

## Terms and Conditions of Trade

---

These terms and conditions of trade apply to sales made by **Rectifier Technologies Pacific Pty Ltd ABN 36 058 107 707** of 97 Highbury Road, Burwood Victoria 3125 Australia ("**Rectifier Technologies**") to the **Customer**. The Customer and the Guarantor agree to be bound by these terms for any order placed by the Customer with Rectifier Technologies for Products.

### 1. DEFINITIONS

In these terms, the following terms have these meanings unless the contrary intention appears:

- (a) **Business Day** means a day on which trading banks are open for business in Melbourne Australia, except a Saturday, Sunday or public holiday.
- (b) **Consequential Loss** means any loss or damage suffered by the Customer or any other person which is indirect or consequential; or which is by way of loss of revenue, loss of profits, loss of goodwill or credit, loss of business reputation, future reputation or publicity, loss of use, loss of interest, damage to credit rating, or loss or denial of opportunity.
- (c) **Customer** means a customer supplied or to be supplied with Products by Rectifier Technologies.
- (d) **Defect** means a defect, flaw or imperfection in a Product which prevents the Product from being used for the purposes intended under these terms or which makes the use of the Product dangerous, but does not include anything which has been disclosed as a feature or limitation of the Product by Rectifier Technologies prior to the date of purchase, or any defect, flaw or imperfection that is trivial or insubstantial.
- (e) **Delivery Details** means the requested details of delivery of the Products set out in the Purchase Order, including details of delivery address and requested delivery date.
- (f) **Force Majeure Event** means any failure or delay in the performance of a parties' obligations under these terms as a result of a pandemic, strike, lockout, work stoppage, labour dispute, material shortage, utility outage, delay in transportation, fire, flood, earthquake, severe weather, act of God, accident, trade sanction, embargo, act of war, act of terror, condition caused by national emergency or restriction imposed as a result of a pandemic, new or changed Law, or any other act or cause beyond the reasonable control and without fault of the delayed party, and whether affecting that party or its agents, subcontractors, dealers or suppliers, for as long as such circumstances prevail.
- (g) **GST** means any goods and services tax and any replacement or similar tax.
- (h) **GST Law** means A New Tax System (Goods and Services Tax) Act 1999 (Cth).
- (i) **Guarantor** means the guarantor or guarantors that have signed a guarantee in favour of Rectifier Technologies and a reference to "Guarantor" includes all Guarantors.
- (j) **Invoice** means Rectifier Technologies' invoice for Products issued in accordance with clause 5.1 of these terms.
- (k) **Law** means any legislation, ordinance, regulation, by-law, order, award, proclamation, direction and practice note of the Commonwealth, a State or Territory or any government agency, certificate, licence, consent, permit, approval, qualification, registration, standard and requirement, or any other law from which legal rights and obligations arise.
- (l) **Liabilities** means all damages, losses, liabilities, costs, charges, expenses, outgoings or payments (whether direct or indirect, consequential or incidental) including any damages, losses, liabilities, costs, charges, expenses, outgoings or payments in respect of any damage to property or injury to, or death of, any person.
- (m) **Personnel** mean all employees, officers, agents and contractors.
- (n) **PPS Act** means the *Personal Property Securities Act 2009* (Cth).
- (o) **Products** mean products supplied by Rectifier Technologies as set out in the relevant Purchase Order.
- (p) **Purchase Price** means the price of Products pursuant to these terms.

- (q) **Purchase Order** means any order for Products, including the Delivery Details, placed by Customer in accordance with clause 3.

## **2. SALE OF PRODUCTS AND QUOTATIONS**

- 2.1 Rectifier Technologies will sell and Customer will buy Products in accordance with these terms.
- 2.2 The Products are sold on a firm sale basis and may not be returned for credit or exchanged unless otherwise agreed in writing.
- 2.3 Quotations provided by Rectifier Technologies are valid for a period of 30 days from the date of quotation unless otherwise stated.
- 2.4 Rectifier Technologies reserves the right to provide its quotation subject to confirmation in writing on receipt of the Customer's order and final instructions.

