated to the contrary in Rimex's Order Acknowledgement, where a Customer orders a satin polish Rimex will supply its standard 120 silicon grit belt satin polish. Where a Customer orders a brush polish Rimex will supply its standard brush polish finish which is a 120 silicon grit belt polish blended with a 240 grit aloxide brush polish.
- (b) There can be differences in the polish appearance between sheets and batches. The Customer acknowledges and agrees that these are present in all polished finishes, and that such materials are commercially acceptable as supplied and cannot be rejected.

## 21. Super Mirror

Super Mirror is a highly reflective polished stainless steel finish. The Customer acknowledges and agrees that it is not defect free and can contain defects such as pinholes that are within the raw material. Rimex will apply a 2m inspection standard for material to be used for commercial applications and 10m for cladding applications (such inspection standard to be a 1-3 second front-on view of the material in daylight conditions at the point of manufacture).

## 22. MetalArt™ product

- (a) Standard MetalArt™ finishes are supplied with a bead blast finish.
- (b) Rimex is not responsible for any materials that are supplied with defects caused or contributed to by erroneous artwork supplied by the Customer or where the Customer has confirmed its approval of artwork used in the manufacturing process.
- (c) Rimex will apply a 2m inspection standard for material to be used for commercial applications and 10m for cladding applications (such inspection standard to be a 1-3 second front-on view of the material in daylight conditions at the point of manufacture).

## 23. Rigi-Tube®

- (a) Standard Rigi-Tube™ product is in the 7GM® and 7GM®-Reverse patterns 35mm diameter 1.5mm gauge and in 6,000mm lengths.
- (b) The material thickness can vary by +/- 0.08mm. The variation of the nominal tube can be +/-0.1mm. The outside diameter of the Rigi-Tube product can vary by up to 0.28mm.
- (c) Other patterns and dimensions are available upon request and will be subject to minimum order quantities.

## 24. Impression Finishes

- (a) Impression finishes are custom designs of different shapes, sizes and spacing that can be rolled into all types of metals.
- (b) Gauge and flatness tolerances can be different with every dimension of an Impression product and these would need to be agreed before placing an order. In particular the flatness tolerances detailed at 8 above will not be applicable.

## 25. Anti-Fingerprint Coatings

- (a) Anti-Fingerprint coatings reduce the appearance of fingerprints and can be easily cleaned, however, the Customer acknowledges and agrees that this does not mean that the material will not show fingerprints.
- (b) If used externally, anti-fingerprint coatings are at the customer's risk, and to the extent permitted by law, no warranty or guarantee is given in relation to the performance, adequacy or performance of the anti-fingerprint coatings.

## 26. Customer's Property and Materials

- (a) All property belonging to the Customer, including any raw materials, received by Rimex, whether for incorporation in the goods or otherwise, will be held by Rimex at the Customer's risk with respect to loss or damage or incorrect usage and, to the maximum extent permitted by law, the Customer will indemnify and hold Rimex harmless against any claim for loss, injury, damage, costs or otherwise (whether direct or indirect) caused by the said Customer's property to any person, vehicle or property including, but without limitation, machinery used by Rimex in the course of its business.
- (b) The Customer will be responsible for effecting and maintaining insurance for loss or damage to the Customer's property while the property is kept at Rimex's premises under this clause 26.
- (c) When supplying raw materials, the Customer must ensure that the materials are suitably packed and will enable Rimex to comply with these Conditions.
- (d) The Customer is responsible for supplying prime material to Rimex and certifies that all materials meet the specifications detailed in the Customer's order and will enable Rimex to comply with these Conditions.
- (e) Where Rimex delivers goods to the Customer, it is not responsible for goods that are damaged physically or by weather once removed from the transport vehicle by the Customer or its representatives.
- (f) Rimex will process material in the condition it is received from the Customer and Rimex is not responsible for any defects that are inherent in the material or for the consequence of the condition of the supplied material once processed or incorporated into the goods. Any cost of inspecting Customer supplied materials and/ or production downtime due to the quality of the Customer's material and/or waiting on the

Customer to supply information will be charged to the Customer at appropriate rates. For the avoidance of doubt, the Customer will be responsible, and Rimex's warranties, obligations and liabilities under these Conditions will be limited or reduced to the extent, that any goods supplied by Rimex under these Conditions fail to meet the requirements of these Conditions as a result of the Customer's materials.

