

## TERMS AND CONDITIONS OF HIRE

### 1. DEFINITIONS AND INTERPRETATION

1.1 In these Standard Terms, unless the context or subject matter otherwise requires:

- (a) **"Attaches"** has the meaning given to it in the PPSA;
- (b) **"Australian Consumer Law"** means the Australian Consumer Law as contained in Schedule 2 of the *Competition and Consumer Act 2010* (Cth);
- (c) **"Charge"** means the charge granted by the Customer in favour of the Company under clause 13.1(a);
- (d) **"Charged Property"** means all assets, property, rights and undertaking of the Customer of whatever kind and wherever situated held in its own right and as trustee now and in the future, including (without limitation):
  - (i) all property (freehold and leasehold), fixed plant and Goods, goodwill, uncalled or unpaid capital (including any share premium), insurance policies, books of account, vouchers and other documents, patents and patentable rights, and trade marks and trade names, designs and other rights of intellectual property;
  - (ii) any marketable securities (as defined in section 9 of the Corporations Act) other than marketable securities which are acquired and disposed of in the course of the ordinary day-to-day business of the Customer;
  - (iii) all rights under agreements of any kind whatever; and
  - (iv) all book and other debts which may be or become due or due and payable to the Customer;
- (e) **"Claim"** means, in relation to a person, a claim, demand, remedy, suit, injury, damage, loss, cost, Liability, action, proceeding, right of action, claim for compensation or reimbursement or liability incurred by or to be made or recovered by or against the person, however arising and whether ascertained or unascertained, or immediate, future or contingent and **"Claims"** has a corresponding meaning;
- (f) **"Collateral Document"** means any Encumbrance, deed or instrument that is supplemental or collateral to the Standard Terms which is intended to provide collateral security (including, without limitation, by means of assignment) for the payment of the Secured Money;
- (g) **"Company"** means Genelite Pty Ltd (ABN 40 095 032 385);
- (h) **"Company's Agents"** means the employees, officers, contractors, subcontractors, servants, agents, representatives and related parties of the Company;
- (i) **"Consequential Loss"** means any loss, damage or liability in contract, tort (including negligence) or under statute which is either consequential loss, indirect or remote or abnormal or unforeseeable loss, loss of revenue, loss of goodwill, loss of profits, loss of actual or anticipated savings, loss of reputation, lost opportunities, wasted overheads, business interruptions, loss of production, loss of product or loss of use, any exemplary or punitive damages of any kind or any similar loss whether or not in the reasonable contemplation of the parties;
- (j) **"Consumer"** has the meaning given to it in section 3 of the Australian Consumer Law;
- (k) **"Corporations Act"** means the *Corporations Act 2001* (Cth);
- (l) **"Customer"** means any partnership, firm, body corporate, organisation, trust or other person or entity who hires Goods from the Company;
- (m) **"Customer's Agents"** means the employees, officers, contractors, subcontractors, servants, agents, representatives and related parties of the Customer;
- (n) **"Customer's Premises"** means each of the following:
  - (i) any premises owned, used or occupied by the Customer for any purpose; and
  - (ii) any premises on which any Goods or Security Interest Products are stored or located;
- (o) **"Dispose of"** means:
  - (i) sell, transfer, assign, alienate, surrender, dispose of, sub-let, deposit, part with Possession of, or lease; and
  - (ii) enter into any agreement or arrangement to do or allow any of the things referred to in subclause (i) of this definition;
- (p) **"Delivery Costs"** means costs, expenses and charges incurred by the Company in connection with the delivery of Goods to the Customer, including but not limited to freight costs and insurance charges;
- (q) **"Encumbrance"** means:

- (i) any mortgage, charge, debenture, bill of sale, lien, pledge, trust, writ, warrant, retention of title, security, pledge, deposit of title, security, option to acquire, lease, licence, caveat, preferential interest, preferential right, trust arrangement or other estate, interest, claim or arrangement (including, without limitation, any set-off or "flawed-asset" arrangement) having the same or equivalent commercial effect as a grant of security relating to property (whether real or personal); and
- (ii) any agreement or document to create or give any arrangement referred to in subclause (i) of this definition;
- (r) "**Financing Statement**" has the meaning given to it in the PPSA;
- (s) "**Goods**" means goods, equipment and other items the Company has supplied (or has agreed to supply) to the Customer for hire (including, without limitation, accessories and parts);
- (t) "**GST**" means a tax imposed under the GST Law;
- (u) "**GST Law**" has the meaning given in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) or if that Act does not exist for any reason, means any Act imposing or relating to a GST and any regulation made under it and includes, where the context permits, any ATO ruling or determination;
- (v) "**Land**" has the meaning given to it in the PPSA;
- (w) "**Law**" means:
  - (i) the common law; and
  - (ii) the requirements of all statutes, rules, regulations, proclamations, ordinances, codes and by-laws, present or future, and whether state, federal or otherwise;
- (x) "**Liabilities**" means all liabilities (whether actual, contingent or prospective), losses, damages, costs and expenses of whatsoever description;
- (y) "**Order**" means an order or request placed by the Customer with the Company for the hire of Goods;
- (z) "**Perfected**" has the meaning given to it in the PPSA;
- (aa) "**Possession**" has the meaning given to it in the PPSA;
- (bb) "**PPSA**" means the *Personal Property Securities Act 2009* (Cth);
- (cc) "**Secured Money**" means:
  - (i) all money which is now or in the future owing (whether actually or contingently) by the Customer in any capacity to the Company either alone or in conjunction with any other person on any account or for any reason whatever including (without limitation) all money owing at any time in connection with the Standard Terms or any Collateral Document;
  - (ii) all costs, charges, Liabilities and expenses owed to or incurred directly or indirectly by the Company in relation to the Standard Terms or any Collateral Document (including those which relate to the enforcement or attempted enforcement by the Company of the Standard Terms, the Charge or any Collateral Document);
  - (iii) any other money which is acknowledged by the Customer as forming part of the Secured Money whether in the Standard Terms, a Collateral Document or any other agreement or instrument;
  - (iv) all other money intended to be secured under the Standard Terms or the Charge (or any agreement or Encumbrance related to or associated with the Standard Terms or the Charge, including without limitation, a Collateral Document); and
  - (v) interest accruing from time to time on all of the above money,
 irrespective of whether:
  - (vi) the Charge or any other Encumbrance created by or in connection with the Standard Terms is or remains valid or is released or discharged;
  - (vii) such amounts and liabilities are owing at a particular time or in the future, or whether they are owing actually, prospectively, contingently or otherwise; and
  - (viii) any amount or liability is, at any particular time, ascertained or unascertained, and a reference to "**Secured Money**" includes the whole or any part or parts of such money;
- (dd) "**Security Interest**" has the meaning given to it in the PPSA;
- (ee) "**Security Interest Product**" means:
  - (i) goods supplied by the Company to the Customer which are the subject of the Security Interest in favour of the Company; and
  - (ii) goods supplied by the Company in which title has not passed to the Customer;

- (ff) **"Standard Terms"** means these standard terms and conditions (as amended by the Company from time to time) and those terms, if any, which are implied and which cannot be excluded by Law;
- (gg) **"Supply"** has the meaning given to it in the GST Law; and
- (hh) **"Taxable Supply"** has the meaning given to it in the GST Law.

1.2 In these Standard Terms, unless the context or subject matter otherwise requires:

- (a) singular includes plural and vice versa;
- (b) any gender includes every gender;
- (c) a reference to a person includes corporations, trusts, associations, partnerships, government authorities, and other legal entities, and where necessary, include successor bodies;
- (d) references to months mean calendar months;
- (e) references to statutes include statutes amending, consolidating or replacing the statutes referred to and all regulations, orders-in-council, rules, by-laws and ordinances made under those statutes;
- (f) headings and the table of contents are used for convenience only and are to be disregarded in the interpretation of these Standard Terms;
- (g) where any word or phrase is given a defined meaning, another grammatical form of that word or phrase has a corresponding meaning;
- (h) each clause or subclause in a list is to be read independently from the others in the list;
- (i) a reference to an agreement or document is to that agreement or document as amended, novated, supplemented or replaced from time to time; and
- (j) a reference to a party includes that party's executors, administrators, substitutes, successors and permitted assigns.

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## 2. TITLE

2.1 The Customer acknowledges that the Company retains full title to the Goods notwithstanding:

- (a) the delivery of the Goods to the Customer; and
- (b) the possession and use of the Goods by the Customer.