## **3. PRODUCT ORDERING**

- 3.1 Purchase Orders may be made by email or electronically.
- 3.2 Placement of a Purchase Order constitutes acceptance by Customer of the terms and conditions of these terms.
- 3.3 Rectifier Technologies will notify Customer whether it accepts or rejects the Purchase Order within 5 Business Days of receipt of the Purchase Order. If Rectifier Technologies rejects the Purchase Order, Rectifier Technologies will have no responsibility or obligation to the Customer in relation to the Products requested in the rejected Purchase Order.
- 3.4 Rectifier Technologies is not liable for any lost or misplaced Purchase Orders. Customer should submit a new Purchase Order if it has not received a response from Rectifier Technologies in accordance with clause 3.1(c) within 5 Business Days of issuing the Purchase Order.
- 3.5 Where Customer submits a Purchase Order with incorrect pricing information, Customer will be notified by Rectifier Technologies of the correct amount, and Customer will be deemed to have agreed to the re-stated amount if no written objection is received within 3 days.
- 3.6 Once accepted by Rectifier Technologies, Purchase Orders cannot be cancelled or varied by the Customer.

## **4. PURCHASE PRICE**

- 4.1 The Purchase Price for the Products are as set out in Rectifier Technologies' then current quotation.
- 4.2 The Purchase Price is in the currency indicated on the quotation and are subject to variation as detailed in the quotation.
- 4.3 Rectifier Technologies reserves the right to increase the Purchase Price from time to time, including where there is:
- (a) a change in any Law or a new Law affecting the price of the Products or the price of delivery of the Products;
  - (b) an increase in the cost to Rectifier Technologies due to any circumstance beyond Rectifier Technologies' reasonable control (including but not limited to as a result of a Force Majeure Event or currency exchange rate variations);
  - (c) a change in the Delivery Details, quantities or specifications for Products requested by Customer;
  - (d) any delay caused by Customer's instructions or failure to give adequate information or instructions; or
  - (e) supply chain or logistics disruption outside of the control of Rectifier Technologies.

## **5. INVOICING AND PAYMENT**

### **5.1 Details in Invoice**

All Invoices issued by Rectifier Technologies will include details of the Purchase Price and any other costs and charges payable by the Customer in accordance with these terms, including (where relevant) all reasonable charges associated with delivery of the Products.

## 5.2 Payment of Purchase Price

- (a) Unless otherwise stated in writing by Rectifier Technologies, Customer must pay the Purchase Price plus GST plus any delivery charges, taxes or other duties set out in the Invoice, without deduction, within the payment terms set out on the Invoice.
- (b) Where the Customer has requested multiple delivery dates, Rectifier Technologies may choose to issue multiple Invoices.

## 5.3 Payment in cleared funds

Payment by cheque or other negotiable instrument is not regarded as received until funds are cleared. The Customer is responsible for the payment of all bank fees incurred by Rectifier Technologies in receiving payment from the Customer.

## 5.4 Interest

Without in any way limiting Rectifier Technologies' right to require payment in full in accordance with clause 5.2, overdue unpaid amounts will be subject to an annualized 10% per annum late payment interest rate, computed daily from the due date until the payment is made in full.

## 5.5 Recovery Costs

In the event where Customer's overdue account is referred to a collection agency or law firm for collection, Customer agrees to pay Rectifier Technologies all of the costs which we incur to collect the debt, including legal demand costs.

## 5.6 GST

The Purchase Price is expressed as being exclusive of GST.

## 5.7 No right to offset

No amount owing, whether present or future, actual, contingent or prospective and on any account whatsoever by Customer to Rectifier Technologies may be offset against any liability whether present, future, actual, contingent or prospective of Customer to Rectifier Technologies hereunder or on any other account whatsoever.

## 5.8 Withholding future supply

In the event that Customer's account is overdue, Rectifier Technologies may withhold further supply of goods and services at its discretion.