- (g) Rimex will not be responsible for stopping or splitting coils or refusing to run coils or sheets if any condition exists in the Customer's material that may jeopardize the safety of its employees or damage or risk damage to its equipment. The Customer acknowledges and agrees that there will be an additional charge for equipment downtime due to defects in the material issued to Rimex for processing by the Customer, and the Customer must pay such additional charges on demand.
- (h) When manufacturing Customer supplied material flatness tolerances for sheet will be to BS EN 9445.2 and flatness tolerances for coil cannot be offered.
- (i) Customer supplied products coated with protective tape can leave a residue on the raw material when removed. Rimex is not responsible for any loss or damage to such raw materials as a result of the adhesive residue, and may refuse to run such Customer material as it may damage its equipment. The Customer acknowledges and agrees that Rimex may apply a cleaning charge to remove such adhesive residue.
- (j) For Customer coil orders leaders and tails of coils may not be processed throughout which is usual with coil production. During coil processing damage can occur due to the condition, presentation and / or packing of the coil material including oscillation at the beginning or end of a coil. The Customer acknowledges and agrees that Rimex is not responsible for loss, damage or additional costs for such coil material which are the usual consequences of coil processing.
- (k) The patterning process will not change the size of materials width. The length may shrink or grow slightly depending on the type of metal, the thickness of the metal and the pattern it is run in.

### 27. Protective Tape

- (a) All material is coated with standard laser or laser fibre protective tape unless ordered and accepted by Rimex to the contrary. MetalArt™ products are coated with clear protective tape.
- (b) To the maximum extent permitted by law, no warranty is provided by Rimex as to the suitability of protective tapes used. Data sheets are available upon request in writing.
- (c) If a warranty is required the Customer should deal direct with a protective tape supplier and notify Rimex of the tape to be used. The Customer acknowledges and agrees that the use of non-standard protective tape might be an additional cost to previously quoted prices, and the Customer must pay such additional charges on demand.
- (d) Protective tape should be removed as soon as practical and in all cases within 3 months of receipt of the material; and must not be exposed to environments, direct sunlight and temperatures that might cause delamination of adhesive from the protective tape. The Customer is always advised to seek information from the protective tape manufacturer.
- (e) Should adhesive or residue remain on the material after removal of the protective tape this should be immediately removed by appropriate cleaning procedures.
- (f) Rimex is not responsible for loss or damage to material, or any additional cost, caused by delamination of adhesive or other damage caused by protective tape product(s).

### 28. Duration of Quotations

- (a) No quotation(s) will be binding on Rimex unless these Conditions come into effect.
- (b) Written quotations are valid for acceptance within 7 days from the date of the quotation unless otherwise expressly stated in the quotation. Rimex may revoke a quotation at any time prior to issuing Rimex's Order Acknowledgement.

- (c) No delay in the receipt of any quotation given by Rimex will entitle the Customer to extend the period of quotation.
- (d) Rimex may, in writing, vary the time for acceptance of any quotation.
- (e) Rimex will not be liable for any loss, cost, damage or expense (including for loss of profit) suffered or incurred by the Customer or otherwise by reason of Rimex varying the time for acceptance of a quotation.

### 29. Prices

Rimex reserves the right to vary a quoted price:

- (a) to conform to its prices for similar goods at the date of dispatch. In the case of goods to be delivered by instalments Rimex may, with notice to the Customer, vary the quoted price in accordance with this clause at the time of dispatch of each instalment;
- (b) to take account of changes in alloy surcharges, labour, material and other costs and expenses arising between the dates of quotation and delivery;
- (c) if an alteration is made to an order upon which a quotation was made; and/or
- (d) should the Customer delay taking delivery of goods.

