

## Terms and Conditions of Sale

### 1. OUTLINE

1.1 **Currency:** These terms + conditions (**Terms**) apply to the supply of all Goods and Services by us to you from the date that you accept these Terms.

1.2 **Acceptance:** You accept these Terms when:

- 1.2.1 you submit an Order;
- 1.2.2 you accept delivery of, or any part of, the Goods and Services pursuant to an Order; or
- 1.2.3 you make Payment, or partial Payment, for any Goods and Services supplied by us,

whichever occurs first.

### 2. QUOTES + ORDERS

2.1 **Requesting a Quote:** You may request a Quote from us relating to the potential supply of Goods and Services.

2.2 **Providing a Quote:** We may provide to you a Quote relating to the potential supply of Goods and Services, which may include the price and quantity of the Goods and Services proposed to be supplied by us and other relevant details as necessary.

2.3 **Validity of Quote:** A Quote is valid for 30 days only. We reserve the right to withdraw a Quote at any time before you place an Order.

2.4 **Placing an Order:** If our Quote is acceptable to you, you may place an Order for each supply of Goods and Services. An Order is not binding until we have provided you in our absolute discretion our written acceptance or confirmation of the Order.

2.5 Subject to clause 9, in the event that:

- 2.5.1 you require urgent supply of Goods or Services; or
- 2.5.2 you do not require a Quotation (if agreed by us)

no Quote will need to be provided by us to you and you will be bound to accept the supply of Goods or Services as provided or supplied.

2.6 In respect of orders for Goods for professional/custom made Goods (being equipment and/or supplies), we will only become bound to supply such Goods (and you become bound to accept that supply) upon receipt of a non-refundable deposit from you as set out in the Quotation.

2.7 **Additional conditions:**

2.7.1 Unless otherwise agreed by us in writing, these Terms will prevail over, and we will not be bound by, any conditions (express or implied) added or provided by you, whether in an Order or otherwise.

2.7.2 We will endeavour to deliver the quantity of Goods/provide the consumables as ordered. We reserve the right to under or over deliver by a margin of five percent (5%). We take no responsibility for any direct, indirect, consequential or incidental loss, costs, damages or expenses of any nature arising from a discrepancy in the quantity of Goods delivered compared to that which was ordered.

### 3. PRICE

3.1 **Price:** Unless otherwise agreed to in writing by us or by our authorised representative, subject to

clause 3.2, the price charged and payable for the Goods and Services shall be the price in Australian dollars at the date we provide the Quote to you or, if no Quote is given, in the Invoice issued upon delivery of the Goods to you, together with any applicable taxes, charges and delivery costs in relation to the Goods and Services, including but not limited to:

3.1.1 any increase in taxes and duties (other than income tax) after the date an order is made, or a Quote is given, which we may be required to collect or pay in respect to the supply of the Goods;

3.1.2 the cost of holding, storing and insuring the Goods if delivery or collection is delayed beyond the date or dates as agreed between the parties or at your request; and

3.1.3 any GST payable by us in respect of the supply of the Goods to you if the price set out in the Quote or, if no Quote is given, in the Invoice, has not been expressed to be inclusive of GST.

3.2 **Variation of price:** Prices contained in any Quote for the supply of Goods or Services are based on the cost prevailing and the specification supplied at the time of the Quote. Subject to your rights under law including the ACL, we reserve the right to vary the price if:

3.2.1 there is any movement in the cost of supplying the Goods or Services specified in your Order, including any Charges;

3.2.2 the Goods or Services specified in your Order are varied from the Goods or Services specified in our Quote; or

3.2.3 otherwise provided in these Terms, and we provide you reasonable notice of any such variation of price.

3.3 **Imported goods:** Prices for imported goods charged to you shall be the price of those goods charged to us (plus any relevant Charges, Service Fees, transportation, freight and insurance costs) converted into Australian dollars based on the Reserve Bank Exchange Rate on the date that such goods are paid for by us.

### 4. PAYMENT

4.1 **Invoice on delivery:** Unless otherwise agreed in writing, we will issue you an Invoice upon delivery of the Goods or Services specified in your Order.

4.2 **Payment terms:** All equipment purchases must be paid for in full prior to delivery even if you have a credit account with us. If you have a credit account with us, other Goods and Services must be paid for in full within 30 days. Any variation to these terms must be agreed by us in writing prior to acceptance of your order.