# 6. DELIVERY OF PRODUCTS

## 6.1 Delivery and Delay

- (a) Rectifier Technologies will use its reasonable commercial endeavours to pack, invoice and deliver all orders for Products to the Customer promptly. Delivery times may vary in peak trading periods.
- (b) Unless otherwise specified in writing by the parties, delivery of Products sold is Ex Works Incoterms 2020 and all costs of delivery will be borne by the Customer.
- (c) Rectifier Technologies will not be liable for any delay, failure or inability to deliver the Products.
- (d) If Rectifier Technologies becomes aware of any event likely to affect the Delivery, Rectifier Technologies will give the Customer written notice of the event and take all reasonable steps to minimise the delay.
- (e) The Customer is not relieved of any obligation to accept or pay for Products because of any delay in delivery.
- (f) A charge will be rendered to cover Rectifier Technologies' cost of any frustrated delivery (i.e. the Customer is not present at the delivery location on the date for delivery as set out in the Delivery Details).

- (g) The parties acknowledge and agree that supply chain or logistics disruption outside of the control of Rectifier Technologies may impact on delivery times, and that Rectifier Technologies will not be liable for any such delay.

## 6.2 Shortage in Products delivered

- (a) If the quantity of Products delivered varies from the amount specified on the Purchase Order or Invoice, the Customer must notify Rectifier Technologies either in writing of the shortfall within 7 days after receipt of Products by Customer. Unless Rectifier Technologies is so notified, the correct quantity of Products is deemed to have been delivered, and Customer must accept Products and pay in full despite the shortfall.
- (b) If the quantity of Products delivered is more than the amount specified in the Purchase Order, Customer must immediately inform Rectifier Technologies either in writing and Rectifier Technologies is either entitled to charge Customer for the excess Product or to attend the Customer's premises to pick up the excess Product.

## 7. DEFECTS

### 7.1 Inspection

Customer must, within 14 days of delivery of the Products, check whether Products suffer from any Defect.

### 7.2 Notice of Defect

Products will be deemed delivered in good condition and in accordance with Customer's instructions unless the Customer gives Rectifier Technologies written notice of the Defect within 14 days of delivery, and provides satisfactory proof of purchase.

### 7.3 Customer's obligations

If Customer gives Rectifier Technologies notice under clause 7.2, it must:

- (a) preserve the Products in the state in which they were delivered; and
- (b) allow Rectifier Technologies (or its nominated agent) access to Customer's premises to inspect Products.

### 7.4 Repair or Replacement of Products

Rectifier Technologies will, at its option, repair or replace Products, supply equivalent Products or provide the Customer with a credit for the cost of the Products only where:

- (a) Customer has given written notice under clause 7.2 and complied with clause 7.3, and Rectifier Technologies is satisfied with Customer's claim;
- (b) if Rectifier Technologies elects to have Products returned, Products are returned to Rectifier Technologies (or as Rectifier Technologies directs) in the same condition as when first delivered to Customer; and
- (c) returns are made in accordance with Rectifier Technologies' returns procedures, as detailed in clause 7.5.

### 7.5 Rectifier Technologies' returns procedure for Defects

- (a) Customer must obtain the prior agreement of Rectifier Technologies if it wishes to return Products for repair.
- (b) If Rectifier Technologies accepts the Product for repair because of a Defect, Rectifier Technologies repair the Product and will pay for the Product to be sent to Rectifier Technologies for repair plus the costs of the return.
- (c) Rectifier Technologies will not under any circumstances accept Products for return or repair that:
- (i) are classified as indent, or have been specifically produced, imported or acquired to fulfil any agreement;
- (ii) are discontinued Products or no longer stocked by Rectifier Technologies;

- (iii) have been altered in any way;
- (iv) have been used;
- (v) are not in their original condition and packaging; or
- (vi) are not accompanied by satisfactory proof of purchase.