### 30. Delivery Date

- (a) While Rimex will use its best endeavours to keep to promised delivery dates they are approximate and no guarantee or warranty can be given. Time(s) and date(s) for delivery will not be of the essence unless agreed to by Rimex in writing. Rimex accepts no liability for any loss, cost, damage or expense (including for loss of profit) resulting in delay in completion of works or delivery of the goods, howsoever caused, nor will any delay entitle the Customer to cancel an order or not to accept delivery or withhold all or any part of the purchase price.
- (b) Rimex is entitled to divide the delivery into separate lots.
- (c) In the event of Rimex employing an agent or subcontractor to carry out the order or any part thereof Rimex will not be liable to the Customer for any loss, cost, damage or expense (including loss of profit) arising from such delay or default and nor will any delay or default entitle the Customer to cancel any order or to refuse to accept delivery or withhold all or any part of the purchase price.
- (d) The Customer will take delivery of the goods promptly upon the delivery date(s) agreed between Rimex and the Customer or as soon thereafter as the Customer is notified by Rimex that the goods are available for delivery. If for any reason the Customer fails to take delivery, fails to call off or otherwise causes or requests a delay in delivery then without prejudice to any other right or remedy available to it, Rimex may:
  - (i) increase the price to account for additional expenses by the sum of \$25 (plus GST) per item per day, plus insurance costs;
  - (ii) store the goods until delivery is made and charge the Customer for the reasonable costs of storage including insurance; and/or
  - (iii) sell the goods to a third party without any liability to the Customer except to return to the Customer the purchase price for the goods if pre-paid by the Customer.

### 31. Insurance in Transit

Rimex will not insure any goods in transit unless requested to do so by the Customer and this is agreed in writing (and such insurance will be at the Customer's cost).

### 32. Payment

- (a) Unless otherwise agreed by Rimex all prices are quoted net of all delivery costs (including any import or customs duties, taxes or levies) 'ex Works' and the Customer will pay all moneys due under issued invoices in the currency invoiced by Rimex.
- (b) Where credit terms are established payment will be made pursuant to the terms of agreement made between Rimex and the Customer which unless stated to the contrary in writing will be 30 days from the date of invoice.

- (c) The time of payment of the price will be of the essence. If the Customer fails to make payment in full on the due date Rimex will be entitled to charge interest at the rate of the Reserve Bank of Australia's cash rate from time to time plus 10% per annum, on all outstanding balances and accounts; such interest to accrue daily and compound monthly from the date the account became due to the date of actual payment thereof whether before or after any relevant court judgment.

- (d) In the case of any default or delay in payment by the Customer then the whole of any balance outstanding will become immediately due and payable and any credit facilities may be withdrawn.

- (e) The customer will also be liable for any legal (on an indemnity basis) or debt recovery costs incurred or to be incurred by Rimex in attempting to recover the outstanding amounts owed by the customer. Accounts that have been put into debt collection will automatically be closed.

### 33. Limitation of Company's Liability

To the maximum extent permitted by law, and notwithstanding any provision in these Conditions to the contrary:

- (a) Rimex will under no circumstances whatsoever be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for:
  - (i) any defect or shortage in, or delay in providing the, goods or material ordered or supplied under these Conditions;
  - (ii) any indirect or consequential loss (including any loss of actual or anticipated profits, revenue, savings, production, business, opportunity, goodwill, reputation, publicity or use) arising under or in connection with the supply of goods or material and these Conditions;
  - (iii) any liability caused or contributed to by the Customer (or any of the Customer's employees, agents or contractors); or
  - (iv) any liability, to the extent it is caused or contributed to by events outside of Rimex's reasonable control;
- (b) Rimex excludes all express and implied warranties, representations and guarantees in relation to the goods or materials supplied under these Conditions, and all such goods or materials are provided to you without warranties, representations and guarantees of any kind, either express or implied. Rimex expressly excludes all warranties including, but not limited to, implied warranties of merchantability and fitness for a particular purpose. Rimex will under no circumstances whatsoever be liable for the fitness of the material for use on or in a building which will be the responsibility of the Customer, its contractor(s) and/or other professional advisor(s) including to have undertaken all relevant testing of the materials for use in the selected location and environment; and
- (c) Rimex's total liability to the Customer in respect of, arising under or in connection with these Conditions (including, without limitation, any goods or materials supplied under these Conditions), however arising, whether in contract, tort (including negligence), in equity, under statute or otherwise, is limited to Rimex re-supplying the goods or materials to the Customer, or, at Rimex's sole and unfettered discretion, to Rimex refunding to the Customer an amount that will in no circumstances exceed the price of the goods supplied under these Conditions.

