

ROBAND[®]
A U S T R A L I A PTY LTD



TRADING TERMS & CONDITIONS

DISTRIBUTION POLICY

At Roband Australia we take pride in manufacturing and distributing our range of food service equipment. Our products offer efficiency, reliability and a quality investment. Being manufacturers, our only link to the end users is via our network of distributors throughout Australia. You are the means of communication and the source of vital information essential for both the customers and ourselves. This is why it is necessary for you to know the product you are selling and to give your customers confidence in your advice and the product they are buying.

Below we have listed a series of points we feel are necessary to achieve the standard of service and satisfaction in being one of our valued distributors.

1. PRODUCT KNOWLEDGE

Our brochures and literature offer most necessary information. Should there be anything you cannot understand, please do not hesitate to contact us and one of our technical staff will be happy to help you. It is the responsibility of the person selling the machine or product to the end user to ensure the goods supplied are fit for the purpose intended by the end user.

2. SELLING THE CORRECT MACHINE

It is important to sell the correct product for the customer to achieve the results they are looking for. Underselling and overselling are both inappropriate and you will only end up with problems in the future.

3. ADVISING THE CUSTOMER

It is only advice you are offering the customer. They make the final decision. Please make sure you point out all the features of a product, or in the case of a machine, its capabilities. For example, does the machine plug into a standard power point, does it need a 15 amp power point or should it be wired in directly. Also ask them to check if their power circuit is capable of handling the number of units it will have running off it.

4. HEALTH AND FOOD REGULATIONS

Please advise all customers that it is their responsibility to establish the conformity of the intended usage of the equipment to Health and Food Regulations prior to ordering.

5. COMMISSIONING AND INSTRUCTIONS ON USE

All our machines come with instructions and it is essential that you and the customer are familiar with these details. Some machine operations are simple, others require more detailed explanation, especially if the customer has not used the machine type before. It is your responsibility to ensure the customer receives any necessary instructions to help them in operating their machine to the best of its capability.

6. CARE AND MAINTENANCE

All products require simple maintenance and in the case of machines, the instruction sheet will point out a procedure to obtain maximum performance and keep the machine in optimum working condition.

7. SERVICE AND WARRANTY

Our products are covered by a 12 month parts and labour warranty subject to our Terms and Conditions of Trade. Quite often problems occur through operator error and a simple phone call can prevent a service call. Your after sales assistance with any problems the customer might come across will only lead to further sales of machines or other products in years to come. If you find a service call is required under warranty conditions, please follow the "Procedure for Warranty Work" following.

We do hope these few notes will help you in achieving sales and giving your customers the very best service and satisfaction to our mutual benefit.

PROCEDURE FOR WARRANTY WORK

The following procedures must be followed to enable warranty work to be carried out by authorised service agents. **FAILURE TO OBSERVE THESE PROCEDURES WILL RENDER THE WARRANTY WORK UNCLAIMABLE AND COULD VOID FUTURE WARRANTY CLAIMS ON THE RELEVANT MACHINE.**

1. On the rare occasion that a product may develop a fault, please report this directly to ourselves. We will require a proof of purchase from one of our authorised distributors, and if a machine, we will require Model No. and Serial No., together with a description of the problem.
2. Our manufacturing and sales records will confirm whether the product is eligible for warranty cover. If warranty service is required, an **OFFICIAL AUTHORISATION NUMBER** and details of work to be carried out WILL BE GIVEN BY US. **This authorisation number MUST be obtained** before any work is carried out or any product replaced. Generally, all goods claimed under this warranty must be returned to the factory or an authorised service agent, freight prepaid, for inspection. Any part deemed to be defective will be replaced, however, no claims will be entertained for parts damaged in transport, misused or modified in any way without our approval. For machines that are not considered to be portable (e.g. food bars, rotisseries, large hotplates and some bain maries), on site warranty service will be provided in capital city metropolitan areas only. In all other locations, the customer is responsible for all travelling time/service call costs and payment for this should be requested prior to the commencement of the repair. The labour costs to actually repair the fault, at normal hourly rates only, will be met by this Company. Charges for unauthorised "on-site" service will not be accepted.
3. If the actual repair work or inspection is to be carried out by a sub-contractor (e.g. an electrician) then the sub-contractors details need to be advised, however, all invoices must be from the company to which the authority order was issued, preferably with a copy of the sub-contractor's invoice attached.
4. Our official service order number must be quoted on all related correspondence and invoices to ensure prompt processing.
5. When ordering spare parts for warranty work, your account will be charged for same. Such parts will be despatched by mail (Roband cost) unless special courier delivery is requested. The additional cost for special courier delivery will be charged to the company ordering the parts. Parts subject to warranty claims should be returned to our Sydney factory by mail and, after inspection, a decision will be made by this company as to whether the faulty parts are covered by warranty. If so, the appropriate amount will be credited to your account. The additional cost for special courier delivery will not be credited. Parts being claimed under warranty should be returned within 30 days and be accompanied by reference to the authority order given.