#### 7.6 Rectifier Technologies' liability for Defects

So far as permitted by law:

- (a) Rectifier Technologies' liability to Customer in relation to any Defects is limited to repair of the Product, replacement of the Product, supply of equivalent Products or payment of the cost of replacement of Products or acquiring equivalent Products in accordance with clause 7.4; and
- (b) Rectifier Technologies is not liable under any circumstances for damage arising from any Defects except in accordance with this clause 7.

#### 7.7 Limited Product warranty

- (a) Rectifier Technologies warrants, unless otherwise stated by it in writing, to repair or replace component parts of its own manufacture which, after the Product has been successfully used by the Customer, are:
  - (i) shown to Rectifier Technologies satisfaction to be defective due to faulty workmanship or materials; and
  - (ii) failed under normal use or service when installed and operated within the conditions specified in the relevant Product specifications,within 12 months from date of delivery ("Limited Product Warranty").
- (b) Operation of Products beyond rated capacity, improper use, improper installation or improper application of the Products, the use in or with other goods of a part not approved for such use by Rectifier Technologies, the opening of or the tampering with the Products renders this Limited Product Warranty void.
- (c) If Rectifier Technologies accepts the faulty Products for repair under this Limited Product Warranty, Rectifier Technologies will repair or replace defective component parts of its own manufacture and will pay for the return of the repaired or replaced Product to the Customer. The Customer will pay the costs of the freight for the Product to be sent to Rectifier Technologies for repair pursuant to this Limited Product Warranty.

### 8. RISK AND TITLE

#### 8.1 Risk

The risk in Products passes to Customer on delivery of Products to Customer's requested delivery location or to a freight forwarder nominated by Customer (whichever occurs first) ("Delivery"). Rectifier Technologies is not liable to Customer for any loss or damage or deterioration of Products after Delivery, even if Rectifier Technologies arranges freight.

#### 8.2 Insurance

Customer must insure Products for any loss or damage from the date of Delivery.

#### 8.3 Title

- (a) Customer acknowledges and agrees that title to the Products will only pass to the Customer when Customer pays the Invoice in relation to the Products in full. Until Rectifier Technologies receives payment of the Invoice in full, Customer will hold the Products at Rectifier Technologies' sole discretion as bailee only. Prior to receipt of the Invoice in full, Customer must:
  - (i) not change or obscure in any way any identification marking that Rectifier Technologies has placed on the Products by lettering and numbering;
  - (ii) not sell the Products except to a bona fide purchaser for value;

- (iii) keep all proceeds from the sale of the Products in trust for and on behalf of Rectifier Technologies in a separate trust account; and
- (iv) promptly pay the proceeds of any sale of the Products to Rectifier Technologies.
- (b) Payment of the proceeds from the sale of the Products by Customer to Rectifier Technologies does not relieve Customer from the obligation of paying Rectifier Technologies the Invoice.
- (c) Customer acknowledges and agrees that the provisions this clause 8 constitutes the security agreement between Customer and Rectifier Technologies creating a security interest in all present and future supplies. This security interest in the Products extends to the proceeds of any sale or insurance claim in respect of the Products and monies held in a separate account arising from the sale of the Products for the purposes of PPS Act as amended and to the extent applicable the PPS Act applies.
- (d) Customer acknowledges that Rectifier Technologies may do anything reasonably necessary, including but not limited to registering any security interest which Rectifier Technologies has over the Products on the Personal Property Securities Register ("PPSR") established under section 147 of the PPS Act in order to perfect the security interest and comply with the requirements of the PPS Act.
- (e) Customer agrees without charge to provide all information and do all things reasonably necessary to assist Rectifier Technologies to undertake the matters set out in clause 8.3 above. Customer waives pursuant to section 157(3)(b) of the PPS Act the right to receive notice of a verification statement in relation to any registration on the PPSR.
- (f) The parties agree that pursuant to section 115 of the PPS Act, the following provisions in the PPS Act do not apply in relation to a security interest in the Products to the extent, if any, mentioned in clause 8.3 (words in this provision have the same meaning as in the PPS Act):
  - (i) section 95 (notice of removal of accession), to the extent that it requires Rectifier Technologies to give a notice to Customer;
  - (ii) section 125 (obligation to dispose of or retain collateral) in that Rectifier Technologies may extend the time for delay as it considers appropriate;
  - (iii) section 129 (disposal by purchase);
  - (iv) section 130 (notice of disposal), to the extent that it requires the secured party to give a notice to the grantor before disposal;
  - (v) paragraph 132(3)(d) (contents of statement of account after disposal);
  - (vi) subsection 132(4) (statement of account if no disposal);
  - (vii) section 135 (notice of retention);
  - (viii) section 142 (redemption of collateral); and
  - (ix) section 143 (reinstatement of security agreement).

