

TERMS & CONDITIONS

Parties

Renteca Pty Ltd ABN 62 104 302 016 (**Renteca**)

The entity described as the Customer in the Supply Form (**Customer**)

Background

These Terms & Conditions form part of each and every Supply Agreement between Renteca and the Customer.

1. Definitions

In these Terms & Conditions:

Authorised Officer means, in relation to a corporation which is a party:

- (a) an employee of the party whose title contains either of the words Director or Manager;
 - (b) a person performing the function of any of them;
 - (c) a solicitor acting on behalf of the party; or
- a person appointed by the party to act as an Authorised Officer for the purposes of these Terms & Conditions and notified to the others.

Billing Period has the meaning given to it in clause 7.1.

Business Day means a day on which banking institutions generally are open in Brisbane but excluding Saturdays, Sundays and public holidays.

Charge means any amount payable by the Customer to Renteca under clause 6.1.

Claim means, in relation to a person, any action, allegation, claim, demand, judgment, liability, proceeding, remedy, right of action or right of set-off made against the person concerned however it arises whether:

- (a) it is present, unascertained, immediate, future or contingent;
- (b) it is based in contract, tort, statute or otherwise; or
- (c) it involves a third party or a party to any Supply Agreement.

Completed Supply Form means a Supply Form which has been fully completed (to Renteca's satisfaction) by the Customer.

Cost means any charge, cost, expense, outgoing, payment or other expenditure of any nature including legal fees on a full indemnity basis (whether calculated on a time charge basis or otherwise).

Credit Application has the meaning given to it in clause 11.1.

Credit Facility means a Credit Application which has been accepted by Renteca under clause 11.2.

Customer Details means any contact details for the Customer contained in a Completed Supply Form.

Damage means any award, Cost, damage, injunction, injury, judgment, Liability, Loss or order.

Dispute Notice has the meaning given to it in clause 10(a).

Encumbrance means any mortgage, charge, debenture, bill of sale, lien, pledge, trust, writ, warrant, retention of title or any right or interest of any third party affecting the Equipment.

Equipment means any goods, chattels, plant, equipment, or machinery, including any machinery, tools, vehicles, parts, accessories, and structures supplied under a Supply Agreement.

Equipment Hire Agreement has the meaning given to it in clause 3.3.

Equipment Sale Agreement has the meaning given to it in 3.2.

Event of Default means an event as described in clause 18.2.

Government Body means:

- (a) any person, body or other thing exercising an executive, legislative, judicial or other governmental function of any country or political subdivision of any country;
- (b) any public authority constituted by or under a law of any country or political subdivision of any country; or
- (c) any person deriving a power directly or indirectly from any other Government Body.

GST Law means *A New Tax System (Goods and Services Tax) Act 1999* (Cth) and/or associated Commonwealth legislation, regulations and publicly-available rulings.

Hire Equipment any Equipment, other than Service Equipment, which is hired by the Customer from Renteca.

Insolvency Event means:

- (a) in relation to any corporation:
 - (1) the appointment of an administrator or provisional liquidator in respect of it
 - (2) its winding up (whether voluntary or involuntary);
 - (3) dissolution occurs;
 - (4) a receiver, receiver and manager or trustee is appointed in respect of the corporation or its property;
 - (5) a ground for winding up occurs in relation to the corporation;
 - (6) the corporation ceases or threatens to cease to carry on its business;
 - (7) the corporation being deemed to be or stating that it is unable to pay its debts when they fall due;
 - (8) the corporation enters into, or resolves to enter into any arrangement, composition or compromise with or an assignment for the benefit of all or any class of its creditors; and
 - (9) an application being made which is not dismissed or withdrawn within ten (10) Business Days for an order, resolution being passed or proposed, a meeting being convened or any other action being taken to cause anything described above;
- (b) in relation to an individual, that person becoming an insolvent under administration as defined in Section 9 of the *Corporations Act 2001* (Cth); and
- (c) in relation to any person, anything analogous to or having a similar effect to anything described above in this definition under the law of any relevant jurisdiction.

Invoice means an invoice issued under clause 7.1.

Invoice Date has the meaning given to it in clause 7.2(b).

Liability means a debt, liability or Obligation, quantified or unquantified, whether:

- (a) actual, contingent or prospective;
- (b) present or future;
- (c) qualified or unqualified; or
- (d) incurred jointly or severally with any other person.

Loss means any loss (including loss of profit and loss of expected profit), diminution in value or deficiency of any kind whether indirect, consequential or otherwise.

Obligation means any commitment, covenant, duty, obligation or undertaking whether arising by operation of law, in equity or by statute and whether express or implied.

Payment Details has the meaning given to it in clause 9.2.

Personnel means any person who is employed or otherwise engaged by Renteca to provide Services.

PPS Act means the *Personal Property Securities Act 2009* (Cth).

Pre-Payment means any Charge which must be paid in advance by the Customer in accordance with clause 6.2.

Register has the meaning given to it in the PPS Act.

Renteca Details means notices@renteca.com.au or 1310 Boundary Road, Wacol QLD 4076.

Sale Equipment means any Equipment which is sold to the Customer by Renteca.

Security Interest means:

- (a) an interest in or right:
 - (1) reserved over property (including any retention of title to property or any right to set off or withhold payment of any deposit or other money);
 - (2) created or otherwise arising over property under a mortgage, charge, bill of sale (as defined in any relevant statute), lien, pledge, trust or right; or
 - (3) by way of security for the payment of a debt or other monetary Obligation or the performance of or compliance with any other Obligation;
- (b) any instrument or transaction which reserves, constitutes or evidences the interests and rights referred to in paragraph (a); and
- (c) any other interest which constitutes a security interest as that term is defined in the PPS Act.

Service means any service provided by Renteca to the Customer, whether directly or through an employee, subcontractor or other agent.

Service Agreement has the meaning given to it in clause 3.4.

Service Equipment means any Equipment which is supplied by Renteca in conjunction with the provision of Services.

Special Condition means a provision contained in a Special Conditions Schedule.

Special Conditions Schedule means each of Schedule 1 to Schedule 3 of these Terms & Conditions.

Supply Agreement means the contract formed upon Renteca's acceptance of a Completed Supply Form, the entire terms of which contract are constituted by these Terms & Conditions in conjunction with the Completed Supply Form.

Supply Category has the meaning given to it in clause 3.1.

Supply Form has the meaning given to it in clause 4.1.

Supply Item has the meaning given to it in clause 4.5(a).

Tax Invoice means a document that complies with the requirements of the GST Law for a tax invoice.

Taxable Supply has the meaning given to it under the GST Law.

Verification Statement has the meaning given to it in the PPS Act.

2. Interpretation

In these Terms & Conditions, unless the contrary intention appears:

- (a) a reference to:
 - (1) these Terms & Conditions or another document includes any variation or replacement of it notwithstanding any change in the identity of the parties;
 - (2) any statute, ordinance, code or other law includes regulations and other statutory instruments under any of them and consolidations, amendments re-enactments or replacement of any of them;
 - (3) a person, firm, corporation, association or Government Body includes any other of them;
 - (4) a person includes the person's successors, executors, administrators, substitutes (including a person who becomes a party by novation) and assigns;

- (5) a time is a reference to Brisbane time unless otherwise specified; and
- (6) a right includes a benefit, remedy, authority, discretion and power;
- (b) the singular includes the plural and vice versa;
- (c) headings shall not affect the construction;
- (d) if the day on which:
 - (1) anything, other than a payment, is to be done is not a Business Day, that thing shall be done on the preceding Business Day; and
 - (2) a payment is to be made is not a Business Day it shall be made on the next Business Day but if the next Business Day falls in the next calendar month it shall be made on the preceding Business Day;
- (e) if an act is required to be done on a particular day and the act is done after 5.00pm on that day, it will be deemed to have been done on the following day;
- (f) where two or more persons are defined as a party to a Supply Agreement that term means each of the persons jointly, each of them severally and any two or more of them jointly; and
- (g) an agreement, covenant, Obligation, representation or warranty on the part of two or more persons binds them jointly and severally and an agreement, covenant, Obligation, representation or warranty in favour of two or more persons is for the benefit of them jointly and severally.

3. Supply Categories

3.1 Supply Categories

These Terms & Conditions apply to any past, present or future agreement between the parties which falls into one of the following categories (each a **Supply Category**):

- (a) Equipment Sale Agreement;
- (b) Equipment Hire Agreement; or
- (c) Service Agreement,

where each Supply Category may also include repairs by Renteca.

3.2 Equipment Sale Agreement

An agreement is an Equipment Sale Agreement if it contemplates the purchase of Sale Equipment by the Customer.

3.3 Equipment Hire Agreement

An agreement is an Equipment Hire Agreement if it contemplates the hire of any Hire Equipment by the Customer.

3.4 Service Agreement

An agreement is a Service Agreement if it contemplates the provision of Services to the Customer from Renteca.