2.2 The Customer must:

- (a) ensure that the Goods remain clearly identifiable as property of the Company;
- (b) not Dispose of the Goods;
- (c) not grant, create, give or allow to come into existence any Encumbrance or Security Interest over the Goods (other than an Encumbrance or Security Interest in favour of the Company);
- (d) not remove any identifying marks placed on the Goods by the Company; and
- (e) not part with Possession of the Goods otherwise than in accordance with these Standard Terms (or as otherwise agreed by the Company in writing).

2.3 If the Customer sells or Disposes of (or purports to sell or Dispose of) any Goods then:

- (a) the Customer does so as a fiduciary for the Company;
- (b) the Proceeds must be kept separate from other money of the Customer;
- (c) the Proceeds will remain the property of the Company to the extent of the money owed to the Company by the Customer and the Customer must account to the Company on demand for that portion of the Proceeds; and
- (d) the Customer stands possessed of those Proceeds on a fixed and specific trust for the Company.

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## 3. SERVICE, MAINTENANCE & DAMAGE

3.1 The Customer:

- (a) must take all due care of the Goods while the Goods are in the Customer's possession or control;
- (b) must ensure the Goods are kept in a good and merchantable condition;
- (c) must conduct daily checks of batteries, oil and water levels, belts and tyre conditions in respect of all Goods,
- (d) must only use fuel, oils and lubricants approved by the Company in connection with the Goods;



**Generators**  
**Welders**  
**Air Compressors**  
**Lighting Towers**

- (e) must comply with all requirements of the Company in relation to the storage, handling, maintenance and preservation of the Goods irrespective of the manner in which such requirements are communicated to the Customer;
  - (f) must take all necessary steps to ensure that the Goods is not damaged or destroyed; and
  - (g) must use the Goods only for the uses the manufacturer intended.
- 3.2 The Customer will be liable for and indemnifies the Company in respect of any damage caused to any Goods as a result of the continued use of Goods after a malfunction or defect becomes evident or would have become evident if the Customer has properly complied with its obligations under these Standard Terms.
- 3.3 The Customer must not move or relocate the Goods from the nominated job site to another location for any reason whatsoever unless it first obtains the written consent of the Company. If the Company's service technician calls on the nominated job site and the Goods have been removed without the Company's prior written consent, the Customer will be liable for the cost of the call in addition to the actual hire charges.
- 3.4 If:
- (a) all or part of the Goods break down during the hire period;
  - (b) the Customer has not caused or contributed to the breakdown of the Goods;
  - (c) the Customer has at all times complied with its obligations under these Standard Terms; and
  - (d) the Customer is not liable under these Standard Terms for the cost of repair or replacement of the Goods, then, as soon as practicable after receiving written notice of the breakdown from the Customer, the Company will:
    - (e) in the case of minor faults in the Goods, rectify those minor faults; and
    - (f) in the case of a major breakdown, either repair or replace the Goods with similar Goods (at the Company's option).
- 3.5 Upon completion of the hire, the Goods must be properly cleaned by the Customer to the reasonable satisfaction of the Company.
- 3.6 The Customer:
- (a) must return the Goods to the Company at the end of the agreed hire period in a good and merchantable condition; and
  - (b) is liable for and indemnifies the Company in respect of any replacement of or repair to the Goods that is required as a result of any failure by the Customer to comply with its obligations under these Standard Terms.

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#### **4. ORDERS**

- 4.1 An Order constitutes an offer by the Customer to hire the Goods specified in the Order on and subject to these Standard Terms.
- 4.2 The Customer acknowledges and agrees that an Order is irrevocable once made and cannot be cancelled, either wholly or partially, by the Customer without the written consent of the Company (which consent may be given or withheld in the Company's absolute discretion).
- 4.3 The Company:
- (a) will not in any circumstances be under an obligation to accept the whole or any part of any Order; and
  - (b) may in its sole discretion reject, cancel or terminate any Order made by the Customer at any time without being required to provide a reason for the rejection, cancellation or termination.
- 4.4 An Order is not binding on the Company unless it is accepted in writing by a duly authorised officer of the Company.