4.3 **Payment method:** All Payments are to be made to us in cash, by direct credit to the bank account nominated by us, by credit card or by cheque or as otherwise indicated by us in writing. All credit card payments are subject to a "payment surcharge" as defined in the *Competition and Consumer Amendment (Payment Surcharges) Act 2016* charged at the rate charged by the credit card provider to us on the date of payment.

4.4 **Payment in instalments:** We may at our discretion as agreed in writing accept Payments in instalments upon such terms as we see fit.

### 5. PAYMENT DEFAULT

5.1 **Default Interest:** We may at our discretion in the event of your failure to make a Payment in accordance with clause 4 (*Payment*) charge Default Interest at the rate 1.5% per calendar month.

5.2 **Payment of Default Interest:** Default Interest pursuant to clause 5.1 shall be:

- 5.2.1 payable on demand; and
- 5.2.2 calculated daily from the date Payment was due to the actual date that the Payment is made in full.

5.3 **Costs of enforcement:** We may recover from you any costs we incur in the collection of Payment of any Invoice.

5.4 **No set off:** You may not set off against any Payment any claims which you may have against us.

5.5 **Default Interest amount credited first:** Any Payment you make to us shall first be credited against any Default Interest accrued pursuant to this clause 5 to the actual date of Payment.

5.6 **Revocation of credit:** We reserve the right to revoke at any time any credit extended to you because of your failure to make any Payment when due or for any other reason.

### 6. CREDIT ASSESSMENT

6.1 We may refuse to supply Goods to you on credit on the basis of our credit assessment of you.

### 7. DELIVERY, RISK + INSURANCE

7.1 **Delivery:** Delivery of the Goods or Services shall take place upon pick up by or delivery of the Goods/Services to you, your agent or nominee or to a carrier commissioned on your behalf as applicable at the place specified by you or as otherwise agreed. If not already provided in your Order, you shall provide to us any forwarding instructions at least 7 days before the date set for Delivery of the Goods.

7.2 **Installation:** Unless the Order includes installation services (and then only to the extent as set out in the Order), we shall not be responsible for assembling and/or installing the Goods.

7.3 If an Order includes installation, then to the extent set out in the Order, we will install the Goods on the following conditions:

7.3.1 It is your responsibility to provide adequate access for entry and installation of Goods including maintaining the area in which the Goods are (or are to be) located free of extraneous materials and move any contents, fixtures, fittings or moveable items as required to facilitate the performance of the installation by us.

7.3.2 In the event of the delivery of equipment you are responsible for providing adequate facilities and lifting equipment to receive equipment (crated and/or uncrated) for positioning in the required (or reasonable) location.

7.3.3 You must grant us entry to the premises and access to the Goods at any time when required for the performance of the installation, maintenance or repair of the Goods and allow us to make use of all existing building services and maintenance

facilities at the premises and to remove any item of the Goods from the premises for the purpose of undertaking any repair or replacement. You may only permit persons duly qualified to undertake serve and repair work on the Goods other than in connection with its normal daily operation.

7.3.4 It is your responsibility to ensure that power is available to the site where the Goods are to be installed, maintained or repaired.

7.4 **Cost of delivery:** We may charge you the cost of delivering the Goods to you, which will be included in the Payment to be made in relation to the Goods. Any transportation costs incurred after the Goods have been delivered will be paid by you.

7.5 **Instalments:** We reserve the right to allocate our supplies and stocks in our absolute discretion. We reserve the right to make deliveries in instalments and these Terms shall be severable as to such instalments, in which case Payment for each instalment is a condition precedent to the delivery of subsequent instalments.

7.5.1 **Goods provided by you:** Where we process goods or materials supplied by you, the responsibility for delivery and insurance of those goods or materials to us shall be borne by you.

7.6 **Risk passes on delivery:** The risk in the Goods shall pass to you upon the delivery of the Goods in accordance with clause 7.1.

7.7 **Insurance over Goods:** If requested by us, you shall from the delivery date until we have received Payment for all Goods in full, insure the Goods for their full replacement value have sufficient insurance in respect of the Goods to protect us against loss or damage by fire, theft, [insert] or any other cause whatsoever and provide to us upon our request evidence of such insurance.

7.8 **No liability for delay:** We will use reasonable efforts to deliver the Goods to you by the date and to the place specified by you. Without limiting clause 11 (*Exclusions + Limitations*), if the Delivery of the Goods is delayed:

7.8.1 we shall not be liable for late delivery or delay in delivery;

7.8.2 the delay does not give you the right to cancel an Order or terminate these Terms.