4. Supply Agreements

4.1 Supply Forms

Renteca may from time to time prescribe a standard form used for a particular Supply Category (**Supply Form**) by displaying that Supply Form on its website or otherwise making it available to the Customer.

4.2 Submission of Supply Forms

- (a) The Customer may submit a Completed Supply Form to Renteca using whatever method of submission that Renteca may prescribe from time to time.
- (b) The submission of a Completed Supply Form by the Customer constitutes an offer by the Customer to enter into a Supply Agreement on the terms set out

in the Completed Supply Form and these Terms & Conditions.

4.3 Right to refuse

Renteca reserves the right to supply or decline to supply, in whole or in part, any Equipment or Services requested by the Customer in a Completed Supply Form.

4.4 Supply Agreement

If Renteca notifies the Customer that a Completed Supply Form is acceptable to Renteca:

- (a) upon communication of that acceptance a Supply Agreement will come into existence between the parties; and
- (b) the Completed Supply Form, together with these Terms & Conditions, will constitute the entire terms of that Supply Agreement.

4.5 Contents of Supply Form

A Completed Supply Form must set out:

- (a) the Supply Category that it relates to;
- (b) a description for each individual item of Equipment or individual Service which is requested (**Supply Item**);
- (c) the required quantity for each Supply Item (**Quantity**);
- (d) the required insurances to be held by the Customer;
- (e) the Customer Details;
- (f) the Payment Details; and
- (g) any other details which may be included under the Special Conditions which apply for that Completed Supply Form.

4.6 No variations in Completed Supply Form

Nothing in a Completed Supply Form or in any other document given by the Customer to Renteca shall have the effect of varying any provision contained in these Terms & Conditions or creating or altering the rights, Liabilities or Obligations of any party.

4.7 Single Supply Category for each Supply Agreement

- (a) Where a Supply Form specifies for the provision of Supply Items which fall into more than one Supply Category:
 - (1) that Supply Form will not be valid unless the Supply Items for each Supply Category are dealt with separately such that it is clear which Supply Item falls into which Supply Category; and
 - (2) any approval of a valid Supply Form by Renteca under clause 4.4 shall result in the creation of a separate Supply Agreement for each Supply Category as if a separate Supply Form had been Submitted for each Supply Category.

4.8 Invalidity of other Agreements

Any arrangement which falls into one of the Supply Categories in clause 3.1 is void and invalid to the extent that it purports to vary any of these Terms & Conditions or create any rights, Obligations or Liabilities not contemplated by these Terms & Conditions.

4.9 Quotes

The parties agree that any quotes which are provided by Renteca to the Customer for the provision of Equipment or Services are provided by way of an estimate only and will not be binding upon any party.

5. Special Conditions

5.1 Special Conditions Schedules

A Special Condition will only apply to a Supply Agreement if that Special Condition is contained in the Schedule which appears next to the Supply Category for that Supply Agreement in the below table:

Supply Category	Special Conditions
Equipment Sale Agreement	Schedule 1
Equipment Hire Agreement	Schedule 2
Service Agreement	Schedule 3

5.2 Inconsistencies

If there are any discrepancies or ambiguities between provisions in the documents constituting a Supply Agreement, the order of precedence to resolve the inconsistency or ambiguity shall be as follows:

- (a) any applicable Special Conditions;
- (b) any other clause in these Terms & Conditions; and
- (c) the Completed Supply Form for that Supply Agreement.

6. Payment of Charges

6.1 Charges

The Customer agrees to pay to Renteca:

- (a) any amount which becomes payable for a Supply Item under a Supply Agreement, calculated in accordance with the applicable Special Conditions for that Supply Item (**Supply Charge**); and
- (b) any other additional amount which becomes payable under a Supply Agreement,

on the terms of payment set out in these Terms & Conditions.

6.2 Pre-Payment of Charges

If these Terms & Conditions specify that a Charge must be paid by Pre-Payment, that Charge must be paid by the Customer in advance of any Equipment or Services being provided by Renteca.

6.3 Post-payment of Charges

Any Charges which are not paid by Pre-Payment must be paid in accordance with clause 7.

6.4 Payment without Credit Facility

If the Customer does not have a Credit Facility:

- (a) all Supply Charges must be paid by Pre-Payment;
- (b) Renteca may require the Customer to pay any further amount by Pre-Payment at any time to cover any additional Charges which may be payable under a Supply Agreement; and
- (c) no Obligation in any Sale Agreement will become binding upon Renteca until all Pre-Payments have been received by Renteca.

6.5 Electronic payment

The Customer must pay for all Charges by credit card, or any other method of electronic transfer that Renteca may allow, into any account that Renteca may nominate from time to time.

6.6 Overpayment

If any amount which is paid by the Customer exceeds the Customer's Liabilities under a Supply Agreement, Renteca may elect to either credit that amount towards the Customer's other Liabilities or refund it to the Customer.

6.7 Lien

The Customer grants Renteca a lien over any property or equipment which the Customer supplies to Renteca for repairs. Renteca will have no obligation to return to the Customer any repaired property until all outstanding payments have been received in full.

7. Invoicing

7.1 Issuing Invoices

Renteca may, at any time:

- (a) issue an Invoice to the Customer for any Charges which Renteca considers to have become payable during the period of time for which that Invoice is issued (**Billing Period**); or
- (b) amend or re-issue any Invoice which has previously been issued with respect to any Billing Period if it believes that any Charge was omitted or incorrectly calculated.

7.2 Payment of Invoices

All Charges contained in an Invoice must be paid by the Customer:

- (a) within the Credit Period if the Customer has a Credit Facility; or
- (b) otherwise, within 10 days from the date on which the Invoice is received (**Invoice Date**).

8. Damage Waiver

8.1 Damage Waiver

- (a) Renteca reserves the right to charge the Customer, by way of Pre-Payment, an amount equivalent to 2% of the value of any Hire Equipment or Service Equipment under these Terms & Conditions (**Damage Waiver**).
- (b) If a Damage Waiver is applied for any Equipment under clause 8.1(a), the Customer's liability for theft or accidental Damage caused to that Equipment (**Damage Waiver Event**) shall be limited in accordance with clauses 8.2 and 8.3 below.

8.2 Procedural requirements

If a Damage Waiver Event occurs to any Equipment which is subject to a Damage Waiver under clause 8.1, the Customer must:

- (a) notify Renteca within 24 hours of the Damage Waiver Event occurring;
- (b) provide to Renteca any evidence or other documentation relating to the Damage Waiver Event which Renteca may request (which may include sworn statements, police reports and statutory declarations) within 5 Business Days of Renteca making that request; and
- (c) pay to Renteca the applicable excess for each Damage Waiver Event under this clause within 5 Business Days of Renteca requesting payment of that excess, which shall be the greater of:
 - (1) \$500 for each item of Equipment; or
 - (2) 15% of the total cost incurred by Renteca in either repairing or replacing the Equipment, with the decision to repair or replace being at Renteca's sole discretion.

8.3 Exclusions for Damage Waiver

The Damage Waiver will not be available for any Damage which is caused wholly or partly:

- (a) by the use or operation of the Equipment in violation of any law, regulation or by-law;
- (b) in contravention of any of these Terms & Conditions, including any positive or negative Obligations in relation to that Equipment;
- (c) in circumstances where the Customer has failed to comply with its Obligations in clause 8.2;
- (d) by events which occurred prior to the Customer paying the Damage Waiver;
- (e) to tyres and tubes, including punctures, blowouts, bursts, bruises or cuts;
- (f) to glass, paintwork or accessories;
- (g) by vandalism of the Hire Equipment, including graffiti;
- (h) where the Normal Operating Hours for that Equipment have been exceeded;
- (i) during transit or while the Equipment is being loaded or unloaded from any vehicle by the Customer;
- (j) the overloading of electrical current to electrical Equipment, including the use of under-rated or excessive lengths of extension leads;
- (k) by exposure to any corrosive substance, including any caustic, hazardous or toxic materials, water or acid;
- (l) to Equipment which is ordinarily used off-shore, over water or in underground mines;
- (m) to Equipment which is located, used, loaded, unloaded, or transported on or over water, wharves, bridges or vessels of any kind; or
- (n) in any circumstances which, at the absolute discretion of Renteca, could have reasonably avoided by the Customer.

9. Retention of Payment Details

9.1 Application

This clause 9 applies to all Supply Agreements, irrespective of the method of payment which is used by the Customer.

9.2 Required Payment Details

Prior to entering into the first Supply Agreement under these Terms & Conditions, the Customer must provide Renteca with:

- (a) credit card details; or
- (b) a direct debit authorisation,

held by the Customer with a reputable bank or credit provider (**Payment Details**).

