

STANDARD TERMS AND CONDITIONS OF SALE

LOCKELEC ROLLING STOCK PTY LTD “LOCKELEC”

1. APPLICATION OF TERMS AND CONDITIONS

1.1 These terms and conditions apply to all transactions between the Purchaser and LOCKELEC, for the sale and supply of the Goods whether those transactions arise as a result of a proposal, purchase order, offer or sale.

1.2 Where there is any inconsistency between these terms and conditions and those contained in any purchase order or proposal these terms and conditions will prevail to the extent of the inconsistency.

1.3 In these terms and conditions a reference to:

(a) “agreement” is taken to be a reference to the agreement between LOCKELEC and the Purchaser set out in the proposal and or purchase order and accepted by the Purchaser, any invoice issued by LOCKELEC pursuant to that proposal or purchase order, these terms and conditions and any other document notified by LOCKELEC to the Purchaser as forming part of this agreement; and

(b) a reference to “Goods” is taken to be a reference to the goods and or equipment supplied by LOCKELEC to the Purchaser under this agreement and as described in the proposal or purchase order.

2. PAYMENT

2.1 Subject to the terms of payment set out in the proposal or purchase order, the Purchaser must pay the full purchase price for the Goods to LOCKELEC immediately prior to or upon delivery.

2.2 The Purchaser is liable for all applicable taxes, duties or levies (including GST) arising as a result of the sale and or supply of the Goods.

2.3 Each of the parties agree that all amounts payable for a supply under this agreement are quoted exclusive of GST (unless otherwise stated). If any amount payable under this agreement is the consideration for a taxable supply in respect of which the supplier is liable to pay GST, the amount payable will be increased by the amount of the GST payable in respect of the taxable supply, and the additional amount will be payable at the same time as the consideration is payable.

3.OBLIGATIONS OF THE PURCHASER

The purchaser must:

3.1 Satisfy itself that the Goods are suitable for their purpose.

3.2 Ensure that the Goods are operated safely, strictly in accordance with the law, only for their intended use, and in accordance with any manufacturer's instructions, whether supplied by LOCKELEC or posted on the Goods.

3.3 Ensure that all persons operating the Goods are suitably instructed in its safe and proper use and where necessary hold a current Certificate of Competency and/or are fully licensed.

3.4 Conduct a thorough hazard and risk assessment before using the Goods and comply with all Occupational Health and Safety laws relating to the Goods and their operation.

4.DELIVERY

4.1 The Purchaser must take delivery of the Goods on or before the delivery date. For the purposes of this clause 4, the delivery date is the date that is the later of:

(a) The estimated date of delivery of the Goods, as notified to you by LOCKELEC after entering this agreement; and

(b) The date that LOCKELEC notifies you that it is able to make delivery of the Goods.

4.2 If the Purchaser does not take delivery of the Goods within thirty (30) days from the delivery date, then the Purchaser must pay the reasonable storage costs incurred by LOCKELEC until the Purchaser takes delivery of the Goods and LOCKELEC will invoice the Purchaser accordingly.

4.3 The Purchaser is not entitled to claim for any loss or damages (including consequential loss or damages) or to cancel, rescind or terminate the contract as a result of any delay in the delivery of the Goods, for any reason whatsoever.

5. RISK

5.1 Risk in the Goods will pass to the Purchaser on the earlier of the following:

(a) Delivery of the Goods to the Purchaser or anyone acting on the Purchaser's behalf; and (b) the passing of property in and title to the Goods to the Purchaser in accordance with clause 5.

6. TITLE

6.1 Property in and title to the Goods remains with LOCKELEC until the Purchaser has paid LOCKELEC the purchase price for the Goods and any other money that the Purchaser may owe to LOCKELEC at any time on any account.

6.2 Where the Purchaser disposes of the Goods before payment to LOCKELEC, the sale proceeds of such disposal are the property of LOCKELEC and the Purchaser holds the proceeds on trust for LOCKELEC.

6.3 In addition to clause 6.2 in the event of sale of the Goods to a customer the Purchaser in his position as a fiduciary must assign to the LOCKELEC the benefit of any claim against the customer.

6.4 LOCKELEC may enter the Purchaser's premises or elsewhere within business hours and seize any Goods which have not been paid for by the due date for payment without LOCKELEC having to give notice to the Purchaser.

6.5 While the Goods remain property of LOCKELEC, the Purchaser agrees:

- (a) To store the Goods separately at the Purchaser's premises so they can be easily identified.
- (b) To not cause the Goods to lose their identifiable character or be intermingled with other Goods in any way by any process of its own or by a third party, except with LOCKELEC's prior written consent.
- (c) That it has no right or claim to any interest in the Goods to secure any liquidated or unliquidated debt or obligation that LOCKELEC owes to the Purchaser.
- (d) That it cannot claim any lien over the Goods.
- (e) To not create any absolute or defeasible interest in the Goods in relation to any third party except with LOCKELEC's prior written consent.
- (f) To provide LOCKELEC access to the premises where the Goods are stored to enable LOCKELEC to inspect and/or seize the Goods; and (g) to:
 - (i) Not allow any person (other than LOCKELEC) to have or acquire any Security Interest in the Goods.