We are sure these simple steps will save a lot of time and money if followed. Sometimes a single phone call can resolve a problem and save a service call.

This company reserves the right to reject a claim for warranty if it is not completely satisfied with the circumstances under which it occurred.

TERMS & CONDITIONS OF TRADE

1. GENERAL

- 1.1 The Terms of Trade govern all orders placed by the Applicant and apply to and form part of any contract for the supply of Goods by the Company to the Applicant.
- 1.2 These Terms of Trade replace any previous terms and conditions of trade.

2. PRICES, QUOTATIONS AND ORDERS

- 2.1 No quotation given by the Company to the Applicant shall constitute an offer.
- 2.2 Orders must be placed by purchase order issued by the Applicant. Any order from the Applicant for the supply of Goods shall not be binding on the Company until accepted by the Company.
- 2.3 Orders must be accompanied by necessary ordering information as requested by the Company.
- 2.4 The prices for the Goods may be varied to the Company's general prices in effect at the requested date of delivery of the Goods notwithstanding any prior orders or sales order acceptances in respect of the Goods.
- 2.5 Prices given in any quotation are applicable to that quotation only and will not apply in any other instance.
- 2.6 Quotations are valid for a period of 30 days from the date of issue by the Company, unless otherwise agreed in writing.
- 2.7 Unless expressly included, the prices given in any quotation, price list or any Invoice and the consideration for any supply under or in connection with these Terms of Trade, do not include GST.
- 2.8 Prices for the Goods will be as stated in each Invoice and are subject to change without notice.

3. TERMS OF SALE

These Terms of Trade apply to the Applicant and to the Company in respect of Goods ordered by the Applicant. Any terms and conditions set out in the Applicant's order deviating from or inconsistent with these Terms of Trade will not bind the Company notwithstanding any statement by the Applicant in its order that its terms and conditions shall prevail over these Terms of Trade. No variation or modification or substitution of these Terms of Trade shall be binding on the Company unless specifically accepted by the Company in writing.

4. NO LIABILITY

The Company accepts no liability for Goods supplied by any third party who has not purchased the Goods directly from the Company.

5. DELIVERY

- 5.1 In relation to deliveries within the Company's nominated metropolitan distribution areas, for orders over \$250.00 (exclusive of GST), the Company shall arrange for the Goods to be delivered F.I.S.
- 5.2 In relation to deliveries within other intra state destinations, for orders over \$250.00 (exclusive of GST), the Company will arrange for the Goods to be delivered F.O.B.
- 5.3 The Company is not liable for any claims for non fulfilment or late delivery of Goods or for any

loss or damage (including consequential loss or damage) suffered by the Applicant arising from delay in delivery or a failure to deliver. The Applicant shall accept and pay for the Goods notwithstanding late delivery.

- 5.4 The Applicant shall upon placing its order advise the Company of the nominated delivery point and requested delivery date.
- 5.5 Unless otherwise agreed by the Applicant and the Company, the Company shall be entitled to deliver the Goods in one or more lots. Where delivery of the Goods is effected by way of part delivery, the Company shall be entitled to invoice the Applicant for pro rata progress payments in respect thereof.
- 5.6 Notwithstanding the Applicant's inability to accept delivery of the Goods, the Company shall be deemed to have delivered the Goods in accordance with these Terms of Trade.
- 5.7 All claims by the Applicant in relation to delivery quantities or loss or damage to the Goods must be made within 24 hours of delivery of the Goods, time being of the essence. Any claims made outside this time frame will not be recognised by the Company.