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#### **5. PRICING AND PAYMENT**

- 5.1 The Company may (but is not obliged to) provide a quotation or price list to the Customer in respect of certain Goods, however any such quotation or price list:
- (a) does not constitute an offer by the Company of any kind; and
  - (b) is provided as a pricing guide only and is not binding.
- 5.2 Unless otherwise agreed between the Company and Customer in writing, the Customer must pay to the Company the agreed hire charges in advance (without set-off, counterclaim, abatement, analogous deduction or otherwise).
- 5.3 The hire rates payable by the Customer for the hire of Goods will be as notified by the Company to the Customer from time to time.
- 5.4 Fuel and oil used in connection with the Goods will be at the Customer's cost.

- 5.5 The Customer acknowledges and agrees that time is of the essence in respect of payment by the Customer of amounts owing to the Company under or in connection these Standard Terms.
- 5.6 Without in any way affecting the Company's other rights, if the Customer does not pay any amount which is payable to the Company by the due date for payment, the Customer must pay to the Company interest:
- (a) calculated at the rate of 14% per annum on the amount remaining unpaid from the due date or dates for payment until those amounts are actually received as clear funds by the Company;
  - (b) on any judgment which the Company obtains against the Customer (or any person who has guaranteed the Customer's obligations under these Standard Terms) from the date of the judgment until the judgment has been satisfied; and
  - (c) at the Company's option, capitalised monthly.

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**6. G.S.T.**

- 6.1 Unless otherwise agreed between the Company and Customer in writing, any consideration payable for any Supply under these Standard Terms is exclusive of GST.
- 6.2 If any Supply made by one party (the "**Supplier**") to the other party (the "**Recipient**") under or in connection with these Standard Terms is a Taxable Supply, the amount payable by the Recipient for that Supply will be increased by the amount of GST payable for that Supply so that the net amount retained by the Supplier after payment of that GST is the same as if the Supplier was not liable to pay any GST in respect of that Supply.

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**7. HIRE PERIOD**

- 7.1 The hire period commences at the time the Goods leave the Company's depot and ends at the time the relevant Goods are returned to the Company's depot.
- 7.2 The minimum hire period is one day unless otherwise agreed between the parties in writing.
- 7.3 The Company may terminate the hire of any Goods under these Standard Terms at any time by giving the Customer not less than 24 hours prior written notice of the termination.

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**8. DELIVERY**

- 8.1 Unless otherwise agreed between the Company and Customer in writing, all Delivery Costs will be at the Customer's cost in addition to the hire rates for the relevant Goods.
- 8.2 Any scheduled time for dispatch and delivery of Goods is an estimate only and the Customer releases the Company from any Liabilities and all Claims which the Customer suffers, incurs or is liable for in connection with any failure or delay in dispatch or delivery.
- 8.3 Any delay in dispatch or delivery of Goods does not extinguish, reduce or limit the Customer's obligation to:
- (a) accept the Goods on delivery; or
  - (b) pay for the Goods by the relevant due date for payment.
- 8.4 If the Goods are delivered by or on behalf of the Company to the Customer, the signature, order or acknowledgement of delivery of any manager, operator, employee or person appearing to be in charge of the location at which delivery is made is prima facie evidence of the fact of delivery of the Goods to the Customer and the quantity of Goods delivered.

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**9. FORCE MAJEURE**

- 9.1 If the Company is prevented, hindered or delayed from performing its obligations under these Standard Terms by an event of force majeure (being the occurrence of an event or circumstances beyond the reasonable control of the Company), then as long as that situation continues, the Company shall be excused from performance of the obligation to the extent it is so prevented, hindered or delayed, and the time for performance of the obligation shall be extended accordingly.

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**10. INDEMNITY**

- 10.1 The Customer indemnifies the Company and the Company's Agents against any Liabilities and all Claims which the Company and the Company's Agents suffer, incur or are liable for in connection with:

- (a) the use or misuse of the Goods by any person;
- (b) the storage or handling of the Goods by any person;
- (c) any act, omission, negligence or default of the Customer (or the Customer's Agents);
- (d) a breach of any Law by the Customer (or the Customer's Agents);
- (e) the occurrence of a Default Event; or
- (f) any injury to or death of any person or any damage to or loss of property resulting from any negligence, wrongful act or omission, or breach of statutory duty by the Customer (or the Customer's Agents).