9.3 Customer's Authority

Upon providing the Payment Details to Renteca, the Customer:

- (a) irrevocably authorises Renteca:
 - (1) to retain a record of the Payment Details on file;
 - (2) to disclose the Payment Details to any third party gateway providers that Renteca may utilise for the purpose of processing and storing the Payment Details; and
 - (3) to authorise its third party payment gateway providers to use the Payment Details to process payment of any amount

which is payable to Renteca under any Supply Agreement,

without obtaining any further consent from the Customer or any other party;

- (b) warrants that the Payment Details are valid and sufficient to discharge all actual and prospective Liabilities under any Supply Agreement;
- (c) warrants that they have obtained any consent in relation to the Payment Details which may be required from any third party to give effect to these Terms & Conditions;
- (d) agrees to provide updated Payment Details to Renteca immediately in the event that any Payment Details previously provided are no longer current and otherwise upon request by Renteca; and
- (e) fully indemnifies Renteca against any Loss which it suffers in connection with any Claim made against Renteca by any person as a result of, or in connection with, Renteca exercising its rights under this clause 8.

9.4 Validation Payments

- (a) Renteca may from time to time charge a payment in the vicinity of \$2 for the purpose of ensuring that the Payment Details are correct (**Validation Charge**).
- (b) If a Validation Charge fails to process, Renteca may elect to immediately terminate any Supply Agreements between the parties, or to suspend any Supply Agreement until alternate Payment Details have been provided.

10. Dispute Resolution

- (a) If the Customer disagrees with or is otherwise dissatisfied with any Equipment, Service, Invoice or any other act or determination by Renteca under these Terms & Conditions (**Disputed Matter**), the Customer must provide a notice of that dispute (**Dispute Notice**) which sets out:
 - (1) details of the Disputed Matter; and
 - (2) the basis for the Customer disputing each Disputed Matter.
- (b) The Customer must submit the Dispute Notice within:
 - (1) the time period specified under the relevant Terms & Conditions; or
 - (2) if no timeframe is specified, 5 Business Days after the Customer first became or ought reasonably to have become aware of the Disputed Matter.
- (c) If a Dispute Notice is given to Renteca in accordance with clause 10(a), then Renteca must give to the Customer a written response to each of the Disputed Matters as set out in the Dispute Notice within 10 Business Days (**Response**).
- (d) If Renteca and the Customer have not resolved the Disputed Matters within 10 Business Days of the Response being delivered in accordance with clause 10(c), any party may request that the dispute be referred to mediation by providing notice to the other party in writing.
- (e) If the parties fail to agree to If the parties fail to agree as to the appointment of a mediator within 10 Business Days of the notice provided under clause 10(d), then either party may request the Resolution Institute to appoint a Mediator.
- (f) All costs involved in mediation must be paid equally by the parties.

- (g) The parties must attend the Mediation and try to resolve the dispute.
- (h) A party may not start court proceedings in relation to a dispute until it has exhausted the procedures in this clause, but neither party is prevented from applying to a court at any stage for urgent injunctive or other relief.
- (i) Nothing in this clause prevents any party from exercising any of its rights or permits any party to not comply with any Obligations under these Terms & Conditions.

11. Application for Credit Facility

11.1 Credit Application

The Customer may apply to Renteca for a Credit Facility by completing a credit application in the form prescribed by Renteca from time to time (**Credit Application**).

11.2 Approval of Credit Application

Renteca may at its sole and absolute discretion:

- (a) approve any Credit Application made by the Customer, at which point a Credit Facility will come into existence between Renteca and the Customer; or
- (b) reject any Credit Application without providing any reasons for that rejection.

11.3 Credit Period

Where a Credit Facility is provided by Renteca to the Customer, the Credit Period for each Invoice rendered by Renteca to the Customer will be:

- (a) 30 days from the end of the month in which that Invoice is rendered; or
- (b) any lesser period of time that Renteca may impose at its sole discretion.

11.4 Credit Reports

- (a) Renteca may at its discretion use any credit report concerning or relating to the Customer to assist Renteca in assessing a Credit Application or to facilitate collection of any other Liability.
- (b) The Customer agrees and consents to Renteca:
 - (1) receiving from any credit reporting agency of its choosing any credit report containing personal information about the Customer in relation to the collection of any outstanding amount due to Renteca or any other supplier to the Customer; and
 - (2) reporting the Customer's credit worthiness information to credit reporting bodies.

11.5 Withdrawal or variation of Credit Facility

- (a) Renteca may decide to withdraw or vary any existing Credit Facility at any time by giving the Customer written notice of that decision.
- (b) Any withdrawal or variation of a Credit Facility will take effect:
 - (1) immediately for all Supply Agreements which come into existence after notice of withdrawal or variation is given; or
 - (2) for all other Supply Agreements, at the end of the existing Credit Period.

12. Insurance

12.1 Current Insurance

The Customer must obtain and maintain at all times with a reputable insurance company the required insurances as set out on the Supply Form.

12.2 Certificates of Currency

The Customer must provide to Renteca copies of the certificates of currency for each of the insurance policies referred to in clause 12.1 within two days of a request being made by Renteca.

12.3 Entitlement to insurance moneys

Renteca will be entitled to receive all moneys payable to the Customer by the insurer under any relevant insurance policy or by any other person in respect of damage to, or loss of, the Equipment or any Personnel. The Customer irrevocably appoints Renteca and each and every duly authorised officer of Renteca as the Customer's attorney to recover or reasonably compromise in the Customer's name any claim for loss or damage under any such policy or otherwise and to give effectual releases and receipts for any claim.

13. Security Interest over Equipment

13.1 Terminology

In this clause 13, the terms Accession, Financing Statement, Financing Change Statement, Proceeds, Register and Security Agreement have the meanings given to them in the PPS Act.

13.2 Creation of Security Interest

The Customer acknowledges and agrees that:

- (a) these Terms & Conditions constitute a Security Agreement that creates a Security Interest in all Equipment sold, leased, hired, repaired, or otherwise supplied by Renteca to the Customer from time to time; and
- (b) each Security Interest created under or in connection with these Terms & Conditions or any transaction contemplated by them:
 - (1) extends to and acts as a Security Interest in respect of any Accession to the Equipment and any proceeds derived from, or from a dealing with, the Equipment, and continues in the Equipment if the Equipment becomes an Accession; and
 - (2) is a continuing Security Interest which will operate (despite any intervening payment or settlement of account) until Renteca has signed a release.

13.3 Waivers in relation to Security Interest

- (a) Renteca and the Customer agree that:
 - (1) to the extent that section 115(1) of the PPS Act allows them to be excluded, sections 95, 118, 121(4), 125, 130, 132(3)(d), 132(4), 135, 138B(4), 142 and 143; and
 - (2) to the extent that section 115(7) of the PPS Act allows them to be excluded, sections 127, 129(2), 129(3), 132, 134(2), 135, 136(5) and 137,

do not apply to any enforcement by Renteca of any Security Interest created under or in connection with these Terms & Conditions.
- (b) The Customer waives its right to receive anything from Renteca under section 275 of the PPS Act and agrees not to make a request of Renteca under that section.

- (c) The Customer and Renteca agree for the purposes of section 275(6) of the PPS Act that neither the Customer nor Renteca will disclose any information in the nature of that mentioned in section 275(1) of the PPS Act.
- (d) Without limiting any other provision of these Terms & Conditions, the Customer waives its right to receive any verification statement (or notice of any verification statement) in respect of any Financing Statement or Financing Change Statement relating to any Security Interest created under or in connection with these Terms & Conditions.

13.4 Customer's undertakings for Security Interest

The Customer undertakes and agrees:

- (a) to keep all Equipment free of any charge, lien or Security Interest except as created under these Terms & Conditions;
- (b) not to deal with the Equipment in a way that may prejudice any rights of Renteca under these Terms & Conditions or the PPS Act;
- (c) to do anything, including sign any further documents and provide any further information (which must be complete, accurate and up-to-date in all respects) that Renteca may require to:
 - (1) register a Financing Statement or Financing Change Statement in relation to a Security Interest on the Register;
 - (2) register any other document required to be registered by the PPS Act;
 - (3) correct a defect in a statement referred to in clauses 13.4(c)(1) and 13.4(c)(2); or
 - (4) ensure that each Security Interest created under or in connection with these Terms & Conditions, or any transaction contemplated by them, is a first ranking perfected Security Interest over all Equipment;
- (d) to indemnify, and upon demand reimburse, Renteca for all fees (including actual legal fees on a solicitor/own client basis), Costs, disbursements and expenses in:
 - (1) registering and maintaining a Financing Statement or Financing Change Statement on the Register or releasing any Equipment charged thereby; and
 - (2) enforcing or attempting to enforce the Security Interest created by these Terms & Conditions; and
- (e) not to register, or allow to be registered, a Financing Statement or a Financing Change Statement in respect of the Equipment (or Proceeds derived from, or from a dealing with, the Equipment) in favour of a third party, without the prior written consent of Renteca.