6. TERMS OF PAYMENT

- 6.1 Unless otherwise agreed by the Company in writing, all Goods will be supplied on a cash before delivery basis.
- 6.2 The extension of credit to the Applicant by the Company shall be at the absolute discretion of the Company, which discretion may be varied from time to time, and where extended unless otherwise advised in writing by the Company, the Company requires cash payment in full by the last Business Day which is 30 days following the date of the Invoice. A letter signed by a director of the Company will be sufficient evidence as to the terms of credit applicable to the Applicant at any point in time.
- 6.3 In the event that payment for any Invoice has not been received by the Company within 30 days of Invoice, the Company may, in its discretion:
 - (a) immediately cease any extension of credit; and/or
 - (b) charge the Applicant interest on overdue amounts at the ninety day bank bill rate plus 5%, such interest to be calculated daily on the balance outstanding; and/or
 - (c) charge to the Applicant all administration and other costs incurred by the Company in relation to collection of outstanding amounts owned by the Applicant to the Company.
- 6.4 The Applicant may not withhold payment or make any deductions from any amount owing without the Company's prior written consent, which consent may be withheld in its absolute discretion.
- 6.5 The Company will forward a statement monthly to those Applicants granted an extension of credit pursuant to clause 6.2.

7. SALES AND GOODS AND SERVICES TAX

Should any sales tax, GST as levied under the GST Act (as amended) and any other tax, fee, levy or duty imposed by any competent authority be payable on any of the Goods supplied by the Company, such tax, fee, levy or duty will be to the Applicant's account and shall be calculated using the rates and methods of assessment in force at the time of delivery. The Applicant is liable for any other applicable tax, including, without limitation, withholding tax.

8. PASSING OF RISK AND RETENTION OF TITLE

- 8.1 Risk in the Goods shall pass on delivery.
- 8.2 In the event that payment for the Goods is made before delivery, legal and equitable title shall remain with the Company until such time as delivery is effected.

- 8.3 If payment for the Goods is to be made at any time after delivery, legal and equitable title shall remain with the Company and the Applicant will hold the Goods as bailee for the Company until the Applicant pays to the Company the price as set out in any Invoice together with payment in full for all debts accrued or owed to the Company.
- 8.4 The Applicant agrees and acknowledges that payment is not deemed to have been made until any cheque in payment for an Invoice or for all debts accrued or owed to the Company has been duly honoured.
- 8.5 The Applicant may sell or deal in the ordinary course of business with the Goods and with the interest of the Company in the Goods and may for the purposes of such sale or dealing part with possession of the Goods on the condition that the proceeds of any sale or dealing will be held by the Applicant on trust for the Company and the provisions of this clause 8 are complied with. The Applicant hereby agrees to accept this appointment as bailee and fiduciary.
- 8.6 Notwithstanding any other clause of these Terms of Trade, the Company reserves the following rights in relation to the Goods until all amounts owed by the Applicant to the Company are fully paid:
- (a) legal and equitable ownership of the Goods;
 - (b) to enter the Applicant's premises (or the premises of any associated company or agent where the Goods are located) without liability for trespass or any resulting damage and retake possession of the Goods; and
 - (c) to keep or resell any of the Goods obtained pursuant to clause 8.6 (b).
- 8.7 The Applicant must, so long as the Company is entitled to the property in the Goods, store the Goods so that they are clearly identifiable as the property of the Company.
- 8.8. In the event that the Goods are resold by the Applicant, it will be deemed to have done so as agent for the Company and only on the following terms:
- (a) on such disposal or dealing, the Applicant transfers all rights to the proceeds of that disposal or dealing to the Company absolutely;
 - (b) the Applicant as bailee and fiduciary of the Goods must hold the proceeds of any sale or dealing of the Goods (to the extent of any liability to the Company in respect of the Goods) in trust for the Company;
 - (c) the Applicant must keep separate records of any sale of the Goods and must maintain the proceeds in a separate account; and
 - (d) the Applicant must account to the Company for any proceeds from such Goods and must direct any purchasers of the Goods to pay the proceeds to the Company.
- 8.9 If payment for the Goods is not made by the Applicant by the due date specified by the Company to the Applicant then the Applicant must return the Goods to the Company on demand. If the Applicant does not return the Goods to the Company within 48 hours of receipt of the demand, the Company shall be entitled to enter upon the Applicant's premises at any time to do all things necessary to recover the Goods. The Applicant shall be liable for all costs associated with the exercise by the Company of its rights under this clause which shall be repayable on demand.

9. **COMPANY'S WARRANTY**

- 9.1 The Goods manufactured by the Company are guaranteed against defective workmanship and materials for a period of 12 months from the date of purchase, the Company's obligations pursuant to this express warranty being limited to the repair or replacement of the defective Goods or materials at its option and subject to the terms and conditions stated in the warranty card attached to the Goods. Glass and lamps are not included in this warranty. RCD tripping due to moisture absorption by Tubular Heating Elements is not considered a warranty fault.