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## **11. LIMITATION OF LIABILITY**

- 11.1 To the maximum extent permitted by Law, the Customer acknowledges and agrees that:
- (a) it has exercised and relied solely on its own independent skill and judgment in acquiring Goods from the Company;
  - (b) no advice or representations (other than those given or implied by Law which cannot be excluded) are or have been given (or shall be implied) and the Customer has not relied on any advice or representation made or given by or on behalf of the Company with respect to:
    - (i) the acceptable quality, the condition, state of repair, suitability or sufficiency or fitness for purpose of the Goods;
    - (ii) the nature or condition of the Goods; or
    - (iii) compliance by the Goods with any Laws or any requirements of any government authorities; and
  - (c) the Company does not make any guarantees or warranties (whether statutory, express or implied) other than those which are deemed to be given by the Company by virtue of the Australian Consumer Law in respect of the supply of Goods to the Customer under these Standard Terms.
- 11.2 To the maximum extent permitted by Law, the Customer releases the Company from any Liabilities and all Claims which the Customer suffers, incurs or is liable for in connection with these Standard Terms (or any transaction contemplated by them), including without limitation, any Liabilities and all Claims arising out of or in connection with:
- (a) the rejection, cancellation or termination of any Order by the Company;
  - (b) the supply of goods or services by the Company; or
  - (c) the exercise by the Company of any of its rights under or in connection with these Standard Terms.
- 11.3 To the maximum extent permitted by Law, the Company's liability (under any conditions, guarantee or warranty which cannot legally be excluded) in respect of goods supplied to the Customer is limited to one of the following (at the Company's option):
- (a) the replacement of the goods or the supply of equivalent goods;
  - (b) the repair of the goods;
  - (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.
- 11.4 To the maximum extent permitted by Law, the Company's liability (under any conditions, guarantee or warranty which cannot legally be excluded) in respect of any services supplied to the Customer is limited to one of the following (at the Company's option):
- (a) supplying the services again; or
  - (b) the payment of the cost of the having the services supplied again.
- 11.5 To the maximum extent permitted by Law, the Company will not be liable for Consequential Loss of any kind whatsoever and the Customer agrees to indemnify and keep indemnified the Company in respect of any such liability.
- 11.6 If:
- (a) the Company supplies goods or services to the Customer; and
  - (b) the Customer is taken to have acquired those goods or services as a Consumer under the Australian Consumer Law,
- then:
- (c) certain statutory guarantees are (or may be) deemed to be given by the Company under the Australian Consumer Law (which cannot be excluded) in relation to those goods or services; and

- (d) the Customer has (or may have) certain rights under the Australian Consumer Law in respect of any guarantee that is deemed to be given by the Company by virtue of the Australian Consumer Law in relation to those goods or services.

11.7 Any exclusions of warranties, guarantees, representations or liability by the Company under these Standard Terms do not (and do not purport to) exclude statutory rights of the Customer which cannot lawfully be excluded.

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## **12. ENVIRONMENT & SAFETY**

12.1 The Customer warrants and undertakes to the Company that the Customer and the Customer's Agents will:

- (a) use the Goods strictly in accordance with the requirements and recommendations of the manufacturer and the Company;
- (b) at all times fully comply with the Laws applicable in the State or Territory in which the Goods is being used, including but not limited to Laws relating to occupational health and safety, pollution and the environment; and
- (c) ensure that no person is exposed to risks to their health and safety or hazards arising from or in connection with the use of the Goods.

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## **13. SECURITY FOR PAYMENTS**

13.1 As security for the satisfaction of the Customer's obligations under the Standard Terms and the due and punctual payment of the Secured Money to the Company, the Customer:

- (a) (as beneficial owner) charges in favour of the Company all of the Customer's right, title and interest in, to, under or derived from the Charged Property; and
- (b) agrees to deliver to the Company a mortgage (in a form acceptable to the Company and on such terms as the Company reasonably considers necessary for the purpose of giving full effect to the Charge) in respect of any Land which forms part of the Charged Property (or any part of it) within 7 days of written demand from the Company together with any other information or documents required to obtain registration of the mortgage.

13.2 The Customer:

- (a) acknowledges and agrees that, by virtue of the Standard Terms and the Charge, the Company has a caveatable interest in all Land which forms part of the Charged Property;
- (b) consents to the lodging of a caveat over any Land the Customer owns to which the Charge attaches and the Customer must immediately on request execute a consent to the lodging of that caveat in registrable form; and
- (c) releases the Company to the maximum extent permitted by law from any Liability or Claim of any kind whatsoever (including Consequential Loss) which the Customer (or any other party) suffers, incurs or is liable for in connection with the lodgement by the Company of a caveat over Land forming part of the Charged Property (or any part of it).