(ii) Insure the Goods for their full insurable value or replacement value (whichever is higher) with an insurer licensed or authorized to conduct the business of insurance in the place where the Purchaser carries on business; and

(iii) Not remove, deface or obliterate any identifying mark or number on any of the Goods.

7. DAMAGED OR DEFECTIVE GOODS AND MANUFACTURER'S LIABILITY

7.1 The Purchaser will be deemed to have accepted the Goods in the condition in which they are delivered unless, within seven (7) days of the date of delivery, the Purchaser returns the Goods to LOCKELEC or notifies LOCKELEC of any claim that the Goods are damaged or defective.

In either case, the Purchaser must clearly and specifically identify the defect or damage. Upon notification of any such claim, LOCKELEC must have a reasonable opportunity to investigate the claim. If satisfied that the Goods are damaged or defective, LOCKELEC may, at its sole discretion, replace the Goods or repair any minor damage or defect, or make a reasonable allowance on the purchase price to the Purchaser.

7.2 LOCKELEC will use its best endeavors to furnish to the Purchaser as soon as is practicable after delivery of the Goods copies of all express guarantees, warranties and indemnities (if any) given or offered by the manufacturer of the Goods or any part thereof.

8. DEFAULT BY THE PURCHASER

8.1 If LOCKELEC reasonably believes the Purchaser may be unable to meet the payment obligations to LOCKELEC, LOCKELEC may, without prejudice to LOCKELEC's other rights and remedies, demand payment for sums already due and/or withhold delivery of all or any of the Goods ordered and/or require security before delivering the Goods ordered by the Purchaser.

8.2 If the Purchaser is in breach of the payment obligations or any other of the terms and conditions of the contract: (a) in addition to the purchase price or any other amount due, the Purchaser will be liable to pay LOCKELEC, as liquidated damages, interest on the amount due from the due date until the date of payment at a rate equal to two (2) per cent above the current overdraft rate charged by LOCKELEC's trading bank on overdrafts in excess of \$100,000.

(b) LOCKELEC may without demand re-take possession of the Goods and may without notice sell the Goods on such terms and in such manner as it may determine and will be entitled to deduct all expenses incurred. For the purpose of recovering possession and without limiting the generality of the foregoing the Purchaser hereby irrevocably authorises and licenses

LOCKELEC and its servants and agents to enter upon any premises where any Goods may be stored and to take possession of the Goods. The Purchaser agree that it will be liable for all costs, losses, damages or any other sums of money incurred or suffered by LOCKELEC (including consequential losses and damages) as a result of LOCKELEC re-taking possession of the Goods or otherwise enforcing or exercising its rights at law. The Purchaser indemnifies LOCKELEC for all fees (including legal fees on a full indemnity basis), costs and expenses incurred or suffered as a result of any prosecutions, actions, demands, claims or proceedings brought by or against LOCKELEC in relation to the re-taking of possession or enforcement or exercise of its legal rights, and the Purchaser shall repay all such fees, costs, losses, damages, expenses on demand.

8.3 LOCKELEC may, at its option and without prejudice to any of its rights, either suspend further deliveries, require payment in advance or terminate any contract by written notice to the Purchaser where the Purchaser:

(a) Defaults on any payment due under the contract; (b) being a natural person, commits an act of bankruptcy; (c) being a corporation, is subject to:

(i) A petition being presented, an order being made or a meeting being called to consider a resolution for the Purchaser to be wound up, deregistered or dissolved;

(ii) A receiver, receiver and manager or an administrator under Part 5.3A of the Corporations

Act 2001 being appointed to all or any part of the Purchaser's property and undertaking; (iii) the entering of a scheme of arrangement (other than for the purpose of restructuring); or (iv) any assignment for the benefit of creditors.

9. LIMITATION OF LIABILITY

9.1 To the fullest extent permitted by law, any liability of LOCKELEC to the Purchaser including but not limited to the liability for special, consequential or incidental damages or for breach of any term, condition, warranty, undertaking, inducement, guarantee or representation whether express, implied, statutory or otherwise relating to this Contract or to the goods will be limited at LOCKELEC's option, to any one or more of the following:

(a) The replacement of the Goods or the supply of equivalent Goods; or

(b) The repair of the Goods; or

(c) The payment of the cost of replacing the Goods or of acquiring equivalent Goods; or (d) the payment of the cost of having the Goods repaired.

9.2 To the fullest extent permitted by law and subject to clause 9.1, LOCKELEC will under no circumstances be liable to the Purchaser for any loss, damage or expense, sustained or incurred by the Purchaser or any other party, whether direct or indirect, special, consequential, incidental or punitive losses or damages whether in contract, tort (including without limitation negligence), equity, under statute or on any other basis, and whether or not such loss or damage was foreseeable. The term “consequential damages” will include, but not be limited to, economic loss including actual or anticipated profits, business interruption, loss of use, revenue, reputation and/or data, costs incurred, and loss or damage to property or equipment.