#### 8.4 Retention of title

Upon ordering goods from Rectifier Technologies, the Customer agrees to have appointed Rectifier Technologies or its attorney to do all acts and things necessary to ensure the retention of title to the goods, including the registration of a charge or security interest over goods with respect to the amounts owing to Rectifier Technologies by the Customer.

### 9. INTELLECTUAL PROPERTY

#### 9.1 No licence or assignment

Customer's purchase of Products does not confer on Customer any licence or assignment of any copyright, patent, design or trademark, or any other intellectual property right (whether registered, registrable or not) that subsists in Products.

#### 9.2 No warranty



Rectifier Technologies makes no representation or warranty to Customer of any kind, express or implied, that Products will not infringe any intellectual property rights of a third party.

### 9.3 **No reverse engineering**

Customer warrants that it will not dismantle or dissect the Products for the purpose of reverse engineering the Products or counterfeit the Products. In case of violation by Customer of its warranty, Rectifier Technologies shall have the right to immediately terminate all outstanding orders of the Customer by giving written notice to Customer. When the intellectual property rights of Rectifier Technologies are violated, Rectifier Technologies shall have the right to claim legal and/or economic compensation from the Customer.

## 10. **CUSTOMER'S OBLIGATIONS TO OBTAIN ALL NECESSARY AUTHORITIES**

Customer must observe all legal requirements relating to its use or sale of Products and carry out its obligations under these terms including, but not limited to, obtaining and maintaining all necessary permits, licences and registrations.

## 11. **THIRD PARTY CLAIMS AND ALL DEALINGS WITH THIRD PARTIES**

- (a) In relation to any third party complaints or claims, Customer must:
  - (i) deal promptly with all third party complaints or claims in relation to Products;
  - (ii) promptly inform Rectifier Technologies of all material complaints or claims;
  - (iii) not admit liability on behalf of Rectifier Technologies in respect of any complaint or claim; and
  - (iv) not resolve or settle any complaint or claim in a way which may result in Rectifier Technologies incurring any liability (whether to a Customer, consumer or any other person).
- (b) In relation to all dealings with third parties, Customer must:
  - (i) not hold itself out, and procure that its Personnel do not hold out, to be associated with or employed by, Rectifier Technologies; and
  - (ii) use its best endeavours, and procure that its Personnel use their best endeavours, to maintain the reputation of Rectifier Technologies at all times.

## 12. **INDEMNITY**

Customer and the Guarantors jointly and severally indemnify and agree to keep Rectifier Technologies indemnified against any Liabilities which Rectifier Technologies suffers, incurs or is liable for as a result, directly or indirectly, of:

- (a) any breach of these terms by Customer; or
- (b) any negligent act or omission by Customer.

## 13. **NO CONSEQUENTIAL LOSS**

Rectifier Technologies is not liable for any Consequential Loss under or in connection with these terms.