- 9.2 All Goods claimed under this warranty must be returned to the nearest authorised service agent of the Company, freight pre-paid for inspection.
- 9.3 Except as provided in this clause, the Company shall not be liable for any loss or damage, whether direct or indirect (including consequential losses or damage) arising out of any breach of contract by the Company or any negligence of the Company, its employees or agents.
- 9.4 To the extent permitted by law all implied conditions and warranties are expressly excluded.
- 9.5 The Company will not be liable in respect of any claims for parts damaged in transport, misused by the Applicant or its authorised parties or modified in any way without the approval of the Company.
- 9.6 Any repairs or replacement of defective Goods or materials pursuant to the warranty set out in this clause, must be authorised by a director of the Company prior to any action being taken. The Company reserves the right to reject a warranty claim if it is not completely satisfied with the circumstances under which such fault or defect occurred.
- 9.7 Nothing in these Terms of Trade shall be read or applied so as to exclude restrict or modify or have the effect of excluding restricting or modifying any condition warranty guarantee right or remedy implied by law (including the Trade Practices Act 1974 (Commonwealth)) which by law cannot be excluded, restricted or modified.
- 9.8 This warranty does not extend to cover loss of profits or damage to other equipment.

10. APPLICANT'S WARRANTY AND INDEMNITY

- 10.1 The Applicant acknowledges and warrants to the Company that as at the date of entry into a contract to purchase the Goods, the Applicant is not insolvent nor has he committed any act of bankruptcy, or being a company knows of no circumstances which would entitle a debenture holder or unsecured creditor to appoint a receiver, to petition for winding up of the Applicant or exercise any other rights over or against the Applicant's assets.
- 10.2 Without prejudice to any other rights the Company may have against the Applicant, the Applicant shall indemnify the Company for and save it harmless from any loss damage or expense incurred by the Applicant as a result of the Applicant:
- (a) cancelling any order (or part thereof) for the Goods; or
 - (b) breaching these Terms of Trade.

11. DEFAULT

Should the Applicant fail to make payment for any Goods supplied by the Company on the dates due for payment or commit a breach of any term of the sale or being a natural person commit an act of bankruptcy or being a corporation by act or omission enable the appointment of an administrator, scheme manager, trustee, official manager, receiver, receiver and manager, liquidator or any other person authorised to enter into possession or assume control of any property of the Applicant pursuant to a mortgage or other security, then:

- (a) the right of the Applicant to sell the Goods in the ordinary course of business or otherwise immediately terminates without the need for the Company to provide written confirmation; and
- (b) the Company may without prejudice to any other rights it may have, do any or all of the following:
 - (i) immediately withdraw any credit facilities which may have been extended to the Applicant and require immediate payment of all moneys accrued or owing to the Company;
 - (ii) withhold any further deliveries of Goods or performance of service required under the contract;

- (iii) in respect of Goods already delivered, enter onto the Applicant's premises to recover and resell same for its own benefit;
- (iv) suspend and/or terminate performance of any other contracts which the Company has with the Applicant.

12. **GOODS RETURNED**

- 12.1 The Applicant shall inspect the Goods immediately upon delivery and if the Goods are damaged or not otherwise in conformity with the contract relating to their supply shall give written notice to the Company of the details in respect thereof within 24 hours of the date of delivery.
- 12.2 Subject to clause 12.3, any Goods the subject of a notice under clause 12.1 shall be left in the state and condition in which they were delivered until such time as the Company or its duly authorised agent has inspected the Goods, such inspection to be carried out within a reasonable time after notification by the Applicant. If the Goods are not so left in the state and condition in which they were delivered, the Applicant shall be deemed to have accepted the Goods and shall pay the purchase price for the Goods to the Company.
- 12.3 Upon receipt of a notice under clause 12.1, the Company will advise a return authorisation number and the mode of transport (if clause 12.2 is not to apply) acceptable to the Company. Any Goods returned to the Company will be at the Applicant's entire risk as to loss or damage. In relation to Goods returned to the Company, the Applicant undertakes to follow the Company's instructions, prepay the freight and clearly mark the freight with the return authorisation number advised by the Company.
- 12.4 Deliveries not complying with clause 12.3 will not be accepted by the Company.
- 12.5 Subject to clauses 12.1 and 12.3, valid claims for incorrectly sent Goods will be credited in full. A 12% handling fee will apply to all Goods returned against orders correctly executed. The Company reserves the right to charge for any cost incurred in such execution.
- 12.6 Subject to clause 12.1 acceptance of the Goods shall be deemed for all purposes to have taken place when delivery has occurred.
- 12.7 In the case of a non-standard manufacture, where a "Confirmation of Non-standard Items" form has been signed, and where orders have been correctly executed, no returns will be accepted.