10. INDEMNITY

10.1 The Purchaser indemnifies LOCKELEC against any liability for any direct, indirect or consequential injury, loss or damage occasioned by or arising from the use or operation (other than by LOCKELEC) or possession of the Goods and from negligence or default or misuse by or on the part of the Purchaser or the Purchaser’s servants or agents or any person other than LOCKELEC.

11. PPSA

11.1 The Purchaser acknowledges and agrees that:

(a) This agreement constitutes a security agreement for the purposes of the PPSA; and (b) for the purpose of securing the payment of all monies and the performance of all other obligations owed to LOCKELEC it grants a Security Interest in:

(i) All Goods supplied under this agreement.

(ii) All Goods previously supplied by LOCKELEC to the Purchaser (if any);

(iii) All Goods that will be supplied in the future by LOCKELEC to the Purchaser under this or any other agreement; and

(iv) All proceeds (if any) received by the Purchaser in relation to the Goods, (v) and LOCKELEC may register its Security Interest on the Register.

(c) LOCKELEC may, at the Purchaser’s request, supply equipment to the Purchaser from time to time by way of rental, sale, consignment, hire purchase or on such other terms as the parties may agree. The Purchaser grants a Security Interest in favour of LOCKELEC in respect of all equipment supplied by LOCKELEC to the Purchaser to secure the payment of all money and performance of all other obligations owed to LOCKELEC.

11.2 The Purchaser undertakes to promptly sign any further documents and/or provide any further information (such information to be complete, accurate and up to date in all respects) which LOCKELEC may reasonably require to:

(a) Register a Financing Statement or Financing Change Statement in relation to a Security Interest on the Register.

(b) Register any other document required to be registered by the PPSA; or

(c) Correct a defect in a statement referred to in clauses 11.2(a) or 11.2(b).

11.3 The Purchaser must not serve an Amendment Demand on LOCKELEC under Part 5.6 of the PPSA seeking to remove or amend a Financing Statement lodged by LOCKELEC under the terms of this agreement until such time that all obligations owing by the Purchaser to LOCKELEC, actual and contingent, have been satisfied.

11.4 “PPSA” is the Personal Property Securities Act (2009) and ‘Amendment Demand’,

‘Register’, ‘Purchase Money Security Interest’, ‘Security Agreement’, ‘Security interest’ and ‘Verification Statement’, ‘Financing Statement’ and ‘Financing Change Statement’; will have the meanings for those terms as defined in the PPSA.

11.5 LOCKELEC is not required to give any notice under PPSA (including the notice of a Verification Statement any notice required to be given by LOCKELEC under Chapter 4 of the PPSA) unless the notice required by PPSA cannot be excluded.

11.6 The Purchaser agrees that it is liable to pay for any costs incurred by LOCKELEC (on a full indemnity basis) in accordance with this clause 11, including and without limitation any costs incurred by LOCKELEC in registering a Financing Statement or a Financing Change Statement on the Register or perfecting its Security Interest in the Goods.

12. FORCE MAJEURE

12.1 LOCKELEC will not be liable to the Purchaser or deemed to be in breach of this agreement by reason of delay or performance, or failure to perform any of LOCKELEC’s obligations, if the delay or failure was due to any cause beyond LOCKELEC’s reasonable control including but not limited to:

(a) explosion, flood, tempest, earthquake, volcano, fire or accident.

(b) war or threat of war, sabotage, insurrection, civil disturbance or requisition.

- (c) acts, restrictions, regulations, laws, prohibitions, or measures of any kind of any local or federal governmental authority; (d) defective performance of carriers.
- (e) import or export regulations or embargoes;
- (f) strikes, lock-outs or other industrial actions or trade disputes (whether involving employees of LOCKELEC or a third party);
- (g) difficulties in obtaining raw materials, labour, fuel, or parts of machinery; or
- (h) failure or breakdown in machinery; and for as long as such circumstances exist, LOCKELEC may, at its option, cancel, rescind or terminate all or any part of this agreement or keep the agreement on foot until such circumstances have ceased.

13. ADMINISTRATIVE PROVISIONS

13.1 This agreement will be construed and governed in all respects by the laws of the State of New South Wales and each party submits to the non exclusive jurisdiction of the courts of New South Wales.

13.2 In the event that any provision of this agreement is held invalid or unenforceable, the remaining provisions of this agreement will remain in full force and effect.

13.3 This agreement may be altered only in writing signed by each party.

13.4 The Purchaser must not assign its rights or obligations under this agreement without prior written consent of LOCKELEC.

13.5 No failure or delay by LOCKELEC to exercise any right or remedy provided under this agreement or by law will constitute a waiver of that or any other right or remedy, nor will it preclude or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy will preclude or restrict the further exercise of that or any other right or remedy.

13.6 This agreement constitutes the entire agreement between LOCKELEC and the Purchaser and supersedes any previous agreement relating to the Goods.