13.5 Obligation to maintain company details

The Customer undertakes and agrees:

- (a) to immediately advise Renteca of any material change in its business, including any change to its name, ABN, address, email address, facsimile number or any other details that have been, or are required to be, recorded on the register maintained under the PPS Act in relation to any security interest created under or in connection with these Terms & Conditions;
- (b) to pay all Costs in connection with the registration, discharge or amendment of any Financing Statement or Financing Change Statement;

- (c) to not, without the prior written consent of Renteca, lodge or serve a Financing Change Statement or an amendment demand in relation to any Security Interest created under or in connection with these Terms & Conditions; and
- (d) that the Equipment provided under these Terms & Conditions is not intended, and shall not be used, for personal, household or domestic purposes.

14. Renteca’s general Obligations

14.1 Non-excludable rights

The parties acknowledge that, under the Australian Consumer Law, certain conditions and warranties may be implied in a Supply Agreements and there are rights and remedies conferred on the Customer in relation to the provision of Equipment and Services which cannot be excluded, restricted or modified by agreement (**Non-excludable Rights**).

14.2 Disclaimer of Obligations

Renteca disclaims all conditions and warranties expressed or implied, and all rights and remedies conferred on the Customer, by statute, the common law, equity, trade, custom or usage or otherwise and all those conditions and warranties and all those rights and remedies are excluded other than any Non-excludable Rights.

14.3 Limitation of Liability

Renteca's Liability for a breach of any implied condition or warranty in relation to Equipment or Services which cannot lawfully be excluded, or any additional warranty which may be provided for in these Terms & Conditions, is limited (but only to the extent permitted by law) at Renteca's discretion to:

- (a) replacing the Equipment or Services or supplying equivalent Equipment or Services;
- (b) paying the Cost of replacing the Equipment or Services or acquiring equivalent Equipment or Services; or
- (c) repairing the Equipment or Services or paying the Cost of repairing the Equipment or Services.

14.4 Indirect Loss

Notwithstanding any other provision of these Terms & Conditions, Renteca is in no circumstances (whatever the cause) liable in contract, tort (including without limitation, negligence) or breach of statutory duty or otherwise to compensate the Customer for:

- (a) any increased Costs or expenses;
- (b) any Loss of profit, revenue, business, contracts or anticipated savings;
- (c) any Damage resulting from a Claim by a third party; or
- (d) any special, indirect or consequential Loss of any nature whatsoever.

14.5 Force Majeure

Renteca will have no Liability to the Customer in relation to any Claims caused by the failure of Renteca to supply any Equipment as a result of fire, flood, tempest, earthquake, riot, civil disturbance, theft, crime, strike, lockout, breakdown, war, the inability of Renteca's normal suppliers to supply necessary parts or any other matter beyond Renteca's control.

14.6 Australian Consumer Law

If the Australian Consumer Law applies to the supply of goods or services under this document, Renteca acknowledges and agrees that its goods and services come with a guarantee that cannot be excluded under the Australian Consumer Law, and that the following mandatory notice under section 102(1) of the Australian Consumer Law that must be provided to the Customer will apply:

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

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

You are also entitled to choose 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.

15. Customer’s general Obligations

15.1 Customer’s Indemnity

The Customer indemnifies Renteca, its directors, officers, employees, contractors, representatives, agents and its associated entities and keeps each of them indemnified, from and against any Claims and Damages incurred or suffered directly or indirectly from or in connection with:

- (a) any breach of a Supply Agreement or any of the Customer's warranties by the Customer;
- (b) the termination of a Supply Agreement because of a breach by the Customer;
- (c) any wilful, unlawful or negligent act or omission by the Customer;
- (d) Damage to the Equipment caused directly or indirectly by the Customer;
- (e) any Damage to real or personal property of the Customer which results from the ordinary operation of a Supply Agreement;
- (f) any third-party Claim against Renteca in relation to the Equipment or the use or operation of it by the Customer;
- (g) any injury to or death of a natural person and any Damage to a third party's real or personal property caused or contributed to by the Customer;
- (h) any direct costs incurred by Renteca enforcing its rights under a Supply Agreement, including call-out costs;
- (i) any Claim by a third party arising directly or indirectly out of a breach of a Supply Agreement by the Customer; or
- (j) any other thing in relation to which the Customer has assumed the risk or Liability,

except to the extent that any Damage is caused by the wilful, unlawful or negligent actions of Renteca.

16. Recall

- (a) If any Equipment provided to the Customer is defective and Renteca:
 - (i) determines that a recall campaign is necessary; or
 - (ii) is subject to a mandated or regulatory recall,
 Renteca shall implement such recall campaign (**Recall**).
- (b) The Customer must return the defective Equipment to Renteca promptly after being advised of a Recall.
- (c) If a Recall is implemented, Renteca shall promptly, at its option and cost, either repair or resupply the Equipment the subject of the Recall or refund the relevant amount for the Equipment (if purchased) or the amount of time during which the Equipment is unavailable (if hired).

- (d) The Customer shall provide reasonable assistance in such Recall.
- (e) The Customer shall be liable for the costs and recall-related expenses of Renteca to the extent the Recall is caused or contributed to by an act or omission of the Customer which would constitute a breach of this document by the Customer.

17. Amendments to Terms & Conditions

17.1 Amendments to Terms & Conditions

Renteca may amend or replace these Terms & Conditions or any part of these Terms & Conditions by giving the Customer written notice of the amendment at any time.

17.2 Time amendments effective

If Renteca notifies the Customer of an amendment to these Terms & Conditions under clause 17.1:

- (a) unless otherwise agreed, existing Supply Agreements will continue to be governed by the terms in force prior to the amendments;
- (b) any amendments will take effect immediately for any Supply Agreement which comes into existence after notification of the amendment is given; and
- (c) the Customer's submission of any new Completed Supply Form will represent the Customer's acceptance of the Terms & Conditions as amended.

18. Termination

18.1 Termination of Supply Agreement with notice

Renteca may terminate a Supply Agreement at any time by giving the Customer 30 Business Days' written notice of the termination.

18.2 Termination for Event of Default

Renteca may terminate a Supply Agreement immediately if:

- (a) the Customer:
 - (1) suffers an Insolvency Event; or
 - (2) commits any other breach of that Supply Agreement which is incapable of remedy or remains unremedied 10 days after Renteca has notified the Customer of the breach; or
- (b) any Equipment which Renteca owns, or otherwise has an interest in:
 - (1) is subject to any threatened or levied distress or execution;
 - (2) is lawfully seized or impounded; and
 - (3) is not adequately insured or becomes uninsured in circumstances where the Customer is required to maintain an insurance policy.

18.3 Termination by Customer

The Customer may terminate a Supply Agreement immediately if Renteca:

- (a) suffers an Insolvency Event; or
- (b) commits a material breach of a Supply Agreement which is incapable of remedy or remains unremedied 10 days after the Customer has notified Renteca of the breach.

18.4 Without prejudice to rights

Termination of a Supply Agreement will be without prejudice to the rights of a party accrued as at the date of termination.

18.5 Surviving rights and Obligations

The provisions relating to indemnities, confidential information, governing law and jurisdiction, and the creation of any Security Interest, survive termination of a Supply Agreement until each of those Obligations have been completely discharged.

19. Rights upon Termination

19.1 General rights

Without prejudice to any other remedies Renteca may have, if at any time an Event of Default occurs, Renteca reserves the right to:

- (a) charge a monthly administration fee of \$25 on accounts that exceed the agreed payment terms;
- (b) charge interest at a rate of 15% per annum calculated on a daily basis on amounts not paid within the payment terms;
- (c) remove any Hire Equipment from the Customer's possession;
- (d) cease providing any Services to the Customer; and
- (e) charge the Customer for any Damage incurred by Renteca as a result of the Customer's failure to pay to Renteca all amounts owing by the Customer to Renteca when due, including any debt collection and legal Costs incurred in enforcing payment on a solicitor and own client basis.

19.2 Consequences of Termination

If Renteca terminates these Terms & Conditions because of an Event of Default:

- (a) any amount invoiced by Renteca to the Customer becomes immediately due and payable; and
- (b) the Customer agrees to indemnify Renteca against all Damage (including solicitor and own client Costs, the Costs of any debt recovery agents and other commercial agent commissions, freight, insurance, Loss of profit and interest) incurred by Renteca as a result of the Customer's default.

19.3 Repossession

- (a) The Customer hereby irrevocably grants to Renteca the right, at its sole discretion, to access the Customer's property and remove or repossess any Hire Equipment from the Customer if an Event of Default occurs.
- (b) Renteca shall not be liable to the Customer or any person who brings a Claim through the Customer as a result of the exercise of its rights under clause 19.3(a).
- (c) If an Event of Default occurs, then Renteca may, without prejudice to any other remedies it may have, repossess any Equipment delivered to the Customer on any account which has not been paid for in accordance with the relevant Supply Agreement herein and commence proceedings to recover the balance of any monies owing to Renteca by the Customer.