This clause 33 will survive the termination of these Conditions.

### 34. Customer's Insolvency

If the Customer commits an act of bankruptcy or becomes insolvent or makes any arrangements with its creditors or being a company is placed in liquidation or suffers a receiver and/or administrator to be appointed, Rimex may without liability or notice and without prejudice to any other rights determine all or any contract with the Customer and the Customer will bear all and any loss or damage incurred by Rimex resulting from a resale of the goods comprised in such contract determined as aforesaid.

### 35. Cancellation

- (a) Orders for goods placed by the Customer and accepted by Rimex (whether orally or in writing) cannot be cancelled by the Customer except with Rimex's written agreement. Orders for goods that Rimex is unable to cancel on its suppliers will be paid for in full by the Customer (including any other charges that may apply), which the Customer agrees to pay in full on demand.
- (b) If the Customer becomes subject to any of the events listed in clause 35(c) or Rimex reasonably believes that the Customer is about to become subject to any of them and notifies the Customer accordingly, then, without limiting any other right or remedy available to it, Rimex may cancel or suspend all further deliveries under these Conditions or under any other contract between the Customer and Rimex without incurring any liability to the Customer, and all outstanding sums in respect of goods delivered to the Customer will become immediately due.
- (c) For the purposes of clause 35(b), the relevant events are:
  - (i) an event or series of events, including any material adverse change in the property or financial condition of the Customer, occurs which has or is likely to have a material adverse effect on its ability to perform its obligations under these Conditions;
  - (ii) an investigation is instituted under the *Corporations Act 2001* (Cth) or other legislation into or an inspector is appointed to investigate the Customer's affairs;
  - (iii) the Customer is taken or must be presumed to be insolvent or unable to pay its debts under any applicable legislation;
  - (iv) the Customer suspends, or threatens to suspend, payment of its debts, or is unable to pay its debts as and when they fall due or admits inability to pay its debts;
  - (v) the Customer commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors;
  - (vi) (being a company) an application is made, a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up or dissolution of the Customer;
  - (vii) (being an individual) the Customer is the subject of a bankruptcy petition, order or application;
  - (viii) a creditor or encumbrancer of the Customer attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 14 days;
  - (ix) (being a company) an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the Customer;
  - (x) (being a company) a fixed or floating charge holder over the Customer's assets has become entitled to appoint or has appointed an administrative receiver;
  - (xi) (being a company) the Customer is deregistered under the *Corporations Act 2001* (Cth) or notice of its proposed deregistration is given to the Customer;
  - (xii) a person becomes entitled to appoint a receiver over the Customer's assets or a receiver is appointed over the Customer's assets, or a receiver or receiver and manager is appointed in respect of the Customer;
  - (xiii) the Customer presents a declaration of intention under section 54A of the *Bankruptcy Act 1966* (Cth);

- (xiv) any event occurs, or proceeding is taken, with respect to the Customer in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 35(c)(i) to clause 35(c)(xiii) (inclusive);
  - (xv) the Customer suspends, threatens to suspend, ceases or threatens to cease to carry on all or substantially the whole of its business;
  - (xvi) the Customer's financial position deteriorates to such an extent that in Rimex's opinion the Customer's capability to adequately fulfil its obligations under these Conditions has been placed in jeopardy;
  - (xii) (being an individual) the Customer dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his or her own affairs or becomes a patient under any mental health legislation; or
  - (xiii) anything analogous to or of a similar effect to anything described above under the law of any relevant jurisdiction occurs in respect of the Customer.
- (d) Termination of these Conditions, however arising, will not affect any of the parties' rights and remedies that have accrued as at termination. Clauses which expressly or by implication survive termination of these Conditions will continue in full force and effect.