13.3 The Customer:

- (a) acknowledges that if the Company accepts any Order from the Customer or otherwise supplies Goods to the Customer, it does so on the basis that it is obtaining the benefit of the Charge to secure payment of the Secured Money to the Company and the performance by the Customer of the Customer's obligations under the Standard Terms; and
- (b) must promptly do all acts, matters and things required by the Company to:
  - (i) procure the grant of any Encumbrance over the Charged Property as requested by the Company from time to time to provide more effective security to the Company over the Charged Property for the payment of the Secured Money; and
  - (ii) enable the Company to protect and exercise its rights under the Standard Terms, any Collateral Document, the Charge or any Security Interest,  
including, without limitation, obtaining consents, signing and producing documents, completing documents and supplying information;
- (c) must not Dispose of any Charged Property (other than in the ordinary course of business) without the Company's prior written consent; and
- (d) must not grant, create or give any Encumbrance, Security Interest or other interest inconsistent with or in priority to the Company's rights under the Charge or the Standard Terms without the Company's prior written consent (which may be withheld by the Company in its absolute discretion).

- 13.4 If the Company determines that these Standard Terms, a Collateral Document or the Charge (or any agreement or Encumbrance related to or associated with these Standard Terms, a Collateral Document or the Charge) is, contains or creates a Security Interest, the Customer:
- (a) authorises the Company to:
    - (i) file all Financing Statements (and other documents); and
    - (ii) do all things (including completing and adding schedules to this document to further identify the Charged Property),which the Company considers, in its sole and absolute discretion, to be necessary or desirable for the purposes of:
    - (iii) protecting and preserving the Charged Property and all Security Interest Products;
    - (iv) ensuring the Security Interest is Attached, enforceable, Perfected and otherwise effective;
    - (v) enabling the Company to apply for registration, or give any notification, in connection with the Security Interest so that the Security Interest has the priority required by the Company; or
    - (vi) enabling the Company to exercise its rights in connection with the Security Interest; and
  - (b) agrees to promptly do anything which the Company requires for the purposes of:
    - (i) protecting and preserving the Charged Property and all Security Interest Products;
    - (ii) ensuring the Security Interest is Attached, enforceable, Perfected and otherwise effective;
    - (iii) enabling the Company to apply for registration, or give any notification, in connection with the Security Interest so that the Security Interest has the priority required by the Company; or
    - (iv) enabling the Company to exercise its rights in connection with the Security Interest, including, without limitation, obtaining consents, signing and producing documents, completing documents and supplying information.
- 13.5 The Customer agrees that in respect of any Security Interest Product (and any other property of the Customer that is the subject of a Security Interest in favour of the Company) that is not used predominantly for personal, domestic or household purposes, the following sections of the PPSA do not apply:
- (a) section 95 (notice of removal of accession), to the extent that it requires the Company to give the Customer a notice;
  - (b) section 121(4) (enforcement of liquid assets – notice to grantor);
  - (c) section 130 (notice of disposal), to the extent that it requires the Company to give the Customer a notice;
  - (d) section 132(3)(d) (contents of statement of account after disposal);
  - (e) section 132(4) (statement of account if no disposal);
  - (f) section 135 (notice of retention);
  - (g) section 142 (redemption of collateral); and
  - (h) section 143 (reinstatement of security agreement).
- 13.6 The Customer irrevocably appoints the Company and each of its directors jointly and each of them severally to be the Customer's duly constituted lawful attorney for the purpose of:
- (a) drawing, executing, registering and enforcing such Encumbrances and securities as required by the Company from time to time including, without limitation, a mortgage or caveat and any ancillary documents necessary to perfect such mortgage or caveat;
  - (b) executing on behalf of and in the name of and as the act and deed of the Customer, any document required by the Company under clause 13; and
  - (c) doing all other things and sign all other documents required by the Company to give effect to clause 13.
- 13.7 The Customer must:
- (a) ratify and confirm all acts of each attorney done or made under clause 13.6; and
  - (b) pay to the Company on demand the costs, expenses or other liabilities incurred by or on behalf of the Company or an attorney appointed under clause 13.6.
- 13.8 Each attorney appointed under clause 13.6 has the power at any time to appoint a substitute as the attorney of the Customer.