19.4 Rectify the Customer's default

Renteca may do anything which should have been done by the Customer under a Supply Agreement but which the Customer has not done or which Renteca reasonably considers that the Customer has not done properly.

19.5 Appropriation and fees

Renteca may at its sole and absolute discretion appropriate any payment received from the Customer against any amount owed by the Customer to Renteca under a Supply Agreement.

19.6 Specific rights if default caused by Insolvency Event

- (a) If an Insolvency Event occurs, without prejudice to any other rights Renteca may have the Customer by receiving delivery of any Equipment authorises Renteca to enter the Customer's premises (or the premises of any associated company or agent where the Equipment is located) without Liability for trespass or any resulting Damage to conduct a stock check of unpaid Equipment and retake possession of that Equipment.
- (b) Renteca may keep or re-sell any of the Equipment repossessed and will account to the Customer for any surplus from the net proceeds of sale of the Equipment after deducting all amounts owing in respect of the repossessed Equipment.
- (c) While Renteca has ownership of the Equipment, the Customer must store the Equipment so that it is clearly distinguishable from Equipment of a similar nature in the Customer's possession and cross referenced to particular Invoices so that the Equipment is clearly identifiable as the property of Renteca.

20. GST

20.1 Payments exclusive of GST

If a party (**Recipient**) is obliged pursuant to the GST Law to pay an amount of GST in respect of a Taxable Supply made by another party (**Supplier**) pursuant to a Supply Agreement, the Recipient shall pay the Supplier on demand that amount of GST upon production of a valid Tax Invoice by the Supplier in addition to the moneys otherwise payable by the Recipient to the Supplier on account of that Taxable Supply.

21. Notices

21.1 Form

Any notice or other communication to or by any party must be:

- (a) in writing and in the English language;
- (b) addressed to the address of the recipient in clause 21.4 or to any other address as the recipient may have notified the sender; and
- (c) signed by the sender or by an Authorised Officer of the sender (including an email signature).

21.2 Manner

In addition to any other method of service authorised by law, the notice may be:

- (a) personally served on a party;
- (b) left at the party's current address for service;
- (c) sent to the party's current address for service by prepaid ordinary mail or if the address is outside Australia by prepaid airmail;
- (d) sent by facsimile to the party's current numbers for service;
- (e) sent by electronic mail to the party's electronic mail address; or
- (f) sent electronically using any portal or other submission system on the party's website.

21.3 Time

If a notice is sent or delivered in the manner provided in clause 21.2 it must be treated as given to or received by the addressee in the case of:

- (a) delivery in person, when delivered;
- (b) delivery by post:

- (1) in Australia to an Australian address, the fourth Business Day after posting; or
- (2) in any other case, on the tenth Business Day after posting;
- (c) facsimile, when a transmission report is printed by the sender's facsimile machine stating that the document has been sent to the recipient's facsimile number; or
- (d) electronic mail or website submission, when sent, unless the sender receives an automated message generated by the recipient's mail server (other than an 'out of office' message or other response generated by or at the instigation of the recipient) that the email has not been delivered within two hours,

but if delivery is made after 5.00pm on a Business Day it must be treated as received on the next Business Day in that place.

21.4 Initial details

The addresses and numbers for service are initially:

- (a) for Renteca, those set out in Renteca Details; and
- (b) for the Customer, those set out in the Customer Details.

21.5 Changes

A party may from time to time change its address or numbers for service by notice to each other party.

22. Governing law and jurisdiction

22.1 Governing law

Each Supply Agreement is governed by and construed in accordance with the laws of Queensland.

22.2 Jurisdiction

Each party irrevocably:

- (a) submits to the non-exclusive jurisdiction of the courts of Queensland and the courts competent to determine appeals from those courts, with respect to any proceedings which may be brought at any time relating to a Supply Agreement; and
- (b) waives any objection it may now or in the future have to the venue of any proceedings, and any Claim it may now or in the future have that any proceedings have been brought in an inconvenient forum, if that venue falls within paragraph 22.2(a).

23. Miscellaneous

23.1 Exercise rights

A single or partial exercise or waiver by a party of any right under or relating to a Supply Agreement will not prevent any other exercise of that right or the exercise of any other right.

23.2 Merger

If the Liability of a party to pay money under a Supply Agreement becomes merged in any deed, judgment, order or other thing, the party liable must pay interest on the amount owing from time to time under that deed, judgment, order or other thing at the higher of the rate payable under these Terms & Conditions and that fixed by or payable under that deed, judgment, order or other thing.

23.3 Fairness of Agreement

The parties acknowledge that all of the provisions contained in these Terms & Conditions are fair and reasonable in the circumstances.

23.4 Moratorium legislation

Any law which varies prevents or prejudicially affects the exercise by a party of any right, power or remedy conferred on

- it under a Supply Agreement is excluded to the extent permitted by law.
- 23.5 **Remedies cumulative**
The rights and remedies under a Supply Agreement are cumulative and not exclusive of any rights or remedies provided by law.
- 23.6 **Severability**
If a provision of a Supply Agreement is illegal, invalid, unenforceable or void in a jurisdiction it is severed for that jurisdiction and the remainder of these Terms & Conditions has full force and effect and the validity or enforceability of that provision in any other jurisdiction is not affected.
- 23.7 **Further assurance**
Each party must promptly at its own cost do all things (including executing and delivering all documents) necessary or desirable to give full effect to a Supply Agreement and the transactions contemplated by it.
- 23.8 **Indemnities**
Subject to these Terms & Conditions, the indemnities in these Terms & Conditions are continuing Obligations, independent from the other Obligations of the parties under a Supply Agreement and continue after that Supply Agreement ends. It is not necessary for a party to incur expense or make payment before enforcing a right of indemnity under a Supply Agreement.
- 23.9 **Assignment**
- (a) Renteca may assign or otherwise deal with any part of its rights or Obligations under a Supply Agreement by giving the Customer written notice of that assignment or dealing.
 - (b) The Customer shall not assign or otherwise deal with any part of its rights or Obligations under a Supply Agreement without the prior written consent of Renteca.
- 23.10 **Waivers**
Any waiver of a particular breach of any express or implied provision of a Supply Agreement shall not constitute a waiver of any other breach of such provision or of any other express or implied provision.
- 23.11 **Time**
Time is of the essence in respect of any Obligation under a Supply Agreement.
- 23.12 **Counterparts**
The documents comprising a Supply Agreement may be executed electronically, in original form, and/or by facsimile transmission in any number of counterparts and all counterparts taken together shall constitute one and the same instrument.
- 23.13 **Confidentiality**
- (a) The Customer may not disclose the contents or terms of a Supply Agreement or any information or documents received by it in connection with the negotiation of a Supply Agreement or pursuant to the provisions of a Supply Agreement without the prior consent of Renteca except to the extent that:
 - (1) disclosure is expressly permitted by the documents comprising that Supply Agreement;
 - (2) the information is available to the public generally (except as a result of a previous breach of this clause);
 - (3) the Customer is required to make the disclosure by law; or
- (4) the disclosure is made on a confidential basis to the representatives or professional advisers of that party for the purpose of obtaining professional advice.
 - (b) The Customer hereby authorises Renteca to collect, retain, record, use and disclose consumer and/or commercial information about the Customer, in accordance with the *Privacy Act 1988* and the Privacy Principles outlined in the *Privacy Amendment Act 2012*, to persons and/or legal entities who are a solicitor or any other professional consultant engaged by Renteca, a debt collector, credit reporting body and/or any other individual or organisation which maintains credit references and/or default listings.
 - (c) Subject to the Privacy Principles outlined in the *Privacy Amendment Act 2012*, the Customer further authorises Renteca to collect, retain, record, use and disclose personal information about the Customer for the marketing of the Equipment.
- 23.14 **Costs**
Unless expressly stated otherwise, each party shall be responsible for all its own Costs incurred in the negotiation of, and the performance of its Obligations pursuant to a Supply Agreement including, without limitation, legal Costs.
- 23.15 **Whole Agreement**
- (a) The documents comprising a Supply Agreement supersede all prior representations, arrangements, understandings and agreements between the parties and represent the entire complete and exclusive understanding and agreement between the parties relating to the subject matter of that Supply Agreement.
 - (b) The parties acknowledge and agree that they have not relied on any written or oral representation, arrangement, understanding or agreement not expressly set out or referred to in the documents comprising a Supply Agreement.
- 23.16 **Non-waiver**
Failure by either party to enforce or delay in enforcing any right or provision of a Supply Agreement will not constitute a waiver of such right or provision unless acknowledged and agreed in writing.
-
- 24. Warranties of the Parties**
- 24.1 **Warranties of the Parties**
Both parties represent, warrant and agree that:
- (a) they have the right, power and authority to enter into and perform their respective Obligations in accordance with these Terms & Conditions;
 - (b) all corporate and other necessary action has been taken by each of them to authorise the signing and performance of these Terms & Conditions; and
 - (c) each Supply Agreement is valid and legally binding on them in accordance with these Terms & Conditions.