13. **DISPUTES**

- 13.1 Any disputes between the parties arising from the performance of the provisions of these Terms of Trade must be settled through friendly consultation by the parties. All disputes arising in respect of these Terms of Trade which are not resolved within 30 days of first arising will be finally settled under the Rules of Conciliation and Arbitration of the International Chamber of Commerce by a single arbitrator appointed in accordance with the said Rules. The place of arbitration will be Sydney New South Wales. The procedural law applicable to the arbitration will be that of New South Wales. The decision of the arbitration is final and binding upon both parties.
- 13.2 During the period in which the dispute is being resolved, the parties must continue to perform all of the provisions of these Terms of Trade which are not under dispute and which are able to be performed by the parties.

14. **SEVERABILITY**

All provisions contained in these Terms of Trade shall be construed so as not to be invalid, illegal or unenforceable in any respect but if any such provision on its true interpretation is illegal, invalid or unenforceable that provision may, at the option of the parties, be read down to such extent as may be necessary to ensure that it is not illegal, invalid or unenforceable and as may be reasonable in all

circumstances so as to give it a valid operation of the partial character. In the event that any such provision or part thereof cannot be so read down, such provision shall be deemed to be void and severable and the remaining provisions hereof shall not in any way be affected or impaired thereby.

15. FORCE MAJEURE

The Company shall not be liable for any claims for non-fulfilment or late delivery should actual delivery of the Goods or any parts be delayed in consequence of unforeseen events such as strikes, unforeseen breakdown, of machinery (save where caused by improper maintenance or operation by untrained personnel), suspension of electricity or other relevant power supply, riots, war, robbery, civil commotion, adverse non foreseeable weather conditions, disaster caused by fire and/or water, action of government or port authority, delay of vessel, rail-road embargoes, inability to obtain transportation facilities or due to a failure of an original equipment manufacturer to supply components by the due date.

16. APPLICABLE LAW

These Terms of Trade shall be governed by and construed in accordance with the laws in force in the State of New South Wales, Australia and the parties submit to the non-exclusive jurisdiction of the Courts of that State.

17. DEFINITIONS

The following words have the following meaning:

Applicant means the person or entity purchasing the Goods from the Company.

Business Day means a day other than a Saturday or Sunday when trading banks in Sydney are open for general banking business.

Company means Roband Australia Pty Limited ABN 25 003 049 063.

F.I.S. means free into store as referred to in the Incoterms.

F.O.B. means free on board as referred to in the Incoterms.

Goods means all Goods ordered by the Applicant from time to time and supplied by the Company under these Terms of Trade and includes any services forming part of the supply of Goods.

GST means goods and services tax or similar value added tax levied or imposed in Australia pursuant to the GST law or otherwise on a supply.

GST Act means A New Tax System (Goods and Services Tax) Act 1999 (Commonwealth).

GST Law has the same meaning as in the GST Act.

Incoterms means the International Rules for the Interpretation of Trade Terms, ICC Publishing S.A., Paris 2000 edition.

Invoice means an invoice sent by the Company to the Applicant for payment of the Goods supplied to the Applicant at the request of the Applicant.

Terms of Trade means the terms and conditions of trade as set out above.

PRICEBOOK DISCLAIMER

OPERATING SPECIFICATIONS AND DISCLAIMERS

DIMENSIONS

Dimensions detailed in this price book are nominal only, and may vary within tolerances from machine to machine.

ALTERATIONS TO MACHINE SPECIFICATIONS

Alterations to machine specifications may occur at any time due to ongoing research and development. Please check details with our offices for the latest information and specifications.

PERFORMANCE SPECIFICATION

Performance specification evaluations are carried out under test conditions of either 230 V 50 Hz or 240 V 50 Hz. All standard Roband products are designed to run at 220 - 240 V, 50 Hz. Equipment to suit other voltages can typically be manufactured to order. Variations to indicative machine performance may occur as a result of variances in the voltage delivered to an installed unit. Lower voltages will result in significant reductions in performance, particularly in radiant-heat toasters (conveyor toasters, griller toasters etc.). Should you have any concerns in this regard, please contact our office and one of our technicians will discuss the issue with you.

PRICING DETAILS

Pricing details are correct at the time of printing and are subject to change without notice.