## 8. SUSPENSION + CANCELLATION

8.1 **Suspension of Order:** If as a consequence of an instruction from you, we delay or suspend (but not cancel) an Order or any part of an Order for a period of 5 days or more, we may:

8.1.1 request the payment in full for all work in progress relating to the relevant Order at the time of suspension; and/or

8.1.2 vary the price for the uncompleted portion of the relevant Order.

8.2 **Cancellation by you:** You may not cancel an Order, or any part of it, unless:

8.2.1 we give our written consent; and

8.2.2 you pay to us (if required by us in our absolute discretion) any and all costs reasonably incurred by us in relation to the cancelled Order or the cancelled part of the Order to the date of cancellation.

8.3 If you cancel or seek to delay the supply of any Goods or Services for any reason whatsoever you must indemnify us against any loss or damage or cost we incur which arises from or is causally connected with the cancellation or delay including:

8.3.1 any loss of bargain associated with the cancellation or delay of the supply of Goods or Services;

8.3.2 the cost of planned production time which is not able to be reallocated by us;

8.3.3 the cost of components held in stock by us to be incorporated into the Goods;

8.3.4 charges made by suppliers to us for components to be incorporated into the Goods;

8.3.5 the work in progress incurred by us in manufacturing the Goods or providing the Services;

8.3.6 the cost of any buffer stock held in respect of orders; and

8.3.7 storage of components held in stock.

8.4 **Cancellation by us:** We may in writing cancel an Order or delivery of an Order without liability to you (save as required by relevant laws) if:

8.4.1 we reasonably form the opinion that you are insolvent or at material risk of insolvency;

8.4.2 you fail to pay any amount for the Goods or Services on the due date; or

8.4.3 we reasonably form the opinion that supplying Goods or Services to you may have a negative impact upon our business or commercial reputation or image.

## 9. DEFECTS + RETURN OF GOODS

9.1 This clause 9 is subject to clause 11 (*Exclusions + Limitations*), clause 12 (*Statutory Rights*) and any other statutory or legal right whether under these Terms or otherwise.

9.2 **Returns:** You should inspect the Goods immediately once they are delivered and may only return the Goods if:

9.2.1 they do not materially comply with the Order; or

9.2.2 if permitted by law, including the ACL.

9.3 **Notification:** If you wish to return any Goods delivered to you, you must give to us:

9.3.1 notification with 14 days of your receipt of the Goods; and

9.3.2 the original Invoice details.

If you do not provide notice within a reasonable time of your receipt of the Goods, you will be deemed to have irrevocably waived your right to a claim under this clause 9.

9.4 **Replacement or credit:** If we accept the return of Goods from you, we will at our option either:

9.4.1 replace the returned Goods; or

9.4.2 give a credit or a refund for such Goods.

9.5 **Costs to return Goods:** You shall bear any expense of transportation of Goods returned to us, unless you have a statutory or other legal right that permits otherwise.

9.6 **Payment for other Goods:** You may not withhold any payment due to us in respect of any other Goods pending the resolution of a claim for a defect.

9.7 **Non-payment of account:** We will not accept notifications under clause 9.3 in the event of your non-payment of an account.

9.8 **Goods damaged in transit:** If the Goods are damaged in the course of being delivered to you:

9.8.1 you must notify us of any claim for Goods damaged in transit within 14 days of delivery; and

9.8.2 subject to our acceptance of your claim under this clause 9, we will replace the relevant Goods at no extra charge to you.

## 10. EXPRESS WARRANTY

10.1 **Provider details:** The warranty against defects (**Warranty**) contained in this clause 10 is provided by:

**Renz Australia Pty Ltd**

60 Lancaster Street, Ingleburn,

NSW 2565, Australia

Telephone: 02 8893 9493

10.2 **Warranty:** We warrant that the Goods/Services are supplied free from defects in material and workmanship except such defects as normally being regarded as being commercially acceptable.

10.3 **Warranty Period:** Goods shall be covered by this Warranty for a period of 12 months unless otherwise stated in writing.

10.4 **Service and repairs warranty:** Service and repairs carried out on equipment will be covered for a period of 3 months.

10.5 **Exclusions:** We will not be liable for:

10.5.1 loss or damage caused by factors beyond our control;

10.5.2 any Goods/Services that have not been installed or maintained according to maintenance or care instructions;

10.5.3 any alterations or repairs to the Goods/Services not performed by us or with our prior written consent;

10.5.4 damage or defects caused to the Goods/Services due to unusual, non-recommended or negligent use of the Goods;

10.5.5 any loss or damage incurred in connection with transportation or delivery of the goods; or

10.5.6 any damage or defects caused to the Goods/Services due to any use of the Goods outside of any specifications or directions outlined in any operation manual or as advised by us.