Schedule 1 – EQUIPMENT SALE

SPECIAL CONDITIONS

1. Requirements for Supply Forms

In addition to the requirements set out in any other provision in these Terms & Conditions, a Supply Form for an Equipment Sale Agreement may set out:

- (a) the price payable for each item of Sale Equipment (**Purchase Price**);
- (b) if the Sale Equipment is to be collected by the Customer, the location of the depot from which it will be collected (**Collection Depot**); and
- (c) if shipping or transport of the Sale Equipment is to be organised by Renteca, any details necessary for Renteca to arrange the shipping or transport of the Sale Equipment (**Delivery Requirements**).

2. Supply Charges

If a Supply Item is Sale Equipment, the Supply Charge for that item will be the Purchase Price provided for that Supply Item in the relevant Completed Supply Form.

3. Sale Equipment

3.1 Retention of title

Until the Customer has paid and discharged all Charges owing to Renteca pursuant to the relevant Supply Agreement:

- (a) legal and equitable ownership of the Sale Equipment shall remain with Renteca; and
- (b) the relationship between the parties shall be fiduciary and the Customer shall hold the Sale Equipment as bailee for Renteca.

3.2 Risk

The Customer assumes all risks and Liability in relation to the Sale Equipment and the use, maintenance, repair and storage of it (including Liability for injury to any person or Damage to any property, whether direct or consequential) from the time at which the Sale Equipment leaves the Collection Depot (regardless of whether it is collected by the Customer or Renteca organises shipping or transport).

3.3 On-Sale

- (a) Until such time as ownership of the Sale Equipment passes to the Customer, Renteca authorises the Customer to on sell the Sale Equipment but as an agent of Renteca (by bona-fide sale in the ordinary course of business).
- (b) Where the Sale Equipment has been on-sold by the Customer, the Customer will be taken to hold the proceeds of sale of such Sale Equipment upon trust for Renteca and to account to Renteca for these proceeds until all Liabilities under the relevant Supply Agreement have been discharged.
- (c) The Customer shall not represent to any parties that it is in any way acting for Renteca and Renteca will not be bound by any contracts with third parties to which the Customer is a party.

4. Collection or delivery

4.1 Collection of Sale Equipment

- (a) Unless the parties agree otherwise on the Completed Supply Form, the Customer is responsible for any shipping or transport Costs in relation to any Sale Equipment supplied by Renteca.

- (b) The Customer must collect the Sale Equipment during Renteca's normal operating hours from the Collection Depot.

- (c) Notwithstanding that an approximate date may be stipulated in a Supply Agreement for the availability of the Sale Equipment for collection, the date for collection of the Sale Equipment shall not be regarded as of the essence.

4.2 Delivery of Sale Equipment

Where a Supply Agreement contemplates Renteca shipping or transporting any Sale Equipment:

- (a) the Sale Equipment is at the risk of the Customer during shipping and transport;
- (b) Renteca shall use its best endeavours to have the Sale Equipment delivered by the agreed time, but will not be liable to the Customer for late delivery, non-delivery or any Damage occasioned to the Customer for such late or non-delivery;
- (c) any delivery date stipulated in the quote or Completed Supply Form is an estimate only and the time for delivery of the Sale Equipment shall not be regarded as of the essence;
- (d) if the Customer fails to notify Renteca within 72 hours of the estimated time of delivery that it has not received the Sale Equipment, the Customer shall be deemed to have received the Sale Equipment and shall be liable for any payments in relation to the Sale Equipment; and
- (e) under no circumstances may the Customer deny a signature evidencing receipt of the Sale Equipment by it or any employee, agent of carrier utilised or employed by the Customer.

4.3 Cost of collection or delivery

In addition to the Supply Charges, the Customer shall be liable for all Costs associated with collection or delivery of Sale Equipment, including:

- (a) travel time charges from depot to depot, assessed according to time and distance involved;
- (b) shipping and transport charges for delivery and collection of Sale Equipment, and waiting times and delays caused by the Customer;
- (c) any Damage to the Sale Equipment; and
- (d) tolls, levies, or like charges paid or payable by Renteca to any Government Body for delivery of the Sale Equipment.

5. Warranty for Sale Equipment

5.1 Manufacturer Warranty

To the extent that the Sale Equipment is the subject of a warranty provided by the manufacturer of the Sale Equipment (**Manufacturer Warranty**):

- (a) Renteca will provide a copy of the Manufacturer Warranty to the Customer; and
- (b) Renteca will do all things reasonably necessary to ensure that the Customer obtains the benefit of the Manufacturer Warranty during the period of time for which the Manufacturer Warranty applies under the terms of the Manufacturer Warranty (**Manufacturer Warranty Period**).

5.2 Warranty for new Sale Equipment

If the Sale Equipment is sold in new condition, the Manufacturer Warranty is the only warranty provided for that Sale Equipment, other than as set out in the Terms & Conditions.

5.3 **Warranty for used Sale Equipment**

If the Sale Equipment is sold in used condition, Renteca warrants that the Sale Equipment will be free from defects in material and workmanship (**Renteca Warranty**) for the period of time (if any) which:

- (a) starts on the later of:
 - (1) the date on which risk in the Sale Equipment passes to the Customer under the relevant Equipment Sale Agreement; and
 - (2) the end of the Manufacturer Warranty Period; and
- (b) ends on the earlier of:
 - (1) the date that is three months from the date on which risk in the Sale Equipment passes to the Customer under the relevant Equipment Sale Agreement; and
 - (2) the date on which the Sale Equipment has been used for 528 hours of operation by the Customer.
- (c) If Renteca or Renteca's Authorised Service Facility confirms the existence of a defect covered by this warranty, the defect will be corrected by repair or replacement at Renteca's option. At Renteca's request, the purchaser must return, to Renteca or its Authorised Service Facility, any "Goods" claimed defective under Renteca's warranty.
- (d) **FREIGHT COSTS:** The purchaser is responsible for shipment to and from the Renteca Authorised Service Facility

5.4 **Limitations on Renteca Warranty**

The Renteca Warranty (if any) will not apply if the Customer:

- (a) fails to document all hours of operation of the Sale Equipment;
- (b) tampers with any controls or meters; or
- (c) otherwise fails to comply with the terms of the Manufacturer Warranty.

5.5 **Customer's acknowledgements**

The Customer agrees that:

- (a) before signing the relevant Supply Agreement it has had the opportunity to examine any Sale Equipment to satisfy itself as to the condition, suitability and specifications of the Sale Equipment and its fitness for the Customer's purposes;
- (b) neither Renteca nor anyone on its behalf has given any warranty or made any representation to the Customer as to the quality, fitness for any particular purpose, suitability or condition of the Sale Equipment; and
- (c) all the Customer's Obligations under the relevant Supply Agreement will continue despite any defect in, or breakdown of, the Sale Equipment or any other matter concerning the Sale Equipment.

Schedule 2 – EQUIPMENT HIRE

SPECIAL CONDITIONS

1. Supply Forms

In addition to the requirements set out in any other provision in these Terms & Conditions, a Supply Form for an Equipment Hire Agreement may set out:

- (a) the location of the site where the Hire Equipment will be used by the Customer (**Hire Site**);
- (b) if the Hire Equipment is to be collected by the Customer, the location of the depot from which it will be collected (**Collection Depot**);
- (c) if shipping or transport of the Hire Equipment is to be organised by Renteca, any details necessary for Renteca to arrange the shipping or transport of the Hire Equipment (**Delivery Requirements**);
- (d) the minimum amount of time (if any) for which the Customer agrees to hire each item of Hire Equipment (**Minimum Hire Period**); and
- (e) the rate payable for Hire Equipment per day of hire (**Daily Rate**).

2. Supply Charges

2.1 Supply Charge for Hire Equipment:

The Supply Charge for each item of Hire Equipment will be calculated by multiplying the number of days for which that Hire Equipment was hired during the Invoice Period by the Daily Rate for that item contained in the relevant Supply Agreement.

2.2 Amendments to Daily Rate

- (a) The Daily Rate for any Equipment Hire may be adjusted by Renteca by giving the Customer written notice of those changes, with any adjustments taking effect on the date indicated by Renteca.
- (b) If the Customer does not agree to the adjusted Daily Rate, the Customer must provide Renteca written notice of such objection and its grounds within 5 Business Days (**Objection Notice**).
- (c) Within 10 Business Days after receipt of an Objection Notice, Renteca must confirm with the Customer whether Renteca will adjust the proposed adjustment or proceed with it.
- (d) If Renteca gives notice that it will proceed with the price adjustment the subject of an Objection Notice, the Customer may within 5 Business Days terminate the relevant Supply Agreement (or portion of the Supply Agreement) affected by the price adjustment by giving Renteca written notice. Such termination must take effect no earlier than the date proposed by Renteca for implementation of the price adjustment.