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## 14. DEFAULT EVENT



- 14.1 A Default Event occurs if:
- (a) the Customer fails to pay the Company any payment within 3 days after the due date for payment;
  - (b) the Company considers (in its sole and absolute discretion) that the Customer is or will be unable to make any payment required in accordance with the Standard Terms;
  - (c) the Customer does not comply with any one or more of its obligations under the Standard Terms or any Collateral Document; or
  - (d) the Customer:
    - (i) becomes insolvent or bankrupt;
    - (ii) has a controller as defined in the Corporations Act or an analogous person appointed to the Customer or to any of its property;
    - (iii) is taken under section 459F(1) of the Corporations Act to have failed to comply with a statutory demand;
    - (iv) enters into a compromise or arrangement with, or assignment for the benefit of, any of the Customer's members or creditors; or
    - (v) is affected by any analogous event.
- 14.2 If a Default Event occurs, then, without in any way affecting the Company's other rights, the Company may:
- (a) require immediate payment of all amounts outstanding (whether or not then due and payable) and sue for all unpaid amounts irrespective of the due date for payment of such amounts;
  - (b) terminate the hire of any Goods;
  - (c) retake possession of all Goods and Security Interest Products without prior notice to the Customer;
  - (d) collect, realise and sell the Charged Property to satisfy the Customer's indebtedness to the Company (or appoint a receiver, administrator or appropriate person to do so); and
  - (e) recover from the Customer all Liabilities, costs and expenses (including legal costs on an indemnity basis) incurred or suffered by the Company as a result of the Default Event (including Liabilities, costs and expenses incurred in the recovery or attempted recovery of any overdue amounts or the exercise of the Company's other rights);
  - (f) exercise or enforce all or any of the Company's rights, powers or remedies:
    - (i) conferred by any Law;
    - (ii) under or arising in connection with the Standard Terms, the Charge or a Security Interest; or
    - (iii) arising in any other way whatsoever; or
  - (g) engage in any combination of the above.
- 14.3 The Customer grants to the Company and the Company's Agents an irrevocable licence to enter the Customer's Premises at any time and without prior notice for the purposes of:
- (a) inspecting the Goods and Security Interest Products;
  - (b) verifying compliance by the Customer with its obligations under these Standard Terms;
  - (c) identifying, removing and taking possession of any Charged Property, Goods and Security Interest Products in the exercise of its rights under these Standard Terms;
  - (d) satisfying the Company's obligations under these Standard Terms or at Law; and
  - (e) exercising the Company's other rights under these Standard Terms or at Law,

and the Customer agrees to indemnify and keep indemnified the Company (and the Company's Agents) against all Liability and Claims suffered or incurred by the Company (and the Company's Agents) in connection with the entry by the Company (and the Company's Agents) into or upon the Customer's Premises.

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**15. GENERAL**

- 15.1 The Company's right to require strict performance of these Standard Terms will not be affected by any indulgence, waiver of course of dealing, and any waiver will be deemed not to be a continuing waiver.
- 15.2 Any assignment of rights or obligations under these Standard Terms by the Customer will be void unless the written consent of the Company is first obtained. The Company may assign any of its rights, benefits or obligations under or connection with these Standard Terms without the Customer's consent.
- 15.3 The laws of Queensland apply in respect of these Standard Terms and any supply made in accordance with the Standard Terms.



**Generators**  
**Welders**  
**Air Compressors**  
**Lighting Towers**

- 15.4 If any provision of these Standard Terms should be for any reason invalid or unenforceable, the validity and enforceability of all other provisions will not be affected.
- 15.5 The Company is entitled to offset any amount owing to it by the Customer against any amount owed to the Customer by the Company.
- 15.6 These Standard Terms shall apply to the supply of Goods by the Customer to the exclusion of any other terms and conditions contained in any document submitted by the Customer to the extent that such last mentioned terms and conditions are inconsistent therewith or with any rights of the Company (whether express or implied).
- 15.7 By placing an Order with the Company for the supply of the Goods, the Customer is deemed to have accepted these Standard Terms.
- 15.8 The Company may vary these Standard Terms at any time by giving written notice to the Customer, provided that the Company must give the Customer a written notice of any variation of these Standard Terms not less than seven (7) days before the change takes effect if the variation or modification has the effect of increasing or varying the fees or other amounts payable by the Customer under these Standard Terms.