10.6 **Making a claim:** You may make a claim under this Warranty by providing us notice in writing to our address specified in clause 10.1 containing reasonable description of the defect in the Good(s).

10.7 **Repair and replacement:** We will during the Warranty period and subject to clause 10.8, repair or replace at our option, any component or part of the Goods/Services which our examination shows to be defective provided the warranty claim has been agreed by us.

10.8 **Limitation:** Our obligations under this Warranty are limited to repairing or furnishing a replacement part to replace any part which has proven to have been defective.

10.9 **Transport charges:** You will be liable for all transport charges incurred in returning defective components or parts for repair or replacement together with the cost of returning them to you. An invoice for such transport charges will be provided upon returning the relevant Good(s) to you which will be payable in accordance with these Terms.

10.10 **Replacement part warranty:** A replacement part supplied by us during the warranty period shall be covered by the warranty for the unexpired portion of the warranty period which covered the original Goods.

10.11 **In addition to rights:** The benefits to you given by this Warranty are in addition to your other rights and remedies under the ACL or the relevant laws.

10.12 **Regulation 90:** This Warranty against defects is provided in addition to other rights and remedies you may have at law.

10.12.1 **Goods only:** Our goods come with guarantees that cannot be excluded under the Australian Consumer Law. You are entitled to a replacement or refund for a major failure and compensation for any other reasonably foreseeable loss or damage. You are also entitled to have the goods repaired or replaced if the goods fail to be of acceptable quality and the failure does not amount to a major failure.

10.12.2 **Services only:** Our services come with guarantees that cannot be excluded under the Australian Consumer Law. For major failures with the service, you are entitled:

- A to cancel your service contract with us; and
- B to a refund for the unused portion, or to compensation for its reduced value

If the failure does not amount to a major failure, you are entitled to have problems with the service rectified in a reasonable time and, if this is not done, to cancel your contract and obtain a refund for the unused portion of the contract.

10.12.3 **Goods & Services:** If you are a consumer for the purposes of the ACL, the following statement applies to you. Our Goods come with guarantees that cannot be excluded under the Australian Consumer Law. For major failures with the service, you are entitled:

- A to cancel your service contract with us; and
- B to a refund for the unused portion, or to compensation for its reduced value.

You are also entitled to a refund or replacement for major failures with Goods. If a failure with the Goods or a Service does not amount to a major failure, you are entitled to have the failure rectified in a reasonable time. If this is not done you are entitled to a refund for the Goods and to cancel the contract for the Service and obtain a refund of any unused portion. You are also entitled to be compensated for any other reasonably foreseeable loss or damage from a failure in the Goods or Service.

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## 11. EXCLUSIONS + LIMITATIONS

11.1 **ACL exception:** The exclusions and limitations in this clause 11 are subject to clause 12 (*Statutory Rights*).

11.2 **Excluded rights:** All express or implied representations, conditions, statutory guarantees, warranties and provisions (whether based on statute, common law or otherwise), relating to these Terms, that are not contained in it, are excluded to the fullest extent permitted by law.

11.3 **Failure to supply or delay:** Any failure to supply or delay in supplying Goods caused by:

- 11.3.1 a shortage of supplies of components reasonably beyond our control due to a cessation, reduction or interference with the availability or transportation from any our sources of supply;
- 11.3.2 a strike, boycott or industrial action or dispute; or
- 11.3.3 any other cause whatsoever reasonably beyond our control,

does not give rise to a claim against us or cause us to be in breach of our agreement with you.

11.4 **Limitations:** No warranty is given, and we will not be liable for:

*In the case of Goods*

- 11.4.1 alterations to Goods for which we are not responsible;
- 11.4.2 defects or depreciation caused by wear and tear, accidents, corrosion, dampness or other abnormal conditions or effects;
- 11.4.3 damage or failure caused by unusual or non-recommended use, misuse or application of the Goods; or
- 11.4.4 loss caused by any factors beyond our control; and

*In the case of Services*

- 11.4.5 interference with our Services for which we are not responsible;
- 11.4.6 damage or loss caused by unusual or non-recommended use of our Services; or
- 11.4.7 loss caused by any factors beyond our control.

11.5 **Indirect loss:** We will not be liable for any special, indirect, consequential or economic loss or damage or loss of profits (in contract or tort or arising from any other cause of action) suffered by you or any other person resulting from any act or omission by us (including breach, termination or non-observance of the terms of an Order or agreement which incorporates these Terms).