3. Hire Equipment

3.1 Title

The Hire Equipment shall remain the property of Renteca at all times. The Customer is not entitled to sell, transfer, mortgage, charge or encumber in any way the Hire Equipment nor (unless otherwise agreed in writing) part with possession of the Hire Equipment or assign the benefit of the Equipment Hire Agreement.

3.2 Risk

The Customer assumes all risks and Liability in relation to the Hire Equipment and the use, maintenance, repair and storage of it (including Liability for injury to any person or Damage to any property, whether direct or consequential) during the applicable Hire Period.

3.3 Normal Operating Hours

- (a) The Daily Rate for each item of Hire Equipment is based upon the normal hours of operation for that Hire Equipment (**Normal Operating Hours**).
- (b) The Normal Operating Hours for Hire Equipment are each of the following:
 - (1) 10 hours per day;
 - (2) 40 hours per week; and
 - (3) 176 hours per calendar month.
- (c) Where one or more of the daily, weekly or monthly timeframes for the Normal Operating Hours in Special Condition 3.3(b)(1)-(b)(3) is exceeded for any item of Hire Equipment, an additional Charge will be payable for each hour by which the Normal Operating Hours are exceeded for that item of Hire Equipment, calculated as 30% of the Daily Rate.

3.4 Hire Period

The period of hire for an item of Hire Equipment (**Hire Period**):

- (a) runs from the time at which the Hire Equipment leaves the Collection Depot (regardless of whether it is collected by the Customer or Renteca organises shipping or transport); and
- (b) ends when the Hire Equipment is returned by the Customer to Renteca.

3.5 Minimum Hire Period

If a Minimum Hire Period applies for any Hire Equipment, the Customer agrees to:

- (a) hire that Hire Equipment until the expiration of the Minimum Hire Period; and
- (b) continue to pay the Daily Rate for that Hire Equipment until the end of the Minimum Hire Period, irrespective of whether the Hire Period ends prior to the Minimum Hire Period expiring.

3.6 Maintenance

- (a) The Customer acknowledges that all Hire Equipment is hired on a 'dry hire' basis.
- (b) The Customer must ensure that Hire Equipment is inspected on a daily basis.
- (c) The Customer is responsible for any Damage resulting from lack of lubrication, or other normal servicing of the Hire Equipment such as supplying all fuel, oil and greases necessary for the operation, service and maintenance of the Hire Equipment.
- (d) Where Hire Equipment requires oil, the Customer must ensure that an oil change is conducted at least once every 200 operating hours.
- (e) Renteca may impose additional Charges if the Customer fails to maintain the Hire Equipment or to adequately clean the Hire Equipment prior to returning it to Renteca.

3.7 On-hire of Equipment

The Customer must not in any way part with possession, relocate the Hire Equipment, encumber, nor assign the Equipment Hire Agreement without Renteca's written consent.

3.8 Issues with Hire Equipment

If the Customer is not satisfied with the Hire Equipment, the Customer must submit a Dispute Notice to Renteca as soon as possible but in any event within 24 hours of the time the Customer became or ought to have become aware of the issue the subject of the Dispute Notice.

- 3.9 **Re-testing and re-tagging**
- (a) The Customer is responsible for arranging the re-testing and re-tagging of any Hire Equipment that is electrical Hire Equipment by a suitably qualified person, in accordance with the manufacturer's instructions and the Australian Standards and the requirements of any Government Body.
 - (b) Any Damage done to the Hire Equipment resulting from incorrect testing shall be at the Customer's Cost.

4. Collection or Delivery

4.1 Collection of Hire Equipment

- (a) Unless the parties agree otherwise on the Completed Supply Form, the Customer is responsible for any shipping and transport Costs in relation to any Hire Equipment supplied by Renteca.
- (b) The Customer must collect the Hire Equipment during Renteca's normal operating hours from the Collection Depot.
- (c) Hire Equipment must be returned to the Collection Depot by the Customer during Renteca's normal operating hours.
- (d) Additional Charges will apply for any Costs or time incurred by Renteca transporting Hire Equipment to the Collection Depot in the event that the Customer fails to return the Hire Equipment or returns the Hire Equipment to a different depot.

4.2 Delivery of Hire Equipment

Where a Supply Agreement contemplates Renteca transporting or delivering any Hire Equipment:

- (a) Renteca shall use its best endeavours to have the Hire Equipment delivered by the agreed time, but will not be liable to the Customer for late delivery, non-delivery or any Damage occasioned to the Customer for such late or non-delivery;
- (b) any delivery date stipulated in any quote or Completed Supply Form is an estimate only and the time for delivery of the Hire Equipment shall not be regarded as of the essence;
- (c) if the Customer fails to notify Renteca within 72 hours of the estimated time of delivery that it has not received the Hire Equipment, the Customer shall be deemed to have received the Hire Equipment and shall incur Liability for any payments in relation to the Hire Equipment; and
- (d) under no circumstances may the Customer deny a signature evidencing receipt of the Hire Equipment by it or any employee, agent of carrier utilised or employed by the Customer.

4.3 Cost of collection or delivery

In addition to the Supply Charges, the Customer shall be liable for all Costs associated with that collection or delivery of Hire Equipment, including:

- (a) travel time Charges from depot to depot, assessed according to time and distance involved;
- (b) shipping and transport Charges for delivery and collection of Hire Equipment, and waiting times and delays caused by the Customer;
- (c) any Damage to the Hire Equipment; and
- (d) tolls, levies, or like Costs paid or payable by Renteca to any Government Body for delivery of the Hire Equipment.

5. Positive Obligations

During the Hire Period, the Customer must:

- (a) comply with the reasonable requirements of Renteca relating to the Hire Equipment;
- (b) operate the Hire Equipment only in a proper and skilful manner and using properly trained and competent personnel;
- (c) retain possession and control of the Hire Equipment and not sell, assign, pledge, mortgage, charge, lease, let on hire, part with possession of or otherwise dispose of or deal with the Hire Equipment or any part of it;
- (d) make all reasonable attempts to ensure that all work carried out pursuant to an Equipment Hire Agreement complies with all work health and safety requirements in accordance with the laws of the state or territory in which the work is carried out;
- (e) ensure that any equipment or facilities of the Customer used in conjunction with the Hire Equipment are safe and without risks to health and safety when properly used;
- (f) provide such information, instruction, training and supervision as may be necessary to ensure that the Hire Equipment provided under an Equipment Hire Agreement is operated, used and maintained without hazards or risks to health and safety;
- (g) comply with all laws and regulations relating to the Hire Equipment and the use, operation or possession of it;
- (h) use or keep the Hire Equipment only at the Hire Site or at such other place as Renteca approves;
- (i) notify Renteca immediately if any Hire Equipment is lost, stolen or otherwise Damaged;
- (j) be responsible for any Damage to the Hire Equipment if such Damage is caused by the Customer or any persons under the Customer's control;
- (k) at all times exercise due care that the Hire Equipment is operated by persons duly for the purpose and within the capacity for which it was designed to be used;
- (l) take all reasonable precautions to prevent bodily injury or Damage to property and to comply with all statutory Obligations and by-laws and regulations imposed by any Government Body for the safety of persons and property as though the Customer was Renteca; and
- (m) ensure that the Hire Equipment is returned in the same condition as it was in at the commencement of the Hire Period (fair wear and tear excepted).

6. Negative Obligations

During the Hire Period, the Customer must not:

- (a) alter the Hire Equipment, make any modification or addition to it, install anything in or on it or remove anything in or from it without the prior written consent of Renteca;
- (b) use the Hire Equipment for any purpose which is unlawful or which in Renteca's reasonable opinion might endanger any person or the safety or condition of the Hire Equipment or prejudice Renteca's interest in it; or
- (c) alter, make any additions to, deface or erase any identifying mark, insignia, signage, barcoding, plate or number on or in the Hire Equipment or in any

other manner interfere with the Hire Equipment without the prior written consent of Renteca.

7. Renteca's rights

7.1 Protection of Renteca's rights in relation to Hire Equipment

Renteca may at any time do anything (including taking any legal proceedings) which Renteca considers desirable to protect or enforce its rights in relation to the Hire Equipment.

7.2 Equipment to be returned in the event of Termination

- (a) If an Equipment Hire Agreement is terminated prior to the end of the Hire Period, the Customer must immediately return the Hire Equipment to Renteca at the place Renteca nominates.
- (b) If the Customer does not return the Hire Equipment to Renteca when required by clause 7.2, Renteca may retake possession of the Hire Equipment.