### 36. Quantities and Weights

Despite anything to the contrary, unless Rimex is notified within fourteen days of the receipt of goods by the Customer of a defect, fault or omission in the good, or an error in finish, quantity, weight etc., or any other non-compliance with these Conditions, the Customer acknowledges and agrees that, to the maximum extent permitted by law, the order will be deemed complete, correct and in accordance with these Conditions, and Rimex will have no responsibility or liability, and the Customer will be deemed to have waived and released Rimex from and against any loss, cost, damage, expense or claim, in relation to the good.

### 37. Rejected Goods

- (a) Despite anything to the contrary, and to the maximum extent permitted by law, the Customer may not reject any goods unless they fail to comply with these Conditions.
- (b) Goods that are rejected by the Customer must be notified to Rimex in writing stating the reason and provide supportive data.
- (c) Goods that have been in the Customer's possession for over 4 weeks before a quality claim is raised will not be accepted.
- (d) While all care has been taken in the manufacturing of Rimex sheets the Customer must ensure the product is as ordered and is of suitable quality prior to any form of fabrication. Rimex Metals cannot replace material that has been fabricated.
- (e) Where Rimex accepts that goods are rejected these must be appropriately packed for return transport in the packing provided or its equivalent including the application of protective coating. To the maximum extent permitted by law, claims will be denied by Rimex where goods rejected by the Customer are inadequately packed and are damaged in transport as a consequence. Such goods are to be paid for by the Customer.

### 38. Title and Property

- (a) No title or property in the goods or any of them will pass from Rimex to the Customer while the goods are in the possession and control of Rimex, its agents and subcontractors or any person, firm or company employed by Rimex.
- (b) The risk in the goods will pass from Rimex to the Customer upon delivery or collection of such goods to the Customer as is agreed with each order. Notwithstanding delivery and the passing of risk in the goods, title and property in the goods, including full legal and beneficial ownership, will not pass to the Customer until Rimex has received payment in full for all goods delivered under these Conditions and all other contracts between Rimex and the Customer for which payment of the full price of the goods has not

been paid. Payment of the full price of the goods will include the amount of interest or other sum(s) payable under these Conditions and the terms of all other contracts between Rimex and the Customer under which the goods were delivered.

- (c) The Customer hereby grants Rimex, its agents and its employees an irrevocable license to enter any premises where the goods are stored in order to repossess them or to inspect them at any time.
- (d) Where goods are to be delivered by instalment each delivery will be treated as a separate contract provided always that Rimex may withhold deliveries or further instalments until payment terms are up to date.

### 39. Packing Materials

- (a) Packing cases and all materials used by Rimex will be charged to the Customer, and the Customer must pay the additional amounts on demand. Rimex will not accept the return of packing cases unless this is agreed in writing by an authorised representative of Rimex.
- (b) Rimex will supply material in appropriate sized pallets, suitably strapped for shipping by truck, sea or air as agreed with the Customer. Standard packing cases are not waterproof.
- (c) Packs will weigh approximately 1,000 kgs each but can vary up to 1,500kgs.
- (d) Specific packing requirements must be notified in advance and may be charged at additional rates.