11.6 **Total liability:** Our total liability for breach of these Terms or breach of our contractual obligations or duties at law or in equity (however arising) is limited at our option to:

*In the case of Goods*

- 11.6.1 the replacement of the Goods or the supply of equivalent goods;
- 11.6.2 the repair or rectification of the Goods;
- 11.6.3 the payment of the cost of replacing the Goods or of acquiring equivalent goods; or
- 11.6.4 the payment of the cost of the repair or rectification of the Goods; and

*In the case of Services*

- 11.6.5 the supply of the Services again; or

11.6.6 the payment of the cost of having the Services supplied again.

11.7 **No reliance:** You acknowledge and agree that:

11.7.1 you have and will make your own assessment of the fitness for purpose and suitability of any Goods supplied to you;

11.7.2 you do not and will not rely on our skill or judgment nor that of any person by whom any prior negotiations or arrangements in relation to the acquisition of any Goods were conducted or have been or will be made; and

11.7.3 you have not made nor will make known to us or a manufacturer of goods (directly or via any person and whether expressly or impliedly) the particular purpose for which you acquire Goods.

11.8 **Third party work:** If we obtain goods or services from a third party in order to carry out your instructions or complete an Order:

11.8.1 we will not be liable for any breach of these Terms if that breach is as a result of or is connected with the supply by a third party of such goods or services;

11.8.2 we acquire such goods or services as agent for you not as principal and will have no liability to you in relation to the supply of these goods or services;

11.8.3 any claim by you in relation to the supply of such goods or services must be made directly against that third party; and

11.8.4 you must pay for such goods or services from the third party plus the cost of or relevant fee for us performing such services as agent for you (whether separately identified or not). You do not require us to account to you for any commissions or benefits we may receive from such a third party supplier in connection with the supply of such goods or services to you and authorise us to contract on your behalf as we think fit.

11.9 We give no warranty in respect of any goods or services that are supplied or carried out or provided to you by a third party even where forming part of an Order. Any warranties, statutory guarantees or other rights will be governed by the terms of supply by that provider to you and relevant laws.

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## 12. STATUTORY RIGHTS

12.1 **Statutory rights:** In circumstances where you are acquiring Goods and Services from us as a 'consumer' for the purposes of (and as defined in section 3 of Schedule 2 of) the ACL or as a 'buyer' for the purposes of the SGA, we acknowledge and agree that certain statutory guarantees and rights shall apply to you as provided by relevant laws but subject to these Terms as applicable and where permitted by relevant laws.

12.2 **No restriction:** Nothing in these Terms excludes, restricts or modifies any condition, warranty, statutory guarantee, right or remedy implied or imposed by common law, statute or regulation which cannot be lawfully excluded, restricted or modified, which may include the ACL, the SGA and any relevant State or Territory legislation containing implied terms and/or statutory

guarantees which operate to protect the purchasers of goods and services in various circumstances.

12.3 **Unfair contract:** If section 23 of the ACL applies to any provisions in these Terms, any such provision(s) shall be void to the extent it is unfair within the meaning of section 24 of the ACL.

### 13. TITLE

13.1 **Subject to the PPSA:** The provisions of this clause 13 are subject to the provisions of the PPSA and clause 14 (*Security Interest*).

13.2 **Possession as bailee:** After delivery of the Goods, until the full Payment has been made you shall possess the Goods as bailee only.

13.3 **Title:** We will retain absolute title over the Goods until:

13.3.1 we have received Payment in full in respect of the Goods; or

13.3.2 the Goods are disposed of in the manner prescribed under clause 14.12.

13.4 **Identification:** Until full title in the Goods has passed to you, you will ensure that:

13.4.1 any identifying plate, mark or packaging number on any of the Goods is not removed, defaced or obliterated; and

13.4.2 the Goods are identifiable and distinguishable from any other goods that may be in your possession and as to each particular Invoice of Goods.

### 14. SECURITY INTEREST

14.1 **Security Agreement:** This clause 14 sets out the Security Agreement between you (**Grantor**) and us (**Secured Party**).

14.2 **Creation of Security Interest:** The Grantor grants to the Secured Party a Security Interest in the Goods supplied by us to you, including all related proceeds (**Collateral**), as security for all or part of the Payment of any amount relating to the Goods in accordance with these Terms or otherwise. For the avoidance of doubt, this Security Interest is also a Purchase Money Security Interest (**PMSI**) in the Collateral.

14.3 **Ranking:** Subject to the priority rules set out in the PPSA, this Security Interest ranks in priority ahead of all other security interests in the Collateral.