7.3 Inspection and right of entry of Renteca

During the Hire Period, a person authorised by Renteca may, upon giving reasonable notice, enter at all times on the Hire Site or other land or buildings in which any item of Hire Equipment is situated to:

- (a) inspect the condition of the Hire Equipment;
- (b) determine whether the terms of the relevant Supply Agreement are being complied with; and
- (c) exercise the rights of Renteca under a Supply Agreement.

Schedule 3 - Service Agreement

SPECIAL CONDITIONS

1. Supply Form

In addition to the requirements set out in any other provision in these Terms & Conditions, a Supply Form for a Service Agreement may set out:

- (a) the location of the site for the Service Agreement (**Project Site**);
- (b) the date that has been agreed as the commencement date for the Service Agreement (**Supply Start Date**);
- (c) the minimum amount of time (if any) for which the Customer agrees to hire each Service (**Minimum Service Period**); and
- (d) the rate payable for Services per day of hire (**Daily Rate**).

2. Supply Charges

2.1 Supply Charge for Services:

The Supply Charge for each Service will be calculated by multiplying the number of days for which that Service will be provided during the Invoice Period by the Daily Rate for that Service contained in the relevant Supply Agreement.

2.2 Amendments to Daily Rate

- (a) The Daily Rate for any Service may be adjusted by Renteca by giving the Customer written notice of those changes, with any adjustments taking effect on the date indicated by Renteca.
- (b) If the Customer does not agree to the adjusted Daily Rate, the Customer must provide Renteca written notice of such objection and its grounds within 5 Business Days (**Objection Notice**).
- (c) Within 10 Business Days after receipt of an Objection Notice, Renteca must confirm with the Customer whether Renteca will adjust the proposed adjustment or proceed with it.
- (d) If Renteca gives notice that it will proceed with the price adjustment the subject of an Objection Notice, the Customer may within 5 Business Days terminate the relevant Supply Agreement (or portion of the Supply Agreement) affected by the price adjustment by giving Renteca written notice. Such termination must take effect no earlier than the date proposed by Renteca for implementation of the price adjustment.

3. Normal Operating Hours

3.1 Normal Operating Hours

- (a) The Daily Rate for each Service is based upon the normal hours of operation for Personnel and Service Equipment (**Normal Operating Hours**).
- (b) For Service Equipment, the Normal Operating Hours are each of the following:
 - (1) 10 hours per day;
 - (2) 40 hours per week; and
 - (3) 176 hours per calendar month.
- (c) Where one or more of the daily, weekly or monthly timeframes for the Normal Operating Hours in Special Conditions 3.1(b)(1)-(b)(3) is exceeded for any item of Service Equipment, an additional Charge will be payable for each hour by which the Normal Operating Hours are exceeded for that Service Equipment, calculated as 30% of the Daily Rate for

the Service for which that item of Service Equipment is provided.

3.2 Service Period

The period of hire for a Service (**Service Period**):

- (a) runs from the first date when the Service is provided to the Customer under the relevant Supply Agreement; and
- (b) ends when the Service ceases to be provided to the Customer under the relevant Supply Agreement.

3.3 Minimum Service Period

If a Minimum Service Period applies for any Service, the Customer agrees to:

- (a) engage that Service until the expiration of the Minimum Service Period; and
- (b) continue to pay the Daily Rate for that Service until the end of the Minimum Service Period, irrespective of whether the Service Period ends prior to the Minimum Service Period expiring.

4. Personnel

4.1 Provision of Personnel

Renteca may elect to provide any Personnel that have the requisite training to carry out a Service at its sole discretion, irrespective of whether that Personnel is an employee of Renteca or is engaged by Renteca on some other basis.

4.2 Issues with Personnel

If the Customer is not satisfied with any work that has been undertaken by Renteca or a particular Personnel as part of a Service, the Customer must submit a Dispute Notice to Renteca as soon as possible but in any event within 24 hours of the relevant work being undertaken.

4.3 Legal Relationship

The Customer engages Renteca to provide the Services as an independent contractor during the Service Period. Renteca is not the Customer's employee, partner, legal representative, agent, joint venturer or franchisee.

4.4 Status of Personnel

- (a) The Personnel are not the Customer's employees, partners, legal representatives, agents, joint venturers or franchisees.
- (b) No contractual relationship shall exist between the Customer and the Personnel whose services are provided by Renteca to the Customer.
- (c) The Personnel have no right or authority to bind Renteca, assume or create any Obligations for or on behalf of Renteca, or make any representations or warranties for or on behalf of Renteca.
- (d) The Personnel are not entitled to any benefit from the Customer usually attributable to a person who is an employee.

4.5 Control Over Personnel

Renteca agrees to exercise sufficient control over the Personnel during the Service Period to ensure that the work they are performing under the relevant Supply Agreement complies with the lawful and reasonable directions issued to Renteca by the Customer from time to time.

4.6 Renteca's Warranties

Renteca represents, warrants and agrees that it:

- (a) holds all relevant authorisations required by law to provide the Services; and

- (b) will comply with any applicable industrial awards or agreements that apply in respect of its employment or contracting the services of any of the Personnel.

5. Service Equipment

5.1 Service Equipment

The Customer agrees and acknowledges that:

- (a) any Service Equipment is provided for use by Renteca or its agents or Personnel, and is not to be used by the Customer without the prior written consent of Renteca;
- (b) Renteca may leave or store any Service Equipment at the Project Site for part of all of the Service Period;
- (c) any Service Equipment shall remain the property of Renteca at all times; and
- (d) the Customer is not entitled to sell, transfer, mortgage, charge or encumber in any way the Service Equipment.

5.2 Risk

The Customer assumes all risks and Liability in relation to its storage of Service Equipment during the Project Period (including Liability for injury to any person or Damage to any property, whether direct or consequential).

5.3 Replacement of Service Equipment

- (a) Renteca may elect to use any Service Equipment it deems sufficient or necessary to undertake the Service described in the Completed Supply Form, and is not obliged to use any specific Service Equipment or any type of Equipment to provide the Services.
- (b) If the Customer requests that a specific type of Equipment be used for a particular Service, the Customer must enter into a separate Equipment Hire Agreement with Renteca for the provision of that Equipment.

5.4 Use of Service Equipment by Customer

If Renteca consents to the Customer's use of any of the Service Equipment, the Customer:

- (a) may only use the Service Equipment to assist Renteca in providing the Service, and may not use it for any other purpose;
- (b) acknowledges that Renteca gives no warranty as to the merchantability or fitness for purpose of the Service Equipment and indemnifies Renteca against any Damage arising from the Customer's use of the Service Equipment;
- (c) warrants that it has inspected the Service Equipment and has satisfied itself that it is appropriate for the purposes of performing any task for which it is used; and
- (d) agrees, without limiting any other part of this Special Condition 5.4 and without imposing any new Obligation upon Renteca, that the use of that Service Equipment by the Customer shall be subject to every warranty, indemnity or other Obligation that would be imposed upon the Customer if the Service Equipment were hired by the Customer under an Equipment Hire Agreement, including any such Obligations contained in Schedule 2 of these Terms & Conditions.

6. Workplace Health & Safety

6.1 Obligations of the Parties

During the Service Period, the Customer and Renteca must:

- (a) make all reasonable attempts to ensure that all work carried out pursuant to a Service Agreement complies with all work health and safety requirements in accordance with the laws of the state or territory in which the work is carried out; and

- (b) provide such information, instruction, training and supervision as may be necessary to ensure that the work provided under a Supply Agreement is provided without hazards or risks to health and safety.

6.2 Obligations of the Customer

The Customer warrants that:

- (a) any equipment or facilities provided by the Customer for use in the provision of work under a Supply Agreement are safe and without risks to health and safety when properly used;
- (b) the systems of work and the working environment are safe and without risks to health and safety; and
- (c) Personnel will not be exposed to risks to their health or safety or hazards arising from the provision of work under a Service Agreement.

6.3 Obligations of Renteca

Renteca warrants that all Personnel will be sufficiently qualified and trained to perform the Services contained in the relevant Supply Agreement, but otherwise makes no warranty as to the expertise and experience of those Personnel.

6.4 Personnel Costs

During the Service Period, Renteca will be responsible for and solely bear the Liability for the payment of remuneration to the Personnel.

6.5 Obligations of Personnel

Renteca must ensure that all of the Personnel engaged in the work carried out pursuant to a Service Agreement:

- (a) fully comply with the appropriate regulations, standards and legislation;
- (b) abide by and fully comply with all relevant workplace health and safety procedures imposed by the Customer while providing Services to the Customer;
- (c) exercise reasonable and necessary precautions which are appropriate to the nature of the work and the conditions under which the work is carried out;
- (d) receive adequate training to ensure tasks are undertaken in a manner that minimises the risk to their own health and safety and the health and safety of others; and
- (e) will not undertake any tasks for which they have not received adequate training.

6.6 Notification of Injury

The Customer must immediately notify Renteca of any injury sustained by any of the Personnel on the Customer's premises or during the time in which Services were being supplied to the Customer.