### 40. Delivery outside the Australia

- (a) In the event of the Customer requiring Rimex to deliver goods outside Australia, Rimex will invoice the Customer for the total cost and expense incurred including, but not limited to, all packing costs, transportation costs, port fees, customs duties, taxes or levies and insurance costs, and the Customer will repay such costs incurred by Rimex immediately upon receipt of the invoice notwithstanding Clause 32 hereof and if deemed necessary Rimex will be entitled to require the Customer to pay such costs prior to dispatch.
- (b) If Rimex agrees to deliver goods on a C.I.F., F.O.B. basis or in some manner other than an 'ex Works' basis then the Customer will reimburse all expenses incurred by Rimex on the Customer's behalf immediately on demand. All risk in the goods will pass to the Customer when they are loaded onto transport at Rimex's premises (or if loaded on transport belonging to Rimex, as soon as the goods pass into the custody of a person other than Rimex). To the maximum extent permitted by law, Rimex accepts no liability whatsoever for any mistakes or errors in the shipping arrangements made by it on behalf of the Customer.
- (c) The Customer acknowledges and agrees that Rimex has no control over delays caused by customs authorities or shipping companies contracted and allowances should always be made by the Customer for delays in delivery. Rimex is not responsible for any loss, cost, damage or expense (including consequential costs) incurred by the Customer due to the late delivery of the goods.
- (d) Unless otherwise expressly stated in the contract, the Customer is responsible for obtaining, at its own cost, such import licences and other licences, consents or approvals in relation to the goods as are required from time to time and, if required by Rimex, the Customer will make them available to Rimex prior to the relevant shipment.

### 41. Customer Collection of Goods

- (a) For safety reasons and to prevent damage to goods during transport, the collection of goods by the Customer from Rimex's premises should be by a suitable side-loading vehicle. Rimex may refuse to load any vehicle that is not a side-loading vehicle and Rimex is not responsible for any costs suffered or incurred by the Customer as a result of such refusal (including if a replacement vehicle has to be organised).
- (b) Should Rimex load goods onto a vehicle that is not a side-loading the Customer risks damaging the goods in transport. Rimex will not accept any claims, and the

Customer will be solely responsible, for goods damaged in such circumstances.

#### 42. Force Majeure

If at any time Rimex is hindered or prevented from making or delivering the goods by reason of strikes or other labour disputes, fire, war, accidents, governmental action or any other cause beyond its reasonable control (**Force Majeure Event**), Rimex's obligations or liability under these Conditions will be reduced or suspended for the duration of the Force Majeure Event, and Rimes may at, any time during the continuance of the Force Majeure Event, terminate these Conditions and any other contract between the parties without incurring any liability for costs or damages to the Customer by reason of such termination.

#### 43. Credit and Dealing

- (a) Rimex may at its discretion and without providing any reason refuse to give credit or limit the amount of credit to any Customer. Rimex reserves the right to refuse to transact business with any person, firm or company.
- (b) Orders will not be available for collection or shipping without authorization from the credit control department at Rimex. All credit references and terms of payment must be complied with so that delays are avoided.

#### 44. Promotional Information & Materials

All data, images, drawings, descriptions and other information furnished by Rimex including verbal information and in or on its website, catalogues, brochures, CD's, pamphlets, price lists or other documents or other promotional media are intended to be as accurate as possible but are given for general information purposes only and are not binding on Rimex in respect of a particular order. All information, unless stated otherwise, is subject to reasonable variations. Rimex does not accept responsibility for errors or for information which is found to be misleading. Before using products supplied or manufactured by Rimex the Customer should satisfy itself of their suitability for any required purpose, location or environment.

#### 45. Cleaning

To maintain its appearance and longevity all material supplied by Rimex should be cleaned routinely using methods and cleaning media appropriate to the finish and metal used. For further information consult Rimex.

#### 46. Trade Names

Rimex uses several trade names which include, but are not limited to OneTex®, VorTex™, 7GM®, ColourTex®, DesignScape™, Granex™, MaxiSlide™, MetalArt™, MetroGuard™, RigiTube®, Rimex®, T22™, TreadTex® and the Rimex logo. These are the property of Rimex or its associated companies and cannot be used without the prior written approval of a director of Rimex, and when used with

such permission are at all times to be expressly stated to be owned by Rimex or its associated companies.

#### 47. Banking, Insurance, Freight & Other Documents required for International Trade

Where discrepancies or errors occur in banking, insurance freight and other documents required for contracts it is the responsibility of the erroneous party to pay for any fees or costs that are incurred.