14.4 **Continuing obligation:** This Security Interest is a continuing security and the Grantor's obligations under this Security Agreement continue until it has been terminated in accordance with this Security Agreement.

14.5 **Attachment:** The Security Interest attaches to the Collateral by virtue of the Grantor's possession of the Goods as bailee under clause 13.2.

14.6 **Perfection:** The Grantor irrevocably gives authority to the Secured Party to register a financing statement with respect to the Security Interest on the PPSR. Despite this provision, the Secured Party may perfect this Security Interest by any other means in accordance with the PPSA.

14.7 **Information:** The Grantor shall provide the Secured Party with any information required for the Secured Party to register a financing statement or a financing change statement with respect to this Security Interest on the PPSR.

14.8 **Identification:** Until this Security Interest in the Collateral has been extinguished, the Grantor will ensure that, as far as is reasonably practicable:

14.8.1 any identifying plate, mark or packaging number on any of the Collateral (including Goods) is not removed, defaced or obliterated; and

14.8.2 the Collateral is identifiable and distinguishable from any other goods or products that may be in the Grantor's possession and as to each particular Invoice of Goods comprising the Collateral.

14.9 **Accessions:** The Grantor acknowledges that this Security Interest continues to apply to Collateral that becomes an accession to other goods.

14.10 **Remedies:** Until this Security Interest in the Collateral has been extinguished, if:

14.10.1 a Default Event occurs in respect of the Grantor; or

14.10.2 the Grantor is in breach of these Terms, the Secured Party may as it sees fit and without notice to the Grantor, seize, retain or redeem the Collateral, or seek any and all remedies provided under Chapter 4 of the PPSA or any other remedies provided at law or in equity, including those set out in clause 14.11.

14.11 **Right of entry:** In addition to any rights given to the Secured Party under Chapter 4 of the PPSA, the Grantor irrevocably:

14.11.1 grants the Secured Party the right to:

A demand the immediate return of the Goods to the Secured Party;

B enter the Grantor's premises to search for and seize the Goods without notice or liability to the Grantor; and

C retain, sell or otherwise dispose of those Goods in any manner it sees fit; and

14.11.2 indemnifies, and keeps indemnified, the Secured Party against any claim (including in negligence) in respect of any damage to the property of, or the premises occupied by, the Grantor or any consequential loss caused by another party arising relating to searching for and seizing any Goods in accordance with this clause 14.11.

14.12 **Permitted use and sale:** The Grantor may only sell or deal with any of the Collateral (including accessions) in respect of which full Payment has not been received if:

14.12.1 the Secured Party has not exercised a remedy under clause 14.10;

14.12.2 the proposed transaction is a *bona fide* transaction to a third party at market value conducted in the ordinary course of business of the Grantor;

14.12.3 the proposed transaction does not create a security interest in the Collateral that ranks above this Security Interest;

14.12.4 all proceeds of the proposed transaction is:

A immediately paid to the Secured Party; or

B held on trust for the Secured Party in a separate account, payable to the Secured Party on demand; and

14.12.5 unless otherwise obligated by law, the Grantor does not disclose to a third party that the proposed transaction is subject to this Security Agreement or that the

proceeds will be immediately paid to the Secured Party or held on trust for the Secured Party.

14.13 **Costs:** The Grantor shall pay all costs incurred by the Secured Party (including costs on a solicitor-client basis and debt collector's costs) arising out of this Security Agreement, including costs in relation to:

14.13.1 registration of a financing statement or a financing change statement;

14.13.2 seizure, retention, redemption or any other remedy exercised pursuant to clause 14.10; and

14.13.3 the enforcement of its rights under this Security Agreement (including matters incidental to it).

14.14 **Extinguishment:** The Security Interest is extinguished only if:

14.14.1 one of the following applies:

A all amounts payable in relation to the Collateral have been paid in full;

B the Secured Party has exercised a remedy under this Security Agreement;

C the Collateral has been dealt with by the Grantor pursuant to clause 14.12; or

D a third party has taken free of this Security Interest as provided by the PPSA; and

14.14.2 all obligations under this Security Agreement have been satisfied by the Grantor, including the obligation to pay costs as set out in clause 14.13.

14.15 **Removal:** The Secured Party acknowledges its obligation to lodge a financing change statement to remove this Security Interest from the PPSR upon the extinguishment of this Security Interest in accordance with clause 14.14.

14.16 **Waiver:** Sections 95, 118, 121(4), 125, 130, 132 and 135 of the PPSA shall not apply to the extent that they impose obligations on the Secured Party.