## 14. **TERMINATION**

### 14.1 **Breach of agreement**

Rectifier Technologies may terminate its agreement with Customer immediately by giving written notice to Customer if:

- (a) Customer breaches any material provision of these terms (including without limitation any breach in respect of an obligation to pay money) and fails to remedy the breach within 7 days after receiving notice requiring it to do so;

- (b) Customer breaches a material provision of these terms where that breach is not capable of remedy and fails to take any action required of it by Rectifier Technologies within 7 days after receiving notice requiring it to do so; or
- (c) any event referred to in clause 14.2 occurs.

#### 14.2 Termination events

Customer must notify Rectifier Technologies immediately if:

- (a) it disposes of the whole or any material part of its assets, operations or business;
- (b) it ceases to carry on business;
- (c) except where the Customer is a public company, there is a change of the directors or shareholders to Customer;
- (d) it ceases to be able to pay its debts as they become due;
- (e) any step is taken by a mortgagee to take possession or dispose of the whole or part of its assets, operations or business;
- (f) any step is taken to enter into any arrangement between it and its creditors; or
- (g) any step is taken to appoint a receiver, a receiver and manager, a trustee in bankruptcy, a provisional liquidator, a liquidator, an administrator or other like person in relation to the whole or part of its assets, operations or business.

### 15. AFTER TERMINATION

#### 15.1 After termination

If Rectifier Technologies' agreement with Customer is terminated, Customer must, within 5 Business Days after the date of termination, pay Rectifier Technologies all amounts it owes Rectifier Technologies irrespective of whether those amounts have fallen due and whether or not an Invoice has been issued by Rectifier Technologies.

#### 15.2 Surviving provisions

Clauses 5 and 10 to 13 inclusive continue to apply after termination.

### 16. FORCE MAJEURE

No party is liable for any failure to perform or delay in performing its obligations under these terms if that failure or delay is due to a Force Majeure Event. If that failure or delay exceeds 90 days, the other party may terminate with immediate effect by giving written notice to the other party. This clause does not apply to any obligation to pay money.

### 17. ASSIGNMENT

Rectifier Technologies may in its absolute discretion sub-contract the manufacture or delivery of Products or otherwise assign these terms. Customer must not otherwise assign or otherwise deal with any rights it has pursuant to these terms without the prior written consent of Rectifier Technologies.

### 18. UNENFORCEABLE PROVISION

18.1 If a provision of, or the application of a provision of, these terms which is void, illegal or unenforceable in any jurisdiction does not affect the validity, legality or enforceability of that provision in any other jurisdiction or of the remaining provisions in that or any other jurisdiction.

18.2 Where a clause in these terms is void, illegal or unenforceable, it may be severed without affecting the enforceability of the other provisions in these terms.

### 19. NOTICE

A notice to be given by a party to another party must be in writing and sent to the address previously nominated by that party and will be deemed to be duly given:



- (a) in the case of hand delivery, on the day of delivery;
- (b) five (5) Business Days after the date of posting by pre-paid registered post; or
- (c) if sent by email, upon receipt of an email read receipt from the recipient.

## **20. GENERAL**

### **20.1 Governing law**

These terms are governed by the law applicable in the State of Victoria, Australia and the parties consent to the exclusive jurisdiction of the courts of the State of Victoria, Australia.

### **20.2 Time**

Time is not of the essence except in relation to payment.

### **20.3 Business Day**

Where the day on or by which something must be done is not a Business Day, that thing must be done on or by the next Business Day.

### **20.4 Waiver**

The failure of a party at any time to require performance of any obligation under these terms is not a waiver of that party's right:

- (a) to insist on performance of, or claim damages for breach of, that obligation unless that party acknowledges in writing that the failure is a waiver; and
- (b) at any other time to require performance of that or any other obligation under these terms.

### **20.5 Relationship between the parties**

Nothing in these terms creates any fiduciary relationship, nor any partnership, joint venture or agency relationship between the parties.

### **20.6 Exclusion of all other terms and conditions**

These terms apply to the exclusion of all terms and conditions of Customer, and override any terms of purchase used by Customer in relation to ordering and purchasing Products. No variation of these terms is binding unless expressly agreed in writing by a Director of Rectifier Technologies.