#### 48. Applicable Law

The terms of any contract to which these Conditions relate will in all respects be construed and operate in conformity with, and be governed by, the laws of New South Wales and the Commonwealth of Australia. Each party irrevocably and unconditionally submits to the exclusive jurisdiction of the courts of the New South Wales.

#### 49. Our Intellectual Property

- (a) The goods supplied under these Conditions may contain material which is owned by or licensed to Rimex and is protected by law, including Australian and international laws. As between the parties, Rimex owns all intellectual property rights (including moral rights) in the goods supplied under these Conditions including, but not limited to, copyright which subsists in all creative and literary works incorporated into the goods.
- (b) The Customer agree that, as between the parties, Rimex owns all intellectual property rights (including moral rights) in the goods, and that nothing in these Conditions constitutes a transfer of any intellectual property rights in the goods.
- (c) The Customer's use of the goods does not grant the Customer a licence, or act as a right to use any intellectual property in the goods, whether registered or unregistered, except as stated in these Conditions or with Rimex's written permission.
- (d) Upon the Customer's payment of the goods in full in accordance with these Conditions, Rimex grants to the Customer a royalty free, perpetual, non-exclusive, revocable, worldwide and non-transferable licence to use the goods solely for the purposes for which they were developed or supplied as contemplated by these Conditions, and you agree not to supply the goods to any third party without our prior consent.
- (e) This clause will survive the termination of these Conditions.

#### 50. Indemnity

- (a) To the maximum extent permitted by law, the Customer is liable for and agrees to indemnify, defend and hold Rimex harmless for and against any and all claims, liabilities, suits, actions and expenses, including costs of litigation and reasonable legal costs, resulting directly or indirectly from:
  - (i) any information provided by the Customer (or any of its agents, employees or contractors) that is not accurate, up to date or complete or is misleading or a misrepresentation;
  - (ii) the Customer's breach of these Conditions; and
  - (iii) the Customer's breach of any legislative requirement or third party rights.

- (b) This clause will survive the termination of these Conditions.

#### 51. GST:

If and when applicable, GST payable under these Conditions will be set out in Rimex's invoices. The Customer agrees to pay the GST amount at the same time as the Customer pays for the goods.

#### 52. Relationship

These Conditions are not intended to create a relationship between the parties of partnership, joint venture, or employer-employee.

#### 53. Assignment

These Conditions are personal as to the parties. A party must not assign or deal with the whole or any part of its rights or obligations under these Conditions without the prior written consent of the other party (such consent not to be unreasonably withheld).

#### 54. Severance

If any provision (or part of it) under these Conditions is held to be unenforceable or invalid in any jurisdiction, then it will be interpreted as narrowly as necessary to allow it to be enforceable or valid. If a provision (or part of it) under these Conditions cannot be interpreted as narrowly as necessary to allow it to be enforceable or valid, then the provision (or part of it) must be severed from these Conditions and the remaining provisions (and remaining part of the provision) of these Conditions are valid and enforceable.

#### 55. Waiver

Any failure or delay by Rimex in exercising a power or right (either wholly or partially) in relation to these Conditions does not operate as a waiver or prevent Rimex from exercising that power or right or any other power or right.

#### 56. Disputes

If there is a dispute between the parties in relation to these Conditions, the parties agree to the following dispute resolution procedure:

- (a) the complainant must tell the respondent in writing the nature of the dispute, what outcome the complainant wants and what action the complainant thinks will settle the dispute. The parties agree to meet in good faith to seek to resolve the dispute by agreement between them at an initial meeting;
- (b) if the parties cannot agree how to resolve the dispute at that initial meeting, any party may refer the matter to a mediator. If the parties cannot agree on who the mediator should be, the complainant will ask the Law Society of New South Wales to appoint a mediator. The mediator will decide the time and place for mediation. The parties must attend the mediation in good faith, to seek to resolve the dispute.

Any attempts made by the Parties to resolve a dispute pursuant to this clause are without prejudice to other rights or entitlements of the parties under these Conditions, by law or in equity.

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