14.17 **Waiver of receipt of statements:** The Grantor irrevocably waives its right to receive from the Secured Party a copy of any financing statement, financing change statement or verification statement that is registered, issued or received at any time in relation to this Security Agreement.

14.18 **Change of name:** The Grantor shall immediately notify the Secured Party in writing of any change of name of the Grantor.

14.19 **Acknowledgement:** The Grantor acknowledges due notice of this Security Agreement with acceptance of these Terms + Conditions.

### 15. INTELLECTUAL PROPERTY

15.1 **Your intellectual property:** If you provide us with Material to be used in the supply of the Goods or Services:

15.1.1 you warrant and represent to us that any Goods or Services supplied to you based on the Material you provide to us will not infringe the Intellectual Property Rights of any third party; and

15.1.2 you indemnify and will keep us indemnified from and against any and all claims,

liabilities, obligations, expenses or damages which we may suffer or incur as a result or in connection with the representation or warranty in clause 15.1.1 being untrue or breached.

15.2 **Licence over Materials:** You grant to us a non-exclusive royalty-free license throughout the universe to use all Intellectual Property Rights in all Materials for so long as necessary or convenient for the production of the Goods or Services and the matters contemplated in relation to the delivery of the relevant Goods or Services.

15.3 **Our intellectual property:** All of our Intellectual Property Rights in and relating to the production, development and supply of the Goods or Services, including but not limited to drawing, illustrations, specifications, designs, software and other literature (excluding Materials licensed to us pursuant to clause 15.2) remains our property and shall not be transferred, assigned, licensed, reproduced, disclosed or otherwise given to any other person by you without our prior written consent.

15.4 **Confidentiality:** You shall keep confidential and shall not use any confidential information communicated by us to you without our prior written consent.

## 16. GST

16.1 **Prices exclusive of GST:** Unless otherwise agreed, prices with respect to any taxable supply are exclusive of GST.

16.2 **GST payable in addition:** You must pay to us all GST in addition to any other amounts payable by you to us in respect of a taxable supply, which will be payable by you when required to pay for the Goods or Services.

16.3 **Issue of tax invoice:** We will issue a tax invoice for any taxable supply to you, which will enable you, if permitted by the GST Law, to claim a credit for GST paid by you.

16.4 **Third party supplies:** If GST is payable for a taxable supply by a third party, we will request that party to provide you with a tax invoice.

## 17. GENERAL

17.1 **Indemnity:** You agree to indemnify and keep us indemnified in respect of all damages, losses, costs and expenses (including legal costs) that we may incur as a result of your breach or alleged breach of these Terms.

17.2 **Termination:** If a Default Event occurs:

17.2.1 we may, without limiting any other right we have under these Terms, terminate any outstanding Order and any contract for the supply of Goods and Services to you; and

17.2.2 all Payments and any other money under these Terms becomes immediately payable.

17.2.3 **Dispute resolution:** The parties agree that any dispute arising out of these Terms shall be determined in accordance with the provisions of the *Commercial Arbitration Act 2010* (NSW).

17.3 **Lawful purpose:** You shall ensure that the Goods and Services are used only for lawful purposes and in accordance with any applicable laws.

17.4 **Binding:** These Terms shall bind our successors, administrators and permitted assigns

and your executors and permitted assigns, or, being a company, its successors, administrators and permitted assigns.

17.5 **Assignment:** We may without notice to you assign, transfer and/or sub-contract our rights and/or obligations (in whole or in part) under these Terms. You may not assign, transfer, hold on trust or otherwise delegate any of your rights or obligations under these Terms without our prior written consent.

17.6 **Time of the essence:** Time shall be of the essence in relation to any date or period under these Terms.

17.7 **New Terms + Conditions:** If we adopt new terms and conditions for the sale of Goods and Services:

17.7.1 you will be given written notice (if you are a Customer at the relevant time); and

17.7.2 unless otherwise agreed, they will apply to the supply of Goods and Services after you accept such new terms and conditions.

17.8 **Variation:** We may vary these Terms by providing you 14 days written notice.

17.9 Any qualification of these Terms made either orally or by you or contained in any document issued by you shall be of no force or effect.

17.10 **Force Majeure:** If a Force Majeure Event occurs, we may:

17.10.1 totally or partially suspend any Order, any part of an Order or any deliveries relating to an Order during any period in which we may be prevented or hindered from delivering by our normal means of supply or delivery due to that Force Majeure Event; and

17.10.2 elect to extend at our discretion the period for performance of an obligation under these Terms as is reasonable in all the circumstances.

17.11 **Severability:** Each clause in these Terms is severable and if any clause is held to be illegal or unenforceable, then the remaining clauses will remain in full force and effect.

17.12 **Waiver:** No failure, delay, relation or indulgence on our part in exercising any power, right or remedy precludes any other or further exercise of that or any other power, right or remedy.

17.13 **Governing law:** These Terms shall be governed by the laws of the State of New South Wales and the parties irrevocably submit to the non-exclusive jurisdiction of the Courts of the State of New South Wales.

## 18. INTERPRETATION + DEFINITIONS

18.1 **Personal pronouns:** Except where the context otherwise provides or requires:

18.1.1 the terms **we**, **us** or **our** refers to the Company; and

18.1.2 the terms **you** or **your** refers to the Customer.

18.2 **Defined terms:** In these Terms, unless otherwise provided, the following terms shall have their meaning as specified:

**ACL** means the Australian Consumer Law under the *Consumer and Competition Act 2010* (Cth) as amended.

**Charges** means any sales tax, excise duties, customs duty, transfer duty, GST or any other taxes, duties or

charges applicable in respect of the provision of the Goods and Services.

**Collateral** means property that is subject of a security interest.

**Company** means **Renz Australia Pty Ltd** (ACN 116 940 222) trading as Renz Australia.

**Customer** means any person or entity that places an Order with us and agrees by conduct or by virtue of notice or otherwise to be bound by these Terms, including any related company, related party, officer and authorised person of the relevant person.

**Default Event** means any one of the following events:

- (a) you fail to make any payment when due, whether for the Goods and Services or otherwise;
- (b) breach these Terms;
- (c) Winding Up commences against you;
- (d) a receiver is appointed to you;
- (d) you become insolvent, bankrupt or commit an act of bankruptcy;
- (e) proceedings are commenced or an application is made for the appointment of any persons listed in items (b) to (e) above; or
- (f) a mortgagee or their agent enters into possession of your assets.

**Default Interest** means as defined in clause 5.

**Delivery** means the delivery of the Goods and Services in accordance with clause 7.1.

**Force Majeure Event** means circumstances beyond our reasonable control, which shall include, but not be limited to compliance with any laws, regulations, orders, acts, instructions or priority request of any government, or any department or agency, civil or military authority, acts of God, acts of the public enemy, your acts or omissions, fires, floods, strikes, lockouts, embargoes, wars, labour or material shortages, riots, insurrections, defaults of our suppliers or subcontractors, delays in transportation, loss or damage to Goods in transit or instructions or lack of instructions from you.

**Goods** means goods sold by the Company from time to time, including equipment and consumables.

**Grantor** means the person who has the interest in property to which a security interest is attached.

**GST and GST Law** have the meaning as set out in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

**Intellectual Property Rights** means all forms of intellectual property rights (whether registered or unregistered) in copyright, designs, patents, trade marks, domain names, trade secrets, know-how, confidential information, and all other similar proprietary rights and all extensions and renewals thereof anywhere in the world which currently exist and/or are recognised in the future.

**Invoice** unless otherwise agreed means the invoice issued upon the delivery of the Goods and Services specified in your Order.

**Material** means any material in which you have Intellectual Property Rights provided by you for use by us in the production, development and supply of the Goods and Services to you.

**Order** means an order for Goods and Services received by us in writing or verbally.

**Payment** means payment of any amount relating to Goods or Services in accordance with these Terms.

**PMSI** means a purchase money security interest as defined by section 14 of the PPSA.

**PPSA** means the *Personal Property Securities Act 2009* (Cth) as amended, including any regulations made pursuant to it.

**PPSR** means the Personal Property Securities Register.

**Quote** means a quotation by us for the supply of particular Goods and Services containing details as specified in clause 2.2.

**Secured Party** means a person who holds the benefit of a security interest.

**Security Agreement** means the security agreement set out in clause 14 (*Security Interest*).

**Security Interest** means the security interest created in clause 14 (*Security Interest*).

**Services** means services provided by the Company from time to time, including technical services and maintenance, consultation and advice and product design.

**Service Fee** means our fee charged to you by us for the service of Goods importation (in addition to all other Charges and the cost of the Goods).

**SGA** means the *Sale of Goods Act 1923* (NSW) as amended.

**Winding Up** means commencing to be wound up, or suffering a provisional liquidator, liquidator, official manager or any other administrator of the affairs of insolvent companies